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**** The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State Agency rule changes, see the Register Index of Rule Proposals and Adoptions in this issue.***

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **September 18, 1985.** 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 accomodate public hearings or to elicit greater public response to a proposed new rule or amendment. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

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

AGRICULTURE

(a)

DIVISION OF MARKETS

Sire Stakes Program
Sire Stakes Rules

Proposed Amendment: N.J.A.C. 2:32-2.7

Authorized By: Sire Stakes Board of Trustees; Arthur R. Brown, Jr., Secretary of Agriculture.
Authority: N.J.S.A. 5:5-91.
Proposal Number: PRN 1985-437.

Submit comments by September 18, 1985 to:
John J. Repko, Director
Division of Markets
New Jersey Department of Agriculture
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-5536

The agency proposal follows:

Summary

The Sire Stakes Board of Trustees, pursuant to the authority granted it, seeks to clarify and simplify the procedures regarding supplementary nominations for the 1985 racing program.

Social Impact

This amendment will increase the number of participating horses in the New Jersey Sire Stakes 1985 program, strengthening and enhancing the quality of competition.

Economic Impact

The Sire Stakes Board of Trustees sees no adverse economic impact from the proposed change, and sees a benefit to the horse industry of New Jersey by the strengthening and enlarging of the sire stakes program.

Environmental Impact

The Sire Stakes Board of Trustees sees no adverse environmental impact from this rule change.

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

2:32-2.7 Closing of yearling nominations

The date of the closing of nominations of yearlings to the Pari-mutuel and Fair Divisions shall be May 15 of each year, in accordance with the United States Trotting Association regulations, with no exceptions. A copy of the horse's United States Trotting Association's Certificate of Registration must accompany the yearling nomination payment. A $40.00 payment per horse covers the nomination fee to both the Fair and Pari-

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mutuel Divisions. Thereafter, each division will have separate sustaining payments with separate due dates. In addition, beginning in 1985, for foals of 1984, the yearling nomination payment form will also include the nomination to the Lou Babic Pace at $25.00. If one chooses to nominate to both of these events, the yearling nomination payment will be a total of $65.00 and be due on or before May 15 of each year. [Supplementary nominations may be made to the New Jersey Sire Stakes commencing with foals of 1984. Parties delinquent to either or both the required May 15 yearling nomination fee and date or submission of the yearling's copy of the United States Trotting Association registration, are given until January 15th of the two-year-old season to fulfill the aforementioned conditions of nominations for a fee of $400.00 for each of the above nominations.] **Parties submitting proper yearling payments and nominations by May 15, 1985, but failing to meet the provision requiring a copy of the United States Trotting Association Certificate of Registration, may supplement the yearling by December 15, 1985, at an additional fee of $100.00, provided that the yearling has a United States Trotting Association Certificate of Registration dated on or before May 15 of its yearling year.**

Parties delinquent to the May 15 payment date, or the valid United States Trotting Association Certificate of Registration requirement dated on or before May 15 of its yearling year, are given until January 15 of the two-year-old year to fulfill the aforementioned conditions of nominations for a fee of $400.00.

(a)

DIVISION OF RURAL RESOURCES

State Soil Conservation Committee
General Provisions

Proposed New Rule: N.J.A.C. 2:90-1.13

Authorized By: Arthur R. Brown, Jr., Chairman, State Soil Conservation Committee.
Authority: N.J.S.A. 4:24-3 and 4:24-42.
Proposal Number: PRN 1985-454.

Submit comments by September 18, 1985 to:
Samuel R. Race, Executive Secretary
State Soil Conservation Committee
CN 330, Room 203
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed rule clarifies that any extraction activity disturbing more than 5,000 square feet of land surface area shall be subject to the Soil Erosion and Sediment Control Act of 1975, as amended. The Act requires that disturbances of more than 5,000 square feet of the surface area of land must be conditioned upon certification of a plan for soil erosion and sediment control by the soil conservation district. Land disturbances for tillage and cultivation for agricultural or horticultural purposes are not regulated under this statute. Extraction or removal of soil or soil materials which may precede the establishment of an agricultural operation or activity should be deemed a mining or quarrying operation and subject to the provisions of N.J.S.A. 4:24-39 et seq.

Social Impact

The proposed rule will have a favorable impact upon the citizens of New Jersey through the continued control of soil erosion and water quality impairment from sedimentation. Quality of living will be enhanced through the prevention of such damages.

Economic Impact

Those persons who engage in soil extraction and exportation will experience minor cost increases and will be required to prevent off site damages thereby reducing public costs for correcting such damages. Costs for correcting such damages far exceed the cost for preventative measures required by these rules. Thus the proposed rule will save the applicant and the public money from the total cost perspective.

Environmental Impact

A positive environmental impact is anticipated with reduced soil loss and sedimentation damages. Water quality will be enhanced with reduced costs for correcting water pollution problems.

Full text of the proposed new rule follows:

2:90-1.13 Mining and quarrying activities

Certification of a soil erosion and sediment control plan shall be required for the operation of all mining or quarrying activities regardless of proposed or actual related agricultural or horticultural use. For the purpose of this section, mining or quarrying activities shall include, but not be limited to, the extraction and removal of soils, as defined in N.J.S.A. 4:24-41, from the proposed site.

CIVIL SERVICE

(b)

CIVIL SERVICE COMMISSION

Certification and Appointment
Appeals: Psychological Unfitness to Perform the Duties of the Title
Appeals: Physical Unfitness to Perform the Duties of the Title

Proposed New Rules: N.J.A.C. 4:1-8.26 and 8.27
Proposed Amendment: N.J.A.C. 4:1-5.1
Proposed Repeal: N.J.A.C. 4:2-12.1 and 12.2; 4:3-12.1 and 12.2

Authorized By: Civil Service Commission, Peter J. Calderone, Assistant Commissioner, Department of Civil Service.
Authority: N.J.S.A. 11:1-7a, 11:5-1a, 11:9-6, 11:23-2, 11:23-6.
Proposal Number: PRN 1985-446.

A **public hearing** concerning this proposal will be held on September 11, 1985 at 9:30 A.M. at:

Civil Service Commission Room
215 East State Street
Trenton, New Jersey

Please contact Ms. Dolores Carvill at 609-292-6568 if you plan to attend and to be included on the list of speakers.

Submit comments by September 18, 1985 to:
Peter J. Calderone
Assistant Commissioner
Department of Civil Service
CN 312
Trenton, New Jersey 08625

This proposal is known as PRN 1985-446.

The agency proposal follows:

Summary

As part of this Department's recodification project, N.J.A.C. 4:2-12.1 and 4:3-12.1, New Jersey Civil Service Medical Review Board and N.J.A.C. 4:2-12.2, and 4:3-12.2, New Jersey Board of Medical Examiners: Removal from an Eligible List, are being proposed for repeal and new rules N.J.A.C. 4:1-8.26 and 4:1-8.27 are being proposed in their place. These rules are procedural and delineate the process for appeal when a candidate is rejected because of medical, psychiatric or psychological reasons. The substance of the proposed repeals have been retained and clarified in the proposed new rules. The revisions, except as detailed below, reflect a reorganization of the subject matter and nonsubstantive language changes.

The current rules do not clearly provide for withholding, certifying or removing the name of a candidate when an appointing authority requests that the candidate's name be removed from a list for psychological or physical unfitness. Since this could result in inconsistent practices, the proposed new rules clarify that, upon appeal, the Department of Civil Service shall withhold an appellant's name from the certification until a final determination is made on the matter.

The proposed new rules also allow appointing authorities 20 days to submit all material with the provision for extension for reasonable cause. This revision provides a more realistic timeframe in which the appointing authority can assemble its documentation and submit it to the Department of Civil Service. If, at the expiration of the 20 days, the material has not been received by the Department, the candidate's name may be restored to the list for certification.

A primary language change is the deletion of the words "rejected candidate." New and accurate language states that this appeal concerns the appointing authority's request that the candidate's name be removed from the list for psychological or physical unfitness. The amendment is not substantive, but is intended for clarification.

In addition, N.J.A.C. 4:1-5.1 (c) provides a cross reference for time limitations regarding appeals for psychological and mental unfitness as well as for examination appeals.

Social Impact

The proposals, which explain the appeal processes available to a candidate whose name has been requested to be removed from the eligible list for medical, psychiatric or psychological reasons, will have a positive impact on all users of Civil Service rules since it provides them with rules that are easy to understand and procedures that are clearly defined. The proposal also ensures the employee that he or she will not be removed from the eligible list before a determination is made concerning the appeal. A new provision also allows the appointing authority adequate time to assemble its documentation and to submit it to the Department of Civil Service. Both provisions indicate this Department's continued effort to provide appeal procedures that are useful and fair to all parties.

Economic Impact

The repeal of the duplicative rules in N.J.A.C. 4:2 and 4:3 will reduce the number of pages in the rule book thereby reducing the cost of printing. The rule itself has no fiscal implications and therefore will have no economic impact.

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

4:1-8.26 Appeals: Removal from an eligible list for psychological unfitness

(a) When an appointing authority requests a candidate's name be removed from the eligible list because he or she is psychologically unfit to effectively perform the duties of the title, the appointing authority shall send a copy of the certification and excerpts from the psychologist's or psychiatrist's report to the Department of Civil Service. See N.J.A.C. 4:1-8.14. The appointing authority must serve the candidate with a copy of all material submitted to the Department unless the examining psychiatrist or psychologist clearly states in writing that disclosure would be injurious to the candidate's health. In this case, the appointing authority shall not inform the candidate of the request for removal until disposition of the certification. However, when an appeal is initiated, the appointing authority must, upon request from the appellant's doctor or attorney, provide the appellant with all of the documentation submitted to the Department of Civil Service.

(b) Upon receipt of satisfactory documentation or disposition of the certification, whichever is appropriate as in (a) above, the Department of Civil Service shall inform the candidate of the requested removal, that he or she has appeal rights to the Civil Service Commission, and that his or her name will be removed from the eligible list if the Department does not receive an appeal within 20 days of notification of the request for removal.

(c) Upon receipt of the appeal, the Department of Civil Service shall inform the appellant that it is advisable to submit a report from a psychologist or psychiatrist of his or her choice. The Department shall withhold appellant's name from certification until a determination is made on the matter.

(d) Within 20 days of receipt of notification of a candidate's appeal, the appointing authority must submit to the Department of Civil Service all background information, including any background investigation report, and the complete psychological and/or psychiatric reports that were the basis for the requested removal of the candidate as mentally unfit. Excerpts of psychological or psychiatric reports are not acceptable. If the appointing authority fails to file the required materials within 20 days of receipt of notification of appeal, the appointing authority's request shall be cancelled and the employee's name shall be retained on the eligible list. Such 20 day period may be extended by the Department of Civil Service only upon a showing of good cause. All reports shall include the following:

1. Signature and date;

2. A clear statement of the amount of time a candidate was personally interviewed;

3. A diagnosis or specific, detailed statement showing a behavioral pattern that clearly indicates that the appellant is unable to effectively perform the duties of the title or specific reasons for the requested removal on a psychiatric or psychological basis; and

4. The tests that have been administered (for example, M.M.P.I., Rorschach, T.A.T.) and all raw data, protocols, computer printouts and profiles from these psychological tests.

(e) The Department of Civil Service shall present all appeal documentation to the New Jersey Civil Service Medical Review Board (Board) which is composed of a psychiatrist and a psychologist. The appellant and the appointing authority shall be given an opportunity to present information in person before the Board although personal appearances are not required. The burden of proof shall be on the appointing authority to show that a candidate is mentally unfit to effectively perform the duties of the title.

1. The Board shall prepare a report and recommendation for the Civil Service Commission. The report shall be sent to the appellant and appointing authority with the provision that both parties may submit written reasons as to why they disagree with the report (exceptions) within 10 days of receipt.

2. The report and recommendation and any exceptions shall be submitted to the Civil Service Commission for final determination.

4:1-8.27 Appeals: Removal from an eligible list for physical unfitness

(a) When an appointing authority requests a candidate's name be removed from the eligible list because he or she is physically unfit to effectively perform the duties of the title, the appointing authority shall send a copy of the certification and all appropriate data to the Department of Civil Service. See N.J.A.C. 4:1-8.14. The appointing authority must serve the candidate with a copy of all material submitted to the Department unless the examining physician clearly states in writing that disclosure would be injurious to the candidate's health. In this case, the appointing authority shall not inform the candidate of the request for removal until disposition of the certification. However, when an appeal is initiated, the appointing authority must, upon request from the appellant's doctor or attorney, provide the appellant with all the documentation submitted to the Department of Civil Service.

(b) Upon receipt of satisfactory documentation or disposition of the certification, whichever is appropriate as in (a) above, the Department of Civil Service shall inform the candidate of the requested removal, that he or she has appeal rights to the Civil Service Commission, and that his or her name will be removed from the eligible list if the Department does not receive an appeal with 20 days of notification of the request for removal.

(c) Upon receipt of the appeal, the Department of Civil Service shall inform the appellant that it is advisable to submit a report from a physician of his or her choice. The Department shall withhold appellant's name from certification until a determination is made on the matter.

(d) Within 20 days of receipt of notification of a candidate's appeal, the appointing authority must submit to the Department of Civil Service the complete medical reports that were the basis for the requested removal of the candidate as physically unfit. Excerpts of medical reports are not acceptable. If the appointing authority fails to file the required materials within 20 days of receipt of notification of appeal, the appointing authority's request shall be cancelled and the employee's name shall be retained on the eligible list. Such 20 day period may be extended by the Department of Civil Service only upon a showing of good cause. All reports shall include the following:

1. Signature and date;

2. A clear statement of the type of examination conducted;

3. A diagnosis or specific detailed statement showing a physical illness or medical problem that clearly indicates that the appellant is unable to effectively perform the duties of the title; and

4. The tests that have been administered (for example, EKG, EEK, X-ray) and all raw data from all medical tests.

(e) The Department of Civil Service shall present all appeal documentation to the New Jersey Civil Service Board of Medical Examiners (Board), which is composed of a physician who chairs the Board and a physician who specializes in the medical area addressed in the appeal. The physician-specialist may in addition to participating in the appeal review, examine the appellant and conduct any necessary additional medical tests. The appellant and the appointing authority shall be given an opportunity to present information in person before the Board although personal appearances are not required. The burden of proof shall be on the appointing authority to show that a candidate is physically unfit to effectively perform the duties of the title.

1. The Board shall prepare a report and recommendation for the Civil Service Commission. The report shall be sent to the appellant and appointing authority with the provision that both parties may submit written reasons as to why they disagree with the report (exceptions) within 10 days of receipt.

2. The report and recommendation and any exceptions shall be submitted to the Civil Service Commission for final determination.

SUBCHAPTER 5. COMMISSION REVIEW AND APPEALS

4:1-5.1 Time limitations

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

(c) See also N.J.A.C. 4:1-8.21, 4:1-8.22 and 4:1-8.23 for examination appeals; N.J.A.C. 4:1-8.26 for psychological unfitness; and N.J.A.C. 4:1-8.27 for physical unfitness.

SUBCHAPTER 12. CERTIFICATION AND APPOINTMENT

4:2-12.1 [New Jersey Civil Service Medical Review Board] **(Reserved)**

The text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:2-12.1.

4:2-12.2 [New Jersey Civil Service Board of Medical Examiners: Removals from an eligible list] **(Reserved)**

The text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:2-12.2.

SUBCHAPTER 12. CERTIFICATION AND APPOINTMENT

4:3-12.1 [New Jersey Civil Service Medical Review Board] **(Reserved)**

The text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:3-12.1.

4:3-12.2 [New Jersey Civil Service Board of Medical Examiners: Removals from an eligible list] **(Reserved)**

The text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:3-12.2.

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Local Government Financial Regulation Municipal, County and Authority Deferred Compensation Programs

Proposed Readoption with Amendments: N.J.A.C. 5:37

Authorized By: Barry Skokowski, Director, Division of Local Government Services.
Authority: N.J.S.A. 43:15B-3.
Proposal Number: PRN 1985-394.

Submit comments by September 18, 1985 to:
Barry Skokowski, Director
Division of Local Government Services
Department of Community Affairs
363 West State Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.S.A. 43:15B-1 et seq. authorizes counties, municipalities and authorities thereof to enter into agreements with employees for deferring a portion of their compensation. Furthermore, the law mandates the Director of the Division of Local Government Services to approve each contract entered into by a local unit with one or more private organizations for the administration of any part of its deferred compensation program. This mandate created the necessity of promulgating rules and regulations governing the operation of such programs and such regulations became effective on October 16, 1980.

The regulations provide for an orderly system of approval for deferred compensation programs. Furthermore, the regulations ensure a degree of responsibility in the administration of the involved public funds and, therefore, also assist the program participants. Thus, the regulations enhance the Division's continuing goal of protecting the integrity of the fiscal affairs of local governmental units.

The above original purposes of the regulations remain vital and significant. The number of local units offering deferred compensation programs is growing at an increasingly rapid pace. It is essential that there continue to be orderly approval and administrative processes. Therefore, the Division seeks to readopt the regulations and avoid their expiration on October 16, 1985 pursuant to Executive Order No. 66.

In addition to the proposed readoption, the proposal seeks to amend and recodify the regulations. The purposes of such proposed amendments and recodifications are threefold. First, the application of the regulations over the past five years has brought to the attention of the Division language which is inappropriate, unnecessary or confusing. The proposed amendments will clarify and/or eliminate such language. The recodification will further increase the clarity of the regulations by removing blank sections caused by previous deletions. In short, the proposal will "clean up" the regulatory form and language in a manner which will aid legibility and, thereby, make the regulations more comprehensible.

Secondly, the proposal will eliminate all regulatory provisions which emanate from IRS requirements. The Division has not received the hoped for degree of cooperation from the IRS and lacks the expertise to properly administer these requirements. The proposal will, therefore, formalize the current practice of requiring an opinion from the attorney for the local unit which states that the plan complies with Section 457 of the Internal Revenue Code. Typically, the local attorney relies upon expertise provided by the private organization. In addition, the local attorney must certify that an application has been filed with the IRS for a ruling that the plan meets the requirements of Section 457 of the Internal Revenue Code, and that such ruling will be forwarded to the Director when received. IRS rules and regulations do not permit the Division to seek a ruling on any individual plan.

Thirdly, the proposed amendment adds a significant new provision (5:37-13.11) which requires a contractor to be bonded to protect the plan and employer from losses due to fraud or dishonesty. Also, the provision requires the contractor to maintain appropriate liability insurance and errors and omissions insurance. This provision follows the lead of other States, notably New York, in providing a further degree of protection to the fiscal integrity of the deferred compensation plans.

In summary, the proposal seeks to simplify and clarify the regulatory requirements for deferred compensation programs while maintaining the goal of protecting the public interests.

Social Impact

The number of local units operating deferred compensation plans has increased significantly in the previous few years. The popularity of the plans, as an employee investment option, continues to rise dramatically. The plan also provides a significant benefit as a supplemental retirement plan. Presently, there are 93 local units operating deferred compensation plans approved by the Division of Local Government Services. Employees of the local units participate on a voluntary basis. Each individual determines his own amount of deferral subject to a predetermined minimum.

The approval and administrative processes provided by the rules continue to afford the participating governmental units and individuals a necessary degree of security in their deferred compensation programs. This is especially important to the fiscal integrity of the involved local units and to the individuals planning on utilizing the deferred funds to provide supplemental retirement income. Thus, many local units and plan participants would be adversely affected if the rules were allowed to expire.

The proposed amendments and recodification of the deferred compensation regulations should ease the approval process by clarifying the regulatory requirements. In furtherance of the Division's continuing concern for the fiscal integrity of deferred compensation programs the proposed amendment also includes a provision requiring evidence of insurance and contractor bonding (5:37-13.11). Thus, additional local units may be encouraged to make a deferred compensation plan available to employees.

Economic Impact

The principle economic benefit of the rules lies in protecting the fiscal integrity of deferred compensation programs. Thus, participants are more able to rely upon the programs as a supplemental retirement fund. This benefit remains unchanged since the original promulgation of the rules in 1980 and provides a significant reason for their readoption.

Employees of local units operating deferred compensation plans participate on a voluntary basis. The amount deferred is determined by the individual employee participant subject to a predetermined minimum. Generally, there is no cost, except administrative expenses, to the local unit for operating a deferred compensation plan.

Since the proposed amendments and recodification will simplify and clarify the regulatory requirements, the impact may be to encourage the participation of additional local units and employees. Also, the inclusion of a bonding and evidence of insurance requirement (5:37-13.11) will provide additional program security.

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

CHAPTER 37
MUNICIPAL [AND] , COUNTY **AND AUTHORITY** EMPLOYEES DEFERRED COMPENSATION PROGRAMS

SUBCHAPTER 1. DEFINITIONS

5:37-1.1 Definitions

"Accounting date" means that annual date at **the close of its fiscal year** [which] **when** the employer shall render an accounting of its deferred compensation program, at which time all participants are appraised of the value of their individual accounts.

"Administrator" means the person or group of local public officials and/or employees (including the local governing body) who is/are appointed by the local governing body as the named fiduciary and is responsible for the administration of the deferred compensation plan and program and the investments and the accounting of funds maintained under the plan.

"Approved plan" means a deferred compensation plan which **is in compliance with the Internal Revenue Code and** has been approved by [the IRS and] the Director.

"Beneficiary" means the person, persons, or legal entity designated by a participant to receive any undistributed deferred compensation which becomes payable in the event of the participant's death.

["Board" means the New Jersey State Employees' Deferred Compensation Board.]

"Code" means the ["Complete Internal Revenue Code", which is the compilation of all IRS rules and regulations] **Internal Revenue Code of 1954, as amended**.

"Deferred compensation" means the concept whereby an employee voluntarily agrees to have a portion of his or her salary paid at specified date later than the time at which the salary is actually earned.

"Director" means the Director of the Division of Local Government Services.

["Disability" means a total and permanent disability.]

"Employee" means any person, including elected, appointed and salaried persons, providing personal services to the employer.

"Employer" means a local jurisdiction, either a municipality, [or a] county, **or an authority thereof**.

["Includible compensation" means compensation for service performed for the employer which is includible in gross income; it does not include any contribution an employer may make for a retirement fund or annuity.]

"IRS" means the U.S. Internal Revenue Service.

"Joinder agreement" means the agreement an employee signs with the employer to become a participant in the program.

"Participant" means a local government employee who is participating in a deferred compensation program.

"Pay period" means the period of time for which the employer computes compensation for an employee.

"Plan" means the locally developed deferred compensation plan.

"Private organization" means any organization, firm, corporation, partnership, or individual, whether profit making or nonprofit, which is not a governmental entity.

"Program" means the deferred compensation program of the employer, operated in accordance with an approved plan.

[Retirement means severance from employment at the age or length of service specified by the employer, which renders the participant eligible to file for and receive benefits from employer-administered retirement system.]

["Termination of service" means the severance of an employer's employment for any reason other than death, disability or retirement.]

SUBCHAPTER 2. ROLE OF THE BOARD

5:37-2.1 Adopting Standards

The Board shall have the responsibility for drafting, adopting, and interpreting standards for the operation of employer-operated deferred compensation programs.

5:37-2.2 Arbitrator

[The Board shall act as a non-binding arbitrator concerning all disputes brought to it between any employer and any participant concerning the operation of an employer's deferred compensation program.]

SUBCHAPTER [3.] **2.** ROLE OF THE DIRECTOR

5:37-[3.1] **2.1** Adopting regulations

The Director shall publish and enforce rules and regulations for employer[-operated] deferred compensation programs.

5:37-[3.2] **2.2** Approving plans

(No change.)

5:37-[3.3] **2.3** Approving contracts

(No change.)

5:37-[3.4] **2.4** Prior contracts

Any such contracts as cited in [N.J.A.C. 5:37-3.3] **N.J.A.C. 5:37-2.3** which have been executed prior to the adoption of this chapter and which **are** still open must also be reviewed by the Director for his comments.

5:37-[3.5] **2.5** Review investments

(No change.)

SUBCHAPTER [4.] **3.** ROLE OF THE EMPLOYER

5:37-[4.1] **3.1** Institution of program

(No change.)

5:37-[4.2] **3.2** Responsible for accounting

(No change.)

5:37-[4.3] **3.3** Responsible for administration

(No change.)

5:37-[4.4] **3.4** Join State program

The employer may decide to join the State Deferred Compensation Program, **if eligible,** or operate its own program.

5:37-[4.5] **3.5** No personal liability

The employer, including the person or group appointed as administrator, shall not be held personally liable, individually or collectively, for any negative returns on investment of program funds which is less than any participant or group or participants expected. [It is urged that employers require hold harmless provisions in contracts with contractors. Also, the named fiduciary shall not be held personally liable for any losses in program funds.] **Employers shall require a hold harmless provision in contracts with contractors which includes a statement that the employer will be indemnified as a result of any cause of action brought against it as a result of acts or omissions of the contractor together with the reasonable costs of litigation arising therefrom.**

SUBCHAPTER [5.] **4.** STANDARD PLAN AND APPROVED PLAN

5:37-[5.1] **4.1** Standard plan

The employer shall draft, or have drafted, a standard plan which shall contain all of the policies and procedures to be used in operating a deferred compensation program. At minimum this plan shall contain policies and procedures which address each of the issues in [N.J.A.C. 5:37-6 through 17] **N.J.A.C. 5:37-5 through 13**. While not mandatory, it is urged that the plan be drafted in consultation with representatives of the potential participants.

5:37-[5.3] **4.2** Director approval

Any plan adopted or prepared to be adopted by an employer shall be approved by the Director prior to [adoption] **implementation**. If a plan is adopted prior to the adoption of this chapter, the local plan shall be submitted to the Director for his review; and any modifications to the Plan required by the Director shall be made by the employer within 60 days from time of notification by the Director.

5:37-[5.4] **4.3** Local resolution
(No change.)

5:37-4.4 Opinion and certification on Internal Revenue Service compliance

The attorney for the employer shall file with the Director an opinion stating that the employer's plan meets the requirements of Section 457 of the Internal Revenue Code of 1954, as amended. He or she must also certify that an application has been filed with the Internal Revenue Service for a ruling that the plan meets the requirements of Section 457 of the Internal Revenue Code of 1954, as amended, and that such ruling will be forwarded to the Director when received.

SUBCHAPTER [6.] **5.** ADMINISTRATOR

5:37-[6.1] **5.1** Appointment of administrator
(No change.)

5:37-[6.2] **5.2** Responsibilities of administrator
(No change.)

5:37-[6.3] **5.3** Staff and contracts
(No change.)

SUBCHAPTER [7.] **6.** ELIGIBILITY

5:37-[7.1] **6.1** Citation of eligibility
(No change.)

[5:37-7.2 Timing of enrollment]

[Any eligible employee may enroll in the program at any time, provided the regulations covering enrollment are complied with.]

SUBCHAPTER [8.] **7.** ENROLLMENT

5:37-[8.1] **7.1** Written enrollment

Any eligible employee may enroll in the program by agreeing in writing, on forms supplied by the administrator, to a deferral of income in accordance with [N.J.A.C. 5:37-9] **N.J.A.C. 5:37-8.**

[5:37-8.2 Timing of enrollment in new program]

[An eligible employee may become a participant commencing with the date the program first becomes effective by signing all necessary forms and agreements prior to the beginning of the month of the effective date of program commencement.]

[5:37-8.3 Timing of enrollment in existing program]

[An eligible employee may become a participant in an established program by signing all necessary forms and agreements prior to the beginning of the month of effective date of participation.]

5:37-[8.4] **7.2** Leave of absence
(No change.)

5:37-[8.5] **7.3** Waiver of rights

Once a joinder agreement is signed, the participant and his beneficiary waive all claims and rights to commute, sell, assign or otherwise use or transfer rights to receive any payments from the Program, [until such time as the participant severs his/her employment service with the employer] **which payments and rights are expressly declared to be non-assignable and non-transferable.**

5:37-[8.6] **7.4** Employer retaining assets

All [money which is deferred and deducted in accordance with] **amounts of compensation deferred under** the plan shall remain the asset of the employer; the obligation of the employer to participating employees shall be contractual only, and no preferred or special interest in the deferred money shall accrue to such participants. Such money shall be subject only to the claims of the employer's general creditors until distributed to any or all participants.

5:37-[8.7] **7.5** Ban on solicitation

No organization seeking a contract pursuant to [N.J.A.C. 5:37-17] **N.J.A.C. 5:37-13** shall by any means solicit employee participation in any deferred compensation program or solicit employees to support the efforts of the organization to secure such a contract [;] **.** [n]No representative of an organization under contract pursuant to [N.J.A.C. 5:37-17] **N.J.A.C. 5:37-13** shall communicate with any prospective participant without the expressed written consent and knowledge of the employer.

[5:37-8.8 Participation limitation]

[If an Employee is a participant in more than one program, his/her total deferred salary in all Programs cannot exceed the amounts specified in N.J.A.C. 5:37-9.1 and 9.2.]

5:37-[8.9] **7.6** Limit on joinder agreement

The employer and a participant may sign and/or be contractually obligated by only one joinder agreement during any one calendar year; **however, deferral amounts may be amended by the participant pursuant to N.J.A.C. 5:37-8.2. A joinder agreement expires upon termination of service or a revocation of deferrals.**

[5:37-8.10 Reasons for receiving deferral compensation]

[Once enrolled, a participant or his/her beneficiary cannot receive the compensation deferred unless the participant:

1. Retires;
2. Becomes disabled;
3. Dies;
4. Is otherwise terminated from service with the employer; or
5. Is faced with an unforeseeable emergency (to be defined later by IRS).]

SUBCHAPTER [9.] **8.** DEFERRAL AMOUNTS

[5:37-9.1 General policy]

[Except as provided in N.J.A.C. 5:37-9.2, the total amount of compensation that can be deferred and sheltered in any one calendar year by a participant shall not exceed the lesser of:

1. $7,500, or
2. 25% of the participant's total income.]

[5:37-9.2 Last three years of employment]

[For one or more of the participant's last three taxable years ending before he reaches retirement age under the plan, the maximums to be deferred and sheltered shall be the lesser of:

1. $15,000, or
2. The sum of:

i. The ceiling established in N.J.A.C. 5:37-9.1(a)2; plus

ii. The balance of the plan ceiling established in N.J.A.C. 5:37-9.1(a)2, for those years which the employee has been a participant, which the participant has not used or deferred.]

5:37-[9.3] **8.1** Minimum amounts
(No change.)

5:37-[9.4] **8.2** Joinder agreement
(No change.)

SUBCHAPTER [10.] **9.** INVESTMENT POLICIES

5:37-[10.1] **9.1** Employer investment
(No change.)

5:37-[10.2] **9.2** Eligible investments
(No change.)

5:37-[10.3] **9.3** Choice of investments
(No change.)

[5:37-10.4 Participant request for investments]

[The employer may in his plan include a provision whereby a participant may request that all or a specified percentage of the deferred salary be invested in one or more of the authorized investment options. This notwithstanding, the employer shall retain the discretion to reject such request.]

5:37-[10.5] **9.4** Administrative expenses
(No change.)

5:37-[10.6] **9.5** Return to participants

(a) After the deduction of administrative expenses, if any, from the program, the balance of the program funds, including all [deductions placed into the program] **amounts deferred** and any and all return on investment of the program funds shall be credited to the participants' accounts[;] **.** [s]Such credit shall be made in a manner that is equal, equitable, and/or prorated in a non-discriminatory manner. Due to anticipated program start up costs, which can be charged to the program, many employer programs may, during the first year, have a program balance which is less than the total of all [deductions] **deferrals** placed into the program, and which, when credited to individual accounts, will indicate a balance in each individual account which is less than the individual has placed in the account through his or her [deductions] **deferrals**. After the first year of program operation, however, the administrator shall not permit, or allow to be permitted, the cumulative program balance to be less than the total cumulative sum of all [deductions placed in it] **amounts deferred** by all participants, or any participant's account to have a balance that is less than the cumulative sum of all of his or her [deductions] **deferrals** since his or her participation in the program commenced. The only exceptions to this last statement shall be:

1. Variable annuities which guarantee that during the first three years of fund accumulation a participant will have distributed to him or her, upon withdrawal from the program, an amount equal to the amount the Participant has deferred;
2. A variable annuity with no such guarantee which is offered as part of a fixed and variable product line; and
3. Life insurance contracts.

5:37-[10.7] **9.6** Credit to accounts
(No change.)

5:37-[10.8] **9.7** Timing of investments

All funds from [deductions placed into the program] **amounts deferred** shall be invested by the administrator or private contractor responsible for investments within 72 hours, exclusive of Sundays and holidays, of the time the administrator or contractor receives the funds or is notified that the funds are available for investment or is in any other manner aware that the [deductions] **amounts deferred** have been made and are available for investment.

SUBCHAPTER [11.] **10.** ACCOUNTING PROCEDURES

5:37-[11.1] **10.1** Separate account

The administrator shall establish, or cause to have established, an employees' deferred salary account in which all program funds, [deferral deductions] **amounts deferred** and return on investments are to be placed and accounted for. This account shall be established for accounting purposes only and shall be subject to the claims of general creditors of the Employer.

5:37-[11.3] **10.2** Pooling of funds
(No change.)

5:37-[11.4] **10.3** **Semi-**annual report

The administrator shall make available at least [once per year] **semi-annually** a report to each participant which shall indicate the value (or balance) of each participant's account, as well as, the value (or balance) of the entire program; this report shall indicate for each participant the balance of the participant's account as of the last accounting date, the amount of salary deferred and any return on investment accrued to the participant's account or any losses on investment charged to the participant's account since the last report or accounting date.

[5:37-11.5 Unforeseen emergency]

[If a participant faces an unforeseen emergency, as indicated in N.J.A.C. 5:37-8.10, the participant, after completing whatever forms or documents as may be required by the administrator, may withdraw from his/her account the amount needed to pay for the emergency up to the balance in the participant's account.]

5:37-[11.6] **10.4** Audit or review
(No change.)

5:37-[11.7] **10.5** Timing of [deductions] **deferrals**

The amount of salary deferral specified by each participant in his or her joinder agreement shall be [deducted] **deferred** by the employer at the end of each pay period.

[5:37-11.8 Method of deductions]

[The deduction for the deferral shall not be made until deductions have been made for New Jersey Gross Income Tax; pensions, social security, insurance, other fringe benefits; after all other deductions have been made and the deferred salary portion of the includible income has been deducted, the deduction for Federal withholding Taxes shall be paid.]

5:37-**10.6** Coordination of deferral with other payroll deductions

For each pay period, the amount deferred shall not be treated as compensation subject to Federal income tax withholding, but shall be treated as compensation subject to withholding for New Jersey Gross Income Tax, pensions, social security, insurance and other fringe benefits, except to the extent that applicable law may provide otherwise from time to time.

SUBCHAPTER 12. DISTRIBUTION PROCEDURES

5:37-12.1 Upon retirement

[Upon retirement, and as specified in the Joinder Agreement, a Participant shall receive the money in his/her account; he/she shall have the option, as specified in the Joinder Agreement of receiving his/her money in one lump sum or in regularly scheduled payments, which payments or lump sum shall not exceed the value of the Participant's Account, except life time annuities.

5:37-12.2 Upon termination of service

Upon termination of service and as specified in the Joinder Agreement, the Participant shall have the option of leaving his/her money in the account or receiving the money in his/her account; he/she shall have, as specified in the Joinder Agreement, the option of receiving his/her money in either a lump sum, or if possible by virtue of a Program operated by a new Employer (see N.J.A.C. 5:37-15.1) and by Agreement of the current Employer, transfer his/her money into the Program of a new Employer.

5:37-12.3 Upon death

Upon death, as specified by the Participant in the Joinder Agreement, or as specified by the Beneficiary upon the Participant's death, the Beneficiary or Beneficiaries shall receive either one lump sum payment or regularly scheduled payments, which payments or lump sum shall not exceed the value of the Participant's Account, except for life time annuities.

5:37-12.4 Disability

Upon termination due to a certified disability and as specified in the Joinder Agreement, the Participant shall receive the money in his/her account, he/she shall have the option, as specified in the Joinder Agreement, of receiving his/her money in one lump sum or in regularly scheduled payments, which shall not exceed the value of the Participant's account. Disability shall be certified in the following manner:

1. If the Participant is also a participant in a pension system under the New Jersey Division of Pensions and is certified as disabled by that Division, the Participant shall be deemed disabled under this Program.

2. If the Participant is not a participant in a pension system under the Division of Pensions, the employer shall set its own standards for determination of disability.]

SUBCHAPTER [13.] **11.** AMENDMENT OF PLAN

5:37-[13.1] **11.1** Reasons for amendment

(No change.)

5:37-[13.2] **11.2** Procedure for amendment

(No change.)

5:37-11.3 Approval of amendment

Any amendment made to an approved plan must be submitted to the Director for approval prior to implementation with a resolution of the governing body adopting the amendment. Any amendments required by the IRS do not require Director approval before implementation; however, such amendments must be filed with the Director.

SUBCHAPTER [16.] **12.** CONFIDENTIALITY

5:37-[16.1] **12.1** Participant records confidential

All records regarding participation, [deductions] **amounts deferred**, account balances, withdrawals and any other information regarding a participant's account shall be held confidential by the administrator, his or her staff, and/or any contractor.

5:37-[16.2] **12.2** Program records

Any records, reports or other information relating to the Program as a whole, including, but not limited to cash flow analysis, investment reports, audits and **semi**-annual reports shall be made available by the Administrator to any Participant and/or the Division of Local Government Services upon request.

SUBCHAPTER [17.] **13.** CONTRACTORS AND DEPOSITORIES

5:37-[17.1] **13.1** Review of proposed contracts

Prior to the execution of a contract between an Employer and a contractor, whereby the employer will contract for all or part of the administration of the program, the employer shall submit to the Director a copy of the proposed contract, along with any [solicitation] **related** documents, such as proposals and plans. The Director shall approve or reject said proposed contract(s) within 15 working days of receipt. If the proposed contract is rejected, the Director shall, in writing, explain his reasons for rejection. No contract shall be executed without the written approval of the Director.

5:37-[17.2] **13.2** Insurance companies

Any insurance company that wishes to offer Deferred Compensation Programs to local governments shall be [listed in the Annual Report of the commissioner of Insurance as authorized to do business in the State of New Jersey] **authorized by the Commissioner of Insurance to do business in the State of New Jersey.**

5:37-[17.3] **13.3** Mutual fund companies

Any public or private corporation that wishes to offer a mutual fund or other type of security as part of a Deferred Compensation Program shall [submit to the Director a copy of their Security and Exchange Commission Filing No. N-1 and their New Jersey Department of State Filing Numbers SB9 and SB1.] **be registered with the Security and Exchange Commission and shall submit to the Director a copy of the Company's "Certification of Good Standing" from the New Jersey Secretary of State.**

5:37-[17.4] **13.4** Non-profit corporations

Any non-profit, tax-exempt corporation that wishes to offer Deferred Compensation Programs to local governments must provide to the Director a copy of their IRS tax exemption certification[:] . [any such tax exempt corporation shall annually submit to the Director a copy of IRS 990 Tax Form certifying their solvency.]

5:37-[17.5] **13.5** Depositories

Any banking institution that wishes to serve as a depository for local government controlled Program funds and/or wishes to offer Deferred Compensation Programs to local governments shall be regulated by the New Jersey Department of Banking. Such banking institution shall not be under a "Cease and Desist Order" issued by the New Jersey Department of Banking; such status shall be determined by the **Employer**. [Director from communication with the Department of Banking.]

5:37-[17.6] **13.6** Conflict of interest

(No change.)

5:37-[17.7] **13.7** Non-discrimination

Any organization, person, company, corporation, partnership or other entity wishing to offer Deferred Compensation Programs to local governments shall certify to the Director, as part of the solicitation documents specified in [N.J.A.C. 5:37-17.1] **N.J.A.C. 5:37-13.1** that it does not discriminate in its employment or investment policies and practices.

[5:37-17.8 Bidding of contracts]

[(a) Any contracts to provide all or part of the administration of the Employer's Deferred Compensation Program shall comply with the Local Public Contracts Law.

(b) When an Employer is about to solicit, bids or quotes from vendors, the employer shall notify the Director that such solicitation will take place and shall furnish the Director with a copy of bid specifications, questionnaires, or other documents to be used on the proposed solicitations.]

5:37-**13.8** Award of contracts

Any contracts to provide all or part of the administration of the Employer's Deferred Compensation Program shall comply with the Local Public Contracts Law. The Employer shall submit to the Director a certification from the Employer's attorney which states that award of said contract(s) complies with the Local Public Contracts Law, describes the procedure followed, and states the length of the contract.

5:37-[17.9] **13.9** Non-collusion

(No change.)

5:37-[17.10] **13.10** Contractor disclosure

(a) Every Employer who retains a contractor to administer all or part of its program shall require that the contractor fully disclose to the administrator, and to its employees where appropriate, the fees charged by the contractor, the fee and commission structure of the contractor, the investment program offered by the contractor, and any other pertinent information which the Employer may need in evaluating the contractor's fee and service.

(b) All contracts entered into by the employer shall contain termination clauses that are reasonable with respect to transfers of assets and/or responsibilities under the Plan.

[(b)] **(c)** Any and all policies, contracts, or other legal documents executed by the Employer and any contractor must be kept in a safe and secure place by the administrator; the administrator shall not permit a contractor to keep the original and all copies of any policies, contracts, or other legal documents.

5:37-13.11 Bonding and evidence of insurance

(a) Each contractor who provides administrative and/or investment services for a deferred compensation program shall be bonded with a customary or usual bond obtained from an organization duly authorized and licensed to provide such bond in the State of New Jersey, to protect the plan and the employer from any loss resulting from fraud or dishonesty by such contractor. Evidence of such bond or ability to obtain such bond if the contract is awarded shall be provided to the employer and to the Director.

(b) The amount of bond shall not be less than 100 percent of the amount of funds managed or administered by such contractor.

(c) Each contractor providing services in accordance with these regulations shall provide the employer and Director with evidence of appropriate liability insurance and errors and omissions insurance.

5:37-13.12 Provisions for rules and regulations to be part of contract

Every contract or agreement entered into by an employer shall contain a provision that the agreement or contract is subject to the rules and regulations of the Division of Local Government Services and the rules and regulations are made a part thereof.

SUBCHAPTER 14. (RESERVED)

SUBCHAPTER 15. (RESERVED)

SUBCHAPTER 16. SEVERABILITY

5:37-16.1 Severability

These rules and any of the provisions thereof shall be severable, and if any of its provisions shall be held to be unconstitutional or otherwise invalid, the decision of the court shall not affect the validity of the remaining rules and regulations or any of the provisions thereof.

ENVIRONMENTAL PROTECTION

Proposals numbered PRN 1985-447, 448, 449, 450, 451 and 452 are authorized by Robert E. Hughey, Commissioner, Department of Environmental Protection.

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations Delineated Floodways for the Nomahegan Brook, West Brook, Blue Brook and Branch No. 22, and Robinson's Branch

Proposed Amendment: N.J.A.C. 7:13-7.1(d)

Authorized By: Robert E. Hughey, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13-1D-1 et seq. and 58:16A-50 et seq.

DEP Docket No.: 043-85-07.

Proposal Number: PRN 1985-452.

Submit comments by September 18, 1985 to:
Rachel Lehr, Esq.
N.J. Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, N.J. 08625

The agency proposal follows:

Summary

This proposal appeared in the May 21, 1984 Register at 16 N.J.R. 1146(a). The Department of Environmental Protection held a public hearing on the proposed rule amendment on June 14, 1984 at the Scotch Plains Township Municipal Building, Scotch Plains, New Jersey. Five persons attended the hearing but no comments were offered. One written comment was received which questioned the proposed delineation map in regard to a new housing development and a road intersection and which provided corrected street nomenclature. The Bureau of Flood Plain Management has made the necessary corrections to the maps.

In order to comply with the rules for agency rulemaking, N.J.A.C. 1:30-4.2, the proposal had to be adopted by May 21, 1985 and filed with the Office of Administrative Law (OAL) by that same date. Although the proposal was adopted on May 21, 1985 it was not received by the OAL until May 22, 1985, one day after the required date of filing. Thus, the proposal expired and this amendment is now being reproposed.

The proposed amendment provides for the application of rules concerning the development and use of land in designated floodways to portions of the Nomahegan Brook, West Brook, Blue Brook, Branch No. 22 and Robinson's Brook. Rules of delineated flood hazard areas are designed to preserve flood carrying capacity and to minimize the threat to the public safety, health and general welfare.

Social Impact

The proposed delineation applies added flood protection to Mountainside Borough, Roselle Borough, Scotch Plains Township, Berkley Heights Township and Clark Township within Union County.

Economic Impact

The proposed amendment will have only a minor economic impact. The delineation would more clearly define the flood hazard area, thus resulting in less requirements for flood insurance, and minor reductions in property value could result by restricting future development in the floodway and requiring elevated construction designs in flood fringe areas. However, minor property value diminution would be offset by the savings to governmental bodies and private homeowners due to little or no future rehabilitation and rescue expenditures from flood damage in the delineated area.

Full text of the proposal follows (additions indicated in boldface **thus**). See the Index of Adopted Rules for previous amendments to N.J.A.C. 7:13-7.1.

7:13-7.1 Delineated floodways

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

(d) A list of delineated streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follow:

1.-48. (No change.)

49. ...**Nomahegan Brook from the upstream limit of Echo Lake; approximately 600 ft. downstream of Mountain Avenue, upstream to Lawrence Avenue, within Mountainside Borough and West Brook from St. Georges Avenue upstream to the downstream face of the Conrail Railroad Bridge, approximately 100 ft. upstream of 1st Street within Roselle Borough and Blue Brook from its confluence with Green Brook near Diamond Hill Road upstream to the Scotch Plains Township - Mountainside Borough municipal boundaries, approximately 365 ft. upstream of a foot bridge crossing and along the Scotch Plains Township and Berkley Heights Township municipal boundaries and Winding Brook from its confluence with Robinson's Branch upstream to the downstream face of Elizabeth Avenue within Scotch Plains Township and Branch 22 from its confluence with Robinson's Branch upstream to the Scotch Plains Township - City of Plainfield municipal boundaries, approximately 1550 ft. upstream of the Sleepy Hollow Lane Bridge and revising the floodway and flood hazard area of Robinson's Branch from its confluence with the Middlesex Reservoir upstream to the Middlesex County - Union County boundary, approximately 2800 ft. upstream of the confluence of Branch 22 along Robinson's Branch within Scotch Plains and Clark Townships.**

50.-52. (No change.)

(e)-(g) (No change.)

(a)

Water Supply Management Critical Areas

Proposed Amendment: N.J.A.C. 7:19-6.10

Authority: N.J.S.A. 58:1A-1 et seq., specifically 58:1A-5.
DEP Docket No. 039-85-07.
Proposal Number: PRN 1985-448.

A **public hearing** on the proposal will be held on September 18, 1985 at 1:30 P.M. at the following location:

The War Memorial Bldg.
Veteran's Ballroom
West Lafayette Street
Trenton, N.J.

Address comments by September 25, 1985 to:

William Whipple, Assistant Director
Water Supply and Watershed Management Administration
Division of Water Resources
CN 029
Trenton, N.J. 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (Department) proposes to include within the scope of the controls of groundwater use within declared water supply critical areas (see N.J.A.C. 7:19-6.10 to 6.13), development projects which meet the following criteria:

1. The total project involves or will involve the installation of private, residential water wells serving more than 30 living units, individually or otherwise.

2. For nonresidential projects, the total project involves the installation of private wells which will withdraw more than 10,000 gallons per day.

The existing rules establish water use controls on all proposed wells in water supply critical areas which will individually withdraw more than 10,000 gallons of water per day. The Department believes that groups of smaller wells, installed as part of a single project, should be governed by the same standard, since they involve the same aggregate use of groundwater. Without this amendment, the rules allow a developer to escape the restrictions on groundwater use within declared water supply critical areas by installing groups of smaller wells, rather than one or two large wells. The Department believes that such a "loophole" is counterproductive to achieving the intent of the Act.

The Department has reviewed a range of per capita, residential water use data. According to these figures, a person's daily water use ranges from 50 to 150 gallons per day. For the purposes of this rule, the Department proposes a generous quantity of 120 gallons per day per person as a reasonable average peak use level. The Department also has selected three persons per living unit as a reasonably conservative average. By these standards, average water use by 30 residential units approximates 10,000 gallons per day usage, which is the critical area control minimum under the present rules.

The Department also proposes to clarify N.J.A.C. 7:19-6.10(b) to specify the establishment of critical area margin. As originally adopted, this rule authorized the inclusion of a margin area. However, because the Department proposes to establish less stringent control measures within margin areas, the status of such areas under the rules is being formalized.

Social Impact

The proposed amendment will extend groundwater use restrictions to classes of water use which, in the Department's opinion, warrant the same controls as presently applied to others under the rules. This amendment will augment the Department's ability to accomplish the objectives of the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq. As such, the citizens of New Jersey will receive the benefits of more thorough and comprehensive protection of threatened groundwater sources of drinking water supply.

Economic Impact

Developers of projects within water supply critical areas, which meet the criteria of control under this proposal, will bear the expense of obtaining Department approval of the proposed groundwater withdrawal. Users of wells impacted by this proposal will be subject to water use restrictions which may be imposed upon users of groundwater within critical areas.

Environmental Impact

The Department endeavored to include within the scope of Water Supply Management Rules all significant users of water within the State. For areas where the groundwater is critically depleted or threatened, users of over 10,000 gallons of water per day were intended to be subject to additional controls. Because it is vitally important to protect groundwater sources of water supply, where such sources are being overdrawn or contaminated, the interest of the citizens of the State are best protected by extending controls to all areas of groundwater use which can be reasonably and practically regulated. Groups of private wells associated with development projects are encompassed in such an area.

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

7:19-6.10 Water supply critical areas: general

(a) (No change.)

(b) For water supply critical areas described in (a) 1, 2 and 3 above, the delineation shall include all areas adversely affected and a **critical area margin, encompassing** areas which may be adversely affected if present trends continue[,]. **The margin may include, among others, adjacent areas** such as where a progressive reduction of the potentiometric surface threatens existing wells or an aquifer with saline contamination[. It may also include adjacent areas,] **or** where the slope of the potentiometric surface indicates a major source of water for the overdrawn area. **The Department may establish modified restrictions within margin areas from those established for the rest of the critical area.**

(c)-(k) (No change.)

(l) Within critical areas described in (a) 1, 2 and 3 above, the Department may require water allocation for groups of private wells (two or more) associated with a development project where:

1. The total project involves the installation of private, residential water wells, serving more than 30 living units, individually or otherwise; or

2. For nonresidential projects, the total project involves the installation of private wells which will withdraw more than 10,000 gallons per day.

(a)

Emergency Water Supply Rules Surcharges; Residential Definitions

Proposed Amendments: N.J.A.C. 7:19A-1.4 and 7:19B-1.3

Authority: N.J.S.A. 58:1A-5.
DEP Docket No. 040-85-07.
Proposal Number: PRN 1985-449.

Submit comments by September 18, 1985 to:
Mark McQuerrey
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

By Executive Order No. 97, Governor Thomas H. Kean directed the Drought Coordinator, Richard T. Dewling to take whatever steps are necessary and proper under the Governor's emergency powers, N.J.S.A. App. A:9-30 et seq. to alleviate the current water supply emergency. Pursuant to N.J.S.A. App. A:9-30 et seq., on May 24, 1985 Drought Coordinator Dewling promulgated Administrative Order No. 7, which expanded the definition of "residential user" at N.J.A.C. 7:19A-1.4 and 19B-1.3, to include single-metered, multiple-family dwellings with up to four families in one structure. The effect of this change is to make applicable to these small, multi-family units, the residential water use surcharge, rather than the nonresidential surcharge (see N.J.A.C. 7:19B-1.5(a)). As such, these small multiple family dwellings will be subject to the surcharge of $5.00 per 100 cubic feet of water used, over 50 gallons per person per day, rather than the nonresidential surcharge which is 0.33 times the normal rate for all water purchased. This change is warranted because it allows the effected water users to be treated as other individually metered residential users, but does not entail the serious, practical problems which accompany the application of a per-person surcharge to larger multi-family units and groups of units without individual meters.

The definition of "residential users" is further clarified to make clear that, where a single meter serves both residential and non-residential users, the users are to be considered as non-residential users.

This amendment is being proposed to modify the rules which govern initial drought emergency management to conform them to changes promulgated by the Drought Coordinator.

Social Impact

Response to the drought emergency requires that a balance be drawn between the need that the burdens of conservation be born evenly among those affected and the demands of practicality. Apartment complexes were classified as "nonresidential" for the purposes of the surcharge due to the multitude of problems associated with implementing and enforcing rationing in such a context. The Drought Coordinator and the Department believe that it is more equitable to treat small multiple-family units as "residential" water users. Though some difficulties of implementation and enforcement are still likely to arise, they do not appear to justify excluding these units from the "residential" class.

Economic Impact

Some water users affected by this proposal may pay lower water use surcharges than previously.

Purveyors of water will have additional difficulties ascertaining the true number of residents using water in single-metered structures.

The Water Emergency Task Force may have additional problems with landlord/tenant disputes regarding payment of water surcharges.

Environmental Impact

Community cooperation in conservation efforts is more likely to occur if people believe that they are being treated fairly. This amendment should provide faster, better cooperation and, as a result, lead to greater water conservation during the drought emergency.

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

7:19A-1.4 Definitions

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates a different meaning:

"Non-residential users" means all users of water [except those in a single family home and multiple family homes with individual meters] **other than residential users**.

"Residential users" means [those] **all** users of water who [are] **reside** in a single [family home] **structure, housing no more than four families**, and in multiple family [homes] **dwellings** with [individual meters.] **no more than four families being serviced by one meter. (In any circumstance where residential and non-residential users are served by the same meter, the users shall be classified as non-residential users.)**

7:19B-1.3 Definitions

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates a different meaning:

"Non-residential users" means all users of water [except those in a single family home and multiple family homes with individual meters] **other than residential users**.

"Residential users" means [those] **all** users of water who [are] **reside** in a single [family home] **structure, housing no more than four families**, and in multiple family [homes] **dwellings** with [individual meters.] **no more than four families being serviced by one meter. (In any circumstance where residential and non-residential users are served by the same meter, the users shall be classified as non-residential users.)**"

(a)

DIVISION OF WASTE MANAGEMENT

Recycling or Reclamation of Hazardous Waste Pursuant to Tolling Agreements

Proposed Amendments: N.J.A.C. 7:26-1.4, 1.6, 9.1 and 12.1.

Authority: N.J.S.A. 13:1E-6.
DEP Docket No. 038-85-07.
Proposal Number: PRN 1985-447.

Submit comments by September 18, 1985 to:
Joseph N. Schmidt, Jr., Esq.
Office of Regulatory Services
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection ("NJDEP") proposes amendments to N.J.A.C. 7:26 to clarify the regulatory requirements for generators and commercial recycling or reclamation facilities that recycle or reclaim hazardous waste pursuant to tolling agreements. NJDEP proposes to amend N.J.A.C. 7:26-1.4 to include a new definition of "tolling agreement". A tolling agreement means a contractual arrangement between a generator and a recycling or reclamation facility whereby the generator, whether or not ownership of the hazardous waste is retained by the generator, sends the generator's hazardous waste to a recycling or reclamation facility and receives back the recycled or reclaimed portion of the generator's waste stream. Batch and continuous toll processing are also defined in the proposed definition. NJDEP further proposes to amend the "Scope and Applicability" sections of N.J.A.C. 7:26-9.1 and 12.1 to include recycling or reclaiming of hazardous waste pursuant to any tolling agreement under the Requirements for Hazardous Waste Facilities, 7:26-9, and the Hazardous Waste Facility Permit Requirements, N.J.A.C. 7:26-12.

The proposed amendments expressly reinforce NJDEP's position that hazardous wastes processed pursuant to tolling agreements are subject to the same regulatory requirements as other commercial hazardous waste recycling or reclamation facilities. NJDEP considers materials recycled or reclaimed pursuant to tolling agreements to be hazardous wastes. Such material subject to tolling agreements is no longer suitable for its original purpose without treatment to recycle or reclaim its reusable components. NJDEP finds the same environmental risks regardless of the actual terms of the agreement under which hazardous wastes are recycled or reclaimed.

Social Impact

The proposed amendments will benefit the residents of the State of New Jersey by clarifying the regulatory requirements for additional recycling or reclamation facilities engaged in the treatment of hazardous waste pursuant to tolling agreements. The express inclusion of recycling or reclamation facilities implementing tolling agreements into the requirements of N.J.A.C. 7:26-9 and 12 will further reduce the threat of environmental damage to the citizens of the State of New Jersey.

Economic Impact

NJDEP seeks to permit all commercial facilities engaged in the recycling or reclamation of hazardous waste, regardless of the terms of the generator - recycler or reclaimer contracts under which the waste streams are recycled or reclaimed. Such generators and commercial facilities may indeed be required to spend additional funds to comply with the applicable regulatory requirements. Operational standards for a treatment, storage and/or disposal (TSD) facility may require expenditures of money which the facility owner/operators may try to recoup by increasing the cost of hazardous waste treatment. NJDEP estimates that a total number of approximately four such facilities currently exist in the State of New Jersey.

Environmental Impact

The environmental impact of bringing toll processing recycling or reclamation facilities under regulation is positive. By regulating the operation of these toll processing recycling or reclamation facilities through the permit process, NJDEP believes that the risk of environmental and human health problems will be controlled and greatly reduced.

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

7:26-1.4 Definitions

"Tolling agreement" or "agreements" means a contractual arrangement between a generator and a recycling or reclamation facility whereby the generator, whether or not ownership of the hazardous waste is retained by the generator, sends the generator's hazardous waste to a recycling or reclamation facility and receives back the recycled or reclaimed portion of the generator's waste stream. Tolling agreements may be conducted by, but not be limited to, the following methods:

1. A recycling or reclamation facility processes a generator's hazardous waste separately without commingling with the waste streams of other generators, known as batch toll processing; or

2. A recycling or reclamation facility processes a generator's hazardous waste by commingling the generator's hazardous waste with the waste streams of other generators and returning to the generator an agreed upon quantity and quality of recycled or reclaimed material, known as continuous toll processing.

7:26-1.6 Definition of solid waste

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

(f) Any material recycled or reclaimed by a commercial recycling or reclamation facility pursuant to any tolling agreement or agreements defined pursuant to N.J.A.C. 7:26-1.4 shall be considered a solid waste for the purposes of this chapter.

7:26-9.1 Scope and applicability

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

(e) All generators and recycling or reclamation facilities that recycle or reclaim hazardous waste pursuant to any tolling agreement or agreements defined pursuant to N.J.A.C. 7:26-1.4 shall be included within the scope of this subchapter and shall be subject to all the requirements of this subchapter as applicable.

7:26-12.1 Scope and applicability

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

(c) All generators and recycling or reclamation facilities that recycle or reclaim hazardous wastes pursuant to any tolling agreements defined pursuant to N.J.A.C. 7:26-1.4 shall be included within the scope of this subchapter and shall be subject to all the requirements of this subchapter as applicable.

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Control and Prohibition of Air Pollution by Volatile Organic Substances

Proposed Amendments: N.J.A.C. 7:27-16.1, 16.2, 16.3, 16.4, 16.5 and 16.6
Proposed New Rule: N.J.A.C. 7:27-16.8

Authority: N.J.S.A. 13:1D-5, 13:1D-9, 26:2C-8.
DEP Docket No. 041-85-07.
Proposal Number: PRN 1985-450.

Public hearings concerning this proposal will be held on:

September 23, 1985 at 10:00 A.M.
Labor Education Center Auditorium
Rutgers University
Ryders Lane (off Route 1)
New Brunswick, N.J.

September 24, 1985 at 10:00 A.M.
Multipurpose Room, Rutgers Camden Campus Center
326 Penn Street
Camden, N.J.

Submit comments by September 27, 1985. The Department has prepared a Basis and Background document for the proposal. Comments and requests for copies of the Basis and Background document should be addressed to:

Herbert Wortreich, Deputy Director
Division of Environmental Quality
New Jersey Department of Environmental Protection
CN 027
Trenton, N.J. 08625

Copies of this notice, of the proposed amendments and new rule and of the Basis and Background document are being deposited and will be available for inspection during normal office hours until September 27, 1985 at:

Atlantic County Health Department
1200 Harding Highway
Mays Landing, New Jersey 08330

N.J. Bureau of Air Pollution Control

Room 1108, Labor and Industry Building
John Fitch Plaza
Trenton, New Jersey 08625

N.J. Bureau of Air Pollution Control
Northern Field Office
1259 Route 46
Parsippany, New Jersey 07054

N.J. Bureau of Air Pollution Control
Southern Field Office
100A Larwin Road
Cherry Hill, New Jersey 08034

N.J. Bureau of Air Pollution Control
Metropolitan Field Office
1110 Raymond Boulevard - Fifth Floor
Newark, New Jersey 07102

Warren County Health Department
151 West Washington Avenue
Washington, New Jersey 07882

The amendments and new rule will become operative 60 days after adoption by the Commissioner. (see N.J.S.A. 26:2C-8).

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (the Department) is proposing amendments to N.J.A.C. 7:27-16, hereinafter referred to as Subchapter 16, which regulates emissions of volatile organic substances (VOS) to the atmosphere. The majority of these revisions are the result of commitments made by the Department in its 1982 State Implementation Plan (SIP) for the attainment and maintenance of the ozone National Ambient Air Quality Standard (NAAQS). Volatile organic substances, in the presence of sunlight, form ozone and other highly reactive pollutants. Ozone is a colorless gas which is one component of a variable mixture of pollutants known as photochemical smog. Ozone exacerbates the condition of persons with chronic respiratory illnesses, significantly reduces the yield of important food crops and causes serious degradation of plastics and rubber. Control strategies for reducing ozone concentrations are primarily directed toward the control of emissions of volatile organic substances. Subchapter 16 is designed to control industrial and commercial sources of VOS.

The Department submitted a revised SIP in July, 1982 that presented potential strategies to control VOS emissions to demonstrate that New Jersey could attain the ozone standard by 1987. Commitments in the 1982 SIP approved by the USEPA included: (1) annual adoption of Reasonably Available Control Technology (RACT) regulations for sources covered by Control Technique Guidelines (CTGs) published by January of the preceding year, beginning in 1980; (2) adoption of RACT regulations for major sources of VOS emissions that are not yet covered by the existing Subchapter 16 and (3) control of VOS emissions during motor vehicle refueling (known as Stage II Vapor Recovery).

In order to meet SIP commitments, the Department is proposing three major additions to Subchapter 16 based on the CTGs published by the USEPA. These additions will cause the reduction of VOS emissions (1) from large petroleum solvent dry cleaners, (2) from leaks at natural gas/gasoline processing plants, and (3) from leaks at synthetic organic chemical or polymer manufacturing plants. N.J.A.C. 7:27-16.8 proposes to limit VOS emissions from virtually all facets of dry cleaning plants that consume greater than 15,000 gallons of petroleum solvent annually. N.J.A.C. 7:27-16.6(g) and (h) propose a leak detection, repair and recordkeeping program for natural gas/gasoline plants and synthetic organic chemical or polymer plants, respectively that applies to pumps, compressors, valves, relief valves and open-ended lines.

The Department is also proposing to regulate four surface coating categories that have been identified as major sources of VOS emissions and which are not currently regulated by Subchapter 16. In general, regulations to control volatile organic emissions from surface coating operations do so by limiting the VOS content of the coating formulation. Thus, maximum allowable VOS emissions per volume of coating are proposed in N.J.A.C. 7:27-16.5 for the surface coating formulations of wood furniture, leather and glass, and for fabric printing operations.

The Department is also proposing, in N.J.A.C. 7:27-16.3, to control the emissions of VOS during the refueling of motor vehicles, known as Stage II Vapor Recovery, in accordance with commitments made by the Department in the SIP. N.J.A.C. 7:27-16.3(f) will require that the transfer of gasoline into vehicular fuel tanks be performed using a vapor control system approved by the Department which is designed, operated and maintained (1) to prevent VOS emissions to the outdoor atmosphere by no less than 90 percent by weight at average size facilities and by 97 percent by weight at large facilities and (2) to prevent overfilling of vehicular fuel tanks and spillage. N.J.A.C. 7:27-16.3(f) does not apply to gasoline dispensing facilities with a monthly throughput of 10,000 gallons or less. The primary focus of Stage II is to reduce VOS emissions to attain the National Ambient Air Quality Standard for ozone, but there are added benefits. For instance, gasoline which would otherwise be lost as a vapor will be recovered and recycled. California reports that in 1981, 15 million gallons of gasoline were saved by the Stage II Vapor Recovery program. It is estimated that New Jersey can save over 4 million gallons when the program is fully implemented.

In order to achieve the calculated reduction in statewide VOS emissions needed to provide attainment with the ozone NAAQS, it is necessary to extend the existing provisions of Subchapter 16 to smaller sources of VOS emissions. Lowering the small-source exclusion rates in N.J.A.C. 7:27-16.5 and 6 was identified in the SIP as an extraordinary measure to partially account for a shortfall in emission reductions which was predicted despite the adoption of all RACT standards. Therefore, the Department is proposing to halve the exclusion rates in N.J.A.C. 7:27-16.5 which pertain to source operations other than storage tanks, transfers, open top tanks, surface cleaners and surface coaters. Additionally, the Department is proposing to delete the exemption limit in N.J.A.C. 7:27-16.3(e) for requiring control apparatus at small gasoline loading facilities.

N.J.A.C. 7:27-16.5(a) presently requires that the maximum allowable hourly emission rate of VOS from a surface coating operation, included in a mathematical combination of source gases pursuant to N.J.A.C. 7:27-16.6(c)4, be calculated by multiplying the volume of coating applied (minus water) by the maximum allowable emissions per volume of coating (minus water) as set forth in Tables 3A, 3B, 3C, 3D and 3E. This calculation results in an allowable hourly emission rate that varies with the total quantity of coating formulation applied. Because this methodology is inappropriate in establishing required emission reductions when add-on control equipment is used as the means of achieving compliance and is therefore inconsistent with EPA's national policy, the Department is proposing to revise N.J.A.C. 7:27-16.5(a) such that the maximum allowable hourly emission rate will be calculated on the basis of the volume of coating solids applied for surface coating operations included in a mathematical combination of source gases.

This quantity is independent of the total quantity of coating formulation applied.

Additional revisions are proposed on the basis of reasonably available control technology for currently unregulated source categories and for the purpose of clarifying the intent of existing provisions of the rule. The presently unregulated source categories for which standards are proposed include the coating of tablets and the coating and printing of urethane coated fabric and urethane sheets. Among the revisions proposed for purposes of clarification are definitions of the terms "extreme performance coating" and "clear coating", relevant to the surface coating of miscellaneous metal parts and products, and "plastisol", a type of surface coating formulation excluded from regulation under the provisions of Subchapter 16.

Social Impact

The proposed revisions to Subchapter 16 are designed to control emissions of organic substances which are part of a mixture of pollutants that react to form ozone, a pollutant for whch the Federal government has established a National Ambient Air Quality Standard (NAAQS) of 0.12 parts per million. Attainment of this standard will alleviate the effects of exposure to elevated ozone concentrations on the inhabitants and environment of New Jersey.

Reports over the years have presented substantial evidence that exposure to ozone in concentrations greater than the NAAQS causes a significant decrease in the pulmonary functions in humans. Ozone also increases the ability of an inhaled infectious virus to survive within the lung. A reduction of the ambient ozone concentration in New Jersey will produce a corresponding reduction of respiratory problems associated with exposure to the current ozone concentrations.

Foliar damage is one of the earliest and most obvious manifestations of ozone injury in the environment. Subsequent effects include reduced plant growth and decreased crop yield. A reduction in the ambient ozone concentration will help relieve foliar damage to plants and thereby increase fruit and grain production.

Research conducted over the past two decades has shown that materials such as rubber, textiles and dyes and paints are susceptible to ozone degradation. The damaging effect of ozone is due to its oxidizing ability. For example, natural rubbers and synthetic polymers become hard and brittle at a faster rate by oxidation due to high ozone levels than by oxidation due to atmospheric oxygen. Attainment of the ozone ambient air quality standard is expected to mitigate the increased rate of degradation of natural and man-made materials.

A reduction in VOS emissions from petroleum solvent dry cleaners, synthetic organic chemical and polymer manufacturing plants and natural gas/gasoline processing plants will reduce VOS emissions to the atmosphere and reduce the concentrations of VOS to which employees are exposed. Although there will be a capital outlay for control technology and/or changes in workplace practices, it is not expected to have a significant impact on employment or prices in these industries.

Implementation of the Stage II Vapor Recovery requirements as proposed in N.J.A.C. 7:27-16.3(f) will have several effects in New Jersey. Gasoline vapor control technology at dispensing facilities will substantially reduce the concentration of organic vapors in the atmosphere which react to form ozone. This reduction will also improve the working environment of gas station attendants by eliminating direct exposure to gasoline vapors and other harmful contaminants such as benzene, ethylene dichloride, and ethylene dibromide. The new nozzlehose combination is slightly heavier than conventional equipment and the new system will transfer gasoline at a slower rate. The absence of self service gas stations in New Jersey will alleviate some of the public acceptance problems with the vapor recovery equipment as encountered in areas where Stage II is in place.

Adoption of regulations to control VOS emissions from surface coating operations as proposed in N.J.A.C. 7:27-16.5 will also ultimately reduce the ozone concentration of New Jersey's ambient air. The installation of control equipment necessary to achieve the maximum allowable emission standard per volume of coating formulation for leather coating, tablet coating, urethane coating, glass coating, wood furniture coating and fabric or urethane printing as proposed in N.J.A.C. 7:27-16.5 will also reduce the amount of volatile organic substances to which employees are exposed. The proposed standards are not expected to have a significant impact on employment or prices in the affected industries.

Economic Impact

Imposing a standard on the operations of any industry will affect the profitability and competitive position of firms and the cost of products. The degree to which firms and consumers are affected depends on the relationship between supply and demand for a particular product in the existing marketplace. For example, the competitive position of exempted facilities may improve in a regulated industry. The economic impact of expending capital to control a given source of pollution is commonly evaluated in terms of cost effectiveness ratio. Cost effectiveness is a measure of the economic efficiency of a pollution control technique and may be defined as the net annualized cost for implementation of control technology divided by the pollution emission reduction gained annually.

Control of VOS emissions from storage tanks, bulk plants, bulk terminals, and gasoline loading at service stations pursuant to N.J.A.C. 7:27-16.3 is commonly referred to as Stage I Vapor Recovery. The costs associated with the proposed changes in the Stage I requirements are expected to be $0.24 per pound of emissions controlled. All other changes to the Stage I requirements of N.J.A.C. 7:27-16.3 are for purposes of clarification and do not require the installation of additional control apparatus.

The costs incurred by gasoline dispensing station owners subject to proposed N.J.A.C. 7:27-16.3(f) will depend on the type of Stage II Vapor Recovery system installed. It has been demonstrated in California and Washington, D.C. that Stage II Vapor Recovery systems as proposed in N.J.A.C. 7:27-16.3(f) can significantly reduce gasoline vapor emissions from motor vehicle refueling and that a Stage II program is cost effective. The cost of installing vapor recovery systems at service stations can vary depending on the station throughput, station layout and the number of nozzles and pumps. The costs of the system include new nozzles and hoses, underground plumbing, and for vacuum assist systems; vapor transfer and processing systems. The approximate cost for equipment and installation of a vacuum assist vapor recovery system is usually the highest of the three available systems and ranges from $17,000 to $28,000 for stations with a monthly throughput of 20,000 to 185,000 gallons, respectively. By contrast, a vapor balance system is the least expensive. The approximate capital cost for equipment and installation ranges from $7,300 to $14,000 for the same size stations. Of the Stage II systems currently installed in California, approximately 80 percent are balance systems, 10 percent are vapor aspirator systems and 5 percent are vacuum assist systems. Operating and maintenance costs will include nozzle replacement once per year for balance systems and once every two years for vacuum assist and vapor aspirator systems. The cost incurred by a gasoline dispensing station is a net cost in the sense that the value of gasoline recovered is subtracted from the total cost. The resulting cost effectiveness is approximately $0.74 to $0.10 per pound of emission controlled for stations with a 20,000 to 185,000 gallon monthly throughput which install vapor balance or vapor aspirator systems. Vacuum assist systems are expected to cost about $1.58 to $0.21 per pound of emission controlled for the same size stations. It is assumed that the costs of a vapor control system at a gasoline station will be passed on to the customers as an increase in price. The expected price increase ranges from a minimum of approximately $0.002 per gallon for large stations (185,000 gallons per month) installing a vapor balance system to a maximum of approximately $0.015 per gallon for small stations (20,000 gallons per month) that install a vacuum assist system.

The costs incurred by surface coating operations subject to the proposed revisions of N.J.A.C. 7:27-16.5 will depend on the method chosen to achieve compliance. In general, the emission standard can be achieved by reformulation of high solvent coatings, improved coating application techniques or by add-on control equipment. Each of these methods has its advantages and disadvantages and differs in applicability, efficiency and cost. The reformulated coatings include water borne, high solids and powder coatings. Costs for implementing reformulated coating technology will include replacement of existing spray equipment that is designed for coatings with particular physical properties, such as viscosity, which will vary with the solvent content. Control costs may be offset by the lower price of low-solvent or water-borne formulations. An improvement in coating application techniques will increase transfer efficiency, which increases the percentage of applied solids that adhere to the surface, and decreases the organic solvent emissions. The costs required to implement improved technology would include new and/or adapted spray equipment. An advantage of this method is the annual savings from using less coating, which may be greater than the annualized cost of the new equipment. The emission limits set forth in N.J.A.C. 7:27-16.5 can also be met by the installation of add-on control systems such as incineration, adsorption and condensation. Capital costs of incineration systems include equipment purchase and auxilliary fuel required to facilitate complete combustion of organic vapors. The energy costs can be reduced by recovery of useful heat from the incinerator. Adsorption on activated carbon is widely used for volatile organic emission control and solvent recovery. Costs for installing this system include original equipment purchase and adsorbent replacement or regeneration. In a condensation system, vapors are liquified by cooling. In general, incineration or carbon adsorption are the preferred methods of control on the basis of cost effectiveness.

The capital costs for implementing a leak detection, repair and record keeping program at natural gas/gasoline processing plants and synthetic organic chemical or polymer manufacturing plants pursuant to N.J.A.C. 7:27-16.6 includes the purchase of portable organic vapor analyzers, the purchase and installation of caps for all open-ended lines and initial leak repair. Annual operating costs include monitoring of potential VOS emission sources, subsequent monitoring of leaks and administrative reports and recordkeeping. The value of VOS saved each year as a result of implementing a leak detection and repair program is included as an annual credit against the net annualized costs. According to the Control Technique Guidelines published by the USEPA, implementation of RACT at natural gas/gasoline processing plants results in a cost effectiveness of $0.095 per pound of emissions controlled to a credit of $0.05 per pound, depending on the plant size. Implementation of RACT at synthetic organic chemical or polymer manufacturing plants results in a cost effectiveness ranging from $0.245 per pound of emissions controlled to $0.009 per pound, depending on plant size.

The cost of implementing reasonably available control technology pursuant to the proposed N.J.A.C. 7:27-16.8 in a petroleum solvent dry cleaning plant includes the installation and operation of solvent recovery dryers and a cartridge filtration system where a diatomite filter is in use. Plants with existing high capacity dryers are expected to replace them with an increased number of smaller capacity recovery dryers. The labor and maintenance costs will be higher for the solvent recovery dryers, but the annual cost of steam is significantly lower than for standard dryers. Annual capital charges associated with RACT equipment are offset by substantial cost reductions from recovered solvent credits. According to estimates by the USEPA, the implementation of RACT at large petroleum solvent dry cleaners results in an average savings of $0.285 per pound of VOS emissions controlled.

Environmental Impact

The 1983 New Jersey ozone SIP is based on achieving reductions in emissions of volatile organic substances needed to attain the NAAQS for ozone as determined by the Empirical Kinetic Modelling Approach (EKMA). Despite the comprehensiveness of previously adopted stationary source regulations and mobile source strategies, initial application of the EKMA model predicted that an additional 19 percent reduction (200 metric tons per day) in VOS emissions is required in the New Jersey portion of the NJ/NY/Conn Air Quality Control Region (AQCR). No further reduction in emissions in the NJ Intrastate, Metropolitan Philadelphia, or the Northeast Pennsylvania-Upper Delaware Valley AQCRs is necessary to demonstrate attainment in those areas.

The Department examined a number of potential strategies designed to achieve additional decreases in VOS emissions. The strategies included regulation of additional stationary source categories, expansion of the motor vehicle inspection/maintenance program, and implementation of a variety of transportation control measures. Adoption of the proposed reasonably available control measures was projected to eliminate 70 metric tons per day of the 200 metric ton per day emission reduction shortfall in the NJ/NY/Conn AQCR. The remaining 130 metric ton per day reduction was accounted for by identifying a number of extraordinary measures which could be implemented. By applying all of the reasonably available and extraordinary measures on a statewide basis, rather than only in the NJ/NY/Conn AQCR, and thereby crediting a percentage of the reductions which will occur in the other AQCRs to the NJ/NY/Conn AQCR, attainment status in all areas by 1987 was projected.

The proposed amendments to Subchapter 16 fulfill the SIP commitment to adopt reasonably available control standards for additional stationary source categories. The estimated emission reductions to be achieved from the adoption of these proposed revisions to N.J.A.C. 7:27-16 are summarized in the following table. The resulting decrease in VOS emissions in the NJ/NY/Conn AQCR from the reasonably available control measures is approximately 37 metric tons per day. An additional 50 metric tons per day reduction is predicted to result from the proposed lowering of the exclusion rates of N.J.A.C. 7:27-16.5 and 6, identified in the SIP as two of the extraordinary measures. On a statewide basis, adoption of the proposed reasonably available and extraordinary measures should result in a total reduction of 114 metric tons per day.

ESTIMATED VOS EMISSION REDUCTIONS
(metric tons per day)

SOURCE CATEGORY		NJ/NY/CONN AQCR	STATEWIDE	SIP TARGET (STATEWIDE)
Reasonably Available Control Measures		0	0	0
Natural Gas/Gasoline Processing				
Synthetic Organic Chemical and Polymer Manufacturing		10	14	0
Petroleum Solvent Dry Cleaning		1	1	0
Polyethylene, Polypropylene and Polystyrene Resin Manufacturing		0	0	0
Stage II Vapor Recovery		18	32	31
Further Industrial Control				
Leather Coating		0.3	1	1
Glass Coating		1	1	1
Wood Furniture Coating		0.3	1	1
Fabric Printing		4	4	10
Tablet Coating		0.5	0.5	1
Urethane Coating		0.3	0.3	0
Urethane Printing		0.5	0.5	0
Small Gasoline Bulk Plants		1	1	0
	SUBTOTAL	37	56	45
Extraordinary Measures				
Lowering 16.5 Exclusion Rates		39	45	45
Lowering 16.6 Exclusion Rates		11	13	13
	SUBTOTAL	50	58	58
	TOTAL	87	114	103

A simultaneous benefit of controlling volatile organic emissions from stationary sources to reduce ambient ozone levels is the minimization of public exposure to toxic air contaminants. Stage II vapor recovery requirements provide a good example of this point in that such control systems will lower the emissions of benzene, ethylene dibromide, and ethylene dichloride contained in gasoline.

Implementation of this set of proposed revisions to N.J.A.C. 7:27-16 will not be sufficient to demonstrate statewide attainment with the National Ambient Air Quality Standard for ozone. For this reason, the Department is studying a number of additional source categories from the standpoint of potentially mandating VOS emission reductions. The list of source categories includes the extraordinary measures contained in the 1982 ozone SIP as well as some additional strategies, all of which will be evaluated on the basis of technical and economic feasibility. Upon completion of the present rulemaking process and recalculation of the remaining shortfall in VOS emission reductions in the NJ/NY/Conn. AQCR, it is likely that another set of revisions to N.J.A.C. 7:26-16 will be proposed during 1986 that will provide attainment with the NAAQS for ozone by the end of 1987.

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

7:27-16.1 Definitions

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

"Cartridge filtration system" means a system in which perforated cannisters containing filtration paper and/or activated carbon are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden solvent.

"Clear coating" means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color and any coating used as an interior protective lining on any cylindrical metal shipping container of greater than one gallon capacity.

"Clear topcoat" means the final coating, which contains binders but not opaque pigments and which is specifically formulated to form a transparent or translucent solid protective film on wood furniture.

"Conservation vent" means any [value] **valve** designed and used to reduce evaporation losses of VOS by limiting the amount of air admitted to, or vapors released from, the vapor space of a closed storage vessel.

"Construction ballast" means the filling of an underground storage tank with gasoline to provide stability during construction.

"Extreme performance coating" means a coating formulated for exposure to and consistently exposed to harsh environmental conditions including, but not limited to: outside weather conditions all of the time, or temperatures consistently above 95°C, or temperatures consistently below 0°C, or solvents, detergents, abrasives or scouring agents; or corrosive atmospheres or fluids.

"Fabric printing operation" means the decorative enhancement of knit or woven cloth by applying a pattern or colored design with inks, dyes, or print pastes by techniques including, but not limited to, roller, flat screen, rotary screen, and silk screen printing.

"Final repair coatings" means coatings applied to correct imperfections or damage to the surface of wood furniture.

"Gasoline dispensing facility" means a facility consisting of one or more stationary gasoline storage tanks together with dispensing devices.

"Gasoline loading facility" means a plant [for the transfer of] **at which** gasoline is **transferred** into delivery vessels.

"Graphic arts" means rotogravure and flexographic printing used to produce published material[,] and packaging for commercial or industrial purposes, [and] rotogravure and flexographic printing on [vinyl-coated fabric, or vinyl sheets,] **vinyl or urethane substrates, and fabric printing operations.**

"High performance architectural coating" means a flouropolymer resin-based coating which meets specifications 605.2 of the Architectural Aluminum Manufacturers Association and is applied to aluminum extrusions or panels.

"Light liquid" means a fluid with vapor pressure greater than 0.044 pounds per square inch absolute (2.27 millimeters of mercury) at 68°F.

"Light liquid service" means contact with a fluid that is 10 percent or greater by weight light liquid.

"Natural gas/gasoline processing plants" means facilities engaged in the separation of natural gas liquids from field gas and/or fractionation of the liquids into natural gas products such as ethane, propane, butane, and natural gasoline. Excluded from the definition are compressor stations, dehydration units, sweetening units, field treatment, underground storage, liquified natural gas units, and field gas gathering systems unless these facilities are located at a gas plant.

"Opaque stain" means all stains that contain pigments but are not classified as semitransparent stains, and includes stains, glazes, and other opaque material applied to wood surfaces.

"Petroleum solvent dry cleaning" means a process for the cleaning of textiles and fabric products in which articles are washed in a solution of organic material produced by petroleum distillation that exists as a liquid under standard conditions, and then dried by exposure to a heated air stream.

"Pigmented coat" means opaque coatings that contain binders and colored pigments and are formulated to conceal the wood surface either as an undercoat or topcoat.

"Plastisol" means a surface coating formulation that is a dispersion of finely divided polymeric resin in a high boiling solvent or softening agent that is added to increase flexibility or toughness and includes plastisols to which volatile solvent has been added.

"Sealer" means coatings containing binders that seal a wood surface prior to application of subsequent coatings.

"Semitransparent stain" means stains that contain dyes and/or semitransparent pigments and are formulated to enhance wood grain and to change the color of the surface, but not to conceal the surface; including sap stain, toner, nongrain raising stains, pad stain, spatter stain, and other semitransparent stains.

"Solvent recovery dryer" means a class of dry cleaning dryers that employs a condenser to liquify and recover solvent vapors evaporated in a closed-loop, recirculating stream of heated air.

"Surface coating of fabrics" means the application of any surface coating formulation, except ink and [vinyl] plastisol, applied to a textile substrate in a fabric coating line.

"Surface coating of glass" means the application of any surface coating formulation to glass lamps or bulbs.

"Surface coating of leather" means the application of any surface coating formulation to a leather substrate in a leather coating line.

"Surface coating of paper" means the application of any coating, **excluding plastisol**, uniformly distributed across the web, which is put on paper, or on pressure-sensitive tapes regardless of substrate (including paper, fabric, or plastic film); related web coating processes on plastic film including, but not limited to, typewriter ribbons, photographic film and magnetic tape; and decorative coating on metal foil including, but not limited to, gift wrap and packaging.

"Surface coating of wood furniture" means the application of any surface coating formulation to any furnishing made of wood or a composite of wood including, but not limited to, kitchen cabinets, equipment cabinets, household furniture and office furniture.

"Synthetic organic chemical or polymer" means one or more of the substances listed in Appendix I.

"Tablet coating" means the application of any surface coating formulation to a pharmaceutical product.

"Urethane coating" means the application of any surface coating formulation, except plastisol, to urethane coated fabric or urethane sheets that are more than 0.002 inches (50 micrometers) thick, except resilient floor covering and flexible packaging.

"Vacuum service" means equipment operating at an internal pressure which is at least 0.725 pounds per square inch absolute (37.5 millimeters of mercury) below ambient pressure.

"Vinyl coating" means the application of any **surface** coating **formulation**, except **ink and** [vinyl] plastisol, to vinyl-coated fabric or vinyl sheets.

"Wash coat" means a coating containing binders that seal wood surfaces, prevent undesired staining, and control penetration.

7:27-16.2 Storage of volatile organic substances

(a) (No change.)

(b) No person shall cause, suffer, allow, or permit the storage of a VOS in any stationary storage tank having a maximum capacity of 10,000 gallons (37,850 liters) or greater unless such stationary storage tank is equipped with control apparatus as determined in accordance with the procedure for using Table 1 or as approved by the Department as being equally or more effective in preventing the emission of VOS into the outdoor atmosphere.

Procedure for Using Table 1

Step 1: Determine the vapor pressure at standard conditions in pounds per square inch absolute of the VOS to be stored.

Step 2: Select the appropriate line in Table 1 for the vapor pressure determined in Step 1.

Step 3: Determine the maximum tank capacity in thousands of gallons.

Step 4: Find the tank capacity range classification for the vapor pressure determined under Step 1.

Step 5: Determine the control requirements in accordance with the following:

Range I: No control apparatus required under this subsection.

Range II: Conservation vent required.

Range III: Floating roof required.

TABLE 1
DETERMINANTS OF TYPE CONTROL APPARATUS REQUIRED FOR STORAGE OF VOLATILE ORGANIC SUBSTANCES

VAPOR PRESSURE IN PSIA @ 70°F		TANK CAPACITY IN THOUSANDS OF GALLONS			
		Range I	Range II		Range III
Greater than	But not Greater than	Not Greater than	Greater than	But not Greater than	Greater than
*0.02	0.03	4,500	4,500	14,000	14,000
0.03	0.04	4,500	4,500	11,000	11,000
0.04	0.06	3,500	3,500	8,000	8,000
0.06	0.08	2,500	2,500	6,000	6,000
0.08	0.10	2,000	2,000	4,500	4,500
0.10	0.15	1,600	1,600	3,500	3,500
0.15	0.2	1,050	1,050	2,500	2,500
0.2	0.3	750	750	1,600	1,600
0.3	0.4	550	550	1,250	1,250
0.4	0.5	475	475	1,075	1,075
0.5	0.6	400	400	900	900
0.6	0.7	350	350	750	750
0.7	0.8	300	300	650	650
0.8	1.0	260	260	550	550
1.0	1.2	210	210	475	475
1.2	1.4	190	190	400	400
1.4	1.6	170	170	350	350
1.6	1.8	150	150	300	300
1.8	2.1	125	125	260	260
2.1	2.4	110	110	225	225
2.4	2.7	100	100	200	200
2.7	3.0	90	90	180	180
3.0	3.5	80	80	160	160
3.5	4.0	70	70	145	145
4.0	4.5	60	60	130	130
4.5	5.0	50	50	115	115
5.0	5.5	50	50	105	105
5.5	6.0	50	50	95	95
6.0	6.5	40	40	85	85
6.5	7.0	40	40	75	75
7.0	7.5	40	40	70	70
7.5	8.0	35	35	65	65
8.0	8.5	35	35	60	60
8.5	9.5	30	30	55	55
9.5	10.5	25	25	50	50
10.5	11.5	20	20	45	45
11.5	13.0	10	10	40	40

***VOS which have a vapor pressure of 0.02 pounds per square inch absolute at 70°F shall be included in this line.**

(c)-(g) (No change.)

(h) No person shall cause, suffer, allow, or permit the storage of a VOS in any stationary storage tank having a maximum capacity of 40,000 gallons (151,400 liters) or greater and equipped with an external floating roof unless such stationary storage tank is equipped with control apparatus as determined in accordance with the procedure for using Table 1A or as approved by the Department as being equally or more effective in preventing the emission of VOS into the outdoor atmosphere.

Procedure for Using Table 1A

Step 1: Determine the vapor pressure at standard conditions in pounds per square inch absolute of the VOS to be stored.

Step 2: Select the appropriate line in Table 1A for the vapor pressure determined in Step 1.

Step 3: Determine the type of construction of the tank shell or walls, whether riveted or welded.

Step [3:]**4**: Determine the maximum tank capacity in thousands of gallons.

[Step 4: Determine the maximum tank capacity range classification for the vapor pressure determined under Step 1 and for the type of construction determined under Step 3.]

Step 5: Find the tank capacity range classification for the vapor pressure determined under Step 1 and for the type of construction determined under Step 3.

Step 6: Determine the control requirements in accordance with the following:

Range R-1 and Range W-1: A single seal-envelope combination is required.

Range R-2 and Range W-2: A second seal-envelope combination must be added.

(i)-(m) (No change.)

TABLE 1A
DETERMINANTS OF REQUIREMENTS FOR SECOND SEAL RETROFITS ON EXTERNAL FLOATING ROOF STORAGE TANKS CONTAINING VOLATILE ORGANIC SUBSTANCES

VAPOR PRESSURE IN PSIA @ 70°F		TANK CAPACITY IN THOUSANDS OF GALLONS			
		Riveted Tanks		Welded Tanks	
		Range R-1	Range R-2	Range W-1	Range W-2
Greater than	But not Greater than	Not Greater than	Greater than	But not Greater than	Greater than
*0.02	1.0	—	—	—	—
1.0	1.2	470	470	—	—
1.2	1.4	400	400	—	—
1.4	1.6	350	350	—	—
1.6	1.8	300	300	—	—
1.8	2.0	265	265	—	—
2.0	2.2	230	230	1,030	1,030
2.2	2.4	200	200	930	930
2.4	2.6	175.	175	840	840
2.6	2.8	155	155	770	770
2.8	3.0	135	135	720	720
3.0	3.2	120	120	665	665
3.2	3.4	105	105	[622]**620**	620
3.4	3.6	90	90	580	580
3.6	3.8	80	80	545	545
3.8	4.0	75	75	510	510
4.0	4.4	65	65	450	450
4.4	4.8	60	60	405	405
4.8	5.2	50	50	360	360
5.2	5.6	45	45	320	320
5.6	6.0	40	40	280	280
6.0	6.4	40	40	245	245
6.4	6.8	40	40	210	210
6.8	7.2	40	40	180	180
7.2	7.6	40	40	155	155
7.6	8.0	40	40	130	130
8.0	8.4	40	40	110	110
8.4	8.8	40	40	90	90
8.8	9.6	40	40	65	65
9.6	10.4	40	40	50	50
10.4	-	40	40	40	40

*VOS which have a vapor pressure of 0.02 pounds per square inch absolute at 70° F shall be included in this line.

7:27-16.3 Transfer operations

(a) No person shall cause, suffer, allow, or permit the transfer of any VOS into any receiving vessel of 2,000 gallons (7,570 liters) or greater total capacity unless such transfer is made through a submerged fill pipe or by other means approved by the Department as being equally or more effective in preventing the emission of VOS into the outdoor atmosphere during transfer. **By no later than June 30, 1986, such submerged fill pipe shall be permanently affixed to any underground storage tank into which gasoline is transferred.**

(b) (No change.)

(c) No person shall cause, suffer, allow, or permit the transfer of gasoline from any delivery vessel into any stationary storage tank of 2,000 gallons (7,570 liters) or greater capacity unless such storage tank is equipped with and operating one of the following controls:

1.-3. (No change.)

4. A vapor control system which [prevents emissions of more than 6.7 pounds of VOS per 10,000 gallons (80 milligrams per liter) of gasoline transferred; or] **reduced by no less than 95 percent by volume the air-vapor mixture displaced during the transfer of gasoline; or**

5. (No change.)

(d) No person shall cause, suffer, allow, or permit the transfer of [gasoline] **any substance** into any **gasoline vapor laden** delivery vessel of 2,000 gallons (7,570 liters) or greater total capacity **unless such transfer is made at a gasoline loading facility and** unless such delivery vessel is connected to control apparatus installed and operating in accordance with the provisions of (e) below.

(e) No person shall cause, suffer, allow, or permit the transfer or loading of gasoline **or any substance into any gasoline vapor laden delivery vessel at** [from] a gasoline loading facility unless such facility is equipped with and operating a control apparatus in accordance with the following provisions:

1. Facilities loading [more than 4,000 gallons (15,140 liters) per day, but not more than] 15,000 gallons (56,775 liters) **of gasoline or less** per day[;] shall be equipped with and operating a vapor balance system or other control apparatus of equal or higher efficiency. Such vapor balance system shall have no open operating vent to the atmosphere during transfer and shall not return the vapors to any tank equipped with a floating roof.

2. Facilities loading more than 15,000 gallons (56,775 liters) **of gasoline** per day shall be equipped with and operating a vapor control system which:

i.-ii. (No change.)

Table 2 (No change.)

3. (No change.)

(f) No person shall cause, suffer, allow, or permit the transfer of gasoline into any vehicular fuel tank unless the transfer is made using a vapor control system that is approved by the Department and that is designed, operated, and maintained so as:

1. To prevent VOS emissions to the outdoor atmosphere by no less than 90 percent by weight at stations with a monthly throughput of less than 200,000 gallons (757,000 liters) or;

2. To prevent VOS emissions to the outdoor atmosphere by no less than 97 percent by weight at stations with a monthly throughput of 200,000 gallons (757,000 liters) or greater, and;

3. To prevent overfilling and spillage.

(g) The provisions of (f) above shall not apply to a gasoline dispensing facility with a monthly throughput of 10,000 gallons (37,850 liters) or less.

[(f)] **(h)** [After December 31, 1982, no] **No** person shall cause, suffer, allow, or permit any delivery vessel having a maximum total capacity of 2,000 gallons (7,570 liters) or greater to contain gasoline unless such delivery vessel:

1. (No change.)

2. Has a certification [fastened] **affixed** to the vessel in a prominent location which indicates the identification number of the vessel and the date the vessel last passed the pressure and vacuum tests; and

3. Has a record of certification which shall be kept with the delivery vessel at all times and made available upon request by the Department. The record of certification shall include the test title, delivery vessel owner and address, delivery vessel identification number, testing location, date of test, tester's name and signature, and test results. The provisions of this paragraph shall become effective June 30, 1986.

[(g)] **(i)** [After December 31, 1982,] No person shall cause, suffer, allow, or permit a transfer of gasoline subject to the provisions of (c), (d), and (e) above if the delivery vessel being loaded is under a pressure in excess of 18 inches of water (34 millimeters of mercury) gauge or the delivery vessel being unloaded is under a vacuum in excess of 6 inches of water (11 millimeters of mercury) gauge.

[(h)] **(j)** No person shall cause, suffer, allow, or permit VOS to be emitted into the outdoor atmosphere during a transfer of gasoline, subject to the provisions of (c), (d), [and] (e), **and (f)** above, from leaking components of gasoline vapor control systems or delivery vessels being loaded or unloaded if:

1.-2. No change.

(k)-(m) (No change in text.)

(n) The provisions of (c) above shall not apply to a storage tank during construction ballast.

(o) Any delivery vessel subject to the provisions of (h) above found in violation of (j) or (l) above shall be repaired within 15 days and shall be recertified.

(p) Any person subject to the provisions of (e)1 above and loading 4,000 gallons (15,140 liters) of gasoline or less per day shall comply with the following schedule:

1. By April 1, 1986, the applicant, pursuant to N.J.A.C. 7:27-8, shall submit a completed application for a "Permit to Construct, Install, or Alter Control Apparatus or Equipment" to the Department. The application shall demonstrate compliance with the requirements of (e)1 above.

2. By October 1, 1986, construction of equipment and control apparatus in accordance with the approved "Permit to Construct, Install, or Alter Control Apparatus or Equipment" shall commence.

3. By March 31, 1987, compliance shall be achieved.

(q) Any person subject to the provisions of (f) above shall comply with the following schedules:

1. By June 30, 1986, the applicant, pursuant to N.J.A.C. 7:27-8, shall submit a completed application for a "Permit to Construct, Install or Alter Control Apparatus or Equipment" to the Department. The application shall demonstrate compliance with the requirements of (f) above.

2. By January 1, 1987, construction of equipment and control apparatus in accordance with the approved "Permit to Construct, Install or Alter Control Apparatus or Equipment" shall commence.

3. By June 30, 1987 compliance shall be achieved.

7:27-16.4 Open top tanks and surface cleaners

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

(d) No person shall cause, suffer, allow, or permit the use of VOS in any heated open top tank which is operated at a temperature lower than the boiling point of such VOS unless such tank:

1.-2. (No change.)

3. Is devoid of any flushing wand which produces VOS droplets or mist or which delivers a stream of VOS under line pressure in excess of 15 pounds per square inch gauge (776 millimeters of mercury gauge); and

4.-5. (No change in text.)

(e) (No change.)

(f) No person shall cause, suffer, allow, or permit the use of VOS in any unheated conveyorized surface cleaner unless such cleaner:

1.-5. (No change.)

6. Is equipped with a vapor control system which [recovers or removes] **reduces the total emissions of VOS from the cleaner by** at least 85 percent by volume [of the vapor emitted from the cleaner]. Cleaners installed before December 17, 1979 are not subject to this requirement.

(g) No person shall cause, suffer, allow, or permit the use of VOS in any conveyorized heated surface cleaner **which is operated at a temperature lower than the boiling point of such VOS,** unless such cleaner:

1.-5. (No change.)

6. Is protected from drafts when in active use by the installation of silhouette cutouts or hanging flaps to minimize the effective openings around the conveyor inlet and conveyor outlet parts[.] **; and**

7. Is equipped with a vapor control system by June 30, 1986, which reduces the total emissions of VOS from the cleaner by at least 85 percent by volume.

(h) No person shall cause, suffer, allow, or permit the use of VOS in any conveyorized vapor surface cleaner unless such cleaner:

1.-7. (No change.)

8. Is equipped with:

i. (No change.)

ii. A vapor control system which [recovers or removes] **reduces the total emissions of VOS from the cleaner by** at least 85 percent by volume [of the vapors emitted from the cleaner].

(i)-(o) (No change.)

7:27-16.5 Surface coating operations

(a) General provisions for surface coating operations are as follows:

[(a)] **1.** No person shall cause, suffer, allow, or permit VOS emissions from a surface coating operation to exceed the maximum allowable hourly emission rate as determined by multiplying the maximum allowable emissions per volume of coating, minus water, as set forth in Table 3A, in Table 3B, or in Table 3C of this section, times the volume of coating, minus water, applied per hour. [If more than one product is manufactured on a single surface coating line, a weighted daily mean of the emissions can be calculated to demonstrate compliance by multiplying the maximum allowable emission per volume of coating, minus water, for each formulation times the number of gallons used.]

2. After June 30, 1987, no person shall cause, suffer, allow, or permit VOS emissions from a surface coating operation included in a mathematical combination of source gases pursuant to N.J.A.C. 7:27-16.4(c)4 to exceed the maximum allowable hourly emission rate as determined by the following equation:

$$\text{Allowable} = \frac{[1-y/d]}{[1-x/d]}(z)(x)$$

where x = maximum allowable emissions per volume of coating (minus water), lb/gal (kg/l)

d = density of VOS of the applied surface coating formulation, lb/gal (kg/l)

y = VOS content of the applied surface coating formulation (minus water), lb/gal (kg/l)

z = volume of coating (minus water) applied per hour, gal/hr (1/hr).

3. If more than one product is manufactured on a single surface coating line, a weighted daily mean of the emissions can be calculated to demonstrate compliance.

4. The provisions of 2 and 3 above shall become effective immediately upon promulgation for any surface coating operation included in a mathematical combination of source gases for which the maximum allowable hourly emission rate is greater when calculated by 2 above than when calculated by 1 above.

(b) [After December 17, 1979,] No person shall cause, suffer, allow, or permit the installation of any surface coating operation to apply a surface coating formulation which does not contain water deliberately added in a planned proportion unless a coating application system having a transfer efficiency of 60 percent or greater, or as otherwise approved by the Department, is used.

(c) The provisions of (a) and (b) above and [(e)] **(f), (g), and (h)** below shall not apply to any **individual** surface coating [source] operation in which the total surface coating formulations containing VOS are applied:

1. At rates not in excess of one gallon per hour and five gallons per day[; or] **and after December 31, 1986, at rates not in excess of 0.5 gallons per hour and 2.5 gallons per day; or**

2. (No change.)

(d) Any person subject to the emission standards specified in Table 3A pertaining to spray prime and spray topcoat surface coating formulations may, as an alternative to the maximum allowable emissions set forth in Table 3A, comply with the provisions of Table 3C.

TABLE 3A (No change.)

TABLE 3B
MAXIMUM ALLOWABLE EMISSIONS FOR MISCELLANEOUS SURFACE COATING OPERATIONS

Type of Operation	Maximum Allowable Emissions per Volume of Coating (minus water)	
	Pounds per Gallon	Kilograms per Liter
Group I		
Can Coating		
Sheet basecoat	2.8	0.34
Two-piece can exterior		
Two- & three-piece can interior body spray, two-piece and exterior	4.2	0.51
Side-seam spray	5.5	0.66
End sealing compound	3.7	0.44
Coil Coating	2.6	0.31
Fabric Coating	2.9	0.35

Vinyl Coating	3.8	0.45
Paper Coating	2.9	0.35
Metal Furniture Coating	3.0	0.36
Magnet Wire Coating	1.7	0.20
Large Appliance Coating	2.8	0.34
[Group II]		
Miscellaneous Metal Parts and Products		
Clear coating	4.3	0.52
Air-dried coating	3.5	0.42
Extreme performance coating	3.5	0.42
High performance architectural coating	**4.2**	**0.51**
All other coatings	3.0	0.36
Flat Wood Paneling		
Printed hardwood plywood panels and particleboard panels	2.7	0.32
Natural finish hardwood plywood	3.3	0.40
Hardboard panels	3.6	0.43
Group II		
Leather Coating	**5.8**	**0.70**
Urethane Coating	**3.8**	**0.45**
Tablet Coating	**5.5**	**0.66**
Glass Coating	**3.0**	**0.36**

TABLE 3C
ALTERNATIVE MAXIMUM ALLOWABLE EMISSIONS WITH MINIMUM TRANSFER EFFICIENCIES REQUIRED FOR SPRAY COATING OPERATIONS

Maximum Allowable Emissions per Volume of Coating (minus water)		**Minimum Transfer Efficiency Required**
Pounds per Gallon	**Kilograms per Liter**	
3.0	**0.36**	**34**
3.2	**0.38**	**37**
3.4	**0.41**	**42**
3.6	**0.43**	**47**
3.8	**0.46**	**52**
4.0	**0.48**	**58**
4.2	**0.50**	**65**

TABLE 3[C]D
MAXIMUM ALLOWABLE EMISSIONS FOR GRAPHIC ARTS SOURCES

Basis	Control Criterion	
For formulations that contain water; Volume percent VOS in volatile fraction of coating (VOS plus water) as applied, maximum	25.0	
or		
For formulations that do not contain water; [Volume percent of non-volatile (solids) components of coating as applied, less water, minimum]	[60.0]	
	Pounds per gallon	**Kilograms per liter**
The maximum allowable emissions per volume of formulation (minus water)	**2.9**	**0.35**

TABLE 3E
MAXIMUM ALLOWABLE EMISSIONS FOR WOOD FURNITURE SURFACE COATING OPERATIONS

Type of Operation	**Maximum Allowable Emissions per Volume of Coating (minus water)**		**Minimum Transfer Efficiency Required**
	pounds per gallon	**kilograms per liter**	
Clear topcoat and Sealer	**5.6**	**0.67**	**65**
Wash coat	**6.1**	**0.73**	**65**
Final repair coat	**5.6**	**0.67**	**30**
Pigmented coat	**5.0**	**0.60**	**65**
Semitransparent stain	**6.6**	**0.79**	**65**
Opaque stain	**4.7**	**0.56**	**65**

(e) Any person subject to emission standards specified in Table 3B, Group I pertaining to metal furniture coating or large appliance coating may apply to the Department for an alternative maximum allowable emission rate, provided the owner or operator can demonstrate to the Department's satisfaction that surface coating formulations are applied at a transfer efficiency of greater than 60 percent.

[(e)] **(f)** Any person subject to an emission limitation set forth in Table 3[C]**D** who reduces VOS emissions by means other than reformulation of the surface coating formulation shall comply with the following requirements:

1. (No change.)
2. Collect at least 70 percent by volume of the source gas emitted from a flexographic printing operation and prevent from being discharged into the outdoor atmosphere at least 90 percent by volume of the VOS collected on an hourly basis[.]**; or**
3. **Collect at least 70 percent by volume of the source gas emitted from a fabric printing operation and prevent from being discharged into the outdoor atmosphere at least 90 percent by volume of the VOS collected on an hourly basis.**

(g) Any person subject to the emission limitations set forth in Table 3B, Group II for tablet coating who reduces VOS emissions by means other than reformulation of the surface coating formulation shall reduce the total emissions of VOS to the outdoor

atmosphere by no less than 90 percent by weight on an hourly basis.

(h) No person shall cause, suffer, allow, or permit VOS emissions from a wood furniture surface coating operation unless each surface coating formulation is applied at no less than the minimum transfer efficiency specified in Table 3E.

[(f)] **(i)** Any person subject to an emission limitation set forth in Table 3A or in Table 3C of this Section shall comply with the following schedule:

1. By January 1, 1981, a plan must be submitted to the Department for approval describing the measures which will be applied in order to achieve compliance. The plan submittal shall include:

i. Completed applications for all [required] "Permits to Construct, Install, or Alter Control Apparatus or Equipment" and "Certificates to Operate Control Apparatus or Equipment" **required by N.J.A.C. 7:27-8;** and

ii. Completed applications, if [desired] **relevant**, for the mathematical combination of source gases as provided for in N.J.A.C. 7:27-16.6(c)4; and

iii.-iv. (No change.)

2.-4. (No change.)

[(g) Any person subject to an emission limitation set forth for Group II in Table 3B or in Table 3D of this Section shall comply with the following schedule:

1. By June 30, 1982 a plan must be submitted to the Department for approval describing the measures which will be applied in order to achieve compliance. The plan submittal shall include:

i. Completed applications for all required "Permits to Construct, Install or Alter Control Apparatus or Equipment" and "Certificates to Operate Control Apparatus or Equipment"; and

ii. Completed applications, if desired, for the mathematical combination of source gases as provided for in N.J.A.C. 7:27-16.6(c)4; and

iii. Documentation of the rates of application of surface coating formulations in surface coating operations excluded under the provisions of (c) above; and

iv. Details of production rate changes or process modifications for which no "Permits to Construct, Install, or Alter Control Apparatus or Equipment" are required.

2. By June 30, 1982 and by the first day of every fourth month thereafter, persons using surface coating reformulation as a measure for complying with the provisions of (a) or (e) above shall submit detailed reports describing the progress.

3. By June 30, 1983, construction or installation of equipment and control apparatus, in accordance with the approved plan shall commence.

4. By December 31, 1983, compliance with this section shall be achieved.]

(j) Any person subject to an emission limitation set forth in Table 3B, Group II for leather coating, urethane coating, tablet coating, glass coating; in Table 3D for fabric or urethane printing operations, or in Table 3E for wood furniture coating, shall comply with the following schedule;

1. By April 1, 1986, a plan must be submitted to the Department for approval describing the measures which will be applied in order to achieve compliance. The plan submittal shall include:

i. Completed applications for all "Permits to Construct, Install, or Alter Control Apparatus or Equipment" and "Certificates to Operate Control Apparatus or Equipment" required by N.J.A.C. 7:27-8;

ii. Completed applications, if relevant, for the mathematical combination of source gases as provided for in N.J.A.C. 7:27-16.6(c)4;

iii. Documentation of the rates of application of surface coating formulations in surface coating operations excluded under the provisions of (c) above; and

iv. Details of production rate changes or process modifications for which no "Permits to Construct, Install, or Alter Control Apparatus or Equipment" are required.

2. By January 1, 1986 and by the first day of every fourth month thereafter, persons using surface coating reformulation as a measure for complying with the provisions of (a) or (h) above shall submit detailed reports describing the progress being made with specific surface coating manufacturers and suppliers toward the development of suitable formulations.

3. By January 1, 1987, construction or installation of equipment and control apparatus, in accordance with the approved plan shall commence.

4. By June 30, 1987, compliance with this section shall be achieved.

[(h)] **(k)** (No change in text.)

7:27-16.6 Source operations other than storage tanks, transfers, open top tanks, surface cleaners, and surface coaters

(a) No person shall cause, suffer, allow, or permit VOS to be emitted into the outdoor atmosphere from any source operation not subject to the provisions of Sections 16.2, 16.3, 16.4, 16.5, [and] 16.7, **and 16.8** of this Subchapter, in excess of the maximum allowable emission rate as determined in accordance with the procedure for using Table 4.

Procedure for Using Table 4

1.-4. (No change.)

5. The maximum allowable emission rate shall be the pounds (kilograms) per hour (or per batch cycle hour) equivalent to the percent of the process emissions shown in Column 2 or the Exclusion Rate shown in Column 3, whichever is greater. **After June 30, 1987, the maximum allowable emission rate shall be the pounds (kilograms) per hour (or per batch cycle hour) equivalent to the percent of the process emissions shown in Column 2 or the Exclusion Rate shown in Column 4, whichever is greater.**

TABLE 4
MAXIMUM ALLOWABLE EMISSIONS FOR VOS FROM SOURCE OPERATIONS

Column 1	Column 2	Column 3		**Column 4 June 30, 1987**	
Range Determined from Table 5	Maximum Allowable Emissions, Percent of Process Emissions by Weight	Exclusion Rates, Continuous or Batch Cycle Emission		**Exclusion Rates, Continuous or Batch Cycle Emission**	
		Pounds Per Hour	Kilograms Per Hour	**Pounds Per Hour**	**Kilograms Per Hour**

Range A	15	7	[3.2]**3.18**	**3.5**	**1.58**
Range B	15	6	[2.7]**2.72**	**3.0**	**1.36**
Range C	15	5	[2.3]**2.27**	**2.5**	**1.13**
Range D	12	4	[1.8]**1.82**	**2.0**	**0.91**
Range E	10	3	[1.4]**1.36**	**1.5**	**0.68**
Range F	8	2	[0.9]**0.91**	**1.0**	**0.45**
Range G	2	1	[0.5]**0.45**	**0.5**	**0.23**
Range H	0.3	0	0	**0**	**0**
Range I	15	7	[3.2]**3.18**	**3.5**	**1.59**

TABLE 5 (No change.)

(b) (No change.)

(c) For the purpose of this section:

1.-2. (No change.)

3. The maximum allowable emission rate for source gases physically combined (manifolded) from more than one source operation shall be the sum of the maximum allowable emission rates for the separate source gases as determined under N.J.A.C. 7:27-16.5(a)**,** [and (e)] **(g) and (h),** and 16.6(a) **and (b)**. The process emission rate shall be used as the maximum allowable emission rate of a separate source gas if it is less than the applicable exclusion rate contained in Table 4, Column 3[;] **and after June 30, 1987, if it is less than the applicable exclusion rate contained in Table 4, Column 4.**

4. (No change.)

5. The Department may approve such mathematical combining of source gases provided:

i. (No change.)

ii. The sum of the emission rates of the separate source gases does not exceed the sum of the maximum allowable emission rates for the separate source gases as determined under N.J.A.C. 7:27-16.5(a)**,** [and (e),] **(g) and (h), and** 16.6(a) and (b). The process emission rate shall be used as the maximum allowable emission rate of a separate source gas if it is less than the applicable exclusion rate contained in Table 4, Column 3[;] and **after June 30, 1987, if it is less than the applicable exclusion rate contained in Table 4, Column 4; and**

iii.-ix. (No change.)

(d) No person shall cause, suffer, allow, or permit VOS to be emitted [into the outdoor atmosphere] from leaking flange gaskets, manhole gaskets, measuring instrument connections, sight glass connections, and other sealed connections, joints, and fittings not involving moving parts.

(e) No person shall cause, suffer, allow, or permit VOS to be emitted [into the outdoor atmosphere] from leaking valve bonnets, pump packings, compressor packings, and other seals surrounding moving parts:

1. If the rates of emissions result in concentrations of greater than 10,000 ppm by volume [into the outdoor atmosphere] when measured at a distance of 0.4 inches (1 centimeter) from the source.

2. (No change.)

(f) The owner or operator of a petroleum refinery shall develop and initiate an emission testing program for equipment leaks subject to the provisions of (d) and (e) above. The program shall include the following provisions:

1.-3. (No change.)

4. [Within 24 hours] **By no later than 5 calendar days** after a relief valve has vented to the atmosphere, [visually inspect] **test** it; and

5.-6. (No change.)

7. A readily visible identification tag shall be affixed to any leaking refinery component. The tag must bear an identification number and the date on which the leak [is discovered] **was detected**. The tag must remain in place until the leak is repaired; and

8. (No change.)

[9. After July 1, 1982, a log of information about leaking refinery components must be maintained. The log shall be made available immediately upon request by the Department. The log shall contain the following data:

i. The name of the process unit where the leaking component is located; and

ii. The type of refinery component; and

iii. The tag identification number of the refinery component; and

iv. The date on which the leak is detected; and

v. The date on which the leaking refinery component is repaired; and

vi. The date and instrument reading of the retest procedure after a leaking refinery component is repaired; and

vii. A record of the calibration of the monitoring instrument; and

viii. An identification of those leaks that cannot be repaired until a process unit is shut down; and

[ix. The total number of refinery components monitored and the total number of refinery components detected leaking.]

[10. By October 1, 1982 and by the first day of every third month thereafter, a report shall be submitted to the Department that lists all leaking refinery components detected during the previous three calendar months but not repaired within 15 days, all leaking components whose repair is awaiting a process unit shutdown, the total number of refinery components inspection, and the total number of refinery components detected leaking.]

(g) The owner or operator of a natural gas/gasoline processing plant shall develop and initiate an emission testing program for equipment leaks subject to the provisions of (d) and (e) above. The program shall apply to only that equipment in contact with a substance that is 1.0 percent by weight or greater VOS and shall include the following provisions:

1. Quarterly, test all pumps, valves, compressors, and pressure relief valves;

2. Weekly, visually inspect all pumps;

3. By no later than 5 days after a relief valve has vented to the atmosphere, test it;

4. Immediately after repair, test any equipment from which a leak was detected;

5. By June 30, 1986, the initial emission tests shall be completed;

6. A readily visible identification tag shall be affixed to any leaking component. The tag must bear an identification number and the date on which the leak was detected. The tag must remain in place until the leak is repaired; and

7. Any leaking component shall be repaired within 15 days after the leak is detected unless the shutdown of a process unit is necessary to repair the leak. A leak shall be repaired at the earliest period in which either the process is not in operation or the particular unit is out of service, whichever occurs first.

(h) The owner or operator of a synthetic organic chemical or polymer manufacturing facility shall develop and initiate an emission program for equipment leaks subject to the provisions of (d) and (e) above. The program shall apply only to that equipment in contact with a substance that is 10 percent by weight or greater VOS and that is used to produce greater than 1,100 tons per year (1,000 megagrams per year) of a synthetic organic chemical or polymer and shall include the following provisions:

1. Quarterly, test all pumps in light liquid service, valves in light liquid service, valves in gas service, compressors and safety relief valves in gas service;

2. Weekly, visually inspect all pumps in light liquid service;

3. By no later than 5 calendar days after a relief valve has vented to the atmosphere, test it;

4. Immediately after repair, test any equipment from which a leak was detected;

5. By June 30, 1986, the initial emission tests shall be completed;

6. A readily visible identification tag shall be affixed to any leaking component. The tag must bear an identification number and the date on which the leak was detected. The tag must remain in place until the leak is repaired; and

7. Any leaking component shall be repaired within 15 days after the leak is detected unless the shutdown of a process unit is necessary to repair the leak. A leak shall be repaired at the earliest period in which either the process is not in operation or the particular unit is out of service, whichever occurs first.

(i) Any person subject to the provisions of (f), (g) or (h) above shall include the following provisions:

1. After July 1, 1982, for a petroleum refinery and after July 1, 1986, for natural gas/gasoline processing plants and synthetic organic chemical and polymer manufacturing facilities, a log of information about leaking components shall be maintained. The log shall be made available immediately upon request by the Department. The log shall contain the following data:

i. The name of the process unit where the leaking component is located;

ii. The type of component;

iii. The tag identification number of the component;

iv. The date on which the leak was detected;

v. The date on which the leaking component was repaired;

vi. The date and instrument reading of the retest procedure after a leaking component is repaired;

vii. A record of the calibration of the monitoring instrument;

viii. An identification of those leaks that cannot be repaired until a process unit is shut down; and

ix. The total number of components monitored and the total number of components detected leaking.

2. By October 1, 1982, for a petroleum refinery and by October 1, 1987, for natural gas/gasoline processing plants and synthetic organic chemical and polymer manufacturing facilities, and by the first day of every third month thereafter, a report shall be submitted to the Department that lists all leaking components detected during the previous three calendar months but not repaired within 15 days, all leaking components whose repair is awaiting a process unit shutdown, the total number of components inspected, and the total number of components detected leaking.

[(g)] **(j)** The provisions of (f), **(g) and (h)** above shall not apply to pressure relief devices which are connected to an operating flare or to a vapor recovery device, to storage tank valves, [or] to valves that are not externally regulated[.]**, or to valves in vacuum service.**

[(h)] **(k)** After July 1, 1982, [no owner or operator of] **for a** petroleum refinery**, and after January 1, 1987 for a natural gas/gasoline processing plant or synthetic organic chemical and polymer manufacturing facilities, no owner or operator** shall install or operate a valve, except for safety pressure relief valves, at the end of a pipe or line containing VOS unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only when a sample is being taken or during maintenance operations.

(l) The provisions of (f), (g) and (h) above shall not apply to valves which would require monitoring personnel to be elevated higher than 6.6 feet (2 meters) above permanent support surfaces by the use of a ladder or scaffolding. Such valves shall be monitored annually rather than quarterly.

7:27-16.8 Petroleum solvent dry cleaning operations

(a) No person shall cause, suffer, allow, or permit VOS emissions to the outdoor atmosphere from a petroleum solvent dry cleaning dryer unless such dryer is:

1. Equipped with a vapor control system which prevents VOS emissions from exceeding 7.7 pounds (3.5 kilograms) per 220 pounds (100 kilograms) dry weight of articles dry cleaned; or

2. A solvent recovery dryer operated in a manner such that the dryer remains closed and the recovery phase continues until a final recovered solvent flow rate of 0.013 gallons (50 milliliters) per minute is attained.

(b) No person shall cause, suffer, allow, or permit VOS emissions to the atmosphere from a petroleum solvent filtration system unless:

1. The VOS content in all filtration wastes is reduced to no more than 2.2 pounds (1.0 kilograms) per 220 pounds (100 kilograms) dry weight of articles dry cleaned, before disposal, and exposure to the atmosphere; or

2. The system is a cartridge filtration system operated such that the filter cartridges are drained in their sealed housings for eight hours or longer before their removal.

(c) No owner or operator of a petroleum solvent dry cleaning facility shall cause, suffer, allow, or permit VOS to be emitted into the outdoor atmosphere from:

1. Visibly leaking equipment including, but not limited to, washers, dryers, solvent filters, settling tanks, and vacuum stills; and

2. Containers of VOS or VOS-laden waste standing open to the atmosphere.

(d) The provisions of (a) above shall not apply to petroleum solvent dry cleaning facilities that consume less than 15,000 gallons (56,775 liters) of petroleum solvent annually.

(e) Any person subject to the provisions of (a) above shall comply with the following schedule:

1. By April 1, 1986, a plan must be submitted to the Department for approval describing the measures which will be applied in order to achieve compliance. The plan submittal shall include completed applications for all "Permits to Construct, Install, or Alter Control Apparatus or Equipment" and "Certificate to Operate Control Apparatus or Equipment" required by N.J.A.C. 7:27-8;

2. By January 1, 1987, construction or installation of equipment and control apparatus, in accordance with the approved plan shall commence; and

3. By June 30, 1987, compliance with this section shall be achieved.

Recodify existing 7:27-16.8 through 16.12 as **16.9** through **16.13** (No change in text.)

APPENDIX I
LIST OF CHEMICALS DEFINING SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING

CAS #	CHEMICAL
105-57-7	Acetal
75-07-0	Acetaldehyde
107-89-1	Acetaldol
60-35-5	Acetamide
103-84-4	Acetanilide
64-19-7	Acetic acid
108-24-7	Acetic anhydride
67-64-1	Acetone
75-86-5	Acetone cyanohydrin
75-05-8	Acetonitrile
96-86-2	Acetophenone
75-36-5	Acetyl chloride
74-86-2	Acetylene
107-02-8	Acrolein
79-06-1	Acrylamide
79-10-7	Acrylic acid
107-13-1	Acrylonitrile
124-04-9	Adipic acid
111-69-3	Adiponitrile
a	Alkyl naphthalenes
107-18-6	Allyl alcohol
107-05-1	Allyl chloride
1321-11-5	Aminobenzoic acid
111-41-1	Aminoethylethanolamine
123-30-8	p-Aminophenol
628-63-7, 123-92-2	Amyl acetates
71-41-0, a	Amyl alcohols
110-58-7	Amyl amine
543-59-9	Amyl chloride
110-66-7, a	Amyl mercaptans
1322-06-1	Amyl phenol
62-53-3	Aniline
142-04-1	Aniline hydrochloride
29191-52-4	Anisidine
100-66-3	Anisole
118-92-3	Anthranilic acid
84-65-1	Anthraquinone
100-52-7	Benzaldehyde
55-21-0	Benzamide
71-43-2	Benzene
98-48-6	Benzenedisulfonic acid
98-11-3	Benzenesulfonic acid
134-81-6	Benzil
76-93-7	Benzilic acid
65-85-0	Benzoic acid
119-53-9	Benzoin
100-47-0	Benzonitrile
119-61-9	Benzophenone
98-07-7	Benzotrichloride
98-88-4	Benzoyl chloride
100-51-6	Benzyl alcohol
100-46-9	Benzylamine
120-51-4	Benzyl benzoate
100-44-7	Benzyl chloride
98-87-3	Benzyl dichloride
92-52-4	Biphenyl
80-05-7	Bisphenol A
10-86-1	Bromobenzene
27497-51-4	Bromonaphthalene
106-99-0	Butadiene
106-98-9	1-butene
123-86-4	n-butyl acetate
141-32-2	n-butyl acrylate
71-36-3	n-butyl alcohol
78-92-2	s-butyl alcohol
75-65-0	t-butyl alcohol
109-73-9	n-butylamine
13952-84-6	s-butylamine
75-64-9	t-butylamine
98-73-7	p-tert-butyl benzoic acid
107-88-0	1,3-butylene glycol
123-72-8	n-butyraldehyde
107-92-6	Butyric acid
106-31-0	Butyric anhydride
109-74-0	Butyronitrile
105-60-2	Caprolactam
75-1-50	Carbon disulfide
558-13-4	Carbon tetrabromide
56-23-5	Carbon tetrachloride
9004-35-7	Cellulose acetate
79-11-8	Chloroacetic acid
108-42-9	m-chloroaniline
95-51-2	o-chloroaniline
106-47-8	p-chloroaniline
35913-09-8	Chlorobenzaldehyde
108-90-7	Chlorobenzene
a	Chlorobenzoic acid
a	Chlorobenzotrichloride
1321-03-5	Chlorobenzoyl chloride
25497-29-4	Chlorodifluoromethane
75-45-6	Chlorodifluoroethane
67-66-3	Chloroform
25586-43-0	Chloronaphthalene
88-73-3	o-chloronitrobenzene
100-00-5	p-chloronitrobenzene
25167-80-0	Chlorophenols
126-99-8	Chloroprene
7790-94-5	Chlorosulfonic acid
108-41-8	m-chlorotoluene
95-49-8	o-chlorotoluene
106-43-4	p-chlorotoluene
75-72-9	Chlorotrifluoromethane
108-39-4	m-cresol
95-48-7	o-cresol
106-44-5	p-cresol
1319-77-3	Mixed cresols
1319-77-3	Cresylic acid
4170-30-0	Crotonaldehyde
3724-65-0	Crotonic acid
98-82-8	Cumene
80-15-9	Cumene hydroperoxide
372-09-8	Cyanoacetic acid
506-77-4	Cyanogen chloride
108-80-5	Cyanuric acid
108-77-0	Cyanuric chloride
110-82-7	Cyclohexane
108-93-0	Cyclohexanol
108-94-1	Cyclohexanone
110-83-8	Cyclohexene
108-91-8	Cyclohexylamine
111-78-4	Cyclooctadiene
112-30-1	Decanol
123-42-2	Diacetone alcohol
27576-04-1	Diaminobenzoic acid

a	Dichloroaniline
541-73-1	m-dichlorobenzene
95-50-1	o-dichlorobenzene
106-46-7	p-dichlorobenzene
75-71-8	Dichlorodifluoromethane
107-06-2	1,2-dichloroethane (EDC)
111-44-4	Dichloroethyl ether
96-23-1	Dichlorohydrin
26952-23-8	Dichloropropene
101-83-7	Dicyclohexylamine
109-89-7	Diethylamine
111-46-6	Diethylene glycol
112-36-7	Diethylene glycol diethyl ether
111-96-6	Diethylene glycol dimethyl ether
112-34-5	Diethylene glycol monobutyl ether
124-17-4	Diethylene glycol monobutyl ether acetate
111-90-0	Diethylene glycol monoethyl ether
112-15-2	Diethylene glycol monoethyl ether acetate
111-77-3	Diethylene glycol monomethyl ether
64-67-5	Diethyl sulfate
75-37-6	Difluoroethane
25167-70-8	Diisobutylene
26761-40-0	Diisodecyl phthalate
27554-26-3	Diisooctyl phthalate
674-82-8	Diketene
124-40-3	Dimethylamine
121-69-7	N,N-dimethylaniline
115-10-6	N,N-dimethyl ether
68-12-2	N,N-dimethylformamide
57-14-7	Dimethylhydrazine
77-78-1	Dimethyl sulfate
75-18-3	Dimethyl sulfide
67-68-5	Dimethyl sulfoxide
120-61-6	Dimethyl terephthalate
99-34-3	3,5-dinitrobenzoic acid
51-28-5	Dinitrophenol
25321-14-6	Dinitrotoluene
123-91-1	Dioxane
646-06-0	Dioxilane
122-39-4	Diphenylamine
101-84-8	Diphenyl oxide
102-08-9	Diphenyl thiourea
25265-71-8	Dipropylene glycol
25378-22-7	Dodecene
28675-17-4	Dodecylaniline
27193-86-8	Dodecylphenol
106-89-8	Epichlorohydrin
64-17-5	Ethanol
a	Ethanolamines
141-78-6	Ethyl acetate
141-97-9	Ethyl acetoacetate
140-88-5	Ethyl acrylate
75-04-7	Ethylamine
100-41-4	Ethylbenzene
74-96-4	Ethyl bromide
9004-57-3	Ethylcellulose
75-00-3	Ethyl chloride
105-39-5	Ethyl chloroacetate
105-56-6	Ethylcyanoacetate
74-85-1	Ethylene
96-49-1	Ethylene carbonate
107-07-3	Ethylene chlorohydrin
107-15-3	Ethylenediamine
106-93-4	Ethylene dibromide
107-21-1	Ethylene glycol
111-55-7	Ethylene glycol diacetate
110-71-4	Ethylene glycol dimethyl ether
111-76-2	Ethylene glycol monobutyl ether
112-07-2	Ethylene glycol monobutyl ether acetate
110-80-5	Ethylene glycol monoethyl ether
111-15-9	Ethylene glycol monoethyl ether acetate
109-86-4	Ethylene glycol monomethyl ether
110-49-6	Ethylene glycol monomethyl ether acetate
122-99-6	Ethylene glycol monophenyl ether
2807-30-9	Ethylene glycol monopropyl ether
75-21-8	Ethylene oxide
60-29-7	Ethyl ether
104-76-7	2-ethylhexanol
122-51-0	Ethyl orthoformate
95-92-1	Ethyl oxalate
41892-71-1	Ethyl sodium oxalacetate
50-00-0	Formaldehyde
75-12-7	Formamide
64-18-6	Formic acid
110-17-8	Fumaric acid
98-01-1	Furfural
56-81-5	Glycerol
26545-73-7	Glycerol dichlorohydrin
25791-96-2	Glycerol triether
56-40-6	Glycine
107-22-2	Glyoxal
118-74-1	Hexachlorobenzene
67-72-1	Hexachloroethane
36653-82-4	Hexadecyl alcohol
124-09-4	Hexamethylenediamine
629-11-8	Hexamethylene glycol
100-97-0	Hexamethylenetramine
74-90-8	Hydrogen cyanide
123-31-9	Hydroquinone
99-06-9	p-hydroxybenzoic acid
26760-64-5	Isoamylene
78-83-1	Isobutanol
110-19-0	Isobutyl acetate
115-11-7	Isobutylene
78-84-2	Isobutyraldehyde
79-31-2	Isobutyric acid
25339-17-7	Isodecanol
26952-21-6	Isooctyl alcohol
78-78-4	Isopentane
78-59-1	Isophorone
121-91-5	Isophthalic acid
78-79-5	Isoprene
67-63-0	Isopropanol
108-21-4	Isopropyl acetate
75-31-0	Isopropylamine
75-29-6	Isopropyl chloride
25168-06-3	Isopropylphenol
463-51-4	Ketene
a	Linear alkyl sulfonate
123-01-3	Linear alkylbenzene
110-16-7	Maleic acid
108-31-6	Maleic anhydride
6915-15-7	Malic acid
141-79-7	Mesityl oxide
121-47-1	Metanilic acid
79-41-4	Methacrylic acid
563-47-3	Methallyl chloride

67-56-1	Methanol	115-07-1	Propylene
79-20-9	Methyl acetate	127-00-4	Propylene chlorohydrin
105-45-3	Methyl acetoacetate	78-87-5	Propylene dichloride
74-89-5	Methylamine	57-55-6	Propylene glycol
100-61-8	n-methylaniline	75-56-9	Propylene oxide
74-83-9	Methyl bromide	110-86-1	Pyridine
37365-71-2	Methyl butynol	106-51-4	Quinone
74-87-3	Methyl chloride	108-46-3	Resorcinol
108-87-2	Methylcyclohexane	27138-57-4	Resoryclic acid
1331-22-2	Methylcyclohexanone	69-72-7	Salicylic acid
75-09-2	Methylene chloride	127-09-3	Sodium acetate
101-77-9	Methylene dianiline	532-32-1	Sodium benzoate
101-68-8	Methylene diphenyl diisocyanate	9004-32-4	Sodium carboxymethyl cellulose
78-93-3	Methyl ethyl ketone	3926-62-3	Sodium chloroacetate
107-31-3	Methyl formate	141-53-7	Sodium formate
108-11-2	Methyl isobutyl carbinol	139-02-6	Sodium phenate
108-10-1	Methyl isobutyl ketone	110-44-1	Sorbic acid
80-62-6	Methyl methacrylate	100-42-5	Styrene
77-75-8	Methylpentynol	110-15-6	Succinic acid
98-83-9	a-methylstyrene	110-61-2	Succinonitrile
110-91-8	Morpholine	121-57-3	Sulfanilic acid
85-47-2	a-naphthalene sulfonic acid	126-33-0	Sulfolane
120-18-3	b-naphthalene sulfonic acid	1401-55-4	Tannic acid
90-15-3	a-naphthol	100-21-0	Terephthalic acid
135-19-3	b-naphthol	a	Tetrachloroethanes
75-98-9	Neopentanoic acid	117-08-8	Tetrachlorophthalic anhydride
88-74-4	o-nitroaniline	78-00-2	Tetraethyl lead
100-01-6	p-nitroaniline	119-64-2	Tetrahydronaphthalene
91-23-6	o-nitroanisole	85-43-8	Tetrahydrophthalic anhydride
100-17-4	p-nitroanisole	75-74-1	Tetramethyl lead
98-95-3	Nitrobenzene	110-60-1	Tetramethylenediamine
a	Nitrobenzoic acid (o, m, & p)	110-18-9	Tetramethylethylenediamine
79-24-3	Nitroethane	108-88-3	Toluene
75-52-5	Nitromethane	95-80-7	Toluene-2,4-diamine
88-75-5	2-Nitrophenol	584-84-9	Toluene-2,4-diisocyanate
25322-01-4	Nitropropane	26471-62-5	Toluene diisocyanates (mixture)
1321-12-6	Nitrotoluene	1333-07-9	Toluenesulfonamide
27215-95-8	Nonene	a	Toluenesulfonic acids
25154-52-3	Nonylphenol	98-59-9	Toluenesulfonyl chloride
27193-28-8	Octylphenol	26915-12-8	Toluidines
123-63-7	Paraldehyde	a	Trichlorobenzenes
115-77-5	Pentaerythritol	71-55-6	1,1,1-trichloroethane
109-66-0	n-pentane	79-00-5	1,1,2-trichloroethane
109-67-1	1-pentene	79-01-6	Trichloroethylene
127-18-4	Perchloroethylene	75-69-4	Trichlorofluoromethane
594-42-3	Perchloromethyl mercaptan	96-18-4	1,2,3-trichloropropane
94-70-2	o-phenetidine	76-13-1	1,1,2-trichloro-1,2,2-trifluoroethane
156-43-4	p-phenetidine	121-44-8	Triethylamine
108-95-2	Phenol	112-27-6	Triethylene glycol
a	Phenolsulfonic acids	112-49-2	Triethylene glycol dimethyl ether
91-40-7	Phenyl anthranilic acid	7756-94-7	Triisobutylene
a	Phenylenediamine	75-50-3	Trimethylamine
75-44-5	Phosgene	57-13-6	Urea
85-44-9	Phthalic anhydride	108-05-4	Vinyl acetate
85-41-6	Phthalimide	75-01-4	Vinyl chloride
108-99-6	b-picoline	75-35-4	Vinylidene chloride
110-85-0	Piperazine	25013-15-4	Vinyl toluene
a	Polybutenes	1330-20-7	Xylenes (mixed)
25322-68-3	Polyethylene glycol	95-47-6	o-xylene
25322-69-4	Polypropylene glycol	106-42-3	p-xylene
123-38-6	Propionaldehyde	1300-71-6	Xylenol
79-09-4	Propionic acid	1300-73-8	Xylidine
71-23-8	n-propyl alcohol	1634-04-4	Methyl tert-butyl ether
107-10-8	Propylamine	9002-88-4	Polyethylene
540-54-5	Propyl chloride	9003-07-0	Polypropylene

Polystyrene

a. CAS numbers for the various isomers and mixtures have not been listed here.

(a)

DIVISION OF PARKS AND FORESTRY

Wild and Scenic Rivers System

Proposed Readoption: N.J.A.C. 7:38

Authority: N.J.S.A. 13:1D-1 et seq., 13:8-45 et seq.
DEP Docket No. 042-85-07.
Proposal Number: PRN 1985-451.

A **public hearing** concerning this proposal will be held on September 10, 1985 at 11:00 A.M. at:

Room 702
Labor and Industry Building
John Fitch Plaza
Trenton, N.J.

Submit written comments by September 18, 1985 to:

Michael P. Marotta
Office of Regulatory Services
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 7:38 will expire on September 18, 1985. The Department has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

The Department of Environmental Protection proposes to readopt the rules concerning the New Jersey Wild and Scenic River System (N.J.A.C. 7:38). The Department finds that the rules which implement the Wild and Scenic Rivers Act (P.L. 1977, c.236, N.J.S.A. 13:8-45 et seq.) by providing for the designation and acquisition of such rivers and their adjacent areas continue to be necessary to protect the environment of the State. The rules establish standards for evaluating river corridors for classification, provide definitions of the types of land and water uses regulated within the designated river corridors and describe the administrative responsibilities of local river commissions.

While the Department proposes at this time to readopt these rules without change in order to assure that there is no interruption in the program and the services provided, it will continue to review the standards in light of specific needs. Based upon this review, amendments to the rules will subsequently be proposed which will generally update the Wild and Scenic Rivers Program.

N.J.A.C. 7:38-1.1 sets forth the scope and purpose of the rules.

N.J.A.C. 7:38-1.2 provides for severability.

At N.J.A.C. 7:38-1.3 specific terminology used throughout the rules is defined.

N.J.A.C. 7:38-1.4 establishes the general jurisdiction of the rules and provides for the administration of the designated rivers until such time as the applicable municipality shall create a wild and scenic river commission.

N.J.A.C. 7:38-1.5 authorizes the creation of wild and scenic river commissions by the municipalities, either jointly or separately, while N.J.A.C. 7:38-1.6 establishes the commissions' duties and authorities.

At N.J.A.C. 7:38-1.7, permit requirements are outlined.

N.J.A.C. 7:38-1.8 through 1.12 provide standards governing activities and uses within river areas.

N.J.A.C. 7:38-1.13 through 1.17 provide standards and requirements governing activities and uses within specific river areas. These areas are wild river areas, scenic river areas, recreational river areas, developed recreational river areas and the Lower Atsion Wild River Segment.

Social Impact

The proposed readoption of these rules will allow the Department to continue, in full force and effect, the beneficial environmental programs resulting from the administration of these rules. This proposed readoption will provide the Department with the standards necessary to implement the provisions of the New Jersey Wild and Scenic Rivers Act (N.J.S.A. 13:8-45). The readoption will allow a continuation of the New Jersey Wild and Scenic Rivers System. It is pursuant to this ssytem that the natural and recreational qualities of certain rivers throughout the State are preserved for public enjoyment.

Economic Impact

The proposed readoption of these rules would result in a continuation of the existing program with the positive economic effect which results from the preservation of recreational land within the State. No additional economic impact is foreseen.

Environmental Impact

The proposed readoption of the rules will have the positive environmental impact of continuing the regulatory framework necessary to implement the benefits of the New Jersey Wild and Scenic Rivers Act. It will enable the preservation of those sections of rivers within the State which possess outstanding scenic, recreational, geologic, wildlife, floral, historic and cultural values which are of benefit to the people of this State.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:38.

HEALTH

Proposals numbered PRN 1985-442, 443, 444 and 445 are authorized by J. Richard Goldstein, M.D., Commissioner, Department of Health; with the approval of the Health Care Administration Board.

(a)

DIVISION OF LOCAL AND COMMUNITY HEALTH SERVICES

Frozen Desserts

Proposed New Rule: N.J.A.C. 8:21-7

Authority: N.J.S.A. 24:10-73.1.
Proposal Number: PRN 1985-445.

A **public hearing** on this proposal will be held on September 5, 1985 at 10:00 A.M. at:

Division of Local and Community Health Services
120 South Stockton Street, Room 38A
Trenton, N.J.

Submit comments by September 18, 1985 to:
Kenneth Kolano, Chief
Food and Milk Program
Environmental Health Services
Division of Local and Community Health Services
New Jersey State Department of Health
CN 364
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules concern the adoption of standards of identity for frozen dessert products and the sanitary requirements for manufacturers of frozen desserts. The standard of identity determines the common or usual name of the product, specifies the labelling requirements, the ingredients that can be used in certain frozen desserts and the quantities of the ingredients that must be present. Also, the proposal requires public notification when certain frozen desserts are offered for sale. Previous rules concerning frozen desserts expired September 6, 1984 pursuant to Executive Order No. 66 (1978).

The purpose of establishing standards of identity is to provide uniformity in product composition, labelling and product terminology. The requirement for public notification when certain frozen desserts such as ice milk or mellorine are served aids the consumer in making informed choices of frozen dessert products.

The proposal also identifies the specific sanitary requirements for frozen dessert manufacturers which includes: plant construction, insect and rodent control, sanitizing procedures, pasteurization requirements, bacterial standards, personal hygiene, approved food sources and requirements for mobile units.

Social Impact

The social impact of these proposed regulations falls primarily into the following areas. The establishment of standards of identity for frozen dessert products ensures the consumer that valuable labelling information is being provided by the manufacturer. Also, consumers ar assured that the product standards are being met, whereby the consumer will receive products of a consistent quality. Also, the signs or other public notification will inform the consumer when frozen desserts such as ice milk and mellorine are served since they could be mistaken for ice cream due to their visual and perceived similarity to ice cream.

The other major social impact of these proposed regulations are the public health aspects of the sanitary requirements for frozen dessert manufacturers. The sanitary requirements are an important part of the Department's efforts to prevent foodborne illness and ensure that standards of cleanliness and proper operations to prevent product contamination are being maintained by the industry.

Economic Impact

There will be no major economic impact from the adoption of these proposed regulations. The vast majority of the regulations are an update of existing regulations to conform to Federal standards or republication of regulations which expired on September 6, 1984 with the latest available information added. The frozen dessert industry has been operating under similar requirements with few major problems for many years.

The inclusion of the new provision for issuance of a temporary marketing permit will have a definite positive economic impact on the frozen dessert industry. This proposal will permit frozen dessert manufacturers to test market new products without having to wait for the establishment of a specific standard of identity. Since the regulatory process could take several months, the frozen dessert manufacturer could be marketing a new product while the regulatory process progresses.

Full text of the proposed new rule follows.

SUBCHAPTER 7. FROZEN DESSERTS

8:21-7.1 Definitions

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

"CFR" means the Code of Federal Regulations of the United States Government.

"Department" means the State Department of Health.

"Dispensing freezer" means the type of equipment which freezes frozen desserts so they are served in a soft condition for sale to the customer.

"Frozen desserts" means ice cream, frozen custard, ice milk, sherbet, water ice, mellorine, goat's milk ice cream, goat's milk ice milk, frozen yogurt, frozen lowfat yogurt or lowfat frozen yogurt, frozen nonfat yogurt or nonfat frozen yogurt, quiescently frozen confection, quiescently frozen dairy confection, frozen dietary dairy dessert, dietary frozen dessert or lowfat frozen dairy dessert, whipped cream confection, bisque tortoni, nonfruit sherbet, nonfruit water ice, manufactured dessert mixes, lactose reduced ice cream, lactose reduced ice milk, frozen pudding, freezer made shake and freezer made milk shake, lowfat parevine, parevine, Lo-Mel, as all such products are commonly known, together with any such mix used in frozen desserts and any products which are similar in appearance, odor or taste to such products or are prepared or frozen as such products are customarily prepared or frozen whether made with dairy or nondairy products.

"Label" means any written, printed or graphic matter attached to or on a package.

"Package" means any carton, box, jar, bottle, pail, wrapper or other container for frozen desserts.

"Person" means any individual, copartnership, corporation, cooperative association, cooperative corporation or unincorporated association.

8:21-7.2 Ice cream and frozen custard

(a) Rules concerning descriptions of ice cream and frozen custard are as follows:

1. Ice cream is a food produced by freezing, while stirring, a pasteurized mix consisting of one or more of the optional dairy ingredients specified in (b) below, and may contain one or more of the optional caseinates specified in (c) below subject to the conditions hereinafter setforth, and other safe and suitable nonmilk-derived ingredients; and excluding other food fats, except such as are natural components of flavoring ingredients used or are added in incidental amounts to accomplish specific

functions. Ice cream is sweetened with nutritive carbohydrate sweeteners and may or may not be characterized by the addition of flavoring ingredients.

2. Ice cream contains not less than 1.6 pounds of total solids to the gallon, and weighs not less than 4.5 pounds to the gallon. Ice cream contains not less than ten percent milkfat, nor less than ten percent nonfat milk solids, except that when it contains milkfat at one percent increments above the ten percent minimum, it may contain the following milkfat-to-nonfat milk solids levels:

Percent Milkfat	Minimum Percent Nonfat Milk Solids
10	10
11	9
12	8
13	7
14	6

i. Except that when one or more bulky flavors are used, the weights of milkfat and total milk solids are not less than ten percent and 20 percent, respectively, of the remainder obtained by subtracting the weight of the bulky flavors from the weight of the finished food; but in no case is the weight of milkfat or total milk solids less than eight percent and 16 percent, respectively, of the weight of the finished food. Except in the case of frozen custard, ice cream contains less than 1.4 percent egg yolk solids by weight of the food, exclusive of the weight of any bulky flavoring ingredients used. Frozen custard shall contain 1.4 percent egg yolk solids by weight of the finished food: Provided, however, that when bulky flavors are added the egg yolk solids content of frozen custard may be reduced in proportion to the amount by weight of the bulky flavors added, but in no case is the content of egg yolk solids in the finished food less than 1.12 percent. A product containing egg yolk solids in excess of 1.4 percent, the maximum setforth in this paragraph for ice cream, may be marketed if labeled as specified by (e)1. below.

3. When calculating the minimum amount of milkfat and nonfat milk solids required in the finished food, the solids of chocolate or cocoa used shall be considered a bulky flavoring ingredient. In order to make allowance for additional sweetening ingredients needed when certain bulky ingredients are used, the weight of chocolate or cocoa solids used may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight may be multiplied by 1.4.

(b) The optional dairy ingredients referred to in (a) above are: Cream, dried cream, plastic cream, (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk in concentrated or dried form which has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate, whey, condensed whey, dry whey, and modified whey products, (for example reduced lactose whey, reduced minerals whey, and whey protein concentrate) that has been determined by the Food and Drug Administration (F.D.A.) to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk. Any whey, condensed whey, dry whey, and modified wheys (partially delactosed whey, partially demineralized whey, demineralized whey and whey protein concentrate) used contribute, singly or in combination, not more than 25 percent by weight of the total nonfat milk solids content of the finished food. The modified skim milk, when adjusted with water to a total solids content of nine percent is substantially free of lactic acid as determined by titration with 0.1N NaOH, and it has a pH value in the range of 8.0 to 8.3.

(c) The optional caseinates referred to in (a) above may be added to ice cream mix containing not less than 20 percent total milk solids are: casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, and sodium caseinate. Caseinate may be added in liquid or dry form, but must be free of excess alkali.

(d) Fat content shall be determined by the following methods contained in the current edition of "Official Methods of Analysis of the Association of Official Analytical Chemists."

1. Fat content shall be determined by the method: "Fat; Roese-Gottlieb Method—Official Final Action."

(e) Rules concerning nomenclature of ice cream and frozen custard are as follows:

1. The name of the food is "ice cream," except that when the egg yolk solids content of the food is in excess of that specified for ice cream by (a) above, the name of the food is "frozen custard" or "French ice cream" or "French custard ice cream."

2. If the food contains no artificial flavor, the name on the principal display panel or panels of the label shall be accompanied by the common or usual name of the characterizing flavor, for example, "vanilla," in letters not less than one-half the height of the letters used in the words "ice cream."

i. If the food contains both a natural characterizing flavor and an artificial flavor simulating it, and if the natural flavor predominates, the name on the principal display panel or panels of the labels shall be accompanied by the common name of the characterizing flavor, in letters not less than one-half the height of the letters used in the words "ice cream," followed by the word "flavored," in letters not less than one-half the height of the letters in the name of the characterizing flavor, for example, "Vanilla flavored," or "Peach flavored," or "Vanilla flavored and Strawberry flavored."

ii. If the food contains both a natural characterizing flavor and an artificial flavor simulating it, and if the artificial flavor predominates, or if artificial flavor is used alone, the name on the principal display panel or panels of the label shall be accompanied by the common name of the characterizing flavor in letters not less than one-half the height of the letters used in the words "ice cream," preceded by "artificial" or "artificially flavored," in letters not less than one-half the height of the letters in the name of the characterizing flavor, for example, "artificial Vanilla," or "artificially flavored Strawberry" or "artificially flavored Vanilla and artificially flavored Strawberry."

3. If the food is subject to the requirements of 2.ii. above or if it contains any artificial flavor not simulating the characterizing flavor, the label shall also bear the words "artificial flavor added" or "artificial .... flavor added," the blank being filled with the common name of the flavor simulated by the artificial flavor in letters of the same size and prominence as the words that precede and follow it.

i. Wherever the name of the characterizing flavor appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words prescribed by this paragraph shall immediately and conspicuously precede or follow such name, in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than six-point on packages containing less than one pint, not less than eight-point on packages containing at least one pint but less than one-half gallon, not less than ten-point on packages containing at least one-half gallon but less than one gallon and not less than 12-point on packages containing one gallon or over. Provided, however, that where the characterizing flavor and a trademark or brand are presented together, other written, printed, or graphic matter that is a part of or is associated with the trademark or brand, may intervene if the required words are in such relationship with the trademark or brand as to be clearly related to the characterizing flavor: And provided further, that if the finished product contains more than one flavor of ice cream subject to the requirements of this paragraph, the statements required by this paragraph need appear only once in each statement of characterizing flavors present in such ice cream, for example, "Vanilla flavored, Chocolate, and Strawberry flavored, artificial flavors added."

4. If the food contains both a natural characterizing flavor and an artificial flavor simulating the characterizing flavor, any reference to the natural characterizing flavor shall, except as otherwise authorized by this paragraph, be accompanied by a reference to the artificial flavor, displayed with substantially equal prominence, for example, "strawberry and artificial strawberry flavor."

5. An artificial flavor simulating the characterizing flavor shall be deemed to predominate:

i. In the case of vanilla beans or vanilla extract used in combination with vanillin if the amount of vanillin used is greater than one ounce per unit of vanilla constituent, as that term is defined in 21 CFR 169.3(c).

ii. In the case of fruit or fruit juice used in combination with artificial fruit flavor, if the quantity of the fruit or fruit juice used is such that, in relation to the weight of the finished ice cream, the weight of the fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content) is less than two percent in the case of citrus ice cream, six percent in the case of berry or cherry ice cream, and ten percent in the case of ice cream prepared with other fruits.

iii. In the case of nut meats used in combination with artificial nut flavor, if the quantity of nut meats used is such that, in relation to the finished ice cream the weight of the nut meats is less than two percent.

iv. In the case of two or more fruits or fruit juices, or nut meats, or both, used in combination with artificial flavors simulating the natural flavors and dispersed throughout the food, if the quantity of any fruit or fruit juice or nut meat is less than one-half the applicable percentage specified in ii. or iii. above. For example, if a combination ice cream contains less than five percent of bananas and less than one percent of almonds, it would be "artificially flavored banana-almond ice cream." However, if it contains more than five percent of bananas and more than one percent of almonds, it would be "banana-almond flavored ice cream."

6. If two or more flavors of ice cream are distinctively combined in one package, for example, "Neapolitan" ice cream, the applicable provisions of this paragraph shall govern each flavor of ice cream comprising the combination.

(f) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of 21 CFR 101, except that sources of milkfat or milk solids not fat may be declared in descending order of predominance either by the use of all the terms "milkfat and nonfat milk" when one or any combination of two or more of the ingredients listed in 21 CFR 101.4(b) (3), (4), (8), and (9) are used or alternatively as permitted in 21 CFR 101.4, Pursuant to Section 403(k) of the Federal Food, Drug, and Cosmetic Act. Artificial color need not be declared in ice cream except as provided in 21 CFR 74.705. Voluntary declaration of such color in ice cream is recommended.

8:21-7.3 Ice milk; identity; label statement

(a) Ice milk is the food prepared from the same ingredients and in the same manner prescribed for ice cream and complies with all the provisions of N.J.A.C. 8:21-7.2 (including the requirements for label statement of optional ingredients), except that:

1. Its content of milkfat is more than two percent but not more than seven percent;

2. Its content of total milk solids is not less than 11 percent;

3. Caseinates may be added when the content of total milk solids is not less than 11 percent;

4. The provision for reduction in milkfat and nonfat milk solids content from the addition of bulky flavors in N.J.A.C. 8:21-7.2 applies, except that in no case will the milkfat content be less than two percent, nor the nonfat milk solids content be less than four percent. When the milkfat content increases in increments of one percent above the two percent minimum, it may contain the following milkfat-to-nonfat milk solids levels:

Percent Milkfat	Minimum Percent Nonfat Milk Solids
2	9
3	8
4	7
5	6
6	5
7	4

5. The quantity of food solids per gallon is not less than 1.3 pounds;

6. When any artificial coloring is used in ice cream, directly or as a component of any other ingredients, the label shall bear the statement "artificially colored," "artificial coloring added," "with added artificial color," or ". . . . ., an artificial color added," the blank being filled in with the common or usual name of the artificial color; or in lieu thereof, in case the artificial color is a component of another ingredient, ". . . . . artificially colored";

7. If both artificial color and artificial flavoring are used, the label statements may be combined.

(b) The name of the food is "ice milk." Ice milk shall be offered for sale, sold or served only in properly labeled factory-filled containers, if the ice milk or any of its ingredients contain added color or any ingredients added for the purpose of imparting a characterizing flavor, except ice milk may be served and sold at retail from a dispensing freezer.

(c) When ice milk is sold at retail, direct from a frozen dessert dispensing freezer, as provided in (b) above, a sign must be prominently and conspicuously displayed not more than 18 inches above each dispensing freezer, where it can be clearly read by customers under normal condition of purchase, stating "ICE MILK SOLD HERE." The letters on such sign shall be bold face capitals in contrasting color to the background. When ice milk is sold at retail, only in properly labeled factory-filled containers, no such sign shall be required.

1. In addition, if items containing ice milk are listed on a menu board the statement "Ice Milk Served Here" shall be included on the menu board in reasonable proximity to the items containing ice milk. The letters in such statement shall be bold face capitals at least as large as the letters used in listing items containing ice milk and on a contrasting background.

2. No such sign or menu board declaration shall be required if the only method of advising customers on what items are being offered for sale is a menu furnished to the customer. In such case the menu shall contain the statement "Ice Milk Served Here." Such statement shall be in reasonable proximity to the menu items containing Ice Milk and the letters in such statement shall be bold face capitals at least as large as the letters used in listing items containing Ice Milk.

8:21-7.4 Sherbet; identity; label statement

(a) Rules concerning descriptions of sherbet are as follows:

1. Sherbet is a food produced by freezing, while stirring, a pasteurized mix consisting of one or more of the optional dairy ingredients specified in (b) below, and may contain one or more of the optional caseinates specified in (c) below subject to the conditions hereinafter setforth, and other safe and suitable nonmilk-derived ingredients; and excluding other food fats, except such as are added in small amounts to accomplish specific functions or are natural components of flavoring ingredients used. Sherbet is sweetened with nutritive carbohydrate sweeteners and is characterized by the addition of one or more of the characterizing fruit ingredients specified in (d) below or one or more of the nonfruit characterizing ingredients specified in (e) below.

2. Sherbet weighs not less than six pounds to the gallon. The milkfat content is not less than one percent nor more than two percent, the nonfat milk-derived solids content not less than one percent, and the total milk or milk-derived solids content is not less than two percent nor more than five percent by weight of the finished food. Sherbet that is characterized by a fruit ingredient shall have a titratable acidity, calculated as lactic acid, of not less than 0.35 percent.

(b) The optional dairy ingredients referred to in (a) above are: Cream, dried cream, plastic cream, (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk in concentrated or dried form which has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate, whey, condensed whey, dry whey, and modified whey products, (for example, reduced lactose whey, reduced minerals whey, and whey protein concentrate) that has been determined by F.D.A. to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk. The modified skim milk, when adjusted with water to a total solids content of nine percent is substantially free of lactic acid as determined by titration with 0.1N NaOH, and it has a pH value in the range of 8.0 to 8.3.

(c) The optional caseinates referred to in (a) above which may be added to sherbet mix are: casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, and sodium caseinate. Caseinates may be added in liquid or dry form, but must be free of excess alkali. Such caseinates are not considered to be milk solids.

(d) The optional fruit characterizing ingredients referred to in (a) above are any mature fruit or the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other optional ingredients. The fruit is prepared by the removal of pits, seeds, skins, and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed or otherwise comminuted. It may be acidulated. In the case of concentrated fruit or fruit juices from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added thereto in an amount not exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used is such that, in relation to the weight of the finished sherbet, the weight of fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content), is not less than two percent in the case of citrus sherbets, six percent in the case of berry sherbets and ten percent in the case of sherbets prepared with other fruits. For the purpose of this section, tomatoes and rhubarb are considered as kinds of fruits.

(e) The optional nonfruit characterizing ingredients referred to in (a) above include but are not limited to the following:

1. Ground spice or infusion of coffee or tea;

2. Chocolate or cocoa, including sirup;

3. Confectionery;

4. Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the sherbet;

5. Any natural or artificial food flavoring (except any having a characteristic fruit or fruit-like flavor).

(f) Rules concerning nomenclature of sherbet are as follows:

1. The name of each sherbet is as follows:

i. The name of each fruit sherbet is ".......... sherbet," the blank being filled in with the common name of the fruit or fruits from which the fruit ingredients used are obtained. When the names of two or more fruits are included, such names shall be arranged in order of predominance, if any, by weight of the respective fruit ingredients used.

ii. The name of each nonfruit sherbet is ".......... sherbet," the blank being filled in with the common or usual name or names of the characterizing flavor or flavors; for example, "peppermint," except that if the characterizing flavor used is vanilla, the name of the food is ".......... sherbet," the blank being filled in as specified by N.J.A.C. 8:21-7.2(e)2 and 5i.

2. When the optional ingredients, artificial flavoring, or artificial coloring are used in sherbet, they shall be named on the label as follows:

i. If the flavoring ingredient or ingredients consists exclusively of artificial flavoring, the label designation shall be "artificially flavored."

ii. If the flavoring ingredients are a combination of natural and artificial flavors, the label designation shall be "artificial and natural flavoring added."

iii. The label shall designate artificial coloring by the statement "artificially colored," "artificial coloring added," "with added artificial coloring," or ".........., an artificial color added," the blank being filled in with the name of the artificial coloring used.

(g) Wherever there appears on the label any representation as to the characterizing flavor or flavors of the food and such flavor or flavors consist in whole or in part of artificial flavoring, the statement required by (f)2i and ii, as appropriate, shall immediately and conspicuously precede or follow such representation, without intervening written, printed, or graphic matter (except that the word "sherbet" may intervene) in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than six-point on packages containing less than one pint, not less than eight-point on packages containing at least one pint but less than one-half gallon, not less than ten-point on packages containing at least one-half gallon but less than one gallon, and not less than 12-point on packages containing one gallon or over.

(h) Except as specified in (g) above, the statements required by (f)2 above shall be setforth on the principal display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(i) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of 21 CFR Part 101.

8:21-7.5 Water ice; identity; label statement

(a) Water ices are the foods each of which is prepared from the same ingredients and in the same manner prescribed in N.J.A.C. 8:21-7.4 for sherbets and complies with all the provisions of N.J.A.C. 8:21-7.4 (including the requirements for label statement of optional ingredients) except that no milk or milk-derived ingredient and no egg ingredient, other than egg white, is used.

(b) The name of the food is ".......... ice," the blank being filled in, in the manner as specified in N.J.A.C. 8:21-7.4(f)1i and ii as appropriate.

8:21-7.6 Mellorine; identity; label statement

(a) Rules concerning descriptions of mellorine are as follows:

1. Mellorine is a food produced by freezing, while stirring, a pasteurized mix consisting of safe and suitable ingredients including, but not limited to, milk-derived nonfat solids and animal or vegetable fat, or both, only part of which may be milkfat. Mellorine is sweetened with nutritive carbohydrate sweetener and is characterized by the addition of flavoring ingredients.

2. Mellorine contains not less than 1.6 pounds of total solids to the gallon, and weighs not less than 4.5 pounds to the gallon. Mellorine contains not less than six percent fat and 2.7 percent protein having a protein efficiency ratio (PER) not less than that of whole milk protein (108 percent of casein) by weight of the food, exclusive of the weight of any bulky flavoring ingredients used. In no case shall the fat content of the finished food be less than 4.8 percent or the protein content be less than 2.2 percent. The protein to meet the minimum protein requirements shall be provided by milk solids, not fat and/or other milk-derived ingredients.

3. When calculating the minimum amount of milkfat and protein required in the finished food, the solids of chocolate or cocoa used shall be considered a bulky flavoring ingredient. In order to make allowance for additional sweetening ingredients needed when certain bulky ingredients are used, the weight of chocolate or cocoa solids used may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight may be multiplied by 1.4.

(b) Mellorine shall be fortified so that Vitamin A is present in a quantity which will ensure that 40 international units (IU) are available for each gram of fat in mellorine, within limits of good manufacturing practice.

(c) Fat and protein content, and the PER shall be determined by the following methods contained in the current edition of "Official Methods of Analysis of the Association of Official Analytical Chemists".

1. Fat content shall be determined by the method: "Fat, Roese-Gottlieb Method—Official Final Action";

2. Protein content shall be determined by one of the following methods: "Nitrogen—Official Final Action," Kjeldahl Method or Dye Binding Method;

3. PER shall be determined by the method: "Biological Evaluation of Protein Quality—Official Final Action".

(d) The name of the food is "mellorine." The name of the food on the label shall be accompanied by a declaration indicating the presence of characterizing flavoring in the same manner as is specified in N.J.A.C. 8:21-7.2(e).

(e) The common or usual name of each of the ingredients used shall be declared on the label as required by the applicable sections of 21 CFR 101, except that sources of milkfat or milk solids not fat may be declared in descending order or predominance, either by the use of the terms "milkfat, and nonfat milk" when one or any combination of two or more ingredients listed in 21 CFR 101.4(b)(3), (4), (8), and (9) are used, or alternatively as permitted in 101.4. Mellorine shall be sold, held, offered for sale by any manufacturer, wholesaler, retailer, or any seller only in factory-filled containers except in the following instances:

1. Mellorine may be sold from a dispensing freezer or dipped from a properly labeled bulk container. When mellorine is sold in this manner from a dispensing freezer or dipped from a bulk container a sign shall be displayed in such a location as it can be easily read by customers under normal conditions of sale, stating "Mellorine Served Here". Such sign shall be in bold face capitals on a contrasting background. In addition, if items containing mellorine are listed on a menu board the statement "Mellorine Served Here" shall be included on the menu board in reasonable proximity to the items containing mellorine. The letters in such statement shall be bold face capitals at least as large as the letters used in listing items containing mellorine and on a contrasting background.

2. No such sign or menu board declaration shall be required if the only method of advising customers on what items are being offered for sale is a menu furnished to the customer. In such case the menu shall contain the statement "Mellorine Served Here". Such statement shall be in reasonable proximity to the menu items containing mellorine and the letters on such statement shall be bold face capitals at least as large as the letters used in listing items containing mellorine. Any menu listing mellorine or items prepared with mellorine shall conform to the provisions of this paragraph.

8:21-7.7 Goat's milk ice cream; identity; label statement

(a) Goat's milk ice cream is the food prepared in the same manner prescribed in N.J.A.C. 8:21-7.2 for ice cream, and complies with all the provisions of N.J.A.C. 8:21-7.2 except that the only optional dairy ingredients that may be used are those in (b) below; caseinates may not be used; and paragraphs (e)(1) and (f) of N.J.A.C. 8:21-7.2 shall not apply.

(b) Optional dairy ingredients. The optional dairy ingredients referred to in (a) above are goat's skim milk, goat's milk, and goat's cream. These optional dairy ingredients may be used in liquid, concentrated, and/or dry form.

(c) The name of the food is "goat's milk ice cream" or, alternatively, "ice cream made with goat's milk", except that when the egg yolk solids content of the food is in excess of that specified for ice cream in N.J.A.C. 8:21-7.2, the name of the food is "goat's milk frozen custard" or, alternatively "frozen custard made with goat's milk", or "goat's milk french ice cream", or, alternatively "french ice cream made with goat's milk", or "goat's milk french custard ice cream", or, alternatively "french custard ice cream made with goat's milk".

(d) Each of the optional ingredients used shall be declared on the label by the applicable section of 21 CFR 101.

8:21-7.8 Goat's milk ice milk; identity; label statement

(a) Goat's milk ice milk is the food prepared in the same manner prescribed in N.J.A.C. 8:21-7.7 for goat's milk ice cream, except that paragraph (c) shall not apply, and which complies with all the requirements of N.J.A.C. 8:21-7.3(a)1, 2, 4, 5, 6, and 7 for ice milk.

(b) The name of the food is "goat's milk ice milk" or, alternatively "ice milk made with goat's milk".

(c) The provisions for serving ice milk from a dispensing freezer as required by N.J.A.C. 8:21-7.3 shall apply, except the required statement shall read "goat's milk ice milk served here".

8:21-7.9 Frozen yogurt; identity; label statement

(a) Frozen yogurt is the food which is prepared by freezing while stirring a pasteurized mix consisting of the ingredients permitted for ice cream in N.J.A.C. 8:21-7.2. Such ingredients are cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus*, provided, however, fruit, nuts or other flavoring materials may be added before or after the mix is pasteurized and cultured. The standard plate count requirement for frozen desserts shall apply to the mix prior to culturing. Frozen yogurt, exclusive of any flavoring, contains not less than 3.25 percent milkfat and not less than 8.25 percent milk solids not fat. No heat or bacteriostatic treatment (other than refrigeration), which results in destruction or partial destruction of the organisms, shall be applied to the product after such culturing. The finished yogurt shall weigh not less than five pounds per gallon. The name of the food is "frozen yogurt."

(b) The label shall contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4, and comply with the provisions of 21 CFR 101.22.

(c) On the label of frozen yogurt the strains of bacteria may be collectively referred to as yogurt culture.

8:21-7.10 Frozen lowfat yogurt or lowfat frozen yogurt; identity; label statement

(a) Frozen lowfat yogurt or lowfat frozen yogurt is the food which is prepared by freezing while stirring a pasteurized mix consisting of the ingredients permitted for ice cream in N.J.A.C. 8:21-7.2. Such ingredients are cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus*, provided, however, fruit, nuts or other flavoring materials may be added before or after the mix is pasteurized and cultured. The standard plate count required for frozen desserts shall apply only to the mix prior to culturing. The food, exclusive of any flavoring, contains not less than 0.5 percent nor more than two percent milkfat and not less than 8.25 percent milk solids not fat. No heat or bacteriostatic treatment (other than refrigeration), which results in destruction or partial destruction of the organisms, shall be applied to the product after such culturing. The finished food shall weigh not less than five pounds per gallon. The name of the food is "frozen lowfat yogurt" or "lowfat frozen yogurt".

(b) The label on a package of this food, in addition to all other required information shall:

1. Contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4;
2. Be in accordance with the provisions of 21 CFR 101.9;
3. Be in accordance with the provisions of 21 CFR 101.22.

(c) On the label, the strains of bacteria may be collectively referred to as yogurt cultures.

8:21-7.11 Frozen nonfat yogurt or nonfat frozen yogurt; identity; label statement

(a) Frozen nonfat yogurt or nonfat frozen yogurt is the food which is prepared by freezing while stirring a pasteurized mix consisting of the ingredients permitted for ice cream in N.J.A.C. 8:21-7.2. Such ingredients are cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus*, provided, however, fruit, nuts, or other flavoring materials may be added before or after the mix is pasteurized and cultured. The standard plate count requirement for frozen desserts shall apply only to the mix prior to culturing. The food, exclusive of any flavoring, contains less than 0.5 percent milkfat and not less than 8.25 percent milk solids not fat. No heat or bacteriostatic treatment (other than refrigeration), which results in destruction or partial destruction of the organisms, shall be applied to the product after such culturing. The finished food shall weigh not less than five pounds per gallon. The name of the food is "frozen nonfat yogurt" or "nonfat frozen yogurt."

(b) The label on the package of this food in addition to all other information shall:

1. Contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4;
2. Be in accordance with the provisions of 21 CFR 101.9;
3. Be in accordance with the provisions of 21 CFR 101.22.

(c) On the label, the strains of bacteria may be collectively referred to as yogurt culture.

8:21-7.12 Quiescently frozen confection; identity; label statement

(a) Quiescently frozen confection means the frozen product made from sweetening agent(s), harmless natural or artificial flavoring, water, and it may contain milk solids, harmless coloring, organic acids, and any safe and suitable functional ingredient approved by the Department. The finished product shall contain not less than 17 percent by weight of total food solids.

(b) The name of the food is "quiescently frozen confection."

(c) In the manufacture of this product, freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing).

(d) In the production of this quiescently frozen confection, no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of ten percent.

(e) The confection must be manufactured in the form of servings, individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original factory-filled package. The individually wrapped confection need not be labeled if it is contained in a multiple package which is properly labeled and is purveyed unopened to the consumer.

(f) In addition to all other required information, the label shall contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4, and comply with the provisions of 21 CFR 101.22.

8:21-7.13 Quiescently frozen dairy confection; identity; label statement

(a) Quiescently frozen dairy confection means the frozen product made from milk products, sweetening agent(s), harmless natural or artificial flavoring, water, and it may contain harmless coloring, and any safe and suitable functional ingredient approved by the Department. The finished product contains not less than 13 percent by weight of total milk solids, not less than 33 percent by weight of total food solids.

(b) The name of the food is "Quiescently frozen dairy confection."

(c) In the manufacture of this product, freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing).

(d) In the production of this quiescently frozen dairy confection, no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of ten percent.

(e) The confection must be manufactured in the form of servings, individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original factory-filled package. The individually wrapped confection need not be labeled if it is contained in a multiple package which is properly labeled and is purveyed unopened to the consumer.

(f) In addition to all other required information, the label shall contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4, and comply with the provisions of 21 CFR 101.22.

8:21-7.14 Frozen dietary dairy dessert; identity; label statement

(a) Frozen dietary dairy dessert means a frozen dessert prepared for persons who wish to restrict their intake of ordinary sweetening ingredients. It is produced by freezing while stirring a pasteurized mix consisting of the ingredients permitted for ice cream in N.J.A.C. 8:21-7.2 with the exception of nutritive carbohydrate sweeteners. The minimum fat content shall be three percent it shall contain no sugars other than those naturally present in the milk solids or flavoring agents which have been added thereto and it may contain edible carbohydrates other than sugars. The edible carbohydrates must be approved by the Department. The name of the food is "frozen dietary dairy dessert."

(b) The label on frozen dietary dairy dessert in addition to other required information shall:

1. Contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4;

2. Contain a statement as follows:

i. (Diabetics: This product may be useful in your diet on the advice of a physician. The food is not a reduced calorie food);

3. Immediately preceding or following the name of the product, contain a statement as follows: "Contains ....% milkfat." The blank to be filled in with the percentage of milkfat in the product;

4. Comply with the provisions of 21 CFR 101.9 and 21 CFR 101.22.

(c) The product shall not be sold in any manner other than in sealed or unbroken packages or containers except that it may be sold from a dispensing freezer or dipped from a properly labeled bulk container. The container in which it is served shall contain the information required in (b) above, or identical information shall be supplied in printed form to the customer at the time of service.

8:21-7.15 Dietary frozen dessert or lowfat frozen dairy dessert; identity; label statements

(a) Dietary frozen dessert or lowfat frozen dairy dessert is a food prepared by freezing, while stirring, a pasteurized mix consisting of the ingredients permitted for ice cream in N.J.A.C. 8:21-7.2. The finished product contains less than two percent by weight of ether extractable fat: its content of total milk solids consisting of ingredients listed in N.J.A.C. 8:21-7.2(b) is not less than seven percent by weight. The product weighs no less than 4.5 pounds per gallon and the quantity of food solids per gallon is not less than 1.1 pounds nor more than 1.9 pounds, exclusive of any microcrystalline cellulose used as an ingredient.

(b) One or more vitamins and/or minerals listed in 21 CFR 101.9(c)(7)(iv) may be added to the product. If vitamins and/or minerals are added, the name of the food on the principal display panel shall be immediately preceded or followed by the word "fortified" in the same style and at least one-half the size of the type used for the name "dietary frozen dessert" or "lowfat frozen dairy dessert" and on the same contrasting background. If vitamins and/or minerals are added, then each four fluid ounce serving of finished product shall provide no less than eight percent nor more than 20 percent of the U.S. recommended daily allowance of such vitamins and/or minerals.

(c) The name of the food is "dietary frozen dessert" or "lowfat frozen dairy dessert."

(d) The label on dietary frozen dessert or lowfat frozen dairy dessert, in addition to all other required information shall:

1. Contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4;

2. Comply with the provisions of 21 CFR 101.9 and 21 CFR 101.22.

(e) Dietary frozen dessert or lowfat frozen dairy dessert may be sold from a dispensing freezer or may be dipped from a properly labeled bulk container. When dietary frozen dessert or lowfat frozen dairy dessert is sold directly from a dispensing freezer or dipped from a bulk container, the name of the food, nutrition information in compliance with 21 CFR 101.9, and a complete listing of dairy ingredients in accordance with the provisions of 21 CFR 101.4 shall appear on the container used or identical information shall be supplied in printed form at the time of service.

(f) When dietary frozen dessert or lowfat frozen dairy dessert is sold in such manner from a dispensing freezer as provided in (e) above, a sign shall be displayed in such a location as it can be easily read by customers under normal conditions of sale. Such sign shall be in bold face capitals on a contrasting background.

1. In addition, if items containing dietary frozen dessert or lowfat frozen dairy dessert are listed on a menu board, the statement "Dietary Frozen Dessert or Lowfat Frozen Dairy Dessert Served Here" shall be included on the menu board in reasonable proximity to the items containing dietary frozen dessert or lowfat frozen dairy dessert. The letters in such statement shall be bold face capitals at least as large as the letters used in listing items containing dietary frozen dessert or lowfat frozen dairy dessert and on a contrasting background.

2. No such sign or menu board declaration shall be required if the only method of advising customers on what items are being offered for sale is a menu furnished to the customer. In

such case the menu shall contain the statement "Dietary Frozen Dessert or Lowfat Frozen Dessert Served Here". Such statement shall be in reasonable proximity to the menu items containing dietary frozen dessert or lowfat frozen dairy dessert and the letters on such statement shall be bold face capitals at least as large as the letters used in listing items containing dietary frozen dessert or lowfat frozen dairy dessert. Any menu listing dietary frozen dessert or lowfat frozen dairy dessert or items prepared with dietary frozen dessert or lowfat frozen dairy dessert shall conform to the provisions of this paragraph.

8:21-7.16 Non-fruit sherbet; identity; label statement

(a) Rules concerning descriptions of non-fruit sherbet are as follows:

1. Non-fruit sherbet is a food having a characteristic fruit-like flavor but shall not contain any fruit or fruit juice. Non-fruit sherbet is prepared by freezing while stirring a pasteurized mix consisting of one or more of the optional dairy ingredients specified in (b) below, one or more of the optional caseinates specified in (c) below subject to the conditions hereinafter set forth, and any other safe and suitable non-milk-derived ingredients; and excluding other food fats, except such as are added in small amounts to accomplish specific functions. Non-fruit sherbet is sweetened with nutritive carbohydrate sweeteners and contains characteristic fruit-like flavor.

2. Sherbet weighs not less than six pounds to the gallon. The milkfat content is not less than one percent nor more than two percent, the nonfat milk-derived solids content not less than one percent, and the total milk or milk derived solids content is not less than two percent nor more than five percent by weight of the finished food.

(b) The optional dairy ingredients referred to in (a) above are: Cream, dried cream, plastic cream (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, sweetened condensed skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk in concentrated or dried form which has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate, whey, condensed whey, dry whey, and modified whey products (e.g. reduced lactose whey, reduced minerals whey, and whey protein concentrate) that has been determined by F.D.A. to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk.

(c) The optional caseinates referred to in (a) above that may be added to non fruit sherbet are: casein prepared by precipitaton with gums, ammonium caseinate, calcium caseinate, potassium caseinate and sodium caseinate. Caseinates may be added in liquid or dry form, but must be free of excess alkali. Such caseinates are not considered to be milk solids.

(d) In addition to all other required information, the label shall:

1. Contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4;

2. Comply with the provisions of 21 CFR 101.22;

3. Contain the following statement ("Imitation .... Sherbet.") The blank to be filled in by the characterizing flavor used. The letters in the word imitation shall be the same size, type and color and on the same contrasting background as the name of the characterizing flavor and the word sherbet;

4. The statement required in 3. above shall be followed immediately by the words "contains no fruit or fruit juice" in letters at least half the size of those used in statement three above;

5. When a sign is used at the point of purchase to advertise non fruit sherbet, it shall contain the same information as required in 3. and 4. above;

6. When non fruit sherbet is sold other than in properly labeled factory-filled containers, a sign must be conspicuously displayed on the sale premises or vehicle where it can be clearly read by customers under normal conditions of purchase stating the name of the food and the information required in 3. and 4. above. The letters on such sign shall be bold face capitals in contrasting color to the background.

7. The sign required in 6. above need not be used if the only method of advising customers on what items are being offered for sale is a menu furnished to the customer. In such case, the menu shall contain the name of the food and the information required in 3. and 4. above. Such statements shall be in reasonable proximity to the menu items containing non fruit sherbet and the letters in such statement shall be bold face capitals at least as large as the letters used in listing items containing non fruit sherbet. Any menu listing non fruit sherbet or items prepared with non fruit sherbet shall conform to the provisions of this paragraph.

8:21-7.17 Non fruit water ice; identity; label statement

(a) Non fruit water ice is an ice having a characteristic fruit-like flavor, but shall not contain any fruit or fruit juice. Non fruit water ice is prepared while stirring a mix composed of:

1. Characteristic fruit-like flavors;

2. One or more nutritive sweeteners;

3. Any other safe and suitable ingredient approved by the Department.

(b) The finished non fruit water ice weighs not less than six pounds per gallon.

(c) In addition to all other required information the label shall:

1. Contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4;

2. Comply with the provisions of 21 CFR 101.22;

3. Contain the following statement: ("Imitation .... Ice"). The blank to be filled in by the characterizing flavor used. The letters in the word imitation shall be the same size, type and color and on the same contrasting background as the name of the characterizing flavor and the word ice;

4. The statement required in 3. above shall be followed immediately by the words "contains no fruit or fruit juice" in letters at least half the size of those used in 3. above.

5. When a sign is used at the point of purchase to advertise non fruit water ice, it shall contain the same information as required in 3. and 4. above.

6. When non fruit water ice is sold other than in properly labeled factory-filled containers a sign must be conspicuously displayed on the sale premises or vehicle where it can be clearly read by customers under normal conditions of purchase, stating the name of the food and the information required in 3. and 4. above. The letters on such sign shall be bold face capitals in contrasting color to the background.

7. The sign required in 6. above need not be used if each customer is provided with a menu stating the name of the food and the information required in paragraphs three and four above in bold face capitals as large as those used in listing items containing non fruit water ice.

8:21-7.18 Manufactured desserts mix; identity; label statement

(a) "Manufactured desserts mix," whipped cream confection or bisque tortoni means a frozen dessert made with milk products, sweetening agents, flavoring agents, with or without harmless coloring or any other safe and suitable ingredients approved by the Department. It contains not less than 18 percent by weight of milk fat, and not more than 12 percent of milk solids not fat, and may be packaged with harmless gas causing it to fluff upon ejection from the package or container.

(b) In addition to all other required information, the label shall contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4.

8:21-7.19 Freezer made shake; freezer made milk shake; identity; label statement

(a) Freezer made milk shake means a pure, clean, wholesome semi-viscous drink prepared by stirring while freezing in a dispensing freezer a pasteurized mix consisting of the ingredients prescribed for ice milk in N.J.A.C. 8:21-7.3 except that:

1. It shall contain not less than 3.25 percent and not more than six percent milk fat;

2. Its content of milk solids not fat shall not be less than ten percent;

3. Freezer made milk shake may only be sold or served from a dispensing freezer and may not be sold hard frozen.

(b) Other freezer made shakes including jumbo shake, thick shake, T.V. shake, or any coined or trade name containing the word "shake" shall meet the requirements of (a) above except that the minimum percent of milk fat may be less than 3.25 percent.

(c) "Shakes" not meeting the requirement for "milk shakes" shall not be advertised, sold or served as milk shake.

(d) When any freezer made milk shake or other freezer made shake purports to be or is represented for any special dietary use by man, it shall be sold only in a container labeled in accordance with all applicable provisions of the regulations of the Federal Food and Drug Administration.

8:21-7.20 Parevine; identity; label statement

(a) Parevine is the food which is prepared by freezing while stirring a pasteurized mix composed of one or more edible vegetable oils or fats; protein and carbohydrate food ingredients from other than milk or meat sources; nutritive sweeteners other than lactose; characterizing ingredients except any containing meat or milk; and any other safe and suitable ingredient which is not milk or meat or a product or derivative of milk or meat. This product shall not contain any milk, milk product, meat or meat products or any of their derivatives of any kind.

(b) Its fat content shall not be less than ten percent, except that when bulky optional characterizing ingredients are used, the fat content may be reduced, as a result of the addition of such ingredients, but shall in no case be less than eight percent.

(c) Its content of food solids shall not be less than 1.3 pounds per gallon of finished product.

(d) The name of the product is "parevine."

(e) Parevine may be sold from a dispensing freezer or dipped from a properly labeled bulk container. When parevine is sold in such manner from a dispensing freezer or dipped from a bulk container, a sign shall be displayed in such a location as it can be easily read by customers under normal conditions of sale, stating "Parevine Served Here".

1. Such sign shall be in bold face capitals on a contrasting background. In addition, if items containing parevine are listed on a menu board the statement "Parevine Served Here" shall be included on the menu board, in reasonable proximity to the items containing parevine. The letters in such statement shall be bold face capitals at least as large as the letters used in listing items containing parevine and on a contrasting background.

2. No such sign or menu board declaration shall be required if the only method of advising customers on what items are being offered for sale is a menu furnished to the customer. In such case, the menu shall contain the statement "Parevine Served Here". Such statement shall be in reasonable proximity to the menu items containing parevine and the letters of such statement shall be bold face capitals at least as large as the letters used in listing items containing parevine. Any menu listing parevine or items prepared with parevine shall conform to the provisions of this paragraph.

(f) The label on packages of parevine shall, in addition to all other required information, include a complete list of all ingredients in accordance with the provisions of 21 CFR 101.4.

8:21-7.21 Lo-mel; identity; label statement

(a) "Lo-mel" means a pure, clean, wholesome semi-viscous drink prepared by stirring while freezing in a dispensing freezer a pasteurized mix composed of edible fats or oils other than milkfat, milk solids not fat, water, optional sweetening ingredients as approved by the Department, with or without egg or egg products, with or without harmless flavoring, with or without harmless coloring, and with or without stabilizer or emulsifier as approved by the Department. It shall contain not more than six percent edible fats or oils. It shall contain not less than ten percent milk solids not fat. It may contain any other safe and suitable ingredients approved by the Department. It shall contain not more than one-half percent by weight of stabilizer and not more than one-fifth of one percent of emulsifier.

(b) Lo-mel may only be served or sold directly from a dispensing freezer and may not be sold hard frozen.

(c) When Lo-mel is sold a sign must be displayed which shall read "Lo-mel Served Here," in bold faced capitals on a contrasting background. No such sign shall be required if the only method of advising the customers of what items are being offered for sale is a menu furnished to the customer, in such case, the menu shall contain the statement "Lo-mel Served Here."

(d) When any Lo-mel purports to be or is represented for any special dietary use by man, it shall be sold only in a labeled container. The label shall include the name of the food, a complete list of ingredients in accordance with the provisions of 21 CFR 101.4 and nutrition information as required by 21 CFR 101.9.

8:21-7.22 Frozen pudding; identity; label statement

(a) Frozen pudding is a product made from a pasteurized mix, intended to be eaten in the frozen state. The mix may be composed of:

1. Milk and milk products;
2. Modified or unmodified food starch;
3. Sweetening agent(s);
4. Harmless natural and/or artificial flavoring;
5. Harmless natural and/or artificial color;
6. Any other safe or suitable functional ingredient approved by the Department.

(b) The finished product shall contain:

1. Not less than five percent by weight of milk solids not fat;

2. Not less than twenty-five percent total solids.

(c) The weight of the finished product shall be not less than 4.5 pounds per gallon.

(d) If not frozen promptly after pasteurization, it shall be cooled to 45°F or lower and maintained thereat.

(e) The name of the product is "Frozen Pudding".

(f) The label on packages of frozen pudding shall, in addition to all other required information, include a complete list of all ingredients in accordance with the provisions of 21 CFR 101.4 and 101.22.

(g) Frozen pudding may be sold from a dispensing freezer or dipped from a properly labeled bulk container. When frozen pudding is sold in such manner from a dispensing freezer or dipped from a bulk container, a sign shall be displayed in such a location as it can be easily read by customers under normal conditions of sale, stating "Frozen Pudding Served Here".

1. Such sign shall be in bold face capitals on a contrasting background. In addition, if items containing frozen pudding are listed on a menu board the statement "Frozen Pudding Served Here" shall be included on the menu board in reasonable proximity to the items containing frozen pudding. The letters in such statement shall be bold face capitals at least as large as the letters used in listing items containing frozen pudding and on a contrasting background.

2. No such sign or menu board declaration shall be required if the only method of advising customers of what items are being offered for sale is a menu furnished to the customer. In such case, the menu shall contain the statement "Frozen Pudding Served Here". Such statement shall be in reasonable proximity to the menu items containing frozen pudding and the letters on such statement shall be bold face capitals at least as large as the letters used in listing items containing frozen pudding. Any menu listing frozen pudding or items prepared with frozen pudding shall conform to the provisions of this paragraph.

8:21-7.23 Lactose reduced ice cream; identity; label statement

(a) Lactose reduced ice cream is the product resulting from the treatment of ice cream as defined in N.J.A.C. 8:21-7.2 by the addition of safe and suitable enzyme(s) so that the lactose remaining is thirty percent or less than lactose in ice cream.

(b) The name of the food is "Lactose Reduced Ice Cream".

(c) The package label shall, in addition to all other required information, include a complete list of all ingredients in accordance with the provisions of 21 CFR 101.4 and contain nutrition information as required by 21 CFR 101.9.

(d) Wherever the name of the food appears on the container, the words "lactose reduced" shall be in the same type, style and size and in the same color and contrasting background as the words "ice cream".

(e) Lactose reduced ice cream may be sold from a dispensing freezer or dipped from a properly labeled bulk container. When lactose reduced ice cream is sold in such manner from a dispensing freezer, a sign shall be displayed where it can be easily read by customers under normal conditions of sale stating, "Lactose Reduced Ice Cream Served Here." Such sign shall be in bold face capitals on a contrasting background.

8:21-7.24 Lactose reduced ice milk; identity; label statement

(a) Lactose reduced ice milk is the product resulting from the treatment of ice milk, as defined in N.J.A.C. 8:21-7.3, by the addition of safe and suitable enzyme(s), so that the lactose remaining is thirty percent or less than lactose in ice milk.

(b) The name of the food is "Lactose Reduced Ice Milk".

(c) The package label shall, in addition to all other required information, include a complete list of all ingredients in accordance with the provisions of 21 CFR 101.4 and contain nutrition information as required by 21 CFR 101.9.

(d) Wherever the name of the food appears on the container, the words "lactose reduced" shall be in the same type, style and size and in the same color and contrasting background as the words "ice milk".

(e) Lactose reduced ice milk may be sold from a dispensing freezer or dipped from a properly labeled bulk container. When lactose reduced ice milk is sold in such manner from a dispensing freezer, a sign shall be displayed where it can be easily read by customers under normal conditions of sale stating, "Lactose Reduced Ice Milk Served Here." Such sign shall be in bold face capitals on a contrasting background.

8:21-7.25 Lowfat parevine; identity; label statement

(a) Lowfat parevine is a food which meets all of the requirements of N.J.A.C. 8:21-7.20 except that its fat content shall be not more than six percent.

(b) The name of the food is "Lowfat Parevine".

(c) The provisions of N.J.A.C. 8:21-7.20(e) shall apply, except the required statement shall read "Lowfat Parevine Served Here".

8:21-7.26 Temporary marketing permit

Any person holding a current New Jersey frozen dessert license who wishes to manufacture a frozen dessert product for which a standard of identity has not been promulgated, may make application to the Department for a temporary marketing permit to market such a product. The application shall be on a form furnished by the Department and shall contain such information as the Department may require. Such permit shall be for a period not to exceed one year, however it may be renewed pending action by the Department.

8:21-7.27 through 8:21-7.20 (Reserved)

8:21-7.31 Plant records

(a) Each licensee shall keep a true and correct record showing the milk and milk products received and the frozen desserts and special dietary foods manufactured. Such record shall show:

1. Source, date of receipt, and volume of milk products received;

2. Type of frozen dessert products manufactured;

3. Date and volume of each class of product manufactured.

(b) The records shall be legibly written in English and shall be retained at said plant or local office for a period of six months and shall be available at all times for examination by the Department.

8:21-7.32 Plant buildings and surroundings

Frozen dessert plants, stations and depots shall be so located as to insure proper shelter and drainage. Sewage and industrial wastes shall be disposed of in accordance with pertinent laws and regulations. Premises shall be kept clean and unless properly retained, no refuse shall be allowed to accumulate on or about the same. Roads, driveways, yards and parking areas adjacent thereto should be paved or otherwise treated to prevent dust. No person shall be allowed to live or sleep in any room where frozen desserts or special frozen dietary foods are manufactured, packed, stored, distributed or sold.

8:21-7.33 Plant construction

(a) The floors of all rooms in which frozen desserts are processed, handled, or stored, or in which containers, equipment, and utensils are washed shall be constructed of concrete or other equally impervious and easily cleaned material and shall be smooth, properly sloped, provided with trapped drains, kept in good repair; provided, hardening room floors need not be provided with floor drains when the floors are slopped to drain to one or more exists; provided further, that rooms for storing dry ingredients and/or packaging materials need not be provided with drains; and the floors may be constructed of tightly joined wood.

(b) Walls and ceilings of rooms in which frozen desserts are handled, processed, or stored, or in which containers, utensils, and equipment are washed shall have a smooth, washable, light-colored surface, in good repair.

(c) All openings to the outer air shall be effectively protected against the entrance of insects by self-closing doors, closed windows, screening, controlled air currents, or other effective means. Screen doors to the outer air shall be self-closing and screens for windows, doors, skylights, transoms, and other openings to the outer air shall be tight-fitting and free of breaks.

(d) All rooms in which frozen desserts are handled, processed, or stored and/or in which containers, equipment, and utensils are washed shall be well lighted and well ventilated. A minimum of 30 foot candles of light shall be provided in all working areas and ten foot candles of light in dry storage and cold storage rooms.

(e) There shall be separate rooms for:

1. The pasteurizing, processing, cooling, hardening and packaging of frozen desserts;

2. Cleaning and sanitizing facilities for milk tank trucks;

3. The cleaning and storage of frozen dessert containers and cases.

(f) Rooms in which frozen desserts are handled, processed, or stored, or in which containers, utensils, and equipment are washed or stored, shall not open directly into any room used for domestic purposes. All rooms shall be of sufficient size for their intended purposes.

8:21-7.34 Plant cleanliness

All rooms in which frozen desserts are handled, processed, or stored and/or in which containers, utensils, or equipment are washed or stored shall be kept clean, neat, and free of evidence of insects and rodents. Pesticides shall be safely used. Only equipment directly related to processing operations or to the handling of containers, utensils, and equipment, shall be permitted in the pasteurizing, processing, cooling and packaging rooms.

8:21-7.35 Construction and repair of containers and equipment

(a) All single service and multiuse containers and equipment which come in contact with frozen desserts shall be of smooth, impervious, corrosion resistant, nontoxic material shall be constructed for ease of cleaning and shall be kept in good repair. Single service containers, closures, gaskets, and other articles which come in contact with frozen desserts shall have been manufactured, packaged, transported and handled in a sanitary manner. Articles intended for single service use shall not be reused.

(b) All sanitary piping, fittings, and connections which are exposed to frozen desserts shall consist of smooth, impervious, corrosion-resistant, nontoxic, easily cleanable material. All piping shall be maintained in good repair. Frozen desserts shall be conducted from one piece of equipment to another only through sanitary piping.

8:21-7.36 Cleaning and sanitizing of containers and equipment

(a) The product contact surfaces of all multiuse containers, utensils and equipment used in the transportation, processing, handling, and storage of frozen desserts shall be effectively cleaned and shall be sanitized before each use.

(b) The sanitizing of containers, utensils and equipment shall be accomplished by exposing them to one of the following methods:

1. A flow of steam at a temperature of 200 degrees F for at least five minutes; or

2. A flow of hot water at a temperature of 170 degrees F for at least five minutes; or

3. A flow of chlorine solution testing 50 p.p.m. for at least one minute; or

4. A flow of iodine solution testing 12.5 p.p.m. for at least one minute; or

5. By such other method as may be acceptable to the Department.

(c) After cleaning and sanitizing all product contact surfaces of containers, equipment and utensils, they shall be so stored and handled as to be protected from contamination.

8:21-7.37 Protection from contamination

Frozen desserts plant operations, equipment, and facilities shall be located and conducted to prevent any contamination of frozen dessert products, ingredients, equipment, containers, and utensils. All frozen dessert products or ingredients which have been spilled, overflowed, or leaked shall be discarded. The processing or handling of products other than frozen desserts in the plant shall be performed to preclude the contamination of such frozen dessert products. The storage, handling, and use of poisonous or toxic materials shall be performed to preclude the contamination of frozen desserts and its ingredients and the product-contact surfaces of all equipment, containers and utensils.

8:21-7.38 Pasteurization and cooling

(a) All mixtures used in the manufacture of frozen desserts shall be pasteurized in a plant and in properly designed and operated equipment, to one of the following temperatures and held continuously at or above that temperature for at least the corresponding specified time:

1. To a temperature of at least 155 degrees F for at least 30 consecutive minutes by the batch process; or

2. To a temperature of at least 175 degrees F for at least 25 consecutive seconds by the high-temperature-short-time process; or

3. To a temperature of at least 180 degrees F for at least 15 consecutive seconds by the high-temperature-short-time process; or

4. To a temperature of at least 280 degrees F for at least 2 consecutive seconds by the ultra-high-temperature process; or

5. To such equivalent temperature and holding periods demonstrated to accomplish the same results which are acceptable to the Department.

(b) After pasteurization, all milk and milk products, whether unmixed or mixed with any other ingredient, shall be maintained at a temperature of not more than 45 degrees F until subjected to freezing. This requirement on maintaining temperature of mix shall be construed:

1. To require the use of refrigerated or insulated vehicles or approved insulated containers in transporting frozen desserts mix from the manufacturing plant to retail manufacturers; and

2. To apply to conveying mix from coolers or refrigerated tanks in the manufacturing plant to freezers by means of piping or tubing.

8:21-7.39 Bacterial standards

(a) Frozen desserts, special frozen dietary foods or their mixes shall not contain in excess of ten coliform organisms per gram and/or in excess of fifty thousand bacteria per gram. When fruit, nuts or bulky flavoring is added after pasteurization, the coliform count shall not exceed twenty per gram.

(b) Tests to determine whether the bacteria standards for frozen desserts, special frozen dietary foods, or their mixes are being complied with shall be made following the procedures set forth in the current edition of "Standard Methods for the Examination of Dairy Products" published by the American Public Health Association, Inc.

8:21-7.40 Plant sanitary facilities

(a) The water supply shall be adequate as to quantity, of a safe, sanitary quality, and from an approved water supply system which is constructed, protected, operated, and maintained in conformance with the New Jersey Safe Drinking Water Act (N.J.S.A. 58:12A-1 et seq.) and regulations (N.J.A.C. 7:10) and local laws, ordinances, and regulations; provided, that if approved by the Department of Environmental Protection, a nonpotable water supply system may be permitted within the establishment for purposes such as air conditioning and fire protection, only if such system complies fully with N.J.A.C. 8:24-6.6 (Size, installation and maintenance of plumbing), and the nonpotable water supply is not used in such a manner as to bring it into contact either directly or indirectly with food, food equipment or utensils.

(b) Hot and cold running water, under pressure, shall be provided in all areas where frozen desserts are prepared, and where equipment, utensils or containers are washed.

(c) Each plant shall be provided with adequate, conveniently located toilet facilities and dressing rooms accessible to the employees at all times which meet the following criteria:

1. Toilet facilities and dressing rooms shall be installed in accordance with applicable State and local standards;

2. Doors to toilet rooms and dressing facilities shall be self closing and shall not open directly into areas where products are exposed to airborne contamination; except where alternate means have been taken to prevent such contamination;

3. Toilet facilities and dressing rooms including toilet rooms and fixtures shall be kept clean and in good repair and free from objectionable odors;

4. Toilet rooms shall be equipped with lavatory fixtures which shall be located therein or immediately adjacent and shall be supplied with soap, running hot and cold water, single service towels or an approved hand drying device;

5. Handwashing signs directing employees to wash their hands before returning to work, shall be posted conspicuously in all toilet rooms and at each separate lavatory in the plant;

6. Handwashing facilities shall be conveniently located in processing rooms, and shall include a lavatory supplied with soap, running hot and cold water, single service towels or an approved hand drying device.

(d) All sewage and waste water shall be disposed of by means of a public sewage system or disposal system which is constructed and maintained in conformance with applicable State and local requirements.

(e) Garbage and refuse shall be so stored and disposed of as to minimize the development of odors, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food or food contact surfaces, ground surfaces and water supplies.

8:21-7.41 Plant personnel

(a) No person, while affected by a disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other sources of microbiological contamination, shall work in a frozen desserts plant in any capacity in which there is a reasonable possibility of contaminating food, food ingredients, or food contact surfaces, or transmitting disease to other individuals.

(b) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods to prevent contamination of food products.

(c) Employees shall not use tobacco, eat food or drink beverages in areas where food or food ingredients are exposed or in areas used for washing and/or sanitizing of equipment or utensils. Smoking and eating areas may be designated by management where no contamination of food, equipment or utensils will result.

(d) Employees shall wear light colored, clean, washable uniforms and adequate hair restraints while engaged in handling frozen desserts, equipment and utensils.

8:21-7.42 Supply of milk and fluid milk products

All milk and fluid milk products used in the manufacture of frozen desserts for sale or distribution in New Jersey shall be obtained from milk plants holding permits from the Department of Health; except, frozen dessert plants located outside the geographical boundaries of New Jersey shall receive their dairy ingredients, which are used in the manufacture of frozen desserts, from plants holding a current satisfactory Interstate Milk Shippers rating.

8:21-7.43 Packaging and labeling

(a) Frozen desserts shall be packaged in commercially acceptable containers and packaging material that will protect the quality of the product and protect it from possible contamination in regular channels of trade. The packaging, cutting, molding, dispensing and other handling or preparation of frozen desserts and their ingredients shall be done in a sanitary manner.

(b) Multiuse containers used for transporting frozen desserts shall be rinsed immediately after emptying, shall be cleaned upon return to the plant and shall be protected from contamination during storage. Metal cans and containers shall be free from rust and corrosion.

(c) All packages of frozen desserts shall be labeled in accordance with the applicable provisions of this subchapter (N.J.A.C. 8:21-7) and the Code of Federal Regulations, Title 21, Chapter 1. Frozen desserts packaged in accordance with a customer's request and in the presence of such customer shall be exempt from the labeling requirements, except as provided in the regulations.

8:21-7.44 Frozen desserts; mobile units

(a) Mobile units shall comply with all applicable provisions of these regulations exclusive of toilet facilities, pasteurization and storage facilities, and in addition thereto, shall comply with the following:

1. Truck interior shall be of sufficient size with equipment and fixtures conveniently located so as to eliminate needless steps for operation of equipment and serving of customers;

2. A potable water supply shall be provided, to be kept in a supply tank having a capacity of at least 40 gallons, heated electrically or otherwise. The tank shall be tilted sufficiently to permit complete drainage and a suitable drain cock shall be provided. The water inlet pipe shall be of removable flexible

copper or other approved tubing, with nozzle for hose connection capped when not being used. Hose for connection to potable water supply shall be provided and it shall be equipped with an approved check valve;

3. A seamless double compartment sink supplied with running hot and cold water, which shall have a swivel faucet, shall be provided and it shall be large enough to accommodate the largest piece of equipment to be cleaned therein;

4. A hand wash sink, with running hot and cold water, soap and single service or individual towels or mechanical hand dryer shall be provided;

5. A suitable waste water tank with a capacity at least fifteen percent greater than the water supply tank shall be provided. The tank shall be tilted sufficiently to permit complete drainage and shall be provided with a suitable drain cock. It shall be provided with some means of gauging the contents and shall be emptied and flushed as often as necessary and shall be maintained in a sanitary condition;

6. A refrigerated box to maintain a temperature of 45 degrees F or below shall be provided. The box shall be of ample capacity, of stainless steel or other noncorrosive material, the floor of which shall be pitched towards a center drain. It shall be provided with metal racks or platforms or shelves on which to store products or ingredients and shall be equipped with an indicating thermometer;

7. Floors shall be of metal or similar approved material and properly sloped. Junctures of floors, walls and adjoining fixtures shall be water-tight and coved;

8. The truck interior shall be well lighted with a minimum of 30 foot candles on all working surfaces;

9. Flavors, syrups, fruits, and other ingredients used in making sundaes, shakes, etc., shall be kept in single service containers or other type of container acceptable to the Department;

10. A refrigerated syrup rail with holding plate to maintain a temperature not higher than 45 degrees F shall be provided. Use of syrup pumps is prohibited unless the type of pump has been found to be acceptable to the Department;

11. A refuse container with cover must be available for deposit of papers and other solid wastes by customers and operators, so constructed, designed and placed so it can be readily used, cleaned and kept clean, and shall be located as not to create a nuisance;

12. Persons handling frozen desserts shall wear light colored, clean, washable uniforms and adequate hair restraints;

13. There shall be a partition or self-closing doors between the driver's seat and the manufacturing and serving area, unless the vehicle is air conditioned;

14. Frozen desserts mix shall be packaged in single service containers at the place of manufacture and shall remain in the original container until used;

15. The original frozen desserts license shall be displayed on each vehicle and a photocopy shall be posted in the depot from which the mobile unit is operated.

8:21-7.45 Mobile unit depots

(a) All mobile units, other than those operated exclusively at fairs, outings, carnivals and other affairs of short duration, shall operate from a depot as authorized on license. Such depot shall be large enough to accommodate one or more mobile units for cleaning and sanitizing. Mobile units shall return to their respective depots at least once a day for cleaning and sanitizing. Such depots shall be maintained and operated in accordance with the following requirements:

1. Walls shall be reasonably smooth and clean;

2. There shall be no openings in the walls or at the base of doors where vermin or rodents may enter;

3. The floor must be constructed of cement or other impervious material, must be provided with a drain, sloped to such drain, and the juncture of the floor and walls shall be coved;

4. There shall be provisions for adequate ventilation. Ventilation facilities shall be screened or otherwise protected to prevent the entrance of flies, other insects, vermin or rodents;

5. There shall be adequate lighting, suitable toilet facilities, hand washing facilities equipped with hot and cold running water, soap and single service towels or air dryers, clothes lockers, and garbage cans provided;

6. A sufficient supply of hot and cold running water shall be provided and there must be at least two large sinks, each of which is large enough to accommodate the largest piece of equipment to be washed. Drain boards of impervious material shall be provided;

7. Hose and hose connections for supplying potable water to the mobile units shall be provided. Such hose shall be equipped with a check valve or other device to eliminate possible contamination from return flow. There shall be facilities for hanging the hose for complete drainage and to avoid contamination;

8. There shall be a metal pipe drying rack or its equivalent for utensils and equipment;

9. There shall be suitable covered storage facilities or containers for all refuse and waste which shall be removed daily from the depot;

10. A physical separation between the area where the trucks are located and the area where food is stored is required.

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Standards; All Health Care Facilities Licensure Fees

Proposed Amendment: N.J.A.C. 8:31-26.5

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1985-444.

Submit comments by September 18, 1985 to:
Wanda J. Marra, Coordinator
Standards Program
Division of Health Facilities Evaluation
New Jersey Department of Health
CN 367
Trenton, N.J. 08625

The agency proposal follows:

Summary

N.J.A.C. 8:31-26.5, as amended in 1985 (see 17 N.J.R. 664(a) and 17 N.J.R. 1760(b)), delineates the licensure fees charged by the Department of Health for the filing of an application for licensure of a health care facility and for the annual renewal of the license. The amendment which became effective on July 15, 1985, increased the licensure fees for inpatient health care facilities other than hospitals. Previously, fees for these facilities had ranged from $100.00 to $500.00. As a result of the amendment, which became effective on July 15, 1985, the

licensure fees for long-term care facilities, alcoholism treatment facilities, and drug treatment facilities have been raised to $500.00 plus an additional fee of $3.00 for each bed in the facility. Also, the licensure fee for residential health care facilities has been increased to $100.00 with an additional fee of $3.00 for each bed in the facility.

The amendment as proposed on March 18, 1985 at 17 N.J.R. 664(a) also called for an increase in the licensure fees for ambulatory care facilities, home health agencies, and medical day care facilities from $100.00 to $500.00. As in the case of the inpatient facilities, the fee increase for these facilities was intended as a continuation of the Department's implementation of the legislative directive to increase the Department's revenues. The total licensure fee for a health care facility shall not exceed $2,000.00 as established by N.J.S.A. 26:2H-1 et seq., and amendments thereto. In the notice of proposal, the Department asserted that the fee increases were needed "in order to maintain a level of surveillance of facilities sufficient to support the effort of the Department to ensure the quality of health care provided to patients in New Jersey." The Health Care Administration Board, however, expressed concern at its meeting on June 13, 1985, for the future economic viability of ambulatory care facilities providing family planning services if the increase in licensure fees from $100.00 to $500.00 was adopted. Consequently, fee increases were adopted for the inpatient facilities only, and the Department initiated a review of the propriety of licensure fee increases for ambulatory care facilities, home health agencies, and medical day care facilities.

Subsequently, the Health Care Administration Board on July 11, 1985, adopted an increase in the licensure fees to $500.00 for ambulatory care facilities, medical day care facilities, and home health agencies and retained the fee of $100.00 for other facilities (See Notice of Adoption in this Register.)

The amendment to N.J.A.C. 8:31-26.5 which is being proposed at this time is the result of a Departmental review, the comments submitted by family planning facilities, and the decision of the Health Care Administration Board. This proposal serves to notify the public that the Department has established a new category of facility for the purpose of assessment of licensure fees. Facilities providing family planning services only will pay a licensure fee of $100.00, as proposed in this notice. The Department maintains that a licensure fee increase for family planning facilities could be a cause of financial hardship for these facilities.

Social Impact

The consensus of the commentors representing family planning services was that the proposed licensure fee increase to $500.00 was excessive and could not be absorbed by their already overtaxed budgets. They indicated that direct services to patients would be decreased in order for the facilities to pay the increased fees.

The Department agrees with the facilities that there should be no decrease in services to patients. Decrease in patient services would have serious social consequences. For example, fewer patients could receive services, particularly patients with low to moderate incomes who cannot afford to see a private physician. For a number of patients, visits to a family planning facility is either an entry or re-entry into the health care system. As such, the facility often detects health care needs not directly related to reproduction and makes appropriate referrals to other health care personnel and/or facilities. The family planning facilities provide individuals with the opportunity to make informed decisions about family size and child spacing. Families are assisted by the services provided by the family planning facilities to strengthen the integrity of the family and to improve health. If family planning services were forced to close because of lack of funds, the social and health consequences would be severe.

Retaining the current licensure fee of $100.00 will allow family planning services to continue to exist and to provide services to patients at the current level.

Economic Impact

An increase in licensure fees for family planning services would be a hardship for these facilities and would result in decreased patient services and even in the closing of these facilities. Since these facilities are primarily nonprofit and charge a fee based on ability to pay, an increase in patient fees could exclude certain patients unable to pay the increased fee. An increase in the licensure fee would have a direct detrimental impact on patient care which would most likely result in increased cost of health care for those patients affected. Allowing the current licensure fee of $100.00 to remain in effect will permit these facilities to continue providing services to individuals who choose and want these services.

The Department of Health would experience a negative economic impact if the licensure fee is increased to $500.00 as originally proposed. This loss of Departmental revenue would result from the probable closure of facilities which would encounter difficulty in paying the higher fee.

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

8:31-26.5 Licensure fees

(a) The department shall charge a nonrefundable fee for the filing of an application for licensure of a health care facility and for the annual renewal of the license in accordance with the following:

1. (No change.)
2. All other health care facilities, except hospitals, shall pay the following fees:

Facilities	Fees
Family Planning	**$100.00**
Ambulatory Care	$500.00
Home Health Agencies	$500.00
Medical Day Care	$500.00

(b) (No change.)

HOSPITAL REIMBURSEMENT

For proposals numbered PRN 1985-442 and 443, submit comments by September 18, 1985 to:

Christine Grant, Director Designate
Hospital Reimbursement
New Jersey Department of Health, Room 601
CN 360
Trenton, New Jersey 08625

(a)

Procedural and Methodological Regulations

Proposed Readoption with Amendments: N.J.A.C. 8:31B-3

Authority: N.J.S.A. 26:2H-1, et seq., specifically 26:2H-5b, and 26:2H-18d.
Proposal Number: PRN 1985-443.

The agency proposal follows:

Summary

The Procedural and Methodological Regulations, N.J.A.C. 8:31B-3, stipulate the procedures in the annual cycle of prospective rate setting for the State's acute care hospitals. These procedures are followed and the accompanying methodologies are utilized to determine how much revenue State law permits hospitals to generate through hospital rates charged to patients and their insurers. The regulations, the fundamentals of rate setting, are tested annually by Health Department hospital reimbursement staff. For internal consistency and appropriateness, they have been amended as needed during the first five years of the New Jersey DRG Rate Setting System.

Therefore, these sections are now being proposed for readoption without change with minor exceptions as described in the following sections. The rules will expire on October 17, 1985 pursuant to Executive Order No. 66 (1978).

Most of these rule's sections are being proposed for readoption without change pursuant to Executive Order 66 at this time. However, the Department of Health is currently analyzing the need for changes in several specific regulations. Those include the Volume Variability Adjustment, N.J.A.C. 8:31B Appendix IX. It is likely that a major change will be proposed in this rule for 1986.

Most proposed changes accompanying the readoption of this rule's sections are to clarify or make consistent terms used to specify outlier categories. It is proposed that N.J.A.C. 8:31B-3.11 and N.J.A.C. 8:31B-3.19 be changed to clarify that same day surgery patients are now outpatients. The proposed changes to N.J.A.C. 8:31B-3.38 and N.J.A.C. 8:31B-3.77 provide more precise language defining outlier categories and the current means of payment. No change to the methodology now in effect is being proposed.

The Department proposes to delete section N.J.A.C. 8:31B-3.20D which was superceded in 1983 by N.J.A.C. 8:31B-3.29 as the current method by which a return on equity would be calculated for a hospital. It is proposed that N.J.A.C. 8:31B-3.22 be changed to add clarifying language to the word "respectively" which refers to standard setting for rates. An error in the published equation for a standard deviation calculation is proposed to be corrected.

The Department proposes to allow itself in N.J.A.C. 8:31B-3.51 ten instead of five working days when notified of substantive errors in rates of an individual hospital. Finally it is proposed that the extraneous word "into" be deleted from N.J.A.C. 8:31B-3.76.

Social Impact

Readoption without change of the majority of the sections of the Procedural and Methodological Regulations is expected to maintain the stability of the current hospital rate setting system. In so doing, its social impact remains the same as during the past five years. This impact is the containment of further increases in payments for hospital services and the continued sharing, by insured persons through their insurers, of the cost of otherwise uncompensated care provided by hospitals to the medically uninsured or underinsured. These goals are achieved respectively by sections N.J.A.C. 8:31B-3.1 through 3.26 and N.J.A.C. 8:31B-3.41.

Other important social goals fostered by the maintenance of the existing system are to minimize the undesirable activity of cost shifting by Federal payers to private payers and otherwise to provide for equitable treatment of different payers. This goal is achieved by sections N.J.A.C. 8:31B-3.39 and 3.41 and N.J.A.C. 8:31B-3.72 as recently amended to provide for continued Federal payer participation. The provision of necessary and appropriate health care services to the public is assured by N.J.A.C. 8:31B-3.76 through 3.82.

Hospitals which are efficient and effectively utilized and which participate in and respond to the incentives and disincentives of the system will continue to have payment rates established at levels which promote financial solvency considering the system as a whole. This is a positive social impact as it ensures that communities will continue to have access to the adequate number of institutions needed for the provision of care and the training of health professionals. These goals are achieved through sections N.J.A.C. 8:31B-3.1 through 3.50 which provide for the annual prospective rate setting of hospital rates; sections N.J.A.C. 8:31B-3.51 through 3.66 which provide the means by which hospitals may appeal to the Hospital Rate Setting Commission for additional payment; and sections N.J.A.C. 8:31B-3.73 through 3.75 which provide the means by which post rate year reconciliation of the revenues collected to the statutory revenues permitted are determined and added to or subtracted from a subsequent year's rates.

The marginal social impact of those few sections being proposed for readoption with change is negligible in comparison with the vast majority of sections to remain unchanged for the present. N.J.A.C. 8:31B-3.11; 3.19; 3.38; and 3.77 improve precision and clarity of notice to the hospital industry concerning treatment of cases which are outliers. Similarly, clarity is served by deleting superceded or extraneous language in N.J.A.C. 8:31B-3.20D; 3.22; and 3.76.

Finally, the proposed additional five working days in N.J.A.C. 8:31B-3.51 to correct substantial rate setting errors controls the need to further increase Health Department staff in order to meet too stringent regulatory timeframes.

Economic Impact

The proposed readoption without change of all sections of N.J.A.C. 8:31B-3, with the exception of sections which are proposed for readoption with minor changes, will have enormous continued economic impact State-wide. Ninety acute care general hospitals generating revenues in excess of $3.5 billion annually have payment rates and statutory revenues determined according to the sections of this rule and N.J.A.C. 8:31B-4. Readoption of this regulation's sections in full will ensure continued predictable, reasonable increases in the annual cost of hospital-based health care for the public. The increases in health care costs in New Jersey appear to be significantly less than increases in the total national cost of health care as well as in the cost to the Federal Medicare Trust Fund as compared to what payments its own regulations would require.

N.J.A.C. 8:31B-3.1 through 3.26 fix the allowable components and rate of increase of the individual hospital's basic payment rates.

N.J.A.C. 8:31B-3.27 through 29, provide for the payment for hospital capital, working capital and return on investment for profit making hospitals.

N.J.A.C. 8:31B-3.30 through 3.50 provide for the uniform setting of payment rates. This section allows for economic flexibility by providing certain exceptions for individual payers showing demonstrable economic benefits to the system, as well as exceptions for payments for patients with atypical stays-the outliers; working capital requirements; and treatment and apportionment of liability for costs associated with patients unable to pay.

N.J.A.C. 8:31B-3.51 through 3.70 provide for hospitals to further increase allowable annual statutory revenue above the economic factor by appealing to the Hospital Rate Setting Commission. These sections have historically resulted in additional annual payments of approximately 1-2% of the total $3.5 billion annual payments.

N.J.A.C. 8:31B-3.71 through 3.75 ensure that the individual hospital collects from its patients the appropriate total payment for any year. These "reconciliations" typically result in reductions or additions to a subsequent year's revenue of one-half million to $4 million dollars. As such, the reconciliation process is one with significant economic impact.

Finally, the utilization review process determined in N.J.A.C. 8:31B-3.76 through 3.82 has significant economic impact in ensuring that hospitals properly classify and bill patients according to New Jersey regulations as well as to promote true elimination of unnecessary admissions or prolonged stays. These sections protect hospitals and patients from the economic cost of disallowance of appropriate costs by payers. The proposed readoption of this rule also ensures continued annual sharing by all users of hospital services in the $215-$230 million annual costs associated with the care of the medically indigent. This rule has been demonstrated during the year 1984-1985 to result not only in lower annual increases in hospital payments than experienced nationally, but also lower basic payment rates than the Medicare regulations would pay were Medicare to pay according to its own regulations.

On the other hand, total Medicare payments by virtue of continued Medicare participation in the system do include almost $90 million in annual payments for the medically indigent which the State's hospitals would not otherwise realize. Similarly, Medicaid participation results in additional contribution of payment for the medically indigent of at least $20 million which would not otherwise be paid.

At the same time this rule and its accompanying rule, N.J.A.C. 8:31B-4, are being proposed for readoption, two major economically significant phenomena are occurring which will be expected to result in future amendments to that rule.

First, the Federal Government intends to radically change the way it pays for services provided to Medicare beneficiaries during 1986 and perhaps beyond. For example, it intends to "freeze" certain rates at 1985 levels and disallow any inflation.

Second, certain New Jersey hospitals continue to experience significantly reduced numbers of admissions. The current regulations will require repeated security to ensure that Federal payment changes do not result in inequitable treatment of other payers which includes the public. Also the review will ensure that the regulations do not subsidize hospitals which are no longer needed.

The Department of Health intends to scrutinize both the means by which capital is reimbursed, and the volume variability provisions of Appendix IX of this rule as well as provisions of payer equity in connection with this phenomenon.

Finally, the State is currently in litigation with the Federal Government concerning the extent to which a Federal statute requires the Medicare system to follow New Jersey regulations in connection with payment for outpatient services. Loss of the Medicare participation in outpatient services would be expected to have significant impact on the share of uncompensated care costs paid by other payers.

The individual sections proposed for readoption with change are not expected to have a marginal economic impact with the exception of exclusion of the parking facilities from the capital payment scheme. This should save consumers approximately one-half million to two million dollars for every such parking facility project.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:31B-3.

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

8:31B-3.19 Patient care cost findings: Direct costs per case, physician and non-physician

(a) Hospital case-mix:

1.-3. (No change.)

[4. Commission approved Same Day Surgical Services, as defined in N.J.A.C. 8:31B-3.11, will be considered a clinical service but treated as low trim outliers, assigned a DRG and reported on a UB-PS as "SD" (Same Day) in accordance with N.J.A.C. 8:31B-2.1.]

4. Commission approved Same Day Surgical Services as defined in N.J.A.C. 8:31B-3.11 are considered a clinical, outpatient service but are assigned to a DRG and reported on a UB-PS (a bill type 131S) in accordance with N.J.A.C. 8:31B-2.1.

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

8:31B-3.20D [Calculation on return on investment: For-Profit Hospitals] **(Reserved)**

[(a) Return on investment for For-Profit Hospitals shall be included in their Schedule of Rates at a before tax rate on an average equity capital equal to the rate employed by Medicare under Title XVIII Principles. "Equity capital" is defined as the provider's investment in plant, property, and equipment (net of depreciation) and net working capital maintained for necessary and proper operation related to patient care. (Hospitals receiving return on investment must submit Medicare Form HCFA 225.2G, Schedule F:I, II and III.)

1. This factor will be phased out by including 100% of the amount calculated using Medicare principles for the rate year beginning January 1, 1981; 50% of the factor for the rate year beginning January 1, 1982; and eliminating this factor completely for all later years.

2. A prospective amount for this factor should be included in the Indirect Costs of the Preliminary Cost Base. This prospective amount shall be reconciled at Final Reconciliation to reflect the actual percentage changes for the rate year.]

8:31B-3.22 Standard costs per case

(a) Pursuant to N.J.A.C. 8:31B-3.5 various standards will be determined including incentive standards. The incentive standards to be used in the calculation of the proposed PCB for each inpatient DRG are determined as the mean non-physician direct patient care costs per case in all teaching and non-teaching hospitals, [respectively,] **whose costs are included in the data base,** adjusted for labor market differentials. Standards shall be calculated across all hospitals for which current cost bases were derived from a common reporting period.

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

8:31B-3.23 Reasonable direct costs per case

(a) Inpatient:

1. The reasonable Direct Cost Per Case (DRG) of the Preliminary Cost Base for those hospitals first receiving rates in accordance with these regulations are determined for teaching and non-teaching hospitals, for every DRG with greater than

five merged patients and shall include incentives and disincentives, as appropriate, which shall be termed the boundaries of payment and are calculated as follows:

degree of confidence X labor market standard

plus

(1-degree of confidence) X hospital current non-physician direct cost per case

plus

hospital current physician patient service cost per case

i.-ii. (No change.)

iii. And where the standard deviation of a DRG is calculated [as:] **across all patients in the DRG in the given teaching category:**

$$\left[\sum_{i=1}^{N} (Cost_i)^2 - \frac{\left(\sum_{i=1}^{N} cost_i\right)^2}{N} \right]$$

[iv. Where N is the number of patients in a DRG in teaching or non-teaching hospitals upon which the standard was calculated;]

[v.] **iv.** And if the Coefficient of Variation, as calculated above, is greater than 1, the degree of confidence shall equal zero. (Reasonable non-physician direct cost per case equals hospital's costs per case.)

(b) (No change.)

(c) Patients not included on schedule of rates: [Costs for inpatient outliers and private] **Private** referred outpatients are shown as per case amount as calculated above in the reporting period only for purposes of accounting for total direct patient care costs. Such costs will be included in the reasonable direct costs of the PCB at Reconciliation, subject to utilization review (see N.J.A.C. 8:31B-3.71 through 3.86).

(d) Inpatient outliers: The cost of low length of stay outliers will be divided by the low length of stay days to arrive at a low per diem. The cost of high length of stay outliers will be divided between both high outlier per diems and the inlier rate. The mean high outlier cost net of the inlier rate will be divided by the acute days of the patient's total stay (admission to discharge) to arrive at a high outlier per diem. High outlier cases are reimbursed the inlier rate plus the high per diem multiplied by the acute days of the stay.

8:31B-3.27 Capital Facilities

(a) Capital Facilities as defined in N.J.A.C. 8:31B-4.42, shall be included in the Preliminary Cost Base in the following manner:

1. Building and fixed equipment:

i. (No change.)

ii. Capital Facility Formula Allowance: For hospitals receiving a Preliminary Cost Base and Schedule of Rates [in 1980] the allowance provides funds for replacements or major renovations of the future acute care capital facility needs of the hospital's service area as determined through the planning process; i.e., 20 percent of current replacement costs, less the portion of the fund target designated by the hospital's governing board at the time its initial Schedule of Rates is set, spread over the adjusted remaining useful life of buildings, building components, and fixed equipment for the target bed complement of the hospital, in accordance with the planning needs of the hospital's service area.

iii.-vi. (No change.)

2. (No change.)

8:31B-3.38 Derivation from Preliminary Cost Base

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

(c) Basic rate order:

1. (No change.)

2. The [six] **five** outlier categories will have rates and/or per diems included on the Schedule of Rates as follows:

i. High length of stay [outlier - the rate per case plus a modified per diem for each day above the high trim point.] **- the rate is the inlier rate per case plus a per diem for each acute day from the date of admission to date of discharge. For DRG's with three or less high length of stay outlier cases in the base year, the standard high length of stay per diem is the rate.**

ii. Low length of stay [- per diem only.] **- the rate is the low per diem rate for each acute day of the stay. For DRG's with three or less low length of stay outlier cases in the base year, the standard low length of stay per diem is the rate.**

iii. Low volume (fewer than six cases) [- standard rate per case.] **- the rate is the standard rate per case and standard per diem if also a length of stay outlier (as described above).**

iv. Clinical outliers [- a rate per case based upon historical cost.] **- the rate per case and per diems are based upon the hospital specific or "Historical" cost. Inlier or outlier status determines the use of the inlier rate or outlier per diem rates.**

[v. Against Medical Advice and Death (AMA's) and Death - these outlier categories are eliminated. The DRG rate per case or outlier rate, as described above, will apply.]

[vi.] **v.** Transfer patients [- patients transferred from one to another acute care facility (inpatient) were considered outliers in each facility. The transferring hospital will now receive a per diem rate and the transferee hospital will receive a price per case equal to the rate received by a non-transferred patient.] **- where a patient's discharge status is that of a transfer to another acute care facility (inpatient), the rate is limited to the lower of the inlier rate per case or the sum of the acute days multiplied by the low outlier per diem. The hospital which receives the transfer patient (and that patient is subsequently a non-transfer status discharge) will receive the appropriate rate per case or per diem based upon DRG assignment and trim point status.**

3. (No change.)

(d) (No change.)

8:31B-3.51 Notification appeal and review

(a) All hospitals within 15 working days of receipt of the Proposed Schedule of Rates, shall notify the Commissioner of any calculation errors in the rate schedule. If upon review it is determined by the Commissioner that the error is of substantive value, a revised rate will be issued to the hospital within [five] **ten** working days. If the discrepancy is determined to be substantive and a revised Schedule of Rates is not issued by the Department within [five] **ten** working days, notification time frames above will not become effective until the hospital receives a revised Schedule of Rates.

(b) (No change.)

8:31B-3.76 Necessity and appropriateness of health care services

(a) (No change.)

(b) This section which replaces [in to] N.J.A.C. 8:31B-5 of the [Methodological and Procedural Regulations,] **Procedural and Methodological Regulations,** sets forth minimum qualification criteria for utilization review organizations, prescribes the qualification procedure, and establishes a method for financing organizations which qualify. The criteria are designed to delineate the respective roles of payment and review so as to capitalize on the strengths of each. In this way, the systems may complement one another to the greatest degree, thereby promoting "effectiveness and efficiency of the health care system as a whole". L.78, c83, Section 11C.

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

8:31B-3.77 Definitions

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

"Focus[s]ed review" means **an application of sampling techniques such as** an intensification of or an exemption from detailed review of certain groups of patients or common diagnoses where data indicate it is reasonable to do so. [An application of sampling techniques.]

1. Focus-in describes an intensified review of a specified category of patients, diagnoses, procedures, and/or physicians.

2. Focus-out describes specific categories of patients, diagnosis, procedures and/or physicians, who are exempt from concurrent review, diagnosis, procedures, and/or physicians.

"Outliers" means patients who display atypical characteristics relative to patients assigned to DRGs, or have been transferred from one New Jersey hospital to another. (See N.J.A.C. 8:31B-5.2). Outliers have lengths of stay either above or below the LOS trim points established for any given DRG. [Outliers are also patients who have expired during hospitalization, who have discharged themselves against medical advice, or whose length of stay is equal to zero.]

["Physical Advisor (P.A.)" means a currently licensed physician who makes determinations and provides consultation on a referral basis to non-physician redeterminations and provides consultation on a referral basis to non-physician reviewers in cooperation with the Attending Physician on the appropriateness, quality and/or necessity of an individual's admission to or continued stay in a hospital.]

(a)

Financial Elements and Reporting Regulations

Proposed Readoption with Amendments: N.J.A.C. 8:31B-4

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b, and 26:2H-18d.

Proposal Number: PRN 1985-442.

The agency proposal follows:

Summary

The Department of Health proposes to readopt the Financial Elements and Reporting Regulations 8:31B-4 which will expire on October 15, 1985 pursuant to Executive Order No. 66 (1978). These rules state the Reporting Principles and Concepts (Part I) which ensure reporting consistency and adequacy among hospitals regulated by the Health Care Facilities Planning Act of 1971 as amended 1978, 26:2H-1.

The rules specify the Financial Elements (Part II) (N.J.A.C. 8:31B-4.3 through 4.47) which gives the definitions of the various Financial elements which make up the Preliminary Cost Base and the Certified Revenue Base. Among the elements defined are direct patient care, uncompensated care, appropriate collection procedures and capital facilities. Natural Classification of Expense (Part III) (N.J.A.C. 8:31B-4.51 through 4.59) stipulates the treatment of various categories of costs such as salaries, fringe benefits, supply costs, purchased services and other direct services. Reconciliation of Costs and Revenues related to Patient Care with Hospital Unrestricted Fund Expenses and Revenues (Part IV) (N.J.A.C. 8:31B-4.60 through 4.67) describes the classification of operating and non-operating expenses and revenues. Definition of Cost and Revenue Centers (Part V) (N.J.A.C. 8:31B-4.71 through 4.131) defines the centers to which costs and revenues are to be allocated for reporting purposes.

The Financial Elements have remained relatively unamended during the first five years of prospective DRG rate setting. It is proposed that these Financial Elements be readopted essentially without change as they remain necessary and integral to consistent rate setting. However, the Department of Health acknowledges that the national turmoil being occasioned by the proposed dramatic changes in the nature and amounts of payments the Federal Medicare and Medicaid programs will be willing to pay for the Financial Elements included in this regulation is requiring the Department of Health to reevaluate the scope and treatment of these Financial Elements for those payers which remain subject to State law and regulation.

The following changes to N.J.A.C. 8:31B-4.38, 4.39 and 4.40 will remove the ambiguities related to appropriate collection procedures by eliminating the difficulty of determining substantial compliance by establishing the regulations as the minimum set of standards. This change will eliminate the need for the Department of Health to review each provider's credit and collection procedures for compliance with Chapter 83 requirements. Compliance will be determined by the Department's audit of patient files and appropriate reductions will be made to their uncompensated care reimbursement based on the degree of non-compliance.

The length of time that a provider must hold a patient account in-house prior to sending the account to an outside collection agency will be reduced from 120 days to 90 days. This change eliminates any confusion pertaining to the review of patient accounts that are 90 to 120 days old. Audit experience has revealed the collectability of a bad account does not improve when held in-house for an additional 30 days. The provider is still required to document the in-house appropriate collection procedures regardless of when an account is written off per N.J.A.C. 8:31B-4.40.

Accessibility to patient care is reemphasized by the proposed changes. Repeated references are made to the fact that treatment cannot be denied due to a patient's inability to meet deposit or payment requirements.

Further changes are proposed and deemed necessary to bring Chapter 83 regulations into conformity with section 308 and 310 of the Medicare HIM-15 cost reimbursement regulations. HIM-15 regulations now permit appropriate court action for delinquent Medicare and Medicaid patient accounts.

There are other minor wording changes which became necessary as a result of the proposed major revisions. These changes revise the language and/or terms used throughout the text to be consistent for all sections.

The requirement for adequate documentation for any of the actions mentioned in these sections still remains paramount.

Social Impact

Readoption of the Financial Elements with minor changes to correct language will reinforce the social impact achieved by the readoption of the Procedural and Methodological Regulations, N.J.A.C. 8:31B-3.

Most of the proposed changes to sections 8:31B-4.38, 4.39 and 4.40 will have very little social impact. The purpose for the majority of changes is to eliminate administrative confusion due to the vagueness in the regulations. There are two proposed changes which have some social impact. These changes deal with the elimination of the statute which prohibits court actions against beneficiaries of Medicare and Medicaid, and the insertion of language that prohibits the provider from refusing to give medical treatment based on the patient's inability to meet the financial requirements listed in Chapter 83. Both of these changes will eliminate the conflict between Chapter 83 and Federal law.

In the past, court actions against Medicare and Medicaid beneficiaries were prohibited based on Federal Regulations. Patients who fail to meet their financial obligations for medical treatment may now be sued for the unpaid amount now due to the provider. This change is the direct result of revisions made to Federal regulations for Medicare and Medicaid which became effective January 1983.

Another change with social significance appears in N.J.A.C. 8:31B-4.40 - Appropriate Collection Procedures. Presently, the appropriate collection procedures require the provider to collect a deposit from some patients prior to admission. The determination to require a deposit is based on the patient's ability to pay and the services rendered. After each reference to the clause requiring a deposit, the following statement will appear, "Treatment cannot be denied when the patient is unable to meet the financial requirements." This change will emphasize one of the primary goals of Chapter 83 which is to provide accessibility to health care.

Economic Impact

Readoption of the Financial Elements with minor changes to correct language will reinforce the cost saving economic impact of the companion Procedural and Methodological Rules, N.J.A.C. 8:31B-3.

The majority of proposed changes to N.J.A.C. 8:31B-4.38, 4.39 and 4.40 will have no economic impact. The purpose for these changes is to eliminate the administrative difficulties related to the interpretation and implementation of some sections of the aforementioned regulations.

One change that will have an economic impact deals with the provider's right to initiate court action against Medicare and Medicaid beneficiaries for amounts due for medical treatment. These patients were previously sheltered from court actions by the Federal regulations governing Medicare and Medicaid. This change may result in a decrease of the amount of bad debt accounts associated with Medicare and Medicaid beneficiaries which should benefit the reimbursement system.

The proposal to establish the appropriate collection procedures listed in N.J.A.C. 8:31B-4.40 as the minimum standards for the collection of patient accounts will have no economic impact. The provider's existing credit and collection procedures should be substantially equivalent to those presently specified in the regulations. The purpose for this revision is to remove any confusion regarding the implementation of these regulations.

The regulations which govern when a patient's account can be referred to an out-of-house collection agency is revised with respect to the in-house holding period (120 days to 90 days). This change will enhance the provider's ability to collect on many patient accounts. Additionally, the increased emphasis for documentation of appropriate collection procedures and pre-admission screening of patients qualifying for indigent care should also assist the provider in the collection process.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:31B-4.

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

8:31B-4.21 Accounting for Capital Facilities cost

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

(g) Debt service requirements are principal and interest on buildings, fixed equipment, land, land improvements, leasehold improvements, and capitalized renovations as well as [escroll] **escrow** payments in addition to principal and interest required under the terms of a mortgage but not including operating expenses as defined by GAAP and lease payments required for leased assets capitalized in accordance with the GAAP.

1.-5. (No change.)

6. Depreciation Policies:

i.-iii. (No change.)

iv. When an asset is retired, the difference between its book value (historical acquisition cost plus capitalized renovations less accumulated depreciation) and its net [salavage] **salvage** value shall be recorded as an adjustment to that year's depreciation expense in the cost center or classification to which the asset was assigned.

v. (No change.)

7.-9. (No change.)

8:31B-4.38 Uncompensated care

(a) Uncompensated care includes the reasonable cost of the following:

1. Bad debts, provided [adequate recovery procedures] **appropriate collection procedures as defined in N.J.A.C. 8:31B-4.40** are followed and the account is at least [120] **90** days old;

2.-3. (No change.)

(b) Uncompensated care shall be determined prospectively as the cost associated with deductions from Revenues Related to Patient Care for Charity Care, net of grants and other funds available for the medically indigent, and for a hospital's Bad Debt Provision provided [adequate] **appropriate** collection procedures have been followed.

8:31B-4.39 Determination of uncompensated care factor

(a) In order to prospectively include a factor for Uncompensated Care, such care shall be measured for the Current Cost Base pursuant to N.J.A.C. 8:31B-4.131 as follows:

1.-4. (No change.)

5. Hospitals shall implement [an] appropriate collection procedures as defined [below, and said procedure shall be reviewed by the Commissioner and if appropriate will be approved] **in N.J.A.C. 8:31B-4.40.** Hospitals that fail to follow the [approved procedure] **appropriate collection procedures** shall receive [appropriate] reductions in their Uncompensated care amounts [equal to no less than] **that do not exceed** the aggregate amount of improper billings.

6. (No change.)

7. In evaluating a hospital's compliance with appropriate collection procedures, the Commissioner shall consider patients who are incapable of paying for hospital care **if the patient fulfills all the necessary requirements for indigent care per Title XIX Federal regulations and/or other criteria deemed appropriate by the Hospital Rate Setting Commission** [(per Title XIX

Federal regulations) in light of Section II.5.c) of these regulations]. The hospital shall not pursue payment according to specified billing procedures for those patients who meet [Title XIX] **the aforementioned** criteria.

8. (No change.)

8:31B-4.40 Appropriate collection procedures

(a) Generally, in determining eligibility for medical assistance, seeking payment, or determining uncollectibility, the provider shall take into account a patient's total resources including, but not limited to, an analysis of assets (except those which may be necessary for the patients daily living,) liabilities, and income and expenses. Although extenuating circumstances may be considered, independent verification of both the patient's financial condition and the circumstances shall be required unless totally unobtainable. Moreover, the provider shall make a continuing, diligent effort to secure payment from the patient, any legally responsible individual, or any other potential source, unless otherwise indicated below. The provider's collection effort shall be documented by copies of bills, follow-up letters, reports of phone calls, [and] personal contact, [etc] **and additional supporting documentation stored on computer.** [Appropriate collection procedures will be defined as hospital collection procedures found by the Commission to be substantially equivalent in effectiveness to those set forth below, given the cost/benefit of their application to the individual situation of each hospital]. **Minimum appropriate collection procedures are defined as those set forth in this section, given the cost/benefit of their application to the individual situation of each hospital.**

(b) In-Patient:

1. Pre-Admission/Admission Procedures: Except where an emergency medical condition dictates otherwise, prior to or upon admission a patient or their legally responsible individual shall be interviewed in order to:

i.-ii. (No change.)

iii. If the patient does not qualify or qualify fully under (b)1.i and ii. above, an appropriate deposit shall be required and a reasonable payment scheme negotiated prior to admission, based on the patient's ability to pay and the type of service to be rendered. **Treatment cannot be denied when the patient is unable to meet the financial requirements in (a) above.** However, upon adequate documentation and independent verification of the patient's qualification as a medically needy individual (per Title XIX Federal regulations) the hospital should not pursue the collection procedures set forth herein.

2. Pre-Discharge/Discharge Procedures:

i. With respect to patients admitted on an emergency basis, the interview required in (b)1 above shall be conducted as soon thereafter as possible. If, due to the nature of the illness, the patient cannot be interviewed, the procedure required above shall be conducted by other means including, but not limited to, direct contact by the provider of relatives, [friends] and legally responsible individuals or third parties.

ii. Once the information required in (b)1 above is obtained, the provider shall seek payment from the appropriate carrier, or follow-up to obtain the medical assistance, or secure the deposit agreement required in (b)1 above from the patient or legally responsible individual, as appropriate, on or no longer than seven days following discharge or verification of eligibility. **The provider must document all cases when compliance with the aforementioned collection procedures cannot be accomplished.**

3. Post-Discharge Follow-up/In-House Efforts: The hospital shall follow-up periodically with the proper carrier until the amount owing has been paid in full. Except for denials due to lack of medical necessity, a patient shall be contacted and payment requested concerning any portion of the bill declined by third party carriers. With respect to these patients, self-pay patients and legally responsible individuals, collection procedures must include but are not limited to:

i. (No change.)

ii. Sending collection follow-up letters **or statements;**

iii. (No change.)

iv. Documentation in each patient's file shall indicate bona fide collection efforts **or adequate reasons related to the case which support the provider's decision to terminate the collection effort as listed in i, ii, and iii above.**

4. Post Discharge/Out-of-House Collection Efforts: Not more than 90 days following discharge, all remaining unpaid balances due and owing shall be reviewed and a determination made with respect to whether or not an account should be held in house for an additional thirty days or longer if strong evidence exists that the bill can be collected, sent to an outside collection agency [or, except for Medicare beneficiaries], pursued through appropriate court action. Appropriate collection procedures shall be fully pursued unless and until:

i. Evidence clearly shows that there is no likelihood of recovery at any time in the future [or that];

ii. Based on sound business judgment, the cost of collection is likely to exceed the estimated recovery, in which case, upon adequate documentation contained in the account file, a responsible officer of the hospital shall so certify; **or**

iii. Existing evidence that further in-house collection efforts would be futile after adhering to the appropriate procedures in 3. above.

5. While the hospital may write off accounts, or portions thereof, [120] **90** days after discharge, this does not relieve the hospital of the obligation to continue to make reasonable efforts to obtain payment.

(c) Outpatients:

1. Clinics and Private Referrals: Except for emergent medical situations, all patients shall be screened for existing third party benefits and eligibility for medical assistance; and except where services are fully covered, or where exceptional financial circumstances dictate otherwise, all patients shall be required to pay at least a portion of the clinic fee and/or ancillary charges, or balance due thereof, in advance of provision of the service. **Treatment cannot be denied when the patient is unable to meet the financial requirements in (a) above.**

2. (No change.)

3. Renal Dialysis: Patients shall be screened as in (a) [1] above prior to acceptance in program. Screening should include an effort to obtain third party coverage when the patient is not covered by Medicare. Non-eligible patients shall provide proof of their ability to pay and an appropriate payment scheme negotiated prior to a patient's acceptance into the program.

4. (No change.)

(d) Collection efforts required for all outpatients shall be the same as in (b)3 and 4 above except that court action shall not be required unless, based on sound business judgment, the estimated recovery is likely to exceed the cost of collection. [In no event should court action be taken for Medicare or Medicaid beneficiaries for medically necessary Services Related to Patient Care.] However, the hospital shall make continuing efforts to verify possible eligibility for payment from any source.

8:31B-4.47 Return on Investment

(a) (No change.)

(b) However, because the Major Moveable Equipment Price Level Allowance is not available to for-profit hospitals and because for-profit hospitals have obligations that non-profit hospitals do not, e.g., income taxes and stockholder returns, for-profit hospitals shall receive, as a distinct Financial Element, a return on investment calculated in the manner described in N.J.A.C. 8:31B-3.29[B] **(b)**.

8:31-4.64 Sales and services not related to patient care

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

(e) Cafeteria operations, including vending machines, are treated as Case C, except for the subsidization of employee meals and meals for students in approved programs. Cafeteria operating losses are to be apportioned among employees, students and others per N.J.A.C. 8:31B-4.131. Subsidization of employee (including resident) meals is included as an employee fringe benefit. [subsidization] **Subsidization** of student meals is included as other direct expenses in either EDU or GME cost centers (see N.J.A.C. 8:31B-4, Part V).

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

HIGHER EDUCATION

(a)

STUDENT ASSISTANCE BOARD

Garden State Scholars Eligibility Requirements

Proposed Amendment: N.J.A.C. 9:7-4.1

Authorized By: Student Assistance Board, M. Wilma Harris, Vice Chairwoman.
Authority: N.J.S.A. 18A:71-26.6 and 26.8 and P.L. 1984, c.94.
Proposal Number: PRN 1985-433.

Submit comments by September 18, 1985 to:
Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment more fully defines the academic eligibility criteria upon which the Distinguished Scholarship awards are based. The academic requirements include secondary school ranking in the graduating class and/or a combination of the secondary school ranking and combined SAT scores. Each year the Board will determine and publicize the actual academic requirements.

Social Impact

The proposed amendment provides students and secondary schools with more specific information concerning the academic eligibility requirements for the Distinguished Scholarship Program which may be an additional source of aid to students in obtaining an undergraduate education.

Economic Impact

There is no economic impact from this proposed amendment since it is merely defining to a greater extent the academic requirements of the Distinguished Scholarship Program.

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

9:7-4.1 Eligibility requirements

(a) Undergraduate Garden State Scholarship recipients must meet minimum academic requirements as defined below, demonstrate financial need as defined herein, and be selected by the institution they attend or plan to attend. In addition to the financial need determination explained in N.J.A.C. 9:7-2.4 and 2.9, undergraduates must have demonstrated financial need to qualify for an award. Demonstrated financial need is the difference between the applicant's total resources (Estimated Family Contribution and other aid) and the total cost of college attendance (college budget). The undergraduate's demonstrated financial need will be reviewed annually by the institution to determine renewal eligibility.

(b) Distinguished Scholarship recipients must meet the academic requirements as defined by the Student Assistance Board. **The academic requirements shall include secondary school ranking in the graduating class and/or a combination of the secondary school ranking and combined Scholastic Aptitude Test scores. Each year the Student Assistance Board shall determine and publicize the actual academic requirements prior to the distribution of awards.** Such scholarships may be awarded on the basis of indicators of academic merit defined by the Board, without consideration of financial need, and must satisfy the requirements as stipulated in N.J.A.C. 9:7-2.9. Distinguished Scholarship recipients must attend an eligible New Jersey institution and are eligible to receive a Garden State Scholarship. This scholarship can be awarded in conjunction with an Educational Opportunity Fund Grant. Distinguished Scholarship recipients will be selected without regard to their course of study and awards will not be limited by institutions. Distinguished Scholarships are renewable for up to four or five years, depending upon the course of study and providing the student continues to achieve satisfactory academic progress. Eligible scholars may receive assistance under the Tuition Aid Grant Program.

(c) Garden State Scholarship and Distinguished Scholarship recipients who transfer to another eligible New Jersey institution may transfer their awards provided they have demonstrated satisfactory academic progress and, in the case of Garden State Scholarship recipients, have demonstrated financial need at the institution they will attend. Graduate fellows will be selected primarily on the basis of academic merit.

LABOR

Proposals numbered PRN 1985-434, 435, 436 and 440 are authorized by Charles Serraino, Commissioner, Department of Labor.

(b)

THE COMMISSIONER

Base Week for Unemployment Compensation and State Plan Temporary Disability

Proposed Amendment: N.J.A.C. 12:15-1.6

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-19(t), 43:21-27, L. 1984, c.24 and L. 1984, c.104.
Proposal Number: PRN 1985-440.

Submit comments by September 19, 1985 to:
Arthur J. O'Neal, Jr., Director
Division of Planning and Research
Department of Labor
CN 056
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment raises the amount of earnings required to establish a base week for an individual's claim for unemployment compensation and State Plan temporary disability benefits in accordance with amendments to the Unemployment Compensation Law, Chapter 24, L. 1984, and to the Temporary Disability Benefits Law, Chapter 104, L. 1984.

Social Impact

The proposed amendment will increase the amount an individual must earn to establish a base week under the Unemployment Compensation and Temporary Disability Benefits Laws from not less than 15 percent of the Statewide average weekly wage in the second preceding calendar year to not less than 20 percent of the Statewide average weekly wage in the second preceding calendar year for benefit years and periods of disability commencing October 1, 1985. It will increase the amount an individual must earn to establish a base week from $54.00 to $72.00 for benefit years and periods of disability commencing October 1, 1985.

Economic Impact

The amendments to the Unemployment Compensation and Temporary Disability Benefits Laws, Chapter 24 and Chapter 104, L. 1984, provided for the base weekly amount to be indexed to wage increases, as benefit payments have been indexed since 1969. Effective September 30, 1984 the base week amount was 15 percent of the Statewide average weekly wage in the second preceding calendar year. It is scheduled to increase to 20 percent of the Statewide average weekly wage effective October 1, 1985. Some claimants who work part-time or intermittently may not qualify for benefits under these tightened eligibility standards.

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

12:15-1.6 Base week

In accordance with the provisions of N.J.S.A. 43:21-19(t), the base week amount is hereby promulgated as being [$51.00] **$72.00** per week for benefit years commencing on or after [September 30, 1984] **October 1, 1985** and periods of disability commencing October 1, [1984] **1985.** [and $54.00 per week for benefit years and periods of disability commencing on or after January 1, 1985.]

DIVISION OF WORKPLACE STANDARDS

For proposals numbered PRN 1985-434, 435 and 436, submit comments by September 18, 1985 to:
William J. Clark, Director
Division of Workplace Standards
New Jersey Department of Labor
CN 054
Trenton, NJ 08625-0054

(a)

Wage and Hour Regulations

Proposed Readoption: N.J.A.C. 12:56

Authority: N.J.S.A. 34:11-56a19.
Proposal Number: PRN 1985-434.

The agency proposal follows:

Summary

The purpose of this proposal is to readopt the existing rules on wage and hour regulations. The current chapter is due to expire on November 1, 1985 pursuant to Executive Order No. 66 (1978). Therefore, N.J.A.C. 12:56 is proposed for readoption. The proposed readoption does not include any changes in the current text.

The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purposes for which they were originally intended.

The rule contains fifteen subchapters.

N.J.A.C. 12:56-1 consists of general provisions, covering purpose, scope, validity and violations.

N.J.A.C. 12:56-2 is the definitions of terms used in the text.

N.J.A.C. 12:56-3 specifies the minimum hourly rates, and lists exceptions to these rates.

N.J.A.C. 12:56-4 describes records on employees that must be maintained by employers.

N.J.A.C. 12:56-5 deals with wage payment entitlement under various arrangements of working hours.

N.J.A.C. 12:56-6 describes the overtime entitlements of covered employees, including items not in the regular hourly wage.

N.J.A.C. 12:56-7 covers exemptions from overtime and details definitions of exempt categories of employees.

N.J.A.C. 12:56-8 explains the manner in which the value of gratuities received by, and food and lodging furnished to employees, must be computed.

N.J.A.C. 12:56-9 addresses employment of handicapped persons, describes the requirements which shall be met to allow employers to pay below minimum wage rates to handicapped employees.

N.J.A.C. 12:56-10 on employment of learners, apprentices and students explains how employers can qualify to pay these three categories of employees less than the minimum wage.

N.J.A.C. 12:56-11 is Wage Order No. 1 covering employment in the first processing of farm products occupations and describes overtime provisions applying to workers in the stated occupations.

N.J.A.C. 12:56-12, Wage Order No. 2, covers employment in seasonal amusement occupations and gives a thorough definition of what is a seasonal amusement occupation.

N.J.A.C. 12:56-13, Wage Order No. 3, covers employment in hotel and motel occupations and defines such occupations and stipulates the percentage of the minimum wage which shall be paid to hotel and motel employees who receive gratuities.

N.J.A.C. 12:56-14 is employment in food services occupations and covers essentially the same occupational situations covering cash wages as N.J.A.C. 12:56-13.

N.J.A.C. 12:56-15, employment in air carrier industry addresses the overtime rate situations peculiar to that industry.

Social Impact

The rules have had, and should continue to have, a positive social impact. These rules implement the provisions of the Wage and Hour Law, N.J.S.A. 34:11-56 et seq. The rules establish a minimum wage level for workers in order to safeguard their health, efficiency and general well-being and to protect them and their employers from the effects of serious and unfair competition resulting from wage levels detrimental to their health, efficiency and well-being. The provisions governing payments for overtime hours worked, for example, continue to be necessary to control the number of "exempt" categories of employees, and subsequent loss of overtime earnings. Provisions governing payments to handicapped persons, learners, apprentices and students as well as other covered occupations ensure proper and just wage levels. Promotion of wider employment opportunities continues to be an objective of the regulations.

Economic Impact

The readoption of these rules without change should not cause any increase in economic impact on employers. Continued compliance with the rules should prevent a negative economic impact in that appropriate minimum wage levels will be continued. Since the statutory minimum wage has not changed, the current wage costs will not change.

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code at N.J.A.C. 12:56.

(a)

Wage Orders for Minors

Proposed Readoption: N.J.A.C. 12:57

Authority: N.J.S.A. 34:11-56a19.
Proposal Number: PRN 1985-435.

The agency proposal follows:

Summary

The purpose of this proposal is to readopt the existing rules on wage orders for minors. The current chapter is due to expire November 1, 1985, pursuant to Executive Order No. 66 (1978). Therefore N.J.A.C. 12:57 is proposed for readoption. The proposed readoption does not include any changes in the current text.

The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally intended.

The rule contains five subchapters.

N.J.A.C. 12:57-1 consists of general provisions covering the subjects of purpose, scope, validity, violations and penalties.

N.J.A.C. 12:57-2 lists the definitions of terms used throughout the rule.

N.J.A.C. 12:57-3, Wage Order No. 11, defines a mercantile occupation, and states that in such an occupation, minimum wage and overtime premium shall be paid to minors.

N.J.A.C. 12:57-4, Wage Order No. 12, concerns occupations in the beauty culture field, in which minors may work.

N.J.A.C. 12:57-5, Wage Order No. 13, is about laundry, cleaning and dyeing occupations. The subchapter specifies the working conditions which shall be observed in said occupations. As in N.J.A.C. 12:57-4, provisions for the employment of handicapped minors at less than the minimum wage are stated.

Social Impact

The rules have had, and should continue to have a positive social impact upon minors employed in mercantile occupations, beauty culture operations and laundry, cleaning and dyeing occupations. Since minors under the age of 18 continue to be vulnerable to abuse and excessive exploitation by reasons of inexperience and severe competition for available employment, the readoption of these rules is essential to safeguard the health, safety and welfare of minors in the workplace.

Economic Impact

The readoption of these rules without change should not cause any increase in economic impact upon employers. Continued compliance with the rules should prevent a negative economic impact in that appropriate minimum wage levels for minors will be maintained. Since the statutory minimum wage has not changed, the current wage costs will not change.

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code as N.J.A.C. 12:57.

(b)

Child Labor

Proposed Readoption: N.J.A.C. 12:58

Authority: N.J.S.A. 34:2-21.64.
Proposal Number: PRN 1985-436.

The agency proposal follows:

Summary

The purpose of this proposal is to readopt the existing rules on child labor. The current chapter is due to expire November 1, 1985 pursuant to Executive Order No. 66 (1978). Therefore N.J.A.C. 12:58 is proposed for readoption. The proposed readoption does not include any changes in the current text.

The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose which they were originally intended.

The rule contains four subchapters.

N.J.A.C. 12:58-1, titled general provisions, covers the subjects of purpose, scope, apprentices and student learners.

N.J.A.C. 12:58-2 lists the terms which are defined.

N.J.A.C. 12:58-3 covers occupations prohibited to minors under 16 years of age and lists power driven machinery not allowed for use by them. It also states what machines are not prohibited.

N.J.A.C. 12:58-4 specifies the occupations which are prohibited to minors ages 16 and 17. These include construction trades; operation of certain farm machines; work in any kind of junk or scrap yard; jobs involving use of highly inflammable substances; radioactive substances; and also toxic and hazardous substances. Compactors and power saws are prohibited. In addition all trades in the slaughtering, meat processing and rendering industry are forbidden to minors under age 18. Finally, such minors are not allowed in any work situation which is defined as "indecent" or "immoral."

Social Impact

The rules have had, and should continue to have a positive social impact in the protection of minors subject to the child labor statutes. The various trades and occupations which are covered by these rules at N.J.A.C. 12:58-3 and 12:58-4 are still in use throughout the State, and they continue to be considered hazardous occupations, especially so to minors. It is important that the safety and health of minor employees be safeguarded by the readoption and continued use of these rules.

Economic Impact

The readoption of these rules is not expected to cause any increase in economic impact upon employers. The prohibited occupations for minors remain the same and the economic consequences for employers do not change. Continued compliance with the rules should prevent a negative economic impact in that the rules prohibit those types of occupations which are considered to be particularly hazardous to minors.

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code at N.J.A.C. 12:58.

LAW AND PUBLIC SAFETY

(a)

BOARD OF MEDICAL EXAMINERS

Standards For New Jersey Clinical Training Programs Sponsored by Medical Schools Not Eligible for Evaluation and Not Approved by the L.C.M.E., The A.O.A. or Other Agency Recognized by the New Jersey State Board of Medical Examiners. Educational Program

Proposed Amendment: N.J.A.C. 13:35-1A.4

Authorized By: Board of Medical Examiners, Edward W. Luka, M.D., President.
Authority: N.J.S.A. 45:9-2.
Proposal Number: PRN 1985-439.

Submit comments by September 18, 1985 to:
Charles A. Janousek, Executive Secretary
Board of Medical Examiners
28 West State Street
Trenton, New Jersey 08608

Summary

Currently, medical students applying for clinical clerkships in New Jersey, who attend an approved medical school listed in the World Health Organization directory but not eligible for evaluation or approved by the L.C.M.E., the A.O.A. or some other agency recognized by the Board of Medical Examiners, must pass a basic science screening examination prior to entering a clinical clerkship in New Jersey. The proposed amendment would replace one of the currently allowable examinations (MSKP) which is being phased out of existence, with a new exam (FMGEMS). The amendment would also eliminate the acceptability of any basic science exam other than FMGEMS and Part I of the National Board of Medical Examiners Examination.

Social Impact

The amendment will have the salutary effect of protecting the public by passage of examinations (prior to beginning clinical practice in a clerkship) which are recognized by the medical educational community and licensing agencies as comprehensive, high quality exams eliciting a comparable level of medical knowledge to that which must be demonstrated by students of American medical schools at the same stage of training.

Economic Impact

No substantial economic impact is anticipated, as foreign medical students are already required to pass a basic science examination, a new examination is simply being substituted for one of the examinations which are now approved. Any minor additional costs that may be incurred are substantially outweighed by the public interest in assuring that medical students engaging in clinical clerkships possess a sufficient fund of medical knowledge to assure safe practice.

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

13:35-1A.4 Educational program

(a) Student eligibility for participation in the program shall be subject to the following:

1.-2. (No change.)

3. Preparedness of each student applying for the clinical training program shall in addition be demonstrated by achievement of [any one] **either** of the following:

i. A passing grade on Part I of the National Board of Medical Examiners Examination; or

ii. [A grade on the Medical Science Knowledge Profile Examination (MSKP) which grade shall be determined by the New Jersey State Board of Medical Examiners as the equivalent of the aforesaid Part I National Board grade; or] **A passing grade on Part I of the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS).**

[iii. A passing grade in a similar examination acceptable to the New Jersey State Board of Medical Examiners.]

4. (No change.)

(b) (No change.)

(b)

VIOLENT CRIMES COMPENSATION BOARD

Statute of Limitations for Filing of Claims

Proposed Amendment: N.J.A.C. 13:75-1.5

Authorized By: Kenneth W. Welch, Chairman, Violent Crimes Compensation Board.
Authority: N.J.S.A. 52:4B-9.
Proposal Number: PRN 1985-428.

Submit comments by September 18, 1985 to:
Kenneth W. Welch, Chairman
Violent Crimes Compensation Board
60 Park Place
Newark, New Jersey 07102

The agency proposal follows:

Summary

Under the current rule, N.J.A.C. 13:75-1.5, any claim arising from an incident of a violent crime which occurred prior to November 30, 1981 had to be filed within one year of the date of the incident. The rule reflects a one-year statute of limitations which was in effect up to November 30, 1981. Effective November 30, 1981, however, the one-year statute of limitations was increased to two years. The current rule reflects that any claim for incidents occurring after November 30, 1981 must be filed within two years of the incident.

The proposed amendment reflects and brings the rule into conformity with the Violent Crimes Compensation Board enabling statute, specifically N.J.S.A. 52:4B-18. The amendment will allow the Board to process more claim applications for those incidents which occurred prior to November 30, 1981 but were not filed until after November 30, 1981 in that the two-year statute of limitations which became effective on November 30, 1981 will now be applied to those claims.

Social Impact

The proposed amendment will increase the pool of applicants benefiting from a two-year statute of limitations which became effective on November 30, 1981 thereby allowing the Board to more fully comply with the expressed legislative goal of alleviating the harsh consequences of crime on the citizens of New Jersey.

Economic Impact

The increase in the pool of applicants will result in more awards of compensation to deserving claimants. There should, however, be no significant adverse economic impact on the operations of the program as a result of the proposed amendments since it is not anticipated that the increased awards will substantially diminish available resources.

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

13:75-1.5 Filing of claims

(a) [For incidents occurring prior to November 30, 1981, all claims must be] **For claim applications submitted prior to November 30, 1981, all claims must have been** filed within one year of the date of the incident upon which the claim is based. [For those incidents occurring on or after November 30, 1981,] **For claim applications submitted on or before November 30, 1981,** all claims must be filed within two years after the date of the incident upon which the claim is based or, if after that date, upon determination by the Board that good cause exists for the delayed filing.

(b)-(e) (No change.)

(a)

DIVISION OF CRIMINAL JUSTICE

Arson Investigators Training Requirements

Proposed Amendments: N.J.A.C. 13:76-1.2, 1.3, 3.2, and 4.1.

Authorized By: Donald R. Belsole, Director, Division of Criminal Justice.

Authority: N.J.S.A. 40A:14-7.1 and 52:17B-97 et seq. and P.L. 1985, c.150.

Proposal Number: PRN 1985-438.

Submit comments by September 18, 1985 to:
Donald R. Belsole, Director
Division of Criminal Justice
Richard J. Hughes Justice Complex
25 Market Street
CN 085
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments will broaden the applicability of Chapter 76 to include municipalities that assign any full-time paid or part-paid members of a fire department or force to an arson investigation unit on a part-time basis pursuant to N.J.S.A. 40A:14-7.1 as amended by P.L. 1985, c. 150. The amendment will also provide that the in-service training programs required by the Division of Criminal Justice for recertification of arson investigators pursuant to N.J.S.A. 40A:14-7.1 will include annual firearms requalification as required by P.L. 1985, c. 150 for those arson investigators authorized by the municipal governing body to carry a weapon.

Social Impact

The proposed amendments are designed to assist the Director of the Division of Criminal Justice in executing his statutory responsibility concerning the training of municipal arson investigators appointed pursuant to the authority provided in N.J.S.A. 40A14-7.1 as amended by P.L. 1985, c. 150.

Economic Impact

The adoption of these amendments will not impose any significant economic impact upon the State. There will be an economic impact upon those municipalities who choose to assign individuals to an arson investigation unit pursuant to N.J.S.A. 40A:14-7.1 as amended by P.L. 1985, c. 150. This will include municipal responsibility for the costs and expenses for attendance in and completion of all the required prerequisite and continued in-service training.

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

13:76-1.2 Applicability

The provisions of this Chapter 76, promulgated by the Director of the Division of Criminal Justice, shall apply to all municipalities that assign full time **or part-time** to an arson investigation unit, any **full-time** paid member of a paid or part-paid fire department or force with the same powers and authority of police officers, within the municipality, while engaged in the actual performance of arson investigation duties.

13:76-1.3 Definitions

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

"Arson Investigator" means any **full-time** paid member of a paid or part-paid municipal fire department or force, assigned full-time **or part-time** to an arson investigation unit who has received a certification in accordance with these provisions.

13:76-3.2 Certification procedures
(a)-(e) (No change.)
(f) No more than one member of a paid or part-paid fire department or force of a municipality having a population of 50,000 or less according to the latest Federal decennial census who is assigned to an arson investigation unit on a part-time basis shall be eligible for application for certification.

13:76-4.1 In-service training requirements
(a)-(b) (No change.)
(c) All certified Arson Investigators who are authorized by the municipal governing body to carry a weapon pursuant to N.J.S.A. 2C:39-6b(8) additionally shall be required to requalify with their service weapon at least twice annually and in accordance with the firearms requalification program developed by the county prosecutor and approved by the Division of Criminal Justice in accordance with the Attorney General directive of June 17, 1985.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Telephone Rules
Regulation of InterLATA Telecommunications Carriers

Proposed New Rules: N.J.A.C. 14:10-5.1 through 14:10-5.9

Authorized By: Board of Public Utilities, Blossom A. Peretz, Secretary.
Authority: N.J.S.A. 48:2-12.
BPU Docket No.: 8312-1126.
Proposal Number: PRN 1985-432.

Submit comments by September 18, 1985 to:
Paul E. Flanagan, Regulatory Officer
Board of Public Utilities
1100 Raymond Blvd.
Newark, N.J. 07102

The agency proposal follows:

Summary

Federal regulatory policy in the telecommunications industry, as evidenced by the AT&T Divestiture and the FCC's Computer II Decisions, has fostered competition in many segments of the telecommunications industry. New companies and technologies have arisen which were not contemplated when existing utility statutes and regulations were set in place. The Board has authorized competition in areas where it believes the benefits of competition will be flowed through to the citizens of New Jersey. A major area, in which competition has been authorized, is the intrastate interLATA toll market. These regulations will allow the benefits of the competitive marketplace to be more quickly flowed to consumers while ensuring that appropriate Board oversight and regulation is maintained.

Social Impact

The proposed new rules will allow the benefits of competition in the interLATA marketplace to be more quickly realized by the citizens of New Jersey.

Economic Impact

The proposed new rules will allow the benefits of competition to be more quickly flowed to telecommunications consumers and should result in more cost based rates for interLATA service.

SUBCHAPTER 5. REGULATION OF INTERLATA TELECOMMUNICATIONS CARRIERS

14:10-5.1 Scope

The regulations in this subchapter govern the adjustment of rates by telecommunications interexchange carriers subject to the jurisdiction of the New Jersey Board of Public Utilities. The regulations will apply to the adjustment of rates for all intrastate interLATA carriers, after initial tariffs have been approved by the Board. Connection, service discontinuance, and other matters, unless expressly stated herein, will continue to be governed by existing sections of Title 14 of the **New Jersey Administrative Code.**

14:10-5.2 Construction and amendment

(a) These rules, for the regulation of rates for intrastate interLATA carriers, shall be construed to allow maximum flexibility in setting rates for interexchange carriers, consistent with relevant case law and statutes, in light of the competitive environment in which interexchange carriers operate.

(b) These rules will be operative for a period of five years. Prior to the end of that period, the Board will evaluate and review their effectiveness to determine if they should be continued.

14:10-5.3 Definitions

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

"Board" means the New Jersey Board of Public Utilities.

"Intrastate interLATA carriers" and "interexchange carriers" mean AT&T Communications of New Jersey, MCI, GTE-Sprint, USTS, RCI, Western Union and other common carriers (OCC's) authorized by the Board to provide intrastate interLATA telecommunications service in New Jersey.

"Return on equity" is the percentage return on equity set by the Board for each individual interexchange carrier or a general rate set by the Board for all interexchange carriers. The return on equity as set by the Board shall be the midpoint of a range of returns on equity approved by the Board. The range of returns on equity shall be plus or minus 300 basis points over or under the midpoint set by the Board.

14:10-5.4 Initial rates

Initial rates for interexchange carriers currently authorized to operate in New Jersey shall be the rates in effect upon Board adoption of these regulations. For any additional carriers that may subsequently be authorized to provide intrastate interLATA service, initial rates shall be those contained in the initial tariffs approved by the Board. Initial rates, as used herein, shall be the mid-point of the range of rates approved for each interexchange carrier. The range of rates approved for each carrier is hereby determined to be plus or minus 25 percent over or under the initial rates approved by the Board.

14:10-5.5 Upward adjustments in rates; notice

(a) Upward adjustments in rates of up to 25 percent over initial rates or rates set after a rate proceeding, held according to appropriate statutory requirements, shall be allowed without the requirement of a rate proceeding before the Board. Such upward adjustments may be effective 14 days after the required notice of the proposed adjustment absent Board determination to suspend the rate change.

(b) The notice requirement for an upward rate adjustment shall be publication in newspapers of general circulation throughout the affected service area and actual service of notice of the proposed rates served on Rate Counsel and the Board's Secretary.

(c) Regular mail notices of proposed rates must be sent to all other interexchange carriers no later than the date of actual service on the Board's Secretary.

(d) Board's Staff, Rate Counsel, or any other interested party may, upon notice of the proposed upward adjustment, oppose the change in writing at any time prior to the proposed effective date. A Commissioner, or the Board's designee, upon receipt of such objection may, by letter, suspend the proposed rates for two weeks from the proposed effective date. Further suspension of rates, by procedures similar to those outlined in N.J.S.A. 48:2-21 may be authorized by the Board.

14:10-5.6 Downward adjustments in rates; notice

(a) Downward adjustments in rates of up to 25 percent, below initial rates or rates set after a rate proceeding, held according to appropriate statutory requirements, shall be allowed without the requirement of a rate proceeding before the Board. Such downward adjustments may be effective five days after the required notice, absent Board determination to suspend the rate change.

(b) The notice requirement for a downward rate adjustment shall be actual notice of the proposed rates served on Rate Counsel and the Board's Secretary.

(c) Regular mail notice of proposed rates must be sent to all other interexchange carriers no later than the date of actual service on the Board's Secretary.

(d) Opposition to a proposed downward adjustment and disposition thereof, shall be in accordance with the method outlined in N.J.A.C. 14:10-5.5 for opposition to upward rate adjustments.

14:10-5.7 Rate proceedings

(a) A rate proceeding shall be instituted:

1. Upon suspension of a rate adjustment by the Board;

2. Upon total proposed upward adjustments of greater than 25 percent above initial rates or rates set after a rate proceeding; or

3. Upon realization of a return on equity 300 basis points or more above that authorized by the Board.

(b) The Board may institute a rate proceeding:

1. Upon its own motion or a properly filed petition;

2. Upon a proposed downward adjustment of greater than 25 percent; or

3. Upon realization on a return on equity 300 basis points or more below than authorized by the Board.

(c) A rate proceeding authorized under this regulation shall be held in accordance with the appropriate statutory requirements for adjustment of rates.

14:10-5.8 Reporting requirements

Board Staff, in conjunction with Rate Counsel and the interexchange carriers, shall within six months of the effective date of these rules develop appropriate reporting mechanisms to insure proper notification on and oversight of earnings, return on equity and the rate changes contemplated herein. These reporting mechanisms shall be placed upon the Board's Agenda for approval.

14:10-5.9 Discontinuance of service offerings

(a) Any interexchange carrier, unless it is the sole provider of the service in question, may, unless otherwise directed by the Board, upon 30 days notice to the Board and its customers, discontinue any service offering.

(b) Service offerings, provided solely by a single interexchange carrier, may be discontinued only upon petition approved by the Board.

(c) Petitions for discontinuance must be served upon the Board in accordance with the provisions of N.J.A.C. 14:10-5.5.

TRANSPORTATION

Proposals numbered PRN 1985-424, 425, 427 and 441 are authorized by Roger A. Bodman, Commissioner, Department of Transportation.

Submit comments by September 18, 1985 to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes U.S. 9 and 71 in Monmouth County, 168 in Camden County, and 67 in Bergen County

Proposed Amendments: N.J.A.C. 16:28A-1.7, 1.38, 1.51 and 1.71

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.
Proposal Number: PRN 1985-427.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones along Route 71 in the City of Asbury Park, Monmouth County and "no parking bus stop" zones along Routes U.S. 9 in Marlboro Township, Monmouth County, 67 in Fort Lee Borough, Bergen County and 168 in Camden City, Camden County for the safe and efficient flow of traffic, the enhancement of safety, the safe on/off loading of passengers at established bus stops and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" zones along Route 71 and "no parking

bus stop" zones along Routes U.S. 9, 67 and 168 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.7, 1.38, 1.51 and 1.71 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking" zones along Route 71 in the City of Asbury Park, Monmouth County and "no parking bus stop" zones along Routes U.S. 9 in Marlboro Township, Monmouth County, 67 in Fort Lee Borough, Bergen County and 168 in Camden City, Camden County for the safe and efficient flow of traffic, the enhancement of safety, the safe on/off loading of passengers at established bus stops 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 its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking" zones signs, and the local officials will bear the costs for "no parking bus stop" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

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

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 described in this [sub]section 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.-4. (No change.)

5. Along the easterly (northbound) side in Marlboro Township, Monmouth County:

i. (No change.)

ii. Near side bus stop: Beginning at the southerly curb line of County Route 520 and extending 225 feet southerly therefrom.

6.-35. (No change.)

16:28A-1.38 Route 71

(a) The certain parts of State highway Route 71 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-9. (No change.)

10. No stopping or standing in the City of Asbury Park, Monmouth County:

i. Along the westerly (southbound) side: From the southerly curb line of Lake Avenue to a point 265 feet southerly therefrom.

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

16:28A-1.51 Route 168

(a) (No change.)

(b) The certain parts of State highway Route 168 described in this section 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.-4. (No change.)

5. Along the northbound (easterly) side in Camden City, Camden County:

i. Midblock bus stop: Beginning 1630 feet north of the northerly curb line of Grant Avenue and extending 135 feet northerly therefrom.

16:28A-1.71 Route 67

(a) The certain parts of State highway Route 67 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provision of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-2. (No change.)

3. Along the easterly (northbound) side in Fort Lee Borough, Bergen County:

i. (No change.)

ii. Midblock bus stop:

(1) Between Bridge Plaza North and Lincoln Avenue—Beginning 460 feet north of the northerly curb line of Bridge Plaza north and extending 168 feet northerly therefrom

(b) (No change.)

(a)

Restricted Parking and Stopping Routes 27 in Middlesex and Somerset Counties, U.S. 30 in Atlantic County, 70 in Camden County, 73 in Burlington County, U.S. 202, 202-206 and 206 in Somerset County, and 124 in Union County

Proposed Amendments: N.J.A.C. 16:28A-1.18, 1.21, 1.37, 1.40, 1.55, 1.56, 1.57 and 1.69.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 4-139, and 4-199.

Proposal Number: PRN 1985-425.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones along Routes 27 in South Brunswick and North Brunswick Townships and the City of New Brunswick, Middlesex County and Franklin Township, Somerset County; 73 in Mount Laurel Township, Burlington County; U.S. 202, U.S. 206 and U.S. 202-206 in Bedminster Township, Somerset County; 124 in Springfield Township, Union County and "no parking bus stop" zones along Routes U.S. 30 in Hammonton Town, Atlantic County and 70 in Cherry Hill Township, Camden County for the safe and efficient flow of traffic, the enhancement of safety, the safe on/off loading of passengers at established bus stops and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" zones along Routes 27, 73, U.S. 202, U.S. 206, U.S. 202-206 and 124 and "no parking bus stop" zones along Routes U.S. 30 and 70 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.18, 1.21, 1.37, 1.40, 1.55, 1.56, 1.57 and 1.69 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking" zones along Routes 27 in Middlesex and Somerset County; 73 in Burlington County; U.S. 202, U.S. 206, U.S. 202-206 in Somerset County; 124 in Union County and "no parking bus stop" zones along Route U.S. 30 in Atlantic County and 70 in Camden County for the safe and efficient flow of traffic, the enhancement of safety, the safe on/off loading of passengers at established bus stops 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 its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking" zone signs and the local officials will bear the costs for "no parking bus stop" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.18 Route 27

(a) The certain parts of State Highway Route 27 described in this section shall be designated and established as "no parking" zones where stopping and standing are prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-2. (No change.)

3. No stopping or standing in Franklin Township, Somerset County and South Brunswick Township[:], **Middlesex County:**

[i. Along the northbound side:

(1) From the northerly curb line of Academy Street to a point 75 feet north of the northerly curb line of Academy Street:

(2) From a point 108 feet south of the southerly curb line of Heathcote Road to a point 100 of the northerly curb line of Heathcote Road

ii. Along the southbound side:

(1) From a point 80 feet north of the northerly curb line of Laurel Avenue to a point 92 feet south of the southerly curb line of Laurel Avenue:

(2) From a point 60 feet north of the northerly curb line of Church Street to the Franklin Township—Princeton Township corporate line.

(3) From the southerly curb line of Veronica Avenue to the northerly curb line of Sinclair Boulevard.

iii. Along both sides from the northerly curb line of Old Road (north intersection) to the southerly curb line of Allston Road.]

i. Along both sides:

(1) From the southerly bridge abutment of Mile Run Brook (milepost 15.4) to the northerly bridge abutment of the Millstone River (milepost 3.0) including all ramps and connections under the jurisdiction of the Commissioner of Transportation except at legalized bus stops.

4. No stopping or standing in North Brunswick Township, **Middlesex County:** [along the east side from the northerly curb line of Finnegans Lane to the southerly curb line of How Lane.]

i. Along both sides:

(1) From the southerly bridge abutment of Mile Run Brook (milepost 15.4) to the northerly bridge abutment of the Millstone River (milepost 3.0) including all ramps and connections under the jurisdiction of the Commissioner of Transportation except at legalized bus stops.

5.-13. (No change.)

14. No stopping or standing in the City of New Brunswick, Middlesex County:

i. (No change.)

ii. Along both sides:

(1) From the southerly bridge abutment of Mile Run Brook (milepost 15.4) to the northerly bridge abutment of the Millstone River (milepost 3.0) including all ramps and connections under the jurisdiction of the Commissioner of Transportation except at legalized bus stops.

15.-16. (No change.)

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

16:28A-1.21 Route U.S. 30

(a) (No change.)

(b) The certain parts of State highway Route U.S. 30 described in this section 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 is granted to erect appropriate signs at the following established bus stops:

1.-13. (No change.)

14. Along the easterly (northbound) side in Hammonton Town, Atlantic County:

i. Far side bus stop:

(1) Beginning at the prolongation of the northerly curb line of Elvins Avenue and extending 120 feet northerly therefrom.

15. Along the westerly (southbound) side in Hammonton Town, Atlantic County:

i. Near side bus stop:

(1) Beginning at the northerly curb line of Elvins Avenue and extending 120 feet northerly therefrom.

16:28A-1.37 Route 70

(a) (No change.)

(b) The certain parts of State highway Route 70 described in this section 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 the westbound (northerly) side in Cherry Hill Township, Camden County:

i. Far side bus stop:

(1) Old Orchard Road—Beginning at the westerly curb line extension of Old Orchard Road and extending 174 feet westerly therefrom.

ii. Midblock bus stops:

(1) Main Street—Beginning 385 feet east of the easterly curb line of Main Street and extending 170 feet easterly therefrom.

(2) Harvard Avenue—Beginning 860 feet west of Harvard Avenue and extending 135 feet westerly therefrom.

(3) Springdale Road—Beginning 130 feet west of the westerly curb line of Springdale Road and extending 135 feet westerly therefrom.

(4) Kenwood Avenue—Beginning 178 feet west of the westerly curb line of Kenwood Avenue and extending 135 feet westerly therefrom.

16:28A-1.40 Route 73

(a) The certain parts of State highway Route 73 described in [(a) of] this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-5. (No change.)

6. No stopping or standing in Mount Laurel Township, Burlington County:

i. Along both sides:

(1) [From the northerly curb line of Church Road to a point 600 feet northerly therefrom.] **Beginning at the Evesham—Mount Laurel Corporate line and extending northerly to Route I-**

295, including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

16:28A-1.55 Route U.S. 202

(a) [Under the provisions of N.J.S.A. 39:4-138.1,] [t]The certain parts of the State highway Route U.S. 202 described in this [sub] section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-9. (No change.)

10. No stopping or standing in Bedminster Township, Somerset County:

i. Along both sides:

(1) Within the corporate limits of Bedminster Township including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

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

16:28A-1.56 Route U.S. 202-206

(a) The certain parts of State highway Route U.S. 202-206 described in [(a) of] this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. (No change.)

2. No stopping or standing in Bedminster Township, Somerset County:

i. Along both sides

(1) [From the intersection of county Road number (Spur) 525 to a point 1,040 feet therefrom.] **Within the corporate limits of Bedminster Township including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.**

16:28A-1.57 Route U.S. 206

(a) The certain parts of State highway Route U.S. 206 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-16. (No change.)

17. No stopping or standing in Bedminster Township[s] Somerset County:

i. [Along the easterly (northbound) side:] **Along both sides:**

(1) [Between a point 83 feet south of the end of the concrete highway divider, at milepost 79 plus 330 feet, and a point 600 feet northerly thereof.] **Within the corporate limits of Bedminster Township, including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.**

18.-25. (No change.)

(b) (No change.)

16:28A-1.69 Route 124

(a) (No change.)

(b) [Under the provisions of N.J.S.A. 39:4-138.1] [t] The certain parts of State highway Route 124 described in this [sub] section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Springfield Township, Union County:

i.-iii. (No change.)

iv. Along the southerly (eastbound) side:

(1) In the four lane sections of the route within the corporate limits of Springfield Township [.] **except Sundays from 7:00 A.M. to 12 Midnight between Walnut Court and Caldwell Place.**

v. (No change.)

2. No stopping or standing between the hours of 4:00 P.M. and 6:30 P.M. daily in Springfield Township, Union County:

i. Along the northerly (westbound) side:

(1) In the four lane sections of the route within the corporate limits of Springfield Township [where not otherwise covered by this regulation.] **except Sundays between Mountain Avenue and Caldwell Place.**

[(2) Morris Avenue (west side)—7:00 A.M. to 12:00 Midnight, Sundays—from the intersection of Morris and Mountain Avenue to the intersection of Morris Avenue and Caldwell Place.]

[(3) Morris Avenue (east side)—7:00 A.M. to 12:00 midnight, Sundays—from the intersection of Morris Avenue and Walnut Court to the entrance of the parking lot directly across from Caldwell Place.]

(a)

Restricted Parking and Stopping Route 45 in Gloucester County and U.S. 130 in Salem County

Proposed Amendments; N.J.A.C. 16:28A-1.31 and 1.46.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.

Proposal Number: PRN 1985-424.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking bus stop" zones along Route 45 in Mantua Township, Gloucester County and "no parking" zones along Route U.S. 130 in Penns Grove Borough and Carneys Point Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety, the safe on/off loading of passengers at established bus stops, and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking bus stop" and "no parking" zones were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.31 and 1.46 based upon the request from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking bus stops" zones along Routes 45 in Mantua Township, Gloucester County and "no parking" zones along U.S. 130 in Penns Grove Borough and Carneys Point Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety, the safe on/off loading of passengers at established bus stops, 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 its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking" zones signs and the local officials the costs for "no parking bus stop" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.31 Route 45

(a) (No change.)

(b) The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with **the provisions of** N.J.S.A. 39:4-199 permission is hereby granted to erect appropriate signs at the following established bus stops:

1.-5. (No change.)

6. Along the northbound (easterly) side in Mantua Township, Gloucester County:

i. Far side bus stop:

(1) Capital Drive—Beginning at the northerly curb line of Capital Drive and extending 100 feet northerly therefrom.

ii. Near side bus stop:

(1) Chestnut Street—Beginning at the southerly curb line of Chestnut Street and extending 105 feet southerly therefrom.

iii. Midblock bus stop:

(1) Center Street—Beginning 200 feet from the southerly curb line of Center Street and extending 140 feet southerly therefrom.

7. Along the southbound (westerly) side in Mantua Township, Gloucester County

i. Midblock bus stop:

(1) Center Street—Beginning 200 feet from the prolongation of the southerly curb line of Center Street and extending 140 feet southerly therefrom.

16:28A-1.46 Route U.S. 130

(a) The certain parts of State highway Route U.S. 130 in [(a) of] this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. (No change.)

2. No stopping or standing in [Upper Penns Neck] **Carneys Point** Township [:] **and Penns Grove Borough, Salem County:**

i. Along the northbound side:

(1)-(2) (No change.)

(3) From a point 100 feet south of Laurel Avenue to Market Street

(4) From the northerly curb line of Grant Street to the southerly curb line of Grant Street.

ii. Along the southbound side:

(1)-(4) (No change.)

(5) From the northerly curb line of Regional Drive to the southerly curb line of Grant Street.

3.-7. (No change.)

[8. No stopping or standing in Penns Grove Borough and Upper Penns Neck Township, Salem County:

i. Along the northbound side:

(1) From the northerly curb line of Grant Street to the southerly curb line of Regional Drive

ii. Along the southbound side:

(1) From the northerly curb line of Regional Drive to the southerly curb line of Grant Street.]

[9.] **8.** No stopping or standing in East Windsor Township, Mercer County:

i. (No change.)

(b) (No change.)

(a)

AERONAUTICS

Airport Safety Improvement Aid

Proposed Amendment: N.J.A.C. 16:56-7.1

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-44 and "Airport Safety Act of 1983" P.L. 1983, c.264, July 11, 1983.

Proposal Number: PRN 1985-441.

The agency proposal follows:

Summary

The proposed amendment will correct an administrative error concerning the footage requirement from each side of the centerline of the runway on landing area required for construction or installation projects. The rule was originally proposed and adopted with a 1500 ft. requirement; it is now being corrected to 500 ft. Additionally, it will bring the rules into conformance with Federal Aviation Regulations (FAR) Part 77. The Department therefore proposes to amend N.J.A.C. 16:56-7.1 to comply with the Federal Aviation Regulations.

Social Impact

The proposed amendment will correct an administrative error concerning the footage requirement from each side of the centerline of the runway or landing area to comply with the federal rules. Applicants for construction or installation projects of airports will be pleased to see that the State has taken action to amend the rules.

Economic Impact

The Department will incur administrative costs for the publication of this amendment. There will be no other economic impact since there has not been any increase effecting fees.

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

16:56-7.1 Application for receipt of State Airport Safety Improvement Grants

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

(c) For construction or installation projects the applicant shall further provide:

1. (No change.)

2. A scaled drawing certified as accurate and bearing the raised seal of a New Jersey registered land surveyor, professional planner or professional engineer. The drawing shall have the following minimum features:

i.-vi. (No change.)

vii. Location(s) use and height(s) above grade of obstruction(s) in the area contiguous to the proposed facility within at least 3000 feet from the end of each runway or landing area and at least [1500] **500** feet from each side of the centerline of the runway(s) on landing area(s);

viii.-x. (No change.)

3.-9. (No change.)

(e) (No change.)

TREASURY

(a)

DIVISION OF PENSIONS

State Police Retirement System

Proposed New Rules: N.J.A.C. 17:5-1, 2, 3, 5 and 6

Proposed Readoption: N.J.A.C. 17:5-4

Authorized By: State Police Retirement System, Anthony Ferrazza, Secretary.
Authority: N.J.S.A. 53:5A-30h.
Proposal Number: PRN 1985-431.

Submit comments by September 18, 1985 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Chapter 5 of Title 17 in the New Jersey Administrative Code contains the rules governing the State Police Retirement System (SPRS). These rules clarify and expand the mandates set forth in N.J.S.A. 53:5A-1 et seq. concerning the benefits, requirements, related programs, etc. for members of the SPRS.

Six subchapters are contained in Chapter 5 which deal with administration, insurance and death benefits, membership, purchases and eligible service, retirement and transfers with respect to the State Police Retirement System. All members of the State Police Force are required to enroll in the SPRS as a condition of employment.

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 17:5-4, concerning purchases and eligible service, expires on March 15, 1987. The Division of Pensions is readopting subchapter 4 in this proposal. Also pursuant to the Executive Order, subchapters 1, 2, 3, 5 and 6 expired on May 12, 1985. As a result of the expiration these subchapters are being proposed as new rules. No changes in text are proposed for any of the subchapters.

The statutes cannot possibly consider all of the possible issues that may arise in the administration of the program and in the proper administration of the monies appropriate to the coverage provided under the plan. In such cases, regulations are required to do equity whenever the statute is silent or when the statute only generally supplies the specifics and is often subject to interpretation by the courts and the opinions of the Attorney General's office. Thus, rules are required and will always be required to provide equity, uniformity of treatment and administrative efficiency.

With every opinion of the Attorney General's office, an interpretation by the courts or a change in the statutes, the rules are reviewed for the purpose of determining their continued applicability. All of the regulations are reviewed at least annually to determine compliance with the latest court and Attorney General's opinions, to improve upon the language, to clarify any issues which may have arisen in the course of the previous 12 months and to ensure the implementation of such rules in the day-to-day activities of the several bureaus of the Division of Pensions.

The Division of Pensions appreciates the significance of Executive Order Number 66 (1978) and its review of the regulations has always been with the view of curtailing any rules which are no longer necessary because of changes in the statutes which may have implemented what had previously been only regulation or where the courts have disposed of the issue or where it was disposed of by opinions of the Attorney General, so that the regulation was deemed to be unnecessary. The most recent review of these rules indicate that they are still necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were promulgated. As the rules are adopted or amended for readoption, public comment and review are received. The Division is satisfied that such comments have been properly considered in the language of the current regulations to be readopted.

Social Impact

The rules in Chapter 5, as are the rules of all of the programs administered by the Division of Pensions, are pertinent to past and present participants in the State Police Retirement System.

As a large financial undertaking involving the receipt of cash, the proper consideration of claims and the audited review of disbursements are all within the prescriptions of the regulations which have been adopted, explaining or interpreting the provisions of law, or providing for the proper administration of the program where the law is silent. Certainly, in terms of the large amounts of money and the very large numbers of people involved, every effort must be made to assure that there is a lack of discrimination in the performance of the program and that it services the beneficiaries equitably and uniformly.

Economic Impact

The State Police Retirement System is established on an actuarially determined basis so that the proper employer contributions are made long before the money is needed to provide the benefits which have been promised. As a result, the money that is required to be established is much smaller than if there were no prefunding because the monies are invested and such earnings meet the contingencies required of the program.

If the rules contained in Chapter 5 were not readopted, then chaos would follow because the Division could not cite such rules in clarifying the policy of the board of trustees among the host of issues which the rules are designed to cover. While any amendments proposed have not yet been adopted, the program is continued by legislation and, in fact, there are several amendments to the statutes made each year which bear on this program. As a result, the opportunity for designing the best possible program requires changes and this leads to periodic alteration in the regulations which have been adopted. Without their readoption, it would be difficult to maintain a fair, equitable and cost effective administration of the program. The Division would find itself in court concerning disputes dealing with inequitable treatment and it would be involved with substantially increased costs of administration.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 17:5.

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF PLANT INDUSTRY

Diseases of Bees

Honeybee Tracheal Mite Quarantine in the Townships of Hammonton and Hamilton of Atlantic County

Readoption: N.J.A.C. 2:24-1.6

Proposed: June 17, 1985 at 17 N.J.R. 1589(a).
Adopted: July 30, 1985 by Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Filed: July 31, 1985 as R.1985 d.437, **without change.**

Authority: N.J.S.A. 4:6-20.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): February 11, 1990.

Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the adoption follows.

2:24-1.6 Honeybee Tracheal Mite Quarantine in the Townships of Hamilton and Hammonton in Atlantic County

(a) The Secretary of Agriculture declares the tracheal mite, *Acarapis woodi*, an internal parasite of honey bees as detrimental to the welfare of the bee industry of New Jersey.

(b) A quarantine is established against tracheal mite, its hosts and possible carriers.

(c) The following articles and commodities are prohibited from moving out of the Townships of Hamilton and Hammonton in Atlantic County.

1. Bee colonies, package bees and queen bees of the species *Apis mellifera* which originated in the Townships of Hamilton and Hammonton in Atlantic County.

(b) Bee colonies, package bees and queen bees are permitted to be moved from Hamilton and Hammonton Townships in Atlantic County when accompanied by the following document:

1. A written statement signed by an apiary inspector, New Jersey Department of Agriculture declaring that the bee originating in the Townships of Hamilton and Hammonton in Atlantic County are free of tracheal mite.

CIVIL SERVICE

(b)

CIVIL SERVICE COMMISSION

Nondiscriminatory Titles
Position Classification and Reclassification

Adopted New Rule: N.J.A.C. 4:1-6.8
Adopted Repeal: N.J.A.C. 4:2-6.1 and 6.2, 4:3-6.2 and 6.3

Proposed: May 6, 1985 at 17 N.J.R. 1012(b).
Adopted: July 9, 1985 by the Civil Service Commission, Eugene J. McCaffrey, Sr., President.
Filed: July 19, 1985 as R.1985 d.416, **without change.**

Authority: N.J.S.A. 11:1-7a, 11:5-1a, 11:17-1.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): December 7, 1986.

Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the adoption follows.

SUBCHAPTER 6. POSITION CLASSIFICATION AND RECLASSIFICATION

4:1-6.8 Nondiscriminatory titles

Titles shall be identified by language which does not specify or imply a fixed gender.

4:2-6.1 (Reserved)

4:2-6.2 (Reserved)

4:3-6.2 (Reserved)

4:3-6.3 (Reserved)

(c)

CIVIL SERVICE COMMISSION

Enforcement, Prohibitions, Penalties
Prohibition Against Political Activity

Adopted Amendment: N.J.A.C. 4:1-21.3

Proposed: May 6, 1985 at 17 N.J.R. 1013(a).
Adopted: July 9, 1985 by the Civil Service Commission, Eugene J. McCaffrey, Sr., President.
Filed: July 19, 1985 as R.1985 d.417, **without change.**

Authority: N.J.S.A. 11:1-7a, 11:5-1a, 11:17-2.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): December 7, 1986.

Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the adoption follows.

4:1-21.3 Prohibition against political activity

(a) An employee shall not directly or indirectly use or seek to use his or her authority or influence of his or her position to control or modify the political action of another person.

(b) An employee during the hours of duty shall not engage in political activity; nor shall he or she at any other time participate in political activities so as to impair his or her usefulness in the position in which he or she is employed.

(c) Federal legislation known as the Hatch Act (Act) limits the participation in political activities of certain employees whose principal employment in a state or local government executive agency is in connection with a program financed in whole or in part by Federal loans or grants. Principal employment, whether full-time or part-time, is generally that job which accounts for the most work time and the most earned income. The Act continues in force while an employee is on leave with or without pay.

1. An employee covered by the Act may:

i. Be a candidate for public office in a nonpartisan election;

ii. Campaign for and hold elective office in political clubs and organizations;

iii. Actively campaign and manage campaigns for candidates for public office in partisan and nonpartisan elections;

iv. Serve at the polls;

v. Contribute money, solicit and collect voluntary contributions to political organizations, attend political fundraising functions; and

vi. Participate in any activity not specifically prohibited by law or regulation.

2. An employee covered by the Act may not:

i. Be a candidate for public office in a partisan election except this provision does not apply to the governor, the mayor of a city, the elected head of an executive department or an individual holding elective office when the elected office is the position that would otherwise subject the employee to the restrictions of the Act;

ii. Use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office; and

iii. Directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

3. Employees who exercise no functions in connection with Federally financed activities or are employed by educational or research institutions or agencies that are supported by state or political subdivisions or certain religious, philanthropic or cultural organizations, are not covered by the Act's provisions.

4. The U.S. Merit Systems Protection Board (MSPB) is responsible for the investigation and prosecution of Hatch Act matters. If the MSPB determines that an offense by an employee warrants dismissal, the employer must dismiss the employee or lose funding.

(a)

CIVIL SERVICE COMMISSION

Provisional and Temporary Appointments Seasonal Positions

Adopted Repeal: N.J.A.C. 4:3-14.1

Proposed: May 6, 1985 at 17 N.J.R. 1015(a).
Adopted: July 9, 1985 by the Civil Service Commission, Eugene J. McCaffrey, Sr., President.
Filed: July 19, 1985 as R.1985 d.418, **without change.**

Authority: N.J.S.A. 11:22-14, 11:22-15.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): None.

Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the adoption follows.

4:3-14.1 (Reserved)

ENVIRONMENTAL PROTECTION

(b)

OFFICE OF THE COMMISSIONER

County Environmental Health Standards of Administrative Procedure and Performance

Readoption: N.J.A.C. 7:1H

Proposed: June 17, 1985 at 17 N.J.R. 1463(b).
Adopted: July 23, 1985 by Richard T. Dewling, First Deputy Commissioner, Department of Environmental Protection.
Filed: July 24, 1985 as R.1985 d.420, **without change.**

Authority: N.J.S.A. 26:3A2-21 et seq. and 13:1D-1 et seq.

Effective Date: July 24, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): July 24, 1990.
DEP Docket No.: 026-85-05.

Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:1H.

(c)

DIVISION OF PARKS AND FORESTRY

State Park Service Rules

Adopted Amendments: N.J.A.C. 7:2-2.14, 3.4 and 3.5

Proposed: April 1, 1985 at 17 N.J.R. 778(a).
Adopted: July 23, 1985 by Richard T. Dewling, First Deputy Commissioner, Department of Environmental Protection.
Filed: July 24, 1985 as R.1985 d.421, **without change.**

Authority: N.J.S.A. 13:1B-3 and 13:1B-15.100.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): July 19, 1988.
DEP Docket No. 013-85-02.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows:

7:2-2.14 Posted instructions
No person shall make use of the lands, waters, conveniences and facilities under the jurisdiction of State Park Service contrary to posted or written instructions.

7:2-3.4 All motor vehicles
(a)-(c) (No change.)
(d) No person or organization shall conduct a motor vehicle race, rally, exhibition or demonstration of any type on State Park Service lands without prior written permission of the director or his designee on forms provided by the State Park Service.

7:2-3.5 Snowmobiles
(a) All use of snowmobiles on lands and frozen waters under the jurisdiction of the State Park Service must be in conformance with the definitions and regulations contained in N.J.S.A. 39:3C-1 et seq., the Motor Vehicle Laws of New Jersey. In addition, by authority of that statute the following rules shall apply.
1.-3. (No change.)
4. All accidents involving personal injury or damage to property in excess of $500 must be reported to the officer-in-charge of the State property on which the accident occured, in addition to the requirement of N.J.S.A. 39:3C-21, as soon as possible after the occurrence.
5.-9. (No change.)

(a)

DIVISION OF COASTAL RESOURCES

Coastal Resource and Development Policies

Readoption: N.J.A.C. 7:7E

Proposed: June 17, 1985 at 17 N.J.R. 1465(a).
Adopted: July 23, 1985 by Richard T. Dewling, First Deputy Commissioner, Department of Environmental Protection.
Filed: July 24, 1985 as R.1985 d.422, **without change.**

Authority: N.J.S.A. 13:1D-1 et seq., 13:19-1 et seq., 13:19A-1 et seq. and 12:5-3.

Effective Date: July 24, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): July 24, 1990.
DEP Docket No.: 027-85-05.

Summary of Public Comments and Agency Responses:
No comments were received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:7E.

Full text of a Notice of Correction of N.J.A.C. 7:7E appears in the New Jersey Register at 17 N.J.R. 1797(c).

(b)

DIVISION OF FISH, GAME AND WILDLIFE

Fish and Game Council 1985-86 Game Code

Adopted Amendments: N.J.A.C. 7:25-5

Proposed: May 20, 1985 at 17 N.J.R. 1177(a).
Adopted: July 16, 1985 by Fish and Game Council, Anthony E. DiGiovanni, Chairman.
Filed: July 29, 1985 as R.1985 d.419, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1B-30 et seq. and 23:1-1 et seq.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): July 31, 1986.
DEP Docket No.: 023-85-04.

Summary of Public Comments and Agency Responses:
Two hundred thirty-eight written comments were received during the public comment period. Five additional written comments were received after the close of the comment period. Sixty-six verbal comments were heard at the public hearing held by the New Jersey Fish and Game Council on June 19, 1985.

Letters from 23 individuals were generally supportive of the proposed Game Code in its entirety. In addition, three individuals at the hearing verbally gave their support to the proposed Game Code without specific exception.

Comment:

Two letters received during the comment period stated general opposition to the sport of hunting. Written comments from two organizations generally addressed all proposed Game Code changes and indicated that both organizations were opposed to all hunting activities. One letter specifically listed opposition to the Soft-catch trap and deer hunting in the Great Swamp National Wildlife Refuge. Representatives of both organizations expressed the same views at the public hearing. One individual at the public hearing voiced opposition to the entire Game Code.

Response:

The right of individuals and organizations to be philosophically opposed to hunting and trapping is recognized by the Council. The Council, however, is legally mandated the responsibility of maintaining healthy wildlife populations and providing valuable recreation including hunting and trapping to the public. Only through annual promulgation of hunting and trapping regulations can these responsibilities be met.

Comment:

Twenty-two letters from falconers reached the Council during the public comment period. All requested that the Council consider changing falconry regulations to permit the use of merlins by licensed falconers.

Response:

Although the merlin appears not to be in danger and demand for the birds would be light, the merlin has not yet been removed from the list of threatened species. Therefore, the Council, while in agreement with recommendations that falconers be allowed to use merlins, cannot yet effect the appropriate changes in the Code.

Comment:

Letters were received from one organization and an individual concerning proposed permit quota changes for two southern Jersey Spring Gobbler Hunting Areas. The letters rquested that permit quotas for Areas 14 and 22 not be reduced, but rather be left at 1985 levels.

Response:

The Council considered the request. Because the division recommendations was based on aesthetic considerations regarding hunting experience quality rather than biological concerns, Council voted to amend permit quotas in Areas 14 and 22. The change specifically affected N.J.A.C. 7:25-5.7(k).

Comment:

One hundred and fifty-four letters arrived during the comment period which specifically referred to sections of the Game Code in which the Soft-catch trap was proposed. Ninety-two individuals and one trapper organization submitted letters supporting the proposed changes allowing the use of Soft-catch traps. Fifty-eight individuals and four organizations submitted letters opposing the proposed changes in trapping regulations. At the public hearing, seven individuals and representatives of 22 organizations commented in favor of the proposed Game Code specifically referring to sections on the Soft-catch trap and eight individuals and 12 organizations commented in opposition to the Soft-catch trap. Seven documents containing more than one name and 17 letters from a grammer school class in opposition to the Soft-catch proposal were also received.

Response:

In light of the Attorney General's letter of July 12, 1985 expressing his opinion that the cushion-hold trap becomes illegal on October 27, 1985 based on legislative intent, the Fish and Game Council has deleted subsection 7:25-5.12(e) from the Game Code for 1985-86. The Fish and Game Council, in taking this action, reaffirmed its position that statutorily it fully retains its power to promulgate a Game Code based upon the best scientific information available. All scientific materials which the Council had received, reaffirmed its opinion that the Soft-catch trapping system is the best alternative to the steel-jaw leghold trap presently available to humanely trap furbearers. In addition, all legal opinions which were received, with the exception of the Attorney General's letter, further reaffirmed the Council's position that the Soft-catch trapping system was not a part of the legislative action relative to steel-jaw leghold traps.

However, in light of past policies and procedures, the Council conformed to the recommendations of the Attorney General although it reserves the right to disagree with his opinion as expressed in his July 12 correspondence.

Comment:

A representative of a trapping organization voiced opposition to the proposal that all traps be tagged.

Response:

The Council considered the argument of the organization, but disagreed with its conclusion. The requirement that all traps be tagged with the name and address of the trapper is necessary for an effective law enforcement effort. However, a change was made to this section of the Code which would permit the use of durable tags other than those made of metal.

Comment:

A representative of a hunting organization requested the Council consider increasing the spring gobbler hunting permit fee from the present $5.00 to $10.00. The organization also requested that the fee be non-refundable whether or not the individual was selected to receive a permit.

Response:

The Council determined not to change the turkey permit fee at this time. The Council will consider turkey permit fees at such time as it may determine it necessary to review all license and permit fees.

Comment:

A letter was received from a sportsmen's organization requesting a boundary change in the muzzleloader squirrel hunting area to include a small section of Hunterdon County which had been excluded.

Response:

As the area in question is quite rural and similar to other areas that are included and no conflicts are anticipated, the Council amended the Game Code to include southeastern Hunterdon County in the muzzleloader squirrel hunting area, specifically N.J.A.C. 7:25-5.23(e).

Comment:

Council was urged to consider a total ban on lead shot by a representative of a waterfowl hunting organization.

Response:

Problems associated with lead shot toxicity are recognized by the Council. The use of lead shot is prohibited in a portion of the State and a study of the problem is in progress. Council deferred action on a lead shot ban until current studies are completed by the Division and program revisions can be made accordingly.

Comment:

Two animal rights organizations, addressed proposals to allow handicapped persons to use modified bows. Representatives of both organizations requested that the Council not allow handicapped individuals to use such equipment.

Response:

The Council recognizes the right of these organizations to oppose archery hunting but realizes that certain individuals may be handicapped to the point where they could not hunt without modified equipment. In fairness to handicapped citizens, the Council elected to retain the sections referring to this issue in the Game Code.

Comment:

One letter received by the Council during the comment period from an individual opposed the two-deer limit during the firearm buck season and recommended changes in the Hunter's Choice Area and muzzleloader deer seasons. A second commenter requested a reduced bag limit for deer in zone 20. A third commenter opposed any extension of the bow and arrow deer season.

Response:

While the Council appreciates the opinions of the commenters, current deer seasons and bag limits are designed to enhance the ability of the Division to effectively manage the deer herd. Present seasons and bag limits appear to be filling this requirement.

The Council also modified 7:25-5.2(d) to provide for extended pheasant hunting on wildlife management areas located within the area selected for an extended season since there appeared to be no scientifically valid reason for the prior restriction.

Comment:

Four comments were received which opposed the provision to permit 14 to 17 year olds to hunt woodchuck with a rifle.

Response:

The commenters provided no argument or reason for their position on this matter and Council could not determine any need to reconsider this amendment.

Comment:

One commenter voiced opposition to the expansion of the turkey hunting area and associated permits since he believed turkey hunting represents a safety hazard to persons pursuing other outdoor activities.

Response:

The Council could not determine any occurrences of safety problems involving the non-hunting public during the five years of its turkey hunting program. The Code provides for a specific method of hunting and limits both the hours and the days of the week during which hunting is allowed. These limitations have contributed to the success of this program in minimizing any possible conflicts with the general public. The Council made no changes to the proposed Code based on this comment.

The Council decided to remove Whites Bog and Stokes State Forest from the list of areas requiring a pheasant and quail stamp because the division and the administering agency of these areas were unable to reach an agreement concerning a pheasant stocking program for this year.

Two typographical errors were corrected by Council, one addressing the number of Turkey Hunting Areas and one concerning the application procedure. A typographical error on the dates for the beaver trapping season was also addressed by the Council.

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

7:25-5.1 General Provisions

(a) (No change.)

(b) Time. The hours listed in this Code are EST or EDT at date and are based on Trenton time. Time tables for Trenton time are published in the annual Summary of Game Regulations and Trenton time shall be the statewide official time.

(c) This Code, when adopted and when effective, shall supersede the provisions of 1984-85 Game Code.

(d)-(e) (No change.)

7:25-5.2 Pheasant-Chinese Ringneck (Phasianus colchicus torquatus), English or Blackneck (P.c colchicus), Mongolian (P.c. mongolicus), Japanese Green (Phasianus versicolor); including mutants and crosses of above

(a) The duration for the male pheasant season is November 9 to December 7, inclusive and December 16 through January 4, 1986 excluding December 18 and 19 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(b) The duration for the male pheasant season for properly licensed persons engaged in falconry is September 1 to December 7 inclusive and December 16 through March 31, 1986 excluding November 9 and December 18 and 19 in those management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(c) (No change.)

(d) The duration of the season for pheasants of either sex in the area described as Warren County south of Route 70 and the counties of Sussex, Passaic, Bergen, Hudson, Essex, Camden, Atlantic and Cape May is November 9 to December 7, inclusive and December 16 through February 8, 1986 excluding December 18 and 19 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open. *[The]* ***Except for those wildlife management areas lying within the above described area, the*** pheasant season on wildlife management areas shall close on January 4, 1986.

(e) The hours for hunting pheasants on November 9 will be 8:00 a.m. to 1/2 hour after sunset. All other days on which the hunting for pheasants is legal, the hours shall be sunrise to 1/2 hour after sunset.

(f) (No change.)

(g) The opening of the season on semi-wild preserves shall coincide with the listed statewide opening of November 9.

(h) (No change.)

7:25-5.3 Cottontail rabbit (Sylvilagus floridanus), blacktailed jack rabbit (Lepus californicus), whitetailed jack rabbit (Lepus townsendii), european hare (Lepus europeus), chukar partridge (Alectoris graeca), and quail (Colinus virginianus)

(a) The duration of the season for the hunting of the animals enumerated by this section shall be November 9 through December 7 inclusive, and December 16, 1985 to February 8, 1986 excluding December 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(b) The duration of the season for the hunting of the animals enumerated by this section for properly licensed persons engaged in falconry shall be September 1 to December 7 inclusive and December 16, 1985 through March 31, 1986 excluding

November 8 and December 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(c) (No change.)

(d) The hunting hours for the animals enumerated in this section are as follows: November 9, 8:00 a.m. to 1/2 hour after sunset. On all other days for which hunting for these animals is legal, the hours shall be sunrise to 1/2 hour after sunset.

(e) (No change.)

7:25-5.4 Ruffed grouse (Bonasq umbellus)

(a) The duration of the season for the hunting of grouse in that portion of the state situated north of Rt. 70 from Pt. Pleasant west to Camden shall be October 2 through December 7 inclusive and December 16 to February 8, 1986, excluding December 18 and 19, 1985 in those deer management zones in which special shotgun deer season is authorized and excluding any extra special deer permit season day that is declared open.

(b) The duration of the season for the hunting of grouse in that portion of the state situated south of Rt. 70 from Pt. Pleasant west to Camden shall be October 19 through December 7 inclusive and December 16 to February 8, 1986, excluding December 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra special deer permit season day that is declared open.

(c) (No change.)

(d) The hunting hours for ruffed grouse shall be sunrise to 1/2 hour after sunset, with the exception of November 9 when legal hunting hours shall be 8:00 a.m. to 1/2 hour after sunset.

(e) (No change.)

7:25-5.5 Eastern gray squirrel (Sciurus carolinensis)

(a) The duration of the season for the hunting of squirrels in that portion of the state situated north of Route 70 from Pt. Pleasant west to Camden shall be October 12 through December 7 inclusive and December 16 to February 22, 1986 excluding December 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra special permit season day if declared open.

(b) The duration of the season for hunting squirrels in that portion of the state situated south of Rt. 70 from Pt. Pleasant west to Camden shall be October 19 through December 7 inclusive and December 16 to February 22, 1986 excluding December 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra special deer season day that is declared open.

(c) The duration of the season for the hunting of squirrels for properly licensed persons engaged in falconry shall be September 1 to December 7 inclusive and December 16 through March 31, 1986 excluding December 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra Special Permit Deer Season Day if declared open.

(d) (No change.)

(e) Hunting hours for squirrels shall be sunrise to 1/2 hour after sunset, with the exception of November 9 when legal hunting hours shall be 8:00 a.m. to 1/2 hour after sunset.

(f) (No change.)

7:25-5.6 (No change.)

7:25-5.7 Wild Turkey (Meleagris gallapavo)

(a) The duration of the Spring Wild Turkey Gobbler hunting season shall include four separate hunting periods of five days each. The hunting periods for hunting areas 1-9 shall be:

1. Monday, April 28—Friday, May 2
2. Monday, May 5—Friday, May 9
3. Monday, May 12—Friday, May 16
4. Monday, May 19—Friday, May 23

The hunting periods for hunting areas 14, 16, 18 and 22 shall be:

1. Monday, April 21—Friday, April 25
2. Monday, April 28—Friday, May 2
3. Monday, May 5—Friday, May 9
4. Monday, May 12—Friday, May 16

(b)-(e) (No change.)

(f) Method: The taking of one male wild turkey with firearm or bow and arrow under a special wild turkey hunting permit will be permitted in *[nine]* ***13*** designated turkey hunting areas by holders of a special wild turkey permit.

1. Special wild turkey permits will be issued on an individual basis to holders of valid 1986 firearm or archery hunting licenses. Only one application per person may be submitted for the spring wild turkey season.

(g) (No change.)

(h) Applying for a Wild Turkey Hunting Permit

1. Only holders of valid 1986 firearm or archery hunting licenses, including juvenile licenses may apply by detaching from the hunting license the stub market "Special Spring Turkey", signing as provided on the back, and sending the stub together with an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i.-iii. (No change.)

2. (No change.)

3. Fill in the application form to include: name, address, 1986 firearm or archery hunting license number, turkey hunting area applied for, hunting period applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of February 14—March 1, 1986, inclusive. Applications received after March 1 will not be considered. Selection of permits will be by random drawing.

4. Unless otherwise indicated, a permit fee of $5.00 ***per applicant*** in the form of a check or money order, made payable to the "Division of Fish, Game and Wildlife" must accompany the completed application form.

5. Unsuccessful applicants will be notified by return of their permit fees. Any permit obtained by fraud will be void.

i. Applying for the Special Farmer Spring Turkey Permit

1.-2. (No change.)

3. Fill in the application form to include: Name, age, address and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of February 14—March 1, 1986. There is no fee required and all qualified applicants will receive a special farmer spring turkey permit delivered by mail.

4. (No change.)

(j) (No change.)

(k) Turkey Hunting Area Map (on file at the Office of Administrative Law)

1986 SPRING TURKEY HUNTING SEASON PERMIT QUOTAS

Turkey Hunting Area Numbers	Weekly Permit Quotas	Season Total	Portions of Counties Involved
1	100†	400	Sussex
2	120†	480	Sussex, Warren
3	80†	320	Sussex, Warren
4	100†	400	Sussex, Warren, Morris
5	100†	400	Sussex
6	150†	600	Sussex, Passaic, Bergen
7	150†	600	Sussex, Morris, Passaic
8	50†	200	Warren, Hunterdon
9	50†	200	Warren, Hunterdon, Morris
14	*[50]* *100*††	*[200]* *400*	Burlington, Ocean
16	100††	400	Burlington, Atlantic
18	50††	200	Atlantic, Cape May, Cumberland
22	*[50]* *100*††	*[200]* *400*	Atlantic, Cape May, Cumberland
	*[1150]**1250*	*[4600]* *5000*	

† Applied to each of the four hunting periods (A,B,C,D,) in areas 1-9:

A. Monday, April 28 - Friday, May 2
B. Monday, May 5 - May 9
C. Monday, May 12 - Friday, May 16
D. Monday, May 19 - Friday, May 23

†† Applied to each of the four hunting periods (A,B,C,D) in areas 14, 16, 18 and 22.
A. Monday, April 21 - Friday, April 25
B. Monday, April 28 - Friday, May 2
C. Monday, May 5 - Friday, May 9
D. Monday, May 12 - Friday, May 16

(l) (No change.)

(m) Location of Turkey Hunting Areas:

1.-7. (No change.)

8. Turkey Hunting Areas #8

That portion of Hunterdon and Warren Counties lying within a continuous line beginning at the Delaware River at Manunkachunk; then east along Rt. 46 to its intersection with Rt. 31; then south along Rt. 31 to its intersection with Rt. 12 at Flemington; then west along Rt. 12 to its intersection with the Delaware River at Frenchtown; then north along the east bank of the Delaware River to the point of beginning at Manunkachunk.

9. Turkey Hunting Area #9

That portion of Hunterdon, Warren and Morris Counties lying within a continuous line beginning at the intersection of Rts. 31 and 46 at Butzville; then east along Rt. 46 to its intersection with Rt. 80; then east along Rt. 80 to its intersection with Rt. 206; then south along Rt. 206 to its intersection with Rt. 287; then south along Rt. 287 to its intersection with Rt. 202; then south and west along Rt. 202 to its intersection with Rt. 31 at Flemington; then north along Rt. 31 to the point of beginning at Butzville.

10. (No change in text.)

11. Turkey Hunting Area #16

That portion of Burlington and Atlantic Counties lying within a continuous line beginning at the intersection of Rts. 206 and 70 at Red Lion; then east along Rt. 70 to its intersection with Rt. 72; then southeast along Rt. 72 to its intersection with Rt. 563; then south along Rt. 563 to its intersection with the Mullica River; then east along the north bank of the Mullica River to its intersection with Rt. 542; then west along Rt. 542 to its intersection with Rt. 206; then north along Rt. 206 to the point of beginning.

12. Turkey Hunting Area #18

That portion of Atlantic, Cumberland and Cape May Counties lying within a continuous line beginning at the intersection of Rts. 206 and 542; then east along Rt. 542 to its intersection with the Mullica River; then east along the south bank of the Mullica River to Great Bay; then east along the south shore of Great Bay to the Atlantic Ocean; then south along the Atlantic Ocean to Sea Isle Boulevard (Rt. 625) in Sea Isle City; then west along Sea Isle Boulevard to its intersection with Rt. 9; then north along Rt. 9 to its intersection with Rt. 50; then north along Rt. 50 to its intersection with Rt. 557; then north and west along Rt. 557 to its intersection with Rt. 552; then west along Rt. 552 to the 552 spur; then west along Rt. 552 spur to its intersection with Rt. 55; then north along Rt. 55 to its intersection with Lincoln Ave. (Rt. 655) in Vineland; then north along Lincoln Ave. to its intersection with Rt. 54 at Buena Vista; then north along Rt. 54 to the point of beginning.

13. (No change in text.)

7:25-5.8 Mink (Mustela vison) and muskrat (Ondatra zibethicus) nutria (Myocaster coypus) trapping only

(a) (No change.)

(b) The duration of the mink, muskrat and nutria trapping season is as follows:

1. Northern Zone: 6:00 a.m. on November 15, 1985 through March 15, 1986, inclusive, except on State Fish and Wildlife Management Areas.

2. Southern Zone: 6:00 a.m. on December 1, 1985 through March 15, 1986, inclusive, except on State Fish and Wildlife Management Areas.

3. (No change.)

4. On State Fish and Wildlife Management Areas: 6:00 a.m. on January 1 through March 15, 1986 inclusive.

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

7:25-5.9 Beaver (Castor canadensis) trapping

(a) Beaver may only be taken by means of a trap approved by the Division of Fish, Game and Wildlife.

(b) The duration of the trapping season for beaver shall be February 1 through February 28, 1985, inclusive.

(c) Special Permit: A special $5.00 permit obtained from the Division of Fish, Game and Wildlife is required to trap beaver. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holder.) Applications must be received in the Trenton office during the period December 1, 1985-December 25, 1985. Applicants may apply for only one beaver trapping permit and must provide their 1985 trapping license number. Permits will be allotted on a zone basis as follows: Zone 1—6, Zone 2—6, Zone 3—2, Zone 4—2, Zone 5—2, Zone 6—4, Zone 7—2, Zone 8—3, Zone 9—4, Zone 10—11, Zone 11—3, Zone 12—5, Zone 13—1, Zone 14—2, Zone 15—0. Total 53. Successful applicants must provide their 1986 Trapping License Number to the Division before permit will be issued.

(d) (No change.)

(e) A "beaver transportation tag" provided by the Division must be affixed to each beaver taken immediately upon removal from trap, and all beaver must be taken to a designated beaver checking station at the times and dates specified on the beaver permit and in any case no later than March 8, 1986.

(f)-(g) (No change.)

7:25-5.10 River otter (Lutra canandensis) Trapping

(a) (No change.)

(b) The duration for the trapping of otter shall be February 1 through February 28, 1986, inclusive.

(c) Special Permit: A special $5.00 permit obtained from the Division of Fish, Game and Wildlife is required to trap otter. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders.) Beaver permit holders will be given first opportunity for otter permits in their respective zones. Applications must be received in the Trenton office during the period December 1, 1985-December 25, 1985. Only 1 application per person may be submitted for trapping otter and applicants must provide their 1985 trapping license number. Permits will be allotted on a zone basis as follows: Zone 1—3, Zone 2—2, Zone 3—2, Zone 4—4, Zone 5—4, Zone 6—4, Zone 7—3, Zone 8—6, Zone 9—3, Zone 10—6, Zone 11—5, Zone 12—9, Zone 13—10, Zone 14—5, Zone 15—8. Total 74. Successful applicants must provide their 1986 Trapping License Numbers to the Division before permit will be issued.

(d) (No change.)

(e) The "otter transportation tag" provided by the Division must be affixed to each otter taken immediately upon removal from the trap. All otter pelts and carcasses must be taken to a beaver-otter check station at dates specified on the otter permit, and in any case no later than March 8, 1986, where a pelt tag will be affixed and the carcass surrendered.

(f)-(i) (No change.)

7:25-5.11 Raccoon (Procyon lotor), red fox (Vulpes fulva), gray fox (Urocyon cinereoargenteus) and Virginia opossum (Didelphis virginiana), Striped Skunk (Mephitis mephitis), Long-tail weasel (Mustela frenata), Short-tail Weasel (Mustela erminea), Coyote (Canis latrans) trapping only

(a) (No change.)

(b) The duration of the regular raccoon, red fox, gray fox, Virginia opossum, striped skunk, long-tail weasel, short-tail weasel and coyote trapping season shall be 6:00 a.m. on November 15, 1985 to March 15, 1986, inclusive, except on State Fish and Wildlife Management Areas.

(c) The duration for trapping on state fish and wildlife management areas shall be after 6:00 a.m. on January 1, through March 15, 1986, inclusive.

(d)-(h) (No change.)

7:25-5.12 General trapping

(a) All traps set or used in this state must bear a *[metal]* ***durable and legible*** tag with the name and address of the person setting, using and maintaining the traps.

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

[(e) The Woodstream TM Soft-catch Trap commonly called cushion hold trap in models known as the Coyote Soft-catch, the Fox Soft-catch and the Muskrat Soft-catch, with attached spring and chain, are permitted for trapping furbearers, except that the Coyote Soft-catch trap may only be used for the trapping of beaver and otter and no person shall use or set any Soft-catch trap for the taking of any furbearer within the area described as that portion of Bergen, Passaic, Hudson, Essex, Union, Somerset, Middlesex, Monmouth and Ocean Counties lying with a continuous line beginning at the intersection of Rt. 202 and the New York State line, then south along Rt. 202 to its intersection with Rt. 80, then west along Rt. 80 to its intersection with the north bank of the Raritan River to its intersection with Rt. 9, then south along Rt. 9 to its intersection with Rt. 34, then south along Rt. 34 to its intersection with the Garden State Parkway, then south along Rt. 9 to its intersection with the north bank of Cedar Creek at Lanoka Harbor, then east along the north bank of Cedar Creek, then east across Barnegat Bay and Island Beach State Park and the Atlantic Ocean, then north along the Atlantic Ocean to the tip of the Sandy Hook Penninsula, then along the Sandy Hook Bay shore to the Raritan Bay shore, then north and west along the Raritan Bay shore to the Arthur Kill, then north along the N.J. side of the Arthur Kill to the Kill Van Kull, then north along the N.J. side of the Kill Van Kull to the West New York Bay, to Upper New York Bay and the Hudson River, then north along the west bank of the Hudson River to the New York State line, then west along the New York State line to Rt. 202 the point of beginning.]

Redesignate (f)-(j) as **(e)-(i)**.

7:25-5.13 Migratory birds

(a) Should any open season on migratory game birds, including waterfowl, be set by Federal regulation which would include the date of November 9, 1985, the starting time on such date will be 8:00 a.m. to coincide with the opening of the small game season on that date. However, this shall not preclude the hunting of migratory game birds, including waterfowl, on the tidal marshes of the state as regularly prescribed throughout the season by Federal regulations.

(b) (No change.)

(c) No person shall take, attempt to take, hunt for or have in possession, any migratory game birds including waterfowl, except at the time and in the manner prescribed by the code of Federal regulations of the U.S. Department of the Interior, U.S. Fish and Wildlife Service, for the 1985-86 hunting seasons. The species of migratory game birds, including waterfowl, that may be taken or possessed and unless otherwise provided the daily bag limits shall be the same as those prescribed by the U.S. Department of the Interior, U.S. Fish and Wildlife Service for the 1985-86 hunting season.

(d)-(h) (No change.)

(i) A special canvasback permit is required to hunt canvasback ducks during the prescribed special season established by Federal Regulations.

(j)-(l) (No change in text.)

(m) No person shall take migratory game birds:

1.-8. (No change.)

9. By the aid of baiting, attracting birds to an area by sowing or distributing any corn, wheat or other grain, salt or other feed.

10. (No change.)

11. Before 8:00 a.m. on November 9. 1985. However this shall not preclude the hunting of migratory game birds on tidal waters or tidal marshes of the State.

12.-13. (No change.)

14. Except at the time and manner prescribed by the state or Federal regulation, or by the 1985-86 Game Code.

15.-19. (No change.)

(n) Seasons and Bag Limits

1. Whistling swan (Cygnusolor columbianus), and dove (Zenaida macroura) are protected. There will be no open season on these birds during 1985-86.

2. Rail and Gallinule

i. The duration of the season for hunting clapper rail (Rallus longirostris), Virginia rail (Rallus limicola), sora rail (Porzana carolina) and common gallinula (Gallinula chloropus) shall be September 2 through November 8, 1985 inclusive.

ii. (No change.)

3. Woodcock

i. North Zone: That portion of the State situated north of Route 70 from Point Pleasant west to Camden.
ii. South Zone: That portion of the State situated south of Route 70 from Point Pleasant west to Camden.
iii. Hunting hours for woodcock are sunrise to sunset except on November 9, when the hunting hours are 8:00 a.m. to sunset.
(o) (No change.)

7:25-5.14 (No change.)

7:25-5.15 Common crow (Corvus brachyrhynchos)
(a) Duration for the season for hunting the common crow shall be Monday, Thursday, Friday and Saturday from August 19, 1985 through March 29, 1986 inclusive, excluding December 9-14 and December 18, 1985 in those deer management zones in which a special regular firearm deer season is authorized.
(b) (No change.)
(c) The hours for hunting crows shall be sunrise to 1/2 hour after sunset, except on November 9 when the hours are 8:00 a.m. to 1/2 hour after sunset.
(d)-(e) (No change.)

7:25-5.16 General falconry regulations
(a) (No change.)
(b) Classes of permits:
1.-2. (No change.)
3. Master: Permittee shall have at least five years of falconry experience in the practice of falconry at the general class. A raptor shall have been in possession of *[of]* ***for no less than*** 36 months *[of]* ***during*** this time.
i.-v. (No change.)
(c)-(l) (No change.)

7:25-5.17 Raccoon (Procyon lotor) and Virginia opossum (Didelphis virginiana) hunting
(a) The duration for the season of hunting racoons and Virginia opossum shall be one hour after sunset on October 1, 1985 to one hour before sunrise on March 1, 1986. The hours for hunting shall be one hour after sunset to one hour before sunrise.
(b) (No change.)
(c) No person shall hunt for raccoon or opossum with dogs and firearms or weapons of any kind on December 9-14 and on December 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and including any extra special shotgun permit deer season day.
(d) No person shall train a raccoon or opossum dog other than during the period of September 1 to October 1, 1985 and from March 1 to May 1, 1986. The training hours shall be one hour after sunset to one hour before sunrise.
(e) (No change.)

7:25-5.18 Woodchuck (Marmota monax) hunting
(a) Duration for the hunting of woodchucks with a rifle in this state shall be March 15—September 27, 1986. License hunters may also take woodchuck with shotgun or long bow and arrow or by means of falconry during the regular woodchuck rifle season and during the upland game season established in N.J.A.C. 7:25-5.3.
(b)-(f) (No change.)

7:25-5.19 Red Fox *[vulpes fulva]* ***Vulpes vulpes*** and Gray Fox (Urocyon cinereoargenteus) Hunting.
(a) The duration of the red fox and gray fox hunting season is as follows:
1. Northern Zone: November 9, 1985 through March 1, 1986 inclusive, excluding December 9-14 and December 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra special shotgun permit deer season day if declared open.
2. Southern Zone: November 9, 1985 through February 8, 1986, excluding December 9-14, 18 and 19, 1985 in those deer management zones in which a special shotgun deer season is authorized and also excluding any extra special shotgun permit deer season day if declared open.
(b)-(c) (No change.)
(d) The hours for hunting fox shall be 8:00 a.m. to 1/2 hour after sunset on November 9, 1985 and other days sunrise to 1/2 hour after sunset.
(e)-(f) (No change.)

7:25-5.20 Dogs
(a) There shall be no exercising or training of dogs on State Fish and Wildlife Management Areas May 1 to August 31, inclusive, except on portions of various wildlife management areas designated as dog training areas, and there shall be no exercising or training of dogs on any Wildlife Management Area on November 8 and on Clinton, Flatbrook, Black River, Assunpink and Whittingham WMA's on the following Sundays: November 10, 17 and 24, and December 1, 1985.
(b)-(c) (No change.)

7:25-5.21 (No change.)

7:25-5.22 (No change.)

7:25-5.23 Firearms and missiles, etc.
(a)-(d) (No change.)
(e) Within the areas described as portions of Passaic, Mercer, Hunterdon, Warren and Sussex Counties lying within a continuous line beginning at the intersection of Rt. 513 and the New York State line; then south along Rt. 513 to its intersection with the Morris-Passaic County line; then west along the Morris-Passaic County line to the Sussex County line; then south along the Morris-Passaic County line to the Warren County line; then southwest along the Morris-Warren County line to the Hunterdon County line to the Somerset County line; then south along the Somerset-Hunterdon County line to its intersection with *[Route 202; then southwest along Rt. 202]* ***the Mercer County line, then south and west along the Hunterdon-Mercer County line*** to its intersection with Rt. 31; then south along Rt. 31 to its intersection with Rt. 546; then west along Rt. 546 to the Delaware River; then north along the east bank to the Delaware River to the New York State line; then east along the New York State line to the point of beginning at Lakeside; and in that portion of Salem, Gloucester, Camden, Burlington, Mercer, Monmouth, Ocean, Atlantic, Cape May and Cumberland counties lying within a continuous line beginning at the intersection of Rt. 295 and the Delaware River; then east along Rt. 295 to its intersection with the New Jersey Turnpike; then east along the New Jersey Turnpike to its intersection with the New Jersey Turnpike; then east along the New Jersey Turnpike to its intersection with Rt. 40; then east along Rt. 40 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Rt. 536; then east along Rt. 536 to its intersection with Rt. 206; then north along Rt. 206 to its intersection with the New Jersey Turnpike; then northeast along the New Jersey Turnpike to its intersection with Rt. 571; then southeast along Rt. 571 to its intersection with the Garden State Parkway; then south along the Garden State Parkway to its intersection with Rt. 9 at Somers Point; then south along Rt. 9 to its intersection with Rt. 83; then west along Rt. 83 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Dennis Creek; then

south along the west bank of Dennis Creek to its intersection with Delaware Bay; then northwest along the east shore of Delaware Bay and the Delaware River to the point of beginning; persons holding a valid and proper rifle permit in addition to their 1986 hunting license may hunt for squirrels between January 20 and February 22, 1986 using a .36 caliber or smaller muzzleloading rifle loaded with a single projectile.

(f) Except as specifically provided below for waterfowl hunters, semi-wild and commercial preserves, muzzleloader deer hunters and trappers, from December 9-14 inclusive, it shall be illegal to use any firearm of any kind other than a shotgun. Persons hunting deer shall use a shotgun not smaller than 20 gauge or larger than 10 gauge with the lead or lead alloy rifled slug or slug shotgun shell only or a shotgun not smaller than 12 gauge nor larger than 10 gauge with the buckshot shell. It shall be illegal to have in possession any firearm missile except the 20, 16, 12 or 10 gauge lead or lead alloy rifled slug or hollow base slug shotgun shell or the 12 or 10 gauge buckshot shell. (This does not preclude a person legally engaged in hunting on semi-wild or commercial preserves for the species under license from being possessed solely of shotgun and nothing larger than No. 4 fine shot, nor a person engaged in hunting waterfowl only from being possessed solely of shotgun and nothing larger than No. 2 lead fine shot or BB steel shot. A legally licensed trapper possessing a valid rifle permit may possess and use a .22 rifle and short rimfire cartridge only while tending his trap line.)

1. Persons who are properly licensed may hunt for deer with a muzzleloading rifle during the 1985 six day firearm deer season and the special permit, muzzleloading rifle deer season.

2. (No change.)

3. Properly licensed persons 14 years of age and older engaged in hunting with a muzzleloading rifle must have in possession a proper and valid rifle permit. Properly licensed persons 14 years of age or older, hunting during the muzzleloading rifle deer season with a smooth bore muzzleloader must also have in possession a proper and valid rifle permit. Rifle permits for 14-17 year olds will be valid for muzzleloader deer hunting and woodchuck hunting.

(g)-(o) (No change.)

7:25-5.24 Bow and arrow, general provisions

(a) A bow means longbow, recurved bow or compound bow that is hand held and hand drawn and that has no mechanical devices built into or attached to, that will enable the archer to lock the bow at full or partial draw. Except as provided in N.J.A.C. 7:25-5.24(e) all draw locking and draw holding devices are prohibited and all crossbows or variations thereof are prohibited. Hand-held releasing devices are permitted.

(b) No person shall use a bow and arrow for hunting, on December 18 & 19, 1985 in those deer management zones in which a special regular shotgun deer season is authorized or on any extra Special Permit Deer Season Day is declared open, or between 1/2 hour after sunset and 1/2 hour before sunrise during the Fall Bow and Arrow Deer Seasons or during the 6-Day Firearm Deer Season, or between 1/2 hour after sunset and sunrise during other seasons.

(c) During the Bow and Arrow Seasons for taking deer, September 28-November 8, 1985 in most deer management zones; September 28-December 7, 1985, excluding November 28, in zones 2, 5, 6, 9, 13, 16, 17, 35, 36, 49, 50 and 51; and, January 4-18, 1986, or any other time bow and arrow deer or turkey hunting is permitted, all arrows used for taking deer or turkey must be fitted with an edged head of the following specifications:

1.-5. (No change.)

(d) (No change.)

(e) The Division may issue a Special Bow Use Permit to certain physically handicapped individuals which would allow these individuals as specified below in this subsection to hunt with a longbow, recurved bow or compound bow that has been modified such that it has a mechanical device built into or attached to, that will enable the archer to draw and lock the bow at full or partial draw. Crossbows are prohibited. Special Bow Use Permit applications will require certification by a physician licensed to practice medicine in the State of New Jersey and be subject to Division's review and ratification. For the purposes of this permit, a handicapped individual is defined as one who is incapable of using a bow due to a permanent disability resulting from the loss of, or loss of use of, one or both arms as a result of birth defect, injury or disease.

(f) (No change.)

7:25-5.25 White-tailed deer (Odocoileus virginianus) fall bow and arrow exclusively (either sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from September 28-November 8, 1985 inclusive; except in zones 2, 5, 6, 9, 13, 16, 17, 35, 36, 49, 50 and 51 where the season shall be September 28-December 7, 1985, excluding November 28, 1985. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

(b) Bag Limit: One deer of either sex. Kill must be tagged immediately with completely filled in "transportation tag" and must be transported to a deer checking station before 8:00 p.m. EST on day killed. Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take one additional deer of either sex during the 1985 fall bow and arrow deer season. This permit shall not be valid on the day of issuance.

1. (No change.)

2. Deer taken during the period of November 9-December 7, 1985, in zones 2, 5, 6, 9, 13, 16, 17, 35, 36, 49, 50, 51 inclusive, must be transported to a designated deer checking station before 7:00 p.m. EST on the day killed.

(c) This season shall be open only to holders of a valid 1985 bow and arrow hunting license which contains an attached fall bow and arrow deer "transportation tag." If the anticipated harvest of deer has not been accomplished during this season, additional days of bow and arrow deer hunting may be authorized by the Director. Such authorization and dates thereof shall be announced by press and radio. Handicapped individuals hunting with a modified bow must have a valid Special Bow Use Permit on their person while hunting in addition to a valid Bow and Arrow Hunting License.

(d) (No change.)

7:25-5.26 White-tailed deer (Odocoileus virginianus) winter bow and arrow, exclusively (either-sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from 1/2 hour before sunrise on January 4 to 1/2 hour after sunset on January 18, 1986. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

(b) Bag Limit: One deer of either sex. Deer must be tagged immediately with "transportation tag" appropriate for the season (special winter bow and arrow) completely filled in, and must be transported to a deer checking station before 7:00 p.m. EST on day killed. Any legally killed deer which is recovered too late to be brought to a check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement district headquarters. Said deer must be brought to a checking station on the next open day to receive a legal "possession tag." If the season has concluded, said deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag." Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take one additional deer of either sex during the 1986 winter bow season. This permit shall not be valid on the day of issuance.

(c) This season will be open only to holders of a valid 1986 bow and arrow hunting license which contains an attached winter bow season "transportation tag," in addition to the regular fall bow season "transportation tag." If the anticipated harvest of deer has not been accomplished during this season, additional days of special winter bow and arrow deer hunting may be authorized by the Director. Such authorization and dates thereof shall be announced by press and radio. Handicapped individuals hunting with a modified bow must have a valid Special Bow Use Permit on their person while hunting in addition to a valid Bow and Arrow Hunting License.

(d) (No change.)

7:25-5.27 White-tailed deer (Odocoileus virginianus) six day firearm

(a) Duration for this season will be December 9-14, 1985 inclusive with shotgun or muzzleloading rifle, exclusively.

(b) Bag Limit: One deer, antlered only, except in those areas designated as "hunter's choice" indicated in subsection (d) below. One deer for the season, with antler at least three inches in length. Kill must be tagged immediately with completely filled in "transportation tag" and must be transported to a deer checking station before 7:00 p.m. EST on day killed. Any legally killed deer which is recovered too late to be brought to the check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement district headquarters. Said deer must be brought to a checking station on the next day to receive a legal "possession tag." If the season has concluded, said deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag." Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take one additional, legal deer during the 1985 firearm deer season. This permit shall not be valid on the day of issuance.

(c) A person who has legally taken deer during the fall bow and arrow season can legally take an antlered deer with a shotgun or muzzleloading rifle during the interval of December 9-14, 1985 if he possesses his valid firearm license. If the anticipated harvest of deer has not been accomplished during this season, additional days of deer hunting may be authorized by the Director, with the approval of the Council. Such authorization and dates thereof shall be announced by press and radio.

(d) (No change.)

(e) Hunting Hours: December 9-December 14, 1985, inclusive, 7:00 a.m. EST to 5:00 p.m. EST, with shotgun or muzzleloading rifle.

(f)-(g) (No change.)

7:25-5.28 White-tailed deer (Odocoileus virginianus) special permit season, muzzleloading rifle, either sex

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

(c) One deer of either sex, and any age, may be taken with a special muzzleloading rifle deer permit. Nothing contained herein shall preclude a person who has legally killed and reported a deer from then procuring one valid and proper permit which will allow this person to continue hunting and take one additional deer of either sex during the 1985 special permit, muzzleloading rifle deer permit season. This permit shall not be valid on the day of issuance. It is unlawful to attempt to take or hunt for more than the number of deer permitted.

(d) Duration of special deer permit season for muzzleloading rifles shall be from 7:00 a.m. EST to 5:00 p.m. EST on December 16, 17, 20, 21, 23, 26, 27, 28 and 30, 1985 or any other time as determined by the Director.

(e) (No change.)

(f) Method: The taking of one deer of either sex with a muzzleloading rifle under a special deer permit for muzzleloading rifles, or a farmer deer permit for muzzleloading rifles in addition to legal antlered deer allowed under statewide six day firearm deer season and either-sex deer allowed under the statewide fall bow and arrow season and either-sex deer allowed during the winter bow season, will be permitted in designated deer management zones by holders of a special deer permit for muzzleloading rifles and on their own property by holders of a farmer muzzleloading rifle deer permit.

1. Special deer permits for muzzleloading rifles will be issued on an individual basis to holders of valid 1985 firearm licenses. Only one application per person may be submitted for the special either sex deer seasons for muzzleloading rifle or shotgun. Special farmer muzzleloader deer permits will be issued on an individual basis to owners or lessee of farms who reside thereon or to the immediate members of their families 14 years of age or older who also reside thereon, upon receipt of a notorized application form.

(g) Special permits for muzzleloading rifles consist of back display which include a "special permit transportation tag" and a validated permit application stub. The back display portion of the permit will be conspicuously displayed on the outer clothing in addition to the valid firearm license. The validated application stub must be in the possession of permittee while hunting. The "Deer Transportation Tag" portion of the permit must be completely filled out, separated at the perforation and affixed to the deer immediately upon killing. This completely filled in "special permit transportation tag" allows legal transportation of the deer of either sex to an authorized checking station only. Personnel at the checking station will issue a "possession tag." Any permit holder killing a deer of either sex on December 16, 17, 20, 21, 23, 26, 27, 28 and 30, 1985 must transport this deer to an authorized checking station by 7:00 p.m. EST on the day killed to secure the legal "possession tag." The possession of a deer of either sex after 7:00 p.m. EST on the day killed without a legal "possession tag" shall be deemed illegal possession. Any legally killed deer which is recovered too late to be brought to the check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement district headquarters. Said deer must be brought to a checking station on the next open day to receive a legal "possession tag." If the season has concluded said deer must be taken to a regular deer check station on the following weekday to receive a legal possession tag.

(h) Applying for a Special Muzzleloading Rifle Deer Permit:

1. Only holders of valid 1985 firearm hunting licenses may apply by detaching from their hunting license stub marked "Special Deer Season 1985" signing as provided on the back, and sending the stub, together with a Special Muzzleloading Rifle Deer Season computer card application form which has been properly completed in accordance with instructions. Application cards may be obtained from:

i.-iii. (No change.)

2. No juvenile license holders are eligible.

3. (No change.)

4. Fill in the application form to include: Name, address, 1985 firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection by card sorting machine which are received in the Trenton office during the period of August 24-September 9, 1985 inclusive. Applications postmarked after the 10th will not be considered. DO NOT SEND FEE WITH THE APPLICATION. Selection of permittees will be made on the basis of a random selection of computer cards.

5. (No change.)

6. Successful applicants will be notified by mail. The computer card and the permit fee of $10.00 in the form of a money order, made payable to "Division of Fish, Game and Wildlife" must be returned by mail before October 10, 1985. The Special Deer Permit will then be issued. Permits not claimed by October 10 will be immediately reallocated in the same random manner as the original selection and be returnable two weeks thereafter.

(i) Applying for the Special Farmer Muzzleloading Rifle Deer Permit.

1.-2. (No change.)

3. Fill in the application form to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of September 1-17, 1985. There is no fee required, and all qualified applicants will receive a special farmer muzzleloading rifle deer permit, delivered by mail.

4. (No change.)

(j) (No change.)

(k) Deer Management Zone Map (on file at the Office of Administrative Law).

1985 MUZZLELOADING RIFLE DEER SEASON PERMIT QUOTAS, EITHER SEX

Deer Mgt. Zone No.	Anticipated Deer Harvest 1985	Permit Quota 1985	Portions of Counties Involved
1	72	385	Sussex
2	48	348	Sussex
3	54	490	Sussex, Passaic, Bergen
4	151	975	Sussex, Warren
5	158	900	Sussex, Warren
6	73	440	Sussex, Morris, Passaic, Essex
7	125	545	Warren, Hunterdon
8	261	1245	Warren, Hunterdon, Morris, Somerset
9	77	280	Morris, Somerset
10	176	695	Warren, Hunterdon
11	68	385	Hunterdon
12	175	755	Mercer, Hunterdon, Somerset
13	22	125	Morris, Somerset
14	55	420	Mercer, Somerset, Middlesex, Burlington
15	39	220	Mercer, Monmouth, Middlesex
16	26	240	Ocean, Monmouth
17	25	165	Ocean, Monmouth, Burlington
18	19	170	Ocean
19	15	140	Camden, Burlington
20	13	115	Burlington
21	59	270	Burlington, Ocean
22	7	45	Burlington, Ocean
23	50	370	Burlington, Camden, Atlantic
24	51	255	Burlington, Ocean
25	33	300	Gloucester, Camden, Atlantic, Salem
26	58	250	Atlantic
27	43	230	Salem, Cumberland
28	24	135	Salem, Cumberland, Gloucester
29	51	325	Salem, Cumberland
30	15	55	Cumberland
31	2	20	Cumberland
32	3	20	Cumberland
33	12	85	Cape May, Atlantic
34	31	250	Cape May, Cumberland
35	18	120	Gloucester, Salem
41	76	285	Mercer, Hunterdon
42	4	35	Atlantic
43	8	75	Cumberland
44	2	15	Cumberland
45	15	140	Cumberland, Atlantic, Cape May
46	15	60	Atlantic
47	2	20	Atlantic, Cumberland, Gloucester
48	13	120	Burlington
49	0	0	Burlington, Camden, Gloucester
50	9	80	Middlesex, Monmouth
51	8	70	Monmouth, Ocean
Total	2,261	12,660	

(l) Muzzleloader, either-sex permits not applied for by September 9, 1985 will be reallocated to shotgun either-sex season permit applicants.

(m) Authority: The authority for the adoption of the foregoing section is found in N.J.S.A. 23:3-56.2, 23:4-42, 23:4-43, 23:4-47, 23:4-48, and other applicable statutes.

7:25-5.29 White-tailed deer (Odocoileus virginianus) special permit season, shotgun only, either sex

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

(d) Duration of the special permit shotgun deer season shall be from 7:00 a.m. EST to 5:00 p.m. EST on Wednesday, December 18, 1985 except that in Zones 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 27, 29, 41, 50 and 51 the special permit shotgun season will also include December 19, 1985; or at other times as determined by the Director.

(e) (No change.)

(f) Method: The taking of one deer of either sex with a shotgun under a special shotgun deer permit or a farmer shotgun deer permit, in addition to the legal antlered deer allowed under statewide antlered deer season and either-sex deer allowed under the statewide fall bow and arrow season and either-sex deer allowed during the winter bow season, will be permitted in designated deer management zones by holders of special shotgun deer permit and on their own property by holders of a farm shotgun deer permit.

1. Special shotgun deer permits will be issued on an individual basis to holders of valid 1985 firearm licenses. Only one application per person may be submitted for the special season whether as a farmer or a license holder. Farmer shotgun deer permits will be issued on an individual basis to owners or lessees of farms who reside thereon, or the immediate members of their families 10 years of age or older who also reside thereon, upon receipt of a notarized application form.

(g) (No change.)

(h) Applying for a Special Shotgun Deer Permit:

1. Only holders of valid 1985 firearm hunting licenses including juvenile firearm license holders may apply by detaching from their hunting license stub marked "Special Deer Season 1985" signing as provided on the back, and sending the stub, together with a computer card application form which has been properly completed in accordance with instructions. Application cards may be obtained from:

i.-iii. (No change.)

2.-3. (No change.)

4. Fill in the application form to include: Name, address, 1985 firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection by card sorting machine which are received in the Trenton

office during the period of August 24-September 9, 1985. Applications postmarked after the 10th will not be considered. DO NOT SEND FEE WITH THE APPLICATION. Selection of permittees will be made on the basis of a random selection of computer cards.

5. (No change.)

6. Successful applicants will be notified by mail. The computer card and the permit fee of $10.00 in the form of a money order, made payable to "Division of Fish, Game and Wildlife" must be returned by mail no later than October 10, 1985. The Special Shotgun Deer Permit will then be issued. Permits not claimed by October 10th will be immediately reallocated in the same random manner as the original selection and be returnable two weeks thereafter.

(i) Applying for the Special Farmer Shotgun Deer Permit

1.-2. (No change.)

3. Fill in the application form to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of September 1-17, 1985. There is no fee required, and all qualified applicants will receive a special farmer shotgun deer permit, delivered by mail.

4. (No change.)

(j) (No change.)

(k) Deer Management Zone Map (on file at the Office of Administrative Law.)

1985 SHOTGUN DEER SEASON PERMIT QUOTAS, EITHER SEX

Deer Mgt. Zone No.	Anticipated Deer Harvest 1985	Permit Quota 1985	Portion of Counties Involved
1	156	1,040	Sussex
2†	276	1,296	Sussex
3	92	767	Sussex, Passaic, Bergen
4	200	1,145	Sussex, Warren
5†	766	2,901	Sussex, Warren
6†	230	1,385	Sussex, Morris, Passaic, Essex
7†	312	1,160	Warren, Hunterdon
8†	1,264	3,425	Warren, Hunterdon, Morris, Somerset
9†	239	1,021	Morris, Somerset
10†	654	1,786	Warren, Hunterdon
11†	435	1,151	Hunterdon
12†	577	2,098	Mercer, Hunterdon, Somerset
13†	147	794	Morris, Somerset
14†	426	1,684	Mercer, Somerset, Middlesex, Burlington
15	65	488	Mercer, Monmouth, Middlesex
16	33	541	Ocean, Monmouth
17	107	482	Ocean, Monmouth, Burlington
18	45	378	Ocean
19	34	212	Camden, Burlington
20	30	286	Burlington
21	13	144	Burlington, Ocean
22	18	170	Burlington, Ocean
23	9	127	Burlington, Camden, Atlantic
24	19	142	Burlington, Ocean
25	32	281	Gloucester, Camden, Atlantic, Salem
26	7	53	Atlantic
27†	85	313	Salem, Cumberland
28†	20	156	Salem, Cumberland, Gloucester
29†	208	592	Salem, Cumberland
30	8	52	Cumberland
31	2	20	Cumberland
32	0	0	Cumberland
33	33	176	Cape May, Atlantic
34	30	109	Cape May, Cumberland
35	34	239	Gloucester, Salem
41†	371	742	Mercer, Hunterdon
42	5	22	Atlantic
43	0	0	Cumberland
44	7	44	Cumberland
45	0	0	Cumberland, Atlantic, Cape May
46	13	84	Atlantic
47	5	48	Atlantic, Cumberland, Gloucester
48	41	229	Burlington
49	0	0	Burlington, Camden, Gloucester
50†	27	270	Middlesex, Monmouth
51†	47	470	Monmouth, Ocean
Total	7,122	28,523	

† Indicates two day zones (December 18 and 19, 1985) with provision for second deer tag.

(l) Shotgun, either-sex permits not applied for by September 9, 1985 will be reallocated to muzzleloading rifle, permit applicants.

(m) (No change.)

(n) Locations of Deer Management Zones (No change.)

ZONE #1 to ZONE #51. (No change.)

7:25-5.30 White-tailed deer (Odocoileus virginianus) special permit, firearms only, either-sex, Great Swamp

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

(c) Duration of the Great Swamp Special Permit Season shall be from 7:00 a.m. EST to 5:00 p.m. EST on the following dates: December 12, 13, 14, 19, 20 and 21, 1985 or as may otherwise be designated by the U.S. Fish and Wildlife Service.

(d) Bag Limit: Three deer of either sex, any age, may be taken with a Great Swamp Special Deer Permit. Only one deer may be taken in a given day. The third deer must be taken in that portion of the Great Swamp designated as the Wilderness Area.

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

(g) Procedures for applying for a Great Swamp Special Deer Permit will be the same as outlined for the Special Deer Permit (see N.J.A.C. 7:25-5.25(h)), with the exception that applicants for a Great Swamp Special Deer Permit must indicate Zone 38 on the application card in the space reserved for deer management zone number.

(h)-(i) (No change.)

7:25-5.31 (No change.)

7:25-5.32 Pheasant and quail stamp designated areas

(a) Designated wildlife management areas where the special "pheasant and quail" stamp is required.

1. (No change.)

2. Designated wildlife management areas:

Assunpink
Berkshire Valley
Black River
Clinton
Colliers Mills
Dix
Flatbrook-Roy
Glassboro
Greenwood (including Pasadena-Howardsville)
Mad Horse
Manahawkin
Medford
Bevan-Cedarville (Millville)
Nantuxent
Peaslee
Pt. Republic
Stafford Forge
MacNamara (Tuckahoe-Corbin City)
Walpack
[Whitesbog]

Winslow
Whittingham
Pequest
[Stokes State Forest]
Fort Dix
Manasquan River Reservoir
Delaware River Gap National Recreation Area
3. (No change.)

7:25-5.33 Controlled hunting wildlife management Areas
(a) No wildlife management areas have been selected for limited hunter density for the 1985-86 season.
(b) (No change.)

7:25-5.34 (No change.)

7:25-5.35 (No change.)

7:25-5.36 (No change.)

7:25-5.37 (No change.)

HEALTH

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Standards; All Health Care Facilities Licensure Fees

Adopted Amendment: N.J.A.C. 8:31-26.5

Proposed: March 18, 1985 at 17 N.J.R. 664(a).
Adopted: July 18, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of Health Care Administration Board).
Filed: July 19, 1985 as R.1985 d.414, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): August 20, 1989.

Summary of Public Comments and Agency Responses:

N.J.A.C. 8:31-26.5, as amended in 1985 (see 17 N.J.R. 664(a) and 17 N.J.R. 1760(b)), delineates the licensure fees charged by the Department of Health for the filing of an application for licensure of a health care facility and for the annual renewal of the license. The amendment which became effective on July 15, 1985, increased the licensure fees for inpatient health care facilities other than hospitals. Previously, fees for these facilities had ranged from $100.00 to $500.00. As a result of the amendment which became effective on July 15, 1985, the licensure fees for long-term care facilities, alcoholism treatment facilities, and drug treatment facilities have been raised to $500.00 plus an additional fee of $3.00 for each bed in the facility. Also, the licensure fee for residential health care facilities has been increased to $100.00 with an additional fee of $3.00 for each bed in the facility.

The initial proposal of the amendment which became effective on July 15, 1985, called for an increase in annual licensure fees for ambulatory care facilities, home health agencies, and medical day care facilities from $100.00 to $500.00. As in the case of the inpatient facilities, the fee increase for these facilities was intended as a continuation of the Department's implementation of the legislative directive to increase the Department's revenues. The total licensure fee for a health care facility shall not exceed $2,000 as established by N.J.S.A. 26:2H-1 et seq., and amendments thereto. In the notice of proposal, the Department asserted that the fee increases were needed "in order to maintain a level of surveillance of facilities sufficient to support the effort of the Department to ensure the quality of health care provided to patients in New Jersey." The Health Care Administration Board, however, expressed concern at its meeting on June 13, 1985, for the future economic viability of ambulatory care facilities providing family planning services given adoption of the proposed fee increase for ambulatory care facilities. Consequently, fee increases were adopted for the inpatient facilities only (see 17 N.J.R. 1760(b)), and the Department initiated a review of the propriety of licensure fee increases for ambulatory care facilities, home health agencies, and medical day care facilities. This adoption is the product of that Departmental review.

The adopted amendment, N.J.A.C. 8:31-26.5(a)2, increases the annual licensure fees for ambulatory care facilities, home health agencies, and medical day care facilities from $100.00 to $500.00. It was determined that the concern expressed by the Health Care Administration Board is pertinent only to ambulatory care facilities providing family planning services. The Department, therefore, has increased the annual licensure fee for ambulatory care facilities which do not provide only family planning services from $100.00 to $500.00. The adopted amendment, N.J.A.C. 8:31-26.5(a)2, does not affect the licensure fee for facilities providing only family planning services. The Department maintains that a fee increase for such facilities could be a cause of financial hardship for the facilities, and, therefore, the proposed amendment, N.J.A.C. 8:31-26.5(a)2, was revised so as to allow the Department to charge facilities providing only family planning services an annual licensure fee of $100.00.

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

8:31-26.5 Licensure fees
(a) The department shall charge a nonrefundable fee for the filing of an application for licensure of a health care facility and for the annual renewal of the license in accordance with the following:
1. All inpatient health care facilities, except hospitals, shall pay a fee based on the number of beds in the facility as follows:

Inpatient Facilities	Fees
Long-term Care	$500.00 plus $3.00 per bed
Alcoholism Treatment	$500.00 plus $3.00 per bed
Drug Treatment	$500.00 plus $3.00 per bed
Residential Health Care	$100.00 plus $3.00 per bed

"Hospital" is defined in N.J.A.C. 8:43B-1. Facilities referred to as "satellites" shall be included among those referred to as "hospitals" in N.J.A.C. 8:31-26.5 for the purposes of issuance of licenses and assessment of licensure fees.

2. All other health care facilities, except hospitals, *[shall pay a fee as follows]* ***shall pay the following fees***:

Facilities	Fees
Ambulatory Care	$500.00 *[pending]*
Home Health Agencies	$500.00 *[pending]*
Medical Day Care	$500.00 *[pending]*

(b) These regulations shall supersede all previous regulations regarding fees for licensure of health care facilities, except hospitals.

(a)

HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Computerized Tomography (CT) Services

Adopted Amendments: N.J.A.C. 8:33G-1.1, 1.2, 1.3 and 1.4.

Proposed: May 20, 1985 at 17 N.J.R. 1214(a).
Adopted: July 18, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of the Health Care Administration Board).
Filed: July 19, 1985 as R. 1985 d. 411, **without change.**

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Effective Date: August 19, 1985.
Expiration Date Pursuant to Executive Order No. 66 (1978): July 20, 1989.

Summary of Public Comments and Agency Responses:
Written comments were received from one commentor during the public comment period.

Comment:
Valley Hospital, a provider of CT services, outlined six main points:
1. Since CT is no longer "regionalized" and is available in most hospitals, certificate of need requirements should be eliminated.
2. The 88 hours of operation required of a CT provider prior to the addition of a second CT unit is excessive and unrealistic. A more reasonable level would be 50 to 60 hours per week. In addition, quality of care may be compromised by having high risk patients evaluated during off hours.
3. The number and mix of images (head/spine/full body), rather than hours of operation, represents a more optimal method of determining utilization and efficiency of operation.
4. The definition of "an anatomical area of diagnostic interest" needs further clarification to insure consistent data recording.
5. The 88 hours of operation required for a second CT scanner, if it is to be used, should include both scheduled and non-scheduled downtime because all downtime directly impacts on utilization and efficiency.
6. Hospitals with a CT scanner which has exceeded its useful life, has little market value and has been replaced with a state-of-the-art scanner should have the option of retaining the original scanner for backup.

Response:
1. The proposed CT amendments, while recognizing the clinical value of CT services and the fact that CT services are no longer to be considered a regionalized service, retain an overall concern for the cost of providing CT services. The relaxation of minimum utilization requirements permitted by these amendments is accompanied by a price per scan reimbursement mechanism that allows the applicant to share the economic burden of providing CT services that are not efficiently operated. The absence of CT rules would allow unrestrained investment in CT services without any regard to the economic impact of such proliferation on existing CT providers and the health care system.
2. The 88 hours of operation is intended to maximize utilization of existing CT scanning services prior to the addition of second CT units at any given site. The Department's amendments will lead to a reduction in inter-hospital referrals and will ultimately reduce the need for multiple unit programs statewide. The 50 to 60 hour of operation level cited by the commentor as an alternative would allow the vast majority of CT services in the State, currently averaging far below capacity utilization levels (1984 average utilization equaled 3,388 scans per unit), to add a second CT unit. The cost of providing CT services will increase dramatically should the hours of operation be reduced.
3. Hours of operation is not the only barometer for efficiency used by the Department in the review of Certificate of Need projects involving CT units. The number and types of scanning procedures is also assessed as is equipment downtime, both scheduled and non-scheduled.
4. The use of the term "an anatomical area of diagnostic interest" has been used as a basis for the definition of a scan procedure for the past six years and has not been a source of difficulty during this period. The definition was recommended by the Department's CT technical advisory committee and is commonly used in the literature.
5. The Department collects both scheduled and non-scheduled downtime for a number of different reasons. Non-scheduled downtime is excluded from the 88 hours of operation requirement as justification for a second CT scanner because of its direct relevance to existing scanner reliability as opposed to operating efficiency. By allowing non-scheduled downtime into the equation the Department would in effect be rewarding unreliability and inefficiency as opposed to efficiency. Non-scheduled downtime is routinely used as an indicator for equipment replacement rather than equipment additions.
6. The retention of a CT scanner that has reached its useful life and is fully depreciated for backup purposes is retained not without cost to both the institution and the health care system. There must be a second room devoted to CT as well as maintenance, supply and personnel costs for this equipment. In addition, there is the fact that the existing CT equipment has a market value that could be used to offset a portion of the capital cost associated with a strict replacement of the CT unit.

Full text of the adoption follows.

8:33G-1.1 Introduction
(a) Computerized Tomography (CAT/CT) represents an important radiologic advancement which permits the imaging of internal structures of the body through the use of computer assisted x-ray scanning. It has proven to be a major advance over

conventional radiology techniques since it allows the discrimination of soft tissues of differing densities and spatially localizes structures to a specified area of interest. Images that are produced are not distorted by structures adjacent to the field of view.

(b) The Department recognizes that computerized tomography is a diagnostic modality of established clinical value which should be available to all full-service hospitals where the case mix is adequate to support an effective and efficient CT service as well as to all residents of the State.

(c) The policies identified herein shall apply to the planning for and review of certificate of need applications for computerized tomography services within the State of New Jersey. While these policies permit exceptions to the utilization standard for applicants, there is a recognized potential for facilities not achieving the minimum utilization standard identified herein to operate in an economically inefficient manner. Therefore, some applicants who qualify under the utilization exception will bear some financial risk in conducting this service. These rules shall be subject to periodic reexamination as technological changes occur and new clinical information becomes available.

8:33G-1.2 Utilization standards

(a) Each applicant for a computerized tomographic scanner must show evidence of a minimal proposed volume of 2,000 scans per unit, per year by application of the Leonard model, herein attached as Appendix A.

1.-2. (No change.)

3. A relaxation of utilization standards, identified at N.J.A.C. 8:33G-1.2(a) above may be permitted for a computerized tomography service where:

i. The applicant for a certificate of need is a hospital; and

ii. The application is for the initial installation of CT scanner as opposed to the replacement or addition of CT scanning equipment beyond the first scanner; and

iii. The applicant has demonstrated in its certificate of need application that it has available, either directly or through formal arrangements, a full range of diagnostic services including, at a minimum, diagnostic and therapeutic radiology services, nuclear medicine and diagnostic ultrasound; and

iv. The applicant has documented in its application that it has available, either on staff or through formal arrangements, individuals for the treatment of neurological, thoracic, cardiac, abdominal, medical and radiological oncological, gynecological, neurosurgical and genitourinary conditions as well as other conditions diagnosed by computerized tomography.

4. In addition, a non-hospital applicant may qualify for a relaxation of the utilization standards identified at N.J.A.C. 8:33G-1.2(a) above where:

i. Written evidence is provided that the proposed service will be located and operated at a site which is not within a ten mile radius from an existing Certificate of Need approved CT service; and

ii. The application is for the initial installation of a CT scanner as opposed to the replacement or addition of CT equipment.

(b) In establishing reimbursement to applicants who have qualified pursuant to (a)3 or 4 above and have been granted an exemption to minimum utilization standards identified at (a) above, the Department shall establish a price per scan based upon the prevailing, usual and customary fee schedules for CT services.

(c) Each application seeking to replace or update its existing computerized tomographic scanner must show evidence of a minimal volume of 2,000 scans per year.

(d) (No change.)

(e) (No change.)

8:33G-1.3 Personnel standards

(a) Each applicant for a certificate of need for a computer tomographic scanner must provide the Department with written documentation that the following minimal staff complement will be available within the facility to each unit:

1.-3. (No change.)

(b) In addition, sufficient supportive personnel consistent with the efficient delivery of quality CT services should be assigned to the CT scanner (e.g., aids, secretary, clerk).

8:33G-1.4 General criteria

(a) As part of the application for a computer tomographic scanner, each applicant must meet each of the following minimum general criteria:

1. Provided written documentation of need as expressed by the Leonard model (Appendix A) and show evidence that the proposed action is both consistent with the institution's approved long-range plan, where such submission is required pursuant to N.J.A.C. 8:31-16.1, and with the health systems plan and annual implementation plan of the health systems area in which the applicant is located.

2.-5. (No change.)

6. Maintain and provide basic statistical data on the operation of the unit(s) and report that data to the New Jersey Department of Health on a quarterly basis and on a standardized form prepared by the department. Copies of the full text of the required quarterly reporting forms may be obtained upon written request to the New Jersey State Department of Health, Health Data Services, Room 405, CN 360, Trenton, New Jersey 08625.

7.-8. (No change.)

9. The Department's technical advisory committee will review the regulation on a regular basis. This committee will perform its review within three years and make its recommendations to the Commissioner of Health.

Appendix A (No change.)

(a)

HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Reviews of Long Term Care Facilities and Services Policy Manual

Readoption with Amendments: N.J.A.C. 8:33H-1.1 through 3.11

Proposed: May 20, 1985 at 17 N.J.R. 1216(a).
Adopted: July 18, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of the Health Care Administration Board).
Filed: July 19, 1985 as R.1985 d.413, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Effective Date: August 19, 1985.
Expiration Date Pursuant to Executive Order No. 66 (1978): July 19, 1990.

Summary of Public Comments and Agency Responses:

Written comments were received during the comment period from the following persons:

Statewide Health Coordinating Council (SHCC)
New Jersey Division of Medical Assistance and Health Services
Medford Leas
Presbyterian Homes of New Jersey
Meadow Lakes
Life Care Services Cooperation
Manger, Kalison, Murphy and McBride, Attorneys at Law
New Jersey Association of Non-Profit Homes for the Aging (NJANPHA)

Comment:

The State Health Coordinating Council strongly opposed the Department of Health's (DOH) version of the Continuing Care Retirement Section, N.J.A.C. 8:33H-3.3(a)6iv, of the Long Term Care Policy Manual. The DOH's proposal requires the operators of a continuing care retirement community (CCRC) to disclose the risks of entering into an agreement for long term care with the prospective resident of a CCRC. It also allows the DOH to review the agreement to ensure that residents have access to long term care services, even if the resident become Medicaid-eligible.

The DOH's proposed regulation fails to guarantee that persons entering into contracts with CCRCs will be served by nursing homes operated by that entity, and to protect public funds (Medicaid) from inappropriate use. The following paragraphs explains the objections and set forth the reasons why the Council thinks the language proposed by the Council is clearly more protective to CCRC residents and the public.

CCRC's are granted a special exemption from the certificate of need long term care nursing home bed need formula. This exemption was granted for two reasons. First, CCRCs only served the residents of the CCRC.[1] Therefore, this population will not require access to nursing homes in the general community. Second, the CCRC will not use public funds that normally provide coverage for low income persons, to pay for long term care services.[2] It was with this understanding that the original extremely expedited exemption was granted by the Council.

Since that time, for profit CCRCs with different admission practices are proposing to establish themselves in New Jersey. These entities no longer provide all services including long term care (LTC) services for the residents. Their arrangements more closely resemble condominiums, with high maintenance fees and a limited life estate in the property, that have a nursing home owned by the CCRC operator in the vicinity. The entrance fee only covers the purchase of the residence (condominium) and some access to the nursing home. However, it is the maintenance fee that **must** continue to be paid wherever one resides in the CCRC that pays the cost of services. Most recently, a for profit operator testified at a New Jersey Assembly Committee hearing that the maintenance fee at his CCRC was $1,000 a month. Ironically, this fee more closely resembles the cost of maintaining a person in a non-CCRC nursing home. Clearly, this arrangement and others like it do not resemble the original understanding of the CCRC for which the bed need exemption was granted.

A comparison of the original CCRC and the new arrangement highlights the need for protecting residents and Medicaid dollars. Under the original CCRC arrangement, a resident who was admitted to a hospital for services and exhausted their assets could return to the CCRC either to their residence or the nursing home, as appropriate. In the new arrangement, the same person **must** continue to pay the maintenance fee in order to be able to return to the CCRC. If they fail to pay the maintenance fee, a portion of their entrance fee might be returned that the person would be turned out of the CCRC.[3] The result would be that the individual would have to find new housing or a nursing home. In many cases, the ex-resident requiring nursing home care because of the lack of funds would require payments for care to be provided by Medicaid. Under DOH's proposal, the latter scenario would be fine as long as the prospective resident was warned about this possibility in the contract. In addition, the DOH proposal would also allow the CCRC to charge residents additional funds for nursing home care and explicitly permits a CCRC to deny LTC services to residents who cannot pay.

The Council has a much different perspective on this situation. In exchange for a nursing home bed need exemption, a CCRC **must** guarantee residents long term care. This guarantee must be provided as part of the entrance fee. This fact is easily accomplished by the CCRC reserving a portion of the entrance fee or by purchasing long term care insurance from the fee to cover the cost of providing LTC.

In addition, because residents are transferring a substantial amount of their assets to the CCRC through the entrance fee, the residents cannot be permitted to claim impoverishment in order to have Medicaid funding for their care. To do so would unjustly enrich the CCRC at the expense of the public. The CCRC must be required to provide nursing home care to the beneficiary of the transferred assets. It is clear that the public funds are not permitted to be used to provide care for persons with substantial assets.

Based on these factors, the Council proposed the following language:

[vi.] **iv.** [The nature] **A copy** of the **resident** contract or agreement to provide continuing care, including the health care **and other** services to be offered; term or duration of the contract; projected charges, including entrance fees and/or periodic monthly payments; and residents' rights, with the recognition that this information will be provided to residents in non-technical language. **The continuing care retirement community's contract must describe in detail the services to be provided. The contract must state that the resident will be provided long-term care services by the continuing care retirement community. Organizations that operate continuing care retirement communities which admit persons who pay substantially less than the full cost entrance fee or who are admitted on a free care basis shall be allowed to obtain Medicaid funding for such persons. The Department of Health shall develop guidelines to assure that continuing care retirement communities may apply for Medicaid funding only for such persons who are admitted on a free or**

[1] CCRC's are permitted to accept outside patients into their nursing home during the first year of operation.

[2] The exception to this provision was those individuals that paid substantially less or none of the entrance fee to the CCRC.

[3] The portion of the returned entrance fee depends on the contract. In some cases, if a resident had resided at a CCRC for a number of years, no portion of the entrance fee would be returned.

substantially reduced cost basis. In addition, a copy of the marketing study conducted for the proposed continuing care retirement community, which includes economic and demographic analyses, shall be submitted with the application.

This language offers the protections necessary to guarantee residents long term care services, and prohibits the CCRC from profiting at public expense.

However, the Council was sensitive to non-profit CCRCs that accept lower income and poor elderly persons into their communities with the understanding that little or no entrance fee will be required and that the CCRC will never be able to cover the residents' expenses. For CCRCs that act in this manner, the Council proposes to permit those CCRCs to apply to Medicaid for funding the cost of LTC of qualified residents.

In conclusion, the Council's position on this issue is that the original intention of granting an exemption from the LTC bed methodology must be fulfilled. The exemption carries with it **an obligation** to guarantee long term care services for residents at a CCRC from entrance fees. The Council's approved and proposed language accomplishes that end, thus protecting both the residents and scarce public funds. The DOH's proposal places CCRC residents at serious risk and open to the serious abuse that has occurred in other states. It is the Council's firm opinion that the DOH's "caveat emptor—let the buyer beware" approach is totally insufficient to protect prospective CCRC residents who may require long term care services. Nor is it a sufficient or fair exchange for granting an exemption from the bed need methodology. Thus, the Council requested the Health Care Administration Board to adopt the Council's original language in the LTC Policy Manual.

The New Jersey Division of Medical Assistance and Health Services (Medicaid) also commented on N.J.A.C. 8:33H-3.3(a)6iv and noted that it "seems to envision that the long term care services arrangement contract will enable the community residents to become Medicaid eligible. Such an occurrence would subject the Medicaid program to an unnecessary drain of resources.

In addition, a contract which allows a continuing care or life care community resident to become Medicaid eligible, may be contrary to N.J.S.A. 30:4D-6(f) of the State Medicaid Act which provides that:

Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or exclude coverage or payment for goods and services to an individual because of that individual's eligibility for or receipt of Medicaid benefits shall be null and void, and no payments shall be made under this act as a result of any such provision.

Furthermore, what is the purpose of the entrance fee and the periodic monthly payments if either the residents or health care programs will be charged for the LCTF services?

The regulations seem to encourage these types of communities to receive entrance fees and periodic payments without the concomitant responsibility of providing care to the residents for any specified period of time. In fact, the proposed regulation provides a disincentive to the communities from shouldering any burden at all by virtue of the following language:

The contract shall fully disclose whether the residents may be denied long-term care services if they cannot spend down their resources to Medicaid eligibility levels due to excessive monthly income or other applicable circumstances (N.J.A.C. 8:33H-3.3(a)6iv).

It does not seem to be fair that the Medicaid program should be paying for the care of residents who may have transferred all of their current and future assets to a community, and are paying monthly payments for a contract of limited services whose term may be less than the residents lifetime.

Furthermore, it would seem that life care and continuing care communities may be liable third party pursuant to N.J.S.A. 30:4D-7(k) which requires the Medicaid program:

To take all reasonable measures to ascertain the legal or equitable liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability; where it is known that a third party has a liability, to treat such liability as a resource of the individual on whose behalf the care and services are made available for purposes of determining eligibility; and in any case where such a liability is found to exist after medical assistance has been made available on behalf of the individual, to seek reimbursement for such assistance to the extent of such liability.

Additionally, it appears that the Medicaid program would have to valuate the contract for care and take into consideration when determining eligibility in order to comply with N.J.S.A. 30:4D-7(k)."

The Presbyterian Homes of New Jersey also commented on N.J.A.C. 8:33H-3.3(a)6iv. The comment concerns the language the SHCC has recommended for this section. As written, this amendment could be a problem for the supervising agency, the sponsor and most of all the resident. The concern is with the sentence that says the Department of Health shall develop guidelines to assure that continuing care retirement communities may apply for Medicaid funding only for such persons who are admitted on a free or a substantially reduced cost basis. There will not be continuing care retirement communities taking residents on a free or a substantially free basis. Continuing care retirement communities are self financing and self supporting and residents do not turn over their assets for lifetime care. Residents will have an investment in the community just as anyone would have in their own home and there will be a refund policy to the estate of the resident upon termination or death. If per chance a resident experiences financial disaster then the resident should have the right to Medicaid if assets are exhausted. As to the specified marketing study there should be clarification and a statement as to what the study should identify in the way of a market. Economic and demographic statements are important and their content should be specific. The study should not be generalized. It should address a specific area, a specific cost factor, a specific income group and if the cost structure of the proposed community is compatible with the incomes of those living in the marketing area and then how many actual prospects are in the marketing area.

Addressing the same section, Life Care Services Corporation of Des Moines, Iowa, commented that "since the CCRC Regulation and Financial Disclosure Act will likely pass the legislature this session prior to the final adoption of the guidelines, we see no need to address these requirements here as they will be more fully covered by the act."

Manger, Kalison, Murphy and McBride, Attorneys at Law, commented on this section on behalf of Health Quest, sponsor and developer of Lake Pointe Woods, a proposed continuing care community in Bergen County.

"The SHCC's amendment would deny Medicaid eligibility to any resident of a continuing care community who, at the time he or she entered the community, paid all or substantially all of the required entrance fee. The ramifications of the SHCC's proposal are far reaching: it would not only undermine the theoretical objectives and financial stability of continuing care communities, it would also effectively eliminate the protections and advantages to the elderly that Health Quest has built into the Lake

Pointe Woods project. As a result of Health Quest's experience and analysis of unsuccessful traditional life care communities, Health Quest has developed a program for continuing care which addresses and resolves many of the problems inherent in the traditional life care concept. The traditional life care communities, usually offered by church sponsored organizations, experienced two major problems: the shedding of assets by applicants; and an inadequate actuarial base that was unable to fund unlimited and unpredictable health care to residents. Furthermore, the middle-class found traditional life care unappealing. Under this concept, the middle-class elderly person was unable to provide for a well-planned distribution of the financial fruits of a lifetime of work to his or her family. The alternative of shedding his or her assets in order to enter the life care community was considered undesirable by many middle-class elderly.

In view of the financing difficulties from the point of view of both the elderly and the provider, Health Quest developed a framework that protect the financial integrity of the project, as well as the investment and ability to transfer assets by the resident. Health Quest's project provides for the separate financing of the residential and health care components of the community. The membership fee entitles the resident to occupy his or her residence for life. However, the membership fee is refundable to the resident or resident's estate, less a four percent charge for each year the resident occupies the unit. For example, after one year of residency, the resident or his family would receive ninety-six percent of the initial fee back; after ten years, sixty percent and so forth. In addition, thirty days of health care at the health care facility are provided to the resident as a part of the membership agreement. The residential community does not subsidize the unlimited health care of the residents. In the event a resident's health necessitated permanent nursing care, the remaining portion of his or her membership fee would be refunded and he or she would be granted priority admission to the health care facility. Thereafter, the resident would pay for nursing care with the refunded monies, Medicare, Medicaid or private insurance. This framework not only protects the financial viability of the community as a whole, it also preserves an estate for the resident's family.

The SHCC's proposal unhinges the carefully balanced financing scheme developed by Health Quest. The proposal attempts to shift the cost of health care, an insurable risk, from Medicaid, a system of insurance for the medically indigent, to the continuing care community. Since there are 'no free lunches', the practical effect of the proposal would be to shift this burden to the elderly residents of the community. If Medicaid funding is barred from residents who would otherwise be entitled, it follows that the other residents will bear the cost. Thus, the cost of an unpredictable and unlimited subsidy is shifted from society as a whole, to those least able to pay, the elderly residents. Moreover, this unpredictability will inject instability, the very problem Health Quest's financial framework seeks to prevent, into the financial structure of the continuing care community. Furthermore, the SHCC's proposal would jeopardize a critical feature of the continuing care community for the middle-class—the ability to preserve an estate for his or her family.

The SHCC's proposal is objectionable on other grounds as well. The SHCC's proposed amendment encourages the continuing care community to market the community to either the poor or very wealthy. Thus, the middle class elderly are denied the alternative of becoming a part of a continuing care community unless they shed their assets. This result frustrates the sociological and economic benefit envisioned by the Department of Health (Department) that continuing care communities will provide a new alternative to the middle-class elderly that will encourage them to remain in the State after retirement. Additionally, the SHCC's blanket denial of future Medicaid benefits to a select group is, at a minimum, unfair and may contravene state and federal constitutional principles of due process and equal protection."

Response:

The SHCC and its Plan Development and Implementation (PDI) Committee participated in the development of these proposed rules. Both of these entities supported and approved the Department's proposals except for the language at N.J.A.C. 8:33H-3.3(a)6.iv. regarding Continuing Care Retirement Communities (CCRCs). In this section both the SHCC and the PDI approved alternative language that the SHCC is requesting be approved by the Health Care Administration Board for final publication.

The Department remains opposed to the proposed SHCC language for the following reasons:

1. The Department believes that a prospective, blanket denial of potential Medicaid eligibility is unfair; at the very least, this manual is not the appropriate place or mechanism to, in effect, set Medicaid eligibility criteria.

2. The Department is not prepared to categorically state that an individual entering a CCRC can never or should never legitimately become Medicaid-eligible.

3. If the SHCC language is implemented it is likely that CCRCs will market only to the very poor or the very wealthy, as they will be discouraged from marketing to middle-income persons who will never be able to obtain Medicaid for long-term care and never be able to pay large enough entrance fees to cover long-term care costs.

4. Finally, the Department does not believe it is proper or fair to "develop guidelines to assure that continuing care retirement communities may apply for Medicaid funding only for such persons who are admitted on a free or substantially reduced cost basis," nor does it believe it is the appropriate agency to develop what are, in effect, Medicaid eligibility guidelines.

In regard to Medicaid's comments, and in addition to the above, it must be noted that the intent of these rules is to encourage and promote the development of CCRCs. Also, the proposed amendments delete the term "life care" since the industry now usually markets only to residents who do **not** turn over **all** their assets for lifetime care.

The intent of these rules is to ensure that the CCRC commits to providing long-term care services to all residents. The second full sentence of section 3.3(a)6.iv. states that the required "contract shall clearly disclose the long-term care services arrangement and will be reviewed to ensure that residents will have continued access to the long-term care beds at affordable rates and as Medicaid recipients if they become Medicaid eligible." Only if the Department is assured that all residents have such "continued access" will an application be accepted under these rules. If an applicant discloses, as the third sentence requires, that some residents may be denied access to long-term care, then the Department may not accept that application for processing under the CCRC exemptions. However, this sentence should be retained so that if such contract denial occurs by any approved applicant whose Certificate of Need reviewed and approved contract did **not** disclose this fact, such Certificate can be declared null and void.

Insofar as the quoted Medicaid statutes are concerned, it is the Department's conclusion that these statutes should be fairly enforced and implemented in a manner deemed appropriate by the Medicaid program.

The Department essentially agrees with the comments of the Presbyterian Homes and Manger, Kalison, Murphy, and McBride as they relate to the issue of the SHCC language for this section. The Department does not agree with Life Care Services Corporation that future passage of a CCRC law will make this section redundant. The long-term care facility portion of a CCRC will still require a certificate of need and, at this point in time, review criteria in this policy manual are necessary.

The Department agrees with Presbyterian Homes that the marketing study also required by this section should be made more specific and accepts the language recommended by this commentor. Thus, the fourth full sentence of this section should be amended to read:

In addition, a copy of the marketing study conducted for the proposed continuing care retirement community must be submitted with the application. This study shall include economic and demographic analysis addressing a specific service area, an estimated total project cost factor, the target income group(s), the cost structure of the CCRC as compared to the income levels of the population in the proposed service area, and the estimated number of potential CCRC residents currently residing in the proposed service area.

Comment:

The Medicaid program also commented that "After reading N.J.A.C. 8:33H-3.3(a)6vi, it is not clear why no more than 30% of the occupants of the LTCF may be drawn from outside the residential community and why the minimum number of Medicaid eligibles for this group is set at 35%. It does not appear as if these continuing care and life care communities will lessen the financial burden of the Medicaid program and it is unclear why any regulatory plan for Medicaid occupancy and/or discrimination should not apply to these communities."

Life Care Services Corporation noted that they "generally concur with the 35 percent Medicaid eligible patient mix."

Response:

Standard III-06 notes that CCRCs which seek to construct a long-term care facility may apply for exemption from the long-term care bed need, utilization criteria, and batching cycle requirements. CCRCs meeting the requirements of this standard are granted exemption from the general population long-term care bed need methodology when they provide assurance that their long-term care facility will **not** substantially serve the general population. Thus, the rules permit them to use only 30 percent of their beds for the general population after five years, while 70 percent must serve the CCRC population. The 35 percent Medicaid minimum for those beds serving the general population is the same required of all new long-term care facilities.

Comment:

Medicaid also commented that "N.J.A.C. 8:33H-3.3(a)6ix appears to require greater specificity in order to provide more protection for the residents of the communities. In subsection ix, the term 'gives up operation of the community' can mean a sale of the assets of the corporation which runs the community, a transfer of its shares, or a bankruptcy action by the corporation. Furthermore, if this eventuality occurs, this subsection provides that the long-term care beds will revert to the general pool of long-term care beds for that planning area and the residents will no longer have priority for those beds."

The Life Care Services Corporation commented "that this section is vague and under provisions of the proposed CCRC contract act, it may be impossible for a facility registered under the act to revert to any non-life-care use. We suggest this section be dropped."

Response:

The Department does not understand Medicaid's concerns with this section, especially since no alternative language was suggested.

In addition, it is not felt that this section is vague and we do not believe it should be dropped because a certain action "may" not be possible under a bill yet to be enacted by the legislature.

Comment:

In commenting on 8:33H-3.3(a)6v, Medford Leas noted that it "requires that within five years at least 70% of the occupants of the long-term care facility be drawn exclusively from the sponsoring CCRC. Depending on many factors, including provisions for supportive services in the residential units, 70 percent of the long-term care facility may not be occupied by residents in five years. Such a provision may subtly affect the administration of the facility, encouraging them to prematurely move residents into long-term care. A more realistic time frame might be 70 percent within seven years, and 85 percent within nine years. While this change would increase the amount of time allowed for primarily using the facility for residents, it does add additional restrictions by adding the 85 percent within the nine years.

Life Care Services Corporation and NJANPHA had similar concerns with this section. The former cited a Wharton School study of CCRCs "which estimated utilization of total health center **beds** in year 5 to be from 20 to 57 percent. If only an average of 37 percent of the total **beds** are needed for residents and those **residents must constitute 70** percent of the total population, then some health center beds will remain empty. We believe the mandated maintenance of these empty beds would be an undue financial burden on the life-care community."

NJANPHA argues similarly to Medford Leas and suggest "70 percent occupancy by residents is appropriate between the seventh to ninth years, and that 85 percent occupancy is a reasonable standard after ten years."

Response:

As noted above, the 70 percent CCRC resident/30 percent general population standard for the long-term care beds was promulgated because beds in the CCRC are exempted from the general population long-term care bed need methodology. In addition, while a minimum of 35 percent of the general population beds must be reserved for Medicaid-eligible persons, non-CCRC long-term care applicants competing for a limited number of approvals always: offer a greater Medicaid percentage; are required to offer construction of residential health care beds and access to these beds by Supplemental Security Income (SSI) recipients; are required to take, within the 35 percent Medicaid, 7 percent patients discharged pending placement (DPPs) from state and county psychiatric hospitals. Permitting the CCRCs long-term care beds to be exempt from the methodology and these other requirements and yet attempt to serve a substantial portion of the general population for a long-period of time is not fair to non-CCRC long-term care applicants or existing facilities in the CCRC service area.

The Department still feels that with proper patient management the required percentages are not unreasonable. And if occupancy does fall, there is no reason that the beds cannot be filled with persons needing respite care, that is, persons living with their families who must be for a limited period placed in a long-term care facility while their family vacations or is otherwise required to be away.

As will be also noted below, the eventual passage of CCRC legislation likely will require future amendments to these rules. The Department will continue to study this percentage issue with the industry and make any required changes when future amendments are proposed.

Comment:

The Presbyterian Homes commenting on 8:33H-3.3(a)6ii noted that "Financing is rather complex and a guaranteed loan commitment is usually not available until economic and demographic studies have been completed and the continuing care retirement facility is well along in its development process. Would it not be possible to state that a letter of intent from a reliable financial institution be required and that the proposed project site be owned or under a non refundable option to purchase? Such stipulations would eliminate speculation by developers and others trying to take advantage of the policy."

Manger, Kalison also commented that "The requirements set forth in this subsection need clarification. The applicant is given no information of what plan, preliminary construction or the application itself, the Department refers to. Additionally, the applicant is directed to provide 'evidence' that financing has been approved. Depending on the nature of the evidence required, this requirement may be reasonable or may be, from a practical perspective, unfeasible. For example, proof that financing has been approved as reflected in a commitment from a lender would be reasonable. On the other hand, if the Department requires details on the exact terms of the loan prior to zoning approvals or months before the loan closed, this information could not realistically be provided."

Life Care Services Corporation also commented on this section and noted that "the requirement to provide evidence of financing **before** the review of any plans by the Department of Health, we believe represents not only an unreasonable delay to the consumer but may also be impossible to comply with. The commitment by a lender to finance a project is typically contingent on obtaining **all** the necessary approvals to initiate the project including the certificate of need, registration of the continuing care contract where required, and other required permits and certificates. As the proposed continuing care contract act would also delay the release of escrowed deposits until 50 percent of the units were marketed, the marketing program would also likely have to be well underway before a loan commitment would be given. Without some review of plans, it is doubtful any financing commitment would be given. For the elderly consumer, who has made a significant cash deposit to enter the CCRC, this guideline would also mean an added wait of several months' beyond the completion of marketing and construction while the entire project came to a halt waiting for approval of plans. Another unresolved issue is whether the registration required for financing under the proposed CCRC contracts act would be possible prior to obtaining a CON."

Response:

The Department essentially agrees with these commentors that it may be impossible to comply with this section. Therefore, the Department proposes amending this section to read:

Before the Department will review any **architectural** plans for the long-term care facility, the applicant will provide evidence to the Department of Health that **a financing commitment has been obtained from a commercial bank or other reliable lending source** for both the long-term care facility and the residential housing, which specifies the number of long-term care beds and residential units **for which commitment has been obtained**.

Comment:

Life Care Services Corporation commenting on 8:33H-3.3(a)6 noted that they "are very concerned that a minimum number of residential units is still being included in the guidelines. As we and others submitting comments on the previous guidelines pointed out, this restriction severely limits the availability of sites to develop CCRCs in New Jersey, as local zoning restrictions may frequently prohibit this degree of density. Despite the proposed reduction to 240 residential units, we still believe this minimum is arbitrary and unduly restrictive. Such a restriction would be particularly vexing for sites where the zoning restrictions might prohibit meeting this quota by only a few units, for example, 235 or 230 total units.

Secondly, we find no evidence to support the use of 240 units, nor 300 for that matter, as minimum feasible size. In a survey of over 200 operating CCRCs nationwide conducted by the University of Pennsylvania's Wharton School in 1983, the median size of CCRCs surveyed was only 165 units and the median size for CCRCs built since 1970 was only 217 units. Only four of the more than 200 CCRCs surveyed had more than 400 units and only 27 percent had more than 250 units. Thus, we believe that this 240 unit minimum is only an arbitrary quota and is not related to feasibility or operational efficiency and serves merely to artificially restrict the development of CCRCs in the state of New Jersey.

It should also be noted that a CCRC sponsor, in absence of this artificial minimum, would still have to prove the feasibility of the project to the Department of Health, under the proposed CCRC contract legislation, to the Department of Community Affairs **and** in addition to the lenders financing the project. We believe that this represents a more stringent test of feasibility than is applied to any other health care facility in the state and makes an artificial minimum number of units wholely unnecessary."

NJANPHA also objects to the minimum residential unit size and notes that "many CCRCs smaller than the mandated size function quite successfully. An arbitrary threshold would detract from the health of CCRC's in general."

Response:

As noted previously, the long-term care portion of a CCRC is exempt from many requirements. The general population bed need formula targets 4.0 beds per 100 persons age 65 to 74 and 4.5 beds per 100 persons age 75 and over. Assuming 240 residential units, each with 2 residents for a total of 480 persons, and a 60 bed long-term care unit, this yields a CCRC bed population ratio of over 12 beds per 100 persons, substantially higher than the bed need formula. Since it is often the case that persons entering CCRCs are healthier than the general elderly population, the Department believes this requirement is quite liberal. It is necessary to have some ratio to ensure that the CCRC population is large enough to support most of the long-term care beds approved for the community. A smaller required number of residential units, or no number at all would simply provide incentives for the CCRC long-term care facility to attempt to serve more of the general population.

Comment:

Manger, Kalison, commenting on N.J.A.C. 8:33H-3.3(a)6x note that "the requirement that construction of residential and the long term care facility be constructed simultaneously is unworkable from a financing and marketing perspective. The Department's concern, which is admittedly legitimate, is that continuing care communities will be used as a means to erect freestanding long term care facilities without complying with the long term care bed need and utilization requirements. Concurrent construction may be feasible with a small continuing care community. However, where the residential units exceed 300 or 400, the requirement of concurrent construction could jeopardize the project. From a financial perspective, unless the sponsor of the community individually has or has access to considerable assets, financing the complete construction of the residential units and health care facility may not be possible. Because of the initial capital outlays required in these projects, a requirement that the whole project be financed at the same time could jeopardize the financial viability of the entire project. A return on part of the investment is necessary in order to proceed with a large project in a financially reasonable manner. Additionally, it may be financially unproductive to erect 400 residential units when only 200 have been marketed. From a marketing perspective, it is essential to have the health care facility available to the residents of the community as they make their membership commitments. This is because many people who consider becoming members of such a community have had a health scare of some kind, and therefore seek the psychological comfort of having a health care facility available on the premises. Thus, construction of the residential units prior to the health care facility is not a practical solution.

Given the above considerations, we would suggest that a mechanism that permits phasing in residential units be considered, particularly with larger projects. The Department can impose other reasonable conditions to assure itself that the applicant is acting in good faith and intends to complete the entire project. This approach not only addresses the Department's concern, it also provides the applicant with the flexibility required to respond to the needs of the retirees, and the project."

Life Care Services Corporation suggests "modifying this guideline by striking words 'minimum required' and adding after the word units 'as specified in the application.' The purpose of this change is to bring this section into agreement with the elimination of the minimum residential unit requirement in section 6. This wording, however, holds the developer to building the number of living units specified in the application in an also specified time frame."

Response:

The Department disagrees with these comments. It faces a very practical problem of not wanting to approve construction of large long-term care units that cannot be supported by the number of residential units also being simultaneously constructed. For example, approval of 120 long-term care beds and construction of 240 residential units with an additional 240 to be phased-in at a later date is simply asking for trouble. If for any reason, the additional 240 units cannot be phased-in, then the remaining 240 units cannot support a 120 bed long-term care facility and the CCRC will be forced to attempt to market long-term care services to the general population. If a developer is desirous of constructing 480 units in phases of 240 each, it is suggested that the 120 beds be constructed in phases of 60 each, each phase requiring a certificate of need.

Comment:

Medford Leas, Meadow Lakes, Presbyterian Homes, and Life Care Services Corporation commented on 8:33H-3.3(a)6xii.

Medford Leas noted that this section "offers special consideration to some rental units without providing sufficient guidelines to ensure against possible unfavorable financial advantage. A long term care facility adjacent to a rental housing unit could have an unfair financial advantage compared to most other nursing homes in New Jersey. The inducement resolution of the New Jersey Housing and Mortgage Finance Agency does not necessarily mean that the overall rental income for the facility would be lower than comparable facilities in that area that have not received special inducements. This section does not speak to the issue of who will be the patients in the long term care facility; will they be primarily former residents of the rental units and will they be required to conform to the New Jersey legislation regarding Medicaid occupancy levels. These issues need clarification before the proposed Long Term Care Policy Manual is adopted."

Presbyterian Homes asked if it "would not be possible to add to this paragraph the fact that mortgages can also be FHA insured or conventional?"

Meadow Lakes commented that "until the New Jersey Housing and Mortgage Finance Agency can develop more specific guidelines for funding, I believe rental projects should not receive consideration for exemption from the full Certificate of Need process."

Life Care Services Corporation noted that they "concur" with this section.

Response:

The Department appreciates these comments and generally agrees with them. Rental units are not generally entitled to exemptions. However, since this field is dynamic and changing rapidly, the Department believes that it is appropriate to consider for exemption, in consultation with the New Jersey Housing and Mortgage Finance Agency, certain rental projects directed toward low and moderate income persons.

Comment:

Medford Leas and the NJANPHA asked that 8:33H-3.3(a)7 concerning SSI recipient access to residential health care beds not apply to CCRCs that offer such care.

Response:

The Department agrees with this concept. Rather than amend this section, it is more appropriate to amend 8:33H-3.3(a)6xi by adding the following new sentence:

Such beds may be counted as residential units in meeting the required 4:1 ratio of residential units to long-term care beds and they shall not be subject to the criteria stated at N.J.A.C. 8:33H-3.3(a)7.

The Department believes that residential health care beds will be a valuable addition to CCRCs and should be encouraged. However, since such beds are more oriented toward providing supportive and personal care services as opposed to health care services, it is felt that it is appropriate to enable them to be counted as residential units.

Comment:

Life Care Services Corporation also noted that they concurred with 8:33H-3.3(a)6i, vii, viii, and agreed with iii "providing that the work (sic) "contract" is defined as "the applicant's possession of the contractual right to acquire, at the applicant's option, control of the project site by fee simple title or leasehold interest."

Response:

The Department believes that 8:33H-3.3(a)6iii is clear as written.

Comment:

Life Care Services Corporation and the NJANPHA also commented extensively on the relationship between these rules and proposed CCRC legislation being considered by the legislature. They are chiefly concerned that these rules and the law are compatible.

Response:

The Department shares this concern. The proposed legislation and these rules are generally compatible. However, final legislation has not been debated and enacted as of June 26, 1985. The Department acknowledges the fact that once legislation is enacted, it will be obligated to study the law and recommend appropriate changes in these rules.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:33H.

Full text of the adopted amendments and changes upon adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks *[thus]*).

8:33H-3.3 Expansion and new construction

(a) Standards are as follows:

1.-3. (No change.)

4. Standard III-04, alternatives to long-term care beds: Certificate of Need applicants for long-term care beds shall propose the inclusion of institutional (residential health care, congregate housing, for example) and non-institutional alternatives to inpatient long-term care beds. Applicants are instructed to consult with the Department's health planning staff in regard to alternatives appropriate to their projects, as well as the long-term care sections of the State Health Plan, prior to submission of an application. A written commitment to construct long-term care beds and their appropriate alternatives on a concurrent basis shall be submitted with the application and will be included as a condition of approval.

5. (No change.)

6. Standard III-06, continuing care retirement communities. Such communities are defined as those that combine independent living accommodations for the elderly with the provision of social and health care services, including post-acute and chronic nursing home care, through an agreement to provide such continuing care for the term of a contract, frequently for the duration of a resident's life, in return for an entrance fee or periodic payments or both, in the event such care is required by residents. Those communities seeking Certificate of Need approval to construct an on-site long-term care facility, which meet the above definition as determined by the Department of Health and contain a minimum of 240 residential units, may apply for exemption from the long-term care bed need, utilization criteria, and batching cycle requirements. Such projects will be included in the Certificate of Need full review process; however, the process may be expedited with the concurrence of the local Health Systems Agency. Applicants shall apply for the above exemptions by submitting all of the following required documentation:

i. The ratio of residential units to long-term care beds is not less than 4:1, based upon initial schematic drawings, as well as the subsequent submission of construction plans as requested by the Department.

ii. Before the Department will review any ***architectural*** plans for the long-term care facility, the applicant will provide evidence to the Department of Health that ***a*** financing ***commitment*** has been *[approved]* ***obtained from a commercial bank or other reliable funding source*** for both the long-term care facility and the residential housing, which specifies the number of long-term care beds and residential units *[approved for financing]* ***for which commitment has been obtained***.

iii. Before the Department will approve final construction plans for the long-term care beds, the applicant will provide evidence of: control of the project site, either by fee simple title or lease or contract that extends beyond the life of the buildings; zoning and variance approvals for the residential units; and the required financing commitments.

iv. A copy of the resident contract or agreement to provide continuing care, including the health care and other services to be offered; term or duration of the contract; projected charges, including entrance fees and/or periodic monthly payments; and resident's rights, with the recognition that this information will be provided to residents in non-technical language. The contract shall clearly disclose the long-term care services arrangement and will be reviewed to ensure that residents will have continued access to the long-term care beds at affordable or reduced rates and as Medicaid recipients if they become Medicaid eligible. The contract shall fully disclose whether the residents may be denied long-term care services if they cannot spend down their resources to Medicaid eligibility levels due to excessive monthly income or other applicable circumstances. In addition, a copy of the marketing study conducted for the proposed continuing care retirement community *[, which includes economic and demographic analysis, shall be submitted with the application]* ***must be submitted with the application. This study shall include economic and demographic analyses addressing the proposed service area, a proposed total project cost factor, proposed target income groups, the proposed cost structure of the CCRC as compared to the income levels of the population in the service area, and the estimated number of potential CCRC residents currently residing in the proposed service area***.

v. Within five years of occupancy of the first residential unit, at least 70 percent of the occupants of the long-term care facility will be drawn exclusively from the sponsoring continuing care retirement community.

vi. After five years of occupancy of the first residential unit, no more than 30 percent of the occupants of the long-term care facility may be drawn from outside the continuing care retirement community and, of this group, at least 35 percent must be Medicaid-eligible persons.

vii. Patients occupying a bed in the long-term care facility who did not originally come from the continuing care retirement community are allowed to remain as long as their need exists, regardless of the number of residents who are waiting for long-term care services.

viii. The long-term care facility will conform to all Federal and State licensure, construction, and inspection laws and regulations.

ix. If for any reason the corporation owning the continuing retirement care community gives up the operation of the community and the residential units in effect become the same as any other residential units on the open market, the long-term care beds will revert to the general pool of long-term care beds for that planning area and the residents will no longer have priority for those beds. If any organization that receives a Certificate of Need for the long-term care bed portion of a continuing care retirement community relinquishes the ownership of the residential unit of that community, it must also relinquish ownership of the long-term care facility.

x. The long-term care facility will be constructed subsequent to or simultaneous with the residential units. The applicant will accept this requirement as a condition of approval based upon recognition that the Certificate of Need for the long-term care facility is contingent upon construction of the minimum required number of residential units, and that if these units are not constructed the Certificate of Need is null and void.

xi. Applicants may add residential health care facility beds to enhance the economic viability of the project. ***Such beds may be counted as residential units in meeting the required 4:1 ratio of residential units to long-term care beds and they shall not be subject to the criteria stated at N.J.A.C. 8:33H-3.3(a)7.***

xii. Rental projects are not entitled to the stated exemptions for long-term care beds. However, the Department of Health will review under these criteria and give careful consideration to any continuing care retirement community rental project that has obtained an inducement resolution by the New Jersey Housing and Mortgage Finance Agency for low and moderate income persons.

7. Standard III-07, utilization of new and/or additional beds by Supplemental Security Income recipients: Residential health care facilities seeking Certificate of Need approval to add beds to an existing facility or to construct a new facility, which includes both freestanding facilities and beds in a long-term care facility, will be required to comply with the following utilization criteria:

i. Minimum of 10 percent of total residential health care bed complement must be occupied by direct admission Supplemental Security Income recipients or eligibles no later than one year from license issuance;

ii. Facility must continue to maintain direct Supplemental Security Income Admissions to a minimum of 10 percent of its total residential health care bed complement thereafter;

iii. Facility must reflect this requirement for preferential direct Supplemental Security Income admissions as part of its written admission policies.

(b) Guidelines are as follows:

1. (No change.)

2. Guideline III-02, exception to Standard III-03, addition of beds: If an applicant cannot submit the documentation required in Standard III-03, (a)3ii above, for long-term care beds, new or additional beds may still be approved if the request is for no more than 10 beds or a hospital requests the exchange of acute care beds for long-term care beds on a one for one basis. Wherever there is a long-term care bed need for less than a usual full-sized facility of 120 beds, only additions to existing facilities in accordance with N.J.A.C. 8:33H-3.1(a)1ii will be approved.

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Standards for Licensure of Residential Health Care Facilities Administration

Adopted New Rules: N.J.A.C. 8:43-4

Proposed: May 20, 1985 at 17 N.J.R. 1231(a).
Adopted: July 18, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of Health Care Administration Board).
Filed: July 19, 1985 as R.1985 d.412, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): August 19, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adopted new rules appears in the New Jersey Administrative Code at N.J.A.C. 8:43-4.

(b)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Adopted Amendments: N.J.A.C. 8:71

Proposed: May 6, 1985 at 17 N.J.R. 1043(a).
Adopted: July 19, 1985 by the Drug Utilization Review Council, James Perhach, Ph.D., Acting Chairman.
Filed: July 19, 1985 as R.1985 d.410, **with portions** of the proposal **not adopted**, and **other portions** of the proposal not adopted but still **pending**.

Authority: N.J.S.A. 24:6E-6b.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

Regarding disopyramide: Searle Pharmaceuticals objected to the proposed generic substitutes for their branded product, Norpace, citing the use of disopyramide in elderly, very ill patients, the narrow therapeutic range for the medicine, the nonlinear protein binding, and thus the potential for serious clinical problems were the generics to be used in place of Norpace.

Dr. Blumberg, a cardiologist present to support Searle's contentions, added that patients (as contrasted to subjects) display large variation in their responses to disopyramide, that average blood level data are not predictive of individuals' responses, and that the saving to the patient through the use of the generic would be greatly outweighed by new laboratory tests and extra monitoring necessitated by the changeover to the generic.

Dr. Perkal, representing the viewpoint of the generic companies, pointed out that the data comparing the generics to the brand are very close.

The Drug Utilization Review Council acted to add the generic disopyramides to the N.J. generic Formulary because the blood level data provided by the generic companies were so close to the Norpace levels that no clinically detrimental effects could be expected in patients who switched from the brand to the generics. In addition, the U.S. Food and Drug Administration has judged that both of the proposed generics are therapeutically equivalent to Norpace.

Regarding thioridazine: Representatives from Sandoz, the manufacturer of the branded product, Mellaril, objected to the proposed generic substitutes on the ground that some of the assays were not adequate and also questioned the statistical "powers" as calculated by the generic companies. In addition, Sandoz stated that the FDA had not yet responded to Sandoz's request to review the general area of thioridazine bioequivalency, and that newly-emerging data from studies commissioned by Sandoz in Florida's and Michigan's Medicaid programs would show that the use of generics was clinically detrimental.

The Drug Utilization Review Council acted to add several generic thioridazines to the N.J. generic Formulary despite these objections because the assays were adequate to satisfy the FDA, the new data were not yet available and were of questionable applicability to New Jersey, and the statistical objection was considered of no clinical importance.

The following products and their respective manufacturers were **adopted**:

Allopurinol tabs 100, 300 mg	**Bolar**
Aminophylline tabs 200 mg	**Cord**
Antipyrine/benzocaine otic soln	**Pharmafair**
Bacitracin/polymyxin B. ophth. oint.	**Pharmafair**
Bacitracin/neomycin/polymyxin B ophth oint	**Pharmafair**
Belladonna/phenobarbital elixir	**Naska**
Bromodiphenhydramine/codeine P04 syrup	**NPC**
Disopyramide caps 100, 150 mg	**Biocraft, Danbury**
Ephedrine/theophylline/hydroxyzine syrup	**Naska**
Ergoloid mesylates S.L. tabs 0.5, 1.0 mg	**Barr**
Erythromycin ophth. oint.	**Pharmafair**
Erythromycin topical soln 1.5%	**Pharmafair**
Fluocinolone acetonide soln 0.01%	**Pharmafair**
Fluocinolone aceton. oint, crm .01%, .025%	**Pharmafair**
Gentamicin crm, oint 0.1%	**Pharmafair**
Hydroxyzine HC1 tabs 10, 25, 50 mg	**Purepac**
Metronidazole tabs 250, 500 mg	**Ortho**
Neomycin/polymyxin/dexamethasone ophth soln	**Pharmafair**
Neomycin/dexamethasone opth soln	**Pharmafair**
Nystatin oral susp 100,000 U/ml	**Pharmafair**
Phenazopyridine HC1 tabs 100, 200 mg	**Amer. Ther.**
Prednisolone sod phos 0.125% ophth soln	**Pharmafair**
Promethazine/codeine syrup	**NPC**
Promethazine/dextromethorphan syrup	**NPC**
Promethazine/phenylephrine/codeine syrup	**NPC**
Promethazine/phenylephrine syrup	**NPC**
Procainamide HC1 long-acting 250, 500 mg	**Bolar**
Thioridazine HC1 tabs 10, 15, 25, 50, 100 mg	**Bolar**
Trifluoperazine HC1 tabs 1, 2, 5, 10 mg	**Duramed**
Tropicamide ophth soln 0.5%, 1.0%	**Pharmafair**

The following products and their manufacturers were **not adopted**:

Brompheniramine compound E.R. tabs (Dimetapp formula)	Amer. Ther.
Chlorthalidone tabs 25, 50 mg	Pharm. Basics
Oxyphenbutazone tabs 100 mg	Bolar
Reserpine/Hydralazine/HCTZ tabs	Barr
Reserpine/hydroflumethiazide tabs	Zenith

The following products remain **pending**

Aminophylline tabs 100 mg	Cord
Acetic acid/aluminum acetate otic soln	Pharmafair
Chlorpropamide tabs 100, 250 mg	Barr
Chlordiazepoxide/clidinium Br. caps	Amer. Ther.
Dipyridamole tabs 25 mg	Bolar
Dipyridamole tabs 25, 50, 75 mg	Barr, Sidmak
Doxycycline hyclate tabs 100 mg	Barr
Furosemide tabs 80 mg	Lederle
Hydroxyzine pamoate caps 25, 50, 100 mg	Barr
Ibuprofen tabs 600 mg	Chelsea
Isosorbide dinitrate S.L. tabs 10 mg	Barr
Isosorbide dinitrate tabs 20, 30 mg	Barr
Methyclothiazide tabs 5 mg	Pharm. Basics
Methyclothiazide/deserpidine tabs	Pharm. Basics
Phenazopyridine/sulfisoxazole tabs	Amer. Ther.
Phentermine caps 30 mg	Chelsea
Prenatal vitamins (Stuartnatal 1+1 formula)	Amer. Ther.
Propranolol tabs 10, 20, 40, 80 mg	Lederle
Propranolol tabs 10, 20, 40, 60, 80 mg	Chelsea, Schering
Procainamide HC1 long-acting tabs 750 mg	Bolar
Sulfamethoxazole/trimethoprim tabs 400/80, 800/160 mg	Par, Barr
Thioridazine HCL tabs 100 mg	Cord
Thioridazine HCL tabs 10, 15, 25, 50, 100 mg	Zenith
Thioridazine HC1 tabs 150, 200 mg	Barr
Warfarin sodium tabs 2, 2.5, 5 mg	Pharm. Basics

OFFICE OF ADMINISTRATIVE LAW NOTE: The drugs Sulfamethoxazole tabs 500 mg manufactured by Bolar and Thioridazine HCL tabs 100 mg manufactured by Chelsea as appeared at 17 N.J.R. 1044 should not have been proposed as additions to the List of Interchangeable Drug Products. These drugs have previously been adopted and are currently on the list.

Also, the product Betamethasone Valerate Oint., Cream 0.1% was proposed as being manufactured by Pharmafair. In fact, however, Pharmafair does not manufacture such a product and should not have been proposed as the manufacturer. The correct manufacturer for this product should have been NMC. The Drug Utilization Council expects to propose in the near future NMC as the correct manufacturer of this product.

(a)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Adopted Amendments: N.J.A.C. 8:71

Proposed: January 21, 1985 at 17 N.J.R. 158(a).
Adopted: July 19, 1985 by the Drug Utilization Review Council, James Perhach, Ph.D., Acting Chairman.
Filed: July 19, 1985 as R.1985 d.415, **with portions** of the proposal **not adopted** but still **pending**.

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

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

Regarding methyldopa: Merck Sharp & Dohme objected to the proposed addition of generic substitutes for their product, Aldomet. Merck specifically cited the greater variability of the generics as compared to Aldomet, the lack of adequate clinical studies in patients, the highly variable absorption of methyldopa, the lack of correlation of blood levels to the blood pressure response, and anecdotal reports of adverse reactions in people taking the generic.

The Drug Utilization Review Council countered these objections by noting that the data provided by the manufacturers of the generics show highly similar blood concentrations of the generics as compared to Aldomet. Dr. Hutcheon stated that the differences seen could not possibly cause clinical problems in patients.

It was also noted that Merck, in earlier comments opposing Cord's methyldopa products due to their use of sulfites, had stated that Merck would not be opposing any methyldopa generics which do not contain sulfites because there were no bioequivalency issues with such products.

In summary, the Drug Utilization Review Council voted to add the methyldopa generics to the New Jersey Formulary because the data provided by their manufacturers unequivocally showed bioequivalency to Aldomet, as verified by the U.S. Food and Drug Administration.

The following products and their respective manufacturers were **adopted**:

Diphenhydramine HCl caps 25, 50 mg	**Superpharm**
Diphenoxylate/atropine tabs 2.5 mg	**Superpharm**
Methyldopa tabs 250, 500 mg	**Mylan**
Methyldopa tabs 125, 250, 500 mg	**Chelsea**
Chlorpropamide tabs 100, 250 mg	**Superpharm**
Tolbutamide tabs 0.5 g	**Superpharm**

The following products and manufacturers were **not adopted** but are still **pending**:

Hydroxyzine HCl tabs 10, 25, 50 mg	Sidmak
Meclizine HCl tabs 12.5, 25 mg	Sidmak
Chlordiazepoxide HCl caps 5, 10, 25 mg	Superpharm
Chlorpropamide tabs 250 mg	Drummer/ Phoenix
Dipyridamole tabs 25, 50, 75 mg	Par, Sidmak, Superpharm
Hydroxyzine pamoate caps 25, 50, 100 mg	Superpharm
Sulfamethoxazole/trimethoprim tabs 400/80, 800/160 mg	Chelsea, Heather, Superpharm

Office of Administrative Law Note. Related Notices of Adoption appear at 17 N.J.R. 1295(a) and 17 N.J.R. 1562(a).

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Transportation Services Manual Oxygen Equipment and Transportation Charges

Adopted Amendments: N.J.A.C. 10:50-1.2, 1.5, 1.6

Proposed: June 3, 1985 at 17 N.J.R. 1373(a).

Adopted: July 26, 1985 by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.

Filed: July 29, 1985 as R.1985 d.427, **without change.**

Authority: N.J.S.A. 30:4D-6b(15); 42 CFR 431.53.

Effective Date: August 19, 1985.

Expiration Date pursuant to Executive Order 66 (1978): August 22, 1988.

Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the adoption follows.

10:50-1.2 Definitions

"Carrier" (No change.)

1. (No change.)

2. (No change.)

i. (No change.)

ii. The following are the equipment, supplies, personnel and vehicle requirements for invalid coach:

(1) Equipment and supplies; walk-in type van equipped and supplied as follows:

(A)-(G) (No change.)

(H) (No change.)

(I) (No change.)

(J) (No change.)

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

iii. Optional equipment:

(1) Oxygen administration devices may be carried in the vehicle, but must comply with New Jersey Department of Health regulations (see N.J.A.C. 8:40-4.9).

3. (No change.)

10:50-1.5 Basis of payment

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

(e) Invalid coach service shall be reimbursed on the basis of customary charge, not to exceed the following maximums:

1. Transportation charge, one way, per patient—$17.00;

2. Transportation charge, round trip, per patient—$34.00.

i. The limit as to the number of patients being carried at one time is three (exception: see (j) below). A carrier when performing round-trip services shall be responsible for completing each round-trip obligation by honoring the return trip if occurring within 24 hours from the original pickup time. This responsibility is interpreted to include the carrier's guarantee that if he does not perform the return trip himself that arrangements are to be made with another transportation company to do so with no additional expenses to the Medicaid Program.

3. (No change.)

i. (No change.)

4. (No change.)

(f)-(i) (No change.)

(j) The Medicaid Program has special conditions for invalid coach services for patients receiving dialysis treatment who require invalid coach transportation.

1. The Medicaid program does not pay for waiting time for patients transported to receive dialysis treatments.

2. Prior authorization is required for invalid coach services for patients receiving dialysis treatment; however, services may be authorized for up to three calendar months at a time.

3. The Program limits the number of persons in a multiple load for dialysis treatments to four.

Delete 5. and 6.

10:50-1.6 Transportation services; maximum allowable fees

(a) The following procedure codes, description and maximum allowances are recognized for reimbursement by the New Jersey Medicaid Program.

PROCEDURE CODES	DESCRIPTION	MAXIMUM ALLOWANCE
6101	Ambulance—One Way	$24.00
6102	Ambulance—Round trip	$48.00
6111	*Invalid coach—one way, per patient	$17.00
6113	Invalid coach—round trip, per patient	$34.00
6103	Mileage—Ambulance	$0.80 per loaded mile
6103	*Mileage—Invalid coach	$0.80 per loaded mile
6109	Waiting time—Ambulance—One-way trip only:	
	1/4 hour	$2.50
	1/2 hour	$5.00
	3/4 hour	$7.50
	1 hour	$10.00
6110	Waiting time—Invalid coach—One-way trip only:	
	1/4 hour	$1.25
	1/2 hour	$2.50
	3/4 hour	$3.75
	1 hour	$5.00
6119	Oxygen 1/2 hour minimum	$6.00 per 1/2 hour

*Maximum of three patients for invalid coach at one time, except for patients transported to receive dialysis treatments where a maximum of four patients is allowed. Medicaid will pay mileage for only one patient in a multiple load from the farthest location to the destination (and back if a round trip). Provider must submit all claims for multiple-load patients together and certify on the claim forms that they are charging mileage only for the one patient who is being transported the farthest distance.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Prosthetic and Orthotic Services Manual, Medical Supplier Manual Fees for Shoe Appliances

Adopted Amendments: N.J.A.C. 10:55-3.1, 10:59-1.7, 10:59-3.2(b)

Adopted New Rules: N.J.A.C. 10:59-1.13 and 1.14

Proposed: June 17, 1985 at 17 N.J.R. 1522(a).

Adopted: July 29, 1985 by Geoffrey S. Perselay, Esq., Acting Commissioner, Department of Human Services.

Filed: July 29, 1985 as R.1985 d.429, **without change.**

Authority: N.J.S.A. 30:4D-6b(6), 7, 7a, 7b.

Effective Date: August 19, 1985.

Operative Date: September 1, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): June 4, 1989 for 10:55-3; August 15, 1989 for 10:59-1; August 19, 1990 for 10:59-3.

Summary of Public Comments and Agency Responses: **No comments received.**

Full text of the adoption concerning N.J.A.C. 10:59-1.7, 1.13 and 1.14 follows.

10:59-1.7 Prior authorization

(a) Suppliers providing any of the following items must first obtain prior authorization from the appropriate MDO.

1.-3. (No change.)

4. Orthopedic shoes are covered only under the following conditions:

i. When attached to a brace or bar; and/or

ii. When a part of the normal (customary, usual) post-fracture treatment program; and/or

iii. When used to correct or adapt to gross foot deformities;

iv. For additional information concerning policies and procedures for providers of shoes and shoe appliances, reference is made to N.J.A.C. 10:59-1.12 and 1.13.

5.-20. (No change.)

(b) (No change.)

10:59-1.13 Policy on shoes

(a) Reimbursement for shoes will be made in the following manner:

1. The provider will attach a copy of the invoice to the claim form (MC-11-C4) that is submitted to the Prudential Insurance Company.

i. If there is more than one line item on an invoice, the provider must clearly identify which item corresponds to the entry on item 14 of the claim form;

ii. The item identified on both the invoice and the claim form must correspond to the item that was dispensed to the Medicaid patient.

2. The provider will complete the claim form in the prescribed manner.

i. Providers will continue to use the same procedure code number and narrative description contained in the listing for shoes that is referenced at N.J.A.C. 10:59-3.2(b).

3. The Prudential Insurance Company will process the claim for payment by taking the invoice cost and adding 50 percent to this cost. The sum total of both figures (invoice cost plus 50 percent) will be the amount of reimbursement to the provider

i. If the provider's customary charge is lower than the computed amount (invoice cost plus 50 percent) specified in 3 above, then the provider will be reimbursed on the basis of his/her customary charge.

(b) The Prudential Insurance Company may request additional information from the provider where the invoice cost is excessive in comparison to invoice costs submitted by other providers. An adjustment may be made for invoice costs that are deemed excessive.

10:59-1.14 Common procedures for providers of shoes and shoe appliances

(a) Certain procedures may be performed by providers other than certified prosthetists and orthotists, including pedorthists and shoe dealers. These procedures will be identified by an asterisk (*) next to the procedure code which is referenced, but not reproduced, at N.J.A.C. 10:55-3.1, entitled Prosthetic and Orthotic Code lists, which is a subchapter within the Prosthetic and Orthotic Services Manual.

(b) Providers submitting claims using the asterisk (*) procedure codes must follow all applicable Medicaid policies and procedures.

10:59-3.2 Orthotic appliance codes
(a) (No change.)
(b) Shoes and shoe appliances: Reimbursement for orthopedic shoes will be on the basis of invoice cost plus 50 percent. A list of procedure codes and descriptive nomenclature was filed but is not reproduced herein.

Full text of the adopted amendments to N.J.A.C. 10:55-3.1 "Orthotic and prosthetic code lists" and 10:59-3.2(b) "Orthotic appliance codes" may be reviewed at:

Division of Medical Assistance and Health Services
Quakerbridge Plaza, Bldg. 7
CN 712
Trenton, NJ 08625; or
Office of Administrative Law
Rules and Publications
Quakerbridge Plaza, Bldg. 9
CN 301
Trenton, NJ 08625; and
All Medicaid District Offices

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Independent Clinic Services Manual
Mental Health Services; Prior Authorization

Adopted Amendment: N.J.A.C. 10:66-1.5

Proposed: June 3, 1985 at 17 N.J.R. 1377(a).
Adopted: July 26, 1985 by Geoffrey S. Perselay, Esq., Acting Commissioner, Department of Human Services.
Filed: July 29, 1985 as R.1985 d.428, **without change.**

Authority: N.J.S.A. 30:4D-6b(3), 7, 7a, 7b.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order 66 (1978): December 15, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adopted amendment follows.

10:66-1.5 Prior authorization
(a)-(b) (No change.)
(c) Prior authorization for services rendered by independent clinics is required as follows:
1.-2. (No change.)
3. Mental health services, including partial hospitalization and partial care, exceeding $600.00 in payments to an independent clinic in any 12-month period, commencing with the patient's initial visit. The maximum period of authorization is six months for partial hospitalization and partial care and one year for other mental health services. Additional authorizations may be requested.
4.-5. (No change.)

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Social Services Program for Individuals and Families
Personal Needs Allowance: Residential Health Care Facilities and Boarding Homes

Readoption: N.J.A.C. 10:123-3

Proposed: June 17, 1985 at 17 N.J.R. 1526(b).
Adopted: July 29, 1985 by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.
Filed: July 29, 1985 as R.1985 d.426, **without change.**

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

Effective Date: July 29, 1985.
Expiration Date pursuant to Executive Order 66 (1978): July 29, 1990.

Summary of Public Comments and Agency Response:
No comments received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:123-3.

LABOR

(c)

DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY INSURANCE

Scope

Adopted New Rules: N.J.A.C. 12:15-1.1 and 1.2

Proposed: June 3, 1985 at 17 N.J.R. 1378(a).
Adopted: July 23, 1985 by Charles Serraino, Commissioner, Department of Labor.
Filed: July 25, 1985 as R.1985 d.423, **without change.**

Authority: N.J.S.A. 43:21-1 et seq.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): August 19, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption appears in the New Jersey Administrative Code at N.J.A.C. 12:15-1.1 and 1.2.

LAW AND PUBLIC SAFETY

(a)

BOARD OF PROFESSIONAL PLANNERS

Seal

Readoption: N.J.A.C. 13:41-1

Proposed: May 6, 1985 at 17 N.J.R. 1060(a).
Adopted: June 18, 1985 by Mary Winder, President, State Board of Professional Planners.
Filed: July 26, 1985 as R. 1985 d. 424, **without change.**

Authority: N.J.S.A. 45:14A-4 and 45:14A-12.

Effective Date: July 26, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): July 26, 1990.

Summary of Public Comment and Agency Responses: **No comments received.**

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:41-1.

PUBLIC UTILITIES

(b)

OFFICE OF CABLE TELEVISION

Pole Attachment Rate Methodology

Readopted New Rule: N.J.A.C. 14:18-2.9

Proposed: June 17, 1985 at 17 N.J.R. 1589(b).
Adopted: July 26, 1985 by Bernard Morris, Director, Office of Cable Television.
Filed: July 29, 1985 as R. 1985 d. 425, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 48:5A-10, 20(b), 21.

Effective Date: July 29, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): July 29, 1990.
BPU Docket No. CX8505533.

Summary of Comments and Agency Responses:

1. Public Service Electric and Gas (PSE&G) filed comments governing two-party pole situations involving only cable television and power attachments. PSE&G's concerns arise from alternative interpretations of "ground clearance". The Board has never established a single, fixed figure for ground clearance nor would it be appropriate to do so in the proposed rule. These questions are left to resolution in the individual license agreements and, where necessary, rate determination proceedings because they are governed by factors which vary from case to case.

2. New Jersey Bell Telephone Company (Bell) followed up its initial oral comments in writing. The inadvertent omission of "maintenance expenses" from earlier drafts of N.J.A.C. 14:18-2.9(a)(i) was corrected prior to the filing of the emergency rule and concurrent proposal.

Bell requests that the subsection (c) alternative, which allows the parties to agree to allocate common space equally, be set forth in item 6 of the formula along with the existing formula, as was done in the original board Decision and Order in Docket No. 769C-6206 et als., dated August 20, 1984. Such a change in the proposal emphasizes form over substance. The formula is essentially a default rule, to provide a general methodology to guide the Board in situations where the parties have been unable to stipulate on some or all items. The purpose of separating subsections (b) or (c) is to point out where alternatives are available to the parties while keeping the ultimate formula as concise as possible.

Bell notes that subsection (c) does not provide a formula for allocation of common space, indicating the present wording is confusing. To avoid any misunderstanding it should be clear that the quotient of total common space on the pole divided by the number of parties on the pole is the footage of common space to be allocated to each party on the pole under the equal allocation of the subsection (c) option. This revised language corresponds to item 6b of the formula in the original board order.

Bell further expresses concern that subsection (e) will erroneously create the impression that uniform utility accounts are the sole sources of data to be employed in determining rates. As noted above, this and other provisions in the proposal are operative in default of agreement on figures and data sources, for example, where the information is unavailable, unidentified as to source, or the method of calculation by a party is unknown. The Board believes that the use of specific uniform accounts, when necessary, will allow efficient, consistent resolution of complaints.

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

14:18-2.9 Calculation of pole attachment rent

(a) In cases where the Board must determine the appropriate rental rate for cable television attachments on utility poles, it shall be calculated in the following manner:

1. Total percentage of gross plant as annual cost shall be the sum of the following percentages:
   i. Rate of return;
   ii. Depreciation expense;
   iii. Miscellaneous taxes;
   iv. Maintenance expenses;
   v. Administrative expenses;
   vi. Federal income tax.

2. Total yearly ownership expense	=	Unweighted average original installed per pole cost	Multiplied by	Total percentage gross pole plant as annual cost
3. Common space	=	Setting depth plus ground clearance		
4. Usable space	=	Total pole length	minus	common space

5. Footage of usable space allocated to CATV	=	1.0 feet		
6. Footage of common space allocated to CATV	=	1.0 feet / Total usable space on pole	Multiplied by	Total common on pole
7. Percentage of total space allocated to CATV	=	Footage of CATV common space	plus	Footage of CATV usable space
		Total pole length		
8. Annual rental charge per pole	=	Percentage space allocated to CATV	Multiplied by	Total yearly ownership expense

(b) Weighted average original installed per pole cost may be used in (a)2 above, upon mutual agreement of the cable company and the utility; however, should the parties be unable to agree on weighted or unweighted costs, the Board shall employ the unweighted average original installed per pole cost.

(c) The *[ratio]* ***quotient*** of total common space on the pole *[to]* ***divided by*** the number of parties on the pole may be used to set the footage of common space allocated to cable television upon mutual agreement of the cable company and the utility; however, should the parties be unable to agree to allocate common space equally, the Board shall employ the formula set forth in (a)6 above.

(d) Any terms not defined by (a) above shall be interpreted in a manner consistent with established Board policies and orders.

(e) The ***Board*** *[Office of Cable Television]* shall ***from time to time,*** designate those *[uniform]* utility account numbers which are *[the]* appropriate sources of data.

TREASURY-GENERAL

(a)

DIVISION OF BUILDING AND CONSTRUCTION

Classification of Bidders: Prequalification

Adopted New Rule: N.J.A.C. 17:19-2.10

Proposed: October 15, 1984 at 16 N.J.R. 2751(a).
Adopted: July 24, 1985 by James G. Ton, Director, Division of Building and Construction.
Filed: July 31, 1985 as R.1985 d.436, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:35-1 et seq., specifically 52:35-11.

Effective Date: August 19, 1985.
Expiration Date pursuant to Executive Order No. 66 (1978): March 18, 1990.

Summary of Public Comments and Agency Responses:

Rules governing the qualification of construction contractors were proposed by the Division of Building and Construction in the October 15, 1984, New Jersey Register at 16 N.J.R. 2751(a). With the exception of N.J.A.C. 17:19-2.10, the rules were adopted on February 5, 1985, and appeared in the New Jersey Register at 17 N.J.R. 733(a), dated March 18, 1985. DBC did not adopt the hearing procedure proposed at N.J.A.C. 17:19-2.10 in order to permit further consultation between DBC and the Office of Administrative Law concerning a new hearing procedure.

The OAL questioned whether the "administrative review" by a "Prequalification Review Committee" which was proposed by the rules conflicted with the provision in N.J.S.A. 52:35-6 for a hearing before a Board of Review. Additionally, OAL questioned whether the hearing provided by N.J.S.A. 52:35-6 constituted a contested case matter.

DBC did not intend the "Prequalification Review Committee" to supersede the hearing provided for by the statute. The rule has been amended to clarify that the Review Committee is conducting a settlement process which will attempt to ferret out the differences between the contractor and the Division and to reach a reasonable solution. The rule also provides that the State official who issued the classification shall be part of the first tier review provided by the Committee in order to conform with the requirements of N.J.S.A. 52:35-4.

The adopted new rule provides that an individual who remains dissatisfied with a classification at the conclusion of the settlement conference may request a hearing before the Board of Review, as described in N.J.S.A. 52:35-6. Finally, the new rule specifies that this hearing is a contested case matter and will be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Rules of Procedure, N.J.A.C. 1:1-1 et seq.

In the interest of clarity and readability the rule as proposed has been deleted and upon adoption has been rewritten to reflect the concerns discussed above.

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

*[17:19-2.10 Classification notice and hearing

(a) The Director shall notify an applicant to the trade classifications, single project rating and aggregate rating assigned to the contractor no later than eight days, from the receipt by the DBC of the Applicant's DBC-36R, or Joint Venture statement, or any additional information requested by the DBC whichever date is later.

(b) Where a contractor objects to a reclassification or rating, the contractor may request an administrative review before an impartial Prequalification Review Committee, for purposes of clarifying any of the information presented to the DBC, which might warrant a revision of the contractor's classification or rating. A request for review shall:

1. Be made in writing to the Director no later than 15 days of the date of the Classification Notice; and,

2. State the basis for the contractor's objection to the classification or rating, and the reasons which might warrant a revision.

(c) Where a bidder objects to the classification or rating of any other bidder on a contract, the objector may request an administrative review before an impartial Prequalification Review Committee, for purposes of reviewing the information upon which the classification or rating was based. A request for review shall:

1. Be made in writing to the Director, with a copy of the contractor whose classification or rating is being challenged, no later than three working days from the date of the bid opening or three working days prior to the proposed date of the contract award, whichever date is sooner; and,

2. State with specificity the basis for the challenge, and the alleged facts which would warrant a revision of the classification or rating.

(d) Upon receipt of a request for an administrative review, the Director shall appoint a Prequalification Review Committee for purposes of meeting with the contractor whose classification is the subject of review and with any objector to the contractor's classification.

1. The members of the Committee shall include personnel who have not previously participated in the evaluation of the contractor whose classification is the subject of review;

2. The Prequalification Review Committee shall convene a hearing, which may be attended by the contractor and any objector, no later than 10 days from the receipt of the request for review. The Committee shall hear the presentation of the contractor and any objector, review the information, and forthwith report its recommendation in writing to the Director.

3. The Director shall render a written decision to the contractor and any objector no later than 10 days from the date of the Committee's hearing.

4. Wherever possible, the Director shall render his decision no later than 12 days prior to the date fixed for the next bid opening for which the contractor, whose classification is subject to review, might be qualified or disqualified to bid as a result of any revision of its classification.

(e) During the course of any administrative review process, the contractor whose classification is subject to review shall be eligible to bid on State projects, at the ratings in effect prior to the commencement of the review process. If there is a change in rating as a result of the review, the revised rating shall become effective upon the date of the Director's decision.]*

***17:19-2.10 Classification notice; settlement conferences; hearing**

(a) The Director shall notify an applicant of the trade classifications, single project rating and aggregate rating assigned to the contractor no later than eight days from the receipt by the DBC of the applicant's DBC 36-R or Joint Venture Statement, or any additional information requested by the DBC, whichever date is later.

(b) A contractor objects to the reclassification or rating assigned to it or a bidder who objects to the classification or rating of any other bidder on a contract, may request a settlement conference before an impartial Review Committee. A request for review shall:

1. In the case of a contractor who objects to its own classification, be made in writing to the Director no later than 15 days after the date of the classification notice;

2. In the case of a bidder who objects to the classification or rating of any other bidder, be made in writing to the Director with a copy to the contractor whose classification or rating is being challenged, no later than three working days from the date of the bid opening or three working days prior to the proposed date of the contract award, whichever date is sooner; and

3. State with specificity the basis for the objection to the classification or rating and the reasons which might warrant a revision.

(c) Upon receipt of a request for a settlement conference, the Director shall appoint a Review Committee. The members of the Committee shall include the State official who issued the challenged classification and such other individuals as determined appropriate by the Director.

(d) The Review Committee shall meet with the contractor and any objector no later than 10 days from the receipt of the request for review. The Commitee shall receive the presentation of the contractor and any objector, review the information and attempt to seek a settlement of any differences between the contractor, any objectors and the Division.

(e) If the parties agree upon a settlement of the matter, the terms of the settlement shall be reduced to writing and signed by the parties and by the members of the Review Committee within 10 days from the date of the Committee's meeting.

(f) During the course of any settlement conferences, the contractor whose classification is subject to review shall be eligible to bid on State projects, at the ratings in effect prior to filing of the objections. If there is a change in rating as a result of the conference, the revised ratings shall become effective upon the date of execution of the agreement.

(g) In the event that the contractor remains dissatisfied with the classification, the contractor may request a hearing before the Board of Review, pursuant to N.J.S.A. 52:35-5 and 6.

1. The Board shall consist of the Director of the Division of Building and Construction or his designee; the Attorney General or an assistant or deputy assigned by the Attorney General; and the Secretary of State or an assistant or deputy designated by the Secretary of State.

2. The hearing shall be conducted as a contested case pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Rules of Procedure, N.J.A.C. 1:1-1 et seq.*

EMERGENCY ADOPTION

HIGHER EDUCATION

(a)

STUDENT ASSISTANCE BOARD

Tuition Aid Grant Program
1985-86 Award Table

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 9:7-3.1

Emergency Amendment Adopted: July 30, 1985 by Student Assistance Board, M. Wilma Harris, Vice Chairwoman.
Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): July 29, 1985.
Emergency Amendment Filed: July 30, 1985 as R.1985 d.430.

Authority: N.J.S.A. 18A:71-47(b) and 18A:71-48.

Emergency Amendment Effective Date: July 30, 1985.
Emergency Amendment Expiration Date: September 30, 1985.
Concurrent Proposal Number: PRN 1985-457.

Submit comments by September 18, 1985 to:
Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, N.J. 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted amendment becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The agency emergency adoption and concurrent proposal follows:

Summary

The Tuition Aid Grant program provides awards based on financial need to enable students to obtain an undergraduate degree from both public and private colleges in New Jersey. The emergency amendment and concurrent proposal establishes an increased award table for the Tuition Aid Grant program for the 1985-86 academic year. Approximate increases are as follows: County Colleges—$75.00; State Colleges—$96.00; Rutgers University—$228.00; NJIT—$144.00.

Social Impact

The increased awards will provide for full tuition benefits for students attending public sector institutions. Emergency adoption of this amendment may be expected to allow prompt notification to students and families of increased awards, thereby allowing many who could not otherwise financially afford to attend college to enroll for the 1985-86 academic year. Other students and their families who anticipated borrowing money to finance their collegiate education will, upon receiving an increased award, not be required to borrow as much money as originally planned.

Economic Impact

The proposed award table is consistent with the fiscal year 1986 Appropriations Act for the Department of Higher Education and provides increased awards over the existing table, reflecting increased tuition rates and related college costs. Emergency adoption of this amendment will allow the increased awards to be made commencing with the fall semester of the 1985-86 academic year.

Full text of the emergency adoption and concurrent proposal follows (new text shown in boldface **thus**).

9:7-3.1 Tuition Aid Grant Award Table

(a) The value of the grant is related to the tuition charges of the various institutional sectors in New Jersey and the student's ability to pay for educational costs. The award tables below show approximate award levels depending upon tuition and ability to pay:

1. (No change.)

2. TUITION AID GRANT (TAG) AWARD TABLE FOR 1985-86
APPROXIMATE TUITION AID GRANT VALUES
NEW JERSEY COLLEGES AND UNIVERSITIES

(**Delete** the existing table in the New Jersey Administrative Code and replace with the following table.)

NJ Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers Univ. & UMDNJ[1]	NJ Inst. of Tech.
A	B	C	D	E	F
Under 950	**$825**	**$1184**	**$2300**	**$1748**	**$1940**
950-1349	**725**	**1080**	**2150**	**1640**	**1820**
1350-1749	**625**	**980**	**2000**	**1540**	**1700**
1750-2149	**525**	**880**	**1850**	**1440**	**1580**
2150-2549	**425**	**780**	**1700**	**1340**	**1460**
2550-2949	**325**	**680**	**1550**	**1240**	**1340**
2950-3349	**200**	**580**	**1400**	**1140**	**1220**
3350-3749	**0**	**480**	**1250**	**1040**	**1100**
3750-4149		**380**	**1100**	**940**	**980**
4150-4549		**280**	**950**	**840**	**860**
4550-4949		**200**	**800**	**740**	**740**
4950-5349		**0**	**650**	**640**	**640**
5350-5749			**550**	**540**	**540**
5750-6149			**450**	**440**	**440**
6150-6549			**200**	**200**	**200**
Over 6549			**0**	**0**	**0**

Rutgers Engineering, Pharmacy, and Cook College students will have their awards increased to offset the higher tuition charged for these programs of study. Approved programs only at UMDNJ. Contact the financial aid office for details.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Construction Grants Program
Fiscal Year 1986 Priority System and Project Priority List

Public Notice

Take notice that the Department of Environmental Protection is developing a Priority System and Project Priority List for Fiscal Year 1986 under the authority of the Clean Water Act. The Construction Grants Priority System describes the funding policies and the ranking methodology which establishes the Project Priority List, in order of priority, of municipal wastewater treatment facilities projects. These projects may be eligible under the Municipal Wastewater Treatment Construction Grants Amendments of 1981, to receive federal financial assistance for their construction. Although the Clean Water Act has not yet been reauthorized, New Jersey expects to receive $100 million (at a minimum) in federal funding for Fiscal Year 1986.

In accordance with the provisions of 40 CFR 35.2015, **public hearings** on the Proposed Priority System and Project Priority List will be held on:

September 10, 1985 at 10:00 A.M.
Wayne Township Municipal Building
Council Chambers
475 Valley Road, Wayne, N.J.

September 11, 1985 at 7:00 P.M.
Mercer County Community College
Audio Visual Room AV-108
1200 Old Trenton Road, Trenton, N.J.

September 12, 1985 at 10:00 A.M.
Lebanon State Forest
Administration Building Conference Room
One mile off Rts 70/72 Junction
Four Mile Circle, N.J.

Funding for new project segments will be awarded at the 55 percent level. Further, in consideration of the 1981 amendments to the Clean Water Act, projects that are eligible for funding include secondary waste treatment, advanced waste treatment, infiltration/inflow correction, new interceptors and appurtenances, and new collection systems to correct documented public health hazard conditions.

Copies of the Fiscal Year 1986 proposal have been mailed for review and comment to units of local and county governments, sewerage authorities, environmental and conservation groups and other organizations, members of the Legislature as well as individuals having an interest in water pollution control in the State.

In addition, a copy of the detailed project narratives and ranking worksheets were distributed to one library in each county for review approximately 30 days prior to the hearings (a complete list of the Library Depositories is included in the above referenced mailing). A copy is also available at both USEPA-Region II and DEP-DWR offices.

Interested persons may obtain a copy of the proposal, Fiscal Year 1986 Priority System and Project Priority List, by writing to:

Nicholas G. Binder, P.E., Assistant Director
Construction Grants Administration Element
Division of Water Resources
CN 029
Trenton, N.J. 08625

Oral presentations may be made at the hearings. Where written statements are prepared and will be submitted at the hearing, speakers will be asked to restrict the oral portion of their statement to a summary of the written testimony. Speakers will be called to testify generally in the order of receipt of the notice of intent to testify.

Written statements may be submitted prior to, and/or up to seven days after the hearings to the Division of Water Resources at the above address. Please note that written statements must be postmarked no later than Thursday, September 19, 1985 to be accepted by the Division. All information submitted in accordance with the above will be given due consideration in the preparation of the final documents.

HUMAN SERVICES

(b)

DIVISION OF PUBLIC WELFARE

General Assistance Manual
Other Medical Payments

Notice of Correction: N.A.J.C. 10:85-5.3

Take notice that errors appear in the New Jersey Administrative Code at 10:85-5.3 concerning Other medical payments. The emergency readoption and concurrent proposed readoption of the rules was published in the June 6, 1983 New Jersey Register at 15 N.J.A. 938(a) and the readoption was published in the August 15, 1983 Register at 15 N.J.R. 1378(a). N.J.A.C. 10:85-5.3 should read as follows:

10:85-5.3 Other medical payments

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

(e) Care for the chronically ill: The director of welfare shall authorize payments for patient care and a personal incidental allowance in a skilled nursing home, intermediate care facility, or public medical institution when a physician certifies that a client has a defect, disease, or impairment (other than psychosis) which necessitates such care, the client is not eligible for Medicaid, and there is no person available who will provide such care without cost to the patient.

1. (No change.)

2. Maximum fees: Payment to the facility shall not exceed the rates for such facility as established by Medicaid or, for **non-**Medicaid facilities by DPW/BMA. The MWD may contact the

DPW/BMA to obtain the per diem rate for room, board and nursing care. A personal incidental allowance of $25.00 per month shall be allowed to the patient.

i-ii. (No change.)

(f) The director of welfare shall authorize payment for physical, occupational, or speech therapy under the conditions and in the amounts indicated in (f)1 through 2 below.

1. (No change.)

2. Amount of payment: The MWD will authorize no payment for therapy which is available or could have been provided to the client without cost. The amount of payment shall be at the rate established for the service by the Medicaid program. The DPW/BMA will ascertain the rate and indicate it in the notice of approval. Welfare directors in need of rate information before submitting an approval request may communicate with the DPW/BMA.

(g) Miscellaneous services: The director of welfare shall authorize payment for drugs, blood, blood plasma, infusions, hearing aids, prosthetics, oxygen, dental services or dentures, eyeglasses and other visual prosthetics, braces and appliances, if recommended in writing by an appropriately licensed practitioner and if not otherwise available without cost to the patient.

1.-3. (No change.)

(h)-(i) (No change.)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Bulk Commodities Application

Public Notice

Take notice that Clifford W. Snedeker, Director, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 39:5E.11, hereby lists the names and addresses of applicants who have filed an application for a common carrier's Certificate of Public Convenience permit to engage in the business of transporting bulk commodities in intrastate commerce.

COMMON CARRIER (NON-GRANDFATHER)

Refiners Transport & Terminal Corporation
6C Caven Point Avenue
Jersey City, N.J. 07305

Liquid Cargo, Inc.
522 Miltonia Street
Linden, N.J. 07036

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of an application.

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES

Regulation of Private Pay Telephones Notice of Public Hearings

Authorized by: Board of Public Utilities Commissioners.
Authority: N.J.S.A. 48:2-13.

The Board of Public Utilities Commissioners has permitted the interim provision of private pay telephone service for intrastate telecommunications in the State of New Jersey. Approval of private pay telephone service on an interim basis and interim policies for this service were enacted by Orders of the Board of Public Utilities Commissioners, in Docket Nos. TX8403154 and TX8405284, dated August 22, 1984, February 5, 1985, and March 25, 1985. The policies are interim in nature and are not to be construed as final Board approval for intrastate provision of private pay telephone service.

Private pay telephone service is a proposed service offering by non-telephone company providers as an alternative to the traditional intrastate pay telephone service of the telephone companies in New Jersey. Private pay telephone service is provided through the connection of non-telephone company equipment to the telephone network by individuals or entities. Should private pay telephone service be permitted in New Jersey on a permanent basis, the telephone companies would no longer be the sole providers of intrastate pay telephone service.

The purpose of the public hearings is to aid the Board of Public Utilities Commissioners in the ultimate determination of whether intrastate private pay telephone service should be permitted on a permanent basis in the State of New Jersey and in the formation of appropriate regulations for the provision of such service.

The public is invited to participate at the public hearings, and while notice of intent to appear is not necessary in order to be permitted to make oral presentation at the public hearings, it is requested that individuals or representatives intending to appear to make oral statements submit written notice of intent to participate, indicating the date and time which oral presentation will be made. In addition to, or in lieu of, appearing at the public hearings interested parties may submit written comments, data, views or arguments relevant to the subject of the provision of intrastate private pay telephones service in New Jersey, within 30 days of the publication of this notice. Parties who participate in the public hearings by means of oral statement may be subject to cross examination, and parties, other than individuals participating solely in an individual capacity, who submit prefiled direct testimony or written submissions may be subject to discovery.

Interested parties may submit notice of intent to speak at the public hearings and/or written submissions, within 30 days, to:

Honorable Diana C. Sukovich
Administrative Law Judge
Office of Administrative Law
185 Washington Street
Newark, New Jersey 07102

At the direction of the Board of Public Utilities Commissioners, parties to this proceeding, other than individuals participating solely in a private capacity, representatives of governmental bodies and agencies, and public officials will be responsible for sharing costs associated with the proceeding.

Public hearings concerning this matter will be held in Newark, New Jersey and in Mercerville, New Jersey:

Newark:	September 17, 18, 19, 20, 23, 1985 10:00 A.M. Office of Administrative Law 185 Washington Street Newark, New Jersey 07102
Mercerville (Trenton area):	September 24, 26, 27, 1985 10:00 A.M. Office of Administrative Law Quakerbridge Plaza II, Bldg. 9 Quakerbridge Road Mercerville, New Jersey 08625

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Route 57 in Warren County
Withdrawal of Proposal to Amend: N.J.A.C. 16:28A-1.36

Proposed: May 20, 1985 as 17 N.J.R. 1251(a).
Filed: April 11, 1985 as PRN 1985-265.
Authorized: July 10, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 1:30-1.13.

Summary of Public Comments and Agency Response:

On May 20, 1985 at 17 N.J.R. 1251(a) the Department proposed an amendment to N.J.A.C. 16:28A-1.36 concerning "no parking" loading zones along Route 57 in Washington Borough, Warren County, based upon Resolution number 118-84 adopted October 23, 1984 by the Borough Council of Washington Borough and upon the completion of appropriate traffic investigation.

On May 31, 1985, The Washington Borough Council requested an extension to the comment period pending results of their Parking Authority overall review of loading zones in the downtown business district. The extension was granted until July 2, 1985. In the interim, correspondence was received from the Law offices of Broscious, Sweet, Cooke, and Connelly, 120 Belvidere Avenue, Washington, New Jersey 07882, voicing objection to the proposed rule in favor of their client Shutterbug Ed's Camera Store located at 26½ West Washington Avenue, Washington, New Jersey 07882, stating that "the 50 foot stretch is directly in front of my clients' store, and presently there are a number of parking spaces at that location. The loss of those parking spaces will inevitably result in a loss of business to Shutterbug Ed's, since parking in this congested area is rather limited and that it was apparent to their client that the driving force behind this proposal comes from the Montgomery Ward Store located two doors away from Shutterbug Ed's."

Response:

The Department acknowledged receipt of the letter and advised the respondent of the extention of time granted the Borough of Washington to provided added comments.

On July 2, 1985 a letter dated June 27, 1985 was received from the Borough of Washington rescinding Resolution number 118-84 concerning the establishment of a loading zone on Route 57, 261 feet west of Belvidere Avenue. The Law Offices of Broscious, Sweet, Cooke, and Connelly has been advised of this rescission.

In view of the action taken by the officials of the Borough of Washington, Warren County, the Department withdraws the proposed amendment to N.J.A.C. 16:28A-1.36 concerning "no parking" loading zones along Route 57 in Washington Borough, Warren County as proposed in notice published in the New Jersey Register on May 20, 1985 at 17 N.J.R. 1251(a).

OTHER AGENCIES

(b)

STATE LAW ENFORCEMENT PLANNING AGENCY

Availability of Federal Funds under the Justice Assistance Act of 1984 (PL 98-473)

Public Notice

The Justice Assistance Act (JAA) became federal law on October 12, 1984. It established the Bureau of Justice Assistance (BJA) which is authorized to provide block grants to the states to assist state and local governments in carrying out programs which offer high probability of improving the criminal justice system, with special emphasis on violent crime and serious offenders. It provides block grant funds on a dollar-for-dollar match basis upon approval of a two-year application. Congress identified 18 purposes for which funds may be used, giving the states the discretion to choose their priorities from among the 18 areas. New Jersey's 1985 allocation is $1,580,000. The Bureau has issued Program Briefs for ten of these eligible areas which are available at SLEPA for review. The Program Briefs contain all critical elements in the program design which the applicant must agree to include in order to obtain funding. For projects in which no Program Briefs have been issued the applicant must show evidence that the project is proven effective and has a high probability of improving the functioning of the criminal justice system with emphasis on violent crime and serious offenders. For information on the specific program requirements, applicants are referred to the Final Rule from the Department of Justice, Bureau of Justice Assistance 28 CFR Part 33 for Criminal Justice Block Grants (Federal Register Vol. 50, No. 104, Thursday, May 30, 1985).

The State Law Enforcement Planning Agency (SLEPA) is publishing for public notice procedures and requirements mandated by JAA under which subgrants will be made to State and local agencies for programs eligible under the Act.

The Governor of the State of New Jersey, after consultation with State and local criminal justice bodies, has designated four purposes as the priority areas which are eligible for funding with 1985-86 JAA funds. All applications for funds should be in these areas.

(1) Purpose: Identifying criminal cases involving persons with a history of serious criminal conduct in order to expedite the processing of such cases and to improve court system management and sentencing practices and procedures in such cases.

Eligible Program: Court Delay Reduction Program.
(Speedy Trial Programs)
This program expedites the processing of felony cases in trial courts. It emphasizes reduction of backlogs while maintaining equitable treatment and due process. Model programs result in reduction of case processing time, minimization of court appearances for victims and witnesses, and improvement of the public's perception of the quality of the criminal justice system. Program objectives and elements are described in greater detail in the Program Brief on Court Delay Reduction.

Funds will be awarded to applicants recommended to the SLEPA Governing Board by the County Speedy Trial Committees and the Statewide Speedy Trial Coordinating Committee (STCC). All applicants applying under this eligible program, are also referred to the Joint Announcement by SLEPA and the Administrative Office of the Courts (AOC) of this Program dated July 12, 1985 which was sent to the County Speedy Trial Committees.

Total funding for this Effort: $2,212,000 (Match provided with State level funds.)

(2) Purpose: Providing programs which alleviate prison overcrowding.
(No eligible program has been certified by the Bureau for this Purpose.) The State Department of Corrections will implement a project after approval by the Bureau of Justice Assistance.

Total funding for this Effort: $632,000 (Match provided with State level SLEPA funds.)

(3) Purpose: Providing community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime.

Eligible Program: Community Crime Prevention.
This program aims to prevent crime and reduce the fear of crime through organized collective citizen action. Community crime prevention programs may be initiated by either law enforcement agencies or existing community groups, but each must have the active support and involvement of the other. Local programs must be designed to meet the needs and problems of specific neighborhoods or communities and particular population groups, including the elderly. They must make extensive use of volunteers. The specific services or activities to be implemented depend on the local situation and crime problem, but usually have as a core element, neighborhood (block) watch with additional activities optional. Programs to provide training, technical assistance and other support services are also eligible for funding. Program objectives and elements are described in greater detail in the Program Brief on Community Crime Prevention.

(4) Purpose: Provide training in crime prevention. All training must be other than basic entry-level, recruit training.

The course curriculum and standards must be approved by the Police Training Commission. It is envisioned that these crime prevention efforts will be carried out on a regional or county-wide basis.

Total funding for the Community Crime Prevention and Crime Prevention Training: $316,000 (includes match which is required from the unit of local government).

General Requirements

Localities may use funds to implement these programs, if they agree to comply with the critical elements set forth for each certified program and provide data on the established performance indicators. All assurances must be met in accordance with the Final Rules of the Department of Justice for this program.

The application process is the same process which has been in use by SLEPA. All relevant procedures can be found in the Juvenile Justice Plan for New Jersey 1985-1987 Applicants Guide which is available from SLEPA for review and which has already been widely distributed to units of government throughout the State.

Grant application forms setting forth the procedures to apply for funds under this program are available from SLEPA. Where Program Briefs exist, applicants are required to meet all components and critical elements which pertain to the project.

All units of local and State government are eligible to apply. This includes urban, rural and suburban units of local governments or combinations thereof, with priority going to those jurisdictions with the greatest need.

The following is the schedule of Governing Board Meeting dates and the corresponding application due dates for the balance of 1985:

Application Due Dates	Governing Board Meeting
August 28, 1985	October 23, 1985
October 16, 1985	December 18, 1985

All Speedy Trial/Court Backlog grants are due no later than September 30, 1985.

During the Spring of 1986, SLEPA will be soliciting input for the development of priorities for the 1987-88 Plan.

Applications or questions should be directed to:

Donald J. Apai, Acting Director
State Law Enforcement Planning Agency
CN 083
Trenton, N.J. 08625
Telephone: (609) 292-5670

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 changes proposed in this issue will be entered in the Index of the next 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 date of the latest 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 6, 1985 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 timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1985 d.300 means the three hundredth rule adopted in 1985.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying 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 quickly the issue of publication of a rule proposal or adoption.

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
16 N.J.R. 2185 and 2318	August 20, 1984	17 N.J.R. 503 and 634	March 4, 1985
16 N.J.R. 2319 and 2390	September 4, 1984	17 N.J.R. 635 and 762	March 18, 1985
16 N.J.R. 2391 and 2474	September 17, 1984	17 N.J.R. 763 and 858	April 1, 1985
16 N.J.R. 2475 and 2708	October 1, 1984	17 N.J.R. 859 and 1006	April 15, 1985
16 N.J.R. 2709 and 2864	October 15, 1984	17 N.J.R. 1007 and 1158	May 6, 1985
16 N.J.R. 2865 and 3066	November 5, 1984	17 N.J.R. 1159 and 1358	May 20, 1985
16 N.J.R. 3067 and 3240	November 19, 1984	17 N.J.R. 1359 and 1460	June 3, 1985
16 N.J.R. 3241 and 3336	December 3, 1984	17 N.J.R. 1461 and 1608	June 17, 1985
16 N.J.R. 3337 and 3518	December 17, 1984	17 N.J.R. 1609 and 1700	July 1, 1985
17 N.J.R. 1 and 140	January 7, 1985	17 N.J.R. 1701 and 1818	July 15, 1985
17 N.J.R. 141 and 236	January 21, 1985	17 N.J.R. 1819 and 1954	August 5, 1985
17 N.J.R. 237 and 338	February 4, 1985	17 N.J.R. 1955 and 2070	August 19, 1985
17 N.J.R. 339 and 502	February 19, 1985		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1, 1:2	Readopt General Hearing and Summary Proceedings rules	17 N.J.R. 2(a)	R.1985 d.292	17 N.J.R. 1403(a)
1:1-3.7	Appearances by out-of-state attorneys	17 N.J.R. 1820(a)		
1:1-11.2, 11.3	Discovery and countervailing factors	17 N.J.R. 1008(a)	R.1985 d.368	17 N.J.R. 1754(a)
1:1-13.4, 15.7	Correction to Administrative Code			17 N.J.R. 1795(a)
1:6A-3.1	Correction to Administrative Code			17 N.J.R. 1795(b)
1:7	Emergency Water Supply Allocation Plan cases	Emergency	R.1985 d.347	17 N.J.R. 1674(a)
1:10A	Inmate discipline cases	17 N.J.R. 1610(a)		
1:21	Trade secret claims	17 N.J.R. 1009(a)	R.1985 d.367	17 N.J.R. 1754(b)
	(TRANSMITTAL 11, dated March 18, 1985)			
AGRICULTURE—TITLE 2				
2:1-2.3, 3.1, 3.2, 3.4, 3.7, 3.8	Department organization	17 N.J.R. 1614(a)		
2:6-1	Control of veterinary biologicals	17 N.J.R. 1617(a)		
2:16-2	Seed certification standards	17 N.J.R. 636(a)	R.1985 d.278	17 N.J.R. 1403(b)
2:16-4	Field corn standards (commercial hybrids)	17 N.J.R. 638(a)	R.1985 d.277	17 N.J.R. 1404(a)
2:16-5	Sweetcorn standards (inbred lines)	17 N.J.R. 639(a)	R.1985 d.276	17 N.J.R. 1404(b)
2:16-6	Sweetcorn standards (single cross hybrids)	17 N.J.R. 639(b)	R.1985 d.275	17 N.J.R. 1404(c)
2:16-7	Small grain standards	17 N.J.R. 640(a)	R.1985 d.274	17 N.J.R. 1405(a)
2:16-9	Soybean standards	17 N.J.R. 641(a)	R.1985 d.273	17 N.J.R. 1405(b)
2:16-10	Vegetable standards	17 N.J.R. 641(b)	R.1985 d.272	17 N.J.R. 1405(c)
2:16-13	Turfgrass sod standards	17 N.J.R. 642(a)	R.1985 d.271	17 N.J.R. 1405(d)
2:16-15	Vegetatively propagated grass standards	17 N.J.R. 643(a)	R.1985 d.269	17 N.J.R. 1406(a)
2:16-16	Asparagus seed standards	17 N.J.R. 643(b)	R.1985 d.270	17 N.J.R. 1406(b)
2:16-17	Asparagus crown standards	17 N.J.R. 644(a)	R.1985 d.268	17 N.J.R. 1406(c)
2:16-19	Flatpea certification standards	17 N.J.R. 644(b)	R.1985 d.267	17 N.J.R. 1407(a)
2:24-1.1, 1.2	Disease of bees: repeal Acarine mite quarantine	17 N.J.R. 860(a)	R.1985 d.304	17 N.J.R. 1542(a)
2:24-1.3, 1.4, 1.5	Bee diseases: Tracheal mite quarantine	17 N.J.R. 985(a)	R.1985 d.301	17 N.J.R. 1542(b)
2:24-1.6	Honeybee tracheal mite quarantine	17 N.J.R. 1589(a)	R.1985 d.437	17 N.J.R. 2019(a)
2:52-2, 3, 4.1, 7	Readopt rules concerning milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:52-2.1, 3.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:53-4	Milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:53-4.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:69-1.11	Commercial values of fertilizers and soil conditioners	17 N.J.R. 764(a)	R.1985 d.266	17 N.J.R. 1407(b)
2:70-1	Liming materials: readopt fineness classification	17 N.J.R. 765(a)	R.1985 d.265	17 N.J.R. 1407(c)
2:71-2.2—2.7	Jersey Fresh Logo program	17 N.J.R. 765(b)	R.1985 d.282	17 N.J.R. 1407(d)
2:90-1	State Soil Conservation Committee: readopt General Provisions	17 N.J.R. 1160(a)	R.1985 d.370	17 N.J.R. 1756(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
2:90-2.24	Cost share rates for soil and water conservation projects	17 N.J.R. 861(a)	R.1985 d.303	17 N.J.R. 1542(c)
2:90-3.6	Soil and water conservation management problems	17 N.J.R. 861(b)	R.1985 d.302	17 N.J.R. 1543(a)
	(TRANSMITTAL 30, dated April 15, 1985)			
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3:7-3.3, 3.6, 3.7	Confirmation of loans and deposits	17 N.J.R. 1702(a)		
3:17-7.1, 7.3	Small loan licensees: mortgage bankers and brokers business	17 N.J.R. 1703(a)		
3:27-4.5, 4.6	Savings and loan associations: asset limitation; service corporations	17 N.J.R. 1619(a)		
3:41	Readoption of Cemetery Board rules	17 N.J.R. 1704(a)		
	(TRANSMITTAL 27, dated April 15, 1985)			
CIVIL SERVICE—TITLE 4				
4:1-6.8	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(b)
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-12.15	Appointment of eligible certified	17 N.J.R. 10(a)	R.1985 d.227	17 N.J.R. 1257(a)
4:1-16.7	Suspension, fine and demotion for disciplinary purposes	17 N.J.R. 1360(a)		
4:1-21.3	Prohibition against political activity	17 N.J.R. 1013(a)	R.1985 d.417	17 N.J.R. 2019(c)
4:2-6.1, 6.2	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(b)
4:2-7.13	Ninth step salary maximum	17 N.J.R. 1014(a)	R.1985 d.345	17 N.J.R. 1645(c)
4:3-6.2, 6.3	Nondiscriminatory titles	17 N.J.R. 1012(b)	R.1985 d.416	17 N.J.R. 2019(b)
4:3-14.1	Seasonal positions	17 N.J.R. 1015(a)	R.1985 d.418	17 N.J.R. 2020(a)
	(TRANSMITTAL 24, dated March 18, 1985)			
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5:18-1.1, 1.3, 1.4, 1.5, 2.4, 2.5, 2.7, 2.8, 2.12, 3.1, 3.2	Uniform Fire Code	17 N.J.R. 1015(b)		
5:18-1.1, 1.4, 1.5, 1.6, 2.3, 4	Uniform Fire Code, Fire Safety Code	17 N.J.R. 1161(a)		
5:18A-2.1—2.4, 2.6, 3.2, 3.3, 4.1, 4.3, 4.4	Fire Code Enforcement	17 N.J.R. 1015(b)		
5:18B-3.2	High Level Alarms	17 N.J.R. 1015(b)		
5:23-1.4, 2.14, 4.18, 4.20	Uniform Construction Code: annual permits	17 N.J.R. 1029(a)	R.1985 d.351	17 N.J.R. 1756(b)
5:23-2.15	Uniform Construction Code: contractor seals	17 N.J.R. 1462(a)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 645(b)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 1033(a)		
5:23-2.15, 5.7	UCC: applying for construction permit; renewal of enforcement license	17 N.J.R. 1031(a)	R.1985 d.352	17 N.J.R. 1758(a)
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.14, 3.21	One and two-family dwelling construction subcode	17 N.J.R. 861(c)	R.1985 d.324	17 N.J.R. 1646(a)
5:23-4.5	UCC: duties of construction officials	17 N.J.R. 340(a)	R.1985 d.232	17 N.J.R. 1257(b)
5:23-4.21, 5.4	UCC: private enforcing agency fees; trainees	17 N.J.R. 1032(a)	R.1985 d.353	17 N.J.R. 1758(b)
5:23-5.4	UCC: private enforcing agencies and trainee positions	17 N.J.R. 341(a)	R.1985 d.231	17 N.J.R. 1258(a)
5:23-5.4, 5.5	UCC inspectors: experience requirements	17 N.J.R. 1821(a)		
5:23-5.7, 5.11	UCC: license suspensions and revocations	17 N.J.R. 1705(a)		
5:23-8	Asbestos Hazard Abatement Subcode	Emergency	R.1985 d.362	17 N.J.R. 1782(a)
5:24	Condominium and cooperative conversion: readopt rules	17 N.J.R. 1706(a)		
5:27	Readopt rules on Rooming and Boarding Houses	17 N.J.R. 341(b)	R.1985 d.350	17 N.J.R. 1759(a)
5:27-1.6	Rooming and boarding houses: owner and operator training	17 N.J.R. 777(a)	R.1985 d.300	17 N.J.R. 1543(b)
5:28	Readopt State Housing Code	17 N.J.R. 1174(a)		
5:31-2.1-2.5, 4.1, 4.2, 7.1-7.7	Local authorities: accounting principles, auditing and budgeting	17 N.J.R. 1823(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:31-7.5	Local authorities: audit reports	17 N.J.R. 504(a)	R.1985 d.283	17 N.J.R. 1409(b)
5:51-1.4, 1.5	Local provision of recreational services for handicapped persons	17 N.J.R. 1463(a)		
5:80	Rules of the Housing and Mortgage Finance Agency	17 N.J.R. 505(a)	R.1985 d.241	17 N.J.R. 1258(b)
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R 1620(a)		
5:80-17, 18	Housing and Mortgage Finance: prevailing wages; debarment from contracting	17 N.J.R. 1174(b)		
	(TRANSMITTAL 29, dated April 15, 1985)			
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5A:2	Leaves of absence for members of National Guard	17 N.J.R. 646(a)	R.1985 d.242	17 N.J.R. 1267(a)
EDUCATION—TITLE 6				
6:3-1.10	Standards for determining seniority	17 N.J.R. 1033(b)	R.1985 d.397	17 N.J.R. 1874(a)
6:3-1.17, 1.23	School facility planning services	17 N.J.R. 650(a)		
6:11-7	Standards for State approval of teacher preparation	17 N.J.R. 1708(a)		
6:20-2	Readopt Local Bookkeeping and Accounting rules	17 N.J.R. 1361(a)		
6:20-5.3, 5.4	State facility pupil assignments: district of residence	17 N.J.R. 344(a)	R.1985 d.208	17 N.J.R. 1076(a)
6:20-5.5	Asbestos removal and encapsulation reimbursement	17 N.J.R. 863(a)	R.1985 d.340	17 N.J.R. 1648(a)
6:21-1	Readopt Pupil Transportation Standards	17 N.J.R. 1365(a)		
6:21-5	Standards for school buses	17 N.J.R. 1035(a)	R.1985 d.396	17 N.J.R. 1875(a)
6:22	School facility planning services	17 N.J.R. 650(a)		
6:28-3.2, 3.6, 6.1, 6.3, 8.3	Special Education	17 N.J.R. 345(a)	R.1985 d.209	17 N.J.R. 1077(a)
6:29-6.4	Athletics procedures	17 N.J.R. 659(a)	R.1985 d.281	17 N.J.R. 1410(a)
6:30-1.4	Fees for GED test	17 N.J.R. 1367(a)		
6:68-2	Library assistance: readopt Incentive Grant Program rules	17 N.J.R. 346(a)	R.1985 d.207	17 N.J.R. 1078(a)
	(TRANSMITTAL 30, dated April 15, 1985)			
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7:1-4	Fee schedule for Environmental Cleanup Responsibility Act	17 N.J.R. 1622(a)		
7:1-7	Hazardous substance discharges: reports and notices	17 N.J.R. 1826(a)		
7:1C-1	90-day construction permits	16 N.J.R. 3243(a)	R.1985 d.316	17 N.J.R. 1544(a)
7:1E	Readopt rules on Discharges of Petroleum and Other Hazardous Substances	17 N.J.R. 865(a)	R.1985 d.377	17 N.J.R. 1759(b)
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)		
7:1F	Industrial Survey Project rules: new expiration date			17 N.J.R. 1139(b)
7:1G	Right to Know Act: Federal district court ruling			17 N.J.R. 1139(c)
7:1H	Readopt County Environmental Health administrative rules	17 N.J.R. 1463(b)	R.1985 d.420	17 N.J.R. 2020(b)
7:2-2.14, 3.4, 3.5	Use of State Park lands	17 N.J.R. 778(a)	R.1985 d.421	17 N.J.R. 2020(c)
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:4-2	Register of Historic Places: continuation of selection criteria			17 N.J.R. 1795(d)
7:6-1.37	Waiver of maximum tow line length for parasailing exhibitions			17 N.J.R. 1801(a)
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)		
7:7E	Readopt Coastal Resource and Development Policies	17 N.J.R. 1465(a)	R.1985 d.422	17 N.J.R. 2021(a)
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)		
7:7E	Coastal Resource and Development revisions: extension of comment period	17 N.J.R. 1797(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:7E	Coastal Resource and Development Policies: correction to Code and proposed revisions	17 N.J.R. 1797(c)		
7:7E-7.2	Correction to Administrative Code: Coastal Resource and Development Policies			17 N.J.R. 1140(a)
7:9-4, Index D	Surface water classifications: Hackensack and Hudson rivers	17 N.J.R. 1625(a)		
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1270(a)
7:9-5.4	Correction: Policy concerning disinfection of wastewater	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1759(c)
7:11-2.3, 2.5, 2.8—2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)	R.1985 d.402	17 N.J.R. 1879(a)
7:12-1.3, 1.4	Shellfish-growing water classifications	17 N.J.R. 661(a)	R.1985 d.290	17 N.J.R. 1412(a)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)	R.1985 d.218	17 N.J.R. 1080(a)
7:13-7.1(c)17	Redelineation of Delaware River in Harmony Township, Warren County	17 N.J.R. 151(a)	R.1985 d.319	17 N.J.R. 1550(a)
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)	R.1985 d.217	17 N.J.R. 1080(b)
7:13-7.1	Paulins Kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)	R.1985 d.320	17 N.J.R. 1551(a)
7:13-7.1(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)	R.1985 d.329	17 N.J.R 1648(b)
7:13-7.1(h)	Floodway delineations in Hackensack Basin	17 N.J.R. 1175(a)		
7:13-7.1(i)	Floodway delineations in Central Passaic Basin (Projects G and R)	17 N.J.R. 1176(a)		
7:14A-1.8	Fee schedule for NJPDES permits and applicants	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1551(b)
7:14A-1.8	Correction: NJPDES fee schedule	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1882(a)
7:19-5.11	Correction: Acquisition costs	16 N.J.R. 3380(a)	R.1985 d.182	17 N.J.R. 1559(a)
7:20	Dam Safety Standards	16 N.J.R. 790(a)	R.1985 d.214	17 N.J.R. 1081(a)
7:25-4.2, 4.14, 4.17	Possession of endangered and nongame species	17 N.J.R. 516(a)	R.1985 d.251	17 N.J.R. 1289(a)
7:25-4.13, 4.17	Status of the osprey	17 N.J.R. 350(a)	R.1985 d.215	17 N.J.R. 1091(a)
7:25-5	1985-86 Game Code	17 N.J.R. 1177(a)	R.1985 d.419	17 N.J.R. 2021(b)
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)	R.1985 d.401	17 N.J.R. 1883(a)
7:25-12.1	Close of sea clam season			17 N.J.R. 1142(a)
7:25-14	Readopt rules on Crab Pots	17 N.J.R. 1830(a)		
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)	Expired	
7:25-18	Readopt Marine Fisheries rules	17 N.J.R. 1188(a)	R.1985 d.386	17 N.J.R. 1883(b)
7:25-18.5	Marine fisheries: general net rules	Emergency	R.1985 d.240	17 N.J.R. 1334(a)
7:25-23	Permit to kill wild deer	17 N.J.R. 350(b)	R.1985 d.250	17 N.J.R. 1289(b)
7:25A	Oyster management	17 N.J.R. 352(a)	R.1985 d.216	17 N.J.R. 1092(a)
7:25A-1.9	Closure of certain Delaware Bay oyster beds			17 N.J.R. 1795(c)
7:26-1.4, 9.3	Above-ground tank storage of hazardous waste	17 N.J.R. 1501(a)		
7:26-1.7	Waste management: on-site disposal of construction debris	17 N.J.R. 1040(a)		
7:26-1.7	Solid waste disposal: exemption from registration	17 N.J.R. 1368(a)		
7:26-3	Waste management: readopt Collection and Haulage rules	17 N.J.R. 1041(a)		
7:26-6.5	Solid waste flow: Atlantic County	17 N.J.R. 517(b)	R.1985 d.317	17 N.J.R. 1560(a)
7:26-6.5	Solid waste flow: Hunterdon County	17 N.J.R. 517(a)		
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.8	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.13, 8.16	Hazardous waste from non-specific sources; hazardous constituents	17 N.J.R. 354(a)	R.1985 d.248	17 N.J.R. 1290(a)
7:26-8.15	Hazardous waste management: warfarin and zinc phosphide	17 N.J.R. 356(a)	R.1985 d.375	17 N.J.R. 1760(a)
7:26-9.10, 9.11, App. A.	Hazardous waste facilities: closure letters of credit	17 N.J.R. 241(a)	R.1985 d.247	17 N.J.R. 1291(a)
7:26-10.5	Tank storage containment requirements	17 N.J.R. 152(a)	R.1985 d.318	17 N.J.R. 1560(b)
7:26-14	Resource Recovery grants and loans	16 N.J.R. 3385(b)		
7:26-14	Resource Recovery grants and loans: extension of comment period	17 N.J.R. 242(a)		
7:26-16.4	Solid and hazardous waste: transporters and facilities	17 N.J.R. 518(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)	R.1985 d.252	17 N.J.R. 1292(a)
7:27-14.3	Diesel-powered motor vehicles: idle standard	16 N.J.R. 2887		
7:27-15.4	Air pollution and gas-fueled motor vehicles	17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889		
7:27B-4.6	Lead test paper procedure	17 N.J.R. 781(a)		
7:27B-4.6, 4.7	Air pollution and gas-fueled motor vehicles	17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)
7:28-1.4, 17	Industrial and nonmedical radiology	17 N.J.R.1626(a)		
7:28-12	Transportation of radioactive material	17 N.J.R. 1369(a)	R.1985 d.387	17 N.J.R. 1884(a)
7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10	Podiatric x-ray technology	17 N.J.R. 1632(a)		
7:29-1.1—1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:30	Pesticide Control Code	17 N.J.R. 242(b)		
7:36	Green Acres Program	16 N.J.R. 2405(b)	R.1985 d.400	17 N.J.R. 1885(a)
7:45	Delaware and Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)		
7:50-2.11, 4.12-4.92	Pinelands comprehensive management	Emergency	R.1985 d.399	17 N.J.R. 1918(a)

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HEALTH—TITLE 8

8:7-1	Licensure of persons for public health positions	Emergency	R.1985 d.388	17 N.J.R. 1926(a)
8:13-2.1, 2.4, 2.6—2.11, 2.13, 2.14	Depuration of soft shell clams	17 N.J.R. 1370(a)		
8:19	Readopt Newborn Hearing Screening rules	17 N.J.R. 869(a)	R.1985 d.380	17 N.J.R. 1892(a)
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)		
8:31-26.5	Health care facilities: licensure fees	17 N.J.R. 664(a)	R.1985 d.372	17 N.J.R. 1760(b)
8:31-26.5	Health care facilities licensure fee	17 N.J.R. 664(a)	R.1985 d.414	17 N.J.R. 2032(a)
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	16 N.J.R. 2848(b)		
8:31B-3.23	Correction: Hospital reimbursement	16 N.J.R. 2733(b)		
8:31B-3.72	Hospital reimbursement: periodic rate adjustments	17 N.J.R. 872(a)	R.1985 d.349	17 N.J.R. 1652(a)
8:31B-3.79	Hospital reimbursement: post-acute care patients	17 N.J.R. 873(a)	R.1985 d.359	17 N.J.R. 1761(a)
8:33	Certificate of Need application and review process	17 N.J.R. 1190(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33B	Extracorporeal Shock Wave Lithotripsey (ESWL)	17 N.J.R. 1728(a)		
8:33E-2.1—2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F-1.4	Renal disease services: acute hemodialysis standards	17 N.J.R. 874(a)	R.1985 d.360	17 N.J.R. 1762(a)
8:33G-1	Computerized tomography services	17 N.J.R. 1214(a)	R.1985 d.411	17 N.J.R. 2033(a)
8:33H	Long-Term Care Facilities and Services: readopt Certificate of Need rules	17 N.J.R. 1216(a)	R.1985 d.413	17 N.J.R. 2034(a)
8:43-3.22	Fire safety in residential health care facilities	17 N.J.R. 1731(a)		
8:43-4	Residential Health Care Facilities: readopt Administration rules	17 N.J.R. 1231(a)	R.1985 d.412	17 N.J.R. 2042(a)
8:43-4.13	Residential health care: personal needs allowance	17 N.J.R. 1731(b)		
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)		
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-8.33—8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)		
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:44-2.10	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:45	Clinical laboratory services	17 N.J.R. 268(a)	R.1985 d.243	17 N.J.R. 1294(a)
8:51-1-6	Local boards: recognized public health activities and minimum standards	17 N.J.R. 1633(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:57-1	Readopt Reportable Diseases rules	17 N.J.R. 784(a)	R.1985 d.363	17 N.J.R. 1764(a)
8:57-1.13	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:57-4.15	Immunization of school children: mumps vaccine	17 N.J.R. 358(a)	R.1985 d.264	17 N.J.R. 1414(a)
8:60	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
8:60-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)
8:65-1	Controlled Dangerous Substances: readopt Registration rules	17 N.J.R. 1508(a)		
8:65-5	Controlled dangerous substances: records and reports of registrants	17 N.J.R. 524(a)		
8:65-6	Controlled dangerous substances: Federally-required order forms	17 N.J.R. 528(a)		
8:65-7.3	Controlled dangerous substances: issuing of prescriptions	17 N.J.R. 876(a)		
8:65-10.1	Add 3-Methylfentanyl to Schedule I	17 N.J.R. 1511(a)		
8:65-10.5	Reschedule Buphenorphine to Schedule V	17 N.J.R. 1234(a)		
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Generic drug list additions (see 16 N.J.R. 2672(b), 17 N.J.R. 200(b), 957(b), 1296(a))	16 N.J.R. 1436(a)	R.1985 d.295	17 N.J.R. 1561(a)
8:71	Generic drug list additions (see 17 N.J.R. 201(a), 957(c), 1296(b))	16 N.J.R. 2483(a)	R.1985 d.297	17 N.J.R. 1562(b)
8:71	Generic drug list additions	17 N.J.R. 1043(a)	R.1985 d.410	17 N.J.R. 2042(b)
8:71	Additions to generic drug list (see 17 N.J.R. 1295(a), 1562(a))	17 N.J.R. 158(a)	R.1985 d.415	17 N.J.R. 2043(a)
8:71	Generic drug list additions	17 N.J.R. 1733(a)		

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HIGHER EDUCATION—TITLE 9

9:2-1	Minority Faculty Advancement Loan Program	17 N.J.R. 1512(a)		
9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:2-4, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)	R.1985 d.309	17 N.J.R. 1563(a)
9:2-4.1	Eligibility for Alternate Benefit Program	17 N.J.R. 1635(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-12.1, 12.2	Teacher education: degree standards	17 N.J.R. 1515(a)		
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:6-1.2, 3.1, 3.4, 3.5, 3.6, 3.11, 4.4, 4.7, 5.2, 5.13	State Colleges: policies and standards	17 N.J.R. 160(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:7-2.4, 2.9	Student assistance programs: eligibility; award combinations	17 N.J.R. 787(a)	R.1985 d.338	17 N.J.R. 1653(a)
9:7-3.3, 5.9, 6.8	Student assistance program revisions	17 N.J.R. 1734(a)		
9:7-4.1, 4.7, 4.8	Distinguished Scholars Program	17 N.J.R. 787(b)	R.1985 d.339	17 N.J.R. 1654(a)
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:7-8	Vietnam Veterans Tuition Aid Program	17 N.J.R. 1735(a)		
9:8	Jobs, Science and Technology Bond Act: policies and procedures	17 N.J.R. 1516(a)		
9:9-1.2	Guaranteed Student Loan Program: second borrowing	17 N.J.R. 1518(a)		
9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)	R.1985 d.311	17 N.J.R. 1564(a)
9:14	Readopt Independent College and University Assistance rules	17 N.J.R. 25(a)	R.1985 d.245	17 N.J.R. 1303(a)

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HUMAN SERVICES—TITLE 10

10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:44A-1.1—1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled; Supportive Living Programs	16 N.J.R. 1438(a)	R.1985 d.258	17 N.J.R. 1304(a)
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:48	Division of Mental Retardation: appeal procedures	17 N.J.R. 876(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:49-1	Administration Manual: readopt General Provisions	17 N.J.R. 532(a)	R.1985 d.246	17 N.J.R. 1307(a)
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:49-7	Reinstatement of Medicaid provider	17 N.J.R. 1519(a)		
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)		
10:50-1.2, 1.5, 1.6	Invalid coach services: oxygen equipment; carrier charges	17 N.J.R. 1373(a)	R.1985 d.427	17 N.J.R. 2044(a)
10:50-1.5, 1.6	Reimbursement for ambulance and invalid coach services	17 N.J.R. 1637(a)		
10:51-1.13, 1.14, 3.12, App. A	Pharmaceutical services: "vaccine" reimbursement	17 N.J.R. 1237(a)		
10:51-1.17, 3.15	Pharmaceutical services: dispensing fee and capitation rates	17 N.J.R. 1044(a)	R.1985 d.369	17 N.J.R. 1766(a)
10:51-5.1, 5.16	PAAD: diabetic testing material	17 N.J.R. 1521(a)		
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:52-1.21	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:53-2	Special Hospital Services: admission and billing	17 N.J.R. 544(a)	R.1985 d.257	17 N.J.R. 1317(a)
10:54	Physician's Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-3	Procedure Code Manual: immunizations	17 N.J.R. 546(a)	R.1985 d.211	17 N.J.R. 1094(a)
10:54-3	Procedure Code Manual: fees for laboratory services	17 N.J.R. 1376(a)		
10:55	Prosthetic-Orthotic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:55-3.1	Fee increases for shoe appliances	17 N.J.R. 1522(a)	R.1985 d.429	17 N.J.R. 2045(a)
10:57	Podiatry Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:58	Nurse Midwifery Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59	Medical Supplier Manual: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)	R.1985 d.376	17 N.J.R. 1894(a)
10:59-1.7, 1.13, 1.14, 3.2	Fee increases for shoe appliances	17 N.J.R. 1522(a)	R.1985 d.429	17 N.J.R. 2045(a)
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)		
10:60-4	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)	R.1985 d.263	17 N.J.R. 1415(a)
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)	R.1985 d.237	17 N.J.R. 1318(a)
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)	R.1985 d.384	17 N.J.R. 1895(a)
10:63-3.17	Long Term Care Services: adjustments to base period data	17 N.J.R. 1736(a)		
10:64	Hearing Aid Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66	Independent Clinic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:66-1.5	Independent Clinic Manual: mental health services	17 N.J.R. 1377(a)	R.1985 d.428	17 N.J.R. 2046(a)
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:67	Psychological Services: Common Procedure Coding System	17 N.J.R. 1519(b)		

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10:69A-1.2, 2.1, 5.3, 5.6, 6.1, 6.4, 6.6, 6.10, 6.11	Pharmaceutical Assistance for Aged and Disabled	17 N.J.R. 367(a)	R.1985 d.259	17 N.J.R. 1318(b)
10:81-3.27	PAM: transmission of data to receiving county	17 N.J.R. 878(a)	R.1985 d.344	17 N.J.R. 1655(a)
10:81-3.34	PAM: temporary absence of children from home	17 N.J.R. 163(a)	R.1985 d.312	17 N.J.R. 1565(a)
10:81-11.1, 11.4, 11.12	PAM: continuing IV-D services for families that lose AFDC	17 N.J.R. 164(a)	R.1985 d.210	17 N.J.R. 1094(b)
10:81-11.7, 11.9	PAM: child support and health benefits	17 N.J.R. 165(a)	R.1985 d.219	17 N.J.R. 1095(a)
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:81-11.9	Public Hearing: County reimbursement to State for Tax Setoff Program for child support enforcement	17 N.J.R. 1526(a)		
10:81-11.18	PAM: weekly second family adjustment	17 N.J.R. 879(a)	R.1985 d.343	17 N.J.R. 1655(b)
10:81-11.19	PAM: distribution of arrearage payments for child support	17 N.J.R. 1238(a)		
10:82-1.2, 2.13, 3.11, 5.11	ASH: AFDC payment standards	17 N.J.R. 880(a)	R.1985 d.341	17 N.J.R. 1656(a)
10:82-2.2	ASH: initial grant computation	17 N.J.R. 546(b)	R.1985 d.299	17 N.J.R. 1566(a)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)	Expired	
10:82-2.19, 3.2	Correction to Administrative Code: Assistance Standards Handbook			17 N.J.R. 1143(b)
10:82-3.13	ASH: eligibility of sponsored alien and sponsor's income	17 N.J.R. 1523(a)		
10:82-4.11, 4.12	ASH: income from apartments, rooms, or housekeeping units	17 N.J.R. 1045(a)	R.1985 d.385	17 N.J.R. 1885(b)
10:82-5.3	ASH: correction to Administrative Code			17 N.J.R. 1801(c)
10:82-5.3	ASH: child care	17 N.J.R. 1835(a)		
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)		
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3	General Assistance rate in residential health care facilities			17 N.J.R. 485(c)
10:85-3.4	GAM: suits and claims	17 N.J.R. 548(a)	R.1985 d.298	17 N.J.R. 1566(b)
10:85-4.1, 9.4	General Assistance payment levels	17 N.J.R. 882(a)	R.1985 d.342	17 N.J.R. 1658(a)
10:85-4.6	GAM: correction to Administrative Code			17 N.J.R. 1802(a)
10:85-5.2	Correction to Administrative Code: General Assistance Manual	17 N.J.R. 1339(b)		
10:85-5.3	GAM: outpatient mental health care	17 N.J.R. 1836(a)		
10:85-5.3	GAM: correction to Administrative Code			17 N.J.R. 2051(b)
10:85-6.4	GAM: fiscal reporting requirements	17 N.J.R. 1837(a)		
10:85-10.8	GAM: work registration violations and Food Stamp recipients	17 N.J.R. 1838(a)		
10:86	Repeal obsolete AFDC Work Incentive Program rules	17 N.J.R. 1838(b)		
10:87-1.14	Food Stamp Program: disclosure of information	17 N.J.R. 1377(b)		
10:87-2.21, 2.24, 2.28, 2.31, 2.35, 9.7, 11.29	Food Stamp Program revisions	17 N.J.R. 883(a)	R.1985 d.346	17 N.J.R. 1659(a)
10:87-5.7	Food Stamp Program: treatment of moneys used to repay overpayments	17 N.J.R. 986(a)	R.1985 d.313	17 N.J.R. 1567(a)
10:87-12.3, 12.4, 12.7	Food Stamp Program: Revised maximum eligibility limits	Emergency	R.1985 d.371	17 N.J.R. 1793(a)
10:89	Home Energy Assistance Handbook	17 N.J.R. 1737(a)		
10:89-2.3	Correction to Administrative Code: Home Energy Assistance Handbook			17 N.J.R. 1444(b)
10:90-2.2, 2.3, 2.4, 2.6, 3.3, 4.1-4.10, 5.1, 5.2, 5.6, 6.1, 6.2, 6.3	Monthly Reporting Policy Handbook	17 N.J.R. 1839(a)		
10:90-4.8	Correction to Administrative Code: Monthly Reporting Policy Handbook			17 N.J.R. 1143(c)
10:94-3.16	Medicaid district offices	17 N.J.R. 38(a)	R.1985 d.291	17 N.J.R. 1416(a)
10:94-4.5, 4.6, 4.7	Medicaid Only: resource eligibility and limits	17 N.J.R. 1525(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:122-2.3, 2.6, 3.2, 3.3, 4.1, 4.3, 4.6, 6.8, 6.9	Child care centers	17 N.J.R. 548(b)	R.1985 d.314	17 N.J.R. 1568(a)
10:123-3	Residential health care and boarding homes: readopt Personal Needs Allowance rules	17 N.J.R. 1526(b)	R.1985 d.426	17 N.J.R. 2046(b)
10:129-2	Confidentiality of child abuse records	17 N.J.R. 885(a)	R.1985 d.373	17 N.J.R. 1766(b)
		(TRANSMITTAL 28, dated April 15, 1985)		
CORRECTIONS—TITLE 10A				
10A:71	State Parole Board rules	16 N.J.R. 3391(a)	R.1985 d.213	17 N.J.R. 1096(a)
		(TRANSMITTAL 10, dated March 18, 1985)		
INSURANCE—TITLE 11				
11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-5.2	Fire and casualty coverage: cancellation notice requirement			17 N.J.R. 1939(a)
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7	Automobile Reparation Reform Act rules	16 N.J.R. 3417(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-16	Private passenger automobile rate filings	16 N.J.R. 2934(a)		
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)		
11:3-18	Filing review procedures	16 N.J.R. 2937(a)		
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		
11:4-16, 17, 18	Readopt health insurance standards	17 N.J.R. 554(a)	R.1985 d.221	17 N.J.R. 1129(a)
11:4-21	Readopt Limited Death Benefit Forms	17 N.J.R. 891(a)	R.1985 d.325	17 N.J.R. 1660(a)
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:5-1.15, 1.25	Advertising of real estate; sale of interstate property	17 N.J.R. 666(a)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)	R.1985 d.374	17 N.J.R. 1768(a)
11:10-2	Employees' dental benefit plans	17 N.J.R. 45(a)	R.1985 d.220	17 N.J.R. 1129(b)
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:16	Provider verification of services	17 N.J.R. 47(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	17 N.J.R. 1045(b)		
		(TRANSMITTAL 28, dated April 15, 1985)		
LABOR—TITLE 12				
12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:15-1.1, 1.2	Unemployment and Temporary Disability Benefits programs: purpose and scope	17 N.J.R. 1378(a)	R.1985 d.423	17 N.J.R. 2046(a)
12:35	Workfare rules	17 N.J.R. 1048(a)	R.1985 d.404	17 N.J.R. 1896(a)
12:70	Field sanitation for seasonal farm workers	17 N.J.R. 1860(a)		
12:120	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
12:120-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)
12:200	Liquefied Petroleum Gas rules	17 N.J.R. 1379(a)	R.1985 d.403	17 N.J.R. 1899(a)
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A				
12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
LAW AND PUBLIC SAFETY—TITLE 13				
13:1-4.6	Police Training Commission: radar instructor certification	17 N.J.R. 377(a)	R.1985 d.226	17 N.J.R. 1130(a)
13:1-5.1, 6.1, 8.1	Police officer training and certification	17 N.J.R. 1239(a)	R.1985 d.405	17 N.J.R. 1899(b)
13:2-4	ABC: readopt rules on Issuance or Transfer of Municipal Retail Licenses	17 N.J.R. 1052(a)	R.1985 d.332	17 N.J.R. 1661(a)
13:2-20	ABC: readopt rules on Transportation by Licensees; Transit Insignia	17 N.J.R. 1054(a)	R.1985 d.333	17 N.J.R. 1662(a)
13:2-23.16, -24, -35	ABC preproposal: industry marketing and sales practices	16 N.J.R. 3292(a)		
13:2-33	ABC: readopt Brand Registration rules	17 N.J.R. 794(a)	R.1985 d.279	17 N.J.R. 1423(a)
13:2-40	ABC: readopt rules on Issuances of IDs by County Clerks	17 N.J.R. 1380(a)	R.1985 d.395	17 N.J.R. 1900(a)
13:3-3.5, 3.6, 7.9	Amusement games control	17 N.J.R. 1058(a)	R.1985 d.334	17 N.J.R. 1664(a)
13:13	Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1574(a)
13:13-1.3, 2.2, 2.3	Correction: Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1773(a)
13:19-13.1, 13.2, 13.3	Motor vehicle insurance surcharges	17 N.J.R. 893(a)		
13:20-28	Readopt rules on Inspection of New Motor Vehicles	17 N.J.R. 1059(a)	R.1985 d.379	17 N.J.R. 1901(a)
13:20-32.16	Motor vehicle reinspection centers	17 N.J.R. 676(a)		
13:20-33.6	Glazing inspection standards for motor vehicles	17 N.J.R. 894(a)		
13:21-1.3, 1.4, 1.5	Driver licenses and social security numbers	16 N.J.R. 2746(a)	R.1985 d.307	17 N.J.R. 1579(a)
13:21-4	Readopt rules on Motor Vehicle Titles	17 N.J.R. 377(b)	R.1985 d.200	17 N.J.R. 1131(a)
13:21-11.13	Temporary initial registration of motor vehicles	17 N.J.R. 1863(a)		
13:21-14	Readopt rules on licensing of bus drivers	17 N.J.R. 556(a)	R.1985 d.205	17 N.J.R. 1131(b)
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		
13:27-8.11	Certified landscape architects: title block contents	17 N.J.R. 1864(a)		
13:28-4.1	Board of Beauty Culture Control fee schedule	17 N.J.R. 1638(a)		
13:29-1.1—1.6, 1.8—1.12	Board of Accountancy general rules	17 N.J.R. 557(a)	R.1985 d.287	17 N.J.R. 1424(a)
13:29-1.4	Change of address by licensed accountants	17 N.J.R. 1639(a)		
13:29-2.1, 2.2, 2.3	Registered municipal accountants	17 N.J.R. 559(a)	R.1985 d.286	17 N.J.R. 1426(a)
13:30-8.1	Board of Dentistry: fee schedule	17 N.J.R. 378(a)		
13:30-8.3	Board of Dentistry licensee requirements	17 N.J.R. 1864(b)		
13:30-8.4, 8.6	Dentistry: specialty practice; professional advertising	17 N.J.R. 378(a)	R.1985 d.253	17 N.J.R. 1320(a)
13:30-8.4, 8.6	Correction: Specialties in dentistry	17 N.J.R. 378(a)	R.1985 d.253	17 N.J.R. 1665(a)
13:34-1.1	Marriage counseling: annual license fees and charges	17 N.J.R. 1527(a)		
13:35-2.15	Physician-nurse anesthetist standards	17 N.J.R. 796(a)		
13:35-3.1-3.4	Licensing of medical practitioners	17 N.J.R. 561(a)	R.1985 d.224	17 N.J.R. 1131(c)
13:35-4.2	Termination of pregnancy	17 N.J.R. 1865(a)		
13:35-6.4	Pre-proposal: professional conduct of Medical Board licensees	17 N.J.R. 894(b)		
13:35-6.6	Directly dispensed medication by physicians and podiatrists	17 N.J.R. 1866(a)		
13:35-6.13	Medical examiners board: fee schedule	17 N.J.R. 562(a)	R.1985 d.223	17 N.J.R. 1132(a)
13:36-2.10, 2.12, 4.4, 4.13, 5.1, 5.6, 5.9, 6.8, 7.1, 7.2	Mortuary science rules	17 N.J.R. 797(a)	R.1985 d.293	17 N.J.R. 1580(a)
13:37-1	Programs in nursing education	17 N.J.R. 51(a)	R.1985 d.285	17 N.J.R. 1426(b)
13:37-1.2, 1.21, 1.23-1.25	Programs in nursing education	17 N.J.R. 1528(a)		
13:37-2.1, 2.3, 3.5, 4.1, 4.3-4.6, 5.1, 5.5	Licensing of nurses	17 N.J.R. 1529(a)		

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13:38-3.2	Board of Optometrists: reexamination	17 N.J.R. 677(a)		
13:38-3.2	Reexamination for optometry licensure	17 N.J.R. 1639(b)		
13:38-5.1	Board of Optometrists: fee schedule	17 N.J.R. 677(a)	R.1985 d.254	17 N.J.R. 1323(a)
13:40-3.2, 4.1, 5.1	Professional engineers and land surveyors: Board rules	17 N.J.R. 799(a)		
13:40-8	Engineers and land surveyors: release of project records	16 N.J.R. 1027(a)	R.1985 d.225	17 N.J.R. 1133(a)
13:40-9	Supervision of engineering and land surveying projects	16 N.J.R. 2067(b)	R.1985 d.222	17 N.J.R. 1134(a)
13:41-1	Board of Professional Planners: readopt Seal rules	17 N.J.R. 1060(a)	R.1985 d.424	17 N.J.R. 2047(a)
13:41-3.2	Board of Professional Planners: fee schedule	17 N.J.R. 1061(a)		
13:41-4	Board of Professional Planners: readopt preparation of site plan rules	17 N.J.R. 1240(a)		
13:42-1.5	Psychological Board licensees: notification of current address	17 N.J.R. 896(a)		
13:43-3.4	Certified Shorthand Reporting exam: conditional credit	17 N.J.R. 801(a)	R.1985 d.288	17 N.J.R. 1431(a)
13:43-3.5	Shorthand reporting licensees: change of address notification requirement	17 N.J.R. 801(b)	R.1985 d.289	17 N.J.R. 1431(b)
13:44-1.2, 1.3, 1.4, 2.4, 2.9, 2.14, 2.15, 6	Veterinarian licensure	17 N.J.R. 1739(a)		
13:44-4.1	Veterinary medicine: training certificate fee	17 N.J.R. 383(a)	R.1985 d.364	17 N.J.R. 1773(b)
13:44C-1.1	Audiology and Speech Language Pathology Advisory Committee: fees and charges	17 N.J.R. 1062(a)		
13:44D	Public moving and warehousing	17 N.J.R. 1382(a)		
13:45A-9	Merchandise advertising: readopt rules	17 N.J.R. 678(a)	R.1985 d.256	17 N.J.R. 1323(b)
13:45A-16	Home improvement practices: readopt rules	17 N.J.R. 679(a)	R.1985 d.255	17 N.J.R. 1325(a)
13:45A-22	Kosher meat and poultry dealers: inspections and recordkeeping	17 N.J.R. 1241(a)	R.1985 d.407	17 N.J.R. 1901(b)
13:45A-23	Deceptive watercraft repair practices	17 N.J.R. 680(a)	R.1985 d.306	17 N.J.R. 1581(a)
13:46	Boxing Rules	16 N.J.R. 2962(a)	R.1985 d.284	17 N.J.R. 1432(a)
13:48	Charitable fund raising	17 N.J.R. 1244(a)		
13:51-3.5, 3.6	Chemical breath testing: approved instruments	17 N.J.R. 1531(a)		
13:59	Background checks for licensing and employment purposes: user fees	17 N.J.R. 1743(a)		
13:70-3.46	Thoroughbred rules: horsemen's bookkeeper account	17 N.J.R. 173(a)	R.1985 d.204	17 N.J.R. 1135(a)
13:70-4.15	Thoroughbred racing: farms and training centers	17 N.J.R. 1393(a)		
13:70-6.53	Thoroughbred rules: qualification as New Jersey bred	17 N.J.R. 271(a)	R.1985 d.203	17 N.J.R. 1135(b)
13:70-14A.11	Thoroughbred racing: urine testing of track personnel	17 N.J.R. 1640(a)		
13:71-7.26	Harness racing: farms and training centers	17 N.J.R. 1393(b)		
13:71-18.2	Harness racing: urine testing of track personnel	17 N.J.R. 1641(a)		

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PUBLIC UTILITIES—TITLE 14

14:1-5.2, 5.3	Filings with Board of Public Utilities	17 N.J.R. 802(a)		
14:3-8.1, 8.2	Suggested formulae for extension of utility service	17 N.J.R. 174(a)	R.1985 d.202	17 N.J.R. 1136(a)
14:3-10.9	Petitions by solid waste collectors	16 N.J.R. 3292(b)		
14:9-6.11	Correction: Acquisition costs	16 N.J.R. 3380(a)	R.1985 d.182	17 N.J.R. 1559(a)
14:17-6.8, 6.14, 6.17	CATV: system and stock transfers; rate increase filing procedures; public hearing requirement	17 N.J.R. 1062(b)		
14:18-2.9	CATV pole attachment rate methodology	17 N.J.R. 1589(b)	R.1985 d.425	17 N.J.R. 2047(b)
14:18-3.10	CATV installation: compensation for taking	17 N.J.R. 563(a)	R.1985 d.337	17 N.J.R. 1666(a)
14:18-11	Pre-proposal: Renewal of CATV municipal consents and certificates of approval	17 N.J.R. 1394(a)		

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ENERGY—TITLE 14A

14A:3-4.4	Energy Subcode: thermal efficiency standards	16 N.J.R. 2748(a)		
14A:3-11	Used oil recycling	17 N.J.R. 1866(b)		

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14A:7	Submission and handling of confidential information	17 N.J.R. 1745(a)		
14A:13-1.2, 1.8-1.11, 1.13, 1.14	Energy conservation in State buildings	17 N.J.R. 1747(a)		
14A:20-1	Energy conservation planning and evaluation	16 N.J.R. 3293(a)		
	(TRANSMITTAL 14, dated October 15, 1984)			
STATE—TITLE 15				
15:2-1.1, 1.3, 1.4	Commercial recording: expedited service	17 N.J.R. 897(a)	R.1985 d.327	17 N.J.R. 1670(a)
15:2-1.5	Commercial recording: fee payment for expedited service	17 N.J.R. 898(a)	R.1985 d.326	17 N.J.R. 1671(a)
	(TRANSMITTAL 14, dated January 3, 1984)			
PUBLIC ADVOCATE—TITLE 15A				
	(TRANSMITTAL 1, dated March 20, 1978)			
TRANSPORTATION—TITLE 16				
16:1	Records management	17 N.J.R. 564(a)	R.1985 d.409	17 N.J.R. 1903(a)
16:6	Relocation assistance	17 N.J.R. 565(a)		
16:20A-4.4	Municipalities qualified for depressed rural centers aid	17 N.J.R. 565(b)	R.1985 d.233	17 N.J.R. 1325(b)
16:21	State aid to counties and municipalities: readopt rules	17 N.J.R. 566(a)		
16:28-1.79	Route 94 speed limits, Sussex County	17 N.J.R. 384(a)	R.1985 d.198	17 N.J.R. 1137(a)
16:28A-1.4, 1.31, 1.33	Bus stops on Route 4 in Hackensack and Routes 45 and 47 in Deptford	17 N.J.R. 1396(a)	R.1985 d.393	17 N.J.R. 1903(b)
16:28A-1.7	Parking on U.S. 9 in Berkeley Township	17 N.J.R. 1063(a)	R.1985 d.355	17 N.J.R. 1774(b)
16:28A-1.7, 1.19, 1.21, 1.31, 1.32	Parking on Routes U.S. 9, 28, U.S. 30, 45, U.S. 46	17 N.J.R. 898(b)	R.1985 d.328	17 N.J.R. 1671(b)
16:28A-1.7, 1.24	Bus stops on U.S. 9 and 34 in Old Bridge	17 N.J.R. 1064(a)	R.1985 d.354	17 N.J.R. 1774(a)
16:28A-1.7, 1.45	Parking on U.S. 9 in Ocean County and Route 94 in Sussex County	17 N.J.R. 1250(a)	R.1985 d.390	17 N.J.R. 1904(a)
16:28A-1.9, 1.19, 1.21, 1.23, 1.33, 1.38, 1.41, 1.57, 1.104	Parking on Routes 17, 28, U.S.30, 33, 47, 71, 77, U.S.206 and U.S.40-322	17 N.J.R. 802(b)	R.1985 d.294	17 N.J.R. 1583(a)
16:28A-1.13, 1.27, 1.30	Bus stops on U.S. 22 in Kenilworth, Routes 38 in Cherry Hill and 44 in Paulsboro	17 N.J.R. 1397(a)	R.1985 d.394	17 N.J.R. 1905(a)
16:28A-1.18	Parking on Route 27 in Metuchen	17 N.J.R. 1642(a)		
16:28A-1.18	Parking on Route 27 in Union County	17 N.J.R. 1251(a)	R.1985 d.391	17 N.J.R. 1906(a)
16:28A-1.20, 1.25, 1.29, 1.64, 1.65	Parking and bus stops on Routes 29, 35, 42, 41 and 15	17 N.J.R. 1398(a)	R.1985 d.392	17 N.J.R. 1906(b)
16:28A-1.21, 1.26, 1.31, 1.38, 1.61, 1.71	Parking and bus stops on U.S. 9W, U.S. 30, Routes 36, 45, 67 and 71	17 N.J.R. 1064(b)	R.1985 d.356	17. N.J.R. 1774(c)
16:28A-1.35	Route 52 in Cape May County	17 N.J.R. 898(b)	R.1985 d.365	17 N.J.R. 1776(a)
16:28A-1.36	Parking on Route 57 in Warren County	17 N.J.R. 1251(a)	Withdrawn	17 N.J.R. 2053(a)
16:28A-1.96	Route 183 parking, Sussex County	17 N.J.R. 384(a)	R.1985 d.198	17 N.J.R. 1137(a)
16:30-6.4	Weight limit on Route 45 in Gloucester County	17 N.J.R. 1337(a)	R.1985 d.389	17 N.J.R. 1907(a)
16:30-12	Truck weigh stations on Interstate Highway System I-78, I-80, I-287 and I-295	17 N.J.R. 987(a)	R.1985 d.357	17 N.J.R. 1778(a)
16:31-1.1	No left turn on US 206 in Hillsborough	17 N.J.R. 1250(a)	R.1985 d.390	17 N.J.R. 1904(a)
16:31-1.4	No left turn on Route 35 in Shrewsbury	17 N.J.R. 566(b)	R.1985 d.206	17 N.J.R. 1138(a)
16:32-2.3	Temporary exemptions from Federal bridge formula	17 N.J.R. 1868(a)		
16:33	Construction control	17 N.J.R. 567(a)		
16:41A-6.1	Outdoor advertising permit fees	17 N.J.R. 385(a)	R.1985 d.230	17 N.J.R. 1325(c)
16:43	Junkyards adjacent to public highways: readopt rules	17 N.J.R. 567(b)		
16:44-5.1	Receipt of bids: requirements	16 N.J.R. 3191(a)		
16:56-4.1	Airport safety improvement aid	17 N.J.R. 1067(a)	R.1985 d.366	17 N.J.R. 1779(a)
16:62	Air safety and hazardous zoning	16 N.J.R. 860(b)	R.1985 d.173	17 N.J.R. 977(b)
16:62-5.1, 8, 9, 10	Air safety and hazardous zoning	17 N.J.R. 1869(a)		
16:78	Senior Citizen and Disabled Resident Transportation Assistance Act Program	17 N.J.R. 1532(a)		
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TREASURY-GENERAL—TITLE 17				
17:1-1.8	State pension checks and signature cards	17 N.J.R. 1068(a)	R.1985 d.348	17 N.J.R. 1673(a)
17:1-1.10	Minimum adjustments to pension accounts	17 N.J.R. 1642(b)		
17:1-2.3	Alternate Benefit Program: salary reduction and deduction	16 N.J.R. 2350(b)		
17:1-4.11	PERS: purchase of service credit by certain nurses	17 N.J.R. 900(a)	R.1985 d.321	17 N.J.R. 1586(a)
17:3-2.3	Teachers' pension and annuity: full-time employment	17 N.J.R. 60(a)		
17:3-3.2	Teachers' Pension and Annuity: contributory insurance benefits	17 N.J.R. 1252(a)		
17:4	Readopt Police and Firemen's Retirement System rules	17 N.J.R. 805(a)	R.1985 d.330	17 N.J.R. 1673(b)
17:5-5.5	State Police Retirement: outstanding loans	16 N.J.R. 2997(a)		
17:8	Supplemental Annuity Collective Trust: readopt rules	17 N.J.R. 682(a)	R.1985 d.378	17 N.J.R. 1907(b)
17:9-1.5	State Health Benefits Program: voluntary termination by employer	17 N.J.R. 1399(a)		
17:16-27	Investment Council: certificates of deposit	17 N.J.R. 60(b)	R.1985 d.201	17 N.J.R. 1907(a)
17:19-2.10	Classification of bidders: settlement conferences	16 N.J.R. 2751(a)	R.1985 d.436	17 N.J.R. 2048(a)
17:20-5	Revocation or suspension of Lottery agent's license	17 N.J.R. 272(b)	R.1985 d.308	17 N.J.R. 1586(b)
17:28	Charitable fund raising and public employees: payroll deduction campaigns	Emergency	R.1985 d.406	17 N.J.R. 1931(a)
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TREASURY-TAXATION—TITLE 18				
18:7-1.15, 4.5, 4.11, 11.7	Corporation Business Tax: investment company, subsidiary, indebtedness, timely filing	17 N.J.R. 1537(a)		
18:7-1.17, 11.15	Casino consolidated tax return	16 N.J.R. 2423(a)		
18:7-1.17, 11.15	Consolidated casino business tax returns	17 N.J.R. 901(a)		
18:7-5.1, 5.2, 5.4	Corporation Business Tax: entire net income base	17 N.J.R. 1538(a)		
18:7-14.12, 14.17—14.20	Corporation Business Tax: prior issuance of tax clearance certificate	17 N.J.R. 1252(b)	R.1985 d.383	17 N.J.R. 1909(a)
18:12A-1.2	County tax boards: member education	17 N.J.R. 683(a)	R.1985 d.261	17 N.J.R. 1439(a)
18:15-2.1—2.6	Farmland assessments	17 N.J.R. 903(a)	R.1985 d.310	17 N.J.R. 1587(a)
18:17-4.1	Local property tax: assessor duties	17 N.J.R. 1870(a)		
18:23A	Tax maps	17 N.J.R. 1068(b)	R.1985 d.381	17 N.J.R. 1910(a)
18:24-12	Sale of food and drink	17 N.J.R. 178(a)	R.1985 d.280	17 N.J.R. 1440(a)
18:35-1.18	Extension of time to file Gross Income Tax Return	17 N.J.R. 1643(a)		
18:37	Spill Compensation and Control Tax rules	17 N.J.R. 1074(a)	R.1985 d.382	17 N.J.R. 1915(a)
18:37-2.2	Transfer of hazardous substances other than petroleum or its products	17 N.J.R. 1540(a)		
	(TRANSMITTAL 28, dated April 15, 1985)			
TITLE 19 SUBTITLES A-L—OTHER AGENCIES (Except Casino Control Commission)				
19:1	Repealed rules of New Jersey Mortgage Finance Agency	17 N.J.R. 505(a)	R.1985 d.241	17 N.J.R. 1258(b)
19:4-4.33, 4.35, 4.36, 4.37, 4.39, 4.40, 4.42, 6.28	Hackensack Meadowlands waterfront recreation zone	16 N.J.R. 3423(b)	R.1985 d. 408	17 N.J.R. 1916(a)
19:4-4.142	Meadowlands: granting zoning variances	17 N.J.R. 1871(a)		
19:4-5.6, 5.6A, 6.28	Zoning changes	16 N.J.R. 2351(a)		
19:4-6.28	Official zoning map	16 N.J.R. 3423(b)	R.1985 d.212	17 N.J.R. 1138(b)
19:4-6.28	Change in zoning designation	17 N.J.R. 385(b)		
19:4-6.28	Meadowlands: official zoning map change	17 N.J.R. 1872(a)		
19:25-1, 7, 11	Readopt General Provisions, Use of Deposited Funds, Reporting of Contributions	17 N.J.R. 1399(b)	R.1985 d.398	17 N.J.R. 1917(a)
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