

NEW JERSEY REGISTER



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(Includes adopted rules filed through December 23, 1987)

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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: NOVEMBER 16, 1987.
See the Register Index for Subsequent Rulemaking Activity.
NEXT UPDATE WILL BE DATED DECEMBER 21, 1987.

NEW JERSEY
JAN 19 1988
185 W. STATE ST.
TRENTON, N.J.

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Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **February 18, 1988**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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- Adoptions January 22

March 7 issue:

- Proposals February 5
 Adoptions February 10

March 21 issue:

- Proposals February 22
 Adoptions February 29

April 4, issue:

- Proposals March 7
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NEW JERSEY REGISTER

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

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RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules Public Hearings; Media Coverage

Proposed Amendment: N.J.A.C. 1:1-14.1

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

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

Proposal Number: PRN 1988-25.

Submit comments by February 18, 1988 to:
Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Building 9
Quakerbridge Road
CN 049
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 1:1-14.1(d) will correct an oversight which was brought to the attention of the Office of Administrative Law. The last sentence of N.J.A.C. 1:1-14.1(d) prohibits recording conferences between attorneys and their clients or between counsel and the judge at the bench in order to "protect the attorney/client privilege." In fact, conferences at the bench would not involve the attorney/client privilege. Such conferences, however, often involve sensitive areas which should remain confidential in order to avoid inhibiting an attorney's ability to represent his or her client. Therefore, the OAL proposes to add the language "and the effective right to counsel" to the rule. This language is used in the New Jersey Supreme Court guidelines on recording court proceedings. See, 107 N.J.L.J. Index Page 558 (1981). The Supreme Court guidelines bar the audio recording or broadcasting of conferences between attorneys and their clients as well as between counsel and the judge. The proposed amendment is intended to comport with the Supreme Court guidelines.

The proposed amendment will not change existing practice, but will make the rule more accurate.

Social Impact

The proposed amendment corrects an inaccuracy in the rule and should, therefore, prevent any confusion that might have been caused.

Economic Impact

Since the proposed amendment will not change existing practice, no economic impact should result.

Regulatory Flexibility Statement

The proposed amendment does not affect small businesses because it does not impose reporting, recordkeeping or other compliance requirements on small businesses.

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

1:1-14.1 Public hearings; records as public; sealing a record; media coverage

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

(d) All public hearings may be filmed, photographed and recorded, subject to reasonable restrictions established by the judge to avoid disruption of the hearing process. The number of cameras and lights in the hearing room at any one time may be limited. Technical crews and equipment may be prohibited from moving except during recesses and after the proceedings are concluded for the day. To protect the attorney/client privilege **and the effective right to counsel**, there shall be no recording of conferences between attorneys and their clients or between counsel and the judge at the bench.

BANKING

(b)

DIVISION OF BANKING

Bank Holding Companies

Proposed Amendment: N.J.A.C. 3:13-2.2, 4.3 and 4.4.

Authorized By: Mary Little Parell, Commissioner, Department of Banking.

Authority: N.J.S.A. 17:9A-371, N.J.S.A. 17:9A-379 and N.J.S.A. 17:1-8.

Proposal Number: PRN 1988-36.

Submit comments in writing by February 18, 1988 to:
Roger F. Wagner
Deputy Commissioner
Division of Banking
CN 040
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 3:13-2.2 will reduce the reporting frequency requirements for bank holding companies who file quarterly financial reports with the Department of Banking. Specifically, bank holding companies which are now required to file Federal Reserve System forms FR Y-9C, FR Y-9LP and FR Y-11Q on a quarterly basis with the Department will now be required to file these forms only for the June 30 and December 31 reporting periods.

The proposed amendment to N.J.A.C. 3:13-4.3(a)3 will remove the requirement for filing a copy of the board resolution of a bank or bank holding company which is the subject of a proposed acquisition in instances where such a resolution has not been adopted. In some instances, the board may not choose to endorse a proposed acquisition and, therefore, there will not be a resolution. This does not impact on the determination of eligibility of the proposed acquisition.

The proposed amendments to delete N.J.A.C. 3:13-4.3(a)7 and 4.4(a)3 are required with the enactment of P.L. 1987, c.210 on July 23, 1987. This change in the law removed the stock ownership limitation and deposit limitations previously the subject of this paragraph.

Social Impact

With the adoption of the amendment to N.J.A.C. 3:13-2.2, the Department will still be able to effectively monitor the activities of bank holding companies within the State of New Jersey. By reviewing financial filings on a semi-annual basis, the Department will be able to oversee activities of bank holding companies and where appropriate make recommendations for the improvement of services to the citizens and the businesses of the State.

The proposed amendments to N.J.A.C. 3:13-4.3 are technical corrections to the rules and will have no specific social impact.

Economic Impact

By reducing the frequency requirement on these reports, there will be a reduction in the expenses incurred by bank holding companies in furnishing information to the Department of Banking. There will be a nominal reduction in income to the Department of Banking as only a limited number of large bank holding companies are required to file quarterly reports.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that the proposed amendments to these rules will not impose reporting, recordkeeping or other compliance requirements on small businesses. The proposed amendments to the rules result in a reduction in the reporting requirements called for in the existing rules. The changes will only apply to institutions with total consolidated assets in excess of \$150,000,000 and/or multi-bank holding companies.

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

3:13-2.2 Reporting for bank holding companies

(a) Each bank holding company which is required to file with the Federal Reserve System form FR Y-9C entitled "Consolidated Financial Statements for Bank Holding Companies with total consolidated assets of \$150,000,000 or more with more than one subsidiary bank" shall concurrently file a copy of [this] **its June 30 and December 31** report with the Commissioner of Banking. A filing fee of \$50.00 shall accompany the submitted report.

(b) Each bank holding company which is required to file with the Federal Reserve System form FR Y-9LP entitled "Parent Company Only Financial Statements for Bank Holding Companies with total consolidated assets of \$150,000,000 or more or with more than one subsidiary bank" shall concurrently file a copy of [this] **its June 30 and December 31** report with the Commissioner of Banking. A \$50.00 filing fee shall accompany the submitted report.

(c)-(f) (No change.)

(g) Each bank holding company which is required to file with the Federal Reserve System form FR Y-11Q entitled "Combined Financial Statement of Non-Bank Subsidiaries of Bank Holding Companies" shall concurrently file a copy of [this] **its June 30 and December 31** report with the Commissioner of Banking. A filing fee of \$50.00 shall accompany the submitted report.

(h)-(i) (No change.)

3:13-4.3 Content of application

(a) Any out-of-state bank holding company proposing to acquire and retain control of a bank or bank holding located in New Jersey pursuant to N.J.S.A. 17:9A-370 et seq. shall submit an application for determination of compliance with the requirements of N.J.S.A. 17:9A-371 to the Department of Banking, which application shall contain the following information:

1.-2. (No change.)

3. Certified copies of

i. The board resolution of the out-of-state bank holding company authorizing the proposed acquisition of the New Jersey bank, banks or bank holding company located in New Jersey; and

ii. The board resolution of the bank, bank or banks holding company approving the proposed acquisition, **if such approval has been adopted.**

4.-6. (No change.)

[7. A certification that at the time of the acquisition, the acquisition will comply with the limitations and provisions set out in N.J.S.A. 17:9A-371a(3).]

Renummer existing 8.-10. as 7.-9. (No change in text.)

3:13-4.4 Determination of eligibility

(a) Within 30 days after receipt of a completed application for determination of compliance with the requirements of N.J.S.A. 17:9A-371, the Commissioner shall issue a determination regarding:

1.-2. (No change.)

[3. Whether the acquisition would be in compliance with the stock ownership and deposit limitations of subsection (a) of section 2 of P.L. 1957, c.70 (N.J.S.A. 17:9A-345).]

[4.]3. Whether any limitations or restrictions on acquisition or ownership shall be applicable with respect to the proposed transaction.

(a)

PINELANDS DEVELOPMENT CREDIT BANK Pinelands Development Credit Bank Board of Directors; Procedural Rules Proposed New Rules: N.J.A.C. 3:42

Authorized By: John T. Ross, Acting Executive Director,
Pinelands Development Credit Bank.
Authority: N.J.S.A. 13:18A-30 et seq.
Proposal Number: PRN 1988-34.

A public hearing concerning the proposed new rules will be held at the following location and time:

February 11, 1988 at 2:00 P.M.
Cranberry Hall
Municipal Government Complex
Medford, New Jersey 08055

Submit written comments by February 18, 1988 to:

John T. Ross
Acting Executive Director
Pinelands Development Credit Bank Board
1230 Whitehorse-Mercerville Road
Trenton, New Jersey 08619

The agency proposal follows:

Summary

The Pinelands Development Credit Bank Act (The Act), N.J.S.A. 13:18A-30 et seq., established the Pinelands Development Credit Bank (Bank) for the purpose of regulating and promoting the use of Pinelands Development Credits (PDCs) to further the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-1.1 et seq.). By facilitating the sale of PDCs, the Bank is attempting to provide a source of remuneration for land owners whose property is located within areas of the Pinelands designated by the Plan for conservation or agricultural use. In exchange for placing an encumbrance on the title to the property, a "credit" is issued to the owner who may sell or borrow against the value of the credit. Credits are redeemed in the form of increased density allowances for those wishing to build in regional growth areas.

The proposed new rules establish criteria regarding the sale, transfer, conveyance, encumbrance, redemption, and documentation of Pinelands Development Credits. In addition, the rules specify the conditions under which the Bank may purchase PDCs.

Subchapter 1 establishes the purpose of the rules. It also enumerates the duties and powers of the Pinelands Development Bank Board of Directors and its Executive Director. Procedures and rules governing the Board are set forth.

Subchapter 2 provides interpretations, definitions and word usage.

Subchapter 3 outlines the procedure for issuance of PDCs. It includes the eligibility criteria for landowners as well as application requirements. It also outlines Bank procedure in issuing PDC certificates and the use of conservation or agricultural easements. It also establishes the required procedures involved with the sale, transfer, conveyance or encumbrance of PDCs.

Subchapter 4 sets forth the requirements of the Pinelands Development Credits Registry, including its contents, availability to the public, and the annual report.

Subchapter 5 enumerates the criteria to be considered by the Bank Board in the purchase of credits by the Bank itself, including the definition of a hardship and the credit price to be paid by the bank.

Subchapter 6, which relates to Pinelands Development Credit Guarantees, is reserved.

Subchapter 7, which relates to the sale, transfer, exchange, conveyance, or retirement of credits owned by the Board, is reserved.

Subchapter 8, which enumerates the delegation of Board powers to counties, is reserved.

Subchapter 9 addresses amendment of these rules by the Board or by petition of an interested person.

Social Impact

The proposed new rules will provide a mechanism through which counties and local governments may further the patterns of development called for under the Pinelands Comprehensive Management Plan. The public at large will benefit from the rules since they will further the preservation of open space and the conservation of groundwater resources.

Economic Impact

The proposed new rules will facilitate the use of Pinelands Development Credits as a method of providing equity to landowners whose property lies in areas ill-suited for development activity. The rules will create a market in which private citizens as well as the Bank Board may buy, sell and redeem credits. The rules also address the criteria for credit purchased by the Bank to alleviate hardship on the part of property owners.

Environmental Impact

The proposed new rules will result in a positive environmental impact because they will help to implement land use patterns called for by the Pinelands Comprehensive Management Plan. Specifically, the rules will

facilitate the conservation of agricultural and ecologically sensitive areas and thereby the groundwater resources upon which citizens of the region depend.

Regulatory Flexibility Statement

The purpose of the proposed new rules is to create and regulate Pinelands Development Credits pursuant to land use patterns established in the Pinelands Comprehensive Master Plan. Accordingly, the Department has determined, pursuant to the Regulatory Flexibility Act (P.L. 1986, c.169), that the proposed new rules will impose no reporting, recording, or other compliance requirements upon small businesses; therefore, no regulatory flexibility analysis is required.

Full text of the proposed new rules follows.

SUBTITLE F. PINELANDS DEVELOPMENT CREDIT BANK

CHAPTER 42 PROCEDURAL RULES

SUBCHAPTER 1. GENERAL PROVISIONS

3:42-1.1 Scope

Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Pinelands Development Credit Bank governing the procedures and standards for carrying out the duties and responsibilities of the Bank pursuant to "The Pinelands Development Credit Bank Act", N.J.S.A. 13:18A-30 et seq.

3:42-1.2 Purpose

(a) The purpose of this chapter is to:

1. Establish an efficient and effective method for documenting the sale, transfer, conveyance, encumbrance, and use of Pinelands Development Credits which are authorized and allocated pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; and

2. Facilitate the effective operation of the Pinelands Development Credit program through the Bank's participation in the purchase and use of Pinelands Development Credits.

3:42-1.3 Applicability

The rules contained in this chapter shall apply to all sales, transfers, conveyances, encumbrances and redemptions of Pinelands Development Credits and shall be supplemental to the provisions of the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.

3:42-1.4 Construction

These rules shall be liberally construed to permit the Bank to effectuate the purposes of the law.

3:42-1.5 Severability

If any section, part, phrase, or provision of these rules or the application thereof to any person be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the validity of the remainder of these rules or the application thereof to other persons.

3:42-1.6 Duties and powers of the Board of Directors

The Board of Directors is the governing body of the Pinelands Development Credit Bank and bears the ultimate responsibility for implementing and enforcing the provisions of the Pinelands Development Credit Bank Act and these rules. The Board shall exercise the powers necessary to implement the objectives of the Act and these rules.

3:42-1.7 Meetings, hearings, procedures and rules of the Board of Directors

(a) The Board of Directors shall adopt its own bylaws and procedures for the conduct of its business, meetings and hearings not inconsistent with the Pinelands Development Credit Bank Act, these rules and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Copies of those bylaws and procedures shall be available to any person upon request.

(b) The Board shall adopt and revise, as appropriate, the form and content of the Pinelands Development Credit Certificate as provided in N.J.A.C. 3:42-3.3.

(c) The Board shall adopt and revise, as appropriate, rules pursuant to the Administrative Procedure Act to implement the legislative mandates of the Pinelands Development Credit Bank Act.

3:42-1.8 Duties and powers of the Executive Director

(a) The Executive Director shall be the chief administrative officer of the Board and, subject to the approval of his actions by the Board as provided herein, shall be responsible for the administration and enforcement of these rules. In order to effectively implement these rules, the Executive Director shall exercise the following duties and powers:

1. Administrative Procedures: The Executive Director shall, consistent with the express standards, purposes and intent of these rules, establish administrative procedures and forms as are necessary to the effective administration and enforcement of these rules and the procedures of the Board.

2. Pinelands Development Credit Certificates: The Executive Director shall, consistent with the express standards, purposes, and intent of these rules, issue Pinelands Development Credit Certificates.

3. Records: The Executive Director shall maintain:

i. Current and permanent records of the Bank including a registry of all Pinelands Development Credit Certificates issued, sold, conveyed, transferred, encumbered, retired and redeemed; and

ii. A current and permanent record of the Bank pertaining to Pinelands Development Credits the Bank purchases, credit guarantees extended by the Bank and authorities delegated and grants provided to counties.

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

3:42-2.1 Word usage

(a) In the interpretation of these rules, the provisions of this section shall be observed and applied, except when the context clearly requires otherwise:

1. Words used or defined in one tense or form shall include other tenses and derivative forms.

2. Words in the singular shall include plural and words in the plural shall include the singular.

3. The masculine gender shall include the feminine and the feminine gender shall include the masculine.

4. The word "shall" is mandatory.

5. The word "may" is permissive.

6. In case of any difference of meaning or implication between the text of these rules and any caption, the text shall control.

3:42-2.2 Definitions

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

"Bank" means the Pinelands Development Credit Bank created pursuant to N.J.S.A. 13:18A-30 et seq.

"Board" means the Board of Directors of the Pinelands Development Credit Bank.

"Certificate" means the document issued by the Executive Director pursuant to N.J.A.C. 3:42-3.1 et seq.

"Encumber" means the act of burdening a Pinelands Development Credit with a financial liability such as that created when a Pinelands Development Credit is pledged as security or collateral.

"Grantee" means the person to whom an interest in a Pinelands Development Credit is conveyed.

"Grantor" means the person who conveys an interest in a Pinelands Development Credit.

"Letter of Interpretation" means a letter issued by the Pinelands Commission, pursuant to N.J.A.C. 7:50-4.71 et seq., attesting to the number of Pinelands Development Credits allocated to a parcel of land.

"Marketable title" means title free and clear of objectionable liens or encumbrances, free from reasonable doubts or defects, and insurable by a reputable title insurance company authorized to do business in New Jersey.

"Person" means an individual, corporation, public agency, business trust, partnership, association, two or more persons having a joint or common interest or any other legal entity.

"Pinelands Commission" means the Commission created pursuant to Section 5 of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.

"Pinelands Comprehensive Management Plan" means the plan adopted by the Pinelands Commission as N.J.A.C. 7:50-1.1 et seq.

"Pinelands Development Credits" means transferable development rights which are used to increase the residential density on certain lands in municipalities designated to receive such credits pursuant to the Pinelands Comprehensive Management Plan.

"Pinelands Development Credit Bank Act". See N.J.S.A. 13:18A-30 et seq.

"Pinelands Protection Act". See N.J.S.A. 13:18A-1 et seq.

"Redeemed" means any Pinelands Development Credit which is used to increase the residential density on a parcel of land in any municipality designated to receive such credits pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.

"Registry" means a permanent record established and maintained by the Executive Director documenting all Pinelands Development Credit Certificates issued, sold, conveyed, transferred, encumbered, redeemed and retired.

"Retired" means any Pinelands Development Credit owned by the Bank which is permanently withdrawn from use prior to its redemption.

SUBCHAPTER 3. PROCEDURES GOVERNING THE SALE, CONVEYANCE, TRANSFER OR ENCUMBRANCE OF PINELANDS DEVELOPMENT CREDITS

3:42-3.1 Applicability

(a) No person shall sell, transfer, convey or encumber any Pinelands Development Credits or any interest therein without first obtaining a Pinelands Development Credit Certificate from the Bank.

(b) Within 10 business days following the sale, transfer, conveyance or encumbrance of a Pinelands Development Credit or any interest therein, the person acquiring such Pinelands Development Credit or interest therein shall notify the Executive Director of his ownership or interest in the Pinelands Development Credit and the Executive Director shall re-issue a Pinelands Development Credit Certificate pursuant to the provisions of N.J.A.C. 3:42-3.4.

(c) Within 10 business days of the redemption of any Pinelands Development Credit, the person redeeming such Pinelands Development Credit shall notify the Executive Director of said redemption pursuant to the provisions of N.J.A.C. 3:42-3.6.

3:42-3.2 Application for Pinelands Development Credit Certificate

(a) Application for a Pinelands Development Credit Certificate shall be made to the Executive Director in such form and number as he shall from time to time specify.

(b) The Executive Director may waive or modify any of the application requirements set forth in (c) below if he determines that any required information is not relevant or necessary for purposes of issuing a Pinelands Development Credit Certificate.

(c) The following information shall be included in applications for Pinelands Development Credit Certificates:

1. The applicant's name and mailing address;
2. The property owner's name and address, if different from the applicant's, and a signed consent to the filing of the application;
3. The deed to the property to which Pinelands Development Credits are allocated;
4. A letter of interpretation from the Pinelands Commission, pursuant to N.J.A.C. 7:50-4.71 et seq., attesting to the number of Pinelands Development Credits allocated to the property;
5. The municipal tax block and lot number and a copy of the municipal tax map sheet(s) showing the property to which Pinelands Development Credits are allocated;
6. A title search of the property to which Pinelands Development Credits are allocated which covers at least the 60 years preceding the date of application;

7. A certification from the property owner that he has marketable title to the property to which Pinelands Development Credits are allocated and is legally empowered to restrict the use of this property in accordance with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47;

8. A properly executed and recorded restriction on the deed to the property in accordance with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47; and

9. Such other information as the Executive Director may determine is necessary in order to issue a Pinelands Development Credit Certificate.

3:42-3.3 Issuance of Pinelands Development Credit Certificates

(a) The Executive Director shall review the application and shall issue a Pinelands Development Credit Certificate, in such form as shall from time to time be specified by the Board, upon determining that the standards of (b) below are met. If the Executive Director determines that the standards are not met, he shall notify the applicant in writing of the reasons which prevent the issuance of a Certificate.

(b) The Certificate shall, at a minimum, specify the following:

1. The owner(s) of the Pinelands Development Credits;
2. The number of Pinelands Development Credits owned;
3. The municipality, block and lot of the property to which the Pinelands Development Credits are allocated;
4. The acreage of the property to which the Pinelands Development Credits are allocated;
5. The date on which the Certificate is issued; and
6. The information to be reported to the Executive Director when the Pinelands Development Credits are sold, conveyed, transferred, encumbered or redeemed.

(c) The Executive Director shall issue a Certificate only if he finds that:

1. The Pinelands Development Credit allocation set forth in the Pinelands Commission's letter of interpretation has not changed;
2. The property owner has marketable title and is legally empowered to restrict the use of his property in a manner consistent with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47;
3. The deed restriction limits the uses of the property to those permitted pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47.

i. Nothing herein shall be construed to require nor preclude the deed restriction from prohibiting or limiting uses which are otherwise permitted in N.J.A.C. 7:50-5.47.

ii. The restriction shall be in favor of a public agency or not for profit incorporated conservation organization and shall be specifically and expressly enforceable by the Pinelands Commission. In no case, however, shall the restrictions be in favor of the Board.

(d) In the event that the Executive Director determines that a question exists as to marketable title or the legal ability of the property owner to impose the necessary restrictions on the use of the property, the applicant may elect to conduct a more extensive search of the title or secure insurance which guarantees that the owner has an interest in the property sufficient to meet the standards set forth in (c) above. If the Executive Director then determines that the title questions are resolved, he shall issue the Certificate.

3:42-3.4 Sale, transfer, conveyance or encumbrance of Pinelands Development Credits after issuance of the Certificate

(a) Within 10 business days of the sale, transfer, conveyance or encumbrance of a Pinelands Development Credit or interest therein, the grantee shall deliver to the Executive Director the Certificate properly documented as to the specifics of the transaction as set forth in (c) below.

(b) Upon receipt of the Certificate, the Executive Director shall re-issue a Certificate, or Certificates as the case may be, in the name of the person or persons who have secured an interest in the Pinelands Development Credits.

(c) Notification to the Executive Director shall include, but is not necessarily limited to, the following:

1. The name(s) of the grantee(s);

2. The name(s) of the grantor(s);
3. The number of Pinelands Development Credits sold, conveyed, transferred, or encumbered;
4. The date of the transaction;
5. The interest secured in the Pinelands Development Credits by the grantee and evidence of the transaction; and
6. The consideration involved in the transaction.

3:42-3.5 Purchases of Pinelands Development Credits in association with conservation or agricultural easements

(a) In the event any county proposes to acquire a conservation or agricultural easement which restricts the use of property in a manner consistent with N.J.A.C. 7:50-5.47 and the Pinelands Development Credits which are allocated to the property so restricted, the Executive Director shall be authorized to issue the Pinelands Development Credit Certificate when settlement on the easement occurs.

(b) In the event the Board determines to purchase Pinelands Development Credits pursuant to N.J.A.C. 3:42-5.1 et seq., it may authorize the Executive Director to complete the purchase, including the issuance of the Pinelands Development Credit Certificate, in association with the placement of the requisite restriction on the deed to the property.

3:42-3.6 Redemption of Pinelands Development Credits

(a) When Pinelands Development Credits are redeemed in association with a residential development project approved by a municipal approval agency, the owner of the Pinelands Development Credits shall, within 10 business days thereafter, deliver to the Executive Director the Certificate properly documented as to the specifics of the redemption as set forth in (b) below.

(b) Notification to the Executive Director shall include, but is not necessarily limited to, the following:

1. The name of the owner;
2. The municipality in which the Pinelands Development Credits were redeemed;
3. The municipal tax block and lot number of the property for which the Pinelands Development Credits were redeemed;
4. The number of Pinelands Development Credits redeemed; and
5. The date on which the municipal development approval was issued and endorsement by the responsible municipal official.

(c) The Executive Director shall notify the owner and the appropriate municipal official that the Pinelands Development Credits have been redeemed and shall so indicate in the Pinelands Development Credit Registry upon his determination that:

1. The Pinelands Development Credits have not been previously redeemed;
2. The Pinelands Commission has concurred with the municipal approval; and
3. The number of Pinelands Development Credits redeemed were adequate to secure the increased number of residential units permitted pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq., and the applicable municipal zoning ordinance.

(d) In the event that only a portion of the Pinelands Development Credits specified in the Certificate are redeemed, the Executive Director shall re-issue a Certificate for the Pinelands Development Credits not so redeemed.

SUBCHAPTER 4. REGISTRY OF PINELANDS DEVELOPMENT CREDITS

3:42-4.1 Registry

(a) The Executive Director shall maintain a registry of Pinelands Development Credits, the purpose of which shall be to organize information on the following:

1. The issuance of Pinelands Development Credit Certificates;
2. The sale, transfer, conveyance, or encumbrance of Pinelands Development Credits;
3. The use of Pinelands Development Credits as security on loans and other obligations; and
4. The redemption and retirement of Pinelands Development Credits.

3:42-4.2 Content of registry

(a) The registry shall at a minimum include the following information:

1. The name and address of every owner to whom a Pinelands Development Credit Certificate is issued pursuant to N.J.A.C. 3:42-3.3; the date of its issuance; the municipal tax lot and block identification of the parcels of land to which the Pinelands Development Credit has been allocated; the number of Pinelands Development Credits or fraction thereof allocated to each parcel; the total number of Pinelands Development Credits allocated; and the total acreage to which Pinelands Development Credits have been allocated;

2. The name and address of every person to whom a Pinelands Development Credit is sold, transferred, conveyed, or encumbered; the date of the conveyance; and the consideration, if any, received therefor;

3. The name and address of any person who has pledged a Pinelands Development Credit as security on any loan or other obligation; the name and address of the lender; and the date, amount and term of the loan or obligation;

4. The name and address of any person who has redeemed a Pinelands Development Credit; the location of the land to which the credit was transferred; and the date this redemption was made; and

5. An annual enumeration of the total number of Pinelands Development Credits purchased and transferred, listing the municipality in which the land for which each Pinelands Development Credit was issued is located, and the municipality to which the Pinelands Development Credit was transferred and redeemed.

3:42-4.3 Availability of registry

(a) The Executive Director shall, upon reasonable notice, make the registry available for public inspection at the principal offices of the Bank.

(b) The Executive Director shall, upon request from any person, provide copies of the registry or any portion thereof. A fee for this service shall be charged in accordance with the copy fee schedule set forth in N.J.S.A. 47:1A-2.

3:42-4.4 Annual report

(a) On August 28 of each calendar year, the Board shall issue an annual report to the Governor, the Legislature and each county and municipality located in whole or in part within the Pinelands Area. Such report shall incorporate and summarize the information contained in the registry.

(b) The annual report shall also be made available to any person upon request.

SUBCHAPTER 5. BOARD PURCHASE OF PINELANDS DEVELOPMENT CREDITS

3:42-5.1 Applicability

(a) The Board may purchase Pinelands Development Credits from any person to:

1. Further the objectives of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; or
2. Alleviate a hardship.

3:42-5.2 Application to the Board

(a) An application for the Board's purchase of Pinelands Development Credits shall be made to the Executive Director in such form and number as he shall from time to time specify.

(b) The Executive Director may waive or modify any of the application requirements set forth in (c) below if he determines that any required information is not relevant or necessary for purposes of evaluating and acting on the application.

(c) The following information shall be included in the application:

1. The applicant's name and mailing address;
2. The name of the person(s) who own(s) the Pinelands Development Credits, if different from the applicant's, and a signed consent to the filing of the application;
3. A duplicate of the Pinelands Development Credit Certificate or, if a Certificate has not been issued, the information required pursuant to N.J.A.C. 3:42-3.2(c) with the exception of N.J.A.C. 3:42-3.2(c)8.

4. The number of Pinelands Development Credits to be sold;
5. A statement detailing the applicant's basis for believing that the Board can make one of the findings required in N.J.A.C. 3:42-5.3(b)3 and (c)3; and
6. Such other information as the Executive Director may determine is necessary in order to review and act on the application.

3:42-5.3 Standards governing the Board's decision to purchase

(a) The Board shall, after considering the recommendation of the Executive Director, determine whether or not to authorize the purchase of all or a portion of the Pinelands Development Credits proposed for sale in the application in accordance with the criteria set forth in (b) and (c) below, as appropriate.

(b) The Board may authorize a purchase of Pinelands Development Credits to further the objectives of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan if:

1. Adequate funds are available for the purchase;
2. The expenditure of funds does not substantially impair the Board's ability to carry out its duties and responsibilities with respect to guarantees which have already been extended; and
3. The purchase will result in:
 - i. The protection of property which is of unusual ecological or agricultural importance;
 - ii. The protection of property which serves to complement or buffer publicly owned and managed conservation lands;
 - iii. The Pinelands Development Credits which the Board purchases are likely to be resold, transferred or conveyed for redemption in a residential development project that satisfies compelling public need or that will result in the protection of other properties which satisfy (b)i or ii above;
 - iv. The timing and nature of the Board's purchase will result in a significant and positive example of the Pinelands Development Credit Program at work;
 - v. The proceeds from the sale being used for operating or capital expenditures on the property from which the Pinelands Development Credits are allocated in a manner consistent with the terms of the restriction on the deed to that property; or
 - vi. Otherwise further the purposes of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan.

(c) The Board may authorize the purchase of Pinelands Development Credits to alleviate a hardship if:

1. Adequate funds are available for the purchase;
2. The expenditure of funds does not substantially impair the Board's ability to carry out its duties and responsibilities with respect to Pinelands Development Credit guarantees which have already been extended; and
3. A hardship exists on the basis of one or more of the following tests:
 - i. The owner's investment in the land to which the Pinelands Development Credits are allocated is substantial in relation to his net worth;
 - ii. The owner has sought and been denied a waiver of strict compliance from the Pinelands Commission pursuant to the Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; and
 - iii. The owner is experiencing a unique and extraordinary financial hardship which may only be ameliorated through an expedient sale of his Pinelands Development Credits.

3:42-5.4 Notification to applicant

Upon the Board's decision to purchase or not purchase Pinelands Development Credits, the Executive Director shall notify the applicant, in writing, setting forth the basis for the Board's decision.

3:42-5.5 Completion of Board authorized purchases

(a) The Executive Director is authorized to complete any and all administrative procedures necessary to consummate the purchase of Pinelands Development Credits once approved for purchase by the Board.

(b) No Pinelands Development Credit shall be purchased by the Board after December 31, 1990.

3:42-5.6 Purchase price

(a) The purchase price for Pinelands Development Credits acquired by the Board shall be \$10,000 for each Pinelands Development Credit or fraction of that amount which reflects that portion of a Pinelands Development Credit so acquired.

(b) The Board may increase the purchase price set forth in (a) above if it determines that:

1. The purchase price, as increased, does not exceed 80 percent of the market value of Pinelands Development Credits as determined by examination and analysis of Pinelands Development Credit sales data reported to the Bank pursuant to N.J.A.C. 3:42-3.4; provided, however, that the Board shall not consider any sales data which does not meet generally accepted real estate appraisal practices; and

2. The purchase price, as increased, will not substantially impair the private sale of Pinelands Development Credits.

SUBCHAPTER 6. PINELANDS DEVELOPMENT CREDIT GUARANTEES (RESERVED)

SUBCHAPTER 7. SALE, TRANSFER, EXCHANGE, CONVEYANCE OR RETIREMENT OF PINELANDS DEVELOPMENT CREDITS OWNED BY THE BOARD (RESERVED)

SUBCHAPTER 8. DELEGATION OF BOARD POWERS TO COUNTIES (RESERVED)

SUBCHAPTER 9. AMENDMENTS

3:42-9.1 Board initiated proposals

(a) The Board may, at its own initiative or upon the recommendation of the Executive Director, periodically consider revisions to these rules in this chapter.

(b) Any such revisions shall be considered pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

3:42-9.2 Petitions for amendment

(a) Any interested person may petition the Board for an amendment to the rules in this chapter by filing an application with the Executive Director in such form and number as he shall from time to time specify.

(b) The application shall include the following:

1. The petitioner's name and address;
2. The precise wording of any proposed amendment to the text of the rules in this chapter;
3. A statement of the need and justification for the proposed amendment;
4. A statement as to the conformity of the proposed amendment to the Pinelands Development Credit Bank Act; and
5. A statement of the social, economic and environmental impacts of the proposed amendment.

(c) Upon receipt of the application, the Executive Director shall process the petition in accordance with the Administrative Procedure Act and the following procedures:

1. The Executive Director may deny the petition if he determines that the Board is not legally empowered to adopt the proposed amendment; or

2. The Executive Director may refer the matter for further deliberation in which case he shall prepare a report which analyzes the proposed amendment and presents a recommendation as to whether the Board should deny the petition, authorize the filing of a pre-proposal with the Office of Administrative Law, or authorize the filing of a rule proposal consistent with the petition.

(d) Except as provided in (c)1 above, the Board shall render all final decisions with respect to petitions for amendment in accordance with the Administrative Procedure Act.

PERSONNEL

(a)

MERIT SYSTEM BOARD

Sick Leave; Leave without Pay

Proposed Amendments: N.J.A.C. 4A:6-1.3 and 1.10

Authorized By: Merit System Board, Peter J. Calderone,

Assistant Commissioner, Department of Personnel.

Authority: N.J.S.A. 11A:2-6(d), 11A:6-1, 11A:6-5.

Proposal Number: PRN 1988-28.

A public hearing will be held on:

February 8, 1988 at 9:30 A.M.
Merit System Board Meeting Room
Department of Personnel
Front and Montgomery Streets
Trenton, New Jersey 08625

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 February 18, 1988 to:

Peter J. Calderone
Assistant Commissioner
Department of Personnel
CN 312
Trenton, New Jersey 08625

The agency proposal follows:

Summary

During the period allowed for public comment on the new Chapter N.J.A.C. 4A:6 (Leaves, Hours of Work and Employee Development) (see Notice of Adoption at 20 N.J.R. 54(a)), suggestions were submitted which, if implemented, could have constituted substantive changes in the proposal. Therefore, in accordance with N.J.A.C. 1:30-4.3, these suggested changes are being proposed for additional public notice and comment.

The first suggestion, submitted by the Department of Labor, would amend N.J.A.C. 4A:6-1.3 to permit appointing authorities, where there is a reasonable basis to believe that an employee is using excessive sick leave, to place such employee on an earned leave basis. Such employee would still be credited with the full statutory entitlement of 15 days' sick leave per year, and would be able to use this leave as it accumulates.

The second suggestion, submitted by several representatives of the Communications Workers of America (CWA), would amend N.J.A.C. 4A:6-1.10 to allow leaves without pay for nonpermanent employees in excess of six biweekly pay periods, especially in sick leave situations. In response to this suggestion, the proposed amendment would permit appointing authorities to request extensions of such leaves in cases of illness or disability of a nonpermanent employee, up to a maximum of six months. The amendment also clarifies that duration of a leave for union office is not limited by the provisions of N.J.A.C. 4A:6-1.10 with respect to either permanent or nonpermanent employees.

Social Impact

The proposed amendment to N.J.A.C. 4A:6-1.3 would affect those employees in State and local service whom the appointing authority has reason to believe are using excessive sick leave. This change would enable appointing authorities to use a non-disciplinary means for curbing misuse of sick leave. The majority of employees would not be affected and would continue to be able to utilize their sick leave allotment whenever a genuine need arises during the year.

The proposed amendment of N.J.A.C. 4A:6-1.10 would have a beneficial impact upon nonpermanent employees in State service, including provisional employees, who take leaves without pay but are unable to return to work due to illness or disability within six biweekly pay periods.

Economic Impact

The proposed amendment to N.J.A.C. 4A:6-1.3 would have a positive economic impact upon State and local governmental agencies, since it would make available to them an effective means of reducing excessive and unjustified use of sick leave.

The proposed amendment of N.J.A.C. 4A:6-1.10, since it involves leaves without pay, would have minimal economic impact.

Regulatory Flexibility Statement

A regulatory flexibility statement is not required since this proposal will have no effect upon small businesses.

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

4A:6-1.3 Sick leave

(a) Full-time State employees shall be entitled to annual paid sick leave as set forth in paragraphs (a)1 and 2 below. Full-time local employees shall be entitled to a minimum of annual paid sick leave as follows:

1. (No change.)

2. After the initial month of employment and up to the end of the first calendar year, employees shall be credited with one working day for each month of service. Thereafter, [at the beginning of each calendar year,] employees shall be [credited with] **entitled to 15 working days per year, effective at the beginning of the calendar year. When an employee has a record of excessive sick leave use and/or has exhausted such leave during the prior calendar year, an appointing authority may require the employee to accumulate sick leave on a monthly basis prior to its use.**

(b)-(h) (No change.)

4A:6-1.10 Leave without pay: State service

(a) In State service, an appointing authority may, with Department of Personnel approval, grant leaves of absence without pay to permanent employees for a period not to exceed one year unless otherwise provided by statute. A leave may be extended beyond one year for exceptional situations upon request by the appointing authority and written approval by the Department of Personnel.

1. An appointing authority may, with Department of Personnel approval, grant leaves of absence without pay to nonpermanent career service State employees for exceptional situations. Such leaves shall not exceed six biweekly pay-periods, or the equivalent, and shall not continue beyond termination of the appointment. [Leave for union office, pursuant to N.J.A.C. 4A:6-1.16, may be for longer periods, as provided in the negotiated agreement.] **Such leaves may be extended up to an additional six months, upon request of the appointing authority and written approval by the Department of Personnel, in cases of personal illness or disability.** Leave without pay for nonpermanent employees may be terminated at any time.

2. **Leave for union office for permanent and nonpermanent employees, pursuant to N.J.A.C. 4A:6-1.16, may be for periods longer than those specified in (a)1 above, as provided in the negotiated agreement.**

(b)-(d) (No change.)

EDUCATION

(b)

STATE BOARD OF EDUCATION

School Districts—Pupil Records

Proposed Amendments: N.J.A.C. 6:3-2.

Authorized By: State Board of Education, Saul Cooperman,

Secretary and Commissioner, Department of Education.

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:36-19, 18A:36-19a and Public Law 94-142.

Proposal Number: PRN 1988-26.

Submit comments by February 18, 1988 to:

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

The agency proposal follows:

Summary

On December 1, 1986, Governor Kean signed into law Senate Bill 818, P.L. 1986, c.160, which is codified as N.J.S.A. 18A:36-19a. The law requires chief school administrators to request a pupil's records from the school district of previous attendance within two weeks of the pupil's enrollment in the new school district. The State Board of Education is required to promulgate rules as necessary to effectuate the purpose of the act.

The proposed amendments fulfill the legislative requirement by ensuring that provisions are made for the receiving school district to request in writing the pupil's records from the school district of last attendance and to obtain proper identification of any new pupil, such as a certified copy of the pupil's certificate of birth.

Social Impact

The proposed amendments will have a favorable impact upon the public in that the amended rules will ensure a timely transfer of pupil records by establishing procedures whereby receiving school districts obtain pupil records and require proper identification of incoming pupils at the time of enrollment.

Economic Impact

Adoption of the proposed amendments will have no economic impact upon the State, district boards of education or the public.

Regulatory Flexibility Analysis

The proposed amendments will have no reporting, recording or compliance requirements for small businesses. The proposed amendments impact directly and only upon New Jersey public school districts.

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

SUBCHAPTER 2. PUPIL RECORDS

6:3-2.1 Definitions

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

...
 "Pupil record" means information related to an individual pupil gathered within or [without] **outside** the school system and maintained within the school system, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information which is maintained for the purpose of second party review is considered a pupil record. Therefore, information recorded by any certified school personnel solely as a memory aid, not for the use of a second party, is excluded from this definition.
 ...

6:3-2.2 General considerations

- (a) (No change.)
- (b) Each district board of education shall have the responsibility to compile and maintain pupil records and to regulate access, disclosure or communication of information from educational records in a manner that [ensure] **assures** the security of such records in accordance with this subchapter.
- (c)-(e) (No change.)
- (f) The parent[(s)] shall either have access to or be specifically informed about only that portion of another pupil's record that contains information about his or her own child.
- (g) Each district board of education shall establish written policies and procedures for pupil records which:
 - 1.-6. (No change.)
 - 7. Assure [compliance with the] limited access to pupil records by secretarial and clerical personnel pursuant to N.J.A.C. 6:3-2.5; and
 - 8. (No change.)
- (h) (No change.)
- (i) The chief school administrator or his or her designee shall require all permitted pupil records of currently enrolled pupils to be reviewed annually by certified school personnel to determine the educational relevance of the material contained therein. The reviewer shall cause data no longer descriptive of the pupil or educational situation to be deleted from the records. Such information shall be destroyed and not be recorded elsewhere[, nor shall a]. **No record of any such deletion shall be made.**

- (j) (No change.)
- (k) When the parents' dominant language is not English or the parent is deaf, the district board of education shall make every effort to:
 - 1. (No change.)
 - 2. Assist the parent[(s)] in securing an interpreter.

6:3-2.3 Mandated and permitted pupil records

(a) The district board of education shall not compile any other pupil records except mandated and permitted records as herein defined.

1. Mandated pupil records are those pupil records which the schools have been directed to compile by New Jersey statute, regulation or authorized administrative directive. Mandated pupil records shall include the following:

- i. Personal data which identifies each pupil enrolled in the school district. These data shall include the pupil's name, address, date of birth, name of parent(s), citizenship and sex of the pupil. The district board of education is prohibited from recording the religious or political affiliation of the pupil and/or parent[(s)] unless requested to do so in writing by the parent or adult pupil. The district is also prohibited from labeling the pupil illegitimate.
- ii-vi. (No change.)
- 2. (No change.)

6:3-2.5 Access to pupil records

- (a)-(b) (No change.)
- (c) Authorized organizations, agencies and persons shall include only:

- 1. The parent[(s)] of a pupil under the age of 18 and the pupil who has the written permission of such parent[(s)];
- 2. (No change.)
- 3. The adult pupil and the pupil's parent[(s)] who [have] **has** the written permission of such pupil, except that the parent[(s)] shall have access without consent to the pupil as long as the pupil is financially dependent on the parent[(s)] and enrolled in the public school system or if the pupil has been declared legally incompetent by a court of appropriate jurisdiction;
- 4.-8. (No change.)

9. Officials of other district boards of education within the State of New Jersey in which the pupil is placed, registered or intends to enroll, subject to the following conditions:

- i. Mandated pupil records shall be forwarded to the receiving district with written notification to the parent[(s)] or adult pupil.
- ii. (No change.)
- iii. All records to be forwarded shall be sent to the chief school administrator or his or her designee of the school **district** to which the pupil has transferred within 10 days after the transfer has been verified by the requesting school district.
- iv. **The chief school administrator or his or her designee shall request all pupil records in writing from the school district of last attendance within two weeks from the date that the pupil enrolls in the new district.**
- v. **Proper identification, such as a certified copy of the pupil's birth certificate, shall be requested at the time of enrollment in a new school district.**

10. Officers and employees of a [s]State agency who are responsible for protective and investigative services for pupils referred to that agency, pursuant to N.J.S.A. 9:6-8.40. Wherever appropriate, district boards of education shall ask such State agency for its cooperation in sharing the findings of the investigation;

11. Organizations, agencies and persons from outside the school if they have the written consent of the parent[(s)] or adult pupil, except that these organizations, agencies and persons shall not transfer pupil record information to a third party without the written consent of the parent[(s)] or adult pupil;

12-13. (No change.)

6:3-2.6 Conditions for access to pupil records

(a) All authorized organizations, agencies and persons defined in this subchapter shall have access to the records of a pupil, subject to the following conditions:

1. No pupil record shall be altered or destroyed during the time period between a written request to review the record and the actual review of the record[;].

2. Authorized organizations, agencies and persons from outside the school whose access requires the consent of parents or adult pupils must submit their request in writing together with any required authorization, to the chief school administrator or his or her designee[;].

3. The chief school administrator or his or her designee shall be present during the period of inspection to provide interpretation of the records where necessary and to prevent their alteration, damage or loss. In every instance of inspection of pupil records by persons other than parents, pupils or individuals who have assigned educational responsibility for the individual student, an entry shall be made in the pupil record of the names of persons granted access, the reason access was granted, the time and circumstances of inspection, the records studied and the purposes for which the data will be used[;].

4. Unless otherwise judicially instructed, the district board of education shall, prior to the disclosure of any pupil records to organizations, agencies[,] or persons outside the school district pursuant to a court order, give the parent or adult pupil at least three days' notice of the name of the requesting agency and the specific records requested. Such notification shall be provided in writing if practicable. Only those records related to the specific purpose of the court order shall be disclosed[;].

5. (No change.)

6:3-2.7 Rights of appeal for parents and adult pupils

(a) Pupil records are subject to challenge by parents and adult pupils on grounds of inaccuracy, irrelevancy, impermissible disclosure, inclusion of improper information or denial of access to organizations, agencies and persons. The parent or adult pupil may seek to:

1. (No change.)

2. Insert additional data as well as reasonable comments as to the meaning and/or accuracy of the records; and/or

3. (No change.)

(b)-(d) (No change.)

6:3-2.8 Retention and destruction of pupil records

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

(c) Upon graduation or permanent departure of a pupil from the school system:

1. (No change.)

2. Information in pupil records, other than that described in (e) below, may be destroyed[,] but only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq. Such destruction shall be accomplished only after written parental or adult pupil notification and written parental or adult pupil permission has been granted, or after reasonable attempts at such notification and reasonable attempts to secure parental permission have been unsuccessful.

(d) (No change.)

(e) The New Jersey public school district of last enrollment shall be responsible for maintaining a pupil's records upon graduation or permanent departure of the pupil from the school district and shall keep in perpetuity a permanent record of a pupil's name, date of birth, sex, address, telephone number, grades, attendance record, classes attended, grade level completed, year completed, name{(s)} of parent(s) and citizenship status.

Authority: N.J.S.A. 13:1D-9 and 13:1D-33.

DEP Docket Number: 067-87-12.

Proposal Number: PRN 1988-39.

A public hearing concerning this proposal will be held on:

February 17, 1988 at 10:00 A.M.

New Jersey State Library

Third Floor Meeting Room

185 West State Street

Trenton, New Jersey

Submit written comments by February 18, 1988 to:

Rachel Lehr, Esq.

New Jersey Department of Environmental Protection

Office of Regulatory Services

CN 402

Trenton, NJ 08625

The agency proposal follows:

Summary

The Department of Environmental Protection's ("Department") Division of Water Resources currently administers portions of the 90 Day Construction Permit Rules, N.J.A.C. 7:1C-1. These proposed amendments to N.J.A.C. 7:1C-1 address the fee structure for treatment works approvals ("TWA") issued pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., for sanitary sewage collection systems (sewer extensions and sewer connections).

The rules are being amended to include a new formula to be used in computing each permit fee. This new formula will base permit fees on a percentage of the construction cost of the project applying for the permit, just as the present rules do, but the formula will more accurately reflect the actual cost to the Department in running the permit program. The cost of running the program will be estimated by using a figure for each year which represents the cost to the Department of administering the program in the previous year. Some years the cost of a permit will increase and some years it will decrease. The existing fee structure is based solely on a percentage of project construction costs. Such a system rarely produces revenues that match program budget needs. Surpluses and deficits occur. The proposed amendments should achieve the Department's objective of making the permit fees approximately equal to the program budget for all projects for which existing rules require the construction permit known as a treatment works approval.

The definition of "appropriate agency" in N.J.A.C. 7:1C-1.2 has been revised by changing the names of the permits for which the Division of Water Resources is the appropriate agency from "waste water allocation permit," "domestic treatment works approval," "permits" and "approvals for the construction, alteration or extension of sanitary collection systems" to "treatment works approval." N.J.A.C. 7:1C-1.5(a)5 and (b) have been changed accordingly to reflect the change in the definition. This change has been made to make the language consistent throughout all of the Department's rules. All of these terms mean a treatment works approval.

N.J.A.C. 7:1C-1.5(a) establishes the new permit fee structure. 7:1C-1.5(a)5i establishes three categories of project costs upon which the permit fees are to be based. Category 1 includes all projects whose cost is greater than \$1,000,000. Category 2 includes all projects which cost between \$250,000 and \$1,000,000 and Category 3 includes all projects costing \$250,000 or less. There shall be a minimum fee of \$150.00.

N.J.A.C. 7:1C-1.5(a)5ii establishes the new formula from which the value of the coefficient labeled "P" is computed. The value of this coefficient "P" will be multiplied by the cost of construction to calculate the permit fees of Category 1 projects; the construction costs multiplied by 2P will be used to calculate permit fees for Category 2 projects and construction costs multiplied by 4P equals the permit fees for Category 3 projects. The coefficient "P" shall be calculated by the following equation: P=EB/C1+(2xC2)+(4xC3), where EB equals the estimated budget for the forthcoming year which is divided by the sum of the value of the previous year's Category 1 projects plus two times the value of the previous year's Category 2 projects plus four times the value of the previous year's Category 3 projects.

N.J.A.C. 7:1C-1.5(a)5v requires the Department to develop an Annual Fee Schedule Report and describes its contents. This report will set forth the values for the coefficient "P" for each year, as derived from the formula in N.J.A.C. 7:1C-1.5(a)5i.

N.J.A.C. 7:1C-1.5(a)5vi requires the Department to hold an annual public hearing concerning the fees to be assessed for the following year.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

90 Day Construction Permit Rules

Proposed Amendments: N.J.A.C. 7:1C-1.2 and 1.5

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.

Social Impact

The Department's proposal to amend the TWA fee structure will provide a positive social impact. The Department, in acting to amend the TWA fee structure, will ensure that the cost of the program is borne by those who are regulated by the program. In addition, an annual fee schedule report is proposed to be prepared each year so that the fee-payers can have comment and input. The universe of people affected by these proposed amendments will not change from those affected by the existing rules.

Economic Impact

The economic impact of these proposed amendments will be borne by those applicants who wish to construct facilities that manage domestic sanitary sewage and should not affect the public-at-large. The proposed amendments will have a positive economic impact on the Department because the fees collected will cover the cost to the Department of administering the permit program. The existing fee structure is based solely on a percentage of project construction costs. Such a system hardly ever produces revenues closely matching program budget needs but results instead in surpluses and deficits. The proposed amendments make the fees charged approximately equal to the program budget and clearly include all projects for which existing rules require the construction permit known as a treatment works approval.

Environmental Impact

The proposed amendments reflect the Department's intentions to manage this program as effectively and efficiently as possible. Under the existing fee structure, the Department cannot guarantee that the program will receive the necessary fees to fund it in any given year. Under these proposed amendments, the Department can maintain adequate staff to both administer and enforce the program, which will have a positive environmental impact.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-19, the Department has determined that this rule will not impose reporting, recordkeeping, or other compliance requirements on small businesses other than applying for and paying a fee for a treatment works approval. The Department will not require any additional information from what is now required. The Department has determined that the size of the facility sought to be constructed, rather than the size of the business entity seeking to construct the facility, will provide a much more sound basis for administrative cost equivalent fee computation.

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

SUBCHAPTER 1. 90 DAY CONSTRUCTION PERMIT RULES

7:1C-1.2 Definitions

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

... "Appropriate agency" means:

1. (No change.)
2. The Division of Water Resources for:
 - i. (No change.)

ii. **Treatment works approvals issued** [Approvals for the construction, alteration or extension of sanitary sewage collection systems] pursuant to N.J.S.A. 58:10A-1 et seq. and N.J.A.C. 7:14A-12.1 et seq.

... "Construction permit" means:

- 1.-4. (No change.)
5. [A wastewater allocation permit which approves the construction, alteration or extension of sanitary sewage collection systems that is, treatment works approval, issued pursuant to N.J.S.A. 58:10A-1 et seq. and N.J.A.C. 7:14A-12.1 et seq., excluding all those for which federal grants have been requested pursuant to P.L. 92-500 as amended (The Federal Clean Water Act as amended).] **A treatment works approval issued pursuant to the "Water Pollution Control Act" (N.J.S.A. 58:10A-1 et seq.) and its implementing rules (N.J.A.C. 7:14A).**

NOTE: "Construction permit" does not include any approval of or permit for an electric generating facility or for a petroleum pro-

cessing or storage facility, including a liquified natural gas facility, with a storage capacity of over 50,000 barrels.

7:1C-1.5 Fees

(a) Fees shall be charged for the review of any application for a construction permit in accordance with the following schedule.

1.-4. (No change.)

5. [Wastewater Allocation (Sanitary Sewer Facility) Permit or Domestic Treatment Works Approval: The fee for Wastewater Allocation (sanitary sewer facility) or Domestic Treatment Works approvals shall be six-tenths of one percent of the construction costs up to \$250,000, plus three-tenths of one percent of the construction costs which are in excess of \$250,000 but are not greater than \$1,000,000 plus fifteen one-hundredths of one percent of those construction costs which are in excess of \$1,000,000. A minimum fee of \$150.00 shall be charged.] **Treatment works approval:**

i. **Fees shall be based on categories of project construction costs as follows:**

- (1) **Category 1 for construction costs greater than \$1,000,000;**
- (2) **Category 2 for construction costs greater than \$250,000 but less than or equal to \$1,000,000;**
- (3) **Category 3 for construction costs less than or equal to \$250,000.**

ii. **Fees for each billing year shall be determined by using the formulas in (a)5iii below. The coefficient "P" shall be derived from the equation $P = EB/C1 + (2 \times C2) + (4 \times C3)$ where:**

- (1) **EB equals the estimated budget for the forthcoming year;**
- (2) **"C1" equals the sum of the previous year's Category 1 construction costs;**
- (3) **"C2" equals the sum of the previous year's Category 2 construction costs; and**
- (4) **"C3" equals the sum of the previous year's Category 3 construction costs.**

iii. **An applicant for a treatment works approval shall pay the following appropriate fee:**

- (1) **Category 1: Construction costs times P;**
- (2) **Category 2: Construction costs times 2P;**
- (3) **Category 3: Construction costs times 4P.**

iv. **An applicant for a treatment works approval shall pay a minimum fee of \$150.00.**

v. **The Department shall prepare an annual fee schedule report which will include the following:**

(1) **The values for the coefficient "P" of the fee formula derived from the equation in (a)5ii above, which accounts for changing conditions and costs;**

(2) **A detailed financial statement showing the anticipated costs for the following year. The statement shall include a breakdown by totals for account title (for example, printing and office expenses, vehicular, and maintenance of vehicles);**

(3) **A detailed financial statement of the previous year's expenditures including a breakdown by account titles, breakdown by totals for category of permit, actual amount of fees collected, any surplus which can be credited, or any deficit which must be assessed when determining next year's fees;**

(4) **A report on the previous year's activities which includes a list of permits issued and fees assessed, a list of facilities inspected; and the number of administrative orders and consent orders issued by the Department including a breakdown by type of order.**

vi. **The Department shall hold a public hearing annually concerning the fees to be assessed for the following year. The public hearing shall be held prior to the actual assessment of the fees.**

(b) Each extension of time requested must be accompanied [with] by a \$50.00 non-refundable base fee. Each extension, if granted, will be for a maximum period of one year. No permit will be extended beyond a total of five years from the original date of the permit, except for projects of unusual size or scope or for projects which are delayed due to circumstances beyond the permittee's control (such as a delay in the funding of a public works project), in which case the appropriate agency may, upon request of the applicant prior to the expiration of the original permit, extend the permit for a total of 10 years from its original effective date. This exception shall not

apply to Stream Encroachment permits [of Wastewater Allocation Permits] or treatment works approvals.

1. (No change.)
- (c)-(f) (No change.)

(a)

DIVISION OF PARKS AND FORESTRY

Bureau of Forest Management

Proposed New Rules: N.J.A.C. 7:3-2

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1L-1 et seq. and 54:4-23.1 et seq., specifically 54:4-23.3.

DEP Docket Number: 066-87-12.

Proposal Number: PRN 1988-42.

Submit comments by February 18, 1988 to:
Howard Geduldig, Esq.
Office of Regulatory Services
Division of Environmental Protection
401 East State Street
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

On August 1, 1987, amendments to N.J.S.A. 54:4-23.3 became effective (see P.L. 1986, c.201) which redefine the criteria by which non-appurtenant woodlands qualify for property taxation under the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq. (the Act). The landowner seeking to qualify for reduced property taxation under the Act must establish and comply with the provisions of a woodland management plan for this land prepared in accordance with policies, guidelines, and practices approved by the Department, in consultation with the Department of Agriculture and the Dean of Cook College at Rutgers, The State University, which policies, guidelines and practices are designed to eliminate excessive and unnecessary cutting. Thereafter, the landowner and a forester from the list of foresters approved by the Department will be required to annually attest to compliance with the approved woodland management plan.

This proposed new subchapter constitutes the rules of the Department concerning the establishment of the list of foresters approved by the Department whose services are required in order to comply with the Act. Applicants seeking entry on the list will be required to satisfy educational and experiential criteria and must agree to abide by the Society of American Foresters Code of Ethics. To remain on the list, approved foresters must file quarterly reports as to their activities including participation in continuing education programs. Procedures for application and appeal from adverse determinations are also specified.

Social Impact

This subchapter provides an essential link in the establishment of a forestry program, implemented on privately-owned land, for utilizing the forest resource through environmentally-sound forest management practices. Excessive and unnecessary cutting will be curtailed, more open space will be preserved for the benefit of all residents of New Jersey, and tax assessors will be aided in the uniform administration of the Act.

Economic Impact

The services of foresters from the approved foresters list will be required for annual attestations of compliance with woodland management plans. In addition, landowners would likely use the professional services of the approved foresters in the establishment of the required woodland management plans. Those foresters used for these services will realize a direct economic benefit. Although landowners seeking to qualify for reduced property taxation under the Act will incur additional costs for the services of approved foresters, these landowners will realize enhanced economic benefits from ownership of properly-managed woodlands.

Environmental Impact

Those woodlands managed in compliance with woodland management plans, that is, a plan prepared in accordance with the criteria set forth at N.J.A.C. 18:15-2.10, are more likely to be maintained in a healthy

condition offering additional, incidental benefits to fish and wildlife and watershed quality. The annual attestation to compliance with the woodland management plan by an approved forester will further the achievement of this goal.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that these proposed new rules would not impose reporting, recordkeeping, or other compliance requirements on small businesses other than the quarterly activity report of forester achievements and participation in continuing education. This reporting requirement should not necessitate the hiring of professional services nor result in any additional capital costs to approved foresters.

Full text of the proposed new rules follows:

SUBCHAPTER 2. APPROVED FORESTERS LIST

7:3-2.1 Scope and authority

This subchapter constitutes the rules of the Department of Environmental Protection concerning the establishment of a list of foresters approved by the Department as necessary to implement P.L. 1986, c.201, amending and supplementing the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq. (the Act), and authorized by the State Park and Forestry Resources Act, N.J.S.A. 13:1L-1 et seq.

7:3-2.2 Purpose

The purpose of this subchapter is to provide the criteria for the establishment and maintenance of a list of foresters approved by the Department. The Act imposes certain requirements on those owners of land devoted exclusively to the production for sale of trees and forest products other than Christmas trees, and which is not appurtenant woodland, who desire to qualify for reduced property taxation. The landowner must establish and comply "with the provisions of a woodland management plan for this land prepared in accordance with policies, guidelines and practices approved by the Division of Parks and Forestry in the Department of Environmental Protection, in consultation with the Department of Agriculture and the Dean of Cook College at Rutgers, The State University, which policies, guidelines and practices are designed to eliminate excessive and unnecessary cutting." N.J.S.A. 54:4-23.3. In addition, both the landowner and a forester from the list of foresters approved by the Department in accordance with this subchapter shall annually attest to compliance with the woodland management plan.

7:3-2.3 Construction

This subchapter shall be liberally construed to allow the Department to implement fully its statutory functions pursuant to the Act and the State Park and Forestry Resources Act.

7:3-2.4 Severability

If any section, subsection, provision, clause, or portion of this subchapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this subchapter or the application thereof to other persons.

7:3-2.5 Definitions

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

"Act" means the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.

"Approved forester" means a forester meeting the standards and qualifications established by the Department in this subchapter.

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Department" means the Department of Environmental Protection.

"List of approved foresters" means a list of approved foresters meeting the requirements of N.J.A.C. 7:3-2.7 that is maintained and updated annually, or more frequently if needed, and available from

the State Forestry Services, Division of Parks and Forestry, Department of Environmental Protection.

"Society of American Foresters Code of Ethics" means the canons governing professional conduct, adopted by the Society of American Foresters by Member Referendum, June 23, 1976, and on file at the Office of Administrative Law and available from that agency or the State Forestry Services, Division of Parks and Forestry, Department of Environmental Protection.

"Woodland management plan" means a plan prepared in accordance with the criteria set forth at N.J.A.C. 18:15-2.10.

7:3-2.6 Application procedure

(a) Any natural person may apply for entry on the list of approved foresters by submitting the following to the State Forestry Services, Division of Parks and Forestry, Department of Environmental Protection, CN 404, Trenton, New Jersey 08625:

1. A completed and executed application for entry on the list of approved foresters available from the State Forestry Services at the address given in (a) above; and

2. A certified copy of post-secondary school transcripts;

(b) The Department will advise the applicant of its determination of the qualifications of the applicant. If approved, the name of the applicant will be entered on the list of approved foresters.

7:3-2.7 Qualifications for entry on the list of approved foresters

(a) The Department shall approve for entry on the list of approved foresters any natural person applying therefor and who at the time of application, satisfies the following qualifications:

1. Graduation from a four-year college or university accredited by the Society of American Foresters with a major course in forest management or from the Cook College-Rutgers University forest management option within the natural resource management curriculum or from a graduate degree program that the Department determines to be equivalent to the aforementioned major course in forest management;

2. Two years experience in forest management employment, beginning not earlier than the time of registration for the educational requirements specified above at (a)1, including one or both of the following:

i. The preparation of woodland management plans; or

ii. The implementation of forestry practices for the protection, development, marketing, and utilization of forest land resources; and

3. Execution of a Department-prepared agreement to abide by the Society of American Foresters Code of Ethics.

(b) Each natural person on the list of approved foresters shall:

1. Submit accomplishments in a quarterly report upon request by the Department including, but not limited to, the following items:

i. The number of woodland management plans and the acreage covered by each such plan;

ii. The number of timber stand improvements completed and the acreage covered by each such improvement;

iii. The number of reforestation and Christmas tree plantations completed and the acreage covered by each such plantation;

iv. The number, acres, volumes, and dollar returns on timber, pulpwood, and firewood harvests;

v. Evidence of annual participation in a relevant program of professional education to maintain forestry skills that is sponsored by the Society of American Foresters, Cook College-Rutgers University, or the Department, or is otherwise approved by the Department; and

vi. Other necessary information requested by the Department; and

2. Abide by the Society of American Foresters Code of Ethics.

7:3-2.8 Deletion from list of approved foresters

(a) The Department may delete from the list of approved foresters any forester on the list who:

1. Fails to submit a complete quarterly report as specified at N.J.A.C. 7:3-2.7(b)1 to the Department in accordance with the request therefor;

2. Submits the quarterly report specified at N.J.A.C. 7:3-2.7(b)1 to the Department with a fraudulent statement(s);

3. Fails to satisfy the requirement for participation in professional education specified at N.J.A.C. 7:3-2.7(b)1v;

4. Fails to abide by the Society of American Foresters Code of Ethics; or

5. Consistently evidences substantial error or otherwise falls below recognized professional standards in the provision of professional services to woodland owners.

7:3-2.9 Appeal from adverse determination on entry or deletion from list of approved foresters

(a) When the Department has made an adverse determination of the qualifications of the applicant and not approved the name of the applicant for entry on the list of approved foresters as provided at N.J.A.C. 7:3-2.6(b) or seeks to delete the name of any forester from the list of approved foresters as provided at N.J.A.C. 7:3-2.8(a), the applicant or forester shall be furnished with a written notice stating:

1. The Department action taken or sought;

2. The basis for such action; and

3. That an opportunity will be afforded to the applicant or forester for an administrative hearing if the hearing is requested within 21 days from the date of personal delivery or the date of receipt of such notice.

(b) The applicant or forester requesting an administrative hearing shall submit to the Department the following information in writing:

1. The name and mailing address of the applicant or forester;

2. The date the adverse determination was received;

3. A description of the adverse determination; and

4. The specific reason(s) why the basis identified at (a)2 above is inadequate to support the Department action taken.

(c) All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 54:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

(a)

DIVISION OF COASTAL RESOURCES

Boat Regulations

Boating and Water-Skiing

Proposed Amendment: N.J.A.C. 7:6-3.10

Authorized By: New Jersey Boat Regulation Commission,
Kenneth L. Husted, Chairman, and approved by Richard T.
Dewling, Commissioner, Department of Environmental
Protection.

Authority: N.J.S.A. 13:1D-1 et seq., 12:6-1(e), 12:7-34.1 et seq.,
specifically 12:7-34.49 and 12:7-44.

DEP Docket Number: 069-87-12.

Proposal Number: PRN 1988-45.

Submit written comments by February 18, 1988 to:

Michael P. Marotta, Esq.

Office of Regulatory Services

New Jersey Department of Environmental Protection

CN 402

Trenton, NJ 08625

The agency proposal follows:

Summary

On April 20, 1987, the New Jersey Boat Regulation Commission, with the approval of the Commissioner of the Department of Environmental Protection, adopted rules governing boating and water-skiing. (See 19 N.J.R. 637(b).) Among those provisions applicable to water-skiing on Lake Hopatcong is a requirement, at N.J.A.C. 7:6-3.10(g), which is as follows:

(g) All ski boats shall carry a signal flag, which shall extend four feet above the highest structure, and shall be orange in color and triangular in shape and not less than 12 inches on any dimension. Said pennant shall be displayed while pulling or retrieving skiers, while a skier is in the water or while the tow line is in the water.

The purpose of this provision is to assure that those in the vicinity of a ski boat will be given notice that this activity is going on. They may then take precautions to minimize the possibility of accidents as a result of boats going too close to the ski boat or the skier.

During the implementation of this provision, it has been discovered that most individuals do not remove the flag when they are not involved in water-skiing activities. The result of this has been that most boaters now generally disregard the signal flag because, as it is now being used, it does not necessarily signify the presence of a water skier.

The proposed amendment modifies the provision so that the signal flag must be displayed while the boat is used for water-skiing activities but must be taken down at all other times.

Social Impact

The proposed amendment assures that the water-skier signal flag is used only during the appropriate time. The flag would become a more significant warning device to alert boaters of the presence of a water skier. As a result, it would increase the degree of safety with which the sport is conducted.

Economic Impact

The proposed amendment would require no additional expenditure of funds and would result in no economic impact of any kind.

Environmental Impact

No environmental impact would be anticipated as a result of this modification.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169), the Boat Regulation Commission and the Department has determined that this proposed amendment would impose no compliance, reporting or recordkeeping requirements upon small businesses. The proposed amendment would simply require that a signal flag be removed from its place during those times when a boat is not involved in water-skiing. Therefore, no regulatory flexibility analysis is required.

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

7:6-3.10 Lake Hopatcong, Sussex and Morris County

(a)-(f) (No change.)

[(g) All ski boats shall carry a signal flag, which shall extend four feet above the highest structure, and shall be orange in color and triangular in shape and not less than 12 inches on any dimension. Said pennant shall be displayed while pulling or retrieving skiers, while a skier is in the water or while the tow line is in the water.]

(g) All ski boats shall display a signal pennant which shall be orange in color and triangular in shape and not less than 12 inches on any dimension.

1. Said pennant shall be displayed at least four feet above the highest structure on the boat during each of the following activities:

- i. While pulling or retrieving a skier;**
- ii. While a skier is in the water; or**
- iii. While a tow line is in the water.**

2. A person shall not display the pennant at any time other than while conducting any of the activities described in this subsection.

(h)-(i) (No change.)

(a)

DIVISION OF COASTAL RESOURCES

**Coastal Resource and Development
Hudson River Waterfront Development**

**Reproposed Amendments: N.J.A.C. 7:7E-3.41, 7.14
and 8.11**

Proposed New Rule: N.J.A.C. 7:7E-3.46

Authority: N.J.S.A. 12:5-1 et seq., 13:1D-1 et seq.

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.

DEP Docket Number: 070-87-12.

Proposal Number: PRN 1988-46.

Public hearings concerning the proposal will be held at the following locations and times:

February 10, 1988 at 10:00 A.M.
Jersey City Municipal Building
280 Grove Street
Jersey City, N.J.

February 10, 1988 at 7:00 P.M.
Weehawkin Municipal Building
400 Park Avenue
Weehawkin, N.J.

Submit comments by February 18, 1988 to:

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

The agency proposal follows:

Summary

The Waterfront Development Law (N.J.S.A. 12:5-1 et seq.) applies to all proposed development at or below mean high water line on navigable waterways throughout the State. In certain areas of the State, including the Hudson River Waterfront, it includes development between the mean high water line and the first inland cultural feature or property line. In no case is this latter boundary less than 100 feet or more than 500 feet from the waterway. The rules on Coastal Resource and Development Policies (N.J.A.C. 7:7E) serve as a substantive basis for decisions of the Division of Coastal Resources on Waterfront Development permits. At present, the rule at N.J.A.C. 7:7E-7.14 prohibits the construction of high-rise structures greater than six stories or more than 60 feet from existing preconstructed ground level which are within view of coastal waters, unless they are separated from the coastal waters by at least one public road or by an equivalent area that is at least 50 feet wide and both physically and visually open to the public.

On June 15, 1987, the Department proposed amendments to N.J.A.C. 7:7E-7.14 and 8.11 (see 19 N.J.R. 1034(a)) to provide greater flexibility in this policy by changing the Department's policy for buildings greater than 60 feet on piers from "prohibited" to discouraged. Those proposed amendments were the subject of public hearings held in Camden on July 7, Jersey City on July 8 and Weehawken on July 9. The public hearing in Camden was attended by no one and engendered no written comments, but the hearings in Jersey City and Weehawken were well attended and the Department received a substantial number of written comments from residents, developers, and municipal officials in the Hudson waterfront area. The comments received on the proposed amendments were generally divided in two categories; the majority of commenters believed the existing height limit should not be changed, while waterfront developers generally believed buildings higher than 60 feet should be allowed on piers. Virtually all commenters believed, however, that if the height limit were changed, the Department should establish, in advance, the basis on which it would accept or require different heights in different areas.

In response to these comments, the Department contracted with the Waterfront Center of Washington, D.C., a private consulting firm, to make recommendations concerning the height of buildings on piers. The Waterfront Center brought a team of five urban waterfront experts to New Jersey from September 28 to September 30, 1987. During this period, the team met with representatives of Hudson River developers, environmental and civic groups, and municipal officials. Everyone who had commented on the proposed rule changes and/or attended one of the public hearings was invited to at least two sessions to meet with the Waterfront Center consultants. In late October 1987, the Waterfront Center submitted a report and recommendations to the Department of Environmental Protection.

Based upon the substantial amount of public input received concerning the rule changes proposed on June 15, 1987, including the comments at the public hearings and the information provided by the Waterfront Center, the Department has decided to repropose rule changes rather than adopt the earlier proposal. The rule changes now proposed differ from the initial proposal in several ways. First, they are limited to the Hudson River waterfront in recognition of the unique development pressure faced by that region and the fact that both public comments and the consultant's work only focused on the Hudson waterfront and not on other areas. Second, they propose policies which would allow building heights on piers to be greater than 60 feet in height, but would link building height to the amount of public open space provided on the pier. And third, they propose standards for building heights on the upland parts of the Hudson waterfront which had not been addressed in the earlier rule proposal. Building heights on the upland portion of the waterfront were noted as a major public concern during the hearings and consultant workshops.

Because the proposed changes are all focused upon the Hudson River waterfront, the Department proposes establishing a Hudson Waterfront Special Area Policy within the rules on Coastal Resources and Develop-

ment. This policy would be added to the existing 45 special areas already contained within the rules. References to this new special area policy would be added to the existing policies on high-rise structures (7:7E-7.14) and public access to the waterfront (7:7E-8.11).

Social Impact

The New Jersey Hudson River Waterfront between the George Washington Bridge and the Bayonne Bridge is undergoing tremendous changes. What once was an area dotted with rotting docks, abandoned rail yards and warehouses is quickly being transformed by large real estate developments. In total, there are 22 proposed major private sector waterfront development projects, involving over \$10 billion in investment. If fully constructed, these projects would provide over 25 million square feet of office space, 36,000 residential units, and over 2 million square feet of retail space, plus hotels, marinas, recreational facilities and open parkland.

In response to this expanding real estate market, municipal, State and Federal governments have been working with the private sector to realize this economic redevelopment potential while protecting and enhancing public and environmental values.

In recognition of the unique nature of this coastal development area, the multiple and sometimes divergent public and private interests inherent in this area, the likelihood that the redevelopment of this area will be contracted in an unusually short span of time, and the stated public and private consensus for a flexible yet predictable policy to govern this development, the Department has determined the need to designate it as a Special Area.

The proposed Hudson River Special Area Policy seeks to define specific building height and public access requirements, both for upland and over the water pier development. These requirements set certain absolute minimum performance standards while also providing a flexible development approach with a balancing of public benefit. The Policy is explicitly formulated to protect views to the river and Manhattan skyline, preserve the sense of openness at the water's edge, reduce shading impacts on the Hudson Waterfront Walkway, and provide public access and public open space consistent with the State's intent as expressed in the Hudson Waterfront Walkway Plan and Design Guidelines (available through the Department's Division of Coastal Resources).

While the proposed policy would allow structures of greater than 60 feet in height, the policy also provides for significant public benefits in the form of public access, waterfront views and preservation of the environment.

Accordingly, the proposed Hudson River Waterfront Special Area Policy is anticipated to have a positive social impact. It will promote a land use pattern that accommodates significant new economic development that is designed in a way to protect and foster views of the Statue of Liberty, Hudson River and New York skyline. By establishing height and public access standards for waterfront piers and for sites in significant view corridors, the policy will lead to a waterfront that is more open in feeling and, therefore, more attractive to the general public than would otherwise be likely to occur. As a result, the waterfront area is likely to attract more residents from the surrounding area and region to walk, shop, etc., in addition to the residents and users of the new housing and offices to be constructed. The provision of public areas along the waterfront that are not shaded or placed in corridors of tall buildings, will help provide recreational and open space areas for this densely populated region. Such opportunities are generally believed to offer significant positive community and social impacts.

Economic Impact

Although the proposed linkage of the construction of high rise buildings to open space may have a negative impact upon the profits realized from specific developments, the proposed changes are anticipated to generally have a positive economic effect upon the Hudson River Waterfront area. The total prohibition against the construction of high rise structures upon piers in this area would be removed. By application of the standards proposed here, along with the standards which already exist in this Chapter (N.J.A.C. 7:7E), development in this area would attract and accommodate multiple commercial and residential uses without blocking visual access or public access to the waterfront. The proposed standards would tend to enhance property values generally by assuring that development is not inconsistent with neighboring uses. The preservation and enhancement of public access to the waterfront areas would tend to stimulate the revitalization of urban areas by providing an attractive nucleus around which other businesses may flourish.

Environmental Impact

The proposed amendments are anticipated to result in a positive environmental impact by increasing the amount of open space between high rise structures upon piers and decrease the potential for shading of water habitat areas. The public access requirements will further enhance and preserve open space areas here and encourage water dependent uses.

Regulatory Flexibility Statement

The Department has determined, pursuant to Regulatory Flexibility Act (P.L. 1986, c.169) that, due to the nature of the development that would be regulated by this rule, the proposed amendment would impose no additional requirement of compliance upon small businesses.

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

7:7E-3.41 Special urban areas

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

(c) Housing, hotels, motels, and mixed use development which is consistent with the Public Access Resource Policy [(7:7E-8.13)] (7:7E-8.11) and the Hudson River Waterfront Policy (7:7E-3.46) where applicable, including those provisions relating to fishing access as appropriate, are acceptable only over large rivers where water dependent uses are demonstrated to be infeasible. These uses are conditionally acceptable on structurally sound existing pilings, or where at least one of the following criteria is met:

1.-3. (No change.)

(d)-(e) (No change.)

7:7E-3.46 Hudson River Waterfront Area

(a) The following terms, when used in this section, shall have the following meanings:

1. "Average building height" is defined as the mean height of a building's roof line, when viewed in profile along the longitudinal axis of the pier, above base flood elevation.

2. "Base flood elevation" means the water surface elevation of a 100-year flood as defined by the Federal Emergency Management Agency.

3. "Distal end of the pier" means the end of the pier most distant from its point of attachment to the upland.

4. "The Hudson River Waterfront Special Area" means all lands along the Hudson River, the Kill Van Kull and the Upper New York Bay, subject to the Waterfront Development Law, N.J.S.A. 12:5-1 et seq. The Hudson River Special Area extends from the George Washington Bridge in Fort Lee, Bergen County to the Bayonne Bridge in Bayonne, Hudson County, inclusive of the municipalities of Bayonne, Jersey City, Hoboken, Weehawken, West New York, Guttenberg, North Bergen, Edgewater and Fort Lee.

5. "Proximal end of the pier" means the end of the pier at its point of attachment to the upland.

(b) Development within the Hudson River Waterfront Area shall conform with the criteria as set forth in this section which govern allowable building height, massing and public access. Hudson River Waterfront Area development shall also be consistent with all other applicable Coastal Resource and Development Policies.

(c) Standards relevant to building in the upland portions of this area are as follows:

1. Where upland development is proposed in front of the Palisades, Kings Bluff, Castle Point, the Lincoln Tunnel helix, and any other area determined to provide extraordinary views of the river, the Statue of Liberty and/or the New York skyline, no structure shall be permitted to block sight lines, measured from six feet above the area providing the view to the center of the Hudson River at mean high tide (Figure 1).

2. For locations other than these specified at (c)1 above, upland building height shall not pierce the surface determined by lines that intersect the Mean High Water Line, and extend away from the river and upward at an angle of 60 degrees from the horizontal along paths perpendicular to the general flow of the river. The general flow of the river is along a line parallel to the New Jersey-New York state boundary waterward of the development site.

3. The placement of upland structures over 60 feet in height, when measured from the pre-development ground plane to the top of parapet or the mid-point of a sloped roof, within 50 feet of the mean high tide line, is prohibited (Figure 2)

4. This subsection shall not apply to the redevelopment of existing upland structures, providing redevelopment does not increase the bulk or height of the existing structure.

(d) Non-industrial development upon piers is conditionally acceptable provided that specific amounts of usable landscaped public open space at pier deck level are incorporated into the project, based on the following formulas:

1. The length of proximal open space required for any building less than or equal to 40 feet in average height shall be no less than 20 feet;

2. The length of proximal open space required for any building above 40 feet in average height shall be computed as follows:

Minimum length of proximal open space = (ABH)² / 40 feet - (2 x ABH) + 60 feet

where ABH = average building height in feet

Table with 2 columns: Average Height and Minimum Proximal Open Space Length. Rows for heights 80, 70, 60, 50, and 40 feet.

3. The length of distal open space required for any building less than or equal to 40 feet in average height shall be no less than 20 feet;

4. The length of distal open space required for any building between 40 and 80 feet in average height shall be computed as follows:

Minimum length of distal open space = (ABH)² / 16 feet - (5 x ABH) + 120 feet

where ABH = average building height in feet

Table with 2 columns: Average Height and Minimum Distal Open Space Length. Rows for heights 80, 70, 60, 50, and 40 feet.

5. Except as provided in (d)6 below, 15 foot wide public access walkways shall be provided along both long sides of the pier, at pier deck level (Figure 3);

6. Where piers are less than 60 feet wide, the requirement for public access along the length of the pier shall be reduced to a single 15 foot wide walkway, on one side, at pier deck level (Figure 3);

7. Heights shall be measured from the Base Flood Evaluation to the top of the parapet or mid point of a sloped roof. All pier structures shall conform with applicable Federal flood hazard reduction standards as found in 44 CFR §60 and in the Uniform Construction Code, N.J.S.A. 52:270-1 et seq.;

8. Where piers are less than 400 feet apart, the heights, as required by this section, shall be further reduced by 20 percent for each pier. No reduction of open space will be allowed as a result of this height reduction; and

9. Where piers are along the Palisades, Kings Bluff, Castle Point, the Lincoln Tunnel Helix, and any other area determined to provide extraordinary views of the River, the Statue of Liberty and/or the New York Skyline, no structure shall be permitted to block sight lines, measured from six feet above the elevation of the top of the Palisades to the center of the Hudson River at mean high tide (Figure 1).

(e) All waterfront development along the Hudson River shall develop, maintain and manage a section of the Hudson Waterfront Walkway coincident with the shoreline of the development property. Development of each project's public access system shall conform to this special area policy and to the Hudson River Walkway Planning and Design Guidelines, subject to the following clarification:

1. With the exception of water dependent industrial piers, all Hudson River pier development shall provide an unrestricted landscaped public access corridor at deck level, around the entire perimeter of the pier. Access shall be on a 24-hour basis.

2. Water dependent industrial piers shall provide linear public access and/or public access observation nodes as feasible, consistent with public safety.

3. On piers, the public access corridor and open space set-backs shall have a declared right of way over vehicular usage. The public access corridor may serve a dual purpose for emergency vehicular access, but shall not serve as a service or general vehicular roadway. All instances of vehicular/pedestrian crossing shall be appropriately designated to assure motorists are aware they are crossing a pedestrian right of way zone. Stop signs, speed bumps and similar design techniques shall be required as necessary.

7:7E-7.14 High-rise structures

(a) All high-rise structures more than six stories or more than 60 feet from existing pre-construction ground level, are encouraged to locate in an area of existing high density, high-rise and/or intense settlements. High-rise housing and structures are acceptable subject to the following conditions:

1. High-rise structures within the view of coastal waters [must] shall be separated from coastal waters by at least one public road or an equivalent area (at least 50 feet) physically and visually open to the public except as provided by N.J.A.C. 7:7E-3.46;

2.-3. (No change.)

4. [The structure must] High-rise structures outside of the Hudson River Waterfront Special area as defined by N.J.A.C. 7:7E-3.46 shall not overshadow the dry sand beach between 10:00 A.M. and 4:00 P.M. between June 1 and September 20, and [must] shall not overshadow waterfront parks year round;

5. (No change.)

6. The proposed structure must not have an adverse impact on air quality, traffic, and existing infrastructure: [and]

7. The proposed structure must be architecturally designed so as to not cause deflation of the beach and dune system or other coastal environment waterward of the structure[.]; and

8. High-rise structures in the Hudson River Waterfront Special Area shall comply with the provisions of 7:7E-3.46.

(b) (No change.)

7:7E-8.11 Public access to the waterfront

(a) (No change.)

(b) Coastal development adjacent to all coastal waters, including both natural and developed waterfront areas, shall provide perpendicular and linear access to the waterfront to the maximum extent practicable, including both visual and physical access. Development that limits access and the diversity of waterfront experiences is discouraged.

1.-6. (No change.)

[7. Development along the Hudson River shall conform with the Hudson River Walkway and Design Guidelines, a report prepared by Wallace, Roberts and Todd for NJDEP, 1983 and which may be obtained from the Department's Division of Coastal Resources, New Jersey Department of Environmental Protection, CN 401, Trenton, New Jersey 08625.]

7. Development within the Hudson River Waterfront Special Area shall conform with the additional requirements of 7:7E-3.46.

8.-9. (No change.)

(c) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: Figures 1, 2 and 3 cited in the proposed text for N.J.A.C. 7:7E-3.46(c)1 and 3 and (d)9 were not reproducible for publication in the New Jersey Register. The figures are available for inspection at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey. The figures will be published with the text of the referenced rule if adopted.

(a)

DIVISION OF WATER RESOURCES

Safe Drinking Water Program

Reproposed Fee Schedule

Reproposed Amendments: N.J.A.C. 7:10-10.2 and 11.2

Reproposed New Rules: N.J.A.C. 7:10-15

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 58:12a-1 et seq., specifically 58:12A-9; and N.J.S.A. 58:1A-1 et seq.

DEP Docket Number: 068-87-12.

Proposal Number: PRN 1988-40.

Submit written comments by February 18, 1988 to:

Ann Zeloof, Esq.
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

On August 3, 1987, the New Jersey Department of Environmental Protection (the "Department") proposed rules for a Safe Drinking Water Program Fee Schedule (19 N.J.R. 1381(a)). The Department, by this proposal, is reproposing the August 3 proposal in order to add new language which clarifies the rules by which the Department proposes to assess reasonable fees. The comments timely received by the Department in response to the August 3 proposal will be made part of the administrative record for this reproposal.

The Department is responsible for administering a regulatory program that ensures that the water supply systems of the State are managed in a way that will protect delivered water quality, volume, and pressure and provide high-quality potable water to the people of the State. The Department's authority is derived from the Water Supply Management Act, N.J.S.A. 58:1A-et seq., and the State Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., pursuant to which New Jersey qualified for and has primary enforcement responsibility under the Federal Safe Drinking Water Act (P.L. 93-523, 42 U.S.C. §300). Pursuant to section 9 of the Safe Drinking Water Act, the Department is provided with the statutory authority to "establish and collect fees in accordance with a fee schedule adopted as a rule or regulation for the estimated costs of administering and enforcing the programs pursuant to this amendatory and supplementary act, to the extent that the costs are not available from the fund, including but not limited to conducting inspections, laboratory analysis and certifications as may be necessary". Fees are assessed for the review and applications for permits to construct water treatment, collection and distribution facilities, for the annual inspections and audits of operations of those facilities, for the permits for physical connections, and for other costs necessary to administer the Safe Drinking Water Program. These program activities are set forth at N.J.A.C. 7:10-10, 7:10-11 and 7:19-6 under the authority of both the Safe Drinking Water Act and the Water Supply Management Act. The Department is assessing reasonable fees under the authority of both statutes as both Acts provide for related activities. All the activities for which the fees are sought come under the jurisdiction of the Safe Drinking Water Act and as such the proposed fee schedule can incorporate funding for positions to carry out activities for which rules were promulgated under the Water Supply Management Act.

Funding for the existing Safe Drinking Water Program comes from three sources: General State Funds, Federal Safe Drinking Water Act Grant Funds, and the State Safe Drinking Water Fund. Annual total funding from these three sources is expected to be about \$3.2 million for fiscal years 1988-1991, and has been at this level for the previous three fiscal years (except for a slight increase in the Federal Grant of approximately \$83,000 in fiscal year 1987). These funds are fully committed to existing staff and administrative costs. The Department anticipates that with increased responsibilities and staff expansion in the areas of the interconnection program, safe yield analysis, unaccounted-for water, water conservation, systems rehabilitation, system pressure and storage

and ensuring the general reliability of public community water systems, there will be a deficit of approximately \$700,000 per year beginning in fiscal year 1989.

The proposed fee schedule establishes two initial and two annual fees. The initial fees are assessed for permits issued for the construction of treatment, storage and distribution systems and for permits for physical connections. The annual fees are assessed for operation of public community water supply treatment and distribution systems and renewal of physical connection permits. N.J.S.A. 58:12A-10 allows the Department to seek civil and administrative penalties for failure to pay the fees.

In addition, this proposal includes amendments to N.J.A.C. 7:10-10.2 and 11.2 and 7:10-11. These changes are provided to alert the regulated community of the fee provisions set forth in N.J.A.C. 7:10-15.

Social Impact

A positive social impact will result from the proposed fee schedule. The proposed new rules provide funds which are essential for the support of the Safe Drinking Water Program management functions of the Department. New Jersey is a densely populated state and requires substantial water supply systems to maintain and expand its economic development. Effective control of the quality, distribution and use of these water systems is therefore critical to future development in the State. The Department has developed a sophisticated and rational drinking water management program. The proposed fee schedule provides funds necessary to effectively implement the Safe Drinking Water Program.

Economic Impact

The fees imposed by these proposed new rules are expected to cost the regulated community between \$650,000 and \$800,000 annually. The fees assessed to administer the activities and requirements of the Safe Drinking Water Program will provide the estimated \$700,000 required to fund eight positions within the Department and associated program costs as follows: Safe Drinking Water Program Staff

Section Chief	
Project Specialist	
Administrative Analyst II	
Supervisor Environmental Engineer	
Supervisor Environmental Specialist	
Principal Environmental Engineer	
Principal Environmental Specialist	
Estimated Salaries	\$292,000.00
Employer Benefits	\$ 67,160.00
Indirect Costs	\$ 86,198.40

Program Costs	
Printing and Office	\$ 20,000.00
Vehicular (gas, oil)	\$ 6,000.00
Protection clothing and Related Items	\$ 3,000.00
Scientific/Engineering Supplies	\$ 6,000.00
Travel	\$ 3,000.00
Telephone	\$ 3,360.00
Postage	\$ 7,000.00
Data Processing	\$ 10,000.00
Professional Services	\$ 20,000.00
Training, Advertising, Memberships, Other Services	\$ 10,000.00
Maintenance of Equipment	\$ 2,000.00
Maintenance of Vehicles	\$ 5,000.00
Building Rent	\$ 1,000.00
Rent: Central Motor Pool	\$ 20,000.00
Vehicular Equipment	\$ 40,000.00
Other Equipment	\$ 75,000.00
Data Processing—Hardware	\$ 32,000.00
	<u>\$262,360.00</u>

Estimated Totals	
Salaries (with employee benefit and indirect costs)	\$445,358.00
Program Costs	\$263,360.00
	<u>\$708,718.40</u>

All public community water systems and bulk distribution systems will be impacted by these fees. The proposed fees distribute the costs of the Safe Drinking Water Program on the basis of population served by each system and on construction costs. The Department anticipates that municipality operated systems and those systems in which rates are de-

terminated by the Board of Public Utilities will transfer the cost of the proposed fees to water system consumers in the form of rate increases. The fees for the physical connection permits are flat rates.

Annual operation fees are expected to raise approximately \$475,000. The fees that will be assessed to the approximately 250 operators of the smallest public community water systems, class 1, serving between 25 and 999 people, will be either \$60.00 for systems with no water treatment or \$120.00 for systems with treatment, raising anticipated revenue of \$26,000. The fees that will be assessed to the approximately 200 operators in class 2, serving between 1,000 and 9,999 people, will be either \$360.00 for systems with no water treatment or \$720.00 for systems with water treatment, raising anticipated revenue of \$140,000. The fees that will be assessed to the 125 operators in class 3, serving between 10,000 and 49,999 people, will be either \$790.00 for systems with no water treatment or \$1,580.00 for systems with water treatment, raising anticipated revenue of \$198,000. The fees that will be assessed to the approximately 37 operators in the largest public community water supply systems, class 4, serving 50,000 or more people and to bulk distributors, will be either \$1,640.00 for systems with no water treatment or \$3280.00 for systems with water treatment, raising anticipated revenue of \$120,000. Fees for permits for construction of new facilities are expected to generate approximately \$241,000. Fees for permits for initial and renewal of physical connections, providing the revenue for the estimated cost of one man year, are expected to generate approximately \$61,000.

Environmental Impact

Clean water and reliable water quality, in sufficient volume and at adequate pressure, is essential to the health and welfare of New Jersey's residential and business community. Water systems require maintenance. Through proper maintenance and management of the State's water supply systems, all citizens will be able to rely upon having plentiful and clean water to serve their needs. The regulatory programs established pursuant to the State Act assume that these systems will perform as designed. The fees in this proposal contribute to the ability of the Department to provide the necessary management strategies and regulatory controls required to protect this natural resource.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c. 169, the Department has determined that these proposed amendments and new rules will not impose reporting, recordkeeping, or other compliance requirements on small businesses because the Department will use the currently operating Safe Drinking Water Program permitting process as the basis for assessing and collecting fees. The Department's use of the existing permitting process allows all public community water systems and physical connection permittees to fully comply with these rules without imposing additional compliance requirements and without the administrative burden or financial expense of retaining any additional professional services.

The fees will be assessed to all physical connection permittees and to all public community water systems, including the estimated 300 systems which are businesses employing fewer than 100 full-time employees. The fee schedule takes into account the nature of the system by establishing fees based on the number of people served by the system; the smaller the system the lower the fees will be.

Payment of the fee, as a condition of the permit, reflects the Department's objective of assessing fees to small businesses in a manner that will, to the greatest extent possible, balance the Department's need to obtain funding for an environmental protective program with its responsibility to minimize the administrative and financial impact on small businesses.

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

7:10-10.2 General

(a)-(h) (No change.)

(i) **All applicants for permits for initial and renewal of physical connections shall pay the fee assessed pursuant to N.J.A.C. 7:10-15.**

7:10-11.2 Material to be submitted

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

(f) **All public community water systems shall pay the fee assessed pursuant to N.J.A.C. 7:10-15.**

SUBCHAPTER 15. FEES

7:10-15.1 Scope and authority

This chapter shall constitute the rules governing the establishment of Safe Drinking Water Program fees as authorized by the Safe Drinking Water Act at N.J.S.A. 58:12A-9. This subchapter shall be operative as of July 1, 1988.

7:10-15.2 Purpose

The purpose of this subchapter is to establish fees for the Safe Drinking Water Program based upon, and not to exceed, the estimated cost of regulating, monitoring, administering and enforcing the Safe Drinking Water Program. The fee schedule will be periodically reviewed with respect to any changes in the costs of conducting, monitoring, administering and enforcing the Safe Drinking Water Program.

7:10-15.3 Definitions

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

"Annual operation fee" means the annual fee assessed to each public community water system including, at a minimum, each holder of a construction approval for public community water systems approved pursuant to N.J.A.C. 7:10-11.

"Annual physical connection fee" means the fee assessed for the annual renewal of a physical connection permit pursuant to N.J.A.C. 7:10-1.

"Bulk distribution system" means a water system that wholesales water in bulk fashion to public community water systems for resale to consumers.

"Distribution system" means all pipes and conveyances from the well or water treatment plant, including storage facilities.

"Initial physical connection permit fee" means the fee assessed for a physical connection permit.

"Permit application fee" means the application fee assessed for a permit to construct a public community water system or bulk distribution system in accordance with N.J.A.C. 7:10-11.

"Physical connection" means a connection between a public community water system and any unapproved water supply.

"Physical connection permit" means the permit issued pursuant to N.J.A.C. 7:10-10.

"Population served" means the population reported on the Department's annual inspection report required by N.J.A.C. 7:10-1.4.

"Project construction cost" means the total project cost as reported on the application for a permit to construct and operate a public community water system or bulk distribution system under N.J.A.C. 7:10-1.4.

"Project construction cost" means the total project cost as reported on the application for a permit to construct and operate a public community water system or bulk distribution system under N.J.A.C. 7:10-11.

"Safe Drinking Water Program" means the regulatory requirements and activities conducted pursuant to the authority of the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.

7:10-15.4 Applicability

This subchapter shall be applicable to all owners of public community water systems as defined in N.J.A.C. 7:10-1.3, to holders of physical connection permits, and to bulk distribution systems.

7:10-15.5 Establishment of fee schedule

(a) The Department shall periodically review the fee schedule set forth in this subchapter.

(b) Upon a determination by the Department that the existing fee schedule does not adequately cover the cost of conducting, monitoring, administering and enforcing the State Drinking Water Program, it shall, after consideration of other funding sources, propose a new fee schedule to adequately cover the actual cost of the Safe Drinking Water Program.

7:10-15.6 Payment of fees

(a) Owners or operators of public community water systems and bulk

distribution systems shall pay annual operation fees on or before July 1 of each year in accordance with N.J.A.C. 7:10-15.7.

(b) Owners or operators of public community water systems and bulk distribution systems shall pay the permit application fee based upon the public construction costs at the time of application for approval in accordance with N.J.A.C. 7:10-15.7.

(c) Physical connection permittees shall pay annual physical connection fee for the physical connection permit upon application in accordance with N.J.A.C. 7:10-15.8.

(d) Applicants for a physical connection permit shall pay the initial fee for the physical connection permit upon application in accordance with N.J.A.C. 7:10-15.8.

(e) Payment of fees shall be made by check or money order, payable to "Treasurer, State of New Jersey" and submitted to:

New Jersey Department of Environmental Protection
 Division of Water Resources
 Bureau of Safe Drinking Water
 CN-029
 Trenton, New Jersey 08625

(f) Each check or money order shall be marked to identify the nature of the fee paid and the owner of the facility.

(g) Failure to pay the fee as required by the Department may subject the violator to the penalty provision set forth in the Safe Drinking Water Act at N.J.S.A. 58:12A-10.

7:10-15.7 Calculation of fees for public community water systems and bulk distribution systems

(a) The permit application fee for the construction of a public community water systems, bulk distribution system, or additions and alterations to an existing system shall be determined as follows:

1. Step One: Multiply that part of the project construction costs that is:

- i. Less than or equal to \$250,000 by 0.9 percent;
- ii. Between \$250,000 and \$1,000,000 by 0.6 percent; and
- iii. More than \$1,000,000 by 0.3 percent.

2. Step Two: Add the figures arrived at by the calculation under (a)1 above to obtain the total. For example, if the project cost is \$1,100,000, the fees will be \$7,050.00, which is the sum of 0.9 percent (.009) of the first \$250,000, .6 percent (.006) of the next \$750,000, and .3 percent (.003) of the amount greater than \$1,000.

$$\begin{array}{r}
 \$250,000 \times .009 = \$2,250.00 \\
 \$750,000 \times .006 = \$4,500.00 \\
 \underline{\$100,000 \times .003 = 300.00} \\
 \hline
 \$7,050.00
 \end{array}$$

3. The maximum and minimum initial construction fees which the Department will assess shall be \$12,000 and \$100.00 respectively.

(b) For purposes of the annual operation fee, all public community water systems and bulk distribution systems, shall be classified on the basis of population served directly or indirectly on July 1 of each year. Classes shall be established as follows:

- 1. Class 1: 25 to 999 people;
- 2. Class 2: 1,000 to 9,999 people;
- 3. Class 3: 10,000 to 49,999 people; and
- 4. Class 4: 50,000 or more people.

(c) The annual operation fee for new public community water systems and new bulk distribution systems shall be paid on or before the first day of operation and prorated on a quarterly basis during the initial year of operation as follows:

- 1. Systems which begin operation between July 1 and September 30 shall pay the total operation fee;
- 2. Systems which begin operation between October 1 and December 31 shall pay three-quarters of the annual operation fee;
- 3. Systems which begin operation between January 1 and March 31 shall pay one-half of the annual operation fee; and
- 4. Systems which begin operation between April 1 and June 30 shall pay one-quarter of the annual operation fee.

(d) The annual operation fee for a permit to operate a public community water system or a bulk distribution system shall be determined as follows:

Class	Fees for Systems with no water treatment	Fees for Systems with water treatment
Class 1	\$ 60.00	\$ 120.00
Class 2	\$ 360.00	\$ 720.00
Class 3	\$ 790.00	\$1,580.00
Class 4	\$1,640.00	\$3,280.00

7:10-15.8 Calculation of fees for Physical Connection Permits
 (a) The initial physical connection permit fee shall be \$150.00.
 (b) The annual physical connection fee shall be \$200.00.

(a)

**NEW JERSEY WATER SUPPLY AUTHORITY
 Schedule of Rates, Charges and Debt Service
 Assessment for the Sale of Water From the
 Delaware and Raritan Canal and the Spruce
 Run/Round Valley Reservoirs Systems
 Proposed Amendments: N.J.A.C. 7:11-2.2, 2.3, 2.9
 and 2.13**

Authorized By: New Jersey Water Supply Authority,
 Richard T. Dewling, Chairman and Commissioner,
 Department of Environmental Protection.

Authority: N.J.S.A. 58:1B-7.

DEP Docket Number: 065-87-12.

Proposal Number: PRN 1988-41.

A public hearing concerning these proposed amendments will be held at the following time and location:

February 5, 1988 at 9:30 A.M.
 Labor Education Center, Room 133
 Rutgers University
 Ryders Lane and Clifton Avenue
 New Brunswick, New Jersey 08903

Submit comments by March 16, 1988 to:
 Catherine Tormey Lyden, Esq.
 Office of Regulatory Services
 Department of Environmental Protection
 CN 402
 Trenton, New Jersey 08625; and
 Rocco D. Ricci
 Executive Director
 New Jersey Water Supply Authority
 P.O. Box 5196
 Clinton, New Jersey 08809

The Basis and Background Document, which is available for inspection at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey and from the Authority at the address given below, explains in detail the financial justification for the revised rate schedule proposed in subchapter 2.

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

The agency proposal follows:

Summary

The New Jersey Water Supply Authority (Authority) is proposing to adjust its Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Delaware and Raritan Canal-Spruce Run/Round Valley Reservoirs System, to cover operation and maintenance costs for the fiscal year starting on July 1, 1988 and existing annual debt service on outstanding loans, and to establish a new debt rate stabilization fund component starting on July 1, 1988. The adjustment is accomplished by changing the sales base to reflect current sales to water users, by the creation of a Debt Stabilization Fund as a component of the user rate and by the elimination of the debt service component for payment of the 1958 bonds issued pursuant to the "New Jersey Water Bond Act of 1958", P.L. 1958, c.35.

The Operations and Maintenance component of the Schedule of Rates, Charges and Debt Service Assessments was last adjusted effective July

1, 1986 (increased from \$81.80 to \$94.64 per million gallons) to cover the operating expenses of the System. Increases in operational costs anticipated for Fiscal Year 1989 (starting July 1, 1988) indicate that an operations and maintenance rate component increase will be required unless approximately \$751,000 from the Authority's reserve funds are utilized to cover projected FY89 operational shortages. Most of the increased operations and maintenance expenses are due to the greatly increased cost of liability insurance coverage. Increased employee salary requirements as well as contributions to the self-insurance reserve, and renewal and replacement funds account for a major portion of the remaining additional expense items.

Consistent with the requests of the major water users, the Authority proposes to maintain the Operations and Maintenance Rate Component at the current \$94.64 level through June 30, 1989 by transferring various reserve account funds to cover projected FY89 operations and maintenance requirements and to maintain all reserve funds at the levels required by Authority policies.

The debt service assessment rate for the New Jersey Water Bond Act, 1958 funds used to construct the Spruce Run/Round Valley Reservoirs will terminate on June 30, 1988 when the schedule of payments required by agreement with the Treasurer of the State of New Jersey will have been satisfied. The terms of the Authority's agreement with the State Treasurer require the Authority to assume a schedule of payments for the balance of the 1969 Water Conservation Bond Act funds once the 1958 bond fund schedule of payments has been satisfied. Accordingly, the debt service assessment rate for the 1969 bonds will go into effect starting July 1, 1988. The annual debt service payment for the 1969 bonds is \$521,000 less than the current annual payment for the 1958 Bonds. As requested by the major water users, the Authority proposes to utilize these savings to help stabilize the overall schedule of rates, charges and debt service assessments through the establishment of a Debt Rate Stabilization Fund for Capital Improvements.

The debt service assessment rate for the 1969 bonds involved in the construction of the Spruce Run/Round Valley Reservoir system outlet pipeline and dam rehabilitation projects was previously established based on a sales base of 150.284 million gallons per day. The Authority anticipates that the applicable sales base for FY89 will now be 152.587 million gallons per day. Application of this new sales base results in a slight reduction in the per million gallons rate component from \$14.04 to \$13.83 per million gallons for the 1969 bonds.

The debt service assessment rate for the 1981 Water Supply Bond funds issued to finance the removal of sediment from 32 miles of the Delaware and Raritan Canal was previously adjusted effective July 1, 1986 (FY87) based on the sales base of 151.367 million gallons per day. The Authority anticipates that the applicable sales base for FY89 will be 153.745 million gallons per day. Application of this new sales base results in a reduction in the per million gallons rate component from \$33.94 to \$33.15 per million gallons for the 1981 bonds.

The debt rate stabilization fund assessment is based on a sales base of 153.745 million gallons per day. Accordingly, the proposed rate component is \$10.50 per million gallons.

It should be noted that the total proposed rate for Delaware and Raritan Canal customers in the Delaware River basin will be increased by 9.71 per million gallons, effective July 1, 1988.

Social Impact

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

Economic Impact

The majority of water users will experience no net increase in the water rate since payment for the 1958 bond debt repayment component will drop out of the rate, payment of the 1981 bond debt repayment component will decrease slightly thereby offsetting the increased 1969 bond debt Repayment and proposed new FY89 debt rate stabilization fund payment. A small group of water users will experience an increase in the rate paid previously because of the new component attributable to the FY89 debt rate stabilization fund. These users will not experience the offset of this new component due to the termination of the 1958 bond debt repayment since those users did not previously pay the 1958 bond component.

Environmental Impact

The adequate financing of systems upkeep and operation, which is provided by the proposed amendments, will result in a positive environmental impact. Properly maintained Authority systems and operations protect not only the water users but also the surrounding environment of the Spruce Run/Round Valley Reservoirs and Delaware and Raritan Canal.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169 (herein "the Act"), the Authority has determined that these proposed amendments would not impose reporting, recordkeeping or other compliance requirements on small businesses because the proposed amendments affect only the rate charged to users for water purchased from the Authority. The water companies which contract to purchase water from the Authority and which are impacted by these proposed amendments do not qualify as "small businesses" pursuant to the Act.

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

CHAPTER 11
[BUREAU OF WATER FACILITIES OPERATION]
NEW JERSEY WATER SUPPLY AUTHORITY

7:11-2.2 General Rate Schedule

(a) The General Rate Schedule for Operations and Maintenance per million gallons listed below is based on estimated annual primary costs, renewal and replacement reserve, pumping reserve, major rehabilitation reserve and general reserve. The current sales base of [151.931] **157.312** million gallons per day has been used in setting the rate listed below.

1. (No change.)

7:11-2.3 Debt Service Assessments

(a) The Debt Service Assessment rate per million gallons shall be based on the amounts and schedule of payments required by the Treasurer of the State of New Jersey to pay for [the bonds issued pursuant to the "New Jersey Water Bond Act, 1958", P.L. 1958, c.35 ("1958 Bonds") for the construction of the Spruce Run/Round Valley Reservoirs;] the bonds issued pursuant to the "Water Conservation Bond Act of 1969", P.L. 1969, c.127 ("1969 Bonds") for the construction of outlet pipeline and dam rehabilitation; [and] bonds [to be] sold pursuant to the "Water Supply Bond Act of 1981", P.L. 1981, c.261 ("1981 Bonds") for the rehabilitation of the Delaware and Raritan Canal[.]; **and the amount needed to implement the FY89 Debt Rate Stabilization Fund.**

(b) The debt service assessment rate for the [1958 Bonds and] 1969 Bonds shall be based on a sales base of [150.284] **152.587** million gallons per day, excluding water users of the Delaware and Raritan Canal within the Delaware River Basin. This debt service assessment rate does not apply to Delaware and Raritan Canal customers in the Delaware River Basin.

[1. 1958 Bond Funds:

Period	Allocation	Rate/Million Gallons
7/1/86 to 6/30/88	Million gallons per day (mgd)	\$23.54

[2.]1. 1969 Bond Funds:

Period	Allocation	Rate/Million Gallons
7/1/88 to 6/30/2002	Million gallons per day (mgd)	[\$14.04] \$13.83

(c) 1981 Water Supply Bond Funds [are to be] **were** borrowed from the State Treasurer [by December 31, 1985] to retire the [existing] tax exempt commercial paper used for temporary financing of the Delaware and Raritan Canal sediment removal program. The following debt service assessment rate, based on a sales base of [152.367] **153.745** million gallons per day, in addition to that included in (b) above, will be applied to all customers:

Period	Allocation	Rate/Million Gallons
7/1/[86] 88 to 10/30/2006	Million gallons per day (mgd)	[\$33.94] \$33.15

(d) The following Debt Stabilization Fund component to cover unforeseen capital expenses for repairs to the system facilities is based on a sales base of 153.745 million gallons per day. The Debt Rate Stabilization Fund component set forth below, in addition to the component described in (a) and (b) above, will be applied to all customers:

Period	Allocation	Rate/Million Gallons
7/11/88 to 6/30/89	Million Gallons per day (mgd)	\$10.50

7:11-2.9 Standby Charge

(a) A user classified under standby service, as provided in N.J.A.C. 7:11-2.8 above, shall pay a monthly minimum charge based on the capacity of his withdrawal system as specified below. Said purchaser shall also pay for all water withdrawn during the month in excess of such monthly Standby Charge, based on charges as set forth under N.J.A.C. 7:11-2.2 and 2.3.

NOTE: Mgd = million gallons daily; Gpm = gallons per minute.

1. For Delaware and Raritan Canal Standby Contracts within the Delaware River Basin:

Maximum withdrawal capacity	Charge per month
Each 1 mgd (700 gpm) or fraction thereof.	\$94.64 plus annual debt service assessment rate for 1981 Bonds[,] and FY89 Debt Rate Stabilization Fund.

2. For Standby Contracts within the Raritan River Basin:

Maximum withdrawal capacity	Charge per month
Each 1 mgd (gpm) or fraction thereof.	\$94.64 plus annual debt service assessment rates for [1958 Bonds,] 1969 Bonds [and], 1981 Bonds[,] and FY89 Debt Rate Stabilization Fund.

7:11-2.13 Short term user rate

Until such time as the total water supply capacity of the Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir System is contracted for, interim short-term use of uncommitted capacity may be available on a nonguaranteed interruptible basis for a period of up to one year to support such uses as the growing of agricultural and horticultural products. Such purchaser shall only pay at the rate specified under the General Rate Schedule as set forth at N.J.A.C. 7:11-2.2, as applied to the total water actually diverted during any month.

HEALTH

(a)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Proposed Amendments: N.J.A.C. 8:71

Authorized By: Drug Utilization Review Council,

Robert Kowalski, Secretary.

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

Proposal Number: PRN 1988-29.

A public hearing concerning this proposal will be held on February 9, 1988, at 2:00 P.M. at:

Conference Room 804, 8th Floor
 Department of Health
 Health-Agriculture Building
 Trenton, N.J. 08625-0360

Submit comments by February 18, 1988 to:

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

The agency proposal follows:

Summary

The List of Interchangeable Drug Products is a generic formulary, or list of acceptable generic drugs which pharmacists must use in place of brand-name prescription medicines, passing on the resultant savings to consumers.

For example, the proposed megestrol acetate tablets could then be used as a less expensive substitute for Megace, a branded prescription medicine. Similarly, the proposed cefadroxil capsules could be substituted for the more costly branded product, Duricef.

The Drug Utilization Review Council is mandated by law to ascertain whether these proposed medications can be expected to perform as well as the branded products for which they are to be substituted. Without such assurance of "therapeutic equivalency", any savings would accrue at a risk to the consumer's health. After receiving full information on these proposed generic products, including negative comments from the manufacturers of the branded products, the advice of the Council's own technical experts, and data from the generics' manufacturers, the Council will decide whether any of these proposed generics will work just as well as their branded counterparts.

Every proposed manufacturer must attest that they meet all Federal and State standards, as well as having been inspected and found to be in compliance with the U.S. Food and Drug Administration's regulations.

Social Impact

The social impact of this proposal would primarily affect pharmacists, who would need to either place in stock, or be prepared to order, those products ultimately found acceptable.

Many of the proposed items are simply additional manufacturers for products already listed in the List of Interchangeable Drug Products. These proposed additions would expand the pharmacist's supply options.

Physicians and patients are not adversely affected by this proposal because the statute (N.J.S.A. 24:6E-6 et seq.) allows either the prescriber or the patient to disallow substitution, thus refusing the generic substitute and paying full price for the branded product.

Economic Impact

The proposed amendment will expand the opportunity for consumers to save money on prescriptions by accepting generic substitutes in place of branded prescriptions. The full extent of the savings to consumers cannot be estimated because pharmacies vary in their prices for both brands and generics.

Some of the economies occasioned by this proposal accrue to the State through the Medicaid, Pharmaceutical Assistance to the Aged and Disabled Program, and prescription plan for employees. This savings also cannot be totalled accurately.

Regulatory Flexibility Statement

The proposed amendments impact many small businesses specifically, over 1500 pharmacies and several small generic drug manufacturers which employ fewer than 100 employees.

However, there are no reporting or recordkeeping requirements for pharmacies, and small generic drug manufacturers have minimal initial reports, and no additional ongoing reporting or recordkeeping requirements. Further, these minimal requirements are offset by the increased economic benefits accruing to these same small generic businesses due to these proposed amendments.

Small businesses should not be excluded from compliance with the rules because to do so may have a negative effect on consumer health.

Full text of the proposed additions follows.

Acetohexamide tabs 250, 500 mg	Danbury
Amitriptyline perphenazine tabs 4; 10, 4/50	Cord
Betamethasone valerate cream 0.1%	Taro
Cefadroxil caps 500 mg	Biocraft
Cefadroxil for susp 125/5, 250/5, 500/5	Biocraft
Cephalexin caps 250, 500 mg	Teva
Cephalexin for susp 125/5, 250/5 ml	Teva
Chlorpheniramine, PPA ER caps 12/75	Cord
Chlorzoxazone tabs 500 mg	Lemmon
Clofibrate caps 500 mg	Chelsea
Clonidine tabs 0.1, 0.2, 0.3 mg	Chelsea
Danazol caps 200 mg	Amer. Ther.
Desipramine tabs 25, 50, 75, 100 mg	PharmBasics
Diazepam tabs 2, 5, 10 mg	Roxane
Diphenhydramine liquid 12.5 mg/5 ml	LuChem

PROPOSALS

Disopyramide caps 100, 150 mg
 Doxepin caps 10, 25, 50, 75 mg
 Doxepin oral solution 10 mg/ml
 Erythromycin ethylsucc susp 400/5 ml
 Fluphenazine tabs 1, 2.5, 5, 10 mg
 Flurazepam caps 15, 30 mg
 Guaifenesin/PPA tabs 400/75
 Haloperidol tabs 0.5, 1, 2, 5, 10, 20 mg
 Hydromorphone HCl tabs 2, 4 mg
 Ibuprofen tabs 400, 600, 800 mg
 Ibuprofen tabs 800 mg
 Indomethacin susp 25 mg/5 ml
 Iodinated glycerol syrup
 Iodinated glycerol/codeine syrup
 Iodinated glycerol/dextromethorphan syr
 Isosorbide dinitrate tabs 20, 30 mg
 Isosorbide dinitrate tabs 5, 10, 20 mg
 Levorphanol tartrate tabs 2 mg
 Lithium carbonate caps 300 mg
 Lorazepam tabs 0.5, 1, 2 mg
 Lorazepam tabs 0.5, 1, 2 mg
 Meclofenamate caps 50, 100 mg
 Medroxyprogesterone acetate tabs 10 mg
 Megestrol acetate tabs 20, 40 mg
 Meperidine HCl syrup 50 mg/5 ml
 Meperidine tabs 50, 100 mg
 Methadone HCl tabs 5, 10 mg
 Metoclopramide tabs 10 mg
 Minoxidil tabs 2.5, 10 mg
 Multivitamin drop/fluoride 0.25 mg
 Nystatin/Triamcinolone cream
 Oxazepam caps 10, 15, 30 mg
 Oxazepam caps 10, 15, 30 mg
 Oxazepam caps 10, 15, 30 mg
 Oxazepam caps 10, 15, 30 mg
 Oxtriphylline elixir 100 mg/5 ml
 Oxycodone 5 mg/APAP 325 mg tabs
 Oxycodone/APAP tabs 5/325
 Oxycodones 4.88 mg/Aspirin 325 mg
 Oxycodones/ASA tabs 4.88/325
 Perphenazine tabs 2, 4, 8, 16 mg
 Phenylephrine/PPA/Guaifenesin caps
 Pot. gluconate 15 mEq/Pot. citr. 5 mEq
 Potassium CL sugar-free 20 mEq/15 ml
 Potassium Chloride E.R. tabs 8 mEq
 Potassium Cl efferv. tabs 25 mEq
 Potassium chloride liquid 20 mEq/15 ml
 Potassium cl liquid 40 mEq/15 ml
 Potassium gluconate liquid 20 mEq/15 ml
 Propoxyphene-ASA/Caff. caps 65/389/32
 Propranolol tabs 10 mg
 Propranolol tabs 10, 20, 40, 60, 80, 90 mg
 Quinine sulfate tabs 260 mg
 Ru-Tuss (R) E.R. tabs Formula substitute
 Ru-Tuss (R) Expect substitute
 Ru-Tuss (R) Liquid substitute
 Ru-Tuss HC (R) Formula substitute
 SMZ TMP susp 200/40 per 5 ml
 Stuartnatal 1+1 sub. (Newest formula)
 Sulfasalazine tabs 0.5 g.
 Sulfasalazine tabs 500 mg
 Thioridazine conc. 30 mg/ml & 100 mg/ml
 Thiothixene caps 1, 2, 5, 10 mg
 Thiothixene oral solution 5 mg/ml
 Triamterene HCTZ tabs 75/50
 Triamterene/HCTZ tabs 75/50
 Trifluoperazine tabs 1, 2, 5, 10 mg
 Trimipramine caps 25, 50, 100 mg
 Trimipramine maleate tabs 25, 50, 100 mg
 Triple vitamins F 0.25 mg solution
 Valproic acid caps 250 mg

Interested Persons see Inside Front Cover

HIGHER EDUCATION

HIGHER EDUCATION

(a)

STUDENT ASSISTANCE BOARD

**Tuition Aid Grant Program
1988-89 Award Table**

Proposed Amendment: N.J.A.C. 9:7-3.2

Authorized By: Student Assistance Board, M. Wilma Harris,
Chairperson.

Authority: N.J.S.A. 18A:71-47(b) and 18A:71-48.

Proposal Number: PRN 1988-23.

Submit comments by February 18, 1988 to:

Grey J. Dimenna, Esq.
 Administrative Practice Officer
 Department of Higher Education
 225 West State Street
 CN 542
 Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed Tuition Aid Grant (TAG) Award Table for the 1988-89 academic year continues to provide percentages of tuition instead of actual award amounts. This format permits the Student Assistance Board and the Board of Higher Education to align award amounts for all New Jersey college sectors to those percentages when actual tuition levels and the program appropriation have been determined. The number of New Jersey Eligibility (NJEI) cells has been reduced from 20 in last year's table to 9 for the 1988-89 academic year. The result is that several cells have been compressed, which will allow many students to become eligible for increased awards.

Social Impact

The proposed TAG Award Table provides for awards equal to full tuition for the neediest students at New Jersey public colleges and universities. Pursuant to N.J.S.A. 18A:71-47, the maximum award for students attending independent institutions of higher education is up to 50 percent of the average tuition normally charged students attending those institutions. Under the proposed TAG Award Table, approximately 3,000 additional students will receive the maximum award. The higher awards provided to students should compensate in part for reduced eligibility for federal financial aid and could also reduce dependency on borrowing, especially for the neediest students. The proposed TAG Award Table will allow the Student Assistance Board and the Board of Higher Education to assign award amounts in July immediately after the program appropriation and tuition levels for the various college sectors are known. This process will eliminate the necessity for emergency adoption of a revised TAG Award Table during the summer months. In addition, students will be notified promptly of the change in award values at a time when tuition payments are due.

Economic Impact

The proposed 1988-89 TAG Award Table continues to provide for the assignment of grant amounts in the various eligibility cells within approved funding.

Regulatory Flexibility Statement

The proposed amendment does not impose any reporting, recordkeeping, or other compliance requirements on small businesses. The proposed amendment provides Tuition Aid Grant awards for eligible students attending New Jersey colleges and Universities for the 1988-89 academic year.

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

NOTE: N.J.A.C. 9:7-3.2 was proposed for reoption, with amendments, in the January 4, 1988 New Jersey Register. This proposal does not amend the Tuition Aid Grant Table for 1987-88 in that proposed reoption, but adds a second Tuition Aid Grant Table for 1988-89.

Chelsea
 Quantum
 Copley
 Naska
 Chelsea
 Chelsea
 LuChem
 Royce
 Roxane
 LuChem
 Cord
 Roxane
 LuChem
 LuChem
 LuChem
 Chelsea
 Superpharm
 Roxane
 Bolar
 Chelsea
 Watson
 Chelsea
 Ayerst
 PharmBasics
 Roxane
 Halsey
 Roxane
 Watson
 Royce
 My-K
 Taro
 Amer. Ther.
 Barr
 Mylan
 Purepac
 Barre
 Roxane
 Halsey
 Roxane
 Halsey
 Zenith
 LuChem
 LuChem
 LuChem
 Copley
 Copley
 LuChem
 LuChem
 Cord
 Lemmon
 Roxane
 LuChem
 LuChem
 Teva
 Quantum
 Superpharm
 Mutual
 Copley
 Amer. Ther.
 Copley
 Cord
 Quantum
 Cord
 PharmBasics
 Vitarine
 Barre-Nat'l
 Chelsea

9:7-3.2 Tuition Aid Grant award table various institutional sectors in New Jersey and the student's ability
 (a) The value of the grant is related to the tuition charges of the to pay for educational costs.

**1. TUITION AID GRANT (TAG) AWARD TABLE FOR 1987-88
 APPROXIMATE TUITION AID GRANT VALUES'
 NEW JERSEY COLLEGES AND UNIVERSITIES**

NJ Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers Univ. & UMDNJ ²	NJ Inst. of Tech.
Under 950	100% of tuition	100% of tuition	40-50% ¹	100% of tuition	100% of tuition
950-1349	80-99%	90-99%	91-99%	91-99%	91-99%
1350-1749	70-79%	80-89%	86-90%	86-90%	86-90%
1750-2149	60-69%	75-79%	81-85%	81-85%	81-85%
2150-2549	50-59%	68-74%	76-80%	76-80%	76-80%
2550-2949	40-49%	62-67%	71-75%	71-75%	71-75%
2950-3349	30-39%	55-61%	66-70%	66-70%	66-70%
3350-3749	Minimum	48-54%	61-65%	61-65%	61-65%
3750-4149	0	41-47%	56-60%	56-60%	56-60%
4150-4549	0	34-40%	51-55%	51-55%	51-55%
4550-4949	0	28-33%	46-50%	46-50%	46-50%
4950-5349	0	21-27%	41-45%	41-45%	41-45%
5350-5749	0	Minimum	36-40%	36-40%	36-40%
5750-6149	0	0	31-35%	31-35%	31-35%
6150-6549	0	0	26-30%	26-30%	26-30%
6550-6949	0	0	21-25%	21-25%	21-25%
6950-7349	0	0	16-20%	Minimum	Minimum
7350-7749	0	0	11-15%	0	0
7750-8149	0	0	5-10%	0	0
8150-8549	0	0	Minimum	0	0
Over 8549	0	0	0	0	0

¹In accordance with State guidelines, the value of a student's grant may decrease dependent upon appropriated funds, and the student's college budget, available resources, and estimated family contribution. The student shall be notified of any increase in his/her grant if additional funds become available. Additional eligibility (NJEI) cells may be added below the minimum award level dependent upon the current tuition charges and estimated family contribution. For purposes of N.J.A.C. 9:7-3.2, Tuition Aid Grant Award Table, the minimum award for all institutional sectors shall be \$200.00.

²Students enrolled in eligible programs at UMDNJ should contact the university's financial aid office for details.

³Pursuant to N.J.S.A. 18A:71-47, the maximum award for a student attending an independent institution of higher education is 50 percent of the average tuition normally charged students attending those institutions. The FY88 Budget Request contains a recommended \$3,000.00 maximum award level in the independent sector for students with an NJEI under 950. Percentages listed for NJEI categories 950 and above represent percentages of the first cell award.

**2. TUITION AID GRANT (TAG) AWARD TABLE FOR 1988-89
 APPROXIMATE TUITION AID GRANT VALUES'
 NEW JERSEY COLLEGES AND UNIVERSITIES**

NJ Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers Univ. & UMDNJ ²	NJ Inst. of Tech.
Under 1500	100% of tuition	100% of tuition	40-50% ¹	100% of tuition	100% of tuition
1500-2499	80-99%	80-99%	80-99%	85-99%	80-99%
2500-3499	50-79%	60-79%	70-79%	70-84%	70-79%
3500-4499	Minimum	50-59%	60-69%	60-69%	60-69%
4500-5499	0	30-49%	50-59%	50-59%	50-59%
5500-6499	0	Minimum	35-49%	35-49%	35-49%
6500-7499	0	0	25-34%	30-34%	30-34%
7500-8499	0	0	20-24%	Minimum	Minimum
8500-9499	0	0	Minimum	0	0
Over 9499	0	0	0	0	0

¹In accordance with State guidelines, the value of the student's grant may decrease dependent upon appropriated funds, the student's college budget and other financial aid. The student will be notified of any increase in his/her grant if additional funds become available. For purposes of N.J.A.C. 9:7-3.2, Tuition Aid Grant Award Table, the minimum grant for all institutional sectors shall not exceed \$400.00.

²Students enrolled in eligible programs at UMDNJ should contact the university's financial aid office for details.

³Pursuant to N.J.S.A. 18A:71-47, the maximum award for a student attending an independent institution of higher education is 50 percent of the average tuition normally charged students attending those institutions. The FY1989 Budget Request contains a recommended \$3,300.00 maximum award level in the independent sector for students with an NJEI under 1500. Percentages listed for NJEI categories 1500 and above represent percentages of the first cell award.

HUMAN SERVICES

(a)

Communication with Communities Regarding the Development of Group Homes

Proposed Readoption: N.J.A.C. 10:4

Take notice that the Department of Human Services is extending from Wednesday, December 2, 1987 to **Monday, February 1, 1988**, the period for submission of written comments concerning the proposed readoption. The original proposal was published on November 2, 1987 in the New Jersey Register at 19 N.J.R. 1976(a). Please refer to the proposal notice for further information.

Interested persons may submit written comments to:

E. John Walzer, Esq.
Regulatory Officer
Department of Human Services
222 So. Warren Street
CN 700
Trenton, NJ 08625

(b)

DIVISION OF DEVELOPMENTAL DISABILITIES

Manual of Standards for Licensed Community Residences for the Developmentally Disabled

Proposed Repeal and New Rule: N.J.A.C. 10:44A

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

Authority: N.J.S.A. 30:11-B-1.

Proposal Number: PRN 1988-44.

Submit comments by February 18, 1988 to:

James M. Evanochko,
Administrative Practice Officer
Division of Developmental Disabilities
CN 700
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules cover physical and program requirements for licensed community residences for the developmentally disabled, also known as group homes or supervised apartments. The purpose of the rules is to protect the health, welfare and human rights of the individuals residing in the homes or apartments, in the specified areas. The proposed rules will enhance such individuals' opportunities for normalized living, in accordance with the current consensus of professional and consumer groups on desirable and beneficial services to the developmentally disabled.

Subchapter One deals with the purpose and scope of the rules, definitions of words and terms used in the rules and the procedure to be followed for application for a license as a community residence for the developmentally disabled.

Subchapter Two addresses general organization and administration; staff qualifications, training and coverage; required policies and procedures; grievance process; recordkeeping; and maintenance of client funds.

Subchapter Three addresses advocacy and rights of the clients of the community residences.

Subchapter Four addresses the habilitation process; admission; transfer or discharge; individualized habilitation plan, and day programs.

Subchapter Five addresses health services; general medical and health care; prescription medication; over-the-counter drugs; and documentation required on discharge of a client.

Subchapter Six addresses the physical environment which is to be provided the client.

Subchapter Seven addresses the social environment.

Subchapter Eight addresses the requirements for supervised apartments in the areas of supervision, physical plan and safety, physical accommodations, maintenance and sanitation.

In addition to inspection by the Division's monitoring unit regarding compliance with the proposed new rules, service providers are subject to the requirements of their contracts with the Division.

A review of the rules which the Division proposes to repeal indicated that revision was necessary. The Division's representatives met with members of the service providers organization, soliciting comments and developing revised text. Subcommittees within the providers' organization addressed each subchapter, and steering and advisory committees assisted as well. The Division's inspection unit was consulted, as was the Statewide self-advocacy group for developmentally disabled individuals. Changes were made, based upon current practices in the field and the contributions of the many individuals involved in the evaluation. As a result, the Division concluded that repeal of rules at N.J.A.C. 10:44A and proposal of new text was necessary.

Several changes involve terminology (change from "client" to "individual", at the request of the self-advocacy group); the addition of fire safety and physical plant requirements; the addition of text regarding advocacy and rights of developmentally disabled individuals; and changes made in response to the Governor's Task Force on Services to Developmentally Disabled Persons.

The Division notes that throughout the text of these proposed rules, Division Circulars are mentioned and cross-referenced. Specifically, Division Circulars #9, 14, 37, 45, 46 and 49 are cited within the rules. The Division is currently reviewing these Division Circulars to determine their regulatory nature. Any of these Division Circulars which are found to be regulatory will be proposed as rules within the next six months.

It is anticipated that the proposed new rules will serve those developmentally disabled individuals in community residences more effectively.

Social Impact

The anticipated positive effect of the proposed new rules is to preserve and improve the level of service in community residences so that those individuals living in them may develop their potential to the fullest, in a normalized environment. The rules provide for the delivery of essential services in an individualized manner, to better serve the needs of the developmentally disabled and their families. It is anticipated that the regulated group will have a positive reaction to the proposed new rules, due to the extensive input solicited by the Division.

Economic Impact

The economic impact of the proposed new rules on the service providers is not expected to vary significantly from that of the current rules. Those who wish to provide this service may incur expense; however, a specific amount cannot be determined, as circumstances vary from case to case. Provision has been made in the budget of the Division for those expenses associated with the program. Individuals in the program may contribute varying amounts. Compliance with the proposed rules and with their individual contracts will allow for the payment of service providers. A negative effect may be experienced by those providers who do not comply with the rules.

Regulatory Flexibility Statement

The proposed new rules affect small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16. However, these small businesses should not be exempt from the rules, due to the overriding concern for the health, safety and welfare of the developmentally disabled individuals living in the community residences. The recordkeeping requirements imposed on small businesses by these rules do not differ from the requirements in the current rules; therefore, no new requirements have been added.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:44A.

Full text of the proposed new rules follows:

CHAPTER 44A

STANDARDS FOR LICENSED COMMUNITY RESIDENCES FOR THE DEVELOPMENTALLY DISABLED

SUBCHAPTER 1. GENERAL PROVISIONS

10:44A-1.1 Purpose and scope

The purpose of the rules is to provide for the protection of persons with developmental disabilities who require such oversight, and to provide for overall improvement of the quality of life for individuals residing in Community Residences for the Developmentally Disabled

such as group homes and supervised apartments. If all persons living in a particular place of residence are developmentally disabled, and where all such individuals do not require personal guidance, as determined by the interdisciplinary teams, licensure is available on a voluntary basis, in accordance with the expressed preferences of the developmentally disabled individuals.

10:44A-1.2 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect and to this end the provisions of this chapter are severable.

10:44A-1.3 Definitions

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

"Abuse" means any act or omission of an act that willfully deprives an individual of his or her rights or which may cause or causes actual physical injury or emotional harm, and is not limited to physical injury. Examples of physical abuse are acts that cause pain, cuts, bruises, temporary loss of a body function, temporary or permanent disfigurement, or death.

"Advocate" means a public or private officer, agency, or organization designated by state legislation, state plan, or the governor to represent the interests of persons with developmental disabilities and speak on behalf of such individuals.

"Age Appropriateness" means that aspect of normalization which reinforces recognition of an individual as a person of a certain chronological age.

"Capacity" means the maximum number of developmentally disabled individuals who may reside in the licensed residence.

"Case Manager" means the authorized representative of any agency who coordinates the provision of social services to developmentally disabled individuals.

"Chores" means those duties which are normally performed by members of a household as a matter of routine.

"Community Residence for the Developmentally Disabled" means any community residential facility housing up to 16 developmentally disabled persons which provides food, shelter, personal guidance, and/or training. Such residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L. 1971 c.136 (C.26:2H-1 et seq.), and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements, and hostels. Skill development homes and family care homes are also community residences for the developmentally disabled; however, these owner-occupied living arrangements are governed by N.J.A.C. 10:44B.

"Community Services" means a component of the Division of Developmental Disabilities which provides work and training programs, housing and supportive services to aid persons with developmental disabilities in establishing themselves in the community.

"Developmental disability" means a severe, chronic disability of a person which:

1. Is attributable to a mental or physical impairment or combination of mental or physical impairments;
2. Is manifest before age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major activity: self care, receptive and/or expressive language, learning, mobility, self-direction, and capacity for independent living or economic self-sufficiency; and
5. Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of life-long or extended duration and are individually planned and coordinated.

"Division" means the Division of Developmental Disabilities.

"Division circular" means a document issued by the Director, Division of Developmental Disabilities, which provides detailed policies and procedures of the Division, and which may be obtained from the Office of Licensing and Inspections, Capitol Place One, 222 South Warren Street, Trenton, New Jersey 08625.

"Exploitation" means any unjust or improper use of another person for one's profit or advantage.

"Fire official" means a person certified by the Commissioner of the Department of Community Affairs, and appointed or designated to direct the enforcement of the Uniform Fire Safety Code (N.J.A.C. 5:23) by the appointing authority of a local enforcing agency and also means any certified fire inspector working under the direction of the fire official.

"Group Homes" are community residences which provide the opportunity for developmentally disabled individuals to achieve optimal independence. Staff in the Group Home provide supervision, training, and/or assistance as needed in personal care tasks and activities of daily living.

"Human Rights Committee" means a group comprised of professionals, developmentally disabled persons, advocates, and interested individuals from the community at large who function as an advisory body to the Chief Executive Officer (Licensee) or Regional Administrator on issues directly or indirectly affecting the rights of individuals with developmental disabilities.

"Imminent danger" means the existence of a hazard which could reasonably be expected to cause death or serious physical harm to persons in the residence.

"Individual Habilitation Plan" (IHP) means a document that provides an evaluation of the individual's capabilities and needs and sets forth clearly defined goals and measurable, behaviorally stated objectives describing an individualized program of care, training, treatment, and therapies designed to attain and/or maintain the physical, social, emotional, educational and vocational functioning of which the individual is presently or potentially capable.

"Interdisciplinary Team" (IDT) means a group of persons with a variety of skills and services knowledge who assist in the development of a habilitation plan appropriate to a specific individual who is being served.

"Least Restriction" means that interventions in the lives of individuals with developmental disabilities are carried out with a minimum of limitation, intrusion, disruption, or departure from commonly accepted patterns of living.

"License" means the authorization issued by the Department of Human Services to operate a community residence providing services to developmentally disabled persons.

"Licensee" means the individual, partnership, or corporation responsible for the overall operation of the home, and who is named on the license.

"Licensing agency" means the Office of Licensing and Inspections, within the Department of Human Services, Division of Developmental Disabilities.

"Mobile non-ambulatory" means an individual capable of independent bed to wheelchair transfer and capable of following procedures for evacuation from the facility.

"Negative licensing sanction" means an action taken which imposes a restriction on a licensee and may include suspension of admissions, issuance of a Provisional License, a reduction in the licensed capacity, a non-renewal of license, a suspension of the license, or a revocation of the license.

"Neglect" means the failure of an individual to provide for or maintain the care and safety of individuals under his or her supervision, including, but not limited to, failure to provide and maintain proper and sufficient food, clothing, health care, shelter and/or adult supervision.

"Normalization" means making commonly accepted patterns and conditions of everyday life available to people with developmental disabilities. Age-appropriateness and least restriction are two key aspects of normalization. Age-appropriateness refers to that aspect of normalization which reinforces recognition of an individual as a person of a certain chronological age.

"Pattern of non-compliance" means the recurrence of licensing violations over time.

"Personal guidance" means the assistance provided to an individual with developmental disabilities in activities of daily living because he or she routinely requires help completing activities of daily living and/or cannot direct someone to complete such activities when physical handicaps prevent self-completion; or there is a documented

health or mental health problem requiring supervision of the person for the protection of the individual or others. In the absence of a court determination, the IDT shall determine the need for personal guidance for each individual.

"Private placement" means the status of an individual who does not receive services from the Division of Developmental Disabilities at the time of his or her admission to a community residence governed by these regulations.

"Provisional license" is a negative licensing sanction used to prompt corrective actions in existing residences. A provisional license shall be for less than 12 months.

"Respite care" means a temporary placement intended to not exceed 30 days.

"Supervised Apartments" means apartments which are variants of the Group Home model. These apartments are occupied by developmentally disabled individuals and leased by the licensee. Staff provide supervision, guidance, and training as needed in activities of daily living as defined by the individual's needs and targeted future goals.

"Variance" means recognition that the licensee has complied with the intent of a standard in a Division-approved alternative manner.

"Waiver" means the temporary suspension of a standard, which is granted in writing by the licensing agency.

10:44A-1.4 Application for license

(a) All inquiries related to applications for group homes and supervised apartments should be made to:

Program Development Unit
 N.J. Division of Developmental Disabilities
 Capital Place One
 222 South Warren Street—CN 700
 Trenton, New Jersey 08625

(b) All applicants must submit an application (Letter of Intent), to the Program Development Unit on the forms provided upon application.

(c) Falsification of any information required on the application shall be a basis for the denial of the application or revocation of a license.

(d) Conviction of a crime by an applicant shall be sufficient cause to deny an application for a license.

(e) In collaboration with representatives of the Department of Human Services, the Program Development Unit shall ensure compliance with geographic and population saturation limits, as identified in N.J.S.A. 40:55D-66.1 et seq.

(f) The Program Development Unit shall inform an applicant, in writing, of the decision regarding a Letter of Intent. The Program Development Unit shall send copies of applicable Division Circulars to approved applicants.

10:44A-1.5 Initial inspection

(a) An initial inspection of the proposed residence shall be conducted by a representative of the Office of Licensing and Inspections prior to the opening of any Community Residence for the Developmentally Disabled.

(b) The following documents, which must be legible, shall be supplied by the applicant to the Office of Licensing and Inspections before an initial inspection will be conducted:

1. Proof of residential and vehicle insurance;
2. A Certificate of Use and Occupancy, if required by the municipality, in accordance with the Uniform Construction Code (N.J.A.C. 5:23). This provision is not applicable to supervised apartments;
3. If the building is not serviced by a public water supply, the applicant shall request that the local health department inspect these services and submit a written statement of approval which shall be filed with the Office of Licensing and Inspections. This provision is not applicable to supervised apartments:
 - i. Upon approval by the appropriate enforcing agency, that is, the New Jersey Department of Health or local health department, an inspection by a licensed home inspection service shall be acceptable;
 4. Staff schedule, identifying the 24 hour coverage to be provided;
 5. Copy of the licensee's approved Policy and Procedures Manual which meets the content requirements as provided in N.J.A.C. 10:44A-2.7.

10:44A-1.6 Issuance of license

(a) The Department shall issue a non-transferable license, effective for one year from the date of the on-site inspection.

(b) The license shall specify the maximum number of developmentally disabled persons to be placed in the home.

(c) The license shall be available on the premises and the licensee shall submit a copy of the license to the local construction official.

(d) The group home or supervised apartment shall be subject to inspection by the Division of Developmental Disabilities, without limitation or prior notice.

10:44A-1.7 Renewal of license

(a) Subsequent licenses will be issued effective for one year from the expiration date of the preceding license with the following exceptions:

1. Upon determination that a negative sanction in the form of a provisional license, reduction in licensed capacity, suspension of license, failure to renew a license, or a revocation is appropriate.
2. Upon receipt of full accreditation by an Accreditation Body deemed acceptable by the Director, Division of Developmental Disabilities, a license effective for a two year period will be issued.
 - i. An organization granted full accreditation shall be responsible for conducting a complete self-survey utilizing the rules in this chapter.
 - ii. The Office of Licensing and Inspections shall review the self-survey and conduct an abbreviated inspection using the self-survey document during the year when an accreditation survey is not conducted.

10:44A-1.8 Voluntary closure

The licensee shall give at least 90 days notice to the appropriate Regional Office of Community Services, Division of Developmental Disabilities of any intention to close.

10:44A-1.9 Non-compliance and negative sanctions

(a) The Department of Human Services may revoke, suspend, or reduce the license whenever the licensee or designated administrator is found to be violating the laws of the State of New Jersey or when residences fall below the standards established by the Division of Developmental Disabilities.

1. Substantial violation of any subchapter, that is, Administrative Policies and Practices, Advocacy and Rights, Habilitation and Health Services, Physical and Social Environment shall be reason for revocation or reduction in the status of the license.
2. Substantial non-compliance exists when:
 - i. The unmet licensing requirements directly endanger the health, safety, or well-being of a customer(s);
 - ii. When the unmet requirements exist in significant number;
 - iii. When the degree of the condition(s) is severe;
 - iv. When one or more requirements have been left unmet with great frequency; and/or
 - v. When the terms of the license have been violated;
3. Willful non-compliance exists when the applicant or licensee has knowledge of the violations of licensing rules and/or terms of the license, has been advised of the consequences of not achieving compliance and has not achieved compliance after being given an adequate opportunity to do so.

(b) The licensee shall be given 30 days notice by the Division of Developmental Disabilities of intentions to revoke, reduce, or suspend a license, unless the Division determines that the individuals in residence may be in danger of abuse, neglect, or other life-threatening conditions.

(c) If minor renovations or programmatic changes are required to correct violations, a plan of correction shall be submitted to the Program Development Unit within 30 days after notification to the agency. For each deficiency noted in the licensing report, the plan of correction shall provide:

1. Target dates for compliance;
 2. Details of plans to correct violations.
- (d) Major violations shall be corrected within the time frame established by the Division of Developmental Disabilities. If deficient conditions are not corrected within the time period designated by the Division of Developmental Disabilities, the residence may have its

license reduced, revoked, or suspended under appropriate regulations in accordance with N.J.S.A. 30:11B-1 et seq. The licensee shall be informed of the specific action.

(e) Admissions may be suspended by the Division until the deficient conditions are corrected.

(f) The standards found in this chapter shall apply to supervised apartments as well as group homes, unless otherwise noted in the standard. N.J.A.C. 10:44A-8 provides specific standards for the staffing and physical plant requirements in supervised apartments.

10:44A-1.10 Appeal process

(a) A licensee aggrieved by a ruling, action, order, or notice of the licensing agency which results in a negative sanction, as defined in these rules shall be entitled to an administrative hearing. The application for the hearing shall be filed with the Director, Division of Developmental Disabilities, by the fifteenth day after receipt by the licensee of notice of the ruling, action, order, or notice.

1. All hearings shall be conducted pursuant to N.J.A.C. 10:48. The final decision shall be issued by the Director of the Division of Developmental Disabilities.

(b) An informal conference shall be granted regarding those matters involving the licensee and the licensing agency which do not constitute negative sanctions against the licensee.

(c) Upon receipt of notice from a licensee of a grievance, the licensing agency shall forward a copy of the Division's appeal procedure (Division Circular #37) for the licensee's reference.

10:44A-1.11 Waiver or variance

(a) A waiver or variance may be granted by the licensing agency provided that such a waiver or variance would present no danger to the health, safety, welfare, or rights of the individuals receiving services. The waiver must be requested by the licensee with substantial detail justifying the request. Issuance of a waiver or variance will be limited to the following circumstances:

1. Where strict enforcement of the standard would result in unreasonable hardship on the residence; or

2. Where a waiver or variance is in accordance with the particular needs of the developmentally disabled individuals.

SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

10:44A-2.1 General requirements

(a) The licensee shall monitor the efficiency and effectiveness of its organization by:

1. Adhering to specifications of its governing documents such as the Letter of Intent, charter, bylaws, etc., and reviewing and amending such documents annually or as necessary.

2. The licensee shall conduct a systematic assessment of its effectiveness on an annual basis.

(b) The purposes of the organization, a description of the program and services which it provides shall be made available to individuals with developmental disabilities, parents, guardians, advocates, and the general public.

1. This document shall describe, in general terms, who is served, the services provided, and the goals of the organization.

2. Although common language rather than legalistic or professional terminology shall be used, the information shall not be inconsistent with the organization's legal documents, for example, its character or statement of incorporation.

(c) The licensee may choose to employ an administrator to manage the community residence(s).

1. The relationship between the licensee, Board of Directors/Trustees (if any), and the administrator shall be documented and available for review by authorized officials of the Division.

2. The administrator's duties shall be defined in writing.

3. The administrator shall be delegated the authority and responsibility necessary to direct the organization in accordance with its policies/procedures.

(d) A licensee having non-profit status shall have a Board of Trustees which means the following criteria:

1. A minimum of five persons shall comprise the board.

2. Provisions shall exist for the orientation of new board members.

3. Meetings shall be held with a frequency sufficient to discharge their responsibilities effectively; in no event should the full governing body meet less than three times per year.

10:44A-2.2 Staff coverage

(a) The staff schedule shall be initially approved as part of the Letter of Intent process and reviewed at each inspection.

1. Reduction of staff coverage shall be justified in writing and sent to the Office of Licensing and Inspections and the Program Development Unit for Division approval.

2. Reduction of staff coverage shall not be implemented until approval is granted by the Office of Licensing and Inspections.

(b) Staff are not required to be on-site when all individuals are in a weekday program, but trained paid agency staff, familiar with the program, shall be available for emergencies.

(c) Staff coverage may be adjusted in accordance with documented approval(s) by the Interdisciplinary Team that an individual or individuals can be left alone for specific amounts of time.

(d) A written staff schedule for at least a two week period shall be available at each group home or at the supervisor's office for supervised apartments. The employee in-charge should be designated on the schedule for each shift.

(e) In special situations, staff shall be awake at night, including, but not limited to, residences housing multiple handicapped individuals and/or individuals who exhibit behavior problems which present a danger to self or others.

(f) Volunteers shall have planned duties and be supervised at all times by paid staff.

(g) Residences utilizing students for field placements/internships shall have a written plan for using their services.

10:44A-2.3 Personnel and staff development

(a) Personnel practices shall comply with all applicable Federal, State, and local laws, ordinances, rules, and regulations pertaining to employment, including civil rights, retirement plans or social security, minimum wages, hours, workmen's compensation.

(b) Prior to employment, all direct care staff shall have a physical examination and a Mantoux Skin Test for tuberculosis administered within three years.

1. A Mantoux Skin Test is required every three years for the duration of employment.

10:44A-2.4 Staff qualifications

(a) Except as otherwise provided in the Rehabilitated Offenders Act (N.J.S.A. 2A:168A-1 et seq.), no license will be issued to any applicant who, at any time, has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offense(s).

(b) Except as otherwise provided in the Rehabilitated Offenders Act (N.J.S.A. 2A:168A-1 et seq.), no licensee shall employ any person who has been convicted of any of the offenses listed in (a) above.

(c) The licensee or the administrator shall have a Bachelor's Degree or a high school education and two years of experience working with the developmentally disabled population.

(d) The House Manager, that is, the on-site supervisor responsible for the operation of the community residence, shall have a high school education and one year of experience working with the developmentally disabled population.

(e) Direct care staff shall be high school graduates and shall be at least 18 years of age.

(f) Direct care staff shall have the ability to communicate with the individuals for whom they are responsible.

(g) Direct care staff shall be capable of providing any direct assistance required by individuals for whom they are responsible.

(h) Falsification of information submitted to the Division of Developmental Disabilities, Department of Human Services, shall constitute justifiable grounds for immediate termination of the license or the licensure process.

(i) The licensee shall verify that all persons providing a professional service, either through direct employment or contract, possess credentials required by federal or state law.

10:44A-2.5 Orientation

(a) Immediately upon employment, all staff shall receive an orientation to acquaint them with:

1. The organization's philosophy, goals, programs, and practices;
2. Abuse, neglect, and unusual incident reporting and investigating procedures;
3. Emergency procedures as identified in the policy and procedures manual, for example, the fire evacuation plan, emergency medical treatment, etc. (Also see Emergency Policy and Procedure, N.J.A.C. 10:44A-2.7(b)3i);
4. An overview of developmental disabilities and the special needs of the individuals being served, for example, medical or behavioral problems requiring specific, tailored attention;
5. The appropriate job description and the personnel policies of the organization.

(b) Records of the orientation provided shall include a dated, signed acknowledgement by the employees receiving and providing the orientation.

10:44A-2.6 Staff training

(a) Basic staff training programs shall either be offered by the Division of Developmental Disabilities, or provided by the licensee after obtaining approval from the Division, to ensure staff competency, personal growth, and development. Within 120 days of employment, each employee shall receive in-service training which shall address, at a minimum:

1. Training in the principles of normalization;
2. Review of all policies and procedures not covered during orientation which are relevant to the employee's job;
3. First aid procedures;
4. Multimedia First Aid Training offered by the American Red Cross and have a certificate on file at the residence; and
5. Cardio-Pulmonary Resuscitation and have a valid certificate on file.

(b) The licensee may conduct, at its own discretion, and without specific prior approval from the Division, training programs in addition to training required by this chapter.

(c) Specialized training programs, identified as necessary during the application process or, subsequently, by the IDT, shall be provided as follows:

1. Persons who work with individuals who require specialized feeding techniques shall receive training in the use of those techniques.
2. Persons who work with individuals who use mobility devices shall receive training in mobility procedures and the safe use of mobility devices.
3. Persons who work with individuals with seizure disorders or physical disabilities shall receive training in the provision of training, assistance, and care to those individuals.
4. Persons who work with individuals with visual impairments or blindness shall receive training in orientation and mobility.
5. Persons who work with individuals who use alternative means of communication shall receive training in the means of communication used by the individual.
6. Persons who work with individuals with other special needs shall receive training which specifically addresses the special needs.

(d) Training records shall be maintained in the administrative offices and shall contain the following:

1. The curriculum and training plan;
2. Documentation of attendance through a report which includes the dated signatures of the trainer and the trainee; and
3. Results of those training programs which the Division requires.

10:44A-2.7 Policy and procedure manuals

(a) The licensee shall develop and implement written policies and procedures to ensure that the service delivery system complies with state law and rules governing community residences for the developmentally disabled as follows:

1. The policy and procedure manual shall be reviewed and revised as necessary, but at least annually.
2. Each policy and/or procedure shall be designed in accordance with the principles of normalization, age-appropriateness, and least

restriction and shall be consistent with the licensee's organizational structure and management philosophy.

3. While specific content for inclusion in a policy or procedure shall be identified on an as-needed basis in these rules, to ensure consistency, each policy and/or procedure shall provide:

- i. A descriptive title;
- ii. A title of purpose;
- iii. Standards of expected performance;
- iv. A description of sequential steps required;
- v. Assignment of staff responsibilities at each level of the operation;
- vi. Reporting and recording requirements.

4. Group Home/Supervised Apartment Managers shall carry out administrative responsibilities in keeping with policies established by the governing body and by the Chief Executive.

5. All staff shall be able to describe the key elements of each policy and procedure for which they are responsible.

6. Policies and procedures which, by their nature, do not deal with the daily routine or do not place clients in imminent danger must only be readily accessible for staff's reference and use in complying with procedure.

(b) The licensee shall issue a policy and procedure manual to supply the following documents and procedures to all staff:

1. A statement of philosophy, values, and goals so as to govern the organization's direction and character;
2. A table of organization illustrating lines of authority, responsibility, and communication;
3. A procedure for implementing a plan to deal with major emergencies requiring evacuation from the residence, such as a fire or a gas leak. The procedure shall address, at a minimum,
 - i. Evacuation of all persons to safe areas outside the building; except in inclement weather when the drills shall follow procedure only to the point where the participants would normally leave the building.

ii. Monthly evacuation drills must be conducted for the first six months of operation;

iii. Monthly drills shall continue for three consecutive months until all occupants can evacuate within 2½ minutes;

iv. Drills shall be conducted every two months for three consecutive months until all occupants can evacuate within 2½ minutes;

4. The process for the reporting and investigation of suspected abuse, neglect, or exploitation of the individuals receiving services, as required at N.J.A.C. 10:44A-2.8. The following information shall be included:

- i. A statement expressly prohibiting abuse, neglect, or exploitation.
- ii. A statement regarding the obligation to report, each allegation involving an adult to Community Services' emergency telephone answering service immediately and provide to the extent possible the information required in 10:44A-2.8(a).

5. A written statement of policies and procedures which protect the financial interests of the developmentally disabled persons as required in N.J.A.C. 10:44A-2.9.

(c) The policy and procedure manual shall be available at each community residence in a convenient location, accessible for staff use.

10:44A-2.8 Reporting and investigation of suspected abuse, neglect or exploitation of individuals receiving services

(a) Abuse, neglect or exploitation of individuals receiving services shall be prohibited. In the event these occur, staff shall:

1. Report each allegation involving an adult to Community Services emergency telephone answering service and provide, to the extent possible:

- i. The name of the alleged victim(s), date, and time of the incident;
- ii. Names of the persons involved, including participants and witnesses;
- iii. A description of the incident, including any medical treatment administered;
- iv. Appropriate sanctions that were invoked when the allegation was substantiated; and
- v. Any immediate corrective actions taken to prevent a recurrence or to provide additional protection;

2. In the case of minors, allegations of abuse shall also be reported to the local district office of the Division of Youth and Family Services or to the Office of Child Abuse Control, telephone (800) 792-8610.

3. In the case of individuals 60 years of age and over, allegations of abuse shall also be reported to the Office of the Ombudsman, 800-792-8820.

(b) An internal investigation shall be conducted within 24 hours unless otherwise instructed by a party empowered by statute to investigate.

(c) A preliminary report regarding the internal investigation shall be forwarded to the casemanager or, in the absence of a casemanager, the Office of Licensing and Inspections within 72 hours of the incident.

10:44A-2.9 Client financial records

(a) A system of separate accounting for each individual, or for his or her interest if a common trust or fund is used, shall be maintained.

(b) Account balances and records of transactions shall be provided to the individual or the individual's fiscal representative upon request, but at least annually.

10:44A-2.10 Daily log

(a) The system for internal communication shall include the maintenance of a daily log documenting problems encountered, the action taken, and a summary of activities and events during each shift, signed and dated by the person recording the information.

1. The daily log shall be signed and dated by the person recording the information prior to the end of each shift.

2. The daily log shall be reviewed by the manager of the group home or supervised apartment, and signed and dated every 72 hours or more frequently as needed.

10:44A-2.11 Grievance process/appeal of agency decisions

(a) A statement shall be provided to residents and/or their representatives and included in the policy procedure manual delineating how the licensee shall ensure the rights of the individuals it serves, to include:

1. The development and revision of house rules to include participation by individuals being served to the fullest extent possible;

2. The means to identify individuals who need or want a personal advocate and/or wish to participate in self-advocacy groups;

3. The schedule and process for conducting house meetings, unless the individual's functioning level renders them unable to participate, as confirmed and documented by the Interdisciplinary Team;

4. The written procedures for grievances or appeals, which shall have a minimum of two levels of appeal, the last of which shall involve the administrator or the licensee.

10:44A-2.12 Interdisciplinary team process

(a) The interdisciplinary team shall function as required in N.J.A.C. 10:44A-4.3.

10:44A-2.13 Medication

(a) A statement shall be included in the policy and procedure manual concerning the administration and storage of medication which includes, at a minimum:

1. Separate requirements for prescription and over-the-counter drugs;

2. Handling emergencies; and

3. The monitoring and recordkeeping systems employed.

10:44A-2.14 Unusual incidents

(a) Statements shall be included in the policy and procedure manual which ensure that appropriate action is taken in accordance with Division Circular #14.

(b) In addition to the documents required in the policy and procedure manual, the licensee shall develop policies regarding:

1. Death of an individual receiving services;

2. Admission of an individual to a hospital or emergency room;

3. Emergency removal of an individual due to inappropriate behavior;

4. A missing person;

5. Serious injuries such as fractures, lost teeth, or those requiring sutures;

6. Confirmation of reportable diseases (see N.J.A.C. 8:57);

7. Report of any fire or major property damage.

10:44A-2.15 Administrative records

(a) The licensee shall keep on file the following administrative records:

1. A record of all admissions and discharges, including names and dates, for the previous 12 month period;

2. A current copy of N.J.A.C. 10:44A, Manual of Standards for Licensed Community Residences for the Developmentally Disabled;

3. A record of monthly fire evacuation drills;

4. A copy of his or her current license.

(b) During normal business hours, each individual receiving services shall have the right to inspect and copy, or have a copy provided for him or her by the licensee, any or all of the records referred to in (a) above.

(c) No inspection, investigative report or written complaint, when made accessible to the public, shall disclose the identity of the developmentally disabled person.

(d) Unless otherwise noted in a specific regulation, all records shall be maintained in the licensed community residence for the developmentally disabled. Maintenance of records in any other place, either permanently or temporarily, is prohibited.

(e) The licensee shall protect and maintain the confidentiality of all records in accordance with Division Circular #46.

1. The licensee shall not distribute copies or allow distribution of any individual's records without explicit written permission of the involved agency representative and the individual or his/her legal guardian or guardianship worker.

2. Persons who will be or who are providing a necessary service to an individual shall be permitted access to information relevant to providing the specified service.

(f) No inspection, investigative report or written complaint, when made accessible to the public, shall disclose the identity of the developmentally disabled person.

(g) During normal business hours, each individual receiving services shall have the right to inspect and copy, or have a copy provided for him or her by the licensee, any or all of the records referred to in this section.

(h) An individual folder shall be maintained for each developmentally disabled person. The folder shall be legibly marked with the person's name.

(i) Individual records shall include:

1. Full name, date of birth, and sex;

2. Social Security and Medicaid numbers;

3. Date(s) of admission and re-admission;

4. Names and addresses of persons or agencies responsible for placement;

5. Names and addresses of all personal physicians and dentists;

6. Name, address, and telephone number of legal guardian (or guardianship worker), next of kin, and other interested person(s), and a copy of the guardianship determination;

7. Religious preference;

8. Pre-admission data including diagnosis, a psychological evaluation, and developmental history, including behavioral characteristics;

9. Admission physical examination and the results of the Mantoux Skin Test or Intradermal Test for tuberculosis, completed within the past three years, obtained within 30 days prior to admission;

10. Immunization record, if below the age of 18 years;

11. An annual physical examination and the results of the Mantoux Skin Test or Intradermal Test for tuberculosis, re-administered every three years;

12. Annual reports from the dentist of dental examinations and corrective work done;

13. Reports of accidents, illnesses, and unusual incidents;

14. Seizure records, where indicated;

15. The current Individualized Habilitation Plan;

16. Monthly reports of individuals' social and behavioral progress to correspond to the current Individualized Habilitation Plan;

- 17. A medically-prescribed diet, if required;
- 18. Documentation of known allergies;
- 19. A record of all personal property and funds entrusted to the licensee.

(j) Individual records shall be transferred to the Division when the client leaves the agency service.

10:44A-2.16 Consumer funds

(a) If the individual is determined by the IDT to be not capable of managing his or her own funds, the licensee shall maintain a record of all expenditures of the individual's personal funds according to the licensee's written policies and procedures.

(b) Each developmentally disabled person shall have the right to manage his or her personal funds unless his or her rights are otherwise restricted under state or federal law.

(c) At the time of admission, each person shall be provided with a written statement:

- 1. Explaining his or her rights regarding personal funds; and
- 2. Listing the services regarding the safekeeping and management of funds.

(d) The licensee shall obtain a signed acknowledgement from each person that he or she has received this statement. A copy of this acknowledgement shall be placed in the individual record for each person and forwarded to the Region.

(e) If an individual wishes to entrust funds to the licensee, the licensee shall:

- 1. Receive written authorization from the individual. The authorization shall be attested to by a witness who has no pecuniary interest in the licensee or its operations, and who is not connected to the licensee in any manner whatsoever;
 - 2. Maintain and allow each individual access to a written record of all financial arrangements and transactions involving his or her funds;
 - 3. Provide each individual with a written itemized statement, at least quarterly, of all financial transactions involving his or her funds;
 - 4. Keep any funds received from an individual for safekeeping in an account separate from all funds of the home;
 - 5. Deposit any funds received from an individual in excess of \$100.00 in an interest-bearing account insured by agencies of, or corporations chartered by, the state or federal government. The account shall be in a form which clearly indicates that the licensee has only a fiduciary interest in the funds and any interest from the account shall accrue to the developmentally disabled person. The licensee may keep up to \$100.00 of an individual's money in a non-interest bearing account or petty cash fund, to be readily available for current expenditures. Upon written request from an individual, the home may increase the amount of that individual's money in a non-interest bearing account or petty cash fund, up to \$200.00;
 - 6. Return to the individual, upon written request, all or any part of the individual's funds given to the licensee for safekeeping, including the interest accrued from deposits;
 - 7. Place any monthly allowance to which an individual is entitled in that individual's personal account, or give it to the individual, unless the licensee has written authorization from the individual to handle it differently;
 - 8. Unless otherwise provided by state law, upon the death of an individual, provide the executor or administrator of the individual's estate with a complete accounting of the individual's funds and personal property, including any funds and personal property of the individual being held by the licensee.
- (f) The licensee to whom the individual entrusts his or her funds should assure that management of such funds does not jeopardize the individual's entitlements to any appropriate federal or private annuity benefit.

SUBCHAPTER 3. ADVOCACY AND RIGHTS

10:44A-3.1 General requirements

(a) An individual's civil, human, and legal rights shall not be abridged solely on the basis of their diagnosis, nor without due process.

- 1. An individual's exercise of his or her rights shall not be prohibited or be used as a cause for retribution against him or her.

2. The licensee shall be responsible for utilizing a Human Rights Committee in accordance with Division Circular #5, "Human Rights Committees."

(b) The licensee shall establish reasonable house rules consistent with the principles identified in this chapter.

(c) On an individual basis or as a collective group, individuals receiving services have a right to challenge house rules as to their appropriateness.

(d) The house rules shall include provisions to ensure that individuals exercise their rights in such a way as not to infringe upon the rights of or endanger others.

(e) The licensee shall make certain that the private life of the individual is respected at all times, as follows:

- 1. The licensee shall avoid any unreasonable schedule concerning the hours at which individuals shall rise or retire.
- 2. Individuals shall be permitted to rest in their homes for such periods as may be consistent with personal needs.
- 3. Complete privacy shall be afforded during visits.

(f) Visiting is to be permitted during reasonable hours as identified in the house rules.

(g) Individuals shall have the opportunity to associate with members of the opposite sex.

(h) Individuals shall have the right to participate in social, religious, or community groups of their choice.

- 1. Licensees and/or staff shall not impose their religious beliefs on individuals under their care.
- 2. Licensees shall provide each individual with a nutritionally-balanced diet, modified in accordance with an individual's religious practices.

(i) Individuals shall have an opportunity to register and vote, if competent to do so.

(j) Individuals shall have free use of all living areas within the home without infringing on the privacy of others.

(k) Individuals shall have the right to use the community for recreation, education, shopping, and employment.

(l) Developmentally disabled individuals shall have access to a telephone within the residence for unmonitored incoming and outgoing calls.

1. Pay telephones shall not be employed in a licensed community residence unless such conditions are fully reviewed by the individuals' IDT and a Human Rights Committee.

2. An individual may be charged for toll calls, provided the licensee has informed the individual, in writing and in advance, of the fees to be charged.

(m) Individuals shall have the right to open their own mail and packages without surveillance.

(n) Licensees shall not read the individuals' incoming or outgoing mail unless requested by the individual.

(o) If the individual requests, he or she shall receive assistance in reading and writing letters.

10:44A-3.2 Access by advocates and community organizations

(a) Upon the presentation of proper identification and/or signed authorization to a licensee, advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to individuals, shall be granted access to the residence at reasonable times in order to:

- 1. Visit, talk with, and make personal, social, and legal services available to all individuals;
- 2. Inform individuals of their rights and entitlements, and their corresponding obligations under state, federal, and local laws by distribution of educational materials and discussion in groups and with individuals;
- 3. Assist individuals in asserting their legal rights regarding claims for public assistance, medical assistance, and Social Security benefits, as well as in all other matters in which individuals are aggrieved, which may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation; and,
- 4. Engage in all other methods of assisting, advising, and representing individuals so as to extend to them the full enjoyment of their rights.

10:44A-3.3 Notice of rights

(a) The Division shall give each home licensed under this chapter a copy of the rights document used by the Division and the names, addresses, and telephone numbers of the advocates who are available to assist the individual in understanding and enforcing these rights.

(b) If an individual is unable to read the list of rights, the rights shall be read to the individual in a language the individual understands. The licensee or administrator shall explain to the individual any portions of the rights which the individual does not understand and shall answer any questions the individual may have regarding the rights.

(c) After a copy of the rights has been given or read to the individual, he or she or his or her guardian shall sign and date a written acknowledgement that the individual has read or has been read the rights, that the individual understands the rights, and that any questions which the individual has regarding the rights have been answered by the licensee. A copy of the written acknowledgement signed and dated by the individual shall be placed in the individual's records.

(d) The home shall ensure that the staff is familiar with and observes the rights and responsibilities enumerated in these rules.

(e) Any policy, procedure, or rule of the home which is inconsistent with or contrary to a right enumerated in these rules shall be null and void.

(f) Developmentally disabled individuals shall be given the opportunity to participate in self-advocacy groups.

SUBCHAPTER 4. HABILITATION

10:44A-4.1 Preadmission and admission

(a) A licensee shall not refuse admission to any individual on the grounds of race, religion, or ethnic origin.

(b) A licensee shall have written statements regarding the admission criteria and fee policies for general admission to the program, as well as requirements specific to a particular residence.

(c) Admissions to, discharges from, or transfers between residences operated by the licensee shall be approved in advance by the appropriate Regional Office of the Division.

(d) All admissions or discharges of privately placed individuals must be reported in writing to the Office of Licensing and Inspection within five days.

1. All individuals admitted shall be developmentally disabled prior to his or her admission.

2. Licensees shall not admit individuals who do not comply with their own admission criteria.

3. All individuals and their parents and/or legal guardian shall be afforded the opportunity of making a pre-placement visit to the residence prior to admission.

(e) The number of individuals admitted to a program shall not exceed its licensed capacity.

(f) The following shall be provided for new admissions:

1. A package of information which complies with N.J.A.C. 10:46, addressing eligibility for services, as determined by the appropriate Regional Office of Community Services;

2. A medical examination conducted within 48 hours of admission, determining the individual to be free from contagious disease;

3. A current immunization record and hepatitis-B screening in accordance with Division Circular #9;

4. A Mantoux Skin Test or Intradermal Test for Tuberculosis, administered less than three years prior to the date of admission;

5. Lead level testing, as required by and in accordance with Division Circular #49, shall be conducted to ensure that individuals exhibiting pica behavior will not be admitted or transferred to leaded environments.

(g) At the time of admission, each individual shall be provided by the licensee, at no cost to the individual, the following:

1. A copy of the written procedures for safekeeping of valuable personal possessions;

2. A written statement explaining the individual's rights;

3. A copy of the house rules and grievance procedures.

(h) If an individual is unable to read the list of rights, the rights shall be read to the individual in a language the individual under-

stands. The licensee or administrator shall explain to the individual any portions of the rights which the individual does not understand, and shall answer any questions the individual may have regarding the rights.

1. The individual's guardian/guardianship worker shall be notified, in writing, that the list of rights has been explained to the individual.

2. A copy of the notification sent to the guardian/guardianship worker shall be maintained at the residence.

(i) If it is in the developmentally disabled person's best interest to remain in the Respite Care placement beyond 30 days, the individual shall be treated as a regular admission and all regulations of the appropriate program category, that is, group home or supervised apartment, shall apply. A group home or supervised apartment may be used exclusively for respite care or may choose to reserve a limited number of the total approved beds as identified as the licensed capacity.

10:44A-4.2 Transfer or discharge

(a) Should a licensee/agency determine that an individual is no longer suitable for the residence, the individual shall not be maintained at that residence, provided substantive evidence is given to the placing agency.

1. A review by the Regional Advisory Board of Community Services of the Division may be requested by the licensee or the licensing agency.

2. The licensee or the licensing agency may request a final decision from the Division Director by filing objections or exceptions to the decision by the Regional Advisory Committee.

(b) In the case of a planned release, at least 30 days prior to the anticipated discharge date, a new Individual Habilitation Plan shall be developed or an addendum shall be added to update an existing plan, specifying the plan to be followed upon the transfer or discharge.

1. The licensee shall participate in the development of the plan in consultation with the individual, case manager, parent or legal guardian/guardianship worker.

2. The release plan shall assess the individual's continuing needs and recommend a plan for provision of follow-up services in the individual's new environment.

10:44A-4.3 Individualized Habilitation Plan

(a) An Individualized Habilitation Plan shall be developed for each individual in accordance with Division Circular #45, "Individualized Habilitation Plans," and guidelines supplied by the Division for each licensee. (The rules relating to Individualized Habilitation Plans do not apply to Respite Care.)

1. A copy of the Individual Education Plan for school age individuals shall be available. (This does not apply to Respite Care Homes.)

(b) Within 30 days of admitting an individual, the licensee shall develop an Individualized Habilitation Plan (IHP) as required by N.J.S.A. 30:6D-10.

(c) The Individualized Habilitation Plan shall include a written statement setting forth clearly defined and measurable goals and behaviorally stated objectives describing an individualized program of care, training, treatment, education, and therapies designed to attain or maintain the optimal physical, social, educational, and/or vocational functioning of which the individual is presently or potentially capable.

(d) The Individualized Habilitation Plan shall address the individual's development in the following areas, as appropriate:

1. Perceptual skills;

2. Sensorimotor skills;

3. Self-help skills;

4. Communication skills;

5. Social skills;

6. Self-direction;

7. Emotional stability; and,

8. Effective use of time, including leisure time.

(e) The Individualized Habilitation Plan shall include the following elements:

1. Cover page to be provided by, or approved by the Division;

2. Statement of present level of functioning;
3. Identification of individuals' needs;
4. Long-term goals;
5. Short-term goals (obtainable in a year or less);
6. Behaviorally stated objectives;
7. Method of achieving goals;
8. Personnel responsible for providing services described in plan;
9. Specific service with dates of initiation and anticipated duration;
10. Barriers to achieving goals.

(f) The licensee shall be responsible for reviewing and evaluating those Individual Habilitation Plans for which the licensee's staff are responsible for implementing.

1. When the Division is the placing agency, copies of the individual's monthly report of progress or regression shall be sent to the appropriate Regional Office of Community Services.

2. In the case of private placements, the monthly progress reports shall be sent to the Office of Licensing and Inspections.

3. Copies of the monthly progress reports shall be maintained on file at the residence for a period of one year.

(g) Each plan shall be developed by an interdisciplinary team consisting of professional and non-professional staff providing service to the individual. Documentation of who participated in the plan shall be provided on the standard cover page of the IHP.

(h) The individual shall participate in decisions regarding his or her IHP, to the extent that he or she is capable.

1. The individual's parent(s), guardian, and/or guardianship solicitor shall be offered the opportunity to participate. Attempts to solicit their input should also be documented.

(i) Parents, legal guardian or guardianship worker or another interested party shall be provided a copy of at least the cover page of the Individual Habilitation Plan, as well as the long and short-term goals.

1. Other parts of the Individual Habilitation Plan shall be made available upon request, within the limitations of confidentiality.

(j) The Individualized Habilitation Plan must be reviewed and revised as necessary but no less than annually.

(k) Each individual IHP, including evaluation reports, shall be completely rewritten at least every three years.

1. If the IHP is not completely re-written each year, the annual reviews done in the interim and any modifications made shall be added to the IHP.

(l) The current IHP shall be filed in the central record of the individual.

1. A copy of the current IHP shall be accessible to each staff person working with the individual. This copy should contain progress notes by each discipline providing services to the individual.

(m) Written monthly progress notes must be available at the residence and correspond to the IHP goals and objectives currently being implemented for each individual. The progress notes shall sufficiently describe the individual's progress or regression to give a clear picture of the individual's functioning in the skill area.

1. All IHP goals shall be reported on in the progress notes of the monthly report supplied by the Division.

2. Any discontinuation of goals shall be indicated by the IHP Coordinator in the plan itself.

(n) An active social and recreational program shall be established for the development and training of the individual.

1. There shall be cooperative recreation activities held with other facilities serving developmentally disabled individuals, community programs, and community organizations for all individuals who can benefit from them.

2. Recreational activities shall be provided for each individual consistent with his or her interests, abilities, and capabilities.

(o) The licensee shall conduct a survey of recreational needs and interests every six months, unless otherwise indicated by the individual's abilities to participate.

1. The survey shall include interviews of the individuals in residence.

2. Documentation of the results of the survey shall be kept on file at each residence, to include changes implemented in accordance with the results of the survey.

(p) Religious services and instruction shall be arranged consistent with the individual's interests.

10:44A-4.4 Day programs

(a) Each individual shall be afforded an opportunity to participate in an organized program of habilitation or rehabilitation or employment.

1. Every individual between the ages of 3 and 22 years shall receive an appropriate education in accordance with Federal and State laws.

2. All individuals over 22 years of age shall be provided with a program, unless a physician certifies in writing that such activity is medically inadvisable.

3. If employed, individuals 55 years or older may elect to retire; however, involvement in age-appropriate activities outside the residence shall be encouraged by the licensee.

(b) In the absence of community day programs, an individual may be provided with an individualized program within the residence for a period up to three months, upon the approval of the placing agency and the licensee.

1. Individualized programs must be oriented toward individual adjustment and approved by the individual and the placing agency.

2. An extension may be granted after review and approval by the IDT.

SUBCHAPTER 5. HEALTH SERVICES

10:44A-5.1 General medical health care

(a) A personal, primary physician or medical group shall be provided for each individual.

(b) A licensee shall not admit anyone who has not been certified by a physician to be free from contagious disease and has not had a complete physical examination within the previous year.

(c) Each individual shall have an annual medical examination.

1. A copy of the annual examination, signed and dated by the physician, shall be kept in the individual's file at the residence.

(d) Each individual shall have at least an annual dental examination.

i. A copy of the dental examination, signed and dated by the dentist, shall be kept in the individual's file at the residence.

(e) The licensee shall follow-up on all individual health needs including medical treatment, pharmaceutical, dental, or other needed services.

(f) The licensee shall make arrangements with a local rescue squad and an area hospital for emergency medical care.

(g) The licensee shall have a first aid kit to include:

1. Antiseptic;
2. Two-inch rolled gauze bandage;
3. Sterile gauze bandages;
4. Adhesive paper or ribbon tape;
5. Scissors;
6. Adhesive bandage (for example, band-aids);
7. Either a standard type or a digital thermometer.

(h) A Mantoux Skin Test or Intradermal Test for Tuberculosis shall be administered to every individual every three years.

1. If the Mantoux or Intradermal Test for Tuberculosis is negative, the test shall be repeated at three year intervals or upon exposure to a case of tuberculosis.

2. If the Mantoux or Intradermal Test for Tuberculosis is positive, certification by a physician that the individual is contagion-free shall be obtained initially and at three year intervals.

(i) Upon confirmation of any reportable diseases (N.J.A.C. 8:57), the licensee shall ensure such exposed individual is placed under a physician's care. The physician shall determine further medical treatment and precautions to be taken.

10:44A-5.2 Prescription medication

(a) Individuals receiving medication shall be trained to take their own medication, to the extent that it is possible, as assessed and determined by the Interdisciplinary Team.

(b) If an individual is not responsible or capable of taking his or her own medication, the licensee or designee shall administer the medication exactly as prescribed.

1. A written record shall be maintained of all medication administered by the licensee or the designee. This record must include the individual's name, date, type of medication, dosage frequency, initials and corresponding signatures of staff administering the medication.

2. The reason for PRN medication (to be taken as needed) shall be clearly indicated by the physician on the prescription and reflected on the prescription label.

(c) If an individual is capable of taking medication without assistance, no daily medication record is required. The determination of whether a particular individual is capable of self-administering medication shall be made by the Interdisciplinary Team.

1. When an individual is determined capable of administering his/her own medication, the following must be observed:

i. Staff must record in each individual folder the date of the prescription, the name of the medication, dosage, frequency, and where the medication is stored.

ii. Documentation as specified by the IDT of the individual's ability to self-administer the medication shall be contained in the IHP.

(d) Life-sustaining drugs such as injectable insulin may be self-administered if the individual has had training from licensed medical personnel and documentation of such training is maintained on file at the residence.

(e) If the individual is unable to be trained to self-administer injectable medication, a staff member who has documented medical training, approved by the Office of Licensing and Inspections, may administer the medication. The training program provided shall be approved by a physician associated with the Division of Developmental Disabilities or the Department of Human Services.

(f) All prescribed medication must be re-evaluated by a physician at least annually.

(g) Staff shall have access to a medication reference book, current within three years and written for lay persons, which shall include information on side effects and drug interaction. Suspected side effects shall be noted on the medication record, and reported as soon as possible to the physician who prescribed the medication.

(h) Any change in medication dosage from the physician shall be immediately noted on the current medication record by staff consistent with the licensee's policy. Verbal orders from the physician shall be confirmed in writing. The prescription shall be revised at the earliest opportunity.

(i) A supply of medication, adequate to insure no interruption in the medication schedule, shall be available to individuals at all times.

(j) The licensee, or designee, shall supervise the use and storage of prescription medicines.

1. A storage area of adequate size for prescription medication shall be provided and kept locked.

2. The key to the locked medication area shall be accessible only to those staff designated by the licensee.

3. Each individual's prescribed medication shall be separated within the storage area, that is:

i. Oral medication shall be separated from other medications.

ii. Medications which require refrigeration shall be maintained in a locked box in a refrigerator.

4. All medications shall be kept in their original containers from the pharmacy and shall be properly identified with the pharmacist's label.

5. No stock supply of prescription medicines shall be kept.

6. Medications which are outdated or no longer in use shall be destroyed by the licensee.

7. Non-prescription drugs shall not be stored with prescription drugs and shall be properly safeguarded.

8. When medication is prescribed "as needed" (PRN), the prescription label shall include the following:

i. The individual's name, date, name of medication, dosage, specification of interval between dosages, maximum amount to be given during a 24 hour period, a stop date, and under what conditions the PRN medication shall be administered.

ii. The administration of PRN medication shall be documented on the medication record with the time of administration and will be communicated to the oncoming shift of residential staff.

10:44A-5.3 Over-the-counter drugs

(a) Prior to the administration of over-the-counter drugs, a statement from the individual's physician regarding the usage and contraindications shall be available.

(b) Over-the-counter drugs shall be documented on the individual's medication record when administered.

10:44A-5.4 Discharge

(a) The licensee shall provide the following documentation to the Division upon the individual's discharge:

1. Physical exam;
2. Immunization record;
3. Mantoux Skin Test;
4. Hepatitis B testing;
5. Lead level; and
6. Other pertinent medical records.

SUBCHAPTER 6. PHYSICAL ENVIRONMENT

10:44A-6.1 General home requirements

(a) The exterior of the residence and the surrounding grounds shall be properly maintained and free from any hazard to health or safety.

(b) The interior of the residence shall be properly maintained and free from any hazard to health or safety.

(c) Each community residence shall conform to the requirements contained in the Barrier-Free Subcode, N.J.A.C. 5:23-7.

(d) Group homes housing six to 16 developmentally disabled individuals shall meet the requirements of Use Group R-2 of the Uniform Construction Code (see N.J.A.C. 5:23).

(e) Group homes housing five or fewer individuals shall meet the requirements of Use Group R-3 of the Uniform Construction Code (see N.J.A.C. 5:23).

(f) For residences with physically handicapped individuals, accommodations must be made to ensure the maximum physical accessibility feasible for entrance to, and movement within, the residence based upon individual characteristics.

10:44A-6.2 Special home requirements

(a) Special requirements shall be met by group homes and supervised apartments serving non-ambulatory individuals as determined by and documented in a contract or agreement with the Division.

1. A sufficient number of doors, corridors, ramps, or walkways and landings shall be provided and be wide enough to permit use by individuals' wheelchairs, braces, walkers, or any other prosthetic equipment or devices.

2. Ramps shall have an incline not greater than the equivalent of one foot rise for every 12 feet of length. Handrails shall be provided on both sides of the ramps.

3. Accessible, adequate storage for personal items shall be provided.

10:44A-6.3 Certificate of Occupancy

(a) A Certificate of Occupancy shall be obtained by the licensee from the local construction official when:

1. The group home seeks to change its use group from other than that documented on the original Certificate of Occupancy; or

2. The group home seeks to make a major alteration or renovation as defined by the Uniform Construction Code (see N.J.A.C. 5:23) of the building or premises in which the group home is located;

3. The group home seeks to increase its floor area or the number of stories to the building or premises in which the group home is located.

10:44A-6.4 Exits

(a) Exit/evacuation areas to be used for mass evacuation during an emergency shall not be permitted through furnace areas, storage areas, or bedrooms.

(b) Exit from a bedroom directly to the outside shall be permissible when the exit is provided as added protection for the individuals residing in the bedroom.

(c) Doors used as the approved means of egress shall be unlocked from the inside of the building at all times.

10:44A-6.5 Fire extinguishers; fire evacuation plans

(a) Fire extinguishers shall be fully-charged at all times, and shall be of a type and number as determined by the Fire Official designated to enforce the Fire Safety Act (N.J.S.A. 52:27-192 et seq.).

(b) A legible fire evacuation plan must be posted on each floor in a prominent location.

(c) The manager in-charge shall insure that each staff person is properly trained in the use and operation of fire extinguishers as of the first day of employment at the residence.

(d) Fire extinguishers shall be checked monthly by staff and documentation shall be available on the fire extinguisher or at the residence as part of the administrative records.

1. Fire extinguishers shall be serviced at least annually by a qualified person or service company.

10:44A-6.6 Occupancy

(a) Non-ambulatory individuals shall not have bedrooms above or below the first floor of any residence, unless a specific variance is granted by the Office of Licensing and Inspections.

(b) Occupancy shall not be permitted for staff or individuals above the second floor in buildings, unless a specific waiver is granted by the Office of Licensing and Inspections.

10:44A-6.7 Heat sources

(a) Space heaters, including but not limited to electrical, kerosene, and quartz heaters, shall be prohibited, unless a variance is granted by the Office of Licensing and Inspections.

1. Documentation must be obtained from the local enforcing authority for the Fire Safety Code stating such use is locally acceptable.

(b) Every home shall have heating facilities which are properly installed, maintained in good and safe working condition, and capable of maintaining all habitable rooms at a temperature of 65 degrees Fahrenheit (18 C) when the outdoor temperature is 0 degrees Fahrenheit (-18 C).

(c) Heat sources exceeding 110 degrees Fahrenheit (43 C), which are accessible to individuals requiring personal guidance must be equipped with protective guards or insulated to prevent individuals from coming into direct contact with the heat source.

10:44A-6.8 Water

Hot and cold running potable water shall be available in adequate supply at all times.

10:44A-6.9 Telephones

(a) The licensee shall have at least one telephone for use by the residents.

(b) The telephone number of the Division of Developmental Disabilities' hotline, as well as the nearest hospital, fire department, ambulance service, and police department shall be posted by each phone.

10:44A-6.9 Stairs and hallways

(a) Stair treads shall be at least nine inches deep and have risers no more than 8¼ inches high.

(b) All stairways and hallways shall be kept free and clear of obstructions at all times.

(c) Stairways shall be a minimum of two feet eight inches wide from handrail to handrail or wall.

10:44A-6.10 Windows

(a) Every bedroom shall have at least one operable window opening directly to the outside.

(b) First floor windows shall have an operable window space of five square feet. Second floor windows shall have an operable window space of 5.7 square feet.

10:44A-6.11 Railings

(a) Every porch, balcony, staircase, or place higher than 30 inches off the ground shall be provided with adequate railings. Such railings shall be no less than 30 inches nor more than 34 inches in height.

(b) All outside stairways consisting of four or more steps shall be provided with a secure handrail.

10:44A-6.12 Furniture; living space

(a) Separate living and dining areas shall be provided which are large enough to provide seating for all occupants of the home at one time.

(b) All furniture must be clean and in good repair.

10:44A-6.13 Decoration

All rooms used by individuals with developmental disabilities shall be suitably decorated in accordance with the individual's wishes and with consideration of the principles of normalization, age-appropriateness, and least restriction.

10:44A-6.14 Non-slip surface requirements

(a) Non-slip surfaces shall be provided as follows:

1. As non-skid backing for scatter or throw rugs;
2. On hard-finished floors;
3. On stairs and landings; and
4. In each shower or bathtub.

10:44A-6.15 Bathrooms

(a) Every residence shall be provided with one flush-type toilet, lavatory, and bathtub or shower for every eight persons living in the home.

(b) Every toilet, lavatory, bathtub, or shower shall be accessible without passing through any other sleeping unit and shall be available within one floor above or below the individual's room, unless it is a master bedroom type suite where the bathroom is used solely by that bedroom's occupants.

(c) Toilet paper shall be available at each toilet.

(d) Bathroom doors shall be equipped with standard hardware which provides a privacy lock and which can be readily opened from the outside in an emergency. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.

10:44A-6.16 Maintenance requirements

(a) The accumulation of garbage or waste shall be prevented. Garbage containers shall be non-corrosive and non-combustible, leak-proof, and provided with tight fitting covers.

(b) Floors, walls, ceilings, and other interior surfaces shall be kept clean and in good repair.

(c) Outside walkways shall be kept free of ice, snow, leaves, and other hazards at each residence.

(d) When there is evidence of infestation, exterminator services shall be arranged and documentation retained by the licensee.

10:44A-6.17 Basement use

(a) Basements may be used for storage, laundry, heating, water supply equipment, and other utilities.

(b) Basements may be used as activity rooms so long as they are dry, warm, and adequately lighted and have two independent means of egress.

10:44A-6.18 Kitchen facilities

(a) Kitchen storage space shall be clean and well ventilated.

1. Containers of food shall be covered and appropriately stored at least 12 inches above the floor on shelves or other clean surfaces.

(b) The kitchen shall have sufficient floor space and equipment to meet dietary needs and shall be conveniently located to dining areas.

(c) Disposable dinnerware shall not be used except as accessories to picnics or special occasions.

(d) Refrigeration and storage of food shall be provided at no more than 45 degrees Fahrenheit (7 C). Freezer compartments shall operate at no more than 32 degrees Fahrenheit (0 C).

SUBCHAPTER 7. SOCIAL ENVIRONMENT

10:44A-7.1 Food

(a) All food and drink shall be prepared and served in a sanitary manner.

1. All food and drink shall be safe for human consumption, clean, wholesome, and free of spoilage.

2. Food returned after the completion of an individual's meal shall be discarded.

(b) All equipment and utensils used for eating, drinking, preparation and serving of food shall be kept clean and in good condition.

1. All equipment and utensils used for eating, drinking, preparation and serving of food shall be thoroughly washed after each use.

(c) The licensee shall ensure that each individual is provided with three meals daily, either in the home itself or in the community.

(d) There shall not be more than a 14 hour span between the evening meal and breakfast.

(e) There shall be reasonable adjustment to the food preferences, habits, customs, and appetites of all individuals.

(f) Individuals shall not routinely eat meals in their bedrooms.

(g) A variety of foods shall be provided.

(h) Food shall meet the medical and dietary needs of the individuals receiving services, and be served in a manner which is culturally normal.

(i) Individuals shall be allowed to eat at their own pace.

(j) Snacks shall be available for individuals who desire them, unless there is a documented medical or programmatic reason not to supply them.

(k) Menus, to include all meals and available snacks shall be dated, prepared at least one week in advance, and retained on file for a period of 30 days.

1. Consistent with their abilities, the individuals receiving services shall be consulted for preferences in determining the weekly menu.

(l) Any substitution of food from the menu must be of equal nutritional value and must be documented on the menu prior to serving the meal.

(m) If a medically prescribed diet is required, the menu planning shall be appropriate to individual needs, and be properly documented.

(n) The daily diet for each individual shall include food from the four basic food groups:

1. Milk, cheese, and other dairy products;
2. Vegetables, fruits;
3. Meats, fish, poultry, and eggs;
4. Bread, cereals, and grains.

(o) Food shall be wholesome, stored in a manner to keep it clean and safe for human consumption, prepared in the form that meets the individuals' medical and dietary needs, and served family-style.

10:44A-7.2 Clothing

(a) Each individual shall have the opportunity to select and purchase his or her own clothing as independently as possible.

(b) Individuals' clothing shall be clean and in good repair.

(c) Each individual shall have an adequate supply of properly fitted clothing to allow for laundering. Clothing shall not be shared or taken from a common pool.

(d) Each individual shall have adequate, clean, well-fitting and attractive clothing appropriate to age, gender, individual needs, preferences, and season.

(e) The licensee shall assist the individual in maintaining a good appearance.

(f) The licensee shall provide laundry facilities without additional charge to the individuals.

1. Laundromats may be used for individuals residing in supervised apartments.

2. Unless provided for in a contract, the individuals residing in supervised apartments shall be expected to pay for laundry cared for at the laundromat.

10:44A-7.3 Individual Rooms

(a) Occupancy shall be limited to floors on or above grade level. Exceptions may be granted as follows:

1. More than half the height of the room is above grade level;
2. The room is provided with two or more independent means of egress, at least one of which leads directly outside; and,
3. There are no other conditions which might be adverse to health, safety, or welfare of developmentally disabled individuals.

(b) A maximum of three individuals shall share a bedroom.

(c) Bedrooms shall contain the following minimum space per person:

1. 70 square feet for occupancy by one person;

2. 130 square feet for occupancy by two people;

3. 190 square feet for occupancy by three people;

(d) At least one half of the floor area of every individual room shall have a ceiling height of 7½ feet. The floor area of that part of any room where the ceiling is less than five feet shall not be considered allowable floor space.

(e) Each individual shall be provided with a bed light and night stand or a shared area with a desk and sufficient lighting to allow for hobbies.

1. No temporary wiring shall be used except U.L. listed extension cords, rated appropriate to the anticipated load.

2. Extension cords shall not run under rugs, through walls, or through doorways.

(f) Each developmentally disabled individual shall be provided:

1. A standard bed or a platform bed in good repair which is at least 30 inches wide and six inches longer than the individual's height.

i. High hospital beds shall not be used except where documentation is obtained from a physician authorizing their use.

ii. Fold-up convertible type beds, roll-aways, cots, hide-a-beds, trundle beds, double deck beds, and day beds shall be prohibited, unless an emergency situation warrants short-term use.

2. A clean, comfortable mattress of fire resistant material not less than four inches thick.

3. A bed spring in good repair, unless a platform bed is being used.

4. A clean pillow, of non-allergenic material if necessary.

5. Drawers or a closet for the storage of personal possessions and in-season clothing shall be provided in the individual's room.

i. Out-of-season clothing may be stored in a place other than the individual's room.

6. Two sets of bed linens and pillow cases, one mattress cover, one bedspread, and one blanket.

i. Bed linen shall be changed a minimum of once a week, or more frequently as necessary.

7. One mirror of sufficient size, securely fastened to the wall and/or fastened to a dresser at a height appropriate for the use of the persons occupying the room.

10:44A-7.4 Fire safety

(a) Each community residence for the developmentally disabled shall comply with the provisions of N.J.S.A. 52:27D-192 et seq. (Uniform Fire Safety Act).

1. The Division of Developmental Disabilities shall identify, in a contract with the licensee, any additional fire safety precautions required.

(b) Variances from rules shall be requested in accordance with N.J.S.A. 52:27D-200 as follows:

1. Upon the application of the owner of a building, structure, or premises, the enforcing agency may grant variances from the requirements of a rule. No variance shall be granted in a particular case unless the enforcing agency shall find that:

i. Strict compliance with the rule would result in undue hardship to the owner; and,

ii. The variance, if granted, will not unreasonably jeopardize the safety of intended occupants, fire fighters, and the public generally.

2. An application for a variance pursuant to this section shall be filed in writing with the enforcing agency and shall set forth specifically:

i. A statement of the requirements of the rule from which a variance is sought;

ii. A statement of the manner by which strict compliance with the rule would result in undue hardship;

iii. A statement of the nature and extent of the undue hardship; and

iv. A statement of feasible alternatives to the requirements of the rule which would adequately protect the safety of the occupants or intended occupants, fire fighters, and the public generally.

3. Within 30 days for receiving the application for a variance, the enforcing agency shall grant or deny the application in writing, stating the reason for granting or denying the application. If the application is not granted within 30 days, the applicants shall consider it to have been denied and shall have the same appeal rights as in the case of a written denial.

4. The enforcing agency shall maintain records of all applications for variances and the action taken on them, and shall make the records reasonably available for public inspection. An enforcing agency other than the department shall provide copies of the records to the commissioner.

(c) In accordance with N.J.S.A. 52:27D-206, a person shall have the following rights regarding the Fire Safety Act:

1. A person aggrieved by a ruling, action, order, or notice of the commissioner shall be entitled to an administrative hearing. The application for the hearing shall be filed with the commissioner by the fifteenth day after receipt by the person of notice of the ruling, action, order or notice.

2. All hearings shall be conducted by the Office of Administrative Law pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., N.J.S.A. 52:14F-1 et seq. and Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq. The final decision shall be issued by the Commissioner.

(d) A person aggrieved by any ruling, action, order or notice of a local enforcement agency, shall be entitled to an administrative hearing before the construction board of appeals created pursuant to N.J.S.A. 52:27D-127, having jurisdiction in the municipality in which the building, structure, or premises is located. The application for the hearing shall be filed with the construction board of appeals by the fifteenth day after the receipt by the person of notice of the ruling, action, order or notice complained of.

10:44A-7.5 Transportation

(a) All vehicles used to transport developmentally disabled individuals shall have the following:

1. Emergency equipment which shall include spare tire, jack, and at least three portable red reflector warning devices;

2. A first aid kit meeting the same requirements as indicated in N.J.A.C. 10:44A-5.1(f);

3. Snow tires, all-weather tires, or chains when weather conditions dictate their use;

4. A 10:BC dry chemical extinguisher;

5. Operable defroster and heater which will maintain an internal vehicle temperature of at least 50 degrees Fahrenheit;

6. Operable windshield wipers and horn;

7. Non-skid material on floor;

8. All seats forward facing;

9. Exhaust pipe not to exit near a window which is openable.

(b) The licensee shall verify that all vehicles used to transport individuals with developmental disabilities comply with all applicable safety and licensing rules established by the New Jersey Division of Motor Vehicles and shall be inspected annually.

(c) The licensee shall maintain valid liability insurance on all vehicles used to transport developmentally disabled individuals.

(d) All drivers shall have a driver's license which is valid in the State of New Jersey.

(e) Young children and developmentally disabled individuals with a documented history of behavior which presents a danger to themselves or others shall not be left unattended in a vehicle.

(f) The interior of each vehicle shall be maintained in a clean, safe condition, and free of obstacles obstructing clear passage to operable doors.

(g) All vehicles purchased prior to the promulgation of this chapter shall be evaluated on an individual basis by the Office of Licensing and Inspections.

10:44A-7.6 Special requirements for residences serving non-ambulatory individuals

(a) The following shall be provided in residences serving non-ambulatory individuals:

1. A ramp device to permit entry and exit of a client from a vehicle. A hydraulic lift may be utilized provided that a ramp is also available in case of emergency.

2. Wheelchairs shall be securely fastened to the vehicle's floor and face forward. The arrangement of the wheelchairs shall provide adequate aisle space and shall not impede access to the exit door.

SUBCHAPTER 8. SUPERVISED APARTMENTS

10:44A-8.1 Supervision

(a) Staff shall be on the grounds of the apartment complex whenever an individual receiving services is present, unless otherwise stated in the individual's IHP which has been reviewed and approved by the Office of Licensing and Inspections. The individual's ability in this area will be reviewed annually or more frequently if there is a need.

1. Individuals who demonstrate an ability to remain unsupervised over a 24 hour period for a period of three months shall be referred, by the licensee, to the IDT for development of a transfer or release plan which promotes a planned movement to a less restrictive living arrangement.

(b) At least one staff member must be available on the grounds of the apartment complex during the night for emergencies.

(c) Staff shall visit each apartment during waking hours at least once within every eight hour period, or more frequently as required by the developmentally disabled person's individual needs for more intense supervision.

1. Documentation of staff visits shall be recorded in the daily log, noting any problems encountered or special services rendered.

10:44A-8.2 Physical plant and safety

(a) Supervised apartments shall not be located in the home of the licensee or designee.

(b) Each supervised apartment shall be the home of the individual; therefore, the individuals' right to privacy shall be respected at all times.

(c) Up to four individuals may be housed in a single apartment.

(d) No more than two individuals shall be housed in a bedroom.

(e) A supervised apartment may reserve a bed or beds for respite use, or use a vacant bed for respite according to circumstances delineated in the annual operating contract.

(f) No more than 16 individuals shall be housed in a single complex.

(g) The staff residence/office shall be located within 1,000 feet of the farthest licensed apartment unit and shall contain the necessary sanitary, hygiene, and sleeping accommodations.

(h) In multi-story buildings, the staff shall be located within two floors of the farthest apartment unit.

(i) Non-ambulatory individuals shall not have bedrooms above or below the first floor of any residence, unless a variance is granted by the Office of Licensing and Inspections.

(j) For apartments with physically handicapped individuals, accommodations must be made to ensure the maximum physical accessibility feasible for entrance to, and movement within the apartment, based upon characteristics of the individuals.

(k) All electrical wiring and equipment shall comply with local or municipal requirements.

(l) When maintenance is the responsibility of another party, there must be documented evidence that the licensee has informed the building owner of the need to correct any deficiency.

10:44A-8.3 Physical accommodations

(a) Individual occupancy shall be limited to ground floors and above floors.

(b) There shall be at least one toilet and sink for every four individuals. These facilities shall not be further than one floor from any living area.

1. The sink shall be located in or adjoining the toilet area.

(c) There shall be at least one bathtub or shower for every four individuals.

10:44A-8.4 Maintenance and sanitation

(a) The supervised apartment shall be maintained in a safe and sanitary manner.

(b) Combustible materials shall be stored in non-combustible containers.

(c) Floors, walls, ceilings, and other surfaces shall be kept clean and in good repair.

(d) Chimneys, flues, and vent attachments shall be structurally sound, free from defects, and cleaned and maintained as necessary.

(e) Exterminator services shall be provided immediately when there is evidence of any infestation.

(f) The accumulation of garbage or waste shall be prevented. All waste containers shall be provided with tight fitting covers, sufficient in size and number to contain the accumulated waste.

DIVISION OF PUBLIC WELFARE

The following proposals are authorized by Drew Altman, Commissioner, Department of Human Services. Submit comments by February 18, 1988 to:

Marion E. Reitz, Acting Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

(a)

General Assistance Manual Deadline for Medical Bills

Proposed Amendment: N.J.A.C. 10:85-5.3

Authority: N.J.S.A. 44:8-111(d).

Proposal Number: PRN 1988-49.

The agency proposal follows:

Summary

The proposed amendment establishes a period of one year for the rendering of bills for medical services and supplies to General Assistance recipients. Most medical bills are rendered with a reasonable degree of promptness and are processed accordingly. Occasionally, some bills are presented for services rendered years earlier. The delay makes processing difficult and time consuming and inhibits proper fiscal planning in the municipal budget.

Social Impact

There is no social impact on the client. The impact will be on those few medical providers who may have to adjust their billing practices as a result of the proposed amendment.

Economic Impact

It is not expected that the proposed amendment will cause any significant change in dollar flow to any person or organization. A small administrative savings is expected in that bills rendered promptly can be processed faster in the municipal welfare department. Payments to providers will be made more promptly but not in differing amounts.

Regulatory Flexibility Statement

This rule has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. Certain small businesses may be required to adjust their billing practices slightly in order to send their bills out within one year of the time the services were rendered.

This is not a burdensome requirement to small businesses nor one which can be minimized further. By getting bills out more promptly, small business operators can expect to receive their payments more promptly, thereby benefiting from the rule.

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

10:85-5.3 Other medical payments

(a) The director of welfare shall authorize payment for medical care and professional practitioner services if such care and services are deemed necessary and appropriate **and, for services rendered after July 1, 1988, if the bill for each such service reaches the municipal welfare office within one year after the date of the service.**

1. (No change.)

(b)-(i) (No change.)

(b)

AFDC Work Incentive Program

Proposed Repeal: N.J.A.C. 10:86

Authority: N.J.S.A. 44:10-3.

Proposal Number: PRN 1988-47.

(CITE 20 N.J.R. 162)

The agency proposal follows:

Summary

In recognition of the sunset provisions of Executive Order No. 66(1978), which mandate that administrative rules be evaluated on a periodic basis, the Division of Public Welfare conducted an internal review and evaluation of the rules at N.J.A.C. 10:86. After such review, that agency has deemed it necessary to propose the repeal of N.J.A.C. 10:86.

The Work Incentive program was originally authorized in 1967 under Part C of Title IV of the Social Security Act in recognition of the need for an employment program directed to the special needs of public assistance recipients and their families.

Since its enactment, many federally mandated changes and updates to the WIN program were introduced in order to help furnish incentive opportunities and necessary services to individuals receiving Aid to Families with Dependent Children (AFDC) so that they could eventually achieve economic independence and assume useful roles in the community. The WIN regulations were eventually incorporated into the applicable sections of N.J.A.C. 10:81, which deals with the AFDC program (Part A of Title IV of the Social Security Act), in order to maintain consistency and uniformity in the administration of the AFDC program. Recently, the Department adopted rules regarding the Realizing Economic Achievement (REACH) program which will replace the current WIN program as it is phased-in in the applicable WIN-designated counties.

Therefore, since the regulatory material at N.J.A.C. 10:86 is obsolete and regulations relevant to the WIN and REACH program can be found at N.J.A.C. 10:81, the Department of Human Services proposes to repeal N.J.A.C. 10:86.

Social Impact

The social impact is perceived as having a clarifying effect, inasmuch as the repeal is for the sole purpose of removing obsolete material from the New Jersey Administrative Code.

Economic Impact

There will be no economic impact as a result of this repeal since it only serves to delete obsolete regulatory material.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking imposes no compliance requirements on small businesses.

Full text of the proposed repeal can be found at N.J.A.C. 10:86.

(c)

Food Stamp Program

Liability for Overissuances

Proposed Amendment: N.J.A.C. 10:87-11.21 and 11.28

Authority: N.J.S.A. 30:4B-2, Section 1533 of the Food Security

Act of 1985 (P.L. 99-198) and 7 CFR 273.18(a).

Proposal Number: PRN 1988-31.

The agency proposal follows:

Summary

The proposed amendments reflect the provisions of section 1533 of the Food Security Act (P.L. 99-198) which mandates that all adult members of a food stamp household are jointly and severally liable for the value of any overissuance of benefits to the household.

N.J.A.C. 10:87-11.21 is being amended, as mandated by the Food Security Act, to reflect the change in Federal food stamp regulations at 7 CFR 273.18(a) which establishes that all adult household members shall be jointly and severally liable for the value of any overissuance of benefits to the household. That provision is applicable regardless of whether the overissuance resulted from an inadvertent error, an administrative error or an intentional program violation. The CWA is required to establish a claim against any household that has received more food stamp benefits than it was entitled to receive or any household which contains a member who was an adult member of another household that received more food stamp benefits than it was entitled to receive.

N.J.A.C. 10:87-11.28 provides that CWAs may initiate collection action against any or all of the adult members of a household who were members of the household at the time an overissuance occurred. Should household

composition change, the CWA may pursue collection action against any household which contains a member who was an adult member of the household that received the overissuance. Additionally, the CWA may also offset the amount of the claim against restored benefits owed to any household which contains an adult member of the original household at the time the overissuance occurred. Under no circumstances may the CWA collect more than the amount of the claim.

Social Impact

The proposed amendments could adversely affect those households containing adult members from another food stamp household which was previously overissued benefits. The current household containing the adult member would be held liable for repayment of the overissuance even though that household was not responsible for the other household's actions. Benefit reduction is authorized for these households in the event they are unable or unwilling to reimburse the CWA for an overissuance which occurred in another household. In the event the individual who was responsible for the loss or reduction of benefits leaves the household, restoration of benefits to the previous level is not authorized until the household provides notification to the CWA of the individual's departure. The number of households affected by this change is considered minimal.

Economic Impact

The proposed amendments will not increase program costs nor have any adverse impact on the Department or CWAs administering the Food Stamp Program. Some clients may experience a temporary reduction in benefits as a result of having added an individual from a household that has incurred a liability for overissuance. It is anticipated that households with limited resources who incur a benefit reduction as a result of the addition of an individual from a sanctioned household which was previously overissued benefits will request that the member causing the decrease in benefits leave the food stamp household. Some increase in the amount of recouped overissuances is anticipated due to the establishment of multiple claims in those instances where adult members of the household that received an overissuance join other food stamp recipient households.

Regulatory Flexibility Statement

This proposed rulemaking has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking action imposes no compliance requirements on small businesses.

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

10:87-11.21 Claims against households

All adult household members shall be jointly and severally liable for the value of any overissuance of benefits to the household. The CWA shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive, **or any household which contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive.**

10:87-11.28 Changes in household composition

(a) If a change in household membership occurs, the CWA shall initiate collection action against [the household containing a majority of the individuals who were household members] **any or all of the adult members of a household** at the time [the] an overissuance occurred. [If the CWA cannot locate or determine the household which contains the majority of the household members, the CWA shall initiate collection action against the household at the time the overissuance occurred.] **If a change in household composition occurs, CWAs may pursue collection action against any household which has a member who was an adult member of the household that received the overissuance. The CWA may also offset the amount of the claim against restored benefits owed to any household which contains a member who was an adult member of the original household at the time the overissuance occurred. Under no circumstances shall the CWA collect more than the amount of the claim.**

[1. In cases of intentional program violation when the CWA cannot locate or determine the household containing the majority of the household members, the CWA may initiate collection action against the household containing the individual who committed the act of intentional program violation.]

(a)

Special Payments Handbook; Aged, Blind and Disabled Chargeable County Welfare Agency for Funerals/Burials

Proposed Amendment: N.J.A.C. 10:100-3.7

Authority: N.J.S.A. 44:7-13; 44:7-85 through 93.

Proposal Number: PRN 1988-48.

The agency proposal follows:

Summary

At N.J.A.C. 10:100-3.7(d), the county welfare agency (CWA) responsible for the payment of funeral and burial expenses for certain elderly, blind or disabled public assistance recipients is designated by a cross-reference into the definition of "resident" in the Medicaid Only Manual. The responsibility for the Medicaid Only Manual, however, has been transferred from the Division of Public Welfare to the Division of Medical Assistance and Health Services and recodified as N.J.A.C. 10:71. Thus, the current cross-reference is both inaccurate and inappropriate. The proposed amendment deletes the obsolete cross-reference and describes "residence" for the purpose of determining assignment of CWA chargeability. There is no change in the assignment itself.

Social Impact

The only social impact of the proposed amendment is that beneficial impact which may result from having the assignment of CWA chargeability for payment of funeral and burial expenses clearly stated rather than carried in an inaccurate cross-reference.

Economic Impact

The only economic impact is that beneficial impact which may result from clearer instructions concerning CWA chargeability for payment of funeral and burial expenses. There is no actual change in dollar flow.

Regulatory Flexibility Statement

This proposed amendment has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking action imposes no compliance requirements on small businesses.

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

10:100-3.7 Authorization of payments

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

(d) **Chargeable CWA—definition:** The chargeable CWA for any burial and/or funeral claim is the CWA of that county in which the decedent was last a resident [as defined in Medicaid Only Manual, N.J.A.C. 10:94-3.5(b)]. **For this purpose, residence is established in a county at the time that a person moves to the county with intent to remain. Residence is not changed by entering a hospital but is changed by entering a residential health care facility or long term care facility. Chargeability is not determined or influenced by the possession, custody, holding or assignment of resources by any CWA or by the holding of eligibility files or other records by a CWA or by action taken or not taken under case transfer procedures.**

CORRECTIONS

THE COMMISSIONER

(b)

Medical and Health Services

Proposed Amendments: N.J.A.C. 10A:16-11

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1988-37.

Submit comments by February 18, 1988 to:
 Elaine W. Ballai, Esq.
 Special Assistant for Legal Affairs
 Department of Corrections
 CN 863
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Corrections adopted new rules N.J.A.C. 10A:16, MEDICAL AND HEALTH SERVICES, in the April 6, 1987 issue of the New Jersey Register at 19 N.J.R. 535(a). N.J.A.C. 10A:16-11, MEDICAL UNIT ANNEX, was adopted as a subchapter within these new rules. Subsequent to the adoption of these rules, the name of the Unit, the Unit Supervisor and the Classification Committee have changed. There have also been administrative changes in jurisdiction, operational procedures and staff responsibilities in order to ensure the provision of improved services.

Due to the substantive nature of the changes, the Department proposes that the present rules be amended to incorporate all of the above changes.

Social Impact

The proposed amendments will enable the Department of Corrections to provide improved services to inmates assigned to the Special Medical Unit.

Economic Impact

The proposed amendments will have no significant economic impact because sufficient staff and resources are available to implement and maintain the services provided by this Unit.

Regulatory Flexibility Statement

The proposed amendments impact upon inmates and the Department of Corrections. The proposed amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses and a regulatory flexibility analysis is not required.

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

SUBCHAPTER 11. [MEDICAL UNIT ANNEX] SPECIAL MEDICAL UNIT

10A:16-11.1 Admission criteria to [Medical Unit Annex] Special Medical Unit (S.M.U.)

(a) Inmates shall be assigned to the [Medical Unit Annex] **Special Medical Unit** when:

1. The chronic illness suffered does not require acute care hospitalization; [and/or]
2. The medical condition of the inmate precludes housing within any of the other correctional facilities of the Department of Corrections[.]; **and**
3. **The Health Services Unit of the Office of Institutional Support Services authorizes placement in the Unit.**

10A:16-11.2 Authority of the Inter-Institutional Classification Committee (I.I.C.C.)

Only the inmates that have been diagnosed and found to have chronic illnesses shall be assigned by the Inter-Institutional Classification Committee (I.I.C.C.) to the [Medical Unit Annex] **Special Medical Unit**.

10A:16-11.3 [Annex Classification Committee (A.C.C.)] Special Medical Unit Classification Committee (S.M.U.C.C.)

(a) The [Annex Classification Committee (A.C.C.)] **Special Medical Unit Classification Committee (S.M.U.C.C.)** shall be chaired by the [Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator] **Director of the Special Medical Unit (S.M.U.)** and comprised of:

1. One representative from the **Office of Institutional Support Services (O.I.S.S.)** professional staff;
2. One representative from the [Medical Unit Annex] **Special Medical Unit** custody staff; and
3. One representative from the [O.I.S.S.] **State Prison, Trenton** medical staff.

[(b) The A.C.C. shall review the assignment of an inmate to the Annex to ensure that the assignment was made by the Inter-Institu-

tional Classification Committee (I.I.C.C.) solely on the basis of the inmate's medical condition.]

(b) **The Special Medical Unit Classification Committee shall review the assignment of an inmate to the Special Medical Unit to determine the program to which the inmate will be assigned.**

[(c) In addition to classification duties, the A.C.C. is authorized to monitor an inmate's Annex program and conduct case and in-person reviews. The A.C.C. may permit or preclude an inmate's participation in programs dependent upon his ability to participate without posing a security or clinical threat to the Annex.]

(c) **The Special Medical Unit Classification Committee is authorized to monitor an inmate's Special Medical Unit program and conduct case and in-person reviews.**

[(d) A case review will be conducted at the completion of each inmate's orientation period and a case review will be conducted a minimum of every three months thereafter, or more frequently if deemed appropriate by any A.C.C. member.]

(d) **The Special Medical Unit Classification Committee may permit or preclude an inmate's participation in programs dependent upon the inmate's ability to participate without posing a security or clinical threat to the operation of the Special Medical Unit.**

(e) **An inmate's case shall be reviewed:**

1. **At the completion of the period of orientation;**
2. **Every three months after orientation; or**
3. **More frequently than every three months if deemed appropriate by a member of the Special Medical Unit Classification Committee.**

[(e) (f) Whenever necessary for appropriate decision making, the inmate will be required to appear before the [A.C.C.] **Special Medical Unit Classification Committee** unless the inmate refuses to appear without the use of force.

[(f) (g) Written decisions on all case reviews shall be **placed in the inmate's classification folder and copies shall be forwarded to the inmate** unless security considerations preclude disclosures.

10A:16-11.4 [Medical Unit Annex] Special Medical Unit (S.M.U.) staff

(a) The [Medical Unit Annex] **Special Medical Unit** staff is comprised of:

1. [Annex Supervisor] **The Director of the Special Medical Unit;**
2. [Correctional staff] **The Custody Supervisor;** [and]
3. **The custody staff; and**
- 3.4. The Professional Services staff (for example, social workers, psychologists, chaplains and medical staff).

(b) The [Annex] **Special Medical Unit** staff is responsible to the [Annex] **Special Medical Unit Classification Committee [(A.C.C.)]** for program development, implementation and assessment.

(c) The concerns of both the custody and the [p]Professional [s] Services staff members shall be given equal consideration in decision making regarding the development of programs and the management of the [Annex] **Special Medical Unit**.

10A:16-11.5 Orientation

(a) Upon assignment of an inmate to the **Special Medical Unit [Annex]**, the inmate shall [serve a period of ten days under] **begin a period of orientation and intense supervision[.] which shall not exceed seven days**. During this period the inmate shall be assessed to determine his:

1. Clinical condition;
2. Attitude;
3. Level of cooperation; and
4. Willingness to work and participate in program activities.

(b) The assessment of the inmate shall be accomplished by:

1. The submission of daily progress reports by [the correction officer to the Annex Supervisor] **custody staff members to the custody supervisor for submission to the Director of the Special Medical Unit; and**

2. The submission of a written evaluation of the inmate by the [Annex] **Special Medical Unit** social worker **and other Special Medical Unit staff members to the Special Medical Unit [Annex] Classification Committee [A.C.C.]** at the completion of the orientation period. [; and]

[3. The submission of recommendations by other Annex staff members to the Annex Classification Committee (A.C.C.) at the completion of the orientation period.]

(c) Within 24 hours of an inmate's placement, the Custody [Annex] Supervisor shall:

1. [f]Familiarize the inmate with the rules of conduct within the Special Medical Unit; [Annex and shall]

2. [p]Provide the inmate with [an Annex] a Trenton State Prison Handbook; [.]

3. Provide the inmate with the written rules and regulations of the Special Medical Unit;

4. Determine if the inmate has [The Annex Supervisor shall ascertain if] any difficulties [exist with the inmate] which require immediate referral for [appropriate] specialized services; and [.]

5. [The Annex Supervisor shall n] Notify the social worker of the placement [of an inmate into the Annex] and convey any special instructions regarding the inmate.

(d) [The social worker, w] Within 72 hours of the placement, the social worker shall review with the inmate his assignment to the [Annex.] Special Medical Unit, and [A]any unique problems, referred by the [Annex] Custody Supervisor, which require immediate attention. [shall be addressed at that time.]

(e) The [p]Professional Service staff shall be advised by the [A.C.C.] Special Medical Unit Classification Committee that an inmate has been assigned to the [Annex] Special Medical Unit. A representative from each [area will] professional discipline shall meet with the newly assigned inmate during orientation and advise the inmate of the programs and services available within the representative's discipline.

(f) During orientation, the newly assigned inmate shall be permitted to [engage] participate in [program] Special Medical Unit activities [as they are developed for him.] while his program is being developed. Any limitations determined by the Office of Institutional Support Services (O.I.S.S.) Director of Medical Services or his or her designee, upon admission, shall be considered during [program assignment] the development of the inmate's Special Medical Unit Program.

(g) At the completion of the inmate's orientation, the Special Medical Unit Classification Committee shall review and approve or disapprove the continuation of the program developed for the inmate upon admission to the Unit.

10A:16-11.6 Personal items

(a) During orientation all of the inmate's personal belongings shall be thoroughly searched and returned to the inmate within 24 hours unless extenuating circumstances exist (for example, transfers from another correctional facility, major disturbances, etc.).

(b) All contraband, including razors and spoons, shall be removed from the inmate's possession.

(c) Other items not permitted for retention within the Special Medical unit [Annex] shall be itemized and handled in accordance with N.J.A.C. 10A:1 ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

10A:16-11.7 Work opportunities

(a) Each inmate shall be afforded an opportunity to participate in a work program designed to respond to the needs of the [Medical Unit Annex] inmate and the Special Medical Unit [inmate]. The [Annex] Custody Supervisor [will review the responsibilities of] shall familiarize the inmate with the work program during the initial orientation interview.

(b) The [Annex staff] Director and/or the Custody Supervisor of the Special Medical Unit may, at [their] his or her discretion, devise other work opportunities in which the inmate may participate upon approval [of] by the [Annex] Special Medical Unit Classification Committee [A.C.C.].

(c) An inmate shall receive the work assignment of cell sanitation upon initial assignment to the [Annex] Special Medical Unit. Each inmate shall be responsible for the cleanliness of his cell. Cleaning [E]quipment shall be provided for the inmate [for him] to clean his cell at least once per week.

(d) Pay and work credits shall be commensurate with the skill level and nature of work responsibilities involved as outlined in N.J.A.C. 10A:13 INMATE WORK PROGRAMS.

(e) At the beginning of each three months[,] of assignment to the Special Medical Unit, every inmate [assigned to the Annex] shall be given the opportunity to confirm his continuation in the work program via an in-person work review with the [Annex Supervisor] Special Medical Unit Classification Committee.

(f) Removal and lay-in action from the work program may be initiated by the [Annex] Custody Supervisor or by the [Annex] Special Medical Unit officers. Removal and lay-in action from the work program shall be reviewed by the [A.C.C.] Special Medical Unit Classification Committee for appropriate confirmation.

10A:16-11.8 Disciplinary action within the Special Medical Unit (S.M.U.) [Annex]

(a) The Department of Corrections' Inmate Discipline Program shall be in full force and effect in the Special Medical Unit [Annex]. Any restrictions of privileges placed upon an inmate in the [Annex] Special Medical Unit shall be in accordance with N.J.A.C. 10A:4 INMATE DISCIPLINE.

(b) Disciplinary action initiated by any staff member shall be referred to the Disciplinary Hearing Officer/Adjustment Committee and, where appropriate, to the [A.C.C.] Special Medical Unit Classification Committee for confirmation.

10A:16-11.9 Professional services

Professional services shall be provided to inmates assigned to the Special Medical Unit to the same extent as [is] these services are available to the general inmate population of the State Prison, Trenton.

10A:16-11.10 Psychological and social work services

Crisis intervention, problem solving and short and long term counseling programs shall be provided within the Special Medical Unit [Annex] on an individual and/or congregate level.

10A:16-11.11 Medical services

(a) The Office of Institutional Support Services (O.I.S.S.) Health Services Unit shall provide the following services to the Special Medical Unit:

1. [A medical consultant shall provide m]Medical examinations and treatment twice weekly by a medical consultant;

2. Emergency medical support and medication dispensing [shall be provided] by the Medical Department at State Prison, Trenton;

3. [The O.I.S.S. Health services Unit Nursing Supervisor shall provide c]Clinical support to the medical consultant by the O.I.S.S. Health Services Unit Nursing Supervisor; [and act as a]

4. [l]Liaison services between the O.I.S.S. Health Services Unit and the Medical Department at State Prison, Trenton, by the O.I.S.S. Health Services Unit Nursing Supervisor; and

[4.] 5. Psychiatric and dental services [shall be provided by the use of] by contracted consultants.

10A:16-11.12 Religion

The State Prison, Trenton, Chaplaincy Department shall coordinate the provision of [S]spiritual programs and counseling [shall be provided] to inmates in the Special Medical Unit on an individual and congregate basis. [These activities shall be coordinated by personnel from the Department of Corrections Chaplaincy Unit.]

10A:16-11.13 Legal Activities

(a) Each inmate shall have access to a law library and to legal assistance consistent with the program needs of the Special Medical Unit [Annex].

(b) The [Social Worker] Education Department of State Prison, Trenton, shall coordinate the needs of inmates for legal materials with the [Annex] paralegal representative (if assigned). The inmate paralegal shall conduct interviews with inmates in an appropriately suited area determined by the [Annex Supervisor] Director of Special Medical Unit.

(c) Attorneys and court related personnel shall be granted contact visits within the [Annex] Special Medical Unit. Such visits must be

approved and pre-scheduled by the [Office of Institutional Support Service (O.I.S.S.)] **Director of the Special Medical Unit** 24 hours in advance of the visit by calling [his or her] **the Special Medical Unit** office Monday through Friday during regular working hours.

(d) Visits of attorneys and court related personnel shall be conducted either in the [multipurpose] **contact visit room** or in a treatment room at the discretion of the [Annex Supervisor] **Director of the Special Medical Unit**. No staff member shall monitor the conversations between an inmate and the attorney.

10A:16-11.14 Recreation

(a) Each inmate shall be permitted a minimum of two hours of exercise and recreation daily. [The maximum number of inmates permitted recreation during a single period is eight.]

(b) When there is a need to keep certain inmates separate, the [Annex Supervisor] **Director of the Special Medical Unit** may schedule the yard recreation periods into one hour sessions.

(c) Selections with respect to the [inmate members] **composition** of an inmate recreation group shall be the responsibility of the [Annex] **Special Medical Unit Classification Committee [(A.C.C.)]** based upon infection control guidelines established by the Office of Institutional Support Services (O.I.S.S.) **Director of Medical Services** and the attending physician.

10A:16-11.15 Correspondence, legal correspondence, publications and packages

All correspondence shall be handled in accordance with N.J.A.C. [10A:18 MAIL, VISITS AND TELEPHONE.] **10A:18-2 CORRESPONDENCE, N.J.A.C. 10A:18-3 LEGAL CORRESPONDENCE, N.J.A.C. 10A:18-4 PUBLICATIONS, and N.J.A.C. 10A:18-5 PACKAGES.**

10A:16-11.16 Visits

(a) The **Special Medical Unit [Annex]** provides for contact visits only.

(b) In the event that an inmate or a visitor violates the rules and regulations pertaining to [contact] visits [and N.J.A.C. 10A:18, MAIL, VISITS AND TELEPHONE] **as outlined in N.J.A.C. 10A:18-6 VISITS, or in the written rules and regulations of the Unit, the Director of the Special Medical Unit or the Custody Supervisor or their designees** [the Annex Supervisor] may discontinue the visit and initiate disciplinary measures. The [Annex] **Special Medical Unit Classification Committee [A.C.C.]** may approve, disapprove or restrict a visitor should either the inmate or the visitor fail to adhere to the rules of the visit program.

(c) Visits must be approved and pre-scheduled by the [Office of Institutional Support Services (O.I.S.S.) Health Service Coordinator] **Director of Special Medical Unit** 24 hours in advance of the visit by calling the [O.I.S.S. Health Services Coordinator's] **Special Medical Unit's** office Monday through Friday, during regular working hours.

10A:16-11.17 Telephone calls

Telephone calls shall be handled in accordance with N.J.A.C. 10A:18-8 TELEPHONE and written regulations developed by the **Special Medical Unit [Annex]**.

10A:16-11.18 Congregate activities

(a) Congregate activities shall be developed during the inmate's orientation process with specific consideration for physical disabilities and infection control guidelines.

(b) The [Annex] **Special Medical Unit Classification Committee [(A.C.C.)]** may, at its discretion, approve an inmate for participation in any one or all congregate activities.

(c) The [(A.C.C)] **Special Medical Unit Classification Committee** may also rescind the inmate's participation in congregate activities should [he] **the inmate** fail to cooperate in the program, or **the Committee** may [be] temporarily restrict[ed] **the inmate's** [from] participat[ing] **in congregate activities because of** [due to] physical illness.

10A:16-11.19 Food

(a) All meals [served] in the **Special Medical Unit [Annex]** shall be [handled] **prepared and served** in accordance with the State Prison, Trenton, Food Service System as approved by the Office of Institutional Support Services (O.I.S.S.).

(b) [Medical Unit Annex i] **Inmates in the Special Medical Unit** shall be served the normal [correctional facility] **State Prison, Trenton** meals on the "Menu of the Day" or such special diet as shall be prescribed.

(c) Disposable utensils shall be used when [necessary] **servicing meals in the Special Medical Unit.**

10A:16-11.20 Showers

(a) Each inmate in the **general population of the Special Medical Unit** shall be permitted to shower once daily.

(b) **Each inmate in Disciplinary Detention within the Special Medical Unit** shall be permitted to shower once every other day.

10A:16-11.21 Haircuts

(a) Each inmate shall be afforded an opportunity to have a haircut once monthly. [All] **Each inmate[s]** desiring a haircut must place his name on the barber's list.

(b) All haircutting equipment shall be secured when not in use and monitored while in use.

10A:16-11.22 Reading material

(a) Reading material shall be made available for inmates assigned to the **Special Medical Unit [Annex]**.

(b) Inmates may obtain reading material by submitting their requests to the social worker.

10A:16-11.23 Infection control procedures

(a) All staff and inmates shall receive instructions concerning infection control and isolation precautions which include:

1. Use of protective garments;
2. Personal hygiene; and
3. Accident reporting.

(b) [This training shall be the responsibility of t]The Office of Institutional Support Services (O.I.S.S.) **Director of Medical Services shall be responsible for providing the training in (a) above** [and it shall be provided] at least quarterly.

10A:16-11.24 Program assessment reports

(a) **The Special Medical Unit [Annex] staff [and program supervisors]** must submit to the **Director of the Special Medical Unit** a progress report for each inmate assigned to the [Annex] **Unit.**

[1.](b) Shift officers designated by the [Annex] **Custody Supervisor** shall complete a progress report on each inmate: i] [D]daily during the orientation period, [;] and [ii. Weekly] **every three months** for the remaining time the inmate is assigned in the [Annex] **Special Medical Unit.**

[2.](e) The [Annex] **Custody Supervisor** shall review the progress reports submitted by the correction[al] officers [and summarize the findings in an overall individual inmate progress report] **and submit these reports to the Director of the Special Medical Unit, which shall be:** i. Submitted to the Annex Classification Committee (A.C.C.)] at the completion of the orientation period; and

[ii] (d) [Submitted to the A.C.C.] **The Director of the Special Medical Unit shall make program assessment reports available to the Special Medical Unit Classification Committee** for all scheduled routine reviews, which occur every three months [there] after the **period of orientation.**

[3.](e) [Program supervisors] **Special Medical Unit professional staff** shall complete and forward to the [A.C.C.] **Special Medical Unit Classification Committee** a progress report on each inmate [; i. A] at the completion of the orientation period[;], and [ii.E] every three months thereafter for the scheduled inmate routine review.

10A:16-11.25 Procedures and post orders

(a) [The office of Institutional Support Services (O.I.S.S.)] **State Prison, Trenton** shall develop written procedures and post orders for the Special Medical Unit **that are consistent with this subchapter.**

(b) The procedures and post orders shall be reviewed and updated annually.

(c) **Post orders shall be submitted before September 15 of each year to the Assistant Commissioner, Division of Adult Institutions, and to the Office of the Deputy Commissioner for review and approval.**

(a)

**Social Services
Volunteer Service Program
Religion
Institutional Chaplaincy**

**Proposed New Rules: N.J.A.C. 10A:17-2; 10A:17-5;
10A:17-6**

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6, 30:1B-10.

Proposal Number: PRN 1988-43.

Submit comments by February 18, 1988 to:

Elaine W. Ballai, Esq.

Special Assistant for Legal Affairs

Department of Corrections

CN 863

Trenton, New Jersey 08625

The agency proposal follows:

Summary

Proposed new rules at N.J.A.C. 10A:17-2 provide the guidelines for the operation of the Volunteer Service Program within correctional facilities of the Department of Corrections.

Proposed new rules at N.J.A.C. 10A:17-5 provide the guidelines for the provision of religious services and counseling to inmates in correctional facilities within the Department of Corrections.

Proposed new rules at N.J.A.C. 10A:17-6 provide the guidelines for recruiting and selecting persons to serve as chaplains in correctional institutions within the Department of Corrections.

Social Impact

The proposed new rules will have no new or additional social impact on the public since these rules simply reflect a codification of existing Department of Corrections Standards into rules.

Economic Impact

The proposed new rules will have no new or additional impact because correctional facilities are already adhering to Department of Corrections Standards and no additional costs are necessary to implement or maintain these rules.

Regulatory Flexibility Statement

The proposed new rules impact upon inmates and the Department of Corrections, and do not impose any reporting, recordkeeping, or other compliance requirements on small businesses.

Full text of the proposed new rules follows:

SUBCHAPTER 2. VOLUNTEER SERVICE PROGRAM

10A:17-2.1 Definitions

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

"Community residential facility" means a facility, other than a satellite of a main institution, which houses inmates in the community as a part of an inmate's preparation for release and reintegration into society (such as Essex House, Newark House, Camden Community Service Center).

"Coordinator of Volunteer Services" means the Central Office staff person, within the Office of the Deputy Commissioner, who is responsible for coordinating the administration of Volunteer Service Programs within the Department of Corrections.

"Institution" means a correctional facility and its satellite unit(s), within the Department of Corrections, which have been designated to house offenders committed by the courts.

"Supervisor of Volunteer Services" means a staff member, within an institution, who is responsible for coordinating and supervising the Volunteer Service Program of the institution and its satellite unit(s).

"Volunteer" means a person who provides goods or services to inmates in a correctional facility without receiving monetary or material gain.

10A:17-2.2 Coordinator of Volunteer Services

(a) The Coordinator of Volunteer Services shall provide consultation, support and coordination to all administrative units on matters related to the Volunteer Service Program.

(b) The Coordinator of Volunteer Services shall monitor and evaluate Volunteer Service program activities.

10A:17-2.3 Supervisor of Volunteers

(a) The Supervisor of Volunteer Services shall be responsible for the coordination and supervision of the Volunteer Service Program of the institution.

(b) The Supervisor of Volunteer Services shall:

1. Recruit volunteers;
2. Coordinate the screening, interviewing and approval of volunteers;
3. Develop, schedule and conduct volunteer orientation and training programs;
4. Assign volunteers to appropriate activities;
5. Coordinate and monitor the supervision of volunteers; and
6. Prepare monthly and annual reports of volunteer services pursuant to N.J.A.C. 10A:17-2.23.

(c) If there is no Supervisor of Volunteer Services position, the Superintendent shall designate a staff person to be responsible for the coordination and supervision of the Volunteer Service Program.

10A:17-2.4 Selecting the Supervisor of Volunteer Services

(a) When a vacancy in the position of full time Supervisor of Volunteer Services occurs or when a new position becomes available, the Superintendent or his or her designee shall notify the Coordinator of Volunteer Services.

(b) The Superintendent shall select the applicant to fill the position of Supervisor of Volunteer Services in accordance with procedures established by the Department of Personnel after consultation with the Coordinator of Volunteer Services.

10A:17-2.5 Recruiting volunteers

(a) Volunteers may be recruited by the Supervisor of Volunteer Services or by other interested individuals.

(b) When recruiting volunteers, emphasis shall be placed on the service to be provided and the following qualifications of the prospective volunteer:

1. Motivation;
2. Interest;
3. Background;
4. Training; and/or
5. Other qualifications which make him or her the appropriate person to provide a needed service.

(c) Assistance in recruiting volunteers may be provided by the Coordinator of Volunteer Services.

10A:17-2.6 Eligibility for Volunteer Service Program

(a) A volunteer must be at least 18 years old to be eligible to participate in the Volunteer Service Program of any institution except the Training School for Boys at Skillman.

(b) A volunteer must be at least 16 years old and have parental consent to be eligible to participate in the Volunteer Service Program at the Training School for Boys at Skillman.

(c) A relative or a friend of an inmate shall not be permitted to participate in the Volunteer Service Program at the institution where that inmate is housed.

(d) An ex-offender may participate in the Volunteer Service Program if his or her volunteer application is approved by the Supervisor of Volunteer Services, the Superintendent and the Office of the Deputy Commissioner.

(e) A disabled person may participate in the Volunteer Service Program if his or her disability does not interfere with his or her ability to provide a service.

(f) Any group may participate in the Volunteer Service Program if each member submits an application pursuant to N.J.A.C. 10A:17-2.7 individually and the members are approved by the Supervisor of Volunteer Services.

10A:17-2.7 Volunteer application

(a) Any person desiring to serve as a volunteer may obtain from the Supervisor of Volunteer Services the following forms:

1. 450-I Volunteer Application;
2. 450-II Volunteer Rules and Responsibilities; and
3. SBI-212 Request for Criminal History Record Information.

(b) The applicant shall complete and sign forms in (a) above and return such forms to the Supervisor of Volunteer Services for review.

(c) Applicants offering volunteer services in specialized fields requiring licensure or certification shall submit current and valid credentials for verification along with the application.

10A:17-2.8 Screening process

(a) Applicants shall be evaluated on the basis of the information provided at the interview, and the information entered on Form 450-I Volunteer Application.

(b) The Supervisor of Volunteer Services shall verify all pertinent information and approve or reject applicants after a thorough review has been made of the qualifications of the applicants and the needs of the institution.

(c) If the Supervisor of Volunteer Services has reason to believe that an applicant's physical or mental disability may interfere with providing volunteer services, the applicant may be required to submit a confidential report of his or her current health status that has been prepared by a medical health care specialist in the area of the applicant's disability. The report shall be reviewed by the Supervisor of Volunteer Services and submitted to the Superintendent or his or her designee with a recommendation for approval or disapproval for participation in the Volunteer Service Program.

(d) The Supervisor of Volunteer Services shall notify all applicants, in writing, of whether they have been approved or disapproved for participation in the Volunteer Service Program.

10A:17-2.9 Volunteer Handbook

(a) Each institution shall develop and publish a Volunteer Handbook which shall bear the date of publication on the cover or front page.

(b) Each volunteer shall receive a copy of the Volunteer Handbook prior to assignment of any institutional activity.

(c) The contents of the Volunteer Handbook shall be updated every two years.

(d) Prior to publishing or republishing the Volunteer Handbook, the final draft shall be submitted to the Coordinator of Volunteer Services for review and written approval.

(e) When the approved Volunteer Handbook has been printed, the institution shall submit a copy to the Coordinator of Volunteer Services and to the appropriate Assistant Commissioner's office to be maintained on file.

(f) The Volunteer Handbook shall include, but is not limited to:

1. An introduction which summarizes the history, goals and objectives of the Department of Corrections and the institution;
2. A summary of institutional rules, regulations and useful practices;
3. The guidelines for interaction with inmates;
4. The responsibilities of volunteers;
5. A summary of services currently being provided by volunteers; and
6. An explanation of the volunteer performance evaluation.

10A:17-2.10 Orientation and training of volunteers

(a) Each institution shall provide orientation and training sessions to all volunteers prior to assignment to any institutional service.

(b) Orientation and training sessions shall include, but are not limited to, the following topics:

1. Rules of the Department of Corrections;
2. Rules of the institution;
3. Philosophy, goals, resources and programs of the institution;
4. Duties and responsibilities of volunteers; and
5. Appropriate exercise of volunteer authority.

10A:17-2.11 Volunteer assignments

(a) Volunteers shall be assigned to institutional services in accordance with the volunteer's interests and capabilities, and in ac-

cordance with the needs of the institution. Services to which volunteers may be assigned shall include, but are not limited to:

1. Tutoring;
2. Crafts;
3. Recreation;
4. Vocational placement;
5. Group or individual counseling; and
6. Religious activities.

10A:17-2.12 Scheduling

(a) The services of the Volunteer Service Program shall be coordinated and scheduled by the Supervisor of Volunteer Services and approved, in writing, by the Superintendent or his or her designee.

(b) The Supervisor of Volunteer Services shall post a schedule of current volunteer services on each housing unit's bulletin area. The schedule of volunteer services shall indicate the following:

1. Kind of service provided;
2. Day(s) provided;
3. Time (beginning/ending);
4. Location; and
5. Individual or group(s) providing service.

(c) Any additions or changes in volunteer services shall be promptly posted on each housing unit's bulletin area by the supervisor of volunteer services.

(d) When time or space is limited, or when the delivery of volunteer services conflicts with the normal operation of the institution, the Superintendent or his or her designee shall determine whether volunteer services shall be limited, suspended or discontinued.

10A:17-2.13 Volunteer identification cards

(a) A volunteer identification (I.D.) card shall be prepared for each volunteer.

(b) The volunteer I.D. card shall include:

1. A photograph of the volunteer;
2. The name and address of the volunteer;
3. The home and work telephone number of the volunteer;
4. The agency or group represented by the volunteer;
5. The volunteer service provided;
6. The preparation date of volunteer I.D. card; and
7. The expiration date of volunteer I.D. card.

(c) The volunteer I.D. card shall be kept at the front entrance of the institution, and shall be used only by the person on duty at the front entrance for identifying volunteers. The volunteer I.D. card shall never be carried by the volunteer on or off the premises of the institution.

(d) The volunteer I.D. card shall automatically expire in one year from the date of issue, and the Supervisor of Volunteer Services shall retain all inactive volunteer I.D. cards.

10A:17-2.14 Institution identification card

(a) When entering the institution, the volunteer shall obtain, at the front entrance, an institution identification (I.D.) card in exchange for some form of personal identification, such as:

1. A driver's license;
2. An employment photo I.D. card;
3. A passport; or
4. Any other item or document which clearly identifies the volunteer.

(b) While in the institution, the volunteer shall visibly wear an institution I.D. card.

(c) When the volunteer leaves the institution, the volunteer shall return the institution I.D. card in exchange for his or her personal identification material.

(d) The staff member on duty at the institution's front entrance shall record the following:

1. Volunteer's name;
2. Date; and
3. Time volunteer entered and left institution.

10A:17-2.15 Supervision of volunteers

The Department head to whom the volunteer is assigned shall be considered the volunteer's supervisor.

10A:17-2.16 Performance evaluation

(a) The Supervisor of Volunteer Services, along with the volunteer's immediate supervisor, shall evaluate the performance of the volunteer after a trial period of four months using Form 450-III Volunteer Performance Evaluation.

(b) If the evaluation in (a) above is unsatisfactory, a consultation shall be scheduled between the volunteer, the Supervisor of Volunteer Services, the immediate supervisor and any other appropriate staff members.

(c) After the consultation with the volunteer in (b) above has been completed, the Supervisor of Volunteer Services shall recommend to the Superintendent the retention or termination of the volunteer.

10A:17-2.17 Recognition of volunteers

Each institution should schedule an annual event to acknowledge the contribution of volunteers.

10A:17-2.18 Curtailing, suspending or discontinuing the services of a volunteer

(a) The Superintendent may curtail, suspend or discontinue the services of a volunteer for reasons which include, but are not limited to:

1. Any breach of confidentiality;
2. Unlawful conduct or breach of institutional rules and regulations;
3. Physical or emotional illness;
4. Inability to cooperate with staff;
5. Erratic, unreliable attendance;
6. Violation of the rules of the Volunteer Service Program;
7. Any prohibited conduct contained in the volunteer contract; and
8. Any conduct which threatens the order or security of the institution or the safety of the volunteer.

10A:17-2.19 Inmate violation of Volunteer Service Program rules

(a) Inmates shall be advised, in writing, of the rules governing the Volunteer Service Program.

(b) Failure of the inmate to comply with the rules of the Volunteer Service Program may result in disciplinary action being taken against the inmate involved.

10A:17-2.20 Volunteer Service Program in community residential facilities

(a) Each community residential facility which uses the services of volunteers shall develop written policies and procedures which govern the following:

1. Recruiting, screening and selecting of volunteers;
2. Orientation and training of volunteers;
3. Supervision of the services provided by volunteers; and
4. Termination of volunteers.

(b) The policies and procedures outlined in (a) above shall be revised when necessary, and submitted to the Coordinator of Volunteer Services and the appropriate Assistant Commissioner's office for review and written approval on or before September 30 of each year.

10A:17-2.21 Volunteer in Parole Program (V.I.P.P.)

This subchapter shall not apply to bona fide participants in the Volunteer In Parole Program (V.I.P.P.), Bureau of Parole, New Jersey Department of Corrections.

10A:17-2.22 Records

(a) The Supervisor of Volunteer Services shall maintain a current record of the following:

1. All volunteer services;
2. Names and photos of volunteers; and
3. Inmates receiving volunteer services.

10A:17-2.23 Reporting responsibilities

(a) The Supervisor of Volunteer Services shall prepare monthly and annual reports of volunteer services and submit the reports in accordance with N.J.A.C. 10A:21, Reports.

(b) A list of volunteer applicants who have been approved or rejected shall be included in the Supervisor of Volunteer Services' monthly report.

(c) The Supervisor of Voluntary Services shall submit a copy of each Volunteer Service Program's monthly and annual report to the Coordinator of Volunteer Services.

10A:17-2.24 Procedures and post orders

(a) Each institution shall develop written procedures and post orders to govern the Volunteer Service Program.

1. The Superintendent shall review and sign the procedures and post orders at least annually. Each institution shall update the procedures and post orders in (a) above as necessary.

(b) Each institution shall submit a copy of the written procedures governing the Volunteer Service Program to the Coordinator of Volunteer Services for review and approval on or before September 30 of each year.

SUBCHAPTER 5. RELIGION

10A:17-5.1 Freedom of religious affiliation and voluntary worship

(a) Each inmate has the right to freedom of religious affiliation and voluntary religious worship while incarcerated, but the exercise of such right may be subject to reasonable restrictions.

(b) Any inmate in the general population of a correctional facility who desires to participate in a religious service, meeting or activity shall be permitted to do so.

10A:17-5.2 Religious proselytizing of inmates

(a) No person shall disparage an inmate's religious beliefs or deliberately seek to persuade an inmate to change his or her religious affiliation.

(b) While under the jurisdiction of the New Jersey Department of Corrections, an inmate shall not be prevented from voluntarily changing religious preference.

(c) An inmate may change his or her religious affiliation upon approval by the chaplain who represents the faith group to which the inmate is seeking affiliation.

10A:17-5.3 Inmate attendance of community religious activities

Inmates within the Division of Adult Institutions, including satellite units, and adult inmate paraprofessionals assigned to juvenile correctional facilities shall not be permitted to attend worship services and/or religious activities in the community.

10A:17-5.4 Physical facilities and equipment

(a) Dependent upon available resources and consistent with internal discipline, order, safety and security, the correctional facility shall provide adequate space and equipment so as to enable inmates to:

1. Participate in worship services or other religious rites;
2. Receive religious education; and
3. Receive religious counseling.

(b) During all phases of any religious program, the rules and policies related to the internal discipline, order, safety and security of the correctional facility shall be in effect.

10A:17-5.5 Inmate orientation

(a) During orientation, inmates shall be informed of the following:

1. Chaplaincy services;
2. Religious activities; and
3. Other aspects of the religious program.

10A:17-5.6 Scheduling of religious activity

(a) All religious services, activities or meetings shall be coordinated and scheduled by the Chaplain, or other appropriate staff person, subject to the approval of the Superintendent or his or her designee.

(b) Factors to be considered when scheduling religious activities shall include, but are not to be limited to:

1. Availability of staff;
2. Availability of space;
3. Availability of time; and
4. The maintenance of a secure and orderly operating correctional facility.

(c) The weekly schedule of religious services and activities shall be posted on each housing unit's bulletin area, and in conspicuous

and accessible areas of the correctional facility. The schedule shall indicate the following:

1. Kind of religious service or activity being held;
2. Day(s) provided;
3. Time (beginning and ending);
4. Location; and
5. Person or group conducting activity.

(d) Any additions or changes in religious services and activity shall be promptly posted.

10A:17-5.7 Restrictions on congregate religious services

When, in the opinion of the Institutional Classification Committee (I.C.C.) and the Superintendent, there is substantial evidence that disruptive or illicit activity has occurred or is likely to occur, one or more inmates may have their attendance at group worship restricted or denied, or a scheduled religious service, activity or meeting may be cancelled or terminated.

10A:17-5.8 Control of religious ritualistic elements

(a) Religious ritualistic elements, including but not limited to wine, oil and matzo, which are necessary as part of a religious service, shall be brought into the correctional facility only by the Chaplain or a volunteer religious group leader from the community.

(b) The custody shift supervisor shall be responsible for the secure storage of sacramental elements.

(c) When sacramental elements are to be used, these elements shall be issued by the custody shift supervisor only to the Chaplain or a volunteer religious group leader from the community.

(d) The Chaplain or a volunteer religious group leader from the community shall be responsible for the use and return of sacramental elements to the custody staff supervisor.

10A:17-5.9 Religious diets

Inmates may abstain from eating food items, served to the general population, which are prohibited by the inmate's religion. In such instances, an alternate food item shall be provided.

10A:17-5.10 Religious holidays

(a) Religious holidays of recognized faith groups shall be acknowledged.

(b) Special religious services or activities may be scheduled for inmates of a particular faith so those inmates may observe their religious holidays. The scheduling of these special religious services and activities shall depend upon the following:

1. Availability of correctional facility space;
2. Availability of staff for supervision; and
3. Other essential operational considerations.

10A:17-5.11 Receiving and sending religious material

(a) Inmates shall be permitted to receive through the mail and retain religious literature and the indicia of religion, such as missals, prayer books, shawls and prayer rugs.

(b) Inmates shall be permitted to send out of the correctional facility religious literature or indicia of religion, such as missals, prayer books, shawls and prayer rugs.

(c) The receipt, retention or sending out of religious material is subject to the restrictions and procedures in N.J.A.C. 10A:3-6 CONTRABAND AND DISPOSITION OF CONTRABAND AND N.J.A.C. 10A:18 MAIL, VISITS AND TELEPHONE.

10A:17-5.12 Interfaith religious activity within the correctional facility

(a) Although the Chaplain shall serve the correctional facility as a minister of the faith which he or she represents, the Chaplain shall not limit counseling, pastoral or other ministerial activities and/or responsibilities to inmates of the Chaplain's religious preference and affiliation.

(b) Where only one Chaplain serves the correctional facility, he or she shall cooperate with representatives of other faith groups that have been approved to minister to inmates in the correctional facility.

(c) Inmates of various religious preferences and affiliations shall be permitted to participate in the religious activities and services of other faith groups whenever it is feasible and appropriate.

10A:17-5.13 Community volunteers for religious activities

(a) Community volunteers for religious activities shall be recruited, oriented, trained and evaluated in accordance with N.J.A.C. 10A:17-2 VOLUNTEER SERVICE PROGRAM.

(b) The Chaplain shall be the immediate supervisor of volunteers for religious activities, and he or she shall familiarize the volunteers with the rules in this subchapter and any other rules pertaining to religious activities.

10A:17-5.14 Chaplaincy services for inmates confined to the infirmary, hospital or Close Custody Units

(a) Inmates confined to the infirmary, hospital or close Custody Units of an institution shall be provided religious counseling or pastoral services upon request. These services shall be provided by the Chaplain or a volunteer religious group leader from the community.

(b) Inmates who are patients in a community hospital shall be visited by the Chaplain, upon request, to receive religious counseling or other pastoral services.

(c) The procedure for requesting religious counseling or pastoral services shall be outlined in the Inmate Handbook published pursuant to N.J.A.C. 10A:8-3.

10A:17-5.15 Chaplaincy services for inmates in satellite units

Inmates assigned to satellite units may receive counseling or pastoral services provided by the Chaplain or a volunteer religious group leader from the community.

10A:17-5.16 Nontraditional religions

(a) Institutional officials shall not be required to provide every religious sect or group with:

1. Outside clergy;
2. Space; and/or
3. Schedule time for religious activity.

(b) An inmate belonging to a nontraditional religion may be permitted to practice his or her religion if the Superintendent determines, after consultation with the Chaplain and the Coordinator, Chaplaincy Services, that the religion is entitled to official recognition within a correctional facility, and that the practice of this religion would not threaten or otherwise interfere with the internal discipline, safety, security or orderly operation of the correctional facility.

10A:17-5.17 Initiating religious groups within the correctional facility

(a) An inmate who wishes to organize a religious group which is not recognized in the correctional facility shall submit a written request to the Superintendent which contains the following information:

1. The official name of religious organization or religion;
2. The names of all present members;
3. The name, address and affiliation of the person(s) who is to lead the religious service.
 - i. Such person must be able to pass a security check;
4. A description of religious beliefs or theology, including religious literature or scripture utilized;
5. A description of ritual practices, including time and manner of conducting religious services;
6. A statement of the group's religious goals and objectives; and
7. A list of the religious holidays, with explanations as to purpose of each.

(b) The Superintendent shall, after consultation with the Chaplain and the Coordinator, Chaplaincy Services, consider all relevant factors which shall include, but are not limited to, the following:

1. Safety of inmates and staff;
2. Security and the orderly operation of the correctional facility; and
3. The availability of time and space.

(c) The Superintendent shall determine whether the religious group shall be granted official recognition within the correctional facility, and shall provide a written notice of his or her decision to the following:

1. The Chaplain;
2. The Coordinator, Chaplaincy Services; and
3. The inmate(s) who submitted the request.

10A:17-5.18 Ministerial services to the staff

(a) Upon request, the Chaplain shall provide pastoral services to the correctional facility staff, and shall be available for counseling especially in periods of bereavement, emergencies and other crisis situations.

10A:17-5.19 Files and records

(a) During reception into a correctional facility, each inmate's religious preference shall be recorded in his or her classification record.

(b) The inmate shall promptly notify the Classification Officer of any change in religious affiliation, which shall then be entered into the inmate's classification record.

(c) In accordance with the written procedures of the institution, the Chaplain shall have access to records of inmates. The Chaplain may enter into the records any information he or she may deem pertinent to the treatment of inmates.

(d) The Chaplain shall maintain a record of the following:

1. All religious denominations or groups which are represented in the correctional facility;
2. The names, addresses and religious affiliation of all part-time Chaplains;
3. Volunteer religious group leaders or groups from the community who are permitted to conduct religious activities in the correctional facility; and
4. Worship services and related activities that are scheduled weekly.

10A:17-5.20 Chaplains' reports

(a) The Chaplain shall submit monthly and annual reports of chaplaincy activities to the Superintendent or his or her designee.

(b) A copy of monthly and annual reports shall be forwarded by the Chaplain to the Coordinator, Chaplaincy Services.

SUBCHAPTER 6. INSTITUTIONAL CHAPLAINCY

10A:17-6.1 Coordinator, Chaplaincy Services

(a) The Coordinator of Chaplaincy Services shall be responsible to the Office of the Deputy Commissioner for the overall planning and implementation of religious programs within State correctional facilities.

(b) The Coordinator, Chaplaincy Services, shall provide consultation, support and coordination to all administrative units on matters related to chaplaincy services and religious activities.

(c) The Coordinator, Chaplaincy Services, shall monitor and evaluate chaplaincy services and religious activities.

10A:17-6.2 Consultation with the Coordinator, Chaplaincy Services

The Superintendent or his or her designee shall consult with the Coordinator, Chaplaincy Services, on professional, technical and administrative matters related to institutional chaplaincy and religious activities.

10A:17-6.3 Supervisor of Chaplaincy Services

(a) The Supervisor of Chaplaincy Services shall be responsible to the Superintendent or his or her designee for coordinating and supervising the religious activities of the institution, and ensuring that the requirements of N.J.A.C. 10A:17-5, RELIGION, are fulfilled.

(b) If the institution does not have a Supervisor of Chaplaincy Services, the Superintendent shall designate a staff person to be responsible for coordinating and supervising the religious activities of the institution.

10A:17-6.4 Institutional Chaplains

(a) Each institutional chaplain shall:

1. Serve as minister of the faith he or she represents;
2. Serve as liaison between institutional authorities, the inmates whose faiths are not represented in the institution and the representatives of those faiths in the community;
3. Provide ministerial services to staff members when requested;
4. Represent the institution in matters regarding religious activities in the community as they relate to the programs of the institution; and
5. Serve as liaison to community clergy, to encourage their understanding of confined persons with special needs, and to enlist the

cooperation of community clergy in planning institutional religious activities.

(b) Each Chaplain shall keep informed of new developments and trends in institutional chaplaincy services.

(c) Each Chaplain shall remain in good standing with his or her denomination, and he or she shall be permitted to attend meetings and conferences that are essential to his or her professional standing.

(d) As a professional staff member, the Chaplain, along with his or her professional colleagues, may participate in therapy programs for inmates.

(e) The Supervisor of Chaplaincy Services or a staff person designated by the Superintendent shall prepare monthly and annual reports on the religious activities of the institution pursuant to N.J.A.C. 10A:17-5.20 and 10A:17-6.8.

10A:17-6.5 Recruiting chaplains

(a) The Coordinator, Chaplaincy Services, and the Chaplaincy Consulting Committee shall be responsible for recruiting candidates for institutional chaplaincy positions and for increasing the public awareness of the vital need for chaplaincy services in an institutional setting. Recruitment may be done on a personal basis and/or by advertising.

(b) The Coordinator, Chaplaincy Services, may place advertisements for a vacant institutional chaplaincy position in the "Clinical Pastoral Education Newsletter", a national interdenominational newspaper which is published by the Association of Clinical Pastoral Education, and other appropriate publications.

(c) When recruiting on a personal basis for a vacant institutional chaplaincy position, or when application is made through a member of the institutional staff or a member of the Chaplaincy Consulting Committee, all documents obtained from the applicant, such as applications and resumes, shall be forwarded to the Coordinator, Chaplaincy Services, for review, verification of credentials, filing and reference pursuant to N.J.A.C. 10A:17-6.9.

(d) When recruiting candidates for institutional chaplaincy positions, emphasis shall be placed on the following:

1. Academic credentials;
2. Experience; and
3. Other qualifications needed to provide the services of the position.

10A:17-6.6 Chaplaincy Consulting Committee

(a) The purpose of the Chaplaincy Consulting Committee is to ensure that high quality religious ministry is provided for persons in the institutions of the Departments of Corrections and Human Services, and to represent the concerns of the religious community in the development and implementation of religious policies practiced in institutions.

(b) The Chaplaincy Consulting Committee shall be responsible for recruiting, interviewing and recommending candidates to fill all institutional chaplaincy positions.

(c) The Chaplaincy Consulting Committee shall consist of the following:

1. Representatives from the religious community appointed as official representatives of their respective faith groups;
2. Representatives from the Departments of Corrections and Human Services designated by their respective Commissioners;
3. Representatives from the New Jersey State Institutional Chaplains Association; and
4. The Coordinator, Chaplaincy Services, who shall serve as an ex officio member of the Committee.

10A:17-6.7 Selecting chaplains

(a) The Coordinator, Chaplaincy Services, shall maintain a file of resumes of applicants for chaplaincy positions pursuant to N.J.A.C. 10A:17-6.9.

(b) When a vacancy in a chaplaincy position occurs at an institution, the Superintendent or his or her designee shall notify the Coordinator, Chaplaincy Services, who shall be responsible for notifying the Chaplaincy Consulting Committee.

(c) The Chaplaincy Consulting Committee shall review all applications and arrange interviews for the applicants who meet the qualifications for the institutional chaplaincy position.

(d) Upon completion of the interviews, the Chaplaincy Consulting Committee shall recommend two or more candidates to the Superintendent.

1. The Superintendent may request that the Chaplaincy Consulting Committee submit the names of additional candidates for consideration should the Superintendent deem such action necessary.

(e) The Superintendent shall select the applicant to fill the vacancy.

(f) All requests for personnel actions involving the hiring of full-time or part-time chaplains must be approved by the Coordinator, Chaplaincy Services, prior to processing by the Department of Corrections' Office of Human Resources.

(g) All contracts for religious services must be reviewed and approved by the Coordinator, Chaplaincy Services, prior to processing.

10A:17-6.8 Chaplains' reports

(a) The Supervisor of Chaplaincy Services or a staff person designated by the Superintendent shall submit monthly and annual reports of chaplaincy activities to the Superintendent or his or her designee.

(b) A copy of monthly and annual reports shall be forwarded by the Superintendent or his or her designee to the Coordinator, Chaplaincy Services.

10A:17-6.9 Files and records of the Coordinator, Chaplaincy Services

(a) The Coordinator, Chaplaincy Services, shall maintain files containing up-to-date resumes and applications of qualified candidates who are interested in institutional chaplaincy positions.

(b) The Coordinator, Chaplaincy Services, shall maintain copies of the monthly and annual reports of religious activities submitted to the Superintendent or his or her designee.

INSURANCE

(a)

DIVISION OF ACTUARIAL SERVICES

Minimum Standards

Proposed Amendment: N.J.A.C. 11:4-16.6

Authorized By: Kenneth D. Merin, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:22-1, 17B:26-1 et seq., 17B:26-44.6 and 17B:26-45.

Proposal Number: PRN 1988-38.

Submit comments by February 18, 1988 to:
Verice M. Mason
Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

An earlier version of this proposal was published and appeared on April 7, 1986 in the New Jersey Register at 18 N.J.R. 608(a). Among the comments received on that proposal were those of the Department of Health which expressed the need for clarification in several areas of the existing law and the proposed amendments. The present proposal reflects those comments.

The proposed amendment, N.J.A.C. 11:4-16.6(d)1, will give insurers the option of offering daily hospital room and board coverage that is not less than the lesser of 80 percent of the charges for semi-private accommodations or the Statewide average semi-private hospital room and board charge at the time the policy is issued.

Presently, insurers are permitted to offer coverage of this type at a level that is 50 percent of an amount equal to the Medicare Part A deductible in effect at the time the policy is issued.

Until recently, Medicare Part A was a reliable standard upon which to predict the cost of coverage for hospital room and board charges. However, the Medicare Part A deductible and the daily hospital room and board rate in New Jersey have not increased at the same rate. The

Medicare Part A deductible is significantly higher than the New Jersey room and board rate. Thus, insureds are being required to purchase more coverage than is necessary.

The amendment will allow insurers to offer coverage that more accurately reflects the actual cost of room and board charges in New Jersey.

Social Impact

The proposed amendment will eliminate the requirement that New Jersey insureds purchase more insurance than is necessary.

Economic Impact

The proposed amendment will allow insurers to offer basic hospital expense coverage that is adequate and affordable. The insured will be able to purchase insurance coverage that is sufficient, but not excessive. The Department of Insurance does not expect to be affected economically by the proposed amendment.

Regulatory Flexibility Statement

Some insurers affected by this proposed amendment are small businesses as that term is defined in the Regulatory Flexibility Act, P.L. 1986, c.169. To provide for uniform and consistent applicability of these rules and to avoid the granting of a prescribed advantage to insurance producers who are small businesses, no differential treatment is accorded small businesses by this proposed amendment.

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

11:4-16.6 Minimum standards for benefits

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

(d) "Basic hospital expense coverage" is a health insurance policy which provides coverage for a period of not less than **the initial 31** days for one period of hospital confinement of each covered person for expenses incurred for necessary treatment and services rendered as a result of injury or sickness for at least the following:

1. Daily hospital room and board, including general nursing care and special diets, in an amount not less than the lesser of:

- i. 80 percent of the charges for semi-private accommodations; or
- [ii. 50 percent of an amount equal to the Medicare Part A deductible in effect at the time the policy is issued.]

ii. **The Statewide average semi-private hospital room and board charge at the time the policy is issued, as determined by the New Jersey Department of Health.**

2.-4. (No change.)

(e)-(k) (No change.)

COMMERCE AND ECONOMIC DEVELOPMENT

(b)

DIVISION OF TRAVEL AND TOURISM

Tourism Grants

Proposed New Rules: N.J.A.C. 12A:12-3

Authorized By: Borden R. Putnam, Commissioner, Department of Commerce and Economic Development.

Authority: N.J.S.A. 52:27H-6(f).

Proposal Number: PRN 1988-20.

Submit comments by February 18, 1988 to:

Noreen Gelnaw Bodman
N.J. Department of Commerce and Economic Development
Division of Travel and Tourism
One West State Street
CN 826
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules implement the Tourism Matching Grant Program, authorized by annual appropriation to the Department of Commerce and Economic Development. The purpose of these rules and the

program is to provide financial assistance to regional tourism councils, counties, municipalities, and tourism promotion organizations, to promote the State's tourism industry. Some key provisions include:

1. Types of organizations eligible to receive grants under this program (see N.J.A.C. 12A:12-3.2);
2. Time for submission of applications for grant awards (see N.J.A.C. 12A:12-3.5 and 12A:12-3.6);
3. Reporting and compliance requirements of the tourism grant program (see N.J.A.C. 12A:12-3.9).

Social Impact

The proposed new rules should have a positive social impact, specifically, increased growth in the tourism industry in the State and a consequent growth in employment in the tourism industry.

Economic Impact

The anticipated economic impact of the proposed new rules should be growth in the State's tourism industry. The State will incur costs in the administration and monitoring of the program, as well as the annual appropriations provided for the grants themselves.

Regulatory Flexibility Statement

The proposed new rules do not impose reporting, recordkeeping or other compliance requirements on small businesses, since eligible grant recipients under the program are regional tourism councils, counties, municipalities, and tourism promotion organizations.

Full text of the proposed new rules follows:

SUBCHAPTER 3. MATCHING TOURISM GRANTS TO REGIONAL TOURISM COUNCILS, COUNTIES, MUNICIPALITIES AND TOURISM PROMOTION ORGANIZATIONS

12A:12-3.1 Scope and purpose

(a) The rules in this subchapter are promulgated by the Department of Commerce and Economic Development to implement the Tourism Matching Grant Program within the Department under the auspices of the Division of Travel and Tourism. This program has been established to encourage regional tourism councils, counties, municipalities, and tourism promotion organizations to engage in creative promotional projects or events which compliment state tourism promotional efforts.

(b) Applications and questions regarding participation in this program should be addressed to:

Matching Grant Coordinator
N.J. Department of Commerce and
Economic Development
Division of Travel and Tourism
CN 826
Trenton, New Jersey 08625

(c) This program shall be open to all regional tourism councils, counties, municipalities, and tourism promotion organizations. All applications for the grant program which meet the requirements of this subchapter shall be given due consideration, however, not all applicants are guaranteed to be awarded a grant.

12A:12-3.2 Definitions

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

"Applicant" means any county, municipality, or tourism promotion organization applying for a tourism grant pursuant to this subchapter.

"Commissioner" means the Commissioner of the Department of Commerce and Economic Development.

"DCED" means the Department of Commerce and Economic Development.

"Director" means the Director of the Division of Travel and Tourism in the Department of Commerce and Economic Development.

"Division" means the Division of Travel and Tourism in the Department of Commerce and Economic Development.

"Grant Coordinator" means the Coordinator of the Division of Travel and Tourism Matching Grant Program.

"Grantee" means a regional tourism council, county, municipality, or tourism promotion organization which has been awarded a grant under the tourism matching grant program.

"Logo" means the promotional symbol authorized by the Division of Travel and Tourism in use for promoting tourism and related industries of the State of New Jersey.

"Non-eligible project cost" means a cost for which a tourism grant will not be awarded or funded. These costs include, but are not limited to:

1. Durable equipment, capital investments, restoration/rehabilitation of structures or buildings, except when these types of expenditures are an integral part of the proposed project or event;
2. Wages or benefits for employees for the project or event;
3. Hospitality expenses;
4. Entertainment;
5. Fireworks;
6. Transportation expenses;
7. Lodging expenses; or
8. Membership fees or dues for travel and/or tourism organizations.

"Regional councils" means any or all of the six regional tourism councils designated and created under the New Jersey Tourism Master Plan by the Division of Travel and Tourism in the Department of Commerce and Economic Development.

"Tourism promotional organization" means any non-profit organization created under N.J.S.A. 15A:1-1 et seq. including but not limited to chambers of commerce, merchant business associations and heritage, cultural, or historic commissions.

12A:12-3.3 Eligibility of counties, municipalities, and tourism promotion organizations

(a) To be eligible to receive a tourism grant the applicant shall forward to its respective regional tourism council:

1. A completed DCED tourism grant application; and
2. The entire budget of the proposed program or event, including the amount requested to be funded by DCED and all other sources of funding for the project.

(b) The amount of funding requested from DCED may not exceed 50 percent of the total budget of the event or project. For purposes of this section, total budget of the event or project shall exclude non-eligible project cost from the request for funding.

(c) In each program year no more than three grants will be awarded to any one applicant.

(d) No one specific project or event shall be eligible for funding if that project or event has received funding under this program for three consecutive years in the past.

12A:12-3.4 Eligibility of regional tourism councils

(a) To be eligible to receive a tourism grant a regional council shall forward to the grant coordinator:

1. A completed DCED tourism grant application;
2. The entire budget of the proposed program or event, including the amount requested to be funded by DCED and all other sources of funding for the project.

(b) The amount requested from DCED may not exceed 50 percent of the total budget of the event or project. For purposes of this section, total budget of the event or project shall exclude non-eligible project cost from the request for funding.

(c) In each program year no more than five grants will be awarded to any one council.

(d) No one specific project or event shall be eligible for funding if that project or event has received funding under this program for three consecutive years in the past.

12A:12-3.5 Application deadlines for grants to counties, municipalities, and tourism promotion organizations

(a) An applicant for a tourism grant shall submit an application to its respective regional tourism council no later than December 15 of each grant program cycle. Any application received after December 15 shall not be considered for a grant award.

1. For purposes of this section, date of receipt means postmark date.

(b) The Commissioner may change the application deadline in (a) above as he deems necessary.

1. Any change in the application deadline by the Commissioner shall be noted in the Tourism Grant Application.

12A:12-3.6 Application deadlines for grants to regional tourism councils

(a) A regional tourism council shall submit an application to the grant coordinator no later than January 31 of each grant program cycle. Any applications received after January 31 shall not be considered for a grant award.

1. For purposes of this section, date of receipt means postmark date.

(b) The Commissioner may change the application deadline in (a) above as he deems necessary.

1. Any change in the application deadline by the Commissioner shall be noted in the tourism grant application.

12A:12-3.7 Evaluation of grant applications of counties, municipalities, and tourism promotion organizations

(a) Upon receipt of an application from a county, municipality, or tourism promotion organization, the respective regional council shall evaluate and rank the application through its grant advisory committee.

(b) A grant advisory committee shall consist of:

1. One freeholder or designee appointed by each county within tourism region covered by the council;

2. A member of the Governor's Tourism Advisory Council from the region covered by the council; and

3. Members of the regional tourism council designated by the council to serve on the committee.

(c) The grant advisory council shall evaluate each application on the following factors and then rank all applications based upon application scores:

1. Integration of the program or event into the overall State tourism promotional program;

2. Prominent use of the division's promotional logo;

3. Program quality;

4. Anticipated benefit to the region in which the project is proposed;

5. Amount of local support for the program or event;

6. Amount of local funds raised during the previous year for tourism programs;

7. Scope of planning needed for the program or event; and

8. Scope of local participation in the program or project.

(d) The grant advisory committee shall forward its completed evaluation to the grant coordinator by no later than January 31 of the grant program cycle.

(e) The grant coordinator, after receipt of the reports from the grant advisory committee of each regional tourism council, shall collate the reports and prepare them for review by the DCED grant evaluation committee.

(f) The grant evaluation committee shall consist of:

1. The Deputy Commissioner of Commerce and Economic Development or his or her designee;

2. The Director of the Division of Travel and Tourism; and

3. The Chairman of the Governor's Tourism Advisory Council or his or her designee.

(g) The grant evaluation committee shall evaluate each application on the following factors:

1. Integration of the program or event into the overall State tourism promotional program;

2. Prominent use of the division's promotional logo;

3. Program quality;

4. Benefit to the region in which the project is proposed;

5. Amount of local and/or regional support for the project;

6. Amount of tourism promotional activity already existing in the tourism region, county, or municipality;

7. Innovation of the program; and

8. Whether an adequate amount of funds exist for the program so that the grant funds contributed to the program event will not exceed fifty percent of the eligible cost of the program or event.

(h) The Grant Evaluation Committee shall issue a report to the Commissioner which shall include:

1. A prioritized listing for recommended grant recipients; and

2. A recommended amount for each grant.

(i) Upon receipt of the report in (f) above, the Commissioner shall issue a final decision as to the grant recipients and the amount of each grant.

1. Announcement and distribution of grant funds shall be on March 31 of the grant program cycle.

2. The Commissioner may as he deems necessary change the date of announcement and distribution in (g)1 above.

3. The Commissioner may award grants on an incremental basis, such that a grantee may be required to produce specific documents or periodic reports as a condition of receipt.

12A:12-3.8 Evaluations of grant applications of regional tourism councils

(a) Upon receipt of an application from a regional tourism council, the grants coordinator shall evaluate and rank the application in the manner enumerated in N.J.A.C. 12A:12-3.7(c).

1. The grant coordinator shall provide a report of the evaluation and ranking in (a) above to the DCED grant evaluation committee.

(b) The DCED grant evaluation committee shall evaluate the regional council application pursuant to N.J.A.C. 12A:12-3.7(f).

(c) The Grant Evaluation Committee shall issue a report to the Commissioner which shall include:

1. A prioritized listing for recommended grant recipients; and

2. A recommended amount for each grant.

(d) The Commissioner shall issue a final decision as to the grant recipients and the amount of each grant.

1. Announcement and distribution of grant funds shall be on March 31 of the grant program cycle;

2. The Commissioner may as he deems necessary change the date of announcement and distribution in (d)1 above; and

3. The Commissioner may award grants on an incremental basis, such that a grantee may be required to produce specific documents or periodic reports as a condition of receipt.

12A:12-3.9 Reports and compliance

(a) Each grantee shall submit the following to the grants coordinator, when a grant has been received in part or whole:

1. First progress report on the project or event, due no later than September 1 of each grant program cycle;

2. Second progress report on the project or event, due no later than December 1 of each grant program cycle;

3. Third progress report on the project or event, due no later than March 1 of each grant program cycle;

4. Fourth progress report on the project or event, due no later than May 1 of each grant program cycle; and

5. Final accounting report, along with all invoices, due no later than June 15 of each grant program cycle.

(b) The Commissioner may change the dates of the reports in (a) above as he deems necessary.

1. Any change in these dates made by the Commissioner shall be noted in the tourism grant application.

(c) All projects or events receiving funds under this program shall complete their programs by June 1 of the program grant cycle.

1. The Commissioner may waive this completion date when the original grant application clearly indicates that the project or event completion will take place after the June 1 date within the grant program year.

(d) By no later than June 15 of the grant program cycle a grantee shall submit a signed contract between DCED/State and the grantee.

1. Failure to timely submit such contract shall result in forfeiture of the grant by the grantee.

(e) Failure of a grantee to timely file any report or document required by this subchapter may result in ineligibility for the tourism grant program for that grant program cycle, and/or grant payments may be suspended or rescinded.

1. The commissioner may bar a grantee from receiving a grant under this program for a period of up to two grant program cycles.

(f) The Commissioner, upon award of a grant, shall specify the terms of compliance for the grant to the grantee. The terms of such agreement shall include, but are not limited to, the following:

1. Any purchases made by the grantee in excess of \$1,000.00 shall be competitively bid. For purposes of this section, competitively bid means that a bid request for the item or service has been published in a public manner and at least three bids have been received.

2. No purchases made by the grantee for the project or event shall be made in a manner that provides exclusive contracting privileges to any one member or office of the grantee.

12A:12-3.10 Grant rejection or rescission

(a) Any grant rejected in whole or part by a grantee shall be returned to the general grant pool and shall be available to other applicants or to increase awards to other grantees.

(b) Any grant rescinded by the Commissioner for non-compliance by the grantee pursuant to N.J.A.C. 12A:12-3.9 shall be returned to the general grant fund and may be used for other applicants or to increase awards to other grantees.

(a)

DIVISION OF ENERGY PLANNING AND CONSERVATION

Methodology for Computing Energy Cost Savings

Proposed Amendments: N.J.A.C. 14A:12-1.3, 1.4, 1.5

Proposed New Rule: N.J.A.C. 14A:12-1.7.

Authorized By: Borden R. Putnam, Commissioner, Department of Commerce and Economic Development.

Authority: N.J.S.A. 52:27F-11g and q.

Proposal Number: PRN 1988-21.

Submit comments by February 18, 1988 to:

Edward J. Linky, Esq.
Chief Regulatory Officer
Division of Energy Planning and Conservation
101 Commerce Street
Newark, New Jersey 07102

The agency proposal follows:

Summary

The amendments proposed for the rules on Methodology for Computing Energy Cost Savings are necessary to make the methodology consistent with changes to the procurement laws covering the two groups which are the intended beneficiaries of the energy cost savings methodology: municipal government and local boards of education. Changes to the Local Public Contracts Law, N.J.S.A. 40:11-1 et seq., and the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., provide for a definition of "extraordinary unspecifiable services." The addition of such a definition to these rules achieves consistency and makes the rules more easily understood. The addition of a definition of "fair market value" is necessary to provide a common understanding of one key component of energy savings contracts which allow for the user to purchase the installed equipment at the end of the contract term. Finally, safeguards are proposed which will protect local government units and school boards from overly optimistic energy savings projections by certain firms.

Social Impact

The proposed amendments will have a positive social impact by safeguarding the units of local government from unreal expectations from energy savings and thus the unwise expenditure of tax dollars. The changes are proposed to impose a certain level of discipline in the area of projecting reasonable estimates of energy savings. To the extent that the credibility of the energy savings industry is enhanced, the broad social public policy objective of saving energy and tax dollars is advanced.

Economic Impact

The proposed amendments will have a positive economic impact on the energy savings industry by bolstering the credibility of the industry with units of local government. Overly optimistic estimates of energy savings by the industry can dampen local government's willingness to enter into long term contracts with firms that they may feel have an unfair

technical advantage. Employment opportunities by government and the energy savings industry will be lost if the credibility of the industry is not maintained.

Environmental Impact

The proposed amendments will have a positive environmental impact by encouraging units of local government to invest in energy saving equipment. It is well documented that energy conservation adds to overall environmental quality.

Regulatory Flexibility Statement

The proposed amendments minimally impact on small businesses. They do provide an element of protection for units of local government in negotiating with the energy savings industry. The overall effect of the amendments is to allow units of local government to more equally negotiate energy savings contracts with the firms marketing energy savings services and equipment.

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

14A:12-1.3 Definitions

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

... "Department" means the New Jersey Department of [Energy] Commerce and Economic Development.

... "Extraordinary unspecifiable services" are defined by the Local Public Contracts Law (N.J.S.A. 40A:11-2(7)) as "services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor."

"Fair market value" means the cost of the equipment and/or renovation plus the cost of installation less the depreciation figured over the life of the contract less the cost of the removal.

... "Guaranteed-savings" means a program in which a firm guarantees a user a predetermined reduction in energy costs and warrants that the energy costs of the user plus all costs of the energy conserving renovations provided by the firm will be less than or equal to the user's normal energy costs minus the cost reductions provided for in the program.

14A:12-1.4 Pre-contract phase

(a) (No change.)

(b) Prior to entering into any contract pursuant to N.J.A.C. 14A:12-1.5 for the furnishing of energy conserving renovations, the following requirements shall be fulfilled:

1. Preliminary assessment of the energy consumption patterns and energy conserving renovation needs of the user: The assessment may take the form of a self-audit conducted by the user, an energy audit performed by an independent auditor, an energy audit performed by all firms as a condition of participation in a pre-Request For Bids Conference or an energy audit performed by all firms as part of a pre-qualification procedure conducted in accordance with N.J.S.A. 40A:11-25. Any meetings, discussions or other contact with firms during the preliminary assessment shall conform to the requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. The preliminary assessment shall be tailored to the needs of the user and shall provide the user with the following information:

i.-iii. (No change.)

iv. A description of the suggested energy conserving renovations **including all equipment to be installed**;

v. A description of the **effect of the suggested energy conserving renovations on base period energy consumption and energy costs**; and

vi. (No change.)

2. (No change.)

14A:12-1.5 Contract phase

(a) All contracts and modifications thereof subject to the provisions of this chapter shall meet, in addition to the requirements

of the Local Public Contracts Law, 40A:11-1 et seq. or the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., and regulations promulgated thereunder, the minimum requirements stated below. The firm and user may agree to any additional terms or conditions which do not limit, contradict or abrogate the said minimum requirements and which comply with the applicable provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. or the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., and regulations promulgated thereunder. At a minimum the contracts and modifications shall:

1.-17. (No change.)

18. State the grounds for termination of the contract by the user or firm prior to the conclusion of the term. The following grounds shall be specifically included:

i. **If the savings projected in the original proposal is significantly greater than the savings indicated by the engineering study the user shall have the option of terminating the contract and shall not be liable for any costs or expenses incurred by the firm.**

[i.iii. (No change in text.)

19. Require the firm to remove or dispose of the energy conservation renovations at the conclusion of the contract term unless the user exercises an option to purchase, pursuant to (a)18[i]ii [and]; and

20. Specify the manner in which disputes are to be resolved.

AGENCY NOTE: The footnotes to N.J.A.C. 14A:12-1.5 designated by the symbols "+" and "±" are unchanged by this proposal, and are not reproduced here.

14A:12-1.7 Extraordinary unspecifiable services bidding exception

(a) **N.J.S.A. 40A:11-5(1)(a) permits local contracting units to avoid competitive bidding for extraordinary, unspecifiable services. The application of this exception to extraordinary, unspecifiable services shall be construed narrowly in favor of open competitive bidding where possible.**

(b) **Services rendered as extraordinary unspecifiable services (EUS) must generally be characterized as not being of a continuous ongoing nature.**

(c) **Before awarding a contract under the EUS provisions, a designated administrative official of the contracting unit must file a certificate with the governing body clearly describing the nature of the work to be done, stating that it is not reasonably possible to draft specifications, describing the informal solicitation of quotations if the cost is in excess of \$500.00 and explain this, per N.J.S.A. 40A:11-6.1, describing in detail why the contract meets the provisions of the statute and these rules. A standard certification format is available from the Division of Local Public Government Services and is printed in the Local Public Contract Guidelines. The certification must be kept with the resolution awarding the contract in the clerk's office:**

(d) **Examples of services acceptable as EUS:**

1. **Maintenance of highly complex computer systems or other such equipment. For example, if the contracting unit has a major investment of money in a computer system, and maintenance of this system requires more than just a knowledge of electrical connections, and severe damage could be caused to the system if it were tampered with by someone not intimately familiar with its workings, then this would be a justifiable use of this exception, provided that specifications could not be written;**

2. **Certain Management consultant studies;**

3. **Expert financial advisors.**

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Licensing Service

Central Title and Registration Service

Proposed Amendment: N.J.A.C. 13:21-11.13

Authorized By: Glenn R. Paulsen, Director, Division of Motor Vehicles

Authority: N.J.S.A. 39:10-4, 39:3-4 and 39:3-4c

Proposal Number: PRN 1988-35

Submit comments by February 18, 1988 to:

Glenn R. Paulsen, Director
Division of Motor Vehicles
25 So. Montgomery Street
Trenton, New Jersey 08666

The agency proposal follows:

Summary

The proposed amendment provides that temporary initial and transfer registrations issued to residents of this State shall expire at the end of 20 days. This provision therefore reduces the period of temporary initial and transfer registrations from 60 to 20 days. The validity of 60 day temporary registrations issued prior to the effective date of this amendment would not be affected by the amendment. The proposed amendment also extends the issuance of temporary initial and transfer registrations to commercial vehicles. The proposed amendment would permit temporary registrations to be issued for commercial vehicles, laden or unladen, upon payment of the appropriate registration fee based on gross vehicle weight. Pursuant to existing procedure, temporary registrations are issued for unladen commercial vehicles only. Therefore, at the present time, commercial vehicles may not be operated with loads until a permanent registration is issued by the Division of Motor Vehicles.

Social Impact

There is a beneficial social impact in that the extension of the temporary registration procedure to commercial vehicles will facilitate their use in commercial enterprise. Service to the public will be enhanced.

Economic Impact

There is a beneficial economic impact on the State and its citizens in that the proposed amendment will facilitate the use of commercial vehicles in commercial enterprise.

Regulatory Flexibility Statement

The Division determines that most of the motor vehicle dealerships subject to this rule are small businesses as defined in the Regulatory Flexibility Act, L.1986, c.169. It is in the public interest that these dealerships comply with the rule, and therefore inappropriate to exclude them.

In proposing this rule, the Division retains the recordkeeping requirements currently imposed by regulation for temporary registrations. The recordkeeping requirements will merely be extended to temporary registrations issued for commercial vehicles, and will require the receipt of proof that the Federal Heavy Vehicle Use Tax imposed by section 4481 of the Internal Revenue Code of 1954 (26 U.S.C. §4481) has been paid for vehicles subject to the tax. It is perceived that dealers can continue their recordkeeping without additional capital investment or administrative costs.

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

13:21-11.13 Expiration date of temporary initial **and transfer** registration

(a) All temporary initial **and transfer** registrations issued to residents of this State shall expire at the end of [60] **20** days or as soon as the permanent registration and plates have been received from the Division of Motor Vehicles, whichever occurs first. The temporary plates must be destroyed at the time of expiration. **The validity of temporary registrations issued to residents of this State pursuant to this subsection prior to (the effective date of the amendment of this subsection) which reduced the period of temporary registrations from 60 days to 20 days shall not be affected or impaired by that amendment.**

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

(d) **Notwithstanding any other provision of N.J.A.C. 13:21-11.1 et seq. to the contrary, temporary initial and transfer registrations may be issued to residents of this State for passenger and commercial vehicles, laden or unladen, upon payment of the registration fee provided by statute and, if the vehicle is subject to the Federal Heavy Vehicle Use Tax imposed by section 4481 of the Internal Revenue Code of 1954 (26 U.S.C. §4481), upon submission of proof in the form prescribed by the United States Secretary of the Treasury that the tax has been paid.**

(a)

STATE BOARD OF MORTUARY SCIENCE

Fees and Charges

Proposed Amendment: N.J.A.C. 13:36-1.6

Authorized By: New State Board of Mortuary Science,

Donald R. Codey, President.

Authority: N.J.S.A. 45:1-3.2.

Proposal Number: PRN 1988-22.

Submit comments by February 18, 1988 to:
Maurice W. McQuade, Executive Secretary
State Board of Mortuary Science
1100 Raymond Boulevard, Room 513
Newark, New Jersey 07102

Summary

The Board of Mortuary Science is proposing an increase in five of its fees, as well as the addition of three new fees, in order to meet present and projected expenses. The last time fees were raised by the Board was in 1985; over the past two years administrative and other costs have risen dramatically. The new fee schedule is necessary in order to comply with the mandate of N.J.S.A. 45:1-3.2, requiring the Board to establish fees and charges sufficient to defray all proper expenses.

The fees for the Embalmer's and Funeral Director's examinations have been deleted and the exam unified under one fee, the licensure examination. Three new charges have been added, for the practical examination, for change of manager registration and for change of funeral home name. Additionally, the previous rule listed the license renewal fee as \$40.00, which represented only half the biennial fee charged. The proposed amendment clarifies any possible confusion by changing the charge to \$100.00, for the entire biennial period. The charge for those individuals wishing to obtain a license during the second year of the two-year period has been specified as \$50.00, half the biennial fee.

Social Impact

The proposed new fees and fee increases will enable the Board to continue to comply with its statutory purpose—to protect the public against professional incompetence and improper practices.

Economic Impact

The proposed amendment will impose a minimal economic burden on licensees; the new fees are the lowest amount possible in order to meet Board expenses. Any economic impact on consumers should be similarly slight.

Regulatory Flexibility Statement

The proposed amendment will affect approximately 820 funeral homes and about 1950 licensees. However, the fee increases were established at the lowest possible level, thus minimizing any adverse impact on the funeral homes, all of which qualify as "small businesses" under the Regulatory Flexibility Act. No new reporting or record keeping requirements are imposed by the revised fee schedule.

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

13:36-1.6 Fees and charges

(a) There shall be paid to the State Board of Mortuary Science the following fees:

- 1. Certification fee: \$25.00;
2. [Practitioner] Licensure examination fee \$100.00;
3. [Practitioner] Licensure reexamination fee \$100.00;
[4. Embalmer examination fee \$100.00;]
[5. Funeral director examination fee \$100.00;]
4. Practical examination fee \$50.00;
[6.]5. Intern registration fee \$50.00;
[7.]6. Intern reregistration fee \$25.00;
[8.]7. New installation inspection fee \$100.00;
[9.]8. New licenses (biennial) [\$40.00] \$100.00;
9. New licenses in second half of biennial period \$50.00;
10. Rules and regulations \$1.00;
11. Biennial license renewal fees:
i. Practitioner [\$40.00]\$100.00;
ii. Embalmer [\$40.00]\$100.00;

- iii. Funeral director [\$40.00]\$100.00;
iv. License revival fee \$75.00;
plus \$25.00 for each year said license was not renewed.
v. Certificate of registration [\$85.00]\$220.00;
12. Change of manager registration fee \$25.00;
13. Funeral home name change fee \$25.00;
[12.]14. Duplicate license card fee \$10.00;
[13.]15. Replacement, embossed registration
[Duplicate] certificate fee \$10.00.

TRANSPORTATION

TRANSPORTATION OPERATIONS

The following proposals are authorized by Hazel Frank Gluck, Commissioner, Department of Transportation.

Submit comments by February 18, 1988 to:

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

(b)

Speed Limits
Route 94 in Sussex County

Proposed Amendment: N.J.A.C. 16:28-1.79

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-98.

Proposal Number: PRN 1988-32.

The agency proposal follows:

Summary

The proposed amendment will establish speed limit zones along Route 94 in Hardyston and Vernon Townships, Sussex County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon request from the local officials, and in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of speed limit zones along Route 94 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28-1.79, based upon the request from local officials and the results of the traffic investigation.

Social Impact

The proposed amendment will establish speed limit zones along Route 94 in Hardyston and Vernon Townships, Sussex County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "speed limit" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:28-1.79 Route 94

(a) The rate of speed designated for the certain parts of State highway Route 94 described in this subsection shall be established and adopted as the maximum legal rate of speed thereat:

- 1. For both directions of traffic:
i.-xii. (No change.)

xiii. In Sussex County:

- (1)-(2) (No change.)
- (3) Hardyston Township:
- (A)-(B) (No change.)

(C) 45 miles per hour between the Hamburg Borough-Hardyston Township line and 2,600 feet west of Old Coach Road (mileposts 36.10 to 36.87.); thence

(D) 40 miles per hour between 2,600 feet west of Old Coach Road and the Hardyston Township-Vernon Township line (mileposts 36.87 to 37.22); thence

(4) Hamburg Borough:

(A) 35 miles per hour between the southernmost Hardyston Township-Hamburg Borough Corporate line and the northernmost Hamburg Borough-Hardyston Township Corporate line (mileposts 35.23 to 36.10); thence

[xiv] and [xv] reletter (B) and (C) (No change in text.)

[xvi. 45 miles per hour to the intersection of Old Rudetown Road, Vernon Township; thence

xvii. 35 miles per hour to the L. & H.R. Railroad guide-crossing; thence

xviii. 45 miles per hour to a point 2,500 feet west of county Road number 515, thence

xix. 35 miles per hour to a point 600 feet east of Glenwood-Vernon Road; thence].

(5) Vernon Township:

(A) 40 miles per hour between Hardyston Township-Vernon Township line and Old Rudetown Road (mileposts 37.22 to 37.95); thence

(B) 35 miles per hour between Old Rudetown Road and 900 feet west of Rudetown Road (Route 517) (mileposts 37.95 to 38.35); thence

(C) 45 miles per hour between 900 feet west of Rudetown Road (Route 517) and Sand Hill Road (mileposts 38.35 to 40.07); thence

(D) 40 miles per hour between Sand Hill Road and 400 feet west of Giveans Road (mileposts 40.07 to 41.20); thence

(E) 35 miles per hour between 400 feet west of Giveans Road and Vernon Crossing Road (County Road 644) (mileposts 41.20 to 41.80); thence

[xx.] renumber (F). (No change in text.)

[xxi.] renumber (G). (No change in text.)

2.-3. (No change.)

(a)

Restricted Parking and Stopping

Route N.J. 35 in Monmouth County; N.J. 57 in Warren County and N.J. 71 in Monmouth County
Proposed Amendments: 16:28A-1.25, 1.36 and 1.38.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139, 39:4-199.

Proposal Number: PRN 1988-33.

The agency proposal follows:

Summary

The proposed amendments will establish "no stopping or standing" and "time limit parking" zones along Route N.J. 35 in Red Bank Borough, Monmouth County; "no stopping or standing" zones along Route N.J. 57 in Washington Borough, Warren County and "no parking loading" zones along Route N.J. 71 in the City of Asbury Park, and Monmouth County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon requests from the local officials, and in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no stopping or standing" and time limit parking "zones along Route N.J. 35 in Red Bank Borough, Monmouth County; "no stopping or standing" zones along Route N.J. 57 in Washington Borough, Warren County and "no parking loading zone" zones along Route N.J. 71 in the City of Asbury Park, Monmouth County were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.25, 1.36 and 1.38, based upon the requests from local officials and the results of the traffic investigations.

Social Impact

The proposed amendments will establish "no stopping or standing" and "time limit parking" zones along Route N.J. 35 in Red Bank Borough, Monmouth County; "no stopping or standing" zones along Route N.J. 57 in Washington Borough, Warren County and "no parking loading zone" zones along Route N.J. 71 in the City of Asbury Park, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zones signs and the local officials will bear the costs for "no parking loading zone" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed new rule does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:28A-1.25 Route 35

(a) The certain parts of State [H]highway Route 35 described in this subsection are designated and established as ["no parking"] "no stopping or standing" 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 the Borough of Red Bank[;], Monmouth County.

i. Along the southbound side from the center line of Bridge Avenue to the center line of West Front Street.

ii. Along both sides of the southbound roadway from the center line of West Front Street to the center line of Maple Avenue.

iii. Along the northbound side:

(1) From the center line of Maple Avenue to a point 240 feet north of the center line of Maple Avenue;

(2) From a point 309 feet north of the center line of Maple Avenue to a point 254 feet north therefrom;

(3) From a point 355 feet north of the center line of Allen Place to the center line of Bridge Avenue.]

i. Along the northbound (easterly) side:

(1) Maple Avenue:

(A) From the Little Silver-Red Bank Borough corporate line to Bergen Place.

(B) From White Street to West Front Street.

(2) West Front Street—Riverside Avenue:

(A) From Maple Avenue to a point 600 feet northerly therefrom.

(3) Riverside Avenue:

(A) From a point 252 feet north of Allen Place to the Middletown Township-Red Bank Borough corporate line.

ii. Along the northbound (westerly) side:

(1) West Front Street—Riverside Avenue:

(A) From Maple Avenue to Pearl Street

iii. Along the southbound (westerly) side:

(1) Riverside Avenue:

(A) From the Middletown Township-Red Bank corporate line to Pearl Street.

(2) Maple Avenue:

(A) From Bergen Place to the Little Silver-Red Bank Borough corporate line.

iv. Along both sides:

1. Pearl Street-Water Street:

(A) From Riverside Avenue to Maple Avenue.

3.-21. (No change.)

(b)-(d) (No change.)

(e) The certain parts of State highway Route 35 described in this subsection shall be designated and established as "time limit 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 time limit parking zones:

1. (See proposal at 19 N.J.R. 2127(a).)

2. In the Borough of Red Bank, Monmouth County:

i. Two hour time limit parking 8:00 A.M. to 6:00 P.M. daily.

(1) Along both sides of Maple Avenue from Bergen Place to White Street.

(2) Along the northbound (westerly) side of Maple Avenue from Water Street to West Front Street.

(3) Along the northbound (easterly) side of Riverside Avenue from a point 600 feet north of Maple Avenue to a point 252 feet north of Allen Place.

16:28A-1.36 Route 57

(a) The certain parts of State highway Route 57 described in [(a) of] this subsection are designated and established as ["no parking"] "no stopping or standing" zones. [where stopping and standing is 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 Washington Borough, Warren County:

i. Along the westbound side from a point 250 feet east of the center line of Route 31 to the center line of Jackson Street;

ii. Along the eastbound side from the center line of Vannatta Street to a point 250 feet east of the center line of Route 31;

iii. Along both sides from the Washington Borough-Washington Township corporate line (just east of Brass Castle Road) to a point 350 feet east of Terrace Street.

iv. (East Washington Avenue) southside—Beginning 200 feet east of the prolongation of the easterly curb line of Prosper Way and extending 580 feet therefrom, including all ramps and connections under the jurisdiction of the Commissioner of Transportation.]

i. Along the westbound side:

(1) From a point 250 feet east of the center line of Route N.J. 31 to the center line of Jackson Street.

(2) From Belvidere Avenue to a point 55 feet easterly therefrom.

(3) From the Washington Borough-Washington Township corporate line (just east of Brass Castle Road) to a point 350 feet east of Terrace Street.

ii. Along the eastbound side:

(1) From the Washington Borough-Washington Township corporate line (just east of Brass Castle Road) to a point 350 feet east of Terrace Street.

(2) From the center line of Vannatta Street to a point 250 east of the center line of Route N.J. 31;

(3) From a point 200 feet east of the prolongation of the easterly curb line of Prosper Way and extending to a point 850 feet easterly therefrom.

4.-5. (No change.)

(b) (No change.)

16:28A-1.38 Route 71

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

(d) The certain parts of State highway Route 71 described in this subsection are 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 Loading Zones:

1. No parking—Loading Zone in the City of Asbury Park, Monmouth County:

i. Along the easterly (northbound) side:

(1) Main Street—Beginning at a point 35 feet north of the northerly curb line of Lake Avenue and the extending 60 feet northerly therefrom.

(a)

Restricted Parking and Stopping Route U.S. 206 in Somerset County

Proposed Amendment: N.J.A.C. 16:28A-1.57

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1.

Proposal Number: PRN 1988-50.

The agency proposal follows:

Summary

The proposed amendment will establish a "no stopping or standing" zone along Route U.S. 206 in Montgomery Township, Somerset County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of a "no stopping or standing" zone along Route U.S. 206 in Montgomery Township, Somerset County was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.57, based upon the request from local officials and the results of the traffic investigation.

Social Impact

The proposed amendment will establish "no stopping or standing" zone along Route U.S. 206 in Montgomery Township, Somerset County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and the local government will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zone signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed new rule does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:28A-1.57 Route U.S. 206

(a) The certain parts of State highway Route U.S. 206 described in this subsection shall be designated and established as ["no parking"] "no stopping or standing" zones. [where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.]

1.-10. (No change.)

11. No stopping or standing in Montgomery Township, Somerset County:

i. Along both sides:

(1) [From the northerly curb line of Harlinger Road to a point 275 feet northerly therefrom.] **For the entire length of Montgomery Township including all ramps and connections.**

12.-25. (No change.)

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

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS Judicial Retirement System Interfund Transfers

Proposed Amendment: N.J.A.C. 17:10-6.1

Authorized By: Douglas R. Forrester, Secretary, Judicial Retirement System.

Authority: N.J.S.A. 43:6A-29(d).
 Proposal Number: PRN 1988-24.

Submit comments by February 18, 1988 to:
 Peter J. Gorman
 Administrative Practice Officer
 Division of Pensions
 20 West Front Street
 CN 295
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment will permit members of the Judicial Retirement System (JRS) who have credit in another State-administered retirement system for service prior to the date of enrollment in the JRS to transfer the credit to JRS at any time. At present, such transfers must be done at the time of enrollment in JRS and a transfer cannot be made by a person who has been granted a deferred retirement in the other system. This amendment will permit transfers in cases of deferred retirement and at any time after enrollment in JRS, provided that the person did not continue to earn service credit in the other system after enrollment in JRS. For persons who make the transfers at the time of enrollment in JRS, their contribution rate will be based upon their age at the time of enrollment in the other system, subject to commutation in cases of deferred retirement. The contribution rate for persons who do not make timely transfers will be based upon their age at the time of enrollment in JRS.

Social Impact

The proposed amendment will benefit the members of JRS and the other State-administered retirement systems because it liberalizes the rules concerning transfers of service credit among the systems.

Economic Impact

No economic impact on the retirement system or its beneficiaries is anticipated from the adoption of this proposal since the amendment simply concerns transfer of service credit.

Regulatory Flexibility Statement

The rules of the Judicial Retirement System affect only public employers and employees. Thus, this proposed amendment does not impose any reporting, recordkeeping, or other compliance requirements upon small businesses. A regulatory flexibility analysis is not required.

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

17:10-6.1 Interfund transfers; other State systems

(a) Interfund transfers between State-administered pension funds are permitted by reciprocal transfer arrangements. Such transfers would not apply where the member [does not make a timely transfer in accordance with N.J.S.A. 43:2-1 et seq., or who has been granted a deferred retirement by the present system] **has credit in the present system for service after the date of enrollment in the new system or where a person has ceased to be a member of the present system before establishing sufficient service credit to be eligible for deferred retirement.**

(b) (No change.)

(c) (No change.)

1.-3. (No change.)

4. The member shall enjoy the same [rate of contribution and] service credits established in the present system subject to the provisions of the new system.

5. (No change.)

(d)-(e) (No change.)

(f) [The] **A member who makes a timely transfer in accordance with N.J.S.A. 43:2-1 et seq.** will contribute to the new system at a rate based on his or her age at the time of enrollment in the present system and no refund of pension contributions will be made except for those contributions made by veterans covering service prior to January 1, 1955, where applicable. **The contribution rate for a member granted a deferred retirement in the present system who makes a timely transfer at the time of enrollment in the new system will be determined in accordance with the rules concerning enrollment after deferred retire-**

ment in the new system. A member who does not make a timely transfer will contribute to the new system at a rate based on his or her age at the time of enrollment in the new system.

(a)

DIVISION OF BUILDING AND CONSTRUCTION

Architect/Engineer Selection Procedures

Proposed Amendments: N.J.A.C. 17:19-10.4, 10.5, 10.7, 10.9

Authorized By: James G. Ton, Director, Division of Building and Construction, General Services Administration, Department of the Treasury.

Authority: N.J.S.A. 52:18A-30 and 52:18A-151 et seq.

Proposal Number: PRN 1988-19.

Submit comments by February 18, 1988 to:
 James G. Ton, Director
 Division of Building and Construction
 CN 235
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The administrative rules for the selection of architects and engineers were adopted on June 15, 1987. During the administration of these rules, changes have been made by the Architects/Engineers Selection Board which require the following revisions to the current rules:

(1) Classification of Design Firms: (N.J.A.C. 17:19-10.4) changes have been made to the prequalification levels. Firms will now be assigned a project workload rating as well as a total rating. Previously, only total workload ratings have been assigned.

(2) Public Notification: (N.J.A.C. 17:19-10.5) The change clarifies the responsibility of the State Architect in the notification of firms for projects.

(3) Project Assignment Procedures: (N.J.A.C. 17:19-10.7) Since the creation of the Facility Consultant Program, the number of miscellaneous assignments has decreased substantially. It is the determination of the Board that changing the duration of the Miscellaneous Panel would allow the firms to receive more assignments.

(4) Selection Board Composition: (N.J.A.C. 17:19-10.9) The revisions made to this rule allow the using agency voting participation on the Board to increase from one vote to two votes. This would allow the facility representative a vote as well as the representative of central office of the using agency to cast a vote.

Social Impact

The proposed amendments emphasize impartial selection of the most qualified architects and engineers by the Architect/Engineer Selection Board to provide professional services for the State of New Jersey. The system provides equal opportunity for architects and engineers in seeking and being selected for State work. Eligible architect/engineer firms are prequalified as to discipline and size of project for which they may compete.

Economic Impact

The proposed amendments provide that the most qualified firms are selected to carry out the State's building design programs at reasonable costs. The resultant process will provide an appropriate balance of competitive costs and professional qualifications resulting in the most cost-effective product for the State of New Jersey.

Regulatory Flexibility Statement

The Architect/Engineer Selection rules set forth the procedures for the awarding of State contracts to architects and engineers. The vast majority of architects and engineers affected by these rules are small businesses as defined by the Regulatory Flexibility Act, P.L. 1986, c.169.

Since the rules address the Division's procedures for architect and engineer selection, the only compliance requirements placed upon small businesses, as upon businesses in general, involve the filing and updating of Information and Experience Questionnaires (DBC Form 48A) (N.J.A.C. 17:19-10.4); the filing of Specific Project Questionnaires (DBC Form 48B) when a firm wishes to be considered for a certain project

PROPOSALS

Interested Persons see Inside Front Cover

OTHER AGENCIES

(N.J.A.C. 17:19-10.5); and the preparation and presentation of cost proposals or interview presentations of those firms approved through the screening process (N.J.A.C. 17:19-10.7).

The information provided by these requirements is the minimum necessary for the Division to make proper and realistic evaluations for the awarding of architect and engineer contracts. Reducing these requirements for small businesses would defeat the objective of the rules by denying the Division a complete informational foundation upon which to base its selection decisions.

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

17:19-10.4 Classification of design firms

(a)-(i) (No change.)

[(j) Classification levels include the following categories:

1. \$350,000: Architect/Engineers with this rating may be considered for State project workload up to \$350,000;
2. \$650,000: Architect/Engineers with this rating may be considered for State project workload up to \$650,000;
3. \$1,000,000: Architect/Engineers with this rating may be considered for State project workload up to \$1,000,000;
4. \$2,500,000: Architect/Engineers with this rating may be considered for State project workload up to \$2,500,000;
5. \$5,000,000: Architect/Engineers with this rating may be considered for State project workload up to \$5,000,000;
6. \$10,000,000: Architect/Engineers with this rating may be considered for State project workload up to \$10,000,000;
7. \$25,000,000: Architect/Engineers with this rating may be considered for State project workload up to \$25,000,000;
8. Unlimited: Total workload is above \$25,000 with no top limit.
9. Not Applicable: Special category wherein construction cost estimates are not applicable (such as soils engineering acoustics; landscaping; energy conservation, etc.).]

(j) Firms will receive a total workload rating based upon the size of the firm and the size of recent projects completed by the firm. Classification levels for the individual project rating are as follows:

1. \$350,000: A/Es with this rating may be considered for any State project with a construction value up to \$350,000.
2. \$650,000: A/Es with this rating may be considered for any State project with a construction value up to \$650,000.
3. \$1,000,000: A/Es with this rating may be considered for any State project with a construction value up to \$1,000,000.
4. \$2,500,000: A/Es with this rating may be considered for any State project with a construction value up to \$2,500,000.
5. \$5,000,000: A/Es with this rating may be considered for any State project with a construction value up to \$5,000,000.
6. \$10,000,000: A/Es with this rating may be considered for any State project with a construction value up to \$10,000,000.
7. \$25,000,000: A/Es with this rating may be considered for any State project with a construction value up to \$25,000,000.
8. Unlimited: A/Es with this rating may be considered for any State project with a construction value over \$25,000,000.
9. Not Applicable: Specialties wherein construction cost estimates are not applicable (such as construction management, acoustics, energy management, etc.)

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

17:19-10.5 Public notification

(a) [The Chairperson of the Architect/Engineer Selection Board may solicit the interest of prequalified Architect/Engineer firms for projects in the major and intermediate project classifications. The chairperson will direct the secretary to advertise these projects:]

The State Architect shall solicit the interest of prequalified architectural/engineering firms as he deems appropriate for projects in the Major and Intermediate Project Classification. The State Architect shall direct the Architect/Engineer Selection Group to advertise such projects as follows:

1.-4. (No change.)

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

17:19-10.7 Project assignment procedures

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

(c) Minor projects are those with a construction cost estimate less than \$350,000. Minor projects will be assigned through the use of miscellaneous panels as follows:

1. [Annually,] [t]The Board shall advertise on a statewide basis for those firms that may be interested in being placed on Miscellaneous Panels. The purpose of the list shall be to assign minor and exempt projects on an expeditious basis directly from a pre-established list.

2.-6. (No change.)

(d)-(e) (No change.)

17:19-10.9 Selection Board composition

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

(e) When the Board is considering project selections, composition of the Board shall be increased to include [one] **two** voting representatives of the sponsoring Department or agency.

(f) Either the agency or the institution may send more than [one] **two** representatives to the Board sessions, however, the multiple representation shall be limited to a combined vote of [one] **two**.

(g)-(i) (No change.)

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Junkets

Proposed Readoption: N.J.A.C. 19:49

Authorized By: Casino Control Commission,

Theron G. Schmidt, Executive Secretary

Authority: N.J.S.A. 5:12-63(c), 69 and 102.

Proposal Number: PRN 1988-30.

Submit comments by February 18, 1988, to:

Carole R. Jacobson, Esq.
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5, CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order 66(1978), the Casino Control Commission proposes to readopt N.J.A.C. 19:49 concerning junkets. These rules were originally adopted on an emergency basis pursuant to N.J.S.A. 5:12-69(d), N.J.S.A. 52:14B-4(c) and N.J.A.C. 1:30-4.4 upon the enactment of P.L. 1983, c. 41 and became effective on January 27, 1983. They were proposed for readoption on the same date in compliance with the normal public notice and comment rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and became effective on March 29, 1983. The rules will expire on March 29, 1988 pursuant to the Executive Order. The rules implement the provisions of the Casino Control Act (N.J.S.A. 5:12-1 et seq.) which govern the conduct of junkets to New Jersey casinos (N.J.S.A. 5:12-102).

These rules are devoted to the licensure and operation of junkets. The staffs of both the Commission and the Division of Gaming Enforcement have continually reviewed, monitored and assessed the merits and viability of the system in operation since the rules were adopted in 1983. This review has included comments received from the industry or other interested persons, filed pursuant to section 69(c) of the Act and the applicable provisions of the Administrative Procedure Act. Indeed, such comments have been the catalyst and inspiration for change. For example, at the behest of Resorts International, Inc., the Commission recently amended N.J.A.C. 19:49-3.1 to decrease the number of junket prearrival reports required to be prepared and filed by casino licensees. Because these rules are continually reviewed, they are presently proposed for readoption without any substantive or technical amendments.

Subchapter 1 provides a definition of junket and refines the scope of activities to be included within the definition. It also includes a definition of open-ended or conditional complimentary offers.

Subchapter 2 of N.J.A.C. 19:49 addresses the licensure requirements created for individuals or enterprises engaged in activities related to junkets. It specifies the licensure requirements, qualifications for

licensure, and limitations on activities for junket representatives, junket enterprises and sole owner/operator junket enterprises.

Finally, subchapter 3 of N.J.A.C. 19:49 sets forth the various junket reporting requirements. A detailed description of the activities which must be reported and the information which must be contained in these reports is included in each section.

N.J.A.C. 19:49 was designed to enable the Commission to monitor the sensitive area of casino junket operations, which accounts for a significant portion of casino business. These rules have proven to be an effective tool in maintaining the integrity of casino junket operations. The effectiveness of these rules may be attributed to the fact that they provide clear standards for identifying persons required to be licensed as junket operators in New Jersey. The State's interest in assuring disclosure of all junket arrangements by casino licensees is protected by the reporting requirements contained in subchapter 3.

These rules assure that the Casino Control Commission and the Division of Gaming Enforcement have all the information which is necessary for rigorous regulation of junket operations. The public interest can only be protected by a system of control and regulation which assures the integrity of junket activity. The discontinuance of these rules would undoubtedly enhance the danger that junket operations in New Jersey would become subject to the same abuses which have characterized junkets in other gaming jurisdictions.

Social Impact

The continuation of N.J.A.C. 19:49 will have a positive effect on the industry and the public. One of the basic underlying goals of the Casino Control Act is to stimulate the redevelopment and revitalization of Atlantic City and its resort, tourist and convention industries (see N.J.S.A. 5:12-1(b)). Junket activity promotes that goal by enabling the casino industry in Atlantic City to compete effectively with other jurisdictions for gaming patrons. The readoption of these rules facilitates the effective

use of junkets as a marketing tool by casino licensees while preserving the integrity and law enforcement interests essential to the State's supervision of this area of casino operations. The failure to readopt these rules would enhance the danger that unscrupulous operators may swindle unsuspecting patrons, and thus, malign and reputation of the New Jersey casino industry.

Economic Impact

The economic impact of these rules is substantial. As indicated above, these regulations allow the casino industry in New Jersey to effectively use junkets as a marketing tool to attract patrons worldwide to Atlantic City. Without the readoption of these rules, junket operations may have to be restricted or suspended. Thus, the amount of gross revenue received by the casino industry in New Jersey would be substantially diminished, as would the taxes received by the State based on these revenues.

Regulatory Flexibility Statement

Generally, the reporting requirements of these rules do not impact on any small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., since they affect only the operations of casino licensees. However, the reporting requirements of N.J.A.C. 19:49-3.5 could apply to junket enterprises that purchase lists of the names of junket patrons. Such reports must be filed no later than seven days after receipt of the list by the purchaser and shall include the name and address of the person or enterprise selling the list, the purchase price and the date of purchase. The Commission has determined that this reporting requirement is tolerable and consistent with the need to maintain the integrity of junket operations.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:49.

RULE ADOPTIONS

BANKING

(a)

DIVISION OF BANKING

Action Upon Detection or Discovery of Crime

Adopted Amendments: N.J.A.C. 3:6-4

Proposed: September 8, 1987 at 19 N.J.R. 1595(a).

Adopted: December 9, 1987 by Mary Little Parell,

Commissioner, Department of Banking.

Filed: December 14, 1987 as R.1988 d.28, **without change.**

Authority: N.J.S.A. 17:1-8.1.

Effective Date: January 19, 1988.

Expiration Date: March 3, 1991.

Summary of Public Comments and Agency Responses:

The Department of Banking (Department) received only one written comment which was from the Assistant Counsel of a major holding company on behalf of the State-chartered subsidiary banks of the holding company.

COMMENT: The commenter suggests the Department further modify the amendments to this rule at N.J.A.C. 3:6-4.5, wherein the Department has proposed to increase the reporting threshold from \$500.00 to \$2,500 relative to reporting of non-employee crimes. He recommends the Department adopt the same format as the Federal regulators have relative to national banks, wherein they merely require maintaining a record of such a crime at the main office of the bank. No direct report is required to be made to the Federal regulator at the time of the crime. Field examiners merely review the bank files on such crimes at the time of a periodic examination. The proposed rule, while reducing required reports by increasing the dollar level of crimes to be reported, continues to require the filing of the crime reports with the Department of Banking.

RESPONSE: As a secondary step in the Department of Banking review and processing of reported crimes, it is required that the State Division of Criminal Justice be notified of the crimes reported to the Department. The suggestion to delay the reporting of any crimes to the date of an examination has been explored by the Department of Banking with the Division of Criminal Justice. This approach has been rejected by that agency as being inadequate to satisfy their desire to have timely reports made to them relative to these crimes. Therefore, at this time, the Department of Banking is unable to honor the request and suggested modification of this amended rule.

In pursuing this matter, the Department of Banking has determined that the Comptroller of the Currency and other Federal regulators are in the process of considering further revisions in their crime reporting requirements. The Department will continue to monitor any further changes in Federal reporting rules in an effort to determine any differences between State and Federal requirements. When the Federal changes are finalized, it is the Department's intent to again review this matter with the Division of Criminal Justice. The Department will determine if any further modifications may be made in the rule in line with that Division's needs and the Department's desire to monitor the safety and soundness of institutions supervised.

Full text of the adoption follows.

SUBCHAPTER 4. ACTION UPON DETECTION OR DISCOVERY OF CRIME

3:6-4.1 Scope and purpose

The purpose of this subchapter is to reduce losses to banks, capital stock savings banks and mutual savings banks resulting from apparent criminal acts involving or affecting the funds of such institutions through the requirement of prompt reporting of such crimes or attempted crimes. The subchapter also sets the minimum dollar amount for triggering the filing of a notice in instances involving agents, employees and other perpetrators and extends the notice requirements to include any apparent crime against the institution involving a director or attorney of the institution. The fact that a notice is or is not required by this subchapter should not in any case

deter the institution from first informing the appropriate authorities by telephone, or other expeditious means, of an apparent crime against the bank, when such action is deemed fitting.

3:6-4.2 Notice of crime by an officer, director, attorney, agent or employee

Every bank, capital stock savings bank or mutual savings bank of this State shall promptly notify the Commissioner of Banking upon the detection or discovery of any fraud, embezzlement, defalcation, misapplication or misuse of the institution's funds on the part of any officer, director, attorney, agent or employee of the institution.

3:6-4.3 Exemption from notification requirements

Any fraud, embezzlement, defalcation, misapplication or misuse of the institution's funds committed by an agent or employee of the bank, capital stock savings bank or mutual savings bank which involves amounts of \$1,500 or less are exempt from the requirements of this subchapter.

3:6-4.4 Board action on crime

In the event of such fraud, embezzlement, defalcation, misapplication or misuse of the institution's funds, the board of directors of the bank or capital stock savings bank or the board of managers of the mutual savings bank, shall, promptly file notice of claim with its insurer.

3:6-4.5 Notice of crime by other perpetrators

In the event of a crime against the bank, capital stock savings bank or mutual savings bank by one other than an officer, director, attorney, or agent or employee of the institution, including crimes in which no immediate loss or any loss is incurred by the bank, capital stock savings bank or mutual savings bank, the board of directors or managers shall promptly report the apparent criminal violation to the Commissioner of Banking if the suspected criminal activity involves an actual or probable loss in excess of \$2,500. Appropriate local criminal authorities must be notified in all cases, irrespective of amount.

(b)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Secondary Mortgage Loan Act; License Fees

Adopted New Rules: N.J.A.C. 3:18-10

Adopted Amendment: N.J.A.C. 3:23-2.1

Proposed: November 2, 1987 at 19 N.J.R. 1929(a).

Adopted: December 18, 1987 by Mary Little Parell,

Commissioner, Department of Banking.

Filed: December 18, 1987 as R.1988 d.36, **without change.**

Authority: N.J.S.A. 17:1-8 and 17:11A-54.

Effective Date: January 19, 1988.

Expiration Date: N.J.A.C. 3:18, January 19, 1993; N.J.A.C. 3:23, July 6, 1992.

Summary of Public Comments and Agency Responses:

The Department received one comment which suggested that Federal mortgage law be eliminated as a possible subject for the examination for licensure because the interpretation of those laws should be left to the appropriate Federal agency. The position of the Department is that licensees cannot function in an appropriate manner without knowledge of the relevant Federal law in addition to knowledge of State law. Therefore, Federal mortgage law (as specified in N.J.A.C. 3:18-10.4(c)) is a proper subject for the licensure examination.

Full text of the adoption follows.

SUBCHAPTER 10. LICENSING

3:18-10.1 Initial license requirements

(a) The "license period" for a secondary mortgage loan license

shall run from January 1 in all even numbered years to the second December 31 thereafter or any part of that two-year period.

(b) Regardless of the date of issuance, all licenses shall expire on December 31 in the odd numbered year following the date of issuance, the first expiration date for all licenses being December 31, 1989.

(c) The individual secondary mortgage loan licensee upon whom a corporation, partnership, association or other entity is dependent for its licensure pursuant to the requirements of P.L. 1987, c.230, §2 (N.J.S.A. 17:11A-36(b)) must maintain his or her license at the principal New Jersey office of the licensee.

(d) Additional individual secondary mortgage loan licensees may be licensed at the principal office or at any licensed branch office of the employing secondary mortgage loan licensee. The application of the individual secondary mortgage loan licensee shall indicate the office address of the employing licensee at which he or she is to be located.

(e) License and application fees are as follows:

1. The license fee is \$800.00 for each new corporate, partnership or sole proprietorship secondary mortgage loan licensee applicant for the initial license period or any part thereof; provided, however, that if an initial license is issued in the second year of any biennial licensing period, the license fee is \$400.00. There shall also be a \$200.00 non-refundable processing fee due for each applicant at the time of application.

2. The license fee is \$800.00 for each new individual secondary mortgage loan licensee applicant for the initial license period or any part thereof; provided, however, that if an initial license is issued in the second year of any biennial licensing period, the license fee is \$400.00.

3. Each applicant for an initial individual secondary mortgage loan license shall submit a \$200.00 non-refundable application fee at the time of application.

4. The license fee is \$600.00 for each new branch secondary mortgage loan license applicant for the initial license period or any part thereof; provided, however, that if an initial license is issued in the second year of any biennial licensing period, the license fee is \$300.00. There shall also be a \$100.00 non-refundable processing fee due for each new applicant at the time of application.

5. The license fee for renewal applications shall be the same as for new applications except that it shall not include the non-refundable processing fee.

3:18-10.2 Application requirements

(a) Each applicant for a secondary mortgage loan license must submit to the Department of Banking a completed application in a form prescribed by the Commissioner together with the required fee.

(b) In addition to the application form, the applicant shall file certified consent certificates with the Department permitting the Department to make inquiries to the Department of Law and Public Safety, Division of Criminal Justice, as to any information it may have on file with respect to the applicant, that is, the person, sole proprietor, partners, corporate officers, directors and shareholders owning more than 10 percent of the shares of the corporation.

(c) Each individual and each sole proprietorship applicant must qualify by passing an examination administered under the direction of the Department of Banking unless the examination requirement is waived pursuant to N.J.S.A. 17:11A-56 and N.J.A.C. 3:18-10.4.

(d) All applications must be accompanied by a letter of inquiry from the applicant to a surety company authorized to do business in the State of New Jersey regarding the issuance of a bond in the amounts required by N.J.A.C. 3:18-10.5(c) upon completion of all requirements for the issuance of a license.

(e) All applications for a corporate, partnership or sole proprietorship license shall include a financial statement for the applicant and such additional information as shall be required by the Commissioner for a newly-organized corporation.

(f) An application for a corporate license must be accompanied by a copy of the applicant's Certificate of Incorporation as filed with the New Jersey Secretary of State's Office. A foreign corporation must submit a copy of its Certificate of Authority to do business in New Jersey approved by the New Jersey Secretary of State.

(g) An application for a sole proprietorship or partnership license where a trade name is to be used must be accompanied by a trade name certificate filed with the County Clerk's office in the county in which the licensee is to be located.

3:18-10.3 Examinations

(a) Upon acceptance of an application for an individual or sole proprietorship, the Department will notify the applicant of the date of the next scheduled examination, which shall not be more than 90 days from the date of acceptance of the application.

(b) An applicant is eligible to take the examination no more than twice in any 12 month period. The failure of an applicant to take or pass the examination within one year of the acceptance of the application shall void the application. Any applicant who passes the exam but does not perfect his license by the posting of a bond within one year from the date of passage of the exam must be re-examined.

(c) The examination shall be prepared by the Department of Banking and may cover, but is not limited to, the following topics:

1. The contents of Federal and State legislation and regulations on second mortgage lending;
2. New Jersey real estate laws;
3. Basic knowledge of mortgage documents; and
4. Related State and Federal legislation and regulations such as the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act and Regulation Z.

3:18-10.4 Waiver of examination

(a) An individual or sole proprietorship applicant shall notify the Department of Banking whether he requests a waiver of the examination requirement. The request for a waiver shall be made at the time of application and in a manner prescribed by the Commissioner.

(b) If an applicant seeks a waiver based upon a claim that he has been principally engaged in the business of secondary mortgage lending in this State for at least two years prior to the filing of the application, he shall provide with his application a list of all employers and places of employment during that period, including addresses, names of immediate supervisors and a description of the duties of the employment.

(c) If an applicant seeks a waiver based upon a claim that he has been principally engaged in the business of secondary mortgage lending in this State for less than two years and is otherwise qualified, he shall provide with his application a list of all employers and places of employment for the preceding 10 years, including addresses, names of immediate supervisors and a detailed description of the duties involved, as well as a detailed outline of the qualifications on which the request is based.

(d) All requests for waivers from the examination requirement shall be acted upon by the Commissioner within 60 days of receipt of the application by the Department of Banking or of such additional information as may be requested by the Department.

3:18-10.5 Bonds

(a) No license will be issued unless and until the applicant has posted with the Department of Banking a bond in the amount required by this subchapter in a form prescribed by the Commissioner by a surety company authorized to do business in the State of New Jersey.

(b) The minimum amount of the bond posted shall be:

1. For a sole proprietorship: \$25,000;
2. For a corporate or non-corporate entity plus one individual licensee: \$35,000;
3. For a corporate or non-corporate entity plus two to five individual licensees: \$60,000;
4. For a corporate or non-corporate entity plus six to 10 individual licensees: \$75,000;
5. For a corporate or non-corporate entity plus 11 to 15 individual licensees: \$100,000;
6. For a corporate or non-corporate entity plus 16 or more individual licensees: \$125,000.

3:18-10.6 License renewal

(a) A licensee may apply for renewal of his license by filing with the Department of Banking a completed application for that purpose

ADOPTIONS

COMMUNITY AFFAIRS

in a form to be prescribed by the Commissioner along with the required fees.

1. The Department shall notify all licensees at least 60 days prior to the expiration date of the license.

2. The completed renewal form must be received by the Department of Banking no fewer than 30 days prior to the expiration of the license.

(b) If a renewal application is filed in a timely fashion and the Commissioner does not approve or disapprove it on or before the expiration date of the license, the applicant or licensee may continue to transact business without interruption until such time as the applicant or licensee is notified that the renewal application has been disapproved.

3:18-10.7 Replacement of license

If a natural person upon whom a corporation, partnership, association, or other entity relies for its license pursuant to N.J.S.A. 17:11A-36(b) discontinues his affiliation or employment with such entity for any reason whatsoever, the entity may continue to operate under its license for a period of 90 days or for such other extended period as the Commissioner determines necessary for the entity to replace that natural person with another licensed natural person; provided, that the entity so notifies the Department of Banking within 10 days of the date upon which that natural person disassociates or leaves the employ of the entity.

3:18-10.8 Office requirements

(a) Each licensee which maintains more than one office must designate one office as the principal office. The designation of the principal office must be filed with the Commissioner of Banking. Any change in the designation must be filed within 10 days of the effective date of the change. The Commissioner shall endorse the change of address on the license.

(b) A licensee shall apply to the Commissioner for permission to establish a branch office or offices on a form prescribed by the Commissioner together with the required fees.

(c) Each licensee must submit any change of address for the principal office or any branch office or any change in the licensed supervisory individual within 10 days of the change. The Commissioner shall issue confirmation of the change in address.

(d) Unless the Commissioner determines within 30 days of receipt of a completed branch application that the office is located within an establishment which is exclusively devoted to social or recreational activities or is inconsistent with the ability of the public to gain access to the licensee, a license shall be issued.

(e) Each licensee shall display the license so that it is easily observable by the general public. The address and name on the license must be the same as the address of the place of business and name of licensee where the license is on display.

3:18-10.9 Appeal procedure

(a) Before any license is denied, suspended or revoked, or before any penalties are assessed against a licensee, the Commissioner shall afford the aggrieved party a hearing, if requested in writing and received by the Department within 20 days of receipt by the aggrieved party of an order to show cause asking why the denial, suspension, revocation or penalty should not be taken or assessed. The order to show cause shall clearly set forth the ground or grounds upon which the contemplated action is based.

(b) For a period not to exceed 30 days following receipt of the request for a hearing, the Department may attempt to settle the dispute by conducting such proceedings, meetings and conferences as it deems appropriate.

(c) If the efforts at settlement set forth in (b) above fail, the Department shall proceed according to the applicable provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq., as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

3:23-2.1 Licensees

The following table indicates the license fees established by the Commissioner of Banking for annual and biennial license periods, the maximum biennial license fees permitted by law and the specific

statutory sections affected by the establishment of such biennial and annual license fees.

LICENSEES	STATUTORY		
	MAXIMUM BIENNIAL FEE	BIENNIAL FEE	ANNUAL FEE
...	_____		

COMMUNITY AFFAIRS
(a)

DIVISION OF HOUSING AND DEVELOPMENT

**Relocation Assistance
Scheduling of Payments**

Adopted Amendment: N.J.A.C. 5:11-3.5

Proposed: November 2, 1987 at 19 N.J.R. 1930(a).

Adopted: December 16, 1987 by Leonard S. Coleman, Jr., Commissioner, Department of Community Affairs.

Filed: December 22, 1987 as R.1988, d.41, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:31B-10 and 20:4-10.

Effective Date: January 19, 1988.

Expiration Date: March 1, 1989.

Summary of Public Comments and Agency Responses:

COMMENT: Comments were received from two attorneys representing legal services agencies protesting that the use of the H.U.D. "fair market rental" as a standard for determining the statutory "amount necessary . . . to rent . . . a decent, safe and sanitary dwelling . . ." (N.J.S.A. 20:4-6) was unfair and illegal because the amount set by H.U.D. is, in fact, inadequate for the rental of such units as are on the rental market in New Jersey.

RESPONSE: The Department agrees that there is merit in this contention and is revising the proposed amendment upon adoption to make it clear that higher payments may be made with the approval of the Department where it can be shown that the "fair market rental" is insufficient for the rental of a unit meeting the statutory standards. The H.U.D. schedule already contains a provision allowing the amounts in the table to be exceeded by 20 percent where necessary, and the rule is amended to make this explicit.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*).

5:11-3.5 Rental assistance payments

(a) (No change.)

(b) The actual amount of the rental assistance payment shall be the difference between the average monthly rent, including essential utilities, for the rental dwelling unit and the lesser of the "fair market rental" for the replacement unit, as determined in accordance with the current schedule issued by the United States Department of Housing and Urban Development, ***provided, however, that for purposes of this computation, the "fair market rental" shall be increased by up to 20 percent if the Department agrees that a suitable replacement unit cannot be rented for a lesser amount,*** or the actual monthly rental payment paid for a replacement unit, times 48, not exceeding \$4,000 or such higher amount as may be established by statute.

1. Once calculated, the amount of this benefit shall remain constant and shall neither increase nor decrease.

2. If the rental assistance payment is in the amount of \$1,000 or less, the displacing agency shall make the entire payment at one time.

(c) If the rental assistance payment exceeds \$1,000 the displacing agency shall make the payment in three equal annual installments, upon verification that the tenant remains in comparable standard

housing and that rent payments are current, unless the relocation agency finds there to be reasonable cause for any non-payment of rent.

1. Should the tenant move outside the State and farther than 50 miles away from the unit from which he was displaced or fail to occupy comparable standard housing during the three-year period, the displacing agency may discontinue further rental assistance payments. The 50 mile radius provided herein may be enlarged by the displacing agency, in its discretion.

2. (No change.)

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

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF COASTAL RESOURCES

Shore Protection Program

Readopted New Rules: N.J.A.C. 7:7F

Proposed: November 16, 1987 at 19 N.J.R. 2091(a)

Adopted: December 23, 1987 by Richard T. Dewling,

Commissioner, Department of Environmental Protection

Filed: December 23, 1987 as R.1988 d.43, **without change.**

Authority: N.J.S.A. 13:1B-3, 13:1D-1 et seq.; P.L. 1977, c.208.

Effective Date: January 19, 1988.

Expiration Date: January 19, 1993.

DEP Docket Number: 054-87-10.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adopted rules may be found in the New Jersey Administrative Code at N.J.A.C. 7:7F.

(b)

DIVISION OF ENVIRONMENTAL QUALITY

Control and Prohibition of Air Pollution by Volatile Organic Substances; Stage II Vapor Recovery

Adopted Amendments: N.J.A.C. 7:27-16.1 and 16.3

Proposed: November 2, 1987 at 19 N.J.R. 1938(b).

Adopted: December 23, 1987 by Richard T. Dewling,

Commissioner, Department of Environmental Protection.

Filed: December 23, 1987 as R.1988 d.44, **without change.**

Authority: N.J.S.A. 13:1B-3 and 26:2C-8.

Effective Date: January 19, 1988.

Operative Date: February 21, 1988.

Expiration Date: Exempt under 42 U.S.C. §§7401 et seq.

DEP Docket Number: 052-87-10.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Environmental Protection (the Department) is adopting amendments to N.J.A.C. 7:27-16, "Control and Prohibition of Air Pollution by Volatile Organic Substances" to further regulate emissions of volatile organic substances (VOS) to the atmosphere. These amendments require gasoline dispensing facilities that dispense more than 10,000 gallons per month to install Stage II Vapor Recovery (STVR) equipment. These amendments were proposed on November 2, 1987 at 19 N.J.R. 1938(b). The amendments to N.J.A.C. 7:27-16 are to fulfill commitments made by the Department in the revisions to the 1980 State Implementation Plan (SIP) for Attainment and Maintenance of the National Ambient Air Quality Standard (NAAQS) for Ozone and Carbon Monoxide.

A public hearing was held on December 3, 1987 to provide interested parties the opportunity to present testimony on the proposed amendments. The comment period closed on December 3, 1987. The Department received written testimony from 10 persons and 10 persons presented comments at the public hearing.

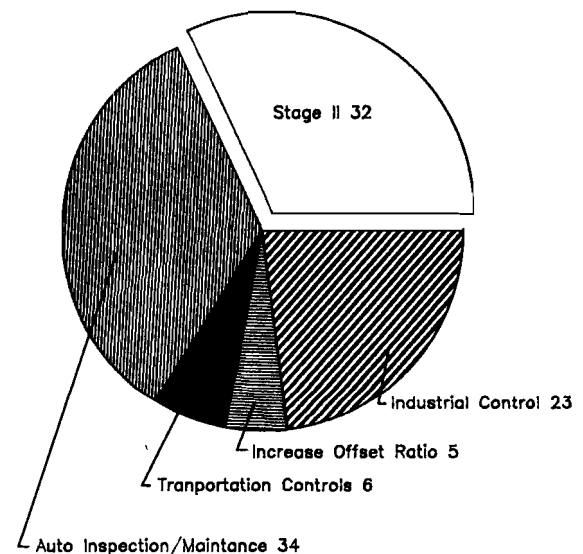
NOTE: There are two appendices to the Summary of Public Comments and Agency Responses. Copies of the Appendices may be obtained from Herbert Wortreich, Deputy Director, Division of Environmental Quality, CN027, Trenton, New Jersey, 08625.

7:27-16.3 Transfer Operations

COMMENT: Several comments invoked the letter and spirit of the Clean Air Act, (CAA) 42 USCA §7401 et seq., and the Department's responsibilities under the CAA. One interpretation of the CAA is that STVR is a reasonably available control technology and, therefore, EPA must mandate its implementation in all non-attainment areas. Several commenters stated that without the STVR program it will be virtually impossible to attain the NAAQS for ozone. Similarly, the letter and spirit of the SIP were also invoked. The SIP is a Federally adopted regulation which embodies the Department's commitment and legal obligation to attain the ozone NAAQS.

RESPONSE: The Department agrees that STVR is a reasonably available control technology and that it represents a significant portion of the remaining VOS reductions predicted by the Empirical Kinetic Modelling Approach as necessary to attain the NAAQS for ozone. The relationship of STVR to other reasonably available measures for potential emission reductions is depicted in Figure 1.

Figure 1: Potential Emission Reductions from Reasonably Available Measures as Outlined in Revisions to the 1980 State Implementation Plan (sum = 100 metric tons per day)



The Department included a commitment to control vehicle refueling emissions in the 1982 revisions to the SIP. The SIP is required by the CAA. Amendments to the SIP were approved by the United States Environmental Protection Agency (EPA) on November 9, 1983. The CAA required that all states attain the ozone standard by December 31, 1982, with a provision for an extension to December 31, 1987 subject to certain conditions. New Jersey received the extension, with one of the approved conditions in the revised SIP being a commitment to control vehicle refueling emissions.

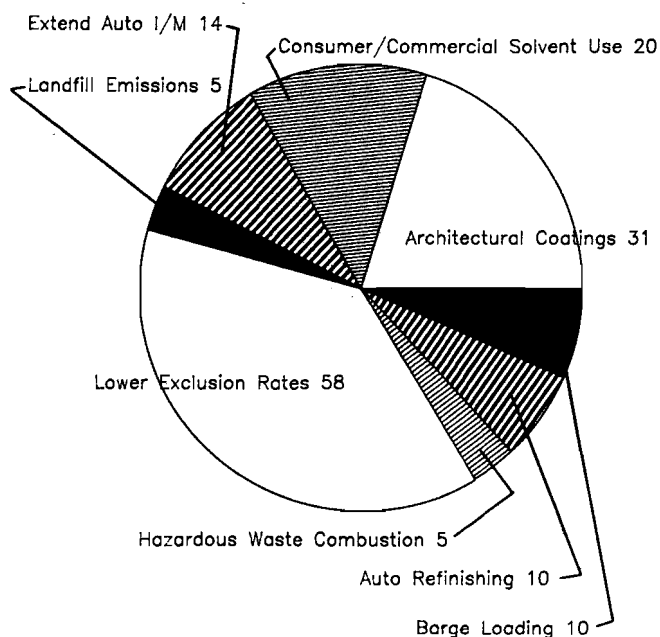
On January 27, 1987, legal action was instituted in United States District Court, District of New Jersey before the Honorable Harold A. Ackerman seeking implementation by the Department of commitments made in the 1983 SIP revision for attainment and maintenance of the national ambient air quality standard for ozone (*American Lung Ass'n v. Kean*, Civ. No. 87-288). On September 24, 1987, Judge Ackerman ruled that the implementation of STVR and six other ozone control strategies were legally binding commitments of the State and ordered the Department to propose a schedule for prompt implementation of STVR. The Department submitted schedules for the seven strategies and on November 19, 1987 the Court issued an Order incorporating those schedules.

COMMENT: Several commenters questioned the prudence of implementing STVR in New Jersey in light of EPA's recent proposals to

require on-board canisters and to regulate the Reid Vapor Pressure (RVP) of gasoline. Several other commenters stated that STVR should be adopted immediately by the Department to fulfill its commitment to the citizens of New Jersey. Two commenters recommended revising the SIP to remove STVR, since motor vehicle refueling is only 1.1 to 1.6 percent of the hydrocarbon inventory, and the regulation of RVP will reduce hydrocarbon emissions by seven to eight percent.

RESPONSE: The goal of the STVR program, as outlined in the SIP, is to address the health and environmental effects of ozone. The magnitude of the emission reductions to be achieved by STVR and the significance of this in our progress towards attaining the ozone NAAQS are illustrated in Figure 1. Future reductions, termed "extraordinary measures", will be increasingly difficult to achieve. The potential emission reductions from these measures are illustrated in Figure 2. Modelling efforts to quantify the reduction in ozone that can be attributed to STVR indicate an expected reduction of approximately 0.01 parts per million in the ambient ozone concentration. This represents almost a seven percent improvement in the average ambient ozone concentrations in New Jersey.

Figure 2: Potential Emission Reductions from Extraordinary Measures as Outlined in Revisions to the 1980 State Implementation Plan
(sum = 153 metric tons per day)



The EPA proposal to limit the volatility of gasoline and require on-board canisters to control refueling emissions appeared in the August 17, 1987 Federal Register. Onboard controls could become an effective and practical means of preventing the emission of organic vapors from automobile refueling. New Jersey has long been on record as supporting the use of onboard controls to prevent emission of gasoline vapor during refueling of automobiles as a long term and national emission control strategy.

New Jersey, along with many other states, has a difficult task in reducing seriously high levels of ozone. The combination of STVR and onboard controls is a reasonable ozone attainment strategy given the high ambient ozone concentrations in New Jersey and the many years before onboard controls can be effective. The combination is not duplicative because implementation will be sequential, rather than concurrent. STVR will prevent emission of almost 13,000 tons of gasoline vapor, including over 200 tons of benzene, each year. The number of violations of the NAAQS for ozone will decrease, and the Department will fulfill one of its major SIP commitments; reduction of unhealthy concentrations of ozone across the State.

In regard to lowering the RVP of gasoline, reducing the RVP to nine cannot replace the need for STVR. The 1980 baseline hydrocarbon inventory used for predicting the emission reductions of VOS necessary to attain the ozone NAAQS reflected an RVP of nine for gasoline. Since then, the RVP of gasoline has risen to approximately 11.5. A return to

an RVP of nine simply eliminates emission increases that have occurred since the SIP was developed and does not reduce the net emission decreases which New Jersey is required to achieve under the SIP. The reduction in emissions that implementing STVR will produce is a net decrease in the hydrocarbon inventory and is necessary for moving the State toward attainment.

COMMENT: Several commenters questioned the value of locally controlling VOS in the face of regional transport of ozone and precursor hydrocarbon. Commenters opined an STVR program is not reasonable or appropriate because of such transport. Additionally, it was suggested that the Department's modeling approach, monitoring data and cost benefit analysis should take into account the contribution of ozone transport.

RESPONSE: The Department is also concerned about the effects of pollutants transported to New Jersey. Air pollution generated upwind frequently travels to New Jersey just as air pollution generated in New Jersey frequently travels to New York and Connecticut. Consequently, plans and strategies to reduce ozone must take into account the fact that ozone traverses state boundaries. In fact, this is one of the reasons that New Jersey is encouraging the EPA to require a national program to reduce automobile refueling emissions.

The contribution of pollutants from upwind states to violations of the NAAQS for ozone in New Jersey is not recognized by the CAA. Therefore, the Department must proceed with plans to control VOS emissions from within New Jersey while urging the EPA to adopt regional and national control strategies.

COMMENT: STVR does not work at the assumed efficiency of 86 percent but actually has a much lower overall efficiency. Since vaporized gasoline contains hydrocarbons that are less reactive than the hydrocarbons in liquid gasoline the STVR program may have less of an effect on ozone concentrations than previously thought.

RESPONSE: The Department's claim to an overall 86 percent efficiency for the STVR program is based on annual inspections as stated in EPA's Gasoline Marketing Strategies and is well documented. Only unsupported evidence was provided to contradict that information. Each system is certified as being 95 percent efficient or greater by the California Air Resources Board (CARB). The overall or in-use efficiency depends on operation and maintenance practices and on the State's enforcement program.

The suggestion that gasoline vapors are composed of less reactive hydrocarbons is not relevant. Less reactive does not mean unreactive. The Department has historically regulated even slowly reactive compounds because they are transported long distances and still participate in ozone formation.

COMMENT: There has been no field operational experience for STVR under frost conditions, therefore, additional component development and testing to ensure effective operation in New Jersey is necessary.

RESPONSE: Equipment manufacturers were contacted regarding the performance of their equipment under cold weather conditions. The different equipment is tested over a range of temperatures to as low as -40° Fahrenheit. In addition, STVR is in place in mountainous areas of California with no demonstrated failure in equipment functioning because of cold weather. Information on the testing and performance of STVR equipment at low temperatures supplied by equipment manufacturers is contained in Appendix I.

The Department does not anticipate that additional testing by the State is necessary to judge the field operation of STVR equipment. Good maintenance and proper handling of the equipment are essential to its effectiveness. One purpose of the enforcement program will be to ensure proper operation and maintenance of STVR equipment.

COMMENT: One commenter stated that the Department must ensure only properly certified systems are installed and questioned how STVR systems are to be certified.

RESPONSE: The Department accepts the California certification program and will approve for use only those systems presently or subsequently certified by CARB.

Before a vapor recovery system can be approved for us in California, the system must be certified as being at least 95 percent effective and safe according to procedures and standards developed by CARB, the Office of the State Fire Marshall, and the Division of Measurement Standards in the Department of Food and Agriculture, in cooperation with private industry and other government agencies in California.

The permitting process will be used to ensure that only certified systems are installed in New Jersey. Gasoline dispensing facilities will be asked to select from a list of certified systems when applying for a permit under

N.J.A.C. 7:27-8. An inspection of the facility will be made to confirm that the selected equipment is actually installed.

COMMENT: How will the Department make sure that STVR equipment is properly maintained after installation?

RESPONSE: The Department has evaluated the resources necessary to conduct annual inspections. The inspection will consist of a visual check of the condition of the equipment and a leak check using a portable organic vapor analyzer. It is expected that about 12 persons would be required to complete annual inspections and process violations. Where possible, the resources of county and municipal organizations will be called on to perform these inspections.

COMMENT: N.J.A.C. 7:27-16.3(g) has a proposed exclusion rate of 10,000 gallons per month. Gasoline dispensing facilities with an average monthly throughput of 10,000 gallons or less will not be required to comply with the proposed rule amendments. One commenter asked for the elimination of this exemption.

RESPONSE: The exclusion rate was chosen on the basis of the relative contribution by the affected sources to the total emissions and the relative effort necessary to achieve a reduction in those emissions. As a result of this comment, the staff reexamined the gasoline dispensing facility population by analyzing Department files on permits for Stage I Vapor Recovery equipment. The information obtained from the Air Pollution Enforcement Data System is summarized in Table 1 below.

TABLE 1

GASOLINE DISPENSING FACILITY POPULATION		
SIZE (gal/mo)	1984	1987
0-10,000	2,300	2,000
10,000-40,000	2,500	2,200
40,000-100,000	1,500	1,400
greater than 100,000	500	600
TOTAL	6,800	6,200

Estimates of the gasoline dispensing facility population for 1984 were used in the development of the 1985 proposed program. Since that time, approximately 600 inactive facilities have been removed from the file leaving 6,200 active permits for gasoline dispensing facilities. Of these, approximately 5,100 are retail and 1,100 are classified non-retail. These figures indicate that 4,200 facilities will be affected by the STVR program and 2,000 facilities will be exempt. Approximately 1,000 retail facilities are exempt, including almost 50 marinas, and 1,000 non-retail facilities are exempt under the 10,000 gallon per month exclusion rate. The result is that the exclusion rate in N.J.A.C. 7:27-16.3(g) exempts almost 30 percent of the total station population; however, that 30 percent accounts for only two percent of the total emissions of gasoline vapor.

The Department is adopting N.J.A.C. 7:27-16.3(g) as proposed. The STVR program as proposed will provide the 32 metric ton per day emission reduction committed to in the SIP. The emission reductions are a critical and necessary part of the overall strategy to attain the ozone standard.

COMMENT: Stage II Vapor Recovery equipment for use during blending of fuel grades at the pump is not available in sufficient quantity to enable marketers to meet the proposed deadline for compliance. Because of this, the Department should provide for deadline extensions for those who demonstrate an earnest, good faith effort to comply.

RESPONSE: Equipment manufacturers are producing equipment for the gasoline marketer that blends fuel grades at the pump. There is one CARB approved system for multi-grade dispensers. The supply of equipment is sufficient, and no deadline extensions should be necessary.

COMMENT: Several commenters objected to crediting the STVR program for reducing employee and customer exposure to gasoline vapors, benzene, ethylene dibromide and ethylene dichloride. The commenters do not believe these compounds pose a health hazard to employees or customers. Another commenter stated that if STVR is being proposed as a health measure, there should be no exclusion rate.

RESPONSE: The STVR program was proposed as a measure to control ozone. There is debate as to whether exposure to benzene during vehicle refueling poses a health hazard. However, benzene is a known human carcinogen, specifically linked to leukemia. The STVR program will prevent emission to the atmosphere of over 200 tons of benzene per year and can be credited for reducing public exposure to benzene.

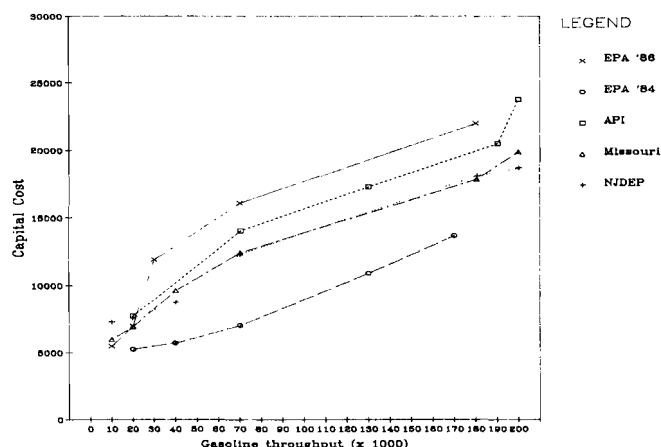
According to the EPA's Evaluation of Air Pollution Regulatory Strategies for the Gasoline Marketing Industry (EPA-450/3-84-012a), ethylene dibromide (EDB), ethylene dichloride (EDC) and gasoline vapors each have been shown to cause cancers in laboratory animals.

EDB and EDC are not present in unleaded gasoline. The findings of toxicological and epidemiological research have not provided conclusive results on the toxicity of gasoline vapor. Consideration of findings made thus far led the American Petroleum Institute in 1983 to publish "model warnings" such as those in Appendix II, which could be used for public notification. The decision to post these warnings rests with individual petroleum companies.

COMMENT: Some commenters stated that the Department underestimated the cost of STVR equipment. By doing so it was incorrectly determined that STVR is a cost effective control strategy, particularly in a competitive, depressed petroleum market.

RESPONSE: Several commenters provided estimates of the cost of installing Stage II vapor recovery equipment. The range of these estimates is graphically illustrated in Figure 3. The Department does not agree that the cost of STVR equipment was seriously underestimated.

Figure 3: Summary of STVR Cost Estimates



The Department's estimates of STVR are conservative, with the exception of two estimates, one being an unofficial draft EPA estimate. The revised EPA estimate was referenced as evidence that the Department was seriously underestimating the cost of STVR equipment. Referring to Figure 3 for the estimates of cost at a particular size facility, the difference between EPA and Department estimates are -24.6, -9.3, 26.7, 18.0 and 15.9 percent. The average difference is 12 percent if the two EPA estimates that are lower than Department estimates are considered to be zero. These data points should not be eliminated completely because approximately 1,500 facilities are represented. Even so, based on the unofficial draft EPA estimate, the average station cost would be \$11,200 instead of \$10,000 as estimated by the Department.

In addition, the Missouri estimate is based on actual incurred costs for installation of STVR equipment. Over the majority of the throughput range, the Department's estimate matches quite well with that for Missouri. The differences between Missouri and Department estimates are -21.7, -9.9, 10.0, 1.0, -0.4, and 6.0 percent. This is an average difference of 2.5 percent.

In conclusion, the Department's estimate for the cost of STVR is not substantially different from other estimates and closely matches actual costs recently incurred in Missouri. The Department has presented the cost of the STVR program on a statewide basis. It is important to note, however, that these costs will vary from facility to facility because of many different factors. As an example, some facilities already have vapor recovery piping installed or some owners will be able to install the vapor recovery piping themselves. Labor rates for contractors will vary, as will equipment prices.

COMMENT: Two commenters stated that installation costs for STVR in St. Louis have increased since inception of the program. This increase may be as much as 15 to 20 percent.

RESPONSE: No evidence was submitted to support this contention. When contacted, the Missouri Department of Natural Resources (DNR) stated that costs have remained fairly constant. A comparison of costs estimates made for St. Louis in March 1987 and in October 1987 show an overall increase of 0.6 percent. The increase was included in the Missouri estimate in Figure 3.

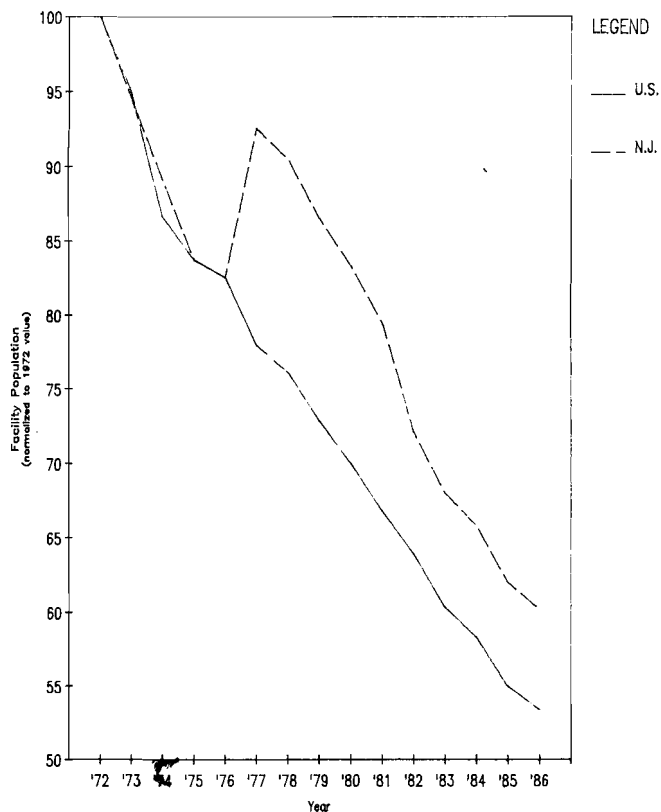
COMMENT: The Department should consider establishing a cost control ceiling such as dollars per pound of controlled VOC.

RESPONSE: The Department is obligated to comply with the requirements of the CAA. Such a ceiling is not allowable.

COMMENT: It has been estimated that 400 gasoline dispensing facilities will shut down in St. Louis because of the cost of installing STVR equipment. More than that will close in New Jersey.

RESPONSE: The figure of 400 facilities is controversial. A Missouri DNR estimate is 62. Since a number of economic factors can contribute to the closing of a gasoline dispensing facility, it is difficult to determine if the cost of installing STVR equipment is the primary cause. The rate of decline in facility population is not expected to vary significantly after STVR is implemented. The current rate of decline in gasoline dispensing facilities is illustrated in Figure 4. The data used to construct this graph were obtained from issues of the National Petroleum News Factbook.

Figure 4: Gasoline Dispensing Facility Population by Year



Furthermore, the regulation in effect in St. Louis applies to all gasoline dispensing facilities with storage tanks larger than 1,000 gallons. Since Missouri's regulation is not based on throughput, much smaller volume facilities must comply. Under the Department's proposed rule amendments, it is likely many of these facilities would be exempt. These smaller volume facilities would be the ones most likely to close rather than install STVR equipment.

COMMENT: There is disparity among the cost estimates given in the economic impact and regulatory flexibility sections of the proposal.

RESPONSE: The cost figures in the proposal are for different situations. The costs of \$7,000 and \$18,000 in the Economic Impact section of the proposal refer to vapor balance STVR systems at facilities with monthly throughputs of 10,000 and 200,000 gallons, respectively. The range of costs given in the regulatory flexibility statement, \$7,000 to \$31,000, covers all facilities in the State, including those with over 200,000 gallons a month in throughput.

COMMENT: Comments received on the schedules of compliance proposed in N.J.A.C. 7:27-16.3(r) and (s) requested extensions of one year for large facilities and up to two years for mid-sized facilities. Two commenters stated the schedule for mid-sized facilities should be shortened. Various reasons for extending the schedules were cited including the following:

1. There are a limited number of qualified contractors available to install STVR systems, especially in northern New Jersey; and
2. The Department has underestimated the time required to install STVR equipment at a facility.

RESPONSE: The Department's responsibility under the CAA is to attain the ozone standard as expeditiously as possible. The implementation of STVR involves coordination of thousands of persons involved in equipment manufacturing, distribution, and installation. Given the need to reduce ambient ozone concentrations and having considered the objections raised during the comment period, the Department has adopted the proposed schedules.

As a result of comments received on the not-adopted September 22, 1986 STVR proposal (See 18 N.J.R. 1867(a)) that questioned the availability of qualified contractors, the Department surveyed contractor associations and individual contractors. Department estimates of the number of contractors assume, that of all contractors, only those which do "pump and tank" work will install STVR equipment. The survey indicated that there are approximately 50 contractors in New Jersey that do "pump and tank" work, with an average of two crews each, not including contractors from Pennsylvania and New York that also perform this work in New Jersey. Many of these contractors are located in northern New Jersey. One commenter on the current proposal submitted an affidavit which suggests that there are 45 to 50 contractors available, including 10 located out of the State, which are capable of installing equipment in New Jersey. Assuming that each contractor has 2 crews, approximately 90 to 100 crews are estimated to be available.

Concerning the time required to install STVR at a facility, one commenter suggested that 10 to 14 days per location is a realistic estimate. The Department's phone survey indicated that, on the average, approximately two installations could be completed per week, per crew. The commenter cited contact with marketers and a contractor in the St. Louis, Missouri area as the source of its information.

Subsequent to the December 3, 1987 public hearing, the Department contacted the Missouri DNR and was informed that five to seven days was the typical period required based on their experience in the St. Louis area. An article in the November, 1987 edition of the National Petroleum News cited by one commenter quotes an oil company manager in Missouri as saying that outlets are closed for two days or more for the conversion and that the actual work can take between four and six days. He added that tank work, in cases where a company is also upgrading or replacing tanks, can take up to 10 days. A New Jersey contractor who has installed STVR equipment indicated that from three to five days are required per installation. An average of one installation per week per crew is reasonable.

Assuming 90 available crews and a one week installation time, the proposed final compliance dates of December 30, 1988 for large stations and December 29, 1989 for mid-sized stations are practicable. 360 facilities could be completed each month. If operators submit permit applications soon after the effective date of these amendments, roughly nine months of 1988 will be available to complete 2,000 large facilities and 12 months of 1989 will be available to complete 2,200 mid-sized facilities; accordingly, no extension of the proposed compliance dates appears necessary or appropriate at this time.

There are two additional factors which strengthen the argument that the compliance dates are achievable. Despite comments to the contrary, the Department does not believe that the supply of available contractors is inelastic. Some additional crews are likely to be hired by contractors in response to a high demand for installation work. Secondly, there is evidence that a significant number of facilities completed the installation of STVR piping when underground storage tanks were replaced or the facility was constructed. While it is not possible to verify the existence of all buried underground piping or the condition of the piping, the fact that some facilities have been completed will reduce the actual demand for contractual services.

COMMENT: The required volume of STVR equipment and hardware needed to meet the compliance dates proposed in N.J.A.C. 7:27-16.3(r) and (s) may not be available.

RESPONSE: To determine availability of STVR equipment, the Department contacted manufacturers of STVR nozzles and hoses. All of the companies contacted indicated that they had examined the potential New Jersey-New York market, which consists of approximately 2,000 facilities in each state which would have to comply during 1988 under regulations proposed by the Department and the New York Department of Environmental Conservation. The Department was assured that enough manufacturing capacity exists to provide enough nozzles and hoses in both states. With respect to a comment concerning the likelihood of the limited availability of fiberglass piping, causing compliance delays, the Department is unaware of any requirement that STVR piping must be fiberglass.

COMMENT: The compliance dates of the STVR program should be coordinated with the impending underground storage tank program.

RESPONSE: The Department also finds no reason to delay implementation of the STVR program until rules are adopted for the underground monitoring of gasoline storage tanks. The current schedule for these rules includes proposal in the first quarter of 1988 and adoption in the third quarter of 1988. Department rules, which are being patterned after Federal standards, are likely to be proposed at about the same time large stations are beginning to install STVR equipment and will most likely be adopted prior to the time mid-sized stations begin to install STVR equipment. Thus, most facilities should be able to install STVR equipment and underground storage tank leak detection devices at the same time. Even in the absence of adopted standards for such leak detection devices, the affected industries are aware of the equipment specifications and have, in fact, been installing equipment at many service stations.

COMMENT: With the backlog of permit applications that presently exists at the Department, it will be impossible to receive a permit in time to meet subsequent deadlines in the rules.

RESPONSE: An expedited permitting process is presently being put in place to process STVR permit applications. A simplified form to be used for STVR equipment permit applications has been developed and will be mailed out in January. The cooperation of those applying for permits will be needed in order to make this process work.

Full text of the adoption follows.

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.

... "Gasoline dispensing facility" means a facility consisting of one or more stationary gasoline storage tanks together with dispensing devices used to fill vehicle fuel tanks.

7:27-16.3 Transfer operations

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

(f) Unless in compliance with (g), (h), (r), (s), (t), and (u) below, no person shall cause, suffer, allow, or permit the transfer of gasoline into any gasoline vapor laden 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 95 percent by weight at all gasoline dispensing facilities except those facilities exempted in (g) below; and
2. To prevent overfilling and spillage.

(g) The provisions of (f) above shall not apply to a gasoline dispensing facility with an average monthly throughput of 10,000 gallons (37,850 liters) or less or to any gasoline dispensing devices at a marina used exclusively for refueling of marine vehicles.

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

1. The average monthly throughput shall be based on the average of the monthly throughputs between September 1, 1986 and August 31, 1987; and
2. Documentation of the monthly throughput shall be made available upon request by the Department,

Redesignate existing (f)-(g) as (i)-(j) (No change in text.)

(k) 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), (e), and (f) above, from leaking components of vapor control systems or delivery vessels being loaded or unloaded if:

1.-2. (No change.)

Redesignate existing (i)-(n) as (l)-(q) (No change in text.)

(r) Any person subject to the provisions of (f) above and having an average monthly throughput of 40,000 gallons (151,400 liters) or greater shall comply with the following schedules:

1. By March 21, 1988, the applicant, pursuant to the provisions of 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 which meets the requirements of (f) above;

2. By June 21, 1988, construction of equipment and control apparatus in accordance with the approved "Permit to Construct, Install, or Alter Control Apparatus or Equipment" shall commence; and

3. By December 30, 1988, compliance with (f) above shall be achieved.

(s) Any person subject to the provisions of (f) above and having an average monthly throughput of less than 40,000 gallons (151,400 liters) shall comply with the following schedules:

1. By November 1, 1988, the applicant, pursuant to the provisions of 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 which meets the requirements of (f) above;

2. By March 1, 1989, construction of equipment and control apparatus in accordance with the approved "Permit to Construct, Install, or Alter Control Apparatus or Equipment" shall commence; and

3. By December 29, 1989, compliance with (f) shall be achieved.

(t) Notwithstanding the provisions of (r) above, any existing gasoline dispensing facility with an average monthly throughput of greater than 10,000 gallons replacing an underground gasoline storage tank after the operative date of this subsection shall, prior to using that tank for dispensing gasoline, install equipment meeting the requirements of (f) above.

(u) Notwithstanding the provisions of (r) above, any new gasoline dispensing facility which begins the installation of an underground gasoline storage tank after the operative date of this subsection shall install equipment meeting the requirements of (f) above prior to the use of that tank for dispensing gasoline.

HEALTH

DRUG UTILIZATION REVIEW COUNCIL

(a)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: August 17, 1987 at 19 N.J.R. 1488(a).

Adopted: December 8, 1987 by Robert Kowalski, Secretary, the Drug Utilization Review Council.

Filed: December 17, 1987 as R.1988 d.31, with portions of the proposal not adopted and portions not adopted but still pending.

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

Effective Date: January 19, 1988.

Expiration Date: April 2, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

The following products and their manufacturers were adopted:

Doxepin caps 75 mg	Danbury
Doxepin caps 10, 50 mg	Par
Lorazepam tabs 0.5, 1, 2 mg	Mylan

The following products and their manufacturers were not adopted:

Doxepin caps 10, 25, 50 mg	Danbury
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The following products were not adopted but are still pending:

Allopurinol tabs 100 mg	Interpharm
Amantadine HCl caps 100 mg	Pharmacaps
Amitriptyline perphenazine 4'10, 4'25, 4'50	Mylan
Amitriptyline perphenazine 2'10, 2'25	Mylan
Carbamazepine tabs 200 mg	Barr
Carbamazepine tabs 200 mg	Interpharm
Cephalexin caps 250, 500 mg	Purepac
Chlorzoxazone APAP tabs 250/300	Interpharm
Clonidine chlorthal. tabs 0.1, 0.2, 0.3	Par
Clorazepate dipot. tabs 3.75, 7.5, 15 mg	Mylan
Cyproheptadine tabs 4 mg	Interpharm
Diazepam tabs 2, 5, 10 mg	Ferndale
Doxepin caps 25, 75, 100, 150 mg	Par
Dyphylline guaifenesin syrup	Barre-National

Erythromycin estolate susp 125, 5, 250, 5
 Erythromycin ethylsuccinate 200, 5 susp
 Erythromycin sulfisoxazole 200, 600 for susp
 Furosemide oral solution 10 mg/ml
 Haloperidol tabs 2 mg
 Ibuprofen tabs 400, 600, 800 mg
 Indomethacin caps 25, 50 mg
 Iodinated glycerol drops 50 mg/ml
 Isosorbide dinitrate oral tabs 20 mg
 Lactulose syrup 10 g/15 ml
 Levothyroxine tabs 150, 175, 200, 300 mcg
 Levothyroxine tabs 25, 50, 75, 100, 125 mcg
 Lorazepam tabs 0.5, 1, 2 mg
 Metoclopramide tabs 10 mg
 Minoxidil tabs 2.5, 10 mg
 Nystatin oral susp 100,000 U/ml
 Oxtriphylline guaifenesin syrup
 Phenylephrine ophth. soln 10%
 Prednisone tabs 5, 10, 20 mg
 Prednisone tabs 5, 20 mg
 Procainamide E.R. tabs 750 mg
 Propranolol tabs 10, 20, 40, 60, 80, 90
 Propranolol tabs 10, 20, 40, 80 mg
 Thiothixene caps 20 mg
 Tolazamide tabs 100 mg
 Trazodone tabs 50, 100 mg
 Trazodone tabs 50, 100 mg
 Verapamil tabs 80, 120 mg

Barr
 Barre-National
 Barr
 Barre-National
 Lemmon
 Interpharm
 Interpharm
 Barre-National
 Cord
 Barre-National
 Daniels
 Daniels
 Halsey
 Mylan
 Par
 Lemmon
 Barre-National
 Steris
 Amer. Ther.
 Cord
 Copley
 Halsey
 Interpharm
 Cord
 Cord
 Mylan
 Purepac
 Mylan

Nitroglycerin E.R. caps 2.5, 6.5, 9 mg
 Nitroglycerin transdermal patch 10 mg
 Nitroglycerin transdermal patch 15 mg
 Nitroglycerin transdermal patch 5 mg
 Norethindrone 0.5 mg/ethinyl estr. 35 mcg
 Norethindrone 1 mg/ethinyl estr. 35 mcg
 Ortho-Novum formula 1/35, 1/50
 Perphenazine tabs 8 mg
 Pramoxine 1%/HC 1% rectal foam
 Prazosin caps 1, 2, 5 mg
 Prednisone tabs 5, 10, 20 mg
 Procainamide E.R. tabs 1000 mg
 Pyrilamine/Chlorpheniramine/PE tannates susp.
 Pyrilamine/Chlorpheniramine/PE tannates tabs
 Salsalate tabs 500, 750 mg
 SMZ/TMP Susp. 200 mg+40 mg/5 ml
 Temazepam caps 15, 30 mg
 Temazepam caps 15, 30 mg
 Trifluoperazine tabs 5 mg
 Verapamil tabs 80, 120 mg
 Verapamil tabs 80, 120 mg

Vitarine
 Hercon
 Hercon
 Hercon
 Corona
 Corona
 Syntex
 Chelsea
 Copley
 Zenith
 Amer. Ther.
 Bolar
 Copley
 Copley
 Copley
 Naska
 Cord
 Duramed
 Bolar
 Bolar
 Cord

OFFICE OF ADMINISTRATIVE LAW NOTE: Related Notices of Adoption can be found at 19 N.J.R. 2279(b) and 2401(a).

(a)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: April 20, 1987 at 19 N.J.R. 615(a).
 Adopted: December 8, 1987 by the Drug Utilization Review Council, Robert Kowalski, Secretary.
 Filed: December 17, 1987 as R.1988 d.32, with portions of the proposal **not adopted and portions not adopted but still pending.**
 Authority: N.J.S.A. 24:6E-6(b).
 Effective Date: January 19, 1988.
 Expiration Date: April 2, 1989.

Summary of Public Comments and Agency Responses:
No comments received.

The following products were **adopted**:

Amitriptyline tabs 10, 25, 50, 75, 100 150 mg	Mutual
Amitriptyline/perphenazine 2/10, 2/25, 4/25	Cord
Ibuprofen tabs 800 mg	Chelsea

The following products were **not adopted** but are still **pending**:

Butalbital, APAP, caffeine tabs	Graham
Cephalexin caps 250, 500 mg	Nuovo
Chlorothiazide tabs 500 mg	Mylan
Doxepin caps 75 mg	Chelsea
Doxepin caps 150 mg	Chelsea
Flurazepam caps 15, 30 mg	Duramed
Glutethimide tabs 250, 500 mg	Halsey
Haloperidol tabs 0.5, 1, 2, 5, 10, 20 mg	Chelsea
Haloperidol tabs 10, 20 mg	Cord
Isosorbide dinitrate S.L. tabs 2.5, 5 mg	West-Ward
Isosorbide dinitrate oral tabs 20, 30 mg	Par
Isosorbide dinitrate oral tabs 5, 10, 20 mg	West-Ward
Lithium citrate syrup 8 mEq/5ml	My-K
Lorazepam tabs 0.5, 1 mg	Bolar
Lorazepam tabs 0.5, 1, 2 mg	Cord
Lorazepam tabs 0.5, 1, 2 mg	Superpharm
Lorazepam tabs 2 mg	Bolar
Medroxyprogesterone tabs 2.5, 5, 10 mg	Duramed
Methyldopa/HCTZ tabs 250/15, 250/25	Chelsea
Nitrofurantoin macrocrs. caps 50, 100 mg	Bolar

OFFICE OF ADMINISTRATIVE LAW NOTE: Related Notices of Adoption may be found at 19 N.J.R. 1312(b), 1644(a), 2278(b) and 2400(a).

(b)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: October 19, 1987 at 19 N.J.R. 1878(a).
 Adopted: December 8, 1987 by Robert Kowalski, Secretary, the Drug Utilization Review Council.
 Filed: December 17, 1987 as R.1988 d.33, with portions of the proposal **not adopted and portions not adopted but still pending.**
 Authority: N.J.S.A. 24:6E-6(b).
 Effective Date: January 19, 1988 (for all products except one).
 Operative Date: April 18, 1988 for Biocraft amiloride/HCTZ.
 Expiration Date: April 2, 1989.

Summary of Public Comments and Agency Responses:

1. Concerning extended release theophyllines

OPPOSING COMMENTS: Mr. J. Audibert, representing Schering and Key, objected to the proposed extended release theophylline products from Inwood Laboratories. He noted that the Council did not add the same products to the Formulary when they were proposed about three years ago, and stated that there was no new information on which to now accept those products. Mr. Audibert clarified the FDA's "AB" rating for the Inwood product, stating that a special note in the "Orange Book" restricted that "AB" rating from being applied to once/day dosing and that the FDA also cautioned that theophylline products may differ depending on the presence or absence of food. To summarize, Mr. Audibert stated that the Inwood product was not bioequivalent at once/day dosing, possibly not when taken with food, and also the 200 mg product was not even rated "AB" by the FDA.

SUPPORTING COMMENTS: Mr. S. Trost, representing Inwood, stated that the 300 mg strength is rated "AB", which has not changed in the last three years, despite Schering/Key's efforts to influence the FDA, and that thousands of patients had used the Inwood products without any proof of inequivalency. He estimated that consumer savings would be very appreciable, perhaps \$800,000 to \$1 million in New Jersey.

Dr. L. Ek, also representing Inwood, addressed the once/day restriction, stating that other states (New York and Missouri) had solved that problem by using a special footnote in their formularies which specified that the generic was not equivalent for once/day dosing, which he agrees it is not. Dr. Ek commented on the potential problem of theophyllines with food, stating that products showing food effects also show pH dependent dissolution problems, which the Inwood product does not. Dr. Ek also commented that the FDA had not bowed to the Schering/Key pressures to change the "AB" rating for the generic.

Mr. D. MacCaleb, also representing Inwood, stated that the frequency of once/day dosing with Theodur products is about 3 percent of all prescriptions, based on prescription surveys.

Inwood Laboratories also submitted extensive written comments in support of their theophylline extended release products, mostly reiteration of their previous comments, as follows:

Inwood enjoys an "AB" FDA rating for the 300 mg tablet.

The statistical powers are adequate.

Thousands of persons (400,000) have received this generic.

Savings are estimated at \$800,000 to \$1 million.

Key has not been successful in removing the "AB" rating.

Inwood asks that the once a day dosing restriction on the generic

be included as a special note to pharmacists, and again points out that only 3 percent of doses are given once a day.

The Forest product does not display pH dependent dissolution.

Forest provided these new data and/or comments:

"Cswing" for Key's product is large and varies widely, the Forest product not being much different from Key's product.

FDA has allowed Forest to make label claims that half tablets are clinically usable.

Forest's multiple dose study, despite levels not being in the 10-20 mcg/ml range, is considered by them to be adequate because theophylline's pharmacokinetics are linear.

Forest claims that its 200 mg is bioequivalent to its 300 mg, which is equivalent to Key's 300 mg, thus Forest's 200 mg should be considered equivalent to Key's 200 mg.

Both the Key and Forest products "approach" zero order kinetics.

Forest claims that their study does not show a preponderance of "slow metabolizers".

Forest reviewed Key's alleged history of tactics to discourage the use of generic theophyllines, including use of a disinformation campaign featuring a video, encouragement of NY pharmacists to break their state law, and distribution of material discouraging theophylline generics (but not including data on the Forest product).

COUNCIL'S RESPONSE: The Council acknowledged that the 200 mg extended release theophylline by Inwood is rated "BC" by the FDA and therefore is not acceptable for substitution. Relying on the Council's bioequivalency advisor, who recommends that the 300 mg Inwood product is equivalent to Theodur 300 mg, the Council rejected Schering/Key's arguments in opposition to the product and accepted the 300 mg product into the Formulary, with the condition that a special note be appended to that entry notifying pharmacists that substitution was not allowable when Theodur was ordered on a once daily dosing basis and also referring to possible "food effects".

2. Concerning Amiloride/HCTZ

COMMENT: Biocraft asked that if their product is approved at the Council's December meeting (the FDA having given its approval in July), that the effective date be after April 17, 1988 due to patent issues.

RESPONSE: The Council agreed and has stipulated that amiloride/HCTZ approval will become operative on April 18, 1988.

3. Concerning lactulose

COMMENT: Merrell-Dow objected to the proposed lactulose product by My-K based on the lack of FDA approval for the My-K product.

RESPONSE: The Council agrees and will not take action until the FDA approves this product.

4. Concerning methylprednisolone

COMMENT: Duramed supported their proposed product by pointing out that they had completed a biostudy.

COMMENT: Upjohn objected to the Duramed methylprednisolone, stating that the FDA still classifies the product as "BP", and asking that the product be deferred until such time as the FDA classifies the product as "AB".

RESPONSE: The Council deferred this product due to lack of assay validation data, but notes that the FDA has changed the therapeutic rating to "AB".

5. Concerning Schedule II products

COMMENT: The New Jersey Pharmaceutical Association (NJPhA) wrote to object to the proposed addition of methylphenidate tablets to the Formulary based on the possible increased danger to pharmacists from drug abusers when it becomes known that pharmacies are stocking larger inventories of such Schedule II products.

RESPONSE: The Council notes that Maryland has had no increases in crime against pharmacies despite adding Schedule II drugs to their generic substitution formulary last year. Further, the link between increased stocks of such drugs and possible increases in robberies is a very tenuous one, in the Council's opinion. The Council also notes that Schedule II drugs are extensively used in the New Jersey Medicaid and PAAD programs, thus, adding such drugs to the generic formulary can occasion savings to the State.

6. Concerning triamterene/HCTZ tablets

COMMENT: Lederle objected to the Barr product, citing alleged deficiencies in their biostudy and product, namely:

Statistical powers less than 80 percent for several parameters

A significant sequence effect rendering Phase II unevaluable

Failure to measure plasma triamterene metabolite

Inadequate sample collection durations

Lack of in vitro data showing conformance with compendial standards

Failure to measure any possible food effect

RESPONSE: The Council took no action on this product because it does not yet have FDA approval.

The following products were **adopted:**

Amitriptyline 10, 25, 50, 75, 100, 150 mg	Mutual
Cephalexin tabs 250, 500 mg	Barr
Cephalexin caps 250, 500 mg	IBSA
Clorazepate tabs 3.75, 7.5, 15 mg	Amer.Ther.
Fluphenazine tabs 1, 2.5, 5, 10 mg	Cord
Flurazepam caps 15 mg	Purepac
Flurandrenolone lotion 0.05%	Barre-Nat'l
Furosemide oral solution 10 mg/ml	My-K, Roxane
Haloperidol tabs 10, 20 mg	Duramed
Haloperidol tabs 0.5, 1, 2, 5 mg	Roxane
Haloperidol oral solution 2 mg/ml	Lemmon
Hydrocodone/APAP tabs 5/500	PBI
Hydrocortisone cream 1%	Lemmon
Ibuprofen tabs 800 mg	Danbury
Ibuprofen tabs 400, 600, 800 mg	Sidmak
Iodinated glycerol liquid 60 mg/5 ml	Barre-Nat'l
Iodinated glycerol/codeine syrup	Duramed
Iodinated glycerol/dextromethorphan syr	Duramed
Leucovorin calcium tabs 5, 25 mg	Par
Lorazepam tabs 1, 2 mg	PharmBasics
Lorazepam tabs 0.5, 1, 2 mg	Purepac
Meclofenamate caps 50, 100 mg	Chelsea
Methyldopa tabs 125 mg	Cord
Methyldopa tabs 125, 250, 500 mg	Novopharm
Methylphenidate tabs 5, 10, 20 mg	MD
Metoclopramide syrup 5 mg/5 ml	Biocraft
Nystatin oral susp 100,000 U/ml	Biocraft
Nystatin oral susp 100,000 U/ml	My-K
Phenylephrine cmpd ped drops (Naldecon®)	Barre-Nat'l
Spironolactone/HCTZ tabs 25/25	Mutual
Sulfacetamide sod. ophth. soln 30%	Steris
Triamcinolone dental paste 0.1%	Thames
Theophylline E.R. tabs 300 mg	Inwood
Tolazamide tabs 100, 250, 500 mg	Mutual
Triamterene/HCTZ caps 50/25	Bolar
Trimethoprim tabs 200 mg	Biocraft
Valproic acid caps 250 mg	Chase

The following product was **adopted, to become operative April 18, 1988:**

Amiloride/HCTZ tabs 5/50	Biocraft
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The following products were **not adopted:**

Furosemide tabs 80 mg	Roxane
Ibuprofen tabs 400, 600 mg	Danbury
Isoetharine for inhalation 1%	Barre-Nat'l
Phenylephrine ophth soln 2.5%	Steris
Theophylline iodinated glycerol 120 30	Barre-Nat'l

The following products were **not adopted** but are still **pending:**

Aminocaproic acid syrup 250 mg, ml	My-K
Carbamazepine tabs 200 mg	Sidmak
Cephalexin for susp 125 5, 250 5 ml	Novopharm
Chlorthalidone tabs 25, 50 mg	PharmBasics
Chlorthalidone tabs 25, 50 mg	Sidmak
Doxepin caps 25, 50 mg	Barr
Erythromycin topical solution 20 mg ml	My-K
Flurazepam caps 15, 30 mg	Cord
Furosemide tabs 80 mg	Barr
Haloperidol tabs 10, 20 mg	Roxane
Haloperidol tabs 10, 20 mg	Purepac

Hydrochlorothiazide solution 50 mg 5 ml
 Indomethacin E.R. caps 75 mg
 Lactulose syrup 10 g 15 ml
 Leucovorin calcium tabs 15 mg
 Metaproterenol syrup 10 mg 5 ml
 Methyldopa susp 250 mg 5 ml
 Methyldopa tabs. 250, 500 mg
 Methyldopa CTZ tabs 250 150, 250 250
 Methylprednisolone tabs 4 mg
 Oxazepam caps 10, 15, 30 mg
 Prazepam caps 5, 10 mg
 Prednisone oral solution 5 mg 5 ml
 Propranolol syrup 20 mg 5 ml
 Propranolol syrup 40 mg 5 ml
 Propranolol HCTZ tabs 40 25, 80 25
 SMZ TMP tabs 400 80, 800 160
 SMZ TMP tabs 400 80, 800 160 mg
 Theophylline E.R. tabs 200
 Thiothixene oral solution 5 mg ml
 Triamterene HCTZ tabs 75 50
 Trimethoprim tabs 100 mg

My-K
 Vitarine
 My-K
 Par
 My-K
 My-K
 Duramed
 Par
 Duramed
 Zenith
 PharmBasics
 My-K
 My-K
 My-K
 Schering
 PFI
 PharmBasics
 Inwood
 My-K
 Barr
 Biocraft

(b)

**Assistance Standards Handbook
 Nonrecurring Lump Sum Income**

Adopted Amendment: N.J.A.C. 10:82-4.15

Proposed: October 5, 1987 at 19 N.J.R. 1782(a).

Adopted: December 18, 1987 by Drew Altman, Commissioner,
 Department of Human Services.

Filed: December 21, 1987 as R.1988 d.40, **without change.**

Authority: N.J.S.A. 44:7-6 and 44:10-3.

Effective Date: January 19, 1988.

Expiration Date: October 29, 1989.

**Summary of Public Comments and Agency Responses:
 No comments received.**

Full text of the adoption follows.

10:82-4.15 Nonrecurring earned or unearned lump sum income

(a) When a recipient receives nonrecurring earned or unearned lump sum income including for AFDC, retroactive R.S.D.I. payments and other monthly benefits, and payments in the nature of a windfall, such as inheritances and lottery winnings, personal injury and worker compensation awards, to the extent it is not earmarked and used for the purpose for which it was paid (for example, monies for back medical bills resulting from accidents or injury, funeral and burial costs, replacement or repair of resources, and so forth) that income will be added together with all other income received that month by the eligible family after application of the disregards in N.J.A.C. 10:82-2.8 and 2.12 and the exemption of income in N.J.A.C. 10:82-2.7. The AFDC grant shall not be considered income. No portion of lump sum or other income may be applied toward the resource limit in the month of its receipt. When this total exceeds the AFDC allowance standards in Tables I or II as appropriate, the family will be ineligible for AFDC for the number of full months derived by dividing this total income by the allowance standard applicable to the eligible family. Any remaining income from this calculation is treated as if it is unearned income received in the first month following the period of ineligibility and is considered available for use at that time. SSI payments shall not be subject to lump sum treatment.

1.-3. (No change.)

4. The period of ineligibility applies to each individual in the eligible family at the time of receipt of the lump sum nonrecurring income. Other family members to whom the penalty does not apply, may be eligible as a separate assistance unit.

5. Once established, the period of ineligibility may be reduced only in the circumstances below. It is the responsibility of the former eligible family to provide all necessary information and documentation required to make a determination to shorten the period of ineligibility. The basis for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record.

i. The period of ineligibility may be recalculated when AFDC allowance standards are increased. Upon request of a former AFDC eligible family, the period of ineligibility will be reduced as follows:

(1)-(3) (No change.)

ii. The period of ineligibility may be recalculated if the income used to determine such period becomes unavailable to the eligible family for reasons beyond the control of the family members. Acceptable reasons are limited to those below:

(1) Loss or theft of the income: The former eligible family shall thoroughly substantiate an allegation of loss or theft of part or all of the lump sum income and must provide the CWA with evidence that a police report of an incident of theft has been filed. Upon receipt of credible evidence of loss or theft of the income the CWA shall reduce the amount of the original lump sum by the amount of the loss or theft. Loss of the income, for the purposes of this section, shall include circumstances where a member of the former eligible family has absconded with the funds.

(2) Fire, flood, natural disaster, or other emergent situation: When the former eligible family incurs and pays verifiable expenses due to

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

(a)

**Assistance Standards Handbook
 Initial Eligibility**

Adopted Amendment: N.J.A.C. 10:82-2.6

Proposed: October 5, 1987 at 19 N.J.R. 1781(a).

Adopted: December 18, 1987 by Drew Altman, Commissioner,

Department of Human Services.

Filed: December 21, 1987 as R.1988 d.38, **without change.**

Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 233.20.

Effective Date: January 19, 1988.

Expiration Date: October 29, 1989.

**Summary of Public Comments and Agency Responses:
 No comments received.**

Full text of the adoption follows.

10:82-2.6 Initial eligibility

(a) On all new applications, reapplications, or reopened applications, initial financial eligibility must be established before a determination of the amount of the monthly grant can be made. (For -N segment cases, see N.J.A.C. 10:82-2.11.)

1. Earned income disregards: For AFDC-C and -F cases when the eligible family received assistance in one of the four months prior to the month of application, all earned income disregards at N.J.A.C. 10:82-2.8 shall apply to the determination of initial financial eligibility. For AFDC-C and -F cases which have not received assistance in one of the four months prior to the month of application, the earned income disregards apply, except that the disregard of the first \$30.00 of the remaining income plus one-third of the remainder does not apply. If total income equals or exceeds the public assistance allowance standard, the family is ineligible for assistance. In the computation of the initial AFDC grant, applications of the \$30.00 and one-third earned income disregards is subject to the limitations at N.J.A.C. 10:82-2.8.

2. (No change in text.)

an emergent situation, for which, had the family been eligible, emergency assistance would have been authorized under N.J.A.C. 10:82-5.10, those expenses shall reduce the amount of the original lump sum.

iii. The period of ineligibility may be reduced if the family incurs, becomes responsible for, and pays medical expenses during the period of ineligibility. In such cases the original income used to compute the period of ineligibility shall be offset by verified medical expenditures. For this purpose, allowable medical expenses are as follows:

(1) (No change.)

(2) Hospitalization: Hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was an eligible family member immediately prior to entering a hospital or nursing home, provided by a facility recognized by the State;

(3)-(10) (No change.)

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

(a)

**General Assistance Manual
Funeral and Burial Expenses**

Adopted Amendment: N.J.A.C. 10:85-4.8

Proposed: September 8, 1987 at 19 N.J.R. 1619(b).
Adopted: December 18, 1987 by Drew Altman, Commissioner,

Department of Human Services.

Filed: December 21, 1987 as R.1988 d.39, **without change.**

Authority: N.J.S.A. 44:8-111(d).

Effective Date: January 19, 1988.

Expiration Date: January 30, 1990.

Summary of Public Comments and Agency Responses:

A written comment was received from a municipal welfare director expressing full support for the amendment.

Full text of the adoption follows.

10:85-4.8 Funeral and burial expenses

(a) (No change.)

(b) Cases ineligible for purposes of State aid: It is recognized that municipal directors, who are also exercising the functions previously charged to the overseer of the poor, encounter situations where burials must be provided at public expenses for persons who do not come within the classifications specified in (a)1 above. Such burials are governed by statutes unrelated to the General Assistance Program. Payments for them are not eligible for State aid. The statutes include:

1. N.J.S.A. 44:1-157, which states: "When a person shall die in a municipality without leaving money or other means sufficient to defray his funeral expenses, the overseer of the poor of the municipality . . . shall employ some person to provide for and superintend the burial of the deceased person, and the necessary and reasonable expenses as fixed by the governing body chargeable therewith shall be paid by it upon the order of the overseer. . ."

2. N.J.S.A. 40A:9-49.1, which states: "Notwithstanding any provision of law, rule or regulation to the contrary, when an indigent person dies without a surviving spouse, parent or emancipated child and in a municipality other than his resident municipality, the resident county of the indigent decedent is responsible for the necessary and reasonable expenses for the burial. For the purposes of this act, "indigent decedent" means a person who dies without leaving an ascertainable estate sufficient to pay part or all of the person's burial expenses and whose burial expenses are not payable by the State pursuant to P.L. 1959, c.86 (N.J.S.A. 44:10-1 et seq.), P.L. 1947, c.156 (N.J.S.A. 44:8-107 et seq.) or P.L. 1973, c.256 (N.J.S.A. 44:7-85 et seq.), or by the county pursuant to N.J.S.A. 40A:9-49."

CORRECTIONS

THE COMMISSIONER

(b)

Classification Process

Discretion of Classification Committees; Factors to be Considered

Adopted Amendment: N.J.A.C. 10A:9-4.5

Proposed: October 5, 1987 at 19 N.J.R. 1782(b).

Adopted: December 16, 1988 by William H. Fauver,

Commissioner, Department of Corrections.

Filed: December 16, 1988 as R.1988 d.30, **without change.**

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: January 19, 1988.

Expiration Date: January 20, 1992.

Summary of Public Comments and Agency Responses:

The Department of Corrections received one comment on this proposal from an inmate. The comment was a philosophical statement relating to the difficulties inherent in administering the subject rule. As the comment contained no suggestions for modification of the rule, no response could be made.

Full text of the adoption follows.

10A:9-4.5 Discretion of Classification Committees: factors to be considered

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

(f) An inmate who has been granted reduced custody may have his or her custody increased for any of the following reasons, subject to confirmation by the Classification Committee.

1.-5. (No change.)

6. Any reason which, in the opinion of the Superintendent and Classification Committee, relates to the best interests of the inmate or the safe and orderly operation of the correctional facility or the safety of the public at large or community.

(g) (No change.)

THE COMMISSIONER

(c)

**Inter-jurisdictional Agreement and Statutes
International Transfer**

Adopted Amendments: N.J.A.C. 10A:10-6.3 and 6.6

Proposed: September 8, 1987 at 19 N.J.R. 1620(a).

Adopted: December 16, 1987 by William H. Fauver,

Commissioner, Department of Corrections.

Filed: December 16, 1987 as R.1988 d.29, **without change.**

Authority: N.J.S.A. 30:1B-6 and 30:1B-10 and P.L. 1986 c.141.

Effective Date: January 19, 1988.

Expiration Date: August 17, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

10A:10-6.3 Eligibility criteria for international transfer

(a) Offenders must meet all of the following criteria before they may be considered for international transfer.

1.-3. (No change.)

4. The offender shall not have, at the time of the application, less than 12 months remaining on the sentence;

5.-9. (No change.)

10A:10-6.6 Role of Office of Interstate Services

(a) The Office of Interstate Services shall:

1.-5. (No change.)

6. Receive objections or other comments on the transfer request from persons and agencies listed in (a)5 above for 15 days following notification.

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

LABOR

(a)

DIVISION OF WORKPLACE STANDARDS Public Employee Occupational Safety and Health Procedural Standards for Public Employees

Adopted New Rules: N.J.A.C. 12:110

Proposed: November 2, 1987 at 19 N.J.R. 1941(a).

Adopted: December 23, 1987 by Charles Serraino,

Commissioner, Department of Labor.

Filed: December 23, 1987 as R.1988 d.42 with technical changes not requiring additional public notice and comment (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 34:6A-25 et seq., specifically N.J.S.A. 34:6A-32.

Effective Date: January 19, 1988.

Expiration Date: January 19, 1993.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Labor held a comment period open until December 8, 1987. The Department also solicited comments from a list of interested parties, listed below:

New Jersey Association of School Administrators, Trenton, N.J.;

New Jersey Conference of Mayors, Asbury Park, N.J.;

New Jersey Business and Industry Association, Trenton, N.J.;

New Jersey State Chamber of Commerce, Trenton, N.J.;

American Industrial Hygiene Association, New Jersey Section, Cranbury, N.J.;

American Society of Safety Engineers, New Jersey Section, Cranford, N.J.;

New Jersey State Safety Council, Cranford, N.J.;

New Jersey State League of Municipalities, Trenton, N.J.;

New Jersey Association of Counties, Trenton, N.J., and

New Jersey School Boards Association, Trenton, N.J.

COMMENT: The Department received one public comment concerning the proposed new rule. The commenter is a law firm that represents a small business that performs subcode inspections pursuant to the Uniform Construction Code Act, N.J.S.A. 52:26D-119 *et seq.*

The commenter infers from the Regulatory Flexibility Statement in the proposal notice that the Department of Labor does not intend to have this rule apply to small businesses such as his client's agency, but notes that the definition of "employer" as set forth in the rule can be read to include third party agencies, such as the commenter's client, that performs subcode inspections.

Both the rule and N.J.S.A. 34:6A-27(c) define "employer" as "any person acting directly on behalf of or with ratification and knowledge of: (1) the State . . . or (2) any county or municipality . . ." The commenter points out that since an inspection agency is acting "on behalf of" a municipality when performing third party subcode inspections, then a broad reading of "employer" would render the rule applicable to third party agencies that perform subcode inspections. The commenter also states that it is nonsensical to apply the rule to third party agencies because the workplace of an inspector could be as many as 10 to 15 different locations per day in the course of performing inspections, and the employer has no control over these workplaces. Finally, the commenter suggests that the definition of "employer" be amended to exclude inspection agencies that perform third party subcode inspections pursuant to the Uniform Construction Code Act from the requirements of the rule.

RESPONSE: The Department agrees with the commenter that the rule is not intended to apply to third party agencies working for the State or a municipality. Such third party agencies are considered to be private employers, and as such are governed by the Federal Occupational Safety and Health Act regulations. The State is preempted from regulating those entities governed by the federal regulations. Additionally, the Department recognizes that third party agencies could not conceivably exercise control over the safety of the various sites at which public employees are working.

Summary of Changes Between Proposal and Adoption

The Department has made one editorial change and two typing corrections. The editorial change amends the title of the Employer's First Report of Accidental Injury or Occupational Disease and deletes the designation "L&I 1" Form.

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

CHAPTER 110 PROCEDURAL STANDARDS FOR PUBLIC EMPLOYEES

SUBCHAPTER 1. GENERAL PROVISIONS

12:110-1.1 Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:110, Procedural Standards for Public Employees.

12:110-1.2 Authority

These rules are promulgated pursuant to the authority of the New Jersey Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq.

12:110-1.3 Purpose

The purpose of this chapter is to provide rules to administer basic program elements to achieve a safe and healthy place of employment for the public employee.

12:110-1.4 Scope

This chapter shall apply to employers, employees, and agencies as described in the New Jersey Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq.

12:110-1.5 Documents referred to by reference

The availability of standards and publications referred to in this chapter is explained in N.J.A.C. 12:110-8.

12:110-1.6 Construction

(a) These rules shall be construed to secure a just determination of every issue arising under the Act and the rules promulgated under the Act which shall be as expeditious and inexpensive as possible under the circumstances.

(b) Words importing the singular number may extend and be applied to the plural and vice versa.

(c) Words importing the masculine gender may be applied to the feminine gender.

12:110-1.7 Validity

Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decision shall not affect the remaining portions of this chapter.

SUBCHAPTER 2. DEFINITIONS

12:110-2.1 Definitions

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

"Act" means the New Jersey Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq.

"Agency" means:

1. An executive department, or any employing unit or authority of the executive branch of the State, or any department, division, bureau, board, council, employer or authority of the State: except any bi-State agency: or

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

"Approved" means acceptable to the Commissioner of Labor, Commissioner of Health or the Commissioner of Community Affairs, as applicable.

"Commissioner" means the Commissioner of the New Jersey Department of Labor or his designee.

"Commissioner of Community Affairs" means the Commissioner of the New Jersey Department of Community Affairs or his designee.

"Commissioner of Health" means the Commissioner of the New Jersey Department of Health or his designee.

"Compliance Officer" means the person authorized by:

1. The Commissioner of Labor to conduct safety inspections, or
2. The Commissioner of Health to conduct health inspections, or
3. The Commissioner of Community Affairs to conduct building, structural or fire safety inspections.

"Discrimination" means any act of restraint, interference, or coercion against an employee for exercising his or her rights under the Act and this chapter or for participating in the agency's safety and health program.

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

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

1. The State, or any department, division, bureau, board, council, agency or authority of the State, except any bistate agency; or
2. Any county, municipality, or any department, division, bureau, board, council, agency or authority of any county or municipality, or of any school district or special purposes district created pursuant to law.

"Employee representative" means a "representative" as that term is defined in the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

"Establishment" means a single physical location where business is conducted or where services or operations are performed, such as a field activity, regional office, area office, installation, or facility.

"First aid" means any one-time treatment, and any follow-up visit for the purpose of observation, of minor wounds, scratches, cuts, burns, or splinters, which do not ordinarily require medical care. Such one-time treatment, and follow-up visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.

"Imminent danger" means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm.

"Inspection" means any inspection of an employer's workplace, establishment, construction site, or other area or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a complaint, any reinspection, follow-up inspection, accident investigation or other inspection conducted under the Act.

"Lost workdays" means the number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so: that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

"Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional person.

"Program Chief" means the officer regularly or temporarily in charge and designated by the Commissioner of Labor or the Commissioner of Health or the Commissioner of Community Affairs to administer the Public Employee Occupational Safety and Health Program for their State Agency in accordance with their statutory obligations under the Act.

"Program Director" means the officer regularly or temporarily in charge designated by the Commissioner of Labor to administer the public employee occupational safety and health program or any other

person who is authorized to act for such officer. The latter authorization may include general delegation of the authority of the Program Director for limited purposes.

"Recordable occupational injuries or illnesses" are any occupational injuries or illnesses which result in:

1. Fatalities, regardless of the time between the injury and death, or the length of the illness; or
2. Lost workday cases, other than fatalities, that result in lost workdays; or

3. Nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

"Review Commission" means the Occupational Safety and Health Review Commission created by N.J.S.A. 34:6A-42.

"Serious" as used in "serious hazard," "serious violation" or "serious condition" means a hazard, violation or condition such that there is a substantial probability that death or serious physical harm could result.

"Serious injury" means any injury which would require treatment beyond first aid.

"Serve" means forwarding the document by first class mail, return receipt requested, postage prepaid, to the last known address of the employee, employer or employee representative as appropriate.

"Shall" means a mandatory requirement.

"Working days" means Mondays through Fridays but shall not include Saturdays, Sundays, Federal holidays, or State holidays. For the purpose of notice in computing working days, the day of receipt of any notice shall not be included, and the last day of the working days shall be included.

"Workplace" means a place where public employees are assigned to work.

SUBCHAPTER 3. ADMINISTRATION

12:110-3.1 Scope of subchapter

This subchapter sets forth the responsibilities and rights for the procedures developed for the safety and health programs under the Act.

12:110-3.2 Program direction

The Commissioner, with the advice of the Commissioner of Health or the Commissioner of Community Affairs, as the case may be, shall be the administrator of this safety and health program set forth in this chapter under the Act.

12:110-3.3 Duties of employer

(a) Every employer shall provide each of his employees with employment and a place of employment which are free from recognized hazards which may cause serious injury or death to his employees.

(b) Every employer shall comply with the occupational safety and health standards promulgated under the Act.

(c) Every employer, in the absence of existing standards, shall take all prudent measures to comply with the written recommendations made by the Commissioner, the Commissioner of Health or the Commissioner of Community Affairs, as the case may be, to reduce the risk of exposure to unsafe or unhealthy conditions which have been shown to be detrimental to employee health or safety.

12:110-3.4 Employee responsibilities and rights

(a) Every public employee shall comply with the occupational safety and health standards and all regulations promulgated under the Act which are applicable to his own actions and conduct.

(b) Each employee shall comply with all orders issued by the agency in accordance with the Act and with this chapter which are applicable to his own actions and conduct.

(c) Employees shall use safety equipment, personal protective equipment, and other devices and procedures provided or directed by the agency which have been deemed necessary for their protection.

(d) Employees or employee representatives shall have the right to report unsafe and unhealthful working conditions to appropriate officials.

ADOPTIONS

12:110-3.5 Dissemination of program information

(a) Copies of the Act, program elements published in this chapter, details of the agency's occupational safety and health program, and applicable safety and health standards shall be made available by the employer upon request to employees or employee representatives for review.

(b) A copy of the agency's written occupational safety and health program applicable to the establishment shall be made available to each supervisor and to employee representatives.

(c) Each agency shall post conspicuously in each establishment, and keep posted, a poster informing employees of the provisions of the Act and the agency occupational safety and health program under this chapter.

1. If the agency needs assistance and advice on the content and development of its poster, such may be requested of the Commissioner prior to printing and distribution.

(d) Agency heads shall promote employee awareness of occupational safety and health matters through their ordinary information channels, such as newsletters, bulletins, handbooks and employee orientations.

SUBCHAPTER 4. INSPECTIONS, ORDERS TO COMPLY, AND PENALTIES

12:110-4.1 Scope of subchapter

This subchapter establishes procedural rules on inspections, orders to comply, and penalties.

12:110-4.2 Posting of notice and availability of Act and rules

(a) Each employer shall post and keep posted a notice or notices, informing employees of the protections and obligations provided for in the Act and that for assistance and information, including copies of the Act and, of specific safety and health standards, employees should contact the employer or the New Jersey Department of Labor.

1. Such notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted.

2. Each employer shall take steps to insure that such notices are not altered, defaced, or covered by other material.

(b) Copies of the Act and all rules shall be available at the Office of Division of Workplace Standards of New Jersey Department of Labor. The employer shall obtain copies of these materials and make them available upon request to any employee or his authorized representative for review in the establishment where the employee is employed within three working days of the day the request is made.

12:110-4.3 Authority for inspection

(a) The Compliance Officer is authorized to enter without delay and at reasonable times any establishment or workplace of an agency where work is performed by an employee where there is reason to believe that a violation of a safety or health standard exists and to conduct such investigations as he may deem necessary.

(b) The Compliance Officer shall inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein.

(c) The Compliance Officer is authorized to question privately any employer or employee; and to review records required by the Act and this subchapter, and other records which are directly related to the purpose of the inspection.

(d) In the interests of State security prior to inspecting areas containing classified information, the Compliance Officer shall obtain the appropriate security clearance.

12:110-4.4 Advance notice of inspection

(a) Advance notice of inspections shall not be given except in the following situations:

1. In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

2. In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

3. Where necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and

4. In other circumstances where the Program Director determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(b) In the situations described in (a) above, advance notice of inspections may be given only if authorized by the Program Chief, except in cases of apparent imminent danger advance notice may be given by the Compliance Officer without such authorization if the Program Director is not immediately available. When advance notice is given and where the identity of the employee representative is known, the Compliance Officer, shall immediately inform the employee representative of the inspection.

(c) The employer shall furnish the Compliance Officer with the identity of the authorized representative of employees and with such other information as is necessary to enable the Compliance Officer promptly to inform such representative of the inspection. Where there is no authorized employee representative, the Compliance Officer shall advise a reasonable number of employees of the inspection.

12:110-4.5 Conduct of inspections

(a) Subject to the provisions of N.J.A.C. 12:110-4.3, inspections shall take place at such times and in such places of employment as the Program Chief or the Compliance Officer may direct.

(b) At the beginning of an inspection there shall be an opening conference where the Compliance Officer shall present his credentials to the employer in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records specified in N.J.A.C. 12:110-4.3 which he wishes to review. However, such designation of records shall not preclude access to additional records specified in N.J.A.C. 12:110-4.3.

(c) A Compliance Officer shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection. The Compliance Officer shall employ other reasonable investigative techniques, such as personal dosimetry devices, and question privately any employer, owner, operator, agent or employee of an establishment.

1. In taking photographs and samples, the Compliance Officer shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. A Compliance Officer shall comply with all employer safety and health rules and practices at the establishment being inspected, and he shall wear and use appropriate protective clothing and equipment.

(d) The inspection shall be conducted in such a manner as to preclude unreasonable disruption of the operations of the employer's establishment.

(e) At the conclusion of an inspection, there shall be a closing conference. During the closing conference, the Compliance Officer shall confer with the employer or his representative and informally advise him of any apparent safety or health violations disclosed by the inspection. During such conference, the employer shall be afforded an opportunity to bring to the attention of the Compliance Officer any pertinent information regarding conditions in the workplace. The Compliance Officer shall advise the employee and employer of their respective rights related to the inspection.

(f) A complaining party and employee representative shall have the opportunity to be present at and participate in all phases of the inspection from the opening conference through the closing conference. If the employer, the complaining party or the employee representative requests separate opening or closing conferences, or both, written summaries of these conferences shall be provided by the Compliance Officer to all parties affected.

12:110-4.6 Representation at inspections

(a) A Compliance Officer shall be in charge of inspections and questioning of persons. A representative of the employer, complaining party, and a representative authorized by his employees shall be given an opportunity to accompany the Compliance Officer during the physical inspection of any workplace for the purpose of aiding such inspection.

LABOR

1. A Compliance Officer may permit additional employer representatives and additional representatives authorized by employees to accompany him when he determines that an additional representative will further aid in the inspection. Another employer and employee representative may accompany the Compliance Officer during each phase of an inspection if this will not interfere with the conduct of the inspection.

(b) For the purpose of this section, a Compliance Officer shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees to assist in the inspection.

1. If there is no authorized representative of employees, or if the Compliance Officer is unable to determine with reasonable certainty who is such representative, he shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

(c) The representative authorized by employees shall be a fellow employee or employee representative.

1. If, in the judgment of the Compliance Officer, good cause has been shown why accompaniment by a third party who is not an employee or employee representative, such as an industrial hygienist or a safety engineer, is reasonably necessary to conduct an effective and thorough physical inspection of the workplace, such third party may accompany the Compliance Officer during the inspection.

(d) A Compliance Officer is authorized to deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection.

1. With regard to information classified by an agency in the interest of State security, only persons authorized to have access to such information may accompany a Compliance Officers in areas containing such information.

12:110-4.7 Consultation with employees

(a) A Compliance Officer may consult with employees concerning matters of occupational safety or health to the extent necessary for the conduct of an effective and thorough inspection.

(b) During the course of an inspection, an employee shall be afforded the opportunity to bring to the attention of the Compliance Officer any apparent violation of the Act or the rules under the Act which he has reason to believe exists in the workplace.

(c) Employee interviews shall be conducted in private. Where such inquiry cannot be conveniently conducted at the workplace, the Compliance Officer shall arrange for private interviews at a site other than the workplace.

12:110-4.8 Complaints by employees

(a) Any employee or representative of employees who believes that a violation of the Act exists in the workplace where such employee is employed may request an inspection by giving notice of the alleged violation to the Program Chief or to a Compliance Officer.

1. Any such notice shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees.

2. A copy of the notice shall be provided the employer or his agent by the Program Chief or Compliance Officer no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein, shall not appear in such copy or on any record published, released, or made available by the New Jersey Department of Labor.

(b) The name of the person giving the notice as described in (a) above and the names of the individual employees as described in (a) above shall not appear in the record published, released, or made available by the New Jersey Department of Labor, unless specifically requested by such persons.

(c) If upon receipt of the notice in (a) above the Program Chief determines that the complaint meets the requirements set forth in (a) above, and that there are reasonable grounds to believe that the alleged violation exists, he shall cause an inspection to be made as soon as practicable, to determine if such alleged violations exists.

1. Inspections under this section shall not be limited to matters referred to in the complaint.

2. Such investigation, when requiring an on-site inspection, shall be initiated within 24 hours for imminent danger situations, within

three working days for potentially serious conditions, and within 10 working days for other safety and health risk conditions.

*(d)**[(b)]* Prior to or during any inspection of a workplace, any employee or representative of employees employed in such workplace may notify the Compliance Officer, in writing, of any violation of the Act which they have reason to believe exists in such workplace. Any such notice shall comply with (a) above.

12:110-4.9 Inspection not warranted and informal review

(a) If the Program Chief determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a complaint under N.J.A.C. 12:110-4.8, he shall notify the complaining party in writing of such determination.

1. The complaining party may obtain review of such determination by submitting a written statement of position with the Program Director and, at the same time, providing the employer with a copy of such statement by certified mail.

2. The employer may submit an opposing written statement of position with the Commissioner and, at the same time, provide the complaining party with a copy of such statement by certified mail.

3. Upon the request of the complaining party or the employer, the Commissioner at his discretion, may hold an informal conference in which the complaining party and the employer may speak their views.

4. After considering all written and spoken views presented, the Commissioner shall affirm, modify, or reverse the determination of the Program Director and furnish the complaining party and the employer written notification of his decision and the reasons therefor. The decision of the Commissioner shall be final and not subject to further review.

(b) If the Program Chief determines that an inspection is not warranted because the requirements of N.J.A.C. 12:110-4.8(a) have not been met, he shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of new complaint meeting the requirements of N.J.A.C. 12:110-4.8(a).

(c) All procedures described in this section involving health issues shall be conducted in consultation with the Commissioner of Health.

(d) All procedures described in this section involving building, structural or fire safety issues shall be conducted in consultation with the Commissioner of Community Affairs.

12:110-4.10 Imminent danger

(a) Whenever, and as soon as a Compliance Officer concludes, on the basis of an inspection, that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by the Act, he shall inform the affected employees and employers of the danger. The Compliance Officer shall also inform the affected employees and employers that he is recommending a civil action to abate such conditions or practices and for other appropriate relief in accordance with the Act.

(b) Any order issued with respect to an imminent danger may require such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists.

12:110-4.11 Order to comply and penalties

(a) If the Commissioner, determines that an employer has violated a provision of the Act or a safety or health standard or any rules promulgated under the Act, he shall, with reasonable promptness, issue to the employer a written order to comply which shall describe:

1. The nature of the violation, including a reference to the provision of the section, standard, regulation or order alleged to have been violated;

2. The sanction therefore, where appropriate, and;

3. Shall fix a reasonable time for compliance.

(b) Determinations regarding health standards, and written orders issued pursuant thereto, shall be made in consultation with the Commissioner of Health. The Commissioner of Health shall certify to the Commissioner of Labor that a violation exists and the nature of the

violation in order for the Commissioner of Labor to issue an order to comply.

(c) Where the Commissioner issues to an employer an order to comply, the employer shall post such order or a copy thereof at or near each location of the violation cited in the order so that it is clearly visible to affected employees. The Commissioner shall make such order available to employee representatives and affected employees.

(d) If the time for compliance with an order of the Commissioner issued pursuant to this section elapses, and the employer has not made a good faith effort to comply, within its power and financial resources, the employer shall be liable to a penalty of not more than \$1,000 per day to be collected in a civil action commenced by the Commissioner by a summary proceeding under The Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq. in the Superior Court, county district court, or a municipal court, all of which shall have jurisdiction to enforce the Penalty Enforcement Law in connection with the Act.

1. If the violations are of a continuing nature, each day during which the violation continues after the date given for compliance in accordance with the order of the department shall constitute an additional separate and distinct offense.

(e) The Commissioner is authorized to compromise and settle any claim for a penalty under this section in such amount as, in the discretion of the Commissioner, may appear appropriate and equitable under all of the circumstances, including a rebate of any such penalty paid up to 90 percent thereof where such person satisfies the Commissioner within one year or such other period as the Commissioner may deem reasonable that such violation had been eliminated or removed or that such order or injunction had been met or satisfied, as the case may be.

1. In any claim involving investigations conducted by the Department of Health, the Commissioner shall make the determination as to the compromise or settlement of the claim in consultation with the Commissioner of Health.

12:110-4.12 Employer contests before the Review Commission

(a) Any employer to whom an order to comply or notice of proposed penalty has been issued may notify the Program Director in writing that he intends to contest such order or proposed penalty before the Review Commission.

(b) Such notice of intention to contest in (a) above shall be postmarked within 15 working days of the receipt by the employer of the order or the notice of proposed penalty.

(c) Every notice of intention to contest shall specify whether it is directed to the order to comply or to the proposed penalty, or both.

(d) The Program Director shall immediately transmit such notice to the Review Commission in accordance with the rules of procedure prescribed by the Review Commission.

12:110-4.13 Failure to correct violation for which an order to comply has been issued

(a) If an inspection discloses that an employer has failed to correct an alleged violation for which an order to comply has been issued within the period permitted for its correction, the Program Director shall, if appropriate, consult with the Attorney General, and he shall notify the employer by certified mail or by personal service from the Compliance Officer of such failure and of the penalty proposed under N.J.S.A. 34:6A-41(d) by reason of such failure.

1. In the case of any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties, the period for the correction of a violation for which an order to comply has been issued shall not begin to run until the entry of a final order of the Review Commission.

(b) Any employer receiving a notification of failure to correct a violation and of proposed penalty may notify the Program Director in writing that he intends to contest such notification before the Review Commission. Such notice of intention to contest shall be postmarked within 15 working days of the receipt by the employer of the notification of failure, and of proposed penalty.

1. The Program Director shall immediately transmit such notice to the Review Commission in accordance with the rules of procedures prescribed by the Commission.

(c) Each notification of failure to correct a violation and of proposed penalty shall state that it shall be deemed to be the final order of the Review Commission and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notification, the employer notifies the Program Director in writing that he intends to contest the proposed penalty before the Review Commission.

12:110-4.14 Informal conferences

(a) At the request of an affected employer, employee, or representative of employees, the Commissioner may hold an informal conference for the purpose of discussing any issues raised by an inspection, order to comply, notice of proposed penalty, or notice of intention to contest.

(b) The settlement of any issue at such conference shall be subject to the rules of procedure prescribed by the Review Commission.

(c) If the conference is requested by the employer, an affected employee or his representative shall be afforded an opportunity to participate.

(d) If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate.

(e) Any party may be represented by relevant third party at such conference.

(f) No such conference or request for such conference shall operate as a stay of any 15-working-day period for filing a notice of intention to contest as prescribed in N.J.A.C. 12:110-4.12.

SUBCHAPTER 5. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

12:110-5.1 Scope of Subchapter

This subchapter establishes procedural rules for recording and reporting occupational injuries and illnesses of public employees.

12:110-5.2 Log and summary of occupational injuries and illnesses

(a) Each employer shall, except as provided in (b) below, maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment and enter each recordable injury and illness on the log and summary as early as practicable but no later than six working days after receiving information that a recordable injury or illness has occurred.

1. For these purposes form NJOSH No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used.

2. The log and summary shall be completed in the detail provided in the form and instruction on form NJOSH No. 200.

(b) Any employer may maintain the log of occupational injuries and illnesses, in (a) above, at a place other than the establishment or by means of data-processing equipment, or both, under the following circumstances:

1. There is available at the place where the log is maintained sufficient information to complete the log to a date within six working days after receiving information that a recordable case has occurred, as required by (a) above.

2. At each of the employer's establishments, there is available a copy of the log which reflects separately the injury and illness experience of that establishment complete and current to a date within 45 calendar days of the date the log is inspected.

12:110-5.3 Period covered

Records shall be established on a calendar year basis.

12:110-5.4 Supplementary record

(a) In addition to the log of occupational injuries and illnesses required under N.J.A.C. 12:110-5.2, each employer shall have available for inspection at each establishment no later than the start of the second work day after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment.

1. The supplementary record shall be completed in the detail prescribed in the instructions required by *[L & I 1.]* Employer's

First Report of Accidental Injury or Occupational *[[Illness]* *Disease*.

(b) The *[L & I 1,]* Employer's First Report of Accidental Injury or Occupational *[[Illness]* *Disease* shall be acceptable as the supplementary record as required by (a) above.

(c) Worker's compensation, insurance, or other reports are acceptable alternative records to (a) above, if they contain the information required by N.J.A.C. 12:235, Rules of the Division of Worker's Compensation.

12:110-5.5 Annual summary

(a) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment, using form NJOSH No. 200. This summary shall consist of a copy of the year's totals from the Form NJOSH No. 200 and the following information from that form:

1. Calendar year covered;
2. Agency name;
3. Establishment name and address;
4. Signature of certifier and his title, and,
5. The date.
6. If no injuries or illnesses occurred in the year, zeros shall be entered on the totals line.

(b) The summary in (a) above shall be completed by February 1 for the previous calendar year.

(c) Each employer, or the officer or employee of the employer who supervises the preparation of the log and summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer, or the officer or employer who supervises the preparation of the annual summary of occupational injuries and illnesses, at the bottom of the last page of the log and summary or by appending a separate statement to the log and summary certifying that the summary is true and complete.

(d) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under N.J.A.C. 12:110-4.2(a). The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1.

1. For employees who do not primarily report for work at a single establishment, or who do not report to any fixed establishment on a regular basis, employers shall satisfy this posting requirement by presenting or mailing a copy of the summary portion of the log and summary during the month of February of the following year to each such employee who is paid during that month.

2. For multi-establishment employers where operations have closed down in some establishments during the calendar year, the employers need not post summaries for those establishments.

(e) A failure to post a copy of the establishment's annual summary may result in the issuance of citations and assessment of penalties pursuant to N.J.S.A. 34:6A-41.

12:110-5.6 Retention of records

Records required by N.J.A.C. 12:110-5.2, 5.4 and 5.5 shall be retained in each establishment for five years following the end of the year to which they relate.

12:110-5.7 Access to records

(a) Each employer shall provide, upon request, records required by N.J.A.C. 12:110-5.2, 5.4 and 5.5, for inspection and copying by any representative of the Commissioner for the purpose of carrying out the provisions of the Act, or by any representative of a State accorded jurisdiction for occupational safety and health inspections or for statistical compilation under N.J.S.A. 34:6A-40.

(b) The log and summary of all recordable occupational injuries and illnesses (NJOSH No. 200) in N.J.A.C. 12:110-5.2, the supplementary record of N.J.A.C. 12:110-5.4, and the annual summary of N.J.A.C. 12:110-5.5 shall, upon request, be made available by the employer to any employee, former employee, and to their representatives for examination and copying in a reasonable manner and at reasonable times. The employee, former employee, and their rep-

resentatives shall have access to the log for any establishment in which the employee is or has been employed.

(c) Nothing in this section shall be deemed to preclude employees and employee representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

(d) Access to the log provided under this section shall pertain to all logs retained under N.J.A.C. 12:110-5.6.

12:110-5.8 Reporting of fatality, injury or illness

(a) As promptly as possible but not later than the start of the second work day, the employer shall report in writing:

1. Every accidental injury or illness which causes a loss of time from regular duties beyond the working day or shift on which the accident occurred; or
2. Every accidental injury or illness which requires medical treatment beyond ordinary first aid; or
3. An occurrence of an occupational illness whether or not time is lost.

(b) Every fatality or serious injury shall be reported, orally and in writing, immediately to the Program Director. The reporting may be by telephone or telegraph.

(c) The written report required by (a) and (b) above shall mean the execution of the Employer's First Report of Accidental Injury or Occupational Disease.

(d) The Program Director may require such additional reports, in writing or otherwise, as he deems necessary, concerning the fatality, injury or illness.

12:110-5.9 Falsification, or failure to keep records or reports

Failure to maintain records or file reports required by this subchapter, or in the necessary detail required by forms and instructions issued under this subchapter, may result in the issuance of citations and assessment of penalties as provided for in N.J.S.A. 34:6A-41.

12:110-5.10 Change of agency

(a) Where an establishment is assigned to another agency, the employer shall be responsible for maintaining records and filing reports only for that period of the year during which he was assigned to such establishment.

(b) In the case of any change in agency, the employer shall preserve those records, if any, kept by the agency previously overseeing that establishment which are required to be kept under this subchapter. These records shall be retained at each establishment to which they relate, for the period, or remainder thereof, required under N.J.A.C. 12:110-5.6.

12:110-5.11 Employees not in fixed establishments

(a) Employers of employees engaged in physically dispersed operations such as occur in construction, installation, repair or service activities who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of N.J.A.C. 12:110-5.2, 5.4 and 5.6 with respect to such employees by:

1. Maintaining the required records in an established central place for each operation or group of operations which is subject to common supervision;
2. Having the address and telephone number of the central place available at each worksite; and
3. Having personnel available at the central place during normal business hours to provide by telephone and by mail information from the records maintained.

12:110-5.12 Duties of employers

Upon receipt of an Occupational Injuries and Illnesses Survey Form, the employer shall promptly complete the form in accordance with the instructions contained therein, and return the form in accordance with the aforesaid instruction.

SUBCHAPTER 6. VARIANCES

12:110-6.1 Scope of subchapter

This subchapter establishes rules of practice for administrative proceedings to grant variances under N.J.S.A. 34:6A-39.

12:110-6.2 Effect of variances

All variances from a standard which are granted pursuant to N.J.S.A. 34:6A-39 shall have only future effect. In his discretion, the Commissioner may decline to entertain an application for a variance on a subject or issue when an order has been issued to the employer involved and a proceeding on the order or a related issue concerning a proposed penalty pending before the Review Commission.

12:110-6.3 Public notice of a granted variance

Every final action granting a variance shall be published. Every such final action shall specify the alternative to the standard involved which the particular variance permits.

12:110-6.4 Form of documents for variance

(a) No particular form is prescribed for applications and other papers which may be filed in proceedings for a variance. Any applications and other papers shall be clearly legible.

(b) An original and two copies of any application or other papers shall be filed. The original shall be typewritten. Clear carbon copies, copies or photocopies are acceptable copies.

(c) Each application or other paper which is filed in proceedings for a variance shall be signed by the person filing the same or by his attorney or other authorized representative.

12:110-6.5 Temporary variance

(a) Pursuant to N.J.S.A. 34:6A-3.9, any employer, or class of employers, may request a temporary variance from a standard, or portion thereof, and may file a written application containing the information specified in (b) below with the:

Commissioner of Labor
New Jersey Department of Labor
CN 110
Trenton, New Jersey 08625-0110

(b) An application filed pursuant to (a) above shall include:

1. The name and address of the applicant;
2. The address of the place or places of employment involved;
3. A citation of the standard or portion thereof from which the applicant seeks a temporary variance;
4. A representation by the applicant, supported by representations from qualified persons having first-hand knowledge of the facts represented, that the applicant is unable to comply with the standard or portion thereof by its effective date and a detailed statement of the reasons therefor;
5. A statement of the steps the applicant has taken and will take, with specific dates where appropriate, to protect employees against the hazard covered by the standard;
6. A statement of when the applicant expects to comply with the standard and the steps taken and intends to take, with specific dates where appropriate, to come into compliance with the standards;
7. A statement of the facts the applicant would list to establish that:
 - i. The applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date
 - ii. The applicant is taking all available steps to safeguard his employees against the hazards covered by the standard; and
 - iii. The applicant has an effective program for coming into compliance with the standard as quickly as practicable;

8. A request for a hearing;
9. A statement that the applicant has informed his affected employees of the application by giving a copy thereof to their authorized representative, posting the statement, giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means; and
10. A description of how affected employees have been informed of the application and of their right to petition the Commissioner for a hearing.

(c) The Commissioner may issue an interim order granting relief pending the hearing.

(d) A copy of the order shall be served upon the applicant for the order and other parties and the terms of the order shall be published. It shall be a condition of the order that the affected employer shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

12:110-6.6 Permanent variance

(a) Pursuant to N.J.S.A. 34:6A-39, any employer, or class of employers, may request a permanent variance and may file a written application containing the *[informing]* ***information*** specified in (b) below with the:

Commissioner of Labor
New Jersey Department of Labor
CN 110
Trenton, New Jersey 08625-0110

(b) An application filed pursuant to (a) above shall include:

1. The name and address of the applicant;
2. The address of the place or places of employment involved;
3. A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;
4. A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment to employees which are as safe and healthful as those required by the standard from which a variance is sought;
5. A certification that the applicant has informed his employees of the application by:
 - i. Giving a copy of the explanation to their authorized representative;
 - ii. Posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and
 - iii. By other appropriate means;
6. Any request for a hearing; and
7. A description of how employees have been informed of the application and of their right to petition the Commissioner for a hearing.

(c) The Commissioner may issue an interim order granting relief pending the hearing.

(d) A copy of the order shall be served upon the applicant for the order and other parties, and the terms of the order shall be published. It shall be a condition of the order that the affected employer shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

12:110-6.7 Modification, revocation and renewal of orders

(a) An affected employer or an affected employee may apply in writing to the Commissioner for a modification or revocation of an order issued under N.J.S.A. 34:6A-39. The application shall contain:

1. The name and address of the applicant;
2. A description of the relief which is sought;
3. A statement setting forth with particularity the grounds for relief;
4. If the applicant is an employer, a certification that the applicant has informed his affected employees of the application by:
 - i. Giving a copy thereof to their authorized representative;
 - ii. Posting at the place where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and
 - iii. Other appropriate means.
5. If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and
6. Any request for a hearing.

(b) The Commissioner may, on his own motion, proceed to modify or revoke an order issued under N.J.S.A. 34:6A-39. In such event, the Commissioner shall cause to be published a notice of his intention, affording interested persons an opportunity to submit written data, views, or arguments regarding the proposal and informing the affected employer and employees of their right to request a hearing, and shall take such other action as may be appropriate to give actual

notice to affected employees. Any request for a hearing shall include a short statement of:

1. How the proposed modification or revocation would affect the requesting party; and

2. What the requesting party would seek to show on the subjects or issues involved.

(c) Any final order issued under N.J.S.A. 34:6A-39 may be renewed or extended as permitted by the applicable section and in the manner prescribed for its issuance.

(d) Any final order issued under N.J.S.A. 34:6A-39 may be modified or revoked upon application by an employer, any employee, or by the Commissioner on his own motion, at any time after six months from its issuance.

12:110-6.8 Action on application

(a) If an application filed pursuant to N.J.A.C. 12:110-6.5, 6.6 or 6.7 does not conform to the provisions required in the applicable section, the Commissioner may deny the application.

(b) Prompt notice of the denial of an application shall be given to the applicant.

1. A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.

2. A denial of an application pursuant to this section shall be without prejudice to the filing of another application.

(c) If an application has not been denied pursuant to (a) above, the Commissioner shall cause to be published a notice of the filing of the application.

(d) A notice of the filing of an application shall include:

1. The terms or an accurate summary of the application;

2. A reference to the Act under which the application has been filed;

3. An invitation to interested persons to submit, within a stated period of time, written data, views, or arguments regarding the application; and

4. Information to affected employers and employees covered in the application of any right to request a hearing on the application.

12:110-6.9 Requests for hearing on application

(a) Within the time allowed by a notice of the filing of an application, any affected employer or employee, may file with the Commissioner, an original and four copies, a request for a hearing on the application.

(b) A request for a hearing filed pursuant to (a) above shall include:

1. A concise statement of facts showing how the employer or employee would be affected by the relief sought;

2. A specification of any statement or representation in the application which is denied, and a concise summary of the evidence that would be adduced in support of each denial; and

3. Any views or arguments on any issue of fact or law presented.

12:110-6.10 Consolidation of proceedings

The Commissioner, on his own motion or that of any party, may consolidate or simultaneously consider two or more proceedings which involve the same or closely related issues.

12:110-6.11 Hearings

Hearings for an order to grant a variance shall be pursuant to N.J.S.A. 34:6A-39; N.J.S.A. 52:14B-1 et seq., Administrative Procedure Act; N.J.S.A. 52:14F-1 et seq., and N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 7. DISCRIMINATION AGAINST EMPLOYEES

12:110-7.1 Scope of subchapter

This subchapter establishes the procedural rules governing a public employee's allegations of discrimination by a public employer or person.

12:110-7.2 Employer responsibility and employee rights

(a) No employer shall discharge or in any manner discriminate against any employee because the employee has:

1. Filed any complaint under or related to the Act;

2. Instituted or caused to be instituted any proceeding under or related to the Act;

3. Testified or is about to testify in any proceeding under or related to the Act; or

4. Exercised on his own behalf or on behalf of others any right afforded by the Act.

(b) Any employee who believes that he has been discharged, disciplined or otherwise discriminated against by any person in violation of this section may, within 180 days after the employee first has knowledge such violation did occur, bring an action in the Superior Court against the person alleged to have violated the provisions of this section. In any such action, the Superior Court shall have jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay.

12:110-7.3 Persons prohibited from discriminating

(a) No person shall discharge or in any manner discriminate against any employee because the employee has exercised rights under the Act or these rules.

(b) The prohibitions of the Act are not limited to actions taken by employers against their own employees.

(c) A person may be chargeable with an act of discrimination against an employee of another person. The Act extends to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee.

12:110-7.4 Unprotected activities

(a) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The proscriptions of the Act apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Act does not automatically render him immune from discharge or disciplines for legitimate reasons, or from adverse action dictated by non-prohibited considerations.

(b) To establish a violation of the Act, the employee's engagement in protected activity need not be the sole consideration behind the discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place but for engagement in protected activity, the Act has been violated. Ultimately, the issue as to whether a discharge was because of protected activity shall be determined on the basis of the facts in the particular case.

12:110-7.5 Complaints under the Act

(a) Discharge of, or discrimination against, an employee because the employee has filed a complaint under or related to the Act is prohibited by the Act.

1. For example, such complaint includes, but is not limited to, an employee request for inspection.

(b) Complaints made to State or local agencies regarding occupational safety and health conditions shall relate to the Act. Such complaints shall relate to conditions at the workplace, as distinguished from complaints touching only upon general public safety and health.

(c) Complaints about occupational safety and health matters made to employers, if made in good faith, shall relate to the Act, and an employee shall be protected against discharge or discrimination caused by a complaint to the employer.

12:110-7.6 Proceedings under the Act

(a) Discharge of, or discrimination against, any employee because the employee has instituted or caused to be instituted any proceeding under or related to the Act is prohibited by the Act.

1. Examples of proceedings which could arise specifically under the Act include inspections of worksites, employee initiation of proceedings for promulgation of an occupational safety and health standard, employee application for modification or revocation of a variance, and employee judicial challenge to a standard.

(b) An employee need not directly institute the proceedings. It is sufficient if he sets into motion activities of others which result in proceedings under or related to the Act.

ADOPTIONS

12:110-7.7 Testimony

(a) Discharge of, or discrimination against, any employee because the employee has testified or is about to testify in proceedings under or related to the Act is prohibited by the Act.

(b) The protection in (a) above is not limited to testimony in proceedings instituted or caused to be instituted by the employee, but extends to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, and administrative rule making or adjudicative functions.

(c) If the employee is giving or is about to give testimony in any proceeding under or related to the Act, he shall be protected against discrimination resulting from such testimony.

12:110-7.8 Exercise of any right afforded by the Act

(a) In addition to protecting employees who file complaints, institute proceedings, or testify in proceedings under or related to the Act, the Act shall protect employees from discrimination occurring because of the exercise of any right afforded by the Act.

1. Certain rights are explicitly provided in the Act.

i. For example, there is a right to participate as a party in enforcement proceedings.

2. Certain other rights exist by necessary implication.

i. For example, employees may request information from the Public Employee Occupation Safety and Health Administration; such requests would constitute the exercise of a right afforded by the Act.

ii. Employees interviewed by designees of the Commissioner in the course of inspections or investigations could not subsequently be discriminated against because of their cooperation.

(b) The Act does not afford employees the right to walk off the job because of potential unsafe conditions at the workplace.

1. Hazardous conditions which may be violative of the Act will ordinarily be corrected by the employer, once brought to his attention. If corrections are not accomplished, or if there is dispute about the existence of a hazard, the employee will normally have the opportunity to request inspection of the workplace, or to seek the assistance of other public agencies which have responsibility in the field of safety and health.

2. An employer would not ordinarily be in violation of the Act by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety and health hazards.

3. Occasions might arise when an employee is confronted with a choice between not performing assigned tasks or subjecting himself to serious injury or death arising from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself to the dangerous condition, he would be protected against subsequent discrimination.

i. The condition causing the employee's apprehension of death or injury shall be of such a nature that a reasonable person under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels.

ii. The employee, where possible, shall also have sought from his employer, and been unable to obtain a correction of the dangerous condition.

12:110-7.9 Filing of complaint for discrimination

The filing of a complaint for discrimination shall be in accordance with N.J.S.A. 34:6A-45.

12:110-7.10 Employee refusal to comply with rules

(a) Employees who refuse to comply with occupational safety and health standards or valid safety or health rules implemented by the employer in furtherance of the Act are not considered to be exercising any rights afforded by the Act.

(b) Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules, shall not ordinarily be regarded as discriminatory action prohibited by the Act. This situation shall be distinguished from refusals to work.

LAW AND PUBLIC SAFETY

SUBCHAPTER 8. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

12:110-8.1 Documents referred to by reference

(a) The full title and edition of each of the standards or publications referred to in this chapter are as follows:

1. N.J.S.A. 34:6A-25 et seq., New Jersey Public Employees Occupational Safety and Health Act.

12:110-8.2 Availability of documents for inspection

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Workplace Standards between the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

New Jersey Department of Labor
Division of Workplace Standards
Station Plaza—Bldg. 4
East State St. & South Clinton Avenue
Trenton, New Jersey

12:110-8.3 Availability of documents from issuing organization

Copies of the standards and publications referred to in this chapter may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning and are the organizations issuing the standards and publications listed in N.J.A.C. 12:110-8.1

N.J.S.A. New Jersey Statutes Annotated
Copies available from:
Division of Workplace Standards
New Jersey Department of Labor
CN 386
Trenton, New Jersey 08625-0386

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

(a)

Board of Professional Engineers and Land Surveyors

Land Surveyors; Preparation of Land Surveys

Adopted Amendment: N.J.A.C. 13:40-5.1

Proposed: September 8, 1987 at 19 N.J.R. 1631(a).

Adopted: December 17, 1987, by Robert Kirkpatrick, P.E., L.S.,
President, Board of Professional Engineers and Land Surveyors.

Filed: December 23, 1987, as R.1988 d.45, **without change**.

Authority: N.J.S.A. 45:8-27 et seq., specifically 45:8-28(e).

Effective Date: January 19, 1988.

Expiration Date: September 3, 1990.

Summary of Public Comments and Agency Responses:

The proposed amendment was published on September 8, 1987 at 19 N.J.R. 1631. As of October 8, 1987, when the thirty-day official comment period ended, three written responses were received. One letter supported the proposed amendment without change and two letters opposed the proposed amendment. The Board's response to the opposition comments follows.

The first of the opposing letters advocated fewer regulations and characterized the proposed amendment as "overkill". The second letter stated that the non-personal contact between the land surveyor and client or "ultimate user" could be rectified, without the proposed amendment, through good business practice.

The Board wishes to restate that this amendment was initially proposed in response to a number of complaints which were received from consumer clients or "ultimate users" of land surveyor services. A number of instances where a home purchaser expected to have corners set, but found they were not set due to an agreement between the surveyor and another interested party, were brought to the Board's attention. In response to these grievances, the Board seeks to aid the "ultimate user" of a survey, the home purchaser, through these amendments.

Full text of the adoption follows.

13:40-5.1 Land surveyors: preparation of land surveys

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

(d) Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and so forth, shall be set either by the licensed land surveyor or under the supervision of the licensed land surveyor. Such markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible, or unless written contractual arrangements with the ultimate user specify otherwise. For the purpose of this section "ultimate user" shall mean, in the case of a transfer of title, the purchaser of the property or the attorney representing that purchaser and not a representative agent such as a title company, real estate agent, real estate broker, mortgage company or other individual or entity. When written contractual arrangements are made to omit corner markers, a specific notation stating that such omissions have been made by written contractual agreement with the ultimate user shall be clearly displayed on the plat or plan of survey. This notation must relate specifically to that plat or plan of survey and may not be included as a preprinted title block, standard form, or other reproducible medium.

1.-5. (No change.)

(e)-(n) (No change.)

DIVISION OF CONSUMER AFFAIRS

(a)

Office of Weights and Measures Meat, Poultry, Fish and Shellfish Sold by Net Weight Adopted Amendment: 13:47C-2.1

Proposed: October 5, 1987 at 19 N.J.R. 1787(b).

Adopted: November 23, 1987 by Thomas W. Kelly, State Superintendent, Office of Weights and Measures.

Filed: December 18, 1987 as R.1988 d.35, **without change**.

Authority: N.J.S.A. 51:1-61.

Effective Date: January 19, 1988.

Expiration Date: August 20, 1989.

Summary of Public Comments and Agency Responses:

One letter with comments was received, authored by the Vice President of the Port Norris Oyster Co., Inc., Robert L. Morgan, objecting to the 15 percent free moisture provision. The State Superintendent responded that the proposed regulation was constructed following federal guidelines published by the National Conference on Weights and Measures and advising Mr. Morgan that if and when present intra-industry studies on the free moisture issue are completed, the State Superintendent will be amenable to review of the free moisture provision, if called for by future federal authority.

One letter of support for the proposed amendment was received from Barbara McConnell, President of the New Jersey Food Council. The State Superintendent thanked President McConnell for her support and clarified for her that Oysters Rockefeller and Clams Casino will be covered under the amended rule.

Full text of the adoption follows.

13:47C-2.1 Meat, poultry, fish, and/or shellfish sold by net weight; methods of sale

(a) All meat, poultry, fish and shellfish offered for sale or sold in the State of New Jersey shall be offered for sale or sold on the basis of net weight only, except as provided in (b) through (e) below.

(b) Shellfish, except as provided in (e) below may be sold by weight, measure and/or count.

(c) When meat, poultry, fish or seafood is combined with some other food element to form a distinctive food product, the representation of quantity may be in terms of the total weight of the combined product and a representation of quantity need not be made for each element.

(d) Labels on ready-to-cook stuffed fish, seafood, poultry, or meat products must show the total net weight of the stuffed fish, seafood, poultry, or meat product.

(e) Clams, mussels, oysters, and crabs shall be offered for sale in the following manner:

1. Processed clams, mussels, or oysters on the half shell, fresh or frozen, shall be sold by net weight excluding the weight of the shell.

2. Canned (heat-processed) mussels, clams, or oysters shall be sold by net weight:

i. A maximum of 41 percent free liquid by weight is permitted for canned oysters.

3. Fresh oysters, clams, or mussels removed from the shell and placed in a container shall be sold by liquid volume. A maximum of 15 percent free liquid by weight is permitted.

4. Whole clams, oysters, mussels and crabs in the shell, fresh or frozen, shall be sold by the following methods, and size designations may be provided:

i. Weight, including the shell but not including any liquid or ice packed with the clams, oysters, mussels, or crabs;

ii. Dry measure (for example, bushel); and/or

iii. Count.

TRANSPORTATION

(b)

TRANSPORTATION OPERATIONS

Speed Limits

Routes U.S. 46 in Warren County and N.J. 34 in Monmouth County and N.J. 38 in Burlington County

Adopted Amendments: N.J.A.C. 16:28-1.10, 1.18, and 1.120

Proposed: November 2, 1987 at 19 N.J.R. 1968(a).

Adopted: December 4, 1987, John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: December 21, 1987 as R.1988 d.37, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-98.

Effective Date: January 19, 1988.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28-1.10 Route U.S. 46 including Routes U.S. 1, 9 and 46

(a) The rate of speed designated for the certain parts of State highway Route U.S. 46 described in this section shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic:

i. Zone one: 50 mph from Route I-80, Route 46 and Route 94 interchange, Knowlton Township (milepost 0.00) to 1,900 feet west of Route 31, White Township, Warren County (milepost 9.63), except

(1) (No change.)

(2) School zone: 35 mph speed limit within the White Township Consolidated School zone during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school during opening or closing hours.

ii.-viii. (No change.)

2.-5. (No change.)

(b) (No change.)

16:28-1.18 Route 34

(a) The rate of speed designated for the certain parts of State highway Route 34, described below shall be the maximum legal rate of speed:

1. For both directions of traffic in Monmouth County:

RESPONSE: Perhaps the primary purpose of the rule is to create an incentive for new manufacturers to enter the market and to promote a healthy competitive environment in the slot machine supply business. Any use by a casino of the slot machines of one manufacturer in excess of 50 percent because it is affiliated with that manufacturer necessarily results in other manufacturers being foreclosed from that share. Such losses in the competing manufacturer's available market could remove the incentives for these manufacturers to enter into or actively compete in the market. Thus, contrary to Bally's and GNOC's claim, the Commission believes tht the blanket exception for affiliated entities which they suggest would undermine a primary policy underlying the original rule, and some limitation remains necessary.

COMMENT: The Division of Gaming Enforcement submitted a comment objecting to the proposed amendment for reasons similar to those stated by IGT—because it would permit a slot machine manufacturer which is affiliated with a casino licensee to increase its share of the overall market and because it will not prevent such a manufacturer from acquiring more than 50 percent of the overall market. The comment requests that the Commission revise the proposed amendment to ensure that no manufacturer of slot machines can ever hold more than 50 percent of the overall slot machine market in the State.

RESPONSE: The Commission disagrees with the Division of Gaming Enforcement for the reasons cited in the agency response to International Gaming Technology's comment.

Full Text of the adoption follows.

19:40-1.2 Definitions

All words and terms which are defined in the New Jersey Casino Control Act (P.L. 1977, c.110, as amended) are used in these rules and regulations as defined in that act. The following words and terms, when used in these rules and regulations, shall have the following meanings, unless the context clearly indicates otherwise.

... "Affiliate" of, or a person "affiliated" with, a specific person means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

19:45-1.1 Definitions

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

...

19:46-1.32 Limitation on utilization of slot machines of any one manufacturer

(a) Except as otherwise provided in this section, no more than 50 percent of the slot machines used in any casino in this State to conduct gaming shall have been manufactured by any one manufacturer or by any enterprise affiliated with said manufacturer.

(b) The commission may modify the limitation imposed by (a) above upon a finding that the casino licensee or applicant for a casino license has made a good faith effort to seek out and obtain slot machines from more than the single manufacturer and that a number of adequate slot machines sufficient to comply with the said limitation are not reasonably available for such use in the said casino.

(c) The Commission may, upon application, permit a casino licensee which is affiliated with a slot machine manufacturer to exceed the 50 percent limitation imposed by (a) above as to slot machines manufactured by the affiliated manufacturer as long as the total number of the affiliated manufacturer's slot machines in use in casinos in this State will not exceed 50 percent of the total number of all slot machines in use in casinos in this State at the time of application. A casino licensee shall not be permitted to make more than one such application to the Commission during any 12 month period. Any casino licensee that was affiliated with a slot machine manufacturer and was not using that manufacturer's slot machines for more than 50 percent of its slot machine requirements as of August 1, 1987, shall not exceed the limitations imposed by (a) above prior to receiving the approval required by this subsection.

(d) A casino licensee or an applicant for a casino license may seek modification of the limitation imposed by (a) above by filing a verified petition with the Commission alleging sufficient facts to satisfy the standards set forth in (b) or (c) above.

(e) In response to such a verified petition, the Commission may decide the request summarily, elicit further information from the petitioner or other interested persons, set the matter down for a hearing or adopt such other procedures as may be appropriate under the circumstances.

19:54-2.2 Definitions

As used in this subchapter, the following words and terms shall have the meaning herein ascribed to them unless a different meaning clearly appears from the context.

...

EMERGENCY ADOPTIONS

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Medicaid Only

New Eligibility Computation Amounts

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:71-5.4, 5.5, 5.6 and 5.7

Emergency Rule Adopted: December 17, 1987 by Drew Altman, Commissioner, Department of Human Services.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): December 31, 1987.

Emergency Rule Filed: January 4, 1988 as R.1988 d.55.

Authority: N.J.S.A. 30:4D-3i(7); 30:4D-7a, b, and c; 42 CFR 435.210 and 435.1005.

Emergency Amendment Effective Date: January 4, 1988.

Emergency Amendment Operative Date: January 4, 1988.

Emergency Amendment Expiration Date: March 4, 1988.

Concurrent Proposal Number: PRN 1988-59.

Submit comments by February 18, 1988 to:

Henry W. Hardy, Esq.
 Administrative Practice Officer
 Division of Medical Assistance
 and Health Services
 CN-712
 Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule 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 amendments to N.J.A.C. 10:71 increase the Medicaid Only computation amounts at N.J.A.C. 10:71-5.4(a)12, 5.5(g) and 5.7(e) and the income eligibility standards at N.J.A.C. 10:71-5.6(c)5. The amendments align Medicaid Only income eligibility for the aged, blind, and disabled with the Supplemental Security Income (SSI) program. Section 1902(a) of the Social Security Act requires that Medicaid Only eligibility be determined by the same criteria as applied in the SSI program. The revised income eligibility and computation amounts reflect the 4.2 percent Federal cost-of-living increase in SSI payment levels effective January 1, 1988. The Medicaid "Cap" for persons in Title XIX facilities is set at 300 percent of the Federal SSI benefit level for an individual, the maximum level authorized by the Social Security Act. The amendments must be implemented, effective January 1, 1988, to maintain compliance with Federal law.

Social Impact

The increase in standards and income computation amounts used in the eligibility process theoretically expands the population of potentially eligible persons. However, based on past experience, little increase in caseload because of the amendment is anticipated.

The Medicaid Cap income eligibility standard is used to determine income eligibility for the Community Care Program for the Elderly and Disabled and other home and community based waiver programs, as well as for persons in Title XIX facilities. The increase in the Cap standard will help preserve eligibility of persons whose income is increasing. In particular, the increased Cap will offset the 4.2 percent increase in Social Security benefits also scheduled for January 1, 1988.

Economic Impact

Past experience with similar increases in standards has demonstrated that there will be an insignificant economic impact on the public and State and county welfare agencies administering the program. These increases affect only eligibility for Medicaid and do not result in the receipt of cash assistance.

Regulatory Flexibility Statement

These standards affect only Medicaid eligibility of individuals. Because program eligibility is administered by the State and county governments, these rules have no effect on small businesses. Therefore, the Department concludes that no regulatory flexibility impact analysis is necessary.

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

10:71-5.4 Includable income

(a) Any income which is not specifically excluded under the provisions of N.J.A.C. 10:71-5.3 shall be includable in the determination of countable income. Such income shall include, but is not limited to, the following:

1.-11. (No change.)

12. Support and maintenance furnished in-kind (community cases): Support and maintenance encompasses the provision to an individual of his or her needs for food, clothing, and shelter at no cost or at a reduced value. Persons determined to be "living in household of another" in accordance with N.J.A.C. 10:71-5.6 shall not be considered to be receiving in-kind support and maintenance as the income eligibility levels have been reduced in recognition of such receipt. Persons not determined to be "living in household of another" who receive in-kind support and maintenance shall be considered to have unearned income in the amount of:

\$[133.33] **138.00** for an individual

\$[190.00] **197.33** for a couple

i. (No change.)

13. (No change.)

(b) (No change.)

10:71-5.5 Deeming of income

(a)-(f) (No change.)

(g) A table for deeming computation amounts follows:

TABLE A

Deeming Computation Amounts

1. Living allowance for each ineligible child		\$[170.00]	178.00
2. Remaining income amount	Head of Household	\$[170.00]	177.00
		\$[113.34]	118.00
3. Spouse to Spouse Deeming—Eligibility Levels			
a. Residential Health Care Facility		\$[660.05]	682.05
b. Eligible individual living alone with ineligible spouse		\$[705.36]	734.36
c. Living alone or with others		\$[541.25]	563.25
d. Living in household of another		\$[384.31]	398.98
4. Parental Allowance—Deeming to Child(ren)			
Remaining income is:	1. Parent		Parent & Spouse of Parent
a. Earned only	\$[680.00]	708.00	\$[1,020.00] 1,064.00
b. Unearned only	\$[340.00]	354.00	\$[510.00] 532.00
c. Both earned and unearned	\$[340.00]	354.00	\$[510.00] 532.00

10:71-5.6 Income eligibility standards

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

(c) Non-institutional living arrangements:

1.-4. (No change.)

TABLE B

Variations in Living Arrangements	Medicaid Eligibility Income Standards			
	Individual		Couple	
I. Residential Health Care Facility	\$[490.05]	504.05	\$[961.36]	989.36
II. Living Alone or with Others	\$[371.25]	385.25	\$[535.36]	557.36
III. Living Alone with Ineligible Spouse	\$[535.36]	557.36		
IV. Living in Household of Another	\$[270.98]	280.31	\$[433.09]	447.76
V. Title XIX Approved Facility: Includes persons in acute general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and ICFMR) and licensed special hospitals (Class A, B, C) and Title XIX psychiatric hospitals (for persons under age 21 and age 65 and over) or a combination of such facilities for a full calendar month.	\$[1020.00†]	1,062.00†		

†Gross income (that is, income prior to any income exclusions) is applied to this Medicaid "Cap".

(d)-(g) (No change.)

10:71-5.7 Deeming from sponsor to alien

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

(e) To determine the amount of income to be deemed to an alien, the CWA shall proceed as follows:

1. (No change.)

2. Subtract \$[340.00] **354.00** for the sponsor, \$[510.00] **531.00** for the sponsor if living with his or her spouse, \$[680.00] **708.00** for the sponsor if his or her spouse is a co-sponsor.

3. Subtract \$[170.00] **177.00** for any other dependent of the sponsor who is or could be claimed for Federal Income Tax purposes.

4. (No change.)

(f) (No change.)

(a)

DIVISION OF PUBLIC WELFARE

Service Programs for Aged, Blind, or Disabled Supplemental Security Income Payment Levels

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:100, Appendix A

Emergency Amendment Adopted: December 17, 1987 by Drew Altman, Commissioner, Department of Human Services. Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): December 31, 1987.

Emergency Amendment Filed: January 4, 1988 as R. 1988 d.54.

Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.

Emergency Amendment Effective Date: January 4, 1988.

Emergency Amendment Operative Date: January 4, 1988.

Emergency Amendment Expiration Date: March 4, 1988.

Concurrent Proposal Number: PRN 1988-58.

Submit comments by February 18, 1988 to:

Marion E. Reitz, Acting Director
Division of Public Welfare
CN 716

Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed

for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule 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

Section 1618(a) of the Social Security Act requires the State to maintain supplemental payments in the Supplemental Security Income (SSI) program at levels no lower than those in effect in December 1976. This effectively requires the State to "pass-through" to SSI recipients the full amount of any Federal cost-of-living adjustment (COLA). The amendment reflects payment levels in the SSI program which include the 4.2 percent Federal cost-of-living increase effective January 1, 1988.

Social Impact

The amendment provides for an increase in payment levels to eligible low-income aged, blind, and disabled individuals. The increase will enable such persons to maintain a measure of parity with the increased cost of living.

Economic Impact

The increase in State expenditures over existing levels is estimated to be \$295,400 through the end of calendar year 1988. Increased cost of county government is estimated at \$98,500 for the same period. This rule will not impact administratively on the Department or county governments as the SSI program is administered by the Social Security Administration.

Regulatory Flexibility Statement

This emergency adoption and concurrent proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1980, c.169, effective December 4, 1986. This action imposes no compliance requirements on small business.

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

10:100, Appendix A

The New Jersey Supplemental Security Income Payment Levels

Living Arrangement Categories	Payment Level	
	[1/1/87]	1/1/88
Eligible Couple		
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$[550/510.00†]	\$50/532.00*
Residential Health Care Facilities and certain residential facilities for children and adults	\$[961.36]	\$989.36
Living Alone or with Others	\$[535.36]	\$557.36
Living in Household of Another, Receiving Support and Maintenance	\$[433.09]	\$447.76
Eligible Individual		
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$[25/340.00†]	\$25/354.00†
Residential Health Care Facilities and certain residential facilities for children and adults	\$[490.05]	\$504.05
Living Alone or with Others	\$[371.25]	\$385.25
Living with Ineligible Spouse (No other individuals in household)	\$[535.36]	\$557.36
Living in Household of Another, Receiving Support and Maintenance	\$[270.98]	\$280.31

†The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

MISCELLANEOUS NOTICES

EDUCATION

(a)

THE COMMISSIONER

State Plan for the Education of All Handicapped Children

Public Hearings

Take notice that the New Jersey Department of Education, Division of Special Education will receive public comment on the State Plan for the Education of All Handicapped Children for fiscal years 1989 through 1991. This revision is a required, three year submission under the Education of the Handicapped Act as amended. The Federal Office of Special Education and Rehabilitative Services (OSERS) in the United States Department of Education must approve the State Plan prior to authorizing Part B funds for special education services to the state of New Jersey.

Copies of the 1989-1991 State Plan may be obtained from the 21 offices of the county superintendents of schools. Appendices are available for review at the Division of Special Education, 225 West State Street, Trenton, New Jersey. If you wish to review the appendices, contact Erin Hillary Leff, Esq. at the address/telephone below.

Interested agencies, organizations and individuals are invited to comment on the proposed State Plan, to suggest improvements in the administration of the program and/or to allege a failure to comply with applicable statutes and/or regulations.

The public comment period is March 25, 1988 to April 25, 1988. Public hearings will be held from 4:00 p.m. to 6:00 p.m. as follows:

April 11, 1988

East Orange School District
715 Park Avenue
East Orange, New Jersey
(201) 266-5760

April 12, 1988

New Jersey State Library
3rd Floor Meeting Room
185 West State Street
Trenton, New Jersey
(609) 292-6200

April 13, 1988

Regional Day School at Winslow
198 Coopers Folly Road
Atco, New Jersey
(609) 767-0997

April 14, 1988

County Services Building
1st Floor Conference Room
West Hanover Avenue
Morris Township, New Jersey
(201) 829-8571

If you wish to comment on the proposed State Plan, you may request an opportunity to testify or you may send your written comment to:

Erin Hillary Leff, Esq.
Division of Special Education
Box CN 500
225 West State Street
Trenton, New Jersey 08625
(609) 292-7602

The State Plan will be revised following a review of the public comments. It will be submitted to OSERS on or about May 2, 1988.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

Amendment to the Atlantic County Water Quality Management Plan

Public Notice

Take notice that the Atlantic County Planning Board has proposed an amendment to the Atlantic County Water Quality Management (WQM) Plan by adopting a Wastewater Management Plan developed for the Township of Galloway. This Wastewater Management Plan would revise the sewer service area designations within Galloway Township excluding environmentally sensitive areas. The Wastewater Management Plan also contains provisions for installation of an interceptor to service future wastewater flows from Egg Harbor City.

This notice is being given to inform the public that a plan amendment has been proposed for the Atlantic County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the Department of Regional Planning and Development, County Office Building, 1333 Atlantic Avenue, Atlantic City, New Jersey 08401, and the New Jersey Department of Environmental Protection (NJDEP), Division of Water Resources, Bureau of Water Resources Management Planning, CN-029, 401 East State Street, 3rd Floor, Trenton, New Jersey 08625. These documents are available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to James M. Rutala, the Director of County Planning at the County Office Building address cited above; and George Horzempa, Bureau of Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted within 30 days following the public notice publication date. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered. The Atlantic County Planning Advisory Board shall issue a recommendation on the WQM Plan Amendment to the County Executive and the Chairman of the Board of Chosen Freeholders within 45 days from the date of the notice. Adoption of the amendment shall be by ordinance by the Atlantic County Board of Chosen Freeholders. The NJDEP thereafter may approve and adopt this amendment without further notice.

(c)

DIVISION OF WATER RESOURCES

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would approve the Mount Laurel Township MUA Wastewater Management Plan (WMP). The WMP allows the expansion of the existing Hartford Road STP from 2.95 MGD to 6.0 MGD. The WMP also calls for the abandonment of the existing Rancocas Woods, Ramblewood, and New Jersey Turnpike Service Area treatment facilities. The wastewater currently treated at these facilities will be conveyed to the Hartford Road STP for treatment. The WMP will also expand the sewer service area in Mount Laurel Township.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 401 East State Street, Third Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzempa, Bureau of Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted

within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzempa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

LAW AND PUBLIC SAFETY

(a)

BOARD OF PHARMACY

Board of Pharmacy Rules

Proposed Repeal and New Rules: N.J.A.C. 13:39 Comment Period Extension

Take notice that the Board of Pharmacy is extending until February 18, 1988, the period for submission of written comments on the proposed repeal and new rules which govern all aspects of the practice of pharmacy in this State, N.J.A.C. 13:39. The original proposal was published on November 2, 1987 in the New Jersey Register at 19 N.J.R. 1952(a). Please refer to it for further information.

Interested persons may submit written comments on the proposed repeal and new rules to:

Robert Terranova, Executive Secretary
State Board of Pharmacy
1100 Raymond Boulevard, Room 325
Newark, New Jersey 07102

TRANSPORTATION

(b)

THE COMMISSIONER

New Jersey Department of Transportation

Vendor's Code of Ethics

Public Notice

Take notice that the New Jersey Department of Transportation (NJDOT) considers the maintenance of public trust and confidence essential to its proper functioning, and accordingly has adopted this Contractor's Code of Ethics. Vendors who do business with NJDOT must avoid all situations where proprietary or financial interests, or the opportunity for financial gain, could lead to favored treatment for any organization or individual. Vendors must also avoid circumstances and conduct which may not constitute actual wrongdoing, or a conflict of interest, but might nevertheless, appear questionable to the general public, thus compromising the integrity of the Department.

This code is based upon the principles established in the laws governing the Executive Commission on Ethical Standards, N.J.S.A. 52:13D-12 et seq., which, while not strictly applicable to contractors, provides general guidance in this area.

Accordingly, pursuant to the authority embodied in N.J.S.A. 27:1A et seq., and for good cause, the following is hereby established as the New Jersey Department of Transportation Code of Ethics for Vendors.

This Code of Ethics shall be made part of every Request for Proposals ("RFP") promulgated by the Department, and be attached to every contract and agreement to which NJDOT is a party following the effective date of this resolution. It shall be distributed to all parties who presently do business with the Department, and to the extent feasible, to all those parties who anticipate doing business with the Department.

VENDOR'S CODE OF ETHICS

1. No vendor shall employ any DOT officer or employee in the business of the contractor or professional activity in which the contractor is involved with the Department officer or employee.

2. No vendor shall offer or provide any interest, financial or otherwise, direct or indirect, in the business of the contractor or professional activity in which the contractor is involved with the Department officer or employee.

3. No vendor shall cause or influence, or attempt to cause or influence any NJDOT employee or officer in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of that NJDOT officer or employee.

4. No vendor shall cause or influence, or attempt to cause or influence any NJDOT officer or employee to use, or attempt to use his or her official position to secure any unwarranted privileges or advantages for that contractor or for any other person.

5. No vendor shall offer any NJDOT officer or employee any gift, favor, service, or other thing of value under circumstances from which it might be reasonably inferred that such gift, service, or other thing of value was given or offered for the purpose of influencing the recipient in the discharge of his official duties. In addition, employees or officers of NJDOT will not be permitted to accept breakfasts, lunches, dinners, alcoholic beverages, tickets to entertainment and/or sporting events or any other item which could be construed as having more than nominal value.

NOTE: This section would permit an NJDOT employee or officer to accept food or refreshments of relatively low monetary value provided during the course of a meeting, conference or other occasion where the employee is properly in attendance (for example—coffee, danish, tea or soda served during a conference break.)

Acceptance of unsolicited advertising or promotional materials of nominal value (such as inexpensive pens, pencils or calendars) would also be permitted.

Any questions as to what is or is not acceptable or what constitutes proper conduct for a Departmental employee or officer should be referred to the Department's Ethics Liaison Officer or his/her designee.

6. This code is intended to augment, and not to replace, existing administrative orders and the current Departmental Code of Ethics.

7. This code shall take effect immediately upon approval of the N.J. Executive Commission on Ethical Standards and adoption by the NJDOT.

†Vendor is defined as any general contractor, subcontractor, consultant, person, firm, corporation or organization engaging in or seeking to do business with NJDOT.

TREASURY-TAXATION

(c)

DIVISION OF TAXATION

Gross Income Tax; Gambling Winnings

Take notice that organizations holding a legalized game of chance in New Jersey may be required to withhold New Jersey Gross Income Tax from proceeds prior to issuance starting February 1, 1988.

Pursuant to P.L. 1987, c.76 Section 57, "The payor of New Jersey gambling winnings shall withhold New Jersey Gross Income Tax on those winnings at a rate of 3 percent in all instances where the payor is required to withhold for federal income tax purposes under subsection (q) of section 3402 of the Federal Internal Revenue Code of 1986 (26 U.S.C. §3402), as amended, except that this subsection shall not apply to the New Jersey State Lottery." Withholding applies to the winnings of both resident and nonresident individuals.

Income tax which is withheld from gambling winnings must be remitted on Form NJ-500, "Employer's Return of New Jersey Gross Income Tax Withheld," together with any employee wage withholdings which were made during the period. Return filing frequency is based on combined anticipated gambling and wage withholdings. New Jersey Gross Income Tax withholding remittance responsibilities are explained in the NJ-500 coupon booklet.

Form W-2-G, which is given to "Recipients of Certain Gambling Winnings," is to contain State as well as Federal withholding information. Sufficient copies of the form must be produced to ensure that copies are available to file with both the State and Federal returns. On an annual basis, a Reconciliation of Tax Withheld (Form NJ-W-3) must be filed which will contain information on both wage and gambling withholdings. Forms W-2 and W-2-G must be attached to the reconciliation return.

MISCELLANEOUS NOTICES

An employer not currently registered with the New Jersey Division of Taxation must withhold from gambling winnings, and must complete and file Form CIS-1, "Application for Registration." Once this form has been filed, the employer will receive the appropriate tax forms and instructions.

In order to obtain Form CIS-1, contact the Division of Taxation, Central Identification Section, CN-252, Trenton, New Jersey 08646-0252, (609) 292-1730.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Petition for Rulemaking

Prohibition of Inducements to Gamble

N.J.A.C. 19:47-1.6

Petitioner: Michael J. Kirkpatrick

A notice of Petition for Rulemaking to amend, inter alia, N.J.A.C. 19:47-1.6 in order to prohibit multiple odds bets as a supplemental craps wager was published in the November 2, 1987 New Jersey Register at 19 N.J.R. 2070(a).

In accordance with the mandate of N.J.S.A. 5:12-100(e), the Commission requires every wager offered by a casino licensee to be made in accordance with rules established by the Commission, which rules shall assure the vitality of casino operations and fair odds to and maximum participation by the public. Therefore, the petitioner's proposal concerning multiple odds bets was rejected by the Commission.

The Commission also rejected the proposal that casino personnel be prohibited from making any statement to the press regarding gaming odds without obtaining prior approval of the Commission. The adoption of such a rule would raise substantial constitutional issues concerning freedom of speech which are not justified by the alleged evils which the proposed rule is intended to remedy. Moreover, the Casino Control Act

OTHER AGENCIES

and the Commission's regulations already prohibit any advertisement of odds by casino licensees.

The petitioner's proposal to prohibit alcoholic drinks on the casino floor would contravene clear legislative authority whereby casino licensees are allowed to give away free drinks upon request of a patron. Accordingly, any change to the law in this area must be addressed to the legislature.

The suggestion that bells or other slot machine noises accompanying smaller payouts be eliminated was rejected on the basis that no other similar complaints have been received concerning this issue.

The petitioner also wished to prohibit the solicitation of bets by craps personnel. Such actions are already prohibited under N.J.S.A. 5:12-100(l) and violators are punished when observed. No further action is considered necessary at this time.

The presence of credit card facilities on the casino floor, which the petitioner would prohibit, is a public policy decision which has been fully considered by the Commission in the past and approved only after thorough evaluation. Although the Commission finds no basis for changing this policy determination at this time, further review will occur in the future if necessary or appropriate.

The petitioner also requested the adoption of a rule which would require that the signs for coin redemption be the same as the largest sign for change in a casino. Both the Commission and the Division of Gaming Enforcement have looked very carefully at the signs in every casino to be sure they are clear and visible. Although the suggested regulation is not considered necessary, the Commission will continue to review the signs located in each casino to assure that the patrons are fully informed.

The Commission also rejected the proposal that the individual slot payoff percentage be posted on every slot machine. Not only would this practice be difficult and impractical to implement due to the frequent modifications which are made to each slot machine but it would also probably decrease the range of payouts currently available to patrons.

Finally, Mr. Kirkpatrick desired that signs be posted on all gaming tables advising the public that dealers must provide information on the true house percentage advantage for all bets upon request by a patron. The Commission did not accept this proposal because this information is already available upon request at the casino security booth.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the December 7, 1987 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1987 d.1 means the first rule adopted in 1987.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: NOVEMBER 16, 1987.

NEXT UPDATE WILL BE DATED DECEMBER 21, 1987.

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
19 N.J.R. 165 and 260	January 20, 1987	19 N.J.R. 1353 and 1474	August 3, 1987
19 N.J.R. 261 and 324	February 2, 1987	19 N.J.R. 1475 and 1588	August 17, 1987
19 N.J.R. 325 and 392	February 17, 1987	19 N.J.R. 1589 and 1676	September 8, 1987
19 N.J.R. 393 and 430	March 2, 1987	19 N.J.R. 1677 and 1758	September 21, 1987
19 N.J.R. 431 and 476	March 16, 1987	19 N.J.R. 1759 and 1858	October 5, 1987
19 N.J.R. 477 and 586	April 6, 1987	19 N.J.R. 1859 and 1926	October 19, 1987
19 N.J.R. 587 and 672	April 20, 1987	19 N.J.R. 1927 and 2086	November 2, 1987
19 N.J.R. 673 and 794	May 4, 1987	19 N.J.R. 2087 and 2224	November 16, 1987
19 N.J.R. 795 and 898	May 18, 1987	19 N.J.R. 2225 and 2324	December 7, 1987
19 N.J.R. 899 and 1006	June 1, 1987	19 N.J.R. 2325 and 2510	December 21, 1987
19 N.J.R. 1007 and 1120	June 15, 1987	20 N.J.R. 1 and 124	January 4, 1988
19 N.J.R. 1121 and 1258	July 6, 1987	20 N.J.R. 125 and 220	January 19, 1988
19 N.J.R. 1259 and 1352	July 20, 1987		

N.J.A.C. CITATION

ADMINISTRATIVE LAW—TITLE 1

1:1-8.2	De novo review by OAL and previous hearing record
1:1-14.4	Failure to appear at proceeding
1:1-14.5	Ex parte communications and agency heads
1:30-1.2, 2.8	Use of appendices

PROPOSAL NOTICE (N.J.R. CITATION)

19 N.J.R. 1761(a)
19 N.J.R. 1591(b)
19 N.J.R. 1761(b)
19 N.J.R. 675(a)

DOCUMENT NUMBER

R.1987 d.519
R.1987 d.506

ADOPTION NOTICE (N.J.R. CITATION)

19 N.J.R. 2388(a)
19 N.J.R. 2388(b)

(TRANSMITTAL 1987-5, dated November 16, 1987)

AGRICULTURE—TITLE 2

2:71-2.4, 2.5, 2.6	Jersey Fresh Logo program
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19 N.J.R. 2327(b)

(TRANSMITTAL 1987-8, dated November 16, 1987)

BANKING—TITLE 3

3:1-1.1	Maximum interest rate on first mortgages on residences with one to six units
3:1-14	Revolving credit equity loans
3:2-1.1, 1.2, 1.3, 1.4	Advertising by financial institutions
3:6-4	Banks and savings banks: action upon detection or discovery of crime
3:6-9	Capital stock savings bank: change in control
3:10-8, 9	Banks and savings banks: mortgage loan practices
3:11-12	Commercial loans by savings banks
3:18-10	Secondary mortgage loan licensure
3:23-2.1	Secondary mortgage loan licensure
3:27-6, 7	Savings and loan associations: mortgage loan practices
3:38-4, 5, 7	Mortgage bankers and brokers: loan practices

19 N.J.R. 2089(a)		
19 N.J.R. 1594(a)		
19 N.J.R. 1355(a)		
19 N.J.R. 1595(a)	R.1988 d.28	20 N.J.R. 183(a)
19 N.J.R. 1762(a)		
19 N.J.R. 1356(a)		
19 N.J.R. 1679(b)		
19 N.J.R. 1929(a)	R.1988 d.36	20 N.J.R. 183(b)
19 N.J.R. 1929(a)	R.1988 d.36	20 N.J.R. 183(b)
19 N.J.R. 1358(a)		
19 N.J.R. 1360(a)		

(TRANSMITTAL 1987-6, dated October 19, 1987)

CIVIL SERVICE—TITLE 4

4:1-16.1-16.6, 24.2	Repeal (see 4A:8)
4:1-17, 18, 20, 26	Repeal (see 4A:6-1, 2, 3, 4, 5)
4:2-16.1, 16.2	Repeal (see 4A:8)
4:2-17, 18, 20, 26	Repeal (see 4A:6-1, 2, 3, 4, 5)
4:3-16.1, 16.2	Repeal (see 4A:8)
4:3-17, 20	Repeal (see 4A:6-1, 2, 3, 4, 5)
4:4	Repeal (see 4A:6-6)

19 N.J.R. 1363(a)		
19 N.J.R. 1764(a)	R.1988 d.13	20 N.J.R. 54(a)
19 N.J.R. 1363(a)		
19 N.J.R. 1764(a)	R.1988 d.13	20 N.J.R. 54(a)
19 N.J.R. 1363(a)		
19 N.J.R. 1764(a)	R.1988 d.13	20 N.J.R. 54(a)
19 N.J.R. 1774(a)	R.1988 d.11	20 N.J.R. 67(a)

(TRANSMITTAL 1987-4, dated November 16, 1987)

PERSONNEL—TITLE 4A

4A:6-1, 2, 3, 4, 5	Leaves, hours of work, employee development
4A:6-6	Awards Program
4A:8	Layoffs

19 N.J.R. 1764(a)	R.1988 d.13	20 N.J.R. 54(a)
19 N.J.R. 1774(a)	R.1988 d.11	20 N.J.R. 54(a)
19 N.J.R. 1363(a)		

(TRANSMITTAL 1987-2, dated November 16, 1987)

COMMUNITY AFFAIRS—TITLE 5

5:11-1.2, 2.1	Relocation assistance: lawful occupancy; eligibility
5:11-3.5	Relocation assistance: scheduling of payments
5:12-1.1, 2.1, 2.4	Homelessness Prevention Program: eligibility for temporary assistance

19 N.J.R. 1596(a)	R.1987 d.518	19 N.J.R. 2388(c)
19 N.J.R. 1930(a)	R.1988 d.41	20 N.J.R. 185(a)
19 N.J.R. 1777(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:13	Limited dividend and nonprofit housing corporations and associations	19 N.J.R. 1861(a)		
5:14-1.1-1.4, 2.1-2.3, 3.1-3.23, 4.1-4.6	Neighborhood Preservation Balanced Housing Programs	19 N.J.R. 589(a)		
5:18-2.4, 2.5, 2.6, 2.8	Uniform Fire Code: life hazard uses; annual registration fees	19 N.J.R. 1680(a)	R.1987 d.508	19 N.J.R. 2266(a)
5:19	Continuing care retirement communities: disclosure requirements	19 N.J.R. 597(a)		
5:23-1.1, 3.10, 4.40, 5.2, 5.4, 5.18, 5.20, 5.21-5.26	UCC: local agency classification; appeal boards; licensing	19 N.J.R. 1264(a)	R.1987 d.509	19 N.J.R. 2270(a)
5:23-2.38, 3.11, 7.2, 7.3, 7.100-7.116	Barrier free subcode: recreation standards	19 N.J.R. 1270(a)		
5:23-3.2	Uniform Construction Code: commercial farm buildings	19 N.J.R. 1778(a)		
5:23-3.2	Commercial farm building subcode: public hearings	19 N.J.R. 1862(a)		
5:23-3.18	Energy Subcode: checkmetering in multifamily buildings; lighting efficiency in existing buildings	19 N.J.R. 1862(b)		
5:23-8	Asbestos Hazard Abatement Subcode	19 N.J.R. 902(a)	R.1987 d.525	19 N.J.R. 2389(a)
5:80-21	Housing and Mortgage Finance: single family loans	18 N.J.R. 2238(a)	R.1978 d.517	20 N.J.R. 70(a)
5:80-26	Housing resale and rental affordability control	19 N.J.R. 802(a)		
5:92-1.3, 6.1	Council on Affordable Housing: rehabilitation component and credits	19 N.J.R. 1863(a)		
5:92-5.14	Council on Affordable Housing: low and moderate income split	19 N.J.R. 1597(a)	R.1988 d.27	20 N.J.R. 71(a)
5:92-12.11	Council on Affordable Housing: rental surcharge	19 N.J.R. 1597(a)		
5:92-16	Council on Affordable Housing: accessory apartments	19 N.J.R. 2089(b)		
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly	19 N.J.R. 1686(a)		
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly: extension of comment period	19 N.J.R. 2090(a)		

(TRANSMITTAL 1987-9, dated November 16, 1987)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:20-3.1	Reproposed: Determining tuition rates for sending and receiving districts	19 N.J.R. 2329(a)		
6:22-1.1-1.7, 2.1-2.5, 3.1, 3.4	School facility planning services	20 N.J.R. 3(a)		
6:28-11	Special education pilot project	20 N.J.R. 14(a)		
6:31-1	Bilingual education	19 N.J.R. 1126(a)	R.1987 d.523	19 N.J.R. 2397(a)
6:64	County and local library services	19 N.J.R. 1931(a)		
6:79-1	Child nutrition programs	19 N.J.R. 1599(a)	R.1987 d.524	19 N.J.R. 2399(a)

(TRANSMITTAL 1987-10, dated November 16, 1987)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1-3, 4	Environmental Cleanup Responsibility Act rules	19 N.J.R. 681(a)	R.1987 d.528	19 N.J.R. 2435(a)
7:1G-2.1, 2.2, 4.1, 4.2, 5.4	Worker and Community Right to Know: hazardous substances and materials	19 N.J.R. 438(a)		
7:1G-2.1, 2.2, 4.1, 4.2, 5.4	Worker and Community Right to Know: extension of comment period	19 N.J.R. 2234(a)		
7:1G-3.2, 5.2, 7	Worker and Community Right to Know: assessment of civil administrative penalties for nondisclosure of information	19 N.J.R. 703(a)		
7:1G-3.2, 5.2, 7	Worker and Community Right to Know: extension of comment period	19 N.J.R. 2234(b)		
7:2-11	Natural Areas System	18 N.J.R. 2349(b)	R.1987 d.533	19 N.J.R. 2409(a)
7:7-2.1, 2.3	Coastal Permit Program: CAFRA exemptions; waterfront development	19 N.J.R. 807(a)		
7:7-2.2	Coastal wetlands maps for Gloucester County	19 N.J.R. 2090(b)		
7:7A	Freshwater Wetlands Protection Act rules	19 N.J.R. 2330(a)		
7:7A-8.1	Freshwater Wetlands Protection Act rules: correction	20 N.J.R. 22(a)		
7:7E-7.4, 8.11	Coastal resources and development: high rise structures: public access to Hudson River waterfront	19 N.J.R. 1034(a)		
7:7F	Shore Protection Program	19 N.J.R. 2091(a)	R.1988 d.43	20 N.J.R. 186(a)
7:8	Storm water management	19 N.J.R. 2227(a)		
7:8-1.3, 1.7, 2.1, 2.2, 2.6, 3.4, 3.6	Stormwater management	19 N.J.R. 488(a)	R.1987 d.513	19 N.J.R. 2276(a)
7:9-1	Sewer systems and wastewater treatment plants	19 N.J.R. 2227(b)		
7:10-10.2, 11.2, 15	Safe Drinking Water Program fees	19 N.J.R. 1381(a)		
7:10-16	Maximum Containment Levels (MCLs) for hazardous contaminants in drinking water	19 N.J.R. 2228(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:10-16.13, 16.14, 16.15	Hazardous contaminants in drinking water: pre-proposal concerning short-term action levels, sampling response levels, and unregulated and total volatile organics	19 N.J.R. 2231(a)		
7:11-1	Use of Water Supply Authority property	19 N.J.R. 1274(a)		
7:13-7.1	Redelineation of Hackensack River in Oradell	19 N.J.R. 1935(a)		
7:13-7.1(b)	Redelineation of Jumping Brook in Neptune	19 N.J.R. 2233(a)		
7:13-7.1(d)	Redelineation of Raritan River and Peters Brook: repropoed	19 N.J.R. 167(b)		
7:13-7.1(d)	Redelineation of Big Bear Brook, Mercer County	19 N.J.R. 1933(a)		
7:13-7.1(d)	Redelineation of Carter's Brook, Middlesex County	19 N.J.R. 1933(b)		
7:13-7.1(d)	Redelineation of Lawrence, Ireland, Mae, Harry's and Oakeys brooks in Mercer and Middlesex counties	19 N.J.R. 1934(a)		
7:14A-5.12	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:14A-6.4	Groundwater monitoring parameters for hazardous waste facilities	19 N.J.R. 1863(b)		
7:14A-8	NJPDES permit program: public notice and comment	19 N.J.R. 1864(a)		
7:14A-11.1	Hazardous waste management: public access to records and information	19 N.J.R. 1869(a)		
7:14B	Underground storage tanks	19 N.J.R. 1477(a)	R.1987 d.531	19 N.J.R. 2417(a)
7:22-3.4, 3.6-3.11, 3.13, 3.32, 4.4, 4.6-4.11, 4.13, 4.32, 5.11	Wastewater Treatment Financing Program	19 N.J.R. 1600(a)		
7:22-9	Wastewater treatment: contract awards to small, female, and minority-owned businesses	19 N.J.R. 1604(a)		
7:25-1	Shellfishing license program	19 N.J.R. 2358(a)		
7:25-6	1988-89 Fish Code	19 N.J.R. 1385(a)	R.1988 d.15	20 N.J.R. 72(a)
7:25-18.5	Drifting and anchored gill net seasons: netting mesh in staked gill net fishery	19 N.J.R. 1609(a)		
7:26-1.1, 1.4, 1.6, 2.1, 7.5, 8.1, 8.2, 8.13, 8.15, 9.1, 10.7, 11.5, 11.6, 12.1, 12.3	Solid waste defined; hazardous waste recycling	19 N.J.R. 1035(a)	R.1987 d.534	19 N.J.R. 2426(a)
7:26-1.4, 8.2, 8.3, 8.5, 8.12, 8.14, 9.4, App. A, 12.1, 12.5, 12.12	Hazardous waste management	19 N.J.R. 1936(a)		
7:26-1.4, 9.8-9.11, 9.13, App. A, 12.3	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:26-1.9, 12.2, 17	Hazardous waste management: public access to records and information	19 N.J.R. 1869(a)		
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(a)		
7:26-2.13	Recordkeeping at solid waste facilities: extension of comment period for proposal at 19 N.J.R. 171(a)	19 N.J.R. 2364(a)		
7:26-3.2, 3.4	Compliance with designated truck routes by solid waste registrants and operators	19 N.J.R. 1610(a)	R.1987 d.535	19 N.J.R. 2434(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow: Hunterdon, Morris, Ocean and Warren counties	19 N.J.R. 1142(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Cumberland and Gloucester counties	19 N.J.R. 1481(a)		
7:26-8.14	Ethylene bisdithiocarbamic acid (EBDC) production	19 N.J.R. 1938(a)		
7:26-8.19, 10.6	Hazardous waste management: approval of alternate test methods; surface impoundments	19 N.J.R. 1482(a)	R.1987 d.514	19 N.J.R. 2278(a)
7:26-9.1, 9.3, 10.8, 11.4, 12.1	Hazardous waste management	18 N.J.R. 2356(a)	R.1987 d.532	19 N.J.R. 2424(a)
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management: extension of comment period	19 N.J.R. 263(c)		
7:26-12.2	Hazardous waste facilities: application signatories	19 N.J.R. 11(b)		
7:26-14.1, 14A	Resource Recovery and Solid Waste Disposal Facility Loans	19 N.J.R. 828(a)		
7:26B	Environmental Cleanup Responsibility Act rules	19 N.J.R. 681(a)	R.1987 d.528	19 N.J.R. 2435(a)
7:27-16.1, 16.3	Stage II recovery of gasoline vapors	19 N.J.R. 1938(b)	R.1988 d.44	20 N.J.R. 186(a)
7:29B	Determination of noise from stationary sources	19 N.J.R. 1483(a)		
7:29B	Determination of noise from stationary sources: extension of comment period	19 N.J.R. 2092(a)		
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program	19 N.J.R. 1687(a)		
7:31-1, 2, 3, 4	Toxic Catastrophic Prevention Act program: extension of comment period	19 N.J.R. 2092(b)		
7:30	Pesticide Control Code	19 N.J.R. 1611(a)	R.1988 d.9	20 N.J.R. 75(a)
7:36	Green Acres Program	19 N.J.R. 2358(b)		
7:45	Delaware and Raritan Canal: State Park review zone	20 N.J.R. 23(a)		

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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
HEALTH—TITLE 8				
8:31B-3.7, 3.17, 3.27, 3.51, 3.55, 3.73, 4.42	Hospital reimbursement for existing capital indebtedness	19 N.J.R. 1145(a)	R.1988 d.24	20 N.J.R. 77(a)
8:31B-3.24, 3.51, 3.71, 3.73	Hospital reimbursement: indirect costs	19 N.J.R. 1147(a)	R.1988 d.25	20 N.J.R. 82(a)
8:31B-3.38	Apportionment of full financial elements	19 N.J.R. 1279(a)		
8:31B-4.38	Hospital reimbursement: uncompensated care coverage for outpatient dialysis	19 N.J.R. 2092(c)		
8:31B-4.62	Hospital reimbursement: outpatient HealthStart maternal and pediatric care	19 N.J.R. 2365(a)		
8:33E-1.1, 1.2, 1.3	Certificate of Need: cardiac diagnostic facilities	19 N.J.R. 1282(a)		
8:33E-2.2, 2.3, 2.4	Certificate of Need: cardiac surgery centers	19 N.J.R. 1283(a)		
8:33F-1.2, 1.4	Back-up and acute hemodialysis treatment: annual inpatient admissions for applicant hospital	19 N.J.R. 2093(a)		
8:33G-3.11	Long-term care beds for former psychiatric hospital patients	19 N.J.R. 614(a)		
8:43E-1	Certificate of Need policy manual for health care facilities and services	19 N.J.R. 1872(a)	R.1988 d.21	20 N.J.R. 86(a)
8:43E-1	Repeal (see 8:43I-1)	19 N.J.R. 2365(b)		
8:43E-2	Psychiatric inpatient beds: adult open acute	19 N.J.R. 1873(a)	R.1988 d.22	20 N.J.R. 86(b)
8:43E-3	Psychiatric inpatient screening beds	19 N.J.R. 1875(a)	R.1988 d.20	20 N.J.R. 88(a)
8:43E-4	Children's acute psychiatric beds	19 N.J.R. 1876(a)	R.1988 d.19	20 N.J.R. 88(b)
8:43E-4	Child and adolescent acute psychiatric beds	19 N.J.R. 2094(a)		
8:43E-5	Intermediate adult and special psychiatric beds	19 N.J.R. 1877(a)	R.1988 d.18	20 N.J.R. 89(a)
8:43G-1	Repeal (see 8:43I-1)	19 N.J.R. 2365(b)		
8:43I-1	Hospital Policy Manual	19 N.J.R. 2365(b)		
8:61-2	Retrovir (AZT) reimbursement program	19 N.J.R. 2067(a)	R.1988 d.6	20 N.J.R. 89(b)
8:65-7.14	Controlled substances: Schedule III and IV prescription refills	19 N.J.R. 1612(a)		
8:65-7.14	Schedules III and IV prescription refills: withdrawal of proposal	20 N.J.R. 32(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 641(a), 880(a), 1314(a), 1644(b), 2279(a))	19 N.J.R. 13(a)	R.1987 d.522	19 N.J.R. 2402(a)
8:71	Interchangeable drug products (see 19 N.J.R. 1312(b), 1644(a), 2278(b), 2400(a))	19 N.J.R. 615(a)	R.1988 d.32	20 N.J.R. 191(a)
8:71	Interchangeable drug products (see 19 N.J.R. 2279(b), 2401(a))	19 N.J.R. 1488(a)	R.1988 d.31	20 N.J.R. 190(a)
8:71	Interchangeable drug products	19 N.J.R. 1878(a)	R.1988 d.33	20 N.J.R. 191(b)
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HIGHER EDUCATION—TITLE 9				
9:5-1.1	Independent student status	19 N.J.R. 2372(a)		
9:6A	State college personnel system	19 N.J.R. 1613(a)	R.199 d.14	20 N.J.R. 89(a)
9:7	Student Assistance Board: scholarship and tuition aid programs	20 N.J.R. 33(a)		
9:7-2.3	Student assistance and foreign nationals	19 N.J.R. 2101(a)		
9:7-2.6	Independent student status	19 N.J.R. 2101(b)		
9:7-9.9, 9.11, 9.12	Congressional Teacher Scholarship Program	19 N.J.R. 2102(a)		
9:9-1.12, 1.13, 1.16	Repayment of student loans: nonconverted accounts	19 N.J.R. 1619(a)		
9:11-1.1, 1.7, 1.8, 1.22, 1.23	EOF grant awards for approved part-time enrollment	19 N.J.R. 2373(a)		
9:11-1.3, 1.4	Educational Opportunity Fund: eligible non-citizens; independent student status	19 N.J.R. 2234(c)		
9:11-1.4	Educational Opportunity Fund: student dependency status defined	19 N.J.R. 266(a)	R.1987 d.491	19 N.J.R. 2281(a)
9:11-1.5	EOF: financial eligibility for undergraduate grants	19 N.J.R. 499(a)	R.1987 d.492	19 N.J.R. 2282(a)
9:11-1.7	Equal Opportunity Fund grants: graduate awards	19 N.J.R. 1879(a)		
9:11-2	Martin Luther King Physician-Dentist Scholarship Program	19 N.J.R. 2374(a)		
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HUMAN SERVICES—TITLE 10				
10:4	Communication with communities regarding development of group homes	19 N.J.R. 1976(a)		
10:8	Personal needs allowance for indigent persons in State and county institutions	19 N.J.R. 617(a)		
10:49-1.3-1.6	HealthStart: comprehensive maternity and pediatric care services	19 N.J.R. 1978(a)		
10:49-1.4	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:50-1.1-1.5, 2.3-2.8, 3.1, 3.2	Livery service for ambulatory Medicaid patients	19 N.J.R. 2103(a)		
10:51-1.6, 1.11, 1.16, 1.18, 3.5, 3.10, 3.14, 5.14, 5.18	Pharmacy Manual: payment limits for Medicaid and PAAD reimbursement	19 N.J.R. 2203(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:51-1.17 10:51-5.6	Medicaid and PAAD: legend drug dispensing fee Pharmaceutical Assistance to Aged and Disabled: income limits	19 N.J.R. 1711(a) 19 N.J.R. 2375(a)	R.1987 d.530	19 N.J.R. 2402(b)
10:52-1.6, 1.8 10:52-1.7	Outpatient hospital services for Medically Needy HealthStart	19 N.J.R. 1388(a) 19 N.J.R. 1978(a)		
10:53-1.5, 1.7 10:53-1.6	Outpatient hospital services for Medically Needy HealthStart	19 N.J.R. 1388(a) 19 N.J.R. 1978(a)		
10:54-1.1, 1.2 10:58-1.2, 1.3	HealthStart HealthStart	19 N.J.R. 1978(a) 19 N.J.R. 1978(a)		
10:61-2.4, 2.5 10:64-1.4, 2.1, 2.2, 2.5, 2.6, 3.5	Independent laboratories: standardized claim form Hearing aid providers: standardized claim form	19 N.J.R. 1779(a) 19 N.J.R. 1779(a)		
10:66-1.3, 1.6 10:66-3	HealthStart Family planning services provided by independent clinics	19 N.J.R. 1978(a) 19 N.J.R. 2376(a)		
10:69A-1.2, 6.2, 6.6, 6.10 10:69C	PAAD income limits Statewide Respite Care Program	19 N.J.R. 2375(a) 19 N.J.R. 1712(a)		
10:71-5.4, 5.5, 5.6, 5.7 10:81-8.22, 14.20	Medicaid Only computation amounts and income eligibility standards PAM: extension of Medicaid benefits to certain employed persons	Emergency (expires 3-4-88) 19 N.J.R. 2206(a)	R.1988 d.55	20 N.J.R. 207(a)
10:81-11.7 10:81-11.18	Child support enforcement program PAM: child support guidelines	19 N.J.R. 1879(b) 18 N.J.R. 2178(a)	R.1987 d.498	19 N.J.R. 2282(b)
10:82-1.3, 4.16 10:82-2.6	ASH: household defined; court-ordered support Initial eligibility in AFDC	19 N.J.R. 31(b) 19 N.J.R. 1781(a)	Expired R.1988 d.38	20 N.J.R. 193(a)
10:82-4.15 10:85-1.5	Lump sum income and AFDC eligibility General Assistance Program audits	19 N.J.R. 1782(a) 19 N.J.R. 2376(b)	R.1988 d.40	20 N.J.R. 193(b)
10:85-3.5 10:85-4.6	GAM: monthly case reviews Emergency Assistance in GA program	19 N.J.R. 2111(a) 19 N.J.R. 1715(a)	R.1988 d.26	20 N.J.R. 96(a)
10:85-4.8 10:85-6.3	GAM: funeral and burial expenses General Assistance Program statement of refunds: preparation of Form GA-12	19 N.J.R. 1619(b) 19 N.J.R. 2377(a)	R.1988 d.39	20 N.J.R. 194(a)
10:87-5.9 10:87-12.1, 12.2	Food Stamps eligibility: income exclusion and utility allowance payments Food Stamp Program: income deductions and maximum coupon allotments	19 N.J.R. 1986(a) 19 N.J.R. 1916(a)	R.1987 d.529	19 N.J.R. 2402(c)
10:89-2.2, 2.3, 3.2, 3.3, 3.4, 3.6, 4.1 10:100, App. A	Home Energy Assistance program Supplemental Security Income payment levels	19 N.J.R. 2208(a) Emergency (expires 3-4-88)	R.1988 d.54	20 N.J.R. 208(a)
10:121A 10:124 10:131	Adoption Agencies: Manual of Standards Children's shelter facilities and homes Adoption Assistance and Child Welfare Act of 1980	19 N.J.R. 1519(a) 19 N.J.R. 1394(a) 19 N.J.R. 1285(a)	R.1987 d.505 R.1987 d.504 R.1987 d.503	19 N.J.R. 2288(a) 19 N.J.R. 2300(a) 19 N.J.R. 2301(a)

(TRANSMITTAL 1987-10, dated November 16, 1987)

CORRECTIONS—TITLE 10A

10A:3-4.1 10A:3-4.1 10A:4-1.2 10A:4-9.18 10A:9-4.5 10A:9-4.5 10A:10-6.3, 6.6 10A:71-3.2, 3.4, 3.18-3.23, 3.25-3.28, 3.30, 3.43, 6.9	Off-duty carrying of firearms Off-duty carrying of firearms: peace officer titles Girl's Unit at Skillman: disciplinary process Inmate discipline: suspending sanctions Inmate classification: increasing custody status Reduction of inmate custody status International transfer of inmates Parole Board rules	19 N.J.R. 1717(a) 20 N.J.R. 42(a) 19 N.J.R. 1531(a) 19 N.J.R. 1717(b) 19 N.J.R. 1782(b) 19 N.J.R. 2235(a) 19 N.J.R. 1620(a) 19 N.J.R. 1396(b)	R.1987 d.515 R.1987 d.526	19 N.J.R. 2302(a) 19 N.J.R. 2403(a) 20 N.J.R. 194(b) 20 N.J.R. 194(c)
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(TRANSMITTAL 1987-7, dated November 16, 1987)

INSURANCE—TITLE 11

11:1-1.1 11:1-25 11:3-22.3 11:3-23 11:4-2 11:4-18.3, 18.5, 18.10 11:4-19 11:4-28 11:5-1.23 11:5-1.23 11:5-1.23 11:5-1.25	Organization of department Official department mailing list: address information Submission of automobile coverage option survey Dangerous drivers or drivers with excessive claims Replacement of life insurance policy Individual health policies: loss ratio standards Optional coverage for pregnancy and childbirth benefits Group coordination of health care benefits Full cooperation among real estate brokers and waiver of cooperation Real estate licensee's obligation to disclose certain information concerning a property and to submit to a seller all written offers: pre-proposal Sale of interstate real properties: advertisements	Exempt 19 N.J.R. 2236(a) 19 N.J.R. 2237(a) 19 N.J.R. 1880(a) 19 N.J.R. 1286(a) 19 N.J.R. 1620(b) 20 N.J.R. 43(a) 19 N.J.R. 845(a) 19 N.J.R. 1621(a) 19 N.J.R. 2238(a) 19 N.J.R. 1718(a)	R.1988 d.1 R.1987 d.527	20 N.J.R. 99(a) 19 N.J.R. 2403(b)
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:5-1.27	Real estate brokers pre-licensure course	19 N.J.R. 1051(a)		
11:13	Commercial lines insurance	19 N.J.R. 1783(a)	R.1987 d.512	19 N.J.R. 2302(b)
11:17-1, 2, 5	Insurance producer licensing: pre-proposed new rules	19 N.J.R. 2112(a)		

(TRANSMITTAL 1987-8, dated October 19, 1987)

LABOR—TITLE 12

12:18-2.13	Temporary Disability: approval of private plan coverage	19 N.J.R. 2238(b)		
12:60	Prevailing wages for public works	19 N.J.R. 345(b)		
12:100-4.2	Public employee safety and health: exposure to benzene	19 N.J.R. 2239(a)		
12:100-5.2, 6.2, 7	Public employees and exposure to toxic and hazardous substances	19 N.J.R. 267(a)		
12:110	Public employee occupational safety and health	19 N.J.R. 1941(a)	R.1988 d.42	20 N.J.R. 195(a)
12:190	Explosives	19 N.J.R. 1883(a)	R.1988 d.16	20 N.J.R. 99(b)

(TRANSMITTAL 1987-4, dated November 16, 1987)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A:9-1	Services to small businesses and women and minority businesses	19 N.J.R. 2378(a)		
12A:12-2	Local Development Financing Fund	19 N.J.R. 2381(a)		
12A:50-1	Cogeneration: reporting by non-utility generators	19 N.J.R. 2383(a)		

(TRANSMITTAL 1987-2, dated September 21, 1987)

LAW AND PUBLIC SAFETY—TITLE 13

13:1-4.6	Police training: instruction in radar operation	19 N.J.R. 2123(a)		
13:3-3.4, 3.5, 3.6	Amusement games: preproposal concerning player fees and value of prizes	20 N.J.R. 44(a)		
13:21-21	Auto body repair facilities	19 N.J.R. 1624(c)		
13:27-3, 4	Architectural practice; definitions	19 N.J.R. 1783(b)		
13:27-5.8	Architects and certified landscape architects: licensing examination fees	19 N.J.R. 2123(b)		
13:29-5	Board of Accountancy: Quality Enhancement Program	19 N.J.R. 2240(a)		
13:30-8.17	Designation of dentist of record for patient in multi-dentist facility	19 N.J.R. 1629(a)		
13:33-1.41	Ophthalmic dispensers and technicians: Board of Examiners fees	19 N.J.R. 2242(a)		
13:35-1.5	Participation in medical residency programs	19 N.J.R. 2243(a)		
13:35-3.11	Post-graduate training of graduates of foreign medical schools	19 N.J.R. 1534(a)	R.1988 d.7	20 N.J.R. 102(a)
13:35-6.7	Medical examiners board: prescribing of amphetamines and sympathomimetic amine drugs	19 N.J.R. 1786(a)		
13:35-8	Hearing aid dispensers	19 N.J.R. 1949(a)		
13:36-2.1	Qualification as mortuary science intern	19 N.J.R. 2245(a)		
13:37-12.1	Board of Nursing fee schedule	19 N.J.R. 1886(a)	R.1987 d.536	19 N.J.R. 2405(a)
13:39	Board of Pharmacy rules	19 N.J.R. 1952(a)		
13:40-5.1	Corner markers and ultimate user of land survey	19 N.J.R. 1631(a)	R.1988 d.45	20 N.J.R. 203(a)
13:42-1.1, 3.1	Board of Psychological Examiners: oral examination process	19 N.J.R. 2246(a)		
13:42-1.2	Board of Psychological Examiners: application, examination and licensure fees	19 N.J.R. 1632(a)	R.1988 d.12	20 N.J.R. 102(b)
13:44C	Practice of audiology and speech-language pathology	19 N.J.R. 1412(a)		
13:45A-12	Sale of dogs and cats	19 N.J.R. 853(a)		
13:45A-24	Sale of gray market merchandise	19 N.J.R. 179(a)		
13:45A-25.1	Sellers of health club services: registration fee	19 N.J.R. 1967(a)	R.1988 d.23	20 N.J.R. 103(a)
13:46-8.3, 8.12, 8.13	Boxing rules	19 N.J.R. 1787(a)	R.1988 d.17	20 N.J.R. 103(b)
13:46-12.13	Boxing show hygiene	19 N.J.R. 1886(b)	R.1988 d.8	20 N.J.R. 103(c)
13:47C-2.1	Meat, poultry, fish and shellfish sold by net weight	19 N.J.R. 1787(b)	R.1988 d.35	20 N.J.R. 204(a)
13:47C-2.5	Weights and measures: ready-to-eat foods	19 N.J.R. 2124(a)		
13:70-1.30	Thoroughbred racing: horsemen associations	19 N.J.R. 1418(a)		
13:70-20.11	Thoroughbred racing: entering or starting nerved horses	19 N.J.R. 1788(a)		
13:70-20.11	Thoroughbred racing: correction to proposal concerning nerved horses	19 N.J.R. 2124(b)		
13:70-29.53	Thoroughbred racing: trifecta wagering	19 N.J.R. 2385(a)		
13:71-1.25	Harness racing: horsemen associations	19 N.J.R. 856(a)		
13:71-20.23	Harness racing: nerving and registration of nerved horses	19 N.J.R. 2125(a)		
13:71-27.50	Harness racing: trifecta wagering	19 N.J.R. 2385(b)		
13:75-1.6	Violent crimes compensation: eligibility of claims	19 N.J.R. 1967(b)		
13:76-1.3, 3.1, 3.2, 5.1	Arson investigation training	19 N.J.R. 1788(b)		
13:77	Equitable distribution of forfeited property to law enforcement agencies	19 N.J.R. 1534(a)		

(TRANSMITTAL 1987-11, dated November 16, 1987)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
PUBLIC UTILITIES—TITLE 14				
14:3-7.12A	Residential electric and gas service during heating season	18 N.J.R. 2315(a)	R.1987 d.516	19 N.J.R. 2405(b)
14:10-1.16	Uniform system of accounts for telephone companies	19 N.J.R. 1789(a)	R.1988 d.10	20 N.J.R. 103(d)
14:11-6	Interest on fuel clause overrecoveries	19 N.J.R. 1967(c)		
14:18-3	Cable TV: pre-proposal for telephone service standards	19 N.J.R. 2125(b)		

(TRANSMITTAL 1987-6, dated September 21, 1987)

ENERGY—TITLE 14A				
14A:3-4.1-4.6	Energy subcode	19 N.J.R. 433(b)	R.1987 d.387	19 N.J.R. 1793(a)
14A:3-7	Individual electric metering in residential buildings: repeal	19 N.J.R. 2247(a)		
14A:3-7, 9	Repeal (see 5:23-3.18)	19 N.J.R. 1862(b)		
14A:4-1.1-3.1	Solar energy property tax exemptions	19 N.J.R. 433(b)	R.1987 d.387	19 N.J.R. 1793(a)
14A:22-1.2, 2.1, 3.1, 3.2, 3.8, 4.1, 5.1, 8.1	Commercial and apartment conservation service program	19 N.J.R. 2247(b)		

(TRANSMITTAL 1987-3, dated September 21, 1987)

STATE—TITLE 15				
15:10-6	Voting accessibility for elderly and handicapped	19 N.J.R. 2249(a)		

(TRANSMITTAL 1987-1, dated February 17, 1987)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1987-1, dated April 20, 1987)

TRANSPORTATION—TITLE 16				
16:25	Utility accommodation on highway rights-of-way	19 N.J.R. 1064(a)		
16:25A	Soil erosion and sediment control on DOT projects	19 N.J.R. 2126(a)		
16:28-1.10, 1.18, 1.120	Speed rates along U.S. 46 in White Township, Route 34 in Matawan, and Route 38 in Burlington County	19 N.J.R. 1968(a)	R.1988 d.37	20 N.J.R. 204(b)
16:28-1.25	Speed rates on Route 23 in Wayne	20 N.J.R. 45(a)		
16:28-1.25, 1.79, 1.80	Speed limits along Routes 23 and 94 in Hamburg, Route 172 in New Brunswick	19 N.J.R. 1887(a)	R.1988 d.3	20 N.J.R. 104(b)
16:28-1.57	School zones along U.S. 30 in Lindenwold and Laurel Springs	19 N.J.R. 2211(a)		
16:28-1.76	Speed rate on Route 15 in Morris and Sussex counties	19 N.J.R. 1839(a)	R.1988 d.2	20 N.J.R. 104(a)
16:28A-1.7, 1.61	Parking restrictions along U.S. 9 in Middle Township and U.S. 9W in Tenafly	19 N.J.R. 2253(a)		
16:28A 1.9, 1.33, 1.51, 1.93	Restricted parking along Routes 17 in Lyndhurst, 47 in Millville, 168 in Bellmawr, and U.S. 322 in Glassboro	20 N.J.R. 45(b)		
16:28A-1.11, 1.33, 1.61	No parking zones along Routes 21 in Newark, 47 in Franklin, and U.S. 9W in Alpine	19 N.J.R. 1888(a)	R.1988 d.5	20 N.J.R. 105(a)
16:28A-1.15, 1.19	No parking zones along Route 23 in Pequannock and Route 28 in Garwood	19 N.J.R. 1889(a)	R.1988 d.4	20 N.J.R. 105(b)
16:28A-1.22	Restricted parking along Route 31 in Washington Borough	20 N.J.R. 46(a)		
16:28A-1.25, 1.33, 1.34, 1.100	Restricted parking on Routes N.J. 35 in Seaside, N.J. 47 in Glassboro, N.J. 49 in Salem, and N.J. 50 in Upper Township	19 N.J.R. 2127(a)		
16:29-1.18	No passing zones along Route 154 in Cherry Hill	19 N.J.R. 2253(b)		
16:30	Pre-proposal: Exclusive bus lane on Routes 3 and 495	19 N.J.R. 1421(b)		
16:30-4.2	Bicycle restrictions along Route 88 in Point Pleasant	19 N.J.R. 2254(a)		
16:30-9.1, 9.2	Restrictions on Morgan Bridge along Route 35, Middlesex County, and Veterans Memorial Bridge along Route 88, Point Pleasant	19 N.J.R. 2254(b)		
16:31-1.11	No left turn along Route 21 in Newark	20 N.J.R. 46(b)		
16:31-1.24	No left turn on Route N.J. 82 in Union	19 N.J.R. 2128(a)		
16:32-1	Routes and access for maxi-cube vehicles			20 N.J.R. 109(c)
16:44-1.1	Contract administration: composition of Pre-qualification Committee	19 N.J.R. 1634(a)	R.1987 d.499	19 N.J.R. 2303(a)

(TRANSMITTAL 1987-10, dated November 16, 1987)

TREASURY-GENERAL—TITLE 17				
17:1-1.10	Positive or negative balances in retirement accounts	19 N.J.R. 2129(a)		
17:2-3.3	PERS: contributory insurance rate	19 N.J.R. 1636(a)	R.1987 d.510	19 N.J.R. 2303(c)
17:2-4.4	Public Employees' Retirement System: accrual of loan interest	19 N.J.R. 194(a)	R.1987 d.511	19 N.J.R. 2303(d)
17:2-7.1	Public Employees' Retirement System: transfer of service credit	19 N.J.R. 2386(a)		
17:3-7.1	Teachers' Pension and Annuity Fund: transfer of service credit	20 N.J.R. 47(a)		
17:4-7.1	Police and Firemen's Retirement System: transfer of service credit	19 N.J.R. 2255(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
17:5-6.1	State Police Retirement System: transfer of service credit	20 N.J.R. 47(b)		
17:9-6.1	State Health Benefits Program: coverage after retirement	19 N.J.R. 1636(b)	R.1987 d.497	19 N.J.R. 2303(b)
17:20-4	Licensure as ticket sales agent of State Lottery	19 N.J.R. 1969(a)		
17:20-6.3	State Lottery: confidentiality of individual agent's operation	20 N.J.R. 48(a)		
17:20-7	Payment of State Lottery prizes	19 N.J.R. 1889(b)		
17:30	Urban Enterprise Zone Authority: comment period reopened	19 N.J.R. 354(a)		
17:32	State Planning Rules	19 N.J.R. 1971(a)		

(TRANSMITTAL 1987-8, dated August 17, 1987)

TREASURY-TAXATION—TITLE 18

18:2-2	Post tax amnesty	19 N.J.R. 2255(b)		
18:5-12.2	Post tax amnesty	19 N.J.R. 2255(b)		
18:7-3.15, 11.12, 13.1, 13.7, 13.12, 13.13, 14.1, 14.3, 14.7, 14.13-14.17, 14.20	Post tax amnesty	19 N.J.R. 2255(b)		
18:7-3.18	Corporation business tax: recycling equipment credit	20 N.J.R. 48(b)		
18:8-4.5, -8	Post tax amnesty	19 N.J.R. 2255(b)		
18:9-8.5-8.7	Post tax amnesty	19 N.J.R. 2255(b)		
18:12-7.12	Homestead rebate: extension of filing deadline	Emergency (expires 1-31-88)	R.1987 d.537	19 N.J.R. 2498(a)
18:12A-1.6, 1.20	Filing cross-petition of appeal with county tax board	19 N.J.R. 2264(a)		
18:15-1.1	Woodland management plan: correction to proposal	19 N.J.R. 1640(a)		
18:15-1.1, 2.7-2.14	Farmland assessment: woodland in agricultural use	19 N.J.R. 1538(a)	R.1987 d.507	19 N.J.R. 2304(a)
18:15-1.1, 2.7-2.14	Woodland in agricultural use: operative date	19 N.J.R. 1640(b)		
18:18-8.11, 12.5, 12.7	Post tax amnesty	19 N.J.R. 2255(b)		
18:22-2.4, 8.4	Post tax amnesty	19 N.J.R. 2255(b)		
18:26-8.4, 9.8	Post tax amnesty	19 N.J.R. 2255(b)		
18:35-1.9, 1.18, 1.19, 1.20	Post tax amnesty	19 N.J.R. 2255(b)		
18:37-2.1, 2.2, -3, -4	Post tax amnesty	19 N.J.R. 2255(b)		
18:38	Litter control tax	19 N.J.R. 400(b)		

(TRANSMITTAL 1987-6, dated November 16, 1987)

TITLE 19—OTHER AGENCIES

19:4-4.35, 4.39, 4.41	Residential development in waterfront recreation zones	19 N.J.R. 2386(b)		
19:4-6.28	Rezoning in Little Ferry	19 N.J.R. 53(b)	Expired	
19:4-6.28	Rezoning in East Rutherford	19 N.J.R. 1975(a)		
19:8-1.1, 3.1	Tolls on Garden State Parkway	20 N.J.R. 49(a)		
19:9-1.6	Sleeping in parked vehicles	19 N.J.R. 1637(b)		
19:9 Exh. A	Prequalification of bidders for widening contracts	19 N.J.R. 2129(b)		
19:17-2.1, 3.1-4.5	PERC Appeal Board procedure: rescheduled public hearing	19 N.J.R. 404(a)		
19:25-19.3	Personal financial disclosure: reporting of earned income	19 N.J.R. 1541(a)		

(TRANSMITTAL 1987-6, dated October 19, 1987)

TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY

19:40-1.2	Affiliation and slot machine mix	19 N.J.R. 1890(a)	R.1988 d.34	20 N.J.R. 205(a)
19:45-1.1	Affiliation and slot machine mix	19 N.J.R. 1890(a)	R.1988 d.34	20 N.J.R. 205(a)
19:45-1.2, 1.46	Reporting of complimentary items and services	19 N.J.R. 1975(b)		
9:45-1.25	Verification of travelers checks	20 N.J.R. 51(a)		
19:45-1.33, 1.42, 1.43	Count times for cash and coin	19 N.J.R. 2265(a)		
19:46-1.29	Approval of slot machine modifications	20 N.J.R. 52(a)		
19:46-1.32	Affiliation and slot machine mix	19 N.J.R. 1890(a)	R.1988 d.34	20 N.J.R. 205(a)
19:47-1.11	Rules of the games: craps	19 N.J.R. 1542(a)		
19:47-5.3	Roulette and "no more bets" procedure	19 N.J.R. 1638(a)		
19:53-1.3, 1.13	Casino licensee's EEO/AA office	19 N.J.R. 1638(b)		
19:53-1.5	Pre-proposal: Affirmative action employment goals for handicapped or disabled persons	19 N.J.R. 1182(a)		
19:54-2.2	Affiliation and slot machine mix	19 N.J.R. 1890(a)	R.1988 d.34	20 N.J.R. 205(a)

(TRANSMITTAL 1987-8, dated November 16, 1987)