

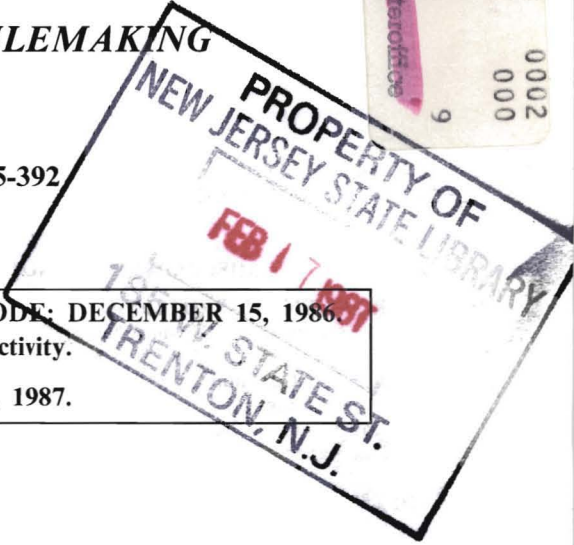
NEW JERSEY REGISTER



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THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 19 NUMBER 4
February 17, 1987 Indexed 19 N.J.R. 325-392
(Includes rules filed through January 26, 1987)



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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: DECEMBER 15, 1986.
See the Register Index for Subsequent Rulemaking Activity.
NEXT UPDATE WILL BE DATED JANUARY 20, 1987.

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INTERESTED PERSONS

Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **March 19, 1987**. 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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Filing Deadlines

March 16 issue:	
Proposals	February 13
Adoptions	February 23
April 6 issue:	
Proposals	March 9
Adoptions	March 16
April 20 issue:	
Proposals	March 23
Adoptions	March 30
May 4 issue:	
Proposals	April 6
Adoptions	April 10

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

BANKING

(a)

DIVISION OF BANKING

Statement of Interest Definitions

Proposed Amendment: N.J.A.C. 3:7-5.1

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

Authority: N.J.S.A. 17:9A-256, 17:9A-260 and 17:1-8.1.

Proposal Number: PRN 1987-73.

Submit comments in writing by March 19, 1987 to:

Roger F. Wagner
Deputy Commissioner
Department of Banking
CN040
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In August of 1975, then Commissioner Richard F. Schaub adopted a "Statement of interest of directors of banks, trustees or managers of savings banks and executive officers of banks and savings banks" rule which is cited as N.J.A.C. 3:7-5.1. The rule stipulates that the individuals defined in the rule must annually file a "statement of interest" schedule with their bank or savings bank which reflects any business relationship the individual, or his or her business enterprise, has with the bank or savings bank. In July of 1982, then Commissioner Michael M. Horn modified the definition of executive director, as defined in this rule, to make it consistent with the definition of an executive officer as reflected in the statute, which had been amended at that time.

The statement of interest forms prepared in conformance with this rule may be used by bank management, including lending officers and directors, bank internal and external auditors and State or national bank examiners in their review of lending activities between the bank and these affiliated persons.

The proposed amendment would modify the definition of a business enterprise to preclude the necessity of individuals scheduling relationships of the individual with any bank holding company which controls the bank or savings bank. At the present time, the definition already excludes the listing of any relationship an individual has with a bank holding company if the bank holding company is registered with the Board of Governors of the Federal Reserve System.

Since the adoption of the original regulation, there has been the evolution of non-bank banks, which are quite often controlled by bank holding companies which are not required to register with the Federal Reserve. However, these entities are required to file reports with the State Banking Department and are subject to examination by the Department. Therefore, the relationship between individuals affiliated with a bank and these bank holding companies are as readily ascertainable as are the relationship between affiliated individuals with bank holding companies registered with the Federal Reserve. To maintain a consistency in the requirements relative to the statement of interest forms prepared, it is proposed to grant the same reporting exclusion to these other bank holding companies as is granted to federally registered bank holding companies. Other clarifying definitions related to this amendment are incorporated in the proposed rule change.

Social Impact

It is not anticipated there will be any major social impact due to the modification of this rule. However, it will impact on all individuals who may have a relationship with the bank holding companies which will be excluded due to the proposed change. Their statement of interest forms will be modified by removing the requirement for them to include any relationships they might have with a bank holding company which is not registered with the Federal Reserve. The evolution of this form of bank holding company has evolved in recent years primarily due to the advent of non-bank banks.

Economic Impact

It is not anticipated that the proposed change will have any economic impact. There are no filing fees involved with the statement of interest forms. They are merely maintained by each institution as a ready reference of relationships between it and the individuals required to submit the forms.

Regulatory Flexibility Analysis

The proposed amendment to this rule will not result in any change in existing reporting, recordkeeping or other compliance requirements for any small businesses. Therefore, the Department finds that a regulatory flexibility analysis is not required, as provided in Section 4 of P.L. 1986, c.169.

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

3:7-5.1 Definitions

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

"**Bank holding company**" is a company which controls a bank.

"Business enterprise" means a corporation, association, business trust, partnership, joint venture, pool, syndicate, sole proprietorship or any other form of business not specifically listed herein, whether or not such enterprise has engaged in transactions with the designated bank. The term "business enterprise" also includes any personal or family trust and any local governmental unit if, and only if, such enterprise has engaged in any transaction with the designated bank during the last year. The term "business enterprise" excludes:

1.-3. (No change.)

4. A bank holding company whose control of the designated bank is registered with or approved by the Board of Governors of the Federal Reserve System, pursuant to sections 3 or 5 of the Bank Holding Company Act, 12 U.S.C. 1842 or 1844, or any of such holding company's subsidiaries the control of which has been registered with or approved by the Board of Governors of the Federal Reserve pursuant to section 3, 4, and 5 of the Bank Holding Company Act, 12 U.S.C. 1842, 1843 or 1844.

5. Any other bank holding company and any company controlled by a bank holding company.

"Control" and "company" have the meanings set forth in N.J.S.A. 17:9A-373(e) and (f).

"Subsidiary" means a company controlled by a bank holding company.

PERSONNEL

(b)

MERIT SYSTEM BOARD

Overtime Rules

Proposed New Rule: N.J.A.C. 4:1-27.1

Proposed Amendments: N.J.A.C. 4:6

Proposed Recodification: N.J.A.C. 4:6 to 4:2-27

Authorized By: Merit System Board, Peter J. Calderone,
Assistant Commissioner, Department of Personnel.

Authority: N.J.S.A. 11A:6-24.

Proposal Number: PRN 1987-74.

The Merit System Board will hold a Public Hearing on March 3, 1987 at 9:30 A.M. in the Merit System Board Room, 215 East State Street, Trenton, New Jersey. Please contact Ms. Delores Carvill at 609-292-6568 if you plan to attend and to be included on the list of speakers.

Submit comments by March 19, 1987 to:

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

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 4:6-4.1, recodified as 4:2-27.4(a), is to clarify the type of agreement that is required before compensatory time off in lieu of cash overtime compensation may be granted. This amendment is reflective of the recently promulgated regulations of the Federal Department of Labor. The proposed amendment to N.J.A.C. 4:6-5.5, recodified as 4:2-27.5(e), codifies existing policy with regard to special projects. It covers situations where an employee works on a part-time or occasional basis in a different capacity from which usually employed or an NL or N4 employee is compensated for extraordinary work activities.

Moreover, since the powers of the Overtime Committee now reside in the Department of Personnel pursuant to P.L. 1986, c.112, the overtime rules have been recodified from N.J.A.C. 4:6 to N.J.A.C. 4:1-27.1 and 4:2-27. In addition, several technical changes have been made to the rules as required by the new law.

CROSS-REFERENCE TABLE

Old Citation	New Citation
Chapter 6	Chapter 1
Subchapter 1, repealed	Chapter 2
4:6-1.1	Subchapter 27
4:6-1.2	4:2-27.1
Subchapter 2, repealed	4:2-27.1
4:6-2.1	4:2-27.2
Subchapter 3	4:2-27.3
4:6-3.1	4:2-27.3(a)
Subchapter 4	4:2-27.4
4:6-4.1	4:2-27.4(a)
4:6-4.2	4:2-27.4(b)
4:6-4.3	4:2-27.4(c)
Subchapter 5	4:2-27.5
4:6-5.1	4:2-27.5(a)
4:6-5.2	4:2-27.5(b)
4:6-5.3	4:2-27.5(c)
4:6-5.4	4:2-27.5(d)
Subchapter 6	4:2-27.6
4:6-6.1	4:2-27.6(a)
4:6-6.2	4:2-27.6(b)
4:6-6.3	4:2-27.6(c)
4:6-6.4	4:2-27.6(d)
4:6-6.5	4:2-27.6(e)
Subchapter 7	4:2-27.7
4:6-7.1	4:2-27.7(a)
4:6-7.2	4:2-27.7(c)
4:6-7.3	4:2-27.7(d)
4:6-7.4	4:2-27.7(f)
Subchapter 8	4:2-27.8
4:6-8.1	4:2-27.8(a)
4:6-8.2	4:2-27.8(b)

Social Impact

Non-exempt employees may be granted compensatory time off if permitted by a collective negotiations agreement or other agreement. In addition, employees who work on a part-time, occasional or sporadic basis in a different capacity from which regularly employed, and NL and N4 employees who perform extraordinary work activities may be paid at special project rates with justification and approval by the Commissioner of Personnel.

Economic Impact

The proposed amendments formalize existing policy; therefore, there is no anticipated economic impact at this time.

Regulatory Flexibility Statement

These rules are not subject to the Regulatory Flexibility Act, P.L. 1986, c.169, because they do not affect small businesses. The rules affect overtime provisions for employees within State and local government.

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

SUBCHAPTER 27. OVERTIME RULES

4:1-27.1 Overtime rules

(a) In State service, overtime compensation shall be paid pursuant to N.J.A.C. 4:2-27.1 *et seq.*

(b) In local service, overtime compensation shall be paid pursuant to standards prepared and administered by the appointing authority in accordance with the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.*

[CHAPTER 6]
[OVERTIME COMMITTEE RULES]

[SUBCHAPTER 1.]SUBCHAPTER 27. OVERTIME RULES

[4:6-1.1]4:2-27.1 Authority

[The Overtime Committee is composed of the State Treasurer, the President of the Civil Service Commission and the Director of the Division of Budget and Accounting in the Department of Treasury.] **The Merit System Board ("Board")** [The Committee] shall adopt rules regulating overtime compensation for State employees. See N.J.S.A. [52:14-17.13 and 17.14] **11A:6-24**; see also Federal Fair Labor Standards Act (FLSA), 29 U.S.C. 201 *et seq.*

[4:6-1.2 Purpose]

[The purpose of the Overtime Committee is to establish eligibility for overtime compensation and insure the equitable application of the statutory overtime provisions.]

[SUBCHAPTER 2. DEFINITIONS]

[4:6-2.1]4:2-27.2 Words and phrases defined

...
"Casual employee" means an employee[, including special services employees,] appointed pursuant to a personnel action request for special projects, peak workloads or other operational necessities where the work period is [intermittent,] irregular or of short duration.

...
"Workweek" means the period beginning 12:01 A.M. Saturday and ending midnight the following Friday except in those instances where the [Overtime Committee] **Commissioner of Personnel ("Commissioner")** or [its] **his or her** representative has approved an alternate workweek for overtime purposes for employees engaged in seven day operations.

[SUBCHAPTER 3. STATE OVERTIME REGULATIONS APPLICABLE TO 40 HOURS OR LESS IN A WORKWEEK]

4:2-27.3 State overtime regulations applicable to 40 hours or less in a workweek

[4:6-3.1](a) Eligibility requirements for overtime compensation under this section are as follows:

[(a)]1. Employees in the following groups may qualify for overtime compensation under this subchapter for work performed beyond their regular work hours, but not more than 40 hours, as specified.

[1.]i. Employees in 35 hour fixed workweek titles (35, 3E) shall be eligible for overtime compensation for time worked in excess of the regular workweek as provided in N.J.A.C. [4:6-3.2(a)] **4:2-27.3(b)1.**

[2.]ii. Employees in non-limited titles (NL, NE) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated as provided in N.J.A.C. [4:6-3.2(b)] **4:2-27.3(b)2.**

[3.]iii. The [Overtime Committee] **Commissioner** or [its] **his or her** representative may, upon the request of the Office of Employee Relations, authorize overtime payments for State Police law enforcement officers.

[4.]iv. Part-time employees shall be eligible for overtime compensation only when they work beyond the regular workweek established for full-time employees in their titles.

[5.]v. Casual employees shall not be eligible for such overtime compensation.

[(b)]2. An employee shall be eligible for overtime compensation under this [subchapter] section only when:

[1.]i. She or he is in pay status for the full number of hours in his or her regular workweek; and

[2.]ii. She or he works at least one hour beyond the regular workweek; and

[3.]iii. The work is covered by the job specification for the employee's title except as provided in N.J.A.C. [4:6-5.4] **4:2-27.5(d).**

[4:6-3.2](b) Overtime compensation under this section shall be paid as follows:

[(a)]1. Employees in 35 hour fixed workweek titles (35, 3E) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the [Overtime Committee] **Commissioner** or [its] **his or her** representative for time worked in excess of the regular workweek but not more than 40 hours.

[1.]i. Cash compensation for overtime work shall be at the rate of one and one-half times the hourly proration of an employee's base salary. An overtime rate conversion table shall be published with the State Compensation Plan.

[2.]ii. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

[(b)]2. Employees in non-limited titles (NL, NE) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work patterns or a grant of comparable amounts of time off to a maximum of one hour for each hour of unusual work time. They shall have no claim or entitlement to cash overtime compensation.

[(c)]3. Once an employee is eligible for overtime compensation in a workweek, work credited toward overtime compensation must be in one-half hour units of continuous work beyond each regular work day.

SUBCHAPTER 4.] 4:2-27.4 Federal fair labor standards applicable to more than 40 hours in a workweek

4:6-4.1(a) Eligibility requirements for overtime compensation under this section shall be as follows:

1. [Eligibility requirements shall be as follows:] **Eligibility for non-exempt positions shall be as follows:**

[1.]i. Employees in non-exempt fixed workweek titles (35, 40) and non-exempt non-limited titles (NE), whose positions do not meet the criteria for exemption in N.J.A.C. [4:6-4.3] **4:2-27.4(c)**, shall be eligible for either cash payment or compensatory time off at the discretion of the department head with the approval of the [Overtime Committee] **Commissioner** or [its] **his or her** representative for time worked in excess of 40 hours per week. See N.J.A.C. [4:6-4.2(a)] **4:2-27.4(b)1**. [However, notice should be provided to employees upon hiring that compensatory time off may be provided in lieu of cash overtime compensation. It is preferable that a signed agreement be obtained from the employee.]

[2.]ii. **Non-exempt employees may be granted compensatory time off in lieu of cash overtime compensation if permitted by one of the following agreements:**

[i.](1) **Applicable provisions of a collective negotiations agreement, memorandum of understanding, or any other agreement between the State and representatives of such employees;**

[ii.](2) **In the case of employees who do not have a collective negotiations representative, an agreement or understanding made between the appointing authority and the employee before the performance of the overtime work. For such employees who were hired prior to April 15, 1986, the regular practice in effect on April 15, 1986 regarding compensatory time off in lieu of cash overtime compensation shall constitute an agreement or understanding.**

[(b)]2. [Exempt position] E[ligibility] [requirements] for exempt positions shall be as follows:

[1.]i. Employees in exempt fixed workweek titles (3E, 4E), whose positions meet the criteria for exemption in N.J.A.C. [4:6-4.3] **4:2-27.4(c)**, shall be eligible for either cash payment or compensatory time off at the discretion of the department head with the approval of the [Overtime Committee] **Commissioner** or [its] **his or her** representative for time worked in excess of 40 hours per week. See N.J.A.C. [4:6-4.2(b)] **4:2-27.4(b)2**.

[2.]ii. Employees in exempt non-limited titles (NL, N4), whose positions meet the criteria for exemption in N.J.A.C. [4:6-4.3] **4:2-27.4(c)**, shall not be eligible for cash overtime compensation except as provided in N.J.A.C. [4:6-5.4] **4:2-27.5(d)**. See N.J.A.C. [4:6-4.2(c)] **4:2-27.4(b)3**.

[(c)]3. The [Overtime Committee] **Commissioner** or [its] **his or her** representative may approve an alternate work period and corresponding maximum hour designation for non-exempt law enforcement and fire protection employees as set forth below. Such employees shall receive overtime compensation for time worked in excess of maximum allowable hours.

NOTE: No change in Table which may be found in the New Jersey Administrative Code.

[(d)]4. A hospital or residential care facility may, under a prior agreement with affected employees and as approved by the [Overtime Committee] **Commissioner** or [its] **his or her** representative, use a work period of 14 consecutive days for computing overtime compensation for non-exempt employees.

[(e)]5. Casual employees shall be entitled to overtime compensation where their work duties do not meet the criteria for exempt status. See N.J.A.C. [4:6-4.3] **84:2-27.4(c)**.

[4:6-4.2](b) Overtime [C]ompensation under this section shall be paid as follows:

[(a)]1. Non-exempt employees (35, 40, NE) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the [Overtime Committee] **Commissioner** or [its] **his or her** representative for time worked in excess of 40 hours per week. However, if an alternate work period is adopted pursuant to N.J.A.C. [4:6-4.1(c)] **4:2-27.4(a)3**, overtime compensation shall be paid in accordance with that schedule.

[1.]i. Cash compensation for overtime work shall be at the rate of one and one-half times the regular rate. An overtime rate conversion table shall be published with the State Compensation Plan.

[2.]ii. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

[3.]iii. Employees engaged in a public safety activity, an emergency response activity, or a seasonal activity may accrue not more than 480 hours of compensatory time off. Employees engaged in any other work may accrue not more than 240 hours of compensatory time off.

[4.]iv. Cash compensation for accrued compensatory time off shall be paid at the regular rate earned by the employee at the time such employee received such payment. However, an employee who has accrued compensatory time off shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than the average regular rate received by such employee during the last three years of the employee's employment, or the final regular rate received by such employee, whichever is higher.

[(b)]2. Exempt employees in fixed workweek titles (3E, 4E) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the [Overtime Committee] **Commissioner** or [its] **his or her** representative for time worked in excess of the regular workweek.

[1.]i. Cash compensation for overtime work shall be at the rate of one and one-half times the hourly proration of an employee's base salary. An overtime rate conversion table shall be published with the State Compensation Plan.

[2.]ii. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

[(c)]3. Exempt employees in non-limited workweek titles (NL, N4) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work time patterns or a grant of comparable amounts of time off to a maximum of one hour for each hour of unusual work time. See N.J.A.C. **4:2-27.5(e)2 as to special project rates**.

[(d)]4. Overtime compensation for work in excess of 40 hours for non-exempt employees who work at different pay rates during the same workweek shall be paid as follows:

[1.]i. Cash overtime compensation shall be at the rate of one and one-half times the weighted average of the different rates paid during that workweek.

[2.]ii. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

[(e)]5. If a 14 day work period is elected for hospital employees under N.J.A.C. [4:6-4.1(d)] **4:2-27.4(a)4**, non-exempt employees shall receive overtime compensation for work in excess of 8 hours in a workday or 80 hours in a work period at a rate representing one and one-half times the regular rate of pay. The extra compensation at the premium rate paid for hours worked in excess of 8 in a workday may be credited toward any overtime compensation payable for hours worked in excess of 80 in the 14 day work period.

[4:6-4.3](c) Criteria for exemption shall be as follows:

[(a)]1. Elected officials shall be exempt as follows:

[1.]i. An individual is exempt who is not subject to [the State's civil service] **Department of Personnel** laws and;

[i.](1) Holds a public office of the State;

[ii.](2) Is a member of the personal staff of an elected office holder;

[iii.](3) Is appointed by such an office holder to serve on a policy making level; or

[iv.](4) Is an immediate adviser to such an office holder with respect to the constitutional or legal powers of the office.

[(b)]2. Executive[s] **employees** shall be exempt as follows:

[1.]i. An executive paid at least \$250.00 a week on a salary basis exclusive of board, lodging and other facilities is exempt if the employee

regularly directs the work of at least two or more other employees and the employee's primary duty is management of the enterprise or a recognized department or subdivision thereof.

[2.]ii. An employee who is paid on a salary basis between \$155.00 and \$250.00 a week and meets all of the following tests will be exempt. The employee must:

[i.](1) Have as his or her primary duty the management of the enterprise, or of a customarily recognized department or subdivision; and

[ii.](2) Customarily and regularly direct the work of at least two or more other employees; and

[iii.](3) Have the authority to hire and fire, or recommend hiring or firing; or his or her recommendation on these and other actions affecting employees is given particular weight; and

[iv.](4) Customarily and regularly exercise discretionary powers; and

[v.](5) Devote no more than 20 percent of his or her time to activities not directly and closely related to managerial duties.

[(c)]3. Administrative employees shall be exempt as follows:

[1.]i. An administrative employee, who is paid on a salary or fee basis of at least \$250.00 a week exclusive of board, lodging or other facilities, will be exempt if his or her primary duty is responsible office or non-manual work directly related to management policies or general business operations or responsible work in the administration of an educational institution and his or her work requires the exercise of discretion and independent judgment.

[2.]ii. An employee who is paid on a salary basis between \$155.00 and \$250.00 a week and meets all of the following tests is exempt. The employee must:

[i.](1) Have as his or her primary duty responsible office or non-manual work directly related to the management policies or general business operations of his or her employer or employer's customers, or responsible work that is directly related to academic instruction or training carried on in the administration of a school system or education establishment; and

[ii.](2) Customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures, and have the authority to make important decisions; and

[iii.](3) Regularly assist a bona fide executive or administrative employee, or perform work under only general supervision along specialized or technical lines requiring special training, experience, or knowledge, or execute under only general supervision special assignments; and

[iv.](4) Spend no more than 20 percent of his or her time in the workweek on non-exempt work that is not directly and closely related to the employee's administrative duties.

[(d)]4. Professional employees shall be exempt as follows:

[1.]i. A professional employee, who is paid at least \$250.00 per week, is exempt if his or her primary duty requires advanced knowledge in a field of science or learning or involves work as a teacher, and requires the consistent exercise of discretion of judgment. Similarly, the employee is exempt as a professional if he or she is paid at least \$250.00 per week and his or her primary duty involves artistic work in a recognized field of artistic endeavor.

[2.]ii. An employee who meets all of the following tests will be exempt. The employee must:

[i.](1) Have as his or her primary duty work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study, or work that is original and creative in character in a recognized field of artistic endeavor, the result of which depends primarily on the employee's invention, imagination or talent; and

[ii.](2) Consistently exercise discretion and judgment; and

[iii.](3) Do work that is predominantly intellectual and varied, as distinguished from routine and mechanical duties; and

[iv.](4) Spend no more than 20 percent of his or her time in the workweek on activities not essentially a part of, and necessarily incident to, his or her professional duties; and

[v.](5) Be paid on a salary or fee basis at the rate of not less than \$170.00 a week exclusive of board, lodging or other facilities. However, no salary level is applied to doctors, lawyers and teachers.

[(e)]5. Other exemptions [are] shall be as follows:

[1.]i. Employees engaged in law enforcement or fire protection activities, including security personnel in correctional institutions, who are employed by a public agency that employs less than five law enforcement or five fire protection workers in a workweek, are exempt.

[SUBCHAPTER 5.] 4:2-27.5 Special circumstances

[4:6-5.1](a) [On call] Eligibility for overtime compensation for on call employees shall be as follows:

[(a)]1. Employees in non-exempt positions (35, 40, NE) who are required to remain on call and cannot use their own time effectively, shall be considered to be working and shall have such on call time included in the total hours worked. In those situations where employees are merely required to remain at home or leave word with appropriate officials where they may be reached, they are not considered to be working while on call unless their freedom to engage in personal activities during that period is severely restricted.

[1.]i. Overtime compensation at the rate of one and one-half times the regular rate or one and one-half hours for each hour worked in excess of the regular workweek shall only be payable for that period after total hours worked exceed 40 hours in a workweek.

[(b)]2. Employees in exempt positions (3E, 4E, NL, N4) shall have no claim or entitlement to compensation for such time.

[4:6-5.2](b) [Training] Eligibility for overtime compensation for training shall be as follows:

[(a)]1. Employees in non-exempt positions (35, 40, NE) who are required by their employer to participate in job related training shall have such training time included in the total hours worked.

[1.]i. Overtime compensation at the rate of one and one-half times the regular rate or one and one-half hours for each hour worked in excess of the regular workweek shall only be payable for that period after total hours worked exceed 40 hours in a workweek.

[2.]ii. For time worked in excess of a 35 hour fixed workweek but not over 40 hours, hour for hour compensation may be granted in the form of cash or time off, at the discretion of the appointing authority.

[(b)]2. Employees in exempt fixed workweek positions (3E, 4E) may be granted hour for hour compensation in the form of cash or time off, at the discretion of the appointing authority.

[(c)]3. Employees in exempt non-limited positions (NL, N4) shall have no claim or entitlement to compensation for such time.

[4:6-5.3](c) [Travel] Eligibility for overtime compensation for travel shall be as follows:

[(a)]1. Employees in non-exempt positions (35, 40, NE) who are required to travel contiguous to the normal workday in excess of normal commutation time shall have such hours included in the total hours worked.

[1.]i. Overtime compensation at the rate of one and one-half times the regular rate or one and one-half hours for each hour worked in excess of the regular workweek shall only be payable for that period after total hours worked exceed 40 hours in a workweek.

[2.]ii. For time worked in excess of a 35 hour fixed workweek but not over 40 hours, hour for hour compensation may be granted in the form of cash or time off, at the discretion of the appointing authority.

[(b)]2. Employees in exempt fixed workweek positions (3E, 4E) may be granted hour for hour compensation in the form of cash or time off, at the discretion of the appointing authority.

[(c)]3. Employees in exempt non-limited positions (NL, N4) shall have no claim or entitlement to compensation for such time.

[4:6-5.4] (d) Eligibility for overtime compensation for [E]xceptional emergencies shall be as follows:

[(a)]1. When an agency head declares that he or she is faced with an exceptional emergency involving a critical service disruption that poses a danger to health or safety, he or she may authorize:

[1.]i. Cash overtime compensation for non-limited employees in titles with established salary ranges below range 35 performing emergency related work. For these circumstances employees in non-limited titles shall be deemed to have a 40 hour workweek.

[2.]ii. Exceptions to N.J.A.C. [4:6-3.1(b)]3] 4:2-27.3(a)2iii.

[(b)]2. An agency head shall file with the [Overtime Committee (c/o President, Civil Service Commission)] Commissioner two reports concerning an exceptional emergency as follows:

[1.]i. A fully detailed justification for the declaration within seven calendar days of the declaration of the exceptional emergency. The report shall describe the critical services which could have been or were disrupted and what dangers were posed to health or safety.

[2.]ii. Within 30 calendar days of the conclusion of the exceptional emergency, a list of the names, titles and hours of work designations of employees who performed emergency related work on an overtime basis. The report shall include the number of hours of emergency related overtime work performed by each employee.

[(c)]3. These provisions shall not apply to work performed beyond the regular work hours on emergency maintenance, construction, snow removal or other related work in situations which constitute unreasonable safety hazards to the public, employees, other persons or property of the State. The [Civil Service Commission] Commissioner shall establish special project rates for these circumstances.

[4:6-5.5](e) **Eligibility for Special Project rate compensation** [Occasional or sporadic employment] shall be as follows:

1. If an employee works on a part time, occasional or sporadic basis, and solely at the employee's option, in a different capacity from which the employee is regularly employed, the hours employed in the different capacity shall be excluded from the calculation of the hours to which the employee is entitled to overtime compensation. **Such employment may be paid at Special Project rates as approved by the Commissioner of Personnel.**

2. **NL and N4 employees who perform extraordinary work activities on a limited or periodic basis necessitating work time beyond the general workweek in the same capacity from which the employee is regularly employed may be paid Special Project rates as approved by the Commissioner of Personnel.**

3. **A fully detailed justification for a Special Project for which 1 or 2 above would be applicable must be filed with the Commissioner or his or her representative for review and approval.**

[SUBCHAPTER 6.] **4:2-27.6** Holiday pay

[4:6-6.1] Work on a holiday]

(a) Full-time and part-time employees in fixed workweek titles shall be entitled to overtime compensation in addition to their regular rate of compensation for all worked performed on a holiday except as provided in N.J.A.C. [4:6-6.4] **4:2-27.6(d)**, even if they are not in pay status for a full workweek.

[4:6-6.2] Non-limited titles]

(b) Employees in non-limited titles are not entitled to overtime compensation for work performed on a holiday, except as provided in [4:6-4.1] **4:2-27.4(a)**. However, those in titles below that of agency head may, at the discretion of the appointing authority, be granted comparable time off to a maximum of hour for hour for such work in addition to their regular rate of compensation.

[4:6-6.3] Seven day coverage positions]

[(a)](c) The following shall govern overtime compensation for full-time and part-time employees in fixed workweek titles who are employed in a seven day coverage operation:

1. If a holiday occurs on a regular workday of an employee and she or he works, the employee is entitled to overtime compensation for all work performed on the holiday in addition to the regular rate of compensation.

2. If a holiday occurs on a regular day off, an employee shall be given an additional day off in the same workweek. If, as a result of an emergency, the employee is required to work on the additional day, she or he shall be entitled to overtime compensation for all work performed on the additional day.

3. If a holiday occurs on a regular workday of an employee and the employee does not report for duty, she or he shall not be eligible for overtime compensation or an alternate day off.

[4:6-6.4] Personal preference days]

(d) A part-time or full-time employee in a fixed workweek title in conjunction with his or her appointing authority, may agree that the employee shall work on a holiday in exchange for a specified day of personal preference off. If the employee is required to work on the specified personal preference day, she or he shall be entitled to overtime compensation for all hours worked on the personal preference day as if that day were the holiday.

[4:6-6.5](e) **Eligibility for overtime compensation for [C]casual employees shall be as follows:**

[(a)]1. Unless permitted by a negotiated labor contract, casual employees shall not be entitled to overtime compensation for work performed on a holiday, except as provided in [4:6-4.1] **4:2-27.4(a)**.

[(b)]2. Unless permitted by a negotiated labor contract, casual employees shall not be entitled to any form of compensation for a holiday not worked.

[SUBCHAPTER 7.] **4:2-27.7** Appointing authority responsibilities

[4:6-7.1] Development of procedures]

(a) The appointing authority shall develop procedures for administering overtime that are consistent with this [chapter] **subchapter** and at a minimum provide for:

1. Written authorization and approval by the appointing authority or his or her designee in advance of overtime to be worked. Whenever circumstances are such that prior authorization is not possible, the overtime must be authorized in writing immediately thereafter;

2. Records of approved overtime requests and work accomplished;

3. Systems for continuous and periodic review of overtime requirements with a view toward devising methods to accomplish the work during regular work time; and

4. Written procedures for departmental directors, bureau chiefs and supervisors to follow in the authorization of either compensatory time or cash payment for overtime.

(b) A copy of each department's procedures and written interpretations and any subsequent changes are to be filed with the [Overtime Committee c/o President, Civil Service Commission] **Commissioner or his or her representative** and approved prior to promulgation.

[4:6-7.2] Reporting requirements]

(c) For budget requests, the appointing authority shall provide an annual summary to include the extent and justification for overtime required during the past fiscal year, current fiscal year and the extent and justification of anticipated overtime during the next fiscal year. The latter shall be supported by a description of the work programs to be accomplished, the amount of hours and money involved, the circumstances dictating that it be overtime, and alternatives that would permit accomplishment of the overtime work on regular time. The instructions for the above shall be included in the "Manual for Preparation of Budget Request" which is published and distributed to all State Agencies by the [Division of Budget and Accounting] **Office of Management and Budget** in the Department of the Treasury. The appointing authority shall file a copy of this summary with the [Overtime Committee (c/o President, Civil Service Commission)] **Commissioner or his or her representative**.

[4:6-7.3] Records]

[(a)](d) The following records shall be kept:

1. Name of employee in full;

2. Home address, including zip code;

3. Date of birth, if under 19;

4. Sex and occupation;

5. Time of day and day of week on which the employee's workweek begins;

6. Regular hourly rate of pay in any workweek in which overtime premium is due: base of wage payment (such as \$5.00 hr., "\$40.00 day," "\$200.00 wk.");

7. Daily and weekly hours of work;

8. Total daily or weekly straight time earnings;

9. Total overtime compensation for the workweek;

10. Total additions to or deductions from wages paid;

11. Total wages paid each pay period;

12. Date of payment and the pay period covered by payment; and

13. Approved overtime requests and work accomplished.

[(b)](e) Upon demand, the appointing authority shall make available to the [Overtime Committee] **Commissioner** or [its] **his or her representative** all records and accounts of overtime work at the time(s) and location(s) specified.

[4:6-7.4] Payroll procedures]

(f) Procedures for payments of compensable overtime will be published as part of the payroll manual.

[SUBCHAPTER 8.] **4:2-27.8** Appeal procedures

[4:6-8.1] Position designations]

(a) **Appeals of position designations shall be processed as follows:**

[(a)]1. An appeal by an employee of the status of a particular position for exemption or non-exemption under the Fair Labor Standards Act shall be submitted, in writing, to the appointing authority through the personnel office. The appeal must identify the specific duties at issue and must be accompanied by a Classification Questionnaire, [CS]DPF-44, signed by the employee and the supervisor. If the appellant proposes a different status for the position, exempt or non-exempt, she or he must explain how the requested status more accurately reflects the duties of the position under the Fair Labor Standards Act. See N.J.A.C. [4:6-4.] **4:2-27.4(c)**.

[1.]². The appointing authority shall review the appeal and notify the appellant of its decision within 20 days of receipt of the appeal. This decision letter must include the duties of the position, findings of fact, conclusions and the determination that:

- i. The position is properly classified as exempt or non-exempt; or
- ii. The position is improperly designated in which case the appointing authority shall provide appropriate duties or designated the appropriate status.

[2.]³. The decision letter shall state that the appellant has the right to appeal an adverse decision. Additionally, if the appellant does not receive a decision letter from the appointing authority within 20 days, she or he may file an appeal, in writing, within 10 days from the final day for the appointing authority's decision. All appeals shall be sent to the:

Department of [Civil Service] **Personnel**
Director, Division of Classification and Compensation
CN 313
Trenton, New Jersey 08625

[3.]ⁱ. An employee submitting a second level appeal must include a copy of the initial appeal letter to the appointing authority, a copy of the completed Classification Questionnaire, [CS]DPF-44, and the appointing authority's decision letter, if issued. The appeal must state what specific portions of that decision are contested and the reasons.

[4.]^b. The Director, Division of Classification and Compensation, shall review the appeal, order an audit where warranted, and issue a written decision. The decision letter shall be issued within 20 days of receipt of the appeal and shall include findings of fact, conclusions, a determination and a statement that the appellant has the right of appeal to the [Overtime Committee] **Commissioner**.

[5.]^c. All appeals to the [Overtime Committee] **Commissioner** must include copies of the determinations and decision letters from the lower levels and state which findings are being disputed and the reasons. Appeals shall be submitted, in writing, within 20 days of receipt of the decision letter to the:

Department of [Civil Service] **Personnel**
Division of Appellate Practices and Labor Relations
CN 312
Trenton, New Jersey 08625

[1.]ⁱ. The [Overtime Committee] **Commissioner** may render a decision based on the written record or such other procedure as [it] **he or she** deems appropriate.

[2.]ⁱⁱ. The decision of the [Overtime Committee] **Commissioner** shall be the final administrative decision.

[4:6-8.2] **(b) Appeals of title designations shall be processed as follows:**

[(a)]¹. An appeal of the status of a title for exemption or non-exemption under the Fair Labor Standards Act may be filed either by the appointing authority or an affected employee and shall be in writing. The appeal must explain how the requested status more accurately reflects the duties of the title under the Fair Labor Standards Act. See: N.J.A.C. [4:6-4.3] **4:2-27.4(c)**. Such appeals shall be filed with the:

Department of [Civil Service] **Personnel**
Division of Classification and Compensation
CN 313
Trenton, New Jersey 08625

[(b)]². The Director of Classification and Compensation shall review the appeal under N.J.A.C. [4:6-8.1(b)] **4:2-27.8(a)4**.

[(c)]³. An appeal of the decision of the Director of Classification and Compensation may be filed under N.J.A.C. [4:6-8.1(c)] **4:2-27.8(a)5**.

[4:6-8.3 Grievances]

(c) Other issues relating to overtime payments may be reviewed through the grievance process. See N.J.A.C. 4:2-23.1 et seq.

APPENDIX: OVERTIME ELIGIBILITY AND COMPENSATION CHART

(No change.)

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Conflict of Interest

Proposed Amendment: N.J.A.C. 5:23-4.5

Authorized By: Leonard S. Coleman, Jr., Commissioner,
Department of Community Affairs.

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

Proposal Number: PRN 1987-61.

Submit comments by March 19, 1987 to:

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

This proposal was originally published in the February 2, 1987 New Jersey Register at 19 N.J.R. 263(a). Since the contact person for submissions by interested persons was inadvertently omitted, the agency is reproposing this rule.

The agency proposal follows:

Summary

Under the proposed amendment to N.J.A.C. 5:23-4.5, conflict of interest provisions governing building-related employment of persons who enforce the State Uniform Construction Code, which now apply only in the municipality or municipalities by which the person is employed and in adjacent municipalities within the State, are extended to apply to all locations, both within the State of New Jersey and elsewhere.

Social Impact

The purpose of the conflict of interest regulation is to insure that people will not have occasion to deal with the same person both as a code enforcement official or inspector and as a private individual engaged in a building-related trade or business. If they were to do so, they might have reason to believe that, in exchange for their business, they would get preferential treatment in code enforcement. The regulation, in its present form, seeks to prevent this by prohibiting code enforcement officials and inspectors from engaging in building-related trades or businesses in the municipalities in which they serve or in adjacent municipalities. With this limitation, however, it is still possible that the intent of the rule can be circumvented when an official or inspector does work, or has a business, in a municipality which is nearby but not adjacent to the municipality in which he is serving. As a result of the elimination of the remaining opportunity for conflict in this sensitive area of code enforcement, public confidence in the integrity of inspection personnel, which is a fundamental requirement of any enforcement program, will be enhanced.

Economic Impact

Private building-related employment and business activity by code enforcement personnel is far less frequent than it was when the State Uniform Construction Code went into effect in 1978. At that time, existing prohibitions applied only to electrical inspectors. The professionalization that has resulted from the implementation of the Code has, in turn, led to higher salaries for licensed officials and inspectors. This has reduced the need for officials and inspectors to do private work. Those relatively few officials and inspectors who are still doing building-related work in non-adjacent municipalities or across State lines, however, will face the choice of giving up either their private work or their code enforcement positions.

Regulatory Flexibility Analysis

This proposal primarily affects licensed code enforcement inspectors and officials who are public employees and not owners of small businesses. Private inspection agencies, which are most likely within the statutory definition of a "small business," are already unable to employ inspectors who work in any construction-related capacity, or hold any construction-related business interests, anywhere in the State. Any employees holding such employment or business interests outside of the State will now have to divest themselves of the same in order to continue employment with the private inspection agency. Any small business

owned by, or employing, a person who also serves as an official or inspector enforcing the Uniform Construction Code will be affected by that person's having to relinquish either the business or private employment, as the case may be, or the code enforcement position.

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

5:23-4.5 Municipal enforcing agencies—administration and enforcement

(a)-(g) (No change.)

(h) Conflict of interest:

1. No person employed by an enforcing agency as a construction or subcode official, trainee, inspector or plan reviewer, shall engage in, or otherwise be connected directly or indirectly for purposes of economic gain, with any business or employment furnishing labor, materials, products or services for the construction, alteration, or demolition of buildings or structures [within any municipality in which he is so employed by an enforcing agency, and in any municipality adjacent to any municipality in which he is thus employed. The application of this subparagraph to adjacent municipalities shall not take effect until July 1, 1978].

2. [Further rules are:

i. Persons subject to (f) above, shall annually report any income or benefits received from any business furnishing materials, products, labor or services for types of work subject to the Uniform Construction Code regulations, to the municipal governing body. This report shall include the sum total of all income so received and a list of all sources of income. This reporting shall commence on July 1, 1978, and shall cover the preceding six months, and thereafter shall be required annually.

ii.] Nothing herein shall prohibit a municipality from establishing by ordinance more restrictive provisions covering conflict of interest.

3. This section shall not apply to:

i. (No change.)

ii. Any such business or employment outside the State;]

Renumber iii.-iv. as ii.-iii. (No change in text.)

EDUCATION

STATE BOARD OF EDUCATION

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

Submit comments by March 19, 1986 to:

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

(a)

School Districts

Pupil Records

Proposed Amendments: N.J.A.C. 6:3-2.1 through 2.8

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:36-19 and Public Laws 94-142, 93-380 and 93-568.

Proposal Number: PRN 1987-69.

The agency proposal follows:

Summary

The State board of Education, pursuant to N.J.S.A. 18A:1-1, 18A:4-15, 18A:36-19, Public Law 94-142 and Public Law 93-380 as amended by Public Law 93-568, proposes amendments to the rules pertaining to Pupil Records, N.J.A.C. 6:3-2. The rules reflect the requirements necessary for the maintenance, security and destruction of pupil records.

The proposed amendments to N.J.A.C. 6:3-2 are intended to address certain issues raised on appeal before the State Board of Education in *East Brunswick Education Association v. Board of Education of the Township of East Brunswick*, Agency Docket No. 486-12/82A (decided by State Board of Education, Nov. 7, 1984). Of particular concern to the State Board in *East Brunswick* was the question of whether and to what extent noncertified health aides should be permitted access to pupil records. Under current regulation, only certified school personnel, assigned the educational responsibility for a pupil, are authorized to have access to pupil records. There is no provision in current regulations to allow any

noncertified school district employee, such as secretaries or health aides, to view and record information in pupil records. In recognition of the practical problems stemming from this restriction, the proposed regulations permit secretarial and clerical personnel, acting under the direct supervision of certified school personnel, to have access to pupil records under certain conditions (N.J.A.C. 6:3-2.5(c)6).

In addition, the substantive change to N.J.A.C. 6:3-2.1 through 6:3-2.8 are summarized as follows:

N.J.A.C. 6:3-2.1 includes a definition of "student information directories" that conforms with federal code and amends the definition of parent surrogate. The approval of parent surrogates by the Department of Education has been changed to the district board of education.

N.J.A.C. 6:3-2.2(d) requires the notification of parents and adult pupils about their rights relative to participation in recruitment programs.

N.J.A.C. 6:3-2.2(g)1 assures that access to pupil records is granted within a period of 10 days of the request.

N.J.A.C. 6:3-2.2(g)4 through 8 that district boards of education also include in their policies and procedures new provisions for:

1. Inclusion of information by parents;

2. Designation and release of directory information;

3. According educational, occupational and military recruiters access to school facilities and student information directories;

4. Assuring limited access to pupil records by secretary and clerical staff;

5. Access and security of pupil records maintained in a computerized system.

N.J.A.C. 6:3-2.4(c) requires district boards of education to provide procedures for the security of computerized recordkeeping systems.

N.J.A.C. 6:3-2.5(c) has been deleted in accordance with the limitations of the Doctrine of Fair Use of the U.S. Copyright Law provisions. (Title 17—Section 106)

N.J.A.C. 6:3-2.5(c)5 grants the district board of education access to a pupil's record when acting in accordance with its legal responsibilities as a board.

N.J.A.C. 6:3-2.7(d) provides for the inclusion of a written statement by the parent or adult pupil commenting upon a decision that results from an appeal.

N.J.A.C. 6:3-2.8(a) specifies that a pupil's record is to be considered incomplete and not subject to the provisions for destruction until the pupil has graduated or permanently departed from the school district.

N.J.A.C. 6:3-2.8(c) has been expanded to incorporate N.J.A.C. 6:3-2.8(e) and to eliminate redundancies.

N.J.A.C. 6:3-2.8(e) has been deleted. Its intent has been incorporated into 6:3-2.8(c).

The proposed amendments bring the pupil records regulations into conformance with the federal code and state statutes.

Social Impact

The proposed amendments will have a favorable impact upon the public in that they will ensure that a diligent effort is made to limit access to confidential information contained in pupil records. The amendments to N.J.A.C. 6:3-2 will serve to clarify existing federal and state regulations pertaining to access, security and maintenance of pupil records.

Economic Impact

Adoption of these rules will have no additional economic impact on the state, district boards of education, or the pupil.

Regulatory Flexibility Statement

The proposed amendments to the rules on pupil records will have no reporting, recording or compliance requirements for small businesses. All requirements of the proposal impact upon New Jersey public schools and students.

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

"Access" means the right to view, to make notes, and/or [to] have a reproduction of the pupil record made.

...

"Parent" means the natural parent(s)[,] or legal guardians(s), foster parent(s)[,] or parent surrogate(s) of a pupil. Where parents are separated or divorced, "parent" means the person or agency who has legal custody

of the pupil, as well as the natural parents of the pupil, provided such parental rights have not been terminated by a court of appropriate jurisdiction.

"Parent surrogate(s)" means an individual or individuals approved by the [Department of Education] **district board of education in accordance with N.J.A.C. 6:28-2.2** to act on behalf of a pupil whose parents are not available [in assuring] to assure the pupil's educational rights.

"Student information directories" means a **publication of a district board of education which includes the following information relating to a pupil: the student's name, address, telephone number, grade level, date and place of birth, dates of attendance, major field of study, participation in officially recognized activities, weight and height relating to athletic team membership, degrees, awards, the most recent educational agency attended by the pupil and other similar information.**

6:3-2.2 General considerations

(a) This subchapter applies to all [public] **district boards of education** or private agencies which provide educational services by means of public funds. [Public schools and all such agencies] **District boards of education** shall include, but not be limited to, all [local boards of education,] county boards of special services school districts, **county vocational boards of education**, jointure commissions, [and] educational services commissions[.], **education programs operated by county residential facilities and State operated special education programs.**

(b) Each [local school district] **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 the [to and] security of such records** in accordance with this subchapter.

(c) Pupil records shall contain only such information as is relevant to the education of the pupil[,] and is objectively based on the personal observations or knowledge of the **certified school personnel who originate(s) [originator of] the record.**

(d) The [local school district] **district board of education** shall notify parents **and adult pupils** annually in writing of their rights in regard to pupil records[,] [and shall make] **and pupil participation in educational, occupational and military recruitment programs.** [c]Coies of the applicable State and Federal laws and local policies **shall be made** available upon request. [Local school districts] **District boards of education** shall make every effort to notify parents in the language of the parent.

(e) A nonadult pupil may assert rights of access only through his/her parents. However, nothing in these rules shall be construed to prohibit certified school personnel, in their discretion, from disclosing pupil records to nonadult pupils[,] or to appropriate persons in connection with an emergency, if such knowledge is necessary to protect the health or safety of the pupil or other persons.

(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 [local school district] **district board of education** shall establish written policies and procedures for pupil records which:

1. Guarantee access to persons authorized under this subchapter [in a reasonable amount of time,] within [ten] **10 days of the request**, [and not to exceed 25 days;] but prior to any review or hearing conducted in accordance with State Board of Education regulations;

2. Assure security of the records; [and]

3. Enumerate and describe the pupil records collected and maintained by the [local school district.] **district board of education;**

4. **Provide for the inclusion of educationally relevant information in the pupil record by the parent or adult pupil;**

5. **Allow for the designation, release and public notice of directory information as defined herein;**

6. **Accord educational, occupational and military recruiters access to school facilities and student information directories pursuant to N.J.S.A. 18A:36-19.1, provided that any adult pupil or parent may request in writing to the chief school administrator to be excused from participating in recruitment programs or having their name appear in student information directories for recruitment purposes.**

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. **Provide for the access and security of pupil records maintained in a computerized system.**

(h) All anecdotal information and assessment reports collected on a pupil shall be dated and signed by the individual who originated the data.

(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 [to be deleted from the records,] data no longer descriptive of the pupil or educational situation to be **deleted from the records.** Such information shall be destroyed and [shall] not be recorded elsewhere, nor shall a record of such deletion be made.

(j) No liability shall be attached to any member, officer or employee of any [local] **district board of education** permitting access or furnishing pupil records in accordance with these rules and regulations.

(k) When the parents' dominant language is not English or the parent is deaf, the [local school district] **district board of education** shall make every effort to:

1. Provide interpretation of the pupil record in the dominant language of the parent; or

2. Assist the parent(s) in securing an interpreter.

6:3-2.3 Mandated and permitted pupil records

(a) The [local school district] **district board of education shall [may] 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), [and/or guardians,] citizenship and sex of the pupil. The [local school district] **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. Record of daily attendance[.].

- iii. Descriptions of pupil progress[,] according to the system of pupil evaluation used in the district. Grade level or other program assignments shall also be recorded[.].

- iv. History and status of physical health compiled in accordance with State regulations, including results of any physical examinations given by qualified district employees[.].

- v. [All other records required by the State Board of Education, including those] **Records** pursuant to rules and regulations regarding the education of educationally handicapped pupils[,] including printed test forms supporting classification and placement.]

- vi. **All other records required by the State Board of Education.**

2. Permitted pupil records are those which a [local] **district board of education** has authorized [the district to collect] by resolution adopted at a regular public meeting **to be collected in order** to promote the educational welfare of the pupil. The [local] **district board of education** shall report annually at a public board meeting a description of the types of pupil records it has authorized certified school personnel to collect and maintain. The pupil records so authorized must also comply with this subchapter as to relevance and objectivity.

6:3-2.4 Maintenance and security of pupil records

(a) The chief school administrator or **his/her designee** shall be responsible for the security of pupil records maintained in the [local] school district and shall devise procedures for assuring that access to such records is limited to authorized persons.

(b) Records for each individual pupil shall be maintained in a central file at the school attended by the pupil. When records are maintained in different locations, a notation in the central file as to where such other records may be found is required.

(c) **When records are stored in a computerized system, computer programmed security blocks are required to protect against any security violations of the records stored therein. To guard against the loss of pupil records, school districts must maintain an updated duplicate copy of pupil records.**

6:3-2.5 Access to pupil records

(a) Only authorized organizations, agencies or persons as defined herein shall have access to pupil records.

(b) The [local] **district board of education** may charge a reasonable fee for reproduction, not to exceed the schedule of costs set forth in N.J.S.A. 47:1A-2, provided that the cost does not effectively prevent the parents from exercising their rights under this subchapter or under rules and regulations regarding educationally handicapped pupils.

[(c) Copying of material such as printed test forms which are subject to copyright laws is prohibited.]

[(d)](e) Authorized organizations, agencies[,] and persons shall include only:

1. The parent(s)[, or legal guardian(s), foster parent(s) or parent surrogate(s)] of a pupil under the age of 18[,] and the pupil who has the written permission of such parent(s) [or guardian(s)];

2. Pupils at least 16 years of age who are terminating their education in the district because they will graduate secondary school at the end of the term[,] or no longer plan to continue their education;

3. The adult pupil and the pupil's parent(s) [or guardian(s)] who have the written permission of such pupil, except that the parent(s) [or guardians] shall have access without consent of the pupil as long as the pupil is financially dependent on the parent(s) [or guardians] and enrolled in the public school system or if the pupil [is] **has been declared legally incompetent[;] by a court of appropriate jurisdiction;**

4. Certified school district personnel who has assigned educational responsibility for the pupil;

[5. Accrediting organizations in order to carry out their accrediting functions;]

5. **A district board of education, in order to fulfill its legal responsibilities as a board, has access through the chief school administrator or his or her designee to information contained in a pupil's record. Information shall be discussed in executive session unless otherwise requested by the parent or adult pupil;**

[6. The Commissioner of Education and members of the New Jersey Department of Education staff who have assigned responsibility which necessitates the review of such records;]

6. **Secretarial and clerical personnel under the direct supervision of certified school personnel shall be permitted access to those portions of the record to the extent that is necessary for the entry and recording of data and the conducting of routine clerical tasks. Access shall be limited only to those pupil files which such staff are directed to enter or record information and shall cease when the specific assigned task is completed;**

[7. Officials of other public school districts, county boards of special services school districts, jointure commissions, educational services commissions and state operated special education programs within the State of New Jersey in which the pupil is 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 or adult pupil;

ii. Permitted records shall be forwarded to the receiving district only with the written consent of the parent or adult pupil except where a formal sending-receiving relationship exists between the school districts;

iii. All records to be forwarded shall be sent to the administrative official of the school to which the pupil has transferred within 10 days after the transfer has been verified by the requesting school district;]

7. **Accrediting organizations in order to carry out their accrediting functions;**

[8. Officers and employees of a State agency, responsible for protective services to children, engaged in investigations pursuant to N.J.S.A. 9:6-8.40 as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency. Whenever appropriate, local school districts shall ask such State agency for its cooperation in sharing the findings of the investigation;]

8. **The Commissioner of Education and members of the New Jersey Department of Education staff who have assigned responsibility which necessitates the review of such records;**

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

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. Permitted records shall be forwarded to the receiving district only with the written consent of the parent or adult pupil except where a formal sending-receiving relationship exists between the school districts.

iii. All records to be forwarded shall be sent to the chief school administrator or his or her designee of the school to which the pupil has transferred within 10 days after the transfer has been verified by the requesting school district.

[10. Organizations, agencies, and individuals outside the school, other than those specified in this rule, upon the presentation of a court order.]

10. **Officers and employees of a 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. Bona fide researchers who explain in writing the nature of the research project and the relevance of the records sought, and who satisfy the chief school administrator that the records will be used under strict conditions of anonymity and confidentiality. Such assurance must be received in writing by the chief school administrator prior to the release of information to the researcher.]

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. **Organizations, agencies and individuals outside the school, other than those specified in this rule, upon the presentation of a court order;**

13. **Bona fide researchers who explain in writing the nature of the research project and the relevance of the records sought and who satisfy the chief school administrator or his or her designee that the records will be used under strict conditions of anonymity and confidentiality. Such assurance must be received in writing by the chief school administrator prior to the release of information to the researcher.**

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 [to view the records], 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 [who do not] **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 studies[,] and the purposes for which the data will be used;

4. Unless otherwise judicially instructed, the [school] 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. A record may be withheld from a parent [or guardian] of a pupil under 18[,] or from an adult pupil[,] only when the chief school administrator in consultation with the professional staff is convinced that the disclosure would create a substantial risk of harm to the pupil or to a person with whom the record is concerned. When the chief school administrator is convinced that the risk is of such high degree, he[/] or she shall notify the parent[,] [guardian] or adult pupil in writing within five days that access to the record has been denied[,] and that the person has the right to appeal this decision to the Commissioner of Education. If an appeal [should be] is made, the commissioner shall designate a professional of the same discipline as the originator of the record to review the record and to recommend whether access should be granted. The commissioner shall make a determination within 30 days of the receipt of the request. Any decision made by the commissioner may be appealed to the State Board of Education.

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

(a) (No change.)

(b) To appeal, a parent or adult pupil must notify the chief school administrator in writing of the specific issues relating to the pupil record. Within [ten] **10** days of notification, the chief school administrator or his or her designee shall meet with the parent or adult pupil to review

the issues set forth in the appeal. If the matter is not satisfactorily resolved, the parent or adult pupil may appeal this decision either to the [local] district board of education or the Commissioner of Education within 10 days. If appeal is made to the [local school board] district board of education, a decision shall be rendered within 20 days. The decision of the [local school] district board of education may be appealed to the commissioner pursuant to N.J.S.A. 18A:6-9 and rules adopted in accordance with such statute. At all stages of the appeal process, the parent shall be afforded a full and fair opportunity to present evidence relevant to the issue. A record of the appeal proceedings and outcome shall be made a part of the pupil record with copies made available to the parent or adult pupil.

(c) Appeals relating to the pupil records of educationally handicapped pupils shall be processed in accordance with the requirements of N.J.A.C. 6:28[-1.1 et seq].

(d) **Regardless of the outcome of any appeal, a parent or adult pupil shall be permitted to place a statement in the pupil record commenting upon the information in the pupil record or setting forth any reason for disagreement with the decision of the agency. Such statements shall be maintained as part of the pupil record as long as the contested portion of the record is maintained. If the contested portion of the record is disclosed to any party, the statement commenting upon the information must also be disclosed to that party.**

6:3-2.8 Retention and destruction of pupil records

[(a) Upon the graduation or permanent departure of a pupil from the school system, the parent or adult pupil shall be notified in writing that a copy of the entire pupil record will be provided to them upon request.]

(a) **A pupil record is considered to be incomplete and not subject to the provisions of the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq, while the student is enrolled in the school district.**

(b) No additions shall be made to the record after graduation or permanent departure without the prior written consent of the parent or adult pupil.

(c) **The New Jersey public school district of last [attendance] 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) [or guardian(s)] and citizenship status.**

[(d) Information in pupil records, other than that described in subsection (c), may be destroyed after the information is no longer necessary to provide educational services to a pupil. Such destruction shall be accomplished only after written parental or adult pupil notification and written parental or adult pupil permission as been granted or after reasonable attempts of such notification and reasonable attempts to secure parental permission have been unsuccessful.]

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

1. The parent or adult pupil shall be notified in writing that a copy of the entire pupil record will be provided to them upon request.

2. Information in pupil records, other than that described in (c) above 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.

[(e) The New Jersey public school district of last attendance shall be responsible for maintaining a pupil's records upon the graduation or permanent departure of the pupil from the system of free and appropriate public education pursuant to N.J.A.C. 6:1-1.1 et seq.]

(a)

BUSINESS SERVICES

Tuition for Private Schools for the Handicapped

Proposed Repeals: N.J.A.C. 6:20-4.1 and 4.3.

Proposed New Rules: N.J.A.C. 6:20-4.1, 4.2, 4.9 and 4.10

Proposed Recodification and Amendment: N.J.A.C. 6:20-4.3

Proposed Amendments: N.J.A.C. 6:20-4.4, 4.5, 4.6, 4.7 and 4.8

Authority: N.J.S.A. 18A:1-1, 18A:4-15 and 18A:46-21.

Proposal Number: PRN 1987-70.

The agency proposal follows:

Summary

These new rules and amendments are proposed to implement Chapter 50, Public Laws of 1986 (N.J.S.A. 18A:46-21), which requires the State Board of Education to adopt rules for determining tuition based on the actual cost per pupil for each pupil placed by a local school district in a private school for the handicapped.

The proposed new rules and amendments establish an actual cost system and a new rate approval process. Major sections of the current code have remained intact. The proposed rules are designed to modify the formula for maximum rates, to clarify sections of the current code where the rules may have been ambiguous and to establish a system for setting rates in approved private schools for the handicapped which are located in other states.

Under the proposed new rules and amendments, local school districts will pay private schools one rate per school, based on audited allowable costs as certified by the Commissioner of Education, rather than the current system which provides seven different rates based upon a pupil's classification.

The sections of the rule on bookkeeping and accounting requirements, non-allowable costs, surcharge, working capital funds, pupil attendance, audit requirements and appeal procedures propose technical changes from the current code. A new section on tuition in out-of-state private schools will allow districts to pay the actual cost set by the state in which the private school is located.

Social Impact

Based on information from the September 1986 census, approximately 7,850 handicapped pupils have been placed in the 120 New Jersey approved private schools for the handicapped. The population served is generally the severely handicapped, the majority of whom have been classified as emotionally disturbed or neurologically impaired. Children are only placed in private schools for the handicapped when it has been determined by a district's child study team, with approval by the district board of education, that this would be the most appropriate placement for a handicapped pupil.

These proposed new rules and amendments will allow the tuition rates to reflect the actual cost of services needed for handicapped pupils. In the current code, the costs in some private schools is higher than the maximum rate allowable.

Economic Impact

The proposed new rules and amendments will impact upon local school districts in fiscal year 1987 and the State budget in fiscal year 1988. While the actual cost will depend upon the rate annually certified by the Commissioner of Education in each subsequent school year, it is estimated that the immediate economic impact to districts will be no more than a 10 percent increase over the current tuition costs, which is equivalent to the increase the existing formula would allow. It is expected that high intensity programs will increase in cost since their actual costs may be higher than the maximum rate now allowed. Competition will be a force in controlling costs.

With adoption of the proposed new rules and amendments, the State's obligation for aid will be the same as under the current rules.

Regulatory Flexibility Statement

The proposed rules apply to approximately 120 private schools for the handicapped within the State and another 60 out-of-state private schools that serve New Jersey pupils. The proposed rules include minimal changes in reporting, recordkeeping and bookkeeping requirements to ensure

consistency in the reporting format. These changes will result in no additional cost for compliance to the in-state public schools for the handicapped; however, approximately 10 of the out-of-state schools may incur some additional costs to meet the new State bookkeeping and audit requirements.

Under these proposed regulations, public schools for the handicapped will be able to charge local districts for all actual audited allowable costs. As a result, it is estimated that these private schools will experience an average approximate increase of 10 percent in their operating budgets.

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

SUBCHAPTER 4. TUITION FOR PRIVATE SCHOOLS FOR THE HANDICAPPED

6:20-4.1 [Formula for maximum tuition rates] **Tuition rate procedures**

(a) The Department of Education shall determine the maximum tuition rates for each budget year for placement of handicapped pupils in an approved private school for the handicapped.

(b) The methods of calculating the maximum tuition rates shall be according to the classification categories as follows:

1. Emotionally disturbed, neurologically impaired, socially maladjusted or communication handicapped: Multiply the State average net current expense budget per pupil for the pre-budget year by 2.99 and round to the nearest \$100.00.

2. Multiply handicapped or orthopedically handicapped: Multiply the State average net current expense budget per pupil for the pre-budget year by 3.29 and round to the nearest \$100.00.

3. Trainable mentally retarded or educable mentally retarded: Multiply the State average net current expense budget per pupil for the pre-budget year by 3.08 and round to the nearest \$100.00.

4. Chronically ill or perceptually impaired: Multiply the State average net current expense budget per pupil for the pre-budget year by 2.17 and round to the nearest \$100.00.

5. Auditorily handicapped or visually handicapped: Multiply the State average net current expense budget per pupil for the pre-budget year by 3.93 and round to the nearest \$100.00.

6. Preschool class pursuant to N.J.A.C. 6:28-4.1(f)1 (10 hours per week of pupil instruction) Multiply the State average net current expense budget per pupil for the pre-budget year by 1.49 and round to the nearest \$100.00.

7. Extended preschool class (minimum of 20 hours per week of pupil instruction): Multiply the State average net current expense budget per pupil for the pre-budget year by 2.99 and round to the nearest \$100.00.

(c) The rates established in (b) above shall represent the maximum that a private school may charge to a district board of education for a handicapped pupil unless:

1. An appeal based on undue hardship is filed jointly for a pupil by the pupil's parent(s) or guardian(s) and the local school district with the Department of Education which:

i. Demonstrates the need for an extraordinary service which cannot be provided within the private school expense budget and current financial status; and

ii. Includes such services in the pupil's individualized education program.

(d) The Department of Education shall respond to an appeal within 60 calendar days.

(e) Tuition rates for each private school for the handicapped shall be established by the Department of Education and shall:

1. Not exceed the maximum tuition rate;

2. Be based on the information provided in the proposed budget; and

3. Be based on a 10-month school program and a minimum of 180 days of pupil instruction between September 1 and June 30.

(f) A separate monthly tuition rate shall be approved by the Department of Education for an extended school year program and shall not exceed the approved monthly tuition rate.]

(a) The term "actual cost per pupil" for determining the tuition rate(s) for a given year for a private school for the handicapped located in New Jersey, referred to in N.J.S.A. 18A:46-21, shall mean the cost per pupil in average daily enrollment certified by the commissioner, based upon the actual allowable costs for that year, as shown in the certified audit submitted pursuant to N.J.A.C. 6:20-4.8.

1. Allowable costs shall be based on a 10 month school program and a minimum of 180 days of pupil instruction between September 1 and June 30 and shall be reasonable and provided in accordance with the individualized

education program of a handicapped pupil. A reasonable cost shall be a cost which is ordinary and necessary and does not exceed the cost which would be incurred by an ordinarily prudent person in the conduct of business.

2. "Average daily enrollment" for the purpose of determining the actual cost per pupil shall be the sum of the days present and absent of all public school pupils enrolled in the register(s) of the school divided by the number of days the private school for the handicapped was actually in session rounded to the nearest four decimal places, except in no event shall the divisor be less than 180 days. A pupil enrolled in a preschool program (10 hours per week of pupil instruction), a half-day program or enrolled in a full day program on a shared time basis shall not have a maximum average daily enrollment in excess of 0.5.

(b) Whenever possible, the actual amounts expended for each allowable cost item according to the prescribed bookkeeping and accounting system for each private school site, 10 month school year program or extended school year program shall be recorded and used in determining the actual cost per pupil.

(c) Whenever it is not possible to charge the actual amount expended for a particular allowable cost item for each private school site, 10 month school year program or extended school year program, the individual share of such expenditure for each site or program shall be determined on a pro rata basis in accordance with the following ratios or other acceptable method as approved by the commissioner;

1. Administration: Ratio of number of teachers, aides and assistants at each site or in each program to the total number of teachers, aides and assistants.

2. Instruction:

i. Salaries: Ratio of time spent at each site or in each program to the total time spent.

ii. Textbooks, school library and audio-visual materials, teaching supplies and other expenses for instruction: Ratio of average daily enrollment at each site or in each program to the total average daily enrollment.

3. Attendance and health services: Ratio of average daily enrollment at each site or in each program to the total average daily enrollment.

4. Pupil transportation services: Ratio of average daily enrollment at each site or in each program to the total average daily enrollment.

5. Operation of plant: Ratio of square feet of floor space at each site or in each program to the total square feet of floor space used. Whenever floor space is shared by pupils in two or more sites or programs, the square footage for such floor space shall be prorated based upon the time such floor space is used by pupils at each site or in each program. Floor space used shall not include offices, boiler rooms, corridors or other rooms not used by pupils.

6. Maintenance of plant: Ratio of square feet of floor space at each site or in each program to the total square feet of floor space used.

7. Fixed charges: Rates of average daily enrollment at each site or in each program to the total average daily enrollment.

8. Food services: Ratio of average daily enrollment at each site or in each program to the total average daily enrollment.

9. Student-body activities: Ratio of average daily enrollment at each site or in each program to the total average daily enrollment.

10. Non-pupil transportation vehicles: Ratio of average daily enrollment at each site or in each program to the total average daily enrollment.

(d) A tentative tuition rate shall be established by written contractual agreement between the private school for the handicapped and the sending district board of education. The tentative tuition rate shall be an amount not in excess of the private school's estimated actual cost per pupil for the ensuing school year. The written contract shall be on a form prepared by the commissioner and shall be executed prior to the enrollment of a pupil.

1. The contractual agreement shall require the sending district board of education to pay a tentative tuition charge based upon a per diem rate for the total number of days the pupil was enrolled during the month for each month the pupil is enrolled. The per diem rate shall be determined by dividing the estimated actual cost per pupil for the school year by the estimated number of days school will be in session and rounding to the nearest two decimal places.

2. The contractual agreement for an extended school year program shall require the sending district board of education to pay a tentative tuition charge based upon a per diem rate which shall not exceed the per diem rate determined for the 10 month school program.

3. The contractual agreement shall require the sending district board of education to pay the private school for the handicapped on a mutually agreed upon date but not later than 60 days after receipt of the monthly tuition bill and attendance report.

(e) The Department of Education shall determine the estimated actual cost per pupil for each private school for the handicapped for the ensuing school year and its tentative tuition rate no later than January 1 preceding the beginning of the ensuing school year. Upon request, the private school for the handicapped shall submit to the sending district board of education a copy of the department's calculation to determine the estimated actual cost per pupil for the ensuing school year.

1. The estimated actual cost per pupil calculation shall be based upon the audited actual cost per pupil for the school year prior to the current school year.

2. This calculation shall increase the audited actual cost per pupil by an amount equal to twice the percentage increase represented by dividing the State average net current expense budget per pupil for the current school year by the State average net current expense budget per pupil for the school year prior to the current school year.

3. The tentative tuition rate shall include:

i. For profit-making schools, the annual surcharge permitted in accordance with N.J.A.C. 6:20-4.5; and

ii. For non-profit schools, a working capital amount in accordance with N.J.A.C. 6:20-4.6.

(f) The Department of Education may approve a higher tentative tuition rate for any year in which the private school for the handicapped can prove to the satisfaction of the Department of Education that the tentative tuition rate for the year is not adequate and would cause an undue financial hardship on the private school.

1. In the event of such hardship, the private school for the handicapped shall be required to submit its request for a higher tentative tuition rate for the entire school no later than January 31 preceding the beginning of the ensuing school year.

2. The request for a particular pupil shall be submitted prior to the provision of the extraordinary services which causes the request and shall be filed jointly by the private school for the handicapped, the pupils' parent(s) or guardian(s) and the district board of education or State agency that determined the placement is necessary.

3. The Department of Education shall respond to the higher tentative tuition rate request within 30 calendar days.

(g) The commissioner shall certify the actual cost per pupil and the per diem rate according to these rules.

(h) When the commissioner determines that the tentative tuition rate or per diem rate established by written contractual agreement is greater than the certified actual cost per pupil or per diem rate for the school year, the private school for the handicapped shall pay each district board of education the difference no later than June 30 of the school year in which the certified actual cost per pupil or per diem rate is received from the commissioner or not more than 30 days after an appeal on a certified amount is finally resolved.

(i) When the commissioner determines that the tentative tuition rate or per diem rate established by written contractual agreement is less than the actual cost per pupil or per diem rate for the school year, the private school for the handicapped may charge each sending district board of education all or part of the difference owed. The district board of education shall pay the difference on a mutually agreed upon date but not later than the end of the second school year following the year for which the actual cost per pupil is certified.

(j) The commissioner shall prepare the contract and the form to establish the estimated actual cost per pupil and per diem rate for the ensuing school year.

6:20-4.2 New private schools for the handicapped

(a) For the first two years of operation of a private school for the handicapped which was first in operation after the 1985-86 school year, the estimated actual cost per pupil and per diem rate at each site or in each program shall be established annually and be based on budgeted allowable costs. These estimated cost(s) shall be submitted to the Department of Education for approval or disapproval no later than 90 days preceding the beginning of each school year. The proposed budget shall be on a form prepared by the commissioner which shall provide for, but not be limited to, the following:

1. Identifying data;
2. Projected allowable cost items and the projected enrollments;
3. An income schedule for the budget year;
4. A report of all funding resources;
5. An affidavit of compliance; and
6. A statement of assurance.

(b) If the Department of Education approves the estimated actual cost(s) per pupil, each sending district board of education shall pay tentative tuition charges based upon the approved estimated costs per pupil for the first two years of operation.

(c) If, after each year of operation, the commissioner determines that the actual cost per pupil or per diem rate differs from the estimated cost per pupil or per diem rate, the tentative tuition charges shall be adjusted in accordance with the provisions of N.J.A.C. 6:20-4.1.

[6:20-4.2] 6:20-4.3 [Tuition rate approval process; b]Bookkeeping and accounting

(a) An approved private school for the handicapped shall maintain accounting and bookkeeping systems as prescribed in a publication issued by the Department of Education in accordance with the following standards:

1. Accounts shall be kept in accordance with generally accepted accounting principles (G.A.A.P.) as defined by the American Institute of Certified Public Accountants, except as already modified in these rules.

2. Accrual accounting shall be used.

3. Fixed asset expenditures of \$1000.00 or more shall be capitalized and depreciated using the straight line method.

[3].4. Asset, liability and fund balance accounts, as well as expenditure and revenue accounts, shall be maintained. [If multiple sites for a private school have been approved, costs shall be segregated by site in the financial records.]

5. Non-profit organizations shall maintain financial records on a fund basis, and profit-making organizations shall maintain financial records on a modified fund basis.

[4].6. A chart of accounts issued by the Department of Education [or an alternate approved by the Department of Education] shall be maintained by each private school for the handicapped. Each expenditure or revenue account utilized shall be reflected on the private school's general ledger. The private school shall be restricted to those account categories listed in the chart of accounts.

[5].7. If multiple sites for a private school have been approved, financial information shall be segregated by site in the bookkeeping records. If both a 10 month school year program and extended school year program have been approved, financial information shall be segregated by program in the bookkeeping records. Bookkeeping records [shall be maintained and] shall include, but not be limited to:

- i. Cash receipts journal;
- ii. Cash disbursement journal;
- iii. General ledger;
- iv. Tuition ledger[.];
- v. Payroll journal;
- vi. Fixed asset inventory.

[6].8. Documentation to verify postings [such as vouchers, invoices and purchase orders] shall be maintained. Purchase orders shall be prepared in detail to document all payments for goods and services. Invoices or cash register receipts shall be attached to their related purchase orders to support all purchases of goods. Detailed vouchers signed by the payee shall be attached to their related purchase orders to support all payments for personal services, employee mileage reimbursements or any payment for which invoices or cash register receipts are not utilized.

[7].9. A payroll shall be prepared and supported by the employee time record in a format prescribed by the Department of Education and signed by the employee and supervisor, prepared in the time period in which the work was done and completed at least semi-monthly.

[8].10. [A quarterly financial report shall be prepared and shall be submitted to the school's governing body.] A financial report prescribed by the Department of Education shall be prepared at a minimum each quarter for the 10 month program and once at the end of the session for the extended school year program. This report shall be submitted to the school's governing body. Acceptance of the financial report shall be documented in the minutes of the meetings.

[9].11. Good internal control practices shall be maintained which include the separation of duties such as the recording and authorizing of checks and purchases approvals.

[10].12. A private school shall use the Department of Education contract for each pupil received from a local school district.

[11].13. An imprest petty cash [record] fund shall be approved by the governing body and supported by documentation. The fund shall not exceed \$500.00 and, except in the case of an emergency, no disbursement shall exceed \$50.00.

14. A student activity fund shall be approved by the governing body and supported by documentation. Revenues derived from public school placement tuition shall be used to supplement, not supplant, student contributions.

[12.]15. An inventory of **non-depreciable**, non-consumable equipment and materials shall be maintained.

[13.]16. A mileage record shall be maintained for each school-owned or leased vehicle [subject to personal use by an employee] in a format prescribed by the Department of Education.

[14.]17. Upon request from the Department of Education, a **profit-making** [for-profit] private school shall provide a copy of the Internal Revenue Service (I.R.S.) corporate tax return to the Department of Education. A non-profit private school shall provide a copy of I.R.S. form 990.

[15.]18. A private school shall maintain all pertinent financial record(s) for a period of seven years.

19. A non-profit private school for the handicapped shall file a copy of its corporation dissolution papers with the Department of Education within 90 days of dissolution. Such papers shall include the total dollar amount transfer to the working capital fund (public school placement restricted fund balance) and the name of the recipient non-profit corporation.

[6:20-4.3 Budget preparation and submission]

(a) Each private school shall submit its proposed budget for approval on forms provided by the Department of Education. The form(s) shall provide for, but not be limited to, the following:

1. Identifying data;
2. Projected allowable cost items and projected enrollments;
3. Income schedule for the proposed year;
4. Report of revenue for the past year;
5. Report of all funding source(s);
6. Affidavit of compliance;
7. Statement of assurance.

(b) A tuition rate appeal may be requested according to N.J.S.A. 18A:6-9.

(c) A tuition rate(s) charged to a local school district shall only include an allowable cost(s), which shall be reasonable and provided in accordance with the individualized education program of a handicapped pupil.

1. A reasonable cost shall be ordinary and necessary and shall not exceed that which would be incurred by an ordinarily prudent person in the conduct of business.

2. An allowable tuition cost(s) may include indirect cost(s) related to the educational program which cannot be charged directly to a specific program.

3. The method of allocation of an indirect cost(s) shall be documented.]

6:20-4.4 Non-allowable costs

(a) A cost which is not allowable in the calculation of [a tuition rate] **the certified actual cost per pupil** includes the following:

1. The cost of maintaining an administrative office in a private home or other residence;
2. Advertising cost(s) associated with public relations and lobbying, except for the printing of descriptive brochures;
3. The salary of a professional staff member who is not certified but [who] is functioning in a position requiring certification;
4. The salary or **fringe benefits** of a [professional] staff member for time not expended and/or services not performed;
5. A salary or consultant fee paid to an individual functioning in a conflict of interest position;
6. A salary in excess of [what an] **the highest salary paid in any school year to a** [employee() certified or non-certified ()] **employee** [in a local school district in New Jersey of the same county,] in a similar job title [would receive] **in a local school district in the same county that the private school for the handicapped is located.** Part-time or split-time positions will be prorated;
7. A salary for a director of a private school in excess of [what a] **the highest salary paid in any school year to a chief school administrator** in a local school district [of] in the same county [would receive] **that the private school for the handicapped is located;**
8. A legal, accounting or consultant [cost] **fee** resulting from a frivolous challenge to a State audit or financial review[,] or the prosecution of a claim against the State. The [Commissioner of Education] **commissioner** shall determine whether the challenge is frivolous by considering at least the following factors[;]:
 - i. Overall merit of the claim;
 - ii. Whether the challenge serves the public interest.
9. A consultant [cost] **fee for professional services** which does not include at least a detailed list of the nature of the [service] **professional services** provided, the number of days worked, the charge per day and the product or outcome of the consultation. **Professional services are**

services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which requires knowledge of an advanced type in a field of learning and is acquired by a prolonged, formalized course of specialized instruction and study;

10. Total contributions, donations, awards and scholarships in excess of \$750.00;

11. Depreciation unacceptable under federal tax law and regulation and depreciation on:

- i. Donated goods;
- ii. That which is not based on estimated straightline method;
- iii. A single item costing below \$500.00.

12. An investment expense;

13. Costs incurred for the entertainment of a school officer or employee[,] for a non-school related activity[,] [and] or any related item such as meals, lodging, rentals, transportation and gratuities;

14. All personal expenses, such as a personal travel expense, holiday party[,] or repair on a personal vehicle;

15. The cost of a fine or penalty which results from a violation of or failure by the school to comply with Federal, State and/or a local law or [and regulation] **rule;**

16. The cost for meals, unless the [school receives funds from] **meals meet the nutritional requirements of the Child Nutrition Program;** [except food costs for behavior modification programs or for home economics programs;]

17. Fringe benefits when[;] **the benefits are determined in an arbitrary or capricious manner rather than on a uniform established policy based on an equitable standard of distribution, such as years of service or education;**

[i. A cost is unreasonable;

ii. All full-time employees are not eligible for the benefit;

iii. Purchased for a non-employee of the school.]

18. The cost of organized fund raising, such as a financial campaign, an endowment drive[,] or solicitation of a gift and bequest[,] **which is done to raise capital or obtain a contribution;**

19. Goodwill;

20. Insurance on the lives of an officer or trustee which name the school as beneficiary;]

[21.]20. Interest costs on [short-term] loans when:

i. Interest is in excess of [what a prudent borrower would pay] **the general prevailing rate** at the time the loan was taken;

ii. [It has not been repaid within 12 months;] **The loan is a less-than-arm's length transaction which has not been previously approved by the department;**

iii. [The cost is upon fixed assets in a for-profit school.] **The loan is not exclusively used to meet program needs.**

21. Interest costs on long-term loans or mortgages when:

i. **The loan is used for other than financing of fixed assets;**

ii. **The loan is not secured by the fixed asset being financed;**

iii. **The interest costs are on the portion of the loan term which exceeds the recovery period for depreciation of the fixed asset securing the loan.**

22. A loan to an employee or officer of the corporation;

23. **A loss incurred on the sale or exchange of fixed assets between related parties;**

24. **The write-off of uncollected accounts receivable (bad debts) before three years have elapsed and before a reasonable effort has been made to collect such accounts receivable;**

[23.] 25. An ordinary living expense for a pupil [,] that is normally assumed by the parent of a pupil attending a public day school;

[24.] 26. Pension costs which are not in conformance with the Employee Retirement Income Security Act of 1974 and its successor legislation;

[25.] 27. A payment made to a school employee in lieu of a pension;

[26.] 28. The cost associated with a professional conference and/or meeting held in countries not contiguous to the United States;

[27.] 29. A [bonus] **payment or benefit** to an employee **in lieu of salary (bonus);**

[28.] 30. A profit or loss on an investment;

29. The cost of rental or mortgage is in excess of the average square footage costs for commercial office space for the region of the State in which the private school for the handicapped is located;]

[30.]31. The cost of staff salary, a supply or printing and reproduction of a material for a research activity;

[31.]32. Payment of Federal, State and local income taxes **on income other than tuition;**

[32.]33. Any cost associated with travel to and from the officer's or employee's home and the school or agency;

[33.]34. Transportation cost for a pupil to and from school;

35. Any costs associated with a school-owned or leased vehicle where a mileage log was not maintained;

[34.]36. Personal use of a school-owned or leased vehicle;

[35.]37. A business-incurred charge for a privately[-] owned vehicle in excess of the mileage rate allowed by the United States Internal Revenue Service for automobile travel;

[36.]38. Rental costs for buildings and equipment when owned by a parent organization not separately incorporated;

[37.]39. Certain costs related to transactions between related parties in which one party to the transaction is able to control or substantially influence the actions of the other. Such transactions are defined by the relationship of the parties and include, but are not limited to, those between divisions of an institution; institutions or organizations under common control through common officers, directors, or members; and an institution and a director, trustee, officer, or key employee of the institution or his or her immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. Such costs shall include:

i. Rental costs for buildings and equipment in excess of the actual allocated costs of ownership (such as straight line depreciation, mortgage interest, real estate taxes, property insurance and maintenance costs) incurred by the related property owner including a 2.5 percent return calculated on the actual costs of ownership incurred by the related party. The lease agreement shall include a list of anticipated costs to be incurred by the property owner, prepared in the format supplied by the Department of Education, signed by the property owner and notarized;

ii. Rental costs under a sub-lease arrangement with a related party for buildings and equipment in excess of the actual allocated costs related to the lease (such as rent, lease commission expense[,] and maintenance costs) incurred by the sub-lessor. No profit, return on investment or windfall of any kind shall be included in the sub-rental cost. The sub-lease agreement shall include a list of anticipated costs to be incurred by the sub-lessor, signed by the sub-lessor and notarized;

iii. Cost of purchasing buildings, equipment or other goods from related parties in excess of the original cost to the related party less depreciation calculated using the straight line method;

iv. Cost of personal services paid to a related party when such services are provided by the salaried employee of the private school acting as an employee or agent of the related party;

[38.]40. A cost found to be patently unreasonable.

6:20-4.5 Surcharge

[(a)] For profit-making school(s), the school tuition rate may include an annual surcharge [per pupil] up to 2.5 percent of the private school's [approved cost per pupil is permitted] allowable actual costs.

[(b)] Such surcharge may be included in the school's tuition rate up to the maximum tuition rate.]

6:20-4.6 Working capital fund

[(a)] For non-profit schools, the school's tuition rate may[, up to the maximum tuition rate,] include an amount which will permit the school to establish a working capital fund which is not in excess of 15 percent of the private school's [approved cost] allowable actual costs.

[(b)] For budget submission purposes and the purpose of establishing an estimated tuition rate a non-profit school may include an amount in its proposed budget for working capital purposes. Such amount shall not exceed 15 percent of the private school's approval cost for the proposed budget year less the beginning fund balance for the year prior to the proposed budget year.]

6:20-4.7 Calculation of pupil attendance

(a) Each private school for the handicapped shall maintain a public school register for recording [of] pupil attendance in accordance with N.J.A.C. 6:20-1.3.

[(b)] The amount which an approved private school shall charge for tuition is one-tenth of the allowable tuition rate for each full month the pupil is enrolled.

(c) If a handicapped pupil is enrolled for a period less than the full 10 months, the amount that an approved private school may charge shall be calculated by:

1. Multiplying the average daily enrollment times the annual rate; or
2. Dividing 180 days into the annual rate to determine a per diem rate; or
3. Dividing the annual rate by 10 months if annual reconciliation is performed.]

[(d)](b) Each private school for the handicapped shall submit the school summary register card (A-38) annually to the Department of Education by September 1 to verify the [pupil attendance] average daily enrollment for the previous school year.

6:20-4.8 Audit requirements

(a) Each approved private school for the handicapped shall annually submit to the commissioner by [on or before] November 1, regardless of the fiscal year of the [agency] school, [to the Department of Education] a certified audit from an independent [public] registered municipal accountant of New Jersey or an independent certified public accountant of New Jersey who shall hold an uncancelled registration license as a public school accountant for New Jersey based on the July 1 to June 30 school year. [containing the following:

[30.]31. The cost of staff salary, a supply or printing and reproduction of a material for a research activity;

[31.]32. Payment of Federal, State and local income taxes on income other than tuition;

[32.]33. Any cost associated with travel to and from the officer's or employee's home and the school or agency;

[33.]34. Transportation cost for a pupil to and from school;

35. Any costs associated with a school-owned or leased vehicle where a mileage log was not maintained;

[34.]36. Personal use of a school-owned or leased vehicle;

[35.]37. A business-incurred charge for a privately[-] owned vehicle in excess of the mileage rate allowed by the United States Internal Revenue Service for automobile travel;

[36.]38. Rental costs for buildings and equipment when owned by a parent organization not separately incorporated;

[37.]39. Certain costs related to transactions between related parties in which one party to the transaction is able to control or substantially influence the actions of the other. Such transactions are defined by the relationship of the parties and include, but are not limited to, those between divisions of an institution; institutions or organizations under common control through common officers, directors, or members; and an institution and a director, trustee, officer, or key employee of the institution or his or her immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. Such costs shall include:

i. Rental costs for buildings and equipment in excess of the actual allocated costs of ownership (such as straight line depreciation, mortgage interest, real estate taxes, property insurance and maintenance costs) incurred by the related property owner including a 2.5 percent return calculated on the actual costs of ownership incurred by the related party. The lease agreement shall include a list of anticipated costs to be incurred by the property owner, prepared in the format supplied by the Department of Education, signed by the property owner and notarized;

ii. Rental costs under a sub-lease arrangement with a related party for buildings and equipment in excess of the actual allocated costs related to the lease (such as rent, lease commission expense[,] and maintenance costs) incurred by the sub-lessor. No profit, return on investment or windfall of any kind shall be included in the sub-rental cost. The sub-lease agreement shall include a list of anticipated costs to be incurred by the sub-lessor, signed by the sub-lessor and notarized;

iii. Cost of purchasing buildings, equipment or other goods from related parties in excess of the original cost to the related party less depreciation calculated using the straight line method;

iv. Cost of personal services paid to a related party when such services are provided by the salaried employee of the private school acting as an employee or agent of the related party;

[38.]40. A cost found to be patently unreasonable.

6:20-4.5 Surcharge

[(a)] For profit-making school(s), the school tuition rate may include an annual surcharge [per pupil] up to 2.5 percent of the private school's [approved cost per pupil is permitted] allowable actual costs.

[(b)] Such surcharge may be included in the school's tuition rate up to the maximum tuition rate.]

6:20-4.6 Working capital fund

[(a)] For non-profit schools, the school's tuition rate may[, up to the maximum tuition rate,] include an amount which will permit the school to establish a working capital fund which is not in excess of 15 percent of the private school's [approved cost] allowable actual costs.

[(b)] For budget submission purposes and the purpose of establishing an estimated tuition rate a non-profit school may include an amount in its proposed budget for working capital purposes. Such amount shall not

exceed 15 percent of the private school's approval cost for the proposed budget year less the beginning fund balance for the year prior to the proposed budget year.]

5:20-4.7 Calculation of pupil attendance

(a) Each private school for the handicapped shall maintain a public school register for recording [of] pupil attendance in accordance with N.J.A.C. 6:20-1.3.

[(b) The amount which an approved private school shall charge for tuition is one-tenth of the allowable tuition rate for each full month the pupil is enrolled.

(c) If a handicapped pupil is enrolled for a period less than the full 10 months, the amount that an approved private school may charge shall be calculated by:

1. Multiplying the average daily enrollment times the annual rate; or
2. Dividing 180 days into the annual rate to determine a per diem rate;

or

3. Dividing the annual rate by 10 months if annual reconciliation is performed.]

[(d)](b) Each private school for the handicapped shall submit the school summary register card (A-38) annually to the Department of Education by September 1 to verify the [pupil attendance] **average daily enrollment** for the previous school year.

6:20-4.8 Audit requirements

(a) Each approved private school for the handicapped shall annually submit to the commissioner by [on or before] November 1, regardless of the fiscal year of the [agency] school, [to the Department of Education] a certified audit from an independent [public] registered municipal accountant of New Jersey or an independent certified public accountant of New Jersey who shall hold an uncancelled registration license as a public school accountant for New Jersey based on the July 1 to June 30 school year. [containing the following:

1. A balance sheet;
2. A statement of budget versus actual expenses by line item, including the segregation of all salaries by title of position;
3. A verification of the average daily enrollment by classification;
4. An itemized list of the non-allowable costs by amount.]

(b) The audit [shall be in compliance with (a) 1 through 4 above and] shall follow audit standards and a format established and published by the Department of Education.

(c) The certified audit shall [verify] **determine the actual** tuition rate(s) at the end of the school year [and shall reflect line accounts as shown on the approved school budget and contain budget versus actual expenses].

(d) Any adjustments necessary as a result of the certified audit or a **tuition audit performed by the Department of Education** shall be made as follows:

1. In the event [that] the actual tuition rate is less than the estimated tuition rate, the approved private school for the handicapped shall pay [or credit] each district board of education for such differences no later than [30 days after submission of the certified] **June 30 of the school year in which the audit is received** or no later than 30 days after an appeal on an audit is finally resolved;

2. In the event [that] the actual tuition rate is more than the estimated tuition rate, a district board of education shall pay the approved private school for the handicapped the difference no later than the end of the second fiscal year following the **audit** year. [audited. The actual tuition rate shall not exceed the applicable maximum tuition rate].

[(e) A tuition audit may be performed by the department of Education to verify expenditures against approved budgets. If adjustments are necessary, such adjustments shall be made in the manner described in (d) above.]

(e) **If audit adjustments in excess of \$10.00 are necessary, such adjustments shall be made in the manner described in N.J.A.C. 6:20-4.1.**

(f) **Audits filed after the November 1 due date shall cause the estimated actual cost per pupil for the ensuing school year to be calculated based upon the audited actual cost per pupil for the school year two years prior to the current school year, and N.J.A.C. 6:20-4.1(f)1 shall not apply.**

6:20-4.9 Appeals

(a) **The decision of the Department of Education, pursuant to N.J.A.C. 6:20-4.1(f) and N.J.A.C. 6:20-4.2(b), may be appealed in accordance with N.J.S.A. 18A:6.9.**

(b) **The commissioner's certification may be appealed in accordance with N.J.S.A. 18A:6-27.**

6:20-4.10 Out-of-state approved private schools for the handicapped

(a) **The commissioner shall accept a tuition rate for an approved out-of-state private school for the handicapped provided the tuition rate has been approved by the state in which the private school for the handicapped is located.**

1. **By July 1 of each year, the approved private school for the handicapped shall submit verification of the approval of the tuition rate by the state in which the private school is located to the commissioner on forms prescribed by the Department of Education.**

2. **An annual independent audit shall be submitted to the Department of Education each year to support the approved rate. Any adjustment necessary as a result of the certified audit shall be made in accordance with the provisions of N.J.A.C. 6:20-4.1.**

(b) **Approved private schools for the handicapped located in states which do not approve a tuition rate shall comply with the provisions of N.J.A.C. 6:20-4.**

(c) **All approved private schools for the handicapped in which the actual New Jersey pupil enrollment exceeds or is expected to exceed 15 percent of the total school enrollment shall comply with the provisions of N.J.A.C. 6:20-4.**

(d) **A tuition rate(s) charged to a New Jersey district board of education shall not exceed the rate(s) charged to school districts of the state in which the private school for the handicapped is located.**

(e) **An approved private school for the handicapped located in another state shall have bookkeeping and accounting records available for inspection upon request by the Department of Education.**

(f) **Tuition rates for private schools located in other states shall be based on reasonable costs and shall only include the cost of educational services. Reasonable costs are costs which are ordinary and necessary and do not exceed the costs which would be incurred by an ordinarily prudent person in the conduct of business. Residential, medical costs and ordinary living expenses shall not be included in the tuition rate.**

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

The following proposals are authorized by Drew Altman, Ph.D., Commissioner, Department of Human Services.

Submit comments by March 19, 1987 to:

Audrey Harris, Director
Division of Public Welfare
CN 716
Trenton, N.J. 08625

(a)

Public Assistance Manual Protective Payee; Requirements for Periodic Redetermination; Notice to Client of County Welfare Agency Decision Proposed Amendments: N.J.A.C. 10:81-4.9, 5.2, and 7.1

Authority: N.J.S.A. 44:7-6 and 44:10-3, 44 CFR 205.10, 206.10, and 234.60.

Proposal Number: PRN 1987-78.

The agency proposal follows:

Summary

Federal regulations providing for the "least costly administration" of the Aid to Families with Dependent Children (AFDC) program by states were recently adopted by the United States Department of Health and Human Services (USDHHS). The purpose of the Federal regulations is to promote fiscal savings by increasing State flexibility in the administration of the AFDC program. Incorporation of these Federal regulations into State rules is required to ensure continued Federal fiscal participation in AFDC program expenditures.

The proposed amendment at N.J.A.C. 10:81-5.2 lengthens the time interval between redetermination from six to 12 months in certain situations in accordance with 45 CFR 206.10. A redetermination is a comprehensive review of a family's circumstances to ensure that the family continues to be eligible for AFDC benefits. The circumstances in which

a 12 month redetermination period is permissible are monthly reporting and coverage under an error-prone profiling system approved by the USDHHS.

A similar amendment expanding the interval applicable to the review of protective payee cases from six to 12 months is being proposed at N.J.A.C. 10:81-4.9, corresponding to the change at 45 CFR 234.60.

The proposed amendment at N.J.A.C. 10:81-7.1 redefines the requirements of notice of agency decision to more closely follow Federal regulations at 45 CFR 205.10. There is no change in substance, however.

In a separate proposal also published in this Register, revisions are also being made at N.J.A.C. 10:82 in response to the Federal regulatory changes on "least costly administration."

Social Impact

The social impact of the proposed amendments on AFDC recipients is minimal because they merely provide for administrative changes and not changes in program requirements or benefit levels. The impact on county welfare agencies will be positive. By allowing more flexibility in the administration of the AFDC program, the amendments should result in improved agency processing of cases.

Economic Impact

By improving the flexibility of AFDC program administration, the decrease in the required frequency of redetermination reviews and reviews of protective payee cases will result in a decrease in AFDC administrative costs. The dollar value cannot be estimated at this time.

Regulatory Flexibility Statement

This proposal does not affect small businesses because the rules do not impose reporting, recordkeeping or other compliance requirements on small businesses.

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

10:81-4.9 Protective payee

(a) When it is determined by the CWA that the use of funds by the parent or relative is not in the best interest of the child(ren), assistance shall be paid, whenever possible, to a protective payee. A protective payee is not authorized to receive, hold or administer any other property, real or personal, of the recipient nor to act as representative of the recipient in any other manner whatsoever. Such a decision shall be subject to the following criteria:

1.-7. (No change.)

8. The CWA will review the case as frequently as indicated by the individual's circumstances, but at least every [six] 12 months, relevant to the need for protective payments and the way in which the protective payee's responsibilities are carried out.

9.-10. (No change.)

10:81-5.2 Requirements for periodic redetermination

(a) [In AFDC, except for those cases subject to monthly reporting requirements, complete reinvestigations shall be done at least once every six months at which time the parent(s) shall execute a formal written application for continuation of assistance. In cases subject to monthly reporting a complete reinvestigation shall be done at least once every 12 months (see N.J.A.C. 10:90). If this is not done and the CWA is responsible, the right of the client to continued assistance shall not be jeopardized.] **Redetermination defined: Redetermination is a review of factors affecting AFDC eligibility and payment amount, for example, continued absence, income (including child and spousal support), and so forth. At the redetermination, the parent(s) shall execute a formal application for continuation of assistance. If a redetermination is not conducted and the CWA is responsible, the right of the client to continued assistance shall not be jeopardized.**

(b) **Frequency of redetermination: For recipients of AFDC, all factors of eligibility shall be redetermined at least every six months except for cases in monthly reporting or cases covered by an approved error-prone profiling system.**

1. **Monthly reporting: In cases subject to monthly reporting, a redetermination shall be done at least once every 12 months (see N.J.A.C. 10:90).**

2. **Error-prone profiling: In cases covered by error-prone profiling, a redetermination shall be done as frequently as specified in an alternative redetermination plan based on error-prone profiling, which has been approved by the United States Department of Health and Human Services and includes:**

i. **A description of the statistical methodology used to develop the error-prone profile system upon which the redetermination schedule is based;**

ii. **The criteria to be used to vary the scope of review and to assign different types of cases; and**

iii. **A detailed outline of the evaluation of the system, including provisions for necessary changes in the error-prone output, such as types of cases, types of errors, frequencies of redeterminations and corrective actions.**

(c) **Face-to-face redetermination: Under the AFDC program, at least one face-to-face redetermination must be conducted in each case once every 12 months.**

[(b)](d) (No change in text.)

10:81-7.1 Notice to client [or] of county welfare agency decision

(a) **Notice to client of agency decision: The county welfare agency shall promptly notify the client in writing of any agency decision affecting that client. [Where the decision relates to any action which may entitle client to a fair hearing (see N.J.A.C. 10:81-6.2(a)), the action may not be implemented until at least 10 days after mailing the notice. In all cases, adverse notices must be put into the mail on the date appearing on the notice. In addition to the specific items set forth below, all notices shall bear the name, address and phone number of the nearest legal services office where available. In the case of a client who cannot be located, notice shall be sent to his/her last known address.] The term "agency decision" refers to a decision made by executive authority of the CWA director, as well as any decision made initially by the welfare agency, or any change made by formal board action with respect to a previous executive decision. In the case of a client who cannot be located, notice shall be sent to his or her last known address.**

[(b)] The term "agency decision" refers to a decision made by the county welfare agency and includes any decision made by executive authority of the CWA director, as well as any decision made initially by the welfare agency, or any change made by formal board action with respect to a previous executive decision.

(c) **Notice to client: All notification of agency decisions shall state in clear, simple language the nature of the decision, the effective date of the decision and the accurate factual and legal basis for the decision. In adverse decisions, it shall include at least citation and title of all applicable regulations (see subsection (k)1 of this section). Additionally, notices shall include an explanation of the client's right to a conference, right to a fair hearing, and the circumstances under which assistance is continued if a fair hearing is requested. This notice shall include a sentence in Spanish cautioning the client that it relates to a change in his/her grant and if he/she does not understand the notice, he/she should contact the CWA. (See appendix C for Form PA-15.)**

(d) **Whenever a client is sent a notice in which he/she is advised that his/her application for assistance has been denied or that his/her grant is to be suspended, reduced or terminated, or a notice which otherwise adversely affects his/her financial and medical eligibility, there will be no change in the grant until 10 days after the notice is mailed except in situations described in subsection (k)4 through 6 of this section.]**

(b) **Notice of adverse action: An adverse action is an action to deny an application for assistance, to discontinue, terminate, suspend or reduce assistance (including service, vendor payments or Medicaid entitlement) or to change the manner or form of payment to a protective, vendor or two-party payment. In cases of intended adverse action, the county welfare agencies shall give timely and adequate notice, except as provided for in (d) below.**

1. **Timely notice: "Timely" means that the notice is mailed at least 10 days before the effective date of agency action.**

2. **Adequate notice: "Adequate" means a written notice that includes:**

- i. **The action the agency intends to take;**
- ii. **The reasons for the intended agency action;**
- iii. **The specific regulations supporting such action;**
- iv. **An explanation of the individual's right to request a fair hearing;**
- v. **An explanation of the circumstances under which assistance is continued if a hearing is requested;**
- vi. **An explanation of the requirement to repay assistance received during the period pending the hearing, if the agency action is upheld;**
- vii. **A sentence in Spanish cautioning the client that the notice relates to a change in his or her grant and if he or she does not understand the notice, he or she should contact the CWA; and**
- viii. **The name, address and phone number of the nearest legal services office where available.**

(c) **Effective date of adverse action: Where an agency decision results in an adverse action, there will be no change in the grant until 10 days after the mailing date of the notice, except in situations in (d) and (k)4 and 5 below.**

(d) Adverse action and exception to timely notice: Timely notice may be dispensed with but adequate notice shall be sent not later than the effective date of action when:

1. The agency has factual information confirming the death of a recipient or of the AFDC payee when there is no relative available to serve as the new payee;

2. The agency receives a clear written statement signed by the recipient that he or she no longer wishes assistance, or that gives information which requires termination or reduction of assistance, and the recipient has indicated, in writing, that he or she understands that this must be the consequence of supplying such information;

3. The payee has been admitted or committed to an institution, and further payments to that individual do not qualify for Federal financial participation under the State plan;

4. The recipient has been placed in a skilled nursing care, intermediate care or long-term hospitalization;

5. The claimant's whereabouts are unknown and agency mail directed to him or her has been returned by the post office indicating no known forwarding address. The claimant's check must, however, be made available to him or her if his or her whereabouts become known during the payment period covered by the returned check, unless i below applies.

i. The claimant moves out-of-state, with apparent intent to remain permanently absent from New Jersey.

6. A recipient has been accepted for assistance in another state and that fact has been established by the CWA previously providing assistance;

7. An AFDC child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by his or her legal guardian;

8. For AFDC, the CWA takes action because of information the recipient furnished in a monthly report or because the recipient has failed to submit a completed or a timely monthly report without good cause (see N.J.A.C. 10:80);

9. An additional payment or special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period;

10. Assistance is reinstated in the corrected amount following suspension.

(e)-(j) (No change.)

(k) Notice of intention to reduce, suspend, or terminate amount of regular assistance payment or benefits prior to any change in payment procedure, reduction, suspension, or termination of any regular amount of assistance (including service, vendor payments or Medicaid entitlement), recipients of assistance are entitled to:

1.-5. (No change.)

[6. Except to timely notice: Timely notice may be dispensed with but adequate notice shall be sent not later than the date of action when:

i. The agency has factual information confirming the death of a recipient or of the AFDC payee when there is no relative available to serve as new payee;

ii. The agency receives a clear written statement signed by a recipient that he/she no longer wishes assistance, or which gives information indicating a change in circumstances which requires termination or reduction of assistance, and the recipient has indicated, in writing, that he/she understands that this must be the consequence of the change in circumstances;

iii. The payee has been admitted or committed to an institution and further payments to that individual do not qualify for Federal financial participation under the State plan;

iv. The claimant's whereabouts are unknown and agency mail directed to him/her has been returned by the post office indicating no known forwarding address. The claimant's check must, however, be made available to him/her if his/her whereabouts become known during the payment period covered by a returned check, unless item (1) below applies;

(1) The claimant moves out-of-state, with apparent intent to remain permanently absent from New Jersey.

v. A recipient has been accepted for assistance in another state and that fact has been established by the CWA previously providing assistance;

vi. An AFDC child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by his/her legal guardian;

vii. An additional payment granted for a specific period is terminated and the recipients has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period;

viii. Assistance is reinstated in the corrected amount following suspension.]

(l)-(m) (No change.)

(a)

Public Assistance Manual Child Support and Paternity: Annual Notice of Child Support Collections

Proposed Amendments: N.J.A.C. 10:81-11.7 and 11.9

Authority: N.J.S.A. 44:7-6 and 44:10-3; the Child Support

Amendments of 1984 (P.L. 98-378); Section 454(5) of the Social Security Act; 45 CFR 302.54.

Proposal Number: PRN 1987-79.

The agency proposal follows:

Summary

The Child Support Enforcement Amendments of 1984 (P.L. 98-378) were developed to make critical changes in the child support system. The recommended improvements include the extension of services to families not receiving assistance under the Aid to Families with Dependent Children (AFDC) program. The applicants or recipients, as a condition of eligibility, automatically assign to the county welfare agency (CWA) all rights to support from the children's absent parent(s) or any other person to which the eligible children, or the applicant, when he or she is included in the eligible unit, may be entitled. All obligees are eligible to receive an annual report on all support collected in a year. This enables them to keep track of overdue support for future court activity. This proposal modifies regulations at N.J.A.C. 10:81-11.7 and 11.9 to locate the provisions of this administrative procedure more appropriately under N.J.A.C. 10:81-11.9.

Social Impact

The effect of the proposed amendments is to clarify which agency is responsible for the submittal of the annual notice to the obligees. There is no impact on the client. The proposed amendments correct an administrative procedure.

Economic Impact

There is no economic impact. The proposed amendments merely correct an administrative procedure to reflect the proper agency charged with the sending of the annual notice to the obligees.

Regulatory Flexibility Statement

The proposed amendments do not affect small businesses as they do not impose reporting, recordkeeping or other compliance requirements on small businesses.

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

10:81-11.7 Responsibilities of the State agency

(a) The State Bureau of Child Support and Paternity Programs, located in the Division of Public Welfare, shall be the single organizational unit responsible for the supervision of the administration of the Child Support and Paternity Program. This unit shall be referred to as the Bureau of CSP Programs. Responsibilities of the Bureau of CSP Programs include but are not limited to the following:

1.-10. (No change.)

[11. To annually send a notice of the amount of support payments collected during the preceding year to individuals who have assigned rights to support, as per N.J.A.C. 10:81-11.2(a)2;]

[12.]11. (No change in text.)

10:81-11.9 Responsibilities of the CWA/CSP Unit

(a) This unit shall be responsible for taking appropriate action to locate obligors, to establish paternity and/or secure child support due AFDC recipients and non-AFDC persons; **to annually send a notice of the amount of support payments collected during the preceding year to individuals who have assigned rights to support, as per N.J.A.C. 10:81-11.2(a)2;** for securing and timely transmittal of all health benefits information, both voluntary and from new or modified court orders for support of AFDC and non-AFDC clients to the State Bureau of Child Support and Paternity and the State Division of Medical Assistance and Health Services; for referral of cases, when the whereabouts of the obligors is unknown, to the State Parent Locator Service; for providing services for location, filiation and

obtaining and enforcing support for non-public assistance persons; and for referral of requests from consumer reporting agencies, concerning the amount of overdue support owed by an obligor, to the State Bureau of Child Support and Paternity, via Form CSP-166. (See N.J.A.C. 10:81-11.7(a)lxii regarding responsibilities of the State agency.)

(b)-(l) (No change.)

(a)

**Assistance Standards Handbook
Exempt Resources and Income, Nonrecurring
Earned and Unearned Income**

**Proposed Amendments: N.J.A.C. 10:82-3.2, 4.13,
and 4.15**

Proposed Repeal and New Rule: N.J.A.C. 10:82-4.14

Authority: N.J.S.A. 44:7-6 and 44:10-3, 45 CFR 233.20.

Proposal Number: PRN 1987-77.

The agency proposal follows:

Summary

Federal regulations providing for the "least costly administration" of the Aid to Families with Dependent Children (AFDC) program by states were adopted by the United States Department of Health and Human Services (USDHHS). The purpose of the Federal regulations is to promote fiscal savings by increasing State flexibility in the administration of the AFDC program. This proposal amends N.J.A.C. 10:82 to conform with the aforesaid Federal provisions. This is essential to ensure Federal financial participation in AFDC program expenditures.

N.J.A.C. 10:82-3.2 has been amended to exempt benefits received under the Low Income Home Energy program as a resource, corresponding to a change in 45 CFR 233.20(a)(4)(ii)I.

N.J.A.C. 10:82-3.2 and 4.13 pertaining to occasional gifts, such as Christmas gifts, are also amended. All amendments provide that if the total value of such gifts exceeds \$30.00 per recipient per calendar quarter, the excess shall be countable as unearned income, in accordance with 45 CFR 233.20. The dollar value in the AFDC program conforms to that amount already established for gifts in the Food Stamp program, and serves to align policies in both programs.

Current language at N.J.A.C. 10:82-4.14 is deleted since procedures on the treatment of income received at regular intervals are referenced elsewhere in the Assistance Standard Handbook and adequately addressed in the Monthly Reporting Policy Handbook (N.J.A.C. 10:90). The section is replaced with new language which delineates exempt income and clarifies that certain items set forth as resources are also excluded as income, in accordance with 45 CFR 233.20(a)(4)(ii). The regulations also provide for the disregard of income tax refunds (except the earned income credit (EIC) portion) as set forth in 45 CFR 233.20(a)(3)(iv)(E).

The proposed amendment at N.J.A.C. 10:82-4.15 sets forth a concept of lump sum income in the nature of a windfall. It also revises the procedures for the recognition of lump sum income received as a result of personal injury and compensation awards (45 CFR 233.20(a)(3)(ii)(F)). The rule stipulates that lump sum income from such awards is to be used to determine a period of ineligibility only after deducting allowable amounts that were both earmarked and used for the payment of medical bills, funeral bills and costs of replacement of resources, which resulted from the accident, injury, and so forth.

In a separate proposal also published in this Register, revisions are also being made at N.J.A.C. 10:81 in response to the Federal regulatory changes on "least costly administration."

Social Impact

The proposed amendments are expected to have a positive social impact because they clarify and standardize policy in areas that were not addressed under previous regulation. This clarification will improve administration of the AFDC program which will benefit the recipient, the general public and county welfare agency personnel. Under the proposal, both the recipient and agency personnel will be aware that there is a limit to the value of occasional gifts. The rules will also establish a more realistic policy regarding lump sum benefits and will codify an existing policy regarding the disregard of home energy benefits.

Economic Impact

The economic impact of the proposed amendments is expected to be minimal. The rule which, in effect, limits the value of gifts exempt from consideration as income and resources may result in a very slight decrease in AFDC program expenditures, because of counting the excess value as income. However, this savings may be offset by slightly increased AFDC expenditures resulting from the proposal dealing with lump sum income, which establishes a deduction from the lump sum amount, prior to the calculations of a period of ineligibility. The rule exempting home energy benefits as a resource will have no economic impact since these benefits were never counted as a resource of income.

Regulatory Flexibility Statement

This proposal does not affect small businesses as the rules do not impose reporting, recordkeeping or other compliance requirements on small businesses.

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

10:82-3.2 Exempt resources

(a) (No change.)

(b) The exempt resources are as follows:

1.-5. (No change.)

6. Resources designated for special purposes as follows:

i.-vi. (No change.)

vii. **Certain other Federal programs:** Funds received by applicants and recipients through certain Federal programs (see below) shall be regarded as exempt resources in determining eligibility [and the amount of] for assistance [allowances].

(1)-(7) (No change.)

(8) HUD community development block grant funds under Title I of the Housing and Community Development Act of 1974[.];

(9) **Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35.**

7. Occasional **nonrecurring** gifts and contributions of nominal amount or value, such as those [received on] for birthdays, **graduations**, Christmas or other holidays[. A gift received by an applicant or recipient has exempt status only during the month in which it is received and the calendar month immediately following. Thereafter, it becomes a resource but may continue to be exempt if (b)6vi is applicable.], **to the extent the value does not exceed an average of \$30.00 per recipient in any calendar quarter.**

i. In cases where such gifts and contributions exceed an average of \$30.00 per recipient in any calendar quarter, that excess shall be counted as unearned income.

8.-11. (No change.)

10:82-4.13 Contributions of support

(a) Obligatory contributions [of] to the support of one or more members of the eligible unit [are an available resource and] shall be recognized as unearned income, regardless of whether such contributions are in cash or in kind. (See N.J.A.C. 10:82-3.12, Acceptable forms of support.)

(b) When shelter is being provided by a legally responsible relative (LRR) who has been determined by the CWA IV-A unit to have a capacity to **provide** support, the actual cash value shall, whenever possible, be determined and recognized as unearned income to the eligible unit. Where the actual cannot be established, and is not stipulated by a court order to be made in an identifiable cash amount to a third party, the monthly monetary values shall be recognized according to Schedule VI and shall not exceed the LRR's evaluated capacity.

(c) Nonobligatory contributions, other than [those] **occasional gifts** identified in N.J.A.C. 10:82-3.2(b)7, [(occasional gifts)] shall be recognized as unearned income only when made in cash to one or more members of the eligible unit (see also N.J.A.C. 10:82-2.3). This does not apply to LRRs who have an evaluated capacity to support.

10:82-4.14 [Income received at regular intervals] **Exempt income**

(a) Income received at regular weekly or monthly intervals shall be recorded as monthly income.

(b) When income is received at intervals of more than one month, it shall be recorded by either of the following procedures as determined appropriate for the individual situation:

1. Consider the total amount of the income received in computing the current grant, and reduce or suspend the grant as may be appropriate.

2. Prorate the amount of the income on a monthly basis over the months in which it was earned. Such prorating shall be based on income actually available.]

(a) Exempt income is not considered in determining eligibility for assistance or in computing the amount of the assistance payments.

(b) Exempt income is as follows:

1. Items set forth in N.J.A.C. 10:82-3.2(b); and

2. Income tax refunds (except the earned income credit (EIC) portion), but such payments shall be considered as resources in the month following the month of receipt.

10:82-4.15 Nonrecurring earned or unearned lump sum income

(a) When a recipient receives nonrecurring earned or unearned lump sum income [(for example, retroactive R.S.D.I. payments)] 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 unit after application with all other income received that month by the eligible unit 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. 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 unit. 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.-5. (No change.)

(b) (No change.)

(a)

**Service Programs for Aged, Blind or Disabled Persons
Special Payments Handbook; Aged, Blind and Disabled**

Proposed Amendment: N.J.A.C. 10:100-3.6

Authority: N.J.S.A. 44:1-157.1, 44:7-12, 44:7-13, 44:7-38 and 44:7-43.

Proposal Number: PRN 1987-76.

The agency proposal follows:

Summary

Recently revised regulations (proposed as PRN 1986-224 at 18 N.J.R. 1171(a) and adopted at 18 N.J.R. 2125(a)) regarding payments by county welfare agencies (CWAs) for funerals and burials of deceased aged, blind or disabled recipients of Supplemental Security Income and Medicaid Only ended the requirement that CWAs make separate payments to cemeteries. However, while the actual requirement for separate payments no longer exists, language at N.J.A.C. 10:100-3.6(c) providing for a statement from the funeral director about cemetery costs and submittal of a petition from the cemetery in some cases was inadvertently retained. Thus, this proposed amendment corrects the procedural inconsistency in the regulations.

Social Impact

The social impact will manifest itself in the clarity of the rule and uniform administrative application of procedural regulations by CWAs.

Economic Impact

Due to the technical nature of the proposed amendment, no significant economic impact is expected other than a slight administrative savings which may be reflected through procedural uniformity and consistency.

Regulatory Flexibility Statement

The proposed amendment reduces the recordkeeping and paperwork burden on funeral directors by eliminating the requirement for submittal of Form PA-11C, Cemetery Affidavit and Petition for Payment. Similarly, because the funeral directors will no longer need to require the forms from the cemeteries, the paperwork burden on the cemeteries is reduced.

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

10:100-3.6 Condition of payment

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

(c) **Submission of petition:** The funeral director or other claimant shall, within 30 days after interment or cremation, submit to the CWA a petition on Form PA-11 or on a substantially similar document which certifies to services rendered, to payments contracted, received and expected, and to compliance with all applicable laws and regulations. Petitions submitted beyond the 30 day period may be considered upon a showing of good cause (as determined by the CWA) which is not prejudicial to the validity of the claim.

[1. Cemetery petition: The petition from the funeral director or other claimant either shall contain a statement that no cemetery charges were incurred or shall contain an endorsement of an attached subordinate petition on Form PA-11B or substantially similar document from the cemetery showing the charges incurred.]

[2.] 1. (No change in text.)

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

LABOR

(b)

DIVISION OF WORKPLACE STANDARDS

Prevailing Wages for Public Works

Proposed New Rules: N.J.A.C. 12:60

Authorized By: Charles Serraino, Commissioner, Department of Labor.

Authority: N.J.S.A. 34:11-56.25 et seq., specifically 34:11-56.43.

Proposal Number: PRN 1987-72.

Submit comments by March 19, 1987 to:

William J. Clark, Assistant Commissioner

New Jersey Department of Labor

Division of Workplace Standards

CN 054

Trenton, New Jersey 08625-0054

The agency proposal follows:

Summary

The New Jersey Department of Labor is proposing new rules setting forth by county the crafts, trades or classifications which, by virtue of being subject to certain collective bargaining agreements, will be used by the Commissioner of Labor in determining prevailing wages under the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq. (the Act). This proposal also lists the criteria to be used when issues regarding the establishment of crafts, trades and classes of workmen arise. Prevailing wages must be paid on "public work" which, in general, is defined as construction, reconstruction, demolition, alteration or repair or maintenance work done under contract and paid for in whole or in part out of funds of a public body. N.J.S.A. 34:11-56.26(5). A public body includes the State of New Jersey, any of its political subdivisions, any authority created by the Legislature and any instrumentality or agency of the State or any of its political subdivisions. N.J.S.A. 34:11-56.26(4).

The Act requires the Commissioner to "determine the prevailing wage rate and . . . establish the prevailing wage in the locality in which the public work is to be performed for each craft or trade or classification of all workmen needed to perform public works contracts." N.J.S.A. 34:11-56.30. The prevailing wage is defined as "the wage rate paid by virtue of collective bargaining agreements by employers employing a majority of workmen of that craft or trade subject to said collective bargaining agreements, in the locality in which the public work is done." N.J.S.A. 34:11-56.26(9). The Commissioner has chosen to use counties as the localities within which to determine prevailing wages and has applied the wage in each county to every public works contract in excess of \$2,000.00. Every contract covering such work must contain a provision setting forth the prevailing wage to be paid as established by the Commissioner. N.J.S.A. 34:11-56.27.

In ascertaining prevailing wages the Commissioner must "determine a set of facts, that is, the wage rates established under collective bargaining agreements in given circumstances." *Male v. Ernest Renda Contracting Co.*, 122 N.J. Super. 526, 534 (App. Div. 1973), *aff'd* 64 N.J. 199, *cert.*

denied 419 U.S. 839. In order to ascertain prevailing wage rates for crafts, trades or classifications, the Commissioner must first determine which crafts, trades or classifications are subject to the relevant collective bargaining agreements. And, as noted in *Male v. Ernest Renda Contracting Co.*, supra, 122 N.J. Super. at 531, "if there exists more than one collective bargaining agreement covering a particular type of work, [the Commissioner] determines which agreement covers the majority of workers for a particular craft or trade." This too is a determination of fact. It may be made where the craft, trade or classification covering a particular type of work is clear.

However, in some cases the trade, craft or classification within which a particular type of work fits may be in issue. Such an issue arose in connection with the telecommunication wiring contract awarded by the Division of Building and Construction for the new Department of Environmental Protection Building in Trenton, DBC Project A-285-5. Pursuant to the Department of Labor's determination, the contract required the contractor to pay workers the prevailing wage for electricians. Since its bid was nonresponsive, AT&T Information Systems, the low bidder, was not awarded the contract because it would not agree to pay its employees the electricians' prevailing wage, contending that the work of telecommunication technicians should be considered a separate craft. However, the Commissioner, through his representatives, determined that the installation of wiring to be done under the contract was work within the craft of electrician. Therefore, AT&T's bid was deemed nonresponsive and the contract was awarded to the second low bidder, Interline Communication Services, Inc. The issues raised in consideration of AT&T's bid were brought to the attention of the Attorney General, who, by letter dated April 8, 1986, advised the Acting Commissioner of Labor that it would be appropriate to refer the matter to the Office of Administrative Law for an investigatory hearing to develop a record in regard to the work of telecommunication technicians and electricians. The Attorney General advised that evidence should be taken and findings of fact made concerning: (1) the particular criteria to be used by the Department in ascertaining whether a "craft or trade" exists within the meaning of N.J.S.A. 34:11-56.26(9) for purposes of making a prevailing wage determination as to telecommunication technicians; and (2) the application of these criteria to the question whether the work to be performed by telecommunication technicians properly falls within the craft of electrician, with specific reference to such proposed projects as the General Office Building, DBC Project No. A312 and the Commerce Building, DBC Project No. A311.

The matter was referred to the OAL by the Acting Commissioner of Labor on May 1, 1986 and hearings were held over a period of seven days in June. Witnesses were presented by the State of New Jersey, AT&T, New Jersey Bell Telephone Company, International Brotherhood of Electrical Workers Local 269 representing electricians, and IBEW Local 827 representing the telecommunication technicians. Some 69 documents were received in evidence. In addition to parties presenting witnesses, Interline Communications Services and the Northern New Jersey Chapter of the Electrical Contractors Association were represented.

The Administrative Law Judge (ALJ) determined that the appropriate criteria to be considered included: (1) work history and industry practice; (2) training and skills; (3) the nature of the specific work in issue; (4) collective bargaining agreements and craft recognition; and (5) governmental regulation and recognition. With regard to work history and industry practice, the ALJ found that in New Jersey, the installation of telecommunication premises wiring of the type at issue had historically been performed almost exclusively by telecommunication technicians who were members of IBEW Local 827. He found training, skills and job content for technicians to be substantially different from the training, skills and job content for electricians. He discussed the differences between the electricians' apprenticeship program and the training provided to telecommunication technicians, noting that electricians learn blueprint theory, electrical theory, electronics, mathematics, electrical code requirement, safety and first aid practices while telecommunication technicians learn how to interconnect telephones, facsimile transmission equipment, computer terminals, computers and switches. Telecommunication technicians, the ALJ found, must be able to isolate sources of malfunction in any device or switch or wire which requires comprehensive knowledge of both the design and function of hardware elements and the network of wired connections as well as an understanding of specialized test equipment and procedures. While electricians often work with wiring which carries high voltage and must therefore be fully informed concerning the lethal hazards involved and the techniques necessary to transform

the electrical energy into a useful and safe source of power, the ALJ determined that telecommunication employees are trained to work on low voltage wiring.

The ALJ also concluded that the IBEW is structured so as to reflect the differences in trades, citing the 1955 affiliation of the Telephone Workers Union with the IBEW based upon the understanding that the new Local 827 would have exclusive jurisdiction over all telephone work done by the New Jersey Bell Telephone Company. He further noted that the installation of telecommunication premises wiring is subject to regulation by the Board of Public Utilities and the Federal Communications Commission and that the United States Department of Labor's *Occupational Outlook Handbook* deals with telecommunication technicians and electricians in separate sections which show a clear distinction between the training, skills and experience required of communication technicians who install, maintain and rearrange communication systems on a customer's premises, and the requirements for persons working as construction electricians.

The ALJ concluded that the work of telecommunication technicians constitutes a separate trade or craft for purposes of the New Jersey Prevailing Wage Act. He further found that the work of installation, testing and documentation of telecommunication wiring on proposed projects such as the General Office Building and the Commerce Building (DBC Projects A312 and A311) is the work of the craft of telecommunication technicians.

The entire record of the investigatory hearing, including all written submissions and the ALJ's report and recommendations have been carefully reviewed by the Department. While the Department agrees with the ALJ's findings and recommendations in part, it disagrees with his ultimate conclusion that the work under the above-mentioned contracts is separate from the work done by the craft of electricians for purposes of the Act. Based on the record, the Department is proposing regulations establishing the criteria to be considered by the Commissioner in making craft, trade or classification decisions in the future and setting forth the present crafts, trades and classifications in effect in each county. In so doing, the Department is mindful of the express purpose of the Act to safeguard the efficiency and general well being of workers engaged in public works and to protect them as well as their employers from the effects of serious and unfair competition resulting from wage levels detrimental to efficiency and well being. N.J.S.A. 34:11-56.25. In interpreting the Act, "primary regard must be given to the fundamental purpose for which the legislation is enacted." *Central Constr. Co. v. Horn*, 179 N.J. Super. 95, 104 (App. Div. 1981). The Act is remedial in nature, is entitled to a liberal construction in order to effectuate the strong public policy of protecting those whose labor goes into public projects, and is meant to "protect those engaged in construction activity, not in supplying or manufacturing." *Horn v. Serritella Bros. Inc.*, 190 N.J. Super. 280, 283-285 (App. Div. 1983). Moreover, it is clear that craft classification is, at least in the first instance, a matter committed to the expert administrative judgement of the Commissioner. *In the Matter of Garden State Brickface Co.*, No. A-5130-77 (App. Div. 1979).

In making such decisions, the Commissioner does not make judgments as to whether a particular craft exists or should exist. As required by the Act, the existence of a craft depends upon it being referenced in a collective bargaining agreement. "Only the wages fixed in collective bargaining agreements in the locality for the particular craft or trade are used." *Male v. Renda Contracting*, 64 N.J. 199, 201 (1974). As noted by the United States District Court in *Garden State Brickface Co. v. State of New Jersey*, No. 80-635 (D.N.J. March 11, 1981), "... if a craft or trade truly is not reflected in a collective bargaining agreement, the Act will not apply. . . ."

The Commissioner has consistently interpreted the Act to apply only to collective bargaining agreements negotiated by construction craft unions and not by reference to industrial union contracts. Craft unions represent individual craftsmen who obtain work with contractors for particular construction projects through the use of union hiring halls. Industrial unions, on the other hand, represent employees of a particular employer, generally regardless of craft. Such employees generally need not depend upon the employer being used for a particular project in order to maintain their jobs. As explained by Assistant Commissioner William J. Clark, the Act requires the Commissioner to protect the crafts from unfair competition. That the Act was intended to be applied by reference to craft, and not industrial, collective bargaining agreements was recognized implicitly by the Appellate Court that upheld its constitutionality:

"It is an every day fact of industrial life that within the labor movement work jurisdiction boundaries in New Jersey have been laid out for the various local unions representing the various trades and crafts. These boundaries may encompass a single county or the entire State. To meet this organization strength, various employers have banded together into trade associations for collective bargaining purposes." [*Male v. Ernest Renda Contracting Co., supra*, 122 N.J. Super. at 534-535.]

Clearly the references to "local unions representing the various trades and crafts" and the various employers that have banded together "into trade associations for collective bargaining purposes" shows an understanding by the court that it was dealing with craft unions and the various contractors that must bargain with them. In contrast to IBEW Local 269, IBEW Local 827 is an industrial union, representing only the employees of a single employer. Therefore, the list of jobs set forth in that agreement does not establish additional construction crafts for the purposes of the Act.

The conclusion that Local 827's collective bargaining agreement does not establish construction crafts to be considered under the Act is supported by the arguments of AT&T and New Jersey Bell that their technicians should not be considered construction workers at all. As stated by New Jersey Bell: "Bell is a supplier of service, that is, a telecommunication system." And AT&T has noted that it "had not previously considered that the Act applied to the work involved in this contract or to any of the work ordinarily performed by its communication technicians. The Act applies to contracts for any 'public work,' which term is defined to include 'construction, reconstruction, demolition, alteration, or repair work, or maintenance work. . .'. Under comparable Federal and State legislation, the installation of premises communications equipment (including related cabling) has ordinarily been treated as installation of equipment and not as 'construction' or a 'public work'" (citation omitted). If the telecommunication craft is not a construction craft it should not be considered in establishing a prevailing wage because, as previously noted, the purpose of the Act was to protect those engaged in construction activity as opposed to suppliers or manufacturers. *Horn v. Serritella Bros. Inc., supra*.

The evidence supports the conclusion that most of the work done by telecommunication technicians is not construction work. However, the work at issue, the installation of wire, appears to fall within the small portion of telecommunication work which is properly classified as construction. As noted by AT&T in a February 18, 1986 letter: "The principal similarity between the work of communication technicians and electricians involves the installation of wire cable. This activity is not, however, the predominant part of the work performed by communication technicians. The hours devoted to wire installation by AT&T-IS communication technicians only amount to approximately 20 percent of the total hours worked." Therefore, the evidence adduced to show the many differences between telecommunication technicians and electricians generally, is not key to the issue of whether the small portion of a technician's work, the installation of wiring, is part of an electrician's craft. In construing the Federal Davis-Bacon Act, which established prevailing wage requirements for federally-assisted projects, the ALJ in *In re J.B.L. Construction Co.*, 23 W.J. Cases 1064, 1067 (1978) concluded, ". . . [T]he test of the correctness of the classification is not skill or experience, but the work actually performed." In that case, it was held that workmen who had been classified as carpenter's helpers by the contractor had to be paid the wages of carpenters because the work they did was work that fell within the scope of the carpenter's craft. The work at issue here is basically the installation of premises or inside wiring, which is the communication wiring between the network interface (the point of connection with the outside feeder cable installed by the public utility) and the telephone station. The record shows that electrical contractors employing electricians have done this work, are qualified to do it by skill and training and in fact have been prequalified to do it by the State. The work is specifically listed in IBEW Local 269's collective bargaining agreement as "all telephone and communication work" and it is recognized in *The Dictionary of Occupational Titles* as work done by the electrician's craft. The specialized training and skills which distinguish technicians from electricians does not relate to the work required under the public contracts at issue.

Therefore, while the Department agrees for the most part with the criteria suggested by the ALJ for making craft classifications, it is the Department's proposal that the criteria include a restriction that only craft union collective bargaining agreements be considered in determining crafts, trades or classifications of workmen. Furthermore, consistent with

the application of that criteria as described in this summary, the Department's proposal, which lists crafts by county, would memorialize its determination that the appropriate craft for installation of the wiring at issue is the craft of electrician.

Social Impact

Implementation of the proposal will provide employers and workmen and other concerned parties with a ready reference to the building crafts, trades and classification of workmen covered by the Prevailing Wage Act. This proposal will also provide criteria used to establish crafts, trades and classes of workmen. Other than that, the proposal will not have any noticeable impact upon employers or employees involved in public work construction in the State of New Jersey. It will only confirm by formal rules what has been done in daily practice under the Prevailing Wage Act.

Economic Impact

The proposed new rules will not have any new or additional economic impact since they simply codify long-standing and current administrative practice. The inclusion of the crafts, trades and classes of workmen in the proposed new rules are the same as those which the Department of Labor has considered falling within the Prevailing Wage law. There is no change from current practice which is commonly understood by all persons in public contract construction work.

Regulatory Flexibility Statement

Although small businesses are affected by the proposed new rules, the impact upon them is not new or additional since they have been complying with past agency practice. There are no new requirements or burdens upon small businesses and they will simply be required to continue stating in their public work contracts that the prevailing wage will be paid. Although businesses which undertake public work projects currently maintain records of titles and salaries paid, this information is not submitted to the Department of Labor and will not be required under the new rules. No new recordkeeping requirements are imposed.

Full text of the proposed new rules follows:

CHAPTER 60 PREVAILING WAGES FOR PUBLIC WORKS

SUBCHAPTER 1. GENERAL PROVISIONS

12:60-1.1 Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:60, Prevailing Wages for Public Works.

12:60-1.2 Authority

These rules are promulgated pursuant to the authority of the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq.

12:60-1.3 Purpose

(a) The purpose of this chapter is to:

1. List each and every craft, trade, or class of workmen employed on public works in each of the 21 counties of the State; and
2. List the criteria to be used when an issue regarding the establishment of a craft, trade or class of workmen arises.

12:60-1.4 Scope

(a) This chapter shall implement the Act by listing by name each craft, trade or class of workmen utilized in the various counties of the State; and

(b) This chapter shall apply to every contract in excess of \$2,000 awarded by a public body and to every subcontract pursuant to said contract.

12:60-1.5 Documents referred to by reference

The availability of standards and publications referred to in this chapter is explained in N.J.A.C. 12:60-6.

12:60-1.6 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

12:60-2.1 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 Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq.

"Commissioner" means the Commissioner of Labor, or his duly authorized designee.

"Department" means the Department of Labor.

"Division of Workplace Standards" means the Division of Workplace Standards, New Jersey Department of Labor, CN 054, Trenton, New Jersey 08625-0054.

"Employer" means any natural person, company, firm, subcontractor or other entity engaged in public work.

"Locality" means any political subdivision of the State, combination of the same or parts thereof, or any geographical area or areas classified, designated and fixed by the commissioner from time to time, provided that in determining the "locality" the commissioner shall be guided by the boundary lines of political subdivisions or parts thereof, or by a consideration of the areas with respect to which it has been the practice of employers of particular crafts or trades to engage in collective bargaining with the representatives of workmen in such craft or trade.

"N.J.A.C." means the New Jersey Administrative Code.

"N.J.S.A." means the New Jersey Statutes Annotated.

"Office of Wage and Hour Compliance" means the Office of Wage and Hour Compliance of the Division of Workplace Standards, New Jersey Department of Labor, CN 389, Trenton, N.J. 08625-0389.

"Persons" means any natural person, company, firm, association, corporation, contractor, subcontractor or other entity engaged in public work.

"Prevailing wage" means the wage rate paid by virtue of collective bargaining agreements by employers employing a majority of workmen of that craft or trade subject to said collective bargaining agreements, in the locality in which the public work is done.

"Public body" means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions.

"Public work" means construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program.

SUBCHAPTER 3. CATEGORIES OF CRAFTS, TRADES OR CLASSES OF WORKMEN

12:60-3.1 Scope of subchapter

This subchapter shall apply to crafts, trades or classes of workmen which are utilized on public work construction contracts governed by the New Jersey Prevailing Wage Act.

12:60-3.2 List of crafts, trades or classes of workmen

(a) Listed below are those crafts, trades or classes of workmen established by the Commissioner in all counties, except as otherwise noted, which shall be paid prevailing wages on public works construction contracts governed by the New Jersey Prevailing Wage Act.

1. Air conditioning worker, refrigeration worker: journeyman or apprentice.
2. Asbestos worker, heat insulator, frost insulator: journeyman, foreman, or apprentice.
3. Boilmaker: journeyman, foreman, helper, or apprentice.
4. Bricklayer, stonemason: journeyman, foreman, or apprentice.
5. Building laborer: journeyman or foreman.
6. Carpenter: journeyman, foreman, or apprentice.
7. Carpenter of resilient flooring: journeyman, foreman, or apprentice. Applies in all counties except Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem counties.
8. Cement mason, cement finisher: journeyman, foreman, or apprentice.
9. Diver, diver tender.
10. Dock builder, pile-driver: journeyman, foreman, or apprentice.
11. Dock builder creosote, pile driver creosote: journeyman, foreman, or apprentice.
12. Drywall finisher: journeyman, foreman, or apprentice.
13. Electrician: journeyman, foreman, or apprentice.
14. Elevator constructor: journeyman, foreman, helper, or apprentice.
15. Glazier: journeyman, foreman, or apprentice.
16. Ironworker: journeyman, foreman, or apprentice.
17. Lineman: journeyman, foreman, or apprentice. Applies in Atlantic and Cape May counties only.
18. Lather: journeyman, foreman, or apprentice.
19. Marble setter: journeyman, foreman, or apprentice.
20. Millwright: journeyman or foreman. Applies in all counties except Mercer county.

21. Painter: journeyman, foreman, or apprentice. See N.J.A.C. 12:60-3.3 for classification of tasks.
22. Pipefitter: journeyman, foreman, or apprentice.
23. Plasterer: journeyman, foreman, or apprentice.
24. Plumber: journeyman, foreman, or apprentice.
25. Roofer: journeyman, foreman, helper or apprentice.
26. Roofer shingle, slate and tile: journeyman, foreman, or helper.
27. Sheet metal worker: journeyman, foreman, or apprentice.
28. Sprinkler fitter: journeyman, foreman, or apprentice.
29. Tile setter: journeyman, foreman, or apprentice.
30. Tile setter helper.
31. Welder.
32. Operating engineer. See N.J.A.C. 12:60-3.4 for classification of tasks.
33. Driller. See N.J.A.C. 12:60-3.5 for classification of tasks.
34. Dredging operator. See N.J.A.C. 12:60-3.6 for classification of tasks.
35. Heavy and general laborer. See N.J.A.C. 12:60-3.7 for classification of tasks.
36. Asphalt laborer. See N.J.A.C. 12:60-3.8 for classification of tasks.
37. Truck driver. See N.J.A.C. 12:60-3.9 for classification of tasks.

12:60-3.3 Classification of tasks for painters

(a) Painters shall be classified in all counties, except as otherwise noted below, into various tasks in accordance with the prevailing collective bargaining agreements as follows:

1. Painter.
2. Structural steel and spray painter.
3. Bridge viaduct and other appurtenances painter
4. Repaint painter. Applies in Atlantic, Bergen, Cape May, Cumberland, Essex, Hudson, Hunterdon, Mercer, Morris, Passaic, Somerset, Sussex, Union and Warren counties.
5. Repaint painter on bridge, viaduct and other appurtenances. Applies only in Atlantic, Bergen and Cape May counties.
6. Traffic marking painter.

12:60-3.4 Classification of tasks for operating engineers

(a) Operating engineers shall be classified in all counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. A-frame operating engineer.
2. Aerial platform operating engineer.
3. Assistant engineer, oiler.
4. Asphalt curbing machine operating engineer.
5. Asphalt plant engineer.
6. Asphalt spreader operating engineer.
7. Autograde combination subgrader, base material spreader, base trimmer operating engineer.
8. Autograde pavement profiler operating engineer.
9. Autograde pavement profiler, recycle type, operating engineer.
10. Autograde placer-trimmer, spreader combination operating engineer.
11. Autograde slipform paver operating engineer.
12. Autograde curecrete machine operating engineer.
13. Autograde tube finisher, texturing machine operating engineer.
14. Autograde curb trimmer, sidewalk, shoulder, slipform, operating engineer.
15. Backhoe operating engineer.
16. Backhoe, combination operating engineer.
17. Bar bending machine, power operating engineer.
18. Batcher, batching plant, crusher on site operating engineer.
19. Belt conveyor system operating engineer.
20. Boiler, steam jenny operating engineer.
21. Boom type skimmer machine operating engineer.
22. Boom attachment or loader operating engineer.
23. Boring and drilling machine operating engineer.
24. Bridge deck finisher operating engineer.
25. Broom and sweeper operating engineer.
26. Brush chopper, shredder, tree shredder, tree shearer operating engineer.
27. Bulldozer operating engineer.
28. Cableway operating engineer.
29. Car dumper, railroad operating engineer.
30. Carryall operating engineer.
31. Central power plant operating engineer.
32. Chipper operating engineer.
33. Compressor, blower operating engineer.

34. Compressor, single operating engineer.
35. Compressor, two or three battery operating engineer.
36. Concrete breaking machine operating engineer.
37. Concrete finishing machine operating engineer.
38. Concrete paving machine operating engineer.
39. Concrete pump operating engineer.
40. Concrete pumping system, pumpcrete, similar types, operating engineer.
41. Concrete saw and cutter, ride on type, operating engineer.
42. Concrete spreader, Hetzel, Rexomatic and similar types, operating engineer.
43. Concrete spreader, small type, operating engineer.
44. Concrete vibrator operating engineer.
45. Conveyor, under 125 feet, operating engineer.
46. Conveyor, 125 feet and over, operating engineer.
47. Conveyor loader, not including elevator grader, operating engineer.
48. Crane, all types, including overhead and straddle traveling type, operating engineer.
49. Crane, gantry, operating engineer.
50. Crushing machine, operating engineer.
51. Derrick operating engineer.
52. Ditching machine operating engineer.
53. Drill doctor operating engineer.
54. Drillmaster, quarrymaster operating engineer.
55. Dope pot, mechanical operating engineer.
56. Dragline operating engineer.
57. Dumpster operating engineer.
58. Elevator operating engineer.
59. Elevator grader operating engineer.
60. Engine, large diesel, 1620 horsepower, staging pump operating engineer.
61. Farm tractor operating engineer.
62. Fertilizing equipment operating engineer.
63. Field engineer.
 - i. Chief of party.
 - ii. Transit or instrument man.
 - iii. Rodman or chainman.
 - iv. Survey apprentice.
64. Fine grade machine, small type operating engineer.
65. Fine grade machine, large type, operating engineer.
66. Fireman operating engineer.
67. Fork lift operating engineer.
68. Form line grader, small type, operating engineer.
69. Front end loader, five yards and over, operating engineer.
70. Front end loader, two yards but less than five yards, operating engineer.
71. Front end loader, one yard but less than two yards, operating engineer.
72. Front end loader, under one yard, operating engineer.
73. Generator, single, operating engineer.
74. Generator, two or three battery, operating engineer.
75. Giraffe grinder operating engineer.
76. Gradall operating engineer.
77. Grader, finish, fine, operating engineer.
78. Grader and motor patrol operating engineer.
79. Grader, Rago, operating engineer.
80. Grease, gas, fuel, oil supply truck operating engineer.
81. Groove cutting machine, ride on type, operating engineer.
82. Gunit machine, excluding nozzles, operating engineer.
83. Hammer vibratory in conjunction with generator, operating engineer.
84. Heater planer operating engineer.
85. Heater, Nelson or other type including propane, natural gas or flow type units, operating engineer.
86. Helicopter operating engineer.
 - i. Pilot or engineer.
 - ii. Co-pilot.
 - iii. Communications engineer.
87. Hoist, all types including steam, gas, diesel, electric, air, hydraulic, single and double drum, concrete brick shaft caisson, conveyor, snorkel roof, tugger, house car or any other similar type hoisting machine, portable or stationary, except Chicago boom type operating engineer.
88. Hoist, Chicago, boom operating engineer.
89. Hoist, roof, tugger, aerial platform, elevator, house car, operating engineer.
90. Hopper operating engineer.
91. Hooper door, power operated, operating engineer.
92. Hydraulic crane, six tons and under, operating engineer.
93. Hydro-axe operating engineer.
94. Jack, screw, air, hydraulic, power operated unit or console type, but not hand jack or pile load test type, operating engineer.
95. Ladder, motorized, operating engineer.
96. Laddervator operating engineer.
97. Lead engineer, foreman engineer, safety engineer, operating engineer.
98. Light, portable generating plant, operating engineer.
99. Locomotive, large, Dinky type, operating engineer.
100. Log skidder operating engineer.
101. Maintenance apprentice, oiler.
102. Maintenance utility man.
103. Maintenance and repair operating engineer of asphalt curbing machine, concrete finishing machine, concrete vibrator, gas buggy, leveling machine, portable generator, power saw, compressor equipment, compressor unit used in connection with cement, paint, insulating, curbing and sand blasting and all similar types.
104. Mechanic.
 - i. Mechanic's helper
 - ii. Registered mechanic's apprentice.
105. Mixer except paving mixer operating engineer.
106. Mixer, concrete small, operating engineer.
107. Motor patrol and grader operating engineer.
108. Mucking machine operating engineer.
109. Mulching equipment operating engineer.
110. Pan operating engineer.
111. Paver, 21E and over, operating engineer.
112. Paver, under 21E, operating engineer.
113. Paver, concrete, operating engineer.
114. Pavement and concrete breaker, superhammer, hoe ram operating engineer.
115. Pavement breaker, small, self-propelled, ride on type, operating engineer.
116. Pavement breaker, truck mounted, operating engineer.
117. Pile driver operating engineer.
118. Pipe bending machine, power, operating engineer.
119. Pitch pump operating engineer.
120. Plaster pump operating engineer.
121. Post hole digger operating engineer.
122. Pumpcrete, unit type, operating engineer.
123. Pumpcrete machine, Squeezecraft and concrete pump, operating engineer.
124. Pump, four inch suction and over including submersible pump, operating engineer.
125. Pump, two inch or less than four inch suction including submersible pump operating engineer.
126. Pump, diesel engine and hydraulic, operating engineer.
127. Road finishing machine, small type, operating engineer.
128. Roadway surface grinder, operating engineer.
129. Rod bending machine, power, operating engineer.
130. Roller, grade fill or stone base, operating engineer.
131. Roller, black top, operating engineer.
132. Scale, power, operating engineer.
133. Scooper, loader and shovel, operating engineer.
134. Scraper operating engineer.
135. Seaman pulverizing mixer operating engineer.
136. Seeding equipment operating engineer.
137. Shoulder widener operating engineer.
138. Shovel operating engineer.
139. Side boom operating engineer.
140. Silo operating engineer.
141. Skimmer machine, boom type, operating engineer.
142. Sprinkler and water pump truck, operating engineer.
143. Squeezecrete operating engineer.
144. Steam jenny, boiler operating engineer.
145. Steel cutting machine operating engineer.
146. Stone spreader operating engineer.
147. Straddle carrier operating engineer.
148. Tamping machine, vibrating ride-on, operating engineer.
149. Temporary heating plant operating engineer.
150. Tire repair and maintenance operating engineer.
151. Tractor operating engineer.
152. Tree chopper with boom operating engineer.

153. Trench machine operating engineer.
154. Tug captain operating engineer.
155. Vibrating plant operating engineer.
156. Water and sprinkler truck operating engineer.
157. Welder and repair mechanic operating engineer.
158. Welding machine, gas, diesel, electric converter, single, two or three within 100 feet, operating engineer.
159. Welding system multiple rectifier transformer type, operating engineer.
160. Wellpoint system operating engineer.
161. Winch truck, hoisting, operating engineer.
162. Water operation, operating engineer on all power boats used in conjunction with pipeline, river crossings and construction.
163. Captain, power boat.
164. Tug master, power boat.
165. Maintenance apprentice, deckhand.
166. Apprenticeship operator, oiler.
167. Structural steel, aerial platform used on hoist, operating engineer.
 - i. Assistant engineer, oiler.
 - ii. A-frame operating engineer.
168. Structural steel operating engineer.
 - i. Cherry picker six tons and under.
 - ii. Cherry picker over six tons.
169. Structural steel, compressor, single, operating engineer.
170. Structural steel, compressor, two or three in battery, operating engineer.
171. Structural steel, crane, land or floating with boom, including jib, 140 feet and over aboveground, operating engineer.
172. Structural steel, crane, land or floating with boom, including jib, less than 140 feet aboveground, operating engineer.
173. Structural steel, derrick, land or floating with boom including jib, 140 feet and aboveground, operating engineer.
174. Structural steel, derrick, land or floating with boom including jib, less than 140 feet aboveground, operating engineer.
175. Structural steel, fireman.
176. Structural steel, fork lift operating engineer.
177. Structural steel, generator operating engineer.
178. Structural steel, helicopter operating engineer:
 - i. Pilot, engineer.
 - ii. Co-pilot.
 - iii. Communications engineer.
179. Structural steel, hoist, all types except Chicago boom type, operating engineer.
180. Structural steel, elevator or house car, operating engineer.
181. Structural steel, jack, screw air hydraulic power operated unit or console type but not hand jack or pile load test type, operating engineer.
182. Structural steel lead engineer, foreman engineer, safety engineer.
183. Structural steel, maintenance apprentice, oiler.
184. Structural steel, maintenance utility man.
185. Structural steel, rod bending machine, power, operating engineer.
186. Structural steel, side boom, operating engineer.
187. Structural steel, straddle carrier operating engineer.
188. Structural steel, welding machine, gas or electric converter, single, operating engineer.
189. Structural steel, welding machine, gas or electric converter, two or three in battery multiple welders, operating engineer.
190. Structural steel, welding system multiple, rectifier transformer type, operating engineer.
191. Structural steel, water operation, operating engineer.
 - i. Captain, power boats.
 - ii. Tug master, power boats.
 - iii. Maintenance apprentice, deckhand.

12:60-3.5 Classification of tasks for drillers

- (a) Drillers for test borings and drillers for groundwater shall be classified in all counties into various tasks in accordance with the prevailing collective bargaining agreements as follows:
1. Driller of test borings, journeyman.
 2. Driller of test borings, foreman.
 3. Driller of test borings, helper.
 4. Driller of groundwater, journeyman.
 5. Driller of groundwater, helper.

12:60-3.6 Classification of tasks for dredging operators

- (a) Dredging operators shall be classified in all counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. Dipper and clamshell dredge operator.
2. Dipper and clamshell dredge craneman.
3. Dipper and clamshell dredge engineer.
4. Dipper and clamshell dredge maintenance engineer.
5. Dipper and clamshell dredge mate.
6. Dipper and clamshell dredge deckhand.
7. Dipper and clamshell dredge oiler.
8. Dipper and clamshell dredge fireman.
9. Dipper and clamshell dredge welder.
10. Dipper and clamshell dredge welder's helper.
11. Dipper and clamshell dredge scowman.
12. Dipper and clamshell dredge handyman.
13. Dipper and clamshell dredge rodman.
14. Dipper and clamshell dredge boat master.
15. Dipper and clamshell dredge boat captain.
16. Dipper and clamshell dredge tug deckhand.
17. Hydraulic dredge leverman.
18. Hydraulic dredge engineer
19. Hydraulic dredge maintenance engineer.
20. Hydraulic dredge derrick operator.
21. Hydraulic dredge spider barge operator.
22. Hydraulic dredge chief mate on dredge.
23. Hydraulic dredge mate.
24. Hydraulic dredge deckhand.
25. Hydraulic dredge oiler.
26. Hydraulic dredge fireman.
27. Hydraulic dredge boilerman.
28. Hydraulic dredge carpenter.
29. Hydraulic dredge carpenter's helper.
30. Hydraulic dredge chief welder.
31. Hydraulic dredge welder.
32. Hydraulic dredge welder's helper.
33. Hydraulic dredge blacksmith.
34. Hydraulic dredge blacksmith's helper.
35. Hydraulic dredge electrician.
36. Hydraulic dredge handyman.
37. Hydraulic dredge general fill foreman.
38. Hydraulic dredge shift fill foreman.
39. Hydraulic dredge shoreman.
40. Hydraulic dredge front end loader.
41. Hydraulic dredge dozer operator.
42. Hydraulic dredge rodman.
43. Hydraulic dredge boatmaster.
44. Hydraulic dredge boat captain.
45. Hydraulic dredge tug deckhand.
46. Hydraulic dredge steward.
47. Hydraulic dredge assistant cook.
48. Hydraulic dredge night cook.
49. Hydraulic dredge messman.
50. Hydraulic dredge porter or janitor.
51. Company lead dredgeman.
52. Tugs over 1000 shaft horsepower with master or captain having license endorsed for 200 miles offshore, tug master.
53. Tugs over 1000 shaft horsepower with master or captain having license endorsed for 200 miles offshore, tug captain.
54. Tugs over 1000 shaft horsepower with master or captain having license endorsed for 200 miles offshore, tug chief engineer.
55. Tugs over 1000 shaft horsepower with master or captain having license endorsed for 200 miles offshore, tug engineer.
56. Tugs over 1000 shaft horsepower with master or captain having license endorsed for 200 miles offshore, tug deckhand.
57. Tugs over 1000 shaft horsepower without master or captain having license endorsed for 200 miles offshore, tug master.
58. Tugs over 1000 shaft horsepower without master or captain having license endorsed for 200 miles offshore, tug captain.
59. Tugs over 1000 shaft horsepower without master or captain having license endorsed for 200 miles offshore, tug chief engineer.
60. Tugs over 1000 shaft horsepower without master or captain having license endorsed for 200 miles offshore, tug engineer.
61. Tugs over 1000 shaft horsepower without master or captain having license endorsed for 200 miles offshore, tug deckhand.

12:60-3.7 Classification of tasks for heavy and general laborers

- (a) Heavy and general laborers shall be classified in all counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. Blaster.
2. General foreman.
3. Finisher, rammer, paver, guniting nozzle man, stonemason, form setter and drill foreman.
4. Timberman, pipe foreman, laborer foreman, grade foreman, wagon drill operator, and drill master.
5. Sewer pipe laborer, laser man, conduit and duct line layer, jack hammer laborer, pavement breaker, power buggy laborer, concrete cutter, asphalt cutter, sheet hammer laborer, tree cutter operator, sandblasting laborer, cutting laborer, burning and other power tools laborer.
6. Wagon drill operator helper, drill master helper, powder carrier and magazine tender, signal man.
7. Common laborer, landscape laborer, railroad track laborer, flagman, traffic director, salamander laborer, tender, pitman, dumpman, waterproofing laborer, raker, tamper on cold patch work, wrapper and coater of all pipe.
8. Finisher foreman, concrete foreman.
9. Toxic or hazardous waste laborer.
10. Free air tunnel walking boss, superintendent.
11. Free air tunnel heading foreman, shaft foreman, rod foreman, electrician foreman, rigging foreman.
12. Free air tunnel iron foreman, caulking foreman, form foreman, cement finishing foreman, concrete foreman, track foreman, cleanup foreman.
13. Free air tunnel blaster.
14. Free air tunnel top laborer foreman.
15. Free air tunnel skilled man including miner, drill runner, iron man, conveyor man, maintenance man, safety miner, rigger, block layer, cement finisher, rod man, caulker, powder carrier, any other skilled man.
16. Free air tunnel semi-skilled man including miner's helper, check tender, track man, nipper, brake man, derail man, cable man, hose man, grout man, gravel man, form man, bell or signal man, form worker and mover, concrete worker, shaft man, tunnel laborer, caulkers' helper, any other semi-skilled man.
17. Free air tunnel any other semi-skilled man including powder watchman, change house attendant, top laborer.

12:60-3.8 Classification of tasks for asphalt laborers

(a) Asphalt laborers shall be classified in all counties, except as otherwise noted below, into various tasks in accordance with the prevailing collective bargaining agreements as follows:

1. Head raker.
2. Raker, screed man, shop steward.
3. Tamper, smoother, kettleman, painter, roller boy, shoveler.
4. Trainee. Applies only to Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem counties.
5. Plant, scale mixer and burner man.
6. Plant, feeder and dust man.

12:60-3.9 Classification of tasks for truck drivers

(a) Truck drivers shall be classified in Atlantic and Cape May counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. Teamster, chauffeur.
2. Driver on tractor, trailer, 10 wheel flat or dump truck.
3. Driver in euclid, 10 wheel tractor trailer or tractor trailer truck, low bed or pole trailer.

(b) Truck drivers shall be classified in Bergen, Hudson, and Passaic counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. Helper on asphalt distributor, pick-up and dump truck driver, winch straight truck driver, water or fuel truck driver.
2. Straight three-axle material driver.
3. Tractor trailer truck driver.
4. Euclid type vehicle, except self loading driver.
5. Winch trailer driver.
6. Mechanic helper.
7. Truck foreman.

(c) Truck drivers shall be classified in Burlington, Camden, Cumberland, Gloucester and Salem counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. Tractor, tractor trailer, winch tractor trailer, winch straight truck, euclid trailer driver not self loading, fuel truck, asphalt distributor driver.
2. Straight truck, dump, water, transit, mix, pick-up, and asphalt distributor driver.
3. Truck towing driver.

4. Mechanic.
5. Straight truck helper, mechanic's helper.

(d) Truck drivers shall be classified in Essex, Morris, Sussex, Union and Warren counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. Helper on asphalt distributor, pick-up and dump truck driver, winch straight truck driver, water and fuel truck driver.
2. Straight three-axle material driver.
3. Tractor trailer truck driver.
4. Euclid type vehicle except self loading driver.
5. Winch trailer driver.
6. Mechanic helper.
7. Truck foreman.

(e) Truck drivers shall be classified in Hunterdon, Mercer, Middlesex, Monmouth, Ocean and Somerset counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. Helper on asphalt distributor, pick-up and dump truck driver, winch straight truck driver, water and fuel truck driver.
2. Straight three-axle material driver.
3. Tractor trailer truck driver.
4. Euclid type vehicles except self loading driver.
5. Winch trailer driver.
6. Mechanic helper.
7. Truck foreman.

SUBCHAPTER 4. CRITERIA FOR ESTABLISHMENT OF CRAFTS, TRADES OR CLASSES OF WORKMEN

12:60-4.1 Scope of subchapter

This subchapter establishes the criteria to be used to classify a craft, trade or class of workmen.

12:60-4.2 Criteria for establishment

(a) The criteria used to establish a craft, trade or class of workmen shall include:

1. Work history and industry practice;
2. Training and skills;
3. Nature of the specific work in issue;
4. Craft union collective bargaining agreements and craft recognition;

and

(b) In establishing a craft, trade or class of workmen, the Department shall consider any relevant information, documentation, or argument presented by an interested party and submitted to:

New Jersey Department of Labor
Division of Workplace Standards
Office of Wage and Hour Compliance
Labor and Industry Building
John Fitch Plaza
Trenton, New Jersey

SUBCHAPTER 5. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

12:60-5.1 Documents referred to by reference

The full title and edition of each of the standards and publications referred to in this chapter are as follows:

N.J.S.A. 34:11-56.25 et seq., New Jersey Prevailing Wage Act.

12:60-5.2 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
Office of Wage and Hour Compliance
Labor and Industry Building
John Fitch Plaza
Trenton, New Jersey

12:60-5.3 Availability of documents from issuing organization

Copies of the referred to standards and publications in this chapter may be obtained from the organization listed below. The abbreviations

preceding these standards and publications have the following meaning, and is the organization issuing the standards and publications listed in N.J.A.C. 12:60-5.1.

N.J.S.A. New Jersey Statutes Annotated
Copies available from:
Office of Wage and Hour Compliance
New Jersey Department of Labor
CN 389
Trenton, New Jersey 08625-0389

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

Requirement of Identification card defined

Proposed New Rule: N.J.A.C. 13:31-1.16

Authorized By: John Q. Larkin, Chairman, State Board of Examiners of Electrical Contractors.

Authority: N.J.S.A. 45:5A-6.

Proposal Number: PRN 1987-68.

Submit comments by March 19, 1987 to:
Christine T. DeGregorio, Executive Secretary
State Board of Examiners of Electrical Contractors
1100 Raymond Boulevard, Room 503
Newark, New Jersey 07102

The agency proposal follows:

Summary

The New Jersey State Board of Examiners of Electrical Contractors, pursuant to the authority of N.J.S.A. 45:5A-6, is proposing a new rule authorizing the issuance of wallet size identification cards to its licensees and requiring licensees or their duly authorized agents to present the identification cards to appropriate inspection agencies at the time applications for permits are made. The rule provides that a licensee who permits an unauthorized and unlicensed person to use the card will be subject to disciplinary action by the Board, as will the unauthorized user of the card.

Social Impact

The proposed new rule will enable consumers and municipal subcode officials to verify that the electrical contractors they deal with are in fact the holders of current and valid licenses.

Economic Impact

The proposal is expected to have no appreciable economic impact on the public, the Board or prospective licensees. There will be no fee for issuance of the identification card because the cost of issuing the card is adequately covered by the biennial license renewal fee; therefore, no economic impact is expected.

Regulatory Flexibility Statement

The proposed rule will apply to all electrical contractors actively practicing under a business permit issued by the Board. The number of such active business permits issued by the Board was 5833 as of December 9, 1986. Although the Board does not require business permit holders to report the number of employees, the Board believes that a large majority of these businesses are small businesses with fewer than 100 full time employees. However, the Board found that there was no need for consideration of alternative approaches for these small businesses in proposing this rule because compliance with the rule will involve no costs or other adverse impact on the resources of these small businesses. Compliance with the proposed rule merely requires that a licensee or an authorized representative present the identification card, which will be provided at the time of license renewal, when applying to local construction officials for permits to perform electrical work. Licensees are of course also responsible for preventing the unauthorized use of the identification card by unlicensed persons.

Full text of the proposed new rule follows.

13:31-1.16 Requirement of identification card defined

(a) At the time of the biennial renewal of the license and business permit the Board of Examiners of Electrical Contractors shall furnish a

wallet size identification card to every licensee. The card shall be used exclusively by the licensee in the conduct of his practice. A licensee who willfully or negligently allows an unlicensed or an unauthorized person to use his identification card shall be deemed to have engaged in occupational misconduct and shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:5A-1 et seq. and N.J.S.A. 45:1-14 et seq. The licensee is required to present said identification card to the appropriate duly licensed inspection agency upon all applications for electrical permits.

(b) Use of an identification card by any person other than the licensee to whom it is issued or his duly authorized agent acting on the licensee's behalf shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation or false pretense. Such conduct shall be unlawful and may be grounds for the suspension or revocation of the license of the unauthorized user if he is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license at any point in the future.

(b)

STATE BOARD OF EXAMINERS OF MASTER PLUMBERS

Requirement of Identification Card Defined

Proposed New Rule: N.J.A.C. 13:32-1.9

Authorized By: Allan Feid, President, State Board of Examiners of Master Plumbers.

Authority: N.J.S.A. 45:14C-7.

Proposal Number: PRN 1987-67.

Submit comments by March 19, 1987 to:

Christine T. DeGregorio
Executive Secretary
State Board of Examiners of Master Plumbers
1100 Raymond Boulevard, Room 503
Newark, New Jersey 07102

The agency proposal follows:

Summary

The New Jersey State Board of Examiners of Master Plumbers, pursuant to the authority of N.J.S.A. 45:14C-7, proposes a new rule authorizing the issuance of wallet size identification cards to its licensees and requiring licensees or their duly authorized agents to present the identification cards to appropriate inspection agencies at the time applications for permits are made. This new rule is being proposed to better inform the consuming public and enforcement officials as to the qualifications of those individuals engaged in providing plumbing services.

Social Impact

The issuance by the Board and requirement that master plumber licensees present an identification card will serve to inform and protect the public by making it easier to determine if a master plumber has a valid current license.

Economic Impact

The proposal is expected to have no appreciable economic impact on the public, the Board or prospective licensees. There will be no fee for issuance of the identification card because the cost of issuing the card is adequately covered by the biennial license renewal fee; therefore, no economic impact is expected.

Regulatory Flexibility Statement

The proposed rule will apply to all licensed master plumbers on the Board's active list. The number of such licensees was 6537 as of December 9, 1986. Although the Board does not require reporting the number of employees in plumbing businesses, the Board believes that a large majority of its licensees are associated with businesses with fewer than 100 full time employees. However, the Board found that there was no need for consideration of alternative approaches for these small businesses in proposing this rule because compliance with the rule will involve no costs or other adverse impact on the resources of these small businesses. Compliance with the rule will merely require a licensee or his authorized representative to present a Board issued identification card when applying to local construction officials for the required permits to perform plumbing work. Licensees are, of course, also responsible for preventing the unauthorized use of the card by unlicensed persons.

Full text of the proposed new rule follows:

13:32-1.9 Requirement of identification card defined

(a) At the time of the biennial renewal of the license, the State Board of Examiners of Master Plumbers shall furnish a wallet size identification card to every licensee. The card shall be used exclusively by the licensee master plumber in the conduct of his practice. A licensee who willfully or negligently allows an unlicensed or an unauthorized person to use his identification card shall be deemed to have engaged in occupational misconduct and shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:14C-1 and N.J.S.A. 45:1-14 et seq. A state-licensed master plumber is required to present said identification card to the appropriate duly licensed inspection agency upon all applications for plumbing permits.

(b) Use of an identification card by any person other than a licensee to whom it is issued or his duly authorized agent acting on the licensee's behalf shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation or false pretense. Such conduct shall be unlawful and may be grounds for the suspension or revocation of the license of the unauthorized user if he is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license at any point in the future.

(a)

BOARD OF MEDICAL EXAMINERS

Fee Schedule

Proposed Amendment: N.J.A.C. 13:35-6.13

Authorized By: Board of Medical Examiners, Edward W. Luka, M.D., President.

Authority: N.J.S.A. 45:1-3.2.

Proposal Number: PRN 1987-75.

Submit comments by March 19, 1987 to:

Charles A. Janousek, Executive Secretary
Board of Medical Examiners
28 West State Street
Trenton, New Jersey 08608

The agency proposal follows:

Summary

This rule proposal amends the Board's Fee Schedule by increasing the FLEX examination fee since the Federation of Boards of Medical Examiners has increased its fees to the Board to purchase the examination effective with the June 1987 examination. The examination is one alternative route to licensing and is available to all candidates for medical licensure. The examination consists of two Components. The Federation currently charges \$240.00 for both Components, \$140.00 for Component I only and \$165.00 for Component II only. Those fees to the Board are being increased to \$365.00, \$190.00 and \$240.00 respectively. The Board currently charges candidates \$300.00, \$200.00 and \$225.00 respectively including the cost of administering the examination to candidates. Under the proposed amendment the fees to candidates would be increased to \$425.00 for both components, \$250.00 for Component I only and \$300.00 for Component II only, to reflect the increase in the cost of the examination to the Board. There will be no increase in the amount charged to candidates for the Board's administration of the examination.

Social Impact

The anticipated social impact of the increase in the FLEX examination fees will be minimal since it should not effect the ability of candidates to take or pass the examination and the increased cost passed on by newly licensed physicians via patient fees will be minute.

Economic Impact

The anticipated economic impact of the proposed amendment regarding the increased examination fee is intended only to cover the increased cost to the Board, and should not have any significant impact on the ability of candidates to take the examination.

The economic impact on the Board of the increase by the Federation in the FLEX Examination fee is self-evident. When the cost to the Board is increased it must increase the fee paid by candidates to avoid absorbing the Federation increase with a concomitant adverse impact on the Board's budget.

Regulatory Flexibility Statement

The Board finds that the imposition of an increased examination fee does not impose recordkeeping or reporting requirements on applicants for licensure and not upon a small business, as defined by the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169 and accordingly, regulatory flexibility analysis is inapplicable to the proposed rule amendment.

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

13:35-6.13 Fee schedule

(a) The following fees shall be charged by the Board of Medical Examiners:

- i. Medicine and Surgery (M.D. or D.O. license)
 - i. Examination—

Both Components	[\$300.00]	\$425.00
-----------------	------------	-----------------
 - ii. Re-examination

Component I	[\$200.00]	250.00
Component II	[\$225.00]	300.00
 - iii. License (M.D. or D.O.)
 - iv. N.J.S.A. 45:9-21(n)—exemption
 - v. N.J.S.A. 45:9-21(b)—temporary license
 - vi. Endorsement
 - vii. Biennial registration

2.-9. (No change.)

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

Peacetime Military Service Service Credit

Proposed New Rule: 17:1-4.36

Authorized By: Douglas R. Forrester, Director, Division of Pensions.

Proposal Number: PRN 1987-71.

Submit comments by March 19, 1987 to:

Peter J. Gorman
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, N.J. 08625

The agency proposal follows:

Summary

This proposed new rule will provide for the implementation of federal law relative to reemployment rights for persons returning to employment after military service with the Armed Forces of the United States with respect to the State-administered retirement systems. Federal law generally provides that a person who leaves employment for training or service in the Armed Forces and satisfactorily completes the training or service, and applies to the preservice employer for reemployment within prescribed time limits, must, if the person is still qualified to perform the duties of the position from which the person left, be restored to the previous position or a position of like seniority and pay. Pension benefits are included among the benefits of employment covered by the law.

Social Impact

The proposed new rule will be applicable to all of the members and retirees of all of the State-administered retirement systems. The federal law became applicable to public employers on December 3, 1974. Any member or retiree who qualifies under the federal law for reemployment rights on or after that date would be eligible to receive service credit for the period of military service under this proposed new rule.

Economic Impact

No significant economic impact on the State-administered retirement systems is anticipated from the adoption of this proposal. The number of people who will receive service credit under the new rule is expected to be small. The members will be required to make employee contributions for the period of military service. The employer liability for the service credit will be funded through the normal contributions of employers to the retirement systems.

Regulatory Flexibility Statement

The proposed new rule will not have any effect upon small businesses in New Jersey since only public employees and employers are affected by the requirements of the new rule.

Full text of the proposed new rule follows:

17:1-4.36 Peacetime military service; service credit

(a) A member or former member, or a person required to be a member, of a State-administered retirement system who leaves employment covered by a State-administered retirement system to enter military service of the United States and returns to covered employment within the time period and under the circumstances required for entitlement to reemployment rights under federal law (38 U.S.C. sec. 2021 et seq.), may obtain service credit in the State-administered retirement system covering the employment after military service as provided in this section. The types of service or situations eligible for reemployment rights include regular active duty, initial active duty for training, active and inactive training for members of reserve components and National Guard units, and situations where an employee leaves employment for military service or for examination of fitness for military service and is not taken into military service.

1. The person must be a member or be required to be a member of a State-administered retirement system prior to leaving employment to enter military service and must leave the covered employment to enter military service.

2. The person must return to employment covered by a State-administered retirement system within the time periods prescribed by federal law. A person may serve only four years, plus an additional year, or other additional, limited time periods in the case members of the National Guard or military reserve units called to active duty, to be eligible for reemployment rights. The person must seek reemployment within the time period prescribed by federal law which is generally 90 days following release from military service. A reservist or guardsman returning from initial active duty for training must seek reemployment within 31 days after release from duty. A person returning from other training duty or who leaves employment for military service or for examination of fitness for military service and is not taken into military service must report to work at the next regularly scheduled work period after release from duty. In all cases, the time limit for return to employment is tolled for up to one year for any injury or illness related to military service requiring hospitalization which continues after release from military service.

3. The person's military service must have been honorable or satisfactory. This requirement is not applicable to military training other than initial active duty for training.

4. The person may be denied reemployment rights if the person is not qualified to perform the duties of the position for which reemployment is sought or if the employer's circumstances have so changed as to make it impossible or unreasonable to reemploy the person. The person will not be entitled to service credit in a State-administered retirement system if reemployment is validly denied.

5. To receive service credit in a State-administered retirement system for military service, the person must apply within one year following the

date of return to employment or the date initial pension contributions are certified to begin in the retirement system if the person's former membership was terminated or was in a different retirement system.

6. To obtain service credit for the military service, the person must make contributions to the retirement system for all of the period of military service based upon the person's current salary and full percentage contribution rate. The contributions must be authorized by the person within one year following the date of return to employment or the date initial pension contributions are certified to begin, or the expiration date indicated on the quotation letter, whichever is later.

7. A person who returned to employment covered by a State-administered retirement system after December 3, 1974 and on or before January 24, 1986, and was eligible for reemployment rights under federal law with respect to the employment, may obtain service credit for the military service by applying, on or before January 24, 1987, to:

i. The retirement system of which the person is a member, or was a member in the case of a retired person; or

ii. The Division of Pensions in the case of a former member of a State-administered retirement system who is not retired or is not a current member.

8. The contributions required to obtain the service credit shall be based upon the person's salary and full percentage contribution rate at the time of return to employment.

9. The contributions required to obtain the service credit may be paid by any method authorized for purchases of service credit under the retirement system.

10. If a person retires prior to paying the total amount of contributions required to obtain service credit for the military service, the total amount of service credit shall be in direct proportion as the amount paid bears to the total amount of contribution obligation.

(a)

**STATE TREASURER
Urban Enterprise Zone Authority**

Proposed New Rules: N.J.A.C. 17:30

Authorized By: Feather O'Connor, State Treasurer.

Authority: N.J.S.A. 52:18A-30(d), 52:27H-88.

Take notice that the comment period for Proposal Number PRN 1986-447, published in the New Jersey Register on November 3, 1986 at 2191(b), has been reopened. Comments will be accepted until March 19, 1987.

Submit comments to:

Caren S. Raphael
State Treasurer's Office
Department of the Treasury
State House—CN 002
Trenton, New Jersey 08625

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF REGULATORY SERVICES

Jersey Fresh Quality Grading Program Logo

Notice of Correction: Effective Date, N.J.A.C.

2:71-2.2, 2.3, 2.4, 2.5, 2.6, 2.7

Take notice that an error appears in the February 2, 1987 New Jersey Register at 19 N.J.R. 287(a) concerning the effective date of the adopted amendments to the regulations for the Jersey Fresh Quality Grading Program, N.J.A.C. 2:71-2.2, 2.3, 2.4, 2.5, 2.6, 2.7. The effective date should read **February 2, 1987**.

COMMUNITY AFFAIRS

(b)

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Procedural Rules

Adopted New Rule: N.J.A.C. 5:91-1.3

Adopted Amendments: N.J.A.C. 5:91-1.2, 2.1, 3.1, 5.1, 7.1, 13.3 and 13.4

Proposed: August 18, 1986 at 18 N.J.R. 1643(a).

Adopted: January 20, 1987 by The Council on Affordable Housing, Arthur R. Kondrup, Chairman.

Filed: January 23, 1987 as R.1987 d.110, **with technical changes** not requiring additional public notice (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:27D-301 et seq., specifically 52:27D-308.

Effective Date: February 17, 1987.

Expiration Date: June 16, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Upon review of the proposal, the council realized that the 12 copies of motions and answering papers required under N.J.A.C. 5:91-13.3 would be insufficient to facilitate council and staff review. The council therefore, has changed the required copies to be filed from 12 to 16. The council does not consider this to be a substantive change.

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

5:91-1.2 Definitions

...

"Days" means calendar days.

...

5:91-1.3 Waiver

Any party desiring a waiver or release from the express provisions of the regulations in this chapter may submit a written request to the Council to the attention of the Executive Director. Waivers may be granted only by the Council where such waiver would not contravene the provisions of the Act.

5:91-2.1 Form

(a) (No change.)

(b) Notice: At the time it files a resolution of participation, or at the time these regulations are promulgated, whichever is later, each participating municipality shall provide notice that it has submitted such a resolution to any interested party which has requested to receive such notice. Requests for notice under this chapter are to be in writing and served upon the municipal clerk by certified mail.

(c) (No change.)

5:91-3.1 Development of housing element

(a) General: A municipality which files a resolution of participation within four months after the effective date of the Act shall, within five months after the Council's promulgation of its substantive criteria and guidelines, prepare and file with the Council a housing element and any fair share housing ordinance introduced and given first reading and second reading in a hearing pursuant to N.J.S.A. 40:49-2 which implements the housing element. All requests for notice, or copies of submission, as hereafter provided, are to be in writing and served upon the municipal clerk by certified mail.

(b) (No change.)

(c) Objectors: Within 15 days of receipt of a municipality's letter of intent, any interested party or potential objector shall file with the Council and the municipality a statement of those portions of the report to which ***[is]* *it*** objects, and shall state the reasons therefor.

(d)-(f) (No change.)

5:91-5.1 Objection

(a) General: Within 45 days of publication of the notice of a municipality's petition for substantive certification, any person may file objections with the Council and the municipality. These objections shall be in a form as may be determined by the Council and shall include at least:

1.-5. (No change.)

(b) (No change.)

5:91-7.1 General

(a) (No change.)

(b) The Council shall determine the method, amount and other details of compensation for any private mediator retained. Payment of such a mediator's compensation shall be shared equally by the municipality and the objectors.

5:91-13.3 Affidavits; Briefs and supporting statements

Motions and answering papers shall be accompanied by all necessary supporting affidavits and briefs or supporting statements. A party shall submit an original and ***[12]* *16*** copies of all motions and answering papers, and papers in support. All motions and answering papers shall be supported by affidavits for facts relied upon which are not of record or which are not the subject of official notice. Such affidavits shall set forth only facts to which the affiants are competent to testify. Properly verified copies of all papers or parts of papers referred to in such affidavits may be annexed thereto.

5:91-13.4 Time for serving and filing motions and affidavits or briefs

A notice of motion shall be served and filed not later than 20 days before the time specified for the return date unless otherwise ordered by the Council. All motions, except for those which seek emergent relief, shall be made returnable on the regularly scheduled meeting days of the Council. A party seeking emergent relief shall contact the Executive Director to arrange for an emergency hearing by the Council. If a motion is supported by affidavit or brief, the affidavit or brief shall be served and filed with the motion. Any opposing affidavits or briefs, or any cross-motions, shall be served and filed not later than 10 days before the return date. Answers or responses to any opposing affidavits or briefs, or to any cross-motions, shall be served and filed not later than five days before the return date unless the Council otherwise orders.

EDUCATION

(c)

STATE BOARD OF EDUCATION

School Facility Planning Services

Application of Uniform Construction Code

Substandard School Facilities

Notice of Correction: N.J.A.C. 6:22

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

Authority: N.J.S.A. 18A:1-1 and 4:15.

Take notice that the **summary of public comments** for the public notice of adoption for N.J.A.C. 6:22-1.1 et seq. at 18 N.J.R. 1457(b) is amended

to read as follows (deletions shown in brackets [thus]; additions shown in boldface thus):

"Written comments were received from 13 organizations. All were supportive of the intent to assure safe and healthy facilities for New Jersey students. Concerns were expressed, however, on specific requirements of the code as follows:"

1. through 10. (No change in text.)

"Responses of the Department of Education to the above comments were as follows:"

1. through 6. (No change in text.)

"7. The Department responded by establishing two separate timelines that apply to units placed in service prior to and subsequent to the code adoption. The 30-day limit for the correction of deficiencies was retained for units approved after the adoption of the proposed code; however, owners of units in use prior to the adoption will [not] now be given three years to upgrade or abandon them. This is the same requirement as for all other substandard facilities in NJ."

8. through 10. (No change in text.)

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF SOLID WASTE MANAGEMENT Closure and Post-Closure of Sanitary Landfills Adopted Amendment: N.J.A.C. 7:26-2.9

Proposed: November 3, 1986 at 18 N.J.R. 2170(b).

Adopted: January 21, 1987 by Richard T. Dewling,

Commissioner of Environmental Protection.

Filed: January 27, 1987 as R.1987 d.117, **without change.**

Authority: N.J.S.A. 13:1E-6, 13:1E-9, and 13:1E-114.

Effective Date: February 17, 1987.

Expiration Date: November 4, 1990.

DEP Docket No. 044-86-10

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

7:26-2.9 Closure and post-closure care of sanitary landfills

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

(f) The Closure and Post-Closure Financial Plan shall meet the following specific requirements.

1.-3. (No change.)

4. The Financial Plan shall take into consideration the effect of inflation on closure and post-closure expenses. Unless otherwise approved, the owner or operator shall calculate the latest closure cost estimate using a calculated adjusted inflation factor derived from the annual Implicit Price Deflator for the Gross National Product as published by the U.S. Department of Commerce in its "Survey of Current Business." The adjusted inflation factor shall be the 10-year moving average inflation rate (average annual percentage) for the most current 10-year period of Gross National Product Implicit Price Deflators, for example, 1974 compared with 1984 or 116.50 compared with 223.43 which yields a 6.73 percent average annual percentage change. The adjusted annual closure cost estimate shall equal the latest closure cost estimate times the adjusted average inflation factor.

5. (No change.)

(g) Pursuant to N.J.S.A. 13:1E-100 et seq., the requirements for the escrow account are as follows:

1.-18. (No change.)

19. The owner or operator of every sanitary landfill must arrange, with the financial institution wherein the funds are to be deposited, for a monthly statement of the escrow account to be sent to Landfill Closure Escrow Account, Office of Special Funds Administration, Department of Environmental Protection, CN 402, 428 East State Street, Trenton, New Jersey 08625; provided, however, the Department may at its discretion upon written petition from the owner or operator relieve the owner or operator from the requirement for the monthly statement of the escrow account and substitute a quarterly (that is, once every three months)

statement requirement therefor if it determines that monthly reporting on an account of less than \$25,000 would impose an unnecessary burden on the financial institution;

20. (No change.)

21. The owner or operator of every sanitary landfill facility shall file, on or before the 20th of every month, with the Office of Special Funds Administration, Landfill Closure Escrow Account, Department of Environmental Protection, CN 402, 428 East State Street, Trenton, New Jersey 08625, a statement showing the exact amounts of all solid waste accepted for disposal during the preceding month, the total amounts of solid waste received calendar year-to-date, the funds deposited in and withdrawn from the escrow account for the particular sanitary landfill during the current month, interest accrued, escrow account balance, and the total calendar year-to-date funds deposited in and withdrawn from the escrow account. These statements shall be filed on forms provided by the Department; provided, however, the Department may at its discretion upon written petition from the owner or operator relieve the owner or operator from the requirement for monthly reports and substitute a quarterly (that is, once every three months) reporting requirement therefor, if it determines that the monthly reporting on an account of less than \$25,000 would impose an unnecessary burden on the owner or operator.

HEALTH

(b)

Public Health Council Chapter X—State Sanitary Code Collection, Processing, Storage and Distribution of Blood

Adopted Amendments: N.J.A.C. 8:8-1.2 and 6.2

Adopted New Rule: N.J.A.C. 8:8-5.5

Proposed: November 17, 1986 at 18 N.J.R. 2280(a).

Adopted: January 12, 1987 by Evelyn Geddes, Chairperson,
Public Health Council.

Filed: January 26, 1987 as R.1987 d.111, **with technical changes**
not requiring additional public notice and comment (see
N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 26:1A-7 and 26:2A-7.

Effective Date: February 17, 1987.

Expiration Date: May 21, 1989.

Summary of Public Comments and Agency Responses:

A public hearing concerning the proposal was held on January 12, 1987 at the Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey. One verbal comment was offered at this hearing. In addition, one written comment was received during the public comment period which closed on December 17, 1986.

COMMENT: The terms "reactive", "serologic evidence" and "positive test results" are used interchangeably in the text. It is suggested that under definitions for N.J.A.C. 8:8-1.2, the meaning of these terms be clearly defined and that the wording in N.J.A.C. 8:8-5.5 be modified to reflect these changes.

RESPONSE: These terms were not defined in the rules because advances in test technology may necessitate rapid changes in acceptable procedures and therefore in the definitions associated with the results therefrom. To allow for the flexibility in the rules necessary to accommodate these changes, it was decided not to define these terms according to their present use. It is the Department's intention to define these terms in guidelines developed with the assistance of the Blood Banking Community. These guidelines can then be revised, whenever, technology or scientific evidence warrants.

COMMENT: A statewide deferral list for HIV reactive donors should not be developed.

RESPONSE: At present, the State has no intention to require or develop statewide HIV deferral lists. Should future developments indicate the need for such lists then the matter will be presented to the Public Health Council for discussion. Additionally, the sole reference to such a list has been deleted by removing the phrase, "and may, if deemed appropriate by the Department, a confidential statewide deferral list" from N.J.S.A. 8:8-5.5(g)2.

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

8:8-1.2 Definitions

...
"HIV" means the Human Immunodeficiency Virus, formerly known as the Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus, (HTLV-III/LAV).
...

8:8-5.5 AIDS screening requirements

(a) All blood and blood components collected in New Jersey are subject to the requirements of this section.

(b) Educational material must be given to the blood donors prior to the collection of blood which will allow donors to determine whether or not they have engaged in high risk behavior.

(c) All donors including those utilized in hemapheresis, must be screened by history for the early signs and symptoms of AIDS.

(d) The collecting agency must ensure that all blood and blood components collected in New Jersey, including those obtained from hemapheresis, be screened for HIV as specified in N.J.A.C. 8:8-7.2(b)3. Laboratory tests not performed by the collecting facility must be referred to a blood bank or laboratory approved to perform HIV testing by the Department or which possesses a Federal interstate license to perform HIV testing. It shall be the responsibility of the receiving blood bank to assure any blood brought in from out-of-state sources is tested for HIV. Autologous blood need not be tested if the blood is used only for that purpose. If the blood is used for homologous transfusion, it must be tested as all other blood and blood components.

(e) Blood and blood components that are positive, as currently defined by the Department, to a serologic test for HIV or collected from a donor known to be positive to a serologic test for HIV shall either be discarded or used for research purposes only.

(f) All blood and blood components including those obtained from hemapheresis shall be labelled relative to HIV testing.

(g) Prior to a donation of blood or blood component each donor shall be notified in writing and shall have signed a written statement confirming that:

1. The blood or blood components shall be tested for evidence of the probable causative agent of acquired immune deficiency syndrome.

2. Donors found to have serologic evidence of HIV shall be placed on a confidential internal deferral list *[and may, if deemed appropriate by the Department, a confidential statewide deferral list]*.

3. The donor shall be notified of the test results in accordance with requirements described in (i) below.

4. Blood or blood components shall not be donated for transfusion purposes by a person if the person has reason to believe that he or she has engaged in high risk behavior.

(h) A blood bank or plasma center shall incorporate a confidential voluntary means of self deferral for donors.

(i) All blood banks must notify the donor of results when there is serologic evidence of the probable causative agent of AIDS as currently outlined by the Department.

(j) Relative donors must be notified and counseled in person. Every effort shall be made to accomplish face to face notification and counseling.

(k) Blood banks must maintain records pertaining to all HIV requirements and test results. These records must be kept in a confidential manner.

(l) Testing facilities shall participate in a proficiency program acceptable to the Department.

8:8-6.2 Processing

(a) (No change.)

(b) All laboratory tests shall be made on specimens of blood taken from the donor at the time of phlebotomy in proper identified tubes.

1.-2. (No change.)

3. Human immunodeficiency virus:

i. Each donation of blood or blood component shall be tested by serologic test(s) for HIV approved for such use by the Department.

ii. The blood or blood components shall not be used for transfusion purposes unless results of test(s) are clearly negative, except where delay occasioned by testing may result in a serious threat to the health and well-being of the recipient.

iii. In instances where untested blood or components are transfused, the attending physician shall attest in writing to the existence of an

emergency and if the test is subsequently positive, the recipient's physician must be notified.

ReNUMBER existing 3.-6. as 4.-7. (No change in text.)

(a)

LOCAL AND COMMUNITY HEALTH SERVICES**Mobile Intensive Care Programs****Administration of Medications****Adopted Repeal: N.J.A.C. 8:31-25.1****Adopted New Rule: N.J.A.C. 8:41**

Proposed: April 7, 1986 at 18 N.J.R. 602(a).

Adopted: January 21, 1987 by Molly Joel Coye, M.D.,

Commissioner, Department of Health.

Filed: January 26, 1987 as R.1987 d.112, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 26:2K-7 et seq. and 26:1A-15.

Effective Date: February 17, 1987.

Expiration Date: February 17, 1992.

Summary of Public Comments and Agency Responses:**No comments received.**

The Department of Health, however, has made two changes to the rule upon adoption.

Nifedipine was initially proposed prematurely to be included on the list. The desired route for pre-hospital administration of Nifedipine is not currently approved by the F.D.A., therefore, it has been deleted from the list.

Glucagon is a drug many diabetic patients already have in their homes for self-administration. Therefore, to allow paramedics to administer this drug is not considered a substantive change. Glucagon has been added to the list.

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

CHAPTER 41

LICENSURE AND OPERATION OF MOBILE
INTENSIVE CARE UNITS: MANUAL OF STANDARDS

SUBCHAPTERS 1 THROUGH 7. (RESERVED)

SUBCHAPTER 8. ADMINISTRATION OF MEDICATIONS

8:41-8.1 Approved drug list for mobile intensive care units

(a) The following is an alphabetical list of generic therapeutic agents authorized for administration by mobile intensive care paramedics:

Aminophylline
Atropine sulfate
Bretylum tosylate
Calcium chloride
Dextrose, 50 percent
Dextrose, five percent in water
Dextrose, five percent in water and normal saline
.45 percent
Dexamethasone sodium phosphate
Diazepam
Diphenhydramine HCL
Dopamine HCL
Epinephrine
Furosemide
Glucagon
Ipecac syrup
Isoetharine HCL
Isoproterenol HCL
Lidocaine HCL
Metaproterenol sulfate
Morphine sulfate
Nalbuphine HCL—one year period only
Naloxone HCL
[Nifedipine]
Nitroglycerin

Nitroglycerin ointment
Normal saline
Oxygen
Procainamide HCL
Ringer's lactate
Sodium bicarbonate
Terbutaline sulfate
Thiamine HCL
Verapamil HCL

8:41-8.2 Applicability of laws and regulations

(a) As an extension of the hospital, the mobile intensive care units shall be subject to applicable laws and regulations.

(b) All policies and procedures regarding the control of drugs shall be subject to provisions of the Controlled Dangerous Substances Act (N.J.S.A. 24:21-1 et seq.) and amendments thereto. The policies and procedures shall be in compliance with all Federal and State laws and regulations, including those of the New Jersey State Board of Pharmacy, concerning procurement, storage, dispensing, administration, and disposition (N.J.A.C. 13:39-7.5).

(c) Policies and procedures regarding the storage, use, and disposition of hypodermic needles and syringes shall be in accordance with the New Jersey State Board of Pharmacy rule N.J.A.C. 13:39-7.19(m)6 and the Controlled Dangerous Substances Act and amendments thereto.

8:41-8.3 Medication controls, inventory, and recordkeeping required

(a) Each designated mobile intensive care program shall devise a plan for maintaining inventory control over medications, including all substances in Schedule II of the Controlled Dangerous Substances Act and amendments thereto, and syringes used in the program. The following information shall be recorded:

1. Name of the patient receiving the medication;
2. Name of the prescribing physician;
3. Name and strength of the drug;
4. Date drug package was given to the mobile intensive care unit;
5. Date the drug was administered;
6. Dosage administered;
7. Method of administration;
8. Signature of the paramedic or mobile intensive care nurse administering the drug; and
9. Amount of medication wasted, if any.

(b) A verifiable record system shall be maintained of the acquisition, storage, and disposal of hypodermic needles and syringes.

(c) Records on the administration of any therapeutic agent shall be maintained by the paramedic or mobile intensive care nurse on a written log, setting forth the date, time, drugs or therapeutic agents administered, directions for administering, quantity and strengths to be indicated where appropriate. All entries shall be typewritten or written in ink, legible, dated and signed by the paramedic or mobile intensive care nurse. All orders are to be countersigned and dated within 24 hours by the physician who directed the call.

(d) All medications are to be kept in a locked storage box or compartment. All substances in Schedule II of the Controlled Dangerous Substances Acts, and amendments thereto, shall be kept under double lock and key. Medications for external use are to be kept in a separate section from medications for internal use. Keys to the medications box or compartment shall be available only to authorized persons.

(e) In the event that the inventories to a particular mobile intensive care unit cannot be verified or drugs are lost, contaminated or destroyed, a report of such incident is to be written and signed by the paramedics or mobile intensive care nurses involved and any witnesses present. Copies of the report are to be sent for review to the coordinator and medical director of the program.

(f) All voice or telemetered orders between the hospital and mobile intensive care units shall be monitored by recording tape and retained by the hospital for a period of at least two years.

HUMAN SERVICES

DIVISION OF YOUTH AND FAMILY SERVICES

(a)

Manual of Standards for Adoption Agencies

Adopted Amendment: N.J.A.C. 10:121A-2.2

Proposed: September 22, 1986, at 18 N.J.R. 1923(a).

Adopted: January 20, 1987 by Drew Altman, Ph.D.,

Commissioner, Department of Human Services.

Filed: January 20, 1987 as R.1987 d.106, **without change**.

Authority: N.J.S.A. 9:3-37 et seq.

Effective Date: February 17, 1987.

Expiration Date: August 6, 1987.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

10:121A-2.2 Issuance of Certificate of Approval

(a) (No change.)

(b) Each certification period, which may include the issuance of one or more temporary certificates and/or one regular certificate, shall be two years.

1. In determining the expiration date of the first regular certificate, the Bureau shall compute the two year period of certification from the date of issuance of the first temporary or regular certificate.

2. In determining the expiration date of a renewed regular certificate, the Bureau shall compute the two year period of certification from the date on which the agency's previous regular certificate expired, unless the agency ceased to operate for a period of at least six months following the expiration date of its previous regular certificate.

(c)-(e) (No change.)

INSURANCE

DIVISION OF ADMINISTRATION

(b)

Prohibition of Certain Cancellation and Nonrenewal Activity Penalties

Adopted Amendment: N.J.A.C. 11:1-22.3

Proposed: December 15, 1986 at 18 N.J.R. 2414(a).

Adopted: January 26, 1987, by Kenneth D. Merin,

Commissioner, Department of Insurance.

Filed: January 26, 1987 as R.1987 d.113 **with technical changes** not requiring additional public notice and comment (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22-6.14(a)1, 2 and 3, 17:29C-1 et seq., 17:29A-1 et seq., 17:29AA-1 et seq., and 17:29B-4.

Effective Date: February 17, 1987.

Expiration Date: July 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows (additions to proposal are underlined with asterisks *thus*; deletions from proposal are in brackets with asterisk *[thus]*).

SUBCHAPTER 22. PROHIBITION OF CERTAIN CANCELLATION AND NONRENEWAL ACTIVITY

11:1-22.1 through 22.2 (No change.)

11:1-22.3 Penalties

(a) In addition to any other penalty authorized by law, the Commissioner may, after notice and a hearing, impose penalties as

[proscribed] *prescribed* by N.J.S.A. 17:29A-1 et seq., 17:29AA-1 et seq., 17:29B-7 and 11, 17:30C-1 et seq., 17:32-1 et seq. and 17:33-2.

(b) As an alternative or in addition to the penalties set forth in (a) above, the Commissioner, where he deems such action will further the purposes of this subchapter, may require immediate reinstatement without lapse of any policy which has been *[terminated]* *nonrenewed or cancelled* in violation of the provisions of this subchapter.

1. The Commissioner shall not order any reinstatement more than one year after the effective date of the nonrenewal or cancellation, provided, however, that the one year period shall be tolled during the course of any administrative proceedings initiated by the Department and any subsequent judicial review of those proceedings.

2. Nothing herein shall be deemed to create any right or cause of action on behalf of any insured to enforce the penalties set forth in this subsection.

11:1-22.4 (No change.)

(a)

Cancellation and Nonrenewal of Commercial Insurance Policies

Prohibition of Certain Cancellation and Nonrenewal Activity

Adopted Amendments: N.J.A.C. 11:1-20.1, 20.2, 20.3, 20.4 and 20.11; 11:1-22.1 and 22.2

Adopted New Rules: N.J.A.C. 11:1-20.5, 20.6, 20.7 and 20.8

Proposed: November 17, 1986 at 18 N.J.R. 2301(b).

Adopted: January 16, 1987, by Kenneth D. Merin, Commissioner, Department of Insurance.

Filed: January 26, 1987 as R.1987 d.114, with portions of the proposal **not adopted** and with **technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22-6.14(a)1, 2 and 3, 17:29A-1 et seq., 17:29AA-1 et seq., 17:29B-4 and 17:29C-1 et seq.

Effective Date: February 17, 1987.

Expiration Date: July 7, 1988.

Summary of Public Comments and Agency Responses:

The Department received two public comments from insurers regarding its proposed amendments to N.J.A.C. 11:1-20 and 22 concerning the cancellation and nonrenewal of commercial insurance policies and the prohibition of certain cancellation and nonrenewal activity. One insurer indicated that the Department's proposal, in general, constituted a positive step toward restoring necessary underwriting flexibility to insurers. The writer felt that the amendments would promote maintenance of a healthy, competitive commercial lines marketplace in this State. Both commenters offered certain specific suggestions regarding the proposal or requested clarification of various provisions. The commenters' specific recommendations follow.

COMMENT: One insurer objected to the proposed amendments to N.J.A.C. 11:1-20.1(j) which require that where an insurer has failed to provide advance notice of the renewal premium and any changes in contract terms, as specified at N.J.A.C. 11:1-20.1(c), it must continue to provide coverage at the terms and premium applicable to the expiring policy. The writer asserted that this provision imposes an unduly harsh penalty on insurers. The insurer argued that no penalty should be imposed on an insurer which sends a later renewal notice if the insurer finds the proposed renewal terms acceptable. The insurer, however, acknowledged that the insured should be protected in the event that the renewal terms are unacceptable and the insured elects to replace coverage. The commenter suggested language for the rule designed to implement this intent.

RESPONSE: The Department believes that this writer has misconstrued the purpose of the proposed amendment and, as a result, inappropriately views its requirements as imposing some additional penalty on insurers. In fact, the amendments are designed to clarify the intent of the provision and to check possible abuses.

N.J.A.C. 11:1-20.1(j) places an affirmative obligation on the insurer to apprise the policyholder of its intentions with respect to an expiring policy, either through the issuance of a proper notice of nonrenewal, or

by advising the insured of its willingness to renew the contract. With regard to the latter, prior notice of the premium charge that will be applicable to the new policy and any changes in contract terms constitute essential elements of proper notice.

The Department rejects the notion that the "acceptability" to the policyholder of the renewal premium and contract terms relieves an insurer of its responsibility to afford advance notice of these items or justifies their retroactive application. The acceptability of the renewal offer may hinge on factors entirely outside the insured's control, such as the current availability of replacement coverage.

COMMENT: An insurer commented that N.J.A.C. 11:1-20.4(c), which states that an insurer may use only the specific language of the approved underwriting guidelines as set forth in subsection (b), appears unnecessary in view of the flexibility granted insurers under subsection (d) to adopt and use any guideline for cancellation or nonrenewal, provided such guidelines is not arbitrary, capricious or unfairly discriminatory. The writer further argued that an insurer should not incur the risk of having a notice of termination invalidated simply because it unknowingly or unintentionally altered a word or two of the guideline in its notice of termination. The commenter suggested modifying the provision to indicate that an insurer may use the specific language of the underwriting guidelines set forth in subsection (b) or substantially similar language.

RESPONSE: The Department does not concur with the view expressed by this commenter. N.J.A.C. 11:1-20.4(b) provides insurers with a list of guidelines that have been deemed by the Commissioner to comply with statutory standards. Reproduction of the language of the guideline in the notice of termination is a purely mechanical function which insurers should not find unduly burdensome. Further, specific authorization in the rule for the use of "substantially similar" language introduces an unnecessary element of subjectivity into the termination process and undercuts the purpose of this provision.

COMMENT: One writer requested clarification regarding N.J.A.C. 11:1-20.4(g) and (h) which set forth requirements pertaining to the implementation of newly adopted underwriting guidelines. Specifically, the commenter indicated that its interpretation of these provisions permits an insurer to use a newly adopted guideline for nonrenewal immediately upon its adoption to nonrenew any policy with an expiration date subsequent to the guideline adoption date. For example, the writer believed that these provisions would permit an insurer to use an underwriting guideline that it adopted with an effective date of July 1, 1987 as a basis for the nonrenewal of a policy with an expiration date of September 1, 1987. The writer requested confirmation of its position.

RESPONSE: The commenter's interpretation of these provisions is incorrect. As N.J.A.C. 11:1-20.4(g) indicates, the only guidelines which may be applied by the insurer during a particular policy period are those which are in effect at the inception date of the original policy or any subsequent renewal thereof, as applicable. The language of the provision is unambiguous.

The purpose of subsection (g) and (h) is to ensure that the policyholder, by exercising his right to obtain copies of the insurer's current guidelines as provided at N.J.A.C. 11:1-20.3(a)9 may be aware of the termination standards that will be applicable during the forthcoming policy period.

To illustrate the proper interpretation of these provisions, using the examples offered by the commenter, a newly adopted guideline with an effective date of July 1, 1987 could only be applied to policies issued or renewed after that date. Accordingly, the insurer could not rely on that guideline to nonrenew a policy with a September 1, 1987 expiration date. The insurer could, however, apply the guidelines to nonrenew the policy, effective September 1, 1988.

COMMENT: An insurer complained that the reporting requirements set forth at N.J.A.C. 11:1-20.6(b) and 20.7(b) which concern individual risk terminations based upon either material increase in exposure arising out of changes in statutory or case law or loss of or substantial changes in applicable reinsurance, respectively, are unduly burdensome and unnecessary. The writer suggested that these requirements be removed and new provisions requiring insurers only to maintain internal documentation regarding such cancellations and nonrenewals be incorporated into the rule instead. The insurer suggested that companies could then be required by regulation to make this internal documentation available in the Insurance Department in contested cases. Finally, the insurer noted that these provisions do not suggest the ramification to the company of failure to properly or timely notify the Insurance Department of terminations of individual policies.

RESPONSE: The reporting standards of N.J.A.C. 11:1-20.6(b) and 20.7(b) are drawn from the Department's Bulletin No. 86-3 which was issued on July 24, 1986. Since that time, the Department has not received

evidence from insurers that are subject to the Bulletin's requirements indicating that compliance would prove unduly burdensome. Accordingly, the Department finds this commenter's complaints to be unsupported. With respect to the ramifications of noncompliance, the Department refers the writer to the penalty provision of the rule.

COMMENT: One writer requested clarification concerning the penalty provision set forth at N.J.A.C. 11:1-20.11. Specifically, the writer viewed this provision as applying to violations of the subchapter other than violations of N.J.A.C. 11:1-20.4(a) concerning cancellation and nonrenewal underwriting guidelines. The insurer believed that N.J.A.C. 11:1-20.4(i), which sets forth the procedure to be utilized by the Commissioner in prescribing the use of an insurer underwriting guideline found to be arbitrary, capricious or unfairly discriminatory was as an exclusive remedy. The insurer sought confirmation of its position in this matter.

RESPONSE: The commenter has misinterpreted the relationship between these provisions of the regulation. N.J.A.C. 11:1-20.4(i) simply provides a specific mechanism through which the Commissioner may determine that an underwriting guideline adopted by an insurer is arbitrary, capricious or unfairly discriminatory and may prescribe its use. Disapproval of the guideline is not an exclusive remedy, and violations of the provisions of N.J.A.C. 11:1-20.4 are actionable under N.J.A.C. 11:1-20.11. It should be noted that the language of the penalty section makes reference to "violations of the provisions of this subchapter."

COMMENT: One insurer complained that the review period set forth at N.J.A.C. 11:1-20.4(l), which is mentioned also at N.J.A.C. 11:1-20.3, should be extended from 60 to 90 days. The writer noted that amendments to N.J.A.C. 11:1-20 proposed by the Department on July 21, 1986, contained such an extension. The writer argued that allowing insurers additional time to review new business will reduce unnecessary cancellation notices.

RESPONSE: The amendment referred to by this commenter was proposed by the Department to address concerns voiced by insurers during earlier rulemaking proceedings and to provide an opportunity for the submission of supporting data. The Department received little objective evidence supporting a widespread need for an extended review period. The July 21, 1986 proposal was subsequently withdrawn and superseded by the present proposal.

COMMENT: One commenter made note of typographical errors in the proposal at N.J.A.C. 11:1-20.4(j) and 11:1-20.5(a)3.

RESPONSE: The adopted text reflects the correction of these errors. Finally, as a result of internal review of the proposal, the Department is making certain amendments to the adopted rule which are of a technical nature. Correction of certain other typographical errors are also reflected in the adopted text.

Also, the text of N.J.A.C. 11:1-22.3 as proposed as part of this proposal at 18 N.J.R. 2305 has not been adopted herein. The adopted text of N.J.A.C. 11:1-22.3 may be found in a related Notice of Adoption in this Register.

Full text of the adoption follows.

SUBCHAPTER 20. CANCELLATION AND NONRENEWAL OF COMMERCIAL INSURANCE POLICIES

11:1-20.1 Scope

(a) This subchapter shall apply to all commercial insurance policies which are in force, issued or renewed on or after the effective date of this subchapter by companies licensed to do business in this state except workers' compensation insurance, employers' liability, fidelity, surety, performance and forgery bonds, ocean marine and aviation insurance and accident and health insurance and any policy written by a surplus lines insurer. With the exception of N.J.A.C. 11:1-20.3 and 11:1-20.4(d), this subchapter shall not be applicable to multi-state location risks or policies subject to retrospective rating plans.

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

11:1-20.2 Nonrenewal and cancellation notice requirements

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

(c) With respect to payment of the renewal premium, notice of the amount of the renewal premium and any change in contract terms shall be given to the insured in writing not more than 120 days nor less than 30 days prior to the due date of the premium and shall clearly state the effect of nonpayment of the premium by the due date.

(d)-(i) (No change.)

(j) For the purposes of this subchapter, if an insurer fails to send a notice of nonrenewal as required by this subchapter or fails to issue and deliver a policy replacing at the end of the policy period a policy previous-

ly issued and delivered by the insurer, or fails to issue and deliver a certificate or notice extending the term of the policy beyond its policy period or term or fails to provide notice of renewal as specified at (c) above, the insured shall be entitled to continue the expiring policy at the same terms and premium until such time as the insurer shall send appropriate notice of termination or renewal under this subchapter. Nothing in this subchapter shall prohibit an insurer from replacing its policy with a policy issued by another insurer with which it is under common management and control, provided the insurer obtains its policyholder's consent to do so and maintains records of such actions.

(k) (No change.)

(l) An insurer may in writing delegate to its appointed agent or to another person or legal entity the performance of any or all of the notice functions set forth in this section. However, delegation of these functions by the insurer to any person or entity shall not relieve the insurer of its responsibilities hereunder. No notice, whether provided by the insurer directly or through a person or entity authorized to act on the insurer's behalf, shall be deemed effective unless provided in conformance with the requirements of this section.

11:1-20.3 Policy provisions relating to cancellation or nonrenewal

(a) All commercial insurance policy forms issued or renewed on or after 60 days from the effective date of this subchapter must contain a provision setting forth the following statement:

"Pursuant to New Jersey law, this policy cannot be cancelled or nonrenewed for any underwriting reason or guideline*[s]* which is arbitrary, capricious or unfairly discriminatory or without adequate prior notice to the insured. The underwriting reasons or guidelines that an insurer can use to cancel or nonrenew this policy are maintained by the insurer in writing and will be furnished to the insured and/or the insured's lawful representative upon written request.

This provision shall not apply to any policy which has been in effect for less than 60 days at the time notice of cancellation is mailed or delivered, unless the policy is a renewal policy."

1. The policy provision language set forth at (a) above is mandatory and, notwithstanding any other law to the contrary, need not be submitted to the Department for approval.

11:1-20.4 Cancellation and nonrenewal underwriting guidelines

(a) No insurer may cancel or nonrenew a policy based upon underwriting guidelines which are arbitrary, capricious or unfairly discriminatory.

(b) The following guidelines are approved for use by insurers:

1. Nonpayment of premium;
2. Moral hazard, as defined at N.J.A.C. 11:1-20.2(f);
3. Material misrepresentation or nondisclosure to the company of a material fact at the time of acceptance of the risk;
4. Increased hazard or material change in the risk assumed which could not have been reasonably contemplated by the parties at the time of assumption of the risk;

5. Substantial breaches of contractual duties, conditions or warranties that materially affect the nature and/or insurability of the risk;

6. Lack of cooperation from the insured on loss control matters materially affecting insurability of the risk;

7. Fraudulent acts against the company by the insured or its representatives that materially affect the nature of the risk insured;

8. Loss of or reduction in available insurance capacity. For the purposes of this paragraph, loss of or reduction in available insurance capacity shall exist if:

i. An insurance department or court of competent jurisdiction has declared the insurer to be financially impaired or unsound, which shall include such actions as suspension, conservatorship, rehabilitation or liquidation; or

ii. Based upon information set forth in the insurer's annual statements, the insurer has experienced a significant deterioration in its financial condition during the most recent annual statement period resulting in its designation by the National Association of Insurance Commissioners as being in need of "immediate attention", and the insurer's:

(1) Ratio of net premium to surplus to policyholders has gone above four to one and its surplus to policyholders has fallen below 25 percent of net loss and loss expense reserves; or

(2) Ratio of net premium to surplus to policyholders has increased to at least six to one; or

(3) Ratio of net losses and loss reserves to surplus to policyholders has increased to at least six to one.

9. Material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance contract or any subsequent renewal thereof;

10. Loss of or substantial changes in applicable reinsurance. For the purposes of this paragraph, loss of or substantial changes in applicable reinsurance shall be deemed to exist if any of the following have occurred;

i. Termination by the reinsurer of treaty or facultative reinsurance affecting the individual risk or line, class or subclass of insurance, as applicable, proposed for cancellation and/or nonrenewal; or

ii. Substantial reductions in the amount of available reinsurance or other changes to such contracts which effectively prohibit the insurer from providing coverage at the same limits and terms as the existing policy; or

iii. Changes in the financial condition of the reinsurer which adversely affect its ability to honor its obligations. A change in the financial condition of the reinsurer shall be evidenced by an order issued by an insurance department or court of competent jurisdiction declaring the insurer to be financially impaired or unsound, which shall include such actions as suspension, conservatorship, rehabilitation or liquidation.

11. Failure by the insured to comply with any Federal, State or local fire, health, safety, building or construction regulation, law or ordinance with respect to an insured risk which substantially increases any hazard insured against within 60 days of written notification of a violation of any such law, regulation or ordinance;

12. Failure by the insured to provide reasonable and necessary underwriting information to the company upon written request therefor and a reasonable opportunity to respond; and

13. Agency termination, provided:

i. The insurer documents that replacement coverage at comparable rates and terms has been provided to the insured, and the insurer has informed the insured, in writing, of his or her right to continue coverage with the insurer; or

ii. The insurer has informed the insured, in writing, of his or her right to continue coverage with the insurer and the insured has agreed, in writing, to the cancellation or nonrenewal based upon the termination of his or her appointed agent.

(c) Only the specific language of the underwriting guidelines as set forth in (b) above is deemed to be approved by the Commissioner for use in the cancellation and nonrenewal of policies which are subject to the provisions of this subchapter.

(d) In addition to the approved guidelines set forth in (b) above, an insurer may use other guidelines for cancellation or nonrenewal provided such guidelines are not arbitrary, capricious or unfairly discriminatory.

(e) Any underwriting guideline or standard premised on adverse loss experience shall be limited in application to nonrenewals only and shall specifically identify the type of loss experience which supports and justifies the nonrenewal action.

(f) All underwriting guidelines or standards utilized by the insurer for the cancellation or nonrenewal of commercial lines coverages which are subject to the provisions of this subchapter shall be maintained by the insurer in writing and shall indicate the effective date(s) thereof. An insurer's underwriting guidelines shall be made available to the Department upon request.

(g) Only those guidelines which are in effect at the inception date of the original policy or any subsequent renewal of that policy, as applicable, may be utilized by the insurer to cancel or nonrenew during that policy period.

(h) The requirement of (g) above shall not be construed to limit an insurer's ability to modify from time to time its underwriting guidelines; however the modified guidelines only may be applied to policies issued or renewed subsequent to the effective date of such modification.

(i) If the Commissioner finds an underwriting guideline is being utilized by an insurer in an arbitrary, capricious or unfairly discriminatory manner, the Commissioner shall issue a preliminary order prohibiting the use of such a guideline in the proscribed manner and shall require such insurer to rescind any notice of cancellation or nonrenewal based on such application of the underwriting guideline which has not yet become effective pending a hearing. Following the hearing, if the preliminary order is sustained, the Commissioner shall prohibit further application of the guideline in the manner found to be arbitrary, capricious or unfairly discriminatory, except that, if the insurer can demonstrate to the Commissioner that it will be significantly prejudiced by the proscription, the Commissioner shall permit the continued application of that guideline, with respect to policies written prior to the date of preliminary order during a reasonable run-off period to be specified by the Commissioner

and not to exceed three years. If the preliminary order is not sustained, coverage which has been extended pending the hearing may be cancelled by the insurer in accordance with the provisions of N.J.A.C. 11:1-20.2.

(j) In the event that the Commissioner shall issue a preliminary order proscribing the manner in which an underwriting guideline is being used by an insurer, pursuant to (i) above, the insurer may request an expedited hearing on the Commissioner's preliminary order.

(k) With respect to retrospectively rated risks and multi-state location risks, insurers shall maintain records of those policies which are either cancelled or nonrenewed and the reasons upon which such termination was based.

(l) Nothing in this section shall prohibit an insurer from cancelling a policy or coverage which has been in effect for less than 60 days at the time notice of cancellation is mailed or delivered. Except as may be otherwise provided by statute, such cancellations shall be subject to the remaining provisions of this subchapter.

11:1-20.5 Cancellation or nonrenewal based on loss of or reduction in available insurance capacity

(a) Every cancellation or nonrenewal based upon loss of or reduction in available insurance capacity shall be supported by the following documentation:

1. A narrative description of the specific facts underlying the insurer's loss of or reduction in capacity.

2. Identification of the individual risk(s) or line, class or subclass of insurance, as applicable, proposed for termination and an explanation of the basis for the selection, which shall demonstrate that the insurer's selection is not arbitrary, capricious or unfairly discriminatory. An unsupported statement, such as "underwriting judgment", shall not constitute a valid explanation.

3. With respect to terminations subject to N.J.A.C. 11:1-22, an explanation of how the loss of or reduction in capacity affects the insurer's risks throughout the line, class or category of insurance proposed for cancellation and/or nonrenewal.

4. An explanation of why cancellation or nonrenewal is necessary to cure the capacity problem and why other measures, including but not limited to cessation of new business writings, do not present a viable alternative to termination of existing business; and

5. With respect to terminations subject to N.J.A.C. 11:1-22, an explanation of how the cancellation or nonrenewals will be implemented with respect to individual risks and the steps that will be taken to ensure that the cancellation/nonrenewal decisions will not be applied in an arbitrary, capricious or unfairly discriminatory manner.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter due to loss of or reduction in insurance capacity, the insurer shall furnish the Department with written notice of the termination. The notice shall include the information set forth at (a)1, 2 and 4 above and shall be mailed to the Department at the same time notice of termination is mailed or delivered to the insured.

11:1-20.6 Cancellation and nonrenewal based on changes in statutory or case law

(a) Every cancellation or nonrenewal based on material increase in exposure resulting from changes in statutory or case law subsequent to issuance of the insurance contract shall be supported by the following documentation:

1. Copies of or appropriate references to the applicable statute or case;

2. A narrative description of the changes resulting from the statute or case and how the changes affect the coverages provided under the contract to increase the insurer's exposure in a material fashion. The narrative should also document that the modification to policy coverages arising from the change in statutory or case law was such that it could not have been reasonably foreseen by the insurer;

3. Identification of the individual risk(s), line(s), class(es) or subclass(es) of insurance affected by the change in statutory or case law;

4. If all risks within the lines, classes or subclasses identified in item 3 above are not to be cancelled or nonrenewed, an explanation of the basis for selection of individual risk(s) or lines, classes or subclasses, as applicable, which shall demonstrate that such selection is not arbitrary, capricious or unfairly discriminatory;

5. Explanation of why cancellation and/or nonrenewal is necessary to cure the insurer's increased exposure and why other measures, including but not limited to, premium modification or revision of coverage limits or terms, do not present a viable alternative to termination.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter

due to material increase in exposure arising out of changes in statutory or case law, the insurer shall furnish the Department with written notice of the termination. The notice shall include the information set forth at (a)1, 2, 3 and 5 above and shall be mailed to the Department at the same time notice of termination is mailed or delivered to the insured.

11:1-20.7 Cancellation or nonrenewal based on loss of or substantial changes in applicable reinsurance

(a) Every cancellation or nonrenewal based on loss of or substantial changes in applicable reinsurance shall be supported by the following documentation:

1. All information set forth at N.J.A.C. 11:1-22.2(b)1 through 8;
2. Copy of termination notice or other notice reflecting substantial changes in applicable reinsurance;
3. Copy of order issued by insurance department or court of competent jurisdiction, where applicable; and
4. Name, address and telephone number of each reinsurer contacted by the insurer in its effort to obtain replacement coverage, name and title of each company representative contacted and the outcome.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter due to loss of or substantial changes in applicable reinsurance, the insurer shall furnish the Department with written notice of the termination. The notice shall include the information set forth at N.J.A.C. 11:1-22.2(b)2, 3, 4 and 7 and (a)2, 3 and 4 above.

(c) In lieu of cancellation or nonrenewal, insurers shall offer to continue the policyholder's coverage at limits which reflect at least the insurer's net retention as identified pursuant to (a) above. In no event shall the insurer's offer to continue coverage at reduced limits relieve it from requirements that are otherwise applicable to cancellations and nonrenewals under N.J.A.C. 11:1-22 or this subchapter.

11:1-20.8 Cancellation and nonrenewal based on agency termination

(a) Every cancellation or nonrenewal based on agency termination shall be supported by the following documentation:

1. Explanation of the basis for the insurer's termination of the agency contract;
2. Explanation of why the individual risk(s) or line, class or subclass, as applicable, of insurance must be cancelled or nonrenewed as a result of the agency termination and why coverage cannot or should not be continued through referral to another active agent of the insurer or written by the insurer on a direct basis;
3. Evidence of the provision of replacement coverage to the insured, where applicable;
4. Copy of the insured's statement consenting to the termination of coverage, where applicable; and
5. Copy of the written notice issued by the insurer advising the insured of his or her right to continue coverage with the insurer.

11:1-20.9 Policy provisions

No policy shall contain provisions which are inconsistent with the requirements of this subchapter.

11:1-20.10 Separability

If any provision of this subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

11:1-20.11 Penalties

(a) In addition to any other penalty authorized by law, the Commissioner may, after notice and a hearing, impose penalties as ***[proscribed]* *prescribed*** by N.J.S.A. 17:29A-1 et seq., 17:29AA-1 et seq., 17:29B-7 and 11, 17:30C-1 et seq., 17:32-1 et seq. and 17:33-2.

(b) As an alternative or in addition to the penalties set forth in (a) above, the Commissioner, where he deems such action will further the purposes of this subchapter, may require immediate reinstatement without lapse of any policy which has been ***[terminated]* *cancelled or nonrenewed*** in violation of the provisions of this subchapter.

1. The Commissioner shall not order any reinstatement more than one year after the effective date of the nonrenewal or cancellation, provided, however, that the one year period shall be tolled during the course of any administrative proceedings initiated by the Department and any subsequent judicial review of those proceedings.

2. Nothing herein shall be deemed to create any right or cause of action on behalf of any insured to enforce the penalties set forth in this subsection.

11:1-20.12 Duration

Unless earlier re promulgated by the Commissioner, this subchapter shall expire two years after it becomes effective.

SUBCHAPTER 22. PROHIBITION OF CERTAIN CANCELLATION AND NONRENEWAL ACTIVITY

11:1-22.1 Scope; definitions

(a) This subchapter shall apply to all commercial insurance policies which are in force, issued or renewed on or after the effective date of this subchapter by companies licensed to do business in this State except workers' compensation insurance and employers' liability, fidelity, surety, performance and forgery bonds, ocean marine and aviation insurance and accident and health insurance and any policy written by a surplus lines insurer. This subchapter shall not be applicable to multi-state location risks.

(b) (No change.)

(c) For the purposes of this subchapter, the terms "block" and "class" shall mean any group of insureds, however defined or designated, to which a common plan or program of cancellation or nonrenewal applies. A class may include one or more blocks.

11:1-22.2 Prohibitions

(a) (No change.)

(b) Notwithstanding (a)2 and (a)3 above, an insurer may cancel or nonrenew a line or class of business where such cancellation or nonrenewal is necessary because of loss or substantial changes in applicable reinsurance by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of cancellation or nonrenewal.

1. Any such plan shall contain a certification by an elected officer of the company:

Re number existing 1.-8. as i.-viii. (No change in text.)

2. Any plan for cancellation or nonrenewal due to loss of or substantial changes in applicable reinsurance may be submitted to the Department as provided at (b) above only if the guideline meets the standards set forth at N.J.A.C. 11:1-20.4(b)10. A plan for termination based on any other guideline for loss of or substantial changes in available reinsurance must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2 or 3, as applicable.

(c) Notwithstanding (a)2 and (a)3 above, an insurer may cancel or nonrenew a line or class of insurance based upon a material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance contract or loss of or reduction in available insurance capacity by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of cancellation or nonrenewal.

1. Any plan for cancellation or nonrenewal due to loss of or reduction in available insurance capacity may be submitted to the Department as provided at (c) above, only if the guideline meets the standards set forth at N.J.A.C. 11:1-20.4(b)8. A plan for termination based on any other guideline for loss of or reduction in available insurance capacity must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2 or 3, as applicable.

(d) Notwithstanding (a)2 and (a)3 above, an insurer may nonrenew a line or class of insurance based upon agency termination by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of nonrenewal.

1. Any plan for nonrenewal due to agency termination may be submitted to the Department as provided at (d) above only if the guideline meets the standards at N.J.A.C. 11:1-20.4(b)13. A plan for nonrenewal based on any other guideline for agency termination must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2.

11:1-22.4 Duration

Unless earlier re promulgated by the Commissioner, this subchapter shall expire two years after its effective date.

LABOR

DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY BENEFITS

(a)

Employer's Account Charged; Notice Adopted Amendment: N.J.A.C. 12:16-19.1

Proposed: August 18, 1986 at 18 N.J.R. 1682(a).
Adopted: January 15, 1987 by Charles Serraino, Commissioner,
Department of Labor.
Filed: January 15, 1987 as R.1987 d.104, **without change**.
Authority: N.J.S.A. 43:21-1, et seq.
Effective Date: February 17, 1987.
Expiration Date: April 1, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

12:16-19.1 Employer's account charged; notice
Benefits paid shall be entered and charged against the account of the employer to whom such determination relates, and when the benefit payment is made, the Division shall send notification to the employer against whose account the benefits are to be charged on a quarterly basis.

(b)

Work Relief and Work Training Programs Exempt Employment

Adopted New Rule: N.J.A.C. 12:16-20.1
Proposed: August 18, 1986 at 18 N.J.R. 1683(a).
Adopted: January 15, 1987 by Charles Serraino, Commissioner,
Department of Labor.
Filed: January 15, 1987 as R.1987 d.102, **without change**.
Authority: N.J.S.A. 43:21-1 et seq., specifically 43:21-11.
Effective Date: February 17, 1987.
Expiration Date: April 1, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

SUBCHAPTER 20. WORK RELIEF AND WORK TRAINING PROGRAMS

12:16-20.1 Work relief and work training programs: exempt employment
(a) In order to qualify for the exemption provided by N.J.S.A. 43:21-19(i)(1)(D)(v), an unemployment work-relief or work-training program that is financed or assisted in whole or in part by any Federal agency or an agency of a state or political subdivision of a State, must have as a minimum the following characteristics:
1. The employer-employee relationship is based more on the participants' and communities' needs than normal economic considerations such as increased demand or the filling of a bonafide job vacancy;
2. Qualifications for the jobs take into account as indispensable factors the economic status, that is, the standing conferred by income and assets, of the applicants;
3. The products or services are secondary to providing financial assistance, training, or work-experience to individuals to relieve them of their unemployment or poverty or to reduce their dependence upon various measures of relief, even though the work may be meaningful or serve a useful public purpose.
(b) In order to qualify as an exempt unemployment work-relief or work-training program, it must also have one or more of the following characteristics:
1. The wages, hours, and conditions of work are not commensurate with those prevailing in the locality for similar work;

2. The jobs did not, or rarely did, exist before the program began (other than under similar programs) and there is little likelihood they will be continued when the program is discontinued;
3. The services furnished, if any, are in the public interest and are not otherwise provided by the employer or its contractors;
4. The jobs do not displace regularly employed workers or impair existing contracts for services.

(c)

Registration for Work and Claims for Benefits Adopted New Rule: N.J.A.C. 12:17-2.2 Adopted Amendment: N.J.A.C. 12:17-2.4

Proposed: August 18, 1986 at 18 N.J.R. 1683(b).
Adopted: January 15, 1987 by Charles Serraino, Commissioner,
Department of Labor.
Filed: January 15, 1987 as R.1987 d.103, **without change**.
Authority: N.J.S.A. 43:21-4, 43:21-6, 43:21-11.
Effective Date: February 17, 1987.
Expiration Date: January 6, 1991.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

12:17-2.2 Claimant identification
(a) The Division shall require each claimant to present proper identification, including a valid Social Security Card and other documentation showing his or her legal name and address in order to file a claim for benefits.
1. In the event a claimant is unable to present his or her Social Security Card for verification or if departmental records indicate any discrepancies with the Social Security Account Number presented, the Division will require the claimant to obtain a duplicate Social Security Card and/or to resolve any discrepancies.
2. Any person who refuses or fails to cooperate with the Division in any effort to verify the validity of a Social Security Account Number, may, after being given the opportunity for a hearing, be held ineligible for benefits from the date of claim and liable to refund any benefits previously paid.
12:17-2.4 Forms prescribed for recording claims for benefits for unemployment
(a) Claims for benefits for unemployment shall be made on the forms prescribed by the Director, setting forth:
1. That the individual claims benefits and such other information as is required.
(b) The claim for benefits for unemployment shall constitute the individual's claim for benefits or waiting period credit.
(c) Continued claims for benefits for unemployment shall be made on the forms prescribed by the Director, setting forth:
1. That the individual continues his claim for benefits;
2. That he is unemployed;
3. That since the last day for which he claimed unemployment insurance benefits, he has performed no services and earned no wages except as indicated; and
4. Such other information as is required.
(d) The continued claim for benefits for unemployment shall constitute both the individual's claim for benefits or waiting period credit.
(e) In isolated areas, in cases of mass separation, or unemployment due to a labor dispute, continued claims for benefits for unemployment may be filed by mail on forms prescribed by the Director if the Division finds that the reporting or filing of continued claims in person is impracticable.

(a)

Employer Records and Evidence Concerning Partial Unemployment

Adopted Amendments: N.J.A.C. 12:17-3.1, 4.1, and 4.2

Proposed: August 18, 1986 at 18 N.J.R. 1684(a).
Adopted: January 15, 1987 by Charles Serraino, Commissioner, Department of Labor.
Filed: January 15, 1987 as R.1987 d.101, **without change**.
Authority: N.J.S.A. 43:21-4, 43:21-6, 43:21-11.
Effective Date: February 17, 1987.
Expiration Date: January 6, 1991.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

12:17-3.1 Weeks with reference to unemployment defined

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

"Week of partial unemployment" means a calendar week ending at midnight Saturday in which an individual is employed not more than 80 percent of the hours normally worked in that individual's occupation, profession, trade or industry; due to lack of work; and earns remuneration which does not exceed his weekly benefit rate plus 20 percent of such rate.

"Week of total unemployment" means a calendar week ending at midnight Saturday in which an individual performs no services and with respect to which he receives no remuneration.

12:17-4.1 Regular employee records

(a) In addition to the requirements set forth in N.J.A.C. 12:16-5.1 and 5.2, each employer shall keep his payroll records in such form that it would be possible from an inspection thereof to determine with respect to each regular employee in his employ who may be eligible for partial benefits:

1. Remuneration for each calendar week ending at midnight Saturday.
2. Whether any such period was a week of less than full-time work, as determined according to the norm or custom associated with the individual's occupation, profession, trade, or industry.
3. Time lost, if any, during such week when work was available.

12:17-4.2 Evidence of weekly partial unemployment

(a) In cases of less than full-time work, due to lack of work, when the remuneration payable by an employer to an individual in his employ does not exceed 120 percent of the maximum weekly benefit rate, the employer not later than the time when such remuneration is payable shall issue to the individual in writing a statement (in the form of a pay envelope, pay check stub, copy of pay check, or similar pay voucher) with respect to such calendar week ending at midnight Saturday which shall show the following information:

1.-5. (No change.)

(b) The number of hours which constitutes less than full-time work shall be construed to mean not more than 80 percent of the hours worked according to the norm or custom associated with the individual's occupation, profession, trade, or industry.

LAW AND PUBLIC SAFETY

(b)

BOARD OF ARCHITECTS

Landscape Architect Examination and Evaluation Committee

Continuing Education Requirements

Adopted Repeal and New Rule: N.J.A.C. 13:27-8.12

Proposed: December 1, 1986 at 18 N.J.R. 2367(a).
Adopted: January 8, 1987 by James Gaspari, R.A., President, New Jersey State Board of Architects.
Filed: January 15, 1987 as R.1987 d.105, **without change**.

Authority: N.J.S.A. 45:3-3 and 45:3A-15.

Effective Date: February 17, 1987.

Expiration Date: April 1, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adopted new rule follows.

13:27-8.12 Continuing education requirements; professional development

(a) Beginning on January 1, 1987, as a condition for renewal of a certificate of registration, the certificate holder shall be required to successfully complete 10 hours of continuing education within the two-year biennial renewal period.

(b) The continuing education requirements for renewal of a certification are 10 hours of continuing education for each two year period that certification is active. Three contact hours of continuing education/professional improvement constitutes one "hour." No more than five hours in excess of the required 10 hours may be credited to the succeeding certification period. Fractions of units are not acceptable. For example, a one-day symposium which has essentially three hours of instruction in the morning and three hours of instruction in the afternoon is credited with two hours. Likewise, an evening program of three hours would constitute one hour. Other examples:

<u>Breakdown of Specific Programs</u>	<u>Hours</u>
Rutgers Symposium	2
New Jersey ASLA Annual Meeting (2 days/12 contact hours)	4
ASLA National Annual Meeting (3 days/18 contact hours)	6
Three credit college/university course (45 contact hours)	15

(c) Only those hours earned at universities, seminars, conferences and continuing education programs offered for the purpose of keeping the certificate holder apprised of advancements and new developments in their profession will be acceptable. As a guideline, any of the areas tested within the Uniform National Examination (UNE), should be considered as acceptable course content, that is, professional practice, design (conceptual site design, planting design, comprehensive site design), or design implementation (grading, construction details, layout). Certificate holders shall submit in advance the name and a brief description of a proposed course 60 days prior to enrollment in such course to ensure acceptability of credits by the Committee.

(d) A report of continuing education completed by the certificate holder shall be filed with the Board on forms provided by the Board in December prior to the certificate renewal. The initial period will commence on January 1, 1987 and will require five units to be accumulated by December 31, 1987, which is to be reported to the Board in January of 1988 on the forms provided. Subsequent reporting of accumulated continuing education units will be on the two-year cycle and will require 10 units.

(e) The Board shall not renew the certificate of registration of any certificate holder who has failed to complete the continuing education requirements, and/or the form as provided by the Board. In the event a certificate holder fails to meet the continuing education requirements, the certificate will not be renewed until all delinquent credits have been accumulated to the satisfaction of the Committee and Board, and reinstatement fees for each two years or portion thereof in which the holder is in arrears have been paid, pursuant to N.J.S.A. 45:3A-12.

PUBLIC UTILITIES**(a)****BOARD OF PUBLIC UTILITIES****Administrative Orders**

Readoptions: N.J.A.C. 14:11-1.1, 1.5, 1.7, 1.10, 1.12, 1.13, 1.14, 5.1, 5.5, 5.6, 7.2, 7.4, 8.1 through 8.31, 8.33

Readopted with Amendments: N.J.A.C. 14:11-1.6, 1.15, 5.4, 5.7, 7.1, 7.3, 7.5, 8.32

Delete: N.J.A.C. 14:11-1.2, 1.3, 1.4, 1.8, 1.9, 1.11, 1.16, 1.17; 14:11-2, 3, 4; 14:11-5.2 and 5.3; 14:11-6 and 8.34

Proposed: December 15, 1986 at 18 N.J.R. 2425(b).

Adopted: January 23, 1987 by Board of Public Utilities, Barbara A. Curran, President.

Filed: January 27, 1987 as R.1987 d.116, with technical and substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-14, 48:2-15, 48:3-9, 48:17-14.1, 48:10-2, et seq.

Effective Date for Readoption: January 27, 1987.

Effective Date for Amendments and Repeals: February 17, 1987.

Expiration Date: January 27, 1992.

BPU Docket No. AX8611280.

Summary of Public Comments and Agency Responses:

The Board of Public Utilities received one telephone comment. The commentor questioned the accuracy of the proposed amendments to the first two sentences of N.J.A.C. 14:11-1.6(c)8. As a result of the comment, the wording of these two sentences has been corrected for clarity.

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

14:11-1.6 Proposed security issues

(a) The law at present casts upon the Board the responsibility of determining what security issues may be made by public utilities in the State of New Jersey (N.J.S.A. 48:3-9). The Board, after due hearing, or investigation, is required to approve proposed security issues; provided the Board be satisfied that proposed issues are in accordance with law, and provided the Board approves the purpose of said proposed issues.

(b) (No change.)

(c) Various cases involving the approval of proposed security issues have been acted upon by the Board under the law. An analysis of many of these cases discloses certain general principles upon which these applications should be determined. These general principles will control unless and until good reason can be shown for departing therefrom. For the information of public utilities petitioning or intending to petition for the approval of security issues, certain of these general principles are set forth as follows:

1.-2. (No change.)

3. Where approval of security issues is asked, and statement is made of the use to which proposed securities are to be put, the Board endeavors through its inspectors, engineers or other Board authorized representatives to determine that the proceeds of the securities whose issue is asked shall be reasonably commensurate with the property or services to be purchased therewith. Where the property whose acquisition is sought can be inventoried and appraised, such a course is followed with as much care and in such detail as under all the circumstances is possible. Where the property or services to be acquired cannot be physically inventoried, because not yet existent, such estimate is made on the basis of unit prices and otherwise, with as much care and in such detail as is possible under all the circumstances. Approval by the Board of such proposed issue of securities does not carry or imply any confirmation of the business or financial standing of the issuing corporation as a whole. It must be recognized that no care exercised in the way of approval by the Board at the time securities are issued can preclude the subsequent chance of poor management, dishonesty, or reckless and irresponsible ill-fortune, by which the assets of a public utility may be lessened or impaired. The

intent of the statute and the Board's action thereunder seek to preclude promotion or subsequent inflated issues. No statute and no administrative process, however, can relieve the investor of the obligations of prudence and vigilance. At the best they can but aid him in furnishing some grounds for the exercise of intelligent judgment.

4. (No change.)

5. Where a petition for Board's approval of a security issue contains provision for calling the securities at a premium before maturity, it is realized that in certain instances refunding of securities at a premium before maturity might effect such a reduction of fixed charges as to be advantageous both to the company and the consumers. Accordingly, the Board in approving security issues will not sanction redemption before maturity at a premium at the company's sole option; should the issuing company, however, reserve such right of redemption at a fixed premium before maturity subject to future approval by the Board after due hearing or investigation, the Board will consider in any case the inclusion of such provision in its formal order of approval.

6. (No change.)

7. Certain special cases of proposed security issues may arise under certain circumstances, some of which are set forth hereafter. In these special cases the general principles outlined above will be applied so far as seems equitable, and exceptions made only where the general principles enunciated therein would work inequitably. Among the special cases may be mentioned the following:

i. Where a bond issue has previously been sanctioned under a mortgage or deed of trust providing that all bonds issued thereunder shall be identical in tenor, and where some part of the authorized bonds has not yet been actually issued, in some cases the Board does not feel that it can impose, as a condition of authorizing a remaining and unissued part of the total issue authorized, requirements against redemption at a premium prior to maturity;

ii. Where petitions request authority to issue new securities in order to refund outstanding securities, the new securities, to issue, must conform to such requirements as would be imposed if the refunding securities were an original issue. The refunding debt and equity securities must be backed respectively by proportionate amounts of cash, or property of actual cash value. The refunding issues must afford the same likelihood of meeting their fixed charges and payment of the principal sum at maturity as is indicated in paragraph 6 of this subsection. Nor will agreements or contracts providing for refunding of security issues where such agreements or contracts were made prior to the enactment of Chapter 195 of the Laws of 1911, (now N.J.S.A. 48) be regarded by the Board as invalidating or overriding the authority over security issues vested in this Board by said Act. The power conferred upon this Board to disapprove proposed security issues not in accordance with law or whose purpose is not approved by the Board is expressly conferred by the Act of April 21, 1911 (Chapter 195, Laws of 1911). (now N.J.S.A. 48:3-9), and this power is not restricted by any other provision of the law governing public utilities, or corporations generally. All such agreements or contracts, however binding upon the individual parties thereto they might have been, in default of the Legislature's subsequently vesting power over proposed security issues in this Board, are not controlling so as to delimit the Board's action upon proposed security issues. For such outstanding securities as may legally have come into existence prior to the passage of the Act of April 21, 1911, this Board has no responsibility. But its authority is not delimited by expectations that may have been created by reason of agreements or contracts between private parties made prior to the enactment of the statute in question. Where the provisions of such agreements or contracts involve issue of new securities, they must be submitted to this Board.

8. The declaration of dividends in the form of stock by public utilities is permissible only in such cases as this Board *[after]* *with or without* hearing may authorize. To declare such a stock dividend *[with or]* without first obtaining the approval of the Board is a misdemeanor, and all such securities issued without the Board's approval are illegal. In general, the Board will approve the issue of stock dividends by public utilities only after hearing or investigation, and after being satisfied that as the outcome of such issues the property and other net assets of the company over and above other liabilities resting thereon shall be equal to the par or stated value of the total stock outstanding after such stock dividends have been made. Adequate depreciation reserves and surplus must also be provided by a public utility petitioning to issue a stock dividend, and a careful inquiry will be made by the Board into the methods by which were accumulated assets or property against which the

additional stock dividend is to be justified. In addition, the petition must contain a reasonably detailed inventory of its property used or useful, or held for future use and priced at original cost, estimated if not known.

9. For the information of all public utilities intending to petition this Board for the approval of proposed security issues, reference should be made to Board's rules. The requirements of this Order and the rules as to the form and content of petitions should be carefully observed. Petitions should be filed sufficiently in advance of the time at which approval of securities is desired to insure the Board's reasonable time to make the relevant inquiries. The larger the proposed issue, and the more complex the conditions surrounding it, the earlier should the petition be filed with the Board. The petitions will be acted upon hereafter in the order of their filing as indicated by the dating stamp of the Secretary's office. Petitions essentially defective in form or content will not be listed for consideration until properly amended. Where such petitions involve the necessity of inventorying property or checking accounts, the public utility applying for such authorization is requested to give such assistance as is within its power by putting its engineers, managers, and accountants in touch with the Board's inspectors, engineers or other Board authorized representatives. Where the annual reports required of public utilities have not been promptly filed as required by the rules of this Board, or where such accounts, when filed, disclose failure upon the part of the public utility to comply with the requirements of law or with the terms upon which previous security issues of said utilities has been approved by this Board, any subsequent petition for the approval of securities by a public utility shown to be default may be postponed until the requisite and legal compliance with the law and the lawful rules of this Board has been made by said public utility.

14:11-1.15 Sale or lease of property

(a) Where a property to be sold or leased has a book or market value not exceeding \$100,000 the petition for the sale or lease of said property, which shall be verified and supported by such proofs as may be required by the Board, shall be acted upon by the Board on the basis of a staff report signed by the executive officer of the Board or his assistant concurred in by one of the counsel assigned to the Board, containing:

1. A finding that the approval of the petition will not adversely affect the ability of the utility to properly serve the public or otherwise prejudice the public interest; and

2. A recommendation that the petition be approved without hearing. Where approval without hearing is not recommended, the petition will be placed on the Board's agenda for disposition.

(b) Regardless of the recommendation referred to in paragraph 2 of subsection (a) of this Section, the Board may, in its discretion, require that the petition for the sale or lease of property be placed on the Board's agenda for disposition.

14:11-5.4 All utilities
(No change in text.)

14:11-5.7 Accident reports privileged

Accident reports are for the sole use of the Board in determining what safety practices should be recommended and are not available as evidence in any collateral civil proceeding. In a proceeding before the Board, accident reports shall be evidential only at the discretion of the Board.

OFFICE OF ADMINISTRATIVE LAW NOTE: Sample Accident Form #501 entitled Autobuses and Street Cars and Report of Railway Accidents are deleted. The Sample Accident Report Form entitled All Other Utilities is amended to read All Utilities.

14:11-7.1 Scope

This Subchapter shall govern the arrangement, filing and posting of tariffs (that is, complete systems of schedules), schedules, rates, tolls and other charges, including standard terms and conditions, and special contracts, by public utilities.

14:11-7.3 Arrangement and form of filed schedules

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

(c) Each tariff shall consist of:

1. A standard title page;
2. A table of contents;
3. Municipalities or territories served;
4. The standard terms and conditions governing service; and
5. The set of rate schedules.

i. All rates at which a given kind of service (electric, gas, and so forth) is available throughout the service area of a utility shall be included in a single tariff. (General exchange, local exchange and toll service, and so forth, may be regarded as a separate kind of utility service for the

purposes of this provision.) The rates for each separate and distinct class of service rendered by a utility shall be filed as a separate schedule and shall whenever feasible and practical begin on a separate sheet.

(d) (No change.)

(e) Each sheet of every tariff shall bear a sheet number (or section and sheet number) which shall be placed in the upper right-hand corner of the sheet in a position opposite the name of the company, except that, where separate sheets are filed for each of a given number of specified areas, designation by area may be used in lieu of a sheet number. Upon the first filing of the sheet it shall be designated as Original Sheet No. _____, or Original Sheet where no number is required. This same sheet number (or section and sheet number) shall appear on all subsequent issues of the sheet, and the revisions of the sheet shall be numbered, as follows:

1.-6. (No change.)

7. When tariffs are to be revised in conformity with an order or authorization of the Board, the changes made pursuant thereto shall be established by supplements to or reissues of the tariff or tariff sheets affected, filed and posted as provided in this Subchapter. Each page containing rates or provisions established pursuant to such order or authorization shall bear the following notation:

"Filed pursuant to (here insert nature of authorization including docket number if any) of the Board of Public Utilities, State of New Jersey, dated _____."

(f)-(i) (No change.)

(j) All schedules of rates shall be filed on standard sheets, arranged substantially in the manner prescribed by the form of rate schedule sheet. For telephone companies the following information shall be given:

1.-2. (No change.)

14:11-7.5 Forms

Forms illustrative of the requirements of this Subchapter follow:

OFFICE OF ADMINISTRATIVE LAW NOTE: Throughout the Forms, P.U.C. is changed to B.P.U. and Public Utility Commissioners is changed to Public Utilities.

14:11-8.32 Proposed construction

(a) At least 30 days prior to the construction or major reconstruction of any gas pipeline intended to be subjected to pressure in excess of 125 psig, a report shall be filed with the Board setting forth the specifications for such pipeline.

(b) (No change.)

STATE
(a)

DIVISION OF NEW JERSEY STATE MUSEUM
State Museum Rules

Adopted New Rules: N.J.A.C. 15:5

Proposed: December 1, 1986 at 18 N.J.R. 2368(b).

Adopted: January 5, 1987 by Jane Burgio, Secretary of State.

Filed: January 15, 1987 as R.1987 d.100, **without change**.

Authority: N.J.S.A. 18A:73-1 et seq. and N.J.S.A. 52:16A-11.

Effective Date: February 17, 1987.

Expiration Date: February 17, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

CHAPTER 5
DIVISION OF THE STATE MUSEUM

SUBCHAPTER 1. PURPOSE AND OBJECTIVES OF THE STATE MUSEUM

15:5-1.1 Purpose and scope

The New Jersey State Museum performs the traditional functions of collecting, exhibiting and interpreting in the broad areas of science, history and the arts. This framework includes an expanding emphasis on community outreach services (film loan service and traveling exhibition service).

15:5-1.2 Objectives

(a) Collecting is a major objective of the New Jersey State Museum. Through judicious purchases and selective gift solicitations and through field collecting and archaeological and paleontological excavations, the Museum is realizing its objective of having significant collections in the following areas:

1. Fine Arts, consisting of New Jersey paintings, sculpture, prints and drawings of the 19th and 20th centuries; American paintings, sculpture, prints and drawings of the 19th and 20th centuries; painting, sculpture, prints and drawings of the Western European tradition; and objects similar to the above but from other locales (for purposes of comparison).

2. Cultural History, consisting of objects and artifacts that help to document and describe the existence of the peoples who have lived in New Jersey during the historic period; documented New Jersey ceramics, glass, metalware, furniture and similar objects with major aesthetic and/or historic value; and similar objects and artifacts from other cultures (for purposes of comparison).

3. Archaeology and/or Ethnology, consisting of data and archaeological artifacts relating to prehistoric New Jersey; similar materials from other areas of North America (for comparison); ethnographic specimens from New Jersey, for documentation purposes; and ethnographic specimens from other areas of the Americas for purposes of comparison.

4. Natural History, consisting of paleontological and geological specimens relating to New Jersey; other natural history specimens relating to New Jersey; and similar science-related specimens from other areas (for better understanding of New Jersey).

(b) Exhibiting consists of long-term and short-term installations.

1. Large exhibition halls on the Museum's second floor have been designated for long-term installations. They include the following:

i. The Hall of Natural History, which contains exhibits devoted to: theories on the origin of the universe; origin of matter; a synoptic account of the formation and structure of the earth; theories on the origin of life; a synoptic account of geologic time periods with emphasis on New Jersey paleontology; the Pleistocene Epoch in New Jersey; and current ecology of New Jersey; and

ii. The galleries, which house selections from the Fine and Decorative Arts collections and feature furniture and appropriate accessories from the 18th century to the early 19th century; American paintings from the 20th century; New Jersey silver, ceramics, and iron; selections from the print and drawing collections.

2. Short-term installations are housed in the Museum's street level galleries, and areas of the lower (planetarium) level galleries and are devoted to changing exhibitions covering the full range of the Museum's broad interests in fine arts, cultural history, archaeology/ethnology and science. To allow flexibility in presenting current exhibitions of maximum interest, no limits have been established on the thematic content of short-term installations, though the focus is clearly on New Jersey. In short-term installations covering fine and decorative arts, the intent has been to offer an overall balance of periods and schools of expression.

(c) There are three major modes of interpretation in the Museum's program. They are:

1. School programs, which are designed to extend and enrich classroom experiences, and which are characterized by experimental and innovative teaching techniques utilizing advanced educational technology as well as the Museum's unique environment. The intent is to stimulate the students' capacity for learning, inquiry, interest and the excitement of discovery. Emphasis is placed on controlled learning situations. Classroom size groups are regarded as optimum, but specially designed instruction areas are available for presentations to larger groups.

2. Public programs for children, which are designed to stimulate the excitement of discovering a new experience, to encourage appreciation of the efforts of others, and to provide an opportunity for participation in and/or observation of artistic performances.

3. Public family programs, which are intended to provide opportunities for enjoyment and benefit from both traditional and innovative programs in the arts, humanities and sciences.

4. The publications program, which documents exhibitions and collections in a manner that will contribute to public and scholarly understanding and appreciation. Bulletins, Investigations and Reports, published on an irregular basis, provide a medium for public documentation of studies and/or research by the Museum's professional staff or other professionals exploring the Museum's areas of concern.

(d) Community outreach services are an important part of the Museum's program. The Museum is playing an increasingly active role in carrying an awareness of its areas of interest into the New Jersey com-

munity. Currently, this program includes a film loan service and a traveling exhibition service, both of which are being expanded and refined. The following are provided by these services:

1. The film loan service extends the Museum into the classroom and the community by providing meaningful films that will enrich the learning process and contribute to public insight and understanding. The service also serves as a distribution agency for films produced or purchased by other branches of State government to explain, interpret and/or educate in their areas of concern. The service is endeavoring to expand its film offerings of interest to minority groups and groups for whom English is a second language.

2. The traveling exhibition service provides educational institutions, civic centers and libraries with representative art, history or science exhibits containing original art works, artifacts, specimens, interpretive materials and teaching aids. Exhibitions offered through the service are designed to support curriculum and teaching programs and, at the same time, to introduce the non-museum-going public to the educational potential of museums in general and the New Jersey State Museum in particular.

15:5-1.3 Definitions

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

"Acquisitions" means newly acquired through purchase, gift, bequest, exchange for field collecting.

"Advisory Council" means the State Museum's five member advisory council which advises and consults with the Museum director with respect to the functions of the Museum.

"Collections" means a group of objects within a particular category or may refer to all of the objects in the Museum's care.

"Curator" means the head administrator of a particular Museum bureau who keeps and develops the collections, organizes exhibits and supervises the educational interpretive programs.

"Deaccession(ing)" means to dispose of objects in the Museum's collections through sale, exchange or trade.

"Director" means the director of the New Jersey State Museum.

"Sponsoring State agency" means the State agency responsible for placing a particular film in the film depository at the State Museum.

SUBCHAPTER 2. MANAGEMENT AND OPERATION OF THE STATE MUSEUM

15:5-2.1 Museum admittance and conduct

(a) Hours when the Museum shall be open to the public are limited to the days and times posted at all main entrances and published in the Museum's calendar of events, for gallery exhibits. The Museum offices are open during the days and times posted in the main foyer of the Museum. They are closed weekends and state holidays.

(b) The Museum galleries and offices may be closed to the public at the director's discretion when there is insufficient security personnel available to maintain adequate protection of the collections; during temporary emergencies due to weather or to building emergencies; when there is a lack of operating funds due to budgetary limitations; during special state occasions when the Museum will be in use; and during special training days for personnel. The Museum will make every effort to publish closing dates in advance in the Museum's Calendar of Events.

(c) There is no charge for general admission to the Museum. Children under the age of 17 will not be admitted to the galleries housing the permanent collections in fine and decorative arts and other posted areas, unless accompanied by an adult.

(d) Food or drink is prohibited in the galleries unless special approval by the director has been obtained.

(e) Smoking and gum chewing are prohibited in the galleries.

(f) Shoes, shirts or blouses, pants or skirts, or dresses must be worn in the Museum.

(g) Bulky and potentially dangerous possessions may be regulated in the following manner:

1. Gallery visitors carrying briefcases, parcels, umbrellas and other similarly bulky objects may be asked to leave them with security personnel to insure the safety of the Museum's collections.

2. Any visitor who is asked to check his or her parcel and does not do so may be subject to a security check upon leaving the Museum.

Photography limitations are:

(h) The general public is not permitted to take pictures in the galleries with the exception of the hall of natural sciences.

(i) Reproduction for publication is permitted with the approval of the director subject to the following requirements:

1. The payment of a reproduction fee (which may be waived for educational publications).

2. If the work is copyrighted, artist may charge a reproduction fee.

3. If no photograph is available of the work, the Museum will have one taken and charge a fee to cover such costs.

4. There is a service charge for the use of the Museum's color transparencies.

(j) The Museum is barrier free to provide access to handicapped persons.

15:5-2.2 Use of facilities

(a) Museum meeting areas shall be used primarily for programming in the arts, history and sciences with events originated, sponsored and/or implemented by, or in the interest of, the Museum. High priority is assigned to programs of direct educational value to New Jersey's student population. Additionally, the facilities may be used by the following types of organizations if adequate space is available.

1. Departments and agencies of state government.

2. Statewide organizations with primary goals and objectives of an educational, cultural or academic character.

3. Other municipal, county and federal agencies when their programs/meetings relate to statewide concerns.

(b) Use of the facilities shall be limited in the following manner:

1. The director may reject any requests for use of facilities when required security or audio-visual personnel cannot be secured or when it appears that the nature of the meeting or the size of anticipated attendance could damage the facility or its contents.

2. Admission to non-Museum programs cannot be charged and there can be no merchandising of any sort.

(c) All requests for non-Museum use shall be forwarded to the Director's office, 205 West State Street, Trenton, New Jersey 08625. Requests from non-governmental organizations must be in writing, describing the nature of the meeting and anticipated attendance.

(d) Fees for the use of Museum facilities shall be imposed in the following manner:

1. There shall be a service fee for all non-Museum use of facilities. For meetings outside of regular hours, there will be an additional fee for security personnel (number to be determined by state police), and for technical personnel (when required). Only Museum-furnished security and technical personnel may be used.

2. Fees shall be estimated and agreed upon in advance and confirmed in writing. Charges incurred by state agencies will be handled on a debit-credit basis through departmental channels. Charges incurred by other organizations will be paid by check directly to the Museum.

SUBCHAPTER 3. BUREAU OF EDUCATIONAL SERVICES

15:5-3.1 Function of the Educational Services Bureau

(a) The function of the Educational Services Bureau is:

1. To coordinate the interpretive services of the Museum;

2. To conduct a film program for children and adults;

3. To provide a film loan service to school groups and organized community groups;

4. To schedule the traveling exhibition service;

5. To coordinate the Museum's performing arts program.

15:5-3.2 School services

(a) Reservations for gallery talks, lesson demonstrations, performing arts programs, State House tours and other services should be made as early as possible, but at least two week in advance in all cases. Teachers or other group leaders wishing to make a reservation should call 609-292-6347 and provide the following information:

1. Title of the program desired;

2. Date and time preferred;

3. Number of students and their grade or knowledge level special needs;

4. Name and address of school;

5. Telephone number of school;

6. Name of teacher or other contact.

(b) Confirmation of reservations will be forwarded by mail along with bus parking information and a list of suggestions designed to make the Museum visit and its follow-up as meaningful as possible to the students.

15:5-3.3 Public educational services

(a) The Museum provides films, lectures and performing arts programs which increase or enhance the Museum visitor's appreciation of the arts and sciences.

(b) Program shall be selected on the basis of appropriateness to exhibitions, collections, visitor interest, the Museum's physical limitations and advancement of Museum's objectives.

(c) For selected programs there may be a charge to offset costs.

(d) Public service programs available to the public are as follows:

1. Films;

2. Concerts;

3. Plays;

4. Operas;

5. Lectures;

6. Guided tours;

7. Special activities.

(e) The public may be notified about public service programs through:

1. Special interest mailings;

2. Press releases;

3. The Museum's calendar of events.

(f) Individuals interested in information regarding public service programs may call 609-292-6464 for a 24-hour recording, or 609-292-6308 during business hours.

15:5-3.4 Traveling exhibitions

(a) The traveling exhibition program is designed to extend the services of the Museum to all areas of the state.

(b) The exhibitions shall consist of objects from the Museum's art, cultural history, natural science, and archaeology/ethnology collections.

(c) The exhibits shall be available to schools, libraries, community centers and other non-profit institutions and organizations.

(d) Non-profit New Jersey institutions or organizations interested in scheduling a traveling exhibition should contact the:

Traveling Exhibition Service
New Jersey State Museum
205 West State Street—CN 530
Trenton, New Jersey 08625
609-292-7780

(e) An information kit containing a loan condition report, an exhibit inventory, an instruction sheet and a sample press release will be mailed to the borrower approximately two weeks before the opening date. The loan condition report form shall be completed by the borrower and returned to the Traveling Exhibition Service and shall include the title of the exhibit, the name of the exhibitor, the dates of the exhibit, the number attending, and the nature of the publicity used.

(f) The following are the responsibilities of the borrower:

1. Borrowers are expected to exercise reasonable care in unpacking, handling and repacking an exhibit and to provide adequate protection against fire and theft. Exhibition areas must be arranged so that artwork is not exposed to direct or reflected sunlight. Adhesive material may not be attached to frames or plexiglas. Any wiring added for installation must be removed before repacking.

2. The statement, "A New Jersey State Museum Traveling Exhibition" must appear in all invitations, posters and other publicity material prepared by the borrower.

3. Each borrower is committed to arrange for and provide delivery of the exhibition to the borrower or to the Museum, whichever is applicable. In most instances this requires the use of a station wagon or small van. Shipment by U.S. Mail or commercial package delivery is prohibited, without the approval of the director.

(g) The Museum reserves the right to discontinue the circulation of any traveling exhibition at any time. In such cases, every attempt will be made to provide an appropriate substitute.

15:5-3.5 Film Loan Services

(a) Film Loan Services provides films to New Jersey schools and organized community groups and serves as the statewide depository and distribution agency for films purchased by other New Jersey state agencies for educational use.

(b) Film loans are made to the public under the following circumstances.

1. The film(s) expand classroom learning experiences for New Jersey public, private and parochial schools; and serve as a resource for community groups.

2. The films are representative of those fields of study covered by Museum collections, exhibits and programs.

3. Film selection is based on accuracy of information, creative presentation, excellence of production (photography, narration, color, sound, etc.) and the film's ability to stimulate discussion and study.

(c) The procedures for borrowing films are:

1. The film should be requested by mail. A limited number of requests may be processed by telephone (609-292-6313) or in person at the Film Loan Office in the Museum (205 West State Street, Trenton).

2. The film service order form shall be completed for requests for film loans by public and state agencies. The information required includes the title of the film, the date the film is desired, the name and address of the borrower, and how the borrower wishes to obtain film (mail or borrower pick-up).

3. There is a service charge to cover postage and insurance. There may also be a late charge imposed after five days.

4. Films are shipped one week before the date that they are scheduled to be shown. They may also be picked up and returned directly.

5. The Film Loan Service provides films for educational purposes. There can be no admission charge, directly or indirectly, and film may not be used, in whole or in part, in any television programming.

6. The borrower is responsible for keeping projectors clean and in good repair so as not to damage the films.

(d) The following are the Museum's responsibilities for state films deposited for distribution.

1. The film loan service schedules and distributes films upon request within New Jersey;

2. Maintains and services films;

3. Supplies annual reports of film usage;

4. Carries listings in Museum Film Catalog and supplements;

5. Underwrites costs of booking, circulating and routine maintenance of films;

6. Recommends purchase of additional prints of titles, as indicated by demand.

(e) Restrictions on the Film Loan Service are as follows.

1. Films must be chosen by sponsoring state agency;

2. Museum staff shall not make recommendations or substitute titles (users shall be referred to the sponsoring agency);

3. Sponsoring state agency must notify Museum to withdraw films which have become obsolete and direct them how to dispose of such films;

4. Film borrowers shall be responsible for postage and service charges.

SUBCHAPTER 4. ARCHAEOLOGY/ETHNOLOGY: COLLECTIONS

15:5-4.1 Collections policy

(a) The archaeology/ethnology collections are to include data and artifacts representative of the prehistory and history of New Jersey, and artifacts representative of other areas useful for comparative cultural interpretations.

(b) The Museum's ethnographic accessioning priorities are as follows:

1. Specimens and collections, preferably with associated anthropological data from prehistoric and historic Native Americans of the New Jersey area.

2. Specimens and collections with associated data from other Indian groups of the Northeast.

3. Specimens and collections, preferably with associated data, from other areas of North America.

(c) The Museum's archaeological accessioning priorities are as follows:

1. Collections excavated using professional standards from archaeological sites in New Jersey.

2. Collections excavated by less than satisfactory standards but which constitute valuable data from under-represented areas, i.e., Northeastern, Atlantic Coast, and South Central portions of New Jersey.

3. Specimens without associated data which are typologically representative and of use as comparative or illustrative material in the Museum's programs.

15:5-4.2 Methods of acquisition

(a) The Museum may acquire specimens through field collecting, purchase, exchange, or gift/bequest. Gifts and bequests are accepted by the curator and director, subject to final approval by the Secretary of State.

(b) Acquisitions shall be transferred unconditionally to the Museum unless noted on the fact of the certificate of transaction form.

(c) All gifts are tax deductible subject to existing laws. Appraisals of gifts are the responsibility of the donor.

15:5-4.3 Methods of deaccessioning

(a) The Museum shall honor any legal restrictions applying to a specimen acquired for its collections, for example, conditions stipulated by donor.

(b) Documented archaeology and/or ethnographic specimen deaccessioning restrictions and procedures are as follows:

1. No specimen may be considered for disposal until five years after acquisition. The five year waiting period may be waived when a decomposing specimen poses a threat to the Museum's other collections. Con-

sideration for disposal must include written documentation of one or more of the following justifications: deterioration, improved or more appropriate use in another institution, inappropriate to the Museum's collections or no longer needed in the collection due to the addition of a similar or better example.

2. Written notice of any planned disposal of accessioned specimens shall be submitted by the curator to the director, who shall present such notices to the Museum Advisory Council for review and recommendations and to the Secretary of State for approval. If approved by the Secretary of State, the specimen may be offered for exchange or donation ONLY to institutions with comparable deaccessioning policies.

(c) Undocumented ethnographic specimen deaccessioning procedures are as follows:

1. Undocumented ethnographic specimens shall be treated the same as documented specimens (see (b) above), except that they may be offered for public sale.

2. Written notice of any planned sale of undocumented specimens shall be submitted by the curator to the Director, who will present such notices to the Museum Advisory Council for review and recommendations and to the Secretary of State for approval. Upon approval by the Secretary of State, objects shall be offered at public sale as follows:

i. Public sale shall follow auction format and shall be conducted by an auction house specializing in ethnographic artifacts;

ii. Selection of the auction house shall be made by the Director of the Museum upon recommendation from the curator;

iii. If the donor of the object is living, he shall be notified at least 120 days prior to public sale. During the period the donor must cite the existence of any legal restrictions preventing deaccessioning.

iv. Public notice of a proposed sale of items from the Museum's collections shall be given at least 60 days prior to the sale date;

v. Funds from the sale shall accrue to the Museum for acquisition within the collection area from which the sold items were drawn;

vi. Written reports on all sales shall be presented to the Museum Advisory Council, the Secretary of State and Governor.

(d) The Museum will retain copies of all documents that pertain to a specimen which has been removed from the collections. Original documents should be offered to a potential recipient with the specimen. If this is inconvenient or impossible, an alternative written agreement must be reached between the Museum and recipient with regard to the documents.

(e) Proposals for destructive analysis of specimen for research purposes (neutron activation, x-ray diffraction, thin-section preparation) shall be submitted for approval to the director by the curator with full documentation of the resultant benefits to the interpretive value of the Museum's collections. Upon approval, any specimen to be subjected to destructive analysis shall be fully documented through morphological written description and photographs.

15:5-4.4 Documentation and record-keeping

(a) The acquisition of a specimen by gift shall be recorded by a Certificate of Transaction form, approved by the Director and signed by the curator or a designee for the Museum and by the donor. The Certificate of Transaction form shall include the type of transaction (loan, exchange, gift, purchase, etc.); the names of parties involved; and a description of the object. The form is used for museum documentation and donor's documentation.

(b) All data associated with any acquired specimen shall be recorded in a manner to insure retrieval.

(c) The Museum shall maintain full descriptive documentation (including photographs) of any specimen deaccessioned along with records of the gift, exchange or destruction of the specimen.

15:5-4.5 Loans

(a) Specimens may be loaned to other institutions or to individuals for purposes of exhibition, education and/or research with the approval of the curator and notification of the director.

(b) Loans will be made on the basis of security of the specimen and maximum public benefit from the collections.

(c) The Museum may charge a fee to other institutions to cover processing and documentation costs.

(d) All loans must be documented by a Certificate of Transaction form. All objects are to be insured upon leaving the Museum.

15:5-4.6 Care and preservation

The physical integrity of the Archaeology and Ethnology collections shall be maintained by the professional staff of the Museum through normal standards and procedures of conservation, storage and periodic inventory.

**SUBCHAPTER 5. ARCHAEOLOGY/ETHNOLOGY:
EXHIBITIONS**

15:5-5.1 Loans from other institutions

The Archaeology Bureau may borrow objects from other institutions and/or individuals for exhibition and/or research purposes. It is the responsibility of the curator to review and select appropriate items and to document them with the Certificate of Transaction Form (see N.J.A.C. 15:5-4.4(a)). Incoming objects are insured by the Museum at owner's appraisal or are covered under lender's policy (State pays premium).

15:5-5.2 Kinds of exhibitions

(a) Long term and short term exhibitions in archaeology/ethnology shall be planned, executed and maintained by the curator with the approval of the Director;

(b) Traveling exhibitions in archaeology/ethnology shall be planned and executed by the staff for circulation by the Bureau of Educational Services and approved by the Director. All traveling exhibitions/objects shall be insured for the replacement cost of specimens and materials for the length of the loan. Insurance coverage may be carried by the Museum or by the borrower, by prior agreement.

15:5-5.3 Care and maintenance

All exhibitions, both in-house and traveling shall periodically be inspected by the curator to insure the security of the specimens.

**SUBCHAPTER 6. ARCHAEOLOGY/ETHNOLOGY:
INTERPRETATION**

15:5-6.1 Publications

Articles, catalogues and research reports shall be prepared for publication under the supervision of the curator with the approval of the Director and within budgetary limits. A fee may be charged to cover the costs of such publications.

15:5-6.2 Programs by reservation

Interpretive programs, including lectures, gallery walks and lesson demonstration in archaeology/ethnology shall be planned and delivered under the supervision of the curator in coordination with the Curator of Educational Services and with the approval of the Director.

15:5-6.3 Additional services

(a) As the state archaeologist, the curator shall provide technical expertise for identification of specimens to federal and state agencies, their representatives and to the general public by appointment only and within budgetary limits.

(b) Data on archaeological resources of New Jersey shall be made available to federal and state agencies and their contractors and to professional researchers consistent with preservation of such resources.

(c) Lectures and other off-site interpretive programs shall be made available within staff and time constraints and with notification to the Director.

SUBCHAPTER 7. SCIENCE BUREAU: COLLECTIONS

15:5-7.1 Contents and standards

(a) The science collections shall include specimens that represent the natural history of New Jersey or that benefit the study and interpretation of New Jersey natural history in related or comparative ways.

(b) Study or research specimens must be documented as to origin, except in the case of undocumented specimens useful for purposes of comparison.

(c) The object must have exhibition, study, research or programming potential.

(d) The object must be of a physical condition and size suitable for Museum storage and/or Museum climate.

15:5-7.2 Methods of acquisition

(a) The Museum may acquire specimens through field collecting, purchase, exchange, or gift/bequest. Gifts and bequests are accepted by the curator and Director subject to final approval by the Secretary of State.

(b) Acquisition must be documented by the curatorial staff with possession transferred unconditionally to the Museum.

(c) The curator shall choose specimens to be accessioned from among the specimens acquired through field collection.

(d) All gifts are tax deductible, subject to existing tax laws. Appraisals of the gifts are the responsibility of the donor.

15:5-7.3 Methods of deaccessioning

(a) The Museum will honor any legal restrictions applying to a specimen acquired for its collection, for example, conditions stipulated by the donor.

(b) No accessioned specimen may be considered for disposal until five years after acquisition. The five-year waiting period may be waived when a decomposing specimen poses a threat to the Museum's other collections. Consideration for disposal must include written documentation of one or more of the following justifications:

1. Deterioration;
2. Improved or more appropriate use in another institution;
3. Inappropriate to the Museum's collections.

(c) Written notice of any planned disposal of accessioned specimens shall be submitted by the curator to the Director, who shall present such notices to the Museum Advisory Council for review and recommendations and to the Secretary of State for approval.

(d) If approved by the Secretary of State, the specimen may be offered for exchange or donation to museums with similar acquisition and disposal policies. If no interested recipient can be found within one year the specimen may be offered to other museums, schools, libraries or similar institutions. If no interested recipient can be found within an additional year, the specimen may be destroyed, provided this may be done legally according to existing federal regulations, for example, Endangered Species Act, etc.

(e) Specimens acquired but not accessioned may be considered for disposal at any time, with approval of the curator. If approved for disposal, such specimens may be offered for exchange or donation, and may be destroyed if no interested recipient is found within 30 days.

(f) The Museum shall retain copies of all documents that pertain to a specimen which has been removed from the collections. Original documents shall be offered with the specimen to a potential recipient. If this is inconvenient or impossible, an alternative written agreement must be reached between the Museum and the recipient with regard to documents.

15:5-7.4 Documentation and record-keeping

(a) The Science Bureau shall maintain documentation of its transactions and assure that adequate data are obtained and recorded with all accessioned materials.

(b) The acquisition of a gift shall be recorded on a Certificate of Transaction form, approved by the Director and signed by the curator or a designee for the Museum and by the donor. The Certification of Transaction form shall include the type of transaction (loan, exchange, gift, purchase, etc.); the names of parties involved; and a description of the object. The form shall be used for museum documentation and donor's documentation.

(c) All data associated with any acquired specimen shall be recorded in a manner to insure retrieval.

(d) The Museum shall maintain full descriptive documentation (including photographs) of any specimens deaccessioned along with records of the gift, exchange or destruction of the specimen.

15:5-7.5 Loans

(a) Specimens may be loaned to other institutions or to individuals for purposes of exhibition, education and/or research with the approval of the curator and notification of the Director.

(b) Loans will be made on the basis of security of the specimen and maximum public benefit from the collections.

(c) The Museum may charge a fee to other institutions to cover processing and documentation costs.

(d) All loans must be documented by a Certificate of Transaction Form (see N.J.A.C. 15:5-7.4).

(e) All objects are to be insured upon leaving the Museum.

15:5-7.6 Care and preservation

The physical integrity of the collections shall be maintained through normal standards and procedures of conservation, storage and periodic inventory by the professional staff.

SUBCHAPTER 8. SCIENCE BUREAU: EXHIBITIONS

15:5-8.1 Loans from other institutions

The Science Bureau may borrow objects from other institutions and/or private parties for exhibitions and/or research purposes. It is the responsibility of the curator to review and select appropriate items and to document them with the Certificate of Transaction Form (see N.J.A.C. 15:5-7.4). Incoming objects are insured by the Museum at owner's appraisal, or are covered under lenders policy (State pays premium).

15:5-8.2 Kinds of exhibitions

(a) Long term and short term exhibitions in science shall be planned, executed and maintained in designated areas of the Museum by the curator with the approval of the Director.

(b) Traveling exhibitions in science shall be planned and executed by the staff for circulation by the Bureau of Educational Services (see N.J.A.C. 15:5-2.4). All traveling and exhibitions/objects shall be insured for the length of the loan. Insurance coverage may be carried by the Museum or the borrower by prior agreement.

15:5-8.3 Care and maintenance

All exhibition, both in-house and circulating, shall periodically be inspected to insure the security of the specimens.

SUBCHAPTER 9. SCIENCE BUREAU: INTERPRETATION

15:5-9.1 Publications

Articles, catalogues and research reports shall be prepared for publication under the supervision of the curator with the approval of the Director and within budgetary limits. A fee may be charged to cover the costs of such publications.

15:5-9.2 Programs by reservation

Interpretive programs, including lectures, gallery walks and lesson demonstrations in science shall be planned and delivered under the supervision of the Curator in coordination with the Curator of Educational Services and with the approval of the Director.

15:5-9.3 Additional services

(a) The Curator of Science shall provide technical expertise for identification of specimens by appointment and within budgetary and staff limitations.

(b) Off-site lectures and other interpretive programs shall be provided within staff and time constraints, if approved by the curator with notification to the Director.

SUBCHAPTER 10. PLANETARIUM AND OBSERVATORY

15:5-10.1 Maintenance and programs

The Science Bureau shall maintain the Planetarium and Observatory and shall establish appropriate programs for the general public.

15:5-10.2 Public programs

(a) Planetarium and Observatory programs shall be offered to the general public on a regular basis.

(b) Persons interested in information about Planetarium and Observatory programs may phone the Museum at 609-292-6333 or 609-292-6464 for a recorded message.

(c) Planetarium and Observatory program information is also available in the Museum's calendar of events which may be acquired by phoning the Museum's Public Information Office at 609-292-6308 or in the Museum foyer.

(d) No admission is charged to regularly scheduled Planetarium and Observatory programs.

(e) Programs for children under 7 will only be offered as staffing and scheduling permit.

15:5-10.3 School programs

(a) The Science Bureau shall provide Planetarium and Observatory programs for the benefit of educational institutions.

(b) The school programs shall be administered by the Educational Services Bureau. School groups may apply to Educational Services by calling 609-292-7780 as far in advance as possible.

15:5-10.4 Additional services

Personnel of the Science Bureau may present other programs relating to the Planetarium and/or Observatory within time and budgetary restraints. Programs, such as off-site lectures, are subject to approval by the Curator with notification to the Director.

SUBCHAPTER 11. FINE ARTS BUREAU: COLLECTIONS

15:5-11.1 Collections policy

(a) Objects shall be acquired for the Fine Arts collections in the following areas of priority:

1. New Jersey paintings, sculpture, prints and drawings of the 18th, 19th and 20th centuries;
2. American paintings, sculpture, prints and drawings of the 18th, 19th and 20th centuries;
3. Paintings, prints or drawings from the 18th, 19th and 20th centuries for purposes of supplementing cultural history collections;
4. Paintings, sculpture, prints and drawings of the Western European tradition;
5. Objects similar to those in 1. through 5. above, but from other locales (for purposes of comparison).

(b) Objects added to the collection shall have two or more of the following attributes:

1. High aesthetic merit;
2. A particular or peculiar historic connection with the state, area or nation;
3. Exhibition, research or programming potential;
4. Represent the best example of an artist's work;
5. Be of a physical condition and size suitable for Museum climate.

15:5-11.2 Methods of acquisition

(a) The Museum may acquire objects for addition to the collection through exchange, purchase, or gift/bequest. Gifts and bequests are accepted by the curator and Director subject to final approval by the Secretary of State.

(b) All gifts and bequests shall be accepted without conditions attached unless otherwise noted on the face of the official Gift Agreement form. The Gift Agreement form shall include the type of object; a description; and the names of the parties involved. The Gift Agreement form is used for museum and donor documentation.

(c) All gifts are tax deductible, subject to existing tax laws. Appraisals are the responsibility of the donor.

15:5-11.3 Methods of deaccessioning

(a) Reasons for deaccession shall be presented in writing to the Director and must include one or more of the following justifications:

1. No longer needed in the collection due to the addition of a similar or better example;
2. Deteriorating condition of the object;
3. Non-use in the Museum's research, exhibitions and educational programs;
4. New information about authorship/attribution;
5. Revision of Museum's collections policy;
6. Improved or expanded use in a sister institution.

(b) The Museum shall honor any legal restrictions applying to an object acquired for its collection, for example, conditions stipulated by donor.

(c) No accessioned object may be considered for disposal until five years after acquisition. The five year waiting period may be waived when an object poses a threat to the Museum's other collection (for example, object is decomposing).

(d) Written notice of any planned disposal of accessioned objects shall be submitted by the curator to the Director, who will present such notices to the Museum Advisory Council for review and recommendations and to the Secretary of State for approval. Upon approval by the Secretary of State, objects which have a monetary value will be offered at public sale or exchanged/traded.

(e) The procedure for deaccessioning by public sale is as follows:

1. The public sale will follow an auction format and will be conducted by an auction house specializing in fine art objects. Selection of the auction house will be made by the Director of the Museum upon the recommendation of the curator.
2. If the donor of the object is living, he shall be notified at least 120 days prior to public sale. During this period the donor must cite the existence of any legal restriction preventing deaccessioning.
3. Public notice of a proposed sale of items from the Museum's collections shall be given at least 60 days prior to the sale date.
4. Funds from the sale shall accrue to the Museum for acquisitions within the collection area from which the sold items were drawn.
5. Written reports on all sales shall be presented to the Museum Advisory Council, Secretary of State and Governor.

(f) The procedure for deaccessioning by exchange or trade is as follows:

1. If the donor of the object is living, he shall be notified at least 120 days prior to exchange or trade. During this period, the donor must cite the existence of any legal restriction preventing deaccessioning. If any restriction is cited, the Museum Advisory Council shall review the restriction and make a recommendation to the Director; the Secretary of State shall then rule on the validity of the restriction.
2. Written market value appraisals shall be obtained from a disinterested third party for items both offered and considered for exchange or trade.

3. Market value appraisals will be presented to the Museum Advisory Council for review and recommendation and to the Director and Secretary of State for approval.

4. Written reports on all final exchanges or trades will be presented to the Museum Advisory Council, Secretary of State and the Governor for review.

(g) An inventory list of objects with no monetary value, but potential usefulness outside the Museum, will be presented to the Museum Advisory Council for review and recommendation, and to the Secretary for

unconditional deaccessioning approval. After such approval is granted (and the donor has been offered first refusal), the objects shall be offered as gifts to other museums, schools, libraries or similar institutions. If no interested recipient can be found, the objects may be destroyed.

15:5-11.4 Documentation and record-keeping

(a) The Museum shall fully document any object acquired for its collections.

(b) All data associated with any acquired object shall be recorded in a manner to insure retrieval.

(c) The Museum shall maintain full descriptive documentation of any object deaccessioned along with records of the gift, sale, exchange or destruction of the object.

15:5-11.5 Loans to museums and other institutions

(a) Objects from the Museum's collections may be loaned to other institutions for purposes of exhibition, education and/or research with the approval of the curator and Director. Loan proposals may also be submitted to the Advisory Council for review and recommendation.

(b) Loans shall be made on the basis of security of the object and maximum public benefit from the collections.

(c) The Museum may charge a fee to other institutions to cover processing and documentation costs.

(d) All objects from the Museum's collections shall be insured upon leaving the Museum.

15:5-11.6 State Offices Fine Arts Loan Program

(a) The purpose of the State Offices Fine Arts Loan Program is to expand public display opportunities for collection materials which would otherwise be in storage.

(b) The following individuals are eligible to participate in the program: the Governor, legislative leaders, members of the cabinet, other major state officials whose responsibilities relate directly to Museum activities. For a complete list of eligible individuals phone the Museum Registrar at 609-292-1886.

(c) Works may be recalled when needed for Museum exhibits or when security or care conditions become unsatisfactory.

(d) All requests for objects must be made on the State Office Fine Arts Loan Program Request Form and must include the signature of the responsible official. The completed State Office Fine Arts Loan Program Form shall include the department of state government, the official responsible for the loan, and a description of object (to be completed by the Museum). The form is used for documentation for the Museum's records.

(e) The Museum shall determine if day and night security is adequate. The Museum shall not place collection materials in areas where ultraviolet light or unsatisfactory temperature and/or humidity conditions may cause deterioration.

(f) No works may be installed or removed without Museum supervision.

(g) The length of the loan shall be that of the term of the eligible person. Changes shall be every two years if the eligible person requests such changes.

(h) The eligible person may designate another person to choose the works and to schedule installation, but the eligible person must sign the loan agreement and must be ultimately responsible for the loan.

(i) The eligible person, or his or her designated loan coordinator, must call the Museum prior to the termination of the eligible person's term or upon his/her resignation, in order for the Museum to terminate the loan responsibility and to arrange for return to the Museum.

(j) For insurance purposes, the Museum shall maintain records on the exact location of each work and the name of the responsible official. To facilitate and document the loan requirement, periodic location and condition checks shall be made.

(k) Officials or their designated loan coordinators wishing to select works must make an appointment with the Fine Arts Registrar, 609-292-1886, to see items available for loan. Installation of the works must also be scheduled through the Registrar who will consult the Museum Exhibits Bureau schedule and suggest installation dates to the borrower.

(l) Since objects suitable for office loans are limited, no more than four works per official shall be available and choices must be made from the group designated for the program.

(m) All works must be shown with a State Museum identification label beside them.

15:5-11.7 Care and preservation

The physical integrity of the collections shall be maintained through normal standards and procedures of conservation, storage and periodic inventory by the professional staff.

SUBCHAPTER 12. FINE ARTS BUREAU: EXHIBITIONS

15:5-12.1 Loans from other institutions

The Fine Arts Bureau may borrow objects from other institutions and/or individuals for exhibition and/or research purposes. It is the responsibility of the curator to review and select appropriate items; and to document the items with a Loan Agreement Form (to be filled out by the lending institution). Incoming objects are insured by the Museum at owner's appraisal or are covered under lenders policy (State pays premium). The completed Loan Agreement Form provides the lender's name, the artist's name, a description of the objects, shipping instructions, and permission to photograph the object. The form is used for Museum insurance and/or internal records.

15:5-12.2 Kinds of exhibitions

(a) The Fine Arts Bureau shall conduct a permanent collections/exhibition program. Any works on paper shall only be exhibited periodically due to their relatively short life-span according to conservation considerations.

(b) Short term exhibitions in fine arts shall be planned, executed and maintained by the curator with the approval of the Director.

1. No limits have been established on the thematic content of short-term installations to allow flexibility in presenting current exhibitions of maximum interest, though the focus is clearly on New Jersey.

2. The intent has been to offer an overall balance of periods and schools of expression.

3. The exhibitions may consist of objects borrowed from other institutions, individuals and/or objects from the Museum's collections.

(c) Traveling exhibitions in fine arts shall be planned and executed by the Fine Arts Bureau for circulation by the Educational Services Bureau. Circulating exhibitions are available on a limited time basis for protection of the objects. All traveling fine arts exhibitions/objects shall be insured for the length of the loan. Coverage may be carried by the Museum or the borrower by prior agreement.

15:5-12.3 Care, maintenance and security

(a) The Museum's fine arts collections shall periodically be inspected by the curator to insure their security. Should any security problems arise which might threaten the physical integrity of the Museum's collections, the Director shall notify the Division of the State Police.

(b) The curator shall monitor the building's temperature and humidity to prevent possible damage from occurring to the collections. The Director shall notify the Division of Purchase and Property should any problems arise.

SUBCHAPTER 13. FINE ARTS BUREAU: INTERPRETATION

15:5-13.1 Publications

Brochures, pamphlets and catalogues which document fine arts exhibitions shall be prepared for publication within budgetary and time limits, under the supervision of the curator and with the approval of the Director. A fee may be charged to cover the costs of such publications.

15:5-13.2 Programs by reservation

Interpretive programs, including lectures and gallery walks in fine arts shall be planned and delivered under the supervision of the curator in coordination with the Curator of Educational Services and with the approval of the Director.

15:5-13.3 Additional services

Off-site fine arts lectures and other interpretive programs shall be made available within staff and time constraints, if approved by the curator with notification to the Director.

SUBCHAPTER 14. CULTURAL HISTORY BUREAU: COLLECTIONS

15:5-14.1 Collections policy

- (a) The priorities for Cultural History Acquisitions are as follows:
1. Objects and artifacts that help document and describe the existence of people who have lived in New Jersey from the 17th century to the present;
 2. New Jersey ceramics, glass, metalware, furniture, textiles and similar objects with major aesthetic and/or historic value;
 3. American ceramics, glass, metalware, furniture, textiles and similar objects with major aesthetic and/or historic value;

4. Similar objects from other cultures (for purposes of comparison).
- (b) Objects added to the collection shall have two or more of the following attributes:
 1. High aesthetic merit;
 2. A particular or peculiar historic connection with the state, area or nation;
 3. Exhibition, research or programming potential;
 4. Represent the best of a particular craftsmen's work;
 5. Be of a physical condition and size suitable for Museum storage and Museum climate.

15:5-14.2 Methods of acquisition

(a) The Museum may acquire objects for addition to the collection through exchange, purchase or gift and/or bequest. Gifts and bequests are accepted by the curator and Director subject to final approval by the Secretary of State.

(b) All gifts and bequests shall be accepted without conditions attached unless otherwise noted on the face of the official Gift Agreement Form.

(c) All gifts are tax deductible, subject to existing tax law. Appraisals are the responsibility of the donor.

15:5-14.3 Methods of deaccessioning

(a) Reasons for deaccession shall be presented in writing to the Director and must include one or more of the following justifications:

1. No longer needed in the collection due to the addition of a more useful example or one of better quality;
2. Deteriorating condition of the object;
3. Non-use in the Museum's research, exhibitions and educational programs;
4. New information about authorship/attribution;
5. Revision of Museum's collections policy;
6. Improved or expanded use in a sister institution.

(b) The Museum shall honor any legal restrictions applying to an object acquired for its collection, for example, conditions stipulated by donor.

(c) No accessioned object may be considered for disposal until five years after acquisition. The five year waiting period may be waived when an object poses a threat to the Museum's other collections (for example, it is decomposing or contaminated).

(d) Written notice of any planned disposal of accessioned objects will be submitted by the curator to the Director, who will present such notices to the Museum Advisory Council for review and recommendations and to the Secretary of State for approval. Upon approval by the Secretary, objects which have an monetary value will be offered at public sale or exchanged or traded.

(e) Deaccessioning by public sale shall be done as follows:

1. The public sale will follow an auction format and will be conducted by an auction house specializing in decorative arts objects. Selection of the auction house will be made by the Director of the Museum with recommendations from the curatorial staff.

2. If the donor of the object is living, he shall be notified at least 120 days prior to public sale. During this period the donor must cite the existence of any legal restriction preventing deaccessioning.

3. Public notice of a proposed sale of items from the Museum's collections shall be given at least 60 days prior to the sale date.

4. Written reports on all final sales will be presented to the Museum Advisory Council, Secretary of State and Governor for review.

(f) Deaccessioning by exchange or trade shall be done as follows:

1. If the donor of the object is living, he shall be notified at least 120 days prior to exchange/trade. During this period the donor must cite the existence of any legal restriction preventing deaccessioning. If any restriction is cited, the Museum Advisory Council shall review it and make a recommendation to the Director; the Secretary of State shall then rule on the validity.

2. Written market value appraisals shall be obtained from a disinterested third party for items both offered and considered for exchange/trade.

3. These appraisals will be presented to the Museum Advisory Council for review and recommendation and to the Director and Secretary of State for approval.

4. Funds from the sale shall accrue to the Museum for acquisitions within the collection area from which the sold items were drawn.

5. Written reports on all final exchanges/trades will be presented to the Museum Advisory Council, Secretary of State and Governor for review.

(g) An inventory list of objects with no monetary value but potential usefulness outside the Museum will be presented to the Museum Advisory Council for review and recommendation, and to the commissioner for unconditional deaccessioning approval. After approval is granted (and the donor has been offered first refusal), the objects shall be offered as gifts to other museums, schools, libraries or similar institutions. If no interested recipient can be found, they may be destroyed.

15:5-14.4 Documentation and record-keeping

(a) The Museum shall fully document any object acquired for its collections.

(b) All data associated with any acquired object shall be recorded in a manner to insure retrieval.

(c) The Museum shall maintain full descriptive documentation of any object deaccessioned along with records of the gift, sale, exchange or destruction of the object.

15:5-14.5 Security and maintenance

(a) The Museum's cultural history collections shall periodically be inspected by the curator to insure their security. The Director shall notify the Division of State Police should any security problems arise which might threaten the physical integrity of the Museum's collections.

(b) The Curator shall monitor the building's temperature and humidity to prevent possible damage from occurring to the collections. The Director shall notify the Division of Purchase and Property should any problems arise.

15:5-14.6 Conservation and preservation

The physical integrity of the cultural history collections shall be maintained through normal standards and procedures of conservation, storage and periodic inventory by staff.

15:5-14.7 Loans

(a) Objects from the Museum's collections may be loaned to other institutions for purposes of exhibition, education, and/or research with the approval of the curator and Director.

(b) Loans shall be made on the basis of security of the object and maximum public benefit from the collections.

(c) The Museum may charge a fee to other institutions to cover processing and documentation costs.

(d) All objects from the Museum's collections shall be insured upon leaving the Museum.

SUBCHAPTER 15. CULTURAL HISTORY BUREAU: EXHIBITIONS

15:5-15.1 Loans from other institutions

The Cultural History Bureau may borrow objects from other institutions and/or individuals for exhibition and/or research purposes. It is the responsibility of the curator to review and select appropriate items, and to document the items with a Loan Agreement Form (see N.J.A.C. 15:5-12.1) to be filled out by the lending institution. Incoming objects are insured by the Museum at owner's appraisal value or are covered under lenders policy (State pays premium).

15:5-15.2 Kinds of exhibitions

(a) The Cultural History Bureau shall conduct a permanent collections/exhibition program. Any works on paper or textiles shall only be exhibited periodically due to their relatively short life-span according to conservation considerations.

(b) Short term exhibitions in cultural history shall be planned, executed and maintained by the curator with the approval of the Director.

1. No limits shall be established on the thematic content of short-term installations to allow flexibility in presenting current exhibitions of maximum interest, though the focus is clearly on New Jersey.

2. The Museum shall attempt to offer an overall balance of periods, materials and makers.

3. The exhibitions may consist of objects borrowed from other institutions, individuals and/or objects from the Museum's collections.

(c) Traveling exhibitions in cultural history shall be planned and executed by the Cultural History Bureau for circulation by the Educational Services Bureau. Traveling exhibitions are available on a limited time basis to provide for wider distribution and for protection of the objects. All traveling cultural history exhibitions/objects shall be insured for the length of the loan. Coverage may be carried by the Museum or the borrower by prior agreement.

SUBCHAPTER 16. CULTURAL HISTORY BUREAU:
INTERPRETATION

15:5-16.1 Publications

Brochures, pamphlets and catalogues which document cultural history exhibitions shall be prepared for publication, within budgetary and time limits, under the supervision of the curator and with the approval of the Director. A fee may be charged to cover the costs of such publications.

15:5-16.2 Programs by reservation

Interpretive programs, including lectures and gallery walks in cultural history shall be planned and delivered under the supervision of the curator in coordination with the Curator of Educational Services and with the approval of the Director.

15:5-16.3 Additional services

Off-site cultural history lectures and other interpretive programs shall be made available within staff and time constraints with approval of the curator and notification to the Director.

TRANSPORTATION

(a)

THE COMMISSIONER

Trucks

Adopted Amendments: N.J.A.C. 16:32-1.1, 1.2 and 1.3

Adopted New Rule: N.J.A.C. 16:32-3

Proposed: December 15, 1986 at 18 N.J.R. 2428(a).

Adopted: January 17, 1986 by James A. Crawford, Assistant

Commissioner for Transportation Services and Planning.

Filed: January 27, 1987 as R.1987 d.115, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:3-84.

Effective Date: February 17, 1987.

Expiration Date: April 15, 1990.

Summary of Public Comments and Agency Responses:

On December 15, 1986, the Department proposed amendments and new rule to N.J.A.C. 16:32 concerning "Trucks." Comments regarding the rule were received from Alfred J. Murphy Jr., Mayor, Borough of Hillsdale, Hillsdale, New Jersey, Roadway Express, Inc., Akron, Ohio and United Parcel Service, Greenwich, Connecticut.

COMMENT: The Mayor of the Borough of Hillsdale commented that he appreciated the movement to ease the burden on local municipalities. However, the local and county road system is already overburdened and wider trucks will only aggravate the situation. Wider trucks will do nothing for the community and surrounding area but create more traffic and maintenance problems. The former is obvious but the latter can be seen already in damage to roadside trees, utilities, etc.

RESPONSE: The Department withdrew its initial 102-inch truck proposal which was published in the June 2, 1986 New Jersey Register and repropoed the matter in the December 15, 1986, New Jersey Register. Although this action would appear to have addressed many concerns expressed in response to the initial proposal, continued monitoring for potential problems and flexibility in making route additions and deletions is appropriate. The Department believes that there is sufficient flexibility within the regulation to evaluate and effectuate timely amendments to the 102-inch truck network. The Department anticipates that periodic adjustments will be made to the 102-inch truck network in response to the needs and concerns of the public.

COMMENT: Roadway Express, Inc. appreciates the scope of the proposed highway network for 102-inch trailers. The December 15, 1986 proposed rulemaking clarifies a number of the provisions set forth in the original June 2, 1986 rulemaking. In addition it would enable Roadway to have access to customers on highways that could safely accommodate 102-inch vehicles and in the future apply for access through the procedure set forth in N.J.A.C. 16:32-3.3 of the proposed regulations.

A section of the proposed regulation that Roadway is pleased to see included would allow the use of double trailer truck combinations (tandems) on Route 22 from the interchange with Interstate 78 to the Pennsylvania state line. The designation of Route 22 for tandems would provide a vital link between its major consolidation center in Harrisburg, Pennsylvania and the New Jersey terminals and shippers.

The use of tandems on Route 22 not only would be more efficient for Roadway but would result in safer transportation of freight. It has been Roadway's experience since converting its fleet to tandems from 45 foot trailers four years ago that it has had a lower accident rate. This is due to the fact that accident frequency is in large measure a function of over-the-road miles driven. Because tandems have a 34 percent greater cubic capacity than 45-foot trailers, fewer vehicles are required for transporting the same amount of freight.

In other words, eight tandems transport the same amount of freight as ten 45-foot trailers. Therefore, with fewer vehicle trips, there is a lower exposure to potential accidents. In approximately 500 million miles of tandem operations over a four-year period, Roadway has experienced an accident rate of 29 percent better for tandems than for single 45-foot trailers.

Roadway requested that the Department of Transportation adopt the regulations, as proposed, in final form.

COMMENT: United Parcel Service applauded the inclusion of Route 22 in the New Jersey designated highway system for twin trailer vehicles. UPS has been operating twin trailer vehicles for many years all over the country and finds these vehicles to be superior to the tractor-semitrailer.

In 1985, the company's twin trailers traveled over 225 million miles, during which it experienced 34 D.O.T. reportable accidents, or one mishap for every 6.6 million miles traveled.

The twin trailer, because of its axle placement, produces less splash and spray in wet weather, particularly since splash and spray suppression devices are installed on all UPS twin trailer equipment. Because of its articulation in the middle, the twin trailer is superior to the tractor-semi in "off-tracking" and is more maneuverable.

There are other positive characteristics of twin trailer operation, such as distribution of weight over more axles and a consequent lighter loading on the highway by each axle.

In every aspect of safety, efficiency, and road preservation, this is superior equipment.

United Parcel Service operates its integrated national system 24 hours a day. This is essential to meet time commitments to its customers and maximize use of plant and equipment. All of this translates into cost savings for the consumer.

Restrictions on the most safe and efficient tractor trailer combination available to UPS have unnecessarily burdened New Jersey residents with transportation costs that they would not otherwise have to bear.

UPS wholly supports the addition of Route 22 to the designated highway system for twin trailers in New Jersey. UPS has long considered the New Jersey designated highway system to be inadequate. The addition of Route 22 will now enable UPS twin trailer vehicles to save 31 miles each way when completing the most direct route to its terminals in New Jersey and Pennsylvania.

RESPONSE: Comments which were largely similar were received from Roadway Services, Inc. and United Parcel Service. These comments favorably endorsed the provisions which allow the temporary operations of tandem trucks on Route 22 from the Pennsylvania State line to Interstate Route 78 in Greenwich Township. Both also commented that tandem equipment is highly efficient and has an excellent record of safe operation. Roadway Services went on to request that the Department of Transportation adopt the proposed regulations, as written.

The Department appreciates the comments of Roadway Services and United Parcel Service. The temporary route provisions from Interstate 78 in Greenwich Township to the Pennsylvania State line will provide efficient routing for tandem trucks. There should be direct savings in transportation costs.

Full text of the adoption follows.

CHAPTER 32 TRUCKS

SUBCHAPTER 1. DESIGNATED ROUTES FOR DOUBLE- TRAILER TRUCK COMBINATIONS

16:32-1.1 Double trailers

(a) Except as provided in N.J.A.C. 16:32-1.3, double-trailer truck combinations may be operated in New Jersey only on the following routes:

1. Interstate highways;
2. New Jersey Turnpike;
3. Atlantic City Expressway;
4. Route 42, from Interstate Route 295 to the Atlantic City Expressway;
5. Route 81;

6. Route 130, from Route 322 at Bridgeport to Interstate Route 295;
7. Route 322, from the Commodore Barry Bridge to Route 130;
8. Route 440, from the New Jersey Turnpike to Outerbridge Crossing.

(b) Double-trailer truck combinations operating on the New Jersey Turnpike and the Atlantic City Expressway are subject to the regulations of the New Jersey Turnpike Authority and the New Jersey Expressway Authority, respectively.

(c) On a temporary basis only, until such time as Interstate Route 78 is open from Greenwich Township to the Pennsylvania State line, double-trailer truck combinations may be operated on Route 22 from the interchange with Interstate Route 78 to the Pennsylvania State line, subject to the provisions of this chapter.

(d) Notwithstanding any other provision of this chapter, double-trailer truck combinations shall enter and exit this State only on those specific routes designated for double-trailer truck combinations as authorized in this section.

16:32-1.2 Width restrictions

The maximum width permitted on the routes designated in N.J.A.C. 16:32-1.1 and N.J.A.C. 16:32-1.3(g) is 102 inches, exclusive of mirrors and other safety devices.

16:32-1.3 Reasonable access to terminals and other facilities

(a) Any person or terminal operator who wishes to gain access for double-trailer truck combinations from the system designated in N.J.A.C. 16:32-1.1 to a terminal which is not located on that system must apply in writing for a letter of permission to the Chief, Bureau of Traffic Engineering, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625. The application should be specific as to the exact location of the terminal and the exact route or routes of access requested.

(b) The determination of reasonable access and the issuance of a letter of permission for access to a terminal will be made based on an overall review of all of the criteria set forth below which are general guidelines only and are not necessary of equal weight. Criteria number two, three and four may be relaxed where the Department has made a determination, after a physical inspection of the requested route, that the surrounding circumstances would permit safe travel by these vehicles along the proposed (or alternate) course of travel.

1.-5. (No change.)

6. (No change in text.)

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

(e) The Department of Transportation retains the right to rescind permission for access should conditions change or should records indicate that the double-trailer truck combinations are causing specific traffic or safety problems.

(f) (No change.)

(g) A double-trailer truck combination is permitted access from the system designated in N.J.A.C. 16:32-1.1 to facilities providing food, fuel, repairs and rest, within one mile roadway distance from the designated system except upon those roads, highways, streets, public alleys or other public thoroughfares which cannot safely accommodate a double-trailer truck combination and are so designated by the Department.

1. Designation of those roads upon which travel is prohibited shall be governed by the criteria outlined in paragraph (b) of this section where applicable.

2. Double-trailer truck combinations may only utilize those facilities which provide adequate ingress and egress without the need of backing onto or from a highway, street, road, public alley or other public thoroughfare.

(h) (No change.)

SUBCHAPTER 3. 102-INCH STANDARD TRUCKS

16:32-3.1 Definitions

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

"Household goods carrier" means a vehicle being used to transport household goods and effects to or from a private residence or to or from a place of storage.

"102-inch standard truck" means a truck greater than 96 inches but not greater than 102 inches in width, exclusive of mirrors and other safety devices.

16:32-3.2 General provisions

(a) 102-inch standard trucks are permitted to operate in New Jersey only to the extent and under the conditions authorized by the rules in this chapter.

(b) For purposes of clarity, these rules do not supersede State regulations, municipal ordinances and county resolutions which may otherwise restrict or control the movements of trucks or other vehicles. An example of such a restriction is a maximum weight posting.

(c) Designation of any route in this chapter as a through route for 102-inch standard trucks is a designation which pertains to permissible widths only. Such designation does not always guarantee free movement of all 102-inch standard vehicles. Some 102-inch standard vehicle movements may be restricted on a route because of route or bridge weight restrictions and/or vertical clearance restrictions.

(d) 102-inch standard trucks may be permitted to detour off the designated through network only to the extent necessary to bypass road closings, and route restrictions such as weight or vertical clearance limits. 102-inch standard trucks shall return to the designated network as soon as practicable during a detour movement.

(e) Notwithstanding any other provision of this chapter, 102-inch standard trucks shall enter and exit the State only on those specific routes designated for 102-inch standard trucks as authorized in N.J.A.C. 16:32-3.3.

16:32-3.3 Through routes for 102-inch standard trucks

(a) The routes outlined in (c) below are designated through routes for 102-inch standard trucks. 102-inch standard trucks may travel freely for all purposes on these routes.

(b) The routes as outlined in (c) below were selected on the basis of the following criteria:

1. They are State and Interstate highways, county "500" series roads or, in limited cases, county "600" series roads.

2. They connect at both ends with other through routes (although spur routes are possible for geographic or other reasons).

3. They have travel lane widths of 11 feet or greater for 90 percent or more of the segment length. For purposes of this rule, lanes which are only 10 feet wide are counted as 11 feet wide when located on four-lane divided highways with shoulders.

4. Within rural areas, as established by the Federal Highway Administration under the Federal-Aid Highway Program Manual, Volume 4, Chapter 6, Section 3, they may have 10-foot lane widths with an 8-foot shoulder for 90 percent or more of the segment length.

5. The general criteria within these rules may be superseded in particular instances by determinations made on the basis of engineering judgment.

(c) The following routes are designated as through routes for 102-inch standard trucks:

1. All State and Interstate highway routes with the exception of those listed under Appendix A.

2. All county "500" series roads with the exception of those listed under Appendix B.

3. Those county "600" series roads listed under Appendix C.

4. The New Jersey Turnpike, the Atlantic City Expressway and the Garden State Parkway south of Exit 105. Use of these routes is subject to the regulation of the New Jersey Turnpike Authority, the New Jersey Expressway Authority and the New Jersey Highway Authority, respectively.

16:32-3.4 Access from through routes

(a) Unless otherwise prohibited, 102-inch standard trucks are permitted to travel up to two roadway miles from any through route designated in N.J.A.C. 16:32-3.3 for purposes of pickup and delivery and for access to facilities providing food, fuel, repairs and rest, except upon those roads, highways, streets, public alleys or other public thoroughfares which cannot safely accommodate a truck wider than 96 inches and are so designated by the Department. Truck movements which are made under the authority of this subsection must conform to all other State regulations and to any local "truck route" restrictions which have been adopted and posted as provided in N.J.S.A. 40:67-16.1 et seq.

(b) Unless otherwise prohibited as provided in (a) above, 102-inch standard trucks in the following categories are permitted free access to points of loading and unloading:

1. Household goods carriers;

2. Truck tractor-semitrailer combinations in which the semitrailer has a length not to exceed 28 1/2 feet and which generally operates as part of a double-trailer truck combination.

16:32-3.5 Addition and deletion of through routes

(a) The Department anticipates that from time to time routes will be added to and deleted from the system of through routes set forth in N.J.A.C. 16:32-3.3. Additions and deletions will be proposed by the Department as amendments to these rules and will be based on:

1. Revised information on the geometric characteristics of specific roadways;
2. Roadway improvements;
3. Engineering investigations;
4. The need for suitable and adequate routes for through movements and access to points of loading and unloading;
5. Demonstrated safety problems;
6. Public comment;
7. The operating characteristics of 102-inch standard trucks;
8. Any other factors the Department feels are relevant.

(b) The Department encourages interested parties to submit proposals for additions and deletions to the system. Submissions should be made in writing to the Chief, Bureau of Traffic Engineering, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625. Submissions should be as specific as possible in regard to:

1. Identification of routes proposed for addition or deletion;
2. Information bearing on the criteria for review set forth in (a) above; and
3. Any other information that the party making the submission believes will be helpful to the Department in reviewing the proposed addition or deletion.

(c) Routes may be proposed for addition or deletion regardless of whether the roadway is under the jurisdiction of the State, a county, a municipality or an independent authority. The Department will review every submission made under this subsection and will determine whether or not to propose any amendment to the rules based on that submission. The Department will notify the party making the submission of its determination. The Department's determination will be made on the written record only and will be final.

(d) This section is in addition to the provisions of N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6, which entitle an interested person to petition the agency for a rule.

16:32-3.6 Maps

(a) The Department may, from time to time, prepare and distribute maps and graphic depictions of the designated through track network. Any map or graphic depiction so prepared shall not be considered a regulatory description of the designated through truck network superseding or in lieu of the textual descriptions adopted in this chapter.

(b) Subject to their availability, maps and graphic depictions of the 102-inch standard truck designated through network may be obtained for a charge of \$5.00 each from the Department. Requests should be submitted to the Director, Division of Data Base Generation, 1035 Parkway Avenue, CN 600, Trenton, NJ, 08625. Payments should be made to the New Jersey Department of Transportation.

APPENDIX A

The following State highway routes are not designated as through routes for wide trucks, although some of these routes may be usable by wide trucks under the access provisions of N.J.A.C. 16:32-3.4:

Route	Description	Mileage Point
US 9	between M.P. 0.00 in Cape May Co.	0.00
	and Steel Rd. in Middle Twp., Cape May Co.	12.25
	and between NJ 52 in Somers Pt. City, Atlantic Co.	33.15
	and US 30 in Absecon City, Atlantic Co.	42.80
	and between Co. 625 in Berkeley Twp., Ocean Co.	87.27
	and NJ 166 in Beachwood Boro., Ocean Co.	89.60
	Total US 9	24.23
NJ 13	between Hollywood Blvd. in Pt. Pleasant Boro.	0.00
	and Co. 632 in Pt. Pleasant Boro., Ocean Co.	0.58
	Total NJ 13	0.58
NJ 23	between Rt. 517 in Franklin Boro., Sussex Co.	31.83
	and Rt. 517 in Hamburg Boro., Sussex Co.	34.40
	and between NJ 94 in Hamburg Boro., Sussex Co.	35.50
	and Rt. 565 in Wantage Twp., Sussex Co.	38.52
	and between Rt. 519 in Wantage Twp., Sussex Co.	47.20
	and New York State Line in Montague Twp., Sussex Co.	52.53
	Total NJ 23	10.92
NJ 28	between Co. 633 in Bridgewater Twp., Somerset Co.	5.58
	and Chimney Rock Rd. in Bridgewater Twp., Somerset Co.	6.25
	Total NJ 28	0.67

NJ 29	between US 202 in Delaware Twp., Hunterdon Co.	20.00
	and Rt. 523 in Stockton Boro., Hunterdon Co.	22.45
	Total NJ 29	2.45
NJ 31	between US 206 in Trenton City, Mercer Co.	0.00
	and I-95 in Hopewell Twp., Mercer Co.	4.88
	Total NJ 31	4.88
NJ 33	between Nottingham Way in Hamilton Twp., Mercer Co.	2.30
	and Rt. 526 in Washington Twp., Mercer Co.	7.48
	and between US 130 in East Windsor Twp., Mercer Co.	12.44
	and Woodside Ave. in East Windsor Twp., Mercer Co.,	15.77
	Total NJ 33	8.51
NJ 34	between NJ 79 in Matawan Boro. Monmouth Co.	22.40
	and US 9 on Old Bridge Twp., Middlesex Co.	26.79
	Total NJ 34	4.39
NJ 35	between Bay Ave. in Brick Twp., Ocean Co.	8.81
	and Delaware Ave. in Point Pleasant Beach Boro.,	12.51
	Ocean Co.	
	and between NJ 34 & NJ 70 in Wall Twp., Monmouth Co.	16.05
	and NJ 38 in Wall Twp., Monmouth Co.	20.25
	Total NJ 35	7.90
NJ 37	between NJ 70 in Lakehurst Boro., Ocean Co.	31.52
	and US 9 in Dover Twp., Ocean Co.	37.55
	Total NJ 37	6.03
NJ 38	between I-295 in Mt. Laurel Twp., Burlington Co.	9.60
	and Rt. 530 in Mt. Holly Twp., Burlington Co.	16.78
	Total NJ 38	7.18
NJ 41	between NJ 47 in Deptford Twp., Gloucester Co.	0.00
	and Rt. 544 in Deptford Twp., Gloucester Co.	3.91
	and between 544 in Runnemede Boro., Camden Co.	4.18
	and NJ 168 in Runnemede Boro., Camden Co.	4.95
	Total NJ 41	4.68
NJ 44	between Barbers Ave. in Logan Twp., Gloucester Co.	0.00
	and I-295 in West Deptford Twp., Gloucester Co.	9.60
	Note: Entire route is excluded	
	Total NJ 44	9.60
NJ 45	between Co. 605 & 617 in Woodstown Boro., Salem Co.	10.12
	and NJ 77 in Harrison Twp., Gloucester Co.	17.39
	Total NJ 45	7.27
NJ 47	between Atlantic Ave. in Wildwood City, Cape May Co.	0.00
	and Co. 636 in Wildwood City, Cape May Co.	0.75
	and between the Maurice River Twp./Millville City	36.08
	Corporate Line, Cumberland Co.	
	and US 40 in Franklin Twp., Gloucester Co.	52.36
	and between US 322 in Glassboro Boro., Gloucester Co.	62.29
	and Rt. 551 in Westville Boro., Camden Co.	74.75
	Total NJ 47	29.49
NJ 49	between I-295 in Pennsville Twp., Salem Co.	0.00
	and Co. 632 in Pennsville Twp., Salem Co.	6.20
	Total NJ 49	6.20
NJ 52	between Palen Ave. in Ocean City, Cape May Co.	0.00
	and US 9 in Somers Pt. City, Atlantic Co.	2.74
	Note: Entire route is excluded	
	Total NJ 52	2.74
NJ 53	between NJ 10 in Parsippany Troy Hills Twp.,	1.55
	Morris Co.	
	and I-80 in Denville Twp., Morris Co.	4.50
	Total NJ 53	2.95
NJ 67	between NJ 5 in Fort Lee Boro., Bergen Co.	0.00
	and US 9W in Fort Lee Boro., Bergen Co.	1.98
	Note: Entire route is excluded	
	Total NJ 67	1.98

NJ 70	between M.P. 10 in Evesham Twp., Burlington Co. and Rt. 541 in Medford Twp., Burlington Co. and between US 9 in Dover Twp., Ocean Co. and NJ 34 and 35 in Wall Twp., Monmouth Co.	10.00 13.90 49.88 59.84
	Total NJ 70	13.86
NJ 71	between Co. 49 in Manasquan Boro., Monmouth Co. and NJ 35 in Belmar Boro., Monmouth Co.	1.72 5.10
	Total NJ 71	3.38
I-78	between Henderson St. in Jersey City, Hudson Co. and the N.Y. State Line (Holland Tunnel), Hudson Co.	66.82 67.83
	Total I-78	1.01
NJ 79	between Hance Blvd. in Freehold Twp., Monmouth Co. and Rt. 516 in Matawan Boro., Monmouth Co.	2.45 11.88
	Total NJ 79	9.35
NJ 82	between Kingswood Rd. in Union Twp., Union Co. and NJ 439 in Union Twp., Union Co.	3.10 4.95
	Total NJ 82	1.85
NJ 88	between Rt. 623 in Lakewood Twp., Ocean Co. and NJ 35 in Point Pleasant Boro., Ocean Co.	2.20 9.84
	Total NJ 88	7.64
NJ 91	between US 1 in North Brunswick Twp., Middlesex Co. and Van Dyke Rd., in New Brunswick City, Middlesex Co. Note: Entire route is excluded	0.00 2.31
	Total NJ 91	2.31
NJ 94	between I-80 in Knowlton Twp., Warren Co. and Knowlton/Blairstown Corporate Line, Warren Co.	0.60 3.95
	Total NJ 94	3.35
NJ 109	between Jackson St. in Cape May City, Cape May Co. and US 9 in Lower Twp., Cape May Co. Note: Entire route is excluded	0.00 3.12
	Total NJ 109	3.12
US 130	between N. J. Turnpike in Pennsville Twp., Salem Co. and Co. 618 in Carneys Point Twp., Salem Co.	0.00 2.20
	Total US 130	2.20
NJ 147	between Walnut Ave. in North Wildwood City, Cape May Co. and US 9 in Middle Twp., Cape May Co.	0.00 4.20
	Total NJ 147	4.20
NJ 156	between Rt. 524 in Hamilton Twp., Mercer Co. and US 130 in Hamilton Twp., Mercer Co.	0.57 1.21
	Total NJ 156	0.64
NJ 159	between Co. 614 Spur in Fairfield Boro., Essex Co. and US 46 in Fairfield Boro., Essex Co.	0.55 1.35
	Total NJ 159	0.80
NJ 161	between Allwood Rd. in Clifton City, Passaic Co. and Van Houten Ave. in Clifton City, Passaic Co. Note: Entire route is excluded	0.00 1.10
	Total NJ 161	1.10
NJ 163	between US 46 in Knowlton Twp., Warren Co. and US 46 in Knowlton Twp., Warren Co. Note: Entire route is excluded	0.00 0.46
	Total NJ 163	0.46
NJ 166	between US 9 in Beachwood Boro., Ocean Co. and Co. 4 in Dover Twp., Ocean Co. and between NJ 37 in Dover Twp., Ocean Co. and US 9 in Dover Twp., Ocean Co.	0.80 1.28 2.00 3.75
	Total NJ 166	2.23
NJ 169	between New York State Line in Bayonne City, Hudson Co. and Rt. 501 in Bayonne City, Hudson Co.	0.00 0.80
	Total NJ 169	0.80
NJ 170	between US 206 in Mansfield Twp., Burlington Co. and US 206 in Mansfield Twp., Burlington Co. Note: Entire route is excluded	0.00 0.75
	Total NJ 170	0.75

NJ 171	between Raritan River Railroad in New Brunswick City, Middlesex Co. and Albany St. in New Brunswick City, Middlesex Co.	1.05 2.80
	Total NJ 171	1.75
NJ 173	between Still Valley Rd. in Greenwich Twp., Warren Co. and Bethlehem Ave. in Bloomsbury Boro., Hunterdon Co. and between Co. 614 in Union Twp., Hunterdon Co. and Co. 635 in Union Twp., Hunterdon Co. and between Rt. 513 in Clinton Town, Hunterdon Co. and I-78 in Clinton Town, Hunterdon Co.	0.36 3.35 8.16 9.82 13.46 14.38
	Total NJ 173	5.57
NJ 175	between River Rd. in Ewing Twp., Mercer Co. and NJ 29 in Ewing Twp., Mercer Co.	1.78 2.92
	Total NJ 175	1.14
NJ 179	between Old York Rd. in West Amwell Twp., Hunterdon Co. and US 202 in East Amwell Twp., Hunterdon Co.	1.22 5.58
	Total NJ 179	4.36
NJ 183	between Co. 601 in Stanhope Boro., Sussex Co. and US 206 in Stanhope Boro., Sussex Co.	0.97 2.12
	Total NJ 183	1.15
NJ 184	between US 9 in Woodbridge Twp., Middlesex Co. and Carlock Ave. in Perth Amboy City, Middlesex Co.	0.45 1.13
	Total NJ 184	0.68
US 202	between US 206 in Bedminster Twp., Somerset Co. and Rt. 525 in Bernardsville Boro., Somerset Co. and between Rt. 511 Alt. in Lincoln Park Boro., Morris Co. and NJ 23 in Wayne Twp., Passaic Co. between I-287 in Parsippany-Troy Hills Twp., Morris Co. and I-287 in Boonton Town, Morris Co.	31.74 37.15 60.54 62.78 53.40 54.45
	Total US 202	8.70
NJ 444	between NJ 36 in Tinton Falls Boro., Monmouth Co. and the NY State Line in Montvale Boro., Bergen Co.	106.30 172.43
	Total NJ 444	66.13
NJ 495	between the NJ Turnpike in Jersey City, Hudson Co. and the New York State Line	0.00 3.58
	Total NJ 495	3.58
	Total mileage of ineligible sections:	292.76

APPENDIX B

The following county "500" series routes are not designated as through routes for wide trucks, although some of these routes may be usable by wide trucks under the access provisions of N.J.A.C. 16:32-3.4:

Route	Description	Mileage Point
RT 501	between NJ 184 in Woodbridge Twp., Middlesex Co. and the N.Y. State Line	6.96 9.76
	Total Rt. 501	2.80
RT 503	between Empire Blvd. in Moonachie Twp., Bergen Co. and the S. Hackensack/Hackensack Corp. Line and between Grove St. in Hillsdale Boro., Bergen Co. and the N.Y. State Line in Montvale Twp., Bergen Co.	1.36 3.49 14.03 17.72
	Total Rt. 503	5.82
RT 504	between Main Rd. in Montvale Twp., Morris Co. and West Parkway in Pequannock Twp., Morris Co. and between 19th St. in Paterson City, Passaic Co. and NJ 20 in Paterson City, Passaic Co.	0.00 3.54 15.14 15.55
	Total Rt. 504	3.95
RT 512	between Rt. 513 in Califon Boro., Hunterdon Co. and Railroad Ave. in Far Hills Boro., Somerset Co. and between US 202 in Far Hills Boro., Somerset Co. and the Morris Co. County Line and between M.P. 24.73 in Passaic Twp., Morris Co. and M.P. 25.39 in Passaic Twp., Morris Co.	0.00 13.70 14.27 21.22 24.73 25.39
	Total Rt. 512	21.31

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RT 513	between NJ 12 in Frenchtown Boro., Hunterdon Co. and Rt. 579 in Franklin Twp., Hunterdon Co. and between NJ 31 in Clinton Twp., Hunterdon Co. and Rt. 517 in Washington Twp., Morris Co. and between M.P. 26.14 in Washington Twp., Morris Co. and the Chester Twp. Corp. Line and between a no name road in W. Milford Twp., Passaic Co. and Co. 696 in W. Milford Twp., Passaic Co. Total Rt. 513	0.00 7.52 13.66 26.01 26.14 28.55 59.95 61.53 23.86	RT 525	between Logan Rd. in Bridgewater Twp., Somerset Co. and I-78 in Bernards Twp., Somerset Co. and between the Dead River in Bernards Twp., Somerset Co. and Mt. Airy Rd. in Bernards Twp., Somerset Co. and between I-287 in Bernards Twp., Somerset Co. and Rt. 510/NJ 24 in Mendham Boro, Morris Co. Total Rt. 525	1.89 6.20 6.82 8.21 9.74 17.05 13.01
RT 514	between US 202 in E. Amwell Twp., Hunterdon Co. and Berry St. in Franklin Twp., Somerset Co. and between Mary Ave. in Woodbridge Twp., Middlesex Co. and US 9 in Woodbridge Twp., Middlesex Co. and between US 1&9 in Rahway City, Union Co. and Bay Ave. in Elizabeth City, Union Co. Total Rt. 514	0.00 22.74 32.96 34.36 38.50 43.11 28.75	RT 526	between Village Rd. in W. Windsor Twp., Mercer Co. and Rt. 535 in W. Windsor Twp., Mercer Co. Total Rt. 526	1.80 3.33 1.53
RT 514	between NJ 31 in Raritan Twp., Hunterdon Co. Spur I and US 202 in Raritan Twp., Hunterdon Co. and between Co. 613 in Raritan Twp., Hunterdon Co. and Rt. 514 in Raritan Twp., Hunterdon Co. Total 514 Spur I	0.00 0.40 2.43 4.29 2.26	RT 527	between M.P. 49.67 in Franklin Twp., Somerset Co. and Co. 619 in Franklin Twp., Somerset Co. Total Rt. 527	49.67 51.11 1.44
RT 515	between NJ 94 in Vernon Twp., Sussex Co. and the N.Y. State Line Total Rt. 515	10.77 13.08 2.31	RT 527	between Rt. 512 in Bernards Twp., Somerset Co. Spur and US 202 in Bernardsville Boro., Somerset Co. Total Rt. 527 Spur	3.92 8.55 4.63
RT 517	between Rt. 523 in Tewksbury Twp., Hunterdon Co. and Rt. 513 in Washington Twp., Morris Co. Total Rt. 517	0.00 9.39 9.39	RT 529	between US 22 in Green Brook Twp., Somerset Co. and Rt. 527 in Watchung Boro., Somerset Co. Total Rt. 529	8.63 10.56 1.93
RT 519	between NJ 29 in Delaware Twp., Hunterdon Co. and the C.R.R. of NJ Bridge in Pohatcong Twp., Warren Co. and between Co. 661 in Frelinghuysen Twp., Hunterdon Co. and M.P. 62.65 in Fredon Twp., Sussex Co. Total Rt. 519	0.00 27.25 55.03 62.65 34.87	RT 530	between Hough St. in Pemberton Boro., Burlington Co. and Anderson St. in Pemberton Twp., Burlington Co. and between Columbus Rd. in Pemberton Twp., Burlington Co. and S. Main St. in So. Toms River Boro., Ocean Co. Total Rt. 530	6.48 7.49 12.50 33.87 22.38
RT 519	between M.P. 0.61 in Kingwood Twp., Hunterdon Co. Spur and Rt. 519 in Kingwood Twp., Hunterdon Co. Total Rt. 519 Spur	0.61 4.55 3.94	RT 532	between Rt. 541 in Medford Lakes Twp., Burlington Co. and US 206 in Tabernacle Twp., Burlington Co. and between Rt. 563 in Woodland Twp., Burlington Co. and NJ 72 in Woodland Twp., Burlington Co. Total Rt. 532	0.00 4.03 15.39 19.45 8.09
RT 520	between Texas Rd. in Old Bridge Twp., Middlesex Co. and Amboy Rd. in Marlboro Twp., Monmouth Co. and between NJ 18 in Marlboro Twp., Monmouth Co. and a stream in Marlboro Twp., Monmouth Co. Total Rt. 520	2.06 3.90 4.26 6.61 4.19	RT 533	between Mercer Mall in Lawrence Twp., Mercer Co. and US 206 in Princeton Twp., Mercer Co. and between US 206 in Montgomery Twp., Somerset Co. and Rt. 527 in Bound Brook Boro., Somerset Co. Total Rt. 533	8.22 10.82 17.24 32.13 17.49
RT 521	between NJ 94 in Blairstown Twp., Warren Co. and Mashipacong Rd. in Montague Twp., Sussex Co. Total Rt. 521	6.35 41.47 35.12	RT 534	between Warwick Rd. in Deptford Twp., Gloucester Co. and the Camden Co. Line Total Rt. 534	4.09 6.89 2.80
RT 521	between Rt. 521 in Sandyston Twp., Sussex Co. Spur and a road at M.P. 2.77 Note: Entire route is not eligible Total Rt. 521 Spur	0.00 2.77 2.77	RT 536	between Winslow Rd. in Monroe Twp., Gloucester Co. and Co. 706 in Winslow Twp., Camden Co. and between Co. 720 in Winslow Twp., Camden Co. and NJ 73 in Winslow Twp., Camden Co. Total Rt. 536	24.27 27.26 27.62 30.60 5.97
RT 522	between NJ 27 in S. Brunswick Twp., Middlesex Co. and Co. 679 in S. Brunswick Twp., Middlesex Co. Total Rt. 522	0.00 6.34 6.34	RT 536	between US 322/NJ 42 in Monroe Twp., Gloucester Co. Spur and Camden Co. Line and between NJ 73 in Waterford Twp., Camden Co. and the Burlington Co. Line Total Rt. 536 Spur	0.32 1.50 8.57 9.03 1.64
RT 524	between Rt. 539 in Washington Twp., Mercer Co. and Clarksburg Rd. in Millstone Twp., Monmouth Co. Total Rt. 524	7.88 14.78 6.90	RT 537	between US 206 in Springfield Twp., Burlington Co. and Co. 670 in Springfield Twp., Burlington Co. and between Overbrook Dr. in Freehold Twp., Monmouth Co. and School Rd. East in Colts Neck Twp., Monmouth Co. and between Wayside Rd. in Tinton Falls Boro., Monmouth Co. and M.P. 62.63 in Tinton Falls Boro, Monmouth Co. Total Rt. 537	22.09 24.58 54.66 55.15 62.34 62.63 3.27
RT 524	between Rt. 524 in Howell Twp., Monmouth Co. Spur I and Rt. 524/547 in Howell Twp., Monmouth Co. Note: Entire route is not eligible. Total Rt. 524 Spur I	0.00 3.74 3.74	RT 538	between US 322 in Woolwich Twp., Gloucester Co. and Rt. 581 in S. Harrison Twp., Gloucester Co. and between the Elk Twp./Franklin Twp. Corp. Line Gloucester Co. and US 322 in Monroe Twp., Gloucester Co. Total Rt. 538	0.00 6.12 14.17 25.01 16.96

RT 539	between the Monmouth Co./Mercer Co. County Line and Perrineville Rd. in E. Windsor Twp., Mercer Co.	48.36 49.38	RT 561	between M.P. 0.00 in Galloway Twp., Atlantic Co. and Rt. 575 in Galloway Twp., Atlantic Co.	0.00 6.02
	Total Rt. 539	1.02		and between Old Rt. 561 Alt. in Galloway Twp., Atlantic Co.	7.15
RT 543	between Cedar Lane in Florence Twp., Burlington Co. and Co. 628 in Mansfield Twp., Burlington Co.	21.93 22.97		and Co. 614 in Galloway Twp., Atlantic Co.	10.23
	Total Rt. 543	1.04		Total Rt. 561 Alt.	9.10
RT 545	between Co. 667 in Pemberton Twp., Burlington Co. and the Pemberton Twp./New Hanover Twp. Corp. Line, Burlington Co.	0.28 1.55	RT 561	between US 322 in Folsom Boro., Atlantic Co. and the Atlantic City Expressway in Winslow Twp., Camden Co.	0.00 6.02
	and between the Springfield Twp./Chesterfield Twp. Corp. Line, Burlington Co.	7.09		Note: Entire route is not eligible.	
	and M.P. 7.64 in Chesterfield Twp., Burlington Co.	7.64		Total Rt. 561 Spur	6.02
	and between M.P. 13.00 in Bordentown Twp., Burlington Co.	13.00	RT 565	between US 206 in Frankfort Twp., Sussex Co. and NJ 23 in Wantage Twp., Sussex Co.	0.00 9.40
	and US 206 in Bordentown Twp., Burlington Co.	13.81		Total Rt. 565	9.40
	Total Rt. 545	2.63	RT 567	between Rt. 514 in Hillsborough Twp., Somerset Co. and M.P. 3.66 in Branchburg Twp., Somerset Co.	0.00 3.66
RT 548	between NJ 47 in Maurice River Twp./Cumberland Co. and NJ 49 in Upper Twp., Cape May Co.	0.00 9.18		Total Rt. 567	3.66
	Note: Entire route is not eligible		RT 569	between Rt. 533 in Lawrence Twp., Mercer Co. and US 206 in Lawrence Twp., Mercer Co.	0.00 1.98
	Total Rt. 548	9.18		Total Rt. 569	1.98
Rt 549	between Dugesne Blvd. in Brick Twp., Ocean Co. and NJ 70 in Brick Twp., Ocean Co.	8.33 8.98	RT 571	between Rt. 524 in Millstone Twp., Monmouth Co. and S. Rockdale Rd. in Roosevelt Boro., Monmouth Co.	26.86 29.12
	and between Dunbeck Rd. in Brick Twp., Ocean Co. and Co. 621 in Howell Twp., Monmouth Co.	12.97 16.46		Total Rt. 571	2.26
	Total Rt. 549	4.14	RT 575	between Rt. 561 Alt. in Galloway Twp., Atlantic Co. and US 9 in Port Republic Twp., Atlantic Co.	16.78 21.20
RT 549	between NJ 88 in Pt. Pleasant Boro., Ocean Co. and Rt. 549 in Brick Twp., Ocean Co.	0.00 3.94		Total Rt. 575	4.42
Spur 1	Note: Entire route is not eligible.		RT 577	between NJ 24 in Springfield Twp., Union Co. and Bleeker St. in Millburn Twp., Essex Co.	3.21 3.73
	Total Rt. 549 Spur 1	3.94		and between the S. Orange/W. Orange Corp. Line, Essex Co. and Gregory Pl. in W. Orange Town, Essex Co.	8.05 8.98
RT 550	between NJ 47 in Maurice River Twp., Cumberland Co. and US 9 in Dennis Twp., Cape May Co.	0.00 15.86		Total Rt. 577	1.45
	Note: Entire route is not eligible.		RT 579	between Mt. Airy Rd. in Hopewell Twp., Mercer Co. and Rt. 523 in Raritan Twp., Hunterdon Co.	8.93 19.25
	Total Rt. 550	15.86		and between NJ 12 in Raritan Twp., Hunterdon Co. and Rt. 513 in Franklin Twp., Hunterdon Co.	22.05 27.90
RT 550	between NJ 47 in Dennis Twp., Cape May Co. and Rt. 550 in Dennis Twp., Cape May Co.	0.00 4.84		and between Co. 614 in Alexandria Twp., Hunterdon Co. and NJ 173 in Greenwich Twp., Warren Co.	33.48 37.30
Spur	Note: Entire route is not eligible.			Total Rt. 579	19.99
	Total Rt. 550 Spur	4.84		Total 500 Route Mileage that is not eligible	427.54
RT 552	between M.P. 1.48 in Upper Deerfield Twp., Cumberland Co. and M.P. 1.82 in Upper Deerfield Twp., Cumberland Co.	1.48 1.82		Total 500 Route Mileage that is eligible	1683.81
	and between Rt. 553 in Upper Deerfield Twp., Cumberland Co.	2.89	APPENDIX C		
	and the Atlantic Co. County Line	21.28	The following county "600" series roads are designated as through routes for wide trucks:		
	Total Rt. 552	18.73	Co. 601	US 9 in Middle Twp., Cape May Co. and Co. 619 in Avalon Boro., Cape May Co.	0.00 3.80 3.80
RT 552	between Wade Blvd. in Millville City, Cumberland Co. and Rt. 552 in Vineland City, Cumberland Co.	0.95 3.40	Co. 606	US 206 in Trenton, Mercer Co. and NJ 33 in Hamilton Twp., Mercer Co.	0.00 3.66 3.66
Spur	Total Rt. 552 Spur	2.45	Co. 607	Long Beach Twp./Beach Haven Boro. C/L, Ocean Co. and 4th St. in Long Beach Twp., Ocean Co.	1.22 17.98 16.76
RT 553	between Cherry St. in Commercial Twp., Cumberland Co. and Church St. in Downe Twp., Cumberland Co.	0.28 4.68	Co. 609	Rt. 553 in Fairfield Twp., Cumberland Co. and NJ 49 in Bridgeton City, Cumberland Co.	0.00 2.93 2.93
	and between Reeves Rd. in Fairfield Twp., Cumberland Co. and Co. 705 in Upper Deerfield Twp., Cumberland Co.	20.10 21.80	Co. 609	Rt. 527 in New Brunswick City, Middlesex Co. and Rt. 514 Spur in Piscataway Twp., Middlesex Co.	0.00 0.57 0.57
	and between Rt. 540 in Pittsgrove Twp., Salem Co. and Monogahela Creek in Deptford Twp., Gloucester Co.	26.83 45.59	Co. 610	Rt. 539 in Barnegat Twp., Ocean Co. and NJ 72 in Barnegat Twp., Ocean Co.	0.00 2.15 2.15
	Total Rt. 553	24.86			
RT 557	between NJ 47 in Dennis Twp., Cape May Co. and NJ 50 in Estell Manor Twp., Atlantic Co.	0.00 12.72			
	Total Rt. 557	12.72			
RT 561	between M.P. 17.73 in Mullica Twp., Atlantic Co. and US 30 in Hammonton Twp., Atlantic Co.	17.73 20.28			
	and NJ 73 in Winslow Twp., Camden Co. and Florence Ave. in Berlin Boro., Camden Co.	32.49 35.29			
	Total Rt. 561	5.35			

Co. 615	Co. 673 in Sayreville Boro., Middlesex Co. NJ 35 in South Amboy City, Middlesex Co.	10.66 12.17 1.51
Co. 616	NJ 35 in Ocean Twp., Monmouth Co. NJ 71 in Asbury Park City, Monmouth Co.	0.00 1.25 1.25
Co. 618	Rt. 551 in Carney's Point Twp., Salem Co. US 130 in Carney's Point Twp., Salem Co.	0.00 0.91 0.91
Co. 619	Middle Twp./Stone Harbor C/L, Cape May Co. Co. 623 in Ocean City, Cape May Co.	2.83 19.83 17.00
Co. 623	US 9 in Upper Twp., Cape May Co. Co. 619 in Ocean City, Cape May Co.	0.00 2.03 2.03
Co. 625	US 9 in Dennis Twp., Cape May Co. Co. 619 in Sea Isle City, Cape May Co.	0.00 2.78 2.78
Co. 629	NJ 152 in Longport Boro, Atlantic Co. US 40/322 in Atlantic City, Atlantic Co.	0.00 5.40 5.40
Co. 629	US 9 in Middle Twp., Cape May Co. Co. 619 in Stone Harbor, Cape May Co.	0.00 4.20 4.20
Co. 638	NJ 18 in Tinton Falls Boro., Monmouth Co. Rt. 547 in Tinton Falls Boro., Monmouth Co.	1.40 2.24 0.84
Co. 649	NJ 24 in Milburn Twp., Essex Co. Rt. 508 in Livingston Twp., Essex Co.	0.00 4.02 4.02
Co. 656	Co. 623 in Ocean City, Cape May Co. 4th St. in Ocean City, Cape May Co.	0.00 3.24 3.24
Co. 657	US 9 in Stone Harbor Boro., Cape May Co. NJ 47 in Middle Twp., Cape May Co.	0.00 5.86 5.86
Co. 673	Rt. 535 in Sayreville Boro., Middlesex Co. Co. 615 in Sayreville Boro., Middlesex Co.	0.00 0.61 0.61
	<u>Total 600 Route Mileage Eligible</u>	79.52

TREASURY-GENERAL

DIVISION OF PENSIONS

(a)

Administration

Minimum Adjustments

Adopted Amendment: N.J.A.C. 17:1-1.10

Proposed: December 1, 1986 at 18 N.J.R. 2377(a).

Adopted: January 16, 1987, by Douglas R. Forrester, Director,
Division of Pensions.

Filed: January 21, 1987 as R.1987 d.108, **without change.**

Authority: N.J.S.A. 52:18A-96 et seq.

Effective Date: February 17, 1987.

Expiration Date: June 6, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:1-1.10 Minimum adjustments

(a) In order to facilitate the reconciliation of members' accounts upon death or withdrawal, no rebates or additional contributions shall be made

to a member's loan and arrearages balances if such adjustments involve amounts of \$10.00 or less. All bad balances of \$10.00 or less will be written off.

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

(b)

STATE INVESTMENT COUNCIL

Common Pension Fund C

Adopted Repeal and New Rules: N.J.A.C. 17:16-38

Proposed: December 15, 1986 at 18 N.J.R. 2438(a).

Adopted: January 15, 1987 by Roland M. Machold, Director,

Division of Investment and State Investment Council.

Filed: January 20, 1987 as R.1987 d.107, **without change.**

Authority: N.J.S.A. 52:18A-91.

Effective Date: February 17, 1987.

Expiration Date: December 2, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

SUBCHAPTER 38. COMMON PENSION FUND C

17:16-38.1 Common Pension Fund C defined

Pursuant to Chapter 270, P.L. 1970 there is created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as Common Pension Fund C (the Fund), in which may be deposited the surplus moneys of the State administered pension and annuity funds.

17:16-38.2 Participation in Common Pension Fund C

(a) Participation in Common Pension Fund C by State pension and annuity funds, representing net capital contributions to the fund together with any income thereon, shall be evidenced by proper entries setting forth ownership units in the records of the Division of Pensions, Department of the Treasury.

(b) Contributions to Common Pension Fund C by the participating funds shall be made in cash.

17:16-38.3 Distribution of income

All income, as calculated under N.J.A.C. 17:16-38.8, of Common Pension Fund C shall be invested in units of participation in accordance with N.J.A.C. 17:16-38.9 and such units may be withdrawn in accordance with N.J.A.C. 17:16-38.10.

17:16-38.4 Permissible investments

(a) The Director may invest the assets of Common Pension Fund C in fixed-income and debt securities which are permitted under the provisions of N.J.S.A. 52:18A-89, subject to any applicable provisions of the regulations of the State Investment Council, and which mature within one year.

(b) All investments must conform to the investment guidelines established by N.J.S.A. 52:18A-89.1 et seq. (P.L. 1985, c.308, South African divestiture) for pension and annuity funds.

17:16-38.5 Units of participation

(a) Each unit of participation shall represent an equal beneficial interest in the Fund and no unit shall have priority or preference over any other.

(b) Each unit of participation shall be valued at the Net Asset Value Per Unit as is set forth in N.J.A.C. 17:16-38.6.

17:16-38.6 Valuation

The Net Asset Value Per Unit of participation shall remain at \$1.00, except only in an instance where Net Income Available for Distribution might be negative, in which case the Net Asset Value Per Unit would be reduced by each participant's proportionate share of such negative amount.

17:16-38.7 Date of valuation

The valuation of the fund shall be determined at the opening of business on each business day, and shall be based on realized gains or losses, accruals, and amortization as of the close of the previous day as set forth in N.J.A.C. 17:16-38.8.

17:16-38.8 Calculation of daily income per participating unit

The income due to the participants in Common Pension Fund C shall be calculated daily. For the purpose of this calculation, net income available for distribution shall equal the sum of daily interest income, daily discount income, realized gain on sales, and amortized discount, from which sum shall be deducted the sum of realized loss on sales, and amortized premium. Such net income available for distribution shall then be divided by the number of outstanding participating units to determine the daily income per participating unit.

17:16-38.9 Reinvestment of daily income per participating unit

(a) The aggregate of daily income per participating unit on total units owned by each participant will be reinvested automatically in additional units at a price of \$1.00 per unit and such new units will be credited to the respective accounts of all of the participants in proportion to their holdings of participating units immediately prior to the determination of net income available for distribution.

(b) In the reinvestment of aggregate daily income as described in (a) above, fractional units may be issued representing fractions of a dollar, but no units will be issued representing fractions of one cent, nor will cash dividends be transmitted.

(c) Participating funds may obtain cash by redemption of units in accordance with N.J.A.C. 17:16-38.10.

17:16-38.10 Admission and withdrawal of participating units

(a) Admission to or withdrawal from the Fund shall be permitted on any business day. Admissions prior to noon will receive credit for net income available for distribution for such day if such admissions remain in the Fund through the close of such day. Withdrawals from the Fund will receive credit for net income available for distribution only as of the close of the day next preceding such withdrawal.

(b) All admissions and withdrawals will be made in cash.

17:16-38.11 Amendments

This subchapter may be amended from time to time by the State Investment Council. Any amendment adopted by such Council shall be binding upon all participating funds. An amendment shall become effective, unless otherwise provided for therein, on the date it is published in the New Jersey Register pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

17:16-38.12 Liquidation

(a) The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months' notice, liquidate Common Pension Fund C. In the event of such liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the Fund. When such proportionate distribution is impracticable in the judgment of the Director, he may instead distribute on liquidation, cash or temporary investments held by the common fund.

(b) No liquidation will be effected without the approval by the State Investment Council of a plan of distribution of the assets of the Fund.

17:16-38.13 Guidelines on error correction

(a) Any error in the statement of daily income to participants which is less than either one-third of a true calculation of such income, or \$100,000, whichever is greater, may be adjusted over future daily income of the Fund in such a manner as may be approved by the Director of the Division of Investment.

(b) Any error in excess of such amount may be adjusted.

1. In such a manner as may be approved by the State Investment Council; or

2. Through the restatement of income on days the error occurred, by charge against income on future days.

OTHER AGENCIES**CASINO CONTROL COMMISSION****(a)****Casino Hotel Alcoholic Beverage Licenses Fees; License Terms****Adopted Repeal and New Rule: N.J.A.C. 19:41-9.7
Adopted Amendment: N.J.A.C. 19:50-1.3**

Proposed: December 1, 1986 at 18 N.J.R. 2379(a).

Adopted: January 21, 1987 by Walter N. Read, Chairman,
Casino Control Commission.Filed: January 22, 1987 as R.1987 d.109, **without change.**

Authority: N.J.S.A. 5:12-69, 5:12-70(q), 5:12-103 and 5:12-141.

Effective Date: February 17, 1987.

Expiration Date: May 17, 1988 for N.J.A.C. 19:41 and May 23,
1988 for N.J.A.C. 19:50.**Summary of Public Comments and Agency Responses:**

COMMENT: The only comment received concerning the proposal was submitted by the Division of Gaming Enforcement (Division). The comment concerned the change in methodology by which casino hotel alcoholic beverage license fees would be assessed. The Division noted that the proposed casino hotel alcoholic beverage license fee structure would not be in conformance with the methodology employed by the State Alcoholic Beverage Commission. Thus, casino hotel alcoholic beverage licensees would not be on a regulatory parity with other alcoholic beverage licensees operating under the authority and supervision of the State ABC. In light thereof, the Division did not make any recommendation concerning the adoption of the fee amendment, but instead deferred to the discretion of the Commission.

RESPONSE: Section 103 of the Casino Control Act reveals a legislative intent to place within the jurisdiction of the Commission all matters relating to the control and regulation of alcoholic beverages in casino hotel facilities. Thus, it is apparent that the methodology by which casino hotel alcoholic beverage license fees are to be assessed does not have to conform with the methodology employed by the State Alcoholic Beverage Commission. In addition, the Commission notes that the current system of assessing casino hotel alcoholic beverage fees, which imposes a \$5,000 annual casino hotel alcoholic beverage fee for each approved location within a casino hotel, also does not conform with the methodology employed by the State ABC.

It is also important to recognize that the Commission, unlike the State Alcoholic Beverage Commission, is statutorily required to establish a fee structure which recoups its regulatory expenditures. Accordingly, its alcoholic beverage licensing fees must reflect the approximate cost of regulating the activity. The proposed fee structure would change the fee currently charged to casino licensees from \$5,000 per location, except for storage areas, and would replace it with an hourly charge for professional time spent, which would conform to the system in place generally for casino license fees. Therefore, the Commission believes the adoption of the new fee regulation is entirely appropriate.

Full text of the adoption follows.

19:41-9.7 Casino hotel alcoholic beverage licenses

(a) Under Section 103 of the Act no business may expose for sale, solicit or promote the sale of, possess with intent to sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about any portion of the premises of a casino hotel unless said business possesses an appropriate casino hotel alcoholic beverage license.

(b) The fee for the issuance or renewal of a casino hotel alcoholic beverage license for a casino licensee conducting alcoholic beverage activity in a casino hotel shall be assessed as follows:

1. Payment for the efforts of professional agents and employees of the Commission and Division on matters directly related to the casino hotel alcoholic beverage license or application at the rate of \$40.00 per hour; and

2. Payment for any unusual or out-of-pocket expenses incurred by agents or employees of the Commission and Division on matters directly related to the casino hotel alcoholic beverage license or application.

(c) The fee for the issuance or renewal of a casino hotel alcoholic beverage license for a casino service industry licensee which is not affiliated with any casino licensee shall be \$1,000 for each location approved by the Commission for any or all of the activities listed in section 103.

(d) The fee for the issuance of any permit or approval required by the Act or Title 33 of the Revised Statutes for an alcoholic beverage activity which is not included within a casino hotel alcoholic beverage license shall be assessed:

1. For a casino licensee, in accordance with (b) above;
2. For all other persons, at a rate of \$50.00 per day.

(e) The fees established by (b) and (c) above shall apply to any casino hotel alcoholic beverage license issued after July 1, 1986. Any casino licensee which paid a fee for a casino hotel alcoholic beverage license issued or renewed after July 1, 1986, which was greater than the fee established in (b) above shall be entitled to a credit toward the payment of additional fees incurred by that casino licensee pursuant to this subchapter. The credit shall be equal to the difference between the amount of casino hotel alcoholic beverage fees which were previously paid and the amount of fees imposed by (b) above. Any casino service industry

licensee which paid a fee for a casino hotel alcoholic beverage license issued or renewed after July 1, 1986, which was greater than the fee established in (c) above shall be entitled to a refund of the excess fee payment. The refund shall be equal to the difference between the amount of casino hotel alcoholic beverage license fees which were previously paid and the amount of fees imposed by (c) above.

19:50-1.3 License as condition precedent to operation

(a) No casino licensee, nor any of its lessees, agents or employees, nor any other person or entity, shall expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about any portion of the premises of a casino hotel, unless such person possesses an appropriate casino hotel alcoholic beverage license. Any casino hotel alcoholic beverage license issued or renewed after July 1, 1986, shall be granted for a term which coincides with the term of the casino license or casino service industry license held by the licensee.

(b)-(e) (No change.) _____

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

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 include a revised and updated version of Map 4-3, the Tri-County sewer service area map. The revised map will not supersede any municipal or regional sewer service area map approved by the Department of Environmental Protection (DEP) as part of a 201 Facilities Plan, Wastewater Management Plan or Water Quality Management Plan Amendment, where the existing map is more accurate or more specific. The revised map will also prohibit development requirement sewer or septic service in freshwater wetlands. This exclusion will apply to all infrastructure associated with any proposed development including sewers, roads, stormwater and other structural facilities, except those facilities determined by the DEP to be unavoidable.

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, 3rd Floor, 401 East State Street, CN-029, Trenton, N.J. 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.

HEALTH

(b)

DIVISION OF OCCUPATIONAL AND ENVIRONMENTAL HEALTH

DIVISION OF ENVIRONMENTAL QUALITY DEPARTMENT OF ENVIRONMENTAL PROTECTION DEPARTMENT OF LABOR RIGHT TO KNOW ADVISORY COUNCIL

Worker and Community Right to Know Act

Public Hearing

Take notice that pursuant to the "Worker and Community Right to Know Act", N.J.S.A. 34:5A-1 et seq., the Department of Health, Department of Environmental Protection and Department of Labor, in conjunction with the Right to Know Advisory Council, will hold a public hearing

to receive information, advice, testimony and recommendations from the public concerning the implementation of the Act, as follows:

Thursday, March 19, 1987
10:00 A.M. to 5:00 P.M.
New Jersey State Library
First Floor Meeting Room
185 West State Street
Trenton, New Jersey

The purpose of the hearing will be to receive public comments about the implementation of the Right to Know Act by the state, the effect of the Community Right to Know provision of the Superfund amendments on the New Jersey Right to Know Act, the problems employers and employees are having concerning compliance with the Right to Know law, and positive actions that have occurred as a result of the requirements of the law.

The Departments of Health and Environmental Protection would like to hear suggestions regarding substances which should be added or deleted to the workplace hazardous substance list and the environmental hazardous substance list. Any suggested revisions to either list should be based on and accompanied by documented scientific evidence.

Persons who wish to testify should call Judy Gostin at (609) 984-2202. The record will be kept open for 15 days beyond March 19, 1987 for the receipt of written comments, which should be sent to: Richard Willinger, Right to Know Project, New Jersey Department of Health, CN 368, Trenton, New Jersey 08625.

(c)

Petition for Rulemaking Nursing Home Patient Rights N.J.A.C. 8:39-16.1(d)4

Petitioner: Office of the Ombudsman for the Institutionalized Elderly.

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

Take notice that on January 8, 1987, the Office of the Ombudsman for the Institutionalized Elderly petitioned the State Department of Health to amend N.J.A.C. 8:39-16.1(d)4, concerning policies and procedures related to the transfer or discharge of a nursing home patient on a non-emergency basis.

Specifically, petitioner requests that the above rule be amended, to require that the non-emergency transfer or discharge of a nursing home patient be completed no later than 5:00 P.M. If the transfer/discharge cannot be completed by that time, it should be effectuated the following day, between the hours of 9:00 A.M. and 5:00 P.M.

Petitioners note that the petition is the result of numerous complaints and inquiries received in its office; those comments indicate that, in some instances, transfers/discharges are occurring after 5:00 P.M. (often late at night), adversely impacting upon the patient, the patient's family, and those health care professionals involved in treating the patient.

Take further notice that, pursuant to N.J.A.C. 1:30-3.6(c)3, this petition has been referred to the Division of Health Facilities Evaluation, within the Department of Health, for a review and determination as to how the Department should respond.

Technical staff within that Division is currently reviewing the petition, in an effort to determine the validity of the arguments raised. Once that review is complete, the Department will be in a position to respond, in a rational manner, to the request for amendment made by petitioner.

The review described above, as well as a decision on how to proceed regarding the petition, will be concluded by May 15, 1987. By that time, a Notice of Proposed Action will be submitted to the Office of Administrative Law, for publication in the New Jersey Register on June 15, 1987.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the January 5, 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: DECEMBER 15, 1986.

NEXT UPDATE WILL BE DATED JANUARY 20, 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
18 N.J.R. 377 and 446	February 18, 1986	18 N.J.R. 1727 and 1862	September 8, 1986
18 N.J.R. 447 and 506	March 3, 1986	18 N.J.R. 1863 and 1978	September 22, 1986
18 N.J.R. 507 and 582	March 17, 1986	18 N.J.R. 1979 and 2078	October 6, 1986
18 N.J.R. 583 and 726	April 7, 1986	18 N.J.R. 2069 and 2148	October 20, 1986
18 N.J.R. 727 and 868	April 21, 1986	18 N.J.R. 2149 and 2234	November 3, 1986
18 N.J.R. 869 and 1018	May 5, 1986	18 N.J.R. 2235 and 2344	November 17, 1986
18 N.J.R. 1019 and 1122	May 19, 1986	18 N.J.R. 2345 and 2408	December 1, 1986
18 N.J.R. 1123 and 1222	June 2, 1986	18 N.J.R. 2409 and 2472	December 15, 1986
18 N.J.R. 1223 and 1326	June 16, 1986	19 N.J.R. 1 and 164	January 5, 1987
18 N.J.R. 1327 and 1432	July 7, 1986	19 N.J.R. 165 and 260	January 20, 1987
18 N.J.R. 1433 and 1504	July 21, 1986	19 N.J.R. 261 and 324	February 2, 1987
18 N.J.R. 1505 and 1640	August 4, 1986	19 N.J.R. 325 and 392	February 17, 1987
18 N.J.R. 1641 and 1726	August 18, 1986		

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1			
1:1, 1:2—1:21	18 N.J.R. 1728(a)		
1:1-15.10	18 N.J.R. 1865(a)	R.1986 d.468	18 N.J.R. 2381(a)

(TRANSMITTAL 25, dated December 15, 1986)

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
AGRICULTURE—TITLE 2			
2:6-1	18 N.J.R. 2151(a)	R.1987 d.85	19 N.J.R. 286(a)
2:71-2.2—2.7	18 N.J.R. 2347(a)	R.1987 d.89	19 N.J.R. 287(a)
2:71-2.2—2.7			19 N.J.R. 355(a)
2:76-5.3	18 N.J.R. 1981(a)	R.1987 d.90	19 N.J.R. 288(a)
2:76-6.15	18 N.J.R. 513(a)		
2:90-1.3	18 N.J.R. 2081(a)		

(TRANSMITTAL 44, dated October 20, 1986)

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
BANKING—TITLE 3			
3:11-11.13	18 N.J.R. 1224(a)		
3:13-4.2	18 N.J.R. 1982(a)	R.1986 d.475	19 N.J.R. 289(a)
3:21-2.1	18 N.J.R. 2237(a)	R.1987 d.93	19 N.J.R. 289(b)
3:41	18 N.J.R. 1642(a)		

(TRANSMITTAL 36, dated December 15, 1986)

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
PERSONNEL (CIVIL SERVICE)—TITLE 4			
4:1-2.1, 5.2, 11.2, 16, 24	18 N.J.R. 450(a)		
4:1-12.18	18 N.J.R. 1642(b)		
4:1-15	18 N.J.R. 592(a)		
4:1-18	18 N.J.R. 1764(a)		
4:1-26	18 N.J.R. 2152(a)	R.1987 d.31	19 N.J.R. 56(b)
4:2-15.1	18 N.J.R. 592(a)		
4:2-16	18 N.J.R. 450(a)		
4:2-18	18 N.J.R. 1764(a)		
4:2-26	18 N.J.R. 2152(a)	R.1987 d.31	19 N.J.R. 56(b)
4:3-16	18 N.J.R. 450(a)		
4:4	18 N.J.R. 1766(a)	R.1987 d.20	19 N.J.R. 58(a)
4:5	18 N.J.R. 2152(a)	R.1987 d.15	19 N.J.R. 56(a)
4:5	18 N.J.R. 2152(a)	R.1987 d.31	19 N.J.R. 56(a)

(TRANSMITTAL 32, dated December 15, 1986)

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)
COMMUNITY AFFAIRS—TITLE 5	
5:18-2.5, 2.7, 2.11, 2.14, 3.2, 4.1, 4.7, 4.9-4.13, 4.17, 4.18	18 N.J.R. 1225(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:18A-2.3, 4.3, 4.4	Fire Code Enforcement	18 N.J.R. 1225(a)		
5:23-2.23, 7.57	Barrier-Free Subcode	18 N.J.R. 2348(a)	R.1987 d.91	19 N.J.R. 289(c)
5:23-3.4, 3.20	Uniform Construction Code: mechanical subcode	18 N.J.R. 2083(a)	R. 1987 d.14	19 N.J.R. 63(a)
5:23-3.15	Plumbing subcode	18 N.J.R. 2237(b)	R.1987 d.81	19 N.J.R. 289(d)
5:23-7.9, 7.20	Barrier Free Subcode: correction	18 N.J.R. 757(a)	R.1986 d.448	19 N.J.R. 63(b)
5:23-7.100-7.116	Barrier Free Subcode	18 N.J.R. 757(a)		
5:80-21	Housing and Mortgage Finance: single family loans	18 N.J.R. 2238(a)		
5:91-1.2, 1.3, 2.1, 3.1, 5.1, 7.1, 13.3, 13.4	Council on Affordable Housing: procedural rules	18 N.J.R. 1643(a)	R.1987 d.110	19 N.J.R. 355(b)
5:92-6.1, 8.2	Council on Affordable Housing: municipal credits; wetlands identification	19 N.J.R. 3(a)		

(TRANSMITTAL 47, dated December 15, 1986)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:8	Thorough and Efficient System of Free Public Schools	18 N.J.R. 1984(a)	R.1987 d.32	19 N.J.R. 63(b)
6:8-7.1	High school graduation requirements	19 N.J.R. 4(a)		
6:8-7.1	High school graduation requirements	19 N.J.R. 4(b)		
6:11-12.11	Speech-language specialist endorsement	18 N.J.R. 1994(a)	R.1987 d.35	19 N.J.R. 75(a)
6:11-12.24	Teacher-coordinator certification in Work Experience Career Exploration Program	18 N.J.R. 1995(a)	R.1987 d.34	19 N.J.R. 75(b)
6:21-10	Pupil transportation in small private vehicles	18 N.J.R. 2155(a)	R.1987 d.94	19 N.J.R. 290(a)
6:21-18	Inspection of vehicles used for pupil transportation	19 N.J.R. 5(a)		
6:28-3.4, 3.5	Special education	18 N.J.R. 1771(a)	R.1987 d.36	19 N.J.R. 76(a)
6:29-8.1, 8.2	Audiometric screening	18 N.J.R. 1996(a)	R.1987 d.33	19 N.J.R. 76(b)
6:46	Area Vocational Technical and Private Schools: waiver of Executive Order No. 66 (1978) sunset provision	18 N.J.R. 1996(b)		
6:46-1	Area vocational technical schools	18 N.J.R. 1511(a)		
6:68-7	Municipal branch library services	19 N.J.R. 6(a)		
6:68-8	Evaluation and development of library collections	19 N.J.R. 7(a)		
6:68-9	Maintenance of library collections	19 N.J.R. 8(a)		

(TRANSMITTAL 46, dated November 17, 1986)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1-3	Interim Environmental Cleanup Responsibility Act rules	19 N.J.R. 10(a)		
7:1-6	Disposal of solid waste	18 N.J.R. 883(a)		
7:1F-1, 2	Industrial Survey Project rules	19 N.J.R. 11(a)		
7:2-11	Natural Areas System	18 N.J.R. 2349(b)		
7:7-1, 2, 3, 4, 6	Coastal Permit Program	18 N.J.R. 2156(a)		
7:7-2.2	Monmouth County wetlands maps	18 N.J.R. 2162(a)		
7:9-4.14	Water quality criteria for Mainstem Delaware River Zones	18 N.J.R. 1435(a)		
7:9-13	Sewer connection bans	18 N.J.R. 2163(a)		
7:9-13	Sewer connection ban: extension of comment period	19 N.J.R. 263(b)		
7:11-3	Use of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir Complex	18 N.J.R. 1330(a)		
7:13-7.1	Floodway delineations along East Branch of Stony Brook, South Branch of Rockaway Creek, and Whale Pond Brook	18 N.J.R. 1239(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 Wolf Creek in Hackensack Basin	18 N.J.R. 2355(a)		
7:13-7.1(d)	Redelineation of Holland Brook in Somerset County	18 N.J.R. 1866(a)		
7:13-7.1(d)	Redelineation of North Branch Raritan River in Somerset County	18 N.J.R. 1866(b)		
7:13-7.1(e)	Redelineation of Henderson Brook in Passaic River	18 N.J.R. 2169(a)		
7:13-7.1(g)	Flood hazard areas along the Saddle, Ramapo and Mahwah rivers, and Masonicus Brook	19 N.J.R. 169(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System	18 N.J.R. 2085(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System: comment period extended	18 N.J.R. 2411(a)		
7:14A-1.9, 12	Sewer connection bans	18 N.J.R. 2163(a)		
7:14A-1.9, 12	Sewer connection bans: extension of comment period	19 N.J.R. 263(b)		
7:14A-6.16	Disposal of solid waste	18 N.J.R. 883(a)		
7:22-1, 2, 8	Wastewater treatment facilities: State matching grants	18 N.J.R. 1869(a)	R.1987 d.38	19 N.J.R. 77(a)
7:22-3	Wastewater Treatment Fund procedures	18 N.J.R. 1875(a)	R.1987 d.37	19 N.J.R. 84(a)
7:22-4	Wastewater Treatment Trust procedures	18 N.J.R. 1883(a)	R.1987 d.40	19 N.J.R. 95(a)
7:22-5	Determination of allowable costs: Wastewater Treatment Fund and Trust	18 N.J.R. 1891(a)	R.1987 d.39	19 N.J.R. 105(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:22-6	Pinelands Infrastructure Trust Fund procedures	18 N.J.R. 1896(a)		
7:22-7	Determination of allowable costs: Pinelands	18 N.J.R. 1904(a)		
7:25-6	1987-88 Fish Code	18 N.J.R. 1644(a)	R.1987 d.41	19 N.J.R. 110(a)
7:25-18A.4	Sale of striped bass	18 N.J.R. 2170(a)		
7:26-1.4, 2, 2A, 2B, 5, 12.11, 12.12	Disposal of solid waste	18 N.J.R. 883(a)		
7:26-1.4, 7.5, 7.7, 8.13	Waste oil	18 N.J.R. 878(a)		
7:26-2.9	Closure and post-closure care of sanitary landfills	18 N.J.R. 2170(b)	R.1987 d.117	19 N.J.R. 356(a)
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow	18 N.J.R. 1773(a)	R.1987 d.72	19 N.J.R. 202(b)
7:26-6.5	Interdistrict and intradistrict solid waste flow	18 N.J.R. 2171(a)	R.1987 d.71	19 N.J.R. 202(a)
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management	17 N.J.R. 2941(a)	R.1987 d.18	19 N.J.R. 113(a)
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management	18 N.J.R. 2356(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)		
7:26-15	Recycling Grants and Loans Program	18 N.J.R. 2358(a)		
7:26-16A.1, 16A.2	Filing of disclosure statements by solid and hazardous waste licensees subject to A-901	18 N.J.R. 2172(a)	R.1987 d.54	19 N.J.R. 203(a)
7:26-17	Scales at solid waste facilities	18 N.J.R. 1154(a)		
7:27-16.1, 16.3	Air pollution control: Stage II vapor recovery	18 N.J.R. 1867(a)		
7:28-14	Therapeutic radiation installations	18 N.J.R. 1157(a)		
7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10, 19.12	Licensure of orthopedic and urologic x-ray technologists	18 N.J.R. 2361(a)		
7:28-42.1	Workplace exposure to radio frequency radiation	18 N.J.R. 1166(a)		
7:50	Pinelands Comprehensive Management Plan	18 N.J.R. 2239(a)		
7:50	Pinelands Comprehensive Management Plan: public hearings	18 N.J.R. 2411(b)		

(TRANSMITTAL 49, dated December 15, 1986)

HEALTH—TITLE 8

8:2-1	Birth certificates	18 N.J.R. 2278(a)		
8:2-1	Birth certificates: extension of comment period	19 N.J.R. 264(a)		
8:8-1.2, 5.5, 6.2	Screening of human blood	18 N.J.R. 2280(a)	R.1987 d.111	19 N.J.R. 356(b)
8:21-2.41	Sale of striped bass	18 N.J.R. 2174(a)		
8:21-4	Control of new drugs and Laetrile use	18 N.J.R. 2363(a)		
8:21-5	Foods, drugs, cosmetics, devices: order to remove from sale and recall	18 N.J.R. 1361(b)		
8:21-5	Order to remove from sale and recall of foods, drugs, cosmetics, and devices: extension of proposal comment period	18 N.J.R. 1715(b)		
8:26	Public recreational bathing: public hearing rescheduled	19 N.J.R. 12(a)		
8:26-3.9, 5.6, 5.7, 5.9, 7.6, App.	Public recreational bathing	18 N.J.R. 2281(a)	R.1987 d.99	19 N.J.R. 290(b)
8:31-25.1	Mobile intensive care: administration of medications	18 N.J.R. 602(a)	R.1987 d.112	19 N.J.R. 357(a)
8:31-26.3, 26.4	Home health agencies: employee physicals; child abuse and neglect	18 N.J.R. 2283(a)		
8:31-30.1	Health facilities construction: plan review fees	18 N.J.R. 795(a)	R.1987 d.24	19 N.J.R. 116(a)
8:31B-2.2, 3.51, 3.57, 3.73, 4.40	Hospital reimbursement: Same Day Surgery services	18 N.J.R. 1908(a)		
8:31B-3.19	Hospital reimbursement: RIM methodology implementation	_____	_____	19 N.J.R. 249(b)
8:31B-3.27, 4.42	Hospital reimbursement: capital facilities allowance	18 N.J.R. 1912(a)		
8:31B-3.41, 4.15, 4.38, 4.39	Hospital reimbursement: uncompensated care	18 N.J.R. 2283(b)		
8:31B-3.72	Hospital reimbursement: periodic adjustments	18 N.J.R. 1917(a)		
8:31B-3.73, App. IX	Hospital reimbursement: cost/volume methodology	18 N.J.R. 2284(a)		
8:31B-3.73, App. IX	Hospital reimbursement: correction to cost/volume methodology	19 N.J.R. 264(b)		
8:31B-3.76-3.82	Hospital reimbursement: URO performance evaluation; post-billing denial of payments	18 N.J.R. 150(b)	Expired	
8:31C-1	Residential alcoholism treatment facilities: cost accounting and rate evaluation	18 N.J.R. 1918(a)	R.1987 d.75	19 N.J.R. 203(b)
8:33H-2.1, 3.2, 3.3, 3.5, 3.8, 3.10	Long-Term Care Policy Manual	18 N.J.R. 2095(a)	R.1987 d.74	19 N.J.R. 210(a)
8:41-8	Mobile intensive care: administration of medications	18 N.J.R. 602(a)	R.1987 d.112	19 N.J.R. 357(a)
8:42	Licensure of home health agencies	18 N.J.R. 2287(a)		
8:43E-1	Hospital Policy Manual	18 N.J.R. 825(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
8:43E-5	Intermediate Adult and Special Psychiatric Beds: certification of need	19 N.J.R. 171(b)		
8:71	Generic drug list additions: public hearing (see 18 N.J.R. 1381(a), 1463(b), 1957(a), 2015(a), 19 N.J.R. 118(a))	18 N.J.R. 537(a)	R.1987 d.57	19 N.J.R. 216(b)
8:71	Generic drug list additions (see 18 N.J.R. 1955(b), 2208(b), 19 N.J.R. 116(b))	18 N.J.R. 1167(a)	R.1987 d.66	19 N.J.R. 216(c)
8:71	Generic drug additions (19 N.J.R. 116(c))	18 N.J.R. 1775(a)	R.1987 d.67	19 N.J.R. 217(a)
8:71	Interchangeable drug products	18 N.J.R. 2100(a)	R.1987 d.55	19 N.J.R. 215(a)
8:71	Interchangeable drug products	18 N.J.R. 2101(a)	R.1987 d.56	19 N.J.R. 216(a)
8:71	Interchangeable drug products	19 N.J.R. 13(a)		

(TRANSMITTAL 46, dated December 15, 1986)

HIGHER EDUCATION—TITLE 9

9:1-1.4	Submission of financial statements by independent special purpose and theological institutions	18 N.J.R. 2364(a)		
9:1-6.1	Approval of courses-for-credit offered by out-of-state institutions	18 N.J.R. 2365(a)		
9:2-5	Management of computerized information	18 N.J.R. 799(a)	R.1987 d.19	19 N.J.R. 118(b)
9:4-1.5	Community college chargeback system	19 N.J.R. 14(a)		
9:5-1.1	Student dependency status defined	19 N.J.R. 264(c)		
9:6-6	Student membership on State college board of trustees	19 N.J.R. 265(a)		
9:7-2.6	Student assistance programs: student dependency status defined	19 N.J.R. 176(a)		
9:7-3.1	Tuition Aid Grant Program: 1987-88 Award Table	19 N.J.R. 177(a)		
9:7-9	Carl D. Perkins Scholarship Program	18 N.J.R. 2174(b)		
9:11-1.2	Student residency	18 N.J.R. 1777(a)		
9:11-1.4	Educational Opportunity Fund: student dependency status defined	19 N.J.R. 266(a)		
9:11-1.5	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 15(a)		
9:12-1.5, 2,3	Educational Opportunity Fund Program	18 N.J.R. 801(b)		

(TRANSMITTAL 35, dated December 15, 1986)

HUMAN SERVICES—TITLE 10

10:2	County Human Services Advisory Councils	18 N.J.R. 1777(b)	R.1987 d.17	19 N.J.R. 121(a)
10:12-3	Referral of handicapped students for adult educational services	18 N.J.R. 1997(a)	R.1987 d.13	19 N.J.R. 124(a)
10:49-1.5	Records retention by long-term care facilities	18 N.J.R. 2411(c)		
10:51-1, App. B, C	Pharmaceutical services manual	18 N.J.R. 1780(a)	R.1987 d.7	19 N.J.R. 125(a)
10:52-1.5, 1.17	Out-of-state inpatient hospital services	18 N.J.R. 538(a)		
10:56-3	HCPCS codes for dental services	19 N.J.R. 15(b)		
10:60-2.2, 2.3, 3.1	Personal care assistant services	18 N.J.R. 2365(b)		
10:61-1, 2	Independent laboratory services	18 N.J.R. 540(a)		
10:62-1, 2, 3	Vision Care Manual	18 N.J.R. 1246(a)		
10:63-1.14	Records retention by long-term care facilities	18 N.J.R. 2411(c)		
10:63-3.2, 3.4, 3.5, 3.6, 3.8, 3.10-3.15, 3.18, 3.19	Long-term care facilities: CARE Guidelines	18 N.J.R. 257(a)	R.1987 d.6	19 N.J.R. 126(a)
10:65-1.5, 1.8	Medical day care centers: recordkeeping	19 N.J.R. 30(a)		
10:66-2, 3	Independent clinic services	18 N.J.R. 541(a)		
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1252(a)		
10:68-2	Chiropractor billing procedures	18 N.J.R. 810(a)		
10:81-3.12	PAM: parent-minor and AFDC	19 N.J.R. 31(a)		
10:81-3.18	PAM: exemption from WIN registration	18 N.J.R. 2301(a)		
10:81-3.34	PAM: temporary absence of child from home	18 N.J.R. 1675(a)		
10:81-7.29	Retroactive funeral payments	18 N.J.R. 2176(a)		
10:81-11.18	PAM: child support guidelines	18 N.J.R. 2178(a)		
10:82-1.3, 4.16	ASH: household defined; court-ordered support	19 N.J.R. 31(b)		
10:82-4.15	ASH: lump sum income	19 N.J.R. 32(a)		
10:85-2.2, 3.1-3.4	GAM: correction to Administrative Code			19 N.J.R. 307(b)
10:85-3.2	GAM: exemption from work requirement and unemployability	18 N.J.R. 2183(a)		
10:85-3.3	GAM: Medically Needy eligibility	18 N.J.R. 1781(a)		
10:85-3.3, 3.4	GAM: treatment of agent orange payments	19 N.J.R. 32(b)		
10:85-4.9	Retroactive funeral payments	18 N.J.R. 2176(a)		
10:85-5.3	GAM: payment of medical insurance premiums	19 N.J.R. 33(a)		
10:85-8.4	GAM: information concerning PAAD	18 N.J.R. 1343(b)		
10:87-12.1, 12.2	Food Stamp Program: income deductions and maximum coupon allotments	18 N.J.R. 2137(a)	R.1987 d.5	19 N.J.R. 129(a)
10:94-5.4, 5.5, 5.6, 5.7	Medicaid Only: eligibility computation amounts	Emergency	R.1987 d.78	19 N.J.R. 245(a)
10:100-3.10	Retroactive funeral payments	18 N.J.R. 2176(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:100-App. A	Supplemental Security Income payment levels	Emergency	R.1987 d.79	19 N.J.R. 246(a)
10:121-2	Adoption subsidy	18 N.J.R. 24(a)	R.1987 d.45	19 N.J.R. 129(b)
10:121A-2.2	Certification period for adoption agencies	18 N.J.R. 1923(a)	R.1987 d.106	19 N.J.R. 358(a)
10:132	Youth and Family Services: court actions and proceedings	18 N.J.R. 1924(a)	R.1987 d.16	19 N.J.R. 130(a)

(TRANSMITTAL 47, dated December 15, 1986)

CORRECTIONS—TITLE 10A

10A:4-4.1	Inmate discipline: prohibited acts	19 N.J.R. 178(a)		
10A:4-5.2	Inmate discipline: schedule of sanctions at Youth Complex	19 N.J.R. 178(b)		
10A:9	Classification of inmates	18 N.J.R. 1649(a)	R.1987 d.48	19 N.J.R. 218(a)
10A:9-4.6	Reduced custody consideration for inmates with mandatory minimum sentences of 24 months or less	19 N.J.R. 178(c)		
10A:16	Medical and health services	18 N.J.R. 1662(a)		
10A:18	Mail, visits, and use of telephone	19 N.J.R. 33(b)		
10A:34-2	Municipal detention facilities	18 N.J.R. 2412(a)		

(TRANSMITTAL 15, dated December 15, 1986)

INSURANCE—TITLE 11

11:1-20, 22	Cancellation and nonrenewal of commercial policies	18 N.J.R. 2301(b)	R.1987 d.114	19 N.J.R. 359(a)
11:1-22.3	Reinstatement of commercial lines policies	18 N.J.R. 2414(a)	R.1987 d.113	19 N.J.R. 358(b)
11:1-24	Credit cards and payment of insurance premiums	18 N.J.R. 1999(a)		
11:2-17.11, 17.14	Settlement of automobile damage claims	18 N.J.R. 2415(a)		
11:3-7	Automobile Reparation Reform: additional personal injury protection	19 N.J.R. 44(a)		
11:3-10.3, 10.10	Settlement of automobile damage claims	18 N.J.R. 2415(a)		
11:3-13.1, 13.3, 13.4, 13.5, 13.6	Deductibles for private passenger automobile coverage	19 N.J.R. 46(a)		
11:3-16	Pre-proposal: Private passenger automobile rate filings	18 N.J.R. 1083(a)		
11:3-17.4, 17.5	Private passenger automobile rate filings	19 N.J.R. 47(a)		
11:4-16.6	Daily hospital room and board coverage	18 N.J.R. 608(a)		
11:4-16.8	Medicare information brochure	18 N.J.R. 2103(a)	R.1987 d.96	19 N.J.R. 291(a)
11:4-21	Limited death benefit policies	18 N.J.R. 1085(a)		
11:4-23.8	Medicare information brochure	18 N.J.R. 2107(a)	R.1987 d.95	19 N.J.R. 291(a)
11:5-1.3	Real estate licensing qualifications	18 N.J.R. 1782(a)	R.1987 d.68	19 N.J.R. 232(a)
11:5-1.15	Advertising by real estate licensees	18 N.J.R. 1679(a)	R.1987 d.69	19 N.J.R. 232(b)
11:5-1.16	Obligations of real estate licensees	18 N.J.R. 1677(a)		
11:5-1.16, 1.23	Public hearing: Obligations of real estate licensees	18 N.J.R. 2113(a)		
11:5-1.23	Obligations of real estate licensees	18 N.J.R. 1680(a)		
11:5-1.23	Obligations of real estate licensees	18 N.J.R. 2112(a)		
11:5-1.25	Sales of interstate properties	18 N.J.R. 2416(a)		
11:5-1.28	Certification as approved real estate education instructor	18 N.J.R. 1681(a)		
11:5-1.30	Transfer of real estate licenses	18 N.J.R. 2418(a)		
11:12	Pre-proposal: Legal services insurance	18 N.J.R. 1783(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	18 N.J.R. 1173(a)		

(TRANSMITTAL 43, dated December 15, 1986)

LABOR—TITLE 12

12:16-19.1	Charging of unemployment benefits to employer's account	18 N.J.R. 1682(a)	R.1987 d.104	19 N.J.R. 363(a)
12:16-20.1	Work relief and work training programs: exempt employment	18 N.J.R. 1683(a)	R.1987 d.102	19 N.J.R. 363(b)
12:17-2.2, 2.4	Unemployment compensation claims and verification of Social Security numbers	18 N.J.R. 1683(b)	R.1987 d.103	19 N.J.R. 363(c)
12:17-3.1, 4.1, 4.2	"Week of partial unemployment" defined	18 N.J.R. 1684(a)	R.1987 d.101	19 N.J.R. 364(a)
12:100-4.2	Protection of firefighters	19 N.J.R. 48(a)		
12:100-4.2, 5.2, 6.2, 7	Public employees and exposure to toxic and hazardous substances	19 N.J.R. 267(a)		

(TRANSMITTAL 34, dated November 17, 1986)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A:10-1	Award of contracts to small, female-owned and minority businesses	18 N.J.R. 2306(a)		
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(TRANSMITTAL 1, dated September 22, 1986)

LAW AND PUBLIC SAFETY—TITLE 13

13:27	Rules of Board of Architects	17 N.J.R. 2851(b)	R.1987 d.12	19 N.J.R. 131(a)
13:27-8.12	Continuing education in landscape architecture	18 N.J.R. 2367(a)	R.1987 d.105	19 N.J.R. 364(b)
13:29-1.7	Conditional credit on Uniform CPA examination	19 N.J.R. 48(b)		
13:30-2.16	Continuing education in dental hygiene and dental assisting	18 N.J.R. 2113(b)	R.1987 d.97	19 N.J.R. 296(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:30-8.6, 8.15	Practice of dentistry and referral fees	18 N.J.R. 2419(a)		
13:30-8.16	Dental X-rays and use of lead shield	18 N.J.R. 2113(c)	R.1987 d.98	19 N.J.R. 296(b)
13:31-1	Board of Examiners of Electrical Contractors	18 N.J.R. 2113(d)	R.1987 d.44	19 N.J.R. 137(a)
13:31-1.12, 1.13, 1.14, 1.15	Licensure of electrical contractors	19 N.J.R. 49(a)		
13:35-1.5	Practice by medical school graduates in hospital residency programs	18 N.J.R. 2184(a)		
13:36-1.9	Itemization of funeral expenses	18 N.J.R. 2186(a)		
13:37-6.3	Nursing procedures: administration of renal dialysis treatment	18 N.J.R. 398(b)		
13:39A-1.4	Licensure of physical therapists: fees and charges	18 N.J.R. 1177(a)		
13:39A-2.2	Authorized practice by physical therapist	18 N.J.R. 1177(b)		
13:39A-2.2, 3.3	Electromyographic testing by licensed physical therapist: public hearing	18 N.J.R. 1684(b)		
13:39A-3.3	Physical therapy: unlawful practices	18 N.J.R. 1178(a)		
13:39A-5.2—5.4, 5.6—5.9	Physical therapy educational credentials and examination standards	18 N.J.R. 1179(a)	R.1987 d.84	19 N.J.R. 297(a)
13:39A-6	Temporary licensure of physical therapists	18 N.J.R. 1179(b)	R.1987 d.83	19 N.J.R. 298(a)
13:40-5.1	Preparation of land surveys	18 N.J.R. 2367(b)		
13:45A-2	Motor vehicle advertising practices	18 N.J.R. 2419(b)		
13:45A-6.2	Unlawful automobile sales practices	18 N.J.R. 2115(a)		
13:45A-24	Sale of gray market merchandise	19 N.J.R. 179(a)		
13:46-1A.1, 1A.2, 5.19, 12.4	Boxing: weight classes, age limitations, health safeguards	18 N.J.R. 1789(a)	R.1987 d.53	19 N.J.R. 232(c)
13:46-3.1	Bandage specifications for boxer's hands	18 N.J.R. 1924(b)	R.1987 d.52	19 N.J.R. 233(a)
13:46-4.7, 4.25	Licensure of boxers	18 N.J.R. 1924(c)	R.1987 d.51	19 N.J.R. 233(b)
13:46-5.23	Boxing: time between bouts	18 N.J.R. 2423(a)		
13:46-8.14	Boxing: three knockdown rule	18 N.J.R. 2424(a)		
13:46-8.25, 11.10	Compensation for boxing referees, judges and timekeepers	18 N.J.R. 1925(a)	R.1987 d.50	19 N.J.R. 234(a)
13:46-21.2	Compensation of wrestling referees	18 N.J.R. 1790(a)	R.1987 d.49	19 N.J.R. 233(c)
13:47-6.19	Prohibited prizes in games of chance	18 N.J.R. 1180(a)	R.1987 d.82	19 N.J.R. 298(b)
13:47-14.3	Rental of premises for bingo	18 N.J.R. 1180(b)		
13:47B-1.22	Approaches for vehicle scales	18 N.J.R. 2116(a)		
13:60	Motor carrier safety	18 N.J.R. 2311(a)	R.1987 d.73	19 N.J.R. 234(b)
13:70-3.42	Thoroughbred racing: workmen's compensation insurance	18 N.J.R. 2116(b)	R.1987 d.42	19 N.J.R. 138(a)
13:70-3.47	Thoroughbred racing: Coggins test	18 N.J.R. 401(a)		
13:70-29.29—29.34	Thoroughbred racing: refunds of advance wagers	18 N.J.R. 2368(a)		
13:71-6.1	Harness racing: workmen's compensation insurance	18 N.J.R. 2117(a)	R.1987 d.43	19 N.J.R. 138(b)
13:71-6.24	Harness racing: Coggins test	18 N.J.R. 402(b)		
13:71-21.8	Harness racing: purse deductions	18 N.J.R. 1516(a)	R.1987 d.46	19 N.J.R. 237(a)

(TRANSMITTAL 49, dated December 15, 1986)

PUBLIC UTILITIES—TITLE 14

14:3-7.9	Form of bill for metered service	18 N.J.R. 2425(a)		
14:3-7.12A	Residential electric and gas service during heating season	18 N.J.R. 2315(a)		
14:11	Board of Public Utilities: administrative orders	18 N.J.R. 2425(b)	R.1987 d.116	19 N.J.R. 365(c)
14:18-1.2, 11.21, 13	CATV: franchise renewals	18 N.J.R. 1181(a)	R.1987 d.70	19 N.J.R. 238(a)

(TRANSMITTAL 29, dated September 22, 1986)

ENERGY—TITLE 14A

14A:3-4.4	Thermal efficiency standards: operative date			18 N.J.R. 2391(a)
14A:3-4.4	Energy subcode: thermal efficiency standards	18 N.J.R. 2349(a)	R.1987 d.92	19 N.J.R. 298(c)
14A:11-4.2, 4.3, 4.4, 5.2, 5.3, 5.4	Reporting by retail fuel merchants and motor fuel dealers	19 N.J.R. 50(a)		
14A:13	Energy conservation in State buildings	18 N.J.R. 2187(a)	R.1987 d.80	19 N.J.R. 300(a)
14A:21-1.2, 2.2, 2.3, 3.4—3.7, 5.2, 6.1, 6.2, 7.1, 7.2, 7.5—7.7, 8.1—8.3, 9.4, 10.1, 11.2, 11.3	Home Energy Savings Program	18 N.J.R. 2001(a)	R.1987 d.88	19 N.J.R. 301(a)

(TRANSMITTAL 21, dated September 22, 1986)

STATE—TITLE 15

15:5	State Museum	18 N.J.R. 2368(b)	R.1987 d.100	19 N.J.R. 366(a)
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(TRANSMITTAL 18, dated October 20, 1986)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1, dated March 20, 1978)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
TRANSPORTATION—TITLE 16				
16:28-1.10	Speed limits on U.S. 46 in Morris County	18 N.J.R. 2117(b)	R.1987 d.1	19 N.J.R. 138(c)
16:28-1.24	Speed rates on Frontage Roads 1 and 2 in Paterson	18 N.J.R. 2190(a)	R.1987 d.25	19 N.J.R. 138(d)
16:28-1.44	Speed limits on Route 27 in Middlesex County	18 N.J.R. 2117(c)	R.1987 d.2	19 N.J.R. 139(a)
16:28-1.98	Speed limits on Route 52 in Cape May and Atlantic Counties	18 N.J.R. 2118(a)	R.1987 d.3	19 N.J.R. 139(b)
16:28A-1.7, 1.25, 1.47, 1.71, 1.97	No parking zones along U.S. 9, Routes 35, 147, 67, and U.S. 1 Alternate	18 N.J.R. 2316(a)	R.1987 d.63	19 N.J.R. 242(a)
16:28A-1.7, 1.41, 1.108	No parking zones along U.S. 9 in Little Egg Harbor, and Routes 77 and U.S. 40-N.J. 45 in Salem County	19 N.J.R. 180(a)		
16:28A-1.8, 1.18	Parking along Routes 10 in Livingston and 27 in Linden	19 N.J.R. 51(a)		
16:28A-1.22, 1.104	No parking zones along Route 31 and U.S. 40-322	18 N.J.R. 2318(a)	R.1987 d.60	19 N.J.R. 240(a)
16:28A-1.32, 1.107	Bus stops along U.S. 46 in Mountain Lakes and Route 175 in Ewing Township	18 N.J.R. 2190(b)	R.1987 d.26	19 N.J.R. 139(c)
16:28A-1.45, 1.57, 1.58	No parking zones along Route 94, U.S. 206 and U.S. 206-94 in Newton	18 N.J.R. 2319(a)	R.1987 d.59	19 N.J.R. 241(a)
16:28A-1.47	Parking on Route 147 in Cape May County	18 N.J.R. 2118(b)	R.1987 d.4	19 N.J.R. 139(d)
16:29-1.26, 1.63	No passing zones on Route 72, Ocean County, and Route 45, Gloucester County	18 N.J.R. 2119(a)	R.1987 d.65	19 N.J.R. 243(a)
16:29-1.36	No passing zones on Route 147 in Cape May County	18 N.J.R. 2119(b)	R.1987 d.64	19 N.J.R. 243(b)
16:29-1.65	No passing zones on Route 166 in Ocean County	18 N.J.R. 2119(c)	R.1987 d.62	19 N.J.R. 243(c)
16:29-1.66	No passing zone along Route 140 in Carney's Point	19 N.J.R. 181(a)		
16:30-1.9	One-way traffic on U.S. 206-94 in Newton	18 N.J.R. 2319(b)	R.1987 d.58	19 N.J.R. 243(d)
16:30-5.3	DOT parking along Route 52 in Ocean City	18 N.J.R. 2191(a)	R.1987 d.27	19 N.J.R. 140(a)
16:31-1.23	No left turn on Route 38 in Mount Laurel	18 N.J.R. 2319(c)	R.1987 d.61	19 N.J.R. 243(e)
16:32-1.1, 1.2, 1.3, 3	Designated routes for double trailers and wide trucks	18 N.J.R. 2428(a)	R.1987 d.115	19 N.J.R. 374(a)
16:44-3.2, 3.4, 7.5-7.9	Contract administration: construction plans; deferred payments to contractors	19 N.J.R. 181(b)		
16:49-1.3	Transportation of hazardous materials	18 N.J.R. 933(a)		
16:51	Practice and procedure before Office of Regulatory Affairs	19 N.J.R. 182(a)		
16:53D-1.1	Zone of rate freedom	18 N.J.R. 2376(a)		
16:73	NJ TRANSIT: Reduced Fare Program for Elderly and Handicapped	18 N.J.R. 2437(a)		

(TRANSMITTAL 46, dated November 17, 1986)

TREASURY-GENERAL—TITLE 17				
17:1-1.10	Reconciliation of pension accounts	18 N.J.R. 2377(a)	R.1987 d.108	19 N.J.R. 380(a)
17:1-2.37	Alternate Benefit Program: transmittal of employee contributions	18 N.J.R. 1256(a)		
17:1-4.4	Enrollment schedule for State-administered retirement systems	18 N.J.R. 2320(a)	R.1987 d.76	19 N.J.R. 304(a)
17:1-7.4	Retirees returning to public employment	19 N.J.R. 51(b)		
17:2-1.4	Public Employees' Retirement System: candidates for member-trustee	19 N.J.R. 52(a)		
17:2-2.4, 3.1, 5.2	Enrollment in PERS	18 N.J.R. 2320(b)		
17:2-3.7	PERS contributory coverage termination: correction			18 N.J.R. 2391(c)
17:2-4.4	Public Employees' Retirement System: accrual of loan interest	19 N.J.R. 194(a)		
17:3-4.4	Teachers' Pension and Annuity: accrual of loan interest	19 N.J.R. 52(b)		
17:3-5.5	Teachers' Pension and Annuity Fund: optional purchases of eligible service	18 N.J.R. 2120(a)	R.1987 d.47	19 N.J.R. 244(a)
17:3-6.1	Teachers' Pension and Annuity Fund: filing of retirement application	18 N.J.R. 1519(b)	R.1987 d.10	19 N.J.R. 140(b)
17:3-6.15	Teachers' Pension and Annuity Fund: compulsory retirement	19 N.J.R. 195(a)		
17:4-2.6, 5.1, 5.2	Enrollment in Police and Firemen's Retirement System	18 N.J.R. 2321(a)		
17:4-4.4	Police and Firemen's Retirement System: loan interest	18 N.J.R. 2437(b)		
17:4-6.1	Police and Firemen's Retirement System: retirement applications	18 N.J.R. 1795(a)	R.1987 d.11	19 N.J.R. 140(c)
17:7-1.4	Prison Officers' Pension Fund: election of commission members	18 N.J.R. 1352(b)	R.1987 d.28	19 N.J.R. 140(d)
17:7-3.1	Prison Officers' Pension Fund: retirement applications	18 N.J.R. 1796(a)	R.1987 d.29	19 N.J.R. 141(a)
17:8-3.7	Supplemental Annuity Collective Trust: investment of contributions	19 N.J.R. 52(c)		
17:12-6	Award of contracts to small, female-owned and minority businesses	18 N.J.R. 2306(a)		
17:16-32.11	Common Pension Fund A: distribution of realized appreciation	18 N.J.R. 2377(b)	R.1987 d.86	19 N.J.R. 304(b)
17:16-36.11	Common Pension Fund B: distribution of realized appreciation	18 N.J.R. 2378(a)	R.1987 d.87	19 N.J.R. 304(c)
17:16-38	Common Pension Fund C	18 N.J.R. 2438(a)	R.1987 d.107	19 N.J.R. 380(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
17:20-4.4, 5.1, 6.2, 6.4	Lottery Commission rules	18 N.J.R. 1927(a)	R.1987 d.77	19 N.J.R. 304(d)
17:30	Urban Enterprize Zone Authority	18 N.J.R. 2191(b)		

(TRANSMITTAL 43, dated November 17, 1986)

TREASURY-TAXATION—TITLE 18

18:5-3.6	Purchase of cigarette revenue stamps	18 N.J.R. 2378(b)		
18:7-4.5, 4.6, 5.5	Corporation business tax: indebtedness, interest, and offsets	18 N.J.R. 2004(b)		
18:14-2.11	Veteran's and senior citizen's property tax deductions	19 N.J.R. 195(b)		
18:24-1.1	Sales and use tax forms	18 N.J.R. 2192(a)		
18:24-1.2	Sales and Use Tax: "periodicals"	18 N.J.R. 1928(a)		
18:26-12.2	Representation of estates	18 N.J.R. 2321(b)		

(TRANSMITTAL 39, dated December 15, 1986)

TITLE 19—OTHER AGENCIES

19:4-4.152, 4.154, 4.155, 6.28	Commercial Park Zone	19 N.J.R. 53(a)		
19:4-6.28	Rezoning in Little Ferry	19 N.J.R. 53(b)		
19:4-6.28	Rezoning in Secaucus	19 N.J.R. 54(a)		
19:8-1.8	Bus use of Parkway service areas	18 N.J.R. 2120(b)	R.1987 d.8	19 N.J.R. 141(b)
19:8-2.12	Emergency service rates on Parkway	18 N.J.R. 2120(c)	R.1987 d.9	19 N.J.R. 141(c)
19:17-2.1, 3.1-4.5	PERC: Appeal Board procedure	19 N.J.R. 196(a)		
19:25-1.7, 7.2, 7.3, 7.4	Surplus campaign funds	18 N.J.R. 1359(a)	R.1987 d.30	19 N.J.R. 141(d)
19:75-1.1, 2.1, 2.2, 2.3, 3.1, 5.4, 6.1, 6.2, 7.1, 7.2, 7.4, 9.2, 9.4	Atlantic County Transportation Authority: bus management program	18 N.J.R. 1688(a)	R.1986 d.472	19 N.J.R. 142(a)

(TRANSMITTAL 34, dated September 22, 1986)

TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY

19:40-1.2	Slot machine jackpot payouts	18 N.J.R. 2005(a)		
19:41-9.7	Fee for casino hotel alcoholic beverage license	18 N.J.R. 1687(a)		
19:41-9.7	Alcoholic beverage licenses	18 N.J.R. 2379(a)	R.1987 d.109	19 N.J.R. 381(a)
19:44-8.3	Minibaccarat training	18 N.J.R. 2322(a)		
19:44-17.11	Advertising by gaming schools	18 N.J.R. 2439(a)		
19:45-1.1, 1.37, 1.40, 1.40A	Slot machine jackpot payouts	18 N.J.R. 2005(a)		
19:45-1.12	Minibaccarat	19 N.J.R. 54(b)		
19:45-1.32, 1.43	Hard count room procedures	18 N.J.R. 1929(a)		
19:46-1.12	Minibaccarat	19 N.J.R. 54(b)		
19:46-1.16, 1.18, 1.20	Gaming equipment and evidence of cheating or tampering	18 N.J.R. 2121(a)		
19:46-1.26	Slot machine jackpot payouts	18 N.J.R. 2005(a)		
19:47-7.7	Minibaccarat	19 N.J.R. 54(b)		
19:50-1.3	Alcoholic beverage licensees	18 N.J.R. 2379(a)	R.1987 d.109	19 N.J.R. 381(a)
19:50-1.6	Security of alcoholic beverages	18 N.J.R. 2323(a)		
19:50-1.6	Operating conditions of alcoholic beverage licensees	18 N.J.R. 2439(b)		

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