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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: JANUARY 19, 1988
See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT FEBRUARY 16, 1988

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INTERESTED PERSONS

Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **May 4, 1988.** Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

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NEW JERSEY REGISTER

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

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RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF ANIMAL HEALTH

Equine Embargoes
Equine Infectious Anemia

Proposed New Rules: N.J.A.C. 2:5-2.1 and 2:5-2.8
Proposed Amendments: N.J.A.C. 2:5-2.2 through 2.7

Authorized By: State Board of Agriculture and Arthur Brown, Jr., Secretary, Department of Agriculture.
Authority: N.J.S.A. 4:5-6, 4:22-21 and 4:22-22.
Proposal Number: PRN 1988-182.

Submit comments by May 4, 1988 to:
Sidney R. Nusbaum, V.D.M., Director
New Jersey Department of Agriculture
Division of Animal Health
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-3965

The agency proposal follows:

Summary

The proposed amendments and new rules are modifications of the existing rules dealing with Equine Infectious Anemia, known colloquially as swamp fever. The amendments and new rules provide for the relaxation of certain testing requirements and the inclusion of certified herds.

Social Impact

Equine infectious anemia (EIA) was, just 15 years ago, the most expensive equine disease in New Jersey. It was estimated that as many as four percent of the equine population carried this lifetime infection. The development of, and application by, the Department of Agriculture of a control program has reduced the level of infection to less than one-tenth of one percent annually. The present program requires an annual test for each animal and a further test prior to sale. The proposed amendments and new rules provide a mechanism to continue effective control of the disease while reducing the cost to owners by extending the test period from 12 to 36 months. The proposed program will be the first in the country.

Economic Impact

The adoption of these proposed new rules and amendments will reduce the income of private veterinarians who now perform in excess of 30,000 tests annually and will reduce the fee income of the State's Animal Health Laboratory. There will be an estimated savings to the horse industry of $250,000 to $350,000 per year.

Regulatory Flexibility Statement

These proposed amendments and new rules affect the public welfare and, thus, no exemptions for small businesses can be provided. The rules will lessen the economic burden on some small businesses and decrease the income of others. However, these savings are dependent on the degree of cooperation and common sense that the regulated community exercises. By ignoring these rules and good animal husbandry, those intended to benefit will suffer and the people harmed by these rules will profit.

Should a number of cases of the disease rise, through whatever cause, to unacceptable levels, the Department will have no other choice but to respond with a return to annual testing and/or such other measures that will control the disease.

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

SUBCHAPTER 2. [EQUINE EMBARGOES] **EQUINE INFECTIOUS ANEMIA**

2:5-2.1 Definitions

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

"Equine infectious anemia (EIA)" means an infectious and contagious disease of equidae caused by a transmissible virus, known colloquially as swamp fever.

"Herd" means a discrete group of equidae maintained on a common ground.

"Herd test" means an examination by official test of all animals that have been a part of the herd for more than 60 days.

"Infected animal" means an animal which has been examined by two or more official tests and is positive to both.

"Natural additions" means animals born and raised in the herd.

"New Jersey EIA certified free equidae (herd)" means an individual horse or group of equidae recognized as being free of equine infectious anemia as a result of a negative herd test or proof of an official test on the farm within the past 12 months of all equidae on the farm, with the proviso that the animals were on the farm for 60 days prior to the test.

"Non-certified additions" means animals without EIA certified free status brought into an EIA certified free herd.

"Non-certified horse/herd" means animals which have not met the requirements for certification.

"Official test" means the equine infectious anemia agar gel immunodiffusion procedure recognized and controlled by the United States Department of Agriculture as conducted by the New Jersey Department of Agriculture's Division of Animal Health Laboratory.

"Official test requirements" means blood samples taken by accredited veterinarians, tested by the Department of Agriculture Laboratory.

[2:5-2.1] **2:5-2.2** Quarantining and branding of infected equine infectious anemia horses

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

(g) As EIA is an infectious disease of equines for which there is no known cure, official positive animals shall be permanently identified[.] [(h) They shall be] by being freeze branded with an identification number on the left side of the neck in a humane manner by an authorized agent. The identification number shall be preceded by the coding number 22A.

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

[2:5-2.2] **2:5-2.3** Horses consigned from out-of-State to horse auction markets

(a) Horses consigned from out-of-State to horse auction markets will be permitted to enter these markets if they do not have a negative Coggins test provided:

1. All horses sold to stay in New Jersey for other than slaughter purposes will have blood taken from them for the purpose of testing for EIA before leaving the sale.

2. These horses are to be fully identified as to purchaser, breed, color, sex, and marketing and mane and tail tag as well as being identified by sale identification number on charts to be supplied by the Department.

3. A list of all **consignors and** purchasers with complete address and phone number is to be **mailed** [supplied] to the Department **within 48 hours after the sale.**

4. [The sales auction is to have a veterinarian in attendance] **A veterinarian is to be provided by the sales auction** to draw the necessary blood samples.

5. The auction sale will also be responsible for the fee charged by the Department of Agriculture to run the AGID test (Coggins test).

6. It will be the responsibility of the auction markets to see that horses sold into other states meet their requirements.

[2:5-2.3] **2:5-2.4** (No change in text).

[2:5-2.4]**2:5-2.5** Test requirements for transport

(a) No horse or other equidae six months or more of age unless exempted by the provisions of [sections 3 or 6] **N.J.A.C. 2:5-2.3, 2.6, or 2.7** [of this subchapter] shall be transported on any public highway within the State unless the custodian of such animal has in his or her possession during the period of such movement a report of a negative agar gel immunodiffusion test for equine infectious anemia for such animal **taken within the past 12 months or proof of origin from a certified free herd.**

[(b)]**1.** Said test shall have been conducted by a laboratory approved for the purpose by the United States Department of Agriculture and by the New Jersey State Department of Agriculture.

[(c)]**2.** Said test shall have been conducted during the 12 months prior to transportation.

[(d)]**3.** Said test report shall include the following:

[1.]**i.** A complete description of the animal including name, registration number if any, breed, brand, tattoo if any, sex, age and color;

[2.]**ii.** The name and address of the owner;

[3.]**iii.** The date the test was conducted; and

[4.]**iv.** The name and address of the laboratory that conducted the test.

[(e)]**4.** Said test reports shall be signed by a duly licensed accredited veterinarian and also must be either:

[1.]**i.** Embossed by the laboratory where the test was conducted; or

[2.]**ii.** Signed or otherwise endorsed by the Chief Livestock Health Officer of the state or country of origin of the said animal.

[2:5-2.5]**2:5-2.6** Test requirements for sale or other change of ownership

(a) No horse or other equidae six months or more of age, unless exempted by provisions of [sections 3 and 6] **this section or N.J.A.C. 2:5-2.3 or 2.8,** [of this subchapter] shall be sold, exchanged, bartered or given away unless such animal has been subjected to an agar gel immunodiffusion test for equine infectious anemia and reacted negatively within 90 days prior to such transfer of ownership **or has proof of origin as a member of a certified free herd.**

[(b)]**1.** Said test shall have been conducted by a laboratory approved for the purpose by the United States Department of Agriculture and by the New Jersey Department of Agriculture.

[(c)]**2.** At the time of such transfer of ownership, the transferor shall deliver personally or by certified mail to the transferee, a copy of the report of such negative test [which] **or the official proof of origin as a member of a certified free herd. The negative test report** shall include:

[1.]**i.** A complete description of the animal including name, registration number if any, breed, brand, tattoo if any, sex, age and color;

[2.]**ii.** The name and address of the owner;

[3.]**iii.** The date the test was conducted; and

[4.]**iv.** The name and address of the laboratory that conducted the test.

[(d)]**3.** Said test reports shall be signed by a duly licensed-accredited veterinarian and also must be either:

[1.]**i.** Embossed by the laboratory where the test was conducted; or

[2.]**ii.** Signed by the Chief Livestock Health Officer of the state or country of origin of the said animal.

[2:5-2.6]**2:5-2.7** Other authorized movement or transfer

(a) The provisions of [sections 4 and 5 of this subchapter] **N.J.A.C. 2:5-2.5 and 2.6** shall not apply to any horse or other equidae which is imported, sold, exchanged, bartered, given away or transported under permit from the Director of the Division of Animal Health, New Jersey Department of Agriculture for purposes of immediate slaughter, research, return of the animal to the state, country or farm of its origin, or other authorized purpose provided written authorization for such movement or transfer is obtained in advance thereof from the Director.

1. In the case of importation or transport, such authorization must be in the possession of the custodian of the animal at all times during such movement.

2. In the case of change ownership or transport for the purpose of immediate slaughter, the aforesaid permit may be issued by an accredited veterinarian or an employee of the Department of Agriculture authorized in writing by the Director.

(b) The provisions of [section 5 of this subchapter] **N.J.A.C. 2:5-2.6** apply to any horse claimed in any race conducted by any race track licensed by the New Jersey State Racing Commission and such horse need not be retested for equine infectious anemia provided such horse and all other horses admitted to said track had been tested and found negative for the disease within one year prior to the date of the claim.

2:5-2.8 Certified free herd

(a) All resident equidae in a herd for more than 60 days must be tested and free of infection during a complete herd test to be considered EIA certified free. If any animals are in the herd for less than 60 days at the time of the herd test, they shall be retested not less than 45 days nor more than 60 days after the initial test. The certification date will be the date of the herd test.

(b) All non-certified additions to the herd following the herd test must be tested negative upon receipt and a second time not less than 45 days nor more than 60 days after addition and shall be kept apart from the resident animals until the second negative test at which time they will be considered part of the official certified herd. Animals from a certified herd may be added to a herd without test and will be considered certified.

1. Any animal leaving the herd for more than five days and being at a non-certified premise shall be deemed a non-certified addition to the herd upon its return. Attendance at a Jersey Thoroughbred or Standardbred race meet shall be regarded as having attended a premise of equal standard. If EIA infection is revealed at a New Jersey race meet, the EIA certified status may be removed at the discretion of the Division of Animal Health. Any animal having attended a race meet out-of-state shall be considered a non-certified addition unless it can be shown that standards equal to New Jersey tracks have been maintained at all times, including during shipment. Applications for such consideration are to be made directly to the Director of the Division of Animal Health.

2. An EIA infected animal in a herd shall remove the certified status and all animals must satisfy previous requirements to be acceptable.

3. All natural born animals in EIA certified herds shall be deemed to be of the same status of those in the herd test. Owners must notify the Division of Animal Health of birth on forms to be provided by the Division and to be completed within one year of birth.

4. Identification of animals shall be the responsibility of the attending accredited veterinarian.

5. In the event of suspected or proven infection near or proximal to the certified herd, additional official testing may be directed. The owner will cooperate in such testing.

(c) Certified herd (animals) are recognized as certified for a period of 36 months (1,080 days) for the purpose of sale and movement in New Jersey. Certification may be affected by:

1. Maintaining prescribed standards; and

2. Having a triennial test not less than 33 months from the certification date or more than 37 months; or

3. Maintaining prescribed standards; and

4. Testing at least 30 percent of the herd in each 12 month period from the date of certification. If a 12 month period passes without such testing, the last anniversary date shall determine the end of the triennial certification period. In those originally certified without a herd test the date of certification will be that on which all requirements are fulfilled.

(d) For either method of effecting certification set forth in (c) above, application for certification must be made to the Director, Division of Animal Health, on forms provided by him or her.

(a)

DIVISION OF REGULATORY SERVICES

Commercial Fertilizer and Soil Conditioner Commercial Values

Proposed Amendment: N.J.A.C. 2:69-1.11

Authorized By: State Board of Agriculture and Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Authority: N.J.S.A. 4:9-15.26, 4:9-15.23.
Proposal Number: PRN 1988-172.

Submit comments by May 4, 1988 to:
Robert C. Fringer, Director
New Jersey Department of Agriculture
Division of Regulatory Services
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-5575

Summary

The purpose of this proposal is to update the commercial values of primary plant nutrients. The assessed penalties for deficient fertilizers will be based on the values and charged to the manufacturer. Claimed penalty fees are returned to the customer. The State Treasury will receive all unclaimed penalty fees. The commercial value of the primary plant nutrient nitrogen will be raised to $4.00 per unit and the primary plant nutrient soluble potash will be raised to $3.00 per unit effective July 1, 1988.

Social Impact

All consumers of fertilizers will have more monetary protection when deficient fertilizers are detected. Manufacturers will exhibit more care in controlling their formulating processes to avoid a penalty.

Economic Impact

All consumers of fertilizers will be equitably compensated for their losses because these proposed values are accurately adjusted to current market prices.

Regulatory Flexibility Statement

This proposal implements N.J.S.A. 4:9-15.26, which, although having been altered by revisions, has been in substantially similar form since 1874. The original law was in response to the growing use and availability of commercial fertilizers to farmers in the 1850's, who faced many products of doubtful value. The law and rules are designed to provide accurate verifiable information so the proper amount and type of fertilizer is used on any particular crop and soil. The present rule provides a mechanism to implement a formula to establish the index value of the fertilizer, which is an expression of the difference in the actual found nutrients analysis and what is claimed by the manufacturer on the label. If a deficiency is found, the values of the nutrients in the rule are then used in the formula to produce a figure which is compared to the cost of the product by deficiency in the guaranteed analysis and guaranteed figures are then subtracted and the resulting figure is multiplied by three to find the amount due to the customer or customers, which is then distributed pro rata. If no customer can be identified the money goes to the State Treasury.

In 1986, 847 fertilizer samples were analyzed and 20 percent were found to be in violation. The penalties collected totaled $22,334 of which $13,050 was turned over the Treasury and $9,284 was refunded to consumers.

The Department has registered 571 firms dealing in commercial feeds, fertilizers and liming materials. Many of these are small businesses. However, all farmers in New Jersey are small businesses, by virtue of that term's definition in the Regulatory Flexibility Act. Further, many consumers use fertilizers.

The Regulatory Flexibility Act makes no explicit provision for weighing the harm of a regulation against one group of small businesses and comparing it to the benefits given to others. But the intent of the Act seems to be that the regulatory agency is required to quantify in its analysis the good and harm that is to be done by a regulation to all small businesses. The question of consumer interest is not addressed in the Regulatory Flexibility Act; however, the legislative history of the original and subsequent Fertilizer Acts makes manifestly clear there is an intent to protect the end user of the commodity. The drafting of the fertilizer law itself makes clear the benefits which are bestowed by it are to be applied to that end.

The burdens the law and rules place upon the fertilizer manufacturers are the costs of registration, the cost of complying with the guaranteed analysis, such monitoring of production which this might require, and the cost of reporting this information to the consumer via either printing on the bag or supplying the information in written form with bulk deliveries. The rules also provide to the consumer information which is accurate, useful and necessary to apply fertilizers on the basis of nutrients needed by the crop, without the necessity of relying upon brand names, which may or may not in themselves be reliable. There is nothing in the rules which prohibits anyone from selling the grade of fertilizer he wishes, but it could not be mislabeled or claims made for it that are untrue. The matter of adulterants is not in question here and no product tested has been found to contain them in the 1986 year.

The cost of compliance varies with the number of blends and types of fertilizer placed on the market. These costs are solely in the hands of the manufacturer and is solely one that a manufacturer makes to meet the demands of the market.

The law and rules are designed to provide the freest form of safe, honest and understandable competition. They are based on the accepted standards of Association of American Plant and Food Control Officers, Inc., whose standards are the basis for the laws and rules of most other states. If the burden on the manufacturer or distributor were lifted, New Jersey manufacturers would be left only with a New Jersey market and would be given no chance to compete in other states or countries. Further, every bag of fertilizer load would have to be tested by every user to determine if it was desirable for use on each and every area to be covered. Competition in the fertilizer field would soon become based not on results but on brand loyalty, which would further deprive the small manufacturer of the opportunity to compete on merit, requiring them to match the advertising budget of the large manufacturer, which no small manufacturer could do.

Further, the rules and deficiency formula provide a rather economic way to settle disputes on the quality of the product purchased. Otherwise, an action would have to be commenced in court, possibly a class action, with expert testimony and trial costs, which would be disadvantageous to the plaintiff who has a small business and the small business defendant to whom the cost of defending and prosecuting such actions would be disproportionate to the amount that could be recovered.

It is the analysis of the Department that the rules provide more benefits to more small businesses by complying with these rules and law, than are hurt by them. They are the minimum necessary to ensure the honest, understandable trade in the commodity based on the important results deliverable by the product, not upon brand loyalty. It is, as a result, more economically advantageous for small business manufacturers to enter and compete in the market in both New Jersey and the rest of the world.

Lastly, fertilizer is one of the key ingredients of modern agriculture and a source of great consumer pleasure in landscaping and gardening. The overwhelming cost saved in purchasing these products for the results desired provides a sound basis for economical farming and gardening based on science; not luck.

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

2:69-1.11 Commercial values

(a) The State Board of Agriculture, pursuant to N.J.S.A. 4:9-15.26, determines the commercial value of primary plant nutrients to be:

1. Nitrogen:	[$3.50] **$4.00** per unit.
2. Water insoluble nitrogen:	$7.50 per unit.
3. Available phosphoric acid	$3.00 per unit.
4. Soluble potash:	[$2.00] **$3.00** per unit.

(b) These values shall be effective July 1, [1987] **1988** through June 30, [1988] **1989.**

BANKING

(a)

DIVISION OF SAVINGS AND LOAN ASSOCIATIONS

Conversion of 3121 Associations from Mutual to Capital Stock

Proposed Amendments: N.J.A.C. 3:32-1.1, 1.2, 1.4, 1.6 and 1.7

Proposed New Rules: N.J.A.C. 3:32-1.10, 1.11

Proposed Repeal: 3:1-2.17

Authorized By: Mary Little Parell, Commissioner, Department of Banking.
Authority: P.L. 1987, c.225.
Proposal Number: PRN 1988-156.

Submit comments by May 4, 1988 to:
Stephen J. Szabatin
Acting Deputy Commissioner
Division of Savings and Loan Associations
Department of Banking
CN 040
Trenton, New Jersey 08625

The agency proposal follows:

Summary

P.L. 1987, c.225, provides that all State-chartered savings and loan associations must obtain Federal Savings and Loan Insurance Corporation (FSLIC) insurance by July 30, 1988, or be liquidated. There are some situations in which the only way a mutual association can obtain the insurance is to convert to a capital stock association and sell stock to an investor or investors. Investors, as a condition of the investment, sometimes want control rights which are difficult to obtain because of members' subscription rights to stock in the converted association (See N.J.A.C. 3:32-1.6).

The proposed new rules and amendments would permit an investor to acquire all of the stock of a converted association, notwithstanding members' subscription rights, provided that the Commissioner approves the conversion plan for the association. In order to be approved, the conversion plan must have received an affirmative vote of two-thirds of the members of the association. Members are explicitly assured of receiving just compensation for their subscription rights because the rules provide that the Commissioner shall not approve a conversion plan which fails in that regard or which is, in any other aspect, inequitable to the members.

Social Impact

These new rules and amendments will allow certain uninsured savings and loan associations to avoid being liquidated pursuant to P.L. 1987, c.225, as a consequence of not having obtained FSLIC insurance by the Date specified in the Act. By keeping more existing institutions in business, the rules will prevent the elimination of competitors from the financial services industry and thereby foster competition.

Economic Impact

For the reasons specified above, the proposed amendments and new rules will foster competition. By promoting the survival of more financial service providers in the marketplace, the proposed amendments and new rules will promote a greater choice of services for consumers. All members of a converting 3121 Association (defined in proposed new rule N.J.A.C. 3:32-1.10) will be fairly compensated for any subscription rights which they lose.

Regulatory Flexibility Statement

There are 22 uninsured savings and loan associations in the State. The proposed amendments will not increase any costs of compliance or any reporting or recordkeeping requirements for small businesses as defined in P.L. 1986, c.169.

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

3:1-2.17 [Fees; conversion from mutual to capital stock association] **(Reserved)**

[A filing fee of $1,500 shall accompany every application for the conversion of a mutual association to a capital stock association.]

3:32-1.1 Authorization for conversion

(a) An insured mutual association may convert to a capital stock association subject to the limitations and provisions of article XXI of the Savings and Loan Act (1963) as amended, **N.J.S.A. 17:12B-1 et seq.,** and this [regulation] **chapter.** The association shall also be subject to the same requirements promulgated by the Federal Savings and Loan Insurance Corporation in [part] **12 CFR** 563b of the [rules and] regulations for insurance of accounts.

(b) A 3121 Association, as defined in N.J.A.C. 3:32-1.10(a), may convert to a capital stock association subject to this chapter and, where applicable, to article XXI of the Savings and Loan Act (1963) as amended N.J.S.A. 17:12B-1 et seq.

3:32-1.2 Application

(a) Applications and other forms provided by the Federal Savings and Loan Insurance Corporation shall be considered as acceptable material by the [c]Commissioner for compliance with the provisions of this [regulation] **chapter** and article XXI of the Savings and Loan Act (1963) as amended **N.J.S.A. 17:12B-1 et seq.** Copies of all forms required to be filed with the Federal Savings and Loan Insurance Corporation should be forwarded to the [c]Commissioner as part of the application for preliminary approval.

(b) A 3121 Association may comply with this section by submitting the form provided by the Commissioner.

3:32-1.4 Meeting of members

(a) Savings and/or borrowing members, as defined by the mutual association's bylaws, who are 16 years of age, or over, shall be entitled to vote at the special meeting to consider conversion to a capital stock association.

(b) The record date for determining those members eligible to vote at the special meeting called to consider the plan of conversion shall not be less than 90 days prior to the date of approval of such plan by the board of directors.

(c) A special meeting of the members shall be called by the board of directors, not later than 180 days following preliminary approval of the plan of conversion by both the [c]Commissioner and the Federal Savings and Loan Insurance Corporation[, to]**. In the case of a 3121 Association, a special meeting of the members shall be called by the board of directors not later than 180 days following preliminary approval of the plan of conversion by the Commission. The members shall consider and** vote upon, either in person or by proxy, the following business:

1. [To consider the] **The** adoption of the plan of conversion of the mutual association into a capital stock association;
2. [To elect] **The election of** directors to hold office from the effective date of conversion until the next annual meeting; **and**
3. [To consider the] **The** adoption of bylaws for the capital stock association.

(d) Upon **the** affirmative vote of [at least] a majority **or, in the case of a 3121 Association, the affirmative vote of at least two-thirds** of the members present either in person or by proxy, [of the determination] **determining** to convert the mutual association into a capital stock association, the board of directors shall within 45 days file with the [c]Commissioner the following documents:

1. A copy of the minutes of the proceedings of such meeting;
2. A certificate of incorporation as provided in article XXI, section 18 of the Savings and Loan Act (1963), as amended;
3. A copy of the bylaws for the stock corporation; **and**
4. **The** [C]conversion application for final approval.

3:32-1.6 Stock purchase rights

(a) Eligible account holders shall be entitled to subscription rights to purchase capital stock pro rata to the value of their holdings. [Those eligible] **Eligible** account holders under 18 years of age shall be entitled to purchase stock under a custodian agreement.

(b) The exercise of the subscription rights of the eligible account holders shall be in accordance with [section] **12 CFR** 563b of the [rules and] regulations for insurance of accounts.

(c) An "eligible account holder" means any person holding a savings account in a converting association on the eligibility record date established by the [c]Commissioner which shall not be less than 90 days prior to the approval of the plan of conversion by the board of directors.

(d) Notwithstanding (a) and (b) above, subscription rights of eligible account holders of 3121 Associations shall be determined pursuant to N.J.A.C. 3:32-1.10.

3:32-1.7 Purchase price of stock

(a) The application for final approval shall fix a subscription price per share not less than $5.00 and [normally] not more than $50.00**, except that the subscription price may exceed $50.00 per share upon a showing of special circumstances.**

(b) Prices are to be established by persons independent of the converting association who are experienced and expert in corporate appraisal. **The independence of the persons shall not be deemed to have been compromised merely because they participated in selling the stock or received from the association a fee for price appraisal services.** [(c) These] **The** persons shall be acceptable to the [c]Commissioner and the corporation [and their independence is not jeopardized by participating in selling the stock or by receiving from the association a fee for price appraisal services].

3:32-1.10 3121 Associations

(a) A "3121 Association" shall mean a mutual association whose board of directors adopts a resolution to convert to a stock association after July 29, 1987, and before October 1, 1988, and which at the time its board of directors adopts such a resolution is not insured by the Federal Savings and Loan Insurance Corporation.

(b) The Commissioner shall not approve any conversion plan submitted by a 3121 Association which, in the judgment of the Commissioner, does not provide for the payment of fair value to the members for their interest in the association, or which is, in any other aspect, unfair or inequitable to the members.

3:32-1.11 Fees; conversion from mutual to capital stock association

A filing fee of $1,500 shall accompany every application for the conversion of a mutual association to a capital stock association.

COMMUNITY AFFAIRS

DIVISION OF HOUSING AND DEVELOPMENT

The following proposals are authorized by Leonard S. Coleman, Jr., Commissioner, Department of Community Affairs.

Submit comments by May 4, 1988 to:
Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, NJ 08625

(a)

Uniform Construction Code
Standards; Manufacturer's Recommendations
Proposed Repeal and New Rule: N.J.A.C. 5:23-3.6

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

Proposal Number: PRN 1988-167.

The agency proposal follows:

Summary

It has been brought to the attention of the Department that some builders and code officials have understood N.J.A.C. 5:23-3.6 to mean that manufacturer's recommendations that are more stringent than the Uniform Construction Code have the effect of superseding it. This has never been intended. The intention of this section is, rather, that manufacturer's recommendations are to be used as guidance only where the Code itself does not provide standards. The Code sets both minimum and maximum standards and is not intended to be subject to being overruled by manufacturer's recommendations. The proposed new rule clarifies the primacy of the Code.

Social Impact

The social impact of this new rule will be to eliminate a misunderstanding concerning the status of manufacturer's recommendations under the Code by revising the text so that it will not have provisions that appear to be in conflict.

Economic Impact

To the extent that manufacturer's recommendations may be more stringent than the Code, there will no longer be a basis for imposing extra expense on persons doing construction by requiring conformity with those requirements.

Regulatory Flexibility Statement

The elimination of uncertainty as to the primacy of the Code and the elimination of expenses due to having to comply with manufacturer's recommendations that are more stringent than the Code will benefit small businesses in the same manner as others doing construction.

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

5:23-3.6 Standards; accepted practice

[In the absence of provisions not specifically contained in any subcode or the regulations, the specifications and standards listed in each subcode, or its appendix herein adopted, shall be deemed to represent accepted engineering practice in respect to the material, equipment, system or method of construction therein specified. In the absence of such standards, the manufacturer's recommendations for installation of any material or assembly shall be deemed to constitute accepted engineering practice. Where there is any conflict or inconsistency between this subcode, or the standards adopted herein, or the manufacturer's recommendations, the more restrictive shall govern.] **This chapter, together with the subcodes, national standards and appendices it adopts by reference, are the primary guide to accepted engineering practice in respect to any material, equipment, system or method of construction therein specified. When this chapter and the subcodes, national standards and appendices it adopts by reference are silent, a manufacturer's recommendations for the installation of any material or assembly shall be considered to be accepted engineering practice; provided, however, that a manufacturer's recommendations shall not be read to overrule this chapter or any subcode, national standard or appendix which it adopts by reference.**

(b)

Uniform Construction Code
Energy Subcode
Proposed Amendment: N.J.A.C. 5:23-3.18

Authority: N.J.S.A. 52:27D-124 and 52:27F-11q.

Proposal Number: PRN 1988-154.

The agency proposal follows:

Summary

The Department of Community Affairs proposes to amend the Energy Subcode regulations so as to: (1) take note of the fact that the 1987 BOCA National Energy Conservation Code has been published, and therefore automatically replaces the 1984 edition, by making the appropriate changes in cross-references; (2) make it clear that the maximum allowable thermal transmittance value for roof/ceiling assemblies in one and two-family dwellings applies to the cavities only and not to the overall assemblies, thereby eliminating possible confusion that could result in excessive and cost-ineffective levels of insulation in such assemblies; and (3) amend the 1987 code so as to eliminate a conflict with the Plumbing Subcode.

Social Impact

Since the State Uniform Construction Code Act provides that adoption of a subcode automatically constitutes adoption of all subsequent revisions, the 1987 BOCA National Energy Conservation Code replaced the 1984 edition when it was published and made available for distribution. The changing of references from the 1984 code to the 1987 code is necessary to insure accuracy in the application of the subcode. The clarified thermal transmittance values will provide a reasonable level of protection against energy loss through roof-ceiling assemblies. The amendment concerning water heaters will have the effect of eliminating conflict between the Energy Subcode and the Plumbing Subcode, which already contains an exception for water heaters which heat water to no more than 110 degrees Fahrenheit.

Economic Impact

By eliminating possible confusion in thermal performance standards for roof/ceiling assemblies, the proposed amendment will eliminate excessive construction costs which might otherwise be incurred in meeting these standards.

Regulatory Flexibility Statement

Since this proposal simply reflects changes made to the BOCA Energy Code so that the New Jersey Energy Subcode remains consistent, there is no identifiable special impact on small business as a result of the proposed amendment. All businesses, both large and small, are subject to the U.C.C. and must remain so in order to promote uniform construction standards throughout the State.

The anticipated reduction in costs and the elimination of possible confusion in thermal performance standards will benefit all builders.

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

5:23-3.18 Energy Subcode

(a) Rules concerning the Energy Subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217 as amended, the commissioner hereby adopts the model code of the Building Officials and Code Administrators International, Inc., known as the BOCA [Basic/] National Energy Conservation Code/[1984] **1987,** including all subsequent revisions and amendments thereto, as well as the Illuminating Engineering Society's standard known as LEM-1, 1982, "IES Recommended Procedure for Lighting Power Limit Determination," including all subsequent revisions and amendments thereto.

i. Copies of the BOCA [Basic/] National Energy Conservation Code/[1984] **1987** may be obtained from the sponsor at BOCA, 4501 West Flossmoor Road, Country Club Hills, Illinois 60477**-5795.**

ii. (No change.)

2. (No change.)

3. One and two-family homes may comply with the Energy Subcode by meeting the requirements, adhering to **the** calculation procedures, employing the reference data or utilizing the standard building envelopes contained in the ["Small Dwelling Energy Subcode Compliance Manual"] **current issue of the "Manual of Accepted Practice of the Energy Provisions to the New Jersey Uniform Construction Code"** which is available from the Bureau of **Technical Services** [Construction code Enforcement], Department of Community Affairs.

(b) The following chapters or articles of the Energy Subcode are amended as follows.

1.-2. (No change.)

3. The following amendments are made to Article 3 of the Energy Subcode entitled "Building Envelope":

i.-iii. (No change.)

iv. In Section E-301.2.2, delete the words **"combined thermal transmittance value U_0** as specified in Table E-301.2.2" and add the words **"thermal transmittance value U in the cavity** not exceedng 0.03 Btu/hr.-ft.^{2} °F. **Values calculated for the cavity of roof/ceiling assemblies may be rounded; for example, a U value of 0.0349 may be rounded to 0.03."** Delete Figure E-301.2.2. In Exception 1 to Section E-301.2.2, delete the word "deck" and substitute the word "assembly."

v.-xvii (No change.)

4. (No change.)

5. The following amendments are made to Article 5 of the Energy Subcode entitled "Plumbing Systems":

i. Section E-502.4 is amended to add the words "unless the water heater outlet temperature is limited to 110 degrees Fahrenheit" after "Appendix A".

Renumber existing i.-ii. as **ii.-iii.** (No change in text.)

6.-7. (No change.)

(c) (No change.)

EDUCATION

(a)

STATE BOARD OF EDUCATION

Adult Education Programs

Proposed Repeals and New Rules: N.J.A.C. 6:30-1 and 2

Proposed New Rules: N.J.A.C. 6:30-3, 4, 5 and 6

Proposed Repeals: N.J.A.C. 6:27-1.14 and 6:44-2, 3 and 4

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

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:7C-1 et seq., 18A:48-1, 18A:49-1 through 8, 18A:50-12, 13 and 14, and the Adult Education Act, 20 U.S.C. 1201 et seq.

Proposal Number: PRN 1988-171.

Submit comments by May 4, 1988 to:
Irene Nigro, Rules Analyst
New Jersey Department of Education
CN 500
225 West State Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The State Board of Education, pursuant to N.J.S.A. 18A:4-15, 18A:7C-1 et seq., 18A:48-1, 18A:49-1 through 8, 18A:50-12, 13 and 14, and Public Law 91-230, proposes adoption of new rules pertaining to adult education programs. The proposed new rules at N.J.A.C. 6:30 provide for the administration and operation of adult education programs and outline specific monitoring elements and indicators used to evaluate these programs. Also, current rules N.J.A.C. 6:30-1 and 2, as well as N.J.A.C. 6:27-1.14 and N.J.A.C. 6:44-2 through 4, are proposed for repeal.

A review of the rules to be repealed follows:

N.J.A.C. 6:27-1.14 applies to the approval of evening high schools.

N.J.A.C. 6:30-1 and 2 relate to State-issued diploma options for adults and adult high schools. These rules became effective August 4, 1986 and will expire on August 31, 1988.

N.J.A.C. 6:44-2 through 4 provide rules for Adult Basic Education programs, Evening Schools for Foreign Born Residents programs and Adult Education, with specific reference to the salary reimbursement program to supervisors.

While the above-noted rules are proposed for repeal, the substance of the rules to be repealed has been embodied in the proposed new rules with technical changes and, in some cases, significant revision. The following cross reference chart provides a crossover from the old to new code citations.

CROSS REFERENCE CHART FOR N.J.A.C. 6:30

Old Citation	New Citation
6:27-1.14	6:30-4.4
6:30-1.1	6:30-1.1
6:30-1.2	6:30-1.2
6:30-1.3	6:30-1.3
6:30-1.4	6:30-1.4
6:30-1.5	6:30-2.2, 6:30-4.5, 6:30-5.2, 6:30-6.2
6:30-1.6	6:30-1.8
6:30-2.1	6:30-4.1
6:30-2.2	6:30-4.2
6:30-2.3	No cross reference
6:30-2.4	6:30-4.3
6:30-2.5	6:30-1.6
6:30-2.6(a)	6:30-1.6(c)
6:30-2.6(a)1 and 2	6:30-1.7(a)1 and 2
6:30-2.6(a)3 and 4	6:30-1.7(b), (c), and (d)
6:30-2.7(a)	6:30-1.7(c) and (d)
6:30-2.7(b)	6:30-1.7, 6:30-2.6, 6:30-3.4, 6:30-4.4, 6:30-5.6, 6:30-6.5
6:30-2.8(a)	6:30-1.7(c)
6:30-2.8(a)1	6:30-1.7(e)
6:30-2.8(a)2	6:30-1.7(f)
6:30-2.8(a)3	6:30-1.7(f)1 and 2
6:30-2.9	6:30-1.7(f)
6:30-2.9(a)1	6:30-1.7(f)2
6:30-2.9(a)2	6:30-1.7(g) and (h)
6:30-2.9(b)	6:30-1.7(g)
6:30-2.10	6:30-1.7(h)1 through 8
6:30-2.11	6:30-4.5
6:30-2.12	6:30-4.6
6:30-2.13	6:30-4.7
6:30-2.14	6:30-4.8
6:30-2.15	6:30-4.9
6:30-2.16	6:30-4.11
6:30-2.17	6:30-4.12
6:30-2.18	6:30-4.13
6:30-2.19	6:30-4.14
6:30-2.20	6:30-1.8
6:44-2.1	No cross reference
6:44-2.2	6:30-2.1
6:44-2.3	6:30-2.6

6:44-2.4	6:30-2.2
6:44-3.1	6:30-6.2 and 6.3
6:44-3.2	No cross reference
6:44-4.1	6:30-5.2(c)
6:44-4.2	6:30-5.6(a)3
6:44-4.3	6:30-1.6

The proposed new rules are organized into six subchapters as follows:

Subchapter 1—Administration of Adult Education Programs

Subchapter 2—Adult Basic Skills Programs

Subchapter 3—General Educational Development (GED) Testing Centers

Subchapter 4—Adult High Schools

Subchapter 5—Evening Schools for Foreign Born Residents

Subchapter 6—Supervisors of Adult Education Programs

The following is a review of the proposed new rules:

N.J.A.C. 6:30-1: Subchapter 1 provides administrative and general rules which apply to subchapters 2 through 6, and outlines the overall purpose and functions of adult education.

The age and out-of-school requirements for 16- and 17-year-old persons seeking participation in adult education activities are stipulated in N.J.A.C. 6:30-1.2. The process for underage candidates requires that the student and parent or guardian be counseled prior to withdrawal from high school and that a Certificate of Non-Enrollment be required for participation in an adult program. Underage persons must present a referral form before taking the General Educational Development (GED) examination. The referral form requires contact with an adult education program for the purpose of academic assessment prior to taking the GED examination.

The rules for certification for a State-issued high school diploma are outlined in N.J.A.C. 6:30-1.3. Passing scores for the GED are set by the State Board by resolution. Certification for a State-issued high school diploma based on the evaluation of high school transcripts has been deleted from the rules and is no longer an option for obtaining a State high school diploma. Certification through the evaluation of college credits has been changed. The new rules would require the evaluation of mathematics and science credits separately, thereby creating five academic areas to be represented as part of the academic spread. The total credit requirement has been raised from 24 credits to 30 credits.

In N.J.A.C. 6:30-1.4, fees for taking the GED examination have been raised to $20.00 from the current fee of $15.00. This increase is necessitated because of the increased costs resulting from the inclusion of the essay subtest and the Maculaitis Assessment Program. Fees for duplicate diplomas have remained at $5.00 and the current practice of providing duplicate reports of scores at no charge remains unchanged.

A school and community planning process is proposed in N.J.A.C. 6:30-1.5. In the rule, "community" is defined and a process for public review and comment on adult education programs is referenced to the requirements in the New Jersey State Plan for Adult Education. Throughout subchapters 2 and 6, references are made to public review and comment in the development of goals and policies for adult programs. This rule requires the creation of adult education advisory committees at the district level.

An evaluation requirement for all adult education programs is proposed in N.J.A.C. 6:30-1.6. This requirement calls for the monitoring of all adult education programs within two years following the adoption of the new rules and then remonitoring within the following three-year period. N.J.A.C. 6:30-1.7 establishes rules for monitoring. This process, with modifications, is the process established in 1986 for adult high schools. Throughout this section, notification to county superintendents regarding monitoring results has been formalized. Monitoring is essentially a three-level process allowing for program improvement and review by external review teams. The process differentiates other adult programs from adult high schools which still require State Board action for final approval.

N.J.A.C. 6:30-2: Subchapter 2 focuses on adult basic skills programs, which are defined as programs for the least educated, programs for persons preparing to take the GED examination, and programs for persons with limited English language ability. Much of the language of this subchapter reflects the current N.J.A.C. 6:44 and Federal regulations which are part of P.L. 91-230 (Adult Education Act).

N.J.A.C. 6:30-2.5 will now explicitly prohibit the charging of any fee, tuition, or other charges related to books and materials to persons participating in an adult basic skills program supported in total or in part with State or Federal funds. N.J.A.C. 6:30-2.6 outlines 23 indicators in 10 monitoring elements for the evaluation of an adult basic skills program.

N.J.A.C. 6:30-3: Subchapter 3 outlines the purpose, eligibility for participation, application for participation, and the monitoring elements and indicators associated with the evaluation of GED Testing Centers. The language generally reflects current N.J.A.C. 6:30-1 as it relates to testing center administration. The 10 indicators and seven monitoring elements in N.J.A.C. 6:30-3.4 are similar to those used for past inspections.

N.J.A.C. 6:30-4: Subchapter 4 regulates the operation of adult high schools and reflects the language of the rules promulgated in 1986 as N.J.A.C. 6:30-2. Most notably, the sections on the evaluation requirements and the monitoring process have been moved to N.J.A.C. 6:30-1. Seventeen indicators in 10 monitoring elements have been delineated. Some significant additions to the existing rules have been made.

N.J.A.C. 6:30-4.5 is proposed to make an exception to the age and out-of-school requirements for high school seniors. The proposed rule would allow a senior who may be lacking coursework for graduation to enroll in an adult high school. The rule requires the concurrence of both the sending and receiving district superintendents.

Graduation requirements have been adjusted in N.J.A.C. 6:30-4.8 to reflect the new State minimum requirements for high school graduation.

N.J.A.C. 6:30-4.9(a)6 requires the annual announcement of eligible apprenticeship titles with the amount of credit to be awarded for each. Similarly, in N.J.A.C. 6:30-4.9(a)7, provision is made for the awarding of credit for selected occupational licenses.

A new rule is proposed at N.J.A.C. 6:30-4.10 for the evaluation of credit for foreign studies at the secondary level. This rule provides for assessment of foreign transcripts for the purpose of awarding credits to persons enrolled in adult high schools. This service would replace the current practice of having foreign transcripts translated by unknown persons, being evaluated by a college or university, by a private service, or by a staff member in the host high school district. A fee of $25.00 would be levied for every evaluation to cover translation expenses and other associated costs. Evaluations of foreign transcripts would only be completed for bonafide adult high school enrollees with requests accompanied with verification by the adult high school principal.

N.J.A.C. 6:30-5: Subchapter 5 provides for the operation of evening schools for foreign born residents. This program is regulated by N.J.A.C. 6:44-4 and N.J.S.A. 18A:49. Rules in this subchapter are related to eligibility and application for funding. Changes have been made to provide consistency with other adult program funding and application processes. In N.J.A.C. 6:30-6, a total of 18 evaluation indicators have been established in nine monitoring elements for the assessment of this program.

N.J.A.C. 6:30-6: Subchapter 6 delineates rules regarding the reimbursement of up to $12,000 to districts which employ supervisors for adult education programs. N.J.S.A. 18A:50-7 provides the legal authority for this program with the current code language established in N.J.A.C. 6:44-3. The most significant change in this subchapter is in N.J.A.C. 6:30-6.2 where requirements for reimbursement are proposed. Under the proposed new rules, classes or activities which were previously identified under 15 headings have now been reduced to six program areas. Instead of the previous requirement of six out of 15 areas, the proposed new rules require three out of six areas. Under the new rules, a district wishing to apply for supervisor's reimbursement may sponsor a vocational program and a recreational/avocational program but, in order to meet the requirements for reimbursement, the district will also have to sponsor at least one program aimed at improving the academic abilities of persons in the community (for example, adult basic skills, GED preparation, etc.). A total of 13 monitoring indicators are outlined in eight evaluation elements.

Social Impact

According to the 1980 census, over one and a half million adults and out-of-school youth in New Jersey do not have high school diplomas. This number represents about one-third of the adult population of the State. While these adults have not achieved this goal for numerous reasons, many elect to return to programs which offer an opportunity to improve their academic skills. Others seek to earn a high school diploma.

The proposed new rules provide several options for adults to improve their academic skills. These options include attending adult basic skills classes, the English as a second language program, GED preparatory classes, Evening Schools for Foreign Born Residents, and classes in adult high schools to earn a locally issued high school diploma.

The social impact of these programs is manifold. With improved academic skills, adults increase their potential in the labor market and raise their self-esteem. In the last school year, approximately 40,000 adults enrolled in the programs proposed in these rules. Some 10,000 adults earned State high school diplomas by passing the GED examination while another 1,500 earned locally issued high school diplomas by attending adult high schools.

Economic Impact

Adults with high school diplomas benefit significantly from higher than average earnings over their lifetime. A 1984 study found that based on a sampling of 250 adults who had recently received a high school diploma, 58 percent of those who were unemployed had obtained employment. Of those already employed, 45 percent had obtained a better job and 29 percent had received a promotion. Seventy-eight percent believed that their employment security had been improved.

The positive economic impact of education, including programs covered by these rules, cannot be demonstrated more clearly than in the recently released report of Governor Kean's *Task Force on Employment Policy*, which states, "Adults who lack basic reading, writing, comprehension, and mathematical skills will find it increasingly hard to secure a place for themselves in the job market of the future." (Report to the Governor, p. 43)

Most of the funding for these programs is derived from Federal and State sources, with augmentation in some instances from local school districts and program participants.

Regulatory Flexibility Statement

The proposed new rules will have no reporting, recording or compliance requirements for small businesses. Requirements of the proposed rules impact on public school, public institution, privately sponsored, and volunteer-based adult education programs and their participating students.

Full text of the rules proposed for repeal can be found in the New Jersey Administrative Code at N.J.A.C. 6:27-1.14, 6:30-1 and 2, and 6:44-2.3 and 4.

Full text of the proposed new rules follows.

CHAPTER 30
ADULT EDUCATION PROGRAMS

SUBCHAPTER 1. ADMINISTRATION OF ADULT EDUCATION PROGRAMS

6:30-1.1 Purpose and functions

(a) The purpose of adult education is to provide comprehensive lifelong learning opportunities for adults.

(b) The Division of Adult Education is responsible for:

1. Providing educational leadership for adult education programs cited in this chapter;

2. Allocating funds to local school districts, county community colleges, county and State institutions, and non-profit and for profit agencies and organizations for the operation of adult education programs;

3. Monitoring and evaluating funded adult education programs;

4. Providing technical assistance and training to programs cited in this chapter;

5. Supervising General Education Development (GED) Testing Centers;

6. Evaluating college transcripts of persons applying for a State issued high school diploma; and

7. Awarding State issued high school diplomas to applicants meeting the requirements of N.J.A.C. 6:30-1.3.

6:30-1.2 Age and out-of-school requirements

(a) In order to participate in adult education programs described in this chapter, a person must be 18 years of age and out of school. Exceptions to this rule shall be made for out-of-school youth, 16 and 17 years of age pursuant to (b) below. Persons 14 years of age and older participating in Evening Schools for Foreign Born Residents pursuant to N.J.S.A. 18A:49-1 shall not be subject to (b) below.

(b) All requests for exceptions shall be accompanied by a Certification of Non-Enrollment in School.

1. The Certification of Non-Enrollment in School shall state that the person is not on the school rolls of the resident district. The certification shall affirm that the applicant and his or her parents or legal guardian have been counseled about the opportunity to attend available in-school program options provided by the district.

2. The Certification of Non-Enrollment in School for youth 16 and 17 years of age domiciled in a natural or foster home shall be signed by a parent, guardian, probation or parole officer, State rehabilitation counselor or judge and either the high school principal or the superintendent of schools for the public school district in which the applicant resides. The certification shall also include the raised seal of the district or high school, or shall be notarized in testimony to the validity of the signature.

3. Adult education programs shall accept out-of-school youth, 16 and 17 years of age, who possess a valid Certification of Non-Enrollment in School for the purpose of assessment and advisement.

4. Based upon the academic assessment, the adult education program administrator shall offer to enroll a 16- or 17-year-old youth.

5. A 16- or 17-year-old candidate who has demonstrated a readiness to take the GED examination shall be issued a Referral to GED Test form by an adult education program administrator. This referral form shall affirm that advisement has been provided and that the applicant has been administered and completed the GED Practice Test with results that are predictive of likely success. The referral form shall include, but not be limited to, the following:

i. The name of the program making the referral;

ii. The signature of the administrator responsible for the program and the date of the referral;

iii. The raised seal of the district or school, or notarization attesting to the validity of the signature;

iv. The printed name and signature of the student;

v. The date of birth of the student; and

vi. The date of the Certification of Non-Enrollment in School and the district of issuance.

6. A student file shall be maintained at the program for two calendar years from the date of referral. This file shall include but not be limited to the following:

i. The original Certification of Non-Enrollment in School;

ii. The intake form of the program;

iii. The answer sheet for the GED Practice Test which was the basis of the referral to test; and

iv. A copy of the Referral to GED Test form.

7. Out-of-school youth, 16 or 17 years of age and applying to take the GED test, shall present a completed Referral for GED Testing Form at the time of testing.

(c) The Certification of Non-Enrollment in School for youth 16 or 17 years of age who are domiciled in a State, county or municipal institution, or in a residential program, must be signed by either a parent or guardian, or, when neither is available, a surrogate parent. The chief administrator of the institution shall sign in place of the public school superintendent or high school principal.

1. Each institution shall ensure that the rights of a youth are protected through the provision of a surrogate parent who shall assume all parental rights under this chapter, when either:

i. The parent(s) cannot be located after reasonable efforts; or

ii. The youth is a ward of the State of New Jersey.

2. Each institution shall establish a method for selecting and training surrogate parents.

3. The person serving as a surrogate parent shall have:

i. No interest that conflicts with those of the youth he or she represents; and

ii. Knowledge and skills that ensure adequate representation of the youth.

4. A surrogate parent may be paid solely to act in that capacity. Persons serving as surrogate parents may not otherwise be employees of the institution.

6:30-1.3 Certification for a State-issued high school diploma

(a) Either of the following methods may be used to qualify for a State-issued high school diploma:

1. Persons may apply for a State-issued high school diploma by taking the Tests of General Educational Development (GED) of the American Council on Education or other tests approved by the State Board of Education which shall be used as the basis for qualifying for a State-issued high school diploma.

i. The State Board of Education, after consultation with the Commissioner, shall establish uniform, Statewide standard scores for passage of the GED test.

(1) The Board shall establish a standard score establishing English language fluency on the Maculaitis Assessment Program for candidates taking the GED test in a foreign language.

ii. These standard score requirements shall be adopted and be subject to change by resolution of the State Board of Education. The State Board shall announce its intent to change GED score requirements no less than 28 days prior to final adoption.

2. Persons may apply and qualify for a State-issued high school diploma by presenting evidence of basic skills mastery as determined by the Commissioner of the Department of Education, and official transcripts showing at least 30 general education credits leading to a degree at an accredited institution of higher education. Included in the 30 general education credits must be a minimum of three credits in each of the five general education categories as follows: communications; mathematics; science; social science; and the humanities. For the purpose of this section the five general education categories shall be defined as follows:

i. "Communications" shall mean courses designed to enhance facility in the English language;

ii. "Mathematics" shall mean courses designed to enhance mathematical conceptual understanding and application including computer science;

iii. "Science" shall mean courses designed to enhance scientific conceptual understanding and application;

iv. "Social science" shall mean courses designed to promote social awareness, including understanding social, economic and political problems and the responsibilities of citizenship in an interdependent world; and

v. "Humanities" shall mean courses in literary, philosophical, foreign language, historical, aesthetic, or other humanistic studies to promote the understanding and transmission of values to one's own and other cultures.

6:30-1.4 Fees

(a) Persons submitting applications for a State-issued high school diploma by examination or reexamination on the GED test shall pay a fee of $20.00 in the form of a money order or bank certified check payable to the Commissioner of Education.

(b) Persons housed under the custody and supervision of the New Jersey State Department of Corrections may, by contractual agreement with the New Jersey State Department of Education, be administered the GED test without charge to either the candidate or the New Jersey State Department of Corrections.

(c) Persons requesting a State-issued high school diploma based on the evaluation of college coursework and those requesting a duplicate State-issued high school diploma shall pay $5.00 in the form of a money order or bank certified check payable to the Commissioner of Education. No fee will be charged for duplicate reports of GED scores.

6:30-1.5 School and community planning process

(a) Each district or agency sponsoring an adult education program shall adopt a school and community planning process for State and Federal funding for adult education programs received through the Division of Adult Education to operate these programs.

1. For purposes of this section, "community" shall have the following meanings:

i. In the case of a school district, the municipality in which the district is located;

ii. In the case of a State or county college or a county vocational school, the county in which the institution is located;

iii. In the case of a non-school agency, the county in which the agency is located, unless the agency has defined specific communities or populations of service; or

iv. In the case of a jointure, consortium, commission, regional school district, or other cooperative organizational structure where several districts join together to provide adult educational services, the municipalities making up the cooperative entity.

(b) The agency sponsoring the adult education program shall provide opportunity for public review and comment on programs funded under this chapter. The agency shall establish an adult education advisory committee which shall include community residents and program staff and shall make provision for public input.

1. Agencies funded for programs established pursuant to the Adult Education Act, 20 U.S.C. 1201 et seq., shall implement planning and coordination requirements established in the New Jersey State Plan for Adult Education.

6:30-1.6 Evaluation requirements

(a) The Commissioner shall evaluate all programs pursuant to N.J.A.C. 6:30-1.7 to ensure that each is performing according to the standards and procedures prescribed by law and rule.

(b) Based upon the evaluation, the Director, Division of Adult Education, shall determine approval or non-approval of all programs except for an adult high school, in which case, the Director shall make a recommendation to the Commissioner regarding the status of the adult high school.

(c) All adult education programs shall be monitored within two years following the adoption of these rules and thereafter within a three year period.

(d) Monitoring teams shall evaluate programs pursuant to the monitoring elements and indicators set forth in N.J.A.C. 6:30-2 through 6.

6:30-1.7 Monitoring process

(a) The Director, Division of Adult Education shall establish evaluation worksheets for the monitoring of adult education programs.

1. Monitoring teams shall be composed of representatives of the Division of Adult Education and may include a representative from the county office of education in which the program is located.

2. The Director, Division of Adult Education shall establish annually a monitoring schedule. Each program scheduled for monitoring shall be notified in advance by the Director, Division of Adult Education, and dates for such monitoring visits shall be established with the concurrence of the chief school administrator of the district or agency director with notification to the appropriate county office of education.

(b) An entrance conference with the chief school administrator or agency director and the administrative leader(s) of the various adult programs shall be scheduled prior to the monitoring visit.

(c) The monitoring team shall record its findings on evaluation worksheets, as prescribed in (a) above, on each of 10 elements with associated indicators pursuant to N.J.A.C. 6:30-2 through 6. The 10 elements to be evaluated area as follows:

1. Educational planning;
2. School and community relations;
3. Curriculum and instruction;
4. Attendance and register maintenance;
5. Facilities;
6. Staff;
7. Mandated programs;
8. Mandated assessment testing;
9. Equal educational opportunity and affirmative action; and
10. Financial administration.

(d) When monitoring a program sponsored by a voluntary agency, the monitoring team shall evaluate the program based on the terms and conditions of the contract entered into between the voluntary agency and the New Jersey State Department of Education.

1. For the purposes of this section, a voluntary agency program is one which uses non-paid tutors exclusively.

(e) The monitoring team shall meet with the chief school administrator or the agency director and the administrative leader(s) of the various adult programs at an exit conference to review findings of the team.

(f) Approval of adult programs shall be based on acceptable ratings on all of the essential elements applicable to each given program. The Director, Division of Adult Education shall send formal notification of the findings to the chief school administrator and the appropriate county superintendent of schools or agency director within 30 days after the completion of the monitoring visit.

1. The notification shall include copies of a summary and the completed worksheets for non-approved elements which contain sug-

gestions or recommendations regarding actions to be taken by the district or agency with respect to the adult programs.

2. For each adult high school that receives an acceptable rating, the Director, Division of Adult Education, in addition to (f)1 above, shall submit a report of findings and recommendations to the Commissioner for final action by the State Board.

i. The Commissioner, with the approval of the State Board of Education, shall notify the district regarding State approval of an adult high school.

(g) For any adult program not approved, the district board of education or a sponsoring agency board may, within 30 days following receipt of notification, petition the Assistant Commissioner, Educational Programs to rescind the rating by presenting written documentation of performance on elements rated as unacceptable in any given program.

1. The Assistant Commissioner, Educational Programs, shall rule on such petitions.

(h) A school district or agency with any adult program rated as not approved shall implement the following program improvement process for each program so rated:

1. The chief school administrator or agency director shall organize a self-study team, which shall include the administrator of the adult program, to analyze the nature and causes of the problem(s) identified by the monitoring team.

2. The self-study team shall analyze the nature and causes of the problem(s) identified through monitoring and within 30 days of receipt of notification of non-approval develop an improvement plan to correct the problems. The improvement plan shall contain the following components:

i. Objectives;

ii. Activities;

iii. Persons responsible;

iv. Resources;

v. Timelines; and

vi. Documentation and evaluation of completed activity.

3. The plan shall be submitted to the Director, Division of Adult Education who shall approve or disapprove the plan within 14 days of receipt.

i. Failure to submit a plan shall be cause for the Director, Division of Adult Education to judge the unacceptably rated adult program as being in non-compliance with law and rule and to determine the continuance or discontinuance of the program at a time established by the Director.

ii. For an adult high school, failure to submit a plan shall be cause for the Director, Division of Adult Education to notify the Commissioner of the non-compliance of the adult high school with law and rule and recommend to the Commissioner the continuance or discontinuance of the adult high school program at a time to be established by the Commissioner.

4. The approved plan shall be referred to the chief school administrator or agency director for implementation.

5. Unacceptable plans shall be referred to the chief school administrator or agency director with recommendations for improvement.

i. The chief school administrator or agency director shall have 30 days to make the necessary revisions and resubmit the plan to the Director, Division of Adult Education.

ii. Failure to resubmit a plan or resubmitting a plan which continues to be unacceptable shall be cause for the Director, Division of Adult Education to judge the non-approved adult program as being in non-compliance with law and rule and to determine the continuance or discontinuance of the program at a time established by the Director.

iii. For an adult high school, failure to resubmit a plan or resubmitting a plan which continues to be unacceptable shall be cause for the Director, Division of Adult Education to notify the Commissioner of the non-compliance of the adult high school with law and rule and recommend to the Commissioner the continuance or discontinuance of the adult high school program at a time to be establised by the Commissioner.

6. The district or agency shall have 90 days from the date of improvement plan approval to fully implement the plan. The Director, Division of Adult Education may determine a longer time period for full implementation which shall be explicitly stated at the time of plan approval.

7. Upon completion of improvement plan activities, the monitoring team shall remonitor the adult program to evaluate whether previously identified deficiencies have been corrected.

8. Following the remonitoring, the Director, Division of Adult Education shall send formal notification of the findings to the chief school administrator and appropriate county superintendent of schools or agency director. The approval process shall be completed pursuant to (f) above.

(i) For adult programs that are not approved following the implementation of a program improvement plan, the Director, Division of Adult Education shall convene an external team consisting of three adult program administrators and two nonadministrative professional adult program staff members from programs outside of the county of the program which has failed to receive approval.

1. The members of the external team shall review reports and events leading to non-approval and may schedule visits to the program site in order to render an advisory report to the Director, Division of Adult Education, regarding the program's rating.

2. Following the receipt of the advisory report from the external team, the Director, Division of Adult Education may determine the continuance or discontinuance of the adult program at a time established by the Director and explicitly stated in a formal notification to the chief school administrator and appropriate county superintendent of schools or agency director at the time of this action.

3. Following the receipt of the advisory report from the external team for an adult high school, the Director, Division of Adult Education shall make a recommendation to the Commissioner regarding the status of the adult high school. The Commissioner will recommend to the State Board of Education the continuance or discontinuance of the adult high school program.

SUBCHAPTER 2. ADULT BASIC SKILLS PROGRAMS

6:30-2.1 Purpose and program description

(a) Adult basic skills programs shall offer instruction designed to enable students to acquire the skills necessary to function independently as parents, workers, consumers and citizens.

1. Adult Basic Education (ABE) programs are designed for persons who are least educated and lacking the most basic educational skills. ABE programs focus instruction on basic communication, computation, pre-occupational, civic and everyday living skills.

2. General Education Development (GED) programs are designed for persons preparing to take the Tests of General Educational Development (GED) in order to qualify for a State-issued high school diploma. GED programs focus instruction on subject areas covered by the GED test, namely, writing skills, social studies, science, interpreting literature and the arts, and mathematics. In these programs instruction may be offered in either English or Spanish. GED preparation programs offered in a foreign language shall include preparation for the Maculaitis Assessment Program which comprises the sixth test of a foreign language version of the Tests of General Educational Development.

3. English as a Second Language (ESL) programs are designed for persons with limited English language ability to prepare them in the acquisition of listening, speaking, reading and writing English language skills necessary to function effectively in an English speaking environment and further, for those who so desire to enter other adult education programs as quickly as possible. Persons with limited English language ability are those whose primary language is other than English and who, by oral interview, are determined to be in need of instruction in the English language. An adult's primary language is the language most relied upon by the adult for communication or the language most spoken by the adult in his or her home or work environment.

4. All curricula shall be adult oriented and shall emphasize instructional approaches and learning activities which are geared to the personal and academic needs and aspirations of each student.

6:30-2.2 Eligibility for funding

The eligibility of an agency, institution or organization to apply for State and Federal funds shall be determined in accordance with requirements pursuant to N.J.S.A. 18A:50-12 and P.L. 91-230.

6:30-2.3 Application for funding

(a) Eligible agencies, institutions and organizations which have been previously funded or intend to apply for funds for the first time shall submit a statement of anticipated funding needs for the succeeding fiscal year. These statements shall be submitted to the Division of Adult Education by July 1 of the pre-budget year.

(b) Eligible agencies, institutions and organizations not previously funded shall submit an application for funds in accordance with procedures established by the Division of Adult Education by October 1 of the pre-budget year. All applications will be reviewed and approved or disapproved for funding in accordance with criteria established in the State Plan for Adult Education pursuant to P.L. 91-230.

(c) Amounts of grant awards for eligible agencies, institutions and organizations which are approved for funding shall be determined on a formula basis established by the Commissioner.

1. The formula for grant awards for adult basic skills programming shall be based upon:

i. An analysis of the impact of funding for the last three years;

ii. A review of current demographic data relating to undereducated adults in the State of New Jersey; and

iii. A review of the proposed formula with practitioners in the field of adult education.

(d) Eligible agencies, institutions and organizations which are approved for funding will receive contract offers. Contracts will be approved by the Department of Education based on certification that contractual terms and conditions will be met.

(e) Agencies, institutions and organizations with approved contracts shall maintain financial and program records and submit all reports as required by the terms and conditions of their contracts.

6:30-2.4 Eligibility for participation

(a) Participation in ABE programs shall be limited to adults and out-of-school youth who are residents of New Jersey and meet the age and out-of-school provisions of N.J.A.C. 6:30-1.2.

(b) Participation in ESL programs shall be limited to adults and out-of-school youth who are residents of New Jersey and meet the age and out-of-school provisions of N.J.A.C. 6:30-1.2 and judged by oral interview to be in need of instruction in the English language.

(c) Priority for participation in ABE and ESL programs shall be given first to adults and out-of-school youth who are least educated and most in need and, second, to adults and out-of-school youth who have not obtained a high school diploma.

(d) Participation in GED preparatory programs shall be limited to adults and out-of-school youth who do not possess a high school diploma, are residents of New Jersey, meet the age and out-of-school provisions of N.J.A.C. 6:30-1.2 and have demonstrated a reading level of 7.0 on a commercially available, nationally normed, standardized test for adults.

6:30-2.5 Fees

Adult basic skills programs provided in total or in part with State or Federal funds shall be offered of tuition, fees or other charges, including the cost of books and other instructional materials.

6:30-2.6 Monitoring elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1. The educational planning element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. Written program goals and policies based on the educational needs of the adults to be served and consistent with the current New Jersey State Plan for Adult Education and applicable State and Federal regulations shall be developed for the program and shall serve as a basis for the educational program. Effective September 1, 1989, the goals, policies and operation of the program shall be approved annually by the district board of education or by the sponsoring agency's board prior to July 1. Documentation shall include a copy of the goals and policies of the program and the action taken by the district board or agency board.

(1) Program goals shall reflect the primary purpose of programs pursuant to N.J.A.C. 6:30-2.1, and while addressing the educational needs of the least educated in the community, shall reference the special concerns of those citizens who are members of minority groups. Program goals shall also include: specific recruitment strategies, utilizing a variety of techniques appropriate to the target population to be served; specific plans to provide incoming students with appropriate orientation to the program; a plan for self-assessment to be implemented annually; and specific plans to provide advisement to all students.

2. The school and community relations element shall be rated as acceptable upon documentation of performance in the three indicators as follows:

i. Effective September 1, 1989, learning and program opportunities shall be advertised as widely as possible. Documentation shall include brochures or other program announcements, posters, and general notices to the community.

ii. Effective September 1, 1989, the district board of education or sponsoring agency's board shall provide opportunities for discussion regarding the goals, policies and operation of the program through public meetings of an adult education advisory committee pursuant to N.J.A.C. 6:30-1.5. Documentation shall be copies of minutes of advisory committee meetings and evidence of public notice.

iii. Cooperative relationships shall be established with community agencies, business and industry, and with other Federal and State programs which provide vocational training, job development and placement and other employment related services. Documentation shall include letters of intent or contractual agreements, minutes of meetings, or other evidence of cooperative activity.

3. The curriculum and instruction element shall be rated acceptable upon documentation of performance in four indicators as follows:

i. Effective September 1, 1989, the district board of education or agency's board shall approve annually a curriculum for the program. Documentation shall be a copy of the curriculum and the action taken by the appropriate board.

(1) The curriculum shall cover reading, writing, computation, and other educational skills critical to an adult's independent functioning in society. Second language acquisition skills shall be incorporated into the curriculum in programs serving ESL students.

(2) The curriculum shall be a written document at levels of instruction appropriate to program organization. The curriculum shall minimally include those topical areas identified by the State Department of Education as essential to a quality instructional program and shall conform to the outline which follows:

(A) Title of content area;

(B) Description;

(C) Topical listing of content;

(D) Proficiencies; and

(E) Standard of achievement.

ii. An educational plan shall be developed for each adult student except for persons enrolled in ESL classes. The plan shall be developed jointly by a professional staff member and the adult and shall reflect the adult's interests, experiences, goals and objectives and those educational skills identified as requiring remediation. A diagnosis of academic needs shall be completed within 10 instructional hours of a student's enrollment using a standardized test approved by the Director, Division of Adult Education. Effective September 1, 1989, the educational plan shall also include a record of the adult's progress, as measured by the standardized test used above, administered 50 instructional hours following the initial diagnostic testing. Effective September 1, 1989, the plan shall also include a dated review of the degree to which a student's goals and objectives are being achieved. Documentation shall be copies of educational plans.

(1) For persons enrolled in ESL programs, a placement test approved by the Director, Division of Adult Education, consisting minimally of an oral interview, shall be administered within 10 instructional hours of enrollment.

iii. The instructional program shall be sufficiently extensive in duration and intensive within a scheduled unit of time to enable students to develop educational skills and competencies necessary for the attainment of the individual's educational objectives. Documentation shall include a schedule of dates and hours of program operation, and availability of instructional areas and advisement.

iv. Materials, books, teaching aids, communications media, and other necessary supplies shall be acquired in quantities adequate for student enrollment and suitable to the interests of adults. Documentation shall include, but not be limited to, copies of purchase orders, instructional materials and supplies, or inventory lists.

4. The attendance record maintenance element shall be rated acceptable upon documentation of performance in two indicators as follows:

i. Attendance shall be recorded, on a daily basis, in an attendance record book provided by the State Department of Education where the hours of participation of adults enrolled in the program shall be noted. Attendance of students shall be verifiable through backup data maintained by teachers or program administrators. Certification of Non-Enrollment in School forms for students 16 and 17 years of age shall be filed as part of the student's educational records. Documentation shall include attendance books and educational records.

ii. The program director shall submit to the State Department of Education annually, prior to July 15, student and staff record forms for each student participant and staff member employed in the program. The student record form will note level of program enrollment, hours of attendance during each month or program operation, demographic information, test information, and other data required to be compiled by Federal regulations. The program shall maintain backup data to verify entries made on student and staff record forms. Documentation shall be properly maintained record forms and data to verify entries.

5. The facilities element shall be rated acceptable upon documentation of performance in three indicators as follows:

i. Where public school facilities are used, the district shall have on file a current five-year facilities plan. Documentation shall be a copy of the current facilities plan.

ii. Where facilities other than public school buildings are used, the district or agency shall perform annual inspections of those facilities to ensure adherence to health and safety laws and there shall be on file a statement of annual approval of the site for instructional purposes issued by the county office of education. Documentation shall include copies of checklists or certificates issued by appropriate government agencies, and a statement from the county office of education issued within the 12 months prior to the date of monitoring approving the facility for instructional purposes.

iii. Where programs sponsored by agencies other than public school districts use facilities other than public school buildings, the agency shall be responsible for documenting that State health and safety laws have been met. Documentation shall include certificates from appropriate government agencies attesting to compliance with State health and safety rules.

6. The staff element shall be rated acceptable upon documentation of performance in four indicators as follows:

i. All professional staff members shall possess standard New Jersey teaching certificates. Documentation shall be copies of teaching certificates.

ii. Program staff shall be supervised and evaluated annually by qualified personnel, possessing supervisory certification, responsible to the district or agency. Documentation shall include copies of staff observation reports, a schedule of evaluation dates, and copies of certification for supervisory personnel.

iii. Program staff involved in adult advisement shall be certified as a teacher, counselor, or supervisor. Documentation shall include copies of appropriate certificates and a list of all staff involved in adult advisement.

iv. A staff development plan shall be developed and implemented annually, directed at improving the delivery of program services. The plan shall include a new teacher orientation program to assist new teachers in working effectively with adult learners and to be more knowledgeable about local program philosophy and organization. Documentation shall be a copy of the staff development plan, materials, schedule of activities, lists of participants, and lists of presenters.

7. The mandated programs element shall be rated acceptable upon documentation of performance in the two indicators as follows:

i. Effective September 1, 1989, an analysis of the results of the testing in (a)8i below shall demonstrate an improvement in reading scores. Documentation shall be copies of test results.

ii. Effective September 1, 1989, at least 60 percent of the participants who enroll and are initially tested shall complete a posttest at an interval of 50 instructional hours following initial testing. Persons who are initially placed in an ABE program and are transferred to a GED preparatory program or who take the GED examination shall be counted as having completed the posttest. Persons who are initially placed in a GED preparatory program who attain a score predictive of success on the Official GED Practice Test shall be counted as having completed the posttest. The 50-hour test requirement shall not apply to ESL students and such students shall not be part of the calculation for the 60 percent requirement.

8. The mandated assessment testing element shall be rated as acceptable upon documentation of performance in the indicator as follows:

i. Adults enrolled in a program shall be tested within 10 instructional hours of enrollment. Effective September 1, 1989, students shall also be tested at 50 instructional hours following the initial testing, using standardized tests approved by the Director, Division of Adult Education. The 50 hour test requirement shall not apply to ESL students. Documentation shall be a dated record of test results.

9. The equal education opportunity and affirmative action element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The program shall share in the local effort to meet the equal educational opportunity and affirmative action objectives of the district or agency. Documentation shall be a statement from the administrator confirming the program's commitment to these objectives and public notices of this commitment in brochures or other program announcements.

10. The financial element shall be rated acceptable upon documentation of performance in two indicators as follows:

i. Districts or agencies receiving funding pursuant to this subchapter shall not require, as a condition for participation in the program, the payment of any tuitions, book deposits, fees, or other charges related to the purchase of books or materials. Documentation shall include registration information and budgetary accounts.

ii. The district or agency shall maintain appropriate fiscal records of all monies allocated by the State through an approved contract and shall submit all reports in a timely fashion as required by the terms and conditions of the contract. Documentation shall include budgetary accounts and receipt of all reports by reporting deadline dates.

SUBCHAPTER 3. GENERAL EDUCATIONAL DEVELOPMENT (GED) TESTING CENTERS

6:30-3.1 Purpose

General Educational Development (GED) testing centers shall provide opportunities for adults to take the Tests of General Educational Development (GED) and the Maculaitis Assessment Program leading to the awarding of a State-issued high school diploma.

6:30-3.2 Eligibility for participation

Public schools, public post secondary education institutions, and State agencies as approved by the State Department of Education are eligible to operate GED testing centers.

6:30-3.3 Application for participation

Eligible agencies shall submit an application in accordance with procedures established by the Division of Adult Education which may include, but not be limited to, documentation related to location, target population, facilities, marketing strategies, institutional commitment, and hours of operation. Contracts shall be approved by the

State Department of Education based on an agency's certification that contractual terms and conditions will be met.

6:30-3.4 Monitoring elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1. The annual planning element for the GED testing center shall be rated acceptable upon the documentation of performance in the indicator as follows:

i. The center shall develop a testing schedule which provides for a minimum of 12 full GED testing sessions with no more than 45 calendar days elapsing between each scheduled session. Documentation shall be a copy of the schedule.

2. The school and community relations element for the GED testing center shall be rated as acceptable upon documentation of performance in the indicator as follows:

i. The center shall advertise testing opportunities as widely as possible. Documentation shall include brochures, testing program announcements, posters, and general notices to the community.

3. The curriculum and instruction element is not applicable to this subchapter.

4. The attendance and register maintenance element is not applicable to this subchapter.

5. The facilities element for the testing center shall be rated acceptable by documentation of performance in two indicators as follows:

i. The testing center shall have a suitable physical site which includes a limited access secure storage area for the restricted testing materials, as well as a quiet, comfortable, well-lighted testing room with seats spaced so as to preclude opportunity for copying or collaborating by examinees. Documentation shall be accomplished through a physical inspection of the site.

ii. The testing center location shall meet the following requirements:

(1) Where the center uses public school facilities, the district shall have on file a current five-year facilities plan. Documentation shall be a copy of the current facilities plan.

(2) Where the center is sponsored by a public school district and uses facilities other than public school buildings, the district shall perform annual inspections of those facilities to ensure adherence to health and safety laws and there shall be on file a statement of annual approval of the site for instructional purposes issued by the county office of education. Documentation shall include copies of checklists or certificates issued by appropriate government agencies, and a statement from the county office of education issued within the 12 months prior to the date of monitoring approving the facility for instructional purposes.

(3) Where the center is sponsored by an agency other than a public school district and uses facilities other than public school buildings, the agency shall be responsible for documenting that State health and safety laws have been met. Documentation shall include certificates from appropriate government agencies attesting to compliance with State health and safety rules.

6. The staff element for the testing center shall be rated acceptable upon documentation of performance in three indicators as follows:

i. The testing center shall be staffed by persons with appropriate qualifications for administering the tests and for ensuring separation of GED instructional activities and testing functions. Staff administering or having access to the test shall be trained and approved by the Division of Adult Education. The testing center shall have a State-approved chief examiner who shall have access to all test center materials and records at all times. Documentation shall include the identification of the chief examiner and copies of valid approvals issued by the Division of Adult Education.

ii. The testing center shall have staff accessible for candidates to set testing appointments in accordance with contractual agreements. Documentation shall be a copy of the testing center schedule of operations.

iii. The testing center staff shall, upon request, provide candidates who have failed test(s) with information about local instructional programs and other options available to obtain a high school diploma. Effective September 1, 1989, documentation shall include informational letters or brochures used by the center for referral purposes.

7. The mandated programs element shall be rated acceptable upon documentation in the indicator as follows:

i. The testing center shall operate under the established procedural guidelines of the American Council on Education providing opportunity for the administration of the General Educational Development (GED) test under the terms and conditions of the contract between the testing center and the State Department of Education. Documentation shall include test forms, test materials, and effective September 1, 1989, an administrative plan for ensuring security of restricted materials.

(1) Forms and test materials for scoring shall be completed correctly and submitted to the State Department of Education in a timely manner.

(2) The administrative plan procedures shall ensure that restricted testing materials are handled so that security will not be compromised.

8. The mandated Statewide assessment testing element is not applicable to this subchapter.

9. The equal educational opportunity and affirmative action element shall be rated as acceptable upon documentation of performance in the indicator as follows:

i. The testing center shall share in the local effort to meet the equal educational opportunity and affirmative action objectives of the district or agency. Documentation shall be a statement from the administrator, responsible for the center, confirming the center's commitment to these objectives and public notices of this commitment in brochures or other program announcements.

10. The financial element for the testing center shall be rated acceptable upon documentation of performance in the indicator as follows:

i. Fees shall be charged in accordance with N.J.A.C. 6:30-1.4, shall be recorded on cash control sheets, and shall be forwarded to the Division of Adult Education. Documentation shall include copies of properly completed cash control sheets and evidence from the Department of Education that all monies are forwarded in a timely manner.

SUBCHAPTER 4. ADULT HIGH SCHOOLS

6:30-4.1 General provisions

Adult high schools shall offer adults opportunity, accessibility and flexibility while maintaining the high standards inherent in the awarding of a high school diploma. Courses shall be sufficiently varied for meeting the educational needs of adults and shall be designed to challenge participants to achieve their highest level of educational ability.

6:30-4.2 Definitions

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

"Accredited" means that the high school, college or university has met the criteria and standards set by the appropriate accrediting agency such as the Middle States Association.

"Adult" means a person 18 years of age or older.

"Adult high school" means a school conducting supervised educational activities in the day or evening to provide adults with the necessary instruction to enable them to complete the requirements for a locally issued, State-endorsed diploma.

"Adult's primary language" means the language most relied upon by the adult for communication, or the language most spoken by the adult in the adult's home or work environment.

"Apprentice training" means a formal trade or industrial training program for one to five years duration which is based on at least 2,000 hours of supervised training and may include 144 hours of related instruction for each year of the apprenticeship.

"Approved" means that a program has met the standards established by the Department of Education as evidenced by action taken by the State Board of Education.

"Attendance" means participation in a learning activity for more than one hour. Any adult participating in a learning activity for less than one full hour is not considered as attending a scheduled session and is not present for that session.

"Comprehensive examination" means a test designed to assess mastery of a given set of proficiencies.

"Contact time" means the period in which a student interacts with a staff member of the adult high school for one hour or more at a Department of Education approved facility for purposes of instruction or advisement.

"Course" and "coursework" means activities and projects which are geared toward mastery of a set of proficiencies.

"Director" means the Director, Division of Adult Education.

"DD-214" means a Department of Defense form issued to all members of the military which describes their service record.

"Educational plan" means a signed and dated document developed by the student and a professional staff member of the adult high school. The educational plan reflects the student's past academic record, an analysis of past experiences for which credit may be awarded, graduation requirements, and a proposed schedule of courses for the current school year leading to completion of the requirements for graduation.

"Enrolled" means that an adult has completed and filed an application for enrollment and assisted in the development and completion of an educational plan.

"Flexible course" means a course that identifies and prescribes activities and projects necessary to achieve an accepted level of proficiency rather than a specified number of minutes of class time.

"Full-time employment" means work that is not less than 30 hours per week.

"Handicapped adult" means any adult who has any physiological, mental or psychological disorder or condition which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.

"Language fluency" means the ability to understand conversational English and to speak the language with sufficient structural accuracy, to use vocabulary to participate effectively in most formal and informal conversations on practical, social and school topics, to read material for information and to complete forms and write essays and reports on familiar topics.

"Language proficiency" is defined as the full command of language skills, including proficiency in listening, speaking, reading and writing. Language proficiency is defined operationally as the passing score on an English language proficiency test. To attain proficiency in a language requires more time than to attain fluency.

"Limited English proficiency adult" is defined as an adult who has not demonstrated English language proficiency as measured by a language proficiency test. Persons who should be tested include those whose primary language is other than English and have not demonstrated a reading level of 7.0 on a commercially available, nationally normed, standardized test for adults or persons who as a result of an oral interview are judged to be candidates for English language proficiency testing.

"Locally issued, State-endorsed diploma" means a high school diploma awarded to an individual by a district board of education endorsed by the State Board of Education.

"Monitoring" means a process conducted by representatives of the Department of Education to evaluate programs for compliance with law and rule.

"Occupational license" means a certificate verifying that a person has met qualifications prescribed by an issuing State agency for occupations designated by the New Jersey State Department of Labor.

"New Jersey resident" means a person who resides in the State of New Jersey. The residence of a person is defined in terms of domicile. Domicile is defined as the place where a person has his or her true, fixed permanent home and principal establishment and to which, whenever absent, he or she has the intention of returning.

"Official transcript" means an individual's record of high school or college courses, grades and credits awarded. The official transcript shall have either of the following indicators: a raised school seal or the original signature of an administrator of the school.

"Part-time employment" means work that is more than 15 hours but less than 30 hours per week.

"Proficiency" means an explicitly stated and demonstrable knowledge and/or skill used to define a desired learning outcome.

"Provisional approval" means approval to begin to operate an adult high school for a period not to exceed one year during which time monitoring shall occur and approval may be subsequently granted.

"Proprietary school" means a privately owned school.

"Remedial college courses" means those courses taken at an accredited college or university which are not applied toward graduation and for which no college academic credit is awarded.

"School year" means a period of time commencing on July 1 and ending on June 30 of the following year.

"State-issued diploma" means a diploma issued by the State of New Jersey. This is contrasted with a locally issued, State-endorsed diploma.

"Statement of responsibilities" means an agreement signed by both the student and a representative of the adult high school establishing the requirements of each to engage in a successful academic program.

"Traditional course" means a course which has specified lengths of time for class meetings and the completion of activities necessary to achieve the accepted level of proficiencies for the award of credit.

6:30-4.3 Permission to establish, expand or relocate an adult high school

(a) To establish an adult high school, the district board of education shall file a request with the Division of Adult Education prior to December 31 preceding the year of anticipated operation. The request shall include:

1. Data documenting community need;
2. An identification and description of the proposed program site;
3. A projection of enrollment for the first year of operation;
4. A projection of staff by job title;
5. A locally approved program of studies which includes State mandated courses required for graduation as prescribed in N.J.A.C. 6:30-4.8;
6. A projected budget for the first year of operation; and
7. A district board of education resolution approving the establishment of an adult high school.

(b) The Division of Adult Education shall evaluate the application of the district board of education and visit the proposed site before the Director shall grant or deny provisional approval to establish an adult high school.

1. If permission is not granted, the district may resubmit an amended application.
2. If permission is not granted following resubmission, the proposed adult high school may not begin operations during the subsequent school year.

(c) To expand or to relocate an existing program to another site, the district board of education shall file a request with the Division of Adult Education three months prior to the anticipated change. The request shall include elements (a)2, 3 and 4 listed above.

6:30-4.4 Evaluation elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1. The educational planning element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The district board of education shall approve annually the goals and operational policies of the adult high school. Documentation shall include copies of the minutes of the district board's action approving the goals and policies related to the school's operation. Action by the district board regarding expansion or relocation shall be made part of a file of board actions to clearly outline the board's approval of additional sites or program locations.

2. The school and community relations element will be rated as acceptable upon documentation of performance in the two indicators as follows:

i. Learning and program opportunities shall be advertised as widely as possible. Documentation shall include brochures or other program announcements, posters, and general notices to the community.

ii. The district board of education shall provide opportunities for discussion regarding the goals and operational policies of the program through public meetings of an adult education advisory committee pursuant to N.J.A.C. 6:30-1.5. Documentation shall be copies of minutes of public meetings or public comment and evidence of public notice.

3. The curriculum and instruction element will be rated as acceptable upon documentation of performance in the three indicators as follows:

i. The district board of education shall approve annually the program of studies for the adult high school, a copy of which shall be maintained by the principal of the adult high school. Documentation shall include copies of the district board's minutes citing the approval and a copy of the written document. The program of studies shall include description of all courses available as part of the instructional program or utilized in any assessment process to grant credit. The course descriptions shall conform to the outline in N.J.A.C. 6:30-4.7(c). Courses developed during the school year shall be approved by the district board before being offered to students as part of the instructional program or for assessment or credit granting purposes.

ii. The adult high school administrator shall develop and maintain educational plans for each adult enrolled in the adult high school. Documentation shall be copies of educational plans.

iii. The adult high school administrator shall maintain a staff schedule. Documentation shall be a copy of the schedule which clearly indicates the availability of personnel for consultation with adult students for either instructional or advisement purposes. The instructional program shall provide adult participants with adequate opportunity for advisement and consultation with subject matter specialists. With regard to program advisement, the principal of the adult high school shall make provision, through staff scheduling, to ensure the availability of at least one staff member during all hours of program operation for the purpose of meeting with adults in need of advisement.

4. The attendance and register maintenance element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The adult high school administrator shall maintain a New Jersey Adult High School Register and be responsible for the security of said Register for a period of six years following the close of the school year. Documentation of this shall be a correctly maintained register which follows the instructions for Register maintenance which are printed in the document. The Register is available from the Division of Adult Education. Attendance of students recorded in the Register shall be verifiable through backup data maintained by teachers. Certification of Non-Enrollment in School forms for students 16 and 17 years of age shall be filed with the student's educational plan.

5. The facilities element will be rated as acceptable upon documentation of performance in two indicators as follows:

i. Where the program uses public school facilities, the district shall have on file a current five-year facilities plan. Documentation shall be a copy of the current facilities plan.

ii. Where the program uses facilities other than public school buildings, the district shall perform annually an inspection of those facilities used by the adult high school to ensure adherence to health and safety laws and there shall be on file a statement of annual approval of the site for instructional purposes issued by the county office of education. Documentation shall be checklists or certificates issued by appropriate government agencies and a statement from the county office of education issued within 12 months prior to the date of monitoring approving the facility for instructional purposes.

6. The staff element will be rated as acceptable upon documentation of performance in three indicators as follows:

i. The district board of education shall ensure that all professional staff members are certified for the responsibilities they have been assigned to carry out in the adult high school. Documentation shall be copies of appropriate certifications.

ii. The adult high school principal shall maintain a written plan and schedule of staff observations. Documentation shall be copies of such a plan and schedule, and copies of evaluations which have been completed by the principal or an appropriate administrative staff person.

iii. The program shall develop and implement annually a staff development plan directed at improving the delivery of program services. The plan shall include a new teacher orientation program to assist new teachers in working effectively with adult learners and to be more knowledgeable about local program philosophy and organization. Documentation shall be a copy of the staff development plan, materials, schedule of activities, lists of participants, and lists of presenters.

7. The mandated programs element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The adult high school shall develop and maintain a plan to provide remedial coursework for participants who have been unable to demonstrate basic skills mastery. Documentation shall be such a plan referencing specific courses which are available to adults with this deficiency. This program shall be available to all students in the form of coursework every year they participate in the adult high school. The awarding of credit for this coursework shall meet the criteria stated in N.J.A.C. 6:30-4.9(a)11. In order for the courses to count toward meeting communications and/or computation requirements for high school graduation, the work must include both remedial and board approved developmental proficiencies; these courses must be taught by or the student's work must be assessed by a teacher holding appropriate secondary certification.

8. The mandated Statewide assessment testing element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The adult high school shall participate in the Statewide assessment testing program. Documentation shall be notices or copies of schedules to adult students and the community regarding Statewide assessment testing opportunities.

9. The equal educational opportunity and affirmative action element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The adult high school shall share in the local effort to meet the objectives of the State-approved affirmative action plans for classroom and employment practices of the district. Documentation shall be a statement from the principal of the adult high school confirming the program's commitment to these objectives and public notices of this commitment in brochures or other public announcements. Such a statement of affirmation shall be part of the overall policies and procedures adopted by the district board with reference to the operation of the adult high school.

10. The financial administration element will be rated as acceptable upon documentation of performance in the two indicators as follows:

i. The district board of education shall receive accurate and timely fiscal and statistical reports from the adult high school pursuant to law and rule. Documentation shall include a budget account established solely for adult high school financial reporting purposes. Documentation shall also include the timely filing, prior to December 1, of adjustments to the Application for State School Aid, September 30 report.

ii. Districts receiving funding pursuant to this subchapter shall not require, as a condition for participation in the program, the payment of any tuitions, book deposits, fees, or other charges related to the purchase of books or materials. Documentation shall include registration information and budgetary accounts.

6:30-4.5 Eligibility for enrollment and State aid

(a) To qualify for enrollment in an adult high school, a person shall:

1. Be a New Jersey resident;

2. Meet the age and out-of-school requirement of N.J.A.C. 6:30-1.2;

i. A person enrolled in secondary school with senior standing, lacking an opportunity to take courses which are available in the adult high school, shall be exempt from the provisions of N.J.A.C.

6:30-1.2 provided that the district superintendents of schools of both the sending and receiving districts approve the participation of such a person on a space available basis in that adult high school. Such written approval shall explicitly state the course(s) to be taken and the time frame covered by the letter. Tuition established by the receiving district on a cost-recovery basis may be charged to the sending district for persons enrolled under this exception;

3. Have not earned a locally issued, State-endorsed high school diploma;

i. Persons holding locally issued high school diplomas may enroll in an adult high school on a space available basis for the express purpose of supplementing their high school record. Tuition established by the host district on a cost-recovery basis may be charged to persons enrolling under this exception; and

4. Complete and sign an application for enrollment including a statement of responsibilities.

(b) To qualify for State aid a person shall:

1. Have met the requirements set forth in (a) above;

2. Have an educational plan on file; and

3. Have met the following attendance requirements:

i. Be enrolled and on the school register as of September 30 of the current school year; and

ii. Be in attendance at least once during the first 14 days in October, unless excused by the adult high school principal for reasonable cause.

(c) Adults who qualify for State aid shall be reported for State aid purposes on the basis of the number of course credits projected in the educational plan for the current school year on the following schedule:

1. One, to and including, 14 credits as a value of 0.5.

2. Fifteen or more credits as a value of 1.0.

(d) Persons enrolled pursuant to (a)2i and 3i above shall not qualify for State aid with respect to their participation in the adult high school.

6:30-4.6 Adults with special needs

(a) When an adult's primary language is other than English, he or she shall be required to demonstrate language fluency on the Maculaitis Assessment Program at a score level determined by the State Board of Education.

1. Adults who cannot demonstrate English language fluency shall be referred to appropriate classes in the adult high school to attain English language fluency. If the language improvement needs of the adult cannot be met by the adult high school, then the principal shall refer the person to the nearest adult program with staff available to meet those needs.

(b) Effective September 1, 1989, limited English proficient adults shall be referred to appropriate classes in the adult high school to attain English language proficiency. If the language improvement needs of the adult cannot be met by the adult high school, then the principal shall refer the person to the nearest adult program with staff available to meet those needs.

(c) For an adult with previous experience in a special education program now seeking similar services at an adult high school, the principal of the adult high school with the concurrence of the adult shall request the most recent evaluation and individualized education plan (IEP) for that adult from the high school of last attendance, provided the evaluation was made within the last three years.

1. The principal shall review the IEP to determine the services required by the plan and also the availability of such services in the adult high school.

i. If the IEP can be carried out, it shall serve as the instructional guide for that adult.

ii. If the principal determines that the IEP cannot be carried out, the principal shall promptly refer the adult to the nearest adult high school with staff available to offer the special services required in the IEP or to appropriate county or State agencies or institutions with resources and personnel able to serve the special needs of the adult.

2. If the evaluation was made more than three years prior to application to the adult high school, the IEP may not serve as a guide for the adult's instructional program at the adult high school.

(d) Handicapped adults without previous experience in a special education program or those individuals with IEPs that have been issued more than three years prior to their application to the adult high school shall be counseled regarding educational options which would lead to high school graduation and shall be served to the maximum extent appropriate to the needs of the handicapped adult within the capability of the program to provide such services.

6:30-4.7 Curriculum

(a) The adult high school curriculum shall comply with the requirements of law and rule and shall include a program of studies which has been adopted by the district board of education.

(b) A copy of the program of studies together with the rules governing its administration as formulated locally and approved by the district board of education shall be kept on file in the principal's office of each adult high school. Such program shall include the course offering, both required and elective, and the number of credits for each course.

(c) The program of studies shall include all course descriptions. Each course description outline shall include:

1. The course title;

2. A course description;

3. A topical listing of course content;

4. A list of course proficiencies;

5. Evaluation criteria and the standard of mastery; and

6. A comprehensive examination.

(d) The comprehensive examinations for all courses, except for those in the fine, practical or performing arts, shall be written examinations.

(e) When similarly titled courses exist in the adult high school and in high schools of the district, the proficiencies for adult high school courses must meet or exceed the proficiencies previously established for those courses in the high schools of the district.

(f) The program of studies shall indicate whether a course is traditional or flexible.

1. Traditional courses shall be held in classroom sessions which meet a minimum of 7,200 minutes for each one-year, five-credit course.

2. Flexible courses shall require the completion of projects and activities which shall be reviewed in biweekly meetings between a subject area specialist and a student.

6:30-4.8 Graduation

(a) The district board of education of each adult high school shall adopt policies for adult high school graduation requirements pursuant to law and rule. Policies shall include passing the Statewide assessment tests. ESL students who are unable to pass Statewide assessment tests to demonstrate mastery of basic skills shall be further evaluated through a Special Review Assessment pursuant to N.J.A.C. 6:8-7.1(b)3, 4 and 5 and shall demonstrate English language fluency on the Maculaitis Assessment Program as a requirement for graduation.

1. Effective September 1, 1989, when limited English proficient adults are unable to pass the Statewide assessment tests, they shall be further evaluated through a Special Review Assessment pursuant to N.J.A.C. 6:8-7.1(b)3, 4 and 5 and shall demonstrate English language fluency on the Maculaitis Assessment Program as a requirement for graduation.

(b) The district board of education of each adult high school shall establish minimum credit requirements for graduation which shall meet the requirements of the district's regular high school.

1. Of the required credits, no more than 15 credits may be in physical education.

2. Of the required credits, at least 10 credits must be earned in coursework taken at the adult high school issuing the diploma.

(c) Each adult high school shall establish minimum curriculum requirements for graduation which shall meet the requirements of the district's regular high school and include the following:

1. 20 credits of communication, of which five credits shall be in literature;

2. 10 credits of mathematics effective through August, 1990; 15 credits of mathematics effective September, 1990;

3. 10 credits of history as required by N.J.S.A. 18A:35-1 and 2, and five credits of world history/cultures;
4. Five credits of natural or physical science through August, 1989; 10 credits of natural or physical science effective September, 1989;
5. Five credits of fine, practical or performing arts;
6. Five credits in health and safety; and
7. Two and one-half credits of career exploration or development.

(d) The staff of each adult high school shall distribute to each entering adult a copy of all State and local adult high school graduation requirements. In addition, all adults shall receive at the beginning of each course a list of proficiencies required for successful completion of that course.

(e) Successful completion of the requirements set forth in (a), (b) and (c) above, and those established by the district board of education, shall be required as conditions for awarding a locally issued, State-endorsed diploma.

(f) No district board of education may issue an adult high school diploma without State endorsement.

(g) No district board of education may issue an adult high school diploma without signed verifications for all credit awarded for experience and an official transcript(s) being on file.

6:30-4.9 Award of credit

(a) The district board of education of each adult high school shall annually adopt policies at a public meeting which provide for the awarding of credit.

1. Credits verified by an official transcript may be transferred from accredited or State-approved high schools or institutions. Experiences being considered for transferred credit from proprietary schools or public vocational training programs shall be assessed in terms of proficiencies for district courses offering similar experiences.
2. Credits may be awarded for other than remedial courses which lead to a degree and are taken at an accredited college. They must be verified by an official transcript. Five credits may be awarded for three college credits earned.
3. Credits may be awarded for physical education and basic military training with the following limitations:
   i. Up to 15 credits may be awarded for previously earned high school physical education credits verified by an official transcript.
   ii. Up to 10 credits verified by a DD-214 form may be awarded for basic military training.
   iii. The combination of (a)3i and ii above may not exceed 15 credits.
4. A maximum of two and one-half credits in health and safety may be awarded for the possession of a valid New Jersey driver's license if credit for driver's education has not been awarded.
5. Credit may be awarded for work experience with the following limitations:
   i. Two and one-half credits may be awarded for each 12 months of full-time employment that is verified by a signed statement from the employer(s).
   ii. Two and one-half credits may be awarded for each 24 months of part-time employment that is verified by a signed statement from the employer(s).
   iii. The combination of (a)5i and ii above may not exceed 10 credits and may not duplicate credits awarded for apprentice training, an occupational license or on-the-job training.
6. Credits may be awarded for completion of apprentice training with the following limitations:
   i. The apprentice training must meet standards established by the United States Department of Labor, Bureau of Apprenticeship and Training;
   ii. Completion of training must be verified by a signed document from the registered apprentice sponsor;
   iii. The award may not exceed 20 credits and may not duplicate credits awarded for work experiences, an occupational license, on-the-job training or transferred credit from an official transcript; and
   iv. The Director, Division of Adult Education, shall announce annually the apprenticeship titles eligible for the award of credit and determine the amount of credit to be awarded.
7. Credit may be awarded for possession of a current occupational license, issued by an agency of the State of New Jersey, with the following limitations:
   i. A maximum of five credits may be awarded for a current occupational license;
   ii. The Director, Division of Adult Education, shall announce annually those occupational titles eligible for the award of credit;
   iii. Credit may be awarded for only one occupational license; and
   iv. Credit awarded for an occupational license may not duplicate credit awarded for work experience, on-the-job training, apprenticeship or transferred credit from an official transcript.
8. Credits may be awarded for on-the-job training and advanced military training with the following limitations:
   i. Five credits may be awarded for each 120 hours of on-the-job training that is formally supervised, follows a prescribed training outline and is verified by a signed statement from the employer;
   ii. One credit may be awarded for each week of advanced military training not to exceed 10 credits that is verified by the Military Occupational Speciality designation which appears on the DD-214 form; and
   iii. The combination of (a)8i and ii above may not exceed 20 credits and may not duplicate credits for work experience, apprentice training, or an occupational license.
9. The cumulative award of credit for (a)5, 6, 7 and 8 above shall not exceed 30 credits.
10. Credit may be awarded for passing a comprehensive examination with the following limitations:
    i. The award shall not exceed five credits;
    ii. The comprehensive examination must be part of an approved course and may only be used to award credit for a single course; and
    iii. The comprehensive examination may not be a standardized test, such as the General Education Development Test.
11. Credit may be awarded for remedial coursework in communications and computation only to persons who have demonstrated reading or computational proficiency below the 9.0 grade level on a commercially available, nationally normed, standardized test for adults or to persons unable to pass the statewide assessment tests.
    i. The award of credit may not exceed 20 credits in communications and 20 credits in computation.
12. Credit may be awarded for coursework in English as a second language (ESL).
    i. The award of credit in English as a second language may not exceed 20 credits.
    ii. Courses in English as a second language shall be offered only as traditional courses pursuant to the requirements in N.J.A.C. 6:30-4.7(f)1.

6:30-4.10 Awarding credit for foreign studies

(a) Credit for the equivalent of American secondary school studies experienced in a foreign country may only be awarded as determined by the Director, Division of Adult Education following an evaluation of transcript(s) presented by the adult.

(b) Transcript evaluation shall be for the purpose of participating in an adult high school program and shall be transmitted to the Division of Adult Education with a request for such an evaluation by the principal of the adult high school.

1. Each request for a transcript evaluation shall be accompanied with a money order or bank certified check in the amount of $25.00 payable to the Commissioner of Education.

6:30-4.11 Maintaining student records

(a) Each adult high school shall have the responsibility to compile, maintain and retain student records and to regulate access to and security of such records as prescribed in N.J.A.C. 6:30-2.

(b) The attendance records of all adult high schools shall be maintained annually in the official New Jersey Adult High School Register in accordance with the procedures prescribed therein and in accordance with the requirements of N.J.A.C. 6:30-4.4(a)4i.

6:30-4.12 Maintaining financial records

(a) The financial records of all adult high schools shall be:

1. Maintained in accordance with law and rule; and

2. Maintained in the appropriate accounts.

(b) Adult high school programs shall be offered free of tuition, fees or other charges, including the cost of books and other instructional materials.

6:30-4.13 Staffing

(a) The adult high school shall have an adequate number of professional staff, properly certified for their respective assignments; however, those persons involved in adult advisement shall be certified as principal, supervisor, counselor or teacher.

(b) District boards of education shall assign position titles to professional staff members which are recognized in N.J.A.C. 6:11.

6:30-4.14 Special conditions

The rules set forth in Title 6 of the New Jersey Administrative Code governing the operation of a high school within a school district shall govern the operation of an adult high school unless otherwise explicitly stated in this subchapter.

SUBCHAPTER 5. EVENING SCHOOLS FOR FOREIGN BORN RESIDENTS

6:30-5.1 Purpose

The purpose of Evening Schools for Foreign Born Residents is to provide foreign born persons with instruction in the English language pursuant to N.J.S.A. 18A:49-1. The program also provides instruction concerning the organization and function of Federal, State, and local government and in the laws of New Jersey and of the United States. All instruction shall be oriented toward preparation for citizenship.

6:30-5.2 Eligibility for funding

(a) Eligibility for funding under this program is limited to school districts.

(b) Teachers employed in the Evening School for Foreign Born Residents programs shall hold a valid New Jersey teaching certificate.

(c) The classes shall be separate and distinct from other adult education classes. They may be held in the same building with other classes but shall be maintained in separate rooms. Classes may be held during daytime hours but shall be available in the evening in all local programs funded under this subchapter.

6:30-5.3 Application for funding

(a) To receive funding under this program, school districts shall make application annually to the Division of Adult Education.

1. Each school district shall submit a statement of estimated funding needs to the Division by July 1 of the pre-budget year. These estimates shall be used by the Division to develop the allocations for programming for the following school year. A maximum allocation of $5,000 may be requested by districts as reimbursement for the State share of actual costs incurred in conducting the program during any school year.

2. The school district shall appropriate in its annual budget an amount at least equal to the allocation anticipated from the State. The expenditure of State and local funds for that year shall be confirmed in a fiscal report submitted to the Division upon completion of the program but no later than August 1.

3. In any year that the State appropriation for this program is less than the amount applied for by school districts, the amounts requested by districts shall be prorated. The proration shall be based on the ratio of the State appropriation for that year to the total amount for which application is made.

4. Upon receipt of a notice of allocation from the Division of Adult Education, districts shall submit an application for approval by the Division. The annual allocation and application shall be distributed to school districts by June 30 of the school year preceding funding.

5. School districts approved for funding under this program shall maintain fiscal and program records and submit records as specified by the Commissioner.

6. A separate account shall be maintained for the receipt and disbursement of State and local funds. This account shall be shown in the annual audit of the district.

6:30-5.4 Eligibility for student participation

(a) Participants in the Evening School for Foreign Born Residents program shall be at least 14 years of age pursuant to N.J.S.A. 18A:49-1.

1. Participation by in-school youth shall not be in lieu of regular day school instruction.

6:30-5.5 Fees

(a) Except as stated in (b) below, programs provided in total or in part with State funds shall be offered free of tuition, fees or other charges, including the cost of books and other instructional materials.

(b) A district may charge a registration fee only when it can document that actual costs for the program exceed available funds from State and local sources.

6:30-5.6 Monitoring elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1. The educational planning element shall be rated as acceptable upon documentation of performance in the indicator as follows:

i. Written goals and policies based on the educational needs of the adults to be served and consistent with current rules shall be developed for the program and shall serve as a basis for the educational program. Effective September 1, 1989, the goals, policies, and operation of the program shall be approved annually by the district board of education prior to July 1. Documentation shall include a copy of the goals and policies of the program and the action taken by the district board.

2. The school and community relations element shall be rated as acceptable upon documentation of performance in the two indicators as follows:

i. Effective September 1, 1989, learning and program opportunities shall be advertised as widely as possible. Documentation shall include brochures and other program announcements, posters, and general notices to the community.

ii. Effective September 1, 1989, opportunities shall be provided for discussion regarding the goals, policies and operation of the program through public meetings of an adult education advisory committee pursuant to N.J.A.C. 6:30-1.5. Documentation shall include copies of minutes of the advisory committee meetings and evidence of public notice.

3. The curriculum and instruction element shall be rated acceptable upon documentation of performance in four indicators as follows:

i. Effective September 1, 1989, the district board of education shall approve annually a curriculum for the program. Documentation shall be a copy of the curriculum and the action taken by the district board.

(1) The curriculum shall make provision for instruction in the subject areas pursuant to N.J.S.A. 18A:49-1. The curriculum shall also be State Board approved pursuant to N.J.S.A. 18A:49-1.

(2) The curriculum shall be a written document at levels of instruction appropriate to program needs, and shall conform to the outline which follows:

(A) Title to content area;

(B) Description;

(C) Topical listing of content;

(D) Proficiencies; and

(E) Standard of achievement.

ii. Effective September 1, 1989, a placement test approved by the Director, Division of Adult Education, consisting minimally of an oral interview shall be administered within 10 instructional hours of enrollment. Documentation shall be copies of test results.

iii. The program shall acquire materials, books, teaching aids, communications media, and other necessary supplies in quantities adequate for student enrollment and suitable to the interest of adults. Documentation shall include, but not be limited to, copies of purchase orders, instructional materials and supplies, and inventory lists.

iv. Effective September 1, 1989, the program shall offer instruction for a minimum of 100 hours in a school year. Documentation shall be a current class schedule for the program.

4. The attendance record maintenance element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. Teachers shall record the attendance of adults enrolled in the program on a per session basis. Documentation shall be an accurately maintained attendance record book or attendance record sheets.

5. The facilities element shall be rated as acceptable upon documentation of performance in three indicators as follows:

i. Where public school facilities are used, the district shall have on file a current five-year facilities plan. Documentation shall be a copy of the current facilities plan.

ii. Where facilities other than public school buildings are used, the district shall perform annual inspections of those facilities to ensure adherence to health and safety laws and there shall be on file a statement of annual approval of the site for instructional purposes issued by the county office of education. Documentation shall include copies of checklists or certificates issued by appropriate government agencies, and a statement from the county office of education issued within the 12 months prior to the date of monitoring approving the facility for instructional purposes.

iii. The district shall designate separate and distinct classrooms for Evening School for Foreign Born Residents program classes. Documentation shall be a schedule of classroom assignments.

6. The staff element shall be rated acceptable upon documentation of performance in the four indicators as follows:

i. All professional staff members shall possess standard New Jersey teaching certificates. Documentation shall be copies of teaching certificates.

ii. Program staff shall be supervised and evaluated annually by qualified personnel, possessing supervisory certification, and responsible to the district. Documentation shall include copies of staff observation reports, a schedule of evaluation dates, and copies of certification for supervisory personnel.

iii. Program staff involved in adult advisement shall be certified as a teacher, counselor or supervisor. Documentation shall include copies of appropriate certificates and a list of all staff involved in adult advisement.

iv. A staff development plan shall be developed and implemented annually, directed at improving the delivery of program services. The plan shall include a new teacher orientation program to assist new teachers in working effectively with adult learners and to be more knowlegeable about local program philosophy and organization. Documentation shall be a copy of the staff development plan, materials, schedule or activities, lists of participants, and lists of presenters.

7. The mandated programs element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The district shall make available Evening School for Foreign Born Residents program classes in the evening Documentation shall be a copy of the program schedule indicating the hours of operation.

8. The mandated assessment testing element is not applicable to this subchapter.

9. The equal educational opportunity and affirmative action element shall be rated acceptable by documentation of performance in the indicator as follows:

i. The program shall share in the local effort to meet the equal educational opportunity and affirmative action objectives of the district. Documentation shall be a statement from the administrator of the program confirming the program's commitment to these objectives and public notices of this commitment in brochures or other program announcements.

10. The financial element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The district shall maintain appropriate fiscal records of all monies allocated by the State and shall submit all reports in a timely manner as required by law and rule. Documentation shall be copies of relevant sections of the district's fiscal records.

SUBCHAPTER 6. SUPERVISORS OF ADULT EDUCATION PROGRAM

6:30-6.1 Purpose

The purpose of the Supervisors of Adult Education program is to provide reimbursement up to $12,000 to school districts employing supervisors of adult education programs pursuant to N.J.S.A. 18A:50-7.

6:30-6.2 Eligibility for reimbursement

Eligibility for reimbursement is limited to school districts employing a full-time staff member at least half of whose responsibilities shall be supervision of the adult education program.

6:30-6.3 Requirements for reimbursement

(a) To be eligible for reimbursement, the district shall operate programs of adult education which have been approved by the district board of education pursuant to law and rule and supervised by qualified personnel possessing supervisory certification responsible to the district.

1. The district shall maintain a comprehensive program of adult education which shall include classes or activities in at least three of the following program areas:

i. Evening Schools for Foreign Born Residents program;

ii. Adult Basic Education program;

iii. General Educational Development Preparatory program;

iv. Adult High School program;

v. Vocational Education program;

vi. Recreational/Avocational program.

2. In meeting the requirement of (a)1 above, any programs cited as meeting the requirements of (a)1i through (a)1iv above shall be State-approved programs.

6:30-6.4 Application for reimbursement

(a) School districts which intend to apply for reimbursement shall submit a statement of anticipated need for the succeeding fiscal year. The statement shall be submitted to the division by July 1 of the prebudget year.

(b) A maximum of $12,000 may be anticipated by districts as partial reimbursement for the salary of the supervisor of adult education. Proportionate reimbursement may be anticipated for supervisors spending less than 100 percent but 50 percent or more of their working day in this position.

(c) In any year that the State appropriation for this program is less than the amount applied for by school districts, the amounts requested shall be prorated. The proration shall be based on the ratio of the State appropriation for that year to the total amount for which application has been made.

(d) School districts approved for reimbursement shall maintain fiscal and program records, and shall submit reports specified by the Commissioner.

6:30-6.5 Monitoring elements and indicators

(a) The monitoring team shall examine the essential elements of the program's process using prescribed indicators of acceptable performance and documentation as follows:

1. The annual educational planning element shall be rated acceptable upon documentation of performance in two indicators as follows:

i. Effective September 1, 1989, written program goals based on the educational needs of the adults to be served and consistent with current rules shall be developed for the overall adult education program and shall serve as a basis for the educational program. The goals shall be approved annually by the district board of education prior to July 1. Documentation shall be a copy of the goals and the action taken by the board.

ii. The district board of education shall approve annually the application for salary reimbursement for the supervisor of adult education. Documentation shall include the minutes of the district board's action.

2. The school and community relations element shall be rated as acceptable based upon documentation of performance in the three indicators as follows:

i. Effective September 1, 1989, learning and program opportunities available as part of the general adult education program shall be advertised as widely as possible. Documentation shall include brochures or other program announcements, posters, and general notices to the community.

ii. Effective September 1, 1989, the district board of education shall provide opportunities for discussion regarding the operation and goals of the general adult education program through public meetings of an adult education advisory committee pursuant to N.J.A.C. 6:30-1.5. Documentation shall include copies of minutes of the advisory committee and evidence of public notice.

iii. The program shall establish a close relationship with other offices of the total school system, community agencies, business, industry, Federal, and State programs engaged in providing related adult education services. Documentation shall include letters of intent or contractual agreements, minutes of meetings or other evidence of cooperative activity.

3. The curriculum and instruction element is not applicable to this subchapter.

4. The attendance record maintenance element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. Programs used to substantiate eligibility for reimbursement shall maintain records of enrollment. Documentation shall be attendance logs or student sign-in sheets.

5. The facilities element shall be rated as acceptable upon documentation of performance in two indicators as follows:

i. Where public school facilities are used, the district shall have on file a current five year facilities plan. Documentation shall be a copy of the current facilities plan.

ii. Where facilities other than public school buildings are used, the district shall be responsible for ensuring that health and safety laws have been adhered to at the facilities used for program activities. Documentation shall include a statement from the chief school administrator acknowledging the use of non-district facilities and stating that applicable health and safety standards are being met unless other program requirements are explicitly stated in law and rule.

6. The staff element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The person for whom application has been made for salary reimbursement shall hold a valid supervisor's or administrator's certificate. Documentation shall be a copy of the supervisory or administrative certificate.

7. The mandated programs element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The educational services provided shall include classes or activities in three of the six program areas pursuant to N.J.A.C. 6:30-6.3. Documentation shall include class schedules and brochures.

8. The mandated assessment testing element is not applicable to this subchapter.

9. The equal educational opportunity and affirmative action element shall be rated as acceptable by documentation of performance in the indicator as follows:

i. The program shall share in the local effort to meet the equal educational opportunity and affirmative action objectives of the district. Documentation shall be a statement from the administrator of the program confirming the program's commitment to these objectives and public notices of this commitment in brochures and other program announcements.

10. The financial element shall be rated acceptable upon documentation of performance in the two indicators as follows:

i. The district shall maintain separate fiscal accounts of all monies derived from donations, tuitions, State, and local board funds for the purpose of providing an adult education program. These monies shall be applied pursuant to law and rule. The district shall not transfer any surpluses arising from an excess of receipts from donations, tuition fees or any other sources other than local taxes into the current expense balance of the district. Documentation shall include appropriate financial reports.

ii. The district board of education offering adult education courses not supported by Federal or State funds shall be entitled to charge tuition for persons taking such courses to enable the adult education program to operate on a cost-recovery basis except as otherwise prohibited by law and rule. Documentation shall include brochures, registration forms, and appropriate financial reports.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF PARKS AND FORESTRY

State Park Service

Proposed Readoption: N.J.A.C. 7:2

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

Authority: N.J.S.A. 13:1B-3, N.J.S.A. 13:1B-15.100 et seq., and 13:1L-1 et seq.

DEP Docket Number: 013-88-03.

Proposal Number: PRN 1988-178.

Submit written comments by May 4, 1988 to:

Donald J. Stout
Office of Regulatory Services
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 7:2 expires on July 19, 1988. The Department has reviewed these rules and has determined that they are necessary, reasonable and proper for the regulation and administration of lands and waters under the jurisdiction of the State Park Service. The proposed readoption will continue in full force and effect the State Park Service rules.

A summary of the text of each subchapter in N.J.A.C. 7:2 follows:

Subchapter 1, General Provisions, describes the scope, application and construction of the provisions contained in the chapter.

Subchapter 2, General Use, sets forth the designation, uses and restrictions upon uses of all applicable State parks, forests, recreational areas, historic sites, natural areas, marinas, golf courses, and other lands and waters under the jurisdiction of the Department of Environmental Protection, Division of Parks and Forestry.

Subchapter 3, Motorized Vehicles, sets forth the requirements and restrictions of motorized vehicle use on applicable State lands.

Subchapter 4 is Reserved.

Subchapter 5, Ocean Parks, sets forth the boating, camping and open fire restrictions in ocean parks.

Subchapter 6 is Reserved.

Subchapter 7, Overnight Facilities Use, sets forth the regulatory provisions governing the uses of overnight facilities, including reservations, occupancy, and vehicle uses.

Subchapter 8, Boating/Watercraft, sets forth the restrictions and requirements for the use of motor and sail boats, ice boating and water skiing on specified water bodies under the jurisdiction of the Division of Parks and Forestry.

Subchapter 9, Day Group Use, sets forth the reservation requirements and supervision requirements for group activities on lands under the jurisdiction of the Division of Parks and Forestry.

Subchapter 10 is Reserved.

Subchapter 11, Natural Areas and Natural Areas System, contains the rules authorized by N.J.S.A. 13:1B-15.10 concerning the use of all lands and waters designated as natural areas and included in the Natural Areas System. The rules include provisions for lands and waters to be included in the Natural Areas System, management and uses of said lands, and restrictions of the activities which may take place thereon.

Subchapter 12, Open Lands Management, contains the rules implementing the Open Lands Management Programs authorized by N.J.S.A. 13:1B-15.133 et seq. The rules provide financial assistance to private landowners for the development and maintenance of their lands for public recreational purposes.

Subchapter 13, State Marinas, contains marina rules concerning uses of, and berthing at, State marinas.

Subchapters 14 and 15 are Reserved.

Subchapter 16, Island Beach State Park, contains the rules regulating Island Beach State Park concerning fishing, beach buggy permits, speed limits at the Park and hours of operation at the Park.

Social Impact

The State Park Service rules provide a positive social impact by the regulation of the use of lands and waters under the jurisdiction of the Division of Parks and Forestry in the State Park Service for the protection of the natural and historical resources and improvements thereon and for the safety, protection and general welfare of the public. The rules provide for the designation and use of lands in the natural area system and ensure that public use of the natural and historic resources under the jurisdiction of the State Park Service occurs in areas managed for such purposes under conditions intended to protect such resources and the public.

The readoption of the existing State Park Services rules will have no new or additional social impact upon the public. The continued regulatory provisions will permit proper administration, management and regulation of the applicable State park, forest, and recreational areas, historic sites, natural areas, marinas, golf courses and other lands and waters under the jurisdiction of the Division of Parks and Forestry in the Department of Environmental Protection, and will permit only those uses, in accordance with the rules, that will be in the best interest of conservation and preservation and the health, safety and general welfare of the public.

Economic Impact

The primary economic impact of the State Park Service rules is in the administrative and management costs required by the Department of Environmental Protection, Division of Parks and Forestry to supervise, manage and administer said lands and waters. At certain facilities, and for certain specified uses, the Department charges fees for uses and admittance to said facilities. The economic impact realized by the public has been in the form of the permit fees and entrance fees as noted above.

The readoption of the State Park Service rules will have no new or additional economic impact on the public. The existing permit fees and user fees will continue in full force and effect without change.

Environmental Impact

The readoption of the State Park Service rules will continue to provide a positive environmental impact on those lands and waters under the jurisdiction of the Division of Parks and Forestry, Department of Environmental Protection, by ensuring only the appropriate use on such lands and waters as permitted by the Department and will ensure the proper management and administration of the activities taking place thereon.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that these rules would not impose reporting, recordkeeping, or other compliance requirements on small businesses because they regulate the use of State-owned land and facilities under the jurisdiction of the State Park Service.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:2.

(a)

DIVISION OF FISH, GAME AND WILDLIFE
Marine Fisheries
Proposed Amendments: N.J.A.C. 7:25-18.5

Comment Period Extension

Take notice that the Department of Environmental Protection is extending until April 20, 1988, the period for the submission of written comments on the proposed adoption of amendments to rules concerning the General Net Regulations, N.J.A.C. 7:25-18.5. The proposed amendments were published on September 8, 1987 in the New Jersey Register at 19 N.J.R. 1609(a). Please refer to the proposal for further information.

Submit comments by April 20, 1988 to:
Martin J. McHugh, Esq.
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

(b)

DIVISION OF HAZARDOUS WASTE MANAGEMENT
Public Participation in the Permit Process
Proposed Amendment: N.J.A.C. 7:26-12.12

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 13:1E-6.
DEP Docket Number: 012-88-03.
Proposal Number: PRN 1988-179.

Submit comments by May 4, 1988 to:
Marlen Dooley
New Jersey Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, NJ 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection ("Department") is proposing amendments to N.J.A.C. 7:26-12.12 affecting public participation in the hazardous waste treatment, storage or disposal (TSD) facility permitting process.

N.J.A.C. 7:26-12.12(o) is being deleted, because this subsection could be misinterpreted in light of Federal requirements regarding public participation in the permitting process. The proposed amendment will clarify that all hazardous waste facilities are subject to the public participation standards in N.J.A.C. 7:26-12. Major hazardous waste facilities are, in addition, subject to the requirements of the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49.

Social Impact

The proposed amendment at N.J.A.C. 7:26-12.12(o) will have a positive social impact. Major hazardous waste facilities will not only be subject to the public participation requirements of the Major Hazardous Waste Facility Siting Act but will also be subject to the same Federally imposed requirements as other hazardous waste facilities at 42 U.S.C. §6974 resulting in a better informed public.

Economic Impact

The economic impact on the regulated community should be minimal. Costs associated with the applicant's appearance at the public hearing that might be held by the Department would be borne by the applicant.

Environmental Impact

Adoption of the proposed amendment would have no direct, significant environmental impact.

Regulatory Flexibility Statement

It is estimated that a small number of "small businesses" as defined in the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169) may be impacted by this proposed amendment. In order to comply with this proposed amendment a major commercial hazardous waste facility permit applicant will have to appear at a public hearing. No exemption for small businesses may be provided, because the provision is required without such exemption by the Federal Solid Waste Disposal Act, 42 U.S.C. §6974(b). In order to maintain authorization for the State Hazardous Waste Management program from the United States Environmental Protection Agency, the State rules must remain equivalent with the Federal Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. and the applicable regulations.

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

7:26-12.12 Public participation in the permit process

(a)-(n) (No change.)

[(o) Hazardous waste facility applications which are within the jurisdiction of the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq. shall be subject to the public participation requirements of that law, in lieu of the requirements in this subchapter.]

(a)

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Proposed Amendments: N.J.A.C. 7:50-2.11, 3.32, 4.1, 4.40, 4.66, 5.22 through 5.26, 5.30, 5.43, 5.47, 6.7, 6.84, 6.107 and 6.123

Proposed Repeals: N.J.A.C. 7:50-6.131, 6.132 and 6.133

Authorized By: New Jersey Pinelands Commission, Terrence D. Moore, Executive Director.

Authority: N.J.S.A. 13:18A-6j.

Proposal Number: PRN 1988-177.

A **public hearing** concerning this proposal will be held on:

Friday, May 6, 1988 at 9:30 A.M.
Cranberry Hall
Charles Street
Medford, NJ

Submit comments by June 4, 1988 to:

John C. Stokes
Assistant Director
Pinelands Commission
P.O. Box 7
New Lisbon, NJ 08064

The agency proposal follows:

Summary

The New Jersey Pinelands Commission proposed to amend certain sections in subchapters 2 (Interpretation and Definitions), 3 (Certification of County, Municipal, and Federal Installation Plans), 4 (Development Review), 5 (Minimum Standards for Land Uses and Intensities), and 6 (Management Programs and Minimum Standards) of the Pinelands Comprehensive Management Plan.

The Pinelands Comprehensive Management Plan initially took effect on January 15, 1981 and has since been amended three times. The amendments now being proposed represent clarifications intended to clarify and implement the Commission's existing policies.

The amendments now being proposed were reviewed by the Plan Review Subcommittee of the Commission at its January 22, 1988 meeting and at its March 1, 1988 meeting.

The proposed amendments to N.J.A.C. 7:50-2.11 include additions to the definition of "campsite" and related definitions in order to distinguish between campgrounds and permanent housing developments, and the deletion of definitions relating to affordable housing, the latter in response to P.L. 1987 c.267 which specifies that the Commission may not require affordable housing standards in the Pinelands Comprehensive Management Plan.

The proposed amendment to N.J.A.C. 7:50-3.32 clarifies the requirement for submission of municipal master plans for formal review and certification.

The proposed amendments to subchapter 4 include modification of the provision at N.J.A.C. 7:50-4.1 exempting certain accessory structures from review if they utilize existing impervious surfaces, modification to the procedure at N.J.A.C. 7:50-4.40 by which the Executive Director gives notice of determinations following a final local approval, and reorganization of the standards at N.J.A.C. 7:50-4.66, without any substantive change, for granting waivers of strict compliance.

The proposed amendments to subchapter 5 include new provisions that would allow underground communications cables to be installed in existing developed rights of way in certain Pinelands Management Areas, and a clarification of lot size and development intensity requirements in certain areas if sewers are installed.

The proposed amendments to subchapter 6 include the addition of an explicit reference at N.J.A.C. 7:50-6.7 to threatened or endangered plants or animals to indicate that particular attention will be given to these species in determination of the size of undisturbed buffers from wetlands. Another provision at N.J.A.C. 7:50-6.84 introduces the requirement that a documented public health problem exists for new waste water treatment facilities to be exempted from certain existing requirements of the Comprehensive Management Plan. Provisions have been introduced at N.J.A.C. 7:50-6.107 limiting the size and number of offsite advertising signs that may be placed by agricultural commercial establishments. The fire hazard classification system for various types of vegetation at N.J.A.C. 7:50-6.123 has been revised in accordance with guidance provided by the New Jersey Department of Environmental Protection.

"Part XIII—Housing", N.J.A.C. 7:50-6.131, 6.132 and 6.133, has been deleted and reserved, in response to the State legislation previously cited.

Social Impact

The social impact of the proposed amendments and repeals is expected to be minimal except that these Plan amendments should enable the public and government officials to more clearly understand the procedures and standards governing development in the Pinelands Area. Although the deletion of affordable housing standards may decrease the availability of affordable housing in the region, this was a legislative, not administrative, decision.

Economic Impact

Adoption of these amendments and repeals will have minimal economic impact. Positive impact may result from the installation of communication cables in developed rights of way. Some individual landowners may be negatively impacted where buffers to wetlands may not be reduced.

Environmental Impact

The Pinelands Comprehensive Management Plan was adopted to protect the natural and cultural resources of the Pinelands Area. These amendments are largely intended to clarify various requirements of the Plan and simplify its administration. Amendments relating to wetlands buffers and land use intensity are intended to strengthen the environmental protection afforded by the Pinelands Comprehensive Management Plan. The environmental impact of allowing communication cables may be negative, but is expected to be minimal since the cables would be installed underground in areas that are already disturbed, and would be required to meet all existing requirements for crossing wetlands and water bodies.

Regulatory Flexibility Statement

In N.J.A.C. 7:50-2.11, the amendment to the definition of campsite may limit the ability of some campground operators to use them as sites for permanent housing; however, this represents a clarification of existing policy rather than a change of policy. This policy regarding campgrounds is essential to achieving the purposes of the Pinelands Comprehensive Management Plan (CMP). It is estimated that there are approximately 71 private campgrounds in the New Jersey Pinelands Area and the Pinelands National Reserve, of which 50 to 60 are believed to be in the New Jersey Pinelands Area of these campgrounds are small businesses as defined in the New Jersey Regulatory Flexibility Act (P.L. 1986 c.169).

The amendment to the provision of N.J.A.C. 7:50-4.1 which would exempt an accessory structure built on or below existing impermeable surfaces may relieve the need for review for certain minor construction. Small businesses would most likely benefit from this exemption to a greater extent than larger businesses. The number is unknown, but only a few businesses will actually be affected.

The revisions to subchapter 5 limiting the intensity of nonresidential use in certain areas may restrict the construction or expansion of small businesses. This represents a clarification of existing policy rather than a change of policy. These amendments could affect any small businesses now or potentially located in districts with intensity limits. Only new or expanding businesses would be affected, and then only if sewers are present. There are relatively few areas where sewers are present in the more restrictive management areas to which these provisions apply. These limitations are integral to the intent of the Comprehensive Management Plan to protect the resources of the Pinelands by limiting the intensity of land use in certain areas.

The addition to N.J.A.C. 7:50-6.107 of limitations on off-site signs for roadside agricultural stands may limit advertising for these businesses. However, these are the only private businesses permitted by the Comprehensive Management Plan to have off-site signs in the Pinelands. The Pinelands CMP is mandated to support agricultural business in the Pinelands; however, unlimited signage is viewed as incompatible with the intent of the plan. The proposed amendment allows off-site advertising while maintaining compatibility with the nature of the Pinelands. Compliance with this rule will require existing agricultural stands to remove existing signs and replace them with signs meeting the criteria of the amended rule by January 15, 1991. The number of these businesses in the Pinelands is not known.

Other provisions are expected to have little or no effect on small businesses. None of the proposed amendments initiate or increase any reporting or recordkeeping requirements.

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

7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meaning herein ascribed to them:

. . .

["Affordable housing" means housing which falls within the financial means of a household; guidelines being that a household will not have to spend more than 30 percent of its annual income for shelter or expend more than two times the amount of its annual income for the purchase of a home.]

. . .

"Camper" means a portable structure, which is self propelled or mounted on or towed by another vehicle, designed and used for temporary living for travel, recreation, vacation or other short-term uses. Camper does not include mobile homes or other dwellings.

"Campsite" means a place used or suitable for camping[.]**, on which temporary shelter such as a tent or camper may be placed and occupied on a temporary and seasonal basis.**

. . .

["Low income household" means a household earning less than 50 percent of median income.]

["Median income" means the median of household income, adjusted for the number of persons in the household, as determined from time to time by the United States Department of Housing and Urban Development to be the median.]

"Mobile home" means a dwelling unit manufactured in one or more sections, designed for long-term occupancy and which can be transported after fabrication to a site where it is to be occupied.

["Moderate income household" means a household earning no less than 50 percent and no more than 80 percent of median income.]

. . .

7:50-3.32 Submission of plan and land use ordinances

Within one year after the effective date of this Plan, or any amendment thereof, each municipality located in whole or in part in the Pinelands Area shall submit, in accordance with the provisions of this Part, its master plan and land use ordinances to the Commission for review and determination of whether such plan and ordinances are in conformance with the minimum standards of this Plan; provided, however, that municipalities in any county which has been delegated preliminary review authority pursuant to Part III of this subchapter shall submit their master plans and land use ordinances to such county in accordance with N.J.A.C. 7:50-3.40 and the provision of any applicable ordinance or regulation of such county. Such municipal master plan and land use ordinances shall be in such form and number and shall contain such information as may be required by the Executive Director in order to make the findings required by N.J.A.C. 7:50-3.39. **In no case shall the Executive Director accept a master plan for formal review and certification pursuant to N.J.A.C. 7:50-3.39 without an adopted ordinance which implements said master plan, unless no such ordinance is necessary.**

7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154:

1.-6. (No change.)

7. The construction of any addition or accessory structure for any non-residential use **or any multi-family residential structure** provided said addition or structure will be located on **or below** an existing impermeable surface and the existing use is served by public sewers and said addition or structure will cover an area of no more than 1,000 square feet; or

8. (No change.)

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

7:50-4.40 Commission review following final local approval

(a) (No change.)

(b) Notice of decision and hearing: Within 15 days following receipt of a notice of final determination containing all the information specified in N.J.A.C. 7:50-4.35(e), the Executive Director shall give notice of his determination by [certified] mail to the applicant, [and the clerk of] the local permitting authority which granted such approval, and [by regular mail to] interested persons, including all persons who have individually submitted information concerning the application or who participated in the local review process, as well as all persons who have requested a copy of said decision and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). If applicable, such notice shall set a date, time and place for public hearing, as required by N.J.A.C. 7:50-4.41. Any notice scheduling a public hearing shall be sent by certified mail to the applicant and the local agency which granted the approval.

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

7:50-4.66 Standards

(a) An application for a waiver shall be approved only if **the applicant satisfies (b) below and** an extraordinary hardship or compelling public need is determined to have been established under the following standards:

1. (No change.)

2. An applicant shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts, one of the following:

i. (No change.)

ii. The proposed development constitutes an adaptive reuse of an historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154 and said reuse is the minimum relief necessary to ensure the integrity and continued protection of the designated historic resource and further that the designated historic resource's integrity and continued protection cannot be maintained without the granting of a Waiver of Strict Compliance[; and].

(b) An application for a waiver shall be approved only if it is determined that the following additional standards also are met:

[3.]**1.** The granting of the waiver will not be materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the Pinelands Area; [and]

[4.]**2.** The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of the Pinelands Protection Act, the Federal Act or this Plan; and

[5.]**3.** The waiver is the minimum relief necessary to[:] relieve the extraordinary hardship, which may include the granting of a residential development right to other lands in the Protection Area that may be transferred or clustered to those lands in accordance with N.J.A.C. 7:50-5.30 or to satisfy the compelling public need[; and].

(c) Waivers approved under former N.J.A.C. 7:50-4.66(a)1ii, repealed effective November 2, 1987, and former N.J.A.C. 7:50-4.55 (a)1iii, repealed effective September 12, 1985, shall expire as follows:

[6.]**1.** Any waiver previously approved under the final subdivision standard contained in the now repealed **N.J.A.C. 7:50-4.55**(a)1iii above shall continue to be subject to the condition that the waiver shall expire after two years if substantial construction of improvements is not commenced, or if fewer than 10 percent of the total number of lots in the subdivision are sold or built upon within any succeeding 12 month period; and

[7.]**2.** Any waiver previously approved under the prior municipal development approval standard contained in the now repealed **N.J.A.C. 7:50-4.66**(a)1ii above shall expire, without exception, as of January 14, 1991 unless all necessary approvals for the proposed development have been obtained from the municipal planning board and board of adjustment or, where no such approval is required, construction permits have been issued prior to that date and no such approval is subsequently allowed to expire or lapse.

7:50-5.22 Minimum standards governing the distribution and intensity of development and land use in the [p]**P**reservation [a]**A**rea [d]**D**istrict

(a) (No change.)

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in the Preservation Area District:

1.-3. (No change.)

4. Public service infrastructure which is necessary to serve only the needs of the Preservation Area District uses. Sewer treatment and collection facilities shall be permitted to service the Preservation Area District only in accordance with N.J.A.C. 7:50-6.84(a)2. **Communications cables not primarily intended to serve the need of the Preservation Area District may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.**

5.-9. (No change.)

(c) No residential dwelling shall be located on a lot of less than 3.2 acres.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized sewer treatment or collection system pursuant to (b)4 above.

7:50-5.23 Minimum standards governing the distribution and intensity of development and land use in Forest Areas

(a) (No change.)

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in a Forest Area:

1.-11. (No change.)

12. Public service infrastructure intended to primarily serve the needs of the Pinelands. Sewer treatment and collection facilities shall be permitted to service the Forest Area District only in accordance with N.J.A.C. 7:50-6.84(a)2. **Communications cables not primarily intended to serve the need of the Forest Area may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.**

13.-15. (No change.)

(c) (No change.)

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized sewer treatment or collection system pursuant to (b)12 above.

7:50-5.24 Minimum standards governing the distribution and intensity of development and land use in Agricultural Production Areas

(a) (No change.)

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in an Agricultural Production Area:

1.-8. (No change.)

9. Public service infrastructure. Sewer treatment and collection facilities shall be permitted to service the Agricultural Production Area District only in accordance with N.J.A.C. 7:50-6.84(a)2. **Communications cables not primarily intended to serve the need of Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.**

10.-12. (No change.)

(c) (No change.)

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized sewer treatment or collection system pursuant to (b)9 above.

7:50-5.25 Minimum standards governing the distribution and intensity of development and land use in [s]Special Agricultural Production Areas

(a) (No change.)

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in a Special Agricultural Production Area:

1.-2. (No change.)

3. Public service infrastructure which is necessary to serve only the needs of the Special Agricultural Production Area District uses. Sewer treatment and collection facilities shall be permitted to service the Special Agricultural Production Area District only in accordance with N.J.A.C. 7:50-6.84(a)2. **Communications cables not primarily intended to serve the need of Special Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.**

4.-6. (No change.)

(c) (No change.)

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized sewer treatment or collection system pursuant to (b)3 above.

7:50-5.26 Minimum standards governing the distribution and intensity of development and land use in Rural Development Areas

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

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized sewer treatment or collection system pursuant to (b)10 above.

7:50-5.30 Minimum standards for transferring and clustering residential development rights in Protection Area municipalities

(a) Each municipality with land in the Protection Area shall establish within said area a mechanism to transfer or cluster development rights granted pursuant to N.J.A.C. 7:50-[4.65]**4.66** provided, however, that Forest Areas and Agricultural Production Areas shall not be designated to receive rights transferred from other [mangement] **management** areas. No municipality shall be required to plan for or accept such rights emanating from beyond its jurisdiction. If a municipality elects to institute a clustering program, the areas in which clustering is to occur must contain at least 500 acres of contiguous land which is accessible to areas of existing growth and development and which does not exhibit any of the following characteristics;

1.-11. (No change.)

7:50-5.43 Pinelands Development Credits established

(a) (No change.)

(b) Pinelands Development Credits are hereby established at the following ratios:

1. In the Preservation Area **District**:

i.-iv. (No change.)

2.-4. (No change.)

(c) (No change.)

7:50-5.47 Recordation of deed restriction

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

(c) No development involving the use of Pinelands Development Credits shall be approved until the [developed] **developer** has provided the Commission and the municipality in which the parcel of land to be developed is located with evidence of his ownership of the requisite Pinelands Development Credits; provided, however, that a municipality may grant preliminary subdivision or site plan approval conditioned upon such evidence being presented as a prerequisite to final subdivision or site plan approval. For such a final subdivision or site plan, the developer shall provide evidence of Pinelands Development Credit ownership to secure the same proportion of lots or residential units as was approved for Pinelands Development Credit use in the preliminary approval.

7:50-6.7 Significant adverse impact

(a) A significant adverse impact shall be deemed to exist where it is determined that one or more of the following modifications of a wetland will have an irreversible effect on the ecological integrity of the wetland and its biotic components **including, but not limited to, threatened or endangered species of plants or animals**:

1.-9. (No change.)

(b) Determinations under (a) above shall consider the cumulative modifications of the wetland due to the development being proposed and any other existing or potential development which may [effect] **affect** the wetland.

7:50-6.84 Minimum standards for point and non-point source discharges

(a) The following point and non-point sources may be permitted in the Pinelands:

1. (No change.)

2. Development of new waste water treatment **or collection** facilities which are designed to improve the level of nitrate/nitrogen attenuation of more than one existing on-site waste water treatment system **where a public health problem has been identified** may be exempted from the standards of (a)1ii above provided that:

i.-iv. (No change.)

3. (No change.)

4. Individual on-site septic waste water treatment systems, provided that:

i. The proposed development to be served by the system is otherwise permitted pursuant to [subchapters] **N.J.A.C. 7:50**-4 and 5;

ii. Non-residential development within the Preservation Area District except in areas designated pursuant to N.J.A.C. 7:50-5.22(b)7, Forest Area [District], Agricultural Production Area [District], **Rural Development Area,** and Special Agricultural Production Area District is served by a standard subsurface sewage disposal system;

iii.-viii. (No change.)

5. (No change.)

7:50-6.107 Mandatory sign provisions

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

(c) No outdoor off-site commercial advertising sign, other than signs advertising agricultural roadside stands, shall be permitted in the Pinelands. **Offsite outdoor signs advertising agricultural commercial establishments shall be permitted provided that:**

1. A maximum of one sign may be placed in any one direction along each road directly approaching the stand and;

2. Each sign along four lane State or U.S. highways shall be limited to a maximum of 50 square feet in area; each sign along all other roads shall be limited to a maximum of 20 square feet in area.

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

7:50-6.123 Fire hazard classification

The following vegetation classification[s] shall be used in determining the fire hazard of a parcel of land:

Fire Hazard Classification

Hazard	Vegetation Type
Low	Atlantic white cedar. Hardwood swamps.
Moderate	[Pine-oak or oak-pine greater than 20 feet tall and less than 20 foot spacing.]
	Non-Pine Barrens forest[.] **and** [P]**p**rescribed burned areas.
High	[Pine-oak or oak-pine less than 20 feet tall and greater than 20 foot spacing.]
	Pine Barrens forest including mature forms of pine, pine-oak, and oak-pine.
Extreme	[Immature pine-oak or oak-pine, including those less than 20 feet tall and less than 20 foot spacing.] [Pitch pine lowlands (all size classes).]
	Immature or dwarf forms of pine-oak or oak-pine, all classes of pine-scrub oak and pine-lowland.

PART XIII—[HOUSING] **(RESERVED)**

[7:50-6.131 Purpose]

[In order to ensure that low and moderate income households will have adequate and reasonable housing opportunities under the Comprehensive Management Plan, it is necessary that master plans and land use ordinances of municipalities with land in the Regional Growth Areas include a housing program that implements the minimum standards of this Part. There are a variety of methods by which a municipal housing program can implement the minimum standards of this Part. The primary consideration of the Commission will be whether the program is economically feasible and likely to result in the availability of housing opportunities for low and moderate income households. It is not necessary that a municipality incorporate the literal terms of this Part, provided that the municipal master plan and land use ordinances ensure the equivalent provision of housing opportunities as would be achieved under the provisions of this Part.]

[7:50-6.132 Minimum standards]

[(a) In order to be certified under the provisions of N.J.A.C. 7:50-3, a municipal master plan or land use ordinance must include a housing program that:]

[1. Ensures that at least 10 percent of all available housing units in the portion of the municipality which is located in a Regional Growth Area will be affordable to low income households;]

[2. Ensures that in addition to the housing units which are affordable to low income households, at least 10 percent of all available housing units in that portion of the municipality which is located in a Regional Growth Area will be affordable to moderate income households;]

[3. Ensures that minimum floor area requirements are not applicable to dwelling units which meet the minimum standards of (a)1 and 2 above;]

[4. Ensures that dwelling units that meet the minimum standards of (a)1 and 2 above are compatible with surrounding land uses;]

[5. Ensures that the dwelling units required by (a)1 and 2 above are available at approximately the same rate as is non-required housing;]

[6. Includes provisions that will ensure that the dwellings, required in (a)1 and 2 above will continue to be available to low and moderate income households.]

[7:50-6.133 Minimum housing standards in uncertified municipalities]

[(a) In municipalities that have not received certification of their master plans and land use ordinances, all development shall meet the following minimum standards:]

[1. In developments involving 25 to 99 dwelling units, at least 20 percent of the dwelling units proposed for development shall be affordable to low and moderate income households.]

[2. In developments of 100 or more dwelling units, 20 percent of the dwelling units shall be affordable to low and moderate income households with at least 10 percent of the total dwelling units affordable to low income households.]

[3. All required low and moderate income housing units shall be compatible with the non-required housing units and uses in the vicinity of the proposed development.]

[4. Required low and moderate income housing units shall be constructed at the same rate as non-required housing.]

[5. Deed restrictions or other legally enforceable provisions ensuring the availability of required housing for low and moderate income households shall be provided for a period of at least 30 years from the date of initial occupancy.]

[6. If an applicant can demonstrate that dwelling units required under this section cannot be provided, the applicant may satisfy the housing requirements of this section by dedication of land suitable for development of an equivalent number of required housing units, by payment in lieu thereof to a qualified public housing agency or by other alternative actions which meet the intent of this section.]

7:50-[6.134]**6.131** through 7:50-6.140 (Reserved)

HIGHER EDUCATION

For the following proposals, submit comments by May 4, 1988 to:
Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, New Jersey 08625

(a)

STUDENT ASSISTANCE BOARD

Garden State Scholars

Program Categories; Academic Requirements; Eligibility Requirements; Award Amounts; Award Combinations; Academic Eligibility for Undergraduate Scholarships; Renewal of Scholarships

Proposed Repeals and New Rules: N.J.A.C. 9:7-4.1, 4.2, 4.3, and 4.5

Proposed New Rule: N.J.A.C. 9:7-4.4

Proposed Repeal: N.J.A.C. 9:7-4.6

Proposed Amendment: N.J.A.C. 9:7-4.8

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

Authority: N.J.S.A. 18A:71-26.5, 18A:71-26.6, 18A:71-26.8, 18A:71-26.10, and 18A:71-26.12.

Proposal Number: PRN 1988-176.

The agency proposal follows:

Summary

The proposed repeals, new rules, and amendment create a consolidated scholarship program and coordinated delivery system through the Office of Grants and Scholarships incorporating the existing Garden State Scholarship and Garden State Distinguished Scholars Programs. This consolidation of programs will continue to provide both academic and need-based scholarships to eligible New Jersey secondary school students as well as the proposed Garden State Urban Scholars Program, which will recognize academically able students from the lowest socioeconomic New Jersey school districts, beginning with the 1989-90 academic year.

Social Impact

The proposed repeals, new rules, and amendment will combine the Garden State Scholarship, Garden State Distinguished Scholars and Garden State Urban Scholars Programs under a single Garden State Scholarship Program which will recognize the achievements of New Jersey secondary school students by providing both academic and need-based scholarships to assist students in meeting undergraduate educational costs at New Jersey colleges and universities. One of the major elements which will be emphasized under the proposed coordinated delivery will be early identification of scholarship recipients, at the end of the junior year, in order to provide students with timely notification of scholarship awards and assist institutions in recruitment activities. Approximately 20 percent of the Garden State Scholars, however, may be identified through a senior year competition in order to permit academically able students, who decide during their senior year to attend college, to be considered for scholarship assistance. Students will be recommended by New Jersey secondary schools and eligible students will be notified by the Department of Higher Education, Office of Grants and Scholarships, of the amount of their awards. New Jersey institutions will be guaranteed payments for all scholarship recipients enrolled at each institution. The broad range of eligibility requirements and the collection of class rank and Scholastic Aptitude Test (SAT) data by the Office of Grants and Scholarships will provide the opportunity for all New Jersey colleges and universities to participate fully in the scholarship programs.

Economic Impact

Under the single Garden State Scholarship Program, the highest achieving students will be recognized as Distinguished Scholars and will receive annual awards valued at $1,000 and other high achieving students from Type A and B school districts (urban scholars) will also be recognized as Distinguished Scholars and will receive $1,000 annual awards. Other Garden State Scholars will receive awards valued at $500.00 depending on their class rank and SAT scores. The number of eligible students and the amount of their scholarship awards will be provided within Fiscal Year 1990 State appropriations for all scholarship programs administered by the Student Assistance Board through the Office of Grants and Scholarships.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c. 169, the Department has determined that these proposed repeals, new rules, and amendment will not impose reporting, recordkeeping, or other compliance requirements on small businesses. The Department is simply proposing that all scholarship programs be combined under a single Garden State Scholarship Program which will recognize the achievements of New Jersey secondary school students by providing both academic and need-based scholarships to assist in meeting their undergraduate educational costs.

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

SUBCHAPTER 4. GARDEN STATE [SCHOLARS] **SCHOLARSHIPS**

9:7-4.1 [Eligibility requirements] **Programs categories**

[(a) Undergraduate Garden State Scholarship recipients must meet minimum academic requirements as defined in N.J.A.C. 9:7-4.6 and be selected by the institution they attend or plan to attend. Awards shall be provided to eligible students in accordance with the provisions of N.J.A.C. 9:7-2.9.

(b) Distinguished Scholar recipients must meet the academic requirements as defined by the Student Assistance Board. The academic requirements shall include secondary school ranking in the graduating class and/or a combination of the secondary school ranking and combined Scholastic Aptitude Test (SAT) scores. Where SAT scores are not available, the appropriate equivalent from the American College Testing (ACT) Program may be used. Each year the Student Assistance Board shall determine and publicize the actual academic requirements prior to the distribution of awards. Such scholarships may be awarded on the basis of indicators of academic merit defined by the Board, without consideration of financial need, and must satisfy the requirements as stipulated in N.J.A.C. 9:7-2.9. Distinguished Scholar recipients must attend an eligible New Jersey institution and may be eligible to receive a Garden State Scholarship or an Educational Opportunity Fund Grant. Distinguished Scholar awards are renewable for up to four or five years, depending upon the course of study and providing the student continues to achieve satisfactory academic progress. Eligible scholars may receive assistance under the Tuition Aid Grant Program.

(c) Garden State Scholarship and Distinguished Scholar recipients who transfer to another eligible New Jersey institution may transfer their awards provided they have demonstrated satisfactory academic progress.]

(a) The Garden State Scholarship Program shall provide for grants to undergraduate students in the following program categories:

1. Garden State Scholars; and

2. Distinguished Garden State Scholars.

9:7-4.2 [Award amounts] **Academic requirements**

[Undergraduate scholarship award amounts shall be a minimum of $200.00. The maximum Garden State Scholarship award shall be $1,000 and the Student Assistance Board shall annually establish award amounts in recognition of various levels of academic achievement. The exact amount of the Garden State Scholarship award shall be determined by the college financial aid officer in accordance with N.J.A.C. 9:7-2.9. The Garden State Distinguished Scholar award amount shall be established annually by the Student Assistance Board.]

(a) Garden State Scholarship recipients shall meet the academic requirements defined by the Student Assistance Board to be eligible to receive a grant in any program category.

(b) Each year, the Student Assistance Board shall determine and publish the actual academic requirements for eligibility to receive a grant in any program category prior to the distribution of awards.

(c) The academic requirements for the Garden State Scholarships shall include secondary school ranking in the graduating class and/or a combination of the secondary school ranking and combined Scholastic Aptitude Test (SAT) scores. Where SAT scores are not available, the appropriate equivalent from the American College Testing (ACT) Program may be used.

(d) The academic requirements for Distinguished Garden State Scholars who are identified as urban scholars attending secondary schools within Type A and B school districts as determined by the New Jersey Department of Education shall include secondary school ranking in the graduating class and/or secondary school grade point average.

9:7-4.3 [Recruitment and awarding responsibilities] **Eligibility requirements**

[Institutions must develop and implement recruitment activities designed to promote the Garden State Scholarship Program. Institutional allocations received through this program must be linked to institutional recruitment activities. Expenditures and recruitment results will be reviewed by the department and unutilized funds will be subject to reallocation by the Student Assistance Board.]

(a) Garden State Scholarship recipients shall attend an eligible New Jersey institution of higher education as defined by N.J.S.A. 18A:71-26.5.

(b) Scholarship awards shall be renewable for up to four or five years of undergraduate programs of study regularly requiring four or five academic years respectively for completion. In order to be eligible for a renewal award the student shall continue to achieve satisfactory academic progress pursuant to N.J.A.C. 9:7-2.10 and demonstrate continued financial need, if applicable.

(c) Garden State Scholarship recipients who transfer to another eligible New Jersey institution may transfer their awards provided they have demonstrated satisfactory academic progress.

9:7-4.4 [(Reserved)] **Award amounts**

(a) Garden State Scholars shall receive annual awards of up to $500.00 without regard to financial need based upon their academic performance as determined by the Student Assistance Board. The award may be increased up to an additional $500.00 based upon academic performance and financial need as determined by the Student Assistance Board.

(b) Distinguished Garden State Scholars shall receive annual awards of up to $1,000 without regard to financial need. The award may be increased up to an additional $1,000 based upon academic performance and financial need as determined by the Student Assistance Board.

(c) The Student Assistance Board shall annually establish award amounts in recognition of various levels of academic achievement. Undergraduate scholarship award amounts shall be a minimum of $200.00.

(d) Depending upon the availability of funding, higher award amounts may be approved by the Student Assistance Board if matching funds are provided by the institution.

(e) These scholarships in combination with other financial aid shall not exceed the cost of attendance as determined by the institution.

9:7-4.5 [Institutional eligibility, allocations and funding of awards] **Award combinations**

[(a) An eligible institution is one that is located in New Jersey, is approved or licensed by the State Board of Higher Education, and is accredited by a regional accrediting association recognized by the Council on Postsecondary Accreditation.

(b) The Student Assistance Board will annually allocate Garden State Scholarship funds to all eligible institutions. All eligible institutions will be guaranteed a minimum allocation of funds annually by the Student Assistance Board.

(c) The Board may periodically redistribute, transfer, or adjust any uncommitted scholarship funds. Under no circumstances shall the Board be held responsible for commitments made by institutions in excess of their annual allocation.]

(a) All scholarship recipients may be eligible for assistance under the Tuition Aid Grant Program.

(b) Distinguished Garden State Scholars may be eligible to receive an Educational Opportunity Fund grant.

9:7-4.6 [Academic eligibility for undergraduate scholarships] **(Reserved)**

[(a) There are three methods by which the academic eligibility can be determined by New Jersey collegiate institutions. These are prescribed in this section.

(b) Academic Index (AI) computation rules: To qualify for a Garden State Scholarship, an applicant must attain a minimum AI of 210. Applicants with a rank in class in the lowest quartile shall be ineligible for a Garden State Scholarship regardless of AI.

1. Formula: Academic qualification for a Garden State Scholarship is gauged by an AI. The AI is derived by combining two factors, the Scholastic Aptitude Test scores from the College Entrance Examination Board and a converted secondary school rank in class. The formula for combining the two factors is:

$$\text{AI} = \frac{\text{Verbal + Math SAT scores}}{10} + 2 \text{ Converted Rank}$$

2. Scholastic Aptitude Test scores: Verbal and Math scores are to be weighted equally. Where SAT scores are not available, the appropriate equivalent from the American College Test may be used. An equivalency table will be made available by the Department of Higher Education for this conversion. The highest Verbal score from any administration may be combined with the highest Math score from any administration.

3. Rank in class:

i. In order to weigh secondary school rank equally with SAT scores, the converted rank is multiplied by 2. The rank from whichever semester the institution chooses to use is acceptable.

ii. Conversion of the secondary school rank to a standardized score is necessary in order to combine it equally with the SAT scores which have also been standardized. The following table gives the converted rank multiplied by 2, which is the figure to be combined with the test score sum in the AI formula given in (b)1 above.

SECONDARY SCHOOL RANK CONVERSION TABLE

Percent Standing		Converted Rank x 2	Percent Standing		Converted Rank x 2	Percent Standing		Converted Rank x 2
00–01	=	150	13–14	=	122	44–47	=	102
02	=	142	15–16	=	120	48–52	=	100
03	=	138	17–18	=	118	53–56	=	98
04	=	136	19–21	=	116	57–60	=	96
05	=	134	22–24	=	114	61–64	=	94
06	=	132	25–27	=	112	65–68	=	92
07	=	130	28–31	=	110	69–72	=	90
08	=	128	32–35	=	108	73–75	=	88
09–10	=	126	36–39	=	106			
11–12	=	124	40–43	=	104			

(c) Applicants who rank in the top 10 percent of their secondary school graduating classes shall be eligible regardless of test scores.

(d) Students who have not attended secondary school for a period of at least two years prior to entering college shall be allowed to meet the academic eligibility criterion by earning a 3.6 grade point average (GPA) on a 4.0 grading scale during their first semester of full-time college attendance. Students selected by this means shall begin receiving their scholarships at the beginning of the following academic year.

(e) Academic eligibility for Distinguished Scholars shall be determined in accord with N.J.A.C. 9:7-4.1.]

9:7-4.7 (Reserved)

9:7-4.8 Renewal of scholarships

(a) Students receiving undergraduate scholarship assistance will continue to receive aid provided they continue to meet all of the eligibility criteria as stipulated in the statute and in the rules adopted by the Student Assistance Board.

(b) Award eligibility based upon academic achievement[, as defined in N.J.A.C. 9:7-4.6, must] **shall** only be evaluated when initial awards are being determined. [and the] **The** academic eligibility criteria used at the time **an initial** scholarship[s are] **is** awarded shall remain **in effect** throughout the student's remaining period of eligibility.

(c) Students receiving awards prior to the 1989-90 academic year shall not have their award levels decreased as long as the students maintain satisfactory academic progress in accordance with N.J.A.C. 9:7-2.10 provided, however, that the scholarship in combination with other financial aid shall not exceed the cost of attendance as determined by the institution.

(a)

BOARD OF DIRECTORS OF EDUCATIONAL OPPORTUNITY FUND

Financial Eligibility for Undergraduate Grants

Proposed Amendment: N.J.A.C. 9:11-1.5

Authorized By: Board of Directors of the Educational Opportunity Fund, T. Edward Hollander, Chancellor.
Authority: N.J.S.A. 18A:71-33.
Proposal Number: PRN 1988-175.

The agency proposal follows:

Summary

The Educational Opportunity Fund Program is open to students from educationally and economically disadvantaged backgrounds. Participants in the program are eligible to receive financial aid and other support services for attending institutions of higher education in New Jersey. The Board of Directors of the Educational Opportunity Fund determines the income levels for which eligibility to participate in the program is based. This proposed amendment increases those income levels.

Social Impact

The proposed amendment, by increasing the maximum income levels for participation in the Educational Opportunity Fund Program, recognizes the changes in family income levels in the State. The proposal will enable the Educational Opportunity Fund Program to continue to offer higher educational opportunities to disadvantaged citizens of New Jersey consistent with the spirit and intent of the original legislation.

Economic Impact

The proposal changes eligibility requirements for the Educational Opportunity Fund Program but does not change the amount of aid which each program participant receives. The increase in the income levels will serve to expand the potential pool of applicants to the program and increase the number of current program participants who will have continued eligibility.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Board of Directors has determined that the proposed amendment will not impose reporting, recordkeeping, or other compliance requirements on small businesses. The proposal provides for **increased** eligibility requirements for EOF students attending New Jersey institutions of higher education.

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

9:11-1.5 Financial eligibility for undergraduate grants

(a) A dependent student is financially eligible for an initial E.O.F. grant if the gross income of his or her parent(s) or guardian(s) does not exceed the applicable amount set forth below in the E.O.F. Income Eligiblity Scale, and said parent(s) or guardian(s) cannot contribute more than $625.00 toward educational expenses as determined by the College Scholarship Service, Uniform Methodology. Where the dependent student's parent(s) or guardian(s) are receiving welfare as the primary means of family support, the student is presumed to be eligible without regard to the amount of primary welfare support.

1. E.O.F. Dependent Student Eligibility Scale:

Applicants with a household of:	Gross Income (Not to Exceed):
2 persons	[$15,000] **$15,050**
3	[17,010] **17,110**
4	[19,020] **19,170**
5	[21,030] **21,230**
6	[23,040] **23,290**
7	[25,050] **25,350**

2. For each additional member of the household, an allowance of [$2,010] **$2,060** shall be added to this amount in order to determine eligibility for E.O.F. for the 1988-89 Academic Year. This allowance shall be adjusted annually to reflect changes in the Standard Maintenance Allowance as published by the College Scholarship Service. In addition, the gross income level for each household size also shall be adjusted to reflect the change in the annual Standard Maintenance Allowance.

3. (No change.)

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

(d) An independent student is financially eligible for an E.O.F. grant providing his or her gross annual income (including spouse) for the calendar year prior to the academic year for which aid is requested and the calendar year during which aid is received does not exceed the following schedule:

1. [$9,060] **$9,180** family size (including student) 1;
2. [$10,740] **$11,240** family size (including spouse) 2;
3. [$12,420] **$13,300** family size (including spouse) 3;
4. [$14,010] **$15,360** family size (including spouse) 4;
5. Add [$1,680] **$2,060** for each additional dependent. This amount should be adjusted annually to reflect changes in the Independent Student Allowance as published by the College Scholarship Service.
6. (No change.)

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

HUMAN SERVICES

(b)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual

Fraudulent Receipt of Assistance

Proposed Amendment: N.J.A.C. 10:81-7.40

Authorized By: Drew Altman, Commissioner, Department of Human Services.
Authority: N.J.S.A. 44:8-111(d).
Proposal Number: PRN 1988-157.

Submit comments by May 4, 1988 to:
Marion E. Reitz, Acting Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment updates the rule concerning fraudulent receipt of assistance in the Aid to Families with Dependent Children (AFDC) program. Since the statutory authority regarding the identification and treatment of public assistance fraud presently listed at N.J.A.C. 10:81-7.40(d) is obsolete, the proposed amendment revises the referenced listing of criminal statutes to comport with the current New Jersey Code of Criminal Justice.

Social Impact

There will be no social impact as a result of the proposed amendment inasmuch as the only purpose of the amendment is to update obsolete information pertaining to criminal statutes to be referenced for identification and treatment of fraudulent receipt of public assistance.

Economic Impact

The proposed amendment merely replaces obsolete information with a listing of criminal statutes to reference for the treatment of public assistance fraud. This may result in small administrative savings inasmuch as county welfare agency staff will expend less time attempting to obtain references to the correct statutory authority.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking action imposes no compliance requirements on small businesses.

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

10:81-7.40 Fraudulent receipt of assistance

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

(d) Statutory authority regarding the identification and treatment of assistance fraud may be found in New Jersey Statutes [Revised] **Annotated,** [Titles 2A and 44] as follows:

[1. N.J.S.A. 44:7-32 (regarding assistance obtained falsely);

2. N.J.S.A. 2A:111-2 (regarding money or other property obtained falsely);

3. N.J.S.A. 2A:111-3 (regarding medical treatment or financial assistance obtained falsely);

4. N.J.S.A. 2A:109-1 (regarding issuance and use of forged records, instruments, documents and so forth);

5. N.J.S.A. 2A:131-4 (regarding false swearing);

6. N.J.S.A. 2A:17D-43 (obtaining valuable items from charitable organizations by false statements).]

1. N.J.S.A. 2C:20-4, Theft by Deception;

2. N.J.S.A. 2C:21-1a, Forgery;

3. N.J.S.A. 2C:21-3b, Offering a False Instrument for Filing;

4. N.J.S.A. 2C:28-2, False Swearing;

5. N.J.S.A. 2C:28-3, Unsworn Falsification to Authorities; and

6. N.J.S.A. 2C:28-7, Tampering with Public Records or Information.

CORRECTIONS

(a)

THE COMMISSIONER

Records

Release and Examination of Inmate and Parolee Records

Proposed New Rules: N.J.A.C. 10A:22-2

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1988-181.

Submit comments by May 4, 1988 to:
Elaine W. Ballai, Esq.
Special Assistant for Legal Affairs
Department of Corrections
CN 863
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules provide guidelines for the maintenance of confidentiality of inmate and parolee records. The rules also outline the procedures for the release and examination of records by authorized individuals or agencies.

Social Impact

The proposed new rules, by limiting access to inmate and parolee records to certain governmental agencies, attorneys and physicians, protects both the privacy of the inmate or parolee and the secure operation of the Department of Corrections and correctional facilities. These rules are a codification of existing Department standards.

Economic Impact

No increased costs to the Department of Corrections or correctional facilities will result from the proposed new rules, which are a codification of existing Department standards. Copying costs will be borne by the private agency or individual permitted access to the records; governmental agencies and officers are exempt from copying charges.

Regulatory Flexibility Statement

The proposed new rules impact upon inmates and the Department of Corrections and do not affect small businesses as defined in the Regulatory Flexibility Act.

Full text of the proposal follows:

CHAPTER 22
RECORDS

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. RELEASE AND EXAMINATION OF INMATE AND PAROLLEE RECORDS

10A:22-2.1 Public records

(a) The following information and document regarding an adult inmate or parolee shall be available for public inspection and copying:

1. Name;
2. Number;
3. Sentence;
4. Place of incarceration;
5. Order of Commitment; and
6. Any documents filed in a court of competent jurisdiction.

10A:22-2.2 Confidential records

(a) The following types of records are designated confidential and shall not be disclosed to unauthorized persons or agencies:

1. Reports which are evaluative, diagnostic or prognostic in nature finished with a legitimate expectation of confidentiality and which, if revealed to the inmate, parolee or others, could be detrimental to the inmate or parolee, or could jeopardize the safety of individuals who signed the reports, or were parties to the decisions, conclusions or statements contained therein;

2. Information the disclosure of which could have a substantial adverse impact on the security or orderly operation of the correctional facility;

3. Information or reports which would invade or jeopardize privacy rights of the inmate, parolee or others;

4. Disclosures which would jeopardize internal decision making or policy determinations essential to the effective operation of any correctional facility or the Department of Corrections;

5. Disciplinary and criminal investigative reports, including those from informants, disclosure of which would:

i. Impede ongoing investigations;

ii. Create a risk of reprisal; or

iii. Interfere with the security or orderly operation of the correctional facility.

6. Such other records as the Commissioner or Superintendent, based on their experience and exercise of judgment, believe must be kept confidential to ensure maintenance of discipline and the orderly operation of the correctional facility and/or Department of Corrections.

(b) Those documents deemed to be confidential shall be plainly stamped "Confidential Material—Do Not Release to Unauthorized Persons."

10A:22-2.3 Limitation on inmate and parolee records

(a) Information on adult inmate or parolee records other than that outlined in N.J.A.C. 10A:22-2.1 shall not be released to or examined by any unauthorized person or agency except as set forth in this subchapter.

(b) Juvenile offender records shall be strictly safeguarded from public inspection.

10A:22-2.4 Availability of information to non-institutional persons or outside agencies

(a) Information from adult inmate and parolee records shall be provided by law enforcement agencies or persons, who request it in the performance of their public duties, in accordance with N.J.A.C. 10A:22-2.6.

(b) Adult inmate or parolee records may be made available to the following agencies or persons:

1. Courts of competent jurisdiction;
2. The Attorney General;
3. A county prosecutor;
4. The State Parole Board;
5. The Bureau of Parole;
6. A county probation department; and
7. Police departments.

(c) Upon advice of the Attorney General or the Department's Special Assistant for Legal Affairs, selected records of adult inmates or parolees shall be made available to government agencies or other authorized persons upon request. These agencies and persons include, but are not limited to, the following:

1. The Social Security Administration;
2. The Veteran's Administration;
3. Attorneys of record in pending cases, or investigating claims;
4. Law enforcement agencies other than those in (b) above; or
5. Medical or psychiatric doctors.

10A:22-2.5 Availability of information to correctional facility personnel

Information from inmate and parolee records shall be provided to correctional facility personnel on a limited basis, in accordance with written policies and procedures established by the facility.

10A:22-2.6 Procedure for release of confidential inmate or parolee records

(a) All requests for information shall be initially screened by the institutional classification officer to determine the purpose for which the information is sought and the legitimacy of the request.

(b) Only the specific documents or information directly related to the purpose for which the information is sought shall be released.

(c) Requests for information which are deemed irrelevant, improper or not authorized by law shall be rejected.

(d) If the institutional classification officer is unsure as to the legitimacy or authenticity of the request, he or she shall telephone the Department of Corrections' Special Assistant for Legal Affairs for guidance. In the event a question or dispute arises concerning release of material or the authority of the agency or person to obtain such information, the decision of the Special Assistant for Legal Affairs will be final.

(e) In the event a request for release of information is denied, the material shall not be released without a court order.

10A:22-2.7 Records authorized by the inmate or parolee for inspection or release.

(a) The following categories of records may be inspected by or released to authorized persons or agencies, upon written consent of the adult inmate or parolee;

1. Medical records, except for psychiatric or psychological;
2. Dental records;
3. Educational records;
4. Work records;
5. Any document listed in N.J.A.C. 10A:22-2.1; and
6. Such other material as may be authorized for release under N.J.A.C. 10A:22-2.4(c).

(b) All records released under this section are subject to deletion of confidential information (see N.J.A.C. 10A:22-2.2).

10A:22-2.8 Litigation

All requests for release of information or records concerning any matter which is the subject of pending or ongoing litigation shall be referred to the Deputy Attorney General of record, or to the Department of Corrections' Special Assistant for Legal Affairs for handling pursuant to the applicable rules of court.

10A:22-2.9 Juvenile records

(a) Social, medical, psychological, legal and other records pertaining to juveniles shall be strictly safeguarded from public inspection.

(b) Juvenile records shall be made available only to the following agencies or persons:

1. Courts of competent jurisdiction;
2. A county probation department;
3. The Attorney General;
4. A county prosecutor;
5. The juvenile's parent(s) or guardian;
6. The attorney of the juvenile;
7. The Division of Youth and Family Services, if providing care or custody of the juvenile; or
8. A law enforcement agency when such records are necessary in connection with the apprehension or location of a juvenile, or the investigation of crime or delinquency.

(c) Pursuant to N.J.S.A. 2A:4A-60, information as to the identity of a juvenile, the offense charged, the adjudication and disposition shall be disclosed to:

1. The victim or a member of the victim's immediate family;
2. Any law enforcement agency which investigated the offense;
3. The person or agency which filed the complaint;
4. Any law enforcement agency in the municipality where the juvenile resides;
5. A party in a subsequent legal proceeding involving the juvenile, but only upon court order; or
6. The principal, on a confidential basis, of the school where the juvenile is enrolled for use by the principal or his or her designee in planning programs relevant to the juvenile's educational and social development. The principal shall be advised that this information shall not become part of the juvenile's permanent school records.

(d) In the event a question or dispute arises pertaining to disclosure of information or confidentiality of certain information concerning juveniles, the Department of Corrections' Special Assistant for Legal Affairs shall be contacted for guidance. The decision of the Special Assistant for Legal Affairs will be final.

(e) In the event a request for release of information is denied, the material shall not be released without a court order.

10A:22-2.10 Reimbursement for costs of copying

(a) Except as otherwise provided in this subchapter or by law, correctional facilities and other administrative units within the Department of Corrections may charge the following fees for copying records:

1. First through 10th page	\$.50 per page
2. Eleventh through 20th page	\$.25 per page
3. Over 20 pages	\$.10 per page

(b) Governmental agencies or officers shall be exempt from payment of fees for copying records.

INSURANCE

DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION

The following proposals are authorized by the New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.

Submit comments by May 4, 1988 to:
Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street
CN 328
Trenton, New Jersey 08625

(a)

Licensee Obligations
Discrimination Prohibition
Proposed Amendment: N.J.A.C. 11:5-1.23

Authority: N.J.S.A. 45:15-6.
Proposal Number: PRN 1988-152.

The agency proposal follows:

Summary

The New Jersey Real Estate Commission (the Commission) has proposed to amend N.J.A.C. 11:5-1.23(g) which prohibits real estate licensees from engaging in conduct which would constitute discrimination. The proposed amendment has become necessary as a result of a similar amendment to the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., specifically N.J.S.A. 10:5-4.1, which was the provision on which the above rule was patterned. The proposed amendment would make the rule compatible with that statute as amended.

Specifically, the proposed amendment makes it unlawful for licensees to deny real estate brokerage services to any person on the basis that the individual is handicapped. It is also unlawful for licensees to participate or otherwise be a party to any plan, scheme or agreement to discriminate against any person because the person is handicapped. The term "handicapped" is clearly defined in order to provide real estate licensees and the general public with a thorough knowledge of who the rule concerns.

Social Impact

The proposed amendment will have a favorable impact on all handicapped individuals who seek the services of real estate licensees in this State.

Upon its adoption, the proposed amendment will serve as a deterrent against the unlawful practice of discrimination against the handicapped. It is anticipated that real estate licensees and the handicapped will become more informed of the legal rights of the handicapped and of the licensee's obligations to such persons. The amendment will resolve any problems that may have been caused due to the absence of any reference concerning the rights of the handicapped in the current rule. This proposed amendment is applicable to approximately 84,000 licensees in New Jersey.

Economic Impact

The proposed amendment will have a favorable impact on the real estate industry in New Jersey. By bringing this rule into conformity with licensee's obligations under the New Jersey Law Against Discrimination, any confusion among licensees with regard to this matter should be dispelled. Thus, potential actionable conduct and litigation should be avoided. Licensees who provide services to the handicapped will also financially profit from the rendering of such services.

The proposed amendment will help to stimulate real estate sales throughout the State by requiring that real estate services be provided to a population who may have been discriminated against in the past.

Regulatory Flexibility Statement

This proposed amendment is designed to have no adverse economic impact on licensees who are small businesses. In fact, this rule will apply to small and large real estate businesses in the same manner. The amendment simply ensure that real estate licensees are aware that handicapped persons of this State are to receive equal access to real estate services as required by N.J.S.A. 10:5-4.1.

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

11:5-1.23 Obligations of licensees to the public and to each other

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

(g) No licensee shall deny real estate brokerage services to any person for reasons of race, religion, sex, marital status [or], national origin **or because a person is handicapped**; and no licensee shall participate or otherwise be a party to any plan, scheme or agreement to discriminate against any person on the basis of race, religion, sex, marital status [or], national origin **or because a person is handicapped. For the purposes of this subsection, the term "handicapped" means suffering from physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or from any mental, physiological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.**

(b)

Education Requirements for Salespersons and Brokers in Making Application for Licensure Examination
Proposed Amendment: N.J.A.C. 11:5-1.27

Authority: N.J.S.A. 45:15-6 and 45:15-10.1.
Proposal Number: PRN 1988-151.

The agency proposal follows:

Summary

The proposed amendment will effect changes in certain subsections of N.J.A.C. 11:5-1.27. This rule sets forth the educational requirements for salespersons and brokers who apply for the New Jersey real estate licensure examination. Specifically, subsection (d) as proposed provides clarification as to the time that an approved real estate school should allot for actual classroom instruction, administration functions and breaks. Also, proposed subsection (e) amends the criteria for obtaining an educational waiver based upon the applicant's real estate training and/or professional experience.

The proposed amendments to subsection (d) is the result of a public hearing held by the Commission on a request for a declaratory ruling concerning this rule held on December 8, 1987. In the current rule, subsection (d) states that, " 'Hour' means a period of 50 minutes of actual classroom instruction." This definition apparently caused some confusion among real estate school operators because it fails to make reference to the total amount of time that an approved school should provide for administrative functions and breaks. The new subsection (d) clearly sets forth the time limitation for breaks and the requirement that an approved school perform all reasonably required administrative functions, such as taking attendance and making announcements of general interest during the non-instructional portion of class sessions.

Subsection (e) of the rule prescribes the grounds upon which a person can receive a waiver of the requirements for licensure as a salesperson and broker. Several paragraphs under (e) are proposed for amendment and two new paragraphs are added. The amendments provide reasonable time limitations upon applicants seeking to obtain educational waivers. These time limits are utilized by the Commission to determine whether applicants are eligible to obtain the waivers.

The amendments also serve to specify which types of real estate experience or training will qualify an applicant for a waiver of either the salesperson or broker educational requirements, and which will only be applicable to salesperson education waivers.

Paragraph (e)3 as proposed indicates that applicants for licensure as a broker or salesperson who are attorneys at law and admitted to the practice in the State of New Jersey at the time of making application are eligible for waivers. The phrase "at the time of making application" in the paragraph clarifies the time period in which the applicant may request the waiver.

Paragraph (3)4 as proposed provides that an applicant for a salesperson education waiver is eligible for a waiver if the applicant has satisfactorily completed a course of real estate subjects at an accredited college totalling 75 or more classroom hours, within five years of making application, and the courses were taken as part of a program of studies which resulted in the receipt by the applicant of an associates or bachelors degree. This amendment extends the time period set forth in paragraph (e)4 of the current rule from "one" year to "five" years, so as to allow sufficient time for such a person to complete a four year degree program prior to entering the real estate profession.

Proposed new paragraph (e)5 has been established to address the situation of applicants for salesperson waivers who have satisfactorily completed a prelicensure course of real estate at a proprietory school, college or university in another state which was approved by the real estate

licensing authority in that state. A person who has completed such a course within one year of application will qualify for the issuance of a salesperson education waiver. The paragraph further provides that where such a course has not been completed within one year of making application, the applicant shall be eligible for a salesperson education waiver if he or she holds or held a real estate license issued by the state in which the course was taken and was actively engaged in the real estate business as a licensed salesperson for at least one year within the three years immediately preceding application.

Social Impact

These proposed amendments will have a favorable impact on the entire real estate educational process.

The proposed amendments reflect a judgment by the Commission that persons who recently completed an approved real estate course in another state or who did so within three years and then actively worked in the industry are qualified to obtain salesperson education waivers in this State. By codifying this basis for the issuance of a waiver, the Commission will afford notice to a substantial portion of the total pool of applicants for such waivers that their non-New Jersey real estate education will, under certain circumstances, be recognized. It must be remembered that all recipients of such waivers must still pass the entire New Jersey state licensure examination before they will qualify to be licensed and to work in New Jersey.

Economic Impact

The proposed amendments will also have a favorable economic impact on a substantial number of applicants for real estate salesperson or broker licenses in this State. The proposed amendments may result in a savings of approximately $300.00 for each applicant who fulfills the educational waiver requirements of the rule. In 1987, approximately 300 applicants obtained educational waivers based upon the provisions of the current rule. It is anticipated, therefore, that the number of eligible applicants will increase as a result of these amendments.

By redefining the criteria applicable to waiver applications, it is also anticipated that the number of appeals heard by the Commission of initial denials of such applications by the staff of the Commission will be reduced, thereby allowing the Commission more time during its meetings to address other matters.

Regulatory Flexibility Statement

These proposed amendments will not have any adverse effects on small real estate businesses in this State. On the contrary, small real estate businesses will benefit from the availability of a greater number of qualified salespersons and brokers to select for employment. Therefore, small businesses will be able to better compete in today's real estate market.

A substantial portion of the approved real estate prelicensure schools in New Jersey are small businesses. The proposed amendments may have a very minimal adverse effect upon them, as more persons, particularly real estate professionals who are trained in other states, will qualify for a salesperson waiver. However, should such persons not possess sufficient knowledge to pass the licensure examination, they will still have to successfully complete a prelicensure course at an approved New Jersey school in order to qualify for licensure. Thus, any negative effect on New Jersey schools will, it is anticipated, be minimal.

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

11:5-1.27 Education requirements for salespersons and brokers making application for licensure examination

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

(d) ["Hour" means a period of 50 minutes of actual classroom instruction.] The time allotted by any school for a final examination [50 minutes or more in duration,] covering real estate subjects shall [not] be applicable toward the minimum hours of course study. [unless prescribed in approved course of study.] **No more than five minutes of each course hour may be utilized for breaks in the actual classroom instruction being conducted at any given session of a prelicensure course. During the time in which actual classroom instruction is conducted, in addition to covering the substantive material mandated by (f) and (g) below, instructors are to provide thorough instruction on the State license examination and license issuance procedures for salesperson and broker license candidates, as applicable, and to perform all reasonably required administrative functions such as taking attendance and making announcements of general interest.**

(e) The educational provisions of this rule [and regulation] shall not apply to the following [applicants for licensure examinations] **persons**:

1. Applicants for licensure examination for either a salesperson's or broker's license made by certain disabled veterans pursuant to the provisions of N.J.S.A. 45:15-11;

2. [Any applicant who has] **Applicants for licensure as a broker or salesperson who have** held a real estate broker's license issued by another state and **who were** actively engaged in the real estate business for two years or more immediately preceding the date of application, provided, that the [c]Commission shall determine that the applicant's experience is substantially equivalent to the current educational requirements for licensure (N.J.S.A. 45:15-9; N.J.S.A. 45:15-10.1B and N.J.A.C. 11:5-1.3);

3. **Applicants for licensure as a broker or salesperson who are** [A] attorneys at law admitted to the practice in the State of New Jersey **at the time of making application**;

4. [An applicant] **Applicants for licensure as a salesperson** who [has] **have** satisfactorily completed a course of education in real estate subjects in any accredited institution of higher education [provided, however, that the Commission shall determine that the course of education is substantially equivalent to the educational requirements prescribed herein and courses were completed within one year of such request] **provided, however that the total number of classroom hours devoted to real estate and related subjects is 75 or more, that the real estate related courses were completed within five years of making application, and that the courses were taken as part of a program of studies, the successful completion of which resulted in the receipt by the applicant of an associates or bachelors degree.**

5. Applicants for licensure as a salesperson who have satisfactorily completed a pre-licensure course of real estate education at a proprietary school, college or university in another state, provided however that the said course was, at the time of its being completed by the applicant, sanctioned by the real estate licensing authority of the state in which it was given, that the total number of classroom hours included in the course was 75 or more, and that the course was completed within one year of making application. Where such a course was not completed within one year of making application, the applicant shall be eligible for a waiver of the salesperson education requirements if he or she holds or held a real estate license issued by the state in which the course was taken and was actively engaged in the real estate business for at least one year within the three years immediately preceding application.

6. Applicants for licensure as a salesperson who previously held a license as a New Jersey real estate broker and whose last such license expired more than two but less than five years prior to making application.

(f)-(j) (No change.)

LABOR

(a)

DIVISION OF WORKPLACE STANDARDS

Safety and Health for Public Employees Telecommunications Training Records; Construction Industry Records; Formaldehyde; Grain Handling Facilities

Proposed Amendments: N.J.A.C. 12:100-4.2, 5.2 and 6.2

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

Authority: N.J.S.A. 34:6A-25 et seq., specifically 34:6A-30.

Proposal Number: PRN 1988-180.

Submit comments by May 4, 1988 to:
Alfred B. Vuocolo, Jr.
Chief Legal Officer
Office of the Commissioner
New Jersey Department of Labor
CN 381
Trenton, New Jersey 08625-0381

The agency proposal follows:

Summary

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

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

On September 28, 1987, the Federal OSHA issued a final rule on revision of the telecommunications training records in the general industry standards of 29 CFR Part 1910. The revision at paragraph 1910.268(c) eliminates the requirement that the employer prepare a written description of the training program and the maintenance of a record of employees trained and substitutes a requirement that the employer prepares a certification record to demonstrate compliance with the training requirements.

Also on September 28, 1987, the Federal OSHA issued a final rule on revision of construction industry test and inspection records in 29 CFR Part 1926. The amendments are as follows:

Section 1926.550(b)(2) covering crawler, locomotive and truck cranes, revises the recordkeeping portion of the existing rule and requires the employer to prepare a certification record. The certification record must contain the date the inspection was performed, the signature of the person who performed the inspection and the identity of the crane inspected. This rule does not alter the existing crane inspection procedures.

Section 1926.552(c)(15) covering material hoists, personnel hoists, and elevators revises the recordkeeping portion of the existing rule and requires the employer to prepare a certification record. The certification record must contain the date the work was performed, the signature of the person who performed the inspection and test, and the identity of the hoist that was inspected and tested. This rule does not alter the existing inspection and test requirements.

Section 1926.903(e) covering underground transportation of explosives, revises the recordkeeping provision and requires the employer to prepare a certification record. The record must contain the date the inspection was performed, the signature of the person who checked the electrical system and the identity of the truck inspected. This rule retains the existing inspection requirements.

On December 4, 1987, Federal OSHA published a new rule on occupational exposure to formaldehyde at 29 CFR 1910.1048. This rule reduces the permissible exposure limit (PEL) from three parts formaldehyde per million parts of air to one part per million (ppm) as an eight-hour time-weighted average (TWA). This rule also revokes the peak allowable exposure of 10 ppm, and the five ppm ceiling is reduced to two ppm as a 15 minute short term exposure limit (STEL). An "action level" of 0.5 ppm measured as an eight-hour TWA is included. The rule also contains provisions for employee exposure monitoring, regulated areas, methods of compliance, medical surveillance, recordkeeping, emergency procedures, preferred methods to control exposure, maintenance and selection of personal protective equipment, and hazard communication.

On December 31, 1987, the Federal OSHA published the final rule on grain handling facilities at 29 CFR 1910.272. This rule contains requirements for the control of fires, grain dust explosions and other safety hazards associated with grain handling facilities. These requirements are intended to decrease the number and mitigate the effects of fires and explosions, as well as to reduce exposure to other safety hazards such as entry into bins, silos and tanks.

N.J.S.A. 34:6A-39 states, in part:

". . . the Commissioner shall provide, at the minimum, for the adoption of all applicable occupational health and safety standards, amendments or changes adopted or recognized by the Secretary under the authority of the Occupational Safety and Health Act of 1970 . . ."

These final OSHA rules are amendments and standards as described in N.J.S.A. 34:6A-39 and are the rules which the Division of Workplace Standards of the Department of Labor proposes to adopt into the State rules by reference. These new Federal rules can be adopted by reference by amending N.J.A.C. 12:100-4.2(a) and 5.2(a). N.J.A.C. 12:100-6.2(a) is being amended to make the language consistent with the format of N.J.A.C. 12:100-4.2(a) and 5.2(a).

There are effective dates for the final rules on records and grain handling and effective dates and startup dates for the final rule on formaldehyde. These dates represent implementation dates set by the United States Department of Labor for the protection of employees in the private sector and imposed upon private employers. The effective date of these amendments that can be applied in the State program and to public employers and public employees will be the date the adoption notice of these amendments is published in the New Jersey Register.

Social Impact

The proposed amendment on records will protect the health and safety of public employees engaged in telecommunications, and material handling in construction work. This amendment offers employers a simplified and streamlined method of maintaining records.

The proposed amendment on formaldehyde and grain handling facilities will not result in a noticeable impact on public employers as the exposure involved in use of formaldehyde is minimal and grain handling is non-existent.

Economic Impact

Compliance with the proposed amendments on maintenance of records will not impose any increased costs on public employers. The reduction in the imposed paperwork burden by the amendments will result in noticeable savings to employers.

There will not be increased costs to the employer with the amendments on formaldehyde and grain handling facilities because the use and application of formaldehyde by public employers is minimal and grain handling is non-existent.

Regulatory Flexibility Statement

Since only public employers in the State of New Jersey will be affected by the proposed amendments, the amendments do not have an impact on small businesses and a regulatory flexibility analysis is not required.

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

12:100-4.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1910, General Industry Standards with the amendments published in the Federal Register through [September 11] **December 31**, 1987 with certain exceptions noted in (b) and (c) below, are adopted as occupational safety and health standards **and** shall include:

1.-19. (No change.)

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

12:100-5.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1926, Construction Industry Standards [in effect on July 21, 1986] **with the amendments published in the Federal Register through September 28, 1987,** are adopted as occupational safety and health standards [for the protection of public employees engaged in construction operations] and shall include:

1.-22. (No change.)

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

12:100-6.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1928, Agriculture [in effect on July 21, 1986] **with the amendments published in the Federal Register through July 31, 1987,** are adopted as occupational safety and health standards [for the protection of public employees engaged in agricultural operations] and shall include:

1.-4. (No change.)

(b) (No change.)

(a)

OFFICE OF SAFETY COMPLIANCE
PREVENTABLE DISEASES

Requirements and Procedures for Obtaining Asbestos Worker or Supervisor Permit

Joint Proposed Repeals: N.J.A.C. 12:120-5 and 8:60-5

Joint Proposed New Rules: N.J.A.C. 12:120-5 and 8:60-5

Authorized By: Charles Serraino, Commissioner, Department of Labor; and Molly J. Coye, Commissioner, Department of Health.

Authority: N.J.S.A. 34:1-20 and 34:5A-39.

Proposal Number: PRN 1988-173

Submit comments by May 4, 1988 to:
Alfred B. Vuocolo, Jr.
Chief Legal Officer
New Jersey Department of Labor
CN 381
Trenton, New Jersey 08625-0381

The joint agency proposal follows:

Summary

N.J.A.C. 12:120-5 (8:60-5) was originally promulgated to set forth requirements for individuals who desired asbestos worker permits. While these rules have functioned in the past, recent problems have rendered the current permit requirements inadequate to implement the intent of the Asbestos Control and Licensing Act, N.J.S.A. 34:5A-32 et seq. Consequently, the Departments of Labor and Health (the agencies) have substantially revised the current rules, which will require a proposed repeal and new rules.

One problem concerns individuals who have been performing asbestos work without valid permits. Under N.J.S.A. 34:5A-40, the agencies are authorized to enter an asbestos work site to conduct inspections to verify that each employee has an asbestos permit. Upon conducting these inspections, the agencies discovered that a number of individuals, including illegal aliens, were performing asbestos work without valid permits.

Another problem involves how to verify whether the individual who is taking the asbestos permit examination is the person to whom the permit is to be issued. Under the current rules, there is no reliable mechanism in place to verify the identity of the test taker. Without a reliable mechanism in place for verifying identity, a permit applicant can have someone else take the examination for him or her.

A final problem with the current asbestos rules concerns the issuance of supervisor permits. Under the current rules, individuals who completed the supervisor training would receive an asbestos permit. These permits did not indicate that the individual completed the fifth-day supervisor training. Consequently, the agencies found it difficult to verify that the individual acting as a supervisor actually completed the training.

To deter individuals from working without valid asbestos permits and to aid in the verification of the identity of the asbestos permit test taker, the agencies propose an additional procedural requirement to obtain an asbestos permit. Under this additional procedure, individuals who apply for an asbestos permit must verify their identity and eligibility to work in the United States at a New Jersey Employment Services Office. Such individuals also must bring a passport size color photograph which will be used by the agencies to verify the identity of the test taker.

Also, to ensure that every asbestos supervisor has received the necessary fifth-day supervisor training, the agencies propose to issue special permits for supervisors. These permits will contain the letters "SUPVR" which indicate completion of the fifth-day supervisor training and examination.

N.J.A.C. 12:120-5.1(8:60-5.1) sets forth the scope of the rules. This subchapter(s) will apply to each person who applies for either an asbestos worker permit or an asbestos supervisor permit.

N.J.A.C. 12:120-5.2(8:60-5.2) sets forth definitions. As used in this subchapter(s), "applicant" means any person seeking to obtain either an asbestos worker or an asbestos supervisor permit. "Employment Services Office" means any local office or outstation of the New Jersey Department of Labor, Division of Employment Services. "Experienced asbestos worker" means any person who has worked with either the application, enclosure, encapsulation or removal of asbestos and who has completed an Experienced Worker training course prior to June 18, 1985.

N.J.A.C. 12:120-5.3(8:60-5.3) sets forth the requirements for obtaining either a worker or a supervisor permit. To obtain a worker permit, the applicant must be at least 18 years of age, verify his or her identity and eligibility to work in the United States, complete a Department of Health training course and pass an examination, and complete the permit application. To obtain a supervisor permit, the applicant must be at least 18 years of age, verify his or her identity and eligibility to work in the United States, complete a Department of Health training course including fifth-day supervisor training, pass an asbestos supervisor exam and submit a permit application. To obtain an experienced asbestos worker permit, the applicant must be at least 18 years of age, verify identity and employment eligibility, submit evidence that indicates completion of a minimum of 24 hours of training at a course certified by the Department of Health as substantially complying with the asbestos training programs set forth at N.J.A.C. 12:120-6 and 8:60-6, submit evidence of having taken a qualitative and quantitative fit test to use a respirator, complete an application and submit evidence of previous asbestos work.

N.J.A.C. 12:120-5.4(8:60-5.4) sets forth specific procedures for verifying identity and employment eligibility. Each applicant must go to a New Jersey Employment Services Office to complete the verification process. An applicant can establish both identity and eligibility by using documents such as a United States passport. Documents such as a State-issued driver's license establish identity only while documents such as a birth certificate establish eligibility only. Also, an applicant must bring a passport size color photograph which the Employment Services Office will submit to the Division of Workplace Standards.

N.J.A.C. 12:120-5.5(8:60-5.5) sets forth the procedures for completing the training course and examination. Applicants must complete asbestos training at a training course which is certified by the Department of Health. Upon completion of the training course, applicants must register at the training agency to take an examination administered by the Department of Health. In order to take the examination, each applicant is required to bring the trainee's copy of the Asbestos Trainee Evaluation Form (OES-24) which the applicant will receive from the training agency, a recent passport size color photograph and any document listed in N.J.A.C. 12:120-5.4(b) 1 or 2 (8:60-5.4(b) 1 or 2) that establishes identification.

To pass the examination for a worker permit, the applicant must achieve a score of at least 70. To pass the examination for supervisor, the applicant must achieve a score of 70. If, however, the applicant for the supervisor permit scores between 60-69 on the supervisor test, then the applicant qualifies for a worker permit. Each applicant for either a worker or a supervisor permit is given three opportunities to pass the respective examination.

N.J.A.C. 12:120-5.6(8:60-5.6) sets forth specific procedures for completing the application. These procedures also are set forth on the application.

N.J.A.C. 12:120-5.7(8:60-5.7) sets forth the length of the permit which is one year.

N.J.A.C. 12:120-5.8(8:60-5.8) sets forth the contents of both a worker and a supervisor permit. The supervisor permit will contain the letters "SUPVR" in addition to the contents required in a worker permit.

N.J.A.C. 12:120-5.9(8:60-5.9) requires workers and supervisors to carry their permits at all times when working on an asbestos project.

N.J.A.C. 12:120-5.10(8:60-5.10) sets forth the reasons why the Commissioner may suspend or revoke a permit. They include: incompetence, negligence and fraudulent use of a permit.

N.J.A.C. 12:120-5.11(8:60-5.11) sets forth the procedures for renewal of a permit. A permit must be renewed within 30 days prior to the date of its expiration.

N.J.A.C. 12:120-5.12(8:60-5.12) sets forth the appeal procedures for workers and supervisors who are aggrieved by any suspension or revocation action taken by the Commissioner.

Social Impact

The proposed repeals and new rules will benefit the public by allowing the agencies to implement the intent of N.J.S.A. 34:5A-32 et seq. which includes the protection of New Jersey citizens from health and safety hazards and the protection of craftpersons from unfair competition.

The proposed repeals and new rules will deter individuals without valid permits from performing asbestos work. These individuals will have to obtain the proper training and pass the appropriate examinations if they desire to perform asbestos work.

Economic Impact

The proposed repeals and new rules will benefit qualified asbestos workers with valid permits in that there will be more asbestos jobs available since individuals without valid permits will be deterred from working on asbestos projects.

Individuals who do not possess valid permits will have to obtain the proper training and pass the appropriate examination. Consequently, these individuals will incur the costs which are associated with obtaining a valid New Jersey asbestos permit.

The proposed new rules will have a negative impact on illegal aliens since they will be deterred from working on asbestos projects.

The proposed new rules will result in more work for the New Jersey Employment Service Offices. However, the additional costs will be absorbed by the existing operating budget and personnel.

Regulatory Flexibility Statement

This proposal will have no reporting, recording or compliance requirements for small businesses. The rules apply to any person who wishes to obtain an asbestos worker permit or an asbestos supervisor permit.

Full text of the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 12:120-5 and 8:60-5.

Full text of the proposed new rules follows:

SUBCHAPTER 5. REQUIREMENTS AND PROCEDURES FOR OBTAINING ASBESTOS WORKER OR SUPERVISOR PERMIT

12:120-5.1 (8:60-5.1) Scope

This subchapter shall apply to each person applying for either an asbestos worker permit or an asbestos supervisor permit.

12:120-5.2 (8:60-5.2) Definitions

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

"Applicant means any person seeking to obtain either an asbestos worker or an asbestos supervisor permit.

"Employment Services Office" means any local office or outstation of the New Jersey Department of Labor, Division of Employment Services.

"Experienced asbestos worker" means any person who has worked with either the application, enclosure, encapsulation or removal of asbestos and who has completed an approved New Jersey Department of Health Experienced Asbestos Worker training course prior to June 18, 1985.

12:120-5.3 (8:60-5.3) Requirements for obtaining a permit

(a) The Commissioner shall issue a permit to each applicant who satisfies the requirements listed below. The applicant shall:

1. Be at least 18 years of age;
2. Verify his or her identity and eligibility to work in the United States at a New Jersey Employment Services Office;
3. Successfully complete a training course approved by the Department of Health and pass an examination administered by the Department of Health;
   i. An applicant for a supervisor permit shall complete the additional fifth-day supervisor training required by the Department of Health and pass an examination administered by the Department of Health for supervisors; and
4. Complete the permit application, a copy of which is appended to this subchapter as Appendix A.

(b) The Commissioner shall issue a permit to an experienced asbestos worker who satisfies the requirements listed below. The experienced asbestos worker shall:

1. Be at least 18 years of age;
2. Verify his or her identity and eligibility to work in the United States at a New Jersey Employment Services Office;
3. Submit to the Division of Workplace Standards evidence that indicates the applicant has completed a minimum of 24 hours of instructions in a training course which has been approved by the Commissioner of the Department of Health as substantially complying with the asbestos training programs set forth at N.J.A.C. 12:120-6 and 8:60-6;
4. Submit to the Division of Workplace Standards evidence of having taken a qualitative and quantitative respirator fit test administered by a qualified industrial hygienist or health professional;
5. Submit to the Division of Workplace Standards an application as set forth at N.J.A.C. 12:120-5.6; and
6. Submit to the Division of Workplace Standards documentation of previous asbestos work experience.

12:120-5.4 (8:60-5.4) Procedures for verifying identity and employment eligibility

(a) Each applicant shall verify his or her identity and eligibility to work in the United States at a New Jersey Employment Services Office.

(b) Each applicant shall bring to the Employment Services Office either one document that establishes both identity and employment eligibility or one document that establishes identity and one document that establishes employment eligibility.

1. Documents that establish both identity and eligibility are as follows:
   i. A United States Passport;
   ii. A Certificate of United States Citizenship;
   iii. A Certificate of Naturalization;
   iv. An unexpired foreign passport with attached employment authorization: or
   v. An alien registration card with photograph.
2. Documents that establish identity only are as follows:
   i. A state-issued driver's license or a state-issued identification card with a photograph or information including name, sex, date of birth, height, weight, and color of eyes;
   ii. A United States Military Card; or
   iii. Other documentation that the Employment Services employee in his or her discretion believes establishes the applicant's identity, but excluding any asbestos permit issued by either the New Jersey Department of Labor or the New York Department of Environmental Protection.
3. Documents that establish employment eligibility only are as follows:
   i. An original social security number card (other than a card stating it is not valid for employment);
   ii. A birth certificate issued by a state, county or municipal authority bearing a seal or other certification; or
   iii. An unexpired Immigration and Naturalization Authorization.

(c) Each applicant also shall bring to the Employment Services Office one passport size color photograph.

(d) Upon verification of identity and eligibility to work in the United States, the Employment Services Office shall mail to the Division of Workplace Standards the following:

1. An asbestos permit referral (see Appendix C) which shall contain certification by an Employment Service employee that the applicant has been identified and is eligible to work in the United States; and
2. The applicant's passport size color photograph.

12:120-5.5 (8:60-5.5) Procedures for completing training course and examination

(a) Each applicant required by this subchapter to complete asbestos training shall register at a training agency which has been certified by the New Jersey Department of Health to offer such training. A list of certified training agencies is available from the Department of Health.

1. The topics for worker and supervisor training are set forth at N.J.A.C. 12:120-6.6, 6.7 and 6.8.

(b) Upon completion of the training course, each applicant shall register through the training agency to take an examination administered by the Department of Health.

1. Each applicant shall bring the following to the examination:
   i. The trainee's copy of the Asbestos Trainee Evaluation Form (OES-24), a sample of which is appended to this subchapter as Appendix B, which shall be collected by the examination administrator and forwarded to the Department of Health;
   ii. A recent passport size color photograph to be surrendered at the examination site; and

iii. Any document with the trainee's signature which establishes the applicant's identification as specified in N.J.A.C. 12:120-5.4(b) 1 or 2.

(c) Each applicant who achieves a score of at least 70 on the worker examination shall pass the examination for the worker permit.

1. If an applicant fails to pass the worker examination after three opportunities and still desires to obtain a worker permit, such applicant shall retake the entire five-day training course.

(d) Each applicant for a supervisor permit who achieves a score of at least 70 on the supervisor examination shall pass the examination for the supervisor permit.

1. If an applicant fails to pass the supervisor examination after three opportunities and still desires to obtain a supervisor permit, such applicant shall retake the entire training course and the additional fifth-day supervisor training.

(e) Each applicant for a supervisor permit who achieves a score of from 60 to 69 shall qualify for a worker permit.

1. If an applicant who scores from 60 to 69 decides not to take the supervisor examination within the two remaining opportunities, such applicant shall notify the Department of Labor for purposes of obtaining a worker permit. If an applicant selects this option, the applicant will lose his or her opportunity to retake the supervisor examination.

(f) Individuals holding valid permits who have completed the supervisor training prior to January 1, 1988 shall pass the asbestos supervisor exam prior to December 31, 1988 in order to work as a supervisor after the December 31, 1988 deadline.

1. Each individual set forth in this subsection who fails to pass the supervisor exam by December 31, 1988 shall retake the supervisor portion of the asbestos training course.

2. Each asbestos worker set forth in this subsection shall bring the following to the examination:

i. A valid New Jersey Asbestos Permit;

ii. A letter addressed from the individual's training agency to the examination administrator designated by the Department of Health with an original instructor's signature that certifies the individual has completed supervisor training;

iii. A photocopy of the individual's OES-24 form attached to the letter set forth in (f)2ii above or the individual's original trainee copy of the OES-24 form which indicates completion of supervisor training;

iv. A recent passport size color photograph to be surrendered at the examination site; and

v. Any document with the trainee's signature which establishes the applicant's identification as specified in N.J.A.C. 12:120-5.4(b) 1 or 2.

3. Each asbestos worker set forth in this subsection shall receive one opportunity to pass the supervisor exam. If such worker fails to pass the exam, the worker shall retake the supervisor portion of the asbestos training course.

12:120-5.6 (8:60-5.6) Procedures for completing permit application

(a) Each applicant for a permit shall complete an application which can be obtained from the Division of Workplace Standards.

(b) Each applicant shall provide the following to the Division of Workplace Standards:

1. Name, address, date of birth, age, sex, height, weight, eye color, driver's license number, telephone number, social security number; and

2. The name and location of the course where the applicant has successfully completed asbestos training, the date of completion and number of hours of training.

i. The applicant shall submit to the Division of Workplace Standards documentation that indicates successful completion of the asbestos training course with the application for permit.

ii. If the applicant has not completed the asbestos training course, the applicant shall send to the Division of Workplace Standards evidence that indicates successful completion of the asbestos training as soon as possible.

3. Two recent, identical passport size color photographs with the applicant's face being not less than three quarters of an inch wide. The applicant shall not wear a hat, glasses or any other item which may alter or disguise the overall features of the face in the photographs.

i. The applicant shall print his or her name on the back of both photographs submitted.

ii. The applicant shall attach one passport size color photograph in the space provided on the application.

iii. If a permit is issued, the Department of Labor shall laminate the second photograph on the permit.

4. The name and address of the applicant's present employer, the applicant's position with the employer and the date employment commenced.

(c) The applicant shall sign and date a statement certifying that the information contained in the application is accurate, true and complete to the best of his or her knowledge.

(d) The applicant shall submit a $20.00 non-refundable fee (certified check or money order made payable to the Commissioner of Labor) with the permit application.

12:120-5.7 (8:60-5.7) Length of permit

Each permit issued by the Commissioner shall be valid for a one year period.

12:120-5.8 (8:60-5.8) Contents of permit

(a) Each permit for an asbestos worker shall be issued in writing and shall contain the following:

1. The date of issuance;
2. The expiration date;
3. The name and address of the worker to whom it is issued;
4. The worker's social security number; and
5. The signature of the Commissioner of the Department of Labor.

(b) Each permit for an asbestos supervisor shall contain, in addition to the requirements set forth in (a) above, "SUPVR" which shall indicate successful completion of the supervisor training course examination and the New Jersey Department of Health supervisor examination.

12:120-5.9 (8:60-5.9) Identification of permit holder

(a) Each worker or supervisor shall carry the permit at all times when working on an asbestos project.

(b) The permit shall be carried upon the worker's person and be readily available for inspection by representatives of the Commissioners of the Departments of Labor and Health and the contracting agency.

12:120-5.10(8:60-5.10) Suspension and revocation of permit

(a) The Commissioner may suspend or revoke any permit for the following reasons:

1. The worker or supervisor is incompetent to perform asbestos work;

2. The worker or supervisor is negligent in performing asbestos work; and/or

3. The worker or supervisor loans the permit, abandons the permit, or allows it to pass from his or her possession.

(b) The Commissioner may order the immediate suspension or revocation of a worker or supervisor permit if there is an imminent danger to the health and safety of the public or employees.

(c) Prior to suspending or revoking a permit, the Commissioner shall provide the worker or supervisor with an oral or written notice of the violations. This subsection shall not apply to situations set forth in (b) above.

1. Each worker or supervisor shall have an opportunity to respond to the charges.

(d) Any individual performing the duties of a worker or supervisor and possessing an expired permit shall be subject to the penalties under the Act.

(e) Any individual using fraudulent means to obtain a permit shall be subject to prosecution under the Act. Any permit acquired through such means shall be invalid.

12:120-5.11 (8:60-5.11) Renewal of permit

(a) Each worker and supervisor shall renew his or her permit within 30 days prior to the date of the expiration of the permit.

(b) The Commissioner shall renew a worker or supervisor permit if the renewal applicant has:

1. Verified his or her identity and eligibility to work in the United States;

2. Completed an application as set forth in N.J.A.C. 12:120-5.6 within three years of the expiration date of the expired permit;

3. Provided evidence of any continuing education that may be required by the Commissioner of the Department of Health in consultation with the Commissioner of the Department of Labor; and

4. Paid all penalties lawfully imposed on the renewal applicant under the Act.

(c) The Commissioner shall treat an application for renewal of a permit which has expired more than three years as an original application.

(d) Any worker or supervisor who alters, defaces, mutilates or loses a permit or has it stolen shall comply with the requirements set forth in (b) above.

1. Any worker or supervisor who loses a permit or has it stolen shall notify the Division of Workplace Standards in writing immediately.

2. Any photostats, photographs or reproductions of a permit shall be invalid.

12:120-5.12 (8:60-5.12) Appeal procedures

(a) Any individual who is aggrieved by any Department of Labor action or inaction under this subchapter may request an informal administrative review for the purpose of resolving the dispute.

1. The aggrieved individual shall submit to the Division of Workplace Standards a written request for a review within five days from the date the individual received the notice of agency action or inaction.

2. The Department of Labor shall conduct the review within 10 days from the date the Division of Workplace Standards received the request for an informal review.

3. The Division of Workplace Standards shall notify the aggrieved individual in writing as to the time and location of the review.

4. The aggrieved individual may be represented by counsel or any other representative, or may represent himself or herself at the review.

5. The aggrieved individual may present evidence, call witnesses and cross examine at the review.

6. The Department of Labor shall mail to the aggrieved individual its written decision in the matter within 10 days from the date of the review.

(b) Any aggrieved individual who disagrees with the Department of Labor's review decision may submit to the Division of Workplace Standards a written request for a formal hearing to be held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Rules Practice, N.J.A.C. 1:1 within 10 days from the date of the written decision.

1. The formal hearing shall be held expeditiously, if possible, within 30 days from the date the Division of Workplace Standards receives the written request for a formal hearing.

APPENDIX A

ASBESTOS CONTROL AND LICENSING ACT, N.J.S.A. 34:5A-32, ET SEQ.

APPLICATION FOR PERMIT

(TYPE OR PRINT LEGIBLY IN INK)

APPLICANT'S NAME ______ LAST ______ FIRST ______ MI

DATE OF BIRTH ______ MO ______ DAY ______ YR

STREET ADDRESS ______

STREET ADDRESS (CONTINUED) ______

AGE ______ YEARS

SEX ______ M/F

CITY ______ STATE ______ ZIP CODE ______

HEIGHT ______ FEET ______ INCHES

SOCIAL SECURITY NUMBER ______

WEIGHT—CHECK ONE BOX
0 ☐ UNDER 120 LBS 1 ☐ 121 TO 140 LBS 2 ☐ 141 TO 160 LBS 3 ☐ 161 TO 180 LBS 4 ☐ 181 TO 200 LBS 5 ☐ 201 TO 220 LBS 6 ☐ OVER 220 LBS

TELEPHONE NUMBER ______

EYE COLOR—CHECK ONE BOX
1 ☐ BLACK 2 ☐ BROWN 3 ☐ GRAY 4 ☐ BLUE 5 ☐ HAZEL 6 ☐ GREEN 7 ☐ OTHER

DO YOU HAVE A VALID MOTOR VEHICLE DRIVER'S LICENSE FROM ANY STATE?
YES ☐ OR NO ☐
CHECK ONE BOX

IF YES ______ STATE

IF YES ______ MOTOR VEHICLE DRIVER'S LICENSE NUMBER

PRIOR TO THE FILING OF THIS APPLICATION, HAVE YOU SUCCESSFULLY COMPLETED AN ASBESTOS TRAINING COURSE APPROVED BY NEW JERSEY DEPARTMENT OF HEALTH?
YES ☐ OR NO ☐
CHECK ONE BOX

IF "YES", COMPLETE TABLE BELOW:

COURSE NAME AND LOCATION	DATE OF COURSE COMPLETION	NUMBER OF HOURS OF TRAINING OR INSTRUCTION

* YOU MUST SUBMIT PROOF/DOCUMENTATION/EVIDENCE THAT YOU HAVE SUCCESSFULLY COMPLETED THE APPROVED TRAINING COURSE LISTED ABOVE (ATTACH TO APPLICATION).

APPLICANT—CONTINUE ON REVERSE—DO NOT WRITE BELOW—FOR INTERNAL OFFICE USE ONLY

RECEIVED			PAYMT. METH. CK. MO.	REJECT CD			APPROVE
REVIEWED			CK/MO NO	REASON			PRINTED
REFERRAL INFO			CK./MO. DATE				ISS. EXP.
			BANK				TYPE
			NO.				PERMIT
				FORM NO.			NUMBER
							CONTROL
			ACCT.				NUMBER
			TT				CB XREF.
			AMT.				CB PAGE

IN ORDER TO ISSUE YOU A PERMIT, YOU MUST PROVIDE TWO RECENT, RECOGNIZABLE AND IDENTICAL PASSPORT PHOTOGRAPHS WITH YOUR ENTIRE FACE BEING NOT LESS THAN THREE-QUARTERS OF AN INCH WIDE.

ATTACH ONE PHOTOGRAPH TO THE SPACE PROVIDED.

THE SECOND PHOTOGRAPH WILL BE LAMINATED ON THE PERMIT.

IF THE PHOTOGRAPH TO BE LAMINATED ON THE PERMIT CANNOT BE TRIMMED TO THE SIZE OF ONE AND ONE-HALF INCHES BY TWO INCHES, THEN THE PHOTOGRAPH IS NOT ACCEPTABLE.

PHOTOCOPIES OF PHOTOGRAPHS ARE NOT ACCEPTABLE.

PLEASE PRINT YOUR NAME ON THE BACK OF BOTH PHOTOGRAPHS THAT YOU SUBMIT.

ATTACH

PHOTOGRAPH

HERE

PLEASE INDICATE IN THE TABLE BELOW THE NAME AND ADDRESS OF YOUR PRESENT EMPLOYER	YOUR POSITION WITH EMPLOYER	DATE OF EMPLOYMENT

APPLICANT STATEMENT

THE INFORMATION CONTAINED IN THIS APPLICATION IS ACCURATE, TRUE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

I UNDERSTAND THAT IF SUCH INFORMATION CONTAINED IN THIS APPLICATION IS FALSE, I AM SUBJECT TO THE PENALTY PROVISIONS UNDER THE ASBESTOS CONTROL AND LICENSING ACT, P.L. 1984, c. 173.

I UNDERSTAND THAT THIS APPLICATION IS SUBJECT TO VERIFICATION AND I AGREE TO PROVIDE ANY ADDITIONAL DOCUMENTATION AS REQUIRED.

I AGREE THAT OUTSIDE SOURCES MAY BE CONTACTED TO VERIFY THE INFORMATION I HAVE GIVEN IN THIS APPLICATION AND I DO HEREBY GIVE MY PERMISSION FOR DISCLOSURE OF ANY INFORMATION WHICH MAY BE NEEDED TO DETERMINE THE VALIDITY OF THIS PERMIT AND OR MY PERMIT ELIGIBILITY.

SIGNATURE OF APPLICANT DATE

THE PERMIT SHALL BE VALID FOR TWO YEARS FROM THE DATE OF ISSUANCE
A FEE OF $20.00 MUST BE ENCLOSED WITH THIS APPLICATION FOR PERMIT.

APPENDIX B

ASBESTOS PERMIT REFERRAL

To: STATE OF NEW JERSEY
DEPARTMENT OF LABOR
DIVISION OF WORKPLACE STANDARDS
OFFICE OF ASBESTOS CONTROL AND LICENSING
28 YARD AVE, 3rd Fl.
TRENTON, NEW JERSEY 08625-0054

Date: ____________________

This is in response to your request for verification of employment eligibility for Asbestos Permit Applicants.

Name: ____________________

Address: ____________________

Social Security No. ____________________

____

____

Applicant's signature
Executed at State Agency/Date

Whose eligibility for employment in the United States was verified by this office prior to his or her referral.

Expiration of employment authorization (if applicable) [ ] or [ ]

(None) (Date expires)

____
Signature of ES Representative

From: (State Employment Agency – Address and Zip Code)

(Local Office Address Stamp)

____
Signature of Authorizing Agent
(and Agency Seal)

APPENDIX C

ASBESTOS TRAINEE EVALUATION

I. GENERAL - To be Completed by Trainee

Name of Trainee (Last, First, MI)	Home Telephone No. ( )
Address City State Zip Code	
Social Security Number - -	Date of Birth	Highest Grade of Education Completed
Name and Address of Present Employer	Related Work Experience [ ]Yes [ ]No Length of Time:
Signature	Date

II. RATING - To be Completed by Training Agency

Ratings: 5-Excellent 4-Good 3-Average 2-Fair 1-Poor Minimum Score=15

	Rating Number
General Attitude	______
Demonstrated Understanding of General Work Practices and Technical Requirements	______
Demonstrated Understanding of Need for Personal Protective Equipment and Decontamination Procedures	______
Mechanical Abilities	______
Ability to Work With Others	______
TOTAL	______

Final Comprehensive Test Score: ____________

Instructor's Comments: ______________________________

The above-named student has [ ]Successfully [ ]Not Successfully completed ______ (No.) days of training on ____________ (Date), as an asbestos:

[ ]Worker [ ]Inspector [ ]Contractor and Supervisor

[ ]Management Planner [ ]Project Designer [ ]Other ____________

Name of Training Agency	Agency No.	Telephone Number ( )
Address Zip Code		

Course Location	Course Dates Beginning: Ending:

Name of Evaluator (Print)	Signature	Date

Distribution; White - Training Agency Pink - NJ Dept. of Labor
Canary - NJ Dept. of Health Goldenrod - Trainee

LAW AND PUBLIC SAFETY

(a)

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Enumeration of Prohibited Acts

Proposed Amendments: N.J.A.C. 13:40-3.1

Authorized By: Board of Professional Engineers and Land Surveyors, Robert C. Kirkpatrick, P.E., L.S., President.
Authority: N.J.S.A. 45:8-27 et seq.
Proposal Number: PRN 1988-162.

Submit comments by May 4, 1988 to:
Cathleen A. McCoy
Executive Director
Board of Professional Engineers and Land Surveyors
1100 Raymond Boulevard, Room 317
Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 13:40-3.1(a)4iv separates the current rule into two parts, since it addresses two separate and distinct issues. The first issue is conflict of interest, which may involve two parties with different interests on the same question. The second issue is review and approval of a licensee's own work, which has been broadened to include any business associates' work. Additionally, N.J.A.C. 13:40-3.1(a)4v-vi are renumbered without any changes in content.

Proposed amendment to N.J.A.C. 13:40-3.1(a)6 more clearly defines the current rule relating to misconduct of a licensee, in that it now encompasses all laws, rules and regulations governing the Professional Engineer and Land Surveyor professions at federal, state and local levels.

Proposed N.J.A.C. 13:40-3.1(a)11, sets forth as a prohibited act the failure to respond in writing within 30 days to a written communication from the Board of Professional Engineers and Land Surveyors with respect to an investigative inquiry of the possible violation of any statute or regulation administered by the Board. The proposal also requires that the licensee make available any relevant records relating to such an inquiry.

Social Impact

The proposed amendments to N.J.A.C. 13:40-3.1(a)4 and (a)6, which clarify circumstances that constitute a conflict of interest in certain professional activities, precisely advise licensees of impermissible conduct, and provide limits on the review and approval of reports and other professional work that should result in the greater protection of the consumer.

The proposed amendment at N.J.A.C. 13:40-3.1(a)11 will have a beneficial impact on both the public and the licensees governed by the Board of Professional Engineers and Land Surveyors in that it will result in more efficient handling of consumer complaints and will provide specific procedural guidance to licensees. Additionally, the proposed amendment will enable the Board to review pertinent information in order to reach more informed decisions.

Economic Impact

The proposed amendments to N.J.A.C. 13:40-3.1(a)4 and (a)6 will have no discernible economic impact on licensees or the general public, since the purpose of the amendments is merely to clarify and broaden the current rules. However, failure to comply with the proposed amendments may result in monetary penalties imposed upon licensees who violate any laws or rules governing professional practice.

The proposed amendment at N.J.A.C. 13:40-3.1(a)11 will have a very limited economic impact, since it will affect only those licensees who fail to comply with the procedural requirements set forth, with resultant penalties.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, it has been determined that, with few exceptions, all Professional Engineering and Land Surveying entities are small businesses that will be affected by the proposed amendments. The specific number is impossible to determine, since the Board licenses individuals and not entities. However, the proposed compliance requirements are equally applicable to all Professional Engineering and Land Surveying licensees and entities, without differentiation as to the types and sizes of businesses, and no adverse economic impact is in any case anticipated.

The proposed amendment will entail no additional reporting or recordkeeping requirements for small businesses. The amendment seeks only to modify current conflict of interest and compliance requirements and to broaden review and approval requirements. The rule's reference to "relevant records" refers to those records maintained in the normal course of business. No additional professional services are needed for compliance, nor are there any initial capital costs. Ongoing costs of compliance, if any, would affect only those licensees who fail to comply with these rules, thereby incurring penalties.

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

13:40-3.1 Enumeration of prohibited acts

(a) Misconduct in the practice of professional engineering or land surveying shall include, without limitation:

1. Acting for his client or employer in professional matters otherwise than as a faithful agent or trustee; accepting any remuneration other than his stated recompense for services rendered.

2. Disregarding the safety, health and welfare of the public in the performance of his professional duties; preparing or signing and sealing plans, surveys or specifications which are not of a safe design and in conformity with accepted standards. If the client or employer insists on such conducts, the licensee shall notify the proper authorities and withdraw from further service on the project.

3. Advertising his work or merit using claims of superiority which cannot be substantiated.

4. Engaging in any activity which involves him in a conflict of interest, including without limitation:

i.-iii. (No change.)

iv. A licensee shall not accept compensation or remuneration, financial or otherwise, from more than one interested party for the same service or for services pertaining to the same work, unless there has been full disclosure to and consent by all interested parties [except, however, that notwithstanding such disclosure and consent, a licensee shall not approve his own plans or work].

v. A licensee shall not participate in the review, approval or recommendation for approval of plans, specifications, reports or other work prepared by him or any business entity or associate with which he may have any financial, business or professional relationship.

vi. [v.] A licensee shall not accept compensation or remuneration, financial or otherwise, from material or equipment suppliers for specifying their product.

vii. [vi.] A licensee shall not accept commissions or allowances, directly or indirectly, from contractors or other persons dealing with his client or employer in connection with work for which he is responsible to the client or employer.

5. (No change.)

6. [Violate the engineering or land surveying laws of any state.] **Failure to comply with federal, state or local laws, rules or regulations governing the practice of the profession.**

7.-10. (No change.)

11. Failure of a licensee to respond in writing within 30 days to a written communication from the Board of Professional Engineers and Land Surveyors with respect to any investigative inquiry relating to the possible violation of any statute or regulation administered by the Board, and to make available any relevant records with respect to such an inquiry. The 30 day period shall begin on the day when such communication was sent from the Board by certified mail with return receipt requested to the address appearing on the last registration.

(b)

VIOLENT CRIMES COMPENSATION BOARD

Compensable Damages

Proposed Amendment: N.J.A.C. 13:75-1.7

Authorized By: Kenneth W. Welch, Chairman, Violent Crimes Compensation Board.
Authority: N.J.S.A. 52:4B-9.
Proposal Number: PRN 1988-161.

Submit comments by May 4, 1988 to:
Kenneth W. Welch, Chairman
Violent Crimes Compensation Board
60 Park Place
Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed amendment allows victim/claimants to be reimbursed for out-of-pocket expenses which may be incurred when aiding in the prosecution of an offender.

Social Impact

The Board's rule at N.J.A.C. 13:75-1.6(d) requires victims who apply for compensation to have cooperated with law enforcement authorities in relation to the prosecution of an offender. This proposed amendment allows the Board to compensate victim/claimants for the costs they incur in complying with this requirement.

Economic Impact

There should be no significant adverse economic impact on the operation of the Board as a result of proposal. Victims/claimants will be reimbursed for costs incurred in aiding in the prosecution of an offender.

Regulatory Flexibility Statement

The proposed amendment does not affect small businesses, since it applies to victims of violent crimes who file claims with the Violent Crimes Compensation Board.

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

13:75-1.7 Compensable damages

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

(i) A claimant may be reimbursed for the claimant's out-of-pocket expenses incurred in the prosecution of the alleged offender, which expenses may include reimbursement of lost wages as stated in N.J.A.C. 13:75-1.21 and transportation costs as stated in N.J.A.C. 13:75-1.24. Attorney's fees incurred by the victim in connection with said prosecution are not reimbursable by the Board.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Bills and Payments for Service
Return of Deposits
Proposed Amendment: N.J.A.C. 14:3-7.5

Authorized By: Board of Public Utilities, Christine Todd Whitman, President.
Authority: N.J.S.A. 48:2-13 and 48:2-29.5.
BPU Docket Number: AX88020287.
Proposal Number: PRN 1988-153.

Submit comments by May 4, 1988 to:
Edward D. Beslow, Esq.
Regulatory Officer
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

The agency proposal follows:

Summary

On July 19, 1979, the Board adopted a revision to N.J.A.C. 14:3-7.5(c), whereby the rate of interest applicable to all customer deposits held by utilities for at least three months was raised from six percent to nine percent.

In light of current economic factors, the Board is of the opinion that it is preferable to base the rate of interest to be paid on deposits on an indexing mechanism in order to provide for the flexibility that a changing economy demands.

Accordingly, the Board proposes to amend N.J.A.C. 14:3-7.5(c) by having the interest rate applicable to customer deposits based upon the average yields for new one year Treasury Bills for the twelve month period ending each September 30. Said rate, which would be rounded up or down to the nearest half percent, would become effective on January 1 of the following year in order to provide sufficient time for the affected utilities to make the necessary administrative and computer programming changes. Under the proposed rule change, the new interest rate would become effective on January 1, 1989.

Social Impact

Under the proposed amendment, a regulated utility will be obligated to pay and a customer will be entitled to receive interest on all customer deposits held by the utility for a period of at least three months at a rate that will be more sensitive to and that will more closely reflect changes in the economy.

Economic Impact

Based upon current economic factors, any change in the required interest rate occasioned by this proposal will not have any material economic impact upon the affected utilities and will have no adverse impact upon the ability of said utilities to continue to render safe, adequate and proper service.

Implementation of this proposal is not expected to impose any additional costs on the Board of Public Utilities.

Regulatory Flexibility Statement

The provisions of N.J.A.C. 14:3-7.5 apply to all regulated utilities. The proposed amendment relates solely to the rate of interest to be paid on deposits held by utilities.

There are no small gas or telephone utilities with less than 100 employees. There are, however, one small electric utility, 100 small water utilities and approximately 850 solid waste collection and disposal utilities that are subject to the provisions of this rule because they are small businesses as defined by the Act.

As all utility customers who have been required to furnish a deposit should be reasonably compensated by the utilities that retain said funds, the Board has determined that exemptions for any utility companies from the proposed amendment to N.J.A.C. 14:3-7.5 are not warranted.

The proposed amendment imposes no additional reporting, recordkeeping or other compliance requirements on the affected utilities.

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

14:3-7.5 Return of deposits

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

(c) Simple interest at [the] **a** rate [of at least nine percent per annum] **equal to the average yields on new one year Treasury Bills for the twelve month period ending each September 30** shall be paid by the utility on all deposits held by it, provided the deposit has remained with the utility for at least three months. **Said rate, which shall be rounded up or down to the nearest half percent, shall become effective on January 1 of the following year.**

1. The [nine percent] interest **based upon the average yields on new one year Treasury Bills** shall be applied to all deposits received by the public utility on and after [August 1, 1979] **January 1, 1989**.

2. Interest on deposits previously collected and held by the public utility on [August 1, 1979] **January 1, 1989** shall be apportioned so that the [nine percent] **interest rate based upon the average yields on new one year Treasury Bills** shall be computed beginning [August 1, 1979] **January 1, 1989**.

3. (No change.)

TRANSPORTATION

(b)

THE COMMISSIONER

Lane Usage
Routes 3 and 495 in Bergen and Hudson Counties
Proposed New Rule: N.J.A.C. 16:30-3.6

Authorized By: Hazel Frank Gluck, Commissioner, Department of Transportation.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-44, 27:7-21 and 39:4-6.

Proposal Number: PRN 1988-170.

Submit comments by May 4, 1988 to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

On August 3, 1987, the Department of Transportation published a pre-proposal (see 19 N.J.R. 1421(b)) pertaining to the establishment of additional bus and high occupancy vehicle (H.O.V.) lanes on Routes 3 and 495 which would feed into the Lincoln Tunnel. The general recommendations of the pre-proposal are formally proposed herein (see Figure I) to facilitate the movement of motorbuses and other H.O.V.s bound for Manhattan in the morning peak period and to supplement the existing Exclusive Bus Lane (hereinafter referred to as the XBL) along Route 495. Studies conducted by the New Jersey Department of Transportation (NJDOT) with the support of the New Jersey Turnpike Authority, the Port Authority of New York and New Jersey, the State Police, New Jersey Transit, and the private bus carriers, considered a wide range of relief measures to alleviate the XBL problems. Based on these studies, the Department of Transportation has concluded that the preferred land restrictions described in the August 3, 1987 pre-proposal are in the most effective interim means of ameliorating operating and capacity problems on the XBL.

The proposed new rule creates a second bus lane for Lincoln Tunnel-bound travelers (hereinafter referred to as XBL II). High occupancy vehicles other than buses would also be permitted to use non-contraflow lanes along Route 495 sections of XBL II. The proposed new rule also codifies in N.J.A.C. 16:30-3.6 the original XBL. The original XBL was initiated pursuant to a 1971 Tri-Party Memorandum of Understanding between the New Jersey Department of Transportation, the New Jersey Turnpike Authority and the Port Authority of New York and New Jersey. This agreement was executed with the concurrence and cooperation of the Federal Highway Administration and the Tri-State Regional Planning Commission.

Background

The XBL was initiated in 1971 to promote the use of buses to midtown Manhattan by offering buses using the Lincoln Tunnel a significant time-saving. The existing "reverse flow" lane, or contraflow lane as it is sometimes called, runs from the eastern leg of the New Jersey Turnpike to the Lincoln Tunnel toll plaza and is dedicated to buses during the morning peak period on weekdays. The lane is accessible from the Turnpike and from Route 3.

The XBL has been an extraordinary success as evidenced by the dramatic growth in bus usage. Initial use (by more than 700 buses carrying 25,000-30,000 commuters each day) has more than doubled with present counts indicating that nearly 1,700 buses transport nearly 65,000 commuters daily.

The importance of the XBL is clearly demonstrated by its people-carrying capacity. This "reverse flow" single lane carries nearly nine times as many people each morning as each of the three with flow lanes of Route 495. It is hard to imagine what traffic conditions would be like without the XBL given the pervasive traffic congestion which exists even with the XBL in operation. Encouraging mass transit use to Manhattan (and other high density employment destinations) is critical if New Jersey is to accommodate the growth in trip demand without exacerbating traffic congestion and air pollution problems.

Operating problems which the XBL has experienced over the past two years are a source of serious concern. These problems have become far more pronounced within the past few months and are expected to intensify as the amount of bus and other traffic in the area continues to grow.

The Problems

As peak period traffic exiting the 16E and 17E toll plazas of the Turnpike and bus traffic using the XBL has increased, a number of problems relating to the XBL operation have developed. The XBL operation is affected not only by traffic problems, but also by other factors relating to the users of the lane, the lane geometry and environmental conditions as summarized below:

1. Unconstrained bus demand runs as high as 850 buses per hour, even though the XBL can accommodate no more than 775 buses per hour under optimum traffic conditions.

2. The XBL frequently carries less than 775 buses per hour even when actual demand is greater because of factors affecting the flow of buses into and off of the lane, including:

Traffic queues at the 16E and 17E toll plazas which prevent buses from entering the XBL;

The need for State Police to detain buses so that Secaucus-bound traffic from 16E and 17E can safely cross the XBL-bound bus stream; and

Lincoln Tunnel disruptions (for example, oversized vehicles that have to be turned around between the tunnel toll plaza and the tunnel entrance).

3. Factors intrinsic to the lane also limit lane capacity, including:

Older buses (which are forced into service by demand in the peak periods) lack propulsion power to climb the grade on Ramp J and the Route 1/9 bridge approaches as quickly as the newer buses using the XBL;

Removing disabled buses from the XBL is difficult and time-consuming; and

Sun glare at certain times of the year blinds bus drivers, forcing reductions in operating speed.

4. Projections indicate that the approximately 1700 buses now in the XBL during the morning peak period will grow to approximately 1900 by the year 1990. Traffic growth anticipated by the Turnpike Authority and the NJDOT as a result of new Meadowlands and waterfront development will mean longer delays in both distance and duration for buses accessing the XBL.

XBL II as proposed would be a reverse-flow (contraflow) lane along Route 3 in the vicinity of Route 120 and Turnpike Interchange 16W, to the junction with Route 495, where XBL II would become a with-flow lane. It would operate from 6:00 A.M. to 10:30 A.M. requiring daily set-up and shut-down by traffic maintenance personnel. The reverse-flow portion of XBL II (along Route 3) will be reserved exclusively for buses during this time period, and the with-flow portion of the lane will be reserved for buses and other high occupancy vehicles with three or more occupants.

Pre-proposal Findings

The pre-proposal (see 19 N.J.R. 1421(b)) on XBL II generated substantial and highly favorable public comment. Based on the pre-proposal comments, there appears to be a broad public consensus that buses and other high occupancy vehicles are crucial to the efficient movement of persons through the Lincoln Tunnel and warrant favorable handling to expedite their flow. This was the purpose of the publication of the XBL and XBL II proposal.

During the public comment period, the Department received 1,380 letters and postcards regarding the XBL II pre-proposal. Of these, 1,271 were in support of XBL II and nine expressed some form of opposition. The Department also received 52 separate petitions in support of the XBL II concept. These petitions contained 1,262 signatures. No petitions in opposition to XBL II were received. Additionally, three separate public hearings were held regarding XBL II. These hearings were held in New York City at the Port Authority Bus Terminal on October 9, 1987, the Meadowlands Sports Complex in East Rutherford, New Jersey on October 20, 1987, and the East Brunswick, New Jersey Public Library on October 26, 1987. Approximately 250 persons attended the three public hearings and 50 persons presented oral testimony regarding the pre-proposal. Once again, the public response on XBL II was overwhelmingly favorable.

There appears to be a clear consensus among those commenting on the XBL II pre-proposal that favorable handling of buses and other high occupancy vehicles is the only way that substantial numbers of persons can be moved through the Lincoln Tunnel at peak hours. Low occupancy vehicles are perceived to be consuming the limited vehicle capacity of the Tunnel and impeding the flow of vehicles transporting larger numbers of people. In general terms, public comment seemed moved by the premise that the greatest public good would be served if improvements were established for the movement of vehicles carrying many persons, even if that required restricting lanes available to low occupancy vehicles.

Based on the public input to date, the Department believes that there is a considerable need to improve the flow of persons at peak traffic hours through the Lincoln Tunnel and that establishing lane restrictions that favor high occupancy vehicles is a strategy that should find widespread public acceptance. A theme common throughout much of the public

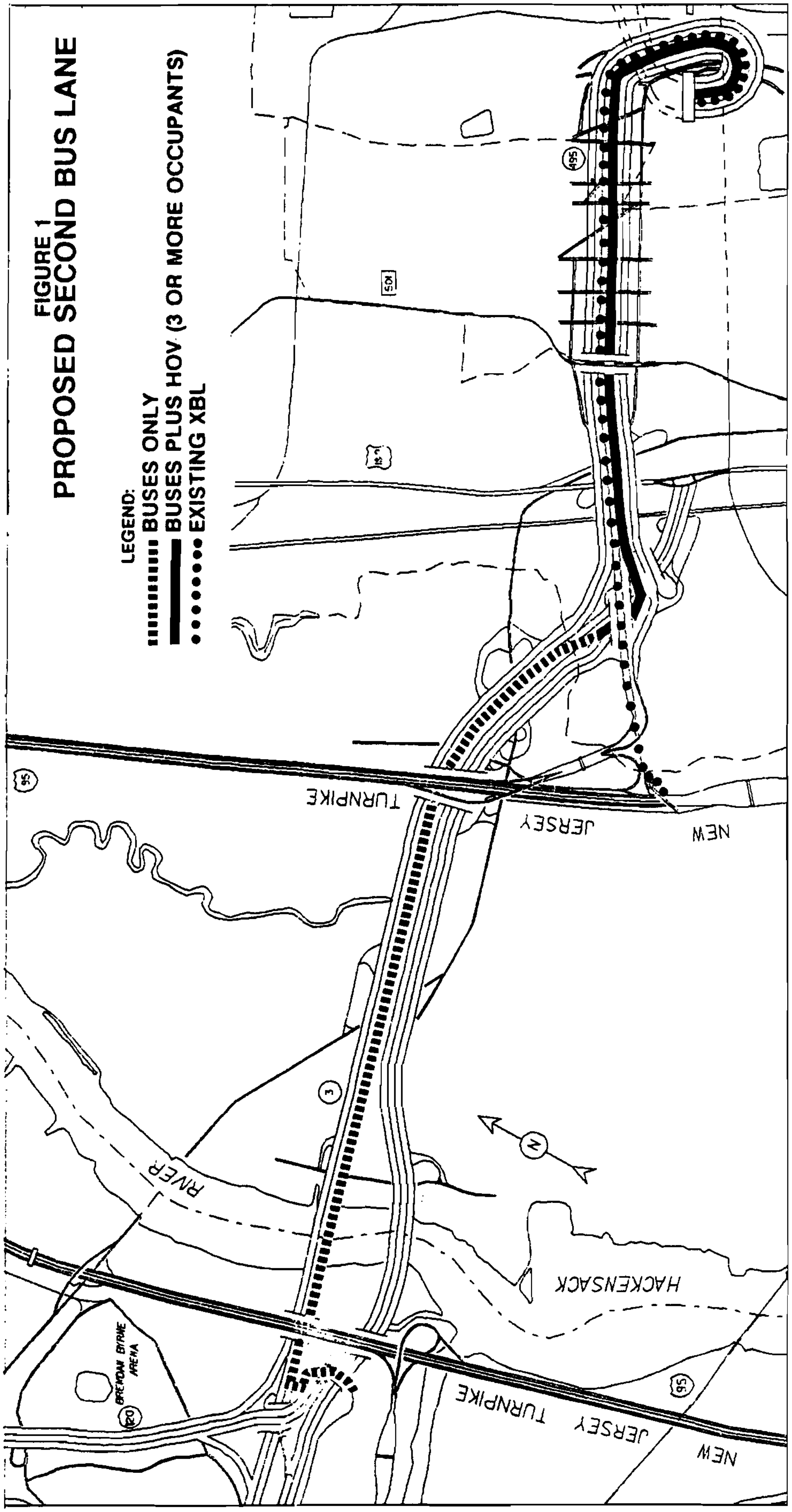
FIGURE 1
PROPOSED SECOND BUS LANE
LEGEND:
BUSES ONLY
BUSES PLUS HOV (3 OR MORE OCCUPANTS)
EXISTING XBL
NEW JERSEY TURNPIKE
HACKENSACK RIVER
BRENDAN BYRNE ARENA

comment was a high degree of immediate urgency in improving the existing situation for commuters. The unprecedented level of public comment also attests to the urgency and high degree of motivation felt among the public affected by the XBL II proposal.

Although considerable public comment has already been received on the XBL II during the pre-proposal period, this formal new rule proposal presents another opportunity for public comment. The Department is interested in getting further public comment on this matter.

Written comments received from the public and public hearing transcripts regarding the XBL II pre-proposal are on file at the Department of Transportation and may be reviewed during regular business hours. Persons wishing to study these comments or transcripts should contact Mr. Charles L. Meyers, the Administrative Practice Officer of the Department of Transportation. Copies of the public hearing transcripts have been filed with and are available for inspection at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey, and are made a part of this proposal notice.

Social Impact

A positive social impact will result from implementation of this proposed new rule. Reduction of travel delays and greater predictability in morning commuting time for the vast majority of commuters will result. Reduction of these delays and the uncertainty of morning commuting time was the leading issue of repeated public interest in the XBL II pre-proposal comments. The extraordinary number of persons writing to the Department and appearing at public hearings in favor of the pre-proposal plainly indicates that there is a highly motivated public seeking improvement in the commuting situation. The Department believes that the overall commuting improvements which would result from the implementation of this proposed new rule are focal to improving the quality of life experienced by commuters affected by the proposed new rule.

While it is probable that single or low occupancy vehicles (with less than three occupants) will experience some additional delay as a result of the implementation of XBL II, it is equally clear that the vast number of morning peak hour commuters will benefit from XBL II. Additionally, it is anticipated that the H.O.V. lane will encourage carpooling, and thereby speed trips for H.O.V.s. Furthermore, it is also likely that some automobile to bus diversion will occur as a result of the improved flow of XBL and XBL II.

The high number of responses to the pre-proposal on this issue is believed by the NJDOT to be a direct result of negative social impacts being created by the current situation of delays and congestion.

Economic Impact

Implementation of this proposed new rule will have a positive economic impact. Travel delay reductions and improved on-time schedule performance by buses will translate directly into substantial benefits for the bus-traveling public.

In addition, reduced travel times for car pool vehicles in the Interstate Route 495 HOV Lane will sharply reduce auto passenger travel costs. By stimulating car pool, group riding and bus transit ridership, the XBL II will result in reduced out-of-pocket costs for its users who will take advantage of car pool toll discounts and bus fares.

Passenger vehicles operating costs will also be reduced for car pool vehicles due to the change from stop-and-go operation to 35 miles per hour operation in the HOV Lane on I-495. Single or low-occupancy vehicle users will experience some additional travel time and vehicle operating costs due to increased queue lengths, but this will be significantly off-set by the cost reductions to the rest of the traveling public in this corridor.

Environmental Impact

The NJDOT believes that this proposed new rule will have a favorable environmental impact regarding air quality. There is continued growth in the number of persons crossing the Hudson River during the three hour morning peak. The peak hour, however, is at a traffic saturation point. Accommodation of growth cannot be met by low occupancy autos without creating further traffic congestion and the air pollution which is associated with such congestion. Increasing the people carrying capacity of the Lincoln Tunnel, without disproportionate traffic delays, can only be achieved by greater utilization of buses and other high occupancy vehicles by commuters. This approach will allow the carriage of greater numbers of commuters with fewer vehicles and, hence, an expected reduction in overall vehicle emissions per commuter. Reduction of overall vehicle emissions by the creation of mass transit alternatives to low occupancy auto movements is a widely accepted air quality improvement strategy.

Regulatory Flexibility Statement

Since the proposed new rule would not impose any new bookkeeping, record keeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, P.L. 1986, c. 169, a regulatory flexibility analysis is not required. The rule primarily affects the public traveling on Routes 3 and 495.

Full text of the proposal follows:

16:30-3.6 Routes 3 and 495

(a) A bus and carpool lane is hereby established on Route 495 eastbound beginning at Milepost 0.70+- in North Bergen Township, Hudson County. Using the left most lane of vehicular travel, the bus and carpool lane will proceed a distance of approximately 1.90 miles on Route 495 eastbound through North Bergen Township and Union City to its terminus at the Lincoln Tunnel Toll Plaza located on Route 495 eastbound at Milepost 2.60+- in Weehawkin Township, Hudson County.

(b) An exclusive bus lane is hereby established on Route 3 eastbound beginning on the Route 3 South Service Road at Milepost 7.90+- in East Rutherford Boro, Bergen County. For a distance of approximately 2150 feet, the exclusive bus lane will proceed in the right most lane of vehicular travel on the Route 3 South Service Road, cross over Route 3 eastbound mainline, exit the Route 3 South Service Road via a loop ramp, and enter Route 3 westbound at Milepost 8.00+- via the loop ramp. At this point, the exclusive bus lane will begin its contraflow operation on Route 3 westbound through East Rutherford Boro, Secaucus Town, and North Bergen Township. Using the median lane on Route 3 westbound, the contraflow operation will proceed a distance of approximately 2.20 miles and end on Route 3 westbound at Milepost 10.20+-. At this point, the exclusive bus lane will reenter the concurrent flow operation of traffic via a slip ramp connecting the end of the contraflow operation to the western most end of the Route 3 eastbound to Route 495 eastbound ramp, known as "Ramp J". The exclusive bus lane then proceeds in the left most lane of vehicular travel to the end of Ramp J, a distance of approximately 2320 feet, to its terminus on Route 495 eastbound at Milepost 0.70+- in North Bergen Township, Hudson County, at which point the aforementioned bus and carpool lane begins.

(c) An exclusive bus lane is hereby established on Route 495 beginning in Secaucus Town, Hudson County. Two approaches will enter the exclusive bus lane via the loop ramp, known as the "Teardrop". The northern approach begins at the New Jersey Turnpike Interchange 17E, proceeds in a southbound direction for a distance of approximately 1200 feet, and connects to the Teardrop. The southern approach begins at the New Jersey Turnpike Interchange 16E, proceeds in a northbound direction for a distance of approximately 1240 feet, and connects to the Teardrop. The exclusive bus lane will proceed around the Teardrop, pass through a slip ramp, and enter Route 495 westbound at Milepost 0.00+-. At this point the exclusive bus lane will begin its contraflow operation on Route 495 westbound through Secaucus Town, North Bergen Township, Union City, and Weehawken Township. Using the median lane on Route 495 westbound, the exclusive bus lane will proceed a distance of approximately 2.60 miles to its terminus at the Lincoln Tunnel Toll Plaza located on Route 495 westbound at Milepost 2.60+- in Weehawken Township, Hudson County.

(d) This section shall be in effect between the hours of 6:00 A.M. and 10:30 A.M. on weekdays or as may be otherwise posted or directed by official personnel controlling traffic on the routes regulated under this section.

(e) For the purpose of this section, a "bus and carpool lane" means a lane reserved for buses, motorcycles and vehicles that contain at least three persons.

(f) For the purpose of this section, an "exclusive bus lane" means a lane reserved for buses.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

State Health Benefits Program
Full-Time Employee Defined
Proposed Amendment: N.J.A.C. 17:9-4.2

Authorized By: Gaius Mount, Secretary, State Health Benefits Commission.
Authority: N.J.S.A. 52:14-17.27.
Proposal Number: PRN 1988-158.

Submit comments by May 4, 1988 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The purpose of the proposed amendment is to permit deputy attorneys general who are working part-time because of child care responsibilities to continue to be covered by the State Health Benefits Program. The Department of Law and Public Safety has instituted a pilot program under which deputy attorneys general with child care responsibilities may work less than the normal work week usually required for the position, but at least 20 hours a week. The primary purpose of the program is to enable the Department to retain dedicated and experienced lawyers who might otherwise have to terminate their service with the Department, temporarily or permanently, when they have children. The current rules of the commission do not authorize continuation of coverage in this situation. This has resulted in fewer participants in the program than had been anticipated. The pilot program is for a limited period of time and will provide experience with the concept of reduced work hours for employees with child care responsibilities. This experience will enable the State to determine if the concept is a viable one and should be offered to other employees.

The amendment provides that for the time period beginning April 1, 1988 and ending on March 31, 1990, deputy attorneys general in the Divisions of Criminal Justice, Gaming and Law in the Department of Law and Public Safety, who are part of a pilot program for part-time employment for deputy attorneys general with child care responsibilities and are paid for a minimum of 20 hours per week, shall be "full-time" employees for the purposes of coverage under the State Health Benefits Program.

Social Impact

The proposed amendment will benefit the affected deputy attorneys general by permitting them to continue their health care coverage while they continue to work for the Department. The amendment will also provide the State experience with the concept of reduced work hours for employees who have child care responsibilities. This will enable the State to determine the viability and advisability of extending the program to other employees.

Economic Impact

No significant economic impact on the State Health Benefits Program is anticipated from the adoption of this proposal. Any increase in cost from extending coverage to employees who would not otherwise be eligible for the coverage will be more than offset by the avoidance of loss of experienced employees and the loss in productivity which accompanies such losses.

Regulatory Flexibility Statement

The rules of the State Health Benefits Commission affect only public employers and employees. Thus, this proposed amendment will not have any adverse effect upon small businesses or private industry in general, therefore, a regulatory flexibility analysis is not required.

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

17:9-4.2 State; full time defined

(a) For the purposes of State coverage, "full-time" shall mean:
1.-6. (No change.)

7. For the time period beginning April 1, 1988 and ending March 31, 1990, deputy attorneys general in the Divisions of Criminal Justice, Gaming and Law in the Department of Law and Public Safety, who are participating in a pilot program of part-time employment for deputy attorneys general with child care responsibilities conducted by the Department and are paid for a minimum of 20 hours per week, notwithstanding N.J.A.C. 17:9-4.4.

STATE INVESTMENT COUNCIL

The following proposals are authorized by the State Investment Council, Roland M. Machold, Director, Division of Investment.

Submit comments by May 4, 1988 to:
Roland M. Machold
Administrative Practice Officer
Division of Investment
349 West State Street
CN 290
Trenton, New Jersey 08625

(b)

Common Pension Fund A
Limitations
Proposed Amendment: N.J.A.C. 17:16-32.12

Authority: N.J.S.A. 52:18A-91.
Proposal Number: PRN 1988-159.

The agency proposal follows.

Summary

The proposed amendment adds clarifying language in N.J.A.C. 17:16-32.12 to include specific permitted investment by Common Pension Fund A in the Cash Management Fund. This investment policy was previously addressed in a general manner and is intended to be made specific by this amendment. The addition was suggested by Peat Marwick Main & Company independent auditors for the Division.

Social Impact

The proposed amendment is for clarification of previously stated policy and will have no social impact other than clarification of intent.

Economic Impact

The proposed amendment has no economic impact since there has been no change made in the policy already set by N.J.A.C. 17:16-32.12.

Regulatory Flexibility Statement

The proposed amendment does not affect small businesses, since it applies to investments by State pension funds. A Regulatory Flexibility Analysis is, therefore, not required.

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

17:16-32.12 Limitations

(a) The Common Pension Fund A shall be permitted to invest in **the Cash Management Fund and in** such securities [and] subject to the limitations and conditions contained in the rules of the **State Investment Council, N.J.A.C. 17:16 particularly** [Subchapter 17] **N.J.A.C. 17:16-17** [of this chapter] except for the condition as to classification **of** funds contained in [Subchapter 5 in this chapter] **N.J.A.C. 17:16-5.**

(b) (No change.)

(a)

Common Pension Fund B
Limitations
Proposed Amendment: N.J.A.C. 17:16-36.12

Authority: N.J.S.A. 52:18A-91.
Proposal Number: PRN 1988-160.
The agency proposal follows.

Summary

The proposed amendment adds clarifying language in N.J.A.C. 17:16-36.12 to include specific permitted investment by Common Pension Fund B in the Cash Management Fund. This investment policy was previously addressed in a general manner and is intended to be made specific by this amendment. The addition was suggested by Peat Marwick Main & Company, independent auditors for the Division.

Social Impact

The proposed amendment clarifies previously stated policy and will have no social impact other than clarification of intent.

Economic Impact

The proposed amendment has no economic impact since there has been no change made in the policy already set by N.J.A.C. 17:16-36.12.

Regulatory Flexibility Statement

The proposed amendment does not affect small businesses, since it applies to investments by State pension funds. A regulatory flexibility analysis is, therefore, not required.

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

17:16-36.12 Limitations

(a) The [c]Common [p]Pension [f]Fund B shall be permitted to invest in **the Cash Management Fund and in** such securities [and] subject to the limitations and conditions contained in [regulations] **the rules** of the State Investment Council, **N.J.A.C. 17:16** except for the condition as to classification of funds contained in [Subchapter 5 of this chapter] **N.J.A.C. 17:16-5**.

(b) (No change.)

TREASURY-TAXATION

(b)

DIVISION OF TAXATION
Gross Income Tax
Qualified Investment Fund Distributions
Proposed New Rule: N.J.A.C. 18:35-1.24

Authorized By: John R. Baldwin, Director, Division of Taxation.
Authority: N.J.S.A. 54A:9-17(a) and 54:50-1.
Proposal Number: PRN 1988-169.

Submit comments by May 4, 1988 to:
Nicholas Catalano
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

The agency proposal follows:

Summary

The proposed new rule provides an exclusion from gross income for distributions paid from a qualified investment fund on or after January 1, 1987 as authorized by P.L. 1987, c.310. The distributions will be excludible from gross income provided that at least 80 percent of the distribution is attributable to interest and gains from obligations such as U.S. Treasury Bills, Federal Savings and Loan Insurance Corporation obligations, and securities issued by the Federal Housing Authority. For a list of such obligations see N.J.A.C. 18:35-1.9. Gains from the sale of securities which evidence ownership in a qualified investment fund are also excludible under the proposed rule.

The new rule sets forth the requirements which must be satisfied in order for an investment company to be considered to be a "qualified investment fund." The fund must certify annually, on or before February 15, 1989 and each year thereafter, to the Division of Taxation that the fund satisfies these requirements and must advise the Division as to amounts of qualified distributions. In addition, the fund must advise its shareholders whether distributions qualify for exclusion from gross income by virtue of the rule. If, however, the fund fails to make such reports or certification, the exclusion from gross income will not apply to the fund's distributions.

Social Impact

The proposed new rule provides to taxpayers who invest in certain mutual funds an exclusion from gross income for distributions paid by the fund or for gains from the sale of mutual fund shares. The rule will also serve to advise the funds as to the requirements that they must satisfy in order to be considered a "qualified investment fund" and to provide the exclusion to its shareholders.

Economic Impact

It is anticipated that state tax revenue will be significantly decreased as a direct result of the rule since a substantial portion of income previously subject to gross income tax will be excluded as a direct result of the proposal.

Regulatory Flexibility Statement

The proposed new rule may apply to small businesses operating in New Jersey. Small businesses cannot be excused from compliance with the rule. The proposal is intended to benefit any of these businesses and their shareholders by excluding certain distributions from gross income as well as gains from the sale of securities which evidence ownership in a qualified investment fund. Also, the rule must be applied to all funds so that both shareholders and the Division of Taxation are informed by an investment fund that its distributions qualify for exemption pursuant to the requirements of P.L. 1987, c.310. No information is available to determine how many qualified investment funds currently exist. Thus, the number of small businesses affected by this rule cannot be determined.

Full text of the proposed new rule follows.

18:35-1.24 Qualified investment fund distributions

(a) Gross income shall not include the amount of any distribution from a qualified investment fund paid on or after January 1, 1987 to the extent that at least 80 percent of such distribution is attributable to interest or gain from the following:

1. Obligations which are issued by or on behalf of New Jersey or any county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation (including one created or existing pursuant to agreement or compact with this or any other state), body corporate and politic or political subdivision of New Jersey; or

2. Those obligations which are statutorily free from state or local taxation under any act of New Jersey or under the laws of the United States.

(b) Any distribution or part thereof which includes gains or income derived from securities which evidence ownership in a qualified investment fund is excluded from gross income.

(c) A "qualified investment fund" is any investment company registered with the Securities and Exchange Commission or any series of such investment company which, for the calendar year in which the distribution is paid:

1. Has no investments other than the following:

i. Interest-bearing obligations;

ii. Obligations issued at a discount; and

iii. Cash and cash items, including receivables; and

2. Has not less than 80 percent of the aggregate principal amount of all its investments in obligations described in (a)1 and (a)2 above.

i. The aggregate principal amount of investments shall not include cash and cash items, including receivables.

(d) A "series" of an investment company means a segregated portfolio of assets, the beneficial interests in which are owned by the holders of a class or series of stock or shares of the investment company that is preferred over all other classes or series in respect to the portfolio of assets.

(e) The exclusions from gross income authorized by this section shall not apply to distributions of interest or gain from any qualified investment company which does not meet the following requirements:

1. The qualified investment company shall certify annually on or before February 15 to the Division of Taxation on the forms prescribed that for the preceding calendar year the company:

i. Was registered with the Securities and Exchange Commission;

ii. Had no investments other than interest-bearing obligations issued at a discount, and cash and cash items, including receivables; and

iii. Had not less than 80 percent of the aggregate principal amount of all its investments, excluding cash and cash items (including receivables) in obligations described in N.J.S.A. 54A:6-14 and N.J.A.C. 18:35-1.9(a)1. and 2.

2. The qualified investment company shall advise the Division of Taxation as to amounts distributed for the preceding calendar year to shareholders or beneficiaries from income or gain derived from New Jersey and Federal obligations.

3. The qualified investment company shall advise its shareholders on or before January 31 of each calendar year that distributions qualify for exclusion from gross income pursuant to this section.

(f) Subsection (e) above shall not apply with respect to distributions made for the calendar year 1987 from an investment fund which otherwise satisfied the requirements of (c) above.

(g) This section applies to distributions of interest or gain from qualified investment funds which are made on or after January 1, 1987.

OTHER AGENCIES

(a)

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

Fees; District Zoning; Flood Plain Management

Proposed Readoption with Amendments: N.J.A.C. 19:3, 19:4, 19:4A

Authorized By: Hackensack Meadowlands Development Commission, Anthony Scardino, Jr., Executive Director.

Authority: N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i) and N.J.A.C. 19:4-6.27.

Proposal Number: PRN 1988-155.

A **public hearing** concerning this proposal will be held on:
April 20, 1988 at 7:00 P.M.
Hackensack Meadowlands Development Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Submit comments by May 4, 1988 to:
Thomas R. Marturano, Acting Chief Engineer
Hackensack Meadowlands Development Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

The agency proposal follows.

Summary

The current text of N.J.A.C. 19:3 is scheduled to expire on June 19, 1988; N.J.A.C. 19:4 on November 7, 1988; N.J.A.C. 19:4A on May 2, 1988. In accordance with the sunset and other provisions of Executive Order No. 66(1978), the HMDC is required to periodically review its existing regulations to determine their continuing usefulness. Accordingly, the HMDC has undergone a thorough review of its regulations contained in N.J.A.C. 19:3-1.1-1.7, N.J.A.C. 19:4-1.1-7.20, and N.J.A.C. 19:4A-1.1-6.7, and has determined these rules to be necessary for the purpose for which they were originally promulgated.

Many sections of the regulations are proposed to be readopted without amendment. Some changes appear which constitute minor technical corrections such as spelling or grammatical errors. Other proposed amendments are substantive.

The HMDC proposes to readopt its revised Fee Schedule contained in N.J.A.C. 19:3-1.1-1.7 with a minor change at 19:3-1.2. This fee schedule was adopted by the Commission on September 23, 1987 and is proposed for readoption.

N.J.A.C. 19:4-1.1-7.20 contains the general procedures and criteria which govern all types of development in the Meadowlands District. Subchapter 1, which contains general information, is proposed for readoption without change. Subchapter 2 contains proposed substantive amendments by way of added, deleted and amended definitions which will clarify interpretive construction of the definitions. Subchapter 3, concerning the application of the rules, is proposed for readoption without change other than to include previously adopted zones which do not appear in the printed District Zoning Regulations. Subchapter 4, on zoning regulations, contains proposed substantive amendments, the most noteworthy of which include: number of structures per lot, office trailers, finished floor elevations, landscape plans, and buffer requirements. Subchapter 5, which contains specially planned area rules, is proposed for readoption without substantive change except finished floor elevations contained in previous subchapters. Subchapter 6, which includes varied general provisions, contains some proposed substantive changes regarding environmental performance standards. These standards have been upgraded to reflect higher environmental requirements since the initial adoption of the HMDC regulations in 1970. Parking design standards have been substantively amended to reflect present day, commonly accepted standards. Fence regulations have been substantively amended in the proposal to reduce interpretive confusion and consolidation with other regulations. Sign regulations have been substantively amended to reflect present day, commonly accepted standards. Similar amendments to lighting, landscape, open space and buffers are proposed in this subchapter. Subchapter 7, contains wetlands procedures and guidelines and is proposed for readoption without change.

N.J.A.C. 19:4A-1.1-6.8 contain the HMDC Flood Plain Management Regulations. These rules set out general provisions, administration of the program and design standards. Proposed amendments to this chapter incorporate standards adopted by the New Jersey Department of Environmental Protection.

Social Impact

The proposed rules for readoption will continue to have an impact on all development in the Hackensack Meadowlands District (HMD).

The development within the HMD is governed in part by N.J.A.C. 19:3 through 19:4A. These chapters include fee, zoning, and flood plain management rules. These rules will continue to be applied to the 14 constituent municipalities within the HMD. The specific manner in which these rules are applied to development in the District is explained in the Summary above.

The general provisions of these chapters have had a substantial impact on the development of the 20,000 acres of property located within the HMD and thus northern New Jersey. Most of these rules have been in effect since 1972. During the period from 1972 to the present HMDC has reviewed over 9,000 applications seeking approval of zoning certificates, subdivisions, building permits, and certificates of occupancy. These applications have included proposals for commercial and industrial development.

Economic Impact

The economic impact of these rules on this portion of the State can best be described by indicating that new development in the HMD has generated approximately 3,500 new residents and 90,000 jobs since 1972. In addition, over the past 16 years there has been new construction valued at approximately $1.5 billion.

N.J.A.C. 19:3 contains only one change with respect to fees. The specific change provides for a fee when an applicant requests a permit extension. At present the only provision for a zoning permit extension is to reapply, duplicating costs already incurred by the applicant. As a result of a new provision in the rules, a zoning permit extension may be received by written application and payment of a fee which will cover staff's review and administrative costs.

All applicants proposing development in the HMD will continue to incur the previously adopted fees which are associated with the review of development applications.

With respect to other proposed amendments, including new and revised definitions, provisions for temporary office trailers, allowance of more than one principal structure per lot, incorporation of federal flood requirements, revised design and environmental performance standards, treatment of private roads, and changing grammatical errors, no economic impact is foreseen.

Regulatory Flexibility Statement

The effect of this proposal would be to regulate land use within the Hackensack Meadowlands District uniformly to all applicants desiring to develop properties located therein. The costs involved in the proposed readoption of the HMDC Fee Schedule will be borne by all applicants uniformly since those fees reflect actual staff time spent on application review. No exemption for small business applicants is feasible, although such an applicant could have the fee, or a portion of the fee, waived after showing good cause pursuant to N.J.A.C. 19:3-1.6(a). The land use rules proposal will have no impact on small business, therefore no regulatory flexibility analysis is required. No recordkeeping requirements are imposed.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:3, 19:4, and 19:4A.

Full text of the proposed amendments to the readoption follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

CHAPTER 3
FIRST STAGE OF THE MASTER PLAN FOR THE COMPREHENSIVE DEVELOPMENT OF THE HACKENSACK MEADOWLANDS DISTRICT

SUBCHAPTER 1. REVISED FEE SCHEDULE

19:3-1.2 Zoning

(a) Zoning fees are as follows:

1.-8. (No change.)

9. A fee of $500.00 is charged for permit extensions.

(b) (No change.)

CHAPTER 4.
DISTRICT ZONING REGULATIONS

SUBCHAPTER 2. CONSTRUCTION AND DEFINITIONS

19:4-2.2 Definitions

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

. . .

"C.P." means commercial park.

. . .

"P.P." means planned park.

. . .

"Abandonment" means the relinquishment of property, or a cessation of the use of the property, by the owner or lessee, for reasons other than an act of God, without the intention of transferring property rights to another owner or lessee or resuming a use of the property. Abandonment shall mean the use has not operated for 12 continuous months.

"Accessory use or structure" means a use or structure which is customarily subordinate and incidential to a principal use in area, extent, or purpose and which contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal structure or use served. An accessory use or structure shall be located on the same lot as the principal use or structure.

"Accessory retail sales" means a use occupying not more than 10 percent of the total floor area of a building's warehouse floor area and engaged in the selling to the general public of goods or merchandise stored in the warehouse.

. . .

"Automobile service station" means [a structure and surrounding land used for the storage and sale of petroleum fuel primarily to motor vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidential washing of motor vehicles and the performing of minor repairs] **any building, land area or other premises, or portion thereof, used or intended to be principally used for the retail dispensing or sales of vehicular fuels, and which may include as an accessory use the sale and installation of lubricants, tires, batteries, and similar auto accessories.**

. . .

"Bulk requirements" means standards that control the height, density, intensity and location of structures.

"Buffer" means an undeveloped strip of land used to separate use areas.

. . .

["Business and professional office" means the office of an engineer, doctor, dentist, attorney, real estate broker, insurance broker, architect, or other similar professional person.]

"Canopy" means any structure, movable[,] or stationary, **of a maximum six foot width,** attached to and deriving its support from framework or posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements, or a roof like structure of a permanent nature which projects from the wall of a structure and overhangs the public way.

. . .

"[Day] **Child** care center" means [an] **a commercial** establishment where care is given to [four] **six** or more children **under the age of six,** not related to the operator by close ties of blood, marriage, or legal adoption, outside their home during any part of the day.

. . .

"District" means [any specially planned area or zone.] **the Hackensack Meadowlands District.**

"Duplex" means a residential building containing two, semi-[detached] **attached** dwelling units.

"Dwelling" means a building or portion thereof, [but not a] **including a permanently connected** mobile home, designed or used for residential occupancy.

"Family" means either:

1. An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit [in a dwelling unit]; or

2. [A group of not more than four persons, who need not be] **Two or more individuals not** related by blood, marriage, or adoption, living together as a single housekeeping unit [in a dwelling unit; plus, in either case, usual domestic servants]. A family may include any number of gratuitous guests or minor children not related by blood, marriage, or adoption[.] **and usual domestic servants.**

"Floor area" means the sum of the [horizontal] areas [on the several] **of all** floors of a building or buildings, measured from the faces of the exterior walls, no including **porches, balconies, patios, terraces, breezeways, and enclosed pedestrian walkways.**

"Floor area ratio (F.A.R.)" means [the floor area ratio of the building or other structure on any lot is determined by dividing the floor area of such building or structure by the area of the lot on which such building or structure is located. When more than one building or structure is located on the lot, then the floor area ratio is determined by dividing the total floor area of all buildings or structures by the area of the lot. The floor area ratio requirements, as set forth under each district, shall determine the maximum floor area allowable for a building or other structure (including both principal and accessory buildings) in direct ratio to the gross area of the lot.] **the gross floor area of all buildings and structures on the lot divided by the lot area.**

. . .

"Heliport" means a location where helicopters may pick up or discharge passengers, take on fuel, are stored for extended periods of time, and undergo maintenance.

"Helistop" means a designated accessory landing pad where helicopters stop momentarily solely to pick up or discharge passengers, and no maintenance or storage functions take place.

. . .

"Housing for low-income families" means housing [built under the Federal public housing (42 U.S.C. 1401 et seq.), rent supplement (12 U.S.C. 1701s) program, or any other provision of the Federal low-rent public housing program authorized by the United States Housing Act of 1937, or their successors.] **that is economically feasible for families whose income levels are categorized as low within the standards promulgated by the United States Department of Housing and Urban Development or the appropriate State Housing Agency.**

["Housing for middle-income families" means housing subsidized by middle income housing programs, such as those financed by the N.J. Housing Finance Agency or its successors, or by any Federal middle-income housing programs which are created.]

"Housing for moderate-income families" means housing [subsidized by Federal lower and moderate-income rental or cooperative housing programs, such as the §236 (12 U.S.C. 1701z) and §221(d)(3)(12 U.S.C. S17011) program, or their succesors.] **that is economically feasible for families whose income levels are categorized as moderate within the standards promulgated by the United States Department of Housing and Urban Development or the appropriate State Housing Agency.**

. . .

"Landscaping" means the improvement of a lot, parcel or tract of land with [grass and shrubs and/or trees] **plant material such as trees, shrubs and groundcovers, and other natural and man-made features in accordance with the Commission adopted Landscape Design Guidelines.** Landscaping may include [pedestrian walks, flowerbeds, ornamental objects such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.] **berms, decorative fences, gardens, plazas, roof terraces, certain outdoor recreational facilities, pedestrian walks, and other features such as fountains and gazebos designed to address a range of functional and visual considerations.**

"Lot" means [land in any zone that is designated by its owner or developer, at the time of applying for a zoning certificate, all of which is to be used, developed, or built upon as a unit under single ownership. As long as it satisfies the above requirements] **a designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit. Such lot may consist of a single lot of record, a portion of a lot of record, or a combination of the above.** [such lot may consist of:

1. A single lot of record;
2. A portion of a lot of record, or
3. A combination of complete lots of records, complete lots and portions of lots of record, or portions of lots of record.]

. . .

"Lot of record" means a lot which [is part of a subdivision, the plat of which has been recorded, or a parcel of land, the deed to which was recorded prior to the effective date of these regulations.] **exists as shown or described on a plat or deed in records of local and county registry of deeds.**

. . .

"Minor truck repair" means repair of trucks not normally involving overnight storage or long-term repair. The following are not considered minor truck repairs; and body work, suspension and chassis repair, transmission and motor rebuilding or trailer repairs.

"Mixed use development" means a track of land which includes one or more buildings or structures with two or more permitted uses which is planned, constructed, and managed as a single entity.

"Motor freight [terminal] **facility**" [means a building or area in which the semi-trailers, including tractor and/or trailer units, and other trucks are parked, stored or serviced, and where there is also the assembly and/or storage of materials and goods.] **means truck terminal.**

. . .

"Nonconforming lot" means a lot in which the area, dimension or location was lawful prior to the adoption, revision or amendment to the HMDC Zoning Regulations but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming structure" means a structure in which the size, dimension or location was lawful prior to the adoption, revision or amendment to the HMDC Zoning Regulations but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment to the HMDC Zoning Regulations but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

. . .

"Open space" means a landscaped [area, including] **or naturally preserved area such as a wetland, tidal marsh or waterway which the Commission has determined should be preserved. This open space includes** any uses required to be conducted within the open space by the applicable district regulations, but not including vehicular parking or loading areas, or driveways. [In the specially planned areas, it is the residential/commercial land area minus building area and vehicular area, and includes usable roof area.] **Curbed, landscaped safety islands with a minimum dimension of five feet in any direction and a minimum of 50 square foot area shall be considered open space.**

"Outdoor storage" means the storage of goods, [and] materials **and containers** outside of any building or structure.

. . .

"Partial destruction" means a building or structure which is damaged to the extent that repairs to restore the building or structure to its original form and use would not require the expenditure of more than 50 percent of the market value of the building or structure.

. . .

"Professional office" means the office of an engineer, doctor, dentist, attorney, architect, or other similarly recognized professional.

. . .

["Re-occupied use" means the commencement of a use which has been discontinued for at least six months.]

. . .

"Substantial destruction" means a building or structure which is damaged to the extent that repairs to restore the building or structure to its original form and use would require the expenditure of 50 percent or more of the market value of the building or structure.

"Trailer" means a structure standing on wheels, towed or hauled by another vehicle and used for carrying materials, goods or objects, or as a temporary sales or construction office in connection with construction projects.

"Tributary" means any stream, manmade or natural, which contributes to the flow of the Hackensack River.

"Truck terminal" means an establishment primarily engaged in furnishing, hauling, or transfer services without long-term product or cargo storage and where trucks load and unload products or cargo for transshipment or reshipment. A truck terminal may also include accessory areas for the repair, service, maintenance, temporary storage, or parking of trucks.

["Uplands" means those areas bordering the east and west boundaries of the Hackensack Meadowlands District, and at a higher elevation than the district.]

. . .

"Vehicular area" means the total [uncovered residential/commercial land] **lot** area used for vehicular movement, transportation systems, parking and loading [in the specially planned areas and the uncovered lot used for vehicular movement, parking and loading in the zones. Landscaping within the screening around parking and loading areas shall be considered part of the vehicular area.] **Vehicular parking areas shall be defined as that area within vehicular overhang areas. Curbed, landscaped safety islands with a minimum dimension of five feet in any direction and a minimum of 50 square foot area shall not be considered vehicular area.**

"Warehouse" means a building [in which materials and goods are stored and/or assembled.] **used primarily for the storage of goods, products, cargo, and materials with provision for truck loading and unloading facilities but not primarily engaged in hauling or transfer services. Warehousing may include truck storage, repairs, or servicing of trucks where such storage, repairs, or servicing is minor in nature and is accessory to the principal use and where such vehicles are owned or leased by the owner or tenant of the warehouse.**

"Wetland" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas (*Federal Register*, Vol. 42, p. 37128). Under some circumstances, disturbed or previously filled areas may not completely meet the above criteria and may still be classified as wetland.

. . .

"Yard: front" means a yard extending along the full length of a front lot line and back to a line paralleling the front lot line and intersecting the front of the building at its farthest point from the front lot line. [On a corner lot,] **E**[e]ach yard that abuts a front lot line shall be considered a front yard.

. . .

SUBCHAPTER 3. APPLICATION OF REGULATIONS

19:4-3.1 Territorial application

(a) (No change.)

(b) The Hackensack Meadowlands District shall be divided into the following districts, the location of which shall be determined by reference to the Official Zoning Map, with all notations and attached boundary descriptions, if any, kept in the Office of the Chief Engineer, hereby adopted as part of these regulations.

1. Zones:

i.-xiii. (No change.)

xiv. Public Utilities Zone[.] ;

xv. Planned Park and Recreational 1 Zone;

xvi. Commercial Park Zone.

2. (No change.)

SUBCHAPTER 4. ZONE REGULATIONS

19:4-4.6 Number of structures [and uses] on a lot

[Not more than one principal building shall be located on a single lot, nor shall a principal building be located on the same lot with any other principal building.]

(a) Not more than one single-family detached or two-family detached dwelling shall be located on a single lot. For all other uses permitted by these zoning regulations, more than one principal structure may be located on a single lot provided the lot has a minimum area of one acre. Total floor area ratio, building coverage and other regulations relating to intensity of use shall not be exceeded.

(b) Minimum distance between structures and the arrangement and location of structures, open space, landscaping, parking and circulation on a single lot shall be determined as part of site plan review and shall be consistent with good planning and engineering practice. Adequate light and air, fire and other safety considerations, privacy, circulation and parking shall be provided.

19:4-4.8 Obstructions in required yards

(a) The following shall not be considered to be obstructions and shall be permitted when located in a required yard:

1. In all yards: Open terraces not over four feet above the average level of the adjoining ground, but not including a permanently roofed-over terrace or porch; awnings or canopies; steps four feet or less above grade which are necessary for access to a permanent structure or for access to a lot from a street or alley; one-story bay windows and overhanging eaves and gutters projecting 30 inches or less into the yard; arbors [and trellises]; flag poles; signs, when permitted by N.J.A.C. 19:4-6.18[(e)]; [and] sidewalks[.] ; **and fences when permitted by N.J.A.C. 19:4-6.18.**

2. In any yard except a **required** front yard: Accessory uses permitted by N.J.A.C. [19:4-5.13] **19:4-4.145** and meeting the applicable minimum side yard requirements; recreational and laundry drying equipment; [open and closed fences not exceeding six feet in height;] and parking and loading facilities, provided that a minimum distance of six feet **of landscaping** is maintained between parking facilities and buildings.

[(b) If any provision in these regulations requires a fence in a front yard, or requires a fence that has a minimum height in excess of six feet in any yard except a front yard then such fence shall be a permitted obstruction within the meaning of this section.]

[(c)] **(b)** Private roads serving uses on other lots shall [not] **only** be permitted in [any zone] **side or rear yards and may only traverse the front yard perpendicular to the front property line. All required setbacks shall be measured from the private road. Private roads within low density residential zones must comply with N.J.A.C. 19:4-4.31.**

19:4-4.9 [Open space] **(Reserved)**

[(a) Open space shall be:

1. A landscaped area, on which those obstructions permitted in Section 9 herein and in N.J.A.C. 19:4-5.13(g) are permitted; or

2. Wetlands upon which no obstructions are permitted.

(b) Required yards which conform to the requirements of this Section may be considered open space in determining whether minimum open space requirements have been fulfilled.]

19:4-4.10 [Driveways for business and industrial districts] **Office trailers**

[No land which is located in the Low-Density Residential Zones shall be used for a driveway, walkway or access purpose to any land which is located in any zone created by Sections 33 through 120 of this Subchapter.]

(a) The use of trailers in any zone in connection with site construction shall be permitted subject to the following restrictions and regulations:

1. Trailers may be used as temporary offices, condominium sales offices, and/or field offices although not more than one night watchman or similar person may live in temporary residence in one such trailer.

2. A trailer shall not be moved onto a construction site until 60 days prior to the date upon which site work actually commences and shall be removed from a site on or before the issuance of a final certificate of occupancy unless a later removal is authorized by the Office of the Chief Engineer.

3. A permit for the location and use of any trailer shall be obtained from the Office of the Chief Engineer, in conjunction with a zoning certificate for the proposed construction.

4. The Office of the Chief Engineer may impose reasonable conditions relating to location, parking, access, signs and aesthetics with respect to trailers.

(b) Office trailers not associated with site construction are not permitted.

19:4-4.15 [Use limitations; marshland preservation zone] **Marshland preservation zone; use limitations**

(a) (No change.)

(b) (No change.)

19:4-4.23A Planned park zone 1; bulk regulations

(a) The bulk regulations for the planned park zone are:

1.-4. (No change.)

5. Minimal final finished floor [elevation of all places of public accommodation and dwelling units: ten feet mean sea level based on National Vertical Geodetic Datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.30 Low density residential zone; bulk regulations

(a) Bulk regulations in the low density residential zone include:

1. (No change.)

2. Minimum open space:

i. Single and two-family dwellings: 50 percent;

ii. Multiple-family dwellings: 35 percent[.];

iii. Other permitted uses and special exceptions: 35 percent.

3.-4. (No change.)

5. Minimum final finished floor [elevation for dwelling units: Ten feet mean sea level based on United States Coast and Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.31 Low density residential zone; design of structures and other improvements

The design of all structures and other improvements shall comply with the requirements of Subchapter 6. **No land which is located in the low density residential zone shall be used for a driveway, walkway or access purpose to any land which is located in any zone created by N.J.A.C. 19:4-4.45 through 4.156.**

19:4-4.39 Waterfront recreation zone; bulk regulations

(a) The bulk regulations in the waterfront recreation zone are:

1. (No change.)

2. The minimum open space is 40 percent. Open space in this [district] **zone** may include landscaped gravel and sand areas, tidally-affected marsh, open water, boardwalks and walkways, in addition to landscaping. Portions of the open space area may be used for **temporary winter** boat storage [during the winter].

3. (No change.)
4. Floor area ratio (F.A.R.): **0**.75;
5. Minimum final finished floor [elevation for all places of public accommodation and dwelling units: Ten feet mean sea level based on United States Coast & Geodetic datum] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.49 Highway commercial zone; bulk and density regulations

(a) The bulk and density regulations in the highway commercial zone are:

1.-6. (No change.)

7. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Floor Insurance Rate Maps (FIRM).**

19:4-4.59 Service-highway commercial zone; bulk regulations

(a) The bulk regulations for the service-highway commercial zone are:

1.-4. (No change.)

5. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.61 Service-highway commercial zone; environmental performance [standards] standards

(a) (No change.)

19:4-4.67 Research park zone; use limitations

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

(d) At least five percent of the first floor of any building containing warehouse facilities shall be designed and used for office space.

(e) Temporary warehouse sales are permitted no more than four times a year for a period not exceeding three days per event. Applications for sales shall be approved on a first come, first served basis.

19:4-4.69 Research park zone; bulk regulations

(a) The bulk regulations in the research park zone are:

1.-4. (No change.)

5. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.71 Research park zone; design of structures and [other improvements] **buffer requirements**

(a) (No change.)

(b) There shall be a 25 foot wide strip of landscaped open space, with heavy vegetative screening where any development borders a specially planned area, a residential planned unit development, the park and recreation zone, or the low density zone.

[(b)]**(c)** Where any development borders the Hackensack River or any of its tributaries there shall be a 50 foot wide strip of wetland necessary to insure proper drainage and edge effect at such border.

19:4-4.76 Research distribution park zone; use limitations

(a) (No change.)

(b) No **retail** sales[, motor freight facilities, or trucking operations] shall be permitted. **Trucking operations are only permitted**[, except] to the minimum extent necessary as incidental and accessory to a permitted or special permit use.

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

(e) Temporary warehouse sales are permitted no more than four times a year for a period not exceeding three days per event. Applications for sales shall be approved on a first come, first served basis.

19:4-4.78 Research distribution park zone; bulk regulations

(a) The bulk regulations in the research distribution park zone are:

1.-3. (No change.)

4. Yards:

i. (No change.)

ii. (No change.)

iii. Minimum rear yard: **100 feet.**

5. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.81 Research distribution park zone; buffer strip

(a) There shall be a 25-foot wide strip of landscaped open space, with heavy vegetative screening where any development borders a specially planned area, a residential planned unit development, the park and recreation zone, or the low density residential zone.

(b) Where any development borders the Hackensack River or any of its tributaries, there shall be a 50-foot wide strip of wetland necessary to insure proper drainage and edge effect at such border.

19:4-4.86 Light industrial zone A; use limitations

(a) (No change.)

(b) No [retail sales,] motor freight facilities or trucking operations shall be permitted, except as incidental and accessory to a permitted or special permit use.

(c) (No change.)

(d) Accessory retail sales are permitted in accordance with other provisions in these regulations.

(e) Temporary warehouse sales are permitted no more than four times a year for a period not exceeding three days per event. Applications for sales shall be approved on a first come, first served basis.

19:4-4.88 Light industrial zone A; bulk regulations

(a) The bulk regulations in light industrial zone A are:

1.-3. (No change.)

4. Yards:

i. (No change.)

ii. (No change.)

iii. Minimum rear yard: 100 feet[.], **except for office or any special exception: 75 feet.**

5. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.91 Light industrial zone A; design of structures and other improvements

The design of all structures and other improvements shall comply with the requirements [sign standards] of N.J.A.C. 19:4-6.18.

19:4-4.96 Light industrial zone B; use limitations

(a) All operations, activities and storage (except landing areas for helistops [and], off-street parking and loading, **mobile home, boat and auto sales/rental yards, and accessory lumber yards and home improvement centers**) shall be conducted within completely enclosed buildings.

(b) No [retail sales,] motor freight facilities or trucking operations shall be permitted, except as incidental and accessory to a permitted or special permit use.

(c) (No change.)

(d) Accessory retail sales are permitted in accordance with other provisions of these regulations.

(e) Temporary warehouse sales are permitted no more than four times a year for a period not exceeding three days per event. Applications for sales shall be approved on a first come, first served basis.

19:4-4.98 Light industrial zone B; bulk regulations

(a) The bulk regulations in light industrial zone B are:

1.-4. (No change.)

5. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.107 Heavy industrial zone; bulk regulations

(a) The bulk regulations in the heavy industrial zone are:

1.-4. (No change.)

5. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.117 Airport facilities zone; bulk regulations

(a) The bulk regulations in the airport facilities zone include:

1.-3. (No change.)

4. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum. This shall not apply, however, to runways, aprons, helicopter land pads and off-street parking.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.123 Sports complex zone; land not exempt

(a) Land not exempt from the jurisdiction of the Commission under [Section 122 of this Subchapter] **N.J.A.C. 19:4-4.122** herein shall be rezoned by the Commission [for] **from** the sports complex zone classification within three months after the occurrence of any of the following:

1.-2. (No change.)

19:4-4.129 Public utilities zone; bulk regulations

(a) The bulk regulations in the public utilities zone are:

1.-3. (No change.)

4. Minimum final finished floor [elevation: Ten feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

19:4-4.134 Application for zoning certificate

(a) (No change.)

(b) Every application for a zoning certificate shall include:

1. A plat, in [duplicate] **triplicate,** of the lot, drawn to scale and showing the actual dimensions of the lot;

2.-4. (No change.)

5. For the construction or moving of any structure or addition thereto, a site plan, as follows:

i. A survey of the tract that is to be developed showing existing features of the property, including building setback lines, [yards, streets, roads, alleys, easements, utility lines, existing land use, general topography and physical features;] **land uses, public right-of-ways, alleys, easements, utility lines, general topography and drainage, watercourse locations, and all natural features including plant material over three inch caliper;**

ii. (No change.)

iii. A statement or notation giving the proposed total gross floor area of all buildings, the percentage of the development which is to be occupied by structures, and such other information as is necessary to show compliance with the applicable lot size requirements and bulk regulations [of this resolution].

6.-7. (No change.)

[8. Plans and drawings showing the landscaping and screening of the site and the areas to be devoted to open space;]

8. Landscape plans and plant schedules showing the existing and proposed landscaping of the site and all areas to be devoted to open space. All such plans are to be sealed by a New Jersey Certified Landscape Architect if landscaped open space area is greater than 20,000 square feet.

9. A total architectural lighting plan including lighting at all entranceways, exits, pedestrian and parking areas;

[9.] **10.** If the land covered by the site plan is not to be subdivided, information sufficient to show that the requirements of Subchapters 5 and 6 of the subdivision regulations have been complied with;

[10.] **11.** Other such information as may be reasonably required.

19:4-4.135 Review and approval of application for a zoning certificate

(a) Within two weeks after the receipt of the complete application, the Office of the Chief Engineer shall approve the application by letter to the applicant and to the municipality in which the development is located which shall serve as a zoning certificate, if the application complies with the following standards:

1.-4. (No change.)

5. The proposed drainage system will be adequate for the proposed use and structures, will not adversely affect any adjacent or adjoining [development] **developed** lands and will be completely enclosed. [Final finish floor elevations shall be no less than ten-feet mean sea level, based on U.S. Coast and Geodetic datum.] **Minimum final finished floor elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM). If no base flood evaluation is provided by FEMA, then the final finished floor elevation shall not be less than ten feet above mean sea level based on U.S. Coast and Geodetic datum.**

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

19:4-4.136 Period of validity

A zoning certificate shall become null and void one year after the date on which it is issued, unless within such one year period, construction, moving, remodeling or reconstruction of a structure, or addition thereto, is commenced, or a **legal** use is commenced. **Additional extensions not exceeding one year each, may be granted by the Office of the Chief Engineer upon written application.**

19:4-4.140 Landscaping and maintenance of open space

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

(d) In the event that the applicant or his successors shall at any time after the issuance of an occupancy certificate fail to maintain any open space, the Office of the Chief Engineer may serve written notice setting forth any failure to maintain the open space in a reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within four weeks thereof and shall state the date and place of any hearing thereon which may be held. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within said four weeks or any extension thereof, the Office of the Chief Engineer, in order to preserve the taxable values of the surrounding properties and to prevent the open space from becoming a public nuisance, may enter upon the open space and maintain the same for a period of one year. Before the expiration of said year, the Office of the Chief Engineer shall, upon its initiative or upon the request of the applicant, call a public hearing at which the applicant shall show cause why such maintenance by the Office of the Chief Engineer shall not, at the election of the Office of the Chief Engineer, continue for a succeeding year. If the Office of the Chief Engineer shall determine that the applicant is ready and able to maintain the open space during the next succeeding year, and subject to a similar hearing and determination, in each year thereafter[.], **the maintenance responsibility shall revert to the owner.**

(e) (No change.)

19:4-4.141 Special exceptions

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

(d) A special exception permit shall not be granted unless specific written findings of fact are made based directly upon the particular evidence presented which support conclusions that:

1. The proposed special exception complies with all applicable [regulations] **requirements** of these regulations.

2.-7. (No change.)

(e)-(h) (No change.)

19:4-4.142 Variances

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

(d) [The Office of the Chief Engineer shall select a reasonable time and place at which to hold a public informational hearing to consider any application for a variance from the terms of this chapter. Notwithstanding the provisions of this section, in cases of variances from the area and bulk requirements of this chapter, the Office of the Chief

Engineer shall give notice, as required by law, but a public informational hearing on the matter shall not be required; provided, however, that comments in writing, relative to an application may be submitted to the Office of the Chief Engineer within 10 days of the receipt of notice.] **The Office of the Chief Engineer shall select a reasonable time and place at which to hold a public hearing in accordance with N.J.A.C. 19:4-6.22.**

(e)-(k) (No change.)

19:4-4.145 Accessory uses

(a) (No change.)

[(b) An accessory use is a structure or use which:

1. Is subordinate to and serves a principal building or a principal use;

2. Is subordinate in area, extent or purpose to the principal building or principal use served;

3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served; and

4. Is located on the same lot as the principal building or principal use served.]

[(c)] **(b)** Accessory structures and uses include, but are not limited to, the following:

1. Accessory uses not permitted on open space.

i. Private garages or carports[,] . [not to exceed the following capacity:

(1) For a single family residence: three cars;

(2) For a multiple family residence: two cars per dwelling unit.]

ii.-v. (No change.)

vi. Off-street parking and loading spaces, as regulated by 19:4-6.18[(c)];

vii. (No change.)

[viii. Restaurants, drug stores, gift shops, cocktail lounges, and newsstands when located in a permitted hotel, motel or office building;

ix. Employee restaurants and cafeterias when located in a permitted business or manufacturing building.]

2. Accessory uses permitted on open space.

i. (No change.)

ii. A private swimming pool and bath house;

(1) No part of the surface area of a private swimming pool shall be closer than 10 feet to the rear lot line nor closer than five feet to the side lot line and shall not be located in the front yard.

(2) The entire swimming pool area shall be fenced. The fence shall be a minimum of four feet in height and a maximum of six feet in height and shall be of such design that it controls access to the pool area. Where the pool is installed on a corner lot and the fence is not a solid fence, the side nearest the street shall be screened with shrubs not less than four feet in height and forming a visual barrier.

(3) No pool shall drain into a public sanitary sewer or be located in such a manner that the water from the pool drains onto another property.

iii.-v. (No change.)

[3. None of the following shall be permitted as an accessory use:

i. Outdoor storage or overnight parking of trucks or buses in the marshland preservation, park and recreation, and low density residential zones;

ii. Outdoor storage, except as specifically permitted by the zone regulations.

(d) Bulk regulations are as follows:

1. Accessory structures and uses shall have at least the same rear and side yard as is required for the principal structures located on the lot.

2. No part of any accessory structure shall be located closer than ten feet to any principal structure, unless it is attached to or forms a part of such principal structure.

3. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the zone in which they are located.

4. No accessory structure or use shall be permitted in any required front yard unless it is a permitted obstruction within the meaning of N.J.A.C. 19:4-4.9(a)1.]

(c) Bulk regulations are as follows:

1. Accessory structures shall comply with the bulk regulations applicable to principal structures in the zone in which they are located, except in the LDR zone where a five foot lot line setback is required.

2. No accessory structure or use shall be permitted in any required front yard unless it is a permitted obstruction within the meaning of N.J.A.C. 19:4-4.8(a).

19:4-4.148 Commercial Park Zone: permitted uses

(a) The following are permitted uses in the Commercial Park Zone:

1. Office buildings which must include a minimum of five percent of the total floor area (not including parking structures) to be utilized for restaurants, with [accessory] cocktail lounges, banks, retail shops, and/or theaters, all of which shall be oriented toward use by those employees within the same lot of record[.]**, but not limited thereto.**

2.-3. (No change.)

19:4-4.152 Commercial Park Zone: bulk regulations

(a) The following are bulk regulations in the Commercial Park Zone:

1.-4. (No change.)

5. Minimum final finished floor [elevation: 10 feet mean sea level based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Inusrance Rate Maps (FIRM).**

6. (No change.)

19:4-4.153 Commercial Park Zone: buffer requirements

(a) There shall be a 25-foot wide strip of landscaped open space, with heavy vegetative screening, where any development borders a specially planned area, a residential planned unit development, the park and recreation zone, or the low density residential zone.

(b) Where any development borders the Hackensack River or any of its tributaries, there shall be a 50-foot wide strip of wetland necessary to insure proper drainage and edge effect at such border.

SUBCHAPTER 5. SPECIALLY PLANNED AREA REGULATIONS

19:4-5.2 The parkside residential specially planned areas: PR-1, PR-2 and PR-3

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

(d) No general plan for any PR shall be approved under N.J.A.C. 19:4-5.8, no development plan shall be approved under N.J.A.C. 19:4-5.9, and no implementation plan shall be approved under N.J.A.C. 19:4-5.10 unless it contains the following types and amounts of development.

1. Residential development:

i.-viii. (No change.)

ix. The applicant shall make every possible effort before, during, and within five years after completion of the PR to provide, or cause others to provide, housing that will result in a community with a mix and balance of income levels that shall reflect regional housing needs and the range of job opportunities available in the Hackensack Meadowlands District. The Development Board may publish guidelines regarding the appropriate range of housing needs in the District and file them with the Office of the Chief Engineer. In preparing such guidelines, the Development Board shall consider the experience of developers of economically-integrated housing in the region as to what type of mix creates a stable and viable community, the profitability of other uses required and permitted in the PR, Federal and State guidelines, and other criteria and data that the Development Board determines to be appropriate. Although the amount of housing for the elderly and for low[,] **and** moderate[, and middle] income families shall be substantial, [if] **it** shall not be of such a high proportion as will make the conventionally-financed units unmarketable and the proposed development economically unfeasible[,]**;** and it shall be commingled with conventionally-financed units in substantially the same proportion in each section of the PR unless such commingling will render the conventionally-financed units unmarketable.

2. (No change.)
3. Common open space:
i. (No change.)
ii. Intra-neighborhood open space shall be located in one or more clusters within each neighborhood or intermingled among the uses of the PR. It shall contain recreation areas, facilities and playgrounds for children sufficient to meet the recreation needs of the residents of the neighborhood. A fee may be charged for recreational uses such as golf courses which require a substantial expenditure for maintenance. Intra-neighborhood common open space not allocated for recreational purposes should, wherever possible, incorporate into its design configuration and maintenance, the ecological characteristics of the wetlands. All intra-neighborhood common open space not used for recreational and/or natural wetland purposes, shall contain landscaped areas and may contain watercourses or other amenities. Every effort shall be made to preserve existing tide watercourses and their natural meanders. Landscaped areas shall contain lawn, tree and shrubbery, and pedestrian paths, ways and malls, and may contain flower and rock gardens, statues and sculpture, bicycle paths, and whatever other matter enhances the quality of the landscaped area. Cooperative gardening may be permitted in these open spaces. Landscaped areas contiguous to tidal watercourses[,] shall promote, wherever possible, [promote] natural wetlands vegetation. Structures for neighborhood meetings and activities and cultural activities may be built upon intra-neighborhood common open space.
iii.-vi. (No change.)
4-13. (No change.)
(e)-(g) (No change.)

19:4-5.6 The special use specially planned [acreas] **areas**: SU-1 and SU-2
(a)-(g) (No change.)

19:4-5.10 Implementation plan
(a) An applicant shall file an implementation plan or plans covering sections or subsections of a specially planned area for which a development plan or plans has already been approved as follows:
1.-3. (No change.)
4. **Minimum** [F]final finished floor [elevations shall be no less than ten feet mean sea level, based on United States Coast & Geodetic datum.] **elevations shall comply with the applicable 100 year base elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).**

SUBCHAPTER 6. GENERAL PROVISIONS

19:4-6.1 Performance standards; noise
(a) (No change.)
(b) The instrument shall be set to the A-weighted response scale and the meter [of] **to** the slow response. Measurements shall be conducted in accordance with [ANSI] **American National Standards Institute** S1.2—1962 "American Standard Method for the Physical Measurements of Sound".
(c) Impact noise shall be measured with an impact noise analysis meeting the standards of [ANSI or IEC.] **the American National Standards Institute or the International Electrotechnical Commission.**
(d)-(g) (No change.)
(h) [Noise not under the direct control of a use (such as independent transportation facilities) are excluded from the above limitations.] **Noises under the indirect and direct control of a use are included in the above limitations.**
(i) Construction on other temporary (60 days or less) uses which exceed the above limitation may be permitted if a noise mitigation plan is approved by the Office of the Chief Engineer.

19:4-6.5 Airborne emissions
(a) (No change.)
[1.](**b**) The emission of visible steam (having an equivalent capacity of 60 percent or higher) from all stacks, chimneys, processes, and devices shall not exceed the limitations set forth in Table [IV] **III**.
Table III (No change.)
[2.](**c**) The emission of particular matter from all stacks, vents, chimneys, flues and openings of all sources of air pollution on a lot shall not exceed the limitations set forth in Table IV or the New Jersey State Standards, whichever is more restrictive.
Table IV (No change.)
[3.](**d**) In a planned unit development or specially planned area, the emission limit shall apply to the development as a whole, based on the total area of land and water in the development.
[4.](**e**) If any toxic matter is emitted which is listed by the American Conference of Governmental Hygienists or any other lists published by the State of New Jersey or U.S. Government, the applicant shall satisfy the Office of the Chief Engineer that the quantity and type of emission of this matter will be safe to the general population.
[5.](**f**) No odor shall be emitted that is detectable by the human olfactory sense at or beyond an adjacent lot line.

19:4-6.7 [Fire and explosion hazards] **Performance standards; hazardous materials, liquids and chemicals**
(a) In all [districts] **zones and specially planned areas**, any activity involving the manufacture, utilization, or storage of **explosive,** flammable, **highly** combustible, **highly toxic, corrosive, or unstable** [and/or explosive] materials shall be conducted in accordance with the regulations [promulgated by the Department of Labor and Industry of the State of New Jersey, or with the National Fire Codes of the National Fire Protection Association, whichever is more restrictive.] **of the New Jersey Uniform Construction Code, N.J.A.C. 5:23-1.1 et seq.; the New Jersey Uniform Fire Code, N.J.A.C. 5:18-1.1 et seq. and the New Jersey Right-to-Know Law, N.J.S.A. 47:1A-1 et seq.**
(b) (No change.)
(c) [Uses subject to] Category A standards [involving the storage, manufacture or utilization of materials and products which decompose by detonation are permitted up to five pounds of such materials. The storage, utilization, and manufacture of materials and products which decompose by detonation in excess of five pounds is not permitted.
(d) The storage, utilization or manufacture of solid materials or products or products, ranging from incombustible to moderate burning is permitted.
(e) The storage, utilization or manufacture of solid materials or products ranging from active to burning to intense burning is permitted provided that said materials or products are stored, manufactured, or utilized in fire resistant and fire protected buildings or spaces.
(f) The storage, utilization or manufacture of flammable liquids or gases shall be permitted in accordance with Table X.]
1. All uses that are classified as high hazard under the New Jersey Uniform Construction Code shall not be permitted.

[TABLE V]
[TOTAL CAPACITY OF FLAMMABLE MATERIALS PERMITTED UNDER CATEGORY A STANDARDS]

[Liquid Flash Point] [(Closed Cup Tester)]	[Above Ground]	[Below Ground]
[140°F or higher]	[30,000 gallons]	[100,000 gallons]
[Above 73°F but below 140°F]	[10,000 gallons]	[100,000 gallons]
[73°F and below]	[2,000 gallons]	[100,000 gallons]
[Flammable gases]	[60,000 gallons]	[3,000,000 SCF*]

[SCF is abbreviation for standard cubic feet, see definitions.]

[(g) Uses subject to] (**d**) Category B standards: [involving the manufacture or utilization of materials and products which decompose by detonation are permitted up to five pounds of such materials. In the zones, the storage and/or utilization (but not manufacture) of materials and products which decompose by detonation in excess of five pounds may be allowed only as a special exception. The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted.
(h) The storage, utilization or manufacture of solid materials or products ranging from active burning to intense burning is permitted provided that said materials or products are stored, manufactured, or utilized in fire resistant and fire protected buildings or spaces. Said materials or products may be stored outdoors provided such storage is set back at least 50 feet from all lot lines.

(i) The storage, utilization or manufacture of flammable liquids or gases shall be permitted in accordance with Table XI, except that the storage of finished products in original sealed containers of 55 gallons or less shall be unrestricted.]

[TABLE VI]
[TOTAL CAPACITY OF FLAMMABLE MATERIALS PERMITTED UNDER CATEGORY B STANDARDS]

[Liquid Flash Point] [(Closed Cup Tester)]	[Above Ground]	[Below Ground]
[140°F or higher]	[100,000 gallons]	[100,000 gallons]
[Above 73°F but below 140°F]	[50,000 gallons]	[100,000 gallons]
[73°F and below]	[10,000 gallons]	[100,000 gallons]
[Flammable gases]	[300,000 SCF*]	[3,000,000 SCF*]

[SCF is abbreviation for standard cubic feet, see definitions.]

1. The storage and/or utilization (but not manufacture) of materials and products which decompose by detonation may be allowed in quantities of five pounds or less only as a special exception. The storage, utilization and manufacture of materials and products which decompose by detonation in excess of five pounds is not permitted.

2. The storage, utilization and manufacture of hazardous materials, liquids and chemicals (other than materials or products which decompose by detonation) shall be permitted as an accessory to the principal use provided the area devoted to such accessory use does not occupy more than 10 percent of the building floor area.

3. The storage, utilization or manufacture of hazardous materials, liquids and chemicals (other than materials or products which decompose by detonation) may be allowed as a principal use only as a special exception.

[(j) Uses subject to] **(e)** Category C standards: [involving the storage, manufacture or utilization of materials and products which decompose by detonation are permitted up to five pounds of such materials. The storage and/or utilization (but not manufacture) of materials and products which decompose by detonation in excess of five pounds may be allowed only as a special exception.

(k) The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted.

(l) The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted provided that said materials or products are stored, manufactured or utilized in fire resistant and fire protected buildings or spaces. Said materials or products may be stored outdoors provided such storage is set back at least 50 feet from all zoning district boundary lines.

(m) The storage, utilization or manufacture of flammable liquids or gases shall be permitted in accordance with Table XII, except that the storage of finished products in original sealed containers of 55 gallons or less shall be unrestricted.]

[TABLE VII]
[TOTAL CAPACITY OF FLAMMABLE MATERIALS PERMITTED UNDER CATEGORY C STANDARDS]

[Liquid Flash Point] [(Closed Cup Tester)]	[Above Ground]	[Below Ground]
[140°F or higher]	[No capacity limit]	[No capacity limit]
[Above 73°F but below 140°F]	[2,000,000 gal.]	[10,000,000 gal.]
[73°F and below]	[1,000,000 gal.]	[10,000,000 gal.]
[Flammable gases]	[50,000,000 SCF*]	[100,000,000 SCF*]

[SCF is abbreviation for standard cubic feet, see definitions.]

1. The storage and/or utilization (but not manufacture) of materials and products which decompose by detonation may be allowed in quantities of five pounds or less only as a special exception. The storage, utilization and manufacture of materials and products which decompose by detonation in excess of five pounds is not permitted.

2. The storage, utilization or manufacture of hazardous materials, liquids and chemicals (other than materials or products which decompose by detonation) shall be permitted as an accessory to the principal use provided the area devoted to such accessory use does not occupy more than 10 percent of the lot area. Said materials or products may be stored outdoors provided such storage is set back at least 50 feet from all lot lines and is properly screened.

3. The storage, utilization or manufacture of hazardous materials, liquids and chemicals (other than materials or products which decompose by detonation) may be allowed as a principal use only as a special exception. Said materials or products may be stored outdoors provided such storage is set back at least 50 feet from a lot line and is properly screened.

[(n) The limitations of Table XII apply only for locations which are 300 feet or more from a district boundary. If any part of the facility, including storage dike, is closer than 300 feet from another zone, the more restrictive of the limitations for the two districts shall apply.]

(f) Whenever any facility or part thereof, including storage dike, which stores, utilizes or manufactures hazardous materials, liquids and chemicals is within 300 feet from another zone, the more restrictive of the environmental performance standards for the two districts shall apply.

19:4-6.8 Definitions regarding [fire and explosion hazards] **hazardous materials**

["Active to intense burning" means a rate of combustion exhibited by material that burns with a high degree of activity and is consumed rapidly. Examples: sawdust, powdered magnesium, pryoxylin, and so forth.

"Detonation" means a violent and sudden explosion resulting from the instantaneous reaction of a mixture compound or substance.

"Flash point" means the lowest temperature at which a flammable liquid will momentarily burn under prescribed conditions. The closed cup flash point tester shall be authoritative and the test shall be run in accordance with the appropriate ASTM method (American Society for Testing & Materials) as outlined in Safety Regulations No. 51, Flammable and Combustible Liquids of the New Jersey Department of Labor and Industry.

Materials) as outlined in Safety Regulation No. 51, Flammable and Combustible Liquids of the New Jersey Department of Labor and Industry.

"Incombustible" means incapable of burning and propagating a flame when exposed to a temperature of 1200°F for at least five minutes.

"Moderate burning" means a degree of combustion where the material is difficult to ignite and burns in a controlled fashion. Examples: lumber, hardboard, low fire spread plasterics, rubber, and so forth.

"Standard cubic foot (SCF)" means a cubic foot of a gas as measured at the standard conditions of temperature and pressure: 60°F and 29/92 inches mercury, respectively.]

All definitions regarding hazardous materials, liquids, and chemicals shall be in accordance with nationally recognized codes and standards.

19:4-6.9 **Performance standards;** [G]glare

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

19:4-6.11 **Performance standards;** [R]radioactive materials

(a) (No change.)

[1.](**b**) Performance standard category A: [the] **The** manufacture, storage, or utilization of unsealed radioactive materials shall be limited to one million (10^6) times the quantities listed in Table IX.

[2.](**c**) Performance standard category B: [the] **The** manufacture, storage, or utilization of unsealed radioactive materials shall be limited to ten million (10^7) times the quantities listed in Table IX.

[3.](**d**) Performance standard category C: [the] **The** manufacture, storage, or utilization of unsealed radioactive materials shall not be limited **as to quantity** except as regulated in the New Jersey Radiation Protection Code.

19:4-6.14 [Water quality] **Performance standards; water**

(a) It is the objective of these water standards that the waters of the Hackensack Meadowlands District be suitable for secondary contact recreation but not primary contact recreation, the maintenance and propagation of fish populations, the migration of anadromous fish, the

maintenance of wildlife, and other reasonable uses in conformance with N.J.A.C. 7:9-7.19 et seq.

[(a)](**b**) **Permanent sewage facilities:** All uses established or changed, or any structure which is constructed, moved, remodeled, or reconstructed in the Hackensack Meadowlands District after the effective date of this resolution shall discharge liquid waste into the central sewerage system as developed. No liquid wastes may be discharged into the Hackensack River or its tributaries as sewer interceptors become available. Discharges from the central sewerage system into the Hackensack River shall comply with the standards of **this** subsection [4 herein]. No discharge from the [central] **public** sewerage system shall be made into any tributary of the Hackensack River. All discharges into the [central] **public** sewerage system shall meet the following values [at] **as** a minimum:

1. A five-day B.O.D. not to exceed [350] **250** mg/l **by weight,** during any period of discharge;

[2. pH shall not be less than 6.0 nor greater than 150°F;

3. Temperature of discharge not to exceed 150°F;

4. Fats, oil and greases not to exceed 100 mg/l by weight;

5. Suspended solids shall not exceed 350 mg/l by weight.]

2. Suspended solids shall not exceed 270 mg/l;

3. Chemical oxygen demand shall not exceed 500 mg/l;

4. Fats, oils, and grease shall not exceed 100 mg/l;

5. Temperature of discharge shall not exceed 100°F;

6. pH shall not be less than 6.0 or greater than 9.0;

7. Phenols shall not exceed 1.0 mg/l. Sulphites shall not exceed 1.5 mg/l;

8. No discharge shall have a chlorine demand exceeding 20 mg/l;

9. Radioactive compounds shall not be permitted in a public sewerage system;

10. The discharge of the following toxic compounds shall not exceed: cyanides 1.0 mg/l, cadmium .02 mg/l, lead .05 mg/l, mercury .05 mg/l, and chromium .50 mg/l.

i. Compliance with these values shall be determined by a daily composite sample, in accordance with "Standard Methods for Examination of Water and Wastewater", latest revision.

ii. Discharges of industrial wastewaters into a public sewerage system shall be analyzed for a 28 day B.O.D. A graph of dissolved oxygen versus time in days shall be used to display the 28 day B.O.D. Based on data from this analysis, the Office of the Chief Engineer may require additional chemical and physical analyses.

iii. Exclusions: Nothing contained in this subsection shall prevent discharges into a public sewerage system where the quality of the effluent is at variance with the standards contained herein provided, however, that:

(1) The amount and quantity of the wastewater discharged complies with the standards established by the United States Environmental Protection Agency, 40 FR Part 128, and 40 FR Part 133, or their latest revision; and

(2) The sewerage authority treating such effluent has agreed, in writing, to accept such effluent. The applicant can also demonstrate to the Chief Engineer that the quantity and quality of the pollutants discharged will not cause the sewerage authority to violate its pollution limitations pursuant to their NJPDES Permit.

(3) In the absence of a limitation for a particular pollutant, the applicant shall demonstrate to the Office of the Chief Engineer that the treatment plant is able to reduce the pollutant to a level which will not interfere with the use of the waters of the Hackensack Meadowlands District for secondary contact recreation, the propagation, maintenance and migration of fish and wildlife and other reasonable uses.

(c) Temporary wastewater facilities: Prior to the availability of public sewerage facilities, uses established or changed, or any structure which is constructed, moved or remodeled, or reconstructed in the Meadowlands District after the effective date of this resolution can be utilized only with the following temporary sewerage facilities:

1. Temporary wastewater facilities may discharge directly into the Hackensack River or its tributaries under the following conditions:

i. The discharge conforms with the standards of this subsection;

ii. The discharge will not impair and/or interfere with the functioning of the river, its tributaries, or the marsh-estuarine ecosystem of the Hackensack Meadowlands District; and

iii. Application is made pursuant to (e) below.

2. Temporary wastewater facilities which hold or contain wastewater and do not discharge directly into the Hackensack River or its tributaries may be permitted upon a showing of the following requirements:

i. The wastewater facility has a volumetric capacity of less than five daily volumes of wastewater;

ii. The wastewater facility is constructed of materials which are impervious, watertight, and non-corrosive; and

iii. Copies of a contract indicating the terms, conditions, and firm or entity engaged to maintain the wastewater facility are provided.

3. Septic tanks shall not be permitted for use as a temporary wastewater facility unless it can be demonstrated to the Office of the Chief Engineer that such facilities comply with the standards set forth in this subsection.

[(b)](**d**) Prior to the availability of [central] **public** sewerage system facilities, uses established or changed, or any structure which is constructed, moved, remodeled, or reconstructed in the Meadowlands District after the effective date of this resolution may discharge into the Hackensack River or its tributaries only under the following conditions:

1. The discharge conforms with the standards of **this** subsection [4 herein];

2. The discharge will not impair and/or interfere with the functioning of the [river] **Hackensack River** or its tributaries;

3. Application is made pursuant to [3] **(e) below**.

[(c)](**e**) The Office of the Chief Engineer may upon application and in connection **with** an application for a Zoning Certificate pursuant to [§6-202] **N.J.A.C. 19:4-4.134** issue a permit for construction and operation of a temporary [sewage] **sewerage** facility. The application shall contain:

1. A written statement by the governing body or appropriate public agency of the municipality within which the premises are located that a connection to a public sewerage system cannot be made available to the applicant prior to the issuance of a certificate of occupancy, as provided in N.J.A.C. 19:4-4.139;

2. A written statement by the applicant of [his] **their** willingness and ability to make connection with a public sewerage system when it is made available; [and]

3. Data sufficient to show that any temporary [sewage] **sewerage** facilities to be constructed [or, if the application is on a renewal of a permit, or already constructed,] will be able to treat the discharge so that it will conform with the standards of **this** subsection. [(c) therein]

4. (No change.)

[(d)](**f**) Each permit shall be valid for a period of six months and may be renewed upon application for additional periods of time, each period of time not to exceed six months.

[(e)](**g**) If an applicant has installed a temporary sewerage facility pursuant to a validly issued permit, the Chief Engineer shall issue, upon compliance with the requirements established herein, a certificate of occupancy pursuant to the provisions of [§6-207] **N.J.A.C. 19:4-4.139** said permit to be valid and remain in effect so long as the applicant has a valid permit to construct and operate a temporary sewerage facility. Upon the applicant's demonstration to the satisfaction of the Chief Engineer that [he has made] a permanent connection with a public sewerage system **has been made**, the Office of the Chief Engineer shall consider an application to issue a permanent certificate of occupancy.

[(f) It is the objective of these water quality standards that the waters of the Hackensack Meadowlands District be made suitable for secondary contact recreation but not primary contact recreation; the maintenance of fish populations; the migration of anadromous fish; the maintenance of wildlife; and any other reasonable uses.]

[(g)](**h**) The flow from any pipe, conduit, or any other source discharging into the river or its tributaries shall meet the following values:

1.-15. (No change.)

19:4-6.16 Wetlands buffer strip; water quality

(**a**) Where any development borders the Hackensack River or any of its tributaries, there shall be a 50 foot wide strip of wetland[, or as otherwise necessary] to insure proper drainage and edge effect at such border. **Buffer strips along the Hackensack River and/or one of**

its tributaries should serve a biological function by contributing ecologically to the river and/or its tributaries and wetlands.

(b) Buffer strips in (a) above are to be measured from the mean high water line. Required buffer strips from manmade watercourses or channels shall be determined by the Office of the Chief Engineer based upon ecological and engineering considerations.

19:4-6.18 Design of structures; provision and design of other improvements, including parking and loading facilities, **landscaping, lighting, fencing** and signs

(a) The design of buildings, including roofs, should maximize aesthetic values. The most farsighted and imaginative architecture concepts for building design should be used. The following principles of design should be considered in judging whether any building is in compliance with this Section: balance; proportion of mass and detail; harmony—facade elements must be in harmony with each other (the achievement of such relationships may include the enclosure of space in conjunction with other buildings and the creation of focal points with respect to avenues of approach, terrain features, or other buildings) and structures shall not create disharmony with other structures and with their other surroundings; scale of structures to the surroundings; and the relation and use of voids and solids, lines, shapes shadow and light, colors, and building materials. **The Chief Engineer may also require additional fire and life safety design standards as appropriate.**

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

[(e) Design standards include:

1. A required off-street parking space shall be at least eight feet six inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps, columns, office or work area.

2. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

3. All open off-street parking areas except required parking spaces accessory to a single-family dwelling shall be graded and paved or otherwise improved with an all-weather dustless material.

4. All off-street parking areas shall be conveniently located to the uses they are intended to serve and shall be located so as to maximize safety in entering or leaving the area and neighboring property values. No ditches may be placed near such areas. All areas shall be so located and designed to minimize any adverse or detrimental effect on any adjoining lot located in a specially planned area or any adjacent lot located in a planned unit development, or zone created in N.J.A.C. 19:4-4.18 to 19:4-4.81 and separated from the use only by a street, alley or way.

5. All parking spaces required to serve buildings or uses shall be located on the same lot as the structure or use served.

6. Parking and aisles serving such parking are prohibited in any front yard and permitted, unless otherwise provided, in any side yard. In the Low Density Residential Zone no such parking spaces shall be located in a required front yard or a required side yard adjacent to a street. Enclosed buildings and carports containing off-street parking shall be subject to the yard requirements applicable in the zone in which located.

7. All open off-street parking areas containing more than six parking spaces shall be effectively screened by a fence or densely planted compact evergreen hedge not less than six feet nor more than eight feet in height in all specially planned areas; planned unit development; in all zones where such parking adjoins any property situated in a residential district by a wall; and where otherwise needed to insure privacy for residential areas. Parking areas shall be arranged and designed so as to prevent damage to, or intrusion into, such wall, fence or hedge. Spaces shall be installed between rows of stalls, and trees, flowers, and shrubbery shall be grown therein and maintained.

8. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to interfere with the residential use.

9. Off-street parking spaces shall comply with such design standards relating to curb length, stall depth, driveway width, island width, barriers, and ingress and egress as may be established from time to time by the Development Board. Off-street parking spaces may be open to the sky, unless otherwise provided, or enclosed in a building.]

(e) **Parking design standards include:**

1. Off-street parking spaces, dimensions, aisle widths, driveways and any dimensions for various parking configurations shall be as indicated in the HMDC Guidelines. All parking stalls shall be a minimum of 8½ feet in width and 18 feet in depth, and two feet in any stall length may be provided as a landscaped overhang area, provided full depth concrete curbing is installed.

2. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space in accordance with HMDC Guidelines. Parking spaces which back-out directly into the street are prohibited except for one and two-family dwellings.

3. The number and dimensions of parking spaces for the handicapped shall meet the requirements set forth in the State Department of Community Affairs, Barrier Free Subcode, N.J.A.C. 5:23-7.1 et seq. The property owner shall notify the respective municipality of the location of handicapped parking spaces provided on site.

4. Entrances and exits shall be well defined and clearly marked with appropriate directional arrows and/or signs. All parking stalls shall be marked with two inch wide lines (minimum).

5. Entrances and exits shall be located in a safe and convenient pattern with minimal impact on traffic movement on adjacent streets. They shall not be located within the required line-of-sight triangle of an intersection as defined in the HMDC subdivision regulations or less than 50 feet from the projected intersecting curb lines, except in the Low Density Residential Zone.

6. No motor vehicle repair work or service of any kind shall be permitted in connection with any non-residential off-street automobile parking facilities.

7. The Office of the Chief Engineer may require that certain areas be maintained for fire fighting or other emergency purposes, and those areas shall be appropriately designated.

8. Adequate pedestrian circulation shall be provided between parking areas and the buildings that they are designed to serve. Such circulation shall include raised sidewalks on center islands, designated and striped areas, and similar methods to separate pedestrian from vehicular traffic.

9. Parking areas, loading areas and driveways, except for one and two-family detached residences shall be curbed with full depth concrete or granite block and paved or otherwise improved with an all-weather, dustless material in accordance with HMDC Guidelines.

10. All parking areas shall be drained so as to direct surface water runoff to a stormwater drainage system for eventual subsurface or stream disposal. All drainage and grading plans shall be approved by the Office of the Chief Engineer.

(f) [No motor vehicle repair work or service of any kind shall be permitted in connection with any off-street parking facilities.] **(Reserved)**

(g) Off-street parking spaces accessory to the uses hereinafter designated shall be provided as follows:

1. Hotels and motels: **At least** one parking space **but not more than 1.25** for each rental unit, plus such spaces as are required for restaurants, assembly rooms and affiliated facilities;

2. (No change.)

3. Multiple-family dwellings: at least [one and one-half] **two** parking spaces for each dwelling unit;

4. (No change.)

5. **(Reserved)** [All business and commercial establishments, except those specified hereafter: at least one parking space for each 500 square feet of floor area;]

6. (No change.)

7. Automobile service stations: at least two parking spaces **but not more than three parking spaces** for each service bay, plus one for each employee, but not less than five parking spaces;

8. Medical and dental clinics[;]: at least two parking spaces for each examination or treatment room, plus one for each doctor and employee of the building[;], **but not to exceed one parking space per 200 square feet;**

9. Office, professional and public administration or service buildings: at least [one] **two and one-half** parking spaces for each [400]

1,000 square feet of floor area[;], **but no more than three and one-half parking spaces for each 1,000 square feet of floor area;**

10. Cartage, express, parcel delivery and freight terminal establishments: at least one parking space **but no more than one and one-half** for each two employees as related to the working period when the maximum number of persons are employed on the premises, and one parking space for each vehicle maintained on the premises;

11. Establishments handling the sale and consumption on the premises of food, beverages, and refreshments: at least [one] **0.33, but not more than 0.75** parking space for each [three] person[s] based upon the maximum number of persons that can be accommodated at the same time in accordance with the designed capacity, provided that drive-in restaurants shall have a minimum of ten parking spaces;

12. Establishments utilizing open sales lots, such as motor vehicle sales lots: at least one parking space for each 400 square feet of enclosed floor area and at least one parking space for each 3,000 square feet of open lot area devoted to the sale and display of merchandise[;]**,provided that the maximum shall not exceed that required by these regulations for such use by more than 25 percent;**

13. Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing, or repairing of goods, materials or products: at least one parking space for each two employees as related to the working period when the maximum number of persons are employed on the premises, [and] **or** at least one parking space for every 1,000 square feet, whichever is greater. Warehouses, storage and wholesale establishments, one parking space for every 1,500 square feet[;] **, provided that the maximum shall not exceed that required by these regulations for such use by more than 10 per cent;**

14. Automobile laundries: at least **three but not more than** four **and one-half** parking spaces for each stall in a self-service establishment, and at least **two and one-half but not more than** three **and one-half** parking spaces for each 20 linear feet in attendant operated establishments;

15. Theatres and auditoriums: at least one parking space for each **four** seats[;]**, but not more than one parking space for each two seats**[.]**;**

16. Secondary schools, public or private: at least **one and one-half but not more than** two **and one-half** parking spaces for each three faculty members and [one] **at least 0.75 but not more than 1.25** for each eight students, based upon the maximum number of students attending classes on the premises at any one time in any 24-hour period;

17. Primary and intermediate schools, nursery schools, and group day care centers, public or private: at least one **but not more than 1.5** parking spaces for each three faculty members and other full-time employees;

18. Hospitals: at least one parking space for each two hospital beds, plus one parking space for each two employees (other than doctors), plus one parking space for each doctor assigned to the staff[;] **provided that the maximum shall not exceed three parking spaces per bed;**

19. Nursing and convalescent homes: one parking space for each [two] **three** patients, based on the designed maximum capacity, plus one parking space for each two employees or staff members[;] **but the maximum is not to exceed one parking space for each two patients;**

20. Churches and temples: at least one parking space for each eight seats in the main place of worship[;]**, but not to exceed one parking space for each five seats;**

21. Private clubs and lodges: at least one parking space for each [three] **four** persons, based on the maximum number that can be accommodated at the same time in accordance with designed capacity[;] **but not to exceed one parking space for each two and one-half persons;**

22. **Public** [S]swimming pools and **private swim** clubs[; at least]: one parking space for each 38 square feet of water area[;]**, or 15 spaces per acre of site area, whichever is greater;**

[23. Gymnasiums and other placed of assembly with fixed seats: at least one parking space for each four seats;]

[24.]**23.** Gymnasiums and other places of assembly [without fixed seats]: at least one parking space for each three persons, **but not to exceed one parking space for each two persons,** based upon the designed maximum capacity;

[25.]**24.** Parking spaces for other permitted [or] **uses,** special uses, **or special labor intensive uses,** not listed above shall be provided in accordance with the determination of the Chief Engineer with respect to the number of spaces that are required to serve employees and/or the visiting public at each such use;

[26.]**25. Shared** [O]off-street parking facilities for separate uses **with different peak generator hours** may be provided collectively. [if] [t]The total number of spaces [so] furnished [is] **shall** not **be** less than the [sum of the separate requirements for each such use] **sum of the spaces required for those uses during peak generator hours, based upon a submitted and approved traffic study** and provided that all regulations covering the location of accessory parking spaces in relation to the use served are adhered to[;]**. However, land for the sum of the separate parking requirements for each use must be allocated in the form of either excess open space or future parking deck. This arrangement must be recorded in the form of a Deed Restriction;**

[27.]**26.** When determinations of the number of off-street parking spaces required by these regulations result in a requirement of a fractional space, the fraction of [one-half] **1/2** or less may be disregarded, and a fraction in excess of [one-half] **1/2** shall be counted as one parking space.

(h) Off-street loading standards include the following:

1.-3. (No change.)

4. All open on-site loading shall be improved with a compacted select gravel base, not less than seven inches thick, surfaced with an [allweather] **all-weather**, dustless material.

5. All off-street loading facilities shall be so located or effectively screened so as not to be visible from any point in any specially planned area, planned unit development, [or zone created by §§6-103—6-106 and 6-108—6-109] **public right-of-way or residential use or zone** and shall be otherwise screened to insure privacy or protect property values.

6. (No change.)

7. Any lighting [uses] **used** to illuminate off-street loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.

8. On-site loading facilities shall comply with such other design standards as may be established from time to time by the Development Board. On-site loading facilities may be open to the sky or enclosed in a building[,]. [unless otherwise provided.]

9. No **major** [motor vehicle] **truck** repair work or service of any kind shall be permitted in conjunction with any on-site loading facilities **except in the Heavy Industrial zone.**

(i) On-site loading berth requirements include:

1. (No change.)

2. On the same lot with every building, or part thereof, erected hereafter in any zone or in close proximity to any use erected in a specially planned area for which loading spaces are required, there shall be provided adequate space for motor vehicles to load and unload in order to avoid interference with the public streets or alleys. Such space shall include the following minimum loading spaces:

i.-ii. (No change.)

iii. For all other uses in the planned park and recreation 1, waterfront recreation, **commercial park,** [office-] highway commercial, and service-highway commercial zones, for all nonresidential and nonindustrial uses in all [public] **planned** unit developments, loading facilities shall be provided in accordance with the following table:

Gross Floor Area of Establishments in Thousands of Square Feet	Required Number and Size of Loading Berths
1-10	1-(10′ x 25′)
10-25	2-(10′ x 25′ each)
25-40	2-(10′ x 60′ each)
40-100	3-(10′ x 60′ each)

[iv.] **(1)** For each additional 200,000 square feet of gross floor area, or any fraction thereof[,] over 100,000 square feet of gross floor area, one additional loading berth shall be provided. Each such additional loading berth shall be at least ten feet in width by 60 feet in length.

iv. (Reserved)

v. For all uses in the research [-office] park, research [-office] distribution park, light industrial and distribution A and B, heavy industrial, and (except for hotels and motels) airport facilities zones and for all industrial uses in planned unit developments, loading facilities shall be provided in accordance with the following table:

Gross Floor Area of Establishments in Thousands of Square Feet	Required Number and Size of Loading Berths
1-10	1-(10′ x 25′)
10-40	1-(10′ x 60′)
40-100	[1]* 2-(10′ x 60′ each).

[vi.] For each additional 100,000 square feet of gross floor area, or any fraction thereof over 100,000 square feet of gross floor area, one additional loading berth shall be provided. Each such additional berth shall be at least 10 feet in width by 60 feet in length.

3. (No change.)

[(j) No sign, unless exempt under paragraph 5 of this subsection hereof, shall hereafter be constructed or erected, and no existing sign shall be moved, remodeled, or expanded unless such sign complies, or with thereafter comply, with the following regulations:]

[1. No sign, except for signs listed in paragraph 5 of this subsection herein shall be constructed, erected, moved, remodeled, or expanded until a zoning certificate for such sign has been obtained or unless part of an approved implementation plan. No zoning certificate for any sign shall be issued unless the sign complies with the regulations set forth herein.]

[2. Functional types:

i. A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located or to which it is affixed.

ii. A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcements of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.

iii. A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or an entertainment offered, on the premises where the sign is located or to which it is affixed.

iv. A temporary sign indicating the names of architects, engineers, landscape architects, contractors, and similar artisans involved in the design and construction of a structure or project only during the construction period and only on the premises on which the construction is taking place.

v. A sign giving the name and/or address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

vi. A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and, where applicable, a professional status.

vii. A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures or a portion thereof located thereon.]

[3. Structural types:

i. A sign is mounted or painted on, or attached to, an awning, canopy, or marquee that is otherwise permitted by these regulations. No such sign shall project above, below, or beyond the physical dimensions of the awning, canopy or marquee.

ii. Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property. Signs on accessory structures shall be considered ground signs.

iii. A sign that is mounted on a free-standing pole, the bottom edge of which sign is six feet or more above ground level.

iv. A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

v. A sign fastened to a wall or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.

vi. A sign that is fastened to or painted on the roof of a building or structure.]

(j) No sign, unless exempt under (j)3. below, shall hereafter be constructed, erected, moved, remodeled, or expanded until a zoning certificate for such sign, indicating compliance with these regulations, has been obtained, or unless it is part of an approved implementation plan. No zoning certificate for any sign shall be issued unless the sign complies with the following:

1. Sign definitions (sign functions):

i. Advertising sign means a sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located or to which it is affixed.

ii. Bulletin board means a sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcements of persons, events or activities occurring at the institution, or other greeting or similar message.

iii. Business sign means a sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or an entertainment offered, on the premises where the sign is located or to which it is affixed.

iv. Construction sign means a temporary sign indicating the names of architects, engineers, landscape architects, contractors, and similar artisans involved in the design and construction of a structure or project erected only during the construction period and only on the premises on which the construction is taking place.

v. Identification sign means a sign giving the name and/or address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

vi. Nameplate means a sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and, where applicable, a professional status.

vii. Real estate sign means a sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures or a portion thereof located thereon.

2. Structural sign types:

i. Awning: **Any sign mounted or painted on or attached to an awning, canopy,**

or marquee that is otherwise permitted by these regulations. No such sign shall project above, below or beyond the physical dimensions of the awning, canopy or marquee.

ii. Ground: Any sign placed upon or supported by the ground independent of the principal or accessory building or structure on the property.

iii. Pole: Any sign that is mounted on a free-standing pole, the bottom edge of which sign is six feet or more above ground level.

iv. Projecting: Any sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

v. Wall and Window: Any sign fastened to a wall or structure in such a manner that the wall becomes merely the support structure or forms the background surface, and which does not project more than 12 inches from such building.

vi. Roof: Any sign that is fastened to or painted on the roof of a building or structure.

3. Exemptions:

i. The following signs shall be exempt from the requirements of this subsection:

(1) Flags or emblems of a government or of a political, civic, philanthropic, education or religious organization, displayed on private property, provided no sign exceeds 250 square feet;

(2) Signs of a duly constituted governmental body including traffic or similar regulatory devices, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping and so forth;

(3) Memorial signs and tablets displayed on private property;

(4) Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulations;

(5) Signs not exceeding five square feet in area displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking area, one-way drives, rest rooms, freight entrances and the like.

ii. The following signs are exempt from the zoning certificate requirement of (j)1 above, but shall comply with all other requirements of this subsection:

(1) Nameplate signs not exceeding two square feet in gross surface area accessory to a multiple-family dwelling;

(2) Identification signs not exceeding 20 square feet in gross surface area accessory to a multiple-family dwelling;

(3) Bulletin board signs not exceeding 20 square feet in gross surface area accessory to a church, school or public or non-profit organization.

(4) Temporary banner sales signs not exceeding 20 square feet shall be permitted for a period not to exceed seven days.

(5) Real Estate signs not exceeding 20 square feet and displayed no longer than 30 days within a 60 day period.

4. General standards:

[i. The entire area within a single, continuous perimeter enclosing the extreme limits with such sign, and in no case passing through or between any adjacent elements of same. Such perimeter shall not include any structural elements lying outside the limits of such sign and which do not form an integral part of the display. The gross area of a sign shall be measured on only one side of such sign unless both sides thereof are utilized as a sign. When two or more signs are located on a lot, the gross surface area of all signs on the lot shall not exceed the maximum gross surface per street frontage set by the applicable district regulations, except as is provided by subsection (3)(e). For computing the area of any wall sign which consists of letters mounted on a wall, the areas shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.]

i. The area of a wall sign, which consists of letters mounted on a wall, shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters, and their supporting elements, if any. For other signs, the sign area shall be the area of the background structure which supports the message. These areas shall not include any structural elements lying outside the limits of such signs and which do not form an integral part of the display, but shall include logos, symbols, etc. as part of the sign. The gross area of a multi-faced sign displaying the same message on all faces shall be the total area of all faces of the sign. These signs shall be considered to be one sign and their total area shall not exceed the maximum permitted sign area as per applicable zone regulations.

ii. (No change.)

iii. Signs shall be shaded wherever **it is deemed necessary by the HMDC** [necessary] to avoid casting bright light upon property located in any residence **or residential** district or upon any public [street] **right-of-way** or park. Any illuminated sign located on a lot adjacent to or across [the street] **a right-of-way** from any residence **or residential** [district] **zone or specially planned area,** which sign is visible from such residence **or residential** [district] **zone or specially planned area,** shall not be illuminated between the hours of 11:00 P.M. and 7:00 A.M.

iv. (No change.)

[v. On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots restrictions that are phrases in terms of "signs per zoning lot" shall be deemed to permit the allowable number of signs facing each street or highway that abuts the lot.]

v. (Reserved)

vi. (No change.)

vii. No signs shall be permitted on trees, bridges, radio towers, and similar structures or elements.

viii. Window signs designed to be read from the exterior of a building shall be included as part of the maximum sign area.

ix. All signs shall be kept in good repair which shall include replacement or repair of broken structural elements, casings, or faces, maintenance of legibility and all lighting elements. Whenever the Office of the Chief Engineer shall determine that a sign has become structurally unsafe or endangers the safety of the building or public, the Office of the Chief Engineer shall order such sign to be made safe or removed. Such order shall be complied with within 10 days of the receipt thereof by the owner of the building or premises on which such unsafe sign is affixed or erected. If the sign is not made safe or removed within the requisite 10 days, the Office of the Chief Engineer, in order to protect the public safety, may enter upon the property and take the required actions. The cost of this safety action shall be assessed against the property maintained and shall become a lien on said property. The Office of the Chief Engineer at the time of entering upon the property for the purpose of correcting safety violations, shall file notice of such lien in the Office of the appropriate County Clerk upon the property affected by such lien. The owner of the premises upon which a sign is located shall be responsible for keeping the area surrounding signs neat, clean, and landscaped.

x. Building facade shall be the total area measured from side to side and from the ground level to the top of the roof, excluding parapets, of flat roof structures and top of the highest occupied story on peak roof structures.

[5. The following signs shall be exempt from the requirements of this subsection:

i. Flags or emblems of a government or of a political, civic, philanthropic, education or religious organization, displayed on private property;

ii. Signs of a duly constituted governmental body including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping and so forth;

iii. Memorial signs and tablets displayed on private property;

iv. Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulations;

v. Signs not exceeding five square feet in area displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, rest rooms, freight entrances and the like.]

5. Specially planned areas, multi-tenanted structures, or multi-structure developments shall be governed by the following sign regulations:

i. A sign plan shall be submitted for each development to the Office of the Chief Engineer. Such sign plan shall include details on:

(1) Lettering style;

(2) Lighting;

(3) Color;

(4) Construction and materials;

(5) Heights of signs;

(6) Heights above grade or below roof line;

(7) Locations; and

(8) Light poles.

ii. The sign plan shall be based on an integrated design theme to include all of the elements (1) through (8) above. All of the above elements shall be designed to be harmonious and consistent with each other, the architecture and materials of principal structures, and the landscape plan.

iii. Maximum area of any sign is five percent of the building's front facade. The Office of the Chief Engineer may permit additional signs and a total sign area of up to 10 percent of the building(s) front facade, if in its opinion, such additional area shall assist in developing a harmonious and integrated sign plan in accordance with the goals and objectives of this section. For the purpose of these calculations, no building shall have more than one front facade.

iv. Maximum height of sign shall be the wall-height of structure. Roof, pole, and ground signs may be a maximum of 30 feet above ground level.

v. Minimum setback of sign shall be 15 feet.

[6. The following signs are exempt from the zoning certificate requirement of subsection (1) herein, but shall comply with all of the other regulations imposed by this subsection:

i. Nameplate signs not exceeding two square feet in gross square area accessory to a multiple-family dwelling;

ii. Identification signs not exceeding 20 square feet in gross surface and accessory to a multiple-family dwelling;

iii. Bulletin board signs not exceeding 20 square feet in gross surface area accessory to a church, school or public or non-profit organization.]

6. Gasoline service stations shall be permitted to display only the following signs:

i. One temporary sign, located inside the property line, specifically advertising special or seasonal servicing of motor vehicles, provided such sign does not exceed 10 square feet in size.

ii. One ground or pole sign advertising the name of the station or garage and/or the principal products sold, including any special company or brand name, insignia or emblem, provided that the actual sign area does not exceed 60 square feet in size, 120 square feet if double sided, and further provided that such sign shall be more than 10 feet but less than 25 feet above ground level and is no closer than 10 feet to any property line. A reader board with a 36 square foot maximum area, indicating fuel name, price, etc., may also be installed on the pole signs.

iii. A gasoline service station may have either canopy or wall signs, but not both, in accordance with the following:

(1) Canopy signs may be on all faces of the canopy, provided they are not larger than 20 inches in height, and total sign area does not exceed 1/3 of the total canopy face area. Maximum canopy face depth is 30 inches.

(2) Wall signs shall be no larger than five percent of the total front yard building facade.

[7. Marshland preservation, park and recreation and special uses do not permit any signs.]

[8. Functional types permitted in the low density residential zone include:

i. One sign per lot of any one of the following functional types shall be permitted:

(1) Nameplate signs having a maximum gross surface area of two square feet;

(2) Identification and bulletin board signs having a maximum gross surface area of 20 square feet;

(3) Real estate signs having a maximum gross surface area of six square feet per dwelling unit, but not to exceed 100 square feet;

(4) Construction signs having a maximum gross surface area of 60 surface feet.

ii. Structural types permitted include ground signs, pole signs and wall signs.

iii. Maximum height is 15 feet.

iv. Required setback is 15 feet.

v. No sign shall be illuminated except bulletin board signs may be indirectly illuminated.]

[9. Waterfront recreation zone, the PRs and the IRs allow the following:

i. Functional types permitted: any type listed in N.J.A.C. 19:4-6.18(j)3., except projecting and roof signs;

ii. Structural types permitted: any type listed in N.J.A.C. 19:4-6.18(j)3., except projecting and roof signs;

iii. Number of signs permitted: one per lot;

iv. Maximum gross surface area: one square foot for each lineal foot of street frontage;

v. Maximum height:

(1) Ground and pole signs: 15 feet

(2) Wall signs: not to exceed height of structure;

vi. Required setback is 15 feet;

vii. Illuminated signs shall be permitted.]

[10. The highway commercial, research park and research-distribution park zones, BCC, and TCs allow the following:

i. Any type listed in paragraphs 2 & 3, excepting advertising signs;

ii. Structural types permitted: Any type listed in paragraphs 2 and 3, except projecting signs;

iii. Number of signs permitted: two per zoning lot;

iv. Maximum gross surface area: one square foot for each lineal foot of street frontage;

v. Maximum height:

(1) Ground and pole signs: 30 feet

(2) Roof signs: 15 feet above the highest point of the structure on which such sign is located;

(3) Wall signs: no maximum limitation;

vi. Required setback: 15 feet;

vii. Illuminated signs shall be permitted.]

[11. Service highway commercial:

i. Functional types permitted: any type listed in paragraphs 2 and 3;

ii. Structural types permitted: any type listed in paragraphs 2 and 3;

iii. Number of signs permitted: no limitation;

iv. Maximum gross surface area: three square feet for each lineal foot of street frontage, provided no single sign shall exceed a gross surface area of 300 square feet;

v. Maximum height: 30 feet above highest point of principal structure or 50 feet above ground level, whichever is less;

vi. Required setback: 15 feet, except that any sign that exceeds 200 square feet in gross surface area shall maintain the same setback that is required for principal structures;

vii. Illuminated signs shall be permitted.]

[12. Light industrial and distribution zones A and B:

i. Functional types permitted: any type listed in paragraphs 2 and 3;

ii. Structural types permitted: any type listed in paragraphs 2 and 3;

iii. Number of signs permitted: two per lot;

iv. Maximum gross surface area: one square foot for each one foot of lineal street frontage, provided no single sign shall exceed a gross surface area of 250 square feet:

v. Maximum height: 30 feet;

vi. Required setback: ten feet;

vii. Illuminated signs shall be permitted.]

[13. Heavy industrial, airport facilities and public utility zones:

i. Functional types permitted: any type listed in paragraphs 2 and 3;

ii. Structural types permitted: any type listed in paragraphs 2 and 3;

iii. Number of signs permitted: two per lot;

iv. Maximum gross surface area: ten square feet for each lineal foot of street frontage, provided no single sign shall exceed a gross surface area of 400 square feet;

v. Maximum height:

(1) Roof and wall signs: 30 feet above the highest point of the structure on which such sign is located;

(2) All other signs: 30 feet.

vi. Required setback: ten feet;

vii. Illuminated signs shall be permitted.]

7. All other signs shall be regulated in accordance with Table 1:

TABLE 1—SIGN REGULATIONS

ZONE:	MP P&R	LDR	WR	HC, RP, RDP	SHC	LI&D (A&B) HI,AF,PU	SU, PR, IR, PPR, BBC, TC, CP
1) Advertising[a]	N	No	No	No	X	X	S
2) Bulletin Bd.	O	20 sq.ft.	X	X	X	X	E
3) Business	N	No	X	X	X	X	C
4) Construction	E	60 sq.ft.	X	X	X	X	T
5) Identification		20 sq.ft.	X	X	X	X	I
6) Nameplate	P	2 sq.ft.	X	X	X	X	O
7) Real Estate	E	6 sq.ft./d.u.	X	X	X	X	N
	R	60 sq.ft. max.					
Structural Type	M						5
1) Awning	I	No	X	X	X	X	
2) Ground	T	X	X	X	X	X	R
3) Pole	T	X	X	X	X	X	E
4) Projecting	E	No	No	No	X	X	G
5) Wall & Window	D	X	X	X	X	X	U
6) Roof		No	No	X	X	X	L
Maximum Height		15′	wall-height of structure; ground/pole 15′	wall-height of structure; roof/pole/ground-30′ above ground level	wall-height of structure; roof/pole/ground-30′ above ground level	wall-height of structure; roof/pole/ground-30′ above ground level	A T I O N S
Setback		15′	15′	15′	15′	15′	
Illumination		None, except bulletin boards may be indirectly illuminated	Yes	Yes	Yes	Yes	A P P L
Maximum Area of Any Single Sign[b][c][d]		See Functional Types Above	5% of front yard building facade. 100 sq.ft. max. for any single sign.	5% of front yard building facade. 200 sq.ft. max. for any single sign.	5% of front yard building facade. 300 sq.ft. max. for any single sign.	5% of front yard building facade. 300 sq.ft. max. for any single sign.	Y
Signs/Front Yd[c]		1	2	2	2	2	

(a) Max. of 1 advertising sign per lot. Section 5 is not applicable to advertising signs.
(b) For vacant land, one (1) sq.ft. of sign area shall be permitted for each linear foot of street frontage.
(c) For mixed use, multi-tenanted structures, or multi-structure development, see Section 5 for controlling regulations.
(d) For the purpose of this calculation, no building shall have more than one front facade.
Note: For gasoline service stations, see Section 6 for controlling regulations.
X = Permitted

(k) Landscaping:

1. All landscape plans shall be prepared in accordance with the Commission adopted landscape design guidelines.

2. Only open space areas which have a minimum dimension of three feet in any direction and a minimum of a 50 square foot area shall be considered to fulfill open space requirements. Safety islands within parking lots must have a minimum dimension of five feet in any direction in order to fulfill open space requirements.

3. Screening:

i. All off-street parking areas containing six or more parking spaces shall be effectively screened from public or private right of ways by a decorative fence or wall, landscaped berm, or a densely planted evergreen material sufficient to reduce headlight glare. Deciduous shrubs may be utilized for screening in conjunction with earth berming, minimum height 2½ feet integrated into the existing land form.

ii. All parking areas shall be screened from adjacent residential open space and dwelling areas by a solid and continuous fence, wall, landscaped berm or evergreen plant material not less than six feet in height. Plant material selected must be capable of maturing to a minimum 6 foot height.

iii. All off-street loading areas shall be located or effectively screened with evergreen plant material capable of maturing to a height sufficient to screen such areas, and vehicles within the areas, from adjacent properties and public right of ways.

iv. All outdoor storage or work areas, other than an automobile service station, shall be enclosed by a solid and continuous decorative fence, wall or evergreen plant material sufficient to screen such activity from adjacent properties and public right of ways.

v. All utility improvements, such as transformer compounds, external heating and cooling equipment, and refuse areas, etc. shall be sufficiently screened from adjacent properties and public right of ways.

4. Concrete or granite block safety islands, with a minimum dimension of five feet shall be provided between the ends of a parking bay and any driveway, aisle or other areas as deemed necessary by the Office of the Chief Engineer and appropriately landscaped with shade trees.

5. All parking areas shall be arranged and designed so as to prevent damage to adjacent fences, walls, plantings and lighting standards.

6. Shade trees:

i. A minimum of one major shade tree shall be provided per 10 parking stalls or one shade tree per 3,000 square feet of parking area, whichever is greater, and shall be distributed evenly throughout the parking area.

ii. Adjacent parking areas on separate properties with 10 or more parking spaces shall be delineated by a shade tree lined landscape strip. A 5 foot landscape strip is to be provided by each property owner where such parking lots are adjacent to one another.

7. Plant standards:

i. All plants shall conform to the standards as set forth in American Standard for Nursing Stock, published by the American Association of Nurserymen, Washington, D.C., and the hardiness zones developed by the United States Department of Agriculture.

ii. All shade trees shall not be less than 2½ to 3 inches caliper, 12 to 14 feet in height at the time of planting.

iii. All evergreen trees shall not be less than five feet in height at the time of planting.

iv. All minor deciduous trees shall not be less than six feet in height at the time of planting.

v. All evergreen shrubs used for screening shall not be less than two feet in height at the time of planting.

8. Under special circumstances, landscaping shall be provided in accordance with the determination of the Office of the Chief Engineer.

(l) Lighting:

1. Illumination levels shall be as follows:

i. All off-street parking areas containing six or more parking spaces shall be adequately and properly lighted as follows:

(1) An evenly distributed, average illumination level between one and two footcandles shall be maintained throughout the entire lot.

(2) A minimum of one lighting fixture, plus one for every 30 stalls, shall be installed throughout the lot.

(3) An evenly distributed, average illumination level between two and three footcandles shall be maintained at driveway entrances and exits.

ii. An evenly distributed, average illumination level between 0.5 and 1 footcandle shall be maintained in pedestrian areas.

iii. An evenly distributed, average illumination level of not more than 20 footcandles shall be maintained at gas station pump and service areas.

2. Sources shall be located as follows:

i. All light sources shall be arranged so as to reflect illumination levels greater than one footcandle away from adjacent properties.

ii. All light sources shall be shielded so as not to be a hazard or nuisance to adjacent properties or the traveling public.

3. Poles shall meet the following requirements:

i. Poles shall be rustproof metal, cast iron, fiberglass, or finished wood and utilize underground wiring.

ii. Poles in pedestrian areas shall not be greater than 14 feet in height.

(1) Poles in all other areas shall not be greater than 25 feet in height.

(m) Fences or walls in excess of 18 inches in height shall be permitted in accordance with the following standards:

1. Fences or walls are not permitted in required front yards except that in the low density residential zone fences or walls with a maximum height of 4 feet are permitted provided that they are not chain link fences. In all other zones, fences or walls are permitted to be erected at the front building line of a principal structure extending to the side or rear lot lines provided that they do not exceed a maximum height of eight feet including barbed wire, etc.

2. Fences and walls are permitted in side and rear yards provided they do not exceed a height of six feet in residential zones and eight feet in all other zones.

3. No fence, wall, hedges, or other landscaping shall be constructed or installed so as to constitute a hazard to traffic or safety.

4. The face or finished side of a fence or wall shall face the adjacent property.

5. No fence or wall shall be constructed with barbed wire, metal spikes, or topped with concertina or razor wire, broken bottles or similar materials, or constructed in such manner as to be dangerous to animals or humans.

19:4-6.22 Public hearing

(a) Within a reasonable time after the filing of a complete general plan, a public hearing on such plan shall be held by the Development Board[,]**.** [w]**W**ithin a reasonable time after the filing of a complete application for a special exception or variance, a public hearing on such application[, if required,] shall be held by the Executive Director or his designee, who shall serve as the hearing officer.

(b) At least ten days in advance of a public hearing, the applicant, upon instruction of the Development Board or hearing officer, whichever is holding the hearing, shall publish notice of hearing in a newspaper of general circulation and shall give notice personally, or by certified mail, return receipt requested, to the following:

1. **For variances or special exception applications,** [O]**o**wners of property and appropriate officials of constituent **municipalities** within 200 feet of the subject property as shown on the most recent tax list of the municipality in which the subject property is situated **and any adjacent municipalities;**

2. [If] **For** [a] specially planned area or planned unit development **applications,** owners of [any land] **property and appropriate officials or constituent municipalities** within 500 feet of the planned unit development, as shown on the most recent tax [map] **lists** of the municipality in which the subject property is situated[;]**, and any adjacent municipalities;**

[3. The appropriate officials of the constituent municipality or municipalities within which the specially planned area, planned unit development, or application for variance or special exception is located, or which are within 500 feet of the specially planned area, planned development, or application for variance or special exception is filed, is located; or]

[4.]**3.** Any other person, agency, or organization that has filed a request to receive notice of hearings, specifying the type of hearing and project;

[5.]**4.** (No change in text.)

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

(e) Reports on the applications for special exceptions, variances or general plan may be prepared by the Commission [S]**s**taff and filed with the Office of the Chief Engineer, where they shall be of public record, not less than one week before the public hearing.

(f) (No change.)

(g) All testimony by witnesses at any hearing shall be given under oath, and every party of record at a hearing shall have the right to present evidence and to examine and to cross-examine witnesses on all relevant issues, but the Development Board or hearing officer, whichever is holding the hearing, may impose reasonable limitations on the number of witnesses heard[,] and on the nature and length of their testimony and cross-examination. The Development Board or hearing officer, whichever is holding the hearing, may call witnesses. At least one member of the Commission's staff and more if the Development Board or hearing officer, whichever is holding the hearing, deems it necessary, may be required to testify at the hearing on their respective reports.

(h) A transcript of the hearing shall be caused to be made by the Development Board or hearing officer, whichever is holding the hearing, costs of which shall be borne by the applicant, and all exhibits accepted in evidence[,] shall be properly identified and the reason for the exclusion clearly noted in the record. The transcript of the hearings shall be filed with the Office of the Chief Engineer and shall be of public record.

(i) (No change.)

(j) Notwithstanding the provisions of this section, in cases of variances from the area and bulk regulations of this chapter, the Office of the Chief Engineer may waive a public hearing but may not waive notification requirements, provided, however, that the applicant submit written comments relative to the application to the Office of the Chief Engineer prior to such public notifications. Public comment will be accepted within 10 days of the date of publication.

19:4-6.23 Nonconformities

(a) **Nonconforming lots of record:** In any zone, notwithstanding the regulations imposed by any other provision of [these regulations] **this chapter,** a building designed for any permitted use may be erected on a lot that is not less than 25 feet in width and that consists entirely of a tract of land that:

1. Has less than the prescribed minimum lot area, width or depth[, or all three]; [and]

2.-3. (No change.)

(b) (No change.)

(c) [But] [i]**I**n no case shall any side yard be less than [ten] **10** feet, provided, however, that any side yard for a single **or two** family dwelling shall not be less than [six] **five** feet.

(d) **Nonconforming structures:** Any structure in a zone which is devoted to a use which is permitted in the zone in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements so as not to comply with the applicable bulk regulations, and any structure in a specially planned area or planned unit development which has not been made part of an approved implementation plan, may be continued so long as it remains otherwise lawful, subject to the limitations of [subsection (2)] **(e)** [herein] **below.**

(e) Limitations include the following:

i. (No change.)

2. Damage or destruction: [in]**In** the event that any such structure is substantially damaged or destroyed, by any means, such structure shall not be [resorted] **restored** unless it shall thereafter conform to the regulations for the zone in which it is located; or would be consistent with the approved implementation plan covering the section in which it is located; provided that, in zones, structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in [subsection] (a) [herein] **above**.

3. (No change.)

(f) **Unlawful nonconforming use:** No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations and to the extent that, and in any respect that said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder and shall be discontinued.

(g) Lawful nonconforming uses include:

1. **Authority to continue:** Any use of part or all of a structure or any use of land, not involving a structure or only involving a structure which is accessory to such use of land, lawfully nonconforming under the zoning regulations applicable just prior to the adoption of these regulations or lawfully conforming under such zoning regulations but, in the zones, not conforming with all the applicable requirements of these regulations (including the environmental performance standards), and, in the specially planned areas or planned unit developments, not made part of an approved implementation plan, may be continued, if otherwise lawful, subject to the following limitations.

2. Limitations on continued use include:

i. **Ordinary repair and maintenance:** Normal maintenance and incidental repair, installation, or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a lawful nonconforming use; provided, however, that these provisions shall not be deemed to authorize any violation of **(3)2ii through vii** [subsections (ii) through (vii) herein]. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition (where such restoration will not be in violation of **(g)2v** [subsection (v) herein)] **below**.

ii. **Remodeling:** No structure that is devoted in whole or in part to a nonconforming use shall be remodeled unless the entire structure and use thereof shall thereafter conform to all regulations of the zone in which it is located or be consistent with the implementation plan covering the section within which it is located.

iii. **Extension:** A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity, or otherwise altered so as to increase the degree of nonconformity.

iv. **Enlargement:** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the zone in which it is located or be consistent with the implementation plan covering the section within which it is located.

v. **Damage or destruction:** In the event that any structure that is devoted in whole or in part to a nonconforming use is substantially damaged or destroyed, by any means, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zone in which it is located or be consistent with the implementation plan covering the section within which it is located. When partial damage or destruction occurs, no repairs or restoration shall be made unless a zoning certificate is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

vi. **Moving:** No structure that is devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zone in which it is located after being so moved or be consistent with the implementation plan covering the section within which it will be located. No nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zone in which it is located after being so moved or be consistent with the implementation plan covering the section within which it will be located.

vii. **Change in use:** A nonconforming use shall not be changed to any use other than a use permitted in the zone in which the use is located or other than one consistent with the implementation plan under which the section or subsection of the specially planned area within which it is located was developed. When a nonconforming use has been changed to any permitted or consistent use, it shall not thereafter be changed back to a nonconforming use.

viii. **Abandonment or discontinuance:** When a nonconforming use of land or a structure is discontinued or abandoned **for 12 continuous months,** any subsequent use or occupany of the land or structure shall comply with all regulations of the zone in which such land or structure is located or be consistent with the implementation plan under which the section or subsection of the specially planned area within which it is located was developed.

ix. **Nonconforming accessory use:** No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

x. **Nonconforming residential use:** Notwithstanding the provisions of **(g)2iii through vi** [subsections (iii)-(vi)] **above,** any structure which is devoted to a residential use in any district may be remodeled, extended, expanded [and] **or** enlarged; provided that after any such remodeling, extension, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units that such structure accommodated prior to any such work.

(h) **Special exceptions:** When a use exists at the effective date of these regulations and is permitted by these regulations only as a special exception in the zone in which it is located, such use shall not be deemed to be a nonconforming use if it complies with applicable use limitations and other regulations, but shall, without further action, be deemed a lawful nonconforming use in such zone.

[(i) Any use for which a special use permit shall be issued as provided by N.J.A.C. 19:4-4.141 shall not be deemed a nonconforming use, but shall without further action be deemed a lawful conforming use.]

19:4-6.24 Fees, penalties and enforcement

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

(e) If a complaint is received regarding an alleged violation of any of the environmental performance standards, and the Office of the Chief Engineer does not believe that there is a reasonable probability that such a violation actually exists, the Chief Engineer may, as a condition precedent to further investigation, require that the complainant post an escrow deposit in the **amount of** $200.00 to defray the cost of employing a qualified technician or technicians to perform such investigations, measurements, and analyses as may be necessary to determine whether or not such violation exists. In the event that the complaint is substantiated, the escrow deposit shall be refunded to the depositor, and the reasonable fees incurred in retaining the qualified technician or technicians shall be recovered in the manner provided in (d) above. In the event that the complaint proves unfounded, such fees shall be paid from the complainant's escrow deposit. Any remainder of such deposit shall be refunded to the complainant upon completion of an investigation.

19:4-6.25 Appeals

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

(c) An appeal shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made and shall toll all applicable time limits, **with the exception of fines, which will continue to accrue,** unless the Chief Engineer certifies to the Commission, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, such stay and tolling would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed and time limits shall not be tolled other than by a restraining order which may be granted by the

Commission or by the Superior Court on application to the Chief Engineer on due cause shown.

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

CHAPTER 4A
FLOOD PLAIN MANAGEMENT REGULATIONS

SUBCHAPTER 3. DEFINITIONS

19:4A-3.1 Words and [pharses] **phrases** defined

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Appeal" means a request for a review of the Commission's [intepretation] **interpretation** of any provision of this chapter or a request for a variance.

. . .

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

. . .

["Existing mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this regulation.]

"Elevated building" means a non-basement building which is:

1. In the case of a building in an Area of Special Flood Hazard, built to have the top of the elevated floor; or in the case of a building in a Coastal High Hazard Area, built to have the bottom of the lowest horizontal structural member of the elevated flood elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water; and

2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard "elevated building" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

"Flood" [of] **or** "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1.-2. (No change.)

. . .

["Habitable floor" means any floor useable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."]

["Mobile home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.]

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plan management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

"Manufactured home park or manufactured home subdivision" means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

. . .

["New mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this chapter.]

"Start of construction" [means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation.] **for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.** Permanent construction does not include land preparation, such as clearings, grading, and filling, nor does it include the excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. [For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.]

"Structure" means a walled and roofed building, a [mobile] **manufactured** home or a gas or liquid storage tank, that is principally above ground.

. . .

SUBCHAPTER 5. ADMINISTRATION

19:4A-5.3 Duties and responsibilities of the Office of the Chief Engineer

(a) The Office of the Chief Engineer shall administer the provisions of this chapter in the manner set forth herein and in furtherance of such authority, shall, but not be limited to:

1.-5. (No change.)

6. When base flood elevation data has not been provided in accordance with N.J.A.C. 19:4A-4.2, **Basis for establishing the areas of special flood hazard,** the Office of the Chief Engineer shall obtain, review, and reasonably utilize any base flood data available from a Federal, State or other source, in order to administer N.J.A.C. 19:4.

7. (No change.)

19:4A-6.2 Buildings

(a) (No change.)

(b) Non-Residential Construction: New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above base flood elevation[.], **or together with utilities shall:**

1. Be floodproof, so that below the flood level the structure is water tight with walls impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy; and

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the Chief Engineer.

(c) [Mobile] **Manufactured** homes shall be [governed by the following:] **anchored in accordance with N.J.A.C. 19:4A-6.5. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.**

(d) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base floor elevation.

[1. Mobile homes shall be anchored in accordance with N.J.A.C. 19:4A-6.5.

2. For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, standards required that:

i. Standards or lots must be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;

ii. Adequate surface drainage and access for a hauler are provided; and

iii. In the instance of elevation on pilings, that:

(1) Lots are large enough to permit steps;

(2) Piling foundations are placed in stable soil no more than 10 feet apart; and

(3) Reinforcement is provided for pilings more than six feet above the ground level.]

19:4A-6.5 Anchoring

(a) (No change.)

(b) All [mobile] **manufactured** homes shall be anchored to resist flotation, collapse, or lateral movement. **Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.** [by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:

1. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;

2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;

3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

4. Any additions to the mobile home be similarly anchored.]

19:4A-6.7 Utilities

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

(d) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

19:4A-6.8 Enclosure openings

(a) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Personal Financial Disclosure Statement: Reporting of Earned Income

Withdrawal of Proposed Amendment: N.J.A.C. 19:25-19.3

Take notice that, as a result of comments received in response to the proposed amendment of N.J.A.C. 19:25-19.3 (see 19 N.J.R. 1541(a)), the Election Law Enforcement Commission (ELEC) has decided to withdraw the proposal.

Candidates for Governor or for the Legislature must file personal financial disclosure statements disclosing all sources, but not amounts, of earned income totaling more than $1,000 that they or their family members received in the prior calendar year (see N.J.S.A. 19:44B-1 et seq.). The existing text of the statute and of N.J.A.C. 19:25-19.3 include fees and commissions as categories of earned income subject to reporting. Other statutory categories of earned income are salaries, bonuses, royalties and profit sharing received as an officer, employee, partner or consultant of a named corporation, professional association, partnership or sole proprietorship (see N.J.S.A. 19:44B-4(a)). The Commission's proposed amendment to the rule would have created fees and commissions as special categories of earned income and would have established special reporting requirements to the effect that any source of fees or commissions need not be disclosed unless the source provided more than $10,000 for the year, or provided more than five percent of the total receipts from fees or commissions from all sources for the year.

The Commission is now persuaded that the legislative history of the personal financial disclosure statute does not support differentiating fees and commissions from other sources of earned income for reporting purposes. The Commission received written comments on behalf of the New Jersey State Bar Association and the New Jersey Dental Association that public disclosure of clients by candidates or their families violated privileges of confidentiality and privacy. Also, the Commission has been advised by the staff of the Joint Legislative Committee on Ethical Standards that personal financial disclosure statements filed with that body pursuant to Section 2:14 of the Legislative Code of Ethics, which contains identical language concerning the reporting of fees and commissions and which was the source of the statute administered by the Commission, has never been interpreted by that body to require listing of sources of fees and commissions paid to a business enterprise. In such a case, the legislator is required to disclose only the business enterprise as a source of earned income if over $1,000 is received, but is not required to list all clients or customers who provided fees or commissions to the enterprise.

To summarize, fees or commissions need be reported only if received directly by the candidate or covered family member, but not if paid to the candidate's company or business.

CASINO CONTROL COMMISSION

The following proposals are authorized by the Casino Control Commission, Theron G. Schmidt, Executive Secretary.

(a)

Applications

Proposed Readoption with Amendments: N.J.A.C. 19:41

Authority: N.J.S.A. 5:12-63(c), 69, 70(a), (b), (c) and (e), 92, 93, 130.1, 139, 141 and 142.

Proposal Number: PRN 1988-165.

Submit comments by May 4, 1988 to:
Mark Neary, Assistant Counsel
Casino Control Commission
3131 Princeton Pike
Building No. 5, CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order 66(1978), the Casino Control Commission (hereafter, the "Commission") proposes to readopt, with amendments, N.J.A.C. 19:41 concerning applications. These rules would otherwise expire on May 17, 1988.

This chapter originally became effective on December 15, 1977, and was first readopted effective May 17, 1983. The rules contained in this chapter implement the provisions of the Casino Control Act (N.J.S.A. 5:12-1 et seq.) governing the Commission's responsibility to assure that persons and entities having involvement with casino hotels and casino gaming meet specific qualification criteria. Additionally, these rules establish the procedures for reviewing the qualifications of these persons and entities and the fees which must be paid in the licensing process, as well as the manner of collecting the fees.

The staffs of the Commission and the Division of Gaming Enforcement have continually reviewed and monitored the viability of this application system since its readoption. As a result of this review process, changes have been made to the rules since that time. For example, the application fees have been revised (16 N.J.R. 1809(a)), a new form for the registration of casino hotel employees was established (16 N.J.R. 2302(c)), and the fee structure for casino hotel alcoholic beverage licenses was altered (19 N.J.R. 381(a)).

The proposed readoption also includes proposed amendments resulting from the continued review of the rules. The rule establishing the renewal fee for a casino key employee license (N.J.A.C. 19:41-9.11) is being amended to set a flat fee of $500.00 for renewal applications. It has been the experience of the Commission that the cost of processing such applications generally averages approximately $500.00. It would therefore be more cost effective to set a flat fee and avoid the administrative costs of tracking the charges applicable to each renewal application.

The proposed amendment to N.J.A.C. 19:41-9.12, gaming school resident director license fees, reduces the minimum fee for an initial application or application renewal for this position to $500.00 from the present $1,500. This fee will then more accurately reflect the fee structure established for positions requiring a comparable investigation.

The proposed amendment concerning employee license position additions (N.J.A.C. 19:41-9.16) establishes the payment required for changing the license of a gaming school employee to that of a casino employee gaming related. It also makes some technical changes to the existing provision to clarify that the addition of the first position which changes a casino employee non-gaming related license to a casino employee gaming related only requires the payment of $80.00 if the change is made prior to the period of licensure.

Finally, the proposed amendment to N.J.A.C. 19:41-9.17, miscellaneous administrative fees, is a technical correction to indicate that the additional charges for a name or address change apply only to such a change on a license and not on an application.

Chapter 41 assures that the Commission and the Division of Gaming Enforcement have available to them all of the information necessary for the proper consideration of applications for licensure. This information makes it possible for the Commission to determine whether an applicant meets the qualifications required by the Casino Control Act. Without these rules, it would be extremely difficult for the Commission to assure that persons with unacceptable backgrounds do not gain entry to the casino hotel industry.

Social Impact

The continued effectiveness of this chapter will have a positive impact upon the public, the industry, and the regulatory agencies responsible for its implementation. The Legislature has found that maintenance of the public confidence and trust in the regulation of the casino industry and in casino operations is essential to the success of legalized gaming in the State. (See N.J.S.A. 5:12-1b.(6) and (7)). This chapter makes a significant contribution to protecting the historically problematic gaming industry from participation by unfit individuals. It is only through the controls provided by this chapter that the public can remain confident that such participation is being precluded.

The application, registration, business enterprise disclosure and personal history disclosure forms required by these rules are designed to make the minimum necessary informational demands upon applicants while at the same time supplying the Casino Control Commission and the Division of Gaming Enforcement with sufficient initial information to commence the mandatory investigation of all applicants. These rules recognize that the vitality of the licensing process depends upon the availability of information pertaining to each applicant.

In addition, the fee structure contained in these rules is designed to enable the Commission and the Division to recapture the administrative and investigatory costs attributable to the regulation of casino gaming in this State without placing an unreasonable fiscal burden on any particular person or entity wishing to participate in the casino industry. The proposed amendments to the fee rules are primarily technical in nature and do not change, in any material way, the social impact of the existing fee structure.

Economic Impact

This chapter allows the State to recapture the costs incurred by the regulatory agencies in processing applications for licensure under the Act. This structure is mandated by N.J.S.A. 5:12-139 and 141. The fee structure has been developed to ensure that each applicant pays its fair share of the costs incurred by the regulatory agencies.

In addition, applicants are subject to the cost of compiling and submitting information and documentation to the regulatory agencies. This information and documentation enables the Commission to make a determination as to an applicant's qualifications as required under the Casino Control Act. Without this information and documentation, the legislative directive prohibiting the participation of unfit persons and entities in casino gaming could not be satisfied.

The amendments which are included with the readoption should provide some reduction in the costs incurred by the regulatory agencies for processing renewal applications for casino key employees, as there will no longer be any need to record and track the time and expenses involved in such renewals. The remaining fee amendments should have minimal, if any, impact on persons affected thereby since they only institute technical or organizational changes to existing rules.

Regulatory Flexibility Statement

This chapter includes rules which impose reporting requirements upon casino service industry enterprises which do business with casino hotels and which engage in gaming related activity. Many of these enterprises may qualify as small businesses under the Regulatory Flexibility Act, P.L. 1986 c.169. These requirements entail the compilation and submission of information required to investigate and review an entity's qualification for licensure as a casino service industry as established by N.J.S.A. 5:12-92.

In order for the Commission to fulfill its statutory obligation to exclude unqualified and unfit persons and entities from participation in the casino industry, the information which is generated by these reporting and compliance requirements is necessary. The most efficient and cost effective way for the regulatory agencies to gather the initial information is from the applicants themselves. Any increase in the cost which would be borne by the regulatory agencies in gathering this information would far exceed the cost savings to applicant casino service industry enterprises. Thus, the public interest would not be served by excluding small businesses from the reporting requirements included in this chapter.

The proposed amendments will not have any impact upon small businesses, as they deal only with the fees required of natural persons.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:41.

Full text of the proposed amendments to the readoption follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

19:41-9.11 Casino key employee license fees

(a) Under Section 89 of the Act, no person may be employed as a casino key employee unless such person is the holder of a valid casino key employee license[, which license shall be issued for one year and be renewable for one year periods therafter].

(b) The fee for the issuance [or renewal] of a casino key employee license shall be as follows:

1. A minimum application charge of $500.00, which shall be credited to the total fee; and

2. Payment for the efforts of professional agents and employees of the Commission and Division at the rate of $40.00 per hour spent on matters directly related to the applicant [or licensee]; and

3. Payment for all unusual or out of pocket expenses incurred by the Commission and the Division on matters directly related to the applicant [or licensee]; provided, however, that the amount of the issuance [or renewal] fee shall not exceed $3,000.

(c) The fee for the renewal of a casino key employee license shall be $500.00.

19:41-9.12 Gaming school resident director license fees

(a) (No change.)

(b) The issuance fee or renewal fee for a three-year resident director license shall be as follows:

1. A minimum application charge of **$500.00** [$1,500], which shall be credited to the total fee; and

2.-3. (No change.)

19:41-9.16 Employee license position additions

(a) Under Sections 89(c), 90(a) and 90(d) of the Act, casino key employee licenses and casino employee licenses shall have endorsed upon them the particular position which the licensee is qualified to hold. In addition to any other fee or charge imposed by the Act and this subchapter, a request to endorse any additional authorized position upon a license shall require payment of $60.00 for each such additional position. [Furthermore, where] **Where** [such] an additional position would change the license from **a gaming school employee to casino employee gaming related, the applicant shall pay an added $55.00. Where an additional position would change the license from** casino employee non-gaming related to casino employee gaming related, the applicant shall pay an added $80.00[.] **; provided, however, that** [If] **if** such request is made in the period before licensure, the applicant shall **only be required to** pay [only] **the additional** $80.00 **fee for the first position which is added to the license.**

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

19:41-9.17 Miscellaneous administrative fees

(a) (No change.)

(b) Requests to change a name or address on **a** [an application or] license shall require a fee of $4.00.

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

(a)

Hearings

Proposed Readoption: N.J.A.C. 19:42

Authority: N.J.S.A. 5:12-63(a), (b), (c) and (g), 64, 66, 69(a), 70(d), 71, 72, 80, 86, 89, 90, 91, 107 through 109, 129; 52:14B-4(a), (f) and 8.

Proposal Number: PRN 1988-164.

Submit comments by May 4, 1988, to:
Carole R. Jacobson, Assistant Counsel
Casino Control Commission
3131 Princeton Pike
Building No. 5, CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66 (1978), the Casino Control Commission proposes to readopt N.J.A.C. 19:42 concerning hearings. These rules would otherwise expire on May 17, 1988. N.J.A.C. 19:42 was originally filed and became effective on May 17, 1978. The rules implement the applicable provisions of the Casino Control Act (N.J.S.A. 5:12-1 et seq.) concerning the Commission's responsibility to prescribe the manner and procedures of all hearings conducted by the Commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof (N.J.S.A. 5:12-70(d); see also 5:12-63(a) and (b)). These rules are responsive to the Commission's hearing obligations under the Act concerning: exclusion of persons from casinos (N.J.S.A. 5:12-71); proceedings against licensees and registrants (N.J.S.A. 5:12-108); hearings on complaints against the Division of Gaming Enforcement (N.J.S.A. 5:12-63(g)); applications (N.J.S.A. 5:12-70(a)); investigations concerning gaming operations (N.J.S.A. 5:12-63, 64, 66, 72 and 133(b)); rulemaking (N.J.S.A. 5:12-69, 72, 75 and 52:14B-4(a)(3) and 4(f)); and declaratory rulings (N.J.S.A. 52:14B-8).

The staffs of both the Commission and the Division of Gaming Enforcement have continually reviewed, monitored and assessed the merits and viability of the system in operation since the rules were readopted in 1983. The Commission has not recommended any amendments to these rules since the chapter was last readopted because these rules have proven themselves to be a viable implementation of the hearing provisions and procedures established by the Casino Control Act. Although an opportunity for public comment on the rules exists pursuant to section 69(c) of the Act, the Administrative Procedure Act (N.J.S.A. 52:14B-4(f)) and various informal methods, no public comments on these rules have been received. A review of these rules within the purview of Executive Order No. 66 has not revealed the need for any changes. Accordingly, the rules are presently proposed for readoption without any substantive or technical amendments.

The standards and procedures provided by these rules are essential to the continued and successful operation of all hearings initiated pursuant to the Casino Control Act. Without these rules, State control over the conduct of hearings would no longer be in compliance with the Casino Control Act. The failure to adopt these rules would engender an unacceptable degree of uncertainty in matters concerning the substantive and procedural issues associated with these hearings and would leave the parties without the necessary guidance to determine their rights and duties under law.

Social Impact

The continuation of N.J.A.C. 19:42 will have a positive impact on the public and the industry. These rules provide fair and efficient procedures for implementing the hearing requirements of the Casino Control Act. By specifying the standards and procedures applicable to each type of hearing (for example, limited pre-exclusion proceeding as opposed to evidentiary post-exclusion or license revocation proceeding) including special rules of evidence, these rules afford the parties the necessary guidance to clearly and accurately determine their rights and duties under law. These rules guarantee that the parties in a contested case hearing shall enjoy all of the trappings of due process including, but not limited to: the right to call and examine witnesses; introduce exhibits relevant to the issues of the case; cross-examine opposing witnesses in any matters relevant to the issues of the case; impeach any witness, regardless of which party called him to testify; and offer rebuttal evidence. Through the continuation of these rules, the public can be assured that all persons affected by State action will have a reasonable opportunity to be heard within the purview of "due process."

Economic Impact

Through the readoption of these rules, the Commission is potentially confronted with a wide variety of hearings (for example, hearings concerning its rules; license applications and renewals; civil violations proceedings against licensees), and the costs attendant to such hearings. These hearings, however, are imposed by the Casino Control Act, and, thus, any economic impact may be attributed to the legislative authorization for such hearings as opposed to the implementing rules which are now being proposed for readoption by the Commission. These rules require the expenditure of time by Commission and Division personnel by way of investigations, appearances and the extensive preparation of materials, and, thus, impose some financial burden on the resources of the Commission and Division. Any costs incurred, however, are far outweighed by the State's interest in providing clear, reasonable and efficient procedures to be followed so as to ensure that every person affected by government action will have a reasonable opportunity to be heard.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since these rules do not impose any reporting, recordkeeping or compliance requirements on small businesses as defined by the Regulatory Flexibility Act.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:42.

(a)

Accounting and Internal Controls; Gaming Equipment
Slot Machine Bill Changer System
Proposed Amendments: N.J.A.C. 19:45-1.1, 1.10, 1.11, 1.12, 1.16, 1.17, 1.32, 1.33, 1.36, 1.37, 1.38, 1.42 and 1.44; 19:46-1.25 and 1.26

Authority: N.J.S.A. 5:12-63(c) and 5:12-99(a).
Proposal Number: PRN 1988-166.

Submit comments by May 4, 1988 to:
Deno R. Marino, Deputy Director—Operations
Casino Control Commission
3131 Princeton Pike
Building No. 5, CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments would permit casino licensees to interface a bill changer mechanically, electrically or electronically with a slot machine for the purpose of dispensing change from the slot machine's hopper equal to the amount of currency inserted into the bill changer. Specifically, a bill changer system would be attached to the right side of the slot machine and would accept various denominations of currency. The proposed amendments also provide the necessary controls to ensure the proper use of the bill changer. These proposed amendments are in response to a petition for rulemaking filed with the Commission on April 16, 1987 by Bally Manufacturing Corporation and Bally's Park Place, Inc., notice of which was published in the June 15, 1987 New Jersey Register at 19 N.J.R. 1110(a).

Social Impact

From the social perspective, the proposed amendments will enable New Jersey casinos to better serve their patrons by providing immediate and direct access to coins for slot play. Furthermore, by permitting slot players to obtain change without leaving the machine, the bill changer system will increase recreational time and will permit players to keep "playing rights" to machines they favor.

Economic Impact

Although change is given from the slot machine, currency inserted will be counted as slot machine drop. Therefore, there will be no impact on Slot Machine Revenue or the tax collected thereto. However, the proposed amendments should facilitate slot machine play and may increase casino revenues and New Jersey tax revenues. While the proposed amendments may limit the growth of changeperson jobs, use of the bill changer may create new jobs for slot mechanics and slot attendants. Furthermore, historically there has been a shortage of persons to fill changeperson jobs.

Regulatory Flexibility Statement

These proposed amendments will only affect the operations of casino licensees and, therefore, will not impact on any business protected under the Regulatory Flexibility Act.

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

19:45-1.1 Definitions

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

. . .

"Bill changer" means any mechanical, electrical, or other device, contrivance or machine designed to interface mechanically, electrically or electronically with a slot machine for the purpose of dispensing an amount of coins or slot tokens from the slot machine hopper equal to the amount of currency inserted into the bill changer system.

. . .

"Slot cash storage box" is defined in N.J.A.C. 19:45-1.16.

"Slot machine drop" means the amount of [cash] **coins and slot tokens** in a drop bucket **and cash in a slot cash storage box, if applicable.**

. . .

19:45-1.10 Closed circuit television system

(a) (No change.)

(b) The closed circuit television system shall include, but need not be limited to, the following:

1. Light sensitive cameras with zoom, scan, and tilt capabilities to effectively and clandestinely monitor in detail and from various vantage points, the following:

i.-v. (No change.)

vi. The movement of cash, gaming chips and plaques, drop boxes, **slot cash storage boxes,** and drop buckets in the establishment;

vii-viii. (No change.)

2.-5. (No change.)

(c)-(h) (No change.)

19:45-1.11 Casino licensee's organization

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

(c) Each casino licensee shall, at a minimum, establish the following departments with respect to the casino operation:

1. A surveillance department supervised by a director of surveillance who shall cooperate with, yet perform independently of all other departments and shall report directly to the Board of Directors, or its audit committee, or equivalent regarding matters of policy, purpose, responsibilites and authority and indirectly to the Chief Executive Officer or his **or her** equivalent, for daily operations. The director of surveillance shall be responsible for, but not limited to, the following:

i. (No change.)

ii. The clandestine surveillance of the operation of the slot machines **and bill changers**;

iii.-viii. (No change.)

2.-4. (No change.)

5. A slot department supervised by a slot department manager who shall perform independently of all other departments and shall report directly to the Vice President of Casino Operations, or his **or her** equivalent, or the Chief Executive Officer. The slot department manager shall be responsible for the operation of the slot machines **and bill changers**.

6.-9. (No change.)

(d)-(g) (No change.)

19:45-1.12 Personnel assigned to the operation and conduct of gaming and slot machines

(a) (No change.)

(b) The following personnel shall be used to conduct and operate a slot department in an establishment:

1. Slot mechanics shall be the persons assigned the responsibility for repairing and maintaining slot machines **and bill changers** in proper operating condition and participating in the filling of payout reserve containers.

2. Slot attendants shall be the persons assigned the responsibility for the operation of slot machines **and bill changers** including but not limited to, participating in manual jackpot payouts and filling of payout reserve containers.

3. Slot supervisors shall be the first level supervisors assigned the responsibility for directly supervising the operation of slot machines **and bill changers**.

4. Slot shift manager shall be the second level supervisor with the responsibility for the overall supervision of the slot machine **and bill changer** operation for each shift. In the absence of the slot department

manager, the slot shift manager shall have the authority of the slot department manager.

5. Slot department manager shall be the executive assigned the overall responsibility and authority for the slot machine **and bill changer** operation including, but not limited to, the hiring and terminating of all slot department personnel and the creation of high employee morale and good customer relations, all within the policies and practices etablished by the licensee's board of directors or equivalent.

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

19:45-1.16 Drop boxes **and slot cash storage boxes**

(a) Each gaming table in a casino shall have attached to it a metal container known as a "drop box" in which shall be deposited all cash, issuance copies of Counter Checks exchanged at the gaming table for gaming chips and plaques, duplicate Fill and Credit Slips, Requests for Credit forms, Requests for Fill forms, and Table Inventory forms. [(b)] Each drop box shall have:

1.-5. (No change.)

(b) Each bill changer in a casino shall have contained in it a metal container known as a "slot cash storage box" in which shall be deposited all cash inserted into the bill changer. Each slot cash storage box shall have:

1. Two separate locks securing the contents placed into the slot cash storage box, the keys to which shall be different from each other and one of which shall be different from the keys securing the compartment housing the slot cash storage box;

2. A slot opening through which currency can be inserted into the slot cash storage box;

3. A mechanical arrangement or device that prohibits removal of currency from the slot opening at any time that the slot cash storage box is removed from the bill changer; and

4. An identifying feature, as approved by the Commission, which distinguishes the gaming day the slot cash storage box was utilized and a number at least two inches in height, permanently imprinted, affixed or impressed on the outside of the slot cash storage box which corresponds to the casino number of the slot machine to which the bill changer has been attached, except that emergency slot cash storage boxes may be maintained without such number, provided the word "emergency" is permanently imprinted, affixed or impressed thereon, and when put into use, are temporarily marked with the number of the slot machine to which the bill changer is attached, and provided further, that the casino obtains the express written approval of a Commission inspector before placing an emergency slot cash storage box into use.

(c) The key utilized to unlock the drop boxes from the gaming tables shall be maintained and controlled by the security department. **The keys to the compartment securing the slot cash storage box shall be maintained and controlled in accordance with N.J.A.C. 19:45-1.36.**

(d) The key to one lock securing the contents of the drop boxes **and to the lock securing the contents of the slot cash storage boxes, which is different from the keys to the compartment securing the slot cash storage box,** shall be maintained and controlled by the accounting department. The key to the second lock securing the contents of the drop boxes **and slot cash storage boxes** shall be maintained and controlled by Commission inspectors.

19:45-1.17 Drop boxes, transportation to and from gaming tables; **slot cash storage boxes, transportation to and from bill changers;** storage in count room

(a) Each casino licensee shall place on file with the Commission and the Division a schedule setting forth the specific times at which the drop boxes will be brought to or removed from the gaming tables **and slot cash storage boxes will be brought to or removed from the bill changers.** No drop box shall be brought to or removed from any gaming table **and no slot cash storage box shall be brought to or removed from any bill changer** at other than the time specified in such schedule except with the express written approval of a Commission inspector.

(b) (No change.)

(c) All slot cash storage boxes removed from the bill changer shall be transported by a security department member and count room supervisor, at a minimum, directly to and secured in the count room.

[(c)](**d**) All drop boxes, not attached to a gaming table, **and all slot cash storage boxes not contained in a bill changer,** except emergency drop boxes **and emergency slot cash storage boxes** which are not actively in use, shall be stored in the count room in an enclosed storage cabinet or trolley and secured in such cabinet or trolley by a separately keyed, double locking system. The key to one lock shall be maintained and controlled by the security department and the key to the second lock shall be maintained and controlled by a Commission inspector. Emergency drop boxes **and emergency slot cash storage boxes,** when not in use, may be stored in an enclosed storage cabinet or trolley and secured in such cabinet or trolley by a separately keyed, double locking system in a secured area outside the count room as approved by the Commission. The key to one lock shall be maintained and controlled by the security department and the key to the second lock shall be maintained and controlled by a Commission inspector.

[(d)](**e**) Drop boxes, when not in use during a shift, may be stored on the gaming tables provided that there is adequate security, as approved by the Commission. If adequate security is not provided during this time, the drop boxes shall be stored in the count room in an enclosed storage cabinet or trolley except that emergency drop boxes **and emergency slot cash storage boxes** not actively in use may be stored in a secured area outside of the count room as approved by the Commission, as required in [(c)] (**d**) above.

19:45-1.32 Count room[s]; characteristics

(a) Each casino shall have immediately adjacent to the cashiers' cage a room specifically designated for counting the contents of drop boxes **and slot cash storage boxes** which shall be known as the "count room".

(b) The count room shall be designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein, to include, at a minimum, the following:

1. A metal door equipped with two separate locks securing the interior of the count room, the keys to which shall be different from each other and from the keys to the locks securing the contents of the drop box **and slot cash storage box,** and one key shall be maintained and controlled by the security department in a secure area within the security department, access to which may be gained only by a security supervisor, and the other key maintained and controlled by a Commission inspector;

2.-3. (No change.)

(c) Located within the count room shall be:

1. A table constructed of clear glass or similar material for the emptying, counting and recording of the contents of [the] drop boxes **and slot cash storage boxes** which shall be known as the "count table";

2. Closed circuit television cameras and microphone wired to monitoring rooms capable of, but not limited to, the following:

i. (No change.)

ii. Effective, detailed video-monitoring of the interior of the count room, including storage cabinets or trolleys used to store drop boxes **and slot cash storage boxes**; and

iii. (No change.)

(d) The count room designated for counting contents of slot machine drop buckets, if a different room than that used for counting contents of drop boxes **and slot cash storage boxes,** shall meet all requirements herein except for the audio capabilities. In addition, the room shall contain either a fixed-door type or hand-held metal detector to inspect all persons exiting the count room.

19:45-1.33 Procedure for **opening,** counting and recording contents of drop boxes **and slot cash storage boxes**

(a) The contents of the drop boxes **and slot cash storage boxes** shall be counted and recorded in the count room in conformity with this section.

(b) Each casino licensee shall place on file with the Commission and the Division the specific times during which the contents of drop boxes removed from gaming tables **and contents of slot cash storage boxes** are to be counted and recorded, which, at a minimum, shall be once each gaming day **for drop boxes. Slot cash storage boxes shall be removed from bill changers in accordance with N.J.A.C. 19:45-1.42(a) and shall be counted and recorded, at a minimum, once a week.**

(c) The opening, counting and recording of the contents of drop boxes **and slot cash storage boxes** shall be performed in the presence of a Commission inspector by at least three employees with no incompatible functions ("count team"). To gain entrance to the count room, the Commission inspector shall present an official identification card containing his **or her** photograph issued by the Commission.

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

(f) Immediately prior to opening the drop boxes **or slot cash storage boxes,** the doors to the count room shall be securely locked and, except as required by (i)1 below, no person shall be permitted to enter or leave the count room, except during normal work break or in an emergency, until the entire counting, recording, and verification process is completed. During a work break or in the event of an emergency, **or to permit slot cash storage boxes to be secured in the count room for the count of the contents,** the counting and recording process shall be discontinued unless the appropriate number of personnel as described in (c) above is present.

(g) (No change.)

(h) Procedures and requirements for conducting the count shall be the following:

1. As each drop box **or slot cash storage box** is placed on the count table, one count team member shall verbalize, in a tone of voice to be heard by all persons present and to be recorded by the audio recording device, the game, table number, and shift marked thereon **for drop boxes, or the casino number marked thereon for slot cash storage boxes;**

2. The contents of each drop box **or slot cash storage box** shall be emptied on the count table and either manually counted separately on the count table or counted on an approved currency counting machine located in a conspicuous location on, near or adjacent to the count table, which procedures shall at all times be conducted in full view of the closed circuit television cameras located in the count room;

3. Immediately after the contents of a drop box **or slot cash storage box** are emptied onto the count table, the inside of the drop box **or slot cash storage box** shall be held up to the full view of a closed circuit television camera and shall be shown to at least one other count team member and the [c]Commission inspector to assure all contents of the drop box **or slot cash storage box** have been removed, after which the drop box **or slot cash storage box** shall be locked and placed in the storage area for drop boxes **or slot cash storage boxes;**

4. The contents of each drop box **or slot cash storage box** shall be segregated by a count team member into separate stacks on the count table by denominations of coin and currency and by type of form, record, or document except that the Commission may permit the utilization of a machine to automatically sort currency by denomination;

5. Each denomination of coin and currency shall be counted separately by one count team member who shall place individual bills and coins of the same denomination on the count table in full view of a closed circuit television camera after which the coin and currency shall be counted by a second count team member who is unaware of the result of the original count and who, after completing this count, shall confirm the accuracy of his **or her** total, either orally or in writing, with that reached by the first count team member, except that the Commission may permit a casino licensee to perform an aggregate count by denomination of all currency collected in substitution of the second count by drop box **or slot cash storage box** if the Commission is satisfied that the original count is being performed automatically by a machine that counts and automatically records the amount of currency and that the accuracy of the machine has been suitably tested and proven. The Commission will permit the utilization of currency counting machines if prior to the start of the count, in the presence of a Commission [I]inspector, the count room supervisor shall:

i.-ii. (No change.)

iii. Supervise a count team member who shall randomly select a drop box **or slot storage box** and place the entire currency contents of the drop box **or slot cash storage box** into the first currency counting machine, which shall sort the currency by denomination and produce a print out of the total amount of currency by denomination. Any soiled or off-sorted bills shall be re-fed into the machine and manual adjustments made to the total. Coins or tokens shall also cause manual adjustments to be made to the total. The total as recorded on the currency counting machine and any adjustments thereto shall not be shown to anyone until completion of the final verification process.

iv. Supervise a second count team member, independent of the team member performing the initial count by machine, who shall manually count and summarize the currency of the drop box **or slot cash storage box** counted in (h)5iii above. The total shall be posted and maintained separately from the total posted in (h)5iii above. This total shall not be shown to anyone until completion of the final verification process.

v. Supervise the second count team member passing the currency to a count team member, who is unaware of the results of the manual count. The count team member shall count the contents of the drop box **or slot cash storage box** counted in (h)5iii above using the second currency counting machine. Such machine shall produce a printout of the total amount of currency as contained in the drop box **or slot cash storage box**. Any soiled or off-sorted bills shall be re-fed into the machine and manual adjustments made to the total. Coins or tokens shall also cause manual adjustments to be made to the total. The total as recorded on the currency counting machine and any adjustments thereto shall not be shown to anyone until the completion of the final verification process.

vi.-vii. (No change.)

6.-8. (No change.)

9. As the contents of each slot cash storage box are counted, one count team member shall record on the Slot Cash Storage Box Report or supporting documentation the following information:

i. The casino number of the bill changer to which the slot cash storage box contents correspond;

ii. The amount of each denomination of currency counted;

iii. The amount of all denominations of currency counted;

iv. The total amount of currency counted for each slot machine denomination; and

v. Any additional information as may be required on the Slot Cash Storage Box Report by the Commission.

[9.]**10.** (No change in text.)

[10.]**11.** After preparation of the Master Game Report **and/or Slot Cash Storage Box Report**, each count team member shall sign the reports attesting to the accuracy of the information recorded thereon.

(i) Procedures and requirements at the conclusion of the count for each gaming shift shall be the following:

1. All cash removed from the drop boxes **or slot cash storage boxes** shall be immediately presented in the count room by a count team member to a reserve cash cashier who, prior to having access to the information recorded on the Master Game Report **or the Slot Cash Storage Box Report** and in the presence of a count team member and the Commission inspector, shall recount, either manually or mechanically, the cash received and attest by signature on the Master Game Report **and Slot Cash Storage Box Report, if applicable,** the amount of cash received; after which the Commission inspector shall sign the reports evidencing his **or her** presence during the count and the fact that both the cashier and count team have agreed on the total amount of cash counted.

2. (No change.)

3. The Slot Cash Storage Box Report, after signing, shall be transported directly to the accounting department and shall not be available to any cashiers cage personnel. The Accounting Department shall record the figures from the Slot Cash Storage Box Report on the Slot Win Report and calculate the total drop for that day.

[3.]**4.** (No change in text.)

(j) The originals and copies of the Master Game Report, **the Slot Cash Storage Box Report,** Counter Checks, Requests for Fills, Fills, Request for Credits, Credits, Table Inventory Slips and the test receipts from the currency counting equipment shall, on a daily basis, in the accounting department be:

1.-6. (No change.)

19:45-1.36 Slot machines **and bill changers;** coin **and slot token** containers; **slot cash storage box compartments**; keys

(a) Each slot machine located in a casino shall have the following coin **or slot token** containers:

1. [The] **A** container, known as a payout reserve container ("Hopper") in which coins **or slot tokens** are retained by the slot machine to automatically pay jackpots **or to dispense change as directed by a bill changer**; [and]

2. A container, known as a drop bucket, to collect coins **or slot tokens** that are retained by the slot machine and not used to make **change or** automatic jackpot payouts. Each drop bucket shall be identified by a number, corresponding to the casino number of the slot machine, which shall be at least two inches in height, and permanently imprinted, affixed or impressed on the outside of the bucket[.]; **and**

3. On those slot machines where a bill changer is attached, a container known as a slot cash storage box in which currency accepted by the bill changer is retained.

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

(d) The slot cash storage box of each bill changer shall be housed in a separate locked compartment. The slot cash storage box compartment shall have two locks, the keys to which shall be different from each other and one of which shall be different from the keys securing the contents of the slot cash storage box as required by N.J.A.C. 19:45-1.16.

(e) One key to the compartment securing the slot cash storage box shall be maintained and controlled by a Commission inspector and the second key to such compartment, which is different from the keys securing the contents of the slot cash storage box, shall be maintained and controlled by the security department in a secure area within the security department, access to which may be gained only by a security supervisor. The security department shall establish a sign-out procedure for all keys removed from the security department in accordance with N.J.A.C. 19:46-1.25.

[(d)](**f**) Keys to each slot machine, other than the compartments housing the drop bucket **and slot cash storage box**, shall be maintained in a secure place and controlled by the slot department.

[1.](**g**) Whenever it is required that a slot machine **or any device connected thereto** be opened, an entry shall be made on a form to be entitled "Machine Entry Authorization Log." The entry shall include, at a minimum, the date, time, purpose of opening the machine, and signature of authorized employee opening the machine. The Machine Entry Authorization Log shall be maintained in the slot machine.

1. Whenever it is required that a bill changer, other than the slot cash storage box compartment, be opened, the entry shall be made on a form to be entitled "Bill Changer Log". The Bill Changer Log shall be maintained in the bill changer and shall have recorded thereon a sequential number and a bill changer serial number or casino number.

2. If a computer is connected to slot machines in the casino which automatically records the information required in [(d)1 above] **this subsection**, it is not necessary to maintain the Machine Entry Authorization **and Bill Changer** Logs.

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

19:45-1.37 Slot machines **and bill changers**; identification; signs, meters

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

(e) Unless otherwise authorized by the Commission, each slot machine that has an attached bill changer shall be equipped with the following:

1. A mechanical, electrical or electronic device, to be known as a "change meter", that continuously and automatically counts the number of coins or slot tokens vended from the slot machine's hopper to make change;

2. A mechanical, electrical or electronic device, to be known as a "cash box meter" that continuously and automatically counts the total number of bills accepted and stored in the slot cash storage box at any given time; and

3. A number of mechanical, electrical or electronic devices, to be known as "bill meters", that continuously, automatically and separately count the number of bills for each denomination of currency accepted into the bill changer.

Renumber (e) through (h) as **(f) through (i)** (No change in text.)

19:45-1.38 Slot machines **and bill changers**; location; movements

(a) Each casino licensee shall file with the Commission a floor plan of the casino which designates the location and casino number of each slot machine **and bill changer** in the casino. Any alterations to such floor plan shall not become effective until approved in writing by a Commission inspector. A revised floor plan containing such alterations shall be filed with the Commission within 24 hours of the alteration.

(b) No slot machine **or bill changer** shall be removed from or returned to a location in the casino without the prior written approval of a Commission inspector.

(c) Once a slot machine **or bill changer** has been placed in the casino, all movements of that machine **and/or bill changer** from or to [its] **a** location shall be recorded by a slot department member in a machine movement log which shall include the following:

1. The manufacturer's serial number and the casino number of the moved slot machine **and/or bill changer** [required by N.J.A.C. 19:45-1.37];

[2. The reason for moving the slot machine;]

[3.]**2.** The date and time of movement of the slot machine **and/or bill changer;**

[4.]**3.** The location from which the slot machine **and/or bill changer** was moved;

[5.]**4.** The location to which the slot machine **and/or bill changer** was moved;

[6.]**5.** (No change in text.)

[7.]**6.** The signatures of the persons moving the slot machine **and/or bill changer.**

(d) (No change.)

(e) Prior to removing a bill changer from the gaming floor, the slot cash storage box shall be removed and transported to the count room and all meters except the cash box meter shall be read and recorded in conformity with the procedures set forth in N.J.A.C. 19:45-1.42.

[(e)](**f**) (No change in text.)

19:45-1.42 Removal of slot drop buckets **and slot storage boxes**; meter readings

(a) The drop bucket **and the slot cash storage box** for each slot machine **and attached bill changer** on the gaming floor shall be removed **concurrently** once a week, at a minimum, on specific days and at times designated by the casino licensee on a schedule which shall be filed with the Commission and the Division. No drop bucket **or slot cash storage box** shall be emptied or removed from its compartment at other than the times specified on such schedule except with the express written approval of a Commission inspector.

(b) Procedures and requirements for removing a drop bucket **or slot cash storage box** from its compartment shall be the following:

1. If the drop bucket **or slot cash storage box** meets the requirements of N.J.A.C. 19:45-1.36(b) [and], (c), **(d) and (e)**:

i. The removal of a drop bucket **or slot cash storage box** shall be, at a minimum, performed by three employees;

ii.-iii. (No change.)

2. If the drop bucket meets the requirements of N.J.A.C. 19:45-1.36 [(e)] **(g)**:

i.-ii. (No change.)

(c) Procedures and requirements for removing [a] drop buckets **and slot cash storage boxes** from the gaming floor shall be the following:

1. If the drop buckets **and slot cash storage boxes** are removed in conformity with (b)1 above:

i. The drop bucket shall be removed from its compartment and an empty drop bucket shall be placed in the compartment after which the compartment shall be closed and locked; **and on those slot machines where a bill changer is attached, the slot cash storage box shall be removed from its compartment and an empty slot cash storage box shall be placed in the compartment after which the compartment shall be closed and locked;**

ii. All drop buckets removed from the compartments shall be transported by employees described in (b)1 above and a Commission inspector, at a minimum, directly to and secured in the [slot] count room for the counting **of their** contents; and

iii. All persons participating in the drop bucket **and the slot cash storage box** removal procedure except for representatives of the Commission and Division shall wear as outer garments only a full-length, one-piece pocketless garment with openings only for the arms, feet and neck.

2. If the drop buckets are removed in conformity with (b)2 above:

i. (No change.)

ii. All drop buckets removed from compartments shall be transported by, at a minimum, **a** security department member and [slot] **count room** supervisor directly to, and secured in, the count room for the count of the contents.

(d) Accounting department employees with no incompatible functions shall, once a week, at a minimum, read and record on a Slot Meter Sheet the number on the in-meter, drop meter, jackpot meter, [and] manual jackpot meter, **change meter and bill meters**. These procedures shall be performed in conjunction with the removal and replacement of the drop buckets **or slot cash storage boxes** prior to opening the slot machines for patron play.

(e) (No change.)

19:45-1.44 Computer recordation and monitoring of slot machines

(a) (No change.)

(b) The computer permitted by (a) above shall be designed and operated to automatically perform the functions relating to slot machine meters in the casino as follows:

1.-4. (No change.)

5. Record the number and total value of coins or slot tokens vended from the slot machine hopper to make change; and

6. Record the number and total value of each denomination of currency accepted and stored in the slot cash storage box.

(c) (No change.)

19:46-1.25 Slot machines **and bill changers**; coin and **slot** token containers; **slot cash storage box compartments**; keys

(a) Each slot machine located in a casino shall have the following coin or token containers:

1. A container, known as a payout reserve container[,] ("hopper") in which coins or tokens are retained by the slot machine to automatically pay jackpots **or to dispense change as directed by a bill changer connected to a slot machine**; [and]

2. A container, known as a drop bucket, to collect coins or tokens that are retained by the slot machine and not used to make **change or** automatic payouts[.]; **and**

3. On those slot machines where a bill changer is attached, a container known as a slot cash storage box in which currency accepted by the bill changer is retained.

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

(d) The slot cash storage box of each bill changer shall be housed in a separate locked compartment. The slot cash storage box compartment shall have two locks, the keys to which shall be different from each other and one of which shall be different from the keys securing the contents of the slot cash storage box as required by N.J.A.C. 19:45-1.16.

(e) One key to the compartment securing the slot cash storage box shall be maintained and controlled by a Commission inspector and the second key to such compartment, which is different from the keys securing the contents of the slot cash storage box, shall be maintained and controlled by the security department. The key maintained and controlled by the security department shall be maintained in a secure area within said department, access to which may be gained only by a casino security supervisor, removal of keys from this area may be undertaken only upon the approval of a casino security supervisor and upon entry into a log maintained for this purpose of:

1. The signature of the security department member to whom the key was issued;

2. The signature of the casino security supervisor authorizing such issuance;

3. The date and time issued; and

4. The date and time replaced.

[(d)](**f**) Keys to each slot machine other than the compartments housing the drop bucket **or the slot cash storage box**, shall be maintained in a secure place and controlled by the slot department.

[(e)](**g**) (No change in text.)

19:46-1.26 Slot machines **and bill changers**; identification; signs, meters, other devices

(a) (No change.)

(b) Unless otherwise authorized by the Commission, each bill changer shall have the following identifying features:

1. A casino number, at least two inches in height, permanently imprinted, affixed or impressed on the outside cabinet of the bill changer which corresponds to the casino number affixed on the outside cabinet of the slot machine to which it is attached;

2. A display on the front of the bill changer that clearly represents the denomination of the currency inserted therein;

3. A display on the front of the bill changer that clearly represents the amount of coins dispensed by the slot machine hopper; and

4. A display on the front of the bill changer that indicates a malfunction or which informs the patron that the bill changer is out of service.

[(b)](**c**) (No change in text.)

(d) Unless otherwise authorized by the Commission, each slot machine that has an attached bill changer shall be equipped with the following:

1. A mechanical, electrical or electronic device, to be known as a "change meter", that continuously and automatically counts the number of coins or slot tokens vended from the slot machine's hopper to make change;

2. A mechanical, electrical or electronic device, to be known as a "cash box meter", that continuously and automatically counts the total number of bills accepted and stored in the slot cash storage box at any given time; and

3. A number of mechanical, electrical or electronic devices, to be known as "bill meters", that continuously, automatically and separately count the number of bills for each denomination of currency accepted into the bill changer.

[(c)](**e**) Unless otherwise authorized by the Commission, each slot machine that accepts currency shall have meters that accomplish the objectives set forth in [(b)] (**d**) above.

Renumber (d) through (g) as (**f**) **through** (**i**) (No change in text.)

(a)

CASINO CONTROL COMMISSION

Temporary Amendment of Internal Controls and Gaming Equipment Regulations Pursuant to Gaming Experiment

Bill Changer Mechanisms

N.J.A.C. 19:45-1.1, 1.10, 1.11, 1.12, 1.16, 1.17, 1.32, 1.33, 1.36, 1.37, 1.38, 1.42 and 1.44; 19:46-1.25 and 1.26

Petitioner: Bally Manufacturing Corporation.

Authority: N.J.S.A. 5:12-69(e), (P.L. 1987 c.354), 5:12-70(f) and 5:12-100(e).

Take notice that beginning on April 11, 1988, the Casino Control Commission shall pursuant to N.J.S.A. 5:12-69(e) conduct an experiment for a period of 90 days for the purpose of determining whether the rules cited above should be amended to authorize the use of bill changer mechanisms on slot machines in licensed casinos.

Specifically, the experiment shall be conducted in accordance with the rules amendments proposed by the Commission in this issue of the New Jersey Register at 20 N.J.R. 765(a). The experiment shall be conducted on a limited number of slot machines at Bally's Park Place casino, which filed a petition for rulemaking on this subject with the commission on April 16, 1987, notice of which was published in the June 15, 1987 New Jersey Register at 19 N.J.R. 1110(a). The bill changer mechanism shall accept U.S. currency in denominations up to and including 20 dollars. The bills when inserted into the bill changer will provide change through the slot machine's hopper mechanism.

Upon completion of the experiment and the review of public comments received in response to the notice of proposal at 20 N.J.R. 765(a) the Commission shall consider adoption of the rule amendments in accordance with the requirements of N.J.S.A. 5:14B-4 and N.J.A.C. 1:30.

(a)

Casino Hotel Alcoholic Beverage Control Proposed Readoption with Amendments: N.J.A.C. 19:50

Authority: N.J.S.A. 5:12-69(a), 5:12-70(q), and 5:12-103.
Proposal Number: PRN 1988-163.

Submit comments by May 4, 1988 to:
Seth H. Briliant, Assistant Counsel
Casino Control Commission
Arcade Building
Tennessee Avenue & the Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

In accordance with Executive Order No. 66(1978), the Casino Control Commission has reviewed these rules and proposes to readopt N.J.A.C. 19:50 with amendments. These rules, which originally became effective on January 23, 1978, and were readopted, effective June 9, 1983, concern alcoholic beverage operations in casino hotels. These rules would expire on May 23, 1988, if not readopted.

The major purposes of these rules are to ensure that the long established State policy of strictly controlling the sale and purchase of alcoholic beverages is maintained in the casino hotel context, and to assure that the existing nature and tone of the hospitality industry in New Jersey and Atlantic City is preserved, N.J.S.A. 5:12-1(b)(5). These rules establish criteria for the issuance of casino hotel alcoholic beverage (CHAB) licenses and authorizations pursuant to N.J.S.A. 5:12-103(g)1. through (g)7., as amended. They also set forth general criteria concerning the conditions of operation in authorized CHAB locations. Pursuant to N.J.S.A. 5:12-103, the applicable provisions of Title 33 of the Revised Statutes and the rules of the Division of Alcoholic Beverage Control (N.J.A.C. 13:2) also apply to these licensing provisions to the extent that they are not inconsistent with the Casino Control Act and the rules of the Commission.

The proposed amendments are generally organizational and technical, rather than substantive. Certain revisions are the result of amendments to the underlying alcoholic beverage legislation and rules (N.J.S.A. 5:12-103, N.J.S.A. 33:1-1, et seq. and N.J.A.C. 13:2), all applicable to CHAB licensees via N.J.S.A. 5:12-103(d) and -70(q). Thus, the new definitions of "authorized location" and "premises" in N.J.A.C. 19:50-1.1(c) are necessitated by the revised statutory scheme of issuing one liquor license which may include many separate authorizations for the various restaurants, lounges, showrooms, meeting rooms, room service and storage locations in a casino hotel, in addition to the casino room. See also N.J.A.C. 19:50-1.4(b)6 regarding room service. Other revisions are the result of amendments to the Casino Control Act. See N.J.A.C. 19:50-1.5(d) regarding licensure of CHAB employees and the deletion of existing N.J.A.C. 19:50-1.8(c), 1.9(c), 1.10(b), and 1.11(b). Citations to various New Jersey Division of Alcoholic Beverage Control (ABC) rules have been updated where necessary, and certain ABC rules which were promulgated after the Commission's alcoholic beverage rules were adopted have been included. See N.J.A.C. 19:50-2.1(r). Other changes clarify or codify existing statutory and regulatory requirements and Commission policy. See the definition of "meals" in N.J.A.C. 19:50-1.1(c) and the definitions of showrooms, restaurants and pubs found at N.J.A.C. 19:50-1.4(b); see also N.J.A.C. 19:50-1.4(d) concerning alternative and simultaneous CHAB authorizations, and N.J.A.C. 19:50-2.2(e) concerning combination sales consisting of a meal and an alcoholic beverage. Lastly, this chapter, which originally contained only one subchapter, has been reorganized and divided into four subchapters for easier comprehension and reference.

Social Impact

These rules have positive social benefits for the public, the industry and the regulatory agencies which implement them.

By continuing the strict regulation of alcoholic beverage operations in casino hotels, the existing nature and tone of the hospitality industry in New Jersey and in Atlantic City will be preserved, N.J.S.A. 5:12-1(b)(5). By prohibiting various forms of consumer fraud related to the promotion and sale of alcoholic beverages, public confidence of the casino industry patron in the integrity of Atlantic City's gaming industry is enhanced. Lastly, to the extent that these rules limit and control the places and manner in which alcoholic beverages may be stored, served, sold and consumed, they promote the State policies of fostering an appropriate environment within a casino hotel facility, maintaining a competitive atmosphere within the industry, and discouraging practices unduly designed to increase the consumption of alcoholic beverages.

Economic Impact

The rules impose a certain financial burden on CHAB licensees, which are obligated to institute systems and procedures to comply with them. However, the readoption and amendment of these rules should impose no additional costs upon the Commission, the Division, the industry or the public because the system of alcoholic beverage licensing and control remains essentially unchanged.

These rules, which require the Commission and the Division to control and monitor alcoholic beverage operations within the industry, provide an efficient procedure for implementing the provisions of the Casino Control Act. Without these rules and the standardized, efficient procedures that they provide, the State would incur a significantly higher cost for the enforcement of the relevant provisions of the Act, than is presently the case.

Regulatory Flexibility Statement

The rules apply to all CHAB licensees. These persons are generally casino licensees (12 at present), none of which is a "small business" as defined in N.J.S.A. 52:14B-17. However, other CHAB licensees may and do include individuals, partnerships, corporations, or other organizations that sell alcoholic beverages in a portion of the premises of a casino hotel which they occupy pursuant to a lease or license. At the present time, four organizations other than casino licensees hold CHAB licenses; all of them operate restaurants in casino hotels, and each employs between 15 and 84 people.

Although small businesses are affected by the rules, the objective of strict regulation of the sale, service and consumption of alcoholic beverages may be met only by imposing uniform compliance upon all CHAB licensees, and thus no exemption for small businesses has been provided. Additionally, as noted above, these rules are a revision of existing CHAB rules. Because these revisions are generally organizational and technical rather than substantive, they will have no additional impact upon CHAB licensees which are small businesses.

Full text of the readoption may be found in the New Jersey Code at N.J.A.C. 19:50.

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

SUBCHAPTER 1. GENERAL PROVISIONS

19:50-1.1 Definitions

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

(c) For the purposes of these regulations, the following definitions shall apply:

. . .

"Authorized location" means any room or area which is in, on, or about the premises, and which has been approved by the Commission for the service, sale, consumption, or storage of alcoholic beverages pursuant to N.J.S.A. 5:12-103 and this chapter.

"Casino hotel alcoholic beverage (CHAB) licensee" means a person who is licensed to serve, sell or store alcoholic beverages pursuant to N.J.S.A. 5:12-103 and this chapter.

. . .

"Illicit beverage" means any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported in violation of [this chapter] **the law**, or on which any Federal tax or tax imposed by the laws of this State has not been paid; and any alcoholic beverage possessed, kept, stored, owned or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport in violation of the [provisions of] law.

["Licensed premises" means any premises for which a license issued under these regulations is in force and effect.]

. . .

"Meals" means any food other than sandwiches, salads, crackers, chips, nuts, or similar snacks.

"Original container" means any container in which an alcoholic beverage has been delivered to a **CHAB** [retail] licensee.

"Premises" means **the premises licensed as an approved hotel pursuant to N.J.S.A. 5:12-27** [the physical place at which a licensee is or may be licensed to conduct and carry on the manufacture, distribution or sale of alcoholic beverages, but not including vehicular transportation].

. . .

"Sale" means every delivery of an alcoholic beverage otherwise than by purely gratuitous title, including deliveries from without this State and deliveries by any person without this State intended for shipment by carrier or otherwise into this State and brought within this State, or the solicitation or acceptance of an order for an alcoholic beverage, and including exchange, barter, traffic in, keeping and exposing for sale, serving with meals, delivering for value, peddling, possessing with intent to sell, and the gratuitous delivery or gift of any alcoholic beverage by any **CHAB** licensee.

"Unlawful alcoholic beverage activity" means the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of any alcoholic beverage in violation of [this chapter] **the law**, or the importing, owning, possessing, keeping or storing in this State of alcoholic beverages with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport alcoholic beverages in violation of **the** law, or the owning, possessing, keeping or storing in this State of any implement or paraphernalia for the [manufacturing] **manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing,** processing, warehousing or transportation of alcoholic beverages with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of [this chapter] **the law**, or to aid or abet another in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation [or] **of** alcoholic beverages in violation of **the** law, or the aiding or abetting of another in any of the foregoing activities.

"Unlawful property" means all illicit beverages and all implements, vehicles, vessels, airplanes, and paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages used in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages or owned, possessed, kept or stored with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages, whether such use be by the person owning, possessing, keeping or storing the same, or by another with the consent of such person; and all alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or enclosure connected with a building, in which [all] **an** illicit beverage is found, possessed, stored or kept.

"Wholesaler" means any person who sells an alcoholic beverage for the purpose of resale [either] to a licensed wholesaler, [or to] a licensed retailer, or [both.] **a CHAB licensee.**

(d) (No change.)

19:50-1.2 Saving regulations

(a) Title 33 [is] **of** the Revised Statutes and the rules, regulations and bulletins promulgated thereunder by the Director of the Division of Alcoholic Beverage Control shall, except as otherwise provided in section 103 of the [act] **Act** or the rules and regulations of the [commission] **Commission**, apply to any casino hotel and to any [casino hotel beverage] **CHAB** licensee licensed under the [act] **Act** and these regulations.

(b) Notwithstanding subsection (a), all persons required to obtain casino hotel alcoholic beverage **(CHAB) licenses** [licensees] shall make all informational and other filings required by Title 33 of the Revised Statutes and Title 13 of the New Jersey Administrative Code to the [commission] **Commission,** in accordance with prescribed procedures, and to the Division of Alcoholic Beverage Control.

(c) (No change.)

19:50-1.3 License **and authorization** as conditions 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 said person possesses [an appropriate casino hotel alcoholic beverage] **a CHAB** license. Any [casino hotel alcoholic beverage] **CHAB** 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) Rules concerning class I licenses are:]

[1. No class I casino hotel alcoholic beverage license, or authorization permitting the service of alcoholic beverages in a casino room pursuant to N.J.S.A. 5:12-103(g)(1), shall issue to any applicant who does not hold a casino license issued pursuant to the Act.

2. Every employee and agent of a casino hotel alcoholic beverage licensee, whose employment or agency includes duties on the premises licensed as a class I area or location authorized pursuant to N.J.S.A. 5:12-103(g)(1), shall be licensed as a casino employee in accordance with section 90 of the Act and these regulations.]

[(c) Rules concerning class II, III, IV, V, VI, or VII licenses are:]

[1. No class II, III, IV, V, VI, or VII casino hotel alcoholic beverage license, or authorization permitting alcoholic beverages in a location pursuant to N.J.S.A. 5:12-103(g)(2),(3),(4),(5),(6), or (7), shall issue to any applicant who would not qualify under the standards for licensure of a casino employee except that such applicant need not be an employee of the casino licensee.

2. Every employee and agent of a casino hotel alcoholic beverage licensee whose employment or agency includes duties at a casino hotel complex, but not on the class I premises or a location authorized pursuant to N.J.S.A. 5:12-103(g)(1), shall be registered as a casino hotel employee in accordance with section 91 of the Act and these regulations.]

[(d) No class VII casino hotel alcoholic beverage license, or authorization pursuant to N.J.S.A. 5:12-103(g)(7), shall issue to any applicant who does not hold a casino hotel alcoholic beverage license or authorization which permits the sale of alcoholic beverages.]

[(e) No person shall, on a wholesale basis, 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 to any casino hotel alcoholic beverage licensee unless that person has:

1. Obtained a valid license from the Division of Alcoholic Beverage Control; and

2. Obtained a valid casino service industry license from the Casino Control Commission, unless such licensure is waived by the commission in accordance with section 92(c) of the Act.]

(b) No CHAB licensee, nor any of its agents, servants or employees, 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 except in an authorized location.

(c) In issuing a CHAB license or any authorization thereunder, or any permit pursuant to N.J.S.A. 5:12-103 and 33:1-1, et seq., the Commission may impose any conditions, limitations and restrictions as it deems necessary and reasonable.

19:50-1.4 [Licensure Categories] **Classification of authorized locations**

(a) Authorized locations shall be classified as follows:

1. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(1) shall be classified as Type I.

2. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(2) shall be classified as Type II.

3. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(3) shall be classified as Type III.

4. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(4) shall be classified as Type IV.

5. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(5) shall be classified as Type V.

6. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(6) shall be classified as Type VI.

7. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(7) shall be classified as Type VII.

(b) The activities permitted in each type of authorized location, subject to applicable laws, rules, and regulations, are as follows:

[(a)]**1.** [The holder of a Class I casino license] **In a Type I location, a CHAB licensee** shall be entitled[, subject to applicable laws, rules and regulations,] to sell any alcoholic beverage by the glass or other open receptacle, but not in an original container, for on-premises consumption within a casino.

[(b)]**2.** [The holder of a Class II cabaret-entertainment room license] **In a Type II location, a CHAB licensee** shall be entitled[, subject to applicable laws, rules and regulations,] to sell any alcoholic beverage by the glass or other open receptacle for on-premises consumption within an enclosed room, not in a casino, [; provided, however, that the Class II licensed room shall regularly and principally be] used **primarily** for the purpose of providing **entertainment, including but not limited to** live cabaret, show, revue, performing arts or sports entertainment available to the public, with or without the availability of food.

[(c)]**3.** [The holder of a Class III restaurant-banquet room license] **In a Type III location, a CHAB licensee** shall be entitled[, subject to applicable laws, rules and regulations,] to sell any alcoholic beverage by the glass or other open receptacle for on-premises consumption within an enclosed room or a series of enclosed connected rooms, with or without an adjacent outdoor dining area, not in a casino, [; provided, however, that the licensed area shall regularly or principally be] used **primarily** for the purpose of providing meals to the public.

[(d)]**4.** [The holder of a Class IV pub area license] **In a Type IV location, a CHAB licensee** shall be entitled[, subject to applicable laws, rules, and regulations,] to sell any alcoholic beverage by the glass or other open receptacle for on-premises consumption within a **pub, tavern or similar** room, not in a casino, or from one fixed location outside a building or structure containing a casino but on a casino hotel premises; provided, however, that the [regular and principal] **primary** purpose of [such facility] **a Type IV location** shall not be for the consumption of meals by customers or for banquets [or conventions].

[(e)]**5.** [The holder of a Class V package license] **In a Type V location, a CHAB licensee** shall be entitled[, subject to applicable laws, rules, and regulations,] to sell any alcoholic beverage in original containers for consumption outside the [licensed area] **Type V authorized location** from one enclosed room, not in a casino.

[(f)]**6.** [The holder of a Class VI room service license] **In a Type VI location, a CHAB licensee** shall be entitled[, subject to applicable laws, rules, and regulations,] to sell any alcoholic beverage from [one] **a** fixed location within an enclosed room, not in a casino, [; and any sale of alcoholic beverages is delivered only] **for delivery** to a **guest** room [and to a registered guest of the casino hotel and not in or on any area, room, or location licensed under] **or to any other room in the premises authorized by the Commission, other than a** [Class] **Type** I, II, III, IV or V **location**.

[(g)]**7.** [The holder of any casino hotel alcoholic beverage license] **In a Type VII location, a CHAB licensee** shall be entitled[, subject to applicable laws, rules, and regulations,] to possess or to store **in a fixed location on the premises, not in a casino,** alcoholic beverages intended but not actually exposed for sale [in an area, room or location so licensed].

(c) Notwithstanding any other provision of this chapter to the contrary, a CHAB licensee shall be entitled to possess or store within any of its authorized locations alcoholic beverages intended but not actually exposed for sale in that authorized location, without obtaining a separate or additional Type VII authorization.

(d) The Commission may, consistent with the requirements of (b) above, issue two or more alternative types of authorizations for the same authorized location, or different types of authorizations for different areas of the same authorized location. This subsection shall not apply to Type I or Type V authorized locations.

19:50-1.5 [The] Standards for qualification

(a) No [casino hotel alcoholic beverage] **CHAB** license shall issue unless each person required to qualify shall have first qualified in accordance with the **CHAB** [casino hotel alcoholic beverage] license standards set forth in section 103 of the [act] **Act**, the regulations of the [commission] **Commission**, Title 33 of the Revised Statutes, and the rules, regulations and bulletins of the Division of Alcoholic Beverage Control, except where inconsistent with the [act] **Act** or the regulations of the [commission] **Commission**.

(b) No Type I authorization shall issue to any applicant who does not hold a casino license issued pursuant to the Act.

(c) No Type II, III, IV, V, VI, or VII authorization shall issue to any applicant who would not qualify under the standards for licensure of a casino employee except that such applicant need not be an employee of the casino licensee.

(d) Every employee and agent of a CHAB licensee, whose employment or agency includes duties in a Type I location shall be licensed or registered in accordance with the Act. Every employee and agent of a CHAB licensee whose employment or agency includes duties, in, on, or about the premises but not in a Type I authorized location, shall be registered as a casino hotel employee in accordance with section 91 of the Act.

(e) No Type VII authorization shall issue to any applicant who does not hold a Type I, II, III, IV, V or VI authorization.

(f) No CHAB licensee shall allow, permit or suffer any wholesaler to sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages to it unless the wholesaler has:

1. Obtained a valid license from the New Jersey Division of Alcoholic Beverage Control; and

2. Complied with all applicable requirements of N.J.S.A. 5:12-92, N.J.S.A. 5:12-104, N.J.A.C. 19:41-11 and N.J.A.C. 19:43.

SUBCHAPTER 2. CONDUCT OF CHAB LICENSEES

[19:50-1.6 General regulations concerning operating conditions of licensees]

19:50-2.1 Operating conditions of CHAB licensees

(a) No **CHAB** licensee shall:

1. (No change.)

2. **Allow,** [Permit] **permit, or suffer** the consumption of any alcoholic beverage by such person [on licensed premises.] **in or upon its authorized location.**

[(b) Further rules on licensees include the following:]

[1. Each casino hotel alcoholic beverage licensee shall submit to the commission a description of its system of internal procedures and administrative and accounting controls. Such submission shall be made at least 30 days before operations are to commence or before changes in previously submitted control plans are to become effective, unless otherwise directed by the commission. Each such submission shall contain both narrative and diagrammatic representations of the internal control system to be utilized by the licensee including, but not limited to:]

[i. Accounting controls, including the standardization of forms and definition of terms to be utilized in the operations;]

[ii. Procedures, forms, and, where appropriate, formulas covering the calculation of taxes, revenue, expense and overhead schedules, complimentary services, cash equivalent transactions, salary structure and personnel practices;]

[iii. Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in operations and identifying primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor;]

[iv. Procedures concerning receipts from patrons;]

[v. Procedures for the physical security of the licensee.]

[2. The commission shall review each submission and shall determine whether it conforms to the requirements of the act and to the regulations and whether the system submitted provides adequate and effective controls for the operations of the enterprise submitting it. If the commission finds any insufficiencies, it shall specify same in writing to the licensee, who shall make appropriate alterations. When the commission determines a submission to be adequate in all respects, it shall notify the licensee of same. No licensee shall commence operations, or alter in fact its internal controls, unless and until such system of controls is approved by the commission.]

[(c) No licensee shall possess or dispose of any alcoholic beverage which is diluted with any substance, except in the case of mixed drinks, prepackaged mixed drinks or unless the consumer is notified of such dilution.]

[(d) No employee or agent of a casino hotel alcoholic beverage licensee, except those which have been approved by the commission, shall consume alcoholic beverages during his hours of employment or agency by a casino hotel alcoholic beverage licensee, including overtime.]

[(e)] **(b)** No employee or agent of a **CHAB** licensee shall work in any capacity in, on or about [a casino hotel complex] **the premises** while actually or apparently intoxicated**, and no CHAB licensee shall** [or] allow, permit or suffer any actually or apparently intoxicated person **employed by that CHAB licensee** to work in any capacity in, on, or about [a casino hotel complex] **the premises.**

[(f) No casino hotel alcoholic beverage licensee shall store any alcoholic beverage in, on, or about any portion of a casino hotel except at his licensed premises or subject to an arrangement with a casino hotel alcoholic beverage licensee which is licensed or authorized to store alcoholic beverages pursuant to a class VII license or N.J.S.A. 5:12-103(g)(7).]

[(g) No casino hotel alcoholic beverage licensee shall significantly alter any aspect of its physical plant without first submitting a description of such proposed alteration to the commission and receiving a written permission therefor.]

[(h)] **(c)** No [casino hotel alcoholic beverage] **CHAB** licensee shall sell, serve or deliver or allow, permit or suffer the sale, service, [or] delivery**, or consumption** of any alcoholic beverage[, at retail, or allow, permit or suffer the consumption of any alcoholic beverage on the licensed premises] **in or upon its authorized location,** or allow, permit or suffer [the retail licensed premises] **its authorized location** to be open, during any period for which any duly constituted state, county or municipal law enforcement authority, because of a public emergency or investigation of crime, has ordered [the licensed premises] **its authorized location** to be closed, unless excepted by such authority to permit continuing conduct of business other than the sale of alcoholic beverages.

[(i)] **(d)** No **CHAB** [casino hotel alcoholic beverage] licensee shall directly or indirectly solicit from house to house, personally or by telephone, the purchase of any alcoholic beverage, or allow, permit or suffer such solicitation.

[(j)] **(e)** No **CHAB** [casino hotel alcoholic beverage] licensee shall [knowingly] allow, permit or suffer in or upon [the licensed premises] **its authorized location** or [knowingly] compensate any male or female prostitute, pickpocket, swindler, confidence man, or any notorious criminal, gangster, racketeer, or other person of ill repute; nor shall any **CHAB** licensee [knowingly] allow, permit or suffer in or upon [the licensed premises] **its authorized location** any unlawful possession of or any unlawful activity pertaining to narcotic or other drugs or other controlled dangerous substances as defined by the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:2-1, et seq.) or any prescription legend drug, in any form, which is not a narcotic, depressant or stimulant drug or controlled dangerous substance as heretofore defined; nor shall any [such] **CHAB** licensee [knowingly] allow, permit or suffer [the licensed premises] **its authorized location** to be accessible to any [premises upon which] **place where** any illegal activity or enterprise is carried on, or [the licensed premises] **its authorized location** or business to be used in furtherance or aid of, or accessible to any illegal activity or enterprise.

[(k)] **(f)** No [casino hotel alcoholic beverage] **CHAB** licensee shall [knowingly] engage in or [knowingly] allow, permit or suffer in or upon [the licensed premises] **its authorized location** any lewdness, immoral activity, or foul, filthy, indecent or obscene language or conduct, or any brawl, act of violence, disturbance or unnecessary noise; nor shall any [such] **CHAB** licensee [knowingly] allow, permit or suffer [the licensed place of business] **its authorized location** to be conducted in such manner as to become a nuisance.

[(l) (Reserved)]

[(m) No casino hotel alcoholic beverage licensee shall manufacture, transport, possess, sell, barter, give away, offer for sale, furnish or dispose of any alcoholic beverage adulterated with methanol, alkaloids, acetone, phenols, formaldehyde, isopropyl or tertiary butyl alcohol or other harmful substance whatsoever.]

(g) No CHAB licensee shall manufacture, transport, possess, sell, barter, give away, offer for sale or furnish any alcoholic beverage adulterated with any foreign or harmful substance.

[(n)] **(h)** No [casino hotel alcoholic beverage] **CHAB** licensee shall receive, possess or sell any alcoholic beverage transported into this State in violation of [Alcoholic Beverage Control Regulation No. 18 (N.J.A.C. 13:2-18.1 et seq.)] **N.J.A.C. 13:2-21.**

[(o) No casino hotel alcoholic beverage licensee shall in a Class V licensed area or location authorized pursuant to N.J.S.A. 5:12-103(g)(5), allow, permit or suffer any alcoholic beverage to be consumed in or upon such premises, nor shall any such licensee possess or allow, permit or suffer any open containers of alcoholic beverage in or upon the licensed premises; provided, however, that opened bottles of alcoholic beverages returned by a customer as allegedly defective may be so possessed pending return to the manufacturer or wholesaler; and further provided that the container is immediately resealed and labeled with the name and address of the customer and the date of return by the customer.]

[(p)] **(i)** No [casino hotel alcoholic beverage] **CHAB** licensee shall conduct [the licensed] business unless:

1. The current **CHAB** license certificate is at all times conspicuously displayed on the [licensed] premises;
2. A photostatic or other true copy of the application for the current **CHAB** license is kept on the [licensed] premises; and
3. A list, in form prescribed by the commission containing the names and addresses of, and required information with respect to, all persons currently employed on [the licensed premises,] **its authorized location** is kept on the [licensed premises] **authorized location.** Such application copy and such list shall be available for inspection by the [commission] **Commission and the Division.**

[(q)] **(j) No** [casino hotel alcoholic beverage] **CHAB licensee shall allow, permit or suffer in or upon** [the licensed premises] **its authorized location** or have in [his] **its** possession or distribute or cause to be distributed any obscene, indecent, filthy, lewd, lascivious or disgusting recording, printing, writing, picture or other matter.

[(r) No casino hotel alcoholic beverage licensee privileged to sell any alcoholic beverages at retail shall, directly or indirectly, sell or offer for sale at retail any alcoholic beverage for consumption off the licensed premises at less than the price per container or specified price per case thereof, or both as currently filed with the Division of Alcoholic Beverage Control; "combination sales" of any kind, consisting of more than one article, whether it be an alcoholic beverage or something else, at a single aggregate price are prohibited.]

[(s)] **(k)** No [casino hotel alcoholic beverage] **CHAB** licensee [privileged to sell alcoholic beverages for consumption on the licensed premises] shall serve or allow, permit or suffer the service of any alcoholic beverage other than ordered or substitute a non-alcoholic beverage when an alcoholic beverage has been ordered, or serve or allow, permit or suffer the service of any alcoholic beverage, except beer or wine, containing less than a measured amount of alcohol, which measured amount the [casino hotel alcoholic beverage] **CHAB** licensee shall either print on the menu, or post in a prominent place, or both.

[(t)] **(l)** No [casino hotel alcoholic beverage] **CHAB** licensee [privileged to sell alcoholic beverages for consumption on the licensed premises] shall allow, permit or suffer any tap [on the licensed premises] **in or upon its authorized location** to be connected with any barrel or other container of a malt alcoholic beverage unless such tap bears a marker [, not exceeding 30 square inches,] which truly indicates the name or brand of the manufacturer of such malt alcoholic beverage, and unless such name or brand is in full view of the purchaser when the tap is located at a bar at which consumers are served.

[(u)] **(m)** No [retail casino hotel alcoholic beverage] **CHAB** licensee shall possess, have custody of, or allow, permit or suffer in or upon [the licensed premises] **its authorized location** any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported in violation of [Title 33 of the Revised Statutes] **the law**, or any alcoholic beverage in any keg, barrel, can, bottle, flask, [or] similar container **or other receptacle** which:

1. Does not bear any label describing its contents; or
2. Bears a label which does not truly describe its contents; or
3. Does not bear any indicia of tax payments as required by the laws of the United States.

[(v)] **(n)** No [casino hotel alcoholic beverage] **CHAB** licensee shall place any order within this State for the purchase of any alcoholic beverage or allow, permit or suffer any of [his] **its** employees or agents to place any order for the purchase of any alcoholic beverage[,] with any individual soliciting in violation of [Alcoholic Beverage Control Regulation No. 14 (N.J.A.C. 13:2-14.1 et seq.)] **N.J.A.C. 13:2-16.**

[(w)] **(o)** No [retail casino hotel alcoholic beverage] **CHAB** licensee shall employ or have connected with [him] **it** in any business capacity whatsoever any person interested, directly or indirectly, in the manufacturing or wholesaling of any alcoholic beverage within or without this State, nor shall any [such retail] **CHAB** licensee be employed by or connected in any business capacity whatsoever with any person interested, directly or indirectly, in the manufacturing or wholesaling of any alcoholic beverage within or without this State; provided, however, that notwithstanding the provisions of this section, the provisions of Title 33 of the Revised Statutes and Title 13 of the New Jersey Administrative Code, the [commission] **Commission** may, in its discretion, issue to an applicant a [retail casino hotel alcoholic beverage] **CHAB** license when the following conditions have been met:

1. The applicant has furnished to the [commission] **Commission** a list of all brands of alcoholic beverages manufactured or sold at wholesale by the applicant or by any person employed by or connected in any business capacity whatsoever with the applicant[;] **, and** the applicant has agreed in writing to provide the [commission] **Commission** with prior written notice of any change in said list occurring at any time hereafter;
2. The applicant has agreed in writing not to sell or permit the sale at [the licensed premises] **its authorized location** of any alcoholic beverage manufactured or sold at wholesale by the applicant or by any person employed by or connected in any business capacity whatsoever with the applicant;
3. Any **CHAB** license issued pursuant to this section shall contain a legend making reference to the provisions of this section and stating that the issuance of such license is conditioned upon the continuing fulfillment of all of the conditions set forth herein.

[(x)] **(p)** No [casino hotel alcoholic beverage] **CHAB** licensee, during the suspension of [his] **its** license **or any authorization issued thereunder**, shall:

1. Allow, permit or suffer the sale, service, delivery or consumption of any alcoholic beverage or any other alcoholic beverage activity **in or upon its authorized location,** except the storage of alcoholic beverages on hand **or, if permitted by the Commission, the return of alcoholic beverages to wholesalers; or** [in or upon the licensed premises, or deliver any alcoholic beverage to any consumer; or]
2. Receive delivery of any alcoholic beverage; or
3. Advertise that [the licensed premises] **its authorized location** [are] **is** closed or the [licensed] business stopped because of repairs or alterations or for any reason other than the suspension.

[(y)] **(q)** The holder of any **CHAB** [casino hotel alcoholic beverage] license authorizing the sale of alcoholic beverages for consumption in an authorized location may transfer wine from an original tax paid barrel, cask, keg or other container in the authorized location to another barrel, cask, keg, decanter, bottle or similar container for purposes of interim storage and serve such wine therefrom; provided, however, that each barrel, cask, keg, decanter, bottle or other interim storage container shall have affixed thereto at all times a gummed label clearly identifying the contents thereof; and provided further, however, that nothing herein shall be deemed to prohibit the transfer of wine to unlabeled carafes, glasses or similar open receptacles for immediate service to patrons for consumption in the authorized location. The prescribed label shall be substantially in the form set forth below, and each statement made shall be true:

This tax paid ______________________ contains
(type of container)
______________ wine, received from ______________
(type and brand) (name and address
______________ on ______________
of seller) (date of receipt)
____
(signature)

(r) No CHAB licensee shall, directly or indirectly, allow, permit or suffer any practice or promotion that:

1. Offers to the public at large unlimited availability of any alcoholic beverage for a set price; or

2. Offers to a patron or consumer a free drink, gift, prize or anything of value, conditioned upon the purchase of an alcoholic beverage or product, except branded or unique glassware or souvenirs in connection with a single purchase; or

3. Requires or allows a consumer to prepurchase more than one drink or product at a time via tickets, tokens, admission fees, two for one, or the like, as a condition for entry into its premises or its authorized location, or as a requirement for service or entertainment therein.

19:50-2.2 Additional operating conditions of CHAB licensees

(a) No CHAB licensee shall sell, serve, deliver or store alcoholic beverages in, on, or about its authorized location without first submitting and receiving approval of a system of internal controls therefor.

1. Each CHAB licensee shall submit to the Commission a description of its system of internal procedures and administrative and accounting controls. Such submission shall be made at least 120 days before operations are to commence or 90 days before changes in previously submitted control plans are to become effective, unless otherwise directed by the Commission. Each such submission shall contain both narrative and diagrammatic representations of the internal control system to be utilized, including but not limited to:

i. Accounting controls, including the standardization of forms and definition of terms to be utilized in the operations;

ii. Procedures, forms, and, where appropriate, formulas covering the calculation of taxes, revenue, expense and overhead schedules, complimentary services, cash equivalent transactions, salary structure and personnel practices;

iii. Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in operations and identifying primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor;

iv. Procedures concerning receipts from patrons;

v. Procedures for the physical security of its authorized location and all alcoholic beverages therein.

2. The Commission shall review each submission and shall determine whether it conforms to the requirements of the Act and to the regulations and whether the system submitted provides adequate and effective controls for the operation of the CHAB licensee submitting it. If the Commission finds any insufficiencies, it shall specify them in writing to the CHAB licensee, who shall make appropriate alterations. When the Commission determines a submission to be adequate in all respects, it shall notify the CHAB licensee. No CHAB licensee shall commence operations, or alter in fact its internal controls, unless and until such system of controls is approved by the Commission.

(b) No employees or agents of a CHAB licensee, except those which have been approved by the Commission, shall consume alcoholic beverages during their hours of employment or agency by a CHAB licensee, including overtime.

(c) No CHAB licensee shall store or allow, permit or suffer the storage of any alcoholic beverages in, on, or about the premises except at a Type VII authorized location or any other authorized location pursuant to N.J.A.C. 19:50-1.4(c).

(d) No CHAB licensee shall alter any aspect of the physical structure of its authorized location without first submitting a description of such proposed alteration to the Commission and receiving written permission therefor.

(e) Combination sales of any kind, consisting of more than one article, whether it be an alcoholic beverage or something else, at a single aggregate price are prohibited, except that a combination sale consisting of a meal and an alcoholic beverage is permitted, provided that:

1. The alcoholic beverage shall not be advertised as "free", but may be advertised as "included" or "complimentary";

2. The container in which the alcoholic beverage is served shall be limited to a single unit, although the size of the container is not limited.

SUBCHAPTER 3. CONDITIONS OF OPERATION IN AUTHORIZED LOCATIONS

[19:50-1.7] **19:50-3.1** Conditions of operation in [Class] **Type I** [areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(1)]

(a) No food or alcoholic beverage, other than nonalcoholic beverages or garnishments used in the preparation of alcoholic beverages for consumption by the glass, **shall** be sold, given or be available for consumption, offered, delivered or otherwise brought to a patron [at a gaming table] **within a casino room** unless so requested by the patron.

(b) No alcoholic beverage in an original container shall be brought into a [casino] **Type I location** except by the **CHAB** licensee authorized to sell alcoholic beverages in that [casino room,] **Type I location.** [whether obtained from a Class V casino hotel alcoholic beverage licensee, a licensee authorized to sell alcoholic beverages pursuant to N.J.S.A. 5:12-102(g)(5), or from any other source.]

(c) No CHAB licensee shall service any alcoholic beverage in a Type I location except by the glass or other open receptacle, but not in an original container, for on-premises consumption within the authorized location.

[(c)] **(d)** No alcoholic beverage **or food** shall be displayed in a [casino] **Type I location** except incidental to delivery or consumption by a patron.

[(d)] **(e)** [No alcoholic] **Alcoholic** beverages shall be served[:] **in a Type I location only when the casino room is open for business as provided in section 97(a) of the Act, but not later than 15 minutes prior to the closing of the casino room.**

[1. In a casino except when the casino is open for business as provided in section 97(a) of the Act;]

[2. In a casino later than fifteen minutes prior to the closing of the casino.]

[(e)] **(f)** Every **CHAB** licensee [which is licensed or] authorized to sell alcoholic beverages in a [casino room,] **Type I location** shall have on duty at all times [of] **when** alcoholic beverage service **is available** at least one person whose duties shall include supervision of all alcoholic beverage service[s] provided pursuant to that [license or] **Type I** authorization.

[19:50-1.8] **19:50-3.2** Conditions of operation in [Class] **Type II** [areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(2)]

(a) A **CHAB** licensee may sell alcoholic beverages and meals for consumption **in a Type II location** only as an adjunct to entertainment [in a class II area or location authorized pursuant to N.J.S.A. 5:12-103(g)(2)] **within the authorized location.**

(b) No **CHAB** licensee shall include any alcoholic beverage charges within the price charged for admission, nor shall any admission charge entitle the patron to any alcoholic beverage in a [Class] **Type II** [area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(2)].

[(c) No Class II licensed area or location authorized pursuant to N.J.S.A. 5:12-103(g)(2) shall have patron access directly to a casino.]

[(d)] **(c)** No **CHAB** licensee shall serve any alcoholic beverage in a [Class] **Type II** [area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(2),] except by the glass or [opened container] **other open receptacle** for on-premises consumption within the [licensed area or] authorized location.

[(e) Every licensee shall, in a Class II area or location authorized pursuant to N.J.S.A. 5:12-103(g)(2), have an adequate physical plant for the purpose of providing entertainment, which shall include: a raised or enclosed stage; or physical barrier to block access to such stage; a sound amplification system for use by the performer if necessary to the performance; and an adequate lighting system. The physical plant and the entertainment provided therein shall meet all requirements established by the commission's regulations concerning entertainment (see N.J.A.C. 19:52).]

[19:50-1.9] **19:50-3.3** Conditions of operation in [Class] **Type III** [areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(3)]

(a) A **CHAB** licensee may sell alcoholic beverages in **a** [Class] **Type III** [areas and locations authorized pursuant to N.J.S.A. 5:12-103(g)(3)] **location** only as an adjunct to meals for consumption within the [licensed area or] authorized location.

(b) A **CHAB** licensee may sell alcoholic beverages in **a** [Class] **Type III** [areas and locations authorized pursuant to N.J.S.A. 5:12-103(g)(3)] **location** only on the following basis:

1. During the preparation, consumption and to the completion of meals; **and**

2. In the dining area.

[(c) No Class III licensed area or location authorized pursuant to N.J.S.A. 5:12-103(g)(3) shall have patron access directly to the casino.]

[(d)] **(c)** No **CHAB** licensee shall serve any alcoholic beverage in a [Class] **Type III** [area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(3)] except by the glass or [opened container] **other open receptacle** for on-premises consumption within the [licensed area or] authorized location.

[(e) Every Class III licensed area and location authorized pursuant to N.J.S.A. 5:12-103(g)(3) shall have an adequate kitchen and dining area equipped to prepare, cook and serve meals for consumption by the public.]

[(f)] **(d)** Every **CHAB** licensee shall prepare a menu which shall be posted adjacent to the entrance of each of its [Class] **Type III** [areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(3)], except when the [licensed area or] authorized location is being used for a [pre-paid] **prearranged** banquet or convention.

[19:50-1.10] **19:50-3.4** Conditions of operation in [Class] **Type IV** [areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(4)]

(a) No **CHAB** licensee shall provide meals for consumption to the public in a [Class] **Type IV** [area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(4)].

[(b) No Class IV licensed area, or location authorized pursuant to N.J.S.A. 5:12-103(g)(4) shall have direct patron access to the casino unless the licensed area or authorized location also has a patron access which does not lead directly into the casino, except as otherwise provided by the commission upon a showing of good cause.]

[(c)] **(b)** No **CHAB** licensee shall [, in a Class IV area or location authorized pursuant to N.J.S.A. 5:12-103(g)(4)] sell any alcoholic beverage **in a Type IV location** [for on-premises consumption] except [in a] **by the** glass or [opened container] **other than receptacle for on-premises consumption within the authorized location.**

[19:50-1.11] **19:50-3.5** Conditions of operation in [Class] **Type V** [areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(5)]

(a) No **CHAB** licensee shall, in a [Class] **Type V** [area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(5)], sell any alcoholic beverage for delivery [from the licensed area or authorized location] to any other area [or location within a casino hotel complex.] **in, on or about the premises.**

[(b) No licensee shall, in a class V area or location authorized pursuant to N.J.S.A. 5:12-103(g)(5), provide any direct access from said licensed area or authorized location to or from a casino.]

[(c)] **(b)** No **CHAB** licensee shall, in a [Class] **Type V** [area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(5)], sell any alcoholic beverage in other than original containers or for consumption within the [said licensed area or] **Type V** authorized location.

[(d)] **(c)** Sale of alcoholic beverages may include the retail sale of distillers' and vintners' packaged holiday merchandise [packaged] **prepacked** as a unit with suitable glassware as gift items to be sold only as a unit, cigars, cigarettes, packaged crackers, chips, nuts and similar snacks, ice and non-alcoholic beverages as accessory beverages [and] **to** alcoholic beverages.

(d) No CHAB licensee shall allow, permit or suffer any alcoholic beverage to be consumed in or upon a Type V location, nor shall any CHAB licensee possess or allow, permit or suffer any open containers of alcoholic beverages in or upon its Type V location; provided, however, that opened bottles of alcoholic beverages returned by a customer as allegedly defective may be so possessed pending return to the manufacturer or wholesaler; and further provided that the container is immediately resealed and labeled with the name and address of the customer and the date of return by the customer.

(e) No [Class] **Type** V [licensed area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(5)] shall be used for any purpose other than that for which it is [licensed] **authorized**.

[19:50-1.12] **19:50-3.6** Conditions of operation in [Class] **Type** VI [areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(6)]

(a) A [Class] **Type** VI [licensed area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(6)] shall not have direct access to or from **a** casino[s].

[(b) Class VI licensed premises shall not be licensed under any other casino hotel alcoholic beverage license class.]

[19:50-1.13] **19:50-3.7** Conditions of operation in [Class] **Type** VII [areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(7)]

(a) A **CHAB** licensee may, in **a** [Class] **Type** VII [area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(7)], store alcoholic beverages intended for sale at [a fixed enclosed area or location on a casino hotel premises, not in a casino, and not otherwise licensed or authorized] **other authorized locations in, on, or about the premises.**

(b) A **CHAB** licensee shall transfer or deliver such alcoholic beverages from a [Class] **Type** VII [area or] location [authorized pursuant to N.J.S.A. 5:12-103(g)(7)] only to [a licensed area or] authorized locations [within a casino hotel complex] **in, on or about the premises.**

(c) A **CHAB** licensee shall **not allow, permit or suffer** [, in a Class VII area or location authorized pursuant to N.J.S.A. 5:12-103(g)(7), provide no] access to or from [the licensed area or] **a Type VII** authorized location, **except to the extent that such access is necessary in the normal course of business** [for] **to** employees or agents of the **CHAB** licensee or [for] **to** licensed employees or agents of wholesalers or distributors licensed pursuant to Title 33 of the Revised Statutes, Title 13 of the New Jersey Administrative Code, the [Casino Control] Act and the regulations of the Commission [, except as such access is necessary in the normal course of business].

(d) All Type VII locations shall be fixed, enclosed areas within the premises, not in a casino, and not otherwise authorized for the sale, service or consumption of alcoholic beverages.

(e) No alcoholic beverage shall be sold, served or consumed in a Type VII location.

[(d)] **(f)** A **CHAB** licensee shall maintain its [Class] **Type** VII [licensed areas and] locations [authorized pursuant to N.J.S.A. 5:12-103(g)(7)] at an appropriate temperature and in a secure manner.

SUBCHAPTER 4. DISCIPLINARY PROCEEDINGS

[19:50-1.14 Investigation, hearing, disciplinary, forfeiture and appellate proceedings]

19:50-4.1 General provisions

(a) Any violation of Title 33 of the Revised Statutes or Title 13 of the New Jersey Administrative Code by an applicant or **CHAB** licensee, or its agents or employees shall be grounds for penalty, [dispensation] **suspension,** revocation, or other disciplinary action by the [commission] **Commission** unless the conduct involved is specifically permitted by the Act or by these regulations.

(b) In disciplinary proceedings it shall be sufficient, in order to establish the guilt of the licensee, to show that the violation was committed by an agent, servant or employee of the CHAB licensee. The fact that the CHAB licensee did not participate in the violation or that its agent, servant or employee acted contrary to instructions given by the CHAB licensee or that the violation did not occur in the CHAB licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings.

RULE ADOPTIONS

BANKING

(a)

DIVISION OF BANKING

Bank Holding Companies

Adopted Amendments: N.J.A.C. 3:13-2.2, 4.3 and 4.4

Proposed: January 19, 1988 at 20 N.J.R. 127(b).
Adopted: March 7, 1988 by Mary Little Parell, Commissioner, Department of Banking.
Filed: March 10, 1988 as R.1988 d.149, **with technical changes** not requiring additional public notice and comment (See N.J.A.C. 1:30-4.3).

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

Effective Date: April 4, 1988.
Expiration Date: November 17, 1991.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***).

3:13-2.2 Reporting for bank holding companies

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

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

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

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

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

3:13-4.3 Content of application

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

1.-2. (No change.)

3. Certified copies of:

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

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

4.-6. (No change.)

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

3:13-4.4 Determination of eligibility

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

1.-2. (No change.)

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

(b)

PINELANDS DEVELOPMENT CREDIT BANK

Pinelands Development Credit Bank Board of Directors; Procedural Rules

Adopted New Rules: N.J.A.C. 3:42

Proposed: January 19, 1988 at 20 N.J.R. 128(a).
Adopted: March 11, 1988 by Mary Little Parell, Commissioner, Department of Banking.
Filed: March 11, 1988 as R.1988 d.157, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:18A-30 et seq.

Effective Date: April 4, 1988.
Expiration Date: April 4, 1993.

Summary of Public Comments and Agency Responses:

In association with publication of the proposed rules in the January 19, 1988 edition of "The New Jersey Register", the Bank held a public hearing on February 11, 1988 at Cranberry Hall, Medford, New Jersey. Notice of the hearing was placed in four newspapers; "The Trenton Times", "The Newark Star-Ledger", "The Burlington County Times" and the "Courier Post". Approximately 10 people attended the hearing, of whom four offered oral testimony. Written comments were also received from four organizations. Transcripts of the hearing and written comments are on file in the office of the Commissioner of Banking, CN 040, Trenton, NJ 08625.

N.J.A.C. 3:42-2.2

COMMENT: One commenter suggested that the Executive Director appears to have a considerable amount of authority and that the Bank Board may wish to re-evaluate its authority vis-a-vis the Executive Director.

RESPONSE: The Executive Director is the chief administrative officer of the Bank and is, therefore, responsible for administrative duties. These duties include the issuance of Pinelands Development Credit certificates (Subchapter 3) and the maintenance of the Pinelands Development Credit registry (Subchapter 4). The Board, on the other hand, is the policy-making body and must reserve unto itself major policy related decisions. In this regard, the Board will make all decisions regarding the Bank's purchase of Pinelands Development Credits (Subchapter 5), decide whether amendments to these rules are necessary (Subchapter 9), and approve the form and content of the Pinelands Development Credit certificate (N.J.A.C. 3:42-3.3). The Board is satisfied that this represents a sound and efficient separation of duties and authorities.

N.J.A.C. 3:42-3.1

COMMENT: One commenter recommended that the rules more clearly define who is required to notify the Executive Director when Pinelands Development Credits are redeemed in a municipality.

RESPONSE: Under N.J.A.C. 3:42-3.1(c), the person redeeming Pinelands Development Credits is required to notify the Executive Director, and N.J.A.C. 3:42-3.6(d) requires that the owner notify the Executive Director. The bank agrees that this could be confusing; therefore, N.J.A.C. 3:42-3.6(a) has been amended to read "person redeeming" instead of owner.

N.J.A.C. 3:42-3.2

COMMENT: A commenter recommended streamlining the Pinelands Development Credit application process, and in particular reducing the requirements for a 60-year title search.

RESPONSE: The Board believes that the application process has been made as uncomplicated as possible, and, as the commenter acknowledged, the 60-year title search is required by the Credit Bank Act. Moreover, in the case of credits which have already been transferred from the owners of the originating property, certain application requirements have been modified or eliminated in a limited grandfathering of such credits. It should also be noted that if a recent 60-year search exists a new one will not be required, just an updating of the existing search.

COMMENT: One commenter recommended that the procedures for issuing Pinelands Development Credit certificates (N.J.A.C. 3:42-3) be streamlined in instances where a county is to acquire the Pinelands Development Credits.

RESPONSE: The Board is of the opinion that no person or governmental agency should attempt to acquire a Pinelands Development Credit until it is certain that the seller is indeed entitled to the Pinelands Development Credit proposed for sale. The information required in N.J.A.C. 3:42-3.2 represents that which is minimally required to ascertain that a property owner is actually entitled to sell a Pinelands Development Credit. Notwithstanding the information needed, there is a need to establish a cooperative and efficient means of handling Pinelands Development Credit transactions involving counties; in an effort to do so, N.J.A.C. 3:42-3.5 expressly authorizes the Executive Director to coordinate the issuance of the Pinelands Development Credit certificates with a county agency's purchase of the credits.

COMMENT: One commenter inquired about the possible cumbersome task of a county, which operates its own Pinelands Development Credit Bank, applying for Pinelands Development Credit certificates for credits it has already purchased.

RESPONSE: First, it is anticipated that a "county credit bank" would already have on hand most of the information called for in a Pinelands Development Credit application by virtue of its own credit purchase requirements. Second, the requirements in N.J.A.C. 3:42-3.2(c)6 and 7 for a 60-year search and a certificate of marketable title from the property owner have been modified in the case of Pinelands Development Credits transferred before the adoption of these rules.

N.J.A.C. 3:42-3.3

COMMENT: One commenter recommended that the rules (N.J.A.C. 3:42-3.3(c)3ii) expressly state which public agency or agencies are permitted to be beneficiaries of the deed restriction (easement).

RESPONSE: This requirement comes directly from the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-5.44). The Board does note, however, that the deed restriction (easement) itself must specifically identify the beneficiary of the easement, whether it be a public agency or a not-for-profit, incorporated conservation organization.

COMMENT: One commenter recommended that deed restrictions (easements) not be permitted to be in favor of non-profit organizations (N.J.A.C. 3:42-3.3(c)3ii) because those organizations' continuing viability cannot be assured.

RESPONSE: This requirement comes directly from the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-5.44). It would appear, however, that the added requirement in the Pinelands Plan for the restriction to be specifically and expressly enforceable by the Pinelands Commission provides a fail-safe mechanism in the event that a not-for-profit, incorporated conservation organization ceases to fulfill its obligations under the easements.

COMMENT: A commenter recommended that the deed restriction not be required until the time of settlement.

RESPONSE: N.J.S.A. 13:18A-30 et seq. provides that a Pinelands Development Credit certificate shall only be issued "subsequent to the recording of deed restrictions". The Board will instruct the Executive Director that the issuance of the Pinelands Development Credit Certificate should take place as quickly as possible after the recording of the deed restriction.

COMMENT: One commenter recommended the term "run" (as run in favor of) replace the word "be" (as be in favor of) in N.J.A.C. 3:42-3.3(c)3ii.

RESPONSE: The deed restriction will of course run with the land, meaning that it will be binding on any successive purchasers or heirs, etc., however, the use of the word "be" accurately describes the intention of the rule that the deed restriction (easement) be in favor of a public or non-profit conservation group. Accordingly, the Bank Board does not feel it is necessary to make this change.

N.J.A.C. 3:42-3.4

COMMENT: One commenter asked for an acknowledgment that property owners entitled to a Pinelands Development Credit allocation can sell a portion of the Pinelands Development Credit entitlement without being required to deed restrict the entire parcel of land.

RESPONSE: Although the allocation of, and entitlement to, Pinelands Development Credit is within the purview of the Pinelands Commission, the Board does note that the Pinelands Comprehensive Management Plan permits a portion of a parcel of land to be deed restricted as a means to sever a portion of the Pinelands Development Credits for which the entire property is entitled. Anyone interested in doing so should, however, consult directly with the Pinelands Commission as to the precise steps and procedures to be followed before submitting an application to the Pinelands Development Credit Bank.

COMMENT: One commenter recommended that N.J.A.C. 3:42-3.3(b)6. more clearly describe what information will be included on the certificate.

RESPONSE: A cross-reference to N.J.A.C. 3:42-3.4(c) has been included in the rule.

N.J.A.C. 3:42-3.5

COMMENT: A commenter suggested that the county agencies eligible to acquire a Pinelands Development Credit be specified.

RESPONSE: The eligibility of a county, whether through the Board of Chosen Freeholders or through another county body such as a county Pinelands Development Credit bank, to acquire Pinelands Development Credits is addressed by N.J.S.A. 13:18A-43 and county law. It is not a topic of this rulemaking. The adopted rules add the phrase "or agency thereof" thereby clarifying that any county agency which is required to acquire credits may be issued a certificate from the Bank.

N.J.A.C. 3:42-5.3

COMMENT: One commenter recommended that the Board give preference to the purchase of Pinelands Development Credits which are allocated to land within the Pinelands Preservation Area. The rationale for such a preference is that the preservation area is the most restricted portion of the Pinelands in terms of future development opportunities.

RESPONSE: The criteria which the Board will use to determine whether or not it should purchase Pinelands Development Credits are contained in N.J.A.C. 3:42-5.3. The Board can only use the location of the property from which the Pinelands Development Credits emanate (that is, Preservation Area) as a criterion if it found that it was directly related to a finding of hardship or a finding that the purchase furthers the objectives of the Pinelands Protection Act.

In terms of hardship, it does not appear that the location of a parcel of land inherently creates a greater or lesser hardship. Thus, such a criterion would not be appropriate under the hardship test. The criteria relative to the objectives of the Pinelands Protection Act do, on the other hand, speak directly to the ecological and agricultural importance of property. In this regard, it is quite likely that properties in the Preservation Area will be more likely to be of unusual ecological importance (due, for example, to their location in undisturbed watersheds); be of unusual agricultural importance (due, for example, to their association with cranberry and blueberry production); or complement or buffer publicly-owned conservation land (due, for example, to the fact that the largest percentage of publicly-owned conservation land is located within the Preservation Area). The Board would, however, be willing to consider suggestions to focus the acquisition of PDCs in particular areas.

COMMENT: One commenter suggested that any landowner who is entitled to receive a Pinelands Development Credit allocation has, by definition, a hardship and that the Board's purchase of any Pinelands Development Credit furthers the objectives of the Pinelands Protection Act.

RESPONSE: Clearly, the Pinelands Development Credit Bank Act does not contemplate that the Board will automatically purchase any Pinelands Development Credits offered to it for sale. If that was the case, there would be no need to limit Board purchases to those which involve hardships or further the objectives of the Pinelands Protection Act. The criteria contained in N.J.A.C. 3:42-5.3 are intended to permit the Board to distinguish between those purchases which it may or may not pursue. Although one may suggest that the criteria are broad in scope and will enable the Board to purchase Pinelands Development Credits in most instances, the Board can neither prejudge these cases nor guarantee that every Pinelands Development Credit offered for its purchase can be purchased.

COMMENT: In connection with a Board purchase in furtherance of the objectives of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan by protecting property which is of "unusual ecological or agricultural importance", a commenter suggested using a broader qualifying phrase such as "of significant and unique natural, ecological or agricultural importance".

RESPONSE: This suggestion, as proposed, is not advisable in that the requirement that the property be "unique" would be a narrower rather than broader qualifier. Rather, the rule has been revised to replace the word "unusual" with "significant" that represents a broader criterion which was the intention of the comment.

COMMENT: A commenter recommended that $4 million of the Board's existing $5 million appropriation be set aside for purchases, with the balance left for administrative costs and other Board functions.

RESPONSE: At this time the Board does not believe that it is necessary or desirable to set aside a particular amount for Pinelands Development Credit purchases.

COMMENT: One commenter recommended deleting N.J.A.C. 3:42-5.3(b)3v., based on the Board's inability to distinguish an applicant's personal funds from the funds received from the sale of Pinelands Development Credits to the bank.

RESPONSE: The Board will not be examining the applicants' personal finances. Assurance that the proceeds from the sale will be used consistent with the deed restriction and the Pinelands Comprehensive Management Plan will be sufficient.

COMMENT: Two commenters recommended clarification in the section governing the Board's purchase of Pinelands Development Credits so that it is clear exactly what tests have to be met.

RESPONSE: The Board may only purchase Pinelands Development Credits if a hardship exists or when the purchase furthers the objectives of the Pinelands Protection Act. In either case, three criteria must be met and the rules as adopted make this clear.

In determining whether the three criteria are met, one of several tests is used. In the case of purchases which further the objectives of the Pinelands Protection Act, the three criteria (N.J.A.C. 3:42-5.3(b)3.) can be met if any one of six tests is satisfied. In the case of hardship purchases, the three criteria (N.J.A.C. 3:42-5.3(c)3.) can be met if any one of the three tests is satisfied. Accordingly, the word "or" has been added where appropriate to make the intent clear.

N.J.A.C. 3:42-5.6

COMMENT: One commenter indicated that the purchase price of $10,000 per credit is too low.

RESPONSE: The Act, N.J.S.A. 13:18A-30 et seq., sets the initial price which the Board can pay for credits at $10,000 each. The bank, however, may increase the purchase price of Pinelands Development Credits if the private market demonstrates the value to be greater (N.J.A.C. 3:42-5.6).

COMMENT: One commenter recommended the Board develop a pro forma on costs associated with the transfer of Pinelands Development Credits.

RESPONSE: Although this comment does not pertain to any specific section of the rules, the Board agrees and will be developing various samples of estimated costs associated with the transfer of Pinelands Development Credits.

Other Changes from Proposal

Additional wording has been added to N.J.A.C. 3:42-3.6 to clarify the exact time a Pinelands Development Credit is redeemed. This reflects what the Pinelands Comprehensive Management Plan requires.

N.J.A.C. 3:42-5.3(b)vi. has been changed to be grammatically correct.

N.J.A.C. 3:42-3.3(b)4 has been deleted. This information will be in the registry and is unnecessary on the certificate.

N.J.A.C. 3:42-3.47 has been added to detail information to be supplied to the Executive Director.

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]*).

SUBTITLE F. PINELANDS DEVELOPMENT CREDIT BANK

CHAPTER 42
PROCEDURAL RULES

SUBCHAPTER 1. GENERAL PROVISIONS

3:42-1.1 Scope

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

3:42-1.2 Purpose

(a) The purpose of this chapter is to:

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

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

3:42-1.3 Applicability

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

3:42-1.4 Construction

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

3:42-1.5 Severability

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

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

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

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

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

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

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

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

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

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

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

3. Records: The Executive Director shall maintain:

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

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

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

3:42-2.1 Word usage

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

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

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

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

4. The word "shall" is mandatory.

5. The word "may" is permissive.

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

3:42-2.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3:42-3.1 Applicability

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

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

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

3:42-3.2 Application for Pinelands Development Credit Certificate

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

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

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

1. The applicant's name and mailing address;

2. The property owner's name and address, if different from the applicant's, and a signed consent to the filing of the application;

3. The deed to the property to which Pinelands Development Credits are allocated;

4. A letter of interpretation from the Pinelands Commission, pursuant to N.J.A.C. 7:50-4.71 et seq., attesting to the number of Pinelands Development Credits allocated to the property;

5. The municipal tax block and lot number and a copy of the municipal tax map sheet(s) showing the property to which Pinelands Development Credits are allocated;

6. A title search of the property to which Pinelands Development Credits are allocated which covers at least the 60 years preceding the date of application ***except for Pinelands Development Credits transferred before April 4, 1988 (the effective date of these rules), in which case sufficient evidence of marketable title as exists shall be submitted***;

7. A certification from the property owner that he has marketable title to the property to which Pinelands Development Credits are allocated and is legally empowered to restrict the use of this property in accordance with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47***, except for Pinelands Development Credits transferred before April 4, 1988 (the effective date of these rules)***;

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

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

3:42-3.3 Issuance of Pinelands Development Credit Certificates

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

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

1. The owner(s) of the Pinelands Development Credits;

2. The number of Pinelands Development Credits owned;

3. The municipality, block and lot of the property to which the Pinelands Development Credits are allocated;

[4. The acreage of the property to which the Pinelands Development Credits are allocated;]

[5.] ***4.*** The date on which the Certificate is issued; and

[6.] ***5.*** The information to be reported to the Executive Director when the Pinelands Development Credits are sold, conveyed, transferred, encumbered or redeemed ***N.J.A.C. 3:42-3.4(c)***.

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

1. The Pinelands Development Credit allocation set forth in the Pinelands Commission's letter of interpretation has not changed;

2. The property owner has marketable title and is legally empowered to restrict the use of his property in a manner consistent with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47;

3. The deed restriction limits the uses of the property to those permitted pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47.

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

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

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

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

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

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

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

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

2. The name(s) of the grantor(s);

3. The number of Pinelands Development Credits sold, conveyed, transferred, or encumbered;

4. The date of the transaction;

5. The interest *[secured]* in the Pinelands Development Credits ***acquired*** by the grantee and ***written*** evidence of the transaction; and

6. The consideration involved in the transaction.

7. In the case of a Pinelands Development Credit pledged as collateral, the name and address of any person who has pledged a Pinelands Development Credit as security on any loan or other obligation, the name and address of the lender, and the date, amount and term of the loan or obligation.

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

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

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

3:42-3.6 Redemption of Pinelands Development Credits

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

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

1. The name of the *[owner;]* ***person redeeming;***

2. The municipality in which the Pinelands Development Credits were redeemed;

3. The municipal tax block and lot number of the property for which the Pinelands Development Credits were redeemed;

4. The number of Pinelands Development Credits redeemed; and

5. The date on which the municipal development approval was issued and endorsement by the responsible municipal official.

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

1. The Pinelands Development Credits have not been previously redeemed;

2. The Pinelands Commission has concurred with the municipal approval; and

3. The number of Pinelands Development Credits redeemed were adequate to secure the increased number of residential units permitted pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq., and the applicable municipal zoning ordinance.

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

(e) A Pinelands Development Credit shall be redeemed at the time of final subdivision or site plan or, if no such approval is required, when construction permits are issued.

SUBCHAPTER 4. REGISTRY OF PINELANDS DEVELOPMENT CREDITS

3:42-4.1 Registry

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

1. The issuance of Pinelands Development Credit Certificates;

2. The sale, transfer, conveyance, or encumbrance of Pinelands Development Credits;

3. The use of Pinelands Development Credits as security on loans and other obligations; and

4. The redemption and retirement of Pinelands Development Credits.

3:42-4.2 Content of registry

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

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

number of Pinelands Development Credits allocated; and the total acreage to which Pinelands Development Credits have been allocated;

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

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

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

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

3:42-4.3 Availability of registry

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

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

3:42-4.4 Annual report

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

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

SUBCHAPTER 5. BOARD PURCHASE OF PINELANDS DEVELOPMENT CREDITS

3:42-5.1 Applicability

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

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

2. Alleviate a hardship.

3:42-5.2 Application to the Board

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

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

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

1. The applicant's name and mailing address;

2. The name of the person(s) who own(s) the Pinelands Development Credits, if different from the applicant's, and a signed consent to the filing of the application;

3. A duplicate of the Pinelands Development Credit Certificate or, if a Certificate has not been issued, the information required pursuant to N.J.A.C. 3:42-3.2(c) with the exception of N.J.A.C. 3:42-3.2(c)8.

4. The number of Pinelands Development Credits to be sold;

5. A statement detailing the applicant's basis for believing that the Board can make one of the findings required in N.J.A.C. 3:42-5.3(b)3 and (c)3; and

6. Such other information as the Executive Director may determine is necessary in order to review and act on the application.

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

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

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

1. Adequate funds are available for the purchase; ***and***

2. The expenditure of funds does not substantially impair the Board's ability to carry out its duties and responsibilities with respect to guarantees which have already been extended; and

3. The purchase will result in:

i. The protection of property which is of *[unusual]* ***significant*** ecological or agricultural importance; ***or***

ii. The protection of property which serves to complement or buffer publicly owned and managed conservation lands; ***or***

iii. The Pinelands Development Credits which the Board purchases are likely to be resold, transferred or conveyed for redemption in a residential development project that satisfies compelling public need or that will result in the protection of other properties which satisfy (b)i or ii above; ***or***

iv. The timing and nature of the Board's purchase will result in a significant and positive example of the Pinelands Development Credit Program at work; ***or***

v. The proceeds from the sale being used for operating or capital expenditures on the property from which the Pinelands Development Credits are allocated in a manner consistent with the terms of the restriction on the deed to that property; or

vi. ***The transaction*** *[O]****o***therwise *[further]* ***furthering*** the purposes of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan.

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

1. Adequate funds are available for the purchase; ***and***

2. The expenditure of funds does not substantially impair the Board's ability to carry out its duties and responsibilities with respect to Pinelands Development Credit guarantees which have already been extended; and

3. A hardship exists on the basis of one or more of the following tests:

i. The owner's investment in the land to which the Pinelands Development Credits are allocated is substantial in relation to his net worth; ***or***

ii. The owner has sought and been denied a waiver of strict compliance from the Pinelands Commission pursuant to the Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; *[and]* ***or***

iii. The owner is experiencing a unique and extraordinary financial hardship which may only be ameliorated through an expedient sale of his Pinelands Development Credits.

3:42-5.4 Notification to applicant

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

3:42-5.5 Completion of Board authorized purchases

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

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

3:42-5.6 Purchase price

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

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

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

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

SUBCHAPTER 6. PINELANDS DEVELOPMENT CREDIT GUARANTEES (RESERVED)

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

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

SUBCHAPTER 9. AMENDMENTS

3:42-9.1 Board initiated proposals

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

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

3:42-9.2 Petitions for amendment

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

(b) The application shall include the following:

1. The petitioner's name and address;

2. The precise wording of any proposed amendment to the text of the rules in this chapter;

3. A statement of the need and justification for the proposed amendment;

4. A statement as to the conformity of the proposed amendment to the Pinelands Development Credit Bank Act; and

5. A statement of the social, economic and environmental impacts of the proposed amendment.

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

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

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

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

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT AND AGRICULTURE
DIVISION OF RURAL RESOURCES

Uniform Construction Code
Commercial Farm Buildings
Adopted Amendment: N.J.A.C. 5:23-3.2

Proposed: October 5, 1987 at 19 N.J.R. 1778(a).

Adopted: February 29, 1988 by Leonard S. Coleman, Jr., Commissioner, Department of Community Affairs; January 25, 1988 by Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Filed: March 4, 1988 as R.1988 d.144, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:27D-123.2.

Effective Date: April 4, 1988.

Expiration Date: March 1, 1993.

Summary of Public Comments and Agency Responses:

The Departments made the following clarifications of the proposal in response to specific comments. N.J.A.C. 5:23-3.2(d)3. was clarified to distinguish between silos and elevators (high hazard); equipment to meet the requirements of direct retail marketing, such as required by the "Jersey Fresh" program, was excluded from the definition of process equipment. The enabling legislation, P.L. 1986, c.119 requires that offices exempted by the Departments be no larger than 1,200 sq. ft. in floor area. This requirement is now stated in N.J.A.C. 5:23-3.2(d)3. and (d)5.vi. N.J.A.C. 5:23-3.2(d)4.i.(3) explains how several unlimited area buildings are treated under N.J.A.C. 5:23-3.2(d)4.i.(1) and (2), which were in the proposal. Requirements in N.J.A.C. 5:23-3.2(d)5.i.-iv. are identified as "in lieu of" the requirements which they replace. Exit signs, which under the proposal were not required to be illuminated, are expressly not so required in N.J.A.C. 5:23-3.2(d)5.iii. The referenced standard for the lightning protection required by the proposal is cited in N.J.A.C. 5:23-3.2(d)5.v.

None of these clarifications has substantive effect and most serve to restate what was already mandated by statutory law, or to specifically cite an already applicable reference standard.

The Departments held three public hearings and received six written comments from interested persons.

COMMENT: A considerable number of commentators asked what basis was used to determine the 100 foot buffer. They requested the language in the rule be altered for better clarification. They also asked for a relaxation in the separation for structures not for human occupancy.

RESPONSE: The 100 foot buffer is a slightly liberalized interpretation of the Uniform Building Code (UBC) enforced in a number of western States, such as California, where agricultural buildings are more fully treated by the UBC. The UBC requires a 60 foot separation between buildings. Sixty feet per building means 120 feet between buildings. The Departments recognized that the rule prevented qualifying unlimited area buildings from being built with less than 100 feet of clear space between them, and paradoxically would have permitted one building size equivalent to the two to be built instead. The rule has been amended regarding the buffer to acknowledge that commercial farm buildings under the exemption may be any distance apart, providing the outermost walls of these groups of commercial farm buildings remain at least 100 feet from other type buildings and from property lines and public right of way.

It is insufficient to exempt unoccupied structures from distance limitations because even unoccupied structures, in the event of fire, create a hazard to neighboring structures, especially, but not exclusively, those which are occupied.

COMMENT: Many commentators asked how the amendment would treat a temporary greenhouse.

RESPONSE: DCA realizes that the definition of a temporary structure, including greenhouses, is creating problems. After extensive surveys conducted by the DOA, with the assistance of Rutgers University, New Jersey Farm Bureau, the greenhouse and horse industry and other interested parties, these rules were written to apply only to permanent structures. DCA is undertaking a reevaluation of how temporary structures, including greenhouses, are treated by the Code and will be in contact with the DOA, Rutgers University, New Jersey Farm Bureau, New Jersey Association of Nurserymen, and other interested parties on this issue and will take appropriate steps to clarify this issue. Temporary structures, including greenhouses, are not covered under these rules.

COMMENT: Several commentators suggested that since BOCA already allows for some agricultural buildings to be in Use Group U, Utility and Miscellaneous, all farm buildings of a similar nature should also be categorized in this Group. Placement of the farm buildings in the S Group creates standards far stricter than the Code requires.

RESPONSE: Since the Use Group U has no criteria, the U use group designation would still require that buildings so designated be treated as S-1 or S-2 buildings or such Use Group it nearly resembles in respect to the existing life and fire hazard, and the local code official will determine this designation. The DOA's understanding is that "local discretion" was the very thing most farmers wished to avoid. This would allow the local code officer the latitude to interpret which Use Group most appropriately resembles the use of the building and set height and size restrictions. The local official's interpretation may place the commercial farm building in a more restrictive use group than appropriate.

COMMENT: Several commentators requested an interpretation of "stories."

RESPONSE: The BOCA Code reads "story" to mean a given height limitation based on type of construction. Partial floors or ceilings such as mezzanines or lofts do not, by themselves, constitute stories. A farmer can use 33 percent of the floor area of the ground floor area as storage in the loft area.

COMMENT: Several commentators felt the exclusion in the rule of agricultural processing buildings indicates that the Departments ignored the difference between processing raw products and manufactured products.

RESPONSE: The Departments have been persuaded by material submitted by various commenters that commercial farm operations in which washing, grading, packing, hydrocooling, or vacuum cooling of fresh products should not be considered "processing." The rule has been amended to reflect the change.

COMMENT: Several commentators asked what effect the Code will have on their insurance rates. One commenter felt areas of the Code should not have standards set for fire suppression, but this area should be left to self-regulation between the insurance industry and the customer (farmer). In lieu of standards, minimal insurance coverage should be mandated, as required for motor vehicles in New Jersey.

RESPONSE: The Departments note a conspicuous lack of comments from the insurance industry. Certainly the Departments wish to know, as do the commentators, what is the ultimate cost of insuring a building, or will it be insured at all. Neither Department is interested in promulgating standards for buildings that will not be built. The Departments urge anyone considering construction to review their insurance needs and contact different insurance companies to see what they will and will not insure, and at what rates.

The Departments believe that the rules provide construction standards which they consider will be safe for farmers to use and minimize hazards and risks. Neither Department has, under the law or Code, the ability to mandate insurance coverage, nor would governmental regulatory decision in this area be particularly wise or responsible at this time. The buying of insurance is a private contractual matter between private individuals and entities. Unless a strong showing of public need is made, administrative meddling should be discouraged to allow the free market to flourish. There is no evidence before the Departments to either recommend or request such a course of conduct. To do otherwise would be subsidizing the insurance industry.

At present any questions as to rates, or discrimination by an insurance company, are best dealt with by the Department of Insurance. However, the Departments are very interested in knowing what is insurable and at what rates, and welcome such information from any source for future consideration.

COMMENT: A commentator felt that buildings used seasonally should not have to meet the construction code standards and life safety requirements.

RESPONSE: The Departments are not persuaded that hazardous sporadic (temporary or seasonal) use of buildings or structures is sufficiently less dangerous than continuous use, to an extent which would justify less protective construction. The Code is concerned with the potential magnitude of a loss at any time. Thus an unsafe structure under the Code is closed to human ingress, not closed "most of the time." Similarly, a hazardous sporadic use of a building on a farm is not to be granted special consideration unless it is otherwise provided in the law.

COMMENT: A commentator asked what will be the interrelation between the rules and the State Wetlands Act as to building setbacks in transitional wetlands areas. Will it be counted toward, or in addition to the same?

RESPONSE: The ultimate answer will be made by the New Jersey Department of Environmental Protection (DEP), which has not as yet promulgated final rules on this, but expects to do so. The New Jersey Freshwater Wetlands Law speaks to transitional areas as "buffers" not allowing construction within, at most, 150 feet of certain desirable wetlands to be determined by DEP. The results, as far as the Departments can tell by a plain reading of the law, will be a setback of, at most, 150 feet from such protected areas, and the Departments do not interpret this as being imposed additionally to these rules.

COMMENT: A commentator asked what is the purpose of the "No Smoking" sign?

RESPONSE: This is a way to reduce the hazard which can be caused by relaxing the rules for commercial farm buildings.

COMMENT: A commentator asked how the exemption will affect the taxes on a commercial farm building.

RESPONSE: The ultimate decision on the value of any structure is made by the local tax assessor and the tax appeal process. Hopefully, the new construction standards promulgated will cause the building to be assessed at minimal costs, for their classifications will not be comparable to commercial or industrial buildings of the same size.

Both Departments are interested in how the new buildings will be assessed, and welcome such reports from the farm community and the municipalities for the future review of the rules.

COMMENT: Many farm buildings utilize overhead, sliding and hinged doors. The BOCA Code only considers hinged doors as a means of egress. Why are the other types of doors not considered a means of egress?

RESPONSE: Overhead and sliding doors are mechanically unreliable and difficult to operate in an emergency. In many situations the Code demands doors that are not only hinged, but which open outward, in the direction of egress. Viewing doors from this perspective, one can see that during emergency egress, the need to slide or to roll up a door which may be blocked because pulleys or runners have been damaged in the emergency, could be the difference between quick, safe exit and dangerous delay. Many large rolling or sliding doors can be fitted with a smaller hinged door within them for human egress.

COMMENT: Several commentators requested a clarification to the definition of "commercial farm building" with respect to earnings.

RESPONSE: It is understood that the $2,500 figure is an average figure which can be approximated for farm commodities which are not actually sold each year.

COMMENT: A commentator asked: If an existing farm building already had lightning protection and the structure is taller than a proposed farm building, would the farmer still be required to install the lightning protection on the new structure?

RESPONSE: This depends on the size of and distance between buildings per NFPA 78.

COMMENT: Several commentators were concerned that the rule classifies all farm buildings under the Use Group "S". The current BOCA Code Use Group S has an S-1 and S-2 category. They asked in which category the buildings will be placed.

RESPONSE: The S-1 and S-2 categories are appropriate. The different types of materials which may be stored in farm buildings vary. Some farm buildings, because they are used to store flammable fertilizers, other chemicals, or fuels may actually be hazardous structures. BOCA Code rules are superseded by DEP's rules regarding the storage of certain pesticides and chemicals.

COMMENT: A commentator felt the unlimited area for any type of construction is unduly liberal.

RESPONSE: The restrictions in N.J.A.C. 5:23-3.2(d)5. were designed to make unlimited area buildings more safe. The Departments realize the need for some unlimited area buildings so a farm can operate efficiently.

COMMENT: A commentator stated that the exemption is surely needed and will have a positive impact on New Jersey agriculture.

RESPONSE: The Departments agree with this comment.

COMMENT: With regard to permit fees, a commentator was concerned with the inconsistency in the fees assessed by the various municipalities in the state. The vast majority of farm buildings do not require the same level of review and inspection that non-farm buildings require.

RESPONSE: The Departments agree that many large volume structures are simple to inspect. DCA has recommended that municipalities charge inspection fees for such buildings at a lower rate. This recommendation is in DCA Bulletin #79-8 which was published on September 14, 1979. When requested by members of the farm community, the DOA has distributed the Bulletin to various municipalities. Copies of Bulletin #79-8 are available from either Department.

COMMENT: Several commentators stated that nursery and greenhouse sales areas are often an integral part of the greenhouse itself. Small numbers of people should be allowed to enter the greenhouse and be given the opportunity to select the plants they want to purchase.

RESPONSE: The need to utilize space efficiently in a greenhouse often means that aisles and clear paths to exits are not a priority. The Departments maintain that public access to greenhouses must be limited unless adequate safety features are present to protect the public. This will not prevent a customer, accompanied by the farmer or farm employee, from viewing the merchandise before purchasing it in the mercantile area.

COMMENT: A commentator requested that the term "retail" be added in N.J.A.C. 5:23-3.2(d)3., under retail markets or nursery or greenhouse sales areas.

RESPONSE: The Departments do not agree. The operative word in N.J.A.C. 5:23-3.2(d)3. is "sales" and this was meant to include retail and wholesale sales areas—any area where mercantile activities draw members of the public into a building. Under BOCA, a farmer can construct a sales area up to 4,800 square feet, one story, without additional life safety features. If the sales area is attached to the commercial farm building, the structures must have a fire separation. The reason for the fire separation is because there are two different use groups. If the sales area is not connected to the commercial farm building, under the rule, the sales area must have a 100 foot separation from the farm building.

COMMENT: One commentator asked why the list of buildings covered by the amendment did not include farm labor housing.

RESPONSE: The unlimited area buildings which this rule addresses are specifically not for human habitation. The Federal regulations controlling worker housing 29 C.F.R. Part 500—Migrant and Seasonal Agricultural Worker Protection, Section 500.2 (7-1-87 Ed) requires compliance with State laws and regulations. Similarly, Subpart D—Housing Safety and Health, Section 500.134 states: "Compliance with the substantive federal housing safety and health standards shall not excuse noncompliance with applicable substantive State housing safety and health standards." While worker housing is beyond the scope of this promulgation, no actual or potential conflict between State and Federal regulations in this area has been demonstrated.

COMMENT: Several commentators asked why permanent bleachers cannot be placed in a commercial farm building.

RESPONSE: Permanent bleachers can be placed in an agricultural building; however, this would indicate to a plan reviewer or an inspector that the structure could accommodate an assembly use, and it would create a presumption that the owner should meet the building requirements for an assembly use (which is more restrictive than this rule).

COMMENT: A commentator noted that the construction code requirements for fire suppression systems, regardless of their size, should be reevaluated for farm buildings because ambient conditions, such as dust, work against the systems functioning properly. Also, the ambient conditions, including high moisture conditions in soil, air, and watering systems in buildings, such as greenhouses, should obviate the need for them. If the fire suppression systems cannot function properly because of the ambient conditions, it creates a false sense of security.

RESPONSE: Under the proposed exemption most commercial farm buildings will not require sprinkler systems. Under BOCA some farm buildings do require systems. Because greenhouses often contain heating elements and flammable material, it is a misconception that they do not burn. There may be some conditions in certain farm buildings which will necessitate that sprinkler systems be "dry." A "dry" system may still use water, however, the water is pressurized and is not in the system piping at all times.

In a situation in which the farmer chooses not to use the exemption, and for some reason, chooses to install an admittedly expensive non-water system (these systems are usually employed in rare book libraries and the like where to wet down the interior is to destroy it), it would not be activated until the air temperature was so high that any animals present would already be injured. This scenario is extremely unlikely because:

1. The exemption allows commercial farm buildings to be constructed without sprinklers;

2. Non-water dry systems are probably not the most cost-effective or practical systems for farm use, in the instances when a system is required.

Furthermore, it is primarily human life and safety which the State Uniform Construction Code seeks to insure. It is the human lives of those on the farm, and the lives of the neighbors which the State Code most seeks to protect. It is for this purpose that the Code cannot, in a blanket fashion, exempt commercial farm buildings and opt for a system of self-insurance. While the Departments do not, at this time, think it necessary to debate the effect of regulatory controls on risk taking in different aspects of commercial endeavors, the passage of the State Uniform Construction Code and its implementation in the State since 1977 makes plain the intent of the legislation to safeguard the human life and incidental property of the majority, from the careless or negligent actions of a minority.

COMMENT: A commentator stated that it was their understanding of the rules that the "Rules Concerning Other Requirements" (Section 5) only applies to farm buildings in the "Exceptions" (Section 4i). They requested that the amendment contain specific language stating this fact.

RESPONSE: The Departments agree and have inserted language to clarify the issue.

COMMENT: Several commentators questioned whether exit signs had to be illuminated.

RESPONSE: It was never intended to require that exit signs be illuminated. The rule has been amended to make it explicit that illumination is not required.

COMMENT: A commentator suggested that the permit which is needed to use a commercial farm building as a temporary place of public assembly be automatic and serve an annual period rather than be needed for each individual event.

RESPONSE: Assembly use of farm buildings was contemplated as an extraordinary event, not as a daily occurrence. Long term permits which would allow frequent assembly use of a non-assembly building would violate the principles of life safety which the Code is in place to observe.

P.L. 1986, c.119 states that a commercial farm building may be used temporarily as a place of public assembly if a permit for such use has been issued by the local fire official pursuant to the Code adopted pursuant to the "Uniform Fire Safety Act", P.L. 1983, c.383. The fee for the issuing of the permit and any inspection required in connection with the issuance shall not exceed $75.00.

If a farmer anticipates using the commercial farm building as a temporary place of assembly, such as tours, meetings, etc., a permit must be secured. A list of the times, dates, types of assembly, and any other information required by the local officials should be submitted with the permit application. Because the farm structure was constructed under the exemption, the information and permit are necessary to insure that fire and safety personnel and equipment are available during the various assemblies.

COMMENT: A commentator noted that the rules may as well be filed in the waste basket if they end up adding to the farmers problems instead of helping to solve them.

RESPONSE: Under the existing BOCA Code many farmers had difficulty in acquiring a construction permit for a building that suited the needs of their farm operation. The Departments have tried to promulgate a rule that will assist the State's farm community and alleviate the local permit problems they have faced in the past. DCA has been very cooperative with the DOA in this effort. The New Jersey farmer is fortunate that DCA was willing to devote so much time and effort on a project that directly assists their industry.

COMMENT: A commentator noted that the amendment did not specify the type of lightning protection that is required.

RESPONSE: The proposal has been amended; the National Fire Protection Association (NFPA) 78 Standard is specified. This provides guidance for all types of buildings. Copies of the relevant standard are available from DCA upon request.

COMMENT: A commentator assumed that nothing in N.J.A.C. 5:23-3.2(d)5.vi. precludes offices with 10 or fewer occupants from being considered incidental to other farm buildings not covered in N.J.A.C. 5:23-3.2(d)4.i.

RESPONSE: The Departments do not agree with this statement. "Incidental" implies there is something to be incidental to, for example, commercial farm building.

COMMENT: Several commentators asked for the definition of occupancy.

RESPONSE: The BOCA Code interpretation of occupancy is the number of people present. People do not imply or require any special status, therefore, "occupants" includes family members, employees, members of the public, delivery people, in short, everyone who is present in a structure. Requirements in the Code are not lessened because endangered lives are in some familial or employment relationship to the farmer.

COMMENT: Many commentators asked for clarification about retrofitting existing farm buildings when additions are proposed for the building.

RESPONSE: Depending on the size of the addition, or the intended future use, any building to which an addition is added may be required to meet new standards. These rules, however, permit greater liberality than is available under the existing Code. These provisions are not mandatory; one can always build under the existing Code instead of electing to use these new provisions.

COMMENT: A commentator suggested that the rule contain a statement that in no case will more stringent standards than those contained in BOCA be required.

RESPONSE: This is a fact that does not need reiterating. The proposal is an option. No one need elect to build under the amendment. The amendment is, however, more liberal than what currently exists under BOCA.

COMMENT: A commentator questioned what DCA rule requires that plans be sealed by a licensed architect or engineer. In addition, they were concerned about instances where a local code official alters plans that have been sealed by a New Jersey licensed architect or engineer.

RESPONSE: The requirement in DCA's rules that plans be sealed by an architect or engineer is at N.J.A.C. 5:23-2.15(e)vii. When a local enforcing agency performs plan reviews, part of its duty is "... requiring correction or [of] any errors in said plans ...", N.J.A.C. 5:23-2.15(e)3ii(1). While a local official must require that plans be corrected, the local official does not, technically, perform this correction himself or herself. It is obviously a fine line if an official, either out of a desire to be helpful, or in an attempt to answer an applicant's inquiries, or to provide examples of conforming features of structures, makes notes on plans, crosses out or draws attention to an error, or otherwise makes markings on plans. Any unauthorized significant alterations to a plan sealed by a New Jersey licensed architect or engineer, should be reported to DCA. Upon receiving the notice, DCA will investigate to determine if there have been improprieties.

COMMENT: A commentator recommended that the rules include a statement regarding the office area of up to 1,200 square feet in a commercial farm building as stated in the legislation.

RESPONSE: The enabling legislation, P.L. 1986, c.119, prohibits farm offices from being greater than 1,200 square feet in floor area. This requirement has been repeated in the rules to avoid construction prohibited by law.

COMMENT: Several commentators felt P.L. 1986, c.119 gave the Departments the latitude to address other areas in the Uniform Construction Code (UCC) that are impacting agriculture and treating the industry unfairly.

RESPONSE: The focus of the legislation was to address primarily those areas in BOCA that have caused problems for the agricultural sector in recent years. Those areas which the Departments were to pay particular attention to include height, area, fire protection and construction type requirements. Other areas of the UCC which may impact agriculture are a separate issue and will be addressed at a later date. Areas under consideration at this time include, but are not limited to, permit fees and temporary structures. The DOA would appreciate being notified of any specific areas in the UCC that need further consideration.

These rules only address those difficulties the agricultural community has encountered regarding construction criteria. Other issues raised should be dealt with through existing DCA procedures under the original law, N.J.S.A. 52:27D-119 et seq., P.L. 1975, c.217, that created DCA's primary jurisdiction.

COMMENT: A commentator stated that grain storage silos in the State are small farmer-owned structures, often bought, used, and installed on the farm. They are not high hazard facilities like off-farm commercial grain elevators or granaries and should be considered under the rule.

RESPONSE: The rules have been altered to separate grain storage silos (small) from elevators (large).

COMMENT: A commentator suggested that the amendment contain an extensive list of buildings not intended for human occupancy in addition to those mentioned in the rule. Since building officials are generally unaware of the different farm buildings, it is necessary to provide this information.

RESPONSE: If the need arises, DCA can inform municipal officials of other types of farm buildings. The commentator did not specify what the list should contain. Under the State Uniform Construction Code, even with the exemption in the rule, all buildings are classified in a number of general use groups. The rule does not alter this basic feature of the Code.

COMMENT: A commentator asked how lightning protection can be installed on plastic greenhouses.

RESPONSE: If greenhouse designs fall under what is provided for in NFPA 78, the farmer will be required to follow the standard. However, if the farmer has an innovative design for which there is no lightning protection technology, the farmer will no longer be required to go beyond NFPA standards.

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

5:23-3.2 Matters covered; exceptions

(a) Except as is otherwise provided in (b), (c) and (d) below, the provisions of this subchapter shall apply uniformly throughout the State. Any other standards other than those provided herein are void and of no effect.

(b) Rules concerning exceptions in health care facilities are as follows:

1. (No change.)

(c) (No change in text.)

(d) Commercial farm buildings shall be constructed in accordance with the following criteria.

1. A commercial farm building means any building located on a commercial farm which produces not less than $2,500 worth of agricultural or horticultural products annually which building's main use or intended use is related to the production of agricultural or horticultural products produced on that farm.

2. Commercial farm buildings shall be classified as Use Group S of the building subcode of the Uniform Construction Code, and shall include, but not be limited to the following: stall barns, milking parlors, poultry housing, horse arenas, farrowing houses, greenhouses, storage buildings for raw products and storage buildings for farm machinery and farm equipment.

3. Buildings containing any of the following uses are not included in the definition of a commercial farm building: residential structures; high hazard facilities, such as grain ***elevators or grain storage*** silos ***used to store products which are neither used nor produced on the farm itself***; processing facilities ***requiring specialized machinery to perform functions other than the washing, cleaning, hydrocooling, vacuum cooling, grading, sizing and packing of raw, unprocessed products unless the exempted functions are only the first step in a sequence of processing to be performed on the farm***; mercantile structures, such as farm retail markets or nursery and greenhouse sales areas; and offices with ***either*** 11 or more occupants, ***or floor area greater than 1,200 square feet***. Buildings containing any of these uses must provide fire separation and be constructed in accordance with the building subcode of the Uniform Construction Code.

4. Construction, height and allowable area requirements for commercial farm buildings and structures shall be *[there]* for one of the types of construction specified in the building subcode and shall not exceed the area or height limitations of Table 501.

i. Exceptions to the requirements in (d)4 above are as follows:

(1) The area of a one-story commercial farm building of any type of construction shall not be limited if the building is entirely surrounded and adjoined by open space on the same lot not less than 100 feet in width.

(2) The area of a two-story commercial farm building of any type of construction shall not be limited if the building is entirely surrounded and adjoined by open space on the same lot not less than 100 feet in width and is provided with an approved automatic fire suppression system throughout, conforming to the Uniform Construction Code.

(3) Several unlimited area farm buildings excepted under (d)4i(1) and (2) above may be constructed on the same lot, or on an owner's contiguous lots, provided there remains at least 100 feet clear distance between the unlimited area farm building nearest another owner's property line or a public right of way; and provided that there is at least 100 feet clear distance between every unlimited area farm building and any other building not constructed under this exemption.

5. *[Rules concerning other requirements for commercial farm buildings are as follows]* ***Unlimited area farm buildings exempted under (d)4i above shall meet the following additional relaxed requirements in lieu of those requirements in Article 8, Means of Egress, of the BOCA Building Code:***

i. ***In lieu of the requirements of Section 807,*** *[T]**t*he maximum distance of travel from any point in the building to an exit shall not exceed 150 feet;

ii. ***In lieu of the requirements of Section 809,*** *[O]**o*ne exit is required for each 15,000 square feet of floor area and fraction thereof;

iii. ***In lieu of the requirements of Section 823,*** *[E]**e*xit signs must be posted. ***Exit signs are not required to be illuminated;***

iv. ***In lieu of the requirements of Section 806,*** *[O]**o*ccupancy is limited to 30 people;

v. Lightning protection ***of the type required for the structure by NFPA 78***, fire extinguishers and no smoking signs shall be provided;

vi. Offices with 10 or fewer occupants ***and a floor area not in excess of 1,200 square feet*** shall be considered incidental to the structure, if direct exit to the exterior is provided. Offices with 11 or more occupants ***or more than 1,200 square feet*** must provide fire separation and be constructed in accordance with the building subcode of the Uniform Construction Code.

EDUCATION

STATE BOARD OF EDUCATION

(a)

Adopted Amendment: N.J.A.C. 6:20-3.1

Proposed: September 8, 1987 at 19 N.J.R. 1598(a).

Adopted: March 10, 1988 by Saul Cooperman, Commissioner, Department of Education; Secretary, State Board of Education.

Filed: March 10, 1988 as R.1988 d.147, **without change.**

Authority: N.J.S.A. 18A:1-1, 18A:4-15 and 18A:38-19.

Effective Date: April 4, 1988.

Expiration Date: August 9, 1990.

Summary of Public Comments and Agency Responses:

Three letters with comments were received. All of the written comments indicated that the proposal should include a provision specifically excluding transportation fringe benefits from the computation of tuition rates and that the "special building use charge" should be deleted. In addition, one person spoke at the public hearing and indicated that the proposal should permit the principal on a lease purchase agreement or bond issue to be included in tuition rates.

The Department of Education established a tuition committee, and, in response to these comments, the committee determined that the exclusion of transportation fringe benefits was best addressed by revising the Chart of Accounts through the issuance of guidelines rather than through the Code. The Department also felt that the "special building use charge" was an appropriate exception for those few school districts with more than 50 percent non-resident students enrolled. Because school districts have the benefit of the equity in their owned property and receive additional funding from the State, the Department considers it inappropriate to include the cost of principal in tuition rates for the majority of school districts.

Full text of the adoption follows.

6:20-3.1 Method of determining tuition rates

(a) (No change.)

(b) Whenever practicable, the actual amounts expended for each applicable item in the program for which the tuition rate is required, according to the prescribed bookkeeping and accounting system, shall be recorded and used in determining the "actual cost per pupil". Once having determined to use the actual amount expended for any applicable line item in the program to determine the "actual cost per pupil", a district board of education must request the approval of the Commissioner to change to the pro rata basis described in (c) below. The Commissioner may approve such requests for a change in method if it is apparent from documentation submitted that accounting or recordkeeping problems are the basis of the request.

(c) Whenever it shall be impracticable to charge the actual amount expended for a particular item in the program for which the tuition rate is being determined, the share of such expenditure for each program shall be determined on a pro rata basis in accordance with the following ratios:

1. Administration: Ratio of number of teachers in each program to total number of teachers of the system.

2. Instruction:

i. Principals' salaries: Ratio of number of teachers in each program to total number of teachers of the system;

ii. Supervisors of instruction: Ratio of number of teachers in each program to total number of teachers of the system;

iii. Teachers' salaries shall be on an actual basis;

iv. Other instructional staff, secretarial and clerical assistants, and other salaries for instruction: Ratio of average daily enrollment in each program;

v. Textbooks, school library and audio-visual materials, teaching supplies, and other expenses: Ratio of average daily enrollment in each program.

3. Attendance and health services: Ratio of average daily enrollment in each program.

4. Transportation curricular activities: Ratio of average daily enrollment in each program. Transportation salaries and other expenses shall be excluded.

5. Operation; salaries and all other costs: Ratio of square feet of floor space used by each program. Such floor space shall not include offices, boiler rooms, corridors or other rooms not used by pupils. Whenever a room shall be used for two or more programs, such square footage shall be prorated as to time devoted to each program.

6. Maintenance; salaries and all other costs: Ratio of square feet of floor space used by each program.

7. Fixed charges: Ratio of average daily enrollment in each program. Rental on a site or school building acquired by a lease purchase agreement pursuant to N.J.S.A. 18A:20-4.2, except for the portion of the rental which is interest, shall be excluded.

8. Tuition shall be excluded.

9. Food services; salaries and expenses: Ratio of average daily enrollment in each program.

10. Student body activities; salaries and expenses shall be on an actual basis.

11. Community services shall be excluded.

12. Building use charge: Ratio of square feet of floor space used by each program multiplied by the amount which remains after the following calculation:

i. Divide the amount of debt service State support received by the debt service paid for the school year to determine the ratio of State support;

ii. Multiply the debt service interest charges paid on debt for the building in which the program is located by the ratio of State support obtained in (c)12i above;

iii. Subtract the amount obtained in (c)12ii above from the debt service interest charges paid on debt for the building in which the program is located.

13. Special building use charge:

i. Whenever a receiving district receives more than 50 percent of the average daily enrollment in a program for which a tuition rate is being determined, except for special education programs, the receiving district may include the actual amount expended for principal and interest on major repairs and major renewals of furniture, equipment and apparatus for the building in which the program is located, provided that:

(1) Such major repairs or major renewals were funded by the issuance of bonds as provided in N.J.S.A. 18A:21-1;

(2) The receiving district consulted with each sending district having more than 10 percent of the average daily enrollment in the program for which the tuition rate is being determined prior to taking

any action in accordance with N.J.S.A. 18A:24-10 to authorize the issuance of such bonds; and

(3) The majority of districts with more than 10 percent of the enrollment in the program has passed a resolution in support of the receiving district's determination to issue such bonds or the Commissioner, after a conference, has approved the proposal for the issuance of such bonds.

ii. Receiving districts for which this section is applicable may include the entire rental on a site or school building acquired by a lease purchase agreement pursuant to N.J.S.A. 18A:20-4.2 provided that:

(1) The receiving district consulted with each sending district having more than 10 percent of the average daily enrollment in the program for which the tuition rate is being determined prior to entering into the lease purchase agreement; and

(2) Each sending district with more than 10 percent of the enrollment in the program has passed a resolution in support of the receiving district's determination to enter into a lease purchase agreement or the Commissioner, after a conference, has approved the proposal to enter into a lease purchase agreement.

(d)-(f) (No change.)

(a)

School Facility Planning Services

Adopted Amendments: N.J.A.C. 6:22-1.1, 1.3, 1.4, 1.5, 1.6, 1.7, 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, and 4.1

Proposed: January 4, 1988 at 20 N.J.R. 3(a).

Adopted: March 11, 1988 by Saul Cooperman, Commissioner, Department of Education and Secretary, State Board of Education.

Filed: March 11, 1988 as R.1988 d.155, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3) and **with portions not adopted.**

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:18A-16, 18A:18A-18, 18A:18A-39, 18A:20-36, 18A:33-1 et seq. and 52:27D-130.

Effective Date: April 4, 1988.

Expiration Date: September 30, 1990.

Summary of Public Comments and Agency Responses:

Eight letters with comments were received.

Letter from Myers, Matteo, Rabil and Norcross, Attorneys

COMMENT: The proposed amendments do not consider the unique problems of the handicapped; space designation should be approved by a county child study team.

RESPONSE: After provision of the basic net square feet, total square feet is entirely based on the uniqueness of each program and can be influenced by the county child study team.

Letters from Peter Fland, Superintendent, Franklin Township Schools

COMMENT: A requirement of flexible buildings should be added to the definition of educational specifications.

RESPONSE: The flexibility issue is addressed at architectural plan review stage.

COMMENT: A statement that net square feet concept will not result in reduction of the capacity in existing buildings should be added.

RESPONSE: The Department agrees, and has added the following subsection to N.J.A.C. 6:22-2.5: "This section will be applied prospectively to new educational facilities and additions, when changes of use, renovations or alterations are made to existing facilities, and to existing facilities which were never approved according to prior standards or codes."

COMMENT: All renovations and improvements for health and safety reasons should not be funded as part of the current expense budget.

RESPONSE: This is a funding issue, not a facility issue, and, therefore, is beyond the scope of the proposed amendments.

COMMENT: When a facility requires renovations for code compliance, will the architect identify all items that must be upgraded?

RESPONSE: This is a contract issue between a board of education and its architect.

Letters from Harsen and Johns, Architects

COMMENT: The required room layout at the schematic plan level in N.J.A.C. 6:22-1.1(b)1i is detailed and will cost more time and money.

RESPONSE: The net square feet concept requires layout data to determine sufficiency of space size. The rule permits layout *or* list and size of furniture and equipment.

COMMENT: Will this program reduce school site sizes?

RESPONSE: While current sites cannot be reduced, future site sizes could potentially be smaller.

COMMENT: Will air conditioning be required for windowless gymnasiums, cafeterias and similar areas?

RESPONSE: That determination will be made on a case-by-case basis. The Department's interest is in providing for productive spaces according to the activity performed in the space.

Letters from McCarter and English, Attorneys

COMMENT: The proposed amendments are silent on the relationship between the table in N.J.A.C. 6:22-1.2(a)4 and the new subsection N.J.A.C. 6:22-1.2(c).

RESPONSE: The table was printed due to a printer's error and will be removed in a reproposal of N.J.A.C. 6:22-1.2(c).

COMMENT: Added acreage should be required for optional site elements.

RESPONSE: Added acreage is required by N.J.A.C. 6:22-1.2(c)2 as proposed.

COMMENT: Adequate on-site parking should be required.

RESPONSE: On-site parking cannot be required in all instances since some site sizes may be limited due to a limited availability of land. The primary elements at a limited site are educational activities and safety.

COMMENT: Adequate on-site parking should be required as per local zoning ordinances.

RESPONSE: School sites are subject to land use portions only of local zoning laws.

COMMENT: Provisions for landscaping and aesthetics should be mandatory.

RESPONSE: Provisions for landscaping and aesthetics cannot be mandated in all instances since some site sizes may be limited due to a limited availability of land. The primary elements at a limited site are educational activities and safety.

COMMENT: Resubmission of a site plan for approval should be required when an electorate fails to approve a referendum. The 18-month time period in N.J.A.C. 6:22-1.2(c) before resubmission can occur should be reduced to 12 months.

RESPONSE: Resubmission is a requirement under N.J.A.C. 6:22-1.2(c). The 18 month period is needed to give local boards of education time to schedule and hold a referendum.

COMMENT: In N.J.A.C. 6:22-1.7(a), change limiting appeals to boards of education, governing boards of private schools for the handicapped and the Department of Human Services.

RESPONSE: Clarification will be made by deleting "by the district board of education, the governing body of a private school for handicapped pupils or the State Department of Human Services." As proposed, persons with current standing were excluded. The intent was to limit the time line for an informal hearing without excluding anyone.

COMMENT: Variance power on site size should be more narrowly drawn and N.J.A.C. 6:22-1.7(b) changed to reflect it. Variances should not be granted unless a board of education has demonstrated its entitlement to variance.

RESPONSE: N.J.A.C. 6:22-1.7(b) limits variances already by requiring that a site include the required elements under N.J.A.C. 6:22-1.2; N.J.A.C. 6:22-1.7(b) is changed upon adoption to include, for clarification, "and the need for variances is satisfactorily documented."

Letters from the New Jersey Department of Community Affairs

COMMENT: The numerical citation of BOCA 502.2 in N.J.A.C. 6:22-1.2(c)1vii and (c)3vii will have to be updated periodically per changes. Fire land is not required around the entire building.

RESPONSE: The reference to BOCA 502.2 will be removed from N.J.A.C. 6:22-1.2(c) in the reproposal.

COMMENT: The width requirements in N.J.A.C. 6:22-2.4(c) are not based on the BOCA code but are not objectionable.

RESPONSE: As the Department of Community Affairs is in essential agreement with the subsection as proposed, no change is required.

COMMENT: The electrical requirements at N.J.A.C. 6:22-2.4(f) are duplicative of and exceed those of the National Electric Code, but do increase safety in schools.

RESPONSE: As the Department of Community Affairs is in essential agreement with the subsection as proposed, no change is required.

Letter from New Jersey Early Intervention Coalition, Inc.; Association for Retarded Citizens, Warren Unit, Inc.; Project First Step (Warren County)

COMMENT: There should be no toilet requirement at N.J.A.C. 6:22-2.4(h)4 for early intervention facilities.

RESPONSE: The Department agrees with this comment, because early intervention participants are not toilet trained. The following language is added to N.J.A.C. 6:22-2.4(h)4iv(1): "except that this shall not be required for early intervention program facilities."

The Department added the phrase "approved by the Department of Education as per N.J.A.C. 6:28" following all uses of the term "private schools for handicapped pupils" to clarify that only such approved schools are, or could be, governed by the provisions of the affected rules.

The Department, in consultation with the Department of Community Affairs, has also updated the references to the Building Officials Code Administrators National Code (BOCA) contained in N.J.A.C. 6:22-2.3.

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

6:22-1.1 Approval of plans and specifications

(a) Educational specifications describing the programs and activities to be housed in the proposed facility, the types, numbers and sizes in square feet of the spaces within the proposed facility and the spatial relationships between and among the spaces shall be submitted at the same time as the schematic architectural plans. The educational specifications shall bear the signature of the president of the district board of education and chief school administrator as evidence of certification of approval by the district board of education.

(b) Plans and specifications for the temporary and permanent construction, erection, reconstruction, alteration, conversion and renovation of public school facilities, including private schools for handicapped pupils ***approved by the Department of Education as per N.J.A.C. 6:28*** and State facilities for handicapped pupils, shall be submitted to the Department of Education, Bureau of Facility Planning Services whenever a review for compliance with this chapter is necessary. An architect or engineer licensed in New Jersey shall submit the plans and specifications on behalf of the district board of education, governing body of a private school for handicapped pupils ***approved by the Department of Education as per N.J.A.C. 6:28*** or the State Department of Human Services as follows:

1. One set of schematic plans shall be approved before funds are authorized locally via a bond referendum, lease-purchase agreement, gift or any other means of financing building construction, erection, reconstruction, alteration, conversion or renovation. This set of plans shall be submitted with a project cost estimate, site plan, educational specifications and an updated long-range facility plan, except that the long-range facility plan shall not be required for private schools for handicapped pupils ***approved by the Department of Education as per N.J.A.C. 6:28*** or State facilities for handicapped pupils. The review for educational adequacy shall take into consideration the suitability of the site; size, location and number of instructional and ancillary spaces; furniture and equipment; circulation patterns; provisions for the handicapped; maintenance, security and energy conservation; and locations of future additions. Room sizes shall meet or exceed minimum acceptable net and gross areas as required in N.J.A.C. 6:22-2.5.

i. Schematic plans shall include layouts of the built-in and movable furniture and equipment drawn to a scale of no less than 1/8 inch or a list of the built-in and movable furniture which shows the dimensions and square feet of each item for an instructional space which is typical of any kind of instructional space.

2. One set of preliminary plans shall be submitted after funds are authorized locally. This set of plans shall include room layouts, a statement regarding the method of heating and ventilation, a description of lighting and building elevations. For additions, a floor plan of the existing building showing the present and proposed use of all areas, including the identification in writing on the plans of all areas, and documentation that the Department of Environmental Protection is reviewing the methods of sewerage disposal and water supply shall be included. The preliminary plan review for educational adequacy is an extension of the schematic review for educational adequacy.

3. Four sets of signed and sealed final plans and specifications shall be submitted for review and approval after the architect and district board of education have received preliminary plan approval. This submission shall include the following:

i.-vi. (No change.)

vii. The approval letters from the New Jersey Department of Environmental Protection regarding *[sewage]* ***sewarage*** disposal, water supply, gas installations, major excavations and air contaminant control apparatus or equipment.

4. Bids may be advertised for and received only after the release of final plans from the Department of Education, Bureau of Facility Planning Services. Following approval of said bids by the Bureau, the district board of education may sign contracts and apply to the municipal construction enforcing official for the required building permits. The local municipal construction enforcing official will issue the construction permit, collect 80 percent of the total construction permit fee, perform the required inspections during construction and issue the required certificate of occupancy upon completion of the project. The district board of education or governing body of a private school for handicapped pupils ***approved by the Department of Education as per N.J.A.C. 6:28*** shall send to the New Jersey Department of Education, Bureau of Facility Planning Services a copy of the certificate of occupancy obtained from the local construction agency.

5. When there are practical difficulties involved in meeting the requirements of the State Uniform Construction Code, the designated and licensed construction official in the Department of Education, Bureau of Facility Planning Services may vary the rules provided the spirit and intent of the rules are observed and the public welfare and safety is ensured. Variations to the State Uniform Construction Code may be acted upon in accordance with N.J.A.C. 5:23-1.1 et seq.

6. Before construction contracts are awarded, the district board of education shall submit for approval to the Department of Education a list of the contractors which have been selected, the amount of each contract, the amount of each contractor's uncompleted contracts and a copy of the contractors' prequalification and classification statement.

7. A copy of each contract shall be filed with the Department of Education, Bureau of Facility Planning Services.

8. All plans and specifications for public school construction projects shall be prepared by an architect or professional engineer licensed to practice in the State within the limits covered by such registration. The Department of Education, Bureau of Facility Planning Services shall accept plans for review only from licensed professionals who have been retained by the district board of education for the project. Each page of the plans and the title page of the specifications shall bear the signature and embossed seal of the architect and/or professional engineer. The name, signature and embossed seal of the consulting professional engineers shall be placed on their own plans.

(c) Types of work requiring a review by the Department of Education shall consist of the following:

1.-3. (No change.)

4. A change in the dimensions (volume and/or area) of any instructional space;

5. A change in the age group or grade level of the students assigned to the school;

6. A change in use requiring the conversion of a space from one function to another causing physical renovation to satisfy educational program needs and/or the Uniform Construction Code;

7. (No change.)

8. A change in locker and toilet rooms including those contained within field houses, weight rooms and game rooms;

9. A change to the athletic fields and tracks;
10. The utilization of pre-manufactured trailers and vans;
11. Any site or building change or alteration for the purpose of making the site and school barrier free and accessible to handicapped persons as per N.J.A.C. 5:23 and Section 504 of the federal Rehabilitation Act of 1973.
12. (No change in text.)
(d) (No change in text.)
(e) All buildings and structures and parts thereof, both existing and new, shall be maintained in a safe, sanitary and energy efficient condition. All service equipment, means of egress, devices and safeguards which are required by the State Uniform Construction Code in a building or structure or were required by a previous statute for a building or structure, when erected, altered or repaired, shall be maintained in good working order.

6:22-1.3 Disposal of land

If an approved school site on which there is an operational school building is to be altered through sale, transfer or exchange of all or part of the total acreage, written application for approval shall be made to the Department of Education, Bureau of Facility Planning Services, except that this action is not required for private schools ***for handicapped pupils approved by the Department of Education as per N.J.A.C. 6:28*** and State facilities for handicapped pupils. A copy of the application shall be sent to the county superintendent of schools who shall make recommendations to the Bureau, with a copy of the recommendations to the district board of education.

6:22-1.4 Acquisition of existing buildings

A district board of education and governing body of a private school for handicapped pupils ***approved by the Department of Education as per N.J.A.C. 6:28*** planning to acquire any existing building or facility through purchase, gift, lease or otherwise shall comply with all procedures and rules pertaining to the appropriation and use of capital funds as required by N.J.S.A. 18A:20-4 and 18A:20-4.2 and shall also have the building approved in accordance with the rules of this chapter which apply to the construction of a new building.

6:22-1.5 School closings

(a) The district board of education shall supply the Department of Education, Bureau of Facility Planning Services with information as delineated in (a)1, 2 and 3 below which assures that with the closing of a school or schools:
1. Sufficient school building capacity as calculated according to N.J.A.C. 6:22-2.5(a)i and ii exists to house district students following such closing;
2. The use of substandard spaces in the remaining schools does not result or increase from an overall facilities shortage caused by school closings; and
3. The re-assignment of pupils to other schools in the district neither produces, sustains nor contributes to unlawful segregation, separation or isolation of student populations on the basis of race or national origin.
(b) A letter of approval from the Bureau is required to close a school.
(c) The information required in (a) above shall be provided before a final district board of education decision is made.

6:22-1.6 Planning recommendations

(a) The Bureau of Facility Planning Services, Department of Education shall develop publications which provide assistance in the planning of public school facilities. The publications shall be contained in the Educational Facility Publication Series which includes, but is not limited to, the following:
1. Education Specifications;
2. Greenhouses for Schools;
3. Instructional Media Center;
4. School Capacity;
5. School Sites: Selection, Development and Utilization; and
6. Science.
(b) (No change.)

6:22-1.7 Appeals and hearing process

(a) Appeals arising from action of the Bureau of Facility Planning Services of the Department of Education may be requested *[by the district board of education, the governing body of a private school for handicapped pupils or the State Department of Human Services]* and an opportunity given for an informal hearing before the Bureau manager or other designated official. A request for an informal hearing must be made within 30 days of Bureau action. In the event of an adverse decision after such an informal hearing, appellants may request within 90 days of an informal hearing a formal hearing pursuant to N.J.S.A. 18A:6-9, 18A:6-24 and 18A:6-27. Such hearings will be governed by the provisions of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., as implemented by N.J.A.C. 1:1).
(b) Requests for variances from the Department of Education requirements as specified in N.J.A.C. 6:22-1.2 and N.J.A.C. 6:22-2.4 and the State Uniform Construction Code as specified in N.J.A.C. 5:23-1.1 et seq. may be made in writing by the district board of education, governing body of a private school for handicapped pupils or State Department of Human Services or its designated representative to the manager of the Bureau of Facility Planning Services. The manager may approve variances from Department requirements provided the spirit and intent of the standards are observed ***and the need for the variances is satisfactorily documented.*** Variations from the State Uniform Construction Code shall be acted upon in accordance with N.J.A.C. 5:23-1.1 et seq.

SUBCHAPTER 2. APPLICATION OF THE UNIFORM CONSTRUCTION CODE

6:22-2.1 Model code adoption

(a) The State Board of Education hereby confirms that public school *[construcion]* ***construction*** shall be done in accordance with the State Uniform Construction Code, hereafter referred to as the U.C.C.
1. This document is available for review at the Bureau of Facility Planning Services, Department of Education, 1676 N. Olden Avenue, Trenton, New Jersey 08625 or at the Office of Administrative Law, CN 301, Trenton, New Jersey 08625.
2. This document may be purchased from the New Jersey Department of Community Affairs, CN 805, Trenton, New Jersey 08625.

6:22-2.2 Definitions

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

"Academic classroom" means an instructional space approved for use for general instructional purposes. This term differentiates the space from specialized instructional uses such as science labs and shops.

...

"Change-of-use" means any change in educational function, such as from a classroom to a laboratory or other specialized activity space and/or change in age group of occupants as from prekindergarten or kindergarten to elementary or elementary to secondary.

"Core facilities" means those spaces in a school building which serve directly or indirectly all or most of the students on a regular basis, such as library (IMC), auditorium, gymnasium, cafeteria or administrative offices.

"Department" means, with regard to these enhancements, the New Jersey Department of Education, specifically, the Bureau of Facility Planning Services.

...

"Open space" means any portion of a building up to 30,000 square feet, other than a gymnasium, auditorium or cafeteria, designed for multiple teaching which may be subdivided into smaller areas by use of partial partitions, moveable partitions or moveable furniture and does not have defined permanent corridors.

...

"Pre-engineered, modular classroom" means a unit which is manufactured in modular sections or in pre-cut and pre-sized components which are assembled on a school site. It is designed to be a permanent facility, is non-relocatable and is set upon a permanent foundation.

"Relocatable classroom" means a modular or prefabricated unit which is designed to be used at more than one location during the life of the facility. Wheels and axles are not a part of the facility and the facility is designed to be set upon a permanent foundation.

...

"School capacity formula" means the computational formula used in computing the capacity of a school building to derive the capacity for the building as per N.J.A.C. 6:22-2.5(a)i and ii.

6:22-2.3 Enhancements to Uniform Construction Code (U.C.C.)

(a) Under the authority granted to it in Chapter 496, Laws of 1983, the State Board of Education hereby adopts the following enhancements to the U.C.C.

1.-2. (No change.)

3. All heating appliances intended to supply domestic hot water or hot water*/**[or]* steam for space heating shall not be located in any instructional room in use group E, as designated in **the** Building Officials Code Administrators ***National Code*** (BOCA) except for industrial arts and vocational shops and laboratories.

4. An electric solenoid key-operated gas shut-off switch shall be installed in all gas supply lines to all instructional rooms, laboratories, shops or other spaces ***in use group E*** where gas is used by students *[in use group E]*.

5. An automatic fire detection system shall be installed in all new buildings of use group E (educational), as designated in ***the BOCA National Building Code/87 1017.3.1*** *[BOCA 301.1]* in accordance with applicable National Fire Protection Association standards. The system shall utilize:

i. Combination fixed-temperature and Rate of Rise device in classrooms and other spaces not covered in *[ii.]* ***(a)5ii*** below; *[or]*

ii. Devices to detect abnormal visible smoke densities or gaseous products of combustion are required in corridors and exit stairs;

iii. An automatic fire suppression system and, in areas where suppression is deleted, automatic detection devices; or

iv. A combination of the three types of detection devices except that a fixed-temperature detector shall be permitted in approved locations, such as a boiler room or incinerator.

6. Manual fire alarm boxes, in addition to BOCA *[1717.2]****/87 1017.2*** requirements ***as amended***, shall be provided in the natural path of escape from fire, near each exterior door from the corridor, kitchen, heater room and other exterior exits that are required to serve 50 or more persons. Additional fire alarm boxes shall be located in the main office, stage, at each stairway entrance from a corridor or place of assembly and near one exterior exit in each section of a place of assembly. It shall not be necessary to traverse more than 200 feet of unobstructed horizontal distance on the same floor in order to reach a fire alarm box.

7. Each instructional space and room of assembly which is illuminated with the use of high intensity discharge (HID) sources, such as mercury vapor, high pressure sodium and metal halide lamps, shall also be provided with a second source of illumination to provide illumination instantly upon activation of the circuit. All high intensity discharge (HID) lamps shall be of the fail-safe type which will permanently extinguish within two minutes after the outer glass of the bulb is broken. All lamps shall be provided with a glass or plastic lens to protect the bulb.

8. All school buildings shall be equipped with a mechanical air supply and exhaust ventilation system which will provide, during periods of occupancy, standard tempered outdoor air supply and mechanical exhaust at the minimum rates set forth in the BOCA Basic National Mechanical Code ***as amended***.

6:22-2.4 Educational facility planning standards

(a) The educational facility planning standards delineated in (b) below shall, in conjunction with the Uniform Construction Code, form the requirements for the design and construction of public schools.

(b) General design and construction requirements are as follows:

1. Instructional rooms with windows shall have no exterior obstructing wall within 20 feet of the major window wall.

2. Inner courts used for instructional purposes shall have a minimum width of 20 feet.

3. Concrete floors in all instructional areas, except shops, shall be covered with a resilient floor covering.

4. (No change in text.)

5. The average ceiling height of an academic classroom or other instructional space containing more than 300 square feet in area shall average nine feet six inches and no part shall be lower than eight feet. Instructional spaces of less than 300 square feet and areas of larger spaces devoted to clothing alcoves, storage or work space may have ceilings eight feet in height.

6. The ceiling height in an academic classroom shall *[be not less than]* ***average*** nine feet six inches. Minimum ceiling heights in other areas shall be:

Gymnasium (Elementary)	18 feet
Gymnasium (Middle)	20 feet
Gymnasium (High School)	22 feet
Auxiliary Gymnasium	14 feet
Music Room (Vocal and/or Instrumental) 12 feet or eight feet from the highest riser to the ceiling but in no case less than *[9'6"]* ***nine feet six inches***	
Multipurpose Room	18 feet
Cafeteria	12 feet
Industrial Arts and Vocational Shop 12 to 15 feet	

7. Public school corridors shall have a minimum ceiling height of eight feet.

8. A health unit shall be provided and shall include a nurse's area, waiting area, an examination area, a rest area with privacy and toilet facilities sized and arranged so that physically handicapped persons requiring assistance will be able to receive such aid.

9. Instructional greenhouses shall meet the following standards in addition to the U.C.C. standards and requirements of the Fire Prevention Code:

i-iii. (No change.)

iv. The storage of pesticides shall be in a locked metal cabinet and vented to the exterior.

10. Wherever chemicals are stored or used, an eyewash fountain or similar device, capable of providing a 15-minute continuous water flow, shall be provided.

11. Small group instruction areas of less than 300 square feet shall meet the following standards in addition to the U.C.C. standards:

i. No part of the ceiling shall be lower than eight feet;

ii. A number of electrical outlets sufficient to satisfy the program need, but in no case fewer than two duplex outlets shall be provided;

iii.-iv. (No change.)

(c) Exit requirements are as follows:

1. Minimum clear widths for primary corridors in elementary schools, grades kindergarten through eight, shall be:

i. Seven feet, wall-to-wall without lockers or wardrobes;

ii. Eight feet, wall to locker face with lockers or wardrobes on one side;

iii. Nine feet six inches, locker face to locker face with lockers or wardrobes on both sides;

2. Minimum clear widths at any point in secondary schools, grades seven through 12, shall be:

i. Seven feet six inches, wall to wall without lockers;

ii. Eight feet six inches, wall to locker face with lockers or wardrobes on one side;

iii. Ten feet, locker face to locker face with lockers or wardrobes on both sides.

3. Doors from all spaces used by students and school staff, excluding lavatories and locker rooms, shall swing into the corridor and shall have a safety vision strip of 1/4 inch wire glass which is not less than 100 square inches.

(d) Environment requirement is as follows:

1. Windowless classrooms and other windowless instructional spaces shall be air conditioned.

(e) Safety requirements are as follows:

1. Safety glass shall be used in both interior and exterior display cases.

2. A check valve shall be installed in the line supplying gas to each classroom, laboratory, shop or the area where gas is used by students, except home economics rooms.

3. The conduit of gas supply lines shall extend at least four inches outside and be vented above grade. Vent pipes shall terminate outside the building at a point not less than two feet measured vertically or horizontally from any window or other building opening. The outer end of vent pipes shall terminate in a weatherproof and securely fastened vent cap. Vent pipes shall terminate sufficiently above the ground to avoid being obstructed with snow and shall be secured firmly to the building. The entire installation shall be such that the gas piping can be readily replaced without damage to the building. Vents in courts shall extend at least five feet above the roof.

4. Science rooms, laboratories, shops and other instructional spaces in which open burning occurs shall be equipped with an emergency safety cold-water shower and a floor drain or a self-contained water receptacle or catch basin.

(f) Electrical requirements are as follows:

1. Push-type emergency cut-out switches shall be provided at appropriate locations within shops to de-energize the electrical supply to machinery. These switches shall be provided on the basis of one for each 1,000 square feet or fraction thereof of floor area in the shop, but in no case shall there be less than two. Reset of the interrupted service shall be by a key-operated switch located within the shop. The cut-off and reset circuits shall be designed and installed to negate the possibility of the control circuit being de-energized, thereby being inoperative.

2. All non-portable motorized equipment and machinery shall be provided with magnetic-type switches to prevent machines from automatically restarting upon restoration of power after an electrical failure or activation of the above emergency cut-off.

3. Instructional spaces shall be provided with sufficient outlets to satisfy the program need with not less than two duplex outlets remotely located.

4. Large group areas such as assembly rooms, auditoriums and other large group instructional spaces shall be provided with a convenience outlet at the probable location of portable projectors and built-in speaker cables at the above location as well as stage and platform areas.

5. All 125 volt, single-phase, 15 and 20 amp receptacles, when installed outdoors where there is direct grade level access, shall have ground-fault circuit interrupter protection. This shall apply, but is not limited to, all outlets on the exterior of buildings, athletic and playing fields, track areas, picnic areas, tennis courts and other similar areas.

6. All 125 volt, single-phase, 15 and 20 amp receptacles, when installed within a six foot radius of sinks, shall have ground-fault circuit interrupter protection. This shall apply, but not be limited to, classrooms, home economics laboratories, art rooms, science laboratories, vocational education shops, industrial arts shops, photography wet areas and garages.

7. All 125 volt, single-phase, 15 and 20 amp receptacles, when installed in lavatories and shower rooms, shall have ground-fault circuit interrupter protection.

(g) Lighting requirements are as follows:

1. Installed artificial lighting intensity shall comply with the following minimum footcandles which shall be maintained on the task at any time:

INSTALLED LIGHTING INTENSITY

Locations	Minimum Acceptable Footcandles
Classrooms and instructional areas—on work surface	50
Study halls, lecture rooms, art rooms, offices, libraries, conference rooms, work rooms, shops, laboratories and secondary school cafeterias	50
Drafting, typing and sewing rooms	70
Reception rooms, gymnasiums, auditoriums, cafeterias, all-purpose rooms and swimming pools	30
Locker rooms, washrooms, toilet rooms, corridors containing lockers, stairways	10
Corridors without lockers and storerooms	5
Classrooms for the partially sighted	70

(h) Plumbing requirements are as follows:

1. The number of plumbing fixtures, ventilation requirements, capacity of a school building and the student capacity of each instructional space and core facility within a school building shall be in conformance with the provisions of this chapter and be calculated according to N.J.A.C. 6:22-2.5(a)i and ii.

2. General pupil toilet rooms are those which are designed and labeled for pupil use, contain at least two of each required fixture and are directly accessible from a corridor or an open plan instructional space whenever the building is occupied. Pupils housed within an instructional space which is in excess of 300 square feet shall not be required to travel through any other space except a corridor to reach a general pupil toilet room.

3. There shall be at least one general toilet room for each sex which contains at least two of each respective fixture on each floor occupied by pupils or all instructional rooms shall have individual toilet rooms. Where classrooms, shops or physical education rooms are provided with self-contained individual facilities (water closet, lavatory and drinking fountains), the pupil capacity of these rooms shall not be counted in computing the number of fixtures required in the general pupil toilet rooms.

4. At least one individual toilet room shall be provided in each early intervention, pre-kindergarten and kindergarten classroom and meet the following criteria:

i. Be located and equipped in such a way as to ensure privacy for the pupils;

ii. Be accessible to physically handicapped students and barrier free in design as per N.J.A.C. 5:23-7;

iii. Meet all other provisions of N.J.A.C. 6:22-2.4(b) which pertain to toilet room design;

iv. Contain the following:

(1) A water closet, equipped with an open front seat with a flood rim height no greater than 10 inches from the floor***, except that this shall not be required for early intervention program facilities***;

(2) A lavatory (sink) with a flood rim height no greater than 26 inches from the floor;

(3) A diaper/clothes changing area (early intervention only);

5. Entrance to toilet rooms and locker rooms shall be screened to prevent visibility into the room.

6. Water closets shall be separated by individual stall partitions including doors which are of a smooth impervious material to permit effective cleaning.

7. Floors of all toilet rooms, shower rooms and drying rooms shall be water-tight and impervious to moisture. Floors shall be provided with an integral cove base at least four inches high.

8. Flooring materials, except for use in showers, of ceramic tile, quarry tile, sheet vinyl and plastic coatings designed for this purpose shall be deemed to meet the requirements of this subchapter. Resilient tiles or exposed concrete are not acceptable in toilet rooms.

9. Where showers are provided, benches shall be 30 inches apart, one shower head for each five to six boys and three to four girls, shower head height of five feet for girls and six feet for boys, and 12 square feet per shower head.

10. Prekindergarten and kindergarten classrooms shall be equipped with a drinking water facility.

(i) Pre-manufactured educational unit, van and/or other mobile unit shall comply with the following:

1. Pre-manufactured units shall be inspected and approved by the Bureau of Facility Planning Services and shall:

i. Have a seal affixed by the manufacturer which indicates that it meets the educational construction standards for BOCA use group B in accordance with N.J.A.C. 5:23-4.25;

ii. Contain square footage appropriate to its use as specified in this chapter;

iii. Meet code requirements for educational buildings as specified in the U.C.C. and in N.J.A.C. 6:22-2.3 and 6:22-2.4;

iv. Have two means of clear and unblocked egress, if the unit is a trailer in excess of 20 feet in length, which are remote from each other, otherwise there shall be a single means of egress;

v. Have sturdy steps provided with a handrail, except if the unit is to be used by a physically handicapped person it shall be barrier free;

vi. Have electric heat which provides a temperature of 68 to 72 degrees Fahrenheit in the most extreme cold weather;

vii. Have a ceiling height as follows: vans or other mobile units—seven feet; trailers of not more than 150 square feet—no less than seven feet; trailers of 151 to 300 square feet—no less than seven feet, six inches; trailers in excess of 300 square feet—no less than eight feet.

viii. Have provisions for the storage of students' clothing;

ix. Have a chalkboard and display board appropriate to the instructional program;

x. Have floor covering of either carpet which meets flame spread requirements as per the U.C.C. or asbestos-free vinyl tile;

xi. Have interior ceiling and wall materials which are certified free of toxic materials; and

xii. Be provided with an electric smoke detection unit which has an audible alarm for each 900 square feet or portion thereof or for each instructional space if the trailer is divided into more than one approved instructional space;

xiii. Be situated on an approved site;

xiv. A maximum of 30 days shall be permitted to correct the code deficiencies listed in i. through xiii. above which are found during an evaluation of any pre-manufactured unit placed in service after June 4, 1986 or of a subsequent future inspection of a unit approved according to these regulations. Staff of the Bureau of Facility Planning Services or county offices of education may order a unit immediately abandoned if, as a result of an evaluation, it is concluded that a clear and present danger exists for students and staff. A clear and present danger shall be defined as deficiencies involving code requirements relating to construction materials, fire safety or exiting. Failure or inability to correct code deficiencies shall be cause to permanently abandon a pre-manufactured unit.

2. Pre-manufactured units in service prior to June 4, 1986 will be evaluated by the Bureau of Facility Planning Services. If such evaluation indicates that a unit cannot meet the provisions of this section and/or the requirements of the Uniform Construction Code as summarized in specifications of the Department of Education for trailers, it shall be abandoned. If the evaluation indicates that code deficiencies can be corrected, districts will be permitted up to three years in which to correct the deficiencies. If the deficiencies are not corrected, the unit shall be abandoned.

3. A pre-manufactured trailer unit being utilized as an emergency, temporary replacement for a regular classroom facility may be utilized for a maximum of two school years. As a pre-condition to the approval for the use of a trailer, a school district must have a plan approved by the county superintendent of schools for the provisions of permanent facilities, which includes an implementation schedule. A trailer utilized for the delivery of basic skills services to nonpublic school students under the Federal Education Consolidation Improvement Act, Chapter 1, Chapters 192 and 193 L. 1977 may be used as long as it meets the standards of this section and is evaluated and approved annually by the county superintendent of schools.

4. A self-propelled van and/or other mobile unit used for instruction shall:

i. Have mechanical ventilation and exhaust which provides air change per occupant per hour in accordance with Section 1603.1 of the BOCA National Mechanical code;

ii. Have interior ceiling and wall materials that are certified non-toxic and non-combustible;

iii. Contain a minimum of 100 square feet;

iv. Have electric heat which provides a temperature 68 to 72 degrees Fahrenheit in the most extreme cold weather;

v. Provide at least 50 foot candles of uniformly distributed artificial illumination;

vi. Have a minimum ceiling height of seven feet;

vii. Have two means of clear and unblocked egress which are remote from each other. If the exit is not at grade level, sturdy steps with a handrail shall be provided, except if the unit is to be used by a physically handicapped person it shall be barrier free;

viii. Be provided with door hardware which is lever-operated and fully operable from the interior and exterior at all times;

ix. Be provided with an electric smoke detection unit which has an audible alarm that can clearly be heard within the unit;

x. Be furnished with an electric hook-up cable which is copper, a maximum of 28 feet in length and contain a 220 volt four-prong receptacle which is plugged into an approved twist-type outlet;

xi. Be furnished with a 2A-10BC fire extinguisher which is maintained in operating order at all times;

xii. Be furnished with electrical fixtures which meet the National Electric Code, Section 551;

xiii. Have electrical wire of a minimum size to meet the National Electrical Code;

xiv. Have floor covering of either carpet which meets flame spread requirements of the U.C.C. or asbestos-free vinyl tile;

xv. Be furnished with furniture and equipment which is stabilized while in transit;

xvi. Pass an annual inspection by the New Jersey Division of Motor Vehicles;

xvii. Be evaluated and approved annually by the county superintendent of schools;

xviii. Be furnished with wheel chocks to assure that the unit will not move in any direction when parked; and

xix. A maximum of 30 days shall be permitted to correct the code deficiencies listed in i. through xviii. above which are found during an evaluation of any van and/or other mobile unit placed in service after June 4, 1986 or of a subsequent future inspection of a van and/or other mobile unit approved according to these regulations. Staff of the Bureau of Facility Planning Services or the county superintendent may order a van and/or other mobile unit immediately abandoned if, as a result of an evaluation, it is concluded that a clear and present danger exists for students and staff. A clear and present danger shall be defined as deficiencies involving code requirements relating to construction materials, fire safety and exiting. Failure or inability to correct code deficiencies shall be cause to order a permanent abandonment of a van and/or other mobile unit.

5. Pre-manufactured units in service prior to June 4, 1986 will be evaluated by the Bureau of Facility Planning Services. If such evaluation indicates that a unit cannot meet the provisions of this section and/or requirements of the Uniform Construction Code as summarized in Department of Education specifications for vans or other mobile units, it shall be abandoned. If the evaluation indicates that code deficiencies can be corrected, districts will be permitted up to three years in which to correct the deficiencies. If the deficiencies are not corrected, the unit shall be abandoned.

6. A self-propelled van or other pre-manufactured mobile unit being utilized as an emergency, temporary replacement for a regular classroom facility may be utilized for a maximum of two school years.

As a pre-condition to the approval for the use of a van or other mobile unit, a school district must have a plan, including an implementation schedule, approved by the county superintendent of schools for the provision of permanent facilities. A van or other mobile unit to be used for the delivery of basic skills services to non-public school students under the Federal Education Consolidation Improvement Act, Chapter 1, Chapters 192 and 193 L. 1977 may be used as long as it meets the standards of this section.

6:22-2.5 School space sizes and capacity

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

"Capacity" of a school building means:

i. The sum of the capacities of each instructional space which is calculated by subtracting the square feet for program activity, furniture and equipment, both built-in and moveable, storage and any other activity or item to be housed from the gross square footage to determine the net square feet per space and dividing that number by the net square feet per occupant as required in (b) below; plus

ii. The sum of the capacities of each instructional space which is calculated by dividing the gross square feet per space by the gross square feet per occupant as required in (b) below.

"Departmentalized elementary school" means a school in which any combination of grades is organized according to a departmentalized structure pursuant to N.J.A.C. 6:3-1.10(l)16 with students moving from teacher to teacher during the day.

"Middle school" means a school which contains any combination of grades from five through eight in which at least two grades are organized according to a departmentalized structure.

"Minimum gross area in square feet" means the least amount of square feet required for a space in a school.

"Minimum square feet per pupil" means the least amount of square feet required for each pupil to be housed in a space in a school.

"Non-departmentalized elementary school" means a school that contains any combination of grades in kindergarten through eight in which pupils spend the majority of instructional time with one teacher.

"Pupil station" means the gross area in square feet required for one pupil.

"Secondary school" means a school in which any combination of grades seven through 12 is contained, including vocational schools, and the organization for instruction is departmentalized.

(b) The minimum square feet for each instructional space shall be determined by the net and gross square feet values shown below together with the definitions of net and gross square feet presented in (c) below. The capacity of a school building shall be calculated according to definitions in (a) above.

Area	Minimum Required Floor Area in Square Feet per Occupant
Classrooms, including early intervention, pre-kindergarten, kindergarten	20 net
Classrooms (students with physical mobility problems, for example, wheelchair)	25 net
Science laboratories	20 net
Shops and laboratories for industrial arts and vocational education	50 net
Small group instruction, including music practice	20 net
Conference rooms	15 net
Auditorium, excluding stage	7 net
Cafeteria and faculty dining	
Food service	15 net
Assembly, unfixed seats	7 net
Gymnasium (all school types)	—
Spectator area	3 net
Physical education-athletics, with spectator area in gymnasium	100 net
Physical education-athletics, with no spectator area	125 net
Assembly, unfixed seats	7 net
Auxiliary gymnasium and/or weight room (20 student capacity base)	40 net
Locker room	20 net
Multi-purpose Room	
Spectator area	3 net
Physical education-athletics	80 net
Food service	15 net
Assembly, unfixed seats	7 net
Instructional Materials Center	—
Reading room	50 net
Seminar—small group	20 net
Stacks (.25 x reading room capacity—elementary) (.33 x reading room capacity—middle, junior/senior high school)	100 gross
Other support spaces	20 net
Health Center	—
Cot area	30 net
Examination room	20 net
Offices	60 net, first occupant; 15 net additional occupants

(c) Instructional and non-instructional spaces for which a maximum floor area per occupant is not delineated in (b) above shall be provided with sufficient square feet to accommodate their functions and are subject to approval by the Bureau of Facility Planning Services.

(d) A net square feet per occupant figure is one which establishes the square feet for safety and exit facilities. The gross area in square feet per space is the capacity (highest number of occupants) multiplied by the net square feet per occupant, for activity areas, furniture and equipment (both built-in and moveable), storage and any other activity or item to be housed.

(e) A gross square feet per occupant is one which establishes the required area in square feet for a defined purpose. The gross area in square feet required per space is the capacity (highest number of occupants) multiplied by the gross square feet per occupant.

(f) This section will be applied prospectively to new educational facilities and additions, when changes of use, renovations or alterations are made to existing facilities, and to existing facilities which were never approved according to prior standards or codes.

SUBCHAPTER 3. SUBSTANDARD SCHOOL FACILITIES

6:22-3.1 Emergency provisions for accommodation of school pupils in substandard school facilities

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

(d) All substandard educational facilities shall be initially approved by the county superintendent of schools *[of the county]* in which the district board of education is situated, such approval to be given for a maximum period of two years except as prescribed in (b) above. No substandard educational facility, however, shall be approved for more than two consecutive years unless inspected by the Bureau of Facility Planning Services, Department of Education to ensure that:

1. The facilities meet health, safety and educational adequacy standards for temporary, substandard facilities, as specified in this chapter;

2. The utilization of the facilities is temporary; and

3. A plan has been developed by the district board of education and approved by the county superintendent of schools to upgrade the facilities to standard, fully approved conditions.

(e) The Bureau of Facility Planning Services and the county superintendent of schools, when considering educational adequacy, shall apply the minimum standards of square feet per space and per pupil as contained in this chapter. In cases where a district board of education feels it must have relief from the minimum square feet requirements, such relief shall be determined upon application to the county superintendent of schools. The county superintendent ***of schools*** shall make recommendations to the assistant commissioners of the Divisions of Finance and County and Regional Services who jointly may grant relief upon consideration of educational, health and safety standards.

(f) County superintendents of schools will annually monitor the plans of district boards of education to upgrade facilities to State-approved temporary substandard and/or fully approved, standard status.

(g) District boards of education must provide funds in the next immediate annual budget to correct deficiencies about which they are notified by the Bureau of Facility Planning Services on or before October 1 annually. Failure to budget for the correction of deficiencies and to implement the corrections by the next September 1 following the October 1 notice, except as specified in (h) below, shall result in the facility being abandoned.

(h) If a district board of education cannot afford to correct all identified deficiencies in one budget year because of the total costs associated with large numbers of substandard facilities, the district board's long-range facility plan must include a sub-plan for the correction of the deficiencies. The sub-plan must be updated annually and identify funding sources such as an annual budget or a capital improvement authorization. Inclusion of a sub-plan to correct deficiencies in substandard facilities does not relieve a district board of education from implementing the corrections in the shortest time possible.

(i) In making a determination upon any application for the use of emergency substandard facilities, the following factors shall be taken into account:

1. Accommodations in an existing public school:

i. Safety factors:

(1) The floors, walls and ceilings of rooms used for instruction shall be free from moisture, peeling paint, plaster and potentially hazardous materials;

(2) Provision shall be made for the storage of pupils' clothing in other than a corridor or exitway;

(3) Each instructional room housing more than 10 pupils and containing more than 300 square feet shall have a door opening directly into the corridor or an exit door opening directly to the exterior;

(4) The hardware on doors of any space occupied by pupils shall be of the knob-operated or lever-operated types only, permitting egress from the room at all times. Key-operated locks, thumb-turn locks, hasps or similar types of locking devices shall not be permitted;

(5) Doors opening into the corridor, transoms and sidelights shall be glazed with one-quarter inch wire plate glass;

(6) Every enclosed space shall be protected by an approved automatic fire or smoke detector or a fire suppression device tied into the total public school fire alarm system;

(7) Each instructional room capable of housing more than 10 pupils shall have an approved exitway with sufficient units of exit available within 150 feet travel distance;

(8) (No change.)

(9) Concrete floors shall be covered with a resilient floor covering, except in shops. Any carpeting, together with its backing or underlayment, shall have passed the flame spread requirements of 75 or less as per the American Society for Testing and Material 84-77.

ii. (No change.)

iii. Heating and ventilation:

(1) The room shall be uniformly heated to a temperature of at least 68 degrees Fahrenheit that does not exceed 80 degrees Fahrenheit when occupied;

(2) Each instructional room shall have natural light with one or more operative window sash or the room shall have mechanical air supply and exhaust sufficient to provide not less than 10 cfm of tempered outside air and 15 cfm of recirculated air.

iv. Toilet facilities and drinking fountains: Toilet facilities shall be available within a reasonable distance, not more than one floor away, and shall be equipped with an exterior operating window sash or mechanical exhaust ventilation.

v. Lighting: At least 50 footcandles of uniformly distributed artificial illumination shall be provided. Emergency lighting shall also be provided if the space is windowless and exceeds 300 square feet.

vi. Equipment and supplies: Furniture and equipment which is in good condition and suitable for the age and size of the pupils and purposes of instruction shall be provided.

vii. Room size: Each small group instruction room shall provide at least 20 net square feet of open floor area per pupil with no dimension less than 10 feet and total space not less than 150 square feet. Boards of education shall consider the recommendations of the School Capacity bulletin and other applicable policy documents of the Department of Education in planning for facilities housing handicapped pupils.

viii. Instruction:

(1) (No change.)

(2) Sufficient electrical duplex outlets shall be provided to satisfy the program need with not less than one outlet per space.

2. Emergency provisions for accommodation of school pupils in off-site, rented or leased buildings:

i. Safety factors:

(1) The floors, walls and ceilings of rooms used for instruction shall be free from moisture, peeling paint, plaster and potentially hazardous materials;

(2) Provision shall be made for the storage of pupils' clothing in other than a corridor or exitway;

(3) Each instructional room containing more than 300 square feet shall have a door opening directly into the corridor or an exit door opening directly to the exterior;

(4) The hardware on doors of any space occupied by pupils shall be of the knob-operated or lever-operated types only, permitting egress from the room at all times. Key-operated locks, hasps or similar types of locking devices shall not be permitted;

(5) Concrete floors shall be covered with a resilient floor covering, except in shops. Any carpeting, together with its backing or underlayment, shall have passed the flame spread requirements of 75 or less as per the American Society for Testing and Material 84-77;

(6) Each exterior exit door serving more than one classroom shall be equipped with panic hardware only and shall be free at all times of chains or other restraints;

(7) An off-site, rented or leased building which does not have a fire detection system shall have an automatic fire detection system which is interconnected to every space in use installed prior to occupancy by students and staff. An off-site, rented or leased building which has an existing manual fire alarm shall, by the start of its fourth year of use, be equipped with an automatic fire detection system which is interconnected to all spaces in use;

(8) (No change.)

(9) The boiler room shall be enclosed by a floor, wall and ceiling designed to provide not less than a 3/4 hour fire resistive rating. All openings within the enclosure shall be equipped with a self-closing "C" label fire door lettered "Fire Door Keep Closed". Provision shall be made for a fresh air intake to supply outside air necessary to support burner combustion.

ii. Ceiling height: The average ceiling height shall be at least eight feet six inches for instructional spaces containing 300 square feet of floor area.

iii. Heating and ventilation:

(1) The room shall be uniformly heated to a temperature of at least 68 degrees Fahrenheit that does not exceed 80 degrees Fahrenheit when occupied;

(2) Each instructional room shall have natural light with one or more operative window sash or the room shall have mechanical air supply and exhaust sufficient to provide not less than 10 cfm of outside air and 15 cfm of recirculated air.

iv. Lighting: At least 50 footcandles of uniformly distributed artificial illumination shall be provided. Emergency light shall also be provided if the space is windowless.

v. Toilet facilities and drinking fountains:

(1) There shall be a minimum of two urinals and two lavatories in boys' toilets and a minimum of two water closets and two lavatories in girls' toilets. Toilet facilities shall be available within a reasonable distance, not more than one floor away, and shall be equipped with an exterior operating window sash or mechanical exhaust ventilation. Toilet facilities shall be provided for students in early intervention, pre-kindergarten and kindergarten programs as per N.J.A.C. 6:22-2.4(h)4.

(2) At least one drinking fountain for each 50 pupils shall be provided.

vi. Schoolground and play facilities: The outside recreational play area for students shall include, but not be limited to, sufficient space, equipment and safe surfaces for the building enrollment and program need and be protected from hazards or traffic conditions.

vii. Equipment and supplies: Furniture and equipment which is in good condition and suitable for the age and size of the pupils and purposes of instruction shall be provided.

viii. Room size: Each small group instructional space shall provide at least 20 net square feet of open floor area per pupil with no dimension less than 10 feet and not less than 100 square feet.

ix. Instruction:

(1) Chalkboard, or other appropriate writing surface, and a display board suitable for the instructional program shall be provided.

(2) Sufficient electrical duplex outlets shall be provided to satisfy the instructional program with not less than one outlet per space.

x. Other:

(1) A copy of the Occupancy Permit for the facility issued by the local construction official shall be on file in the Department of Education, Bureau of Facility Planning Services.

(2) A copy of the annual inspection report from the local fire official and/or health official approving use of the facility shall be on file in the office of the county superintendent of schools.

SUBCHAPTER 4. LONG-RANGE FACILITIES PLANS

6:22-4.1 Long-range facilities plans

(a) Long-range facilities plans projecting a five-year estimate of capital construction needs shall be maintained by each school district.

(b) Long-range facility plans shall be updated every five years from the original submission date of July 1, 1985 and submitted to the county superintendent of schools.

(c) Revised facility plans shall be submitted to the county superintendent whenever construction plans are sent to the Bureau of Facility Planning Services.

(d) (No change.)

1. (No change.)

2. Anticipated facilities needs on a year-by-year basis.

(e) The following items need to be completed only if changes in these areas have occurred or are anticipated since the submission of a master plan on July 1, 1979 or long-range facilities plan:

1. (No change.)

2. Changes in the educational program, grade organization and/or facilities including, but not limited to, an addition to a school, a new school, a new administration building, bus garage or similar facility and the closing of a school;

3. Changes in joint school and/or community use of facilities.

(f) (No change.)

(g) All floor plans and functional capacities included in the long-range facilities plan shall be shown in accordance with the most recent approval of the Department of Education. Temporary or emergency partitions shall not be shown as approved walls.

(a)

Special Education Pilot Project

Adopted New Rules: N.J.A.C. 6:28-11

Proposed: January 4, 1988 at 20 N.J.R. 14(a).

Adopted: March 11, 1988 by Saul Cooperman, Commissioner, Department of Education; Secretary, State Board of Education.

Filed: March 10, 1988 as R.1988 d.148, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:1-1, 18A:4-15 and 16, 18A:4-23 and 24, 18A:46-1 et seq. and 18A:7A-(5)i.

Effective Date: April 4, 1988.

Expiration Date: June 1, 1989.

Summary of Public Comments and Agency Responses:

The Department has received 24 written comments regarding the proposed code. Of these, 17 expressed full support for the rules.

Four expressed both support for the rules and some concerns with specific points.

Three comments expressed concern with particular sections.

The concerns and recommendations were as follows:

1. A suggestion that a special education teacher be a member of a school resource committee.

2. A concern that CST members will not be capable of providing in-service training, demonstration teaching and curriculum development.

3. A concern that there is a lessening of parent rights with the new school takeover law and these rules.

4. A suggestion that a parental signature be required for the school resource committee.

5. A concern that allowing regular education to deal with mild problems is a "gathering of power" which will promote abuse.

6. A suggestion that visual screening be required in addition to audiometric screening.

7. A suggestion that a certified teacher of the deaf evaluate hearing impaired pupils and a certified teacher of the blind and partially sighted evaluate visually impaired pupils.

8. A concern that new programs will differ considerably from current ones and seeks guarantee of continuity.

9. Suggests clearer language on non-biased assessment.

10. The eligibility criteria for the communication domain is confusing.

11. A 60 day notice period prior to change of pupil status was suggested.

12. Specific appeal rights for a parent who disagrees with school resource committee recommendations was suggested.

13. Pupils in full-time special education classes should be provided regular education curriculum when appropriate.

The responses of the Department of Education to the above comments are as follows:

1. The school resource committee already has a child study team member as one of its members. Adding a special education teacher would make a majority of special education members. The school resource commitee is part of regular education and should not have a majority of the committee from special education.

2. Child study team members will be providing in-service, demonstration teaching and curriculum development only when it is appropriate to do so. Each person is not required to do all services.

3. There is no change in the area of parental rights as a result of these rules.

4. The school resource committee is part of regular education and should be similar to other regular education procedures including parental information and participation. Requiring a signature would be unnecessary.

5. Assisting pupils with mild learning difficulties is clearly within the responsibility of regular education.

6. Visual screening is already routinely done and it is not necessary to place in rules.

7. An evaluation is the responsibility of a child study team. The role of the teacher is to participate in program planning through the IEP process. It is not necessary to require an evaluation by a teacher.

8. The child study team must always consider continuity and appropriateness of any program change in the pilot programs as well as in any other district programs.

9. The Department believes the existing language is significantly clear and consequently the section on non-biased assessment has not been changed.

10. The confusion has been corrected by a punctuation change.

11. Current State and Federal requirements of 15 day notice is sufficient.

12. The school resource committee is regular education and it is unnecessary to create an appeal system as in special education. Existing procedures in each school for raising concerns within regular education should be used.

13. The IEP should address all curricular areas. Pupils in full-time classes should participate in regular education wherever appropriate. In addition, regular education curriculum should be used in full-time programs whenever appropriate.

The word "required" has been added to N.J.A.C. 6:28-11.12(a) through (j), since the term "required related service" is an essential element of each class type.

Other changes in the proposal are technical only, to correct punctuation and other editorial errors.

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

SUBCHAPTER 11. SPECIAL EDUCATION PILOT PROJECT

6:28-11.1 General provisions

(a) The New Jersey Department of Education has developed the Plan to Revise Special Education in New Jersey (Plan). The Plan is a major initiative of the department and includes a set of recommendations designed to improve the organization and delivery of special education programs and services to handicapped pupils. The Plan is also designed to build the capacity in regular education to serve nonhandicapped pupils with mild learning problems in regular education.

(b) The Plan to Revise Special Education in New Jersey is being implemented as a pilot project operated by the Department of Education in selected local districts under the authority of N.J.S.A. 18A:7A(5)i during the 1988-1990 school years.

(c) This subchapter shall replace N.J.A.C. 6:28-3.1 through 3.5 and N.J.A.C. 6:28-4.1(a) through (e) and 4.2 and shall apply only to those districts selected by the Department of Education to pilot the Plan. All other provisions of N.J.A.C. 6:28 shall apply to such districts except as specifically noted in this subchapter.

(d) Prior to September 1, 1988, the child study teams of pilot districts shall determine an appropriate eligibility status for all pupils classified according to N.J.A.C. 6:28-3.5(d).

1. The pupil's instructional needs shall be used to determine eligibility for special education and/or related services according to N.J.A.C. 6:28-11.7(d).

2. Parents shall be notified of the eligibility status in (d) above at a conference attended by the pupil's case manager and classroom teacher.

(e) If any provision of this subchapter or the application of such a provision to any person is found invalid, such invalidity shall not affect other provisions or applications of this subchapter which can be given effect. To this end, the provisions of this subchapter are declared to be severable.

6:28-11.2 School resource committees

(a) All pilot district boards of education shall establish at least one school resource committee in each of its regular schools. The school resource committee is a standing committee whose purpose it is to assist teachers with strategies for educating non-handicapped pupils with learning and/or behavior problems in regular education. Pilot district boards of education shall develop procedures for requesting the services of the school resource committee, implementing committee recommendations and communicating with parents.

1. The core membership of the school resource committee shall be the building principal or designee with the authority of the principal to implement recommendations, one child study team member and at least one of the following:

i. A classroom teacher;

ii. A guidance counselor;

iii. A school nurse;

iv. A reading specialist;

v. A compensatory education teacher; or

vi. Other certified regular education school personnel.

2. The principal or designee shall serve as chairperson of the school resource committee.

3. Core membership of the school resource committee shall be determined by procedures developed by the chief school *[administer]* ***administrator*** of the district. The committee shall include the staff member who requested assistance. No special education staff member, other than the designated child study team member, may serve as a core member of the committee. The committee may be increased to include other school staff when considering the needs of a particular pupil. The committee may call upon other school staff to carry out assistance plans for specific pupils.

(b) The school resource committee shall request health information from the school nurse for all pupils being discussed. The school nurse shall review the pupil's health records and apprise the committee of all educationally relevant information about the pupil being discussed.

(c) The school resource committee shall prepare assistance plans for pupils who require modifications to their regular education program. Those plans shall detail the modification(s) developed for the pupil and be reviewed within eight weeks of their implementation. The recommendation(s) of the assistance plan must be carried out and shall:

1. List the specific modifications to be made;

2. Name the person(s) responsible to implement the recommendations; and

3. Indicate who will review the pupil's progress.

(d) If the recommendations of the school resource committee are ineffective, the assistance plan shall be amended or the pupil may be referred to the child study team to determine eligibility for special education and/or related services.

(e) Parents shall be notified that their child is to be discussed by the school resource committee and of any changes made in their child's program.

6:28-11.3 Child study teams

(a) A child study team is an interdisciplinary group of appropriately certified persons who shall:

1. Evaluate pupil instructional needs and determine eligibility for special education and/or related services for pupils referred as potentially handicapped;

2. Coordinate the development, monitor and evaluate the effectiveness of the individualized education program***s*** for pupils determined eligible for special education and/or related services;

3. Deliver appropriate related services to educationally handicapped pupils;

4. Provide preventive and support services to non***-***handicapped pupils;

5. Provide services to the regular education staff which include:

i. In-service training, demonstration teaching, curriculum development;

ii. Provision of techniques, materials and programs for pupils experiencing difficulties in learning;

iii. Consultation with school staff and parents;

iv. The design, implementation and evaluation of techniques to prevent and/or remediate educational difficulties;

v. Core membership on the school resource committees.

(b) A child study team shall consist of a learning disabilities teacher-consultant, a school psychologist, a school social worker and a speech-language specialist. All members of the child study team shall be employees of the pilot district board of education, have an identifiable apportioned time commitment to the local school district and be available during the hours when pupils are in attendance.

(c) The child study team shall consult with a school nurse when considering medical diagnostic services.

6:28-11.4 Identification

(a) Each pilot district board of education shall adopt written procedures for screening and identifying those pupils between the ages of three and 21 who reside within the local school district, may be educationally handicapped and are not receiving special education and/or related services as required by this chapter. Children below the age of three shall be identified, located and evaluated through programs operated by or through contract with the Department of Education.

1. The identification procedures shall include criteria to identify pupils who may be experiencing physical, sensory, social/emotional, learning, communication or cognitive difficulties.

2. The identification procedures shall provide for participation of the school resource committee, instructional, administrative and other professional staff of the local school district, parents and agencies concerned with the welfare of pupils.

(b) A newly enrolled pupil who is identified pursuant to (a) above, but not classified as educationally handicapped by the school district of previous enrollment, shall be placed in a regular public school program. If the chief school administrator, after consultation with the child study team, determines that such placement of the pupil may do serious harm to the pupil or others, the pupil may be placed on home instruction for a period not to exceed 30 calendar days pending child study team evaluation and determination of special education eligibility. Simultaneously with such placement of a pupil on home instruction, the chief school administrator shall initiate referral to the child study team according to N.J.A.C. 6:28-11.5(a) through (f).

6:28-11.5 Referral

(a) Prior to any decision regarding referral of a pupil to a child study team for determination of eligibility for special education programs or services, a certified staff member shall request the school resource committee to recommend interventions in the regular public school program to address educational problems. The following exceptions to this provision apply:

1. School resource committee intervention is not required for a pupil whose educational problems are such that direct referral to the child study team can be supported.

2. Parents may refer their child to the child study team directly. The child study team shall determine the appropriateness of any such referral.

(b) A written report by the school resource committee of the intervention's effect and other collected data regarding the pupil shall be presented to the child study team upon referral of the pupil.

(c) The parent(s) of a pupil being considered for referral to a child study team shall receive written notification as described in N.J.A.C. 1:6A-1.1 et seq. and 6:28-2.3.

(d) When parental consent for a pupil's referral to the child study team is withheld, the district board of education may request a due process hearing according to N.J.A.C. 6:28-2.7.

(e) Audiometric screening shall be conducted for every pupil referred to the child study team including those referred solely for speech and language services according to N.J.A.C. 6:29-8.

(f) The school nurse shall gather, review and summarize relevant health information including, but not limited to, routine examinations, health records and medical reports and shall recommend a comprehensive medical evaluation, if appropriate, as part of the child study team referral materials.

(g) When a parent identifies a child age three to five as potentially handicapped, the district board of education shall use a screening procedure to determine if the child should be referred directly to the child study team for comprehensive evaluation.

(h) When a child who has been enrolled in an early intervention program attains the age of three, as defined in N.J.A.C. 6:28-1.3, the pilot district board of education shall accept the child as identified and proceed with referral directly to the child study team.

(i) When the Division of Youth and Family Services, Department of Human Services, identifies a potentially educationally handicapped pupil for whom a local school district is responsible, the district shall accept the pupil's identification by the Division of Youth and Family Services and request parental consent to refer the pupil directly to its child study team according to this subchapter.

(j) Pupils referred solely for speech and language services may be referred directly to the speech-language specialist and need not be reviewed by the entire child study team.

6:28-11.6 Comprehensive evaluation

(a) Following receipt of parental consent for referral of a pupil, the child study team shall meet to determine the need for a comprehensive evaluation and, if appropriate, design an evaluation plan and designate a case manager. A determination of the pupil's communication skills and dominance in English and the native language shall be completed as part of the development of the evaluation plan. The purpose of the evaluation shall be to:

1. Determine eligibility for special education and/or related services; and

2. Determine an appropriate educational program and placement for the pupil.

(b) The evaluation plan shall include:

1. The specific information to be obtained, and

2. The child study team members who will participate in the evaluation.

i. The child study team shall gather appropriate data about the referred pupil and determine what additional diagnostic information must be gathered in order to assist in determining eligibility for special education and/or related services and in determining the instructional needs of the pupil.

ii. The child study team shall develop a description of the available data about the pupil and that data which must still be gathered in order to address the concerns expressed in the child study team referral. The child study team shall prepare a statement which supports the basis upon which testing is decided.

iii. Eligibility criteria as listed in N.J.A.C. 6:28-11.8 shall be considered.

iv. Data collection shall include, but not be limited to, an interview with the referring teacher and parent, if direct referral is made by the parent(s).

3. The evaluation procedures necessary to obtain this information;

4. The language(s) or method of communication to be used in the evaluation process;

5. The designation of a child study team member as case manager.

(c) A copy of the evaluation plan shall be sent to the pupil's parent(s).

(d) All evaluations leading to a determination of a pupil's eligibility for special education and/or related services shall be completed without undue delay, in accordance with N.J.A.C. 6:28-2.1.

(e) Changes in the evaluation plan shall be reported to the parent prior to implementation.

(f) All evaluations specified in this chapter shall:

1. Be conducted on an individual basis;

2. Use information from group tests only to supplement individual evaluations;

3. Be conducted in the dominant language or method of communication determined in the evaluation plan; and

4. Consider the pupil's socio-cultural background and adaptive behavior in home, school and community.

(g) A comprehensive evaluation shall consist of the following:

1. A minimum of two child study team members shall *[evalute]* ***evaluate*** a pupil to determine eligibility for special education and/or related services and the program needs of the pupil. Evaluator selection shall be based upon the nature of the educational problem, available pupil records, eligibility criteria and program planning. A

parent shall have the right to receive a third child study team member assessment of their child upon request.

i. The child study team shall determine the need for specialized educational evaluations which are necessary for educational planning. The child study team in consultation with the school nurse and/or school physician shall determine the need for comprehensive, as well as specialized, medical evaluations.

ii. All preschool pupils referred to the child study team shall undergo a comprehensive medical evaluation.

iii. The case manager shall coordinate the evaluation efforts of the team in order to maintain timelines and appropriate parent involvement.

2. Assessment by a child study team member must include an appraisal of the pupil's current functioning and an analysis of instructional *[implications]* **implication(s)** appropriate to the discipline reporting. The assessment must comply with the eligibility criteria of N.J.A.C. 6:28-11.8, address those areas included in the evaluation plan based upon the presenting problem of the referred pupil, and result in a written report.

(h) Each evaluation must:

1. Consider the requirements for eligibility for special education and/or related services;

2. Be used to determine instructional needs of the pupil; and

3. Consider any relevant medical condition in evaluating the pupil's instructional needs.

(i) Eligibility assessment for speech and language services shall be conducted by the speech-language specialist and others as appropriate and include a written report from the pupil's teacher.

(j) Examination results and findings of other specialists shall be included in the comprehensive evaluation where appropriate.

(k) When reports and/or evaluations of other New Jersey public school district child study team members, a Department of Education approved clinic or agency, child study team members of State-operated programs or facilities or a professional in private practice are accepted by members of the child study team, acceptance shall be noted in writing and become part of the report(s) of the child study team member(s). If a report or evaluation is rejected, a written rationale shall be provided.

(l) A reevaluation to determine the status of each educationally handicapped pupil shall be conducted at least every three years. Reevaluation shall be conducted more often if conditions warrant.

1. The full child study team shall develop an evaluation plan which shall include a determination of needed evaluations based upon demonstrated pupil progress in meeting the goals and objectives of the individualized education program.

2. The full child study team shall design a reevaluation plan as described in this section. The parent(s) shall be notified in writing of the reevaluation plan.

3. Whenever a change in eligibility status is being considered, written documentation supporting that decision shall be developed by the full child study team and be based upon a reevaluation of the pupil.

(m) By June 30 of a pupil's last year in a program for the preschool handicapped, the child study team shall review available assessment information and obtain additional evaluations, as necessary, to determine eligibility according to N.J.A.C. 6:28-11.7.

6:28-11.7 Determination of eligibility

(a) When an evaluation is completed, members of the child study team who participated in the assessment and parent(s) shall meet with the school principal and referring staff member(s), if they choose to participate, in order to:

1. Summarize the pupil's current educational status;

2. Determine whether the pupil is eligible for special education and/or related services;

i. If a pupil is determined to be eligible for special education and/or related services, the current educational status statement shall become part of the pupil's individualized education program.

ii. Whether or not a pupil is determined eligible for special education and/or related services, the parent(s) and the referring staff member shall be given a written summary of all decisions and any recommended course(s) of action, signed by the participating child study team members.

3. Determine eligibility for special education and/or related services according to N.J.A.C. 6:28-11.8;

4. Complete the individualized education program in accordance with N.J.A.C. 6:28-3.6 and 11.9.

(b) When an educationally handicapped pupil transfers into a pilot school district, review of the pupil's classification and appropriateness of the eligibility status and individualized education program shall be conducted within 30 calendar days.

(c) Pupils determined by the school physician to have temporary health problems which prohibit regular attendance in school need not be classified as handicapped but shall be entitled to receive at least five hours per week of individual instruction at home for a period of time determined by the school physician. After 60 days, the pupil shall be referred to the child study team to determine if the pupil is eligible for special education and/or related services.

(d) Pupils determined eligible for special education *[and/]*or related services shall be classified according to the following definitions:

1. Eligible for related services: The pupil shall have met the criteria for one or more domains listed in N.J.A.C. 6:28-11.8 and the child study team shall have determined that a related service is necessary.

2. Eligible for part-time special education: The pupil shall have met the criteria for one or more of the domains and either impact area listed in N.J.A.C. 6:28-11.8 and the child study team shall have determined that the pupil can participate in regular education for the majority of the instructional day.

3. Eligible for full-time special education: The pupil shall have met the criteria for one or more of the domains and either impact area listed in N.J.A.C. 6:28-11.8 and the child study team shall have determined that the pupil requires special education for a majority of the instructional day.

4. When the pupil's instructional day is evenly divided between regular and special education, the child study team shall determine eligibility for full*-* or part*-*time special education based upon the pupil's instructional need.

(e) Pupils enrolled in shared-time special needs vocational programs who are in their home district for one half of the school day may be served in either full-time or part-time programs.

(f) Pupils shall not be eligible for special education solely for cultural or linguistic factors, poor attendance, substance abuse, poor school performance or disciplinary reasons.

6:28-11.8 Eligibility criteria

(a) In order to be eligible for special education and/or related services, a comprehensive evaluation of the pupil shall be made to determine if the pupil meets the criteria in a domain in which a handicapping condition may manifest itself and an area of educational impact described in (e) below.

(b) The pupil must meet both standard and functional criteria in order to satisfy a domain or an impact area.

1. Most standard criteria are met through the use of standardized tests.

2. Whenever a standardized test is used, it shall:

i. Be individually administered;

ii. Have established reliability and validity;

iii. Be normed on a representative or the same population; and

iv. Express data as either standard scores with standard deviation used for comparison or norm referenced with cutoff score.

3. Functional assessment shall include:

i. A minimum of one structured observation of not less than 20 minute duration by each of two child study team members as required for each domain or area listed in N.J.A.C. 6:28-11.8;

ii. An interview by an appropriate child study team member with the pupil's parent in order to provide information to be considered as part of the evaluation by the child study team;

iii. One or more informal measure(s) which may include:

(1) Check lists;

(2) Analysis of work samples;

(3) Trial teaching;

(4) Self report;
(5) Sentence completion;
(6) Criterion referenced tests;
(7) Curriculum based assessment; or
(8) Informal rating scales;
iv. Review of pupil development/educational history including records and interviews; and
v. A review of interventions documented by the classroom teacher(s) and/or the school resource committee.
(c) The following special considerations shall apply to eligibility criteria for preschool pupils:
1. Preschool evaluations need not use the school setting as the reference for meeting the functional criteria. In such cases the home, institution or community setting shall be substituted.
2. The learning domain in (d)2 below shall not be required.
3. The child study team must determine that the pupil requires a full-time special education program.
4. The criteria for educational impact need not be demonstrated.
(d) The following criteria are established for each domain:
1. Cognitive criteria are as follows:
i. Standard criteria: The pupil's general level of cognitive functioning on a standardized intelligence test administered by a school psychologist shall be at least two standard deviations below the norm.
ii. Functional criteria: The pupil's general level of cognitive functioning within the school setting shall be significantly discrepant from the typical pupil and/or appropriate norms. This cognitive deficit shall include an inability to demonstrate personal independence and social responsibility according to age and sociocultural group expectations and any of the following: an inability to generalize/transfer information skills and concepts; an inability to appropriately solve problems; or an inability to formulate appropriate judgments and inferences.
iii. Assessment areas for the cognitive domain shall include:
(1) The pupil's general level of cognitive functioning.
iv. Assessment shall be by at least:
(1) A school psychologist; and
(2) One other child study team member.
2. Learning criteria are as follows:
i. Standard criteria: The pupil demonstrates a significant discrepancy in one or more academic area(s) between current achievement and expected achievement based upon level of intellectual functioning.
ii. Functional criteria: The pupil demonstrates a significant discrepancy in one or more academic area(s) between current achievement and expected achievement which manifests itself within the school setting.
iii. Assessment areas for the learning domain shall include:
(1) Basic reading skills;
(2) Reading comprehension;
(3) Mathematic computation;
(4) Mathematic reasoning; and
(5) Written expression.
iv. Assessment shall be by at least:
(1) The school psychologist; and
(2) The learning disabilities teacher-consultant.
3. Social/emotional criteria are as follows:
i. Standard criteria: The pupil demonstrates a pervasive or chronic inability to build or maintain satisfactory relations with peers, teachers and/or school personnel that severely interferes with one or other pupil's social/emotional growth within the school setting.
ii. Functional criteria: The pupil shall demonstrate a pervasive or chronic inability to build or maintain satisfactory relations with peers, teachers and/or school personnel that severely interferes with the pupil's own or with other's social/emotional growth within the school setting. The behavior is significantly discrepant from the typical pupil and/or age appropriate norms.
iii. Assessment areas for the social/emotional domain shall include:
(1) Pupil's perception of self and world;
(2) Relationships with peers and adults;
(3) Affective behavior; and
(4) Atypical behavior.
iv. Assessment shall be by at least:
(1) A school psychologist; and
(2) A school social worker.
4. Physical criteria are as follows:
i. Standard criteria: The pupil has received a diagnosis describing a physical condition which interferes with the pupil's ability to function independently in a school setting.
ii. Functional criteria: The pupil's physical condition requires strategies, materials and/or equipment in order to compensate for the physical condition and to be able to function in the school environment.
iii. Assessment areas for the physical domain shall include:
(1) Standard assessment areas, as follows:
(A) Health; and
(B) Physical stamina.
(2) Functional assessment areas, as follows:
(A) Physical stamina.
(B) Physical performance in communication;
(C) Manipulation of materials;
(D) Mobility; and
(E) Safety.
iv. Assessment shall be by at least:
(1) A licensed physician; and
(2) Two child study team members.
5. Sensory-hearing criteria are as follows:
i. Standard criteria: The pupil's performance on an audiological examination shall indicate a loss in the speech range of 30 decibels or greater in the better ear when aided.
ii. Functional criteria: The pupil's auditory functioning requires special strategies, materials and/or equipment in order to compensate for the auditory deficit and to be able to function in the school environment.
iii. Assessment areas for the sensory-hearing domain shall include:
(1) Standard assessment areas, as follows:
(A) Pure tone including air and bone conduction with masking when appropriate;
(B) Speech reception and detection;
(C) Speech discrimination;
(D) Tolerance levels; and
(E) Use of hearing aids.
(2) Functional assessment areas, as follows:
(A) Auditory performance in communication including speech and language; and
(B) Safety.
iv. Assessment shall be by at least:
(1) An otolaryngologist or licensed audiologist; and
(2) Two child study team members.
6. Sensory-vision criteria are as follows:
i. Standard criteria: The pupil's visual acuity is 20/70 or less in the better eye after correction or demonstrates a severe restriction of the field of vision which interferes with learning.
ii. Functional criteria: The pupil's visual functioning requires special strategies, materials and/or equipment in order to function safely and effectively in the school setting.
iii. Assessment areas for the sensory-vision domain shall include:
(1) Standard assessment areas, as follows:
(A) Visual acuity;
(B) Field of vision.
(2) Functional assessment areas, as follows:
(A) Sensory performance (i.e., print requirements, eye fatigue, distance) in reading and other activities;
(B) Safety; and
(C) Mobility.
iv. Assessment shall be by at least:
(1) A licensed optometrist or ophthalmologist; and
(2) Two child study team members.
7. Communication criteria are as follows:
i. Standard criteria for the communication domain shall include:
(1) Articulation—Pupil's performance on a standardized articulation test falls at least 1.5 standard deviations below the mean or the pupil exhibits one or more errors of sound production beyond the

age at which 90 percent of the population has achieved mastery according to developmental norms;

(2) Language—Pupil's performance falls at least 1.5 standard deviations below the mean or below the 10th percentile in at least two standardized language tests;

(3) Voice—The pupil's performance on a formal rating scale is below the normed level for voice quality, pitch, resonance, loudness or duration*[.]**; or*

(4) Fluency—The pupil demonstrates at least a mild rating or its equivalent on a formal fluency rating scale or the pupil exhibits moments of stuttering on five percent or more of the words spoken.

ii. Functional criteria: The pupil's communication within the school setting is significantly discrepant from the typical pupil and/or age appropriate norms in one or more of the following:

(1) Pervasive and chronic inability to use language, including semantic, morphological and phonological aspects of language;

(2) Articulation disorder;

(3) Fluency; and

(4) Voice disorders including volume, pitch, resonancy and/or quality that interfere with the listener's ability to comprehend.

iii. Assessment areas for the communication domain shall include:

(1) Language;

(2) Articulation;

(3) Fluency; and

(4) Voice.

iv. Assessment shall be by at least:

(1) A speech language specialist; and

(2) One other child study team member.

v. Pupils referred solely for speech and language services shall require at least the evaluation and observation of the speech-language specialist and information from the pupil's teacher.

(e) The following criteria are established for each educational impact area:

1. Achievement criteria are as follows:

i. Standard criteria: The pupil's performance in one or more area(s) on a standardized achievement test individually administered by a learning disabilities teacher-consultant is below the State minimum level of proficiency in grades 3-12 or is below the district norm for grades K-2 as described in N.J.A.C. 6:8-3.4.

ii. Functional criteria: The pupil's academic performance in the school setting is significantly discrepant from grade appropriate norms.

iii. Assessment areas for achievement are:

(1) Basic reading skills;

(2) Reading comprehension;

(3) Math computation;

(4) Math reasoning; and

(5) Written expression.

iv. Assessment shall be by at least:

(1) A learning disabilities teacher-consultant; and

(2) One other child study team member.

2. Behavior criteria are as follows:

i. Standard criteria: The pupil demonstrates behaviors which interfere with the pupil's ability to function in the school setting and is either a danger to self or others and has a chronic or pervasive interference with own or others' academic growth.

ii. Functional criteria: The pupil's behavior in the school is significantly discrepant from the typical pupil or age appropriate norms as to be either a danger to self or others or has a chronic or pervasive interference with own or others' academic growth.

iii. Assessment areas for behavior are:

(1) Relationships with children and adults;

(2) Affective behavior; and

(3) Atypical behavior.

iv. Assessment shall be by at least:

(1) A school psychologist; and

(2) A school social worker.

(f) Pupils who do not meet the standard eligibility criteria but do meet functional criteria may be considered as eligible for special education if the child study team determines that the pupil is educationally handicapped and requires special education and/or related services. The child study team must show evidence why the standard criteria are inappropriate for the pupil and how the other evaluation data support a decision to classify the pupil.

(g) When the parent of a pupil eligible for special education and/or related services requests a classification designation as stated in N.J.A.C. 6:28-3.5(e), the child study team shall select an appropriate classification type based upon the evaluation completed according to N.J.A.C. 6:28-11.7 and any specialist required by N.J.A.C. 6:28-3.5(e).

6:28-11.9 Individualized education program

(a) The individualized education program for each educationally handicapped pupil shall consist of a basic plan and an instructional guide, pursuant to N.J.A.C. 6:28-3.6 and this subsection.

1. The basic plan of the individualized education program shall be developed at a meeting attended by the child study team members who evaluated the pupil, the pupil's parent(s), teacher(s) having knowledge of the pupil's educational performance and the pupil, if appropriate. The referring certified school personnel, the school principal or designee and other appropriate individuals may participate in the meeting.

2. The basic plan of the individualized education program shall conform with N.J.A.C. 6:28-3.6 and shall also include the following:

i. A statement of the pupil's eligibility for special education and/or related services based upon the eligibility criteria.

ii. A statement of current educational status which describes the pupil's present levels of educational performance in terms of instructional needs related to curriculum areas.

iii. A statement of annual pupil goals and short term objectives which describe the instructional entry level and anticipated outcome at the end of one year. Annual goals shall be related to each curriculum area and be derived from the pupil's current educational status statement. Short term objectives shall be measurable intermediate steps between the pupil's current level of educational performance and the annual goal.

3. The instructional guide shall describe both the learning characteristics of the pupil and the related instructional characteristics of the pupil's learning environment. The instructional guide shall include those requirements stated in N.J.A.C. 6:28-3.6(g) and the following:

i. A description of curriculum areas that lead to the achievement of the desired outcome goals;

ii. Educational strategies that address the pupil's specific learning characteristics;

iii. Techniques and activities that accommodate the use of those strategies;

iv. A description of the pupil's weekly schedule of instruction, related services, instructors and responsible person(s).

(b) Pupils determined to require placement in a county day training facility shall be classified as eligible for day training according to N.J.A.C. 6:28-3.5(d)5iii based upon the child study team evaluation completed under N.J.A.C. 6:28-11.6(g).

(c) Annually, or more often if necessary, the case manager, parent(s), teacher(s), and the pupil if appropriate, shall meet to review and revise the instructional guide and the basic plan of the individual education program as specified in this subchapter.

1. Reevaluation of pupils already classified according to N.J.A.C. 6:28-3.5 shall be undertaken within three years of the date of the pupil's last classification and be completed according to N.J.A.C. 6:28-11.6 and 11.7.

2. Termination of a pupil's eligibility for special education and/or related services shall be made only after a reevaluation of the pupil by the child study team as required by N.J.A.C. 6:28-11.6 and 11.7.

3. Eligibility criteria described in N.J.A.C. 6:28-11.8 shall apply only to pupils being referred to special education for the first time. The child study team shall document the reason(s) for continuing a pupil in special education and/or related services when the pupil no longer meets the eligibility criteria.

(d) A copy of the individualized education program shall be signed by members of the child study team who participated in its development and shall be provided to the parent(s) in their native language according to N.J.A.C. 6:28-2.4.

6:28-11.10 Provision of programs

(a) Each pilot district board of education shall provide educational programs and related services for handicapped pupils in accordance with their individualized education programs.

(b) Special education programs shall be consistent with the special education plan submitted by the district board of education and approved by the Department of Education.

(c) A pilot district board of education's proposal to establish, change or eliminate special education programs or services shall be approved by the Department of Education prior to any such action.

(d) Appropriate facilities shall be provided for educationally handicapped pupils according to N.J.A.C. 6:22-1 et seq.

(e) Each full*-*time class type shall be described in individual class profiles that are reviewed and approved by the county office and the Division of Special Education acting jointly. Appropriate written curricula shall be developed and appropriate materials shall be provided for educationally handicapped pupils served in full-time class types.

(f) Each pilot district board of education, through appropriate personnel, shall participate in the process to evaluate its special education programs and services according to N.J.S.A. 18A:7A-4 through 16.

6:28-11.11 Program options

(a) Educational program options shall include the following:

1. Related services;

2. Instruction in school which complements regular class programs through part-time special education including:

i. Modification of a regular program through the use of in-class support instruction, in-class replacement instruction, out-of-class support instruction and out-of-class replacement instruction;

3. A full-time special class program in the pupil's local school district;

4. A special education program in the following settings:

i. Another local school district;

ii. A vocational and technical school;

iii. A county special services school district;

iv. An educational services commission; or

v. A jointure commission.

5. Programs in hospitals, convalescent centers or other medical institutions;

6. A program operated by a department of New Jersey State government;

7. Vocational rehabilitation facilities;

8. An approved privately operated special class in the continental United States, when it is not appropriate to provide services according to (a)1 through 7 above. Placement in a privately operated special class shall only be made with the prior written approval of the Department of Education through its county office; and

9. Individual instruction at home or in school, excluding home instruction for temporary medical reasons, with the prior written approval of the Department of Education through its county office, when it is not appropriate to provide a full-time special education program for an educationally handicapped pupil according to (a)1 through 8 above.

(b) The following program criteria shall be met:

1. Speech and language services provided to educationally handicapped pupils shall be in addition to the regular instructional program and shall meet the following criteria:

i. Speech and language services may be given individually or in groups not to exceed three pupils.

ii. Speech and language services shall be provided by a certified speech-language specialist.

2. Part-time special education programs shall provide individual and small group instruction to pupils eligible to receive part-time special education and shall meet the following criteria:

i. There shall be resource centers in sufficient numbers to provide programs for pupils in part-time programs. Each center shall be approved by the Department of Education.

ii. An educationally handicapped pupil in a resource center shall be enrolled on a regular public school class register with his or her chronological peers.

iii. The teacher(s) assigned to the resource center shall be certified as teacher of the handicapped. When the resource center serves only blind or deaf pupils, the resource center teacher shall hold certification as a teacher of the blind/partially sighted or teacher of deaf/hard of hearing.

iv. A resource center teacher providing support instruction shall be provided time for consultation with the regular teaching staff.

v. Types of part-time programs shall be designated as follows:

(1) In-class support is assistance provided in the regular classroom by a resource center teacher to pupils requiring remedial support in order to benefit from regular class instruction.

(2) Out-of-class support is assistance provided in the resource center by a resource center teacher to pupils requiring remedial support in order to benefit from regular class instruction.

(3) In-class replacement is direct instruction in content areas by the resource center teacher in place of instruction by the regular class teacher, provided to the pupil in the regular class.

(4) Out-of-class replacement is direct instruction in content areas by the resource center teacher in place of instruction by the regular class teacher, provided to the pupil in the resource center.

vi. The number of pupils provided replacement instruction at any given time shall not exceed six in an elementary group or eight in a secondary group. The group size in out-of-class replacement instruction may be increased by one-third with the addition of a classroom aide by obtaining the approval of the Department of Education through its county office. The group size in secondary out-of-class replacement instruction may be doubled when a regular teacher joins the resource center teacher in instructing the group. No more than one content area may be taught in an individual period of replacement instruction.

vii. Group size for pupils provided support instruction shall not exceed five. Support and replacement instruction may not be provided to the same group at the same time.

viii. Pupils eligible for part-time special education shall participate in regular education programs for the majority of the pupil's instructional day.

3. Full-time special class programs shall meet the following criteria:

i. Full-time class types shall provide a specific focus in terms of instruction and curriculum. This focus shall include specific:

(1) Emphasis in instruction;

(2) Adaptation to the environment of the class;

(3) Instructional delivery;

(4) Specialized services;

(5) Related services; and

(6) Curriculum.

ii. An educationally handicapped pupil eligible for full-time special education shall be enrolled on a special class register.

iii. Pupils eligible for full-time special education programs shall be the primary instructional responsibility of the special education teacher of the class type designated for the pupil.

iv. Pupils must spend the majority of their instructional day in the full-time class type.

v. Teachers in full-time class types shall work cooperatively with other teachers to whom the educationally handicapped pupil may be assigned for portions of his or her educational program.

vi. Depending on the class type designation of the full-time special class program, the special class teacher shall hold certification as teacher of the handicapped, teacher of blind or partially sighted or teacher of deaf or hard of hearing. Teachers of the preschool handicapped shall additionally hold nursery school endorsement.

vii. Class types providing services to preschool pupils must meet the requirements of the preschool handicap class type as well as the specialized class type.

6:28-11.12 Full-time class types

(a) Preschool handicap class types shall meet the following requirements:

1. This class type shall provide an environment in which the preschool pupil's school readiness needs are the primary focus.

2. The program shall emphasize:

i. Developing/improving gross and fine motor readiness skills, such as hopping, cutting and coloring;
ii. Developing/improving communication skills, such as articulation, receptive and expressive language;
iii. Developing/improving school appropriate behaviors, such as attending and following directions;
iv. Developing/improving self-help skills, such as dressing skills, feeding skills and toileting skills;
v. Developing/improving social skills, such as interaction with peers in appropriate play behavior; and
vi. Developing academic readiness skills, such as color recognition and letter recognition.
3. Instruction shall be provided by a certified teacher of the handicapped and nursery school.
4. Age span shall be two years.
5. Maximum Class Size shall be eight.
6. Staff/Pupil Ratio shall be 1:4.
7. *[Related]* ***Required related*** services shall include counseling and/or training services for parents.
(b) Learning disabilities class types shall meet the following requirements:
1. This class type shall provide an environment in which the pupil's identified academic needs are the primary focus.
2. The program shall emphasize:
i. Improving reading skills;
ii. Improving language arts skills;
iii. Improving mathematics skills;
iv. Improving general organizational skills, study skills and strategies;
v. Decreasing distractibility and activity level;
vi. Improving social skills; and
vii. Assisting pupils in coping with academic difficulties and failure.
3. Instruction shall be provided by a certified teacher of the handicapped.
4. Age span shall be four years for both elementary and secondary.
5. Maximum class size shall be 10 for both elementary and secondary.
6. Staff/pupil ratio shall be 1:10 for both elementary and secondary.
7. No ***required*** related services are required for this class type.
(c) Communication handicap class types shall meet the following requirements:
1. This class type serves pupils free of significant hearing and acuity problems and shall provide an environment in which the pupil's identified communication needs are the primary focus.
2. The program shall emphasize:
i. Improving the processing of receptive language, *[e.g.,]* ***such as,*** following oral directions, responding appropriately to questions;
ii. Improving the organization and production of expressive language;
iii. Acquiring a vocabulary and linking words together appropriately; and
iv. Improving voice, fluency and/or articulation.
3. Instruction shall be provided by a certified teacher of the handicapped.
4. Age span shall be four years for both elementary and secondary.
5. Maximum class size shall be eight for elementary and 10 for secondary.
6. Staff/pupil ratio shall be 1:8 for elementary and 1:10 for secondary.
7. *[Related]* ***Required related*** services shall include speech/language therapy.
(d) Moderate cognitive handicap class types shall meet the following requirements:
1. This class type shall provide an environment in which the pupil's identified cognitive needs are the primary focus.
2. The program shall emphasize:
i. Improving functional academic skills;
ii. Improving functional life skills;
iii. Improving functional vocational skills; and
iv. Improving social skills.
3. Instruction shall be provided by a certified teacher of the handicapped.
4. Age span shall be four years for both elementary and secondary.
5. Maximum class size shall be 10 for both elementary and secondary.
6. Staff/pupil ratio shall be 1:10 for both elementary and secondary.
7. No ***required*** related services are required for this class type.
(e) Moderate behavior handicap class types shall meet the following requirements:
1. This class type shall provide an environment in which the pupil's identified behavioral needs are the primary focus.
2. The program shall emphasize:
i. Improving ability to build or maintain satisfactory relationships with others;
ii. Decreasing behaviors which interfere with other pupils' social/emotional or academic growth;
iii. Decreasing behaviors which present a *[dander]* ***danger*** to the pupil or other;
iv. Increasing self-control;
v. Increasing social skills for successful group participation; and
vi. Improving pupils' sense of personal adequacy and independence.
3. Instruction shall be provided by a certified teacher of the handicapped.
4. Age span shall be four years for both elementary and secondary.
5. Maximum class size shall be 10 for both elementary and secondary.
6. Staff/pupil ratio shall be 1:10 for both elementary and secondary.
7. *[Related]* ***Required related*** services shall include:
i. Counseling; and
ii. Counseling and/or training services for parents.
(f) Severe behavior handicap class types shall meet the following requirements:
1. This class type shall provide an environment in which the pupil's identified behavioral needs are the primary focus.
2. The program shall emphasize:
i. Reducing atypical behavior patterns, such as hand flapping, twirling, ritualistic movements;
ii. Increasing responsiveness to people, such as, eye contact, smiling, touching;
iii. Improving communication skills, such as reducing inappropriate noises, laughter;
iv. Decreasing bizarre responses to aspects of the environment, such as, inappropriate use of objects, object fixation, need for sameness; and
v. Reducing severe acting out behavior which results in a danger to self or others, such as, head banging, biting, scratching.
3. Instruction shall be provided by a certified teacher of the handicapped.
4. Age span shall be two years for preschool and four years for elementary and secondary.
5. Maximum class size shall be six for preschool, eight for elementary and 12 for secondary.
6. Staff/pupil ratio shall be 1:2 for preschool, 1:4 for elementary and 1:6 for secondary.
7. *[Related]* ***Required related*** services shall include:
i. Counseling and/or training services for parents; and
ii. Speech/language therapy.
(g) Severe physical handicap class types shall meet the following requirements:
1. This class type shall provide an environment in which the pupil's identified physical needs are the primary focus.
2. The program shall emphasize:
i. Increasing functional/independent living skills, such as, dressing, cooking;
ii. Increasing functional/independent ambulation, and using adaptive equipment and prosthetic devices where needed.

3. Instruction shall be provided by a certified teacher of the handicapped.

4. Age span shall be two years for preschool and four years for elementary and secondary.

5. Maximum class size shall be six for preschool, eight for elementary and 10 for secondary.

6. Staff/pupil ratio shall be 1:3 for preschool, 1:4 for elementary and 1:5 for secondary.

7. *[Related]* ***Required related*** services shall include:

i. Physical therapy; and

ii. Occupational therapy.

(h) Severe cognitive handicap type classes shall meet the following requirements:

1. This class type shall provide an environment in which the pupil's identified cognitive needs are the primary focus.

2. The program shall emphasize:

i. Improving motor skills, such as, positioning, grasping, balance, rolling;

ii. Improving ability to attend, such as, eye contact;

iii. Improving ability to imitate verbally and non-verbally;

iv. Improving ability to respond verbally and non-verbally, such as, smiling or vocalizing on request;

v. Improving ability to recognize, such as, smiling at a familiar person; and

vi. Improving feeding skills.

3. Instruction shall be provided by a certified teacher of the handicapped.

4. Age span shall be six years for all levels.

5. Maximum class size shall be nine for all levels.

6. Staff/pupil ratio shall be 1:3 for all levels.

7. *[Related]* ***Required related*** services shall include:

i. Speech/language therapy;

ii. Occupational therapy;

iii. Physical therapy;

iv. School nurse services; and

v. Counseling and/or training services for parents.

(i) Auditory handicap type classes shall meet the following requirements:

1. This class type shall provide an environment in which the pupil's identified auditory needs are the primary focus.

2. The program shall emphasize:

i. Utilizing the visual modality as the primary channel for instruction;

ii. Assisting in auditory habilitation;

iii. Improving language skills;

iv. Improving social skills to facilitate pupils' integration into the environment; and

v. Insuring/facilitating participation of pupils in school-wide activities.

3. Instruction shall be provided by a certified teacher of the deaf/hard of hearing.

4. Age span shall be two years for preschool and four years for elementary and secondary.

5. Maximum class size shall be eight for preschool and elementary and 10 for secondary.

6. Staff/pupil ratio shall be 1:4 for preschool, 1:8 for elementary and 1:10 for secondary.

7. *[Related]* ***Required related*** services shall include:

i. Auditory training; and

ii. Speech/language therapy.

(j) Auditory/visual handicap type classes shall meet the following requirements:

1. This class type shall provide an environment in which the pupil's combined auditory and visual needs are the primary focus.

2. The program shall emphasize:

i. Developing optimal use of residual vision and hearing;

ii. Developing effective and efficient communication skills;

iii. Improving mobility and orientation skills;

iv. Increasing skills in activities of daily living with emphasis on the development of optimal independence; and

v. Improving social skills to facilitate integration into the community.

3. Instruction shall be provided by a certified teacher of the handicapped who is certified as one of the following: teacher of the deaf/hard of hearing or teacher of the blind/visually impaired.

4. Age span shall be two years for preschool and four years for elementary and secondary.

5. Maximum class size shall be six for all levels.

6. Staff/pupil ratio shall be 1:2 for preschool and 1:3 for elementary and secondary.

7. *[Related]* ***Required related*** services shall include:

i. Auditory training;

ii. Vision training;

iii. Speech/language therapy;

iv. Adapted physical education;

v. Mobility and orientation training; and

vi. Parent training.

(k) Class type maximum class size for all types except severe behavior, severe physical and severe cognitive handicap may be increased by no more than one-third with the addition of a classroom aide by obtaining prior approval from the Department of Education through its county office.

(l) Required related services are those which each program must provide for each pupil pursuant to (a) through (j) above. Pupils must also receive any other related service specified in their individualized education program.

(m) Pupils enrolled in full-time class types may be instructed in regular classes in accordance with their individualized education program. The number of educationally handicapped pupils enrolled in a full-time class register who can attend any given instructional period in such classes shall be limited to four if program modification is required.

(n) In secondary full-time class types, enrollment may be increased by one-half the maximum instructional group size allowed for that specific class type as noted in N.J.A.C. 6:28-11.12(c). For instructional purposes, no group shall contain more than the maximum number for that class type. Pupils may be of only one class type.

(o) County vocational schools and approved local area vocational school districts providing full-time special education programs may operate special needs shop classes which are open to pupils from all full-time class types. Pupils shall be placed in special needs shops based upon vocational needs, skills and assessment. Group size shall not exceed 10 but may be increased to 15 with the addition of a classroom aide and the approval of the Department of Education through its county office. Teachers in these shops shall hold vocational certification.

6:28-11.13 Program approval

(a) Annually, each pilot district shall apply for approval of its special education program by completing a report which describes:

1. The related services it provides;

2. The part-time programs it offers; and

3. Profiles of each of the full-time class it operates which include:

i. A description of the learning characteristics of the pupils in the class type, including, but not limited to, ability ranges, behavior and levels of cognitive function; and

ii. A description of the instructional characteristics of the class type which include, but are not limited to, curriculum, methods and strategies, materials, supplies and equipment and instructional personnel.

(b) Approval shall be requested in accordance with procedures established by the Division of Special Education and the county office.

(c) A pupil classified as educationally handicapped by a child study team may have the individualized education program implemented through individual instruction at home when it can be demonstrated that no other program option is appropriate at that time. This provision shall not apply to pupils suffering from temporary medical problems such as, but not limited to, pregnancy or fractures. Pupils suffering temporary medical problems shall be provided instruction individually through regular education and need not be eligible for special education.

1. Prior written approval to provide home instruction shall be obtained from the Department of Education through its county office.
2. Approval shall be obtained for a maximum of 60 calendar days.

(d) Pupils may be placed in out-of-district facilities upon the recommendation of the child study team, when an appropriate program is not available within the local district.

(e) Any exceptions regarding the requirements of these operational specifications shall be made only with prior written approval of the Department of Education through its county office and the Division of Special Education.

1. Pupils received by the pilot district or placed in out-of-district facilities such as, but not limited to, other New Jersey public schools, approved private schools for the handicapped within or outside of New Jersey, and State operated programs shall be granted a waiver regarding classification by the Department of Education through its county office.
2. The waiver shall establish the pupil's classification as that of the type of class program which is being considered for placement.

HIGHER EDUCATION

BOARD OF DIRECTORS OF EDUCATIONAL OPPORTUNITY FUND

(a)

Part-Time Grant Awards

Adopted Amendments: N.J.A.C. 9:11-1.1, 1.7, 1.8, 1.22

Adopted New Rule: N.J.A.C. 9:11-1.23

Proposed: December 21, 1987 at 19 N.J.R. 2373(a).

Adopted: March 10, 1988 by T. Edward Hollander, Chancellor and Chairman. Board of Directors of Educational Opportunity Fund.

Filed: March 10, 1988 as R.1988 d.151, **without change.**

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Effective Date: April 4, 1988.

Operative Date: July 1, 1988.

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Summary of Public Comments and Agency Responses:
No comments received.

Full text of adoption follows.

9:11-1.1 Student eligibility

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

(c) To be initially eligible for an Educational Opportunity Fund grant, a student must have demonstrated that he or she:

1.-7. (No change.)

9:11-1.7 Grant amounts

(a) The dollar amount of each EOF grant will be based on three factors:

1. Full or approved part-time enrollment;
2. The financial need of the student; and
3. The type of institution which the student will be attending.

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

(d) The EOF Board of Directors shall annually review the State grant amounts of EOF students and make adjustments if necessary. The minimum and maximum awards range for adjustments to full-time Graduate and full-time Undergraduate EOF grants for each type of institution follows:

Undergraduate	Minimum	Maximum
Community Colleges:		
Freshman/Sophomore	$200	$650
State College:		
Commuter:		
Freshman/Sophomore	200	750
Junior/Senior	200	550
Residential:		
Freshman/Sophomore	200	1,000
Junior/Senior	200	800
Rutgers, NJIT:		
Commuter:		
Freshman/Sophomore	200	750
Junior/Senior	200	550
Residential:		
Freshman/Sophomore	200	1,000
Junior/Senior	200	800
Independent Colleges:		
Freshman/Sophomore	200	1,950
Junior/Senior	200	1,700

Graduate	Minimum	Maximum
State Colleges	$200	$2,000
4-year Independent Colleges	200	2,500
Rutgers, NJIT	200	2,500
UMDNJ/FDU Dental School	200	4,000

(e)-(f) (No change.)

9:11-1.8 Duration of student eligibility

(a) Students deemed eligible at the time of initial enrollment shall retain eligibility for program support services throughout the duration of the initial degree study as long as he or she maintains full-time enrollment or has been approved in writing for a part-time EOF grant by the campus EOF Program Director. Part-time grant eligibility will be available only at those institutions approved to award part-time EOF grants by the EOF Board of Directors. In addition, students shall retain eligibility for an EOF grant as long as the student has demonstrated financial need as determined by the institution through submission of a New Jersey Financial Aid Form, in accordance with annually established deadline dates. The information on the Financial Aid Form will be evaluated by employing the National Uniform Methodology, as represented in the College Scholarship Service System or by approaches modified to meet the purpose of New Jersey student assistance programs.

(b) Students are eligible for a maximum of 12 semesters or its equivalent of undergraduate study. Students in an established five year undergraduate course of study shall be eligible for an additional two semesters beyond the 12 semesters as stipulated in (c), (d) and (e) below.

(c)-(e) (No change.)

9:11-1.22 Refunds and repayments of disbursements made to students

(a) (No change.)

(b) The payment period is the time between the first day of classes for an academic term and the end of that term according to the institutional calendar.

(c) The refund period is the time between the first day of classes for an academic term and the date the student officially or unofficially withdraws from an institution, is expelled by an institution, or reduces his or her academic course load such that he or she is no longer eligible for State assistance.

(d) The above formula should be applied if a full-time student reduces his or her academic course load to less than full-time, or a part-time student reduces the number of credits for which he or she is enrolled prior to the date full tuition liability is required by the institution. However, if the student reduces his or her academic course or load to less than full-time, or reduces the number of credits for which the student is enrolled on less than a full-time basis, after the date full tuition liability is required by the institution, a refund to the State is not necessarily required.

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

(h) If a student utilizes any portion of a full-time or part-time award, it will be treated the same as a full semester or half semester payment respectively in calculating the number of semesters of eligibility. Thus, the institution shall afford the student the opportunity to decline and repay the State award for that payment period.

9:11-1.23 Part-time students

(a) Eligibility for EOF grants will be extended on an annual basis to part-time students upon the approval of the Board of Directors of EOF and the Board of Higher Education depending on the level of appropriated funds.

(b) Part-time grant eligibility shall only be available to EOF students attending those institutions approved by the Board of Directors of EOF to award part-time EOF grants and who change from full-time to part-time students pursuant to the provisions of N.J.A.C. 9:11-1.8(a).

(c) Eligible students must be enrolled for at least six credits, matriculated in a degree or certificate program, and maintain minimum standards of academic progress as determined by the institution.

(d) Part-time EOF grant awards shall be prorated against full-time grant award for the applicable institutional sector attended and shall take into consideration any aid received from PELL and/or TAG. For the purposes of this section, full-time shall be considered to be 12 credit hours (part-time enrollment for nine credit hours shall equal 75 percent of a full-time grant award, six credit hours shall equal 50 percent, etc.) and determinations for such awards at Rutgers, NJIT and the state colleges shall be based upon full-time commuter award levels.

(e) The minimum part-time EOF grant shall not be less than $200.00.

(f) Any residential student at the state colleges, Rutgers, or NJIT receiving a part-time EOF grant, shall have $250.00 added to his or her award as determined by this section.

(g) Each part-time semester of attendance for which an EOF part-time grant is awarded shall be counted as one-half a semester of grant eligibility. The part-time EOF grant may be awarded to students only three times in the pursuit of an associates degree and four times in the pursuit of a baccalaureate degree.

(a)

Educational Opportunity Fund
Foreign Nationals
Dependent/Independent Student Defined
Adopted Amendments: N.J.A.C. 9:11-1.3 and 1.4

Proposed: December 7, 1987 at 19 N.J.R. 2234(c).

Adopted: March 10, 1988 by T. Edward Hollander, Chancellor and Chairman. Board of Directors of Educational Opportunity Fund.

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Summary of Public Comments and Agency Responses:
No comments received.

Full text of adoption follows.

9:11-1.3 Foreign nationals

(a) A foreign national must present affirmative evidence that he or she is not in the United States for the temporary purpose of obtaining an education. Such evidence must include documentation from the United States Immigration and Naturalization Service that the student may remain permanently in this country and such evidence must be placed in the student's file. The student must:

1. Be the holder of an Alien Registration Receipt Card form I-151 or I-551; or

2. Be the holder of an approval notice from the Immigration and Naturalization Service form I-181 stating that the non-citizen has met the requirements for permanent resident status; or

3. Be a holder of a Temporary Resident Card form I-688 with a valid expiration date from the Immigration and Naturalization Service; or

4. Be the holder of an arrival departure record form I-94 endorsed by the Immigration and Naturalization Service showing one of the following:

i.-ii. (No change.)

iii. Employment Authorized and Adjustment Applicant: A foreign national holding form I-94 with this endorsement would normally meet the requirements of this regulation. However, if the institution has knowledge that the student is planning to leave the United States following the completion of his or her educational program, the Office of Student Assistance shall be notified and the award cancelled.

(b) Foreign nationals with student visa status, F1 or F2 exchange visitor visa status of J1 or J2 visa status, even when stamped "employment authorized", or holders of form I-94 with one of the endorsements: "adjustment applicant", "245", "245 applicant", "applicant for permanent residence", "voluntary departure", and "deferred action", are considered to be in the United States for temporary reasons and are therefore not eligible for student assistance.

9:11-1.4 Dependent/Independent student defined

(a) The term independent when used with respect to a student means any individual who:

1. Is 24 years of age or older by December 31 of the award year;

2. Meets the requirements of (b) below.

(b) Except as provided in (c) below, an individual meets the requirements of this subsection if such individual:

1.-5. (No change.)

6. Is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the two calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the two calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total resource (including all sources of resources other than parents) of at least $4,000; or

7. Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances. For the purpose of receiving financial assistance under the E.O.F. Program as an independent student due to unusual circumstances, at least one the following criteria must be met:

i. The student has been separated from his or her parents due to an unsafe home environment or has been institutionalized in a correctional facility. Documentation of such status must be received from a court, social service agency, or other similar source acceptable to the Executive Director of the E.O.F. Program;

ii. The student is a recipient of either Aid to Families with Dependent Children (AFDC) or general assistance in his own name and complies with the provisions of (b)6 above except for the resource requirement set forth therein;

iii. The student is from a foreign country but has established permanent residency in the United States, is a refugee or has received political asylum, and complies with the provisions of subsection (b)6 above except for the resource requirement set forth therein. For the purposes of eligibility under this subparagraph, the student's parents must reside outside of the United States;

iv. The student has been separated from his or her parents and comes from a documented background of historical poverty as set forth in N.J.A.C. 9:11-1.5, is living with another relative who is providing support to the student, and complies with the provisions of (b)6 above, except for the resource requirement set forth therein;

v. The student was considered an independent student for the purposes of New Jersey state student assistance programs during the 1986-87 academic year, and complies with provisions of (b)6 above, except for the resource requirement set forth therein. This provision will be effective for the 1987-88 academic year only;

vi. (No change.)

(c) An individual may not be treated as an independent student pursuant to (b)3, 4, and 6 above if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

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

(a)

Grant Amounts

Adopted Amendment: N.J.A.C. 9:11-1.7

Proposed: October 19, 1987 at 19 N.J.R. 1879(a).

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No comments received.

Full text of adoption follows.

9:11-1.7 Grant amount

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

(d) The EOF Board of Directors shall annually review the State grant amounts EOF students and make adjustments if necessary. The minimum and maximum awards for Graduate and Undergraduate EOF grants for each type of institution follows:

Undergraduate	Minimum	Maximum
2-Year Public Colleges	$200	$ 550
4-Year Public Colleges		
Commuter	200	550
Residential	200	800
Rutgers, NJIT		
Commuter	200	550
Residential	200	800
Independent Colleges	200	1,700
Graduate	Minimum	Maximum
4-Year Public Colleges	$200	$2,000
4-Year Independent Colleges	200	2,500
Rutgers, NJIT	200	2,500
UMDNJ FDU Dental School	200	4,000

(e)-(f) (No change.)

(b)

Martin Luther King Physician-Dentist Scholarship Program

Adopted New Rules: 9:11-2

Proposed: December 21, 1987 at 19 N.J.R. 2374(a).

Adopted: March 10, 1988 by T. Edward Hollander, Chancellor and Chairman.

Board of Directors of Educational Opportunity Fund.

Filed: March 10, 1988 as R.1988 d.153, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: P.L. 1987, c.183 (N.J.S.A. 18A:72J-1 *et seq.*).

Effective Date: April 4, 1989.

Expiration Date: January 17, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of adoption follows (additions to proposal indicated in boldface with asterisks ***thus***).

SUBCHAPTER 2. MARTIN LUTHER KING PHYSICIAN-DENTIST SCHOLARSHIP PROGRAM

9:11-2.1 Student eligibility

(a) To be eligible for a Martin Luther King Physician-Dentist Scholarship (King Scholarship), a student must have demonstrated that he or she:

1. Is or has been a legal resident of the State of New Jersey for at least two years immediately prior to receiving the scholarship, and:

2. Is a student who meets the requirements of N.J.A.C. 9:11-1.5 and falls within one of the following categories:

i. A minority student included in one of the ethnic groups recognized by the Association of American Medical Colleges or the American Association of Dental Schools as underrepresented in the medical or dental professions, or:

ii. A former or current recipient of the New Jersey EOF undergraduate grant, or;

iii. A student who would have been eligible as an undergraduate for a New Jersey EOF, and;

3. Is or will be a full-time student enrolled in a post-baccalaureate program of study leading toward an initial M.D., D.O. or D.M.D. degree at the University of Medicine and Dentistry of New Jersey or the Fairleigh Dickinson University School of Dentistry.

(b) Priority shall be given to those students who meet the criteria of (a)2i and ii, or (a)2i and iii as set forth above.

9:11-2.2 Grant amounts

(a) The maximum and minimum award ranges for a King Scholarship shall be annually established by the Board of Directors of the New Jersey Educational Opportunity Fund but shall not exceed the maximum amount of tuition charged at the university in which the student is enrolled.

(b) The amount of each King Scholarship shall be based on the financial need of the student as determined pursuant to N.J.A.C. 9:11-1.7(a), (b), (c) and (f).

9:11-2.3 Rules incorporated by reference

The following provisions of subchapter 1 of this chapter, N.J.A.C. 9:11-1, governing the EOF Program shall also apply to grants made under the Martin Luther King Physician-Dentist Scholarship program unless they are inconsistent with, or otherwise excepted within the provisions of this subchapter: N.J.A.C. 9:11-1.2, 1.3, 1.4, 1.6(a), (c), (d), (f), 1.13, 1.15, 1.16, 1.17, 1.19, ***1.20,*** 1.21 and 1.22.

HUMAN SERVICES

(c)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Independent Laboratory Manual; Hearing Aid Manual

Health Insurance Claim Form

Adopted Amendments: N.J.A.C. 10:61-2.4 and 2.5; 10:64-1.4, 2.1, 2.2, 2.5 and 2.6

Adopted Repeal and New Rule: N.J.A.C. 10:64-3.5

Proposed: October 5, 1987 at 19 N.J.R. 1779(a).

Adopted: March 3, 1988, by Drew Altman, Commissioner, Department of Human Services.

Filed: March 4, 1988, as R.1988 d.145, **without change.**

Authority: N.J.S.A. 30:4D-6a(3)b(12), 7 and 7a, b and c; 30:4D-12.

Effective Date: April 4, 1988.

Expiration Date: March 3, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

10:61-2.4 Health Insurance Claim Form

(a) The Health Insurance Claim Form (1500 N.J.) is to be used for billing for covered independent laboratory services.

(b) Mail the original form to:

The Prudential Insurance Company of America
P.O. Box 1900
Millville, New Jersey 08332

10:61-2.5 Report of services

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

(e) When the service laboratory elects to bill for procedures done by the reference laboratory, a note indicating "Performed by reference lab" (name of laboratory) must accompany the identifying tests or procedures in item 24D of the claim form 1500 N.J.

10:64-1.4 Prior authorization for a hearing aid

(a) New and replacement hearing aids require prior authorization by the Medicaid District Office Medical Consultant.

(b) The hearing aid dispenser (provider) completes all applicable items except Items 12, 25 and 34 on the Health Insurance Claim Form (1500 N.J.) and submit the form to the appropriate Medicaid District Office for prior authorization, along with the nursing home hearing aid screening form, if applicable, and the otologic and audiologic reports (see N.J.A.C. 10:64-1.7 concerning policies on replacement of hearing aids).

(c) The Medicaid District Office Medical Consultant review the otologic and audiologic reports along with the nursing home screening form, if applicable.

1. Claims for CROS, BICROS, BINAURAL, and reconditioned aids will be reviewed by the audiology consultant before authorization is determined.

(d) Authorization for a hearing aid is indicated by the signature of the Medicaid District Office Medical Consultant in Item 34 of the Health Insurance Claim Form (1500 N.J.).

(e) The Medicaid District Office returns the original copy of the claim form to the dispenser and retains a copy of the claim form, the nursing home hearing aid screening report, and the otologic and audiologic examination reports. The dispenser may then proceed to supply the authorized item to the recipient (see Subchapter 2 for billing procedures). If the request is denied, "Authorization denied" will be indicated in Item 34 of the 1500 N.J. form and the dispenser will receive a notification letter from the Medicaid District Office.

10:64-2.1 General billing policy

(a) (No change.)

(b) The Health Insurance Claim Form (1500 N.J.) (see Exhibit V) is to be used for billing of hearing aids and equipment. For hearing aids which require prior authorization, Item 34 must be signed and dated by the Medicaid District Office Medical Consultant before the claim may be considered for payment. Before billing the fiscal agent the dispenser shall have the recipient sign Item 12 (Patient's or Authorized Person's Signature), and the dispenser shall sign Item 25 (Signature of Physician or Supplier).

10:64-2.2 Procedures for the billing of hearing aids

(a) The procedure for the billing of hearing aids shall be as follows:

1. The dispenser shall attach one copy of Form FD-244 (Follow-Up to Hearing Aid Examination) to the original copy of the claim form (1500 N.J.) when submitting the claim to the fiscal agent for payment.

2.-3. (No change.)

4. When billing the fiscal agent for a reconditioned hearing aid, the dispenser shall attach to the claim form the following:

i. A copy of the invoice or sales document showing the acquisition cost of the aid, if any; and/or

ii. A copy of the factory or laboratory invoice showing the cost of reconditioning.

10:64-2.5 Billing for repairs

(a) Billing for repairs shall be as follows:

1. The dispenser shall attach one copy of the factory or laboratory invoice to the claim form (1500 N.J.) when billing the fiscal agent.

2. (No change.)

10:64-2.6 Mailing instructions

(a) Mailing instructions are as follows:

1. Mail the original copy to:

The Prudential Insurance Company of America
P.O. Box 1900
Millville, New Jersey 08332

10:64-3.5 Instructions for completion of "Health Insurance Claim Form" (1500 N.J.)

(a) Instructions for completing the Health Insurance Claim Form (1500 N.J.) are as follows:

1. ITEM 1. Copy the patient's name EXACTLY as it appears on the Medicaid eligibility validation form.

2. ITEM 2. Indicate patient's date of birth. Use six digits (for example, September 10, 1980 is written 09/10/80). If only the year is known, enter the year. If birthdate is unavailable, submit claims without birthdate.

3. ITEM 3. Not applicable.

4. ITEM 4. Indicate patient's address and telephone number.

5. ITEM 5. Check appropriate block to identify patient's sex.

6. ITEM 6. Copy the patient's Health Insurance (Medicare) Claim Number as it appears on the Medicare Health Insurance card when the patient is covered by both Medicare and Medicaid.

7. ITEM 7. Not applicable.

8. ITEM 8. Copy the patient's Health Services Program (Medicaid) Case Number and Person Number EXACTLY as shown on the Medicaid eligibility validation form.

9. ITEM 8a. Not applicable.

10. ITEM 9. Check appropriate block to indicate whether the patient has other health insurance coverage. If yes, you must attach a copy of the explanation of payment or a copy of the decline notice from the other insurance coverage.

11. ITEM 10. Check as appropriate.

12. ITEM 11. Not applicable.

13. ITEM 12. Under ordinary circumstances, the patient must sign the claim form when services have been received. The claim form must indicate services rendered prior to presenting it to the patient for signature. Indicate in the blocks provided, the relationship of signer to the patient-recipient. If the patient's signature is unobtainable, refer to your Medicaid Provider Manual for procedures to follow.

14. ITEM 13. Not applicable.

15. ITEM 14. Not applicable.

16. ITEM 15. Not applicable.

17. ITEM 16. Not applicable.

18. ITEM 16a. Not applicable.

19. ITEM 17. Not applicable.

20. ITEM 18. Not applicable.

21. ITEM 19. Indicate the name of the prescribing practitioner unless the patient is an MP Plan member in which case you MUST indicate the name of the MP Plan Physician Case Manager.

22. ITEM 19a. Enter the Individual Medicaid Practitioner (IMP) Number of the practitioner or Case Manager whose name is entered in Item 19.

23. ITEM 20. Not applicable.

24. ITEM 21. Write in the name of the facility if place of service is other than the patient's home or provider's place of business (office, etc.). To be completed in addition to Item 24B.

25. ITEM 21a. Not applicable.

26. ITEM 22. Not applicable.

27. ITEM 23A. Enter diagnosis for all services identified in Item 24D.

28. ITEM 23B. EPSDT Program Referral: Complete this item for patients under 21 years of age. Ask the patient and/or referring physician or clinic if this service is the result of an EPSDT screening.

29. ITEM 24A. Enter date(s) of each visit or service provided.

30. ITEM 24B. Identify place of service by selecting appropriate alpha code as listed on the reverse side of the 1500 N.J. form under "Place of Service".

31. ITEM 24C. Not applicable.

32. ITEM 24D. Indicate the HCPCS code number for the service provided as listed in your Medicaid Provider Manual. Indicate the item number, model number, manufacturer's name, and sale amount. If there is no code in the manual to identify the service provided, enter a narrative description of the service. If a replacement within 36 months, add the notation "replacement aid". If a reconditioned aid, add the notation "Recon" and the notation "six months warranty" and attach to the claim form, an invoice or sales document showing the acquisition cost of the aid, if any, and/or the facility or laboratory invoice showing the cost of reconditioning. Indicate the number of batteries and type of custom fitted earmold. If applicable, indicate the receiver model, one cord and garment bag. For repairs indicate "Repair of new aid" if originally dispensed as a new aid. Indicate "Repair of recon aid" for repair of a reconditioned aid. For replacement earmolds, describe the earmold and attach a copy of the laboratory cost list or laboratory invoice to the claim form. For batteries and replacement parts, describe the item.

33. ITEM 24E. Enter either the reference number or the diagnosis code from Item 23A that is related to the service provided.

34. ITEM 24F. Enter quantities or units.

35. ITEM 24G. Enter your usual and customary charge for each service.

36. ITEM 24H. Not applicable.

37. ITEM 24I. Not applicable.

38. ITEM 25. Read the Medicaid Provider Certification on the reverse side of the 1500 N.J. form carefully and sign and date the claim form accordingly.

39. ITEM 26. Not applicable.

40. ITEM 27. Enter the sum total of the individual charges indicated in Item 24G.

41. ITEM 28. Not applicable.

42. ITEM 29. Not applicable.

43. ITEM 30. Not applicable.

44. ITEM 31. If not preprinted, write provider name, address and provider number. Enter telephone number.

45. ITEM 32. Not applicable.

46. ITEM 33. Not applicable.

47. ITEM 34. For services requiring prior authorization the Medicaid District Office Medical Consultant will affix his/her signature, date the authorization and terms of authorization, that is, purchase or denial, and the provider must assure that Item 34 is complete before submitting the claim for payment.

(a)

Independent Clinic Services Manual
Family Planning Services
Adopted Amendments: N.J.A.C. 10:66-3

Proposed: December 21, 1987 at 19 N.J.R. 2376(a).
Adopted: March 11, 1988, Drew Altman, Commissioner, Department of Human Services.
Filed: March 11, 1988 as R.1988 d.156, **without change.**
Authority: N.J.S.A. 30:4D-6b(3); 7a, b, c; 1903(a)(5) and 1905(a)(4)(c) of the Social Security Act; 42 CFR 433.15; 42 CFR 440.250(c)
Effective Date: April 4, 1988.
Operative Date: April 15, 1988.
Expiration Date: December 15, 1988.

Summary of Public Comments and Agency Responses:
There were several comments submitted. The commentators included the New Jersey Family Planning League, Inc., Family Planning Services of Cumberland and Gloucester Counties, several Planned Parenthood Organizations, and the Family Planning Association of New Jersey. The commentators were supportive of the proposal and requested the rule be adopted.

Full text of the adoption follows.

10:66-3 HCFA Common Procedure Coding System (HCPCS)

Appendix 8

CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE S	S	NS
(c)		Initial Medical Visit			
90000	WF		45.00		45.00
90010	WF		45.00		45.00
90015	WF		45.00		45.00
		Annual Medical Revisit			
90760	WF		45.00		45.00
		Routine or Follow-Up Visit Brief			
90030	WF		7.60		7.60
90040	WF		7.60		7.60
90050	WF		7.60		7.60
		Routine or Follow-Up Visit Prolonged			
90070	WF		23.00		23.00
90080	WF		23.00		23.00
		Routine or Follow-Up Visit by Nurse-Midwife			
90060	WM WF		16.40		16.40
		Medical Revisit Family Planning			
90060	WF		18.00		18.00

DIVISION OF PUBLIC WELFARE

(b)

General Assistance Manual
Audits
Adopted Amendment: N.J.A.C. 10:85-1.5

Proposed: December 21, 1987 at 19 N.J.R. 2376(b).
Adopted: March 7, 1988, by Drew Altman, Commissioner, Department of Human Services.
Filed: March 7, 1988 as R.1988 d.146, **without change.**
Authority: N.J.S.A. 44:8-111(d).
Effective Date: April 4, 1988.
Expiration Date: January 30, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

10:85-1.5 Disclosure of information
(a) (No change.)
(b) Allowable disclosure of information: The municipal welfare department shall release information concerning an applicant or recipient in the following situations only:
1.-4. (No change.)
5. Quality control reviews: Information in connection with a quality control review shall be furnished to authorized representatives of the Division of Public Welfare.
6. Information necessary to the performance of regular or special audits by State staff or by the municipality's registered municipal accountant (RMA).

(c)

Service Programs for Aged, Blind or Disabled
Supplemental Security Income Payment Levels
Adoption of Concurrent Proposal: N.J.A.C. 10:100, Appendix A

Proposed: January 19, 1988 at 20 N.J.R. 208(a).
Adopted: March 1, 1988, by Drew Altman, Commissioner, Department of Human Services.
Filed: March 4, 1988 as R.1988 d.143, **without change.**
Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.
Effective Date: March 4, 1988.
Expiration Date: February 6, 1989.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

10:100. Appendix A

The New Jersey Supplemental Security Income Payment Levels

Living Arrangement Categories	Payment Level 1 1 88
Eligible Couple	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	$50 532.00*
Residential Health Care Facilities and certain residential facilities for children and adults	$989.36
Living Alone or with Others	$557.36
Living in Household of Another, Receiving Support and Maintenance	$447.76
Eligible Individual	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	$25 354.00†
Residential Health Care Facilities and certain residential facilities for children and adults	$504.05
Living Alone or with Others	$385.25
Living with Ineligible Spouse (No other individuals in household)	$557.36
Living in Household of Another, Receiving Support and Maintenance	$280.31

†The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

CORRECTIONS

(a)

THE COMMISSIONER

Medical and Health Services
Special Medical Unit

Adopted Amendment: N.J.A.C. 10A:16-11

Proposed: January 19, 1988 at 20 N.J.R. 163(b).
Adopted: February 29, 1988 by William H. Fauver, Commissioner, Department of Corrections.
Filed: March 3, 1988 as R.1988 d.142, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: April 4, 1988.
Expiration Date: April 6, 1992.

Summary of Public Comments and Agency Responses:

The Department of Corrections received one comment from an interested person. The comment, however, was not related to this particular proposal amending the Special Medical Unit rules and did not recommend any changes to the rules pertaining to the Special Medical Unit. The comment could, therefore, not be responded to.

A review of the proposed amendment indicates that, in N.J.A.C. 10A:16-11.25(b), the word "updated" should read "dated".

In addition to this change, there are several minor, non-substantive changes in language.

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

SUBCHAPTER 11. SPECIAL MEDICAL UNIT

10A:16-11.1 Admission criteria to Special Medical Unit (S.M.U.)

(a) Inmates shall be assigned to the Special Medical Unit when:

1. The chronic illness suffered does not require acute care hospitalization;

2. The medical condition of the inmate precludes housing within any of the other correctional facilities of the Department of Corrections; and

3. The Health Services Unit of the Office of Institutional Support Services authorizes placement in the Unit.

10A:16-11.2 Authority of the Inter-Institutional Classification Committee (I.I.C.C.)

Only the inmates that have been diagnosed and found to have chronic illnesses shall be assigned by the Inter-Institutional Classification Committee (I.I.C.C.) to the Special Medical Unit.

10A:16-11.3 Special Medical Unit Classification Committee (S.M.U.C.C.)

(a) The Special Medical Unit Classification Committee (S.M.U.C.C.) shall be chaired by the Director of the Special Medical Unit (S.M.U.) and comprised of:

1. One representative from the Office of Institutional Support Services (O.I.S.S.) professional staff;

2. One representative from the Special Medical Unit custody staff; and

3. One representative from the State Prison, Trenton medical staff.

(b) The Special Medical Unit Classification Committee shall review the assignment of an inmate to the Special Medical Unit to determine the program to which the inmate will be assigned.

(c) The Special Medical Unit Classification Committee is authorized to monitor an inmate's Special Medical Unit program and conduct case and in-person reviews.

(d) The Special Medical Unit Classification Committee may permit or preclude an inmate's participation in programs dependent upon the inmate's ability to participate without posing a security or clinical threat to the operation of the Special Medical Unit.

(e) An inmate's case shall be reviewed:

1. At the completion of the period of orientation;

2. Every three months after orientation; or

3. More frequently than every three months if deemed appropriate by a member of the Special Medical Unit Classification Committee.

(f) Whenever necessary for appropriate decision making, the inmate will be required to appear before the Special Medical Unit Classification Committee unless the inmate refuses to appear without the use of force.

(g) Written decisions on all case reviews shall be placed in the inmate's classification folder and copies shall be forwarded to the inmate unless security considerations preclude disclosures.

10A:16-11.4 Special Medical Unit (S.M.U.) staff

(a) The Special Medical Unit staff is comprised of:

1. The Director of the Special Medical Unit;

2. The Custody Supervisor;

3. The custody staff; and

4. The Professional Services staff (for example, social workers, psychologists, chaplains and medical staff).

(b) The Special Medical Unit staff is responsible to the Special Medical Unit Classification Committee for program development, implementation and assessment.

(c) The concerns of both the custody and the Professional Services staff members shall be given equal consideration in decision making regarding the development of programs and the management of the Special Medical Unit.

10A:16-11.5 Orientation

(a) Upon assignment of an inmate to the Special Medical Unit, the inmate shall begin a period of orientation and intense supervision which shall not exceed seven days. During this period the inmate shall be assessed to determine his:

1. Clinical condition;

2. Attitude;

3. Level of cooperation; and

4. Willingness to work and participate in program activities.

(b) The assessment of the inmate shall be accomplished by:

1. The submission of daily progress reports by custody staff members to the custody supervisor for submission to the Director of the Special Medical Unit; and

2. The submission of a written evaluation of the inmate by the Special Medical Unit social worker and other Special Medical Unit staff members to the Special Medical Unit Classification Committee at the completion of the orientation period.

(c) Within 24 hours of an inmate's placement, the Custody Supervisor shall:

1. Familiarize the inmate with the rules of conduct within the Special Medical Unit;

2. Provide the inmate with a Trenton State Prison Handbook;

3. Provide the inmate with the written rules and regulations of the Special Medical Unit;

4. Determine if the inmate has any difficulties which require immediate referral for specialized services; and

5. Notify the social worker of the placement and convey any special instructions regarding the inmate.

(d) Within 72 hours of the placement, the social worker shall review with the inmate his assignment to the Special Medical Unit, and any unique problems, referred by the Custody Supervisor, which require immediate attention.

(e) The Professional Service staff shall be advised by the Special Medical Unit Classification Committee that an inmate has been assigned to the Special Medical Unit. A representative from each professional discipline shall meet with the newly assigned inmate during orientation and advise the inmate of the programs and services available within the representative's discipline.

(f) During orientation, the newly assigned inmate shall be permitted to participate in Special Medical Unit activities while his program is being developed. Any limitations determined by the Office of Institutional Support Services (O.I.S.S.) Director of Medical Services or his or her designee, upon admission, shall be considered during the development of the inmate's Special Medical Unit Program.

(g) At the completion of the inmate's orientation, the Special Medical Unit Classification Committee shall review and approve or disapprove the continuation of the program developed for the inmate upon admission to the Unit.

10A:16-11.6 Personal items

(a) During orientation all of the inmate's personal belongings shall be thoroughly searched and returned to the inmate within 24 hours unless extenuating circumstances exist (for example, transfers from another correctional facility, major disturbances, etc.).

(b) All contraband, including razors and spoons, shall be removed from the inmate's possession.

(c) Other items not permitted for retention within the Special Medical unit shall be itemized and handled in accordance with N.J.A.C. 10A:1 ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

10A:16-11.7 Work opportunities

(a) Each inmate shall be afforded an opportunity to participate in a work program designed to respond to the needs of the inmate and the Special Medical Unit. The Custody Supervisor shall familiarize the inmate with the work program during the initial orientation interview.

(b) The Director and/or the Custody Supervisor of the Special Medical Unit may, at his or her discretion, devise other work opportunities in which the inmate may participate upon approval by the Special Medical Unit Classification Committee.

(c) An inmate shall receive the work assignment of cell sanitation upon initial assignment to the Special Medical Unit. Each inmate shall be responsible for the cleanliness of his cell. Cleaning equipment shall be provided for the inmate to clean his cell at least once per week.

(d) Pay and work credits shall be commensurate with the skill level and nature of work responsibilities involved as outlined in N.J.A.C. 10A:13 INMATE WORK PROGRAMS.

(e) At the beginning of each three months of assignment to the Special Medical Unit, every inmate shall be given the opportunity to confirm his continuation in the work program via an in-person work review with the Special Medical Unit Classification Committee.

(f) Removal and lay-in action from the work program may be initiated by the Custody Supervisor or by the Special Medical Unit officers. Removal and lay-in action from the work program shall be reviewed by the Special Medical Unit Classification Committee for appropriate confirmation.

10A:16-11.8 Disciplinary action within the Special Medical Unit (S.M.U.)

(a) The Department of Corrections' Inmate Discipline Program shall be in full force and effect in the Special Medical Unit. Any restrictions of privileges placed upon an inmate in the Special Medical Unit shall be in accordance with N.J.A.C. 10A:4 INMATE DISCIPLINE.

(b) Disciplinary action initiated by any staff member shall be referred to the Disciplinary Hearing Officer/Adjustment Committee and, where appropriate, to the Special Medical Unit Classification Committee for confirmation.

10A:16-11.9 Professional services

Professional services shall be provided to inmates assigned to the Special Medical Unit to the same extent as these services are available to the general inmate population of the State Prison, Trenton.

10A:16-11.10 Psychological and social work services

Crisis intervention, problem solving and short and long term counseling programs shall be provided within the Special Medical Unit on an individual and/or congregate level.

10A:16-11.11 Medical services

(a) The Office of Institutional Support Services (O.I.S.S.) Health Services Unit shall provide the following services to the Special Medical Unit:

1. Medical examinations and treatment twice weekly by a medical consultant;

2. Emergency medical support and medication dispensing by the Medical Department at State Prison, Trenton;

3. Clinical support to the medical consultant by the O.I.S.S. Health Services Unit Nursing Supervisor;

4. Liaison services between the O.I.S.S. Health Services Unit and the Medical Department at State Prison, Trenton, by the O.I.S.S. Health Services Unit Nursing Supervisor; and

5. Psychiatric and dental services by contracted consultants.

10A:16-11.12 Religion

The State Prison, Trenton, Chaplaincy Department shall coordinate the provision of spiritual programs and counseling to inmates in the Special Medical Unit on an individual and congregate basis.

10A:16-11.13 Legal Activities

(a) Each inmate shall have access to a law library and to legal assistance consistent with the program needs of the Special Medical Unit.

(b) The Education Department of State Prison, Trenton, shall coordinate the needs of inmates for legal materials with the paralegal representative (if assigned). The inmate paralegal shall conduct interviews with inmates in an appropriately suited area determined by the Director of ***the*** Special Medical Unit.

(c) Attorneys and court related personnel shall be granted contact visits within the Special Medical Unit. Such visits must be approved and pre-scheduled by the Director of the Special Medical Unit 24 hours in advance of the visit by calling the Special Medical Unit office Monday through Friday during regular working hours.

(d) Visits of attorneys and court related personnel shall be conducted either in the contact visit room or in a treatment room at the discretion of the Director of the Special Medical Unit. No staff member shall monitor the conversations between an inmate and the attorney.

10A:16-11.14 Recreation

(a) Each inmate shall be permitted a minimum of two hours of exercise and recreation daily.

(b) When there is a need to keep certain inmates separate, the Director of the Special Medical Unit may schedule the yard recreation periods into one hour sessions.

(c) Selections with respect to the composition of an inmate recreation group shall be the responsibility of the Special Medical Unit Classification Committee based upon infection control guidelines established by the Office of Institutional Support Services (O.I.S.S.) Director of Medical Services and the attending physician.

10A:16-11.15 Correspondence, legal correspondence, publications and packages

All correspondence shall be handled in accordance with N.J.A.C. 10A:18-2 CORRESPONSENCE, N.J.A.C. 10A:18-3 LEGAL CORRESPONDENCE, N.J.A.C. 10A:18-4 PUBLICATIONS, and N.J.A.C. 10A:18-5 PACKAGES.

10A:16-11.16 Visits

(a) The Special Medical Unit provides for contact visits only.

(b) In the event that an inmate or a visitor violates the rules and regulations pertaining to visits as outlined in N.J.A.C. 10A:18-6 VISITS, or in the written rules and regulations of the Unit, the Director of the Special Medical Unit or the Custody Supervisor or their designees may discontinue the visit and initiate disciplinary measures. The Special Medical Unit Classification Committee may approve, disapprove or restrict a visitor should either the inmate or the visitor fail to adhere to the rules of the visit program.

(c) Visits must be approved and pre-scheduled by the Director of ***the*** Special Medical Unit 24 hours in advance of the visit by calling the Special Medical Unit's office Monday through Friday, during regular working hours.

10A:16-11.17 Telephone calls

Telephone calls shall be handled in accordance with N.J.A.C. 10A:18-8 TELEPHONE and written regulations developed by the Special Medical Unit.

10A:16-11.18 Congregate activities

(a) Congregate activities shall be developed during the inmate's orientation process with specific consideration for physical disabilities and infection control guidelines.

(b) The Special Medical Unit Classification Committee may, at its discretion, approve an inmate for participation in any one or all congregate activities.

(c) The Special Medical Unit Classification Committee may also rescind the inmate's participation in congregate activities should the inmate fail to cooperate in the program, or the Committee may temporarily restrict the inmate's participation in congregate activities because of physical illness.

10A:16-11.19 Food

(a) All meals in the Special Medical Unit shall be prepared and served in accordance with the State Prison, Trenton, Food Service System as approved by the Office of Institutional Support Services (O.I.S.S.).

(b) Inmates in the Special Medical Unit shall be served the normal State Prison, Trenton meals on the "Menu of the Day" or such special diet as shall be prescribed.

(c) Disposable utensils shall be used when serving meals in the Special Medical Unit.

10A:16-11.20 Showers

(a) Each inmate in the general population of the Special Medical Unit shall be permitted to shower once daily.

(b) Each inmate in Disciplinary Detention within the Special Medical Unit shall be permitted to shower once every other day.

10A:16-11.21 Haircuts

(a) Each inmate shall be afforded an opportunity to have a haircut once monthly. Each inmate desiring a haircut must place his name on the barber's list.

(b) All haircutting equipment shall be secured when not in use and monitored while in use.

10A:16-11.22 Reading material

(a) Reading material shall be made available for inmates assigned to the Special Medical Unit.

(b) Inmates may obtain reading material by submitting their requests to the social worker.

10A:16-11.23 Infection control procedures

(a) All staff and inmates shall receive instructions concerning infection control and isolation precautions which include:

1. Use of protective garments;
2. Personal hygiene; and
3. Accident reporting.

(b) The Office of Institutional Support Services (O.I.S.S.) Director of Medical Services shall be responsible for providing the training in (a) above at least quarterly.

10A:16-11.24 Program assessment reports

(a) The Special Medical Unit staff must submit to the Director of the Special Medical Unit a progress report for each inmate assigned to the Unit.

(b) Shift officers designated by the Custody Supervisor shall complete a progress report on each inmate daily during the orientation period, and every three months for the remaining time the inmate is assigned in the Special Medical Unit.

(c) The Custody Supervisor shall review the progress reports submitted by the correction officers and submit these reports to the Director of the Special Medical Unit at the completion of the orientation period; and

(d) The Director of the Special Medical Unit shall make program assessment reports available to the Special Medical Unit Classification Committee for all scheduled routine reviews, which occur every three months after the period of orientation.

(e) Special Medical Unit professional staff shall complete and forward to the Special Medical Unit Classification Committee a progress report on each inmate at the completion of the orientation period, and every three months thereafter for the scheduled inmate routine review.

10A:16-11.25 Procedures and post orders

(a) State Prison, Trenton shall develop written procedures and post orders for the Special Medical Unit that are consistent with this subchapter.

(b) The procedures and post orders shall be reviewed and *[updated]* ***dated*** annually.

(c) Post orders shall be submitted before September 15 of each year to the Assistant Commissioner, Division of Adult Institutions, and to the Office of the Deputy Commissioner for review and approval.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Public Employees' Retirement System Interfund Transfers

Adopted Amendments: N.J.A.C. 17:2-7.1

Proposed: December 21, 1987, at 19 N.J.R. 2386(a).

Adopted: February 23, 1988 by Janice Nelson, Secretary, the Board of Trustees, Public Employees' Retirement System.

Filed: March 1, 1988 as R.1988 d.141, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 43:15A-17.

Effective Date: April 4, 1988.

Expiration Date: December 17, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

The changes between the proposed and adopted amendments were necessary to clarify the rule's effect upon those persons granted a deferred retirement. The language is similar to the text in comparable rules governing the other State-administered retirement systems.

Full text of the adoption follows (additions to the proposal indicated in boldface with asterisks ***thus***):

17:2-7.1 Interfund transfers; State-administered retirement systems

(a) The system will transfer membership to any State-administered retirement system as follows:

1.-4. (No change.)

5. This procedure would not apply where a member has credit in the present system for service after the date of enrollment in the new system ***or where a person has ceased to be a member of the present system before establishing sufficient service credit to be eligible for a deferred retirement***.

6. (No change.)

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

(d) A member who makes a timely transfer in accordance with N.J.S.A. 43:2-1 et seq. will contribute to the new system at a rate based on his or her age at the time of enrollment in the present system and no refund of pension contributions will be made except for those contributions made by veterans covering service prior to January 1, 1955, where applicable. The contribution rate for a member granted a deferred retirement in the present system who makes a timely transfer at the time of enrollment in the new system will be determined in accordance with the rules concerning enrollment after deferred retirement in the new system. A member who does not make a timely transfer will contribute to the new system at a rate based on his or her age at the time of enrollment in the new system.

OTHER AGENCIES

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

(a)

District Zoning Regulations

Adopted Amendments: N.J.A.C. 19:4-4.35, 4.39 and 4.41.

Proposed: December 21, 1987 at 19 N.J.R. 2386(b).

Adopted: March 8, 1988 by Anthony Scardino, Executive Director, Hackensack Meadowlands Development Commission.

Filed: March 11, 1988 as R.1988 d.154, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3(c)).

Authority: N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i).

Effective Date: April 4, 1988.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

A public hearing was held on January 7, 1988.

The opinion of the Hackensack Meadowlands Municipal Committee was received in written form and read at the public hearing by Margaret Schak, Executive Director of the HMMC. The Committee suggested that N.J.A.C. 19:4-4.39 be altered to read: "Maximum gross density of 15 dwelling units per acre of which no less than 50 percent shall be in townhouse or other low-rise development." Their second suggestion was that the South Hackensack Waterfront Recreation Zone be excluded from the application of this amendment because of the municipality's inability to properly service this portion of property. Their third suggestion was that the parcels of land zoned for Waterfront Recreation uses located in the Town of Little Ferry should be rezoned to permit industrial development. The Mayor's Committee contends that industrial development would be more compatible to the uses surrounding the site.

Philip Kieffer, Administrator for the Town of Secaucus, representing Mayor Paul Amico of Secaucus, expressed the Mayor's position in favor of the proposal since it permits a higher and better use of the now vacant property located within the town.

Councilman Ken Reuter of Secaucus expressed his concern as to what public access was considered to be, and that he felt it important that the Meadowlands Parkway ring road become a reality in order to provide more than one point of ingress and egress for the area. Councilman Anthony Just of Secaucus expressed his concern as to the amount of open space that would be required to remain if residential development was permitted.

John Langan, of DeCotis & Pinto, on behalf of the municipalities of Little Ferry and South Hackensack, stated that South Hackensack preferred to remain as open space because of the unique location of the property. It would be extremely difficult if not impossible to adequately extend municipal services to the area. The Town of Little Ferry's position was expressed as not objecting to the current zoning which permits water recreational uses, hotels and retail shops. However, the municipality would rather the zone be changed to include some type of industrial use excluding public access to the waterfront and the development of a marina, rather than housing.

Priscilla Triolo, Esq., on behalf of a Little Ferry property owner, questioned which zoning of this property prevailed, the industrial designation by the Town of Little Ferry or the Waterfront Recreation Zoning of the HMDC.

Mr. Peter Russo, former Assemblyman and former Mayor of Lyndhurst expressed concerns about insufficient communication between the HMMC and the Hackensack Meadowlands Development Commission representatives.

Several written comments were received in response to the scheduled public hearing. All written statements were in support of the proposed amendment with the exception of a letter received from Mayor Louis A. Tedesco, Jr. of Little Ferry.

A letter submitted by Alfred A. Porro, Jr., a property owner of land within the Waterfront Recreation Zones located in the Boroughs of Carlstadt and East Rutherford, agreed with the HMMC that the land in South Hackensack and Little Ferry should be excluded from the amendment. He did not agree with the HMMC's suggestion of townhouse development. Alternately, he argued that the mandatory 50 percent townhouse provision is impossible to economically institute and should be eliminated to allow complete mid-rise construction. Using his property as an example, he stated that if the wetlands portions are set aside, the limited building area remaining would require total mid-rise to high-rise development to make the project economically feasible.

A review of the proposed amendment by Clarke and Caton, on behalf of the Town of Secaucus, finds the proposal worthy of support by virtue of its anticipated beneficial effect upon the Town. As outlined in their study, the Town of Secaucus supports the Mayor's Committee recommendation on townhouse development, which is to require that at least 50 percent of the residences be developed in low-rise form. This position is based on current local market trends favoring low-rise development.

The final two written comments were received in the form of letters after the public hearing. Mayor Tedesco of Little Ferry stated that the area in Little Ferry is unsuitable for residential development, and that if the intent of the HMDC is to preserve access to the river, then this purpose would be better expressed by rezoning this property to park and recreation use. A letter from Ms. Triolo presented the property owners' support of the proposal. She pointed out that parts of the property directly in front of the river (west of the Waterfront Recreation Zone) are currently developed and zoned residential, and present an ideal location for future residential development. She also pointed out that several lots are partially within the Waterfront Recreation Zone and the adjacent Low-Density Residential Zone bordering it to the west. The proposed expansion of the permitted uses will bring these bisected properties into a closer and more responsible alignment and utility.

Based on the verbal and written comments, field visits, and staff consultations, several technical changes to the proposed amendment have been made. To further clarify the intent of the proposal, the word "detached" has been included in N.J.A.C. 19:4-4.35(c)5; which identifies the type of residential uses excluded.

As suggested by the HMMC, a change was also made in N.J.A.C. 19:4-4.39(a)6; which identifies the densities of the proposed new use, to clarify the intent of the proposal. The wording is changed to "no less than 50 percent shall be in townhouse or low-rise development."

Factors contributing to the conclusion of 50 percent or greater townhouse development were many. Staff finds the concerns of the HMMC underlying this statement to be valid in that local housing markets strongly favor low-rise development over high-rise development. Requiring the units in high-rise form may render the developed product unmarketable if the market softens. To date, current market trends appear to show that low-rise development is much more attractive to buyers. The low-rise development will also lower the visual obstruction of development near the river. Low-rise housing, as specified in other residential zones, would be a maximum of 35 feet in height.

In reference to Mr. Porro's argument against low-rise development, there is insufficient reasoning to restrict residential development permitted in this zone to a mid-rise or high-rise form. His letter referenced a report and renderings by the architectural firm, Camerro Partnership, outlining a high-rise development scenario as the only workable residential development type for his property; neither of these items has been received by the HMDC to date. Regardless, zoning regulations, by their very nature, cannot be geared to suit any one individual parcel of property. If a hardship truly does exist on Mr. Porro's parcel of Waterfront Recreation Zone property, a variance from the above-referenced 50 percent townhouse standard can be sought.

The requests by the Township of South Hackensack and the Town of Little Ferry to be exempted are impossible to incorporate into the rules, since the rules governing the development of each zone must be uniform for each parcel of property under that zoning designation. These parcels could be exempted only by their belonging to a different zone.

The area in South Hackensack is not technically "on the waterfront", and is currently under review for rezoning under a separate application made by the property owner in conjunction with a plan for the adjacent properties.

The position the Town of Little Ferry has taken on this amendment has changed several times since the public hearing. Originally, the town favored only industrial development of the site, but subsequently retracted these comments.

The Mayor of Little Ferry later requested that the property be rezoned to Park and Recreation which could allow for ultimate, unlimited public enjoyment of the property providing proper investment will be made on the parcels to improve recreational facilities and oversee the establishment of safe and adequate public access. If this parcel is to be rezoned to Park and Recreation it will require condemnation of the properties involved by some public entity. The letter submitted by the Mayor of Little Ferry contained no reference of any plans to purchase the properties involved.

Staff finds this site to be a suitable location for residential development. The area is immediately adjacent to existing residential areas and zones, and can be adequately screened from other adjacent industrial areas. It is in a location to receive residential municipal services easily, and the inclusion of residential development would enable the properties to be upgraded to a cleaner, higher and better use. There is no overriding reason for exclusion of this area from the Waterfront Recreation Zone, particularly in light of the fact that marinas currently exist on the property and therefore have the potential of being upgraded if further development is permitted. Past performance has shown that marinas existing alone are economically unfeasible and do not allow for the reinvestment and upkeep of the facilities. However, if the Township sees the route of condemnation and the establishment of publicly run recreational facilities a more feasible alternative, the Commission will be happy to entertain a request to rezone that property at the time of acquisition. The HMDC is not in a position to be able to rezone private property for a public use. The rules adopted for any zone must apply to all parcels in that zone; Little Ferry, like South Hackensack, cannot be exempted. The Town may of course condemn the property for public Park and Recreation at any time. The zoning of the parcel will have no effect on the appraisal of the land for condemnation purposes. Little Ferry may request that the HMDC rezone their subject property to Park and Recreation upon acquisition.

Full text of the adoption follows (additions to the proposal indicated in boldface with asterisks ***thus***).

19:4-4.35 Waterfront recreation zone; required marina and other pemitted uses

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

(c) When included with a marina meeting the minimum requirements set forth in (a) above, the following uses shall be permitted:

1.-4. (No change.)

5. Residential development: any type of structure containing dwelling units may be built except ***detached*** single family houses, duplexes and two-family houses.

19:4-4.39 Waterfront recreation zone; bulk regulations

(a) The bulk regulations in the waterfront recreation zone are:

1.-5. (No change.)

6. Maximum gross density of 15 dwelling units per acre of which ***no less than*** 50 percent shall be in townhouse or other low-rise development.

19:4-4.41 Waterfront recreation zone; environmental performance standards

(a) All uses in the waterfront recreation zone shall comply with the following environmental performance standard categories of Subchapter 6:

1.-2. (No change.)

3. Residential development: all category "A" environmental performance standards shall apply;

4. No change in text.)

5. (No change in text.)

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Amendment to the Atlantic County Water Quality Management Plan

Public Notice

Take notice that the Atlantic County Department of Regional Planning and Development has petitioned to amend the Atlantic County Water Quality Management (WQM) Plan. This amendment would expand the sewer service area of the Township of Galloway Municipal Utilities Authority to include Leeds Point Shoppes, Lots 1.01 and 1.02 Block 1260.01 located in the Township of Galloway.

This notice is being given to inform the public that a plan amendment has been proposed for the Atlantic County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Department of Regional Planning and Development, County Office Building, 1333 Atlantic Avenue, Atlantic City, New Jersey 08401, and the New Jersey Department of Environmental Protection (NJDEP), Division of Water Resources, Bureau of Water Resources Management Planning, CN-029, 401 East State Street, 3rd Floor, Trenton, New Jersey 08625. These documents are available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to James M. Rutala, the Director of County Planning at the County Office Building address cited above; and George Horzepa, Bureau of Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted within 30 days following the public notice publication date. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered. The Atlantic County Planning Advisory Board shall issue a recommendation on the WQM Plan Amendment to the County Executive and the Chairman of the Board of Chosen Freeholders within 45 days from the date of the notice. Adoption of the amendment shall be by ordinance by the Atlantic County Board of Chosen Freeholders. The NJDEP thereafter may approve and adopt this amendment without further notice.

(b)

DIVISION OF WATER RESOURCES

Amendment to the Mercer County Water Quality Management Plan

Public Notice

Take notice that the Mercer County Improvement Authority has requested an amendment to the Mercer County Water Quality Management (WQM) Plan. This amendment would expand the sewer service area of the City of Trenton Sewage Treatment Plant to include the proposed Mercer County Resource Recovery Facility in Hamilton Township.

This notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 3rd Floor, 401 East State Street, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water 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. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(c)

DIVISION OF WATER RESOURCES

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would expand the sewer service area of the Pemberton Township Municipal Utilities Authority (PTMUA) to include the existing Pemberton Township High School No. 2, and residences along Arney's Mount Road up to North Pemberton Road. No sewer service will be provided to sites containing freshwater wetlands, unless approved separately by the Department. The high school's wastewater treatment facility (NJ0031011) will be abandoned once the sewer extension to PTMUA is on line.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 401 East State Street, Third Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, 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. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(d)

DIVISION OF FISH, GAME AND WILDLIFE

Higbee Beach Wildlife Management Area Restrictions on Use

Take notice that pursuant to N.J.S.A. 13:1D-9, 23:2A-5, 23:2A-7, and 23:7-9, and as provided at N.J.A.C. 7:25-2.22, the Department of Environmental Protection hereby prohibits all public access and use of the south-end beach area, except upon prior written approval from the Department, and all dune areas of the Higbee Beach Wildlife Management Area (HBWMA) in Lower Township, Cape May County. Closure of the south-end beach area shall commence at 12:01 A.M. on April 15, 1988 and continue to 12:01 A.M. on September 15, 1988, and the dune areas of HBWMA shall remain closed at all times. The purpose of the closure of HBWBA is to protect land and water areas, specifically: wildlife habitat which is critical to breeding endangered beach nesting birds including the sensitive dune areas which also protect the entire wildlife management area. Prior written approval for access to the south-end beach area may be obtained by writing to the Department's Division of Fish, Game and Wildlife at its Trenton Office (501 East State Street, Station Plaza 5, Third Floor, CN 400, Trenton, New Jersey 08625). The south-end beach area is that area designated on maps posted at the HBWMA parking lot, available at the Division's Endangered and Nongame Species office located at the HBWMA, and available at the Division's Trenton office (see above address).

(a)

DIVISION OF HAZARDOUS WASTE MANAGEMENT

Environmental Cleanup Responsibility Act Rules Certification and Signatories

Administrative Correction: N.J.A.C. 7:26B-1.13

Take notice that N.J.A.C. 7:26B-1.13, the certification and signatories provisions of the Environmental Cleanup Responsibility Rules, N.J.A.C. 7:26B, contains an erroneous citation to N.J.S.A. 13:1K-8 in paragraphs (b)1 and 2 and subparagraph (d)5i. The cited statute is referred to as a penalties source, when it is, in fact, the definitions section of the Environmental Cleanup Responsibility Act (ECRA), N.J.S.A. 13:1K-6 et seq. The penalty provisions of the Act are set forth in N.J.S.A. 13:1K-13.

By this notice of administrative correction, published pursuant to N.J.A.C. 1:30-2.7, the citations to the ECRA penalty provisions contained in N.J.A.C. 7:26B-1.13 are corrected as follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

7:26B-1.13 Certification and signatories

(a) (No change.)

(b) All documents listed in (a) above shall contain the following signatures and two-part certification which provides the following:

1. "I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of N.J.S.A. 13:1K-6 et seq., I am personally liable for the penalties set forth at N.J.S.A. 13:1K-[8]**13**."

i. (No change.)

2. "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of N.J.S.A. 13:1K-6 et seq., I am personally liable for the penalties set forth at N.J.S.A. 13:1K-[8]**13**."

i. (No change.)

(c) (No change.)

(d) All documents listed in (c) above shall be signed by a person described in (b)2i above who shall make the certification set forth in (b)2 above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1.-4. (No change.)

5. A duly authorized person shall make the following certification:

i. "I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of N.J.S.A. 13:1K-6 et seq., I am personally liable for the penalties set forth at N.J.S.A. 13:1K-[8]**13**."

(e) (No change.)

HEALTH

(b)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Extracorporeal Shock Wave Lithotripsy (ESWL) Services

Public Notice

Take notice that the Department of Health, in conjunction with the Health Care Administration Board (HCAB), is proposing to extend the demonstration period for Extracorporeal Shock Wave Lithotripsy (ESWL) Services established at N.J.A.C. 8:33B-1. The two year demonstration period is expected to conclude on March 26, 1988. During this period, only one of the three approved ESWL service providers has been operational for the entire two year demonstration period and the second and third ESWL sites have been in operation for less than six months. Since the majority of the State's existing ESWL service providers have not been operational for a sufficient period of time to participate in the statewide data collection and analysis effort, an extension of the ESWL demonstration period is necessary in order to develop a rational approach to future statewide need for ESWL services.

It will be several months before all three approved ESWL demonstration sites are able to fully participate in the statewide data collection and analysis effort. Since the critical factor in determining future need for ESWL is the incidence of kidney stone disease in the New Jersey population, it is essential that data from all three ESWL sites are analyzed to determine long-term ESWL policy. The three approved ESWL demonstration sites were selected to maximize geographic and patient access to this therapeutic modality and are located at:

Mid-Atlantic Kidney Stone Center, Marlton
University Lithotripsey Affiliates, Newark
Central Jersey Health Care Corporation, New Brunswick

The Department is therefore extending the statewide demonstration period for six months to conclude on or before September 26, 1988. As stated at N.J.A.C. 8:33B-1.3(c), "the Department of Health shall not process any other applications for lithotripters until the conclusion of the demonstration period".

Any inquiries should be sent to:

John A. Calabria, Acting Director
Health Planning, Policy, and Certificate of Need
New Jersey Department of Health
CN 360, Room 604
Trenton, New Jersey 08625

HUMAN SERVICES

(c)

Availability of Funds

School-Age Child Care Services

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5, 34.6 (P.L. 1987, c.7) the Department of Human Services announces the availability of funds for school-age child care services.

A. Name of grant program: Child Care—Before and After Regular School, N.J.S.A. 30:5B-26 through 29 (P.L. 1987, c.215)

B. Purpose for which the grant program funds shall be used:

1. To encourage and support the provision of nonsectarian child care in public and nonpublic school buildings or other locations as approved by the Commissioner of the Department of Human Services.

2. Five hundred thousand dollars in FY 1988 funds will be used for the one time purchase of supplies and equipment for either already existing school-age child care, before and after kindergarten, or summer camp programs for school-age children.

3. Five hundred thousand dollars in FY 1989 funds will be used to develop and fund the direct service costs associated with school-age child care, before and after kindergarten, or summer camp programs for school-age children.

C. Amount of money in the grant program: The amount available, by county and fiscal year, is detailed below.

County	School-Age Child Care FY 1988	School-Age Child Care FY 1989
Atlantic	$15,915	$15,915
Bergen	28,085	28,085
Burlington	15,915	15,915
Camden	40,255	40,255
Cape May	10,000	10,000
Cumberland	13,106	13,106
Essex	92,681	92,681
Gloucester	10,766	10,766
Hudson	56,638	56,638
Hunterdon	10,000	10,000
Mercer	22,000	22,000
Middlesex	25,277	25,277
Monmouth	26,213	26,213
Morris	10,298	10,298
Ocean	21,532	21,532
Passaic	34,170	34,170
Salem	10,000	10,000
Somerset	10,000	10,000
Sussex	10,000	10,000
Union	27,149	27,149
Warren	10,000	10,000

D. Groups or entities which may apply for the grant program:

1. Local school boards
2. Public agencies
3. Nonprofit organizations

E. Qualifications needed by an applicant to be considered for the grant program: Groups or entities planning to start a school-age child care program, groups or entities that administer an already existing school-age child care program.

F. Procedure for eligible entities to apply for grant funds: Agencies interested in applying for these funds should contact their county Human Services Advisory Council, listed below, as soon as possible for a Request For Proposal (RFP) form.

G. Address of division, office or official receiving the application: The completed RFP is to be returned to the Human Services Advisory Council in the county where the applicant is applying. Please direct questions concerning the administration of the program to: Steven K. Rosen, Office of Policy, Planning and Support, Division of Youth and Family Services, CN 717, Trenton, New Jersey, 08625.

H. Deadline by which applications must be submitted to the appropriate Human Services Advisory Council: Applicants should contact the appropriate Human Services Advisory Council to determine deadline, since deadlines will vary by county.

I. Date by which applicants shall be notified whether they will receive funds under the grant program: Applicants should contact the appropriate Human Services Advisory Council to determine notification dates, since notification dates will vary by county.

MAILING ADDRESSES OF COUNTY HUMAN SERVICES ADVISORY COUNCILS

COUNTY	STAFF PERSONS
ATLANTIC	Steve F. Katzen, Project Adm. Atlantic County Health Department Case Management Unit Stillwater Building 201 South Shore Road Northfield, NJ 08225 (609) 645-7700 x4323
BERGEN	Tom McKenna, Director Office of Policy and Planning 355 Main Street Hackensack, NJ 07601 (201) 646-3409
BURLINGTON	Gary Miller, Director Burlington County Mental Health and Human Services Woodlane Road Mount Holly, NJ 08060 (609) 265-5545
CAMDEN	Catherine DeCheser, Director Community Planning and Advocacy Council Human Services Coalition of Camden County Northgate I 7th and Linden Streets Camden, NJ 08102 (609) 966-0400
CAPE MAY	Patricia Devaney Cape May County HSAC CN 907 Central Mail Room Cape May Court House, NJ 08242 (609) 465-1056
CUMBERLAND	Eva Moffat, Staff Cumberland County HSAC 790 E. Commerce Street Cumberland Drive Bridgeton, NJ 08302 (609) 451-8000 x492 Copy to: Dr. Pat Salvin, Director Office of Health & Human Services County Administrative Bldg. 790 E. Commerce Street Bridgeton, NJ 08302
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(a)

DIVISION OF PUBLIC WELFARE

General Assistance Rate in Residential Health Care Facilities

Public Notice

Take notice that in accordance with N.J.A.C. 10:85-3.3(f)4i, the Department of Human Services announces that the rate to be paid for General Assistance recipients in Residential Health Care Facilities has been increased from $490.05 to $504.05 monthly. This change is effective January 1, 1988 and is the same in both the amount and effective date as the change in the rate for the same service paid to recipients under the Federal program of Supplemental Security Income.

(b)

DEVELOPMENTAL DISABILITIES COUNCIL

State Plan for Services for Persons with Disabilities

Take notice that the New Jersey Developmental Disabilities Council operates pursuant to state law P.L. 1979, Chapter 105, in keeping with the requirements of the federal Developmental Disabilities Services and Facilities Construction Act of 1970 P.L. 91-517 and the Developmental Disabilities Assistance and Bill of Rights Act of 1979 P.L. 94-103 and its amendments P.L. 95-602 of 1978, P.L. 98-527 of 1984, and P.L. 100-146 of 1987. The Act requires the existence in each state of a permanent, official planning and advisory council whose functions include: planning, by assessing the needs of the handicapped population; recommending immediate and long-range service priorities; and developing a state plan (which is revised and updated each year); coordination of all available service programs affecting the disabled; communications and provision of information; and provision for the utilization within the state of grant monies made available under the Act.

Take further notice that the 1987-1989 State Plan for Services for Persons with Disabilities is now published. Copies of the **full text** can be requested from:

Constance Hancock, Planner
Developmental Disabilities Council
108-110 N. Broad Street
Trenton, NJ 08625

A summary of the state Plan follows.

For each goal, the Council has developed three-year (long-term) objectives and plan-year (short-term) objectives aimed at attaining those goals. Specific activities to be undertaken by the Council through designated Council committees, and various public and private agencies are described.

GOAL A—**To encourage the existence of a wide range of research, education and service programs in the State toward the prevention of developmental disabilities wherever possible.**

THREE YEAR OBJECTIVE: A1) Make known the availability of prevention programs throughout the state.

PLAN YEAR OBJECTIVE: Continue to disseminate information regarding the availability of prevention programs to home health agencies in their efforts to inform parents of the availability of prevention programs and information on prevention.

PLAN YEAR OBJECTIVE ACTIVITIES: A1) Assist relevant agencies in their efforts to inform parents of the availability of prevention programs.

OUTCOME INDICATORS: (**Criteria for Evaluation**) Increase in number served in prevention programs.

COMMITTEE RESPONSIBLE: Public Information.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Department of Helath, and Department of Human Services, Department of Education, Office of Prevention.

PRIORITY SERVICE AREA: Nonspecified.

TYPE OF ACTIVITY: Outreach to individuals for the provision of services in area.

GOAL B—**To maintain, develop and expand a complete range of child development services for children with developmental disabilities, including early identification, diagnosis, evaluation, early intervention, and the counseling and training of parents.**

THREE YEAR OBJECTIVE: B1) Continue to support high quality early intervention programs throughout the State and assure timely access to these services.

PLAN YEAR OBJECTIVE ACTIVITIES: B1) Continue to participate with the Departments of Education, Health and Human Services in directing implementation of early intervention program guidelines.

OUTCOME INDICATORS: (Criteria Evaluation) Continued improvement and expansion of early intervention programs in the State.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Department of Human Services, Department of Health, and Department of Education.

PRIORITY SERVICE AREA: Child Development.

TYPE OF ACTIVITY: Provision of services in this area.

THREE YEAR OBJECTIVE: B2) To promote the implementation of the P.L. 99-457 (former Weicker bill) regarding services for infants ages 0-3.

PLAN YEAR OBJECTIVE ACTIVITIES: B2) Work with the Department of Education in the implementation of this law.

OUTCOME INDICATORS: (Criteria Evaluation) Coordination of a statewide system of services for infants ages 0-3 who have or are at risk of a developmental disability.

COMMITTEE RESPONSIBLE: Planning Committee.

IMPLEMENTING AGENCY: Department of Education and the Developmental Disabilities Council, Department of Human Services, and the Department of Health.

GOAL C—To improve access to and provide maximum coordination of existing resources available to people with developmental disabilities.

THREE YEAR OBJECTIVE: C1) To foster the transition of the Division of Mental Retardation to the Division of Developmental Disabilities.

PLAN YEAR OBJECTIVE: C1) To assist the Division of Developmental Disabilities with the implementation of recommendations made by the various task forces of Project Redirection.

PLAN YEAR OBJECTIVE ACTIVITIES: C1) Provide technical assistance and monitor the progress of the transition.

OUTCOME INDICATORS: (Criteria Evaluation) Number of developmentally disabled clients served.

COMMITTEE RESPONSIBLE: Project Redirection Advisory Committee.

IMPLEMENTING AGENCY: Developmental Disabilities Council, The Division of Developmental Disabilities, and The University Affiliated Facility.

THREE YEAR OBJECTIVE: C2) To foster cooperation and coordination between the new Division of Developmental Disabilities and other state agencies.

PLAN YEAR OBJECTIVE: C2) To establish interagency agreements regarding client services between the Division of Developmental Disabilities, the Division of Youth and Family Services, the Division of Vocational Rehabilitation, the Division of Mental Health and Hospitals, and the Department of Education, and the Department of Health.

PLAN YEAR OBJECTIVE ACTIVITIES: C2) Monitor agency progress regarding the development of the agreements.

OUTCOME INDICATORS: (Criteria for Evaluation) Comprehensive Interagency Planning for social service delivery to the developmentally disabled.

COMMITTEE RESPONSIBLE: Project Redirection Advisory Committee.

IMPLEMENTING AGENCY: Developmental Disabilities Council, The Division of Development Disabilities, Division of Youth and Family Services, Division of Vocational Rehabilitation, Department of Education, Division of Mental Health and Hospitals, and the Department of Health.

THREE YEAR OBJECTIVE: C3) Continue to oversee and foster coordination among public and voluntary agencies serving persons with developmental disabilities, particularly at the county level.

PLAN YEAR OBJECTIVE: C3) Share and coordinate relevant information regarding developmental disabilities between the Council, public agencies, County Human Service Advisory Councils, and County Offices on the Handicapped.

PLAN YEAR OBJECTIVE ACTIVITIES: C3) Provide County Human Service Advisory Councils and County Offices on the Handicapped where they exist, with information concerning the needs of persons with developmental disabilities.

OUTCOME INDICATORS: (Criteria for Evaluation) County plans of the County Human Service Advisory Councils and County Offices on the Handicapped that are responsible to the needs of developmentally disabled persons.

COMMITTEE RESPONSIBLE: Public Information, Advocacy.

IMPLEMENTING AGENCY: County Human Service Advisory Councils, County Offices on the Handicapped and the Developmental Disabilities Council.

THREE YEAR OBJECTIVE: C4) To work with the Department of Education regarding plans for the restructuring of special education programs.

PLAN YEAR OBJECTIVE: C4) To review the Department of Education's response to Public review of proposed changes for special education.

PLAN YEAR OBJECTIVE ACTIVITIES: C4) To monitor the progress of the restructuring of special education.

OUTCOME INDICATORS: (Criteria for Evaluation) Completion and implementation of a revised plan that is responsive to the needs of developmentally disabled students.

COMMITTEE RESPONSIBLE: Advocacy.

IMPLEMENTING AGENCY: Developmental Disabilities Council and Department of Education.

THREE YEAR OBJECTIVE: C5) To continue promoting the use of SCRIP (the Statewide Computerized Referral-Information Program) as a means to provide effective service referral to persons with developmental disabilities.

PLAN YEAR OBJECTIVE: C5) To increase the utilization of SCRIP by other referral agencies.

PLAN YEAR OBJECTIVE ACTIVITIES: C5) Continue to coordinate publicity and service activities with relevant agencies and groups using SCRIP or initiating related information and referrals.

OUTCOME INDICATORS: Number of SCRIP calls received and amount of agency utilization.

COMMITTEE RESPONSIBLE: Public Information.

IMPLEMENTING AGENCY: Developmental Disabilities Council.

THREE YEAR OBJECTIVES: C6) Promote acceptance and implementation of those recommendations made by the Governor's Task Force on the Disabled that impact on persons with developmental disabilities and their families.

PLAN YEAR OBJECTIVES: C6) Review, analyze, and develop these recommendations of the Task Force that are pertinent to the work of the Council.

PLAN YEAR OBJECTIVES ACTIVITIES: C6) Analyze recommendations and develop strategies to implement applicable recommendations.

OUTCOME INDICATORS: (Criteria for Evaluation) Acceptance and implementation of identified recommendations.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council and relevant agencies.

GOAL D—To maintain and expand, throughout the State, a variety of quality community living arrangements and community-based support services for youths and adults with developmental disabilities.

THREE YEAR OBJECTIVE: D1) Work with the Division of Developmental Disabilities in making outreach efforts to identify and expand potential providers of community living arrangements.

PLAN YEAR OBJECTIVE: D1) To develop and implement outreach strategies to attract new providers in meeting current placement needs.

PLAN YEAR OBJECTIVE ACTIVITIES: D1) Monitor the outreach efforts to the Division of Developmental Disabilities and assist in the development and implementation of the strategies.

OUTCOME INDICATORS: (Criteria for Evaluation) Number of services expanded and new providers attracted, and reduction of waiting lists for placement.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Division of Developmental Disabilities and Developmental Disabilities Council.

THREE YEAR OBJECTIVE: D2) Increase the variety, quantity and distribution of community living arrangements for those who are developmentally disabled but not retarded.

PLAN YEAR OBJECTIVE: D2) To continue to promote the acceptability of community living for those with developmental disabilities.

PLAN YEAR OBJECTIVE ACTIVITIES: D2) Work with the Division of Developmental Disabilities to create specific strategies to promote public acceptance of community living arrangements.

OUTCOME INDICATORS: Increase in number of Community living arrangements developed.

COMMITTEE RESPONSIBLE: Planning, Public Information.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Division of Developmental Disabilities and private agencies.

THREE YEAR OBJECTIVE: D3) To develop mechanisms enabling people with developmental disabilities and their families in adapting their own homes to create a barrier free environment.

PLAN YEAR OBJECTIVE: D3) Working in cooperation with the Division of Developmental Disabilities and experts on the Barrier Free Code, to evaluate the usefulness of low interest loans and other programs and identify possible need for additional mechanisms.

PLAN YEAR OBJECTIVE ACTIVITIES: D3) Meet with representatives from the Division of Developmental Disabilities and other agencies to review available programs and determine needed changes and identify new initiatives.

OUTCOME INDICATORS: (Criteria for Evaluation) The existence of mechanisms which assist those with developmental disabilities and their families in adapting their own homes.

COMMITTEE RESPONSIBLE: Advocacy, Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council and other relevant agencies.

THREE YEAR OBJECTIVES: D4-1) To foster coordination among, and provide assistance to those seeking to develop community residential programs.

PLAN YEAR OBJECTIVE: D4-1) Continue to work with the DDD and DCA to overcome barriers in the codes and regulations regarding life safety issues involving the development of community living arrangements for the physically disabled.

PLAN YEAR OBJECTIVE ACTIVITIES: D4-1) Meet with key agency representatives and develop strategies and recommendations.

OUTCOME INDICATORS: (Criteria for Evaluation) Number of community living arrangements developed for the physically disabled.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Department of Community Affairs, and Division of Developmental Disabilities.

THREE YEAR OBJECTIVE: D4-2) To foster coordination among, and provide assistance to those seeking to develop community residential programs.

PLAN YEAR OBJECTIVE: D4-2) Development of a housing bank that would list those apartments/housing that is barrier-free.

PLAN YEAR OBJECTIVE ACTIVITIES: D4-2) Meet with key agency representatives and develop strategies and recommendations.

OUTCOME INDICATORS: The existence of a housing bank.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council and the Division of Developmental Disabilities

THREE YEAR OBJECTIVE: D5) To continue appropriate utilization of the Medicaid Waiver which allows the Division of Developmental Disabilities to provide Medicaid reimbursable community-based services to clients who would otherwise require ICF (Intermediate Care Facility) certified residential programs.

PLAN YEAR OBJECTIVE: D5) Work with the Division of Developmental Disabilities in possible expansion options in use of the Medicaid Waiver Funds.

PLAN YEAR OBJECTIVE ACTIVITIES: D5) Work with the Division of Developmental Disabilities to develop strategies for the further use of Waiver funds.

OUTCOME INDICATORS: (Criteria for Evaluation) Increase in the volume of community services available under the waiver.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council and Division of Developmental Disabilities.

THREE YEAR OBJECTIVE: D6-1) To promote the establishment of a multi-component support system (respite care) which would address itself to the alleviation of family stress.

PLAN YEAR OBJECTIVE: D6-1) To develop viable out of home respite models throughout the State for all types of disability groups and for all age ranges.

PLAN YEAR OBJECTIVE ACTIVITIES: D6-1) Provide guidelines for the establishment and use of family support programs.

OUTCOME INDICATORS: (Criteria for Evaluation) The expansion of comprehensive support systems for families of persons with developmental disabilities.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council and Division of Developmental Disabilities.

THREE YEAR OBJECTIVE: D6-2) To promote the establishment of a multicomponent support system (respite care) which would address itself to the alleviation of family stress.

PLAN YEAR OBJECTIVE: D6-2) To promote the provision of parent training for respite providers to families of the developmentally disabled.

PLAN YEAR OBJECTIVE ACTIVITIES: D6-2) Provide guidelines for the establishment and use of support parent training programs.

OUTCOME INDICATORS: (Criteria for Evaluation) The number of new parent training programs located statewide.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council and Division of Developmental Disabilities.

THREE YEAR OBJECTIVE: D7) To continue to promote special needs adoption services throughout the State.

PLAN YEAR OBJECTIVE: D7) Monitor the implementation of special needs adoption services.

PLAN YEAR OBJECTIVE ACTIVITIES: D7) Provide support and information regarding special needs adoption to families and prospective parents.

OUTCOME INDICATORS: (Criteria for Evaluation) Increase in special needs adoption and support services.

COMMITTEE RESPONSIBLE: Advocacy.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Private Agencies, Division of Youth and Family Services, Division of Developmental Disabilities.

GOAL E—**To continue to encourage the existence of a coordinated, multi-purpose transportation system which is responsive to the needs of persons with developmental disabilities.**

THREE YEAR OBJECTIVE: E) To foster coordination among public and private agencies currently providing transportation services for persons with developmental disabilities, so that existing resources can be maximized.

PLAN YEAR OBJECTIVE: E) Continue working with the Division of Developmental Disabilities, NJ Transit, and the Department of Transportation to improve and coordinate transportation services to the developmentally disabled.

PLAN YEAR OBJECTIVE ACTIVITIES: E) Meet with representatives of the office of Public Transportation Services to monitor their activities. Assist with the implementation of the Senior Citizen and Disabled Resident Transportation Assistance Act by the NJ Transit Corporation.

OUTCOME INDICATORS: (Criteria for Evaluation) The availability of transportation services to persons with disabilities.

COMMITTEE RESPONSIBLE: Advocacy.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Division of Developmental Disabilities, Department of Transportation, and NJ Transit Corporation.

GOAL F—**To encourage integration of individuals with developmental disabilities into generic leisure time and recreation activities and to develop and maintain quality specialized recreation activities for persons with the most severe disabilities.**

THREE YEAR OBJECTIVE: F) Encourage throughout the State the integration of people with developmental disabilities into generic leisure time, recreation activities, and the development of specialized leisure time activities for severely disabled persons.

PLAN YEAR OBJECTIVE: F) To encourage the development of reliable bases of support and responsibility for both integrated and specialized leisure time and recreation activities.

PLAN YEAR OBJECTIVE ACTIVITIES: F) To continue to monitor and assist the Department of Community Affair's Commission on Recreation for the Handicapped, the Statewide Recreation Advocacy Organization (Project Network), and the County teams for Project Network toward these ends.

OUTCOME INDICATORS: (Criteria for Evaluation) The number and availability of specialized and generic leisure and recreation programs.

COMMITTEE RESPONSIBLE: Advocacy.

IMPLEMENTING AGENCY: Developmental Disabilities Council and Department of Community Affairs.

GOAL G—**To promote the existence in New Jersey of a personal coordination service (case management) and to provide for the comprehensive and lifelong service need of individuals with developmental disabilities.**

THREE YEAR OBJECTIVE: G) To create a meaningful case management system to provide for the comprehensive and lifelong service needs of persons with developmental disabilities.

PLAN YEAR OBJECTIVE: G) To complete the development of training programs and implement the administrative changes within the case management system as recommended by the University Affiliated Facility and approval by the Developmental Disabilities Council.

PLAN YEAR OBJECTIVE ACTIVITIES: G) Continued to support the recommendation of Project Case Management.

OUTCOME INDICATORS: (Criteria for Evaluation) Implementation of a new case management system within the Division of Developmental Disabilities and the Department of Health with an increase of developmentally disabled persons served.

COMMITTEE RESPONSIBLE: Planning:

IMPLEMENTING AGENCY: Developmental Disabilities Council, Division of Developmental Disabilities, and the University Affiliated Facility and the Department of Health.

GOAL H—To encourage the existence of a complete and meaningful spectrum of employment and other community-based day programs for youths and adults with developmental disabilities, regardless of their functioning level.

THREE YEAR OBJECTIVE: H1) To encourage the availability of a full range of day programs including competitive sheltered, extended and supported employment opportunities, work activity centers, and socialization programs throughout the State.

PLAN YEAR OBJECTIVE: H1) To encourage the development of innovative employment initiatives which would utilize resources available through private industry to facilitate the employment of a targeted group of severely disabled people.

PLAN YEAR OBJECTIVE ACTIVITIES: H1) Work with representatives of the Division of Developmental Disabilities, Division of Vocational Rehabilitation, and Department of Education, Department of Health; private industry, and others to develop amd implement a special initiative toward employment to a targeted group of severely handicapped persons.

OUTCOME INDICATORS: (Criteria for Evaluation) Development of innovative employment programs.

COMMITTEE RESPONSIBLE: Advocacy.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Division of Vocational Rehabilitation, Division of Developmental Disabilities, Department of Education, Department of Health and the private sector.

THREE YEAR OBJECTIVE: H2) To work towards the development of a centralized resource for rehabilitation engineering.

PLAN YEAR OBJECTIVE: H2) Continue working with the Division of Developmental Disabilities, Division of Vocational Rehabilitation, Department of Education and the University Affiliated Facility to develop and expand our knowledge in this area.

PLAN YEAR OBJECTIVE ACTIVITIES: H2) Work with representatives from the various State agencies, higher education and private industry to plan and implement a centralized resource for rehabilitation engineering.

OUTCOME INDICATORS: (Criteria for Evaluation) Development of a centralized resource for this area.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Division of Developmental Disabilities, Division of Vocational Rehabilitation, Department of Education, and the University Affiliated Facility.

THREE YEAR OBJECTIVE: H3) To encourage a systematic flow among the levels to permit upward mobility of clients within the spectrum of day programs.

PLAN YEAR OBJECTIVE: H3) To continue to work with the Division of Vocational Rehabilitation, Department of Education, and the Division of Developmental Disabilities to coordinate services and reduce gaps in program delivery.

PLAN YEAR OBJECTIVE ACTIVITIES: H3) To monitor the progress made by both divisions and the public schools in their program development, identify weaknesses, and make recommendations.

OUTCOME INDICATORS: (Criteria for Evaluation) Improvement in ease of transitioning for clients and increase in the number of clients moved to a more competitive setting.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Division of Developmental Disabilities, Division of Vocational Rehabilitation, and the Department of Education.

THREE YEAR OBJECTIVE: H4) Improve vocational training services to assist in the transition from special education to employment.

PLAN YEAR OBJECTIVE: H4) To encourage the development and implementation of transitional vocational programs into special education programs by fostering cooperation among vocational training, rehabilitation, and education.

PLAN YEAR OBJECTIVE ACTIVITIES: H4) Continue to communicate with involved agencies and provide technical assistance to the Department of Education in its development and implementation of transitional programs.

OUTCOME INDICATORS: (Criteria for Evaluation) Number of special education students referred and placed in transitional vocational programs.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Division of Developmental Disabilities, Division of Vocational Rehabilitation, and the Department of Education.

THREE YEAR OBJECTIVE: H5) To increase the number of developmentally disabled persons in the competitive work force.

PLAN YEAR OBJECTIVE: H5) Continue to work conjointly with the Governor's Committee on Disabilities and the University Affiliated Facility to develop and expand our knowledge in this area.

PLAN YEAR OBJECTIVE ACTIVITIES: H5) Work with representatives from the various state agencies of higher education and the private sector to study and make recommendations for their creation of a technical institute for the deaf.

OUTCOME INDICATORS: (Criteria for Evaluation) Development of a technical institute.

IMPLEMENTING AGENCY: Developmental Disabilities Council, Division of Developmental Disabilities, Division of Vocational Rehabilitation, Department of Education, and the University Affiliated Facility.

THREE YEAR OBJECTIVE H6) To work towards the development of a technical institute for the deaf in NJ.

PLAN YEAR OBJECTIVE: H6) Inform the developmental disability community about the Social Security Act Sections 1619 A and B.

PLAN YEAR OBJECTIVE ACTIVITIES: H6) Develop a training program about the Act for consumers, their families and involved social service professionals.

OUTCOME INDICATORS: An increase in the number of developmentally disabled persons in competitive workforce.

IMPLEMENTING AGENCY: Developmental Disabilities Council.

GOAL I—To foster the development of positive public attitudes toward persons with developmental disabilities.

THREE YEAR OBJECTIVE: I) Expand public awareness and acceptance of persons with developmental disabilities.

PLAN YEAR OBJECTIVE: I) Encourage public acceptance of persons with developmental disabilities.

PLAN YEAR OBJECTIVE ACTIVITIES: I) Continue to issue the Council's bi-monthly newsletter, *Interface,* foster the broadcast of television, and radio announcements, distribute the updated consumer handbook, revise Council posters, and make widely known the use of staff as speakers. II) Support the Division of Developmental Disabilities' Office Community Education and other related programs.

OUTCOME INDICATORS: (Criteria for Evaluation) Number of persons on mailing list, number of speaking engagements; number of participants at the State Conference; number of television and radio spots, and number of phone calls received.

COMMITTEE RESPONSIBLE: Public Information.

IMPLEMENTING AGENCY: Developmental Disabilities Council, and the Division of Developmental Disabilities.

GOAL J—The protection of the civil rights of persons with developmental disabilities.

THREE YEAR OBJECTIVE: J1) To monitor, encourage, and assist in the operation of the system of advocacy and civil rights protection for persons with developmental disabilities in New Jersey.

PLAN YEAR OBJECTIVE: J1a) To continue to support and define obstacles to the exercise of civil rights by citizens with developmental disabilities, including those rights which are guaranteed under Sections 503 and 504 of the Vocational Rehabilitation Act, P.L. 94-142, the Education of All Handicapped Children Act, the Developmental Disabilities State Bill of Rights, and other such entitlements. Such efforts shall focus on, but not be limited to, obstacles related to treatment and care, habilitation and rehabilitation, financial entitlements, mobility and accessibility, education, employment, and the right to live in the community.

PLAN YEAR OBJECTIVE ACTIVITIES: J1a) Through the Council's Committee on Advocacy and staff, continue to advise, monitor and encourage the Division of Advocacy for the Developmentally Disabled and related agencies to define and work toward the elimination of obstacles to the exercise of civil rights by developmentally disabled persons in New Jersey. Members of the Council and the Executive Director will continue to be active members of the ad hoc advisory committee to the Division of Advocacy for the Developmentally Disabled.

OUTCOME INDICATORS: (Criteria for Evaluation) Documentation of obstacles overcome.

COMMITTEE RESPONSIBLE: Advocacy.

IMPLEMENTING AGENCY: Developmental Disabilities Council and Division of advocacy for the Developmentally Disabled.

THREE YEAR OBJECTIVE: J1) To monitor, encourage and assist in operation of the system of advocacy and civil rights protection for persons with developmental disabilities in New Jersey.

PLAN YEAR OBJECTIVE: J1b) To continue to press for the enactment of protective intervention legislation which would apply to all adults with developmental disabilities.

PLAN YEAR OBJECTIVE ACTIVITIES: J1b) Monitor progress of legislation and take action as indicated.

OUTCOME INDICATORS: (Criteria for Evaluation) Passage of protection intervention legislation.

COMMITTEE RESPONSIBLE: Legislative.

IMPLEMENTING AGENCY: Developmental Disabilities Council, and Division of Advocacy for the Developmentally Disabled.

GOAL K—**To encourage the existence of professional and non-professional human services personnel who will serve to enhance the quantity and quality of services to individuals with developmental disabilities.**

THREE YEAR OBJECTIVE: K) To seek modifications of professional and non-professional human services personnel to meet the service needs of persons with developmental disabilities.

PLAN YEAR OBJECTIVE: K) Continue to work with the expanded University Affiliated Facility whose emphasis will be to identify personnel needs and develop programs aimed at improving the quality of services available to persons with developmental disabilities.

PLAN YEAR OBJECTIVE ACTIVITIES: K) Work with the University Affiliated Facility in the development and implementation of interdisciplinary training programs for professionals and paraprofessionals serving the developmentally disabled.

OUTCOME INDICATORS: (Criteria for Evaluation) Availability of interdisciplinary training programs for professional and papaprofessionals serving the developmentally disabled people.

COMMITTEE RESPONSIBLE: Planning, Manpower.

IMPLEMENTING AGENCY: Developmental Disabilities Council, the University Affiliated Facility, and the Division of Developmental Disabilities.

GOAL L—**To ensure the effectiveness, efficiency and responsiveness of the Developmental Disabilities Council as a leadership planning body for all persons with developmental disabilities in New Jersey.**

THREE YEAR OBJECTIVE: L1) To conduct meaningful systematic evaluations of the Council's activities as a major component of the goal setting and planning process.

PLAN YEAR OBJECTIVE: L1a) To review annually the goals and objectives presented in the *New Jersey State Plan* (or its updates) and the Council's progress toward the achievement of long range and plan year objectives.

PLAN YEAR OBJECTIVE ACTIVITIES: L1a) The Planning committee and staff shall conduct a systematic evaluation of the goals and objectives and will report to the Council on the compliance and congruency of these goals.

OUTCOME INDICATORS: (Criteria for Evaluation) ***Objectives for goal "L" suggest those activities be undertaken by the Council and its staff to achieve objectives A through L. Subsequently, outcome indicators are the same and therefore are not repeated.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council.

THREE YEAR OBJECTIVE: L1) To conduct meaningful systematic evaluations of the Council's activities as a major component of the goal setting and planning process.

PLAN YEAR OBJECTIVE: L1b)To maintain contact with a wide variety of consumer groups.

PLAN YEAR OBJECTIVE ACTIVITIES: L1b) Continue to network and keep abreast of issues throughout the State that concern the developmentally disabled population and utilize this input in the Council's annual goal setting and planning process.

OUTCOME INDICATORS: (Criteria for Evaluation) The Council evidences awareness of major concerns of people with developmental disabilities.

COMMITTEE RESPONSIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council.

THREE YEAR OBJECTIVE: L1) To conduct meaningful systematic evaluations of the Council's activities as a major component of the goal setting and planning process.

PLAN YEAR OBJECTIVE: L1c) To ensure maximum utilization of all resources available or potentially available to persons with developmental disabilities, especially resources provided by the developmental disability service fund.

PLAN YEAR OBJECTIVE ACTIVITIES: L1c) The Council will continue to act as a resource and in an advisory capacity to the administering agency to improve grants management, operations, and to develop and implement other evaluative mechanisms.

OUTCOME INDICATORS: (Criteria for Evaluation) ***

COMMITTEE RESPONSIBLE: Executive.

IMPLEMENTING AGENCY: Developmental Disabilities Council and Division of Developmental Disabilities.

THREE YEAR OBJECTIVE: L1) To conduct meangingful systematic evaluations of the Council's Activities as a major component of the goal setting and planning process.

PLAN YEAR OBJECTIVE: L1d) To maximize the effectiveness of the Council staff.

PLAN YEAR OBJECTIVE ACTIVITIES: L1d) The Executive Director will carry out with staff, the State's mechanism of employee evaluations.

OUTCOME INDICATORS: (Criteria for Evaluation) An effective staff.

IMPLEMENTING AGENCY: Developmental Disabilities Council.

THREE YEAR OBJECTIVE: L2) To continue to improve the Council's planning techniques and capabilities.

PLAN YEAR OBJECTIVE: L2) Continue to improve and expand the Council's ability to collect, make available and share data by effectively using SCRIP.

PLAN YEAR OBJECTIVE ACTIVITIES: L2) Council staff will share and analyze data with the planning staff of other State and private agencies.

OUTCOME INDICATORS: (Criteria for Evaluation)
***

COMMITTEE RESPONIBLE: Planning.

IMPLEMENTING AGENCY: Developmental Disabilities Council.

INSURANCE

(a)

THE COMMISSIONER

Public Notice on Exportable List

Take notice that, under the provisions of N.J.S.A. 17:22-6.43, the Commissioner of the Department of Insurance may declare eligible for export any class or classes of insurance coverage or risk for which he or she finds, after a hearing, that there is no reasonable or adequate market among authorized insurers.

In accordance with this statute, a public hearing was held on February 19, 1988 at 10 A.M. in room 102 at the Department of Personnel, 201 E. State Street, Trenton, New Jersey. Notice of the hearing was published in the New Jersey Register on February 1, 1988 at 20 N.J.R. 302(a). In addition, the Department sent copies of the notice for this hearing to all authorized companies and to all surplus lines agents.

The Department received only three written comments in response to the notice. One comment from the Home Insurance Company urged expansion of the so called exportable list to include the following classes of insurance: Livestock-Infertility; Livestock-Barrenness; Livestock-Prospective Foal; Livestock-Mortality; and Stud Fee Coverage. The other two comments were from the Homestead Insurance Company and suggested expansion of the exportable list to include: service contract reimbursement insurance policy and automobile mechanical service contract reimbursement insurance policy. All three comments contain general assertions that there is no available market at present for these coverages. No survey, data or other documentation to substantiate these general assertions were provided.

No witnesses appeared at the scheduled hearing held on February 19, 1988.

Upon consideration of the above, I am unconvinced that there is any class or classes of insurance or risk for which there is no reasonable or adequate market among authorized insurers. Accordingly, I have determined that the current Exportable List shall expire on May 17, 1988, unless otherwise extended.

Interested persons have until April 24, 1988 to submit in writing, data, views or arguments relevant to the continuation of the Exportable List.

If additional submissions are received within that time, another public hearing will be scheduled. These submissions should be addressed to:

Department of Insurance
Financial Examination Division
Surplus Lines Examining Office
CN-325
Trenton, New Jersey 08625

TREASURY-GENERAL

(a)

DIVISION OF BUILDING AND CONSTRUCTION

Architect-Engineer Selection
Notice of Assignments—Month of February 1988

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, prequalified New Jersey consulting firms. For information on DBC's prequalification and assignment procedures, call (609) 984-6979.

Last list dated February 3, 1988.

The following assignments have been made:

DBC No.	PROJECT	A E	CCE
M776	Asbestos Removal Power House Garrett W. Hagedorn Center Glen Gardner, NJ	Gaudet Associates	$200,000
C344	Roof Replacement Wings 3, 5 and 6 Trenton State Prison Trenton, NJ	S & ME	$125,000
C363	Feasibility Study New Prison Site Jamesburg Training School for Boys Jamesburg, NJ	Berson, Ackermann & Associates	$5,000 Services
P564	Health & Safety Plan Union Lake Dam Millville, NJ	Princeton Testing Labs, Inc.	$8,000 Services
H885	Testing/Inspection Services Pavement Resurfacing & Repair Glassboro State College Glassboro, NJ	Certified Testing Labs	$950 Services
M094	Claims Analysis Renovations to Cottages Woodbridge Developmental Center Woodbridge, NJ	O'Brien-Kreitzberg & Associates, Inc.	$62,500 Services
P559	Engineering Study of Humidity Problems Drumthwacket Estate Princeton, NJ	M. Benton & Assoc.	$2,000 Services
P560	Restoration of Thomas Olden House Princeton, NJ	Parham-Zink	$40,000
I031	Asbestos Removal Power House Trenton State College Trenton, NJ	Northeastern Analytical Corp.	$55,000
M752 Reassigned Project	Auto-Synchronization of Generators Woodbridge Developmental Center Woodbridge, NJ	Barnickel Engineering	$105,000
M801	Roadway/Parking Improvements Various Projects—South Dept. of Human Services	Gannett Fleming	$780,000 Total CCE
M801-01	Roadway/Parking Improvements Vineland Memorial Home	Gannett Fleming	$22,500
M801-02	Roadway/Parking Improvements Vineland Residential Center	Gannett Fleming	$20,500
M801-03	Roadway/Parking Improvements Camden County Day Training Center	Gannett Fleming	$68,000
M801-04	Roadway/Parking Improvements Ancora Psychiatric Hospital	Gannett Fleming	$323,000
M801-05	Roadway/Parking Improvements Ewing Residential Center Mercer County Day Training Center	Gannett Fleming	$90,000
M801-07	Roadway/Parking Improvements Cumberland County Day Training Center	Gannett Fleming	$22,000
M801-08	Roadway/Parking Improvements New Lisbon Developmental Center	Gannett Fleming	$24,500
M801-09	Roadway/Parking Improvements Woodbine Developmental Center	Gannett Fleming	$115,300
M801-10	Roadway/Parking Improvements Ocean County Day Training Center	Gannett Fleming	$35,600
M801-11	Roadway/Parking Improvements Johnstone Developmental Center	Gannett Fleming	$59,400
M802	Roadway/Parking Improvements Various Projects—North Dept. of Human Services	URS Company, Inc.	$1,306,700 Total CCE
M802-01	Roadway/Parking Improvements Union County D.T.C./Plainfield Group Home	URS Company, Inc.	$87,100
M802-02	Roadway/Parking Improvements Woodbridge Developmental Center Menlo Home for Disabled Soldiers	URS Company, Inc.	$80,700
M802-03	Roadway/Parking Improvements Group Care Homes E. Windsor/Roosevelt, Freehold	URS Company, Inc.	$21,000
M802-04	Roadway/Parking Improvements Group Care Home E. Amwell, NJ	URS Company, Inc.	$7,000
M802-05	Roadway/Parking Improvements Marlboro Psychiatric Hospital Plainfield Group Care Home	URS Company, Inc.	$379,300
M802-06	Roadway/Parking Improvements No. Princeton Developmental Center	URS Company, Inc.	$350,800
M802-07	Roadway/Parking Improvements Hagedorn Geriatric Center	URS Company, Inc.	$34,000
M802-08	Roadway/Parking Improvements Greystone Psychiatric Hospital	URS Company, Inc.	$53,100
M802-09	Roadway/Parking Improvements Passaic County Day Training Center	URS Company, Inc.	$79,700
M802-10	Roadway/Parking Improvements Warren County Day Training Center	URS Company, Inc.	$31,600
M802-11	Roadway/Parking Improvements Hudson County Day Training Center	URS Company, Inc.	$27,400
M802-12	Roadway/Parking Improvements Bergen County Day Training Center	URS Company, Inc.	$17,700
M802-13	Roadway/Parking Improvements Hunterdon Developmental Center	URS Company, Inc.	$133,900
F049	Facility Consultant-FY 88 Stockton State College	Wasleski, Steelman, Sindoni & Wertz	$25,000
C355	Northern State Prison Expansion Newark, NJ	Vitetta Group	$19,200,000

COMPETITIVE PROPOSALS

Vitetta Group	2.475%
Grad Partnership	2.76%
CUH2A	2.85%

C354	Feasibility Study Additional Bedspaces Annandale Youth Correctional Institution Annandale, NJ	Gilbert L. Seltzer Associates	$29,990

COMPETITIVE PROPOSALS

Gilbert L. Seltzer Associates	$29,990 Lump Sum
BBM Architects	$39,900 Lump Sum
Grad Partnership	$46,103 Lump Sum

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Petition for Rulemaking
Presentation of the Agreements concerning Casino Licensees
N.J.A.C. 19:41-11.1

Petitioners: Trump Plaza Associates.
Authority: N.J.S.A. 5:12-69(c), 5:12-104, and 52:14B-4(f); and N.J.A.C. 1:30-3.6.

Take notice that on February 16, 1988, Trump Plaza Associates filed a rulemaking petition with the Casino Control Commission requesting an amendment to N.J.A.C. 19:41-11.1.

N.J.A.C. 19:41-11.1(c) currently requires a vendor registration form to be filed with the Commission for any enterprise which has not previously been registered with the Commission within 10 calendar days following the formal offer and acceptance of an agreement between that enterprise and a casino licensee. The petitioner contends that this filing requirement, which is dependent upon the legal concept of "offer and acceptance," is confusing to persons who are not legally trained and as a result, many technical violations of N.J.A.C. 19:41-11.1(c) occur unnecessarily.

To remedy this situation, the petitioner proposes to delete that portion of the rule that utilizes the formal offer and acceptance of the agreement as the trigger mechanism for the filing of a completed vendor registration form. Rather, the petitioner would focus upon the date on which payment is tendered as a more readily identifiable event and would amend the rule to require that the vendor registration form be filed within 10 days following the "tender of any monies to any enterprise."

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69(c).

(b)

CASINO CONTROL COMMISSION

Petition for Rulemaking
Acceptance of Cash Equivalents
N.J.A.C. 19:45-1.25

Petitioners: Marina Associates and Trump's Castle Associates.
Authority: N.J.S.A. 5:12-69(c), 5:12-70(g), and 52:14B-4(f); and N.J.A.C. 1:30-3.6.

Take notice that on February 4, 1988, Marina Associates and Trump's Castle Associates filed a rulemaking petition with the Casino Control Commission requesting an amendment to N.J.A.C. 19:45-1.25.

The petitioners disagree with the Division of Gaming Enforcement's interpretation of N.J.A.C. 19:45-1.25(e) regarding the verification procedures for bank-issued cash equivalents. The petitioners contend that the Division's assertion that the verification procedures require that the issuing institution be contacted prior to acceptance of a cash equivalent, in effect, means that no bank-issued cash equivalent, such as a cashiers' check or a certified check, can be accepted from a patron during non-banking hours. This interpretation, they contend, would have serious economic impact upon the casinos since the majority of the casinos' operations take place during non-banking hours.

Accordingly, in order to resolve this disagreement and to codify what they state is standing industry practice in Atlantic City, the petitioners propose certain amendments to N.J.A.C. 19:45-1.25(e). The proposed amendments would specifically delineate a three-step verification procedure prior to accepting cash equivalents at any time. The first step would require a visual inspection of the cash equivalent to determine it has not been altered. The second step would require a comparison to cash equivalents previously accepted by the casino licensee. Finally, a reference would be made to the Directory of Banking Institutions to verify the bank name, address and ABA number on the cash equivalent. All cash equivalents so accepted would be photocopied and filed in a cash equivalent log or book.

After due notice, the petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69(c).

(c)

CASINO CONTROL COMMISSION

Petition for Rulemaking
Gaming Equipment-Roulette
N.J.A.C. 19:46-1.7

Petitioner: Paul-Son Dice & Card, Inc.
Authority: N.J.S.A. 5:12-69(c) and 5:12-70(i)

Take notice that on March 3, 1988, Paul-Son Dice & Card, Inc. filed a rulemaking petition with the Casino Control Commission proposing an amendment to N.J.A.C. 19:46-1.7.

The petitioner's proposal would permit alternative color designations for the bases of the equally spaced compartments or pockets of the roulette wheel upon which the ball comes to rest. As presently authorized, the bases of these pockets correspond to the colors on the outward facing number ring. That is, 36 pockets are colored alternately red and black, and the pockets for the single zero and double zero are colored green. As proposed, this amendment to N.J.A.C. 19:46-1.7(b) would allow the color of the base of each pocket to either correspond to the color depicted on the outward facing number ring or permit the use of a solid color of silver or gold. It is the petitioner's contention that allowing a solid color of silver or gold would permit more movable parts in the construction of the wheel thereby providing flexibility in the use of the wheel and greater integrity to the game.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 52:14B-4.

COMMUNITY AFFAIRS

(d)

DIVISION OF HOUSING AND DEVELOPMENT

Notice of Publication and Incorporation of Education Enhancements to the Uniform Construction Code
N.J.A.C. 5:23-3.11A

Authorized By: Leonard S. Coleman, Jr., Commissioner, Department of Community Affairs.
Authority: N.J.S.A. 52:27D-123 and 124.
Filed: March 4, 1988.

Take notice that the Department of Community Affairs (Department) is incorporating into the provisions of N.J.A.C. 5:23-3.11A the education enhancements to the Uniform Construction Code promulgated by the Department of Education as N.J.A.C. 6:22-2.3, effective October 21, 1985, as amended by the rule adoption of the Department of Education published in this issue of the New Jersey Register at 20 N.J.R. 788(a).

This publication and incorporation is authorized by N.J.S.A. 52:27D-123c, which provides, in pertinent part, that "... whenever the State Board of Education shall determine that enhancements to the code are essential to the maintenance of a thorough and efficient system of education, the enhancements shall be made part of the code ... Upon adoption of any amendments by the State Board of Education they shall be transmitted forthwith to the Commissioner of the Department of Community Affairs who shall publish and incorporate the amendments as part of the Uniform Construction Code ..."

Full text of the rule incorporation follows (additions indicated in boldface **thus**):

5:23-3.11A Enforcement activities reserved to other State agencies

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

(d) The State Department of Education shall be responsible for enforcing the following Uniform Construction Code Enhancements in public school buildings:

1. All doors equipped with latching devices in buildings of use group E or portions of buildings used for assembly for educational purposes and which serve rooms or spaces with an occupant load greater than 50 shall be equipped with approved panic hardware.

2. Guardrails along stair runs and landings shall be at 42 inches above the tread nosing without exception.

3. All heating appliances intended to supply domestic hot water or hot water/steam for space heating shall not be located in any instructional room in use group E, as designated in the Building Officials Code Administrators National Code (BOCA) except for industrial arts and vocational education shops and laboratories.

4. An electric solenoid key-operated gas shut-off switch shall be installed in all gas supply lines to all instructional rooms, laboratories, shops or other spaces in use group E where gas is used by students.

5. An automatic fire detection system shall be installed in all new buildings of use group E (educational), as designated in the BOCA National Building Code/87 1017.3.1 and in accordance with applicable National Fire Protection Association standards. The system shall utilize:

i. Combination fixed-temperature and Rate of Rise device in classrooms and other spaces not covered in (a)5ii. below;

ii. Devices to detect abnormal visible smoke densities or gaseous products of combustion are required in corridors and exit stairs;

iii. An automatic fire suppression system and, in areas where suppression is deleted, automatic detection devices; or

iv. A combination of the above three types of detection devices except that a fixed-temperature detector shall be permitted in approved locations, such as in a boiler room or incinerator.

6. Manual fire alarm boxes, in addition to BOCA/87 1017.2 requirements as amended, shall be provided in the natural path of escape from fire, near each exterior door from the corridor, kitchen, heater room and other exterior exits that are required to serve 50 or more persons. Additional fire alarm boxes shall be located in the main office, stage, at each stairway entrance from a corridor or place of assembly and near one exterior exit in each section of a place of assembly. It shall not be necessary to traverse more than 200 feet of unobstructed horizontal distance on the same floor in order to reach a fire alarm box.

7. Each instructional space and room of assembly which is illuminated with the use of high intensity discharge (HID) sources, such as mercury vapor, high pressure sodium and metal halide lamps, shall also be provided with a second source of illumination to provide illumination instantly upon activation of the circuit. All high intensity discharge (HID) lamps shall be of the fail-safe type which will permanently extinguish within two minutes after the outer glass of the bulb is broken. All lamps shall be provided with a glass or plastic lens to protect the bulb.

8. All school buildings shall be equipped with a mechanical air supply and exhaust ventilation system which will provide, during periods of occupancy, standard tempered outdoor air supply and mechanical exhaust at the minimum rates set forth in the BOCA Basic National Mechanical Code as amended.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter.** If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	5/4/92
1:5	10/20/91
1:6	5/4/92
1:6A	5/4/92
1:7	5/4/92
1:10	5/4/92
1:10A	5/4/92
1:10B	10/6/91
1:11	5/4/92
1:13	5/4/92
1:20	5/4/92
1:21	5/4/92
1:30	2/14/91
1:31	6/17/92

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	10/3/88
2:3	6/18/89
2:5	6/18/89
2:6	9/3/90
2:7	9/29/88
2:9	7/7/91
2:16	5/7/90
2:22	7/6/92
2:23	6/6/88
2:24	2/11/90
2:32	6/1/92
2:48	11/27/90
2:50	5/1/92
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	8/1/88
2:69	10/3/88
2:70	5/7/90
2:71	9/1/88
2:72	9/1/88
2:73	7/18/88
2:74	9/1/88
2:76	8/29/89
2:90	6/24/90

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91
3:7	9/16/90
3:11	3/19/89
3:13	11/17/91
3:17	6/18/91
3:18	1/19/93
3:19	3/17/91
3:21	2/2/92
3:22	5/21/89
3:23	7/6/92
3:24	8/20/89
3:25	8/17/92
3:26	12/31/90
3:27	9/16/90
3:28	12/17/89
3:30	10/17/88
3:38	10/5/92
3:41	10/16/90
3:42	4/4/93

PERSONNEL (CIVIL SERVICE)—TITLE 4/4A

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/4/89
4:4	12/5/91
4:6	5/5/91
4A:6	1/4/93
4A:10	11/2/92

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:3	9/1/88
5:4	10/5/92
5:10	12/1/88
5:11	3/1/89
5:12	1/1/90
5:13	12/24/92
5:14	12/1/90
5:17	6/1/89
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:19	2/1/93
5:22	12/1/90
5:23	4/1/88
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	6/18/91
5:30	6/1/88
5:31	12/1/89
5:37	11/18/90
5:38	11/7/88
5:51	9/1/88
5:70	7/9/92
5:71	3/1/90
5:80	5/20/90
5:91	6/16/91
5:92	6/16/91
5:100	5/7/89

DEPARTMENT OF DEFENSE—TITLE 5A

N.J.A.C.	Expiration Date
5A:2	5/20/90

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:2	3/1/89
6:3	8/18/88
6:8	1/5/92
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	8/9/90
6:22	9/3/90
6:24	4/2/91
6:26	1/24/90
6:27	1/24/90
6:28	6/1/89
6:29	3/25/90
6:30	8/31/88
6:31	1/24/90
6:39	10/18/89
6:43	4/7/91
6:46	10/5/92
6:53	7/7/92
6:64	5/1/88
6:68	4/12/90
6:69	6/4/91
6:70	1/25/90
6:79	11/25/92

ENVIRONMENTAL PROTECTION—TITLE 7

N.J.A.C.	Expiration Date
7:1	9/16/90
7:1A	6/5/92
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	4/20/92
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:3	3/21/93
7:6	12/19/88
7:7	5/7/89
7:7E	7/24/90
7:7F	1/19/93
7:8	2/5/93
7:9	1/21/91
(Except for 7:9-1 which expired 4/25/85)	
7:10	9/4/89
7:11	6/6/88
7:12	6/6/88
7:13	5/4/89
7:14	4/27/89
7:14A	6/4/89
7:14B	12/21/92
7:15	4/2/89
7:17	4/7/91
7:18	8/6/91
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/19/88
7:22	1/5/92
7:23	6/18/89
7:24	5/19/91
7:25	2/18/91
(Except for 7:25-1 which expired 9/17/85)	
7:25A	5/6/90

N.J.A.C.	Expiration Date
7:26	11/4/90
7:27	Exempt
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	2/1/93
7:30	12/4/92
7:36-1	8/5/90
7:36-2	Expired 1/9/86
7:36-3	Expired 1/9/86
7:36-4	8/5/90
7:36-5	Expired 1/9/86
7:36-6	Expired 1/9/86
7:36-7	8/5/90
7:37	Exempt
7:38	9/18/90
7:45	Expired 1/11/85

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	9/8/92
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	4/4/88
8:25	5/20/88
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	6/23/92
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	9/15/91
8:33J	5/17/89
8:33K	4/16/89
8:34	11/18/88
8:39	6/20/88
8:40	4/15/90
8:41	2/17/92
8:42	8/17/92
8:42A	6/12/91
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	12/11/92
8:43F	3/18/90
8:43G	9/8/91
8:43I	3/21/93
8:44	11/7/88
8:45	5/20/90
8:48	8/20/89
8:51	9/16/90
8:52	12/15/91
8:53	8/4/91
8:57	6/18/90
8:59	10/1/89
8:60	5/3/90
8:61	10/6/91
8:65	12/2/90
8:70	9/17/88
8:71	4/2/89

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88
9:4	10/30/91
9:5	1/21/91
9:6	5/20/90
9:6A	1/4/93
9:7	2/28/93
9:8	11/4/90
9:9	10/3/88
9:11	1/17/89
9:12	1/17/89
9:14	5/20/90
9:15	10/25/88

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	5/6/88
10:2	1/5/92
10:3	9/19/88
10:4	1/3/88
10:5	12/19/88
10:6	2/21/89
10:12	1/5/92
10:36	8/18/91
10:37	11/4/90
10:38	5/28/91
10:40	3/15/89
10:42	8/18/91
10:43	9/1/88
10:44	10/3/88
10:44A	2/7/88
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	8/26/91
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91
10:62	3/3/91
10:63	11/29/89
10:64	3/3/91
10:65	11/5/89
10:66	12/15/88
10:67	3/3/91
10:68	7/7/91
10:69A	4/26/88
10:69B	11/21/88
10:70	6/16/91
10:71	1/6/91
10:80	8/23/89
10:81	10/15/89
10:82	10/29/89
10:85	1/30/90
10:87	3/1/89
10:89	9/11/90
10:90	10/14/92
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	12/7/92
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	12/7/92
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	12/7/92
10:132	1/5/92
10:141	2/21/89

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:1	7/6/92
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:6	11/2/92
10A;8	11/16/92
10A:9	1/20/92
10A:10-6	8/17/92
10A:16	4/6/92
10A:17	12/15/91
10A:18	7/6/92
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:34	4/6/92
10A:70	Exempt
10A:71	4/15/90

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	7/7/88
11:1-22	7/7/88
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	11/7/88
11:7	10/19/92
11:10	7/15/90
11:12	10/27/91
11:13	11/12/92
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:18	3/7/93
12:20	11/5/89
12:35	8/5/90
12:45	5/2/88
12:46	5/2/88
12:47	5/2/88
12:48	5/2/88
12:49	5/2/88
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90

N.J.A.C.	Expiration Date
12:60	3/21/93
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91
12:110	1/19/93
12:120	5/3/90
12:175	12/9/88
12:190	1/4/93
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12A:9	3/7/93
12A:10-1	8/15/89
12A:11	9/21/92
12A:12	9/21/92
12A:100-1	9/8/91

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/19/88
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	8/1/88
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:27A	11/1/87
13:28	9/3/90
13:29	6/3/90
13:30	4/15/90
13:31	12/12/91
13:32	10/23/92
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44B	11/2/92
13:44C	6/2/91
13:45A	12/16/90
13:46	6/3/90
13:47	2/2/92
13:47A	10/5/92
13:47B	1/4/89
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	4/27/92
13:54	10/5/91
13:58	9/7/89
13:59	9/16/90
13:60	1/20/92
13:70	2/25/90
13:71	2/25/90
13:75	8/20/89
13:76	9/6/88
13:77	2/1/93

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	1/27/92
14:10	9/8/91
14:17	5/7/89
14:18	7/29/90

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:11	9/20/89
14A:12	2/7/88
14A:13	2/2/92
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	3/7/88
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:25-12	Expired 2/5/84
16:25-13	Expired 2/5/84
16:26	8/6/89
16:27	9/8/91
16:28	11/7/88
16:28A	11/7/88
16:29	11/7/88
16:30	11/7/88
16:31	11/7/88
16:31A	10/20/88
16:32	4/15/90
16:33	9/3/90
16:41	7/28/92
16:41A	2/19/90
16:41B	3/4/90

N.J.A.C.	Expiration Date
16:43	9/3/90
16:44	10/3/88
16:49	3/18/90
16:51	4/6/92
16:53	3/19/89
16:53A	4/15/90
16:53C	9/19/88
16:53D	5/7/89
16:54	4/7/91
16:55	11/7/88
16:56	6/4/89
16:60	11/7/88
16:61	11/7/88
16:62	4/15/90
16:72	3/31/91
16:73	1/30/92
16:75	6/6/88
16:76	12/19/88
16:77	1/21/90
16:78	10/7/90
16:79	10/20/91

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
17:1	6/6/88
17:2	12/17/89
17:3	6/6/88
17:4	7/1/90
17:5	12/2/90
17:6	2/19/89
17:7	6/6/88
17:8	6/27/90
17:9	6/6/88
17:10	6/6/88
17:12	8/15/89
17:16	12/2/90
17:19	3/18/90
17:20	11/7/88
17:25	6/18/89
17:27	11/7/88
17:28	9/13/90
17:29	10/18/90
17:30	5/4/92
17:32	3/21/93

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:3	4/23/89
18:5	4/16/89
18:6	4/2/89
18:7	4/2/89
18:8	4/2/89
18:9	8/12/88
18:12	8/12/88
18:12A	8/12/88
18:14	8/12/88
18:15	8/12/88
18:16	8/12/88
18:17	8/12/88
18:18	4/2/89
18:19	4/6/89
18:22	4/2/89
18:23	4/2/89
18:23A	8/5/90
18:24	8/12/88
18:25	1/6/91
18:26	8/12/88
18:30	4/2/89
18:35	8/12/88
18:36	2/4/90
18:37	8/5/90
18:38	2/16/93
18:39	9/8/92

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	6/19/88
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	11/7/88
19:4A	5/2/88
19:8	6/1/88
19:9	7/13/88
19:12	8/7/91
19:16	8/7/91
19:17	7/15/88
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/17/88
19:42	5/17/88
19:43	4/27/89
19:44	10/13/88
19:45	4/7/88
19:46	5/4/88
19:47	5/4/88
19:48	10/13/88
19:49	3/29/88
19:50	5/23/88
19:51	8/14/91
19:52	9/25/91
19:53	5/4/88
19:54	4/15/88
19:61	7/7/91
19:65	7/7/91
19:75	1/17/89

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the February 1, 1988 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1988 d.1 means the first rule adopted in 1988.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT JANUARY 19, 1988

NEXT UPDATE: SUPPLEMENT FEBRUARY 16, 1988

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
19 N.J.R. 477 and 586	April 6, 1987	19 N.J.R. 1859 and 1926	October 19, 1987
19 N.J.R. 587 and 672	April 20, 1987	19 N.J.R. 1927 and 2086	November 2, 1987
19 N.J.R. 673 and 794	May 4, 1987	19 N.J.R. 2087 and 2224	November 16, 1987
19 N.J.R. 795 and 898	May 18, 1987	19 N.J.R. 2225 and 2324	December 7, 1987
19 N.J.R. 899 and 1006	June 1, 1987	19 N.J.R. 2325 and 2510	December 21, 1987
19 N.J.R. 1007 and 1120	June 15, 1987	20 N.J.R. 1 and 124	January 4, 1988
19 N.J.R. 1121 and 1258	July 6, 1987	20 N.J.R. 125 and 220	January 19, 1988
19 N.J.R. 1259 and 1352	July 20, 1987	20 N.J.R. 221 and 320	February 1, 1988
19 N.J.R. 1353 and 1474	August 3, 1987	20 N.J.R. 321 and 434	February 16, 1988
19 N.J.R. 1475 and 1588	August 17, 1987	20 N.J.R. 435 and 570	March 7, 1988
19 N.J.R. 1589 and 1676	September 8, 1987	20 N.J.R. 571 and 692	March 21, 1988
19 N.J.R. 1677 and 1758	September 21, 1987	20 N.J.R. 693 and 842	April 4, 1988
19 N.J.R. 1759 and 1858	October 5, 1987		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-14.1	Media coverage of public hearings	20 N.J.R. 127(a)	R.1988 d.115	20 N.J.R. 642(a)
1:1-14.5	Ex parte communications and agency heads	19 N.J.R. 1761(b)	R.1988 d.78	20 N.J.R. 385(a)
1:30-1.2, 2.8	Use of appendices	19 N.J.R. 675(a)		
1:30-3.1	Regulatory flexibility analysis and proposed rulemaking	20 N.J.R. 573(a)		

Most recent update to Title 1: TRANSMITTAL 1987-6 (supplement December 21, 1987)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
AGRICULTURE—TITLE 2				
2:32-2.1, 2.3, 2.5, 2.8, 2.10, 2.12, 2.13, 2.14, 2.19, 2.20, 2.22, 2.25, 2.27, 2.33	Sire Stakes Program	20 N.J.R. 323(a)		
2:71-2.4, 2.5, 2.6	Jersey Fresh Logo program	19 N.J.R. 2327(b)	R.1988 d.97	20 N.J.R. 525(a)
2:76-6.2, 6.5, 6.6, 6.9, 6.15, 6.16	Farmland development easements: residual dwelling sites	20 N.J.R. 324(a)		

Most recent update to Title 2: TRANSMITTAL 1987-8 (supplement November 16, 1987)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
BANKING—TITLE 3				
3:1-1.1	Maximum interest rate on first mortgages on residences with one to six units	19 N.J.R. 2089(a)		
3:1-14	Revolving credit equity loans	19 N.J.R. 1594(a)		
3:2-1.1, 1.2, 1.3, 1.4	Advertising by financial institutions	19 N.J.R. 1355(a)		
3:6-9	Capital stock savings bank: change in control	19 N.J.R. 1762(a)		
3:10-8, 9	Banks and savings banks: mortgage loan practices	19 N.J.R. 1356(a)		
3:11-12	Commercial loans by savings banks	19 N.J.R. 1679(b)		
3:13-2.2, 4.3, 4.4	Bank holding companies: financial filings	20 N.J.R. 127(b)	R.1988 d.149	20 N.J.R. 777(a)
3:27-6, 7	Savings and loan associations: mortgage loan practices	19 N.J.R. 1358(a)		
3:38-4, 5, 7	Mortgage bankers and brokers: loan practices	19 N.J.R. 1360(a)		
3:42	Pinelands Development Credit Bank: procedural rules	20 N.J.R. 128(a)	R.1988 d.157	20 N.J.R. 777(b)

Most recent update to Title 3: TRANSMITTAL 1988-1 (supplement January 19, 1988)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
CIVIL SERVICE—TITLE 4				
4:1-8, 9, 10.2–10.5, 11, 12, 13, 14, 15, 16.13	Repeal (see 4A:4)	20 N.J.R. 327(a)		
4:1-16.1–16.6, 24.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:2-6.3, 11, 13, 14.1, 15.1	Repeal (see 4A:4)	20 N.J.R. 327(a)		
4:2-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:3-6.4, 11.1, 13.2, 14	Repeal (see 4A:4)	20 N.J.R. 327(a)		
4:3-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		

Most recent update to Title 4: TRANSMITTAL 1988-1 (supplement January 19, 1988)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
PERSONNEL—TITLE 4A				
4A:1-1.3	Definitions	20 N.J.R. 326(a)		
4A:4	Selection and appointment	20 N.J.R. 327(a)		
4A:6-1.3, 1.10	Sick leave; leave without pay	20 N.J.R. 133(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4A:6-1.3, 1.10	Sick leave, leave without pay: extension of comment period	20 N.J.R. 341(a)		
4A:8	Layoffs	19 N.J.R. 1363(a)		

Most recent update to Title 4A: TRANSMITTAL 1988-1 (supplement January 19, 1988)

COMMUNITY AFFAIRS—TITLE 5

5:12-1.1, 2.1, 2.4	Homelessness Prevention Program: eligibility for temporary assistance	19 N.J.R. 1777(a)		
5:13	Limited dividend and nonprofit housing corporations and associations	19 N.J.R. 1861(a)	R.1988 d.49	20 N.J.R. 256(a)
5:14-1.1–1.4, 2.1–2.3, 3.1–3.23, 4.1–4.6	Neighborhood Preservation Balanced Housing Programs	19 N.J.R. 589(a)		
5:15	Emergency shelters for the homeless	20 N.J.R. 341(b)		
5:19	Continuing care retirement communities: disclosure requirements	19 N.J.R. 597(a)	R.1988 d.60	20 N.J.R. 256(b)
5:19-6.3, 8	Continuing care retirement communities: application fees; nonbinding reservation agreements	20 N.J.R. 347(a)		
5:23	Uniform Construction Code	20 N.J.R. 223(a)		
5:23-2.23	UCC: use and occupancy of buildings undergoing alteration	20 N.J.R. 223(b)		
5:23-2.38, 3.11, 7.2, 7.3, 7.100–7.116	Barrier free subcode: recreation standards	19 N.J.R. 1270(a)		
5:23-3.2	Uniform Construction Code: commercial farm buildings	19 N.J.R. 1778(a)	R.1988 d.144	20 N.J.R. 783(a)
5:23-3.2	Commercial farm building subcode: public hearings	19 N.J.R. 1862(a)		
5:23-3.11A	Incorporation of education enhancements at N.J.A.C. 6:22-2.3	————	————	20 N.J.R. 824(d)
5:23-3.14, 3.20	Uniform Construction Code: 1988 building and mechanical subcodes	20 N.J.R. 575(a)		
5:23-3.18	Energy Subcode: checkmetering in multifamily buildings; lighting efficiency in existing buildings	19 N.J.R. 1862(b)	R.1988 d.50	20 N.J.R. 268(a)
5:23-9.1, 9.2	UCC interpretations: Plumbing Subcode and manufactured housing	20 N.J.R. 224(a)		
5:24-2.3	Senior citizens and disabled protected tenancy: taxable income	20 N.J.R. 349(a)		
5:24-2.7	Senior citizen and disabled protected tenancy: appeal procedure	20 N.J.R. 437(a)		
5:80-26	Housing resale and rental affordability control	19 N.J.R. 802(a)		
5:92-1.3, 6.1	Council on Affordable Housing: rehabilitation component and credits	19 N.J.R. 1863(a)		
5:92-12.11	Council on Affordable Housing: rental surcharge	19 N.J.R. 1597(a)		
5:92-16	Council on Affordable Housing: accessory apartments	19 N.J.R. 2089(b)	R.1988 d.84	20 N.J.R. 385(b)
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly	19 N.J.R. 1686(a)	R.1988 d.101	20 N.J.R. 526(a)
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly: extension of comment period	19 N.J.R. 2090(a)		

Most recent update to Title 5: TRANSMITTAL 1988-1 (supplement January 19, 1988)

DEFENSE—TITLE 5A

Most recent update to Title 5A: TRANSMITTAL 1 (supplement May 20, 1985)

EDUCATION—TITLE 6

6:3-1.23	Principal certification	20 N.J.R. 437(b)		
6:3-2	Transfer of pupil records	20 N.J.R. 133(b)		
6:11-3.25, 4.2, 5.7, 10	Principal certification	20 N.J.R. 437(b)		
6:20-3.1	Reproposed: Determining tuition rates for sending and receiving districts	19 N.J.R. 2329(a)	R.1988 d.147	20 N.J.R. 787(a)
6:22-1.1–1.7, 2.1–2.5, 3.1, 3.4	School facility planning services	20 N.J.R. 3(a)	R.1988 d.155	20 N.J.R. 788(a)
6:28-11	Special education pilot project	20 N.J.R. 14(a)	R.1988 d.148	20 N.J.R. 796(a)
6:64	County and local library services	19 N.J.R. 1931(a)	R.1988 d.67	20 N.J.R. 386(a)

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ENVIRONMENTAL PROTECTION—TITLE 7

7:1C-1.2, 1.5	90-day construction permits: fee structure for treatment works approvals	20 N.J.R. 135(a)		
7:1G-2.1, 2.2, 4.1, 4.2, 5.4	Worker and Community Right to Know: hazardous substances and materials	19 N.J.R. 438(a)	R.1988 d.89	20 N.J.R. 387(a)
7:1G-2.1, 2.2, 4.1, 4.2, 5.4	Worker and Community Right to Know: extension of comment period	19 N.J.R. 2234(a)		
7:1G-3.2, 5.2, 7	Worker and Community Right to Know: assessment of civil administrative penalties for nondisclosure of information	19 N.J.R. 703(a)	R.1988 d.90	20 N.J.R. 388(a)
7:1G-3.2, 5.2, 7	Worker and Community Right to Know: extension of comment period	19 N.J.R. 2234(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:1I	Sanitary Landfill Facility Contingency Fund	20 N.J.R. 443(a)		
7:3-2	Management of privately-owned woodlands: approved foresters list	20 N.J.R. 137(a)	R.1988 d.139	20 N.J.R. 642(b)
7:6-3.10	Water-skiing on Lake Hopatcong	20 N.J.R. 138(a)		
7:7-2.1	Coastal Permit Program: CAFRA exemptions	19 N.J.R. 807(a)	R.1988 d.136	20 N.J.R. 643(a)
7:7-2.2	Coastal wetlands maps for Gloucester County	19 N.J.R. 2090(b)		
7:7-2.2	Coastal wetlands boundaries in Salem County	20 N.J.R. 349(b)		
7:7A	Freshwater Wetlands Protection Act rules	19 N.J.R. 2330(a)		
7:7A-8.1	Freshwater Wetlands Protection Act rules: correction	20 N.J.R. 22(a)		
7:7A-15, 16	Freshwater Wetlands Protection Act rules: fees, penalties and hearings	20 N.J.R. 576(a)		
7:7E-3.41, 3.46, 7.14, 8.11	Hudson River waterfront development	20 N.J.R. 139(a)		
7:7E-3.41, 3.46, 7.41, 8.11	Hudson River waterfront development: extension of comment period	20 N.J.R. 552(a)		
7:8	Storm water management	19 N.J.R. 2227(a)	R.1988 d.99	20 N.J.R. 526(b)
7:9-1	Sewer systems and wastewater treatment plants	19 N.J.R. 2227(b)		
7:10-10.2, 11.2, 15	Safe Drinking Water Program fees	20 N.J.R. 142(a)		
7:10-16	Maximum Containment Levels (MCLs) for hazardous contaminants in drinking water	19 N.J.R. 2228(a)		
7:10-16.13, 16.14, 16.15	Hazardous contaminants in drinking water: pre-proposal concerning short-term action levels, sampling response levels, and unregulated and total volatile organics	19 N.J.R. 2231(a)		
7:11	New Jersey Water Supply Authority: policies and procedures	20 N.J.R. 448(a)		
7:11-1	Use of Water Supply Authority property	19 N.J.R. 1274(a)	R.1988 d.100	20 N.J.R. 528(a)
7:11-2.2, 2.3, 2.9, 2.13	New Jersey Water Supply Authority rates and charges	20 N.J.R. 144(a)		
7:12	Shellfish growing waters	20 N.J.R. 450(a)		
7:13-7.1	Redelineation of Hackensack River in Oradell	19 N.J.R. 1935(a)	R.1988 d.138	20 N.J.R. 644(a)
7:13-7.1(b)	Redelineation of Jumping Brook in Neptune	19 N.J.R. 2233(a)		
7:13-7.1(d)	Redelineation of Raritan River and Peters Brook: reproposed	19 N.J.R. 167(b)	R.1988 d.79	20 N.J.R. 391(a)
7:13-7.1(d)	Redelineation of Big Bear Brook, Mercer County	19 N.J.R. 1933(a)	R.1988 d.135	20 N.J.R. 644(b)
7:13-7.1(d)	Redelineation of Carter's Brook, Middlesex County	19 N.J.R. 1933(b)	R.1988 d.137	20 N.J.R. 645(b)
7:13-7.1(d)	Redelineation of Lawrence, Ireland, Mae, Harry's and Oakeys brooks in Mercer and Middlesex counties	19 N.J.R. 1934(a)	R.1988 d.134	20 N.J.R. 645(a)
7:14-8	Penalties and hearings concerning violations of Water Pollution Control Act	20 N.J.R. 455(a)		
7:14A-5.12	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:14A-6.4	Groundwater monitoring parameters for hazardous waste facilities	19 N.J.R. 1863(b)		
7:14A-8	NJPDES permit program: public notice and comment	19 N.J.R. 1864(a)	R.1988 d.59	20 N.J.R. 269(a)
7:14A-11.1	Hazardous waste management: public access to records and information	19 N.J.R. 1869(a)	R.1988 d.57	20 N.J.R. 273(a)
7:19-6.14	Penalties and hearings concerning violations of Water Pollution Control Act	20 N.J.R. 455(a)		
7:22-3.4, 3.6-3.11, 3.13, 3.32, 4.4, 4.6-4.11, 4.13, 4.32, 5.11	Wastewater Treatment Financing Program	19 N.J.R. 1600(a)		
7:22-9	Wastewater treatment: contract awards to small, female, and minority-owned businesses	19 N.J.R. 1604(a)		
7:25-1	Shellfishing license program	19 N.J.R. 2358(a)		
7:25-2.20	Higbee Beach Wildlife Management Area	20 N.J.R. 460(a)		
7:25-18.5	Drifting and anchored gill net seasons; netting mesh in staked gill net fishery	19 N.J.R. 1609(a)		
7:26-1.4, 7.4, 9.1, 12.1	Hazardous waste research and testing facilities: pre-proposal	20 N.J.R. 460(b)		
7:26-1.4, 8.2, 8.3, 8.5, 8.12, 8.14, 9.4, App. A, 12.1, 12.5, 12.12	Hazardous waste management	19 N.J.R. 1936(a)		
7:26-1.4, 9.8–9.11, 9.13, App. A, 12.3	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:26-1.9, 12.2, 17	Hazardous waste management: public access to records and information	19 N.J.R. 1869(a)	R.1988 d.57	20 N.J.R. 273(a)
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(a)	R.1988 d.73	20 N.J.R. 393(a)
7:26-2.13	Recordkeeping at solid waste facilities: extension of comment period for proposal at 19 N.J.R. 171(a)	19 N.J.R. 2364(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Hunterdon, Morris, Ocean and Warren counties	19 N.J.R. 1142(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Cumberland and Gloucester counties	19 N.J.R. 1481(a)		

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7:26-8.14	Ethylene bisdithiocarbamic acid (EBDC) production	19 N.J.R. 1938(a)	R.188 d.140	20 N.J.R. 645(c)
7:26-12.2	Hazardous waste facilities: application signatories	19 N.J.R. 11(b)	R.1988 d.56	20 N.J.R. 276(a)
7:26-12.9	Hazardous waste management: research, development and demonstration permits	20 N.J.R. 462(a)		
7:26-14.1, 14A	Resource Recovery and Solid Waste Disposal Facility Loans	19 N.J.R. 828(a)		
7:26B-1.13	Certification and signatories: correction	————	————	20 N.J.R. 816(a)
7:29B	Determination of noise from stationary sources	19 N.J.R. 1483(a)	R.1988 d.58	20 N.J.R. 278(a)
7:29B	Determination of noise from stationary sources: extension of comment period	19 N.J.R. 2092(a)		
7:30	Pesticide Control Code	20 N.J.R. 579(a)		
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program	19 N.J.R. 1687(a)		
7:31-1, 2, 3, 4	Toxic Catastropic Prevention Act program: extension of comment period	19 N.J.R. 2092(b)		
7:31-2.12, 2.15, 5	Toxic Catastrophe Prevention Act program: confidentiality and trade secrets	20 N.J.R. 350(a)		
7:31-2.12, 2.15, 5	Confidentiality and trade secrets: correction and extension of comment period	20 N.J.R. 554(a)		
7:36	Green Acres Program	19 N.J.R. 2358(b)		
7:36	Green Acres Program: extension of comment period	20 N.J.R. 552(b)		
7:45	Delaware and Raritan Canal: State Park review zone	20 N.J.R. 23(a)		
7:45	Delaware and Raritan Canal review zone: extension of comment period	20 N.J.R. 552(c)		

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8:7-1.2	Public Health Licensing and Examination Board	20 N.J.R. 364(a)		
8:24	Chapter XII, State Sanitary Code: retail food establishments	20 N.J.R. 365(a)		
8:25	Youth Camp Safety Act standards	20 N.J.R. 463(a)		
8:26-1.2, 1.3, 2.10, 3.15, 3.17, 4.3, 4.4, 5.1, 5.2, 5.3, 5.7, 5.10, 5.11, 6.4, 7.9, 8.9, 8.10	Public recreational bathing	20 N.J.R. 464(a)		
8:31B-3.22, 3.31, 3.51	Hospital reimbursement: graduate medical residents	20 N.J.R. 594(a)		
8:31B-3.38	Apportionment of full financial elements	19 N.J.R. 1279(a)		
8:31B-4.37, 4.39	Uncompensated Care Trust Fund: charity care eligibility	20 N.J.R. 595(a)		
8:31B-4.38	Hospital reimbursement: uncompensated care coverage for outpatient dialysis	19 N.J.R. 2092(c)		
8:31B-4.62	Hospital reimbursement: outpatient HealthStart maternal and pediatric care	19 N.J.R. 2365(a)		
8:33E-1.1, 1.2	Cardiac diagnostic facilities: complex electrophysiology studies	20 N.J.R. 467a)		
8:33E-2.2, 2.3, 2.4	Cardiac surgery centers: complex electrophysiology studies	20 N.J.R. 468(a)		
8:33F-1.2, 1.4	Back-up and acute hemodialysis treatment: annual inpatient admissions for applicant hospital	19 N.J.R. 2093(a)	R.1988 d.88	20 N.J.R. 393(b)
8:33G-3.11	Long-term care beds for former psychiatric hospital patients	19 N.J.R. 614(a)		
8:42B	Drug treatment facilities: standards for licensure	20 N.J.R. 598(a)		
8:39	Long-term care licensing standards	20 N.J.R. 469(a)		
8:43E-1	Repeal (see 8:43I-1)	19 N.J.R. 2365(b)	R.1988 d.114	20 N.J.R. 645(d)
8:43E-2.4, 2.5, 2.19, 2.20	Adult open acute psychiatric beds: need review	20 N.J.R. 617(a)		
8:43E-3.19, 3.20	Inpatient screening psychiatric beds: need review	20 N.J.R. 618(a)		
8:43E-4	Child and adolescent acute psychiatric beds	19 N.J.R. 2094(a)	R.1988 d.87	20 N.J.R. 394(a)
8:43E-5.20	Intermediate adult and special psychiatric beds: need review	20 N.J.R. 619(a)		
8:43G-1	Repeal (see 8:43I-1)	19 N.J.R. 2365(b)	R.1988 d.114	20 N.J.R. 645(d)
8:43I-1	Hospital Policy Manual	19 N.J.R. 2365(b)	R.1988 d.114	20 N.J.R. 645(d)
8:65-1.3, 6.6, 8.13	Handling of sodium pentobarbital in animal humane facilities	20 N.J.R. 366(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 1312(b), 1644(a), 2278(b), 2400(a); 20 N.J.R. 191(a))	19 N.J.R. 615(a)	R.1988 d.118	20 N.J.R. 654(a)
8:71	Interchangeable drug products (see 19 N.J.R. 2279(b), 2401(a); 20 N.J.R. 190(a))	19 N.J.R. 1488(a)	R.1988 d.120	20 N.J.R. 655(a)
8:71	Interchangeable drug products (20 N.J.R. 191(b))	19 N.J.R. 1878(a)	R.1988 d.119	20 N.J.R. 654(b)
8:71	Interchangeable drug products	20 N.J.R. 146(a)		

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9:5-1.1	Independent student status	19 N.J.R. 2372(a)		
9:7	Student Assistance Board: scholarship and tuition aid programs	20 N.J.R. 33(a)	R.1988 d.128	20 N.J.R. 656(a)
9:7-2.3	Student assistance and foreign nationals	19 N.J.R. 2101(a)	R.1988 d.129	20 N.J.R. 661(a)
9:7-2.6	Independent student status	19 N.J.R. 2101(b)	R.1988 d.130	20 N.J.R. 661(b)
9:7-3.2	1988-89 Tuition Aid Grant Award Table	20 N.J.R. 147(a)	R.1988 d.127	20 N.J.R. 661(c)
9:7-9.9, 9.11, 9.12	Congressional Teacher Scholarship Program	19 N.J.R. 2102(a)	R.1988 d.131	20 N.J.R. 663(a)
9:9-1.12, 1.13, 1.16	Repayment of student loans: nonconverted accounts	19 N.J.R. 1619(a)	R.1988 d.116	20 N.J.R. 663(b)
9:11-1.1, 1.7, 1.8, 1.22, 1.23	EOF grant awards for approved part-time enrollment	19 N.J.R. 2373(a)	R.1988 d.151	20 N.J.R. 805(a)
9:11-1.3, 1.4	Educational Opportunity Fund: eligible non-citizens; independent student status	19 N.J.R. 2234(c)	R.1988 d.150	20 N.J.R. 806(a)
9:11-1.7	Equal Opportunity Fund grants: graduate awards	19 N.J.R. 1879(a)	R.1988 d.152	20 N.J.R. 807(a)
9:11-2	Martin Luther King Physician-Dentist Scholarship Program	19 N.J.R. 2374(a)	R.1988 d.153	20 N.J.R. 807(b)

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10:4	Communication with communities regarding development of group homes	19 N.J.R. 1976(a)		
10:4	Communication with communities regarding development of group homes: extension of comment period	20 N.J.R. 149(a)		
10:8	Personal needs allowance for indigent persons in State and county institutions	19 N.J.R. 617(a)		
10:44A	Licensed community residences for developmentally disabled	20 N.J.R. 149(b)		
10:49-1.1	Presumptive Medical eligibility for pregnant women	20 N.J.R. 367(a)		
10:49-1.1, 1.2	Medical assistance for aged, blind and disabled	Emergency (expires 4-2-88)	R.1988 d.96	20 N.J.R. 548(a)
10:49-1.3–1.6, 3	HealthStart: comprehensive maternity and pediatric care services	19 N.J.R. 1978(a)	R.1988 d.62	20 N.J.R. 278(b)
10:49-1.4	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:49-3.20	HealthStart Pediatric Care Registration: correction to HCPC codes	———	———	20 N.J.R. 401(a)
10:49-6.9	Medicaid providers and administrative charges and service fees	20 N.J.R. 518(a)		
10:50-1.1–1.5, 2.3–2.8, 3.1, 3.2	Livery service for ambulatory Medicaid patients	19 N.J.R. 2103(a)		
10:51-1.6, 1.11, 1.16, 1.18, 3.5, 3.10, 3.14, 5.14, 5.18	Pharmacy Manual: payment limits for Medicaid and PAAD reimbursement	19 N.J.R. 2203(a)	R.1988 d.48	20 N.J.R. 288(a)
10:51-5.6	Pharmaceutical Assistance to Aged and Disabled: income limits	19 N.J.R. 2375(a)		
10:52-1.6, 1.8	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:52-1.7	HealthStart	19 N.J.R. 1978(a)	R.1988 d.62	20 N.J.R. 278(b)
10:53-1.5, 1.7	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:53-1.6	HealthStart	19 N.J.R. 1978(a)	R.1988 d.62	20 N.J.R. 278(b)
10:54-1.1, 1.2	HealthStart	19 N.J.R. 1978(a)	R.1988 d.62	20 N.J.R. 278(b)
10:58-1.2, 1.3	HealthStart	19 N.J.R. 1978(a)	R.1988 d.62	20 N.J.R. 278(b)
10:61-2.4, 2.5	Independent laboratories: standardized claim form	19 N.J.R. 1779(a)	R.1988 d.145	20 N.J.R. 807(c)
10:64-1.4, 2.1, 2.2, 2.5, 2.6, 3.5	Hearing aid providers: standardized claim form	19 N.J.R. 1779(a)	R.1988 d.145	20 N.J.R. 807(c)
10:66-1.3, 1.6	HealthStart	19 N.J.R. 1978(a)	R.1988 d.62	20 N.J.R. 278(b)
10:66-3	Family planning services provided by independent clinics	19 N.J.R. 2376(a)	R.1988 d.156	20 N.J.R. 809(a)
10:69	Hearing Aid Assistance for Aged and Disabled (HAAAD)	20 N.J.R. 519(a)		
10:69A	Pharmaceutical Assistance to the Aged and Disabled	20 N.J.R. 369(a)		
10:69A-1.2, 6.2, 6.6, 6.10	PAAD income limits	19 N.J.R. 2375(a)		
10:69C	Statewide Respite Care Program	19 N.J.R. 1712(a)		
10:71-5.4, 5.5, 5.6, 5.7	Medicaid Only computation amounts and income eligibility standards	Emergency (expires 3-4-88)	R.1988 d.55	20 N.J.R. 207(a)
10:72-1.1, 1.2, 2.1, 2.3, 2.7, 3.4, 3.5, 4.3, 4.4, 4.5	Medical assistance for aged, blind and disabled	Emergency (expires 4-2-88)	R.1988 d.96	20 N.J.R. 548(a)
10:72-6	Presumptive Medicaid eligibility for pregnant women	20 N.J.R. 367(a)		
10:81-4.5	AFDC program: transportation costs incident to education or training	20 N.J.R. 620(a)		
10:81-8.22, 14.20	PAM: extension of Medicaid benefits to certain employed persons	19 N.J.R. 2206(a)	R.1988 d.47	20 N.J.R. 291(a)
10:81-11.7	Child support enforcement program	19 N.J.R. 1879(b)		
10:85-1.5	General Assistance Program audits	19 N.J.R. 2376(b)	R.1988 d.146	20 N.J.R. 809(b)
10:85-3.5	GAM: monthly case reviews	19 N.J.R. 2111(a)	R.1988 d.117	20 N.J.R. 663(c)

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10:85-5.2	General Assistance: payment of inpatient hospital bills	20 N.J.R. 521(a)		
10:85-5.3	General Assistance Manual: deadline for medical bills	20 N.J.R. 162(a)		
10:85-6.3	General Assistance Program statement of refunds: preparation of Form GA-12	19 N.J.R. 2377(a)		
10:85-8.4	GAM: Pharmaceutical Assistance (PAAD) program information	20 N.J.R. 522(a)		
10:86	AFDC Work Incentive Program	20 N.J.R. 162(b)		
10:87-5.9	Food Stamps eligibility: income exclusion and utility allowance payments	19 N.J.R. 1986(a)		
10:87-11.21, 11.28	Liability for overissuance of food stamp benefits	20 N.J.R. 162(c)		
10:89-2.2, 2.3, 3.2, 3.3, 3.4, 3.6, 4.1	Home Energy Assistance program	19 N.J.R. 2208(a)	R.1988 d.46	20 N.J.R. 291(b)
10:100-3.7	Chargeable CWA for funerals and burials	20 N.J.R. 163(a)		
10:100, App. A	Supplemental Security Income payment levels	20 N.J.R. 208(a)	R.1988 d.143	20 N.J.R. 809(c)
10:123-3.2	Residential health care facilities and boarding homes: personal needs allowance of residents	20 N.J.R. 225(b)		

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10A:1-11	Personal property of inmates	20 N.J.R. 494(a)		
10A:3-4.1	Off-duty carrying of firearms: peace officer titles	20 N.J.R. 42(a)	R.1988 d.107	20 N.J.R. 532(a)
10A:4-1.2, 13	Inmate discipline: Boy's Unit at Skillman	20 N.J.R. 496(a)		
10A:4-9.18	Inmate discipline: suspending sanctions	19 N.J.R. 1717(b)	R.1988 d.61	20 N.J.R. 294(a)
10A:4-11.9, 12	Inmate discipline: appeal to Office of Administrative Law	20 N.J.R. 496(b)		
10A:9-4.5	Reduction of inmate custody status	19 N.J.R. 2235(a)	R.1988 d.106	20 N.J.R. 533(a)
10A:16-11	Special medical unit	20 N.J.R. 163(b)	R.1988 d.142	20 N.J.R. 810(a)
10A:17-2, 5, 6	Social services: Volunteer Service Program; religion; institutional chaplaincy	20 N.J.R. 167(a)		
10A:18-8.7	Use of telephone by inmates	20 N.J.R. 496(c)		
10A:71-3.2, 3.4, 3.18–3.23, 3.25–3.28, 3.30, 3.43, 6.9	Parole Board rules	19 N.J.R. 1396(b)		

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11:1-8.1, 9, 12.1, 12.3, 12.4, 12.6, 14, 18, 19	Repeal (see 11:17-1, 2, 5)	20 N.J.R. 225(c)		
11:1-25	Official department mailing list: address information	19 N.J.R. 2236(a)	R.1988 d.64	20 N.J.R. 294(b)
11:2-1.1–1.6, 19.1–19.5	Repeal (see 11:17-3.1–3.5, 5.7)	20 N.J.R. 237(a)		
11:3-22.3	Submission of automobile coverage option survey	19 N.J.R. 2237(a)	R.1988 d.65	20 N.J.R. 295(a)
11:4-2	Replacement of life insurance policy	19 N.J.R. 1286(a)		
11:4-16.6	Basic hospital expense coverage	20 N.J.R. 172(a)		
11:4-18.3, 18.5, 18.10	Individual health policies: loss ratio standards	19 N.J.R. 1620(b)		
11:4-19	Optional coverage for pregnancy and childbirth benefits	20 N.J.R. 43(a)		
11:4-28	Group coordination of health care benefits	19 N.J.R. 845(a)		
11:5-1.15	Real estate advertising practices	20 N.J.R. 497(a)		
11:5-1.23	Full cooperation among real estate brokers and waiver of cooperation	19 N.J.R. 1621(a)	R.1988 d.69	20 N.J.R. 402(a)
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12:45–49	Vocational rehabilitation	20 N.J.R. 621(a)		

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12:100-4.2	Public employee safety and health: exposure to benzene	19 N.J.R. 2239(a)	R.1988 d.86	20 N.J.R. 403(a)

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12A:12-2	Local Development Financing Fund	19 N.J.R. 2381(a)		
12A:12-3	Tourism Matching Grant Program	20 N.J.R. 172(b)		
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13:2-40.5	ABC county ID cards: correction	————	————	20 N.J.R. 425(a)
13:3-1, 2, 3, 4, 7	Amusement games control	20 N.J.R. 627(a)		
13:3-3.4, 3.5, 3.6	Amusement games: preproposal concerning player fees and value of prizes	20 N.J.R. 44(a)		
13:4-3.4, 3.5, 8.2	Discrimination complaints: confidentiality of parties identities	20 N.J.R. 499(a)		
13:21-11.13	Temporary registration of motor vehicles	20 N.J.R. 176(a)		
13:21-21	Auto body repair facilities	19 N.J.R. 1624(c)		
13:27-3, 4	Architectural practice; definitions	19 N.J.R. 1783(b)		
13:27-5.8	Architects and certified landscape architects: licensing examination fees	19 N.J.R. 2123(b)	R.1988 d.91	20 N.J.R. 537(a)
13:27A	Repeal (see 13:28)	20 N.J.R. 370(b)		
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13:29-5	Board of Accountancy: Quality Enhancement Program	19 N.J.R. 2240(a)		
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13:33-1.41	Ophthalmic dispensers and technicians: Board of Examiners fees	19 N.J.R. 2242(a)	R.1988 d.66	20 N.J.R. 295(b)
13:34-3.6	Marriage counseling: temporary permit holders	20 N.J.R. 501(a)		
13:35-1.5	Participation in medical residency programs	19 N.J.R. 2243(a)		
13:35-6.7	Medical examiners board: prescribing of amphetamines and sympathomimetic amine drugs	19 N.J.R. 1786(a)		
13:35-8	Hearing aid dispensers	19 N.J.R. 1949(a)	R.1988 d.112	20 N.J.R. 538(a)
13:36-1.6	Board of Mortuary Science fees	20 N.J.R. 177(a)		
13:36-2.1	Qualification as mortuary science intern	19 N.J.R. 2245(a)	R.1988 d.111	20 N.J.R. 542(a)
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13:71-11.9	Harness racing: respiratory bleeders	20 N.J.R. 507(a)		
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Most recent update to Title 13: TRANSMITTAL 1988-1 (supplement January 19, 1988)

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Most recent update to Title 14A: TRANSMITTAL 1987-4, (supplement December 21, 1987)

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Most recent update to Title 15: TRANSMITTAL 1987-1 (supplement February 17, 1987)

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16:28-1.57	School zones along U.S. 30 in Lindenwold and Laurel Springs	19 N.J.R. 2211(a)	R.1988 d.51	20 N.J.R. 299(a)
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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19:53-1.5	Pre-proposal: Affirmative action employment goals for handicapped or disabled persons	19 N.J.R. 1182(a)		
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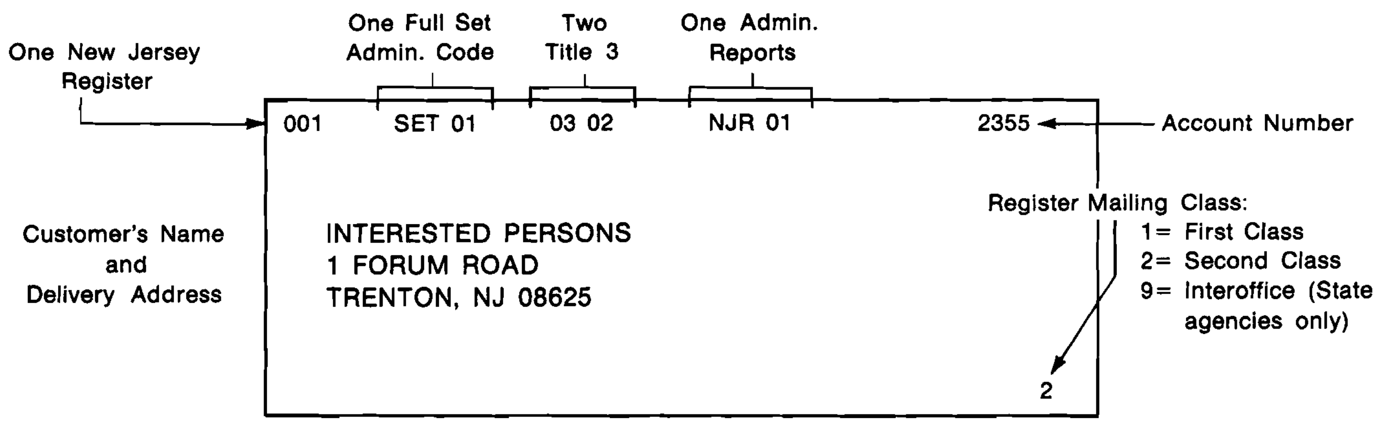

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