

# NEW JERSEY



0000 F R-175, -  
STATE LIBRARY  
LAW DIVISION  
PO BOX 1898  
TRENTON, NJ 08625

# REGISTER

**IN THIS ISSUE**  
**"INDEX OF PROPOSED RULES"**

**VOLUME 15 NUMBER 8**  
April 18, 1983 Indexed 15 N.J.R. 581-656  
(Includes rules filed through April 4, 1983)

JERSEY DIATEL  
APR 18 1983  
TRENTON ST.

*The New Jersey Register supplements the New Jersey Administrative Code. See the Index of Adopted Rules on Page 557 of the April 4 issue for the Registers that should be retained as an update to the Administrative Code.*

## TABLE OF RULES IN THIS ISSUE

### RULE PROPOSALS

#### ADMINISTRATIVE LAW

Pre-hearing conferences by telephone ..... 582(a)

#### AGRICULTURE

Commercial feeding stuffs: Association standards ..... 583(a)

Readopt State Seal of Quality for eggs ..... 584(a)

#### COMMUNITY AFFAIRS

Residential tax exemptions: Additions and improvements  
..... 586(a)

Pre-proposal: Sale of products violating Uniform Construction  
Code ..... 586(b)

Products violating the Uniform Construction Code .... 587(a)

Boarding houses: Rental assistance agreements ..... 587(b)

Ombudsman for institutionalized elderly ..... 588(a)

#### EDUCATION

Records Management: Microfilm systems and standards  
..... 590(a)

#### ENVIRONMENTAL PROTECTION

Readopt rules on individual subsurface disposal systems  
..... 591(a)

Readopt Safe Drinking Water Act rules ..... 592(a)

Readopt shellfish-growing water classification ..... 595(a)

Readopt NJPDES permit program rules ..... 606(a)

#### HEALTH

Readopt licensing rules for food and cosmetic plants .. 609(a)

#### HUMAN SERVICES

Covered home health services: Medical supplies ..... 610(a)

Repeal Food Stamp Plan of Operation Manual ..... 611(a)

Repeal obsolete rules on refugee assistance programs . 611(b)

#### LAW AND PUBLIC SAFETY

Veterinary Medical Examiners: Registration fees ..... 612(a)

#### PUBLIC UTILITIES

CATV: Credit for service outages ..... 612(b)

#### TREASURY-TAXATION

Residential exemptions: Improvements to multiple dwellings  
..... 613(a)

Motor fuels sales: Electronic pumps ..... 614(a)

#### OTHER AGENCIES

##### HIGHWAY AUTHORITY

Readopt Garden State Parkway rules ..... 615(a)

##### ELECTION LAW ENFORCEMENT COMMISSION

Pre-candidacy activity: "Testing the waters" ..... 616(a)

### RULE ADOPTIONS

#### BANKING

Commercial bank lending: Approved subsidiaries ..... 622(a)

Small loan lenders and second mortgage purchases ... 622(b)

#### ENVIRONMENTAL PROTECTION

Flood delineations in Hunterdon County ..... 622(c)

Recycling grants and loans: Supplementary projects .. 622(d)

(Continued on Back Cover)

# RULE PROPOSALS

## ADMINISTRATIVE LAW

(a)

### OFFICE OF ADMINISTRATIVE LAW

#### Uniform Administrative Procedure Rules of Practice for Contested Cases Telephone Pre-Hearing Conferences

#### Proposed Amendment: N.J.A.C. 1:1-10.1

Authorized By: Howard H. Kestin, Director, Office of Administrative Law.

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

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Steven L. Lefelt, Deputy Director  
Office of Administrative Law  
88 East State Street  
Trenton, NJ 08625

The Office of Administrative Law thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-187.

The agency proposal follows:

#### Summary

The proposed amendment would give the parties and the judge the option of conducting a pre-hearing conference by telephone, rather than in person.

For the past year, the Office of Administrative Law (OAL) has been conducting some telephone pre-hearing conferences on an experimental basis. The results of this experiment have been positive. Parties, or their attorneys, have often requested that pre-hearing

conferences be conducted by telephone. Judges have found that for almost all but the most complicated matters, a telephone pre-hearing conference is an effective technique.

#### Social Impact

The telephone conference relieves the parties and the judge from having to be at the same location at the same time. This saves travel time and money. It also facilitates scheduling the conference. It is easier and surer to arrange for several people to have access to a phone at a given time than to have them personally meet at a given place and time. Thus, to the extent telephone conference technique is useable, the entire hearing process should be accelerated, judges should save some travel time for those instances where conferences were scheduled in the field, and the parties should save significant travel time and effort.

#### Economic Impact

The telephone conference technique saves the cost of travel and travel time, which much more than compensates for the cost of a conference telephone call. Thus, to the extent that pre-hearing conferences are necessary in contested cases, the telephone conference seems to be an economical procedure for them.

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

#### SUBCHAPTER 10. PRE-HEARING PROCEDURES AND CONFERENCES

##### 1:1-10.1 Pre-hearing procedures and conferences

(a) In appropriate cases, the clerk shall advise the parties or their attorneys that a pre-hearing conference will cover those matters listed in (c) below.

**1. A pre-hearing conference may be held by telephone conference call on request of a party or at the instance of the judge.**

**2. In advance of the conference, upon no less than three days notice, the parties may be advised by the judge that other special matters will be discussed at the pre-hearing conference.**

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

## 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.

Material published in the New Jersey Register is the property of the State of New Jersey. However, it may be copied, reproduced or republished by any person for any purpose whatsoever without permission, providing that no such reproduction or republication shall bear the title "New Jersey Register" or "Official Rules Publication" without the written permission of the Director, Office of Administrative Law.

The New Jersey Register (USPS 442-950) is published the first and third Monday of each month by Administrative Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 292-6060. Subscriptions, payable in advance, are one year, \$40 (\$75 by First Class Mail); back issues when available, \$3.50 each. Make checks payable to Administrative Publications.

POSTMASTER: Send address changes to: New Jersey Register, CN 301, Trenton, New Jersey 08625. Second Class Postage paid at Trenton, New Jersey and additional mailing offices.

*The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by Administrative Publications of the Office of Administrative Law. Subscription rates for this 31-volume, regularly updated set of all State administrative rules are available on request. The Code is sold either in the full set or in one to three volumes depending on the Department coverage desired.*

# AGRICULTURE

## (a)

### DIVISION OF REGULATORY SERVICES

#### Commercial Feeding Stuffs Association Standards

#### Proposed Amendment: N.J.A.C. 2:68-1

Authorized By: State Board of Agriculture, Arthur R. Brown, Jr., Secretary, Department of Agriculture.  
 Authority: N.J.S.A. 4:4-20.10.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert C. Fringer, Director  
 Division of Regulatory Services  
 New Jersey Department of Agriculture  
 CN 330  
 Trenton, NJ 08625

The Department of Agriculture thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-194.

The agency proposal follows:

#### Summary

The purpose of the proposed amendment is to update and clarify the Standards of the Association of American Feed Control Officials, Inc. The amendment will guarantee that the current edition of the official publication of the Association of American Feed Control Officials is used by feed manufacturers.

#### Social Impact

Both consumers and manufacturers are affected by the amendment to the Association Standards. Both groups will benefit through accurate labeling information.

#### Economic Impact

Consumers will realize economic savings through accurate labeling information. Manufacturers will be able to compete on an equal basis through the use of the updated standards in formulating label declarations. There will be no adverse impact upon the Department of Agriculture.

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

#### 2:68-1.1 General rules and regulations

(a) General rules and regulations are as set forth [on pages 24 to 27 inclusive of the 1967 edition] **in the current edition** of the official publication of the Association of American Feed Control Officials, Inc.<sup>1</sup>

(b) [Brand and product names.] **Definition and Terms.**

(c) [Expressions of guarantees.] **Label Format.**

(d) [Definitions, sampling and analysis.] **Brand and product names.**

(e) [Ingredient statement.] **Expression of Guarantees.**

(f) [Labeling.] **Ingredients.**

(g) [Minerals.] **Directions for use and precautionary statements.**

(h) Non-Protein Nitrogen.

(i) [Artificial Color.] **Drug and Feed Additives.**

(j) [Drugs.] **Adulterants.**

(k) **Good Manufacturing Practices.**

<sup>1</sup>Copy on file in Director's Office, Division of [Agricultural Chemistry,] **Regulatory Services**, New Jersey Dept. of Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton, N. J. Copies may be procured by writing to [Bruce Poundstone, Division of Regulatory Services, Agricultural Experiment Station, University of Kentucky, Lexington, KY 40506.] **Donald James, Dept. of Agriculture, Room EO111, State Capital Bldg., Charleston, West Virginia 25305.**

#### 2:68-1.2 Uniform interpretation and policy

Uniform interpretation and policy is as set forth [on pages 28 to 32 of the 1967] **in the current** edition of the official publication of the Association of American Feed Control Officials, Inc.<sup>1</sup>

<sup>1</sup>Copy on file in Director's Office, Division of [Agricultural Chemistry,] **Regulatory Services**, New Jersey Dept. of Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton, N. J. Copies may be procured by writing to [Bruce Poundstone, Division of Regulatory Services, Agricultural Experiment Station, University of Kentucky, Lexington, KY 40506.] **Donald James, Dept. of Agriculture, Room EO111, State Capital Bldg., Charleston, West Virginia 25305.**

#### 2:68-1.3 Glossary: Official feed terms

The Glossary: Official feed terms is as set forth [on pages 33 to 44, inclusive, of the 1967] **in the current** edition of the Official Publication of the Association of American Feed Control Officials, Inc.<sup>1</sup>

<sup>1</sup>Copy on file in Director's Office, Division of [Agricultural Chemistry,] **Regulatory Services**, New Jersey Dept. of Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton, N. J. Copies may be procured by writing to [Bruce Poundstone, Division of Regulatory Services, Agricultural Experiment Station, University of Kentucky, Lexington, KY 40506.] **Donald James, Dept. of Agriculture, Room EO111, State Capital Bldg., Charleston, West Virginia 25305.**

#### 2:68-1.4 Medicated feeds

Medicated feeds are as set forth [on pages 45 to 55 inclusive of the 1967] **in the current** edition of the official publication of the Association of American Feed Control Officials, Inc.<sup>1</sup>

<sup>1</sup>Copy on file in Director's Office, Division of [Agricultural Chemistry,] **Regulatory Services**, New Jersey Dept. of Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton, N. J. Copies may be procured by writing to [Bruce Poundstone, Division of Regulatory Services, Agricultural Experiment Station, University of Kentucky, Lexington, KY 40506.] **Donald James, Dept. of Agriculture, Room EO111, State Capital Bldg., Charleston, West Virginia 25305.**

#### 2:68-1.5 Definitions of feed ingredients

The definitions of feed ingredients are as set forth [on pages 56 to 93 inclusive of 1967.] **in the current** edition of the Association of American Feed Control Officials, Inc.<sup>1</sup>

<sup>1</sup>Copy on file in Director's Office, Division of [Agricultural Chemistry,] **Regulatory Services**, New Jersey Dept. of Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton, N. J. Copies may be procured by writing to [Bruce Poundstone, Division of Regulatory Services, Agricultural Experiment Station, University of Kentucky, Lexington, KY 40506.] **Donald James, Dept. of Agriculture, Room EO111, State Capital Bldg., Charleston, West Virginia 25305.**

2:68-1.6 Sampling and analysis

(a) Use slotted single or double tube, or slotted tube and rod, all with pointed ends.

(b) Take at least one pound sample, two pound preferred, as follows: Lay bag horizontally and remove core diagonally from end to end. Det. number of cores as follows: From lots of one to ten bags, sample all bags; from lots of 11 or more, sample ten bags. Take one core from each bag sampled, except that for lots of one to four bags take enough diagonal cores from each bag to total at least five cores. For bulk feeds draw at least ten cores from different regions, in sampling small containers (ten or less) one package is enough. Reduce composite sample to quantity required, preferably by riffing, or by mixing thoroughly on clean oilcloth or paper and quartering. Place sample in airtight container.

(c) A sample from less than these numbers of bags may be declared an official sample if guarantor agrees. For samples that cannot be representatively taken with probe described, use other sampling means. (Section 22.001 of the tenth edition (1965) of Official Methods of Analysis of the Association of Official Analytical Chemists.<sup>2</sup>)

<sup>2</sup>Copies are filed with and may be received by writing to Director, Division of Agricultural Chemistry, N. J. Dept. of Agriculture, Health-Agriculture Bldg., John Fitch Plaza, Trenton, N. J. 08625.]

**Sampling and analysis shall be conducted in accordance with methods published in current edition of the official methods of analysis of the Association of Official Analytical Chemists<sup>2</sup>, or in accordance with other recognized official methods.**

<sup>1</sup>Copy on file in Director's Office, Division of [Agricultural Chemistry.] **Regulatory Services**, New Jersey Dept. of Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton, N. J. Copies may be procured by writing to [Bruce Poundstone, Division of Regulatory Services, Agricultural Experiment Station, University of Kentucky, Lexington, KY 40506.] **Donald James, Dept. of Agriculture, Room EO111, State Capital Bldg., Charleston, West Virginia 25305.**

<sup>2</sup>Copy on file in Director's office, Division of Regulatory Services, New Jersey Dept. of Agriculture, Health-Agriculture Bldg., John Fitch Plaza, Trenton, N. J. Copies may be obtained by writing to David Maclean, AOAC, 1111 No. 19th St., Suite 210, Arlington, VA 22209.

(a)

**DIVISION OF REGULATORY SERVICES**

**Eggs  
Official Seal**

**Proposed Redoption with Amendment:  
N.J.A.C. 2:73-2**

Authorized By: Arthur R. Brown, Jr., Secretary,  
Department of Agriculture.  
Authority: N.J.S.A. 4:10-18, 4:10-19 and 4:10-20.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert C. Fringer, Director  
Division of Regulatory Services  
Department of Agriculture  
CN 330  
Trenton, NJ 08625

The Department of Agriculture thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The readoption becomes effective upon acceptance for filing of the notice of adoption by the Office of Administrative Law. Concurrent amendments to the readoption become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-195.

The agency proposal follows:

**Summary**

In 1939 New Jersey farmers were facing serious competition from the advertising and sales promotion of egg producers in other states seeking to market their eggs in New Jersey. This subchapter was promulgated to promote the sale of New Jersey shell eggs and to provide for the establishment of brands to identify such product.

In accordance with Executive Order No. 66, this subchapter was internally reviewed in 1973 and again in January 1983, by the Division of Regulatory Services, Department of Agriculture. The rules set forth have been very effective in the marketing of New Jersey produced eggs. Because of the high quality of New Jersey eggs, consumers, both in New Jersey and nearby states, demand New Jersey eggs.

This subchapter provides the New Jersey Seal of Quality may only be used by licensed New Jersey egg packers in marketing eggs of New Jersey production. Producers who ship New Jersey eggs must register with the New Jersey Department of Agriculture. The subchapter provides certain minimum requirements which New Jersey produced eggs must meet in order to be eligible for the Seal of Quality. Each egg container must contain a packing date or an expiration date. Either date may not be more than 28 days after packing. This guarantees that the consumer will receive fresh eggs.

The owner or packer of the brand or trade name must pay a fee to the New Jersey Farm Products Publicity Fund. Additionally, there is an annual license fee of \$30.00 to use the Seal of Quality in packaging eggs. All licensed packers must submit a monthly report about their inventory to the Department of Agriculture. The Department and the Poultry Products Promotion Council will give supervision and assistance to producers, packers and retailers. Violators of any provisions of this subchapter are subject to monetary fines and suspension of the Seal of Quality license.

The amendment to N.J.A.C. 2:73-2.1 updates the State Seal and includes an additional seal for Federal and State graded eggs.

**Social Impact**

The rules will assure New Jersey producers and consumers that shell eggs purchased in a carton carrying the Official State Seal will meet the highest standards of quality.

If this subchapter were not readopted, both New Jersey egg producers and consumers would be adversely affected in that the quality of eggs sold in the State would no longer be subject to strict control and thereby jeopardize the wholesomeness of the product.

**Economic Impact**

If this subchapter were not readopted, consumers and egg producers would suffer adverse economic impact. Without the seal of Quality New Jersey egg producers would face competition from lower quality eggs and consumers would be unable to identify superior quality New Jersey eggs.

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

2:73-2.1 Configuration of fresh eggs State Seal  
(a) The configuration of the fresh eggs State Seal:



(b) The configuration of the State Seal when used in conjunction with the USDA Grade Shield:



N.J.A.C. 2:73-2.2 through 2:73-2.10 as found in the New Jersey Administrative Code are to be readopted without change.

# COMMUNITY AFFAIRS

(a)

## DIVISION OF HOUSING

### Residential Tax Exemptions Exemption of Additions

#### Proposed Amendment: N.J.A.C. 5:22-1.4

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.  
Authority: N.J.S.A. 54:4-3.79, 54:4-3.123.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.  
Administrative Practice Officer  
Division of Housing  
CN 804  
Trenton, NJ 08625

The Department of Community Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-185.

The agency proposal follows:

#### Summary

The amendment is proposed for promulgation concurrently with the Treasury Department, Division of Taxation, at 15 N.J.R.613(a). The proposal makes it clear that additions to one- and two-unit dwellings may qualify for tax exemption and abatement pursuant to P.L. 1975, c. 104, as amended. It also provides that home improvements qualifying for tax exemption also qualify for tax abatement when the municipality has so provided by ordinance.

Additions were expressly excluded from the original definition of "home improvement" in N.J.S.A. 54:4-3.73, set forth in P.L. 1975, c.104. However, the definition was revised by P.L. 1977, c. 284 so as to eliminate this exclusion.

#### Social Impact

Assessors, county tax board members and property owners have, in several cases, indicated uncertainty as to whether additions are eligible for tax exemptions and abatements pursuant to P.L.1975, c. 104, as amended. This proposal should remove the basis of that uncertainty.

#### Economic Impact

Some taxpayers may now receive tax exemptions and abatements to which they are entitled but which they might not have otherwise received because of contrary local interpretation of the law.

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

5:22-1.4 Supplemental procedural rules for assessors

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

**(e) Additions or other enlargements shall be deemed to be home improvements qualifying for tax exemption pursuant to the Act.**

**(f) A home improvement qualifying for tax exemption**

pursuant to the Act shall also qualify for tax abatement pursuant to the Act if the municipality has so provided by ordinance.

(b)

## DIVISION OF HOUSING

### Uniform Construction Code Sale of Products Intended for Use in Violation of the Code

#### Notice of Pre-proposal for a Rule (see also Proposed New Rule, This Issue)

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.  
Authority: N.J.S.A. 52:27D-124 and -138 (as amended by P.L. 1983, c.83 ).

P.L. 1983, c.83, amends section 20 of the State Uniform Construction Code Act (N.J.S.A. 52:27D-138) to provide that any person who "knowingly sells or offers for retail sale any item, device or material the regular and intended use of which would violate any provision of the State Uniform Construction Code" is subject to a penalty of not more than \$500.00; provided, however, that the amendment "does not prohibit the retail sale or offering for retail sale of any item, device or material which has more than one regular and intended use if one of those uses does not violate the Code, provided that the item, device or material is not publicly advertised or otherwise promoted by the seller or manufacturer as suitable for a use that would violate any provisions of the code."

This statutory amendment shall take effect September 2, 1983, which will be six months after the date of enactment. In order to ensure uniform enforcement, the Department intends to adopt rules specifying which products would be affected.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.  
Administrative Practice Officer  
Division of Housing  
CN 804  
Trenton, NJ 08625

The Department of Community Affairs thereafter may propose rules on this subject. Any such proposal will be made only after consultation with the code advisory board and subcode committees established pursuant to N.J.S.A. 52:27D-125. While no informal public conferences or consultations are contemplated at this time, it is the Department's intention to hold a public hearing prior to the adoption of any rules on this subject.

This pre-proposal is known as PPR-1983-3.

**(a)**

**DIVISION OF HOUSING**

**Uniform Construction Code  
Products Violating the Code**

**Proposed New Rule: N.J.A.C. 5:23-3.8A**

Authorized By: John P. Renna, Commissioner, Department  
of Community Affairs.  
Authority: N.J.S.A. 52:27D-124.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.  
Administrative Practice Officer  
Division of Housing  
CN 804  
Trenton, NJ 08625

The Department of Community Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-196.

The agency proposal follows:

**Summary**

P.L. 1983, c.83, amended the State Uniform Construction Code Act to provide that the knowing sale or offering for retail sale of any product the regular and intended use of which would violate any provision of the State Uniform Construction Code Act is itself a violation of the Act and punishable as such. An exception is made for those products which have more than one use and one of the regular and intended uses does not violate the Code, provided that the product is not advertised or otherwise promoted for a use that does violate the Code. This new rule provides that the Department is to establish a list of products considered to be within the scope of P.L. 1983 c.83 and sets forth the procedure to be followed by enforcing agencies in preventing violation of that statute.

**Social Impact**

The establishment of a single list of products and a uniform enforcement procedure will reduce the likelihood of local variation in interpretation and enforcement which could result in confusion and inequity.

**Economic Impact**

The elimination of uncertainty as to which products are prohibited for sale will spare dealers the cost and inconvenience of stocking products without being able to know for sure that they are not violating P.L. 1983, c.83.

**Full text** of the proposed new rule follows.

5:23-3.8A Products violating the Code

(a) The Department shall, after public hearing and in accordance with the Administrative Procedure Act (P.L. 1968, c.410, as amended), establish and distribute to all enforcing agencies a list of items, devices and materials the regular and intended use of which would violate any provision of the State Uniform Construction Code.

(b) Upon determining that any manufacturer or distributor in the State is selling or offering for retail sale any product on the list

which does not have a regular and intended use that does not violate the Code, or any product which may have one or more such non-violative regular and intended use but which is being advertised or promoted for a use that does violate the Code, the Department or any enforcing agency having jurisdiction shall give written notice of the violation of N.J.S.A. 52:27D-138a(5) to such seller. Such notice shall forbid the further sale or offering for retail sale of such product within the State and shall specify a date and time by which such product shall be removed from display to customers.

(c) Any person who, having received a notice of a violation pursuant to this section, continues to sell or offer for retail sale products specified in such notice, shall be deemed to be knowingly selling or offering the product for sale in violation of the Code and shall be subject to penalty as provided by statute, in accordance with the procedures set forth in N.J.A.C. 5:23-2.31.

**(b)**

**DIVISION OF HOUSING**

**Rooming and Boarding Houses  
Rental Assistance Agreements**

**Proposed Amendment: N.J.A.C. 5:27-12.2**

Authorized By: John P. Renna, Commissioner, Department  
of Community Affairs.  
Authority: N.J.S.A. 55:13B-4 and -7 and 55:14J-57.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.  
Administrative Practice Officer  
Division of Housing  
CN 804  
Trenton, NJ 08625

The Department of Community Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-184.

The agency proposal follows:

**Summary**

Unauthorized failure of a boarding house owner to comply with the terms of a rental assistance agreement with the Bureau of Rooming and Boarding House Standards is made a violation of the regulations (N.J.A.C. 5:27).

**Social Impact**

Boarding house owners will have added reason to be diligent in their efforts to comply with all provisions of rental assistance agreements if they know that they will be subject to penalties or the other sanctions which may be imposed under the Rooming and Boarding House Act of 1979 (P.L. 1979, c.496; N.J.S.A. 55:13B-1 et seq.) if they fail to do so.

**Economic Impact**

Violation of regulations may be punishable by civil penalties of from \$50.00 to \$5,000 per violation and by loss of licensure.

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

5:27-12.2 Rental assistance agreements

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

**(g) No owner shall, without the written permission of the Bureau, fail to comply with any provision of a rental assistance agreement between such owner and the Bureau.**

(a)

## OFFICE OF THE OMBUDSMAN FOR THE INSTITUTIONALIZED ELDERLY

### Ombudsman Practice and Procedure and Public Notice Requirements Reporting of Abuse and Exploitation

**Proposed Amendments: N.J.A.C. 5:100-1.5 and 1.6**

**Proposed New Rule: N.J.A.C. 5:100-2**

Authorized By: John J. Fay, Jr., Ombudsman.

Authority: P.L. 1977, c.239, N.J.S.A. 52:27G-1 et seq., specifically N.J.S.A. 52:27G-2, 52:27G-5(d), and P.L.1983, c.43, N.J.S.A. 52:27G-7.1, 8.1.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack R. D'Ambrosio, Jr.  
General Counsel  
State of New Jersey  
Office of the Ombudsman  
for the Institutionalized Elderly  
CN 808  
Trenton, NJ 08625

The Office of the Ombudsman for the Institutionalized Elderly thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-189.

The agency proposal follows:

#### Summary

The proposed rules establish the procedure to be used in reporting incidents of abuse or exploitation of the institutionalized elderly of our State to the Office of the Ombudsman. These rules provide specific guidelines which must be followed as to who shall report and the procedure to be used in making such report. They also provide the procedure that will be followed in the conducting of the investigation.

In an effort to create one reporting system and in the interest of clarification, the Ombudsman is also making some changes in the existing rules that govern the Office that pertain to abuse or exploitation and the reporting of such.

Definitions of the following terms are provided for clarification: abuse, administrator, employed, exploitation, necessary, Office, professional, promptly, reasonable cause, unreasonable confinement, and willful.

#### Social Impact

The rules and procedures as set out herein are intended to establish one consistent policy that will govern the reporting of abuse or exploitation of the institutionalized elderly of our State. Presently, many refrain from reporting such incidents for fear of

retaliation. Hopefully, since it will now be mandatory for such reports to be made, a more healthy and safe environment will exist for this population, and a more efficient method of dealing with the problem will be available.

#### Economic Impact

Initially, it is expected that minor expenditures will be made to meet the costs of providing information regarding the new rules to those needing such information. Estimates have been made as to the number of reported cases that the Office anticipates receiving. Based on these estimates, we presently see no need for additional staffing. Therefore, the actual cost of effectuating these rules should be minimal.

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

5:100-1.5 Complaint procedure

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

(d) The Ombudsman shall respond to complaints received.

[1. If the complaint contains an allegation of physical abuse, it shall be investigated within 24 hours. (Said complaint procedures are set forth under section 6 of this subchapter.)

i. The Office of the Ombudsman shall notify the local law enforcement authorities of any complaint as to physical abuse upon verification and/or reasonable suspicion. Said law enforcement authorities shall be contacted and said contact shall be noted in the files.

ii. All other complaints of abuse shall be classified and handled as general complaints and be handled in the normal course of business as any other complaint received by the Office of the Ombudsman.]

[2.] **1.** All complaints received, other than those on an emergency basis, shall be written up and reviewed within 48 hours for an internal determination to be made as to what type of an investigation should follow, pursuant to [section 6 of this subchapter.] **N.J.A.C. 5:100-1.6.**

[3.] **2.** All reviews shall be made and noted by the individual and/or individuals who are responsible for the periodic reviews of complaints received.

i. The individual making the review of the complaints received within 48 hours, shall immediately determine whether or not the complaint received falls within the jurisdiction of the Ombudsman's Office.

ii. If the investigation reveals non-compliance with either State or Federal laws or regulations, an appropriate referral shall be made to the government agency.

iii. If the investigation reveals facts that warrant the institution of civil proceedings by a governmental agency against any person or government agency, an appropriate referral shall be made to the government agency with authority to institute such proceedings.

iv. If the investigation reveals information as to the misconduct or breach of duty of any officer or employee of a facility or government agency, an appropriate referral shall be made.

v. If the investigation reveals information or facts indicating the commission of a criminal offense or violation of standards of professional conduct, an immediate referral shall be made to the law enforcement office having jurisdiction over said complaint.

[4.] **3.** Any referral made for any of the reasons outlined above shall be made as soon as possible after the investigation has been conducted and the necessity is determined. The referral shall be made to the appropriate agency with all deliberate speed, unless it is necessary to establish further investigation to substantiate and/or establish reasonable belief that the alleged complaint is within the jurisdiction of the agency to whom it is to be referred.

(e)-(h) (No change.)

5:100-1.6 Procedures for conducting investigations

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

(c) In any investigation undertaken by the Office of the Ombudsman, whether [under subsection (a) or (b) of this section,] pursuant to (a) or (b) above, the procedures set forth below shall be followed.

1. (No change.)

2. The investigation shall commence as soon as possible after the receipt of the complaint [unless the complaint alleges physical abuse, said complaint requiring investigation within the time set forth in subsection 5(d) of this subchapter]. Said investigation shall initially be pursued by an investigator from the Office of the Ombudsman. At any time it is deemed necessary, an investigator may be accompanied by a special consultant during the course of the investigation.

[i.] The investigator shall attempt to verify, substantiate, and/or determine the actual facts which led to the making of the original complaint. During said preliminary investigation, the investigator and any other representative from the Office of the Ombudsman shall always communicate to whomever they are addressing, the agency from which they come. At all times, any individual spoken to by an investigator and/or any other representative from the Office of the Ombudsman shall make their affiliation known.

3.-6. (No change.)

(d)-(k) (No change.)

**SUBCHAPTER 2. REPORTING OF ABUSE AND EXPLOITATION**

**5:100-2.1 Definitions**

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

“Abuse” shall mean the willful infliction of physical pain, injury or mental anguish; unreasonable confinement; or the willful deprivation of services which are necessary to maintain a person’s physical and mental health.

“Administrator” shall mean any person who is charged with the general administration or supervision of a facility whether or not such person has an ownership interest in such facility, and whether or not such person’s functions and duties are shared with one or more other persons. The term “administrator” shall not be limited to licensed personnel.

“Employed” shall refer to any person who provides services with the intention of receiving compensation.

“Exploitation” shall mean the act or process of using a person or his resources for another person’s profit or advantage without legal entitlement to do so.

“Necessary” shall mean that which is indispensable, or essential, or required.

“Office” shall mean Office of the Ombudsman for the Institutionalized Elderly.

“Professional” shall include any trained individual having a particular skill or vocation.

“Promptly” shall mean without delay and with reasonable speed.

“Reasonable cause” shall mean that upon review of the circumstances, there is sufficient evidence to suggest to a prudent person that abuse or exploitation, as defined above, has occurred.

“Unreasonable confinement” shall mean an arbitrary or unfounded act of confinement.

“Willful” shall mean an act which is intentional or knowing, or voluntary.

**5:100-2.2 Persons required to report**

(a) All persons, as a result of their employment in accordance with the guidelines noted in P.L. 1983, c.43, N.J.S.A. 52:27G-7.1, who have reasonable cause to suspect or believe that an institutionalized elderly person is being or has been abused or exploited, shall report such information to the Office.

(b) All persons other than those noted in (a) above, may report such information to the Office.

**5:100-2.3 Contents of reports; procedures**

(a) Reports of abuse or exploitation, as defined in N.J.A.C. 5:100-2.1, made pursuant to P.L. 1983, c.43, N.J.S.A. 52:27G-7.1, shall be made immediately by telephone followed within 48 hours in writing.

(b) Such reports by telephone shall be made by calling 800-792-8820, and similar reports, in writing, shall be sent to the Office of the Ombudsman for the Institutionalized Elderly, CN 808, Trenton, New Jersey 08625.

(c) Such written reports shall contain the following information:

1. The identity of the person making the report and where he or she can be located;
2. The name and address of the elderly person who is the subject of the alleged abuse or exploitation, if known;
3. The name of the person accused of committing the alleged abuse or exploitation, if known;
4. The name and address of the facility involved;
5. The nature and description of the abuse or exploitation;
6. The date, time and specific location of the occurrence;
7. The name and address of any witness to the abuse or exploitation; and
8. Any other information which the person making the report considers necessary to further the investigation.

**5:100-2.4 Investigation and procedure**

(a) Upon receipt of a report made pursuant to P.L. 1983, c.43, N.J.S.A. 52:27G-7.1, the Office shall initiate a prompt and thorough investigation.

(b) Notification of the receipt of a report shall be made within 24 hours to the Commissioner of the Department of Human Services and any other governmental agency which regulates or operates the facility.

(c) Such investigation shall include a visit with the elderly person who is the subject of the abuse or exploitation and others who have knowledge of the particular case. The investigation may include a visit to the facility involved.

(d) Upon completion of the investigation, findings and recommended action shall be prepared in a written report and then submitted to the Commissioner of the Department of Human Services and any other informed appropriate agencies.

(e) Periodic reports as required by N.J.S.A. 52:27G-7(f) regarding any findings or action taken, shall be made to the Office.

(f) The Office shall promptly notify the person who reported the abuse or exploitation that action has commenced, and will subsequently inform that person of any final action taken.

(g) Any information of a criminal nature acquired during the course of the investigation, shall be referred to the appropriate county prosecutor.

(h) The Office shall maintain a central registry of all reports of suspected abuse or exploitation and all investigations, findings and recommended action. Such information shall not be construed as a public record.

**5:100-2.5 Penalties**

Any person required to report suspected abuse or exploitation pursuant to P.L. 1983, c.43, N.J.S.A. 52:27G-7.1, who fails to make such report, shall be fined not more than \$500.00. Such penalty shall be collected and enforced by summary proceedings pursuant to “the penalty enforcement law” (N.J.S.A. 2A:58-1 et seq.) as provided in P.L. 1983, c.43, N.J.S.A. 52:27G-7.1(f).

**5:100-2.6 Confidentiality and immunity**

(a) The identity of any person who reports any information

pursuant to P.L. 1983, c.43, N.J.S.A. 52:27G-7.1, to the Office shall not be disclosed, and such person will be afforded the protection of confidentiality as provided in P.L. 1983, c.43, N.J.S.A. 52:27G-7.1(d).

(b) Any person who reports suspected abuse or exploitation pursuant to P.L. 1983, c.43, N.J.S.A. 52:27G-7.1, or who testifies in any administrative or judicial proceeding arising from such report or testimony, shall have immunity from any civil or criminal liability on account of such report or testimony, unless such person has acted in bad faith or with malicious purpose, as provided in P.L. 1983, c.43, N.J.S.A. 52:27G-7.1(e).

5:100-2.7 Posting requirement

Each facility shall be required to post in a conspicuous manner, in writing, the requirements and procedures as set forth in N.J.A.C. 5:100-2.2 and 5:100-2.3.

EDUCATION

(a)

BUREAU OF RECORDS MANAGEMENT SERVICES

State and Local Records Manuals

Proposed Amendments: N.J.A.C. 6:66-2.15, 2.17, 2.20, 2.21, 3.12 and 3.13

Authorized By: William C. Wright, Head, Bureau of Records Management Services (with the approval of the New Jersey State Records Committee). Authority: N.J.S.A. 47:3 et seq., specifically 47:3-30.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William C. Wright, Head
Bureau of Records Management Services
New Jersey State Library
185 West State Street
CN 520
Trenton, NJ 08625

The Bureau of Records Management Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-183.

The agency proposal follows:

Summary

The proposed amendments, approved by the New Jersey State Records Committee, supplement existing rules regarding equipment purchases and film quality standards monitored by the Bureau of Records Management Services (formerly the Bureau of Archives and History).

Currently there is no adequate regulation in the Code for the acquisition of computer-related microform technology, particularly for the purchase of Computer Output Microfilm (COM) and Computer Assisted Retrieval (CAR) systems/services. In order to assure the most effective and cost efficient application of computer-related technology, the committee approved changes to N.J.A.C.

6:66-2.20, 2.21 and 3.13, which specify the regulatory and advisory authority of the Bureau of Records Management Services in the Purchase process.

Similarly, since Records Management is mandated to maintain quality standards for all microfilm produced for State and local agencies, it was agreed that an amendment be made to N.J.A.C. 6:66-2.17, specifying the role of Records Management in the acquisition of microfilm services from the private sector.

Finally, the proposed amendment to N.J.A.C. 6:66-2.15 and 3.12 allows the splicing of operator's certificates onto the end of existing microfilm reels. Operator's certificates are signed by camera operators who certify the file integrity of filmed documents, for example, records content, date filmed, etc... Before splicing, approvals must be obtained from the Supervisor of Microfilm Services. Approvals will be given only in those cases where the operator who actually filmed the documents on the reel(s) signs the certificate. In this manner, agencies will be able to add the necessary documentation without having to refile entire files. This affords flexibility while maintaining legal requirements and mandatory film quality standards.

Social Impact

The proposed amendments concerning equipment and service contract purchases will affect State, county, and local agencies. The successful application of computer-related microform technology greatly enhances information management capabilities. Since the operations of State agencies such as the Departments of Higher Education, Human Services and Law and Public Safety depend upon prompt, accurate information retrieval and dissemination, information management systems must be properly designed. The Bureau of Records Management Services will lend its guidance and expertise to insure that the new technology fits the needs of each records system. Moreover, by monitoring the quality of film produced by new technology and private vendors, the Bureau of Records Management Services will assure the legality of microfilm records in administrative and court proceedings. In sum, these measures will allow public agencies to use the latest records keeping systems and at the same time assure that the highest quality standards are maintained.

The amendment concerning operator's certificates will impact mostly on county and local agencies which have neglected to add the required documentation. The amendment will insure the legality of existing reels while obviating the need to refile large quantities of records. This measure will be of greatest advantage to those agencies which have disposed of filmed hard-copy records. In this case, serious legal difficulties may be avoided by the addition of the appropriate certificates.

Economic Impact

The rule amendments concerning equipment and service contract purchases have significant economic implications because of the number of variations to computer-related systems ranging from manual to fully automated applications. Prices for these systems vary from approximately \$15,000 to over \$100,000. Agencies lacking records management expertise may acquire technology which is inappropriate for their information system. This can lead to waste and inefficiency. Viewed in this light, the proposed amendments are essential cost effective measures. By assisting agencies in the analysis of their records holdings, retrieval rates and reference and storage requirements, Records Management will enhance the using agencies' ability to develop the most effective systems for the best price. The regulation of contract services will result in efficient, economic systems for public agencies. By preventing the purchase of unusable or superfluous equipment, and by allowing for the installation of custom designed systems, it is estimated that an annual savings of \$150,000 can be achieved.

Finally, by offering agencies the option of splicing targets onto

## PROPOSALS

the end of reels rather than refilming, agencies may avoid the filming and duplication process which costs an average of \$64.00 for master negative and duplicate reels. However, since these savings occur on a case-by-case basis it is not possible to project an annual savings in this area.

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

### 6:66-2.15 Microfilm standards

(a) The following standards must be met before permission to destroy the originals is granted:

1. (No change.)
2. When converting documents to microfilm, certain measures must be followed to insure quality, legality and access to information contained on the microfilm.
  - i-ii. (No change.)
  - iii. All roll film will have the following targets at the end of each reel: density targets; National Bureau of Standards' resolution target; and operator's certificate. **Should any reel(s) lack an operator's certificate, an agency may upon prior notification and approval of the supervisor of microfilm services, splice a certificate on the end of the reel(s). This will be permitted only in those cases where the operator who actually filmed the documents on the reel(s) signs the certificate. Splicing must also be done in accordance with the standards set forth in 3vii below.**
  - iv-v. (No change.)
- 3.-5. (No change.)

### 6:66-2.17 Microfilm projects

(a) The Bureau of Archives and History shall provide agencies with expert assistance and advice in the establishment and operation of all approved microfilming projects.

(b) Projects requiring approximately six months or less to complete shall be undertaken by the Microfilm Unit located in the Bureau of Archives and History. These projects shall be provided with equipment and supplies on a debit and credit basis, debiting the user the expendable items supplied to them, that is, microfilm machine use, film, and so on. The debit and credit for personnel will be based on the actual working days expended in preparation, filming and checking film for the project. Projects of a permanent or lengthy duration, **including service contracts with private vendors**, may, on approval, be conducted by the Department under whose custody the records remain; provided the following conditions are adhered to:

- 1.-3. (No change.)

### 6:66-2.20 Notice to Bureau of Archives and History of installation of a permanent microfilm project

State agencies considering the installation of a permanent microfilm project shall notify the Bureau of Archives and History in order to obtain approval as to the feasibility of purchasing microfilm equipment or instituting such a project. Additional purchases of equipment will also require the approval of the Bureau. **This includes purchase of computer output microfilm (COM) and computer assisted retrieval (CAR) systems/services and the purchase of all computer-related microform technology.**

### 6:66-2.21 Expert assistance from Bureau of Archives and History concerning microfilm projects

The Bureau of Archives and History shall provide agencies with expert assistance and advice in establishment and operation of all approved microfilming projects. **This includes the establishment and operation of computer output microfilm (COM) and computer assisted retrieval (CAR) systems/services and all computer-related microform technology.**

## ENVIRONMENTAL PROTECTION

### 6:66-3.12 Microfilm standards

(a) The following standards must be met before permission to destroy the originals is granted:

1. (No change.)
2. When converting documents to microfilm, certain measures must be followed to insure quality, legality and access to information contained on the microfilm.
  - i-ii. (No change.)
  - iii. All roll film will have the following targets at the end of each reel: density targets; National Bureau of Standards' resolution target; and operator's certificate. **Should any reel(s) lack an operator's certificate an agency may, upon prior notification and approval of the supervisor of microfilm services, splice a certificate on the end of the reel(s). This will be permitted only in those cases where the operator who actually filmed the documents on the reel(s) signs the certificate. Splicing must be done in accordance with standards set forth in 3vii below.**
  - iv.-v. (No change.)
- 3.-5. (No change.)

### 6:66-3.13 Service contract specifications and technical assistance

(a) A county or municipality may wish to have its microfilming done by a private company on a service contract basis. In considering any such an arrangement, the contracting agency should be cognizant of the following points:

1. All contracts must meet the microfilm specifications established by the State Records Committee. **This includes microfilm/fiche produced or utilized in computer-related microform technology.**
2. (No change.)

## ENVIRONMENTAL PROTECTION

(a)

### DIVISION OF WATER RESOURCES

#### Standards for the Construction of Individual Subsurface Sewage Disposal Systems

#### Proposed Readoption: N.J.A.C. 7:9-2

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

Authority: N.J.S.A. 58:11-36 and N.J.S.A. 13:1B-3.  
DEP Docket No. 016-83-03.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Illse E. Heacox, Esq.  
Office of Regulatory Services  
CN 402  
Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The readoption becomes effective upon acceptance for filing of the notice of adoption by the Office of Administrative Law.

This proposal is known as PRN 1983-202.

The agency proposal follows:

**Summary**

In accordance with the "sunset" and other provisions of Executive Order No. 66 (1978), the Department of Environmental Protection proposes to readopt N.J.A.C. 7:9-2.1 concerning regulation of the design, construction and installation of individual subsurface sewage disposal systems. These rules are commonly known as "Chapter 199 regulations." The proposed readoption does not include any changes in the current text. The rules implement the provision of the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-21 et seq., requiring standards for the construction of subsurface sewerage facilities for realty improvements to insure their safety, adequacy and propriety for the purposes for which they are to be installed. Because N.J.S.A. 58:11-36 establishes minimum standards without specifying the particular construction requirements needed for differing surface and subsurface soil conditions, and the appropriate type of construction for each, these rules provide the procedures and necessary engineering requirements needed to implement the underlying enabling statute.

The Realty Improvement Sewerage and Facilities Act established an Advisory Committee for the purpose of drafting and recommending standards. The first rules the Advisory Committee recommended were filed and became effective on December 7, 1954. In December of 1977, the Advisory Committee made recommendations for the first major changes to the rules since 1954. These rules were filed and became effective on July 1, 1978, as the Standards for the Construction of Individual Subsurface Sewage Disposal Systems. These rules eliminate cesspools and require that abandoned individual sewage systems be filled in. Alternate designs, or unconventional designs for septic tanks not specified in the rules, need concurrent local and State review and require that all engineering data submitted with an application for certification bear the seal and signature of a licensed professional engineer. The rules set a higher minimum distance from the bottom of a disposal area or a seepage pit to the seasonally high water table, requiring higher minimum distances from original ground surface to the bottom of a seepage pit or impervious formation, and requiring an adequate grading plan where disposal fields are built up by fill more than two feet. The rules also require that the seasonally high water table be reported on all individual sewage facility application submitted for certification and that all percolation tests are performed under the supervision of a local health official or authorized agent.

These rules provide necessary design, construction and installation standards to guide State and local health officials in the administration of a Statewide program providing individual sewage treatment facilities in those areas of the State where central wastewater treatment facilities are unfeasible to construct. Upon review, it is the Commissioner's opinion that these rules would continue to be effective standards for the future. The Department is in the process of reviewing the rules for conformance with the New Jersey Pollutant Discharge Elimination System Regulations, N.J.A.C. 7:14A-1, and will revise these rules accordingly.

**Social Impact**

Over 50 percent of the realty improvements throughout the State depend upon individual subsurface sewage disposal systems to treat their wastewater. Subsurface disposal systems allow construction of housing where a large, central sewage treatment facility cannot be built or where the secondary impacts of sewage treatment plant construction and operation are to be avoided. At the same time, subsurface disposal systems provide efficient wastewater treatment if the system is designed, constructed and installed correctly. Without proper waste treatment, a realty improvement is uninhabitable and unmarketable. These rules provide a system of review that certifies only those systems having a high probability of working, thereby, assuring the property owner of an effectively functioning wastewater treatment unit that will not become a future sanitary hazard.

**Economic Impact**

The building and construction industry and real estate interests benefit by the continuation of these rules because the construction of subsurface disposal systems enable more realty improvements to be built in areas of the State presently not served by central sewage treatment facilities.

In addition, these rules provide an efficient procedure for implementing the provisions of the Act which requires the Department and local health officials to inspect and certify individual subsurface disposal systems when designed, constructed and installed. Without these rules and the uniform standards they provide, the State and municipalities would incur significantly higher costs for reviewing and certifying each system on a case by case basis. In addition, local health officials would expend increased amounts on inspection and enforcement to insure proper compliance within their area. Although these rules require the expenditure of time and effort by the Department to ensure proper implementation and compliance, the cost is less to the State and local municipalities than that which would be incurred were no system to be administered.

**Environmental Impact**

Subsurface disposal systems serve an important role in the State's environmental management. They are either an efficient waste treatment unit if properly engineered or a source of ground and surface water contamination and a threat to public health if they malfunction.

The proper administration of a uniform Statewide program for the construction of subsurface disposal systems is crucial to minimize any negative effects that the operation of these systems may have. Therefore, these rules not only foster residential and commercial real estate development but also safeguard the State's ground water resources from pollution by ensuring appropriate design, construction and installation of subsurface disposal systems. Failure to readopt these rules would jeopardize future growth in the State and fail to provide adequate engineering standards for the continued construction of subsurface disposal systems.

Full text of the rules proposed for readoption appear in the New Jersey Administrative Code at N.J.A.C. 7:9-2.

**(a)****DIVISION OF WATER RESOURCES****Safe Drinking Water Act Regulations****Proposed Readoption: N.J.A.C. 7:10**

Authorized By: Robert E. Hughey, Commissioner,  
Department of Environmental Protection.  
Authority: N.J.S.A. 58:12A-1 et seq., 58:11-14 et seq.,  
and 58:11-23 et seq.  
DEP Docket No. 015-83-03.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Raymond Barg, Bureau Chief  
 Bureau of Potable Water  
 Division of Water Resources  
 CN 029  
 1474 Prospect Street  
 Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The readoption becomes effective upon acceptance for filing of the notice of adoption by the Office of Administrative Law.

This proposal is known as PRN 1983-203.

The agency proposal follows:

**Summary**

The purpose of this proposal is to readopt existing regulations known as the Safe Drinking Water Act Regulations, N.J.A.C. 7:10-1 through 7 and 10 through 11, promulgated pursuant to the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. (hereinafter "State Act"), the regulations for the Standards for the Construction of Public Non-Community and Non-Public Water Systems, N.J.A.C. 7:10-12, promulgated pursuant to the State Act and N.J.S.A. 58:11-23 et seq., and the regulations for the Licensing of Superintendents or Operators, N.J.A.C. 7:10-13, promulgated pursuant to N.J.S.A. 58:11-14 et seq. (all of N.J.A.C. 7:10 shall hereinafter be referred to as "Regulations"). The current text of the Regulations shall expire on May 31, 1983 pursuant to the provisions of Executive Order No. 66 (1978), commonly referred to as the "sunset" executive order. Paragraph 3(a) of Executive Order No. 66 (1978) provides that the provisions of the order do not apply to any administrative rule "adopted in compliance with Federal law". The Department intends to assert its right to an exemption to the "sunset" executive order for several subchapters of the Regulations as indicated further below. Please note that the proposed readoption does not include any changes to the current text of the Regulations.

The Legislature declared in the State Act that "it is a paramount policy of the State to protect the purity of the water we drink..." (see N.J.S.A. 58:12A-2). The Bureau of Potable Water within the Division of Water Resources has successfully administered the State's safe drinking water program since the Regulations became effective on July 13, 1979. After internal review of our safe drinking water program experience, the Department finds that continuation of the Regulations shall be required to assure the provision of safe drinking water to the citizens of the State of New Jersey.

The Federal Safe Drinking Water Act, P.L. 93-523, 42 U.S.C. 300 et seq. (hereinafter "Federal Act"), establishes a comprehensive regulatory scheme for providing potable water in the United States. The Federal Act applies to each "public water system" defined as "a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals." The National Primary Drinking Water Regulations, 40 CFR Part 141 (hereinafter "Federal Regulations"), promulgated pursuant to the Federal Act further defines public water systems as either "community water systems" which serve year-round residents or "non-community water systems" that serve non-resident or transient users. The Federal Act allows individual states to assume primary enforcement responsibility provided they shall be no less stringent than the Federal Regulations. The Regulations meet the Federal standards and represented the final step in the process by which New Jersey qualified to assume primary enforcement responsibility as of December 30, 1979. The Legislature declared in the State Act that "it is in the best interests of the people of the State for the State, through its Department of Environmental Protection, to assume primary enforcement responsibility under the Federal Safe Drinking Water Act" (see N.J.S.A. 58:12A-2). Furthermore, the Legislature directed the Department to promulgate "State primary drinking water regulations that at any

given time shall be no less stringent than the complete interim or revised national primary drinking water regulations in effect at that time" (see N.J.S.A. 58:12A-4(a)1). Expiration of the Regulations would seriously jeopardize New Jersey's enforcement primacy and the Department's funding grants under the Federal Act.

A brief description and explanation of the substantive sections of the Regulations follows:

- Subchapter 1 of the Regulations titled "General Provisions" covers Authority; Scope; Applicability and Purpose; Definitions; and provides authority and procedures for conducting inspections and sanitary surveys. The Department shall assert its right to an exemption from the provisions of Executive Order No. 66 (1978) for Subchapter 1 of the Regulations.

- Subchapter 2 of the Regulations titled "General Requirements" contains Sections 2.1, 2.2 and 2.3 which require the Department to maintain a current inventory of all public water systems in the State, to keep records, and to maintain a plan for the provision of safe drinking water under emergency circumstances. These requirements are imposed by the Federal Act and the Federal Regulations upon a State with primary enforcement responsibility. Section 2.4 requires notification to the Department by a supplier of water in the event of planned changes or emergencies which may tend to lessen the quality of delivered water or increase the likelihood of delivery of polluted or impure water. Section 2.5 provides for the Commissioner to prohibit, by order and subject to a hearing if such is requested, additional service connections to any public water system if such connections may result in a degradation of service to existing users. This is required to prevent the expansion of water systems that are deficient in prime source, distribution or storage capacities, or pressure and volume. The Department shall assert its right to an exemption from the provisions of Executive Order No. 66 (1978) for Subchapter 2 of the Regulations.

- Subchapter 3 of the Regulations concerns "Enforcement and Penalties". Section 3.1 provides the administrative procedure for the institution of civil action, in accordance with the provisions of the State Act, for violations of the State Act and Regulations. The Department shall assert its right to an exemption from the provisions of Executive Order No. 66 (1978) for Subchapter 3 of the Regulations.

- Subchapter 4 of the Regulations titled "Disinfection Rules" continues the longtime State requirement that all public community water systems shall be disinfected prior to distribution but, in addition, allows an option for a public water system serving 50 or fewer dwellings to forego disinfection provided it increases the bacteriological sampling frequency. This provision accommodates very small water systems that find difficulty in financing the cost of chlorination facilities and a licensed treatment plant operator but, at the same time, assures the continued bacteriological quality of the delivered water by more frequent bacteriological testing. Section 4.2, however, does not permit this option for systems that utilize surface water because of greater likelihood that such water is bacterially contaminated. Section 4.3 retains the right of the Department to require the disinfection of any public water system if deemed necessary.

- Subchapter 5 of the Regulations titled "State Primary Drinking Water Regulations" constitutes the vital element of the Department's efforts to provide safe drinking water. Section 5.1 adopts, as New Jersey's primary drinking water regulations, the most current Federal Regulations, except for those sections of the latter where discretionary authority has been permitted. The Federal Act requires that the Regulations be no less stringent than those promulgated by the Federal Environmental Protection Agency.

The Federal Regulations allow the Department discretion in the manner and method of implementing certain provisions of the Federal Regulation.

Section 5.2 describes the options the Department has followed in implementing the Federal Regulations. At Section 5.2 the Department:

1. Establishes a monthly average turbidity of up to five turbidity units for specific water systems that have been evaluated and adjudged "safe" at the higher levels. This is a relaxation of the Federal requirement to maintain a monthly average turbidity of less than one turbidity unit in the absence of any further documentation which would demonstrate safeness of supply at turbidity levels of up to five units on a monthly average.

2. Permits microbiological sampling compliance based on a three-month sampling period for those public systems required to take less than four per month as opposed to compliance based on a monthly period. The three-month period represents a more practical way of determining compliance for very small systems.

3. Disallows small public water systems from reducing the microbiological sampling frequency or to permit any utility to substitute chlorine residual monitoring in the place of microbiological sampling as allowed in specific instances by the Federal Regulations. The microbiological sampling frequency is minimal to insure confidence in the safety of supplies and any reduction in sampling frequency is considered counterproductive.

4. Requires non-community water systems to repeat analyses for nitrate, and community systems utilizing surface courses to repeat analysis for organic pesticides and herbicides, both at a minimum frequency of once every three years. The Department considers any reduction in sampling frequency below this minimum to be inadequate to determine the quality of delivered water in respect of these parameters.

5. Requires community water systems which purchase all their water in bulk from other community systems to monitor microbiological quality, inorganics, and radionuclides with the same frequencies as those which would be required if the primary source was their own; and those systems that purchase more than 50 percent of their annual water requirements from another community system that utilizes surface water to monitor organics with the same frequency as would be required if the primary source was their own surface water supply. A water purveyor can only be assured that its water quality meets the requirements at the consumer's taps, as required by the Regulations, by conducting appropriate sampling.

Section 5.3 establishes a maximum contaminant level of 2.0 mg/l for fluoride based upon the annual average of the maximum daily air temperature in New Jersey, and follows the requirements of the Federal Regulations. This section also prescribes maximum contaminant levels for coliform bacteria in non-public water systems (which are not covered by the Federal Regulations), and extends maximum contaminant levels for turbidity, inorganics, organics, and radionuclides to all water systems upon findings by the Department that such is necessary for the protection of health.

Section 5.4 prescribes the specific methods whereby suppliers of water shall make reports to the Department as required by the Federal Regulations, and the method whereby a public non-community water system shall inform consumers of violations. The Department shall assert its right to exemption from the provisions of Executive Order No. 66 (1978) for Subchapter 5 of the Regulations.

– Subchapter 6 of the Regulations titled "Variances and Exemptions" provides for the granting of variances and exemptions in a manner no less stringent than in the Federal Act, and specifies procedures. The Department shall assert its right to an exemption from the provisions of Executive Order No. 66 (1978) for Subchapter 6 of the Regulations.

– Subchapter 7 of the Regulations titled "Secondary Drinking Water Regulations" apply to substances in water which are not directly health related, but which may adversely affect the taste, odor, or appearance, or otherwise adversely affect the public welfare. These standards may be required to be met by any water supply when the administrative authority having jurisdiction finds a need therefor. Subchapter 7 reflects Federal guidelines on those substances which, though they do not have a significant impact on the health of consumers, may discourage the utilization of a public

drinking water supply by the consumer. Section 7.3 specifies monitoring requirements in respect of the secondary standards. The Department shall assert its right to an exemption from the provisions of Executive Order No. 66 (1978) for Subchapter 7 of the Regulations.

– Subchapter 8 of the Regulations titled "Laboratory Certification" has been repealed and replaced by the "Regulations Governing Laboratory Certification and Standards of Performance", N.J.A.C. 7:18.

– Subchapter 9 of the Regulations to be titled "Operation of Public Community Water Systems" has been reserved for future promulgation.

– Subchapter 10 of the Regulations titled "Physical Connections" are required to protect a public community water system from backflow from a contaminated or questionable supply over which the water purveyor has little or no control. Section 10.2 requires that an approved physical connection installation must be provided where dual physically separate piping from a public community water system and an unapproved water system enter a common building. This is necessary to protect against accidental or hidden interconnections between the two systems. Section 10.5 sets forth the application procedures to be followed to obtain a physical connection permit. Section 10.6, in general, sets forth the testing requirements and procedures concerning inspections of reduced pressure zone backflow preventers. Section 10.7 contains the procedures to be followed to obtain permission to make facility changes or to remove the physical connections. These procedures are necessary to assure protection of the public water supply and to enable the Department to keep its records up to date.

– Subchapter 11 of the Regulations titled "Standards for Construction of Public Community Water Systems" constitutes the rules by which the Department shall conduct the review and approval, with appropriate conditions, of plans and specifications for the design and construction of new or substantially modified public community water systems. No such system or part thereof shall be constructed unless pursuant to Subchapter 11.

– Subchapter 12 of the Regulations titled "Standards for the Construction of Public Non-Community and Non-Public Water Systems" constitute the rules of the Department governing the construction of non-community and non-public water systems, excluding water supply systems serving State and county owned facilities. Subchapter 12 has been promulgated pursuant to the State Act and "The Realty Improvement Sewerage and Facilities Act of 1954", N.J.S.A. 58:11-23 et seq. Departmental experience with the standards set forth in Subchapters 11 and 12 clearly demonstrate that the continuation of the Regulations remain vital to protect the citizens of New Jersey.

– Subchapter 13 of the Regulations titled "Licensing of Superintendent or Operators" contains the Department's rules governing the licensing of superintendents or operators of public water systems, public water treatment plants and public and industrial sewage treatment plants. Subchapter 13 has been promulgated pursuant to N.J.S.A. 58:11-14 et seq. Please note that a new licensing act is currently before the Legislature. The Department, upon passage of this act, intends to totally revise Subchapter 13. For this reason, the Department is readopting Subchapter 13 in its present form at this time.

Please note that proposed Legislative amendments to the State Act may generate subsequent amendments to the Regulations. Assembly Bill No. 280 (hereinafter "A-280") has been recently revised after adoption by the Assembly on July 1, 1982. Both houses of the Legislature now have the Senate Reprint of the Assembly Committee Substitute for A-280 for their consideration. A-280, as revised, shall expand the State Act to require periodic testing of selected and specified organic compounds for all public community water systems in the State. A Drinking Water Quality Institute shall be formed to make recommendations to the Commissioner prior to setting maximum contaminant levels for said organic compounds. Also owners and operators of public

community water systems shall be levied a quarterly tax of \$0.01 per 1,000 gallons of water delivered to a consumer not including water purchased for resale. Any revenue shall be deposited in a new "Safe Drinking Water Fund" to be utilized by the Department for all costs associated with the Department's administration of all aspects of the programs set forth in the State Act. Furthermore, other provisions of the State Act shall be amended, most notably the violations section of the State Act. The passage of A-280 would require substantial revision of the Regulations. For example, A-280 will require the Department to establish periodic testing schedules for said organic compounds within six months of A-280's effective date. The Department, at that time, shall also consider the public comments received pursuant to this readoption proposal before proposing any new amendments to the Regulations. Any future amendments to the Regulations shall, of course, comply with all notice, comment and other applicable provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

**Social Impact**

The proposed rules provide the major positive social impact of assuring the maintenance of high quality potable water which the Legislature declared essential in order to safeguard the health and welfare of the citizens of New Jersey. The Department, without this proposed readoption, shall be without the means of protecting the purity of the water we drink. The continuation of the Regulations allows the Department to insure the provisions of safe drinking water to consumers and the maintenance of New Jersey's primary enforcement responsibility under the Federal Act.

**Economic Impact**

Expenses incurred due to the Regulations have become standard business expenses for public water systems. However, any added expenditures by public water systems over the years must be balanced against the paramount policy of the State - protection of the purity of the water we drink. The overall economic impact of the Regulations, considering the benefits, shall not be significant.

**Environmental Impact**

The readoption of the Regulations shall provide the Department with the authority to assure the maintenance of high quality potable water necessary to safeguard the health and welfare of the citizens of New Jersey. The Legislature has declared that the water resources of New Jersey are also essential to the economic welfare, recreational and aesthetic enjoyment and general welfare of the people of New Jersey (see N.J.S.A. 58:1A-2). The Regulations provide the Departmental mechanism to protect this important environmental matter.

**Full text** of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 7:10.

**(a)**

**DIVISION OF WATER RESOURCES**

**Shellfish-Growing Water Classification**

**Proposed Readoption with Amendments:  
N.J.A.C. 7:12**

Authorized By: Robert E. Hughey, Commissioner,  
Department of Environmental Protection.  
Authority: N.J.S.A. 13:1D-1 et seq. and 58:24-1.  
DEP Docket No. 017-83-03.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Eisele, Jr., Chief  
Department of Environmental  
Protection  
Bureau of Shellfish Control  
Richards Lane, Leeds Point  
Star Route  
Absecon, NJ 08201

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The readoption becomes effective upon acceptance for filing of the notice of adoption by the Office of Administrative Law. Concurrent amendments to the readoption become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-201.

The agency proposal follows:

**Summary**

The Department of Environmental Protection proposes to readopt its rules on the classification of certain shellfish beds and Special Permits.

The Bureau of Shellfish Control in the Division of Water Resources classifies the areas from which shellfish may be harvested in accordance with applicable State and United States Food and Drug Administration (FDA) guidelines and regulations.

The classification is based on the results of investigatory services which include the collection and analysis of water samples, the inventory of actual and potential sources of pollution, and hydrographic studies of flow patterns which distribute pollution.

Once the areas are classified, the FDA requires an appraisal of the areas approved for shellfish harvesting every two years. New Jersey conducts the investigatory work and research and pursuant to N.J.S.A. 58:24-1 et seq., and revises the regulations annually. The basis of the regulation is to identify those areas acceptable to the direct harvest and marketing of clams, oysters and mussels and under Subchapter 2 establish the rules under which shellfish may be safely utilized from condemned areas.

The Department also proposes to amend its rules on the classification of certain shellfish beds resulting from surveys conducted by the Bureau of Shellfish Control. The investigatory work consists of the collection and analysis of water samples, the inventory of actual and potential sources of pollution and hydrographic studies of flow patterns which distribute pollution. These surveys are conducted in accordance with applicable State and Federal (Food and Drug Administration (FDA) guidelines and regulations. The FDA further requires that each state appraise, every two years, the quality of those waters approved for the harvest of shellfish. New Jersey conducts investigatory work and research and pursuant to N.J.S.A. 58:24-1 et seq., and revises the regulations annually.

These proposed amendments will result in the reclassification of approximately 7301 acres. The names of the waterways and number of acres reclassified are listed below in general terms:

Chart No.	Area	Action Proposed	Acres
4 & 5	Barneгат Bay - Forked River to Conklin Island	Condemned to Seasonal	1372
6	Landing Creek (Great Bay)	Condemned to Seasonal	23
7	Shelter Island Bay, Risley Channel and connecting thorofares	Condemned and Special Restricted to Seasonal	1161

7 & 8	Beach Thorofare and connecting thorofares	Condemned to Seasonal	1585
8	Peck Bay	Condemned to Seasonal	264
8	Whale Creek	Condemned to Seasonal	55
7	Atlantic Ocean, Great Egg Harbor Inlet	Condemned to Approved	2516
7 & 8	Atlantic Ocean, Ocean City Shoreline	Approved to Condemned	106
8	Atlantic Ocean, Corson Inlet Area	Approved to Condemned	170

The Department of Environmental Protection also proposes to update its special permits issued by the Bureau of Shellfish Control in the Division of Water Resources N.J.A.C. 7:12-2. These permits specify the conditions under which shellfish may be harvested and processed from Condemned or Special Restricted waters. Certain resource recovery programs such as Relay and Dupuration, allow the utilization of shellfish that would otherwise be unavailable to the consuming public. In addition, special permits are issued to harvest shellfish for bait purposes, transfer for growth, purification and scientific research. The proposed changes to the program will clear up some confusing language and provide greater protection to the public's health, safety and general welfare.

**Social Impact**

The Department of Environmental Protection does not anticipate any negative social impact to be associated with the proposed readoption and amendments to the shellfish growing water regulations. Quite the opposite, it is expected that increased shellfish production resulting from the availability of additional harvesting waters will work to the benefit of the shellfish industry and the consumer alike. The changes to the special permit program will have a positive impact by allowing greater utilization of what would otherwise be an unsafe food product.

**Economic Impact**

It is anticipated that the economic impact associated with the various growing water reclassifications contained herein, will be positive in nature. Overall, there is far more water being upgraded (6979 acres) than downgraded (276 acres). In fact, the acreage being downgraded, which is located entirely in the Atlantic Ocean, represents only .1 percent of the total acreage within the New Jersey's territorial three mile limit. Therefore, the negative impact to the surf or sea clamming industry is expected to be minimal.

Overall, the areas in both the ocean and the back bays that are being recommended for upgrading, are generally considered by the shellfish industry to be productive for the growth and propagation of shellfish. The net effect of these reclassifications will be to increase the acreage available for shellfish harvesting in productive areas. Ultimately, the consumer will benefit through increased production of a commodity that is in great demand.

The proposed changes to the special permits will have little economic impact on the special permit program as it currently exists. The overall effect of the program over the years has been positive to the economy of the State. Through the controlled harvest and sale of a shellfish product from Condemned or Special Restricted waters, both the shellfish industry and the public have benefited.

**Environmental Impact**

These regulations manage public access to New Jersey's shellfish

beds, which are continually monitored by this Department to insure a sustained harvest of this renewable resource. They therefore have a positive impact upon the fishery as a whole. The closing of contaminated waters protects the public's health, and at the same time, highlights pollution problems. This helps direct attention and hopefully resolve problems.

There is no adverse environmental impact expected from the changes in classification of these shellfish beds. The changes reflect the changes in water quality that have been observed, through the Department's testing programs. Likewise the changes to the special permit are not expected to have an adverse environmental impact.

**Full text** of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 7:12, as amended in the New Jersey Register.

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

7:12-1.2 Definitions

...  
**"Department Maintained Markers" means any special shellfish buoy, range, stake or marker maintained by the Department of Environmental Protection, for the purpose of aiding in the delineation of waters classified as Condemned or Seasonally Approved for shellfish harvesting.**  
 ...

7:12-1.3 Growing water condemnations

(a) Charts designating Condemned areas as hereinafter described are available from the Bureau of Shellfish Control offices, Marine Police Stations, and Shellfisheries Field Offices at Bivalve and Nacote Creek. However, all persons are cautioned that emergency closures may be necessary and may not be charted. These Approved Area Charts are developed from Nautical Charts Number 12327 New York Harbor 76th Edition, December 20, 1980; Number 12324 Intracoastal Waterway, Sandy Hook to Little Egg Harbor, 19th Edition, December 13, 1980; Number 12316 Intracoastal Waterway, Little Egg Harbor to Cape May 18th Edition, December 6, 1980; and Number 12304 Delaware Bay, 27th Edition March 28, 1981. The State Department of Environmental Protection hereby Condemns all shellfish growing waters or other places from which shellfish are or may be taken, at all times of the year, except when otherwise noted in N.J.A.C. 7:12-1.4 and 1.5.

1.-14. ((No change.))

15. [Forked River and Barnegat Bay; Forked River to Barnegat (Double Creek) area.] **Western Barnegat Bay - Forked River to Conklin Island.** (A portion is designated as seasonal. See: N.J.A.C. 7:12-1.4.):

i. [All of those waters west from a line beginning at (F1 R "3") off the mouth of Oyster Creek and bearing approximately 197 degrees T to a point of land north of Forked River; also beginning at the same light the line bears approximately 204 degrees T through Special Purpose buoy "B" to Special Purpose buoy "C" located approximately 4/10 of a nautical mile east of (F1 R "2") marking the entrance to Waretown Creek, then bearing approximately 194 degrees T through Special Purpose buoys "D" and "E" to Special Purpose buoy "F" located approximately 1/2 of a nautical mile east of light (F1 G "1") marking the entrance to Lochiel Creek and the Pebble Beach Lagoon complex, then bearing approximately 180 degrees T through Special Purpose buoy "G" and terminating at the range markers (Department maintained) located on Conklin Island.] **All waters of Forked River and its tributaries west of a line beginning on the easternmost point of land immediately north of Forked River (approximate location: latitude 39 degrees 49 minutes 38 seconds N., longitude 74 degrees 9 minutes 38 seconds W.) and bearing approximately 167 degrees**

**T to the easternmost point of land on the southern bank at the mouth of Forked River.**

ii. All of Oyster Creek.

iii. All waters south and west of a line beginning on the northern bulkhead at the mouth of an unnamed lagoon (lying between Beacon Drive and Nautilus Road in Ocean Township) and bearing approximately 180 degrees T to Department maintained marker "AA" (located approximately 400 yards east of Flashing Red light 2 (F1 R "2") at the mouth of Waretown Creek) and then bearing approximately 195 degrees T to the Department maintained marker "BB" (located approximately 400 yards east of the mouth of South Harbor) and then bearing approximately 200 degrees T to Flashing Red light 2 (F1 R "2") marking the entrance to the Barnegat Beach lagoon system where it terminates.

iv. All waters west and south (including all waters of Double Creek) beginning at the easternmost extent of the bulkhead (Flashing Redlight 2) located along the shoreline of the Barnegat Public Dock and bearing approximately 180 degrees T to the northernmost point of land on the northwest peninsula on Conklin Island.

16.-22. (No change.)

23. Mullica River - Great Bay area: (A portion is designated as Seasonal. See: N.J.A.C. 7:12-1.4 and 1.5.):

i.-vi. (No change.)

[vii. All of Landing Creek to its confluence with the man-made ditch leading to Scotts Landing.]

24. (No change.)

25. Brigantine area (A portion is designated as Seasonal. See: N.J.A.C. 7:12-1.5):

i. All of Baremore Quarters[;] inside of a line from the northern end of 10th Street South and bearing approximately 332 degrees T to 470 West Shore Drive and terminating.

ii.-iii. (No change.)

26. Atlantic City - Absecon area: (A portion is designated as Seasonal. See N.J.A.C. 7:12-1.4.):

i.-ix. (No change.)

x. All of Beach Thorofare from Absecon Channel to [Great Egg Harbor Inlet] the Route 40 Bridge.

27. Pleasantville - Northfield - Linwood - Margate - Ventnor Longport area (Portions are designated as Special Restricted and Seasonal. See: N.J.A.C. 7:12-1.4.):

[i. Special Restricted Area: All that area contained within a line from the northeastern tip of Whirlpool Island and continuing along the western shoreline, then along the northwestern shoreline of Williams Island to its southwesternmost point, then bearing approximately 265 degrees T to an unnamed island and along that shoreline in a northerly direction including all of Mulberry Thorofare and Stillman Creek and continuing along that shoreline to the Department maintained marker at the mouth of Shelter Island Bay and bearing approximately 131 degrees T to its point of origin and terminating.]

[ii. All that portion of Lakes Bay and Shelter Bay not specified in the Special Restricted area or in the Seasonal area described in N.J.A.C. 7:12-1.4.).]

[iii.] i. All of Shelter Island waters;

[iv. All the portion of Risley Channel not specified in the special restricted area;]

[v.] ii. All of Hospitality Creek;

[vi. All of the two unnamed thorofares connecting Scull Bay with Risley Channel;]

[vii. All of Beach Thorofare, Inside Thorofare, West Canal and Great Thorofare as specified in paragraph 26 of this subsection.]

iii. All of Inside Thorofare, West Channel and Great Thorofare; and all of Beach Thorofare from the Route 40 Bridge to a line from the tip of the stone jetty at the end of Atlantic Avenue (Longport) and bearing approximately 003 degrees T to the westernmost bulkhead in the Seaview Harbor Community at 69 Sunset Boulevard West.

iv. All of the unnamed thorofare between Port Island and Lone Cedar Island.

v. Special Restricted: All of Dock Thorofare and tributaries contained within a line from the point of land on the north side of Mulberry Island (at Dock Thorofare) and bearing approximately 077 degrees T to the southeasternmost point of land on Kiah's Island, then along that shoreline in a northerly, then easterly direction to a Department maintained marker, then bearing approximately 340 degrees T to and including the unnamed creek just east of Stillman Creek, then along the shoreline of Dock Thorofare in a westerly direction including Stillman Creek and continuing along the shoreline to the point of origin at the mouth of Mulberry Thorofare and terminating.

28. Ocean City - Somers Point area (A portion is designated as Seasonal. See: N.J.A.C. 7:12-1.4 [and 1.5]):

[i. All of Great Egg Harbor Inlet. This condemnation adjoins the closure defined in paragraph 39iv of this subsection;]

[ii. Rainbow Channel northeast from the Ocean City-Somers Point Bridge;]

[iii.] i. All of Bass Harbor and Bass Harbor Thorofare from Ship Channel to a line beginning at a Department maintained marker on the southern shore of Steelman Bay and bearing approximately 306 degrees T, touching the shoreline of an unnamed island and continuing to a Department maintained marker on the opposite shore and terminating.

[iv.] ii. All of Patcong Creek and tributaries upstream from a line beginning at Channel Marker number 1 (F1 "1") bearing approximately 110 degrees T to a Department maintained marker and terminating [on the opposite side of Patcong Creek];

[v. All of Beach Thorofare from Great Egg Harbor Inlet to a line beginning at the southwest point of Shooting Island bearing approximately 169 degrees T and terminating on the opposite side of Beach Thorofare, including the waters south and east from a line beginning at Inland Waterway Marker number 16 (F1 R "16") bearing 034 degrees T passing through Channel Marker number 4 (F1 R "4") and terminating on the island northeast from number 4 (F1 R "4");]

iii. All of Beach Thorofare, Peck Bay and adjacent thorofares contained within a line beginning at the western end of West 16th Street, Ocean City and bearing approximately 342 degrees T to Flashing Red light 16 (F1 R "16"), then along the south side of the unnamed island (on which Flashing Red light 16 (F1 R "16") is located) to its westernmost point, then across the small thorofare to the nearest point of land on Shooting Island and following the southeastern shoreline of Shooting Island, then in a northerly direction to a Department maintained marker, then bearing approximately 240 degrees T across the thorofare to the northernmost point of land on the unnamed island (located southwest of Shooting Island), then along the shoreline in a westerly direction to another Department maintained marker, then bearing approximately 203 degrees T through Flashing Green light 37 (F1 G "37") to a Department maintained marker on the Ocean City shoreline, then along the Ocean City shoreline in a northeasterly direction to its point of origin at West 16th Street and terminating.

iv. All of the body of water known as THE LAGOON (location of Coast Guard Station, Ocean City).

[vi. Peck Bay:

(1) All of Bull Thorofare as defined by a line starting at the tip of the S.W. Peninsula of Shooting Island and bearing approximately 242 degrees T to the northernmost point of land on the adjacent unnamed island;

(2) All of Peck Bay south and east of a line from the northwest point of land on this unnamed adjacent island and bearing approximately 222 degrees T to the northwest tip of land on a small unnamed island between the northwest of buoys number 36 and number 38 (R "36" and R "38"), and continuing on a bearing of approximately 260 degrees T to the range marker (Department maintained) on the mainland and terminating.]

[vii.] v. All of Crook Horn Creek and tributaries from [Peck Bay] **the 34th Street Bridge** to Edward Creek.

[viii.] vi. All of Crook Horn Creek from Edward Creek to Middle Thorofare;

[ix.] vii. All of Upland Thorofare and tributaries thereof;

[x.] viii. All of Beach Creek north of railroad bed.

29.-30. (No change.)

31. Strathmere and Sea Isle City area (A portion is designated as Seasonal. See: N.J.A.C. 7:12-[1.5] **1.4.**):

i. (No change.)

ii. All of [Whale Creek and] the unnamed tributary to the east of Whale Creek.

iii.-vii. (No change.)

32.-38. (No change.)

39. Atlantic Ocean:

i.-iii. (No change.)

iv. All of the ocean waters inshore of a line beginning at the [standpipe located at North Benson Avenue between Winchester Avenue and Monmouth Avenue, City of Margate, with coordinates of latitude 39 degrees 19.5 minutes N. and longitude 74 degrees 30.9 minutes W. and bearing approximately 168 degrees T for approximately 2.5 nautical miles to a point with coordinates of latitude 39 degrees 17.0 minutes N., longitude 74 degrees 30.2 minutes W. (generally marked by a buoy charted as "GE" Mo (A) BELL at the entrance to Great Egg Harbor Inlet), then bearing approximately 268 degrees T for approximately 3.4 nautical miles to the water tank located at Haven Avenue between Seventh Street and Eighth Street, Ocean City, with coordinates of latitude 39 degrees 16.9 minutes N., and longitude 74 degrees 34.6 minutes W., and terminating. This condemnation adjoins the closure defined in paragraph 28i of this subsection;] **base of the jetty located on the beach near the intersection of Seaspray Road and Waverly Boulevard, City of Ocean City (first stone jetty projecting into Great Egg Harbor Inlet on the northeasternmost end of the city), and continuing along that jetty in a southeasterly direction to its outermost tip, then in a general southerly direction, the line continues and connects the tips of the stone jetties projecting into the ocean until reaching the tip of the stone jetty located at the end of 15th Street (just south of the Ocean City Fishing Club Pier), then bearing approximately 230 degrees T for approximately 2.8 nautical miles to the water tank located at 4600 Haven Avenue (46th Street intersects across from this location), Ocean City, with coordinates of latitude 39 degrees 14.3 minutes N., longitude 74 degrees 37.6 minutes W., and terminating.**

v.-vi. (No change.)

vii. All of the ocean waters inshore of a line beginning at the [cupola (the old Coast Guard Station) located at the corner of the 36th Street and Central Avenue, Ocean City,] **City of Ocean City's Beach Patrol, First Aid and Rest Room building located on the beach at 34th Street, with coordinates of latitude 39 degrees [14.9] 15.0 minutes N., longitude 74 degrees [36.8] 36.6 minutes W., and bearing approximately 126 degrees T for approximately 1.5 nautical miles from the shoreline to a point with coordinates of latitude 39 degrees [13.9] 14.1 minutes N., longitude 74 degrees [35.2] 35.0 minutes W., then bearing approximately 216 degrees T along the shoreline in a southwesterly direction 1.5 nautical miles offshore, for approximately [2] 2.3 nautical miles to a point with coordinates of latitude 39 degrees 12.3 minutes N., longitude 74 degrees 36.7 minutes W., then bearing approximately 306 degrees T for approximately 1.4 nautical miles to the outermost tip of Anglers Fishing Club's Pier, 5825 Central Avenue, Ocean City, then along that pier to the shoreline and terminating.**

7:12-1.4 Seasonally Approved growing waters (Approved November 1 through April 30, Condemned May 1 through October 31 yearly)

(a) The Seasonal waters described in this subchapter shall be Condemned for the harvest of shellfish from May 1 through October

31 yearly and Approved for the harvest of shellfish from November 1 through April 30 yearly. The areas are designated on the charts referred to in N.J.A.C. 7:12-1.3 and are described as:

1. [Barnegat Bay - Berkeley Township area:] **Southern Barnegat Bay area:**

i. (No change.)

ii. [Forked River area: Seasonal - Condemned May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All those waters east of the line delineated at N.J.A.C. 7:12-1.3(a)15 and west of a line beginning at Flashing Red light 2 (F1 R "2") off the mouth of Forked River and bearing approximately 347 degrees T to a point of land north of Forked River; also beginning at the same light (F1 R "2") the line bears approximately 219 degrees T to Flashing light 3 (F1 "3") marking the entrance to the channel to Oyster Creek.]

**Barnegat Bay - Forked River to Barnegat: Seasonal-Condemned May 1 through October 31 yearly, Approved November 1 through April 30 yearly;**

(1) All those waters east of the Condemned waters described in N.J.A.C. 7:12-1.3(a)15 and west of a line beginning at the easternmost point of land immediately north of Forked River ((Department maintained marker) approximate location: latitude 39 degrees 49 minutes 53 seconds N., longitude 74 degrees 9 minutes 17 seconds W.) and bearing approximately 167 degrees T to Flashing Red light 2 (FL R "2") located off the mouth of Forked River, and then bearing approximately 212 degrees T to Flashing light 3 (F1 "3") marking the entrance to the channel to Oyster Creek, and then bearing approximately 204 degrees T through Department maintained marker "B" to Department maintained marker "C" located approximately 0.4 nautical miles east of Flashing Red light 2 (F1 R "2") marking the entrance to Waretown Creek, then bearing approximately 194 degrees T through Department maintained markers "D" and "E" to Department maintained marker "F" located approximately 0.5 nautical miles east of Flashing Green light 1 (F1 G "1") marking the entrance to Lochiel Creek and the Pebble Beach lagoon complex, and then bearing approximately 180 degrees T through Department maintained marker "G" and terminating at the range marker (Department maintained) located on Conklin Island.

2.-4. (No change.)

5. [Pleasantville-Northfield-Linwood-Margate-Ventnor-Longport area: Seasonal-Condemned May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. Lakes Bay: All that portion of Lakes Bay and Shelter Bay lying southwest from the channel leading from the Pleasantville Yacht Club around the north shore of the bay to F1 G7", then continuing to the northern tip of Whirlpool Island, then bearing approximately 311 degrees T to the mainland and continuing to its point of origin at the Pleasantville Yacht Club channel and terminating.]

**Lakes Bay-Shelter Bay-Risley Channel Area: Seasonal-Condemned May 1 through October 31 yearly. Approved November 1 through April 30 yearly:**

i. All that portion of Lakes Bay, Shelter Bay and adjoining thorofares contained within a line from the Pleasantville Yacht Club and following the channel markers F1 G "15", F1 G "13", F1 G "11", F1 R "8" to F1 G "7", then bearing approximately 061 degrees T across the northernmost tip of a small unnamed island to Great Island, then along the shoreline of Great Island in a southerly direction to its southwesternmost point, then bearing approximately 220 degrees T to the northernmost point of Jonas Island, then along the northwest shoreline of Jonas Island to its westernmost point, then bearing approximately 235 degrees T to the northernmost point of Pork Island, then along the shoreline in a westerly direction to the base of the Ventnor-Margate Bridge, then bearing approximately 233 degrees T to the most northern point of land on Lone Cedar Island, then along the western and southern shore line of Lone Cedar Island to a Department maintained marker, then

bearing approximately 214 degrees T to the northwesternmost point of land on Dune Island, then along the western shore of Dune Island to its westernmost point, then bearing approximately 223 degrees T across Risley Channel to a Department maintained marker, then following the shoreline in a northerly direction to an unnamed thorofare, then following the southeast shoreline of that thorofare to a point of land adjacent to G "3" (at the junction with Broad Thorofare) then bearing approximately 350 degrees T across the thorofare to the point of land on the opposite bank, then along the shoreline in a northeasterly direction to its mouth at Risley Channel, then following the shoreline in a northerly direction and across the mouth of the next unnamed thorofare connecting Risley Channel and Scull Bay and continuing in a northerly direction along the shoreline of Dock Thorofare, including all of Mulberry Thorofare, then from the point of land on the north side of Mulberry Thorofare (at its mouth) bearing approximately 077 degrees T to the southernmost point of land on Kiah's Island, then along that shoreline in a northeasterly then a northwesterly direction (approximately 2500 yards) to a Department maintained marker, then bearing approximately 340 degrees T to the opposite shoreline at the point of land on the east side of the mouth of the unnamed creek just east of Stillman Creek, then continuing in a easterly direction along the northern shoreline of Dock Thorofare, Lakes Channel and Lakes Bay to its point of origin at the Pleasantville Yacht Club and terminating.

6. Ocean City-Somers Point area-Great Egg Harbor Bay: Seasonal-Condemed May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. [All that portion of Great Egg Harbor Bay contained within a line beginning at the northern end of the Somers Point-Ocean City Bridge at Somers Point, then along the northeastern side of the causeway in a southeasterly direction to the first island after crossing Rainbow Channel, then in a westerly direction along the shoreline to the point of land adjacent to the small unnamed cove, then to Flashing Red light 4 (Fl R "4"), then to Flashing Red light 16 (Fl R "16"), then along the northshore of that island to the eastern tip of Shooting Island, then along the northern shore of Shooting Island to the range markers (Department maintained), then bearing approximately 352 degrees T to the eastern tip of Drag Island, then along the shoreline in a westerly direction to the Garden State Parkway Bridge, then across Drag Island following the northbound lane of the Parkway across Drag Channel to the mainland, then along the mainland shore in a northeasterly direction to, and terminating at, the northernmost point of the Somers Point-Ocean City Bridge.]

All that portion of Great Egg Harbor Inlet and Great Egg Harbor Bay contained within a line beginning at the base of the stone jetty at the end of 11th Avenue (Longport) and bearing approximately 230 degrees T to the base of the stone jetty at the end of Seaspray Road (Ocean City) and following the Ocean City bayfront in a northerly, then in a southwesterly direction across the mouth of The Lagoon and continuing on to the end of West 16th Street (Ocean City), then to Flashing Red light 16 (Fl R "16"), then along the north shore of that island to its westernmost point and southwest across an unnamed channel to the nearest point of land on Shooting Island and continuing along the north shore of Shooting Island to the range marker (Department maintained), then bearing approximately 352 degrees T to the eastern tip of Drag Island, then along the northern shoreline in a westerly direction to the Garden State Parkway Bridge, then along the eastern side of the Garden State Parkway Bridge, across Drag Channel to the mainland, then along the mainland shoreline in an easterly direction continuing along the northern shoreline of Ship Channel, across the mouth of Bass Harbor Channel and continuing along the Ship Channel shoreline to Anchorage Point, then in a northeasterly direction (excluding the unnamed tributary) into Broad Thorofare to the base of the Route 152 bridge, then along

the south side of the bridge to the opposite shoreline, then southerly along the Broad Thorofare shoreline and easterly along the Beach Thorofare shoreline to the westernmost bulkhead at 69 Sunset Boulevard West, Seaview Harbor Community, then bearing approximately 183 degrees T to the tip of the stone jetty at the end of Atlantic Avenue (Longport) then along the jetty to its base and continuing oceanward to the point of origin at the base of the stone jetty at 11th Avenue (Longport) and terminating.

ii. Peck Bay Area: Seasonal-Condemed May 1 through October 31, Approved November 1 through April 30 yearly: All of Peck Bay north and west of a line from the northwest tip of the unnamed island (located southwest of Shooting Island) bearing approximately 203 degrees T through Flashing Green light 37 (Fl G "37") to the Department maintained marker on the Ocean City shoreline, then along the shoreline in a southwesterly direction to the base of the Roosevelt Boulevard Bridge, then along the northern side of the bridge to the mainland, then along the shoreline in a northerly direction to a Department maintained marker, then bearing approximately 079 degrees T to the northwest tip of an unnamed island (immediately west of R "36"), then bearing approximately 042 degrees T to its point of origin and terminating.

7. Strathmere area: Seasonal-Condemed May 1 through October 31 yearly, Approved November 1 through April 30 yearly: All that portion of Main Channel and Whale Creek within the area enclosed by a straight line from the north end of the Ocean Drive Bridge, along the western side of the bridge to the portion that opens, then bearing approximately 212 degrees T to the boat ramp located at the end of Bayview Avenue, Strathmere, then along that shoreline to the mouth of Whale Creek, then along the eastern bank of Whale Creek (excluding unnamed tributary) to the Department maintained marker at the junction with Ludlam Bay, then bearing approximately 305 degrees T to another Department maintained marker on the opposite bank, then along that shoreline in a northeasterly direction to the mouth of the creek, then along a straight line across Main Channel bearing approximately 026 degrees T to a small ditch on the opposite shore, then along that shoreline to its point of origin at the Ocean Drive Bridge and terminating.

[7] 8. Great Sound area: (No change.)

[8] 9. Delaware Bay area: (No change.)

7:12-1.5 Seasonally Approved Growing Waters (Approved January 1 through April 30 yearly, Condemed May 1 through December 31 yearly)

(a) The Seasonal waters described in this subchapter shall be Condemed for the harvest of shellfish from May 1 through December 31 yearly and Approved January 1 through April 30 yearly. The areas are designated on the charts referred to in N.J.A.C. 7:12-1.3 and are described as:

1.-6. (No change.)

7. Mullica River-Great Bay area: Seasonal-Condemed May 1 through December 31 yearly, Approved January 1 through April 30 yearly:

i. All of Landing Creek to its confluence with the man-made ditch leading to Scotts Landing.

[7.] 8. Brigantine area: (No change.)

[8.] 9. [Steelman Bay] Ocean City-Somers Point area: Seasonal-Condemed May 1 through December 31 yearly, Approved January 1 through April 30 yearly:

i. Steelman Bay: All of Steelman Bay from a line beginning at a Department maintained marker on the southern shore of Steelman Bay and bearing approximately 306 degrees T, touching the shoreline of an unnamed island and continuing to a Department maintained marker on the opposite shore, then along the northern shoreline, including the first tributary, then continuing along the shoreline of Steelman Bay, across several tributaries and back to its point of origin at the Department maintained marker and terminating.

ii. Great Egg Harbor Bay, Great Egg Harbor River and Middle River: Seasonal-Condemed May 1 through December 31 yearly, Approved January 1 through April 30 yearly:

(1) All that portion of Great Egg Harbor Bay, Great Egg Harbor River and Middle River contained within a line beginning at the southwest tip of Drag Island and bearing approximately 266 degrees T through the south side base of the second electric tower (uncharted) to the northern point at the mouth of the Tuckahoe River, then along the western shoreline of Great Egg Harbor River in a northwesterly direction to Middle River, then along the south shore of Middle River to the tributary leading to Swan Pond, then directly across Middle River and along the shore to Great Egg Harbor River, then along the shore of Great Egg Harbor River to Flashing Light number 7 (Fl "7"), then across Great Egg Harbor River bearing approximately 020 degrees T to the west bank of the mouth of Lakes Creek, then along the eastern shore of Great Egg Harbor River in a downstream direction to the north shore of Patcong Creek, then across the line marking the mouth of Patcong Creek described in N.J.A.C.7:12-1.3(a)28ii, then along the north shore of Great Egg Harbor Bay and Drag Channel to the Garden State Parkway, then along the eastern side of the Garden State Parkway to the northern shore of Drag Island, then along the shoreline in a westerly direction to its origin at the southwest tip and terminating.

[9. Strathmere area: Seasonal-Condemed May 1 through December 31, Approved January 1 through April 30 yearly:

i. All that portion of Main Channel from a straight line beginning at the north end of the Ocean Drive Bridge, along the western side of the bridge to the portion that opens, then bearing approximately 212 degrees T to the boat ramp located at the end of Bayview Avenue, Strathmere, then from a straight line beginning on the east bank at the mouth of Whale Creek and bearing approximately 285 degrees T to the opposite bank, then to a straight line across Main Channel bearing approximately 026 degrees T to a small ditch on the opposite shore of Main Channel, then along that shoreline to its point of origin at the Ocean Drive Bridge and terminating.]

## SUBCHAPTER 2. SPECIAL PERMIT

### 7:12-2.1 General provisions

(a) The State Department of Environmental Protection may issue permits to take or harvest shellfish, as hereinafter provided from waters [c]Condemed or otherwise restricted by the regulations contained herein. (Note: Under the authority of N.J.S.A. 50:2-1 et seq., any person taking shellfish from [a]Approved waters must have a license from the Department.)

(b) (No change.)

(c) Each application shall be accompanied by a fee in the amount of \$25.00 (check or money order made payable to New Jersey State Department of Environmental Protection). Forms may be obtained from the [Bureau of Shellfish Control, Division of Water Resources, Box CN-029, Trenton, New Jersey 08625.] **New Jersey Department of Environmental Protection, Division of Water Resources, Bureau of Shellfish Control, Richards Lane, Leeds Point Absecon, New Jersey 08201,** and New Jersey Marine Police stations located throughout the State.

(d) (No change.)

(e) **Conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq. and N.J.S.A. 50:2-1 et seq. shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of the State.**

### 7:12-2.2 Applications

(a) Applications for said permits shall be submitted on forms supplied by the Department as follows:

1. Bait permit application (WR-002);
2. Depletion permit application (WR-003);

3. Soft Clam Depuration/Harvester (WR-004);
4. Relaying permit application (WR-005);
5. Transfer permit application (WR-006);
6. Transplant permit application (WR-007);
7. **Soft Clam Possession and/or processing plant permit application (WR-008);**
8. **Hard Clam Depuration/Harvester (pilot) program (WR-009);**
9. **Hard Clam Possession and/or processing plant (pilot) program permit application (WR-010);**

### 7:12-2.3 Bait program; sea clams

(a) The purpose of Permit No. 2a ("Sea Clam Bait Permit") is to allow Sea or Surf Clams to be harvested from the [c]Condemed Waters in the Atlantic Ocean within the State of New Jersey jurisdictional three mile limit, and ultimately sold for bait purposes only (N.J.S.A. 58:24-3).

(b) Permit No. 2a shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. (No change.)

2. Areas of harvest are limited to the [c]Condemed waters in the Atlantic Ocean within the State of New Jersey jurisdictional three nautical mile limit as described in the most recent revision of the Regulations Concerning Classification of Certain Shellfish Beds.

3.-4. (No change.)

5. The permit does not supersede current laws, regulations and rules promulgated by other agencies of the State of New Jersey. Included in this category is [N.J.S.A. 50:2-6.1 et seq. as it applies to the harvest of sea or surf clams during the months of June, July, August and September and regulations adopted thereunder] **N.J.A.C. 7:25-1 et seq.**

6.-10. (No change.)

11. Areas such as walk-in boxes, truck bodies, etc., which are used for the storage of clams harvested from the [c]Condemed area, shall not be used for the storage of other food products if such food products are to be utilized for human consumption.

12.-14. (No change.)

15. Records of daily catches including area harvested, date and quantity; and sales including customer's name, date and quantity of sale shall be maintained for a period of not less than 90 days, and shall be available for inspection by any authorized agent of the State.

16.-17. (No change.)

### 7:12-2.4 Bait program; soft clams

(a) (No change.)

(b) Permit No. 2b shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1.-2. (No change.)

3. Soft clams (*Mya arenaria*) shall have been originally acquired from a harvester holding a duly [issuance] **issued** Permit No. 4.

4. The harvester shall possess a valid **commercial** shellfish harvesting license issued by the New Jersey Division of Fish, Game and Wildlife.

5.-6. (No change.)

7. Areas such as walk-in boxes, truck bodies, etc., which are used for the storage of shellfish harvested from the [c]Condemed ([s]Special[r]Restricted) area, shall not be used for storage of other food products if such food products are to be utilized for human consumption.

8.-10. (No change.)

11. Said damaged soft clams from [c]Condemed ([s]Special [r]Restricted) waters shall not be used or sold as food for human consumption.

12. Pumping and similar illegal methods of harvesting are prohibited, except as provided in N.J.S.A. 50:2-10.1 and 11.

7:12-2.5 Depletion program  
(No change.)

7:12-2.6 Depuration/harvester program; depuration harvester permit

(a) The purpose of Permit No. 4 ("Depuration Harvester Permit") is to allow soft clams to be harvested from certain moderately polluted (Special Restricted) waters and ultimately marketed after processing through a State permitted and certified depuration/controlled purification facility.

(b) Permit No. 4 shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-1 et seq. (P.L. 1979, Chapter 321, Section 3).

1. Species limited under said permit to soft clams (*Mya arenaria*).

2. Areas of harvest are limited to [the] specified Special Restricted waters in [of Raritan Bay,] Sandy Hook Bay, Navesink River and Shrewsbury River. **Included with every permit are charts of the harvest sites showing specific sections within the estuaries that may be harvested on any particular day. The depuration/controlled purification plant owner or manager shall orally notify on a day to day basis, the designated enforcement unit(s) as to the section(s) and hours they intend to work under the provisions of this permit. All harvesters from the same depuration/controlled purification plant are required to work in the same section as the associated mother craft or buy-boat, at any given time.**

3. **This permit shall apply only to the waters noted above and further specified, for reasons of public health protection or resource management, on a day to day basis by the designated enforcement unit(s).**

[3.] 4. The inclusive dates of the permit shall be from January 1[st,] through December 31[st] of the same year unless revoked or suspended prior to that date for cause.

[4.] 5. The harvester shall possess a valid **commercial** shellfish **harvesting** license issued by the New Jersey Division of Fish, Game and Wildlife.

[5.] 6. Harvesting from the specified Special Restricted waters shall be subject to all State laws and regulations applicable to the harvester of oysters, clams or mussels from [a] Approved waters.

[6.] 7. Harvesting from the specified Special Restricted waters shall be permitted Monday through Sunday of each week between the hours of sunrise and sunset, as listed in Trenton.

[7.] 8. The harvester shall have this permit in his possession while working in the specified waters.

[8. This permit shall apply only to the waters noted above and further specified on a day-to-day basis by the designated enforcement unit(s).]

9. [Clamming shall be done only from non-powered boats that have been provided by the depuration/controlled purification facility and have been specially marked or painted in a color scheme established by the New Jersey Department of Environmental Protection.]

**Boats used by special permit holders in harvesting, shall be marked with signs which are a minimum of one foot by two feet (1' x 2') having a white background with legible black lettering (minimum six inches in height) giving the participants first initial and last name, special permit number and depuration plant identification code letter on both sides (amidships) of the participant's harvest boat while participating in any phase of the program. Powered boats used in harvesting shall have the motors in the "tilt" position (except from December 1 through March 31 of each year) while harvesting any shellfish. However, the motor shall not be running while harvesting operations are underway at any time during the year. The harvester must be physically located in his harvest boat at all times while motor is running.**

10. [Said boats shall be transported to the designated area each day by or under the direct supervision of the depuration/controlled

purification facility's "mother craft" or "buy-boat", which will anchor in the designated area. Said non-powered boats shall remain within one-half nautical mile and in sight of the designated "mother craft" or "buy-boat".]

**Said boats and harvesters shall remain in the section reported to the designated enforcement unit(s) by the depuration/controlled purification plant owner or manager, during the time harvesting operations are underway. Harvesting and transportation of shellfish beyond the designated section is prohibited. Upon completion of the day's harvest and delivery thereof, the permittee may leave the area.**

11. Harvesters may use their own boats to travel from home to the "mother craft" or "buy-boat". No clams are to remain in the specially marked [clam] harvest boat(s) or transferred to other power boats **except the designated "mother craft" or "buy-boat" or alternate craft.**

12. Pumping and similar illegal methods of harvesting are prohibited, except as provided in N.J.S.A. 50:2-10 and 11.

13. All soft clams shall be immediately sold or sent to the depuration/controlled purification facility(s) for further processing. All other species of shellfish shall not be removed from the harvest site. **Only "U.S. Standard" bushels shall be used in the harvesting, transportation, and receiving of clams at the depuration/controlled purification facility(s). All reasonable measures shall be taken to assure that bushels of clams transported to the depuration/controlled purification facility(s) are filled to capacity.**

14. Under adverse conditions of weather (e.g. bay and river icing), as determined by the New Jersey State Department of Environmental Protection, alternative methods of harvest and transportation of clams may be developed jointly between that segment of the shellfish industry associated with the depuration program and the various State agencies involved in the program's control. Said alternative methods shall insure that the health, safety and welfare of the public is not compromised.

15. Permittees must comply with special rules regarding certain waters of the Shrewsbury River that are subject to quality changes. These special rules will be provided with the permit. These special rules are as follows:

i. Although water quality throughout the Shrewsbury River allows us to classify the estuary as Special Restricted, whereby clams may be harvested for further processing, it is felt that certain sections of this estuary must, of necessity, be considered as prohibited to shellfish harvesting if a depuration/controlled purification process is to be used as the cleansing method.

ii. These areas, so listed below and on the attached chart, have been found to exhibit an undesirable variability in water quality. This condition holds the consequence of reducing the effectiveness or, more properly perhaps, the reliability of the depuration/controlled purification process in shellfish harvested from such areas. Therefore, in considering potential areas for soft clam (*Mya arenaria*) harvesting in the Shrewsbury River, the following sites or sections of this estuary shall be avoided. **Avoid all:**

- (1) Shaded areas on attached chart;
- (2) Lagoons (man-made or natural);
- (3) Creeks or streams;
- (4) Dead-end harbors such as Oyster Bay or Blackberry Creek;
- (5) Marinas and Anchorages;
- (6) Storm drain discharge locations.

(c) The State Department of Environmental Protection reserves the right to suspend or revoke this permit at any time its continued use may imperil the public health. Conviction of a shellfish violation as provided in N.J.S.A. 58:24-3 and N.J.S.A. 50:2-1 et seq., of the New Jersey statutes shall be adequate cause for the suspension and denial of all Special Permits issued by the New Jersey Department of Environmental Protection involving the harvest of shellfish from the waters of the State.

## 7:12-2.7 Relay program

(a) The purpose of Permit No. 5a ("Harvest, Buy, Sell and Relay [Hardclams] **Hard Clams** Permit") is to allow [hardclams] **hard clams** to be harvested, purchased, sold and relayed for specified Special Restricted or Condemned Waters in conjunction with a State approved shellfish relay program.

(b) Permit No. 5a shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species limited under said permit to [hardclams] **hard clams** (*Mercenaria mercenaria*).

2. Areas of harvest are limited to specified Special Restricted or Condemned Waters within the State of New Jersey and further described on an attached chart provided with each permit. **The harvester shall verbally notify on a day to day basis, the designated enforcement unit(s) and the as to the area and hours he intends to work, under the provisions of this permit.**

3. (No change.)

4. The harvester must possess a valid NEW JERSEY COMMERCIAL HARVESTING LICENSE issued by the New Jersey Division of Fish, Game and [Shellfisheries] **Wildlife**.

5. (No change.)

6. [Harvesting] **The relay of hard clams** from the specified Special Restricted or Condemned Waters shall be permitted Monday through Friday of each week between the hours of sunrise **and sunset** (as listed at Trenton), **except as provided at N.J.S.A. 50:2-11** [and no later than 1300 hours]. **Hard clams shall be relayed to leased lots in Approved waters before sunset of the harvest day.**

7. (No change.)

8. This permit shall apply only to the waters noted above and further specified on a day to day basis by the [applicable area Station Commander, New Jersey Marine Police] **designated enforcement unit(s)**.

9. All [hardclams] **hard clams** taken from the specified Special Restricted or Condemned Waters shall be relayed to the special relay leased plots specified by this Department **before sunset of the harvesting day. The coordinator(s) shall notify Bureau of Shellfish Control by letter after the final transferring to a particular leased lot. The minimum 30 day purging period will not begin until notice of final transferring is received. Additionally, the water temperature of the Approved waters during the 30 day purging period shall be at or above 13 degrees centigrade (55 degrees Fahrenheit) as determined by the Bureau of Shellfish Control.**

10. Relayed [hardclams] **hard clams** are required to remain for a minimum of 30 days on the special relay leased plots. Reharvesting of the relayed shellfish will be regulated by the Department of Environmental Protection's Division of Water Resources, Bureau of Shellfish Control according to the acceptability of samples. Reharvesting of shellfish from the special relay leased plots may commence only after receipt of written permission from this office.

11.-13. (No change.)

14. Upon completion of the day's harvesting, all shellfish shall be transferred to the [State designated vehicle] **authorized vehicle(s)**. No clams are to remain in the marked clam boats or transferred to other vehicles or boats. The location(s) of all loading and unloading zones associated with the transfer of shellfish from one vehicle/vessel to another, shall be designated by the [applicable area Station Commander, New Jersey Marine Police, and/or an authorized agent of the Division of Fish, Game and Wildlife] **designated enforcement unit(s)**. There shall be no variance from said designated area unless so authorized by same.

15. Dredging and similar illegal methods of harvesting are prohibited except in N.J.S.A. [5:2-10.1] **50:2-10.1 and 11.**

16. Shellfish taken from the specified Special Restricted or Condemned harvest areas shall be bagged by the participant [and such bags shall be identified with a number bearing the lot number of the permitted lease holder on which the clams are to be planted]

**and sealed by the coordinator with seals provided by the Department before being transported to the lots. The bags shall remain sealed until the clams are planted on the relay lots [Said number shall be at least 10 inches tall and painted on the side of each bag. The bags shall then be placed by the participant upon a state designated truck to be approved by the applicable area Station Commander, New Jersey Marine Police, and sealed by the State for overland transportation, to a designated landing. Unnumbered bags will not be accepted for overland transportation, but will be seized and their contents returned to Condemned Waters by the New Jersey Marine Police. In the event said truck is inoperative, the relay manager will arrange for a replacement vehicle with the approval of the New Jersey Marine Police, as soon as possible.] Participants will place their sealed bags in trucks provided by them and approved by the designated enforcement unit(s) for transportation to a designated landing. Each participant shall inform the designated enforcement unit(s) of the route he will routinely follow from the harvest area to the planting area.**

17. [The bagged shellfish delivered to the designated landing in the sealed truck, shall be relayed to the leased plots of the participants by a State designated vessel or vessels to be approved by the applicable area Station Commander, New Jersey Marine Police under the supervision of the New Jersey Marine Police and/or the Division of Fish, Game and Wildlife.] **Bagged clams shall be relayed to the participant's leased plots and planted before sunset (as listed in Trenton) of the same harvest day. Participants shall not harvest approved clams from their leased plots on the same trip they plant clams from the day's relay.**

18. No shellfish taken from the Condemned harvest area shall be transported to the State designated relay plots by any means other than the State designated truck [and vessel] or State approved replacement. [Unnumbered bags will not be accepted for transportation to the leased plots, but will be seized and their contents returned to Condemned Waters by the New Jersey Marine Police.]

19. Only the lessee or a substitute harvester shall remove clams from the leased plots. A substitute harvester must possess a Letter of Permission (as specified by the **Division of Fish, Game and Wildlife**) from the lessee giving the dates for which he is allowed harvest privileges, and the lessee's permit from the Division of Water Resources (Permit 5a).

20. Violations of these conditions may subject the violator to prosecution under N.J.S.A. 58:24 [and will cause the violator's permit to be revoked for a period of six months].

21. This permit shows on its face specific conditions that are deemed necessary for the proper operation of the shellfish relay program. All permittees are also required to comply with all other applicable statutes and regulations. Included with every permit are charts of the harvest sites showing specific sections within the estuaries that may be harvested on a particular day, as determined by the [New Jersey Marine Police] **designated enforcement unit(s)**.

i.-ii. (No change.)

22. (No change.)

**23. Conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., and N.J.S.A. 50:2-1 et seq., shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of this State.**

**24. Discrimination against any harvester on the basis of race, sex, creed, domicile, or any other non-work related factor shall be adequate cause for revocation of this permit.**

(c) The purpose of Permit No. 5b ("Harvest [Hardclams] **Hard Clams** For Sale Purposes Only Permit") is to allow [hardclams] **hard clams** to be harvested from specified Special Restricted or Condemned Waters for sale purposes only (thus eliminating the requirement for obtaining a special relay leased plot in [a]Approved waters) in conjunction with a State approved shellfish relay

program.

(d) Permit No. 5b shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species limited under said permit to [hardclams] **hard clams** (*Mercenaria mercenaria*).

2. Areas of harvest are limited to specified Special Restricted or Condemned Waters within the State of New Jersey and further described on an attached chart(s) provided with each permit. The harvester shall verbally notify, on a day to day basis, the designated enforcement unit(s) as to the area and hours he intends to work, under the provisions of this permit.

3. (No change.)

4. The harvester must possess a VALID COMMERCIAL SHELLFISH HARVESTING LICENSE issued by the New Jersey Division of Fish, Game and [Shellfisheries] **Wildlife**.

5. Harvesting from the specified Special Restricted or Condemned Waters shall be subject to all State laws and regulations applicable to the harvest of [hardclams] **hard clams** from Approved Waters.

6. [Harvesting] **The relay of hard clams** from the specified Special Restricted or Condemned Waters will be permitted Monday through Friday of each week between the hours of sunrise and sunset as listed at Trenton **except as provided at N.J.S.A. 50:2-11** [and no later than 1350 hrs]. **Hard clams shall be relayed to leased lots in Approved waters before sunset of the harvest day.**

7. (No change.)

8. This permit shall apply only to the waters noted above and further specified on a day to day basis by the [applicable area Station Commander, New Jersey Marine Police] **designated enforcement unit(s)**.

9. (No change.)

10. One foot by one foot (1' x 1') signs having a white background with legible black lettering, giving the participants first initial and last name and **special permit number**, shall be placed and maintained (amidships) on both sides of the participants harvest boat while participating in any phase of the program.

11. (No change.)

12. Upon completion of the day's harvesting, all shellfish shall be transferred to [the State designated truck] **an authorized vehicle**. No clams are to remain in the marked clam boats or transferred to other vehicles or boats. The location(s) of all loading and unloading zones associated with the transfer of shellfish from one vehicle/vessel to another, shall be designated by the [applicable area Station Commander, New Jersey Marine Police and/or an authorized agent of the Division of Fish, Game and Shellfisheries] **designated enforcement unit(s)**. There shall be no variance from said designated area unless so authorized by same.

13.-14. (No change.)

15. Shellfish taken from the specified Special Restricted or Condemned harvest areas shall be bagged by the participant [and such bags shall be identified with a number bearing the lot number of the permitted lease holder on which the clams are to be planted] **and sealed by the coordinator with seals provided by the Department before being transported to the lots. The bags shall remain sealed until the clams are planted on the relay lots.** [Said number shall be at least 10 inches tall and painted on the side of each bag. The bags shall than be placed by the participant upon a state designated truck to be approved by the applicable area Station Commander, New Jersey Marine Police and sealed by the State for overland transportation, to a designated landing. Unnumbered bags will not be accepted for overland transportation, but will be seized and their contents returned to Condemned Waters by the New Jersey Marine Police. In the event said truck is in operative, the relay manager will arrange for a replacement vehicle with the approval of the New Jersey Marine Police, as soon as possible.] **Participants will place their sealed bags in trucks provided by them and approved by the designated enforcement unit for transportation to a designated landing. Each participant shall inform the designated enforcement unit of the route he will**

**follow from the harvest area to the planting area.**

16. Violations of these conditions may subject the violator to prosecution under N.J.S.A. 58:24-3. [and will cause the violator's permit to be revoked for a period of six months.]

17. This permit shows on its face specific conditions that are deemed necessary for the proper operation of the shellfish relay program. All permittees are also required to comply with all other applicable statutes and regulations. Included with every permit are charts of the harvest sites showing specific sections within the estuaries that may be harvested on any particular day, as determined by the [New Jersey Marine Police] **designated enforcement unit(s)**.

i.-ii. (No change.)

18. (No change.)

**19. Conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., and N.J.S.A. 50:2-1 et seq., shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of this State.**

7:12-2.8 Transfer program

(a) The purpose of Permit No. 6 (Transfer [Oysters] **Shellfish**) is to allow for the harvest **and transfer** of [oysters] **shellfish** from leased lots in [c]Condemned waters [and transfer] to leased lots in [a]Approved waters [to purge themselves of pollutants for ultimate marketing] **for the purging of pollutants and ultimate marketing.**

(b) Permit No. 6 shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species is limited under said permit to oysters (*Crassostrea virginica*), **hard clams** (*Mercenaria mercenaria*), **mussels** (*Mytilusedulis*) and **soft clams** (*Mya Arenaria*).

2. This permit is limited to persons having leased shellfish lots in [c]Condemned and [a]Approved waters.

3. (No change.)

4. Records of transfers including harvest lot, quantity of [oysters] **shellfish** transferred, date of transfer and transfer lot number shall be maintained for a period of not less than 90 days, and shall be available for inspection by any authorized agent of the State.

5. (No change.)

6. [Oysters] **Shellfish** transferred to leased lots in [a]Approved waters shall remain upon said lots until written approval for reharvest has been granted by the Department's Division of Water Resources, [Shellfish Control Unit] **Bureau of Shellfish Control.**

7. To facilitate compliance with [paragraph 6 of this section] **(b)6 above**, the permittee shall notify the Shellfish Control Office by letter after the final transferring to a particular leased lot. The minimum [thirty] **30** day purging period will not begin until notice of final transferring is received **and the water temperature of the Approved waters is maintained at or above 13 degrees Centigrade (55 degrees Fahrenheit)** as determined by the **Bureau of Shellfish Control.**

8. (No change.)

9. The [area Marine Police Station] **designated enforcement unit(s)** shall be given 24 hour notice prior to each days harvesting from lots in [c]Condemned waters. **The harvester shall verbally notify on a day to day basis, the designated enforcement unit(s) as to the area and hours he intends to work, under the provisions of this permit.**

10. The special Transfer Permit shall be in the permittee's possession at all times when harvesting in [c]Condemned waters and while transporting [oysters] **shellfish** taken from [c]Condemned waters.

(c) Any permittee violating these regulations or the terms [of the special transfer permit issued by the Division of Water Resources shall be subject to prosecution under the provisions] of N.J.S.A. 58:24-3[,] **by taking shellfish from [c]Condemned waters**

in violation of the permit[, and] may incur the penalties prescribed by N.J.S.A. 58:24-9. **In addition, conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., or N.J.S.A. 50:2-1 et seq., shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of this State.**

#### 7:12-2.9 Transplant program

(a) The purpose of Permit No. 7 ("Transplant Permit Seed [Oysters] **Shellfish**") is to allow for the harvest of seed [oysters] **shellfish (oysters, clams and mussels)** from [c]Condemned waters for transplanting to leased lots in [a]Approved waters for purging of waters of pollutants, growth and ultimate marketing after written release by the Bureau of Shellfish Control. **The purging period will be for a minimum of 30 days at which the water temperature of the Approved waters is maintained at or above 13 degrees Centigrade (55 degrees Fahrenheit) as determined by the Bureau of Shellfish Control.**

(b) Permit No. 7 shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species is limited under said permit to oysters (*Crassostrea virginica*), **hard clams (*Mercenaria mercenaria*)**, **soft clams (*Mya arenaria*)** and **mussels (*Mytilus edulis*)**.

2. The harvester of seed [oysters] **shellfish** from [c]Condemned waters shall possess a valid **commercial shellfish** harvesting license issued by the New Jersey Division of Fish, Game and Wildlife.

3. The permit does not supersede current laws, rules and regulations promulgated by this and other agencies of the State of New Jersey.

4. The permittee shall verbally notify on a day-to-day basis, the designated enforcement unit(s) [applicable area New Jersey Marine Police Station] **as to the area and hours he intends to work under the provisions of this permit.**

5. The permittee shall have this special permit in his possession while working in [c]Condemned waters and while transporting seed oysters taken from [c]Condemned waters.

6. Seed [Oysters] **shellfish** transplanted to leased lots in [a]Approved waters shall remain upon said lot until written approval for reharvest has been granted by the Department's Division of Water Resources, Bureau of Shellfish Control.

7. To facilitate compliance with [paragraph 6 of this subsection.] **(b)6 above**, the permittee shall notify the Shellfish Control Office by letter, after the final planting on a particular leased lot. The minimum 30 day purging period will not begin until notice of final transplanting is received and the water temperature of the Approved waters is maintained at or above 13 degrees centigrade (55 degrees Fahrenheit) as determined by the Bureau of Shellfish Control.

8. Lots being planted will be staked and maintained in that condition during the effective period of the permit. **Transfer lots shall be marked at the corners with signs (supplied by the Bureau of Shellfish Control) during the Condemned period.**

9. (No change.)

(c) Any permittee violating these regulations or the terms of the special transplant permit issued by the Division of Water Resources shall be subject to prosecution under the provisions of N.J.S.A. 58:24-3, taking shellfish from [c]Condemned waters in violation of the permit, and may incur the penalties prescribed by N.J.S.A. 58:24-9. **Conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., and N.J.S.A. 50:2-1 et seq., shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of this State.**

#### 7:12-2.10 Possession and/or processing plant program; bait store

(a) The purpose of Permit No. 8a ("Bait Shore Permit") is to allow sea or surf clams, [and] soft clams **and hard clams** that have been harvested from [c]Condemned Waters, to be sold for bait purposes only, by persons other than the original harvester or depuration/controlled purification plan processor.

(b) Permit No. 8a shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species limited under said permit to sea or surf clams (*Spisula solidissima*), [or] soft clams (*Mya arenaria*) **and hard clams (*Mercenaria mercenaria*)**.

2. Purchases of said shellfish are limited to State permitted/certified harvesters or depuration/controlled purification facilities that have been authorized to harvest and/or sell shellfish harvested from [c]Condemned/[s]Special [r]Restricted waters.

3.-6. (No change.)

7. Storage areas which are used for the storage of clams harvested from a [c]Condemned area, shall not be used for the storage of other food products if the latter are to be utilized for human consumption.

8-9. (No change.)

#### 7:12-2.11 Possession and/or processing plant program; depuration plant

(a) The purpose of Permit No. 8b ("Depuration Plant Permit To Purchase Soft Clams") is to allow a depuration/controlled purification facility to purchase soft clams harvested from Special Restricted waters for further processing. This permit also completes the control link between the initial or harvest phase of the depuration/controlled purification program and the next or processing phase, the latter which is regulated by the New Jersey State Department of Health.

(b) Permit No. 8b shall be valid only under the following specific [supplement] **requirements** or [condition] **conditions**. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species limited under said permit to soft clams (*Mya arenaria*).

2. Purchases are limited to shellfish harvested from **specified [the] Special Restricted waters in [of Raritan Bay,] Sandy Hook Bay, Navesink River and Shrewsbury River. Included with every permit are charts of the harvest sites showing specific sections within the estuaries that may be harvested on any particular day. The depuration/controlled purification plant owner or manager shall orally notify on a day to day basis, the designated enforcement unit(s), as to the section(s) and hours they intend to work, under the provisions of this permit. All harvesters from the same depuration/controlled purification plant are required to work in the same section as the associated mother craft or buy-boat, at any given time.**

[16.] **3.** This permit shall apply only to the waters noted above and further specified **(for reasons of public health protection and resource management) as to the area of harvest**, on a day-to-day basis by the designated enforcement unit(s).

[3.] **4.** The inclusive dates of the permit shall be from January 1 [st] through December 31 [st] of the same year unless revoked or suspended prior to that date for cause.

[4.] **5.** The harvester from which said shellfish are purchased shall possess a valid commercial shellfish harvesting license issued by the New Jersey Division of Fish, Game and Wildlife and a valid Permit No. 4 issued by the Bureau of Shellfish Control of the Division of Water Resources.

[5.] **6.** The permittee shall comply with all laws, rules and regulations promulgated by this and other agencies of the State of New Jersey.

[6.] **7.** Purchases of clams from the specified Special Restricted waters shall be subject to all State laws and regulations applicable to the purchases of oysters, clams or mussels from [a]Approved waters.

[7.] **8.** Records of [purchases] **harvests** including the harvester's name, date, quantity of purchase and harvest site shall be maintained for a period of not less than one year, and shall be available for inspection by any authorized agent of the State.

[8.] **9.** This permit does not supersede current laws, regulations and rules promulgated by other agencies of the State of New Jersey.

[9.] **10.** [The depuration/controlled purification facility shall be responsible for providing harvesters with non-powered boats that have been specially marked or painted in a color scheme established by the New Jersey Department of Environmental Protection.] **Boats used by special permit holders in harvesting shall be marked with signs which are a minimum of one foot by two feet (1' x 2') having a white background with legible black lettering (minimum six inches in height) giving the participants first initial and last name, special permit number and depuration plant identification code letter on both sides (amidships) of the participants harvest boat while participating in any phase of the program. Powered boats used in harvesting shall have the motors in the "tilt" position (except from December 1 through March 31 of each year) while harvesting any shellfish. However, the motor shall not be running while harvesting operations are underway at any time during the year. The harvester must be physically located in his harvest boat at all times while motor is running.**

[10. Said non-powered boats shall be transported to the designated area of harvest each day by or under the direct supervision of the depuration/controlled purification facility's "mother craft" or "buy-boat", the latter which will anchor in the designated area. Said non-powered boats shall remain within one-half nautical mile and in sight of the designated "mother craft" or "buy-boat". All clamming shall be done only from the non-powered boats.]

**11. Said boats and harvesters shall remain in the designated section as reported to the designated enforcement unit(s) by the depuration/controlled purification plant owner or manager during the time harvesting operations are underway. Harvesting and transportation of shellfish beyond the designated section is prohibited. Upon completion of the day's harvest and delivery thereof the permittee may leave the area.**

[11.] **12.** It shall be the responsibility of the depuration/controlled purification facility to provide a "mother craft" or "buy-boat" (and alternate craft if necessary) to be used for: [the transportation of said non-powered boats to the harvest site,] the direct supervision of clamming operations, [and] a central point for the collection of the day's harvest of soft clams[.], and the transportation of clams to the depuration/controlled purification plant. The identification of said [boat] **boats** shall be reported to the designated enforcement unit(s) on a daily basis, if necessary. **The number of "mother craft" or "buy-boats" allowed for use by a depuration/controlled purification plant shall be dependent upon the number of harvesters working at that plant at any given time during the day. One "mother craft" or "buy-boat" is allowed for each 10 harvesters. For example, for one to 10 harvesters one buy boat will be allowed, for 11 to 20 harvesters two buy boats will be allowed and so forth. This should not be interpreted to mean that one "mother craft" or "buy-boat" is required for every 10 harvesters. To the contrary, more than 10 harvesters can be assigned to or associated with one "mother craft" or "buy-boat".** [The maximum number of boats so designated as a "mother craft" or "buy-boat" shall be limited to two each (one regular and one alternate).] Said boats shall be so registered with the designated enforcement unit(s). To permit ready identification of same while harvesting operations are underway, a yellow pennant visible at a one nautical mile distance shall be flown. In addition, the "mother craft" or "buy-boat" or alternate craft, shall be identified with the name of the depuration facility painted in large letters, at least six inches high of contrasting color, above the water line of the vessel. The "mother craft", "buy-boat" or alternate craft shall be used for no other purposes.

[12. The "mother craft" or "buy-boat" shall be of adequate size

to permit the collection and transport of the day's harvest in a single load.]

**13. One alternate craft is allowed for each designated "mother craft" or "buy-boat". Said alternate craft can function in the same manner as the designated "mother craft" or "buy-boat" in the absence of the latter. The designated "mother craft" or "buy-boat" or the alternate craft is required to be present at all times when harvesting operations are underway.**

[13.] **14.** Upon completion of the day's harvesting, all soft clams shall be transferred to the "mother craft" or "buy-boat" or alternate craft. No clams are to remain in the specially marked harvest [clam] boat(s) or transferred to other power boats. Said clams shall be immediately transported by the "mother craft" or "buy-boat" or alternate craft, to the respective depuration/controlled purification facility for storage and/or processing. **Only "U.S. Standard" bushels shall be used in the harvesting, transportation, and receiving of clams at the depuration facility. All reasonable measures shall be taken to assure that bushels of clams transported to the depuration/controlled purification facility(s) are filled to capacity. During the unloading procedures from the "mother craft" or "buy-boat" at the depuration/controlled purification facility(s), the bushels of clams shall not be covered and shall be opened to view.**

[14.] **15.** Under adverse conditions of weather (e.g., bay and river icing) as determined by the New Jersey Department of Environmental Protection, alternate methods of harvest and transportation of clams may be developed jointly between [the] that segment of the shellfish industry associated with the depuration/controlled purification program and the various State agencies involved in the program's control. Said alternative methods shall insure that the health, safety and welfare of the public is not compromised. When [said] **such** conditions occur, they will be noted in the log of the designated enforcement unit(s) at the request of the respective depuration/controlled purification facility.

[15.] **16.** Harvesting from the specific Special Restricted waters shall be permitted Monday through Sunday of each week between the hours of sunrise and sunset as listed in Trenton.

**17.** Permittees must comply with special rules regarding certain waters of the Shrewsbury River that are subject to rapid changes in water quality. These special rules will be provided with the permit. These special rules [are as follows] **include but are not limited to the following:**

[i. All persons holding a valid Permit No. 4 or Permit No. 8b. Special rules regarding Shrewsbury River.]

[ii.] i. Although water quality throughout the Shrewsbury River allows us to classify the estuary as Special Restricted, whereby clams may be harvested for further processing, it is felt that certain sections of this estuary must, of necessity, be considered as prohibited to shellfish harvesting if a depuration/controlled purification process is to be used as the cleansing method.

ii. [iii.] These areas, so listed below and on the attached chart<sup>†</sup>, have been found to exhibit extreme variability in water quality. This condition holds the consequence of reducing the effectiveness or, more properly perhaps, the reliability of the depuration/controlled purification process in shellfish harvested from such areas. Therefore, in considering potential areas for soft clam (*Mya arenaria*) harvesting in the Shrewsbury River, the following sites or sections of this estuary shall be avoided.

(1) AVOID ALL:

(A) Shaded areas on attached chart<sup>†</sup>;

(B) Lagoons (Man-made or natural);

(C) Creeks or streams;

(D) Dead-end harbors such as Oyster Bay or Blackberry Creek;

(E) Marinas and anchorages;

(F) Storm drain discharge locations.

<sup>†</sup>On file at the Office of Administrative Law.

**18.** Discrimination against any harvester on the basis of race, sex,

creed, domicile, or any other non-work related factor shall be adequate cause for revocation of this permit.

(c) The State Department of Environmental Protection reserves the right to suspend or revoke this permit at any time its continued use may imperil the public health. Conviction of a shellfish violation as provided in N.J.S.A. 58:24-3 and N.J.S.A. 50:2 of the New Jersey statutes shall be adequate cause for the suspension and denial of all Special Permits issued by the New Jersey Department of Environmental Protection involving the purchase of shellfish from the waters of the State. **The transport and processing of shellfish are also subject to New Jersey Department of Health regulations found at N.J.A.C. 8:13-2. Conviction of any violation of the certificate issued by the New Jersey Department of Health for depuration under N.J.A.C. 8:13-2, is grounds for suspension of special permits to possess (No. 8b) or harvest (No. 4) shellfish.**

7:12-2.12 Possession and/or processing plant program: seed [oysters] **shellfish**

(a) The purpose of Permit No. 8c ("Possession Permit for Seed **Shellfish** [Oysters]") is to allow the leasee of shellfish grounds to purchase seed [oysters] **shellfish** harvested in [c]Condemned waters, for planting on his leased lots in [a]Approved waters for purging of pollutants, growth and ultimate marketing after written release by the Bureau of Shellfish Control.

(b) Permit No. 8c shall be valid only under the following specific requirements or conditions. Violation may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. Species is limited under said permit to oysters (*Crassostrea virginica*), **hard clams (*Mercenaria mercenaria*)**, **soft clams (*Mya arenaria*)** and **mussels (*Mytilus edulis*)**.

2. Purchasers of said shellfish are limited to leasees of shellfish grounds in [a]Approved waters.

3. The harvester from which said shellfish are purchased shall possess a valid **commercial** shellfish harvesting license issued by the New Jersey Division of Fish, Game and Wildlife and a valid Special Permit No. 7 issued by the Bureau of Shellfish Control of the Division of Water Resources.

4.-5. (No change.)

6. Seed [Oysters] **shellfish** transplanted to leased lots in [a]Approved waters shall remain upon said lots until written approval for reharvest has been granted by the Department's Division of Water Resources. Bureau of Shellfish Control.

7. To facilitate compliance with [paragraph 6 of this subsection.] **(b)6 above**, the permittee shall notify the Shellfish Control Office (by letter) after the final planting on a particular leased lot. The minimum 30 day purging period will not begin until notice of final transplanting is received **and the water temperature of the Approved waters is maintained at or above 13 degrees centigrade (55 degrees Fahrenheit)**.

8.-9. (No change.)

(c) Any permittee violating these regulations or the terms of the special transfer permit issued by the Division of Water Resources shall be subject to prosecution under the provisions of N.J.S.A. 58:24-3, taking shellfish from [c]Condemned waters in violation of the permit, and may incur the penalties prescribed by N.J.S.A. 58:24-9. **Conviction of a shellfish violation as provided in N.J.S.A. 58:24-1 et seq., and N.J.S.A. 50:2-1 et seq., shall be adequate cause for the suspension and denial of all special permits issued by the New Jersey Department of Environmental Protection involving the harvesting of shellfish from the waters of this State.**

7:12-2.13 Hard clam depuration/harvester (pilot) program; depuration harvester permit  
(No change.)

7:12-2.14 Hard clam possession and processing plant (pilot) program; depuration plant  
(No change.)

(a)

## DIVISION OF WATER RESOURCES

### New Jersey Pollutant Discharge Elimination System

#### Proposed Readoption: N.J.A.C. 7:14A

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

Authority: N.J.S.A. 58:10A-1 et seq., N.J.S.A. 58:11A-1 et seq., N.J.S.A. 58:11-49 et seq., N.J.S.A. 58:10-23.11 et seq., N.J.S.A. 58:11-18.10 et seq., N.J.S.A. 13:1D-1 et seq., N.J.S.A. 13:1E-1 et seq., N.J.S.A. 58:4A-5, N.J.S.A. 58:4A-4.1, and N.J.S.A. 58:12A-1 et seq.  
DEP Docket No. 014-83-03.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Arnold Schiffman, Administrator  
Water Quality Management Element  
Division of Water Resources  
CN 029  
Trenton, New Jersey 08625

Any inquiries or requests for copies of the regulations may be made by writing Administrator Schiffman at the address above or calling (609) 292-5262.

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The readoption becomes effective upon acceptance for filing of the notice of adoption by the Office of Administrative Law.

This proposal is known as PRN 1983-204.

The agency proposal follows:

#### Summary

##### A. Purpose of the Proposal

The purpose of this proposal is to readopt existing regulations known as the Regulations Concerning the New Jersey Pollutant Discharge Elimination System (also known as the NJPDES Regulations), N.J.A.C. 7:14A. The current text of this chapter is scheduled to expire on June 30, 1983. The proposed readoption does not include any changes in the current text. The Department has reviewed the existing rules and found them necessary for the continued operation of the New Jersey permitting program for discharges to the State's surface and ground waters. These rules establish a program for the monitoring, control, prevention and abatement of pollutants to the State's waters. The rules establish a permitting program for various types of discharges including, but not limited to, the following: discharges by underground injection wells, sanitary landfills, indirect discharges to public and private wastewater treatment plants, surface water discharges, industrial waste management facilities, surface impoundments, land application of sludge and septage, infiltration-percolation lagoons, land application of effluents by overland flow and land application of effluents by spray irrigation. The rules also govern the Department's approval of the construction and operation of treatment works, including sewage collection systems and treatment plants.

##### B. Purpose of Regulations

In 1977 the Legislature enacted the New Jersey "Water Pollution

Control Act" (hereinafter the "Act"), N.J.S.A. 58:10A-1 et seq. The Legislative findings and declarations clearly identify the purpose of the Act: to protect public health and welfare by restoring, maintaining and enhancing the quality of ground and surface waters of the State through the issuance of State discharge permits. One of the purposes of this Act is to eliminate direct regulation by the Federal government by providing a mechanism whereby the State takes over the Federal NJPDES water pollution control program. The Water Pollution Control Act was just one of three acts established in 1977 which clearly identified New Jersey's commitment to protect its ground and surface waters. (See also the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.)

On March 6, 1981 in accordance with the mandated purpose of the Water Pollution Control Act, the Department of Environmental Protection adopted the NJPDES Regulations. The NJPDES Regulations implemented the purpose of the Act by requiring permits for the discharge of pollutants to the ground and surface waters of the State and established specific conditions in order for a discharger to continue to legally discharge. Thus, these regulations provided, for the first time, a cohesive method to control pollutants which may or do enter the waters of the State. Previously, the Federal Environmental Protection Agency (EPA) had responded to the problem of water pollution by requiring permits for discharges to surface water (33 USCA 1251 et seq.). Under Federal law a State is authorized to take over the Federal permit program, provided the State satisfies certain minimum requirements (33 USCA 1342(b)). With the adoption of the NJPDES Regulations and after meeting other Federal criteria (See 40 CFR Part 123.), on April 13, 1982, New Jersey became the 37th State to take over the Federal permit program for discharges to surface water. Thus, the NJPDES Regulations establish a system to regulate discharges and minimize direct Federal regulation by establishing a State permit program.

Equally, if not more important in New Jersey, is the need to protect the ground waters of the State. About 50 percent of our water supply is from ground water. This ground water supply is threatened by the uncontrolled discharge of pollutants and, unfortunately, has actually been severely damaged in many areas. A present Departmental inventory indicates about 1,000 facilities that discharge to ground water.

In order to meet the ground water problems, the Department has included in the NJPDES Regulations a ground water program requiring permits and monitoring for discharges to ground water. Two Federal ground water programs are encompassed within the NJPDES Regulations. These two Federal programs regulate the Underground Injection Control (UIC) of pollutants and require permits and monitoring for the disposal of hazardous waste (RCRA). (See the Safe Drinking Water Act, 42 USCA 300(f) et seq. and the Resource Conservation and Recovery Act, 42 USCA 6901 et seq.) The adoption of the NJPDES Regulations was a major requirement for the State to take over these Federal programs. (See 42 USCA 300(g)-2, 42 USCA 6926, and 40 CFR Part 123.) Formal delegation of UIC program is pending and the State is taking over the Federal hazardous waste program on an incremental basis. Thus, the NJPDES Regulations have served as a foundation for accomplishing the Legislative purpose of the Water Pollution Control Act.

#### C. Waiver of Executive Order No. 66 (1978)

This proposal also provides notice that the Department intends to assert its right to a waiver of the Sunset date required by Executive Order No. 66 (1978). The Legislative directive to minimize direct Federal regulation and the Department's agreement with EPA to assume responsibility for the NJPDES permit program form the basis of the waiver. Executive Order No. 66 (1978) requires a Sunset date for regulations unless the regulations satisfy the waiver conditions. In order for the State to receive delegation of the Federal programs, the State had to incorporate the minimum

Federal requirements into the NJPDES Regulations (See 40 CFR Part 122, 123 and 124.) and must continuously maintain those requirements in order to retain delegation of those Federal programs. Each of the three Federal permit programs (NJPDES, UIC, and RCRA) incorporated in the NJPDES Regulations are embodied within the Federal Consolidated Regulations found in 40 CFR Parts 122, 123, and 124. The NJPDES Regulations reflect a similar structure to the Consolidated Regulations in order to clarify a system of standardized definitions, conditions, and procedures, where appropriate.

The NJPDES permit program is subject to Federal oversight as exemplified by the fact that the EPA must be notified of any proposed revision to the NJPDES Regulations and the State is bound by the submissions made to EPA as part of the program delegation and continuing Federal grant process. Furthermore, in addition to the public comment requirements which the Department must comply with for adoption of the NJPDES Regulations, the Federal government has held separate hearings on the three Federal programs within the various sections of the NJPDES Regulations as part of the delegation process.

Thus, every NJPDES subchapter has been adopted in accordance with minimum Federal requirements. In addition to being required by the Federal EPA to have adequate funding to administer the Federal programs, N.J.S.A. 58:10A-9 mandates the Commissioner to establish a fee schedule adopted by regulation. Therefore, the NJPDES Regulations are not subject to an expiration date required by Executive Order No. 66. (See N.J.A.C. 1:30-4.3(a)3i.)

#### D. Regulatory History

The NJPDES Regulations establish the permit as the tool to control pollution of the waters of the State. The adoption of the Regulations have established the framework for the State to handle its water-related environmental problems, with minimal Federal involvement. All dischargers to surface water, approximately 1,300 permittees, are now primarily regulated by the State.

These regulations include State permitting, monitoring and enforcement activities. The NJPDES Regulations have allowed for staged implementation of its requirements for the affected regulatory community. For example, the Department has begun permitting discharges to publicly owned treatment works (POTWs) from hazardous waste facilities due to the need to control those discharges which have the most potential for harm to the public welfare and environment. This is a reasonable implementation of the regulations as the Department establishes priorities and regulates. Other categories of dischargers were placed upon a schedule for the submission of applications based upon environmental and administrative factors. Obviously, with a large number of permits to issue, the Department had to develop a priority system to handle these discharges.

The Department's establishment of a regulatory program similar to the Federal structure allowed for a basis of familiarity for the regulated community. Thus, to the extent that dischargers were subject to either of the three Federal regulatory programs, the State NJPDES Regulations are consistent.

The Department has continually assessed and proposed changes to these regulations to assure that they remain appropriate and effective. For example, due to the need to more expeditiously assess the impact and control of ground water discharges, the Department amended its regulations to issue interim NJPDES permits which, at a minimum, require monitoring. (N.J.A.C. 7:14A-2.1.) This data will then be evaluated to further control the discharge, where necessary.

In addition, in response to public comment and further program evaluation, the Department will soon be proposing to eliminate the individual NJPDES permit application process for industries discharging to sewage treatment plants in those areas of the State with approved pretreatment programs. This amendment has been developed with the assistance of a Task Force consisting of the affected community. This will allow the Department to concentrate

its resources on those discharges which will continue to be under its jurisdiction and delegate most of this regulatory program to local agencies. Furthermore, several additional regulatory amendments have been adopted in order to satisfy Federal requirements for takeover of the UIC and RCRA programs.

In conclusion, the NJPDES Regulations have only been in effect for approximately two years. The regulatory program for the control of discharges to surface water is now clearly established as a State regulatory program. The program for the control of discharges to one of our State's most precious resources, ground water, is being rapidly developed. The NJPDES program to control these discharges must proceed in order to protect the public health, welfare, and the environment in accordance with the Legislative mandate. The Department intends to proceed, on a periodic basis, with a line-by-line review of the regulations.

A summary of the NJPDES Regulations follows:

**Subchapter 1. General Information**

Identifies who must obtain a NJPDES permit, the definitions of terms, and the fee schedule for NJPDES permittees.

**Subchapter 2. General Requirements for the NJPDES Permit**

Describes requirements which apply to all NJPDES permittees for any discharge to surface or ground water. This includes application procedures, standardized conditions, and reporting requirements.

**Subchapter 3. Additional Requirements Application to Discharges to Surface Water (DSW)**

Incorporates Federal and State requirements for all discharges to surface water, by certain categories and general conditions. It also establishes the requirement for new surface water dischargers to obtain a discharge allocation prior to construction.

**Subchapter 4. Additional Requirements Applicable for an Industrial Waste Management Facility**

Delineates which facilities that heat, store, or dispose of hazardous waste are required to obtain NJPDES/IWMF permits instead of Hazardous Waste Facility permits.

**Subchapter 5. Additional Requirements for Underground Injection Control Program (UIC)**

Incorporates State and Federal requirements for underground injection by identifying classes of wells and establishing criteria for each class.

**Subchapter 6. Additional Requirements for Discharges to Ground Water (DGW)**

Sets forth the ground water monitoring requirements for all discharges of pollutants and specifically satisfies Federal hazardous waste monitoring requirements.

**Subchapter 7. Procedures for Decision-Making**

Describes the process of review of the NJPDES application and the preparation of the draft decision to issue or deny a permit.

**Subchapter 8. Public Comment and Notice Procedures**

Provides the public and the permit applicant with information concerning their rights concerning the issuance of a permit.

**Subchapter 9. Specific Procedures Applicable to Discharges to Surface Water (DSW)**

Expands on procedures which apply to discharges to surface water, such as variance requests, governmental rights to comment, and public commenting.

**Subchapter 10. Filing Requirements for NJPDES Permits**

Formally provides notice of when NJPDES permit applications are to be submitted to the Department for all discharges to ground and

surface water. Identifies what information is required to be submitted in the application.

**Subchapter 11. Public Access to Information and Requirements for Departmental Determination of Confidentiality**

Describes the procedures for public access to information and the methodology for permittees to make a claim of confidentiality, including the submission of a fee.

**Subchapter 12. Additional Requirements for a Treatment Works Approval**

Indicates the standards which must be satisfied for the construction and operation of a treatment works.

**Subchapter 13. Additional Requirements for Users of Domestic Treatment Works**

Establishes requirements for dischargers of pollutants into sewerage systems.

**Social Impact**

Readoption of these regulations will have a beneficial social impact. The NJPDES Regulations create a permit program which protect the surface and ground waters of the State. These waters have numerous important uses in the State. Clean ground and surface waters are needed for water supply used for domestic, municipal and industrial purposes. Clean surface waters are needed for both commercial and recreational fishing, including clamming and crabbing. The States' waters are important for other recreational uses such as swimming and boating. By readopting these regulations and implementing the permit programs, the Department will protect these uses.

**Economic Impact**

The NJPDES Regulations establish a self-supported permit system. Last year the budget for the discharge to surface water permit program was approximately \$2 million. The Department finds that for the foreseeable future these costs, allowing for inflation, should not increase substantially from year to year.

The budget for the ground water discharge program last year was approximately \$1.5 million. Since the Department has not operated this program previously, future costs may vary based upon operating experience with the program.

The NJPDES permit fee process is continually under review. As recently as January, 1983 the Department adopted amendments to the fee regulations. (See N.J.A.C. 7:14A-1.8.) In addition, an annual report detailing past and future expenditures is required to be published. The fees are also the subject of an annual public hearing.

Failure to readopt the NJPDES Regulations would seriously impact the program since the NJPDES fees are the sole source of funding for the permit program. Considering limitations on Federal and State revenues, the program could not continue to exist without permit fees. Without State programs, it is likely that there would be a substantial lapse in time before the Federal government could, even if it were able to do so, begin to administer some of these programs again.

In addition, the economic impacts of pollution are difficult to estimate. The Department has had to condemn some of its clamming areas off the coast due to pollution. Pollution also decreases property values, it discourages businesses from operating in a State where its employees are not attracted by a clean environment, and it can adversely affect the tourist industry which is one of New Jersey's largest industries.

**Environmental Impact**

At present, there are approximately 400 identified hazardous waste clean-ups which need to be performed in this State. There are approximately 1,000 other identified sources of ground water

pollution in the State. For surface water discharges there are approximately 1,300 dischargers in the State. These discharges emit a wide variety of pollutants, including toxic chemicals, with known deleterious effects on both human and non-human biota. Re-adoption of these regulations will allow the State to effectively mitigate and prevent the effects of the discharge.

Full text of the rules proposed for re-adoption may be reviewed at the Office of Administrative Law, 88 East State Street, Trenton, New Jersey.

## HEALTH

### (a)

#### CONSUMER HEALTH SERVICES

##### Licensing of Food and Cosmetic Manufacturing and Wholesale Establishment

##### Proposed Re-adoption: N.J.A.C. 8:21-9

Authorized By: J. Richard Goldstein, M.D., Commissioner of Health.

Authority: N.J.S.A. 24:15-1 et seq., specifically 24:15-13 and 14.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter D. Stratton  
Chief, Food and Milk  
Consumer Health Services  
CN 364  
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-198.

The agency proposal follows:

##### Summary

In 1971, the Department of Health was granted the authority via N.J.S.A. 24:15-13 and 14 to license specified food and cosmetic plants that operate in this State. The provisions of these statutes also gave to the Department the power to establish reasonable licensing fees up to \$250.00. The license and applicable fees were intended to provide funding for inspectional and administrative services as well as a regulatory tool to assure compliance with State standards.

Pursuant to the aforementioned statutes as well as N.J.S.A. 24:2-1, the Department promulgated specific licensing regulations in order to clarify and execute the intent of these laws. In brief, N.J.A.C. 8:21-9 (Subchapter 9) defines the scope of the regulations which encompass those establishments defined in N.J.S.A. 24:15-1; exempts specific food and cosmetic establishments from State licensing, for example, establishments inspected and licensed by a local health department; establishes licensing criteria for every person owning or operating a food or cosmetic establishment within the State; assigns licensing fees to establishments based on their annual gross dollar volume of wholesale business; provides for

expiration and non-transferability of licenses; and provides for revocation of licenses.

The agency conducted an internal review of the rules prior to noticing for re-adoption. In its review of the rules, the agency determined that the rules adequately and reasonably provide the ability to execute the intent of State statutes to protect the public's health, safety and welfare. Additional public comment and review are expected as a result of the re-adoption process.

The rules have been effective because they established clear parameters to avoid licensing duplication by the local and State health authorities and also address, through the establishment of various licensing fees based on volume of business, the economical differences of a small business as opposed to a large food manufacturer.

Several provisions of Subchapter 9 have been amended since their original promulgation in order to: (a) further clarify the intent of the law, (b) adjust licensing fees to account for increase programmatic costs; and (c) improve the efficiency of the issuance of licenses.

##### Social Impact

The subchapter since its original adoption, has provided a beneficial social impact because it gave the Department the ability to prevent adulterated and/or unwholesome food and cosmetic products from reaching the consumer. In addition, through the Department's inspectional and enforcement programs the general public has benefited because: (a) food related morbidity and mortality have been reduced; (b) cost-associated adversities resulting from food/cosmetic borne illnesses have been reduced; and (c) by creating and maintaining a sanitary environment in which food/cosmetics are produced, processed, stored or prepared it has helped the public to maintain its confidence in the food and cosmetic products that they use.

In the event this subchapter is not re-adopted, it would severely jeopardize this Department's ability to protect the health, safety and general well being of the estimated seven million residents of this State and would adversely impact on the reputable food/cosmetic industries that operate in this State.

##### Economic Impact

The rules contained in this subchapter generate approximately \$330,000 in revenue on an annual basis. These funds support the inspectional and enforcement activities of this Department.

If the proposed amendment is not adopted, a significant adverse impact to both the affected industries as well as to the consumer is imminent. For example, the Department through its comprehensive plant inspection and food sampling programs has, heretofore, been able to assure receiving States and foreign countries that food and cosmetic items produced in this State are safe and can be freely distributed nationwide and to international markets. Without the necessary fiscal support, the Department would have no alternative but to withdraw from these cooperative programs, which would create both an immediate and long lasting adverse economic impact on a significant portion of the food and cosmetic industries within this State.

New Jersey is a member of the National Shellfish Sanitation Program which is a cooperative interstate certification program among 26 shellfish producing states. If New Jersey, due to fiscal constraints, was forced to withdraw from this program, shellfish dealers could not ship their products across State lines. This restraint of commerce would have a devastating economic impact to this segment of New Jersey's industry.

The states of Connecticut and Pennsylvania, by law, require all bakery products and non-alcoholic beverages produced in New Jersey and sold to these states to be approved by this Department. Approval is granted when this Department inspects and certifies the establishment is operating in substantial compliance with State standards. If the Department was in a position whereby it could not provide this service, bakery and non-alcoholic products produced

in this State could not be distributed in Connecticut and Pennsylvania.

Numerous foreign countries also require this Department to approve food/cosmetic items which are imported to these countries. Approximately 50 major food and/or cosmetic firms export its products to foreign countries that require a "Certificate of Free Sale/Purity." This trade has been conservatively estimated at 7.5 million dollars annually. A Certificate is issued based upon satisfactory compliance with State standards. This is determined by conducting a thorough inspection of the facility and a comprehensive review of the products and its labels. If this Department is no longer equipped with the necessary inspectional and administrative staff to carry out this certification process, further restraint of trade would result.

Economic losses would not be limited to industry. The consumer who is a victim of fraud or a foodborne illness, which may result in the loss of time at work, hospitalization or private medical expenses would also experience unnecessary economic losses. The likelihood of these events taking place increases with the decrease in control of the food and cosmetic industry.

Full text of the proposed reoption can be found in the New Jersey Administrative Code at N.J.A.C. 8:21-9.

# HUMAN SERVICES

## (a)

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Home Health Services Manual Covered Home Health Services: Medical Supplies

#### Proposed Amendment: N.J.A.C. 10:60-1.3

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.  
Authority: N.J.S.A. 30:4D-6b(2), 7 and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
CN 712  
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-191.

The agency proposal follows:

#### Summary

The proposed amendment is introduced pursuant to Federal regulations (42 CFR 440.70(b)(3)), which require that medical supplies, equipment, and appliances suitable for use in the home be provided to Medicaid patients who have such a need.

The proposal is mainly concerned with medical supplies, since

if will enable Home Health Agencies (HHA) to directly issue, and be reimbursed, for medical supplies, such as gauze, cotton bandages and surgical dressing costing in excess of \$30.00 per period of authorization. The HHA will be responsible for obtaining prior authorization from the appropriate Medicaid District Office, unless the cost of medical supplies is less than \$30.00 per period of authorization.

Medical supplies may also be obtained from pharmacies and other providers of medical supplies.

Regardless of which provider furnishes the medical supplies, they must be related to the plan of care established by the attending physician and home health agency staff.

The Division's policy concerning durable medical equipment is not affected by this proposal.

#### Social Impact

Medicaid patients will still be able to receive medical supplies that are "medically necessary", whether provided by an HHA, pharmacy, or other authorized provider.

Providers, including HHA's will be reimbursed in accordance with Medicaid policies, procedures, and fee schedules. Providers must obtain prior authorization if medical supplies are excessive, for example, cost more than \$30.00 per period of authorization.

#### Economic Impact

There should be no additional cost to the Division provided utilization remains constant, because Medicaid patients have always been able to receive medical supplies.

The economic impact on HHA's will vary, depending on the number of Medicaid patients who receive home health services, and those who require "excessive" medical supplies.

There is no cost to the Medicaid patient.

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

10:60-1.3 Covered home health services

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

(d) The services must be directed toward rehabilitation and/or restoration of the patient to the optimal level of physical and/or mental functioning, self-care and independence; or directed toward maintaining the present level of functioning and preventing further deterioration; or directed toward providing supportive care in declining health situations.

1.-5. (No change.)

6. Medical supplies: Medical supplies (other than drugs and biologicals) [essential to enable the home health agency to carry out the plan of care established by the attending physician and agency staff, are normally supplied by the home health agency,] including but not limited to gauze, cotton bandages, surgical dressing, surgical gloves, and rubbing alcohol **are normally supplied by the home health agency to enable the agency to carry out the plan of care established by the attending physician and agency staff.**

i. When a patient requires an unusual or an excessive amount of [first aid] **medical supplies**, that is, sterile gauze, adhesive tape, adhesive bandage, cotton [ ] costing more than \$30.00[ ] **per the period of authorization approved in Section 22 of the FD-139, prior authorization for the supplier must be received from the appropriate** [prior authorization must be requested from the appropriate Local Medical Assistance Unit by the medical supply dealer or pharmacy. Such authorizations require a personally signed, legible prescription from the attending physician.] **Medicaid District Office. An approved medical supply dealer or pharmacy requests authorization by completing an MC-11 Form. The home health agency may also request authorization to furnish these medical supplies by completing an FD-139, section 21. Requests for prior authorization of an unusual or an excessive amount of medical supplies must be accompanied by a personally signed, legible prescription from the attending physician.**

[ii.] 7. Medical equipment: Medical equipment means an item, article or apparatus which is used to serve a medical purpose, is not useful to a person in the absence of disease, illness or injury and is capable of withstanding repeated use (durable). When durable medical equipment [( ) costing more than \$30.00[( )] per the period of home health care authorization is essential in enabling the home health agency to carry out the plan of care for a patient, a request for authorization for the equipment must be made by an approved medical supply dealer or pharmacy. The authorization, which is requested of the [Local Medicaid Assistance Unit] Medicaid District Office, requires a personally signed, legible prescription from the attending physician. Durable medical equipment either rented or owned by the home health agency cannot be billed to the New Jersey Medicaid Program.

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program
Food Stamp Program Plan of Operation
Manual

Proposed Repeal: N.J.A.C. 10:88

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4B-2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-192.

The agency proposal follows:

Summary

The proposal serves to repeal Chapter 88 of Title 10 of the New Jersey Administrative Code (N.J.A.C.). Chapter 88 is totally obsolete since all regulations governing the New Jersey Food Stamp Program are now found at N.J.A.C. 10:87.

Social Impact

Since this repeal is for the sole purpose of removing obsolete material from the New Jersey Administrative Code, the social impact on both users of the Code and program participants is anticipated to be in terms of clarification and reduction of confusion as to the validity of regulations in force.

Economic Impact

No economic impact is associated with this repeal since Chapter 88 has not been in use for years and its repeal has no relevance to current Food Stamp Program content or administration.

Full text of the rule proposed for repeal can be found in the New Jersey Administrative Code at N.J.A.C. 10:88.

(b)

DIVISION OF PUBLIC WELFARE

Eligibility of Immigrants, Displaced Persons and Refugees for Public Assistance

Proposed Repeal: N.J.A.C. 10:93

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:7-6 and 44:10-3.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-193.

The agency proposal follows:

Summary

The proposal repeals chapter 93 of Title 10 of the New Jersey Administrative Code. This chapter had established regulations dealing with the eligibility of immigrants, displaced persons and refugees for public assistance. The rules applicable to such groups of persons have since been totally revised and are now found at N.J.A.C. 10:81-10, designated as regulations governing the Refugee Resettlement Program and the Cuban/Haitian Entrant Program. Thus, N.J.A.C. 10:93 has been rendered obsolete.

Social Impact

Since the proposed repeal is for the sole purpose of removing obsolete regulations from the New Jersey Administrative Code, the social impact is perceived as having a clarifying effect inasmuch as users of the rules and program beneficiaries will have accessibility to currently valid material only.

Economic Impact

The proposed repeal has no economic consequence since the regulations have had no operational validity for a number of years.

Full text of the rule proposed for repeal can be found in the New Jersey Administrative Code at N.J.A.C. 10:93.

# LAW AND PUBLIC SAFETY

(a)

## BOARD OF VETERINARY MEDICAL EXAMINERS

### Fee Schedule General Provisions

#### Proposed Amendment: N.J.A.C. 13:44-4.1

Authorized By: Board of Veterinary Medical Examiners.  
Maurice W. McQuade, Executive Director.  
Authority: N.J.S.A. 45:1-3.2.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Maurice W. McQuade  
Executive Secretary  
Board of Veterinary Medical  
Examiners  
1100 Raymond Boulevard, Room 331  
Newark, NJ 07102

The Board of Veterinary Medical Examiners thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-199.

The agency proposal follows:

#### Summary

For several years, the fees charged for examinations, licenses, permits and services offered by the Board of Veterinary Medical Examiners were insufficient to cover the Board's expenses. Despite a recent amendment to the fee schedule (see 14 N.J.R. 1281(a), 15 N.J.R. 94(b)) raising fees for examinations, applications and branch office registration, the fees collected will not provide enough revenue to cover estimated expenses for the future. A study of these estimated expenses prepared by the Division of Consumer Affairs indicated the need for substantial increases in both active and non-active registration fees also, in order to comply with the mandate of N.J.S.A. 45:1-3.2 that the charges established pursuant to that section defray all proper expenses incurred by the Board. The fee schedule, as amended, will meet these expenses without raising amounts in excess of the estimated expenses of the Board.

#### Social Impact

The proposed fee schedule is expected to have no social impact except to the extent that it creates a larger financial burden on licensees. The Board expects that this increase will not have a significant effect.

#### Economic Impact

The proposed amendment will impose higher costs on practicing veterinarians. However, the impact on consumers will be minimal. Moreover, the annual deficit that the Board has been operating under for several years will be eliminated. Pursuant to N.J.S.A. 45:1-3.2, the new fees have been calculated to provide sufficient revenue without raising excess amounts.

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

13:44-4.1 General provisions

(a) The following fees shall be charged by the board:

1.-7. (No change.)

8. Active registration fee (biennial) [30.00] **120.00**

9. Non-active registration fee (biennial) [20.00] **50.00**

10.-12. (No change.)

# PUBLIC UTILITIES

(b)

## OFFICE OF CABLE TELEVISION

### Rules of Cable Television Credits for Service Outages

#### Proposed Amendments: N.J.A.C. 14:18-1.2 and 14:18-3.9

Authorized By: Office of Cable Television, John P. Cleary,  
Director.  
Authority: N.J.S.A. 48:5A-2(c), (d), and 48:5A-6.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

John P. Cleary, Director  
Office of Cable Television  
Board of Public Utilities  
1100 Raymond Boulevard  
Newark, NJ 07102

The Board of Public Utilities thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-188.

The agency proposal follows:

#### Summary

The proposed amendments are based on revisions subsequent to hearings and comments on the original proposal as published at 14 N.J.R. 972(a) on September 7, 1982.

The new proposed amendments, which supersede the original proposal, establish criteria for crediting cable television subscribers who suffer loss of one or more separately charged services for more than six hours. Affected subscribers must make a written request to the CATV company within 10 days of the outage. They may, in the alternative, notify the Complaint Officer designated by ordinance by telephone within 10 days. Failures due to broadcasters, satellites, power utilities, weather, acts of God, and third parties not within the control of the CATV company will not require subscriber credits. Any other outage, defined as total video/audio loss of a service, lasting six hours is covered by the rule. These provisions reflect clarifications and technical changes from the original proposal.

Two significant changes have been made in the original proposal. The minimum outage duration subject to the rule has been increased from two hours to six hours. As a result, the formula for determining the credit has been eliminated.

The original credit formula is rendered unnecessary by the change in the durational threshold, which, at six hours, approximates the loss of the average viewer's entire television day

(6.5 hours). The computational change also simplifies credit determinations. It also eliminates the possibility of receiving more than one day's credit for an outage lasting less than 24 hours. In the rare instance of longer outages, a full day's credit shall be granted for each part of day the outage continues past 24 hours. A definition has been added to define outage as the total loss of audio and/or video for a separately charged service.

For example, if three channels were sold as a package at a single tariffed rate, loss of one channel would not qualify for a refund as long as the other two were available. But if the audio was lost on all three channels, the subscriber would be entitled to a refund prorated for the service package's monthly rate.

**Social Impact**

The Office of Cable Television, in its dispute and complaint handling capacity, has found that subscribers object to paying for cable services lost as a result of outages. The proposed amendment presents an equitable framework for balancing conflicting factors in the interest of promoting harmony between CATV operators and their subscribers. Present ad-hoc refund determinations will be replaced by an understandable and consistent policy for all subscribers. Credits can be determined more easily under the revised proposal. Outages caused by third parties beyond the cable system's control are excluded from the rule, reducing its scope. However companies are left with the discretion to grant credit in those cases or for outages lasting less than six hours.

**Economic Impact**

The chief impact under the present and former proposal is that under certain circumstances, CATV subscribers will not have to pay for services they do not receive.

In reviewing its data and the comments on the original proposal, the office found cost of processing a claim under the rule to the companies, and ultimately, their subscribers, would be relatively high compared to the amounts to be credited. Estimated processing costs under the original proposal were as high as \$4.46, with average refunds for a two hour outage at 18 cents. For example, data submitted by various CATV operators suggests processing costs (adjusted for procedural changes in this revised proposal) from \$1.25 and \$1.92.

Consequently the proposal has been revised to limit the rule's coverage to only the most serious outages. The burden of processing small credits for the most frequent outages two to three hours, has been eliminated. Approximately 22 percent of reportable outages in the 22 months ending October 31, 1982, would meet the time requirement for credit. A total of 18,000 subscribers were affected by such outages between January 1, 1982 and June 31, 1982. Breakdowns as the nature and cause are not readily available, but one company has indicated 46 percent of its outages were attributable to equipment breakdown and house drop problems, ones not usually due to third parties or natural disaster.

Office of Cable Television records show a 1981 average rate of \$8.78 for basic CATV service and \$10.06 for one premium service. Under the proposal an average subscriber with one pay service who suffered loss of all service for six to 24 hours would be credited 61 cents. Loss of pay service alone would result in a 32-cent credit.

The company's liability to subscribers for outages is limited to the costs of lost services, pro-rated for each affected day. The subscriber will not recover other losses or consequential damages under the proposal.

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

14:18-1.2 Definitions

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

**"Outage"** means the total loss of audio and/or visual basic cable television reception service, or any other identified service for which a separate charge is listed in the company's tariff.

14:18-3.9 Interruptions

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

(f) A CATV company shall not be liable for service outages when:

1. The broadcasting station or stations whose signals are to be carried over the CATV company's system fail to broadcast either on a permanent or temporary basis; or

2. The broadcasting station or stations whose signals are to be carried over the CATV company's system fail to place a usable signal for reception; or

3. Due to failure of satellite or other third-party transmission method to provide a usable signal, a signal is absent from carriage or is unusable by the CATV company;

4. The outage is caused by an act of God, accident, or other act attributable to a third party, which is not the result in whole or part of the company's failure to maintain safe, adequate and proper service.

(g) A CATV company shall be liable for all outages, other than those listed in (f) above, in the following manner and scope:

1. For any interruption of less than six hours duration there shall be no liability to subscribers.

2. In the event of a service interruption of at least six hours duration, the Company shall make a refund or credit to subscribers. For each outage lasting more than six hours, each affected subscriber is entitled to a credit for each calendar day or part of a day affected by the outage.

3. Credit for each day shall be pro-rated, based on the subscriber's monthly rate for each service not available.

4. The CATV company shall not be liable to a subscriber for any indirect or consequential damages resulting from the outage unless the CATV company expressly agrees to such liability.

5. In order to obtain a credit, subscribers must notify the CATV company in writing within 10 days after any outage or service interruption, or else, within 10 days, notify the office or other designated complaint officer.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

**Local Property Tax  
Tax Exemptions for Multiple Dwelling  
Improvements and Conversions;  
Supplemental Procedural Rules for  
Assessors**

**Proposed Amendment: N.J.A.C. 18:12-6A.8**

Authorized By: John R. Baldwin, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:4-3.123 and 54:50-1.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Samuel Temkin, Superintendent  
 Local Property and Public Utility  
 Tax Branch  
 Division of Taxation  
 West State and Willow Streets  
 Trenton, NJ 08646

The Division of Taxation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-205.

The agency proposal follows:

**Summary**

The amendment, which is proposed concurrently with the Department of Community Affairs, Division of Housing, at 15 N.J.R. 586(a), specifies the manner in which exemptions and abatements for improvements made to existing multiple dwellings and to buildings converted into multiple dwellings are to be designated in the tax list by the assessor. The proposal makes it clear that additions to one and two-unit dwellings may qualify for tax exemption and abatement pursuant to P.L. 1975, c.104, as amended. It also provides that home improvements qualifying for tax exemption also qualify for tax abatement when the municipality has so provided by ordinance. Additions where expressly excluded from the original definition of "home improvement" in N.J.S.A. 54:4-3.73, set forth in P.L. 1975, c.104. However, the definition was revised by P.L. 1977, c.284 so as to eliminate that exclusion.

**Social Impact**

Clarification on the issue of exemption for additions may encourage rehabilitation of buildings, with the consequent social benefit of increasing the supply of sound housing units. Assessors, county tax board members and property owners have, in several cases, indicated uncertainty as to whether additions are eligible for tax exemptions and abatements pursuant to P.L. 1975, c.104, as amended. This proposal should remove the basis of that uncertainty.

**Economic Impact**

Assured exemption for additions will enhance the economic feasibility of some rehabilitation projects. Some taxpayers may now receive tax exemptions and abatements to which they are entitled but which they might not have otherwise received because of contrary local interpretations of the law.

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

18:12-6A.8 Supplemental procedural rules for assessors

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

**(d) Any improvement that has the effect of modernizing or rehabilitating a dwelling shall be deemed to be a home improvement qualifying for tax exemption pursuant to the Act, including, without limitation, swimming pools and fireplaces assessable as real property.**

**(e) Additions or other enlargements shall be deemed to be home improvements qualifying for tax exemption pursuant to the Act.**

**(f) A home improvement qualifying for tax exemption pursuant to the Act shall also qualify for tax abatement pursuant to the Act if the municipality has so provided by ordinance.**

(a)

**DIVISION OF TAXATION**

**Motor Fuels Tax  
 Retail Sales**

**Proposed Amendment: N.J.A.C. 18:19-2.7**

Authorized By: John R. Baldwin, Acting Director, Division of Taxation.

Authority: N.J.S.A. 56:6-1 et seq., specifically 56:6-6.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack Silverstein  
 Chief Tax Counselor  
 Division of Taxation  
 West State and Willow Streets  
 Trenton, NJ 08646

The Division of Taxation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-182.

The agency proposal follows:

**Summary**

The proposal provides that electronic pumps equipped with computers enabling them alternatively to show the cash or credit prices for fuels rather than having conventional mechanical totalizers shall be permitted for use by retail dealers. The rule does not change the present requirements with respect to pump top signs.

**Social Impact**

The use of such pumping devices will enable the motorist to be better informed about the terms of the purchase of motor fuels where such pumping devices are available, and thus serve the purpose of consumer protection.

**Economic Impact**

The proposal is permissive rather than mandatory and accordingly will not require expenditures by any dealer unless the dealer decides to install such electronic pumps.

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

18:19-2.7 Posted prices and brand names; cash discounts

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

**(c) In the case of computerized electronic pumps equipped with customer select devices, the price posting requirements for the pump meter shall be satisfied if alternative cash and credit prices for the product are clearly visible to the motorist on the face of the pump prior to the selection of cash or credit payment mode and where the motorist's selection is identified during the operation of the pump for the motorist.**

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

# OTHER AGENCIES

## (a)

### HIGHWAY AUTHORITY

#### Garden State Parkway

#### Proposed Readoption: N.J.A.C. 19:8

Authorized By: New Jersey Highway Authority, William F. Smith, Executive Director.  
 Authority: N.J.S.A. 27:12B-5(j) and (s) and 27:12B-20a.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William F. Smith, Executive Director  
 New Jersey Highway Authority  
 Garden State Parkway  
 Woodbridge, NJ 07095

The Highway Authority thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The readoption becomes effective upon acceptance for filing of the notice of adoption by the Office of Administrative Law.

This proposal is known as PRN 1983-200.

The agency proposal follows:

#### Summary

In accordance with the sunset and other provisions of Executive Order No. 66 (1978), the Highway Authority proposes to readopt 19:8 concerning regulations governing use and administration of the Garden State Parkway. These rules were originally filed and became effective prior to September 1, 1969 pursuant to the provisions of N.J.S.A. 27:12B-5(j) and (s). Pursuant to the sunset provisions of Executive Order No. 66, a termination date of June 30, 1983 was established for all Highway Authority regulations.

The rules implement the provisions of N.J.S.A. 27:12B-1, et seq. concerning the establishment and authorization of the Highway Authority, whose principal obligation is construction and operation of the Garden State Parkway and the use and enjoyment thereof by the public. The Highway Authority Act provides for the construction of modern expressways that will facilitate vehicular traffic and reduce congestion on other highways in the State. These rules establish regulations for the use of the Garden State Parkway by the motoring public and establish procedures by which materials and supplies may be purchased and sold by the Authority.

N.J.A.C. 19:8 consists of nine subchapters, numbered 1 through 9. Subchapter 1 contains traffic rules, including definitions of terms used, maximum speed limits, prohibitions regarding parking and other limitations on the use of the Parkway. Subchapter 2 deals with regulations on Garden State Parkway property of a non-vehicular nature. Examples of these regulations are those dealing with the public use of the Garden State Arts Center, prohibition of hitchhiking and loitering and other prohibited uses of Garden State Parkway property. Subchapter 3 sets out the tolls which must be paid for passage of vehicles on the Garden State Parkway. This subsection includes a breakdown of the toll charges by type of vehicle and distance traveled. Total toll fare for passenger vehicles for the full 173-mile trip is \$2.75. Subchapter 4 deals with penalties for violations of all regulations contained in Chapter 8. Subchapter 5 provides information regarding the methods by which the Authority purchases goods and services. Subchapter 6 provides the method by which the Authority sells its surplus personal property.

For example, motor vehicles owned by the Authority are sold to the highest bidder at public auction pursuant to the provisions of this subchapter. Subchapter 7 sets out the methods and ways by which members of the public may obtain certain Authority records and the fees charged for same. Subchapter 8 deals with the procedure for obtaining special permits for oversized vehicles. These permits must be obtained for vehicles exceeding maximum dimensions of eight feet in width, 13 feet, six inches in height and 55 feet in length and are issued only to vehicles traveling south of Interchange 105. A fee of \$5.00 is charged for each permit. Subchapter 9 establishes regulations governing the issuance of permits for outdoor advertising signs adjacent to the Garden State Parkway pursuant to the provisions of N.J.S.A. 27:12B-20a, Public Laws of 1981, Chapter 463.

Since June 30, 1978, several sections of N.J.A.C. 19:8 have been amended. These include the amendment which became effective on June 30, 1978 allowing all vehicles to use the inner roadway of the Parkway. The remaining amendments since June 30, 1978 affected loitering on the Parkway, towing of passenger motor vehicles by campers, towing rates for disabled vehicles, speed limits, establishment of regulations occasioned by the energy crisis, use of the Parkway by trucks north of Interchange 91 up to Interchange 105 and amending the Schedule of Tolls in compliance therewith, ticket scalping and delayed seating at the Garden State Arts Center, inspection and obtaining of Authority records, special permits for oversized vehicles, carrying of containers into the Garden State Arts Center, use of tokens on the Parkway, overall length of vehicles (autobuses) on the Parkway and establishment of regulations governing outdoor advertising and permits therefor. Subchapter 3, Tolls, is exempt from the sunset provisions of Executive Order No. 66 pursuant to Paragraph 3 thereof.

These rules have provided an efficient and effective mechanism for the regulation of the safe and efficient use of the Parkway by the motoring public. They also include the collection of tolls, central purchasing and the sale of surplus personal property as dictated by Authority needs. The enforcement standards which they provide have enabled the traveling and using public to enjoy the use of the Parkway consistent with the legislative intent allowing for the construction of the Parkway. The tolls portion of the regulations has enabled the Authority to maintain the Garden State Parkway and meet its obligations under bonds issued pursuant to N.J.S.A. 27:12B-9, 10, 11 and 12.

Upon review, it is the Commissioners' opinion that these rules should continue to be just as effective in the future in meeting the legislative goals established by the Highway Authority. The collection of tolls and other procedures provided by these rules have received no significant public or industry comment. Therefore, N.J.A.C. 19:8 is proposed for readoption without change.

#### Social Impact

Pursuant to legislative command, the Authority adopted N.J.A.C. 19:8, "Regulations Governing Use of the Garden State Parkway," which provided traffic rules governing use of the Parkway by the motoring public, including the collection of tolls and other non-vehicular use of the Parkway and other Authority projects, including the Garden State Arts Center. The rules also provided for penalties of violation of any Authority regulations (N.J.A.C. 19:8-4).

In addition to other programs, the Authority sponsors the Garden State Cultural Center Fund, which provides a full series of ethnic heritage festivals held at the Garden State Arts Center and also provides free entertainment for senior citizens, the handicapped, school children, the blind, veterans and other civic groups throughout the Arts Center season.

The extent to which these rules ensure the safe and efficient use of the highway by the motoring public, the collection of toll revenues and the provisions of the aforementioned social programs is a key element enabling the Authority to meet the goals mandated by the Legislature in enacting N.J.S.A. 27:12B-1, et seq. For these

reasons, the failure to readopt these rules could seriously jeopardize the realization of the Legislative intent spelled out in N.J.S.A. 27:12B-1, et seq., for example, the safe use of the roadway by the public, the collection of necessary tolls to meet bonding indebtedness and the continuance of the Garden State Cultural Center Fund programs.

#### **Economic Impact**

The most significant responsibility of the Authority is the operation and maintenance of the Garden State Parkway. The safe and expeditious use of the Parkway by the motoring public increases such use and thereby maintains the Authority's ability to generate sufficient revenues to meet its bonding indebtedness. The safe and efficient use of the Parkway by the motoring public can be said to have added significantly to the development of those areas of the State served by the Parkway. The non-vehicular regulations have contributed to the use of the Parkway and the Arts Center by the public by enhancing the ability of the Authority to maintain its projects at maximum efficiency and minimum costs.

The Authority's regulations dealing with purchasing and the sale of surplus personal property permit the Authority to meet its public obligations with a minimum expenditure of Authority funds and serve to further the cost savings and allow enhancement of competitive bidding, resulting in a cost savings and enhancement of the public policy favoring competitive bidding.

**Full text** of the rules proposed for readoption appear in the New Jersey Administrative Code at N.J.A.C. 19:8, as amended in the New Jersey Register.

(a)

## **ELECTION LAW ENFORCEMENT COMMISSION**

### **Pre-Candidacy Activity "Testing the Waters"**

**Proposed New Rules: N.J.A.C. 19:25-3.1, 11.6 and 12.6**

**Proposed Amendments: N.J.A.C. 19:25-1.7, 9.3, 9.7, 15.3, 15.4, 15.11, 15.24, 16.3, 16.4, 16.5, 16.9, 16.12 and 16.25**

**Proposed Repeal: N.J.A.C. 19:25-3.1, 3.2 and 3.3**

Authorized By: Election Law Enforcement Commission  
at its Public Meeting of March 9, 1983, Scott A. Weiner,  
Executive Director.

Authority: N.J.S.A. 19:44A-6 and 19:44A-38.

A **public hearing** concerning this proposal will be held on May 11, 1983 at 10:00 A.M. at:

Chambers of the General Assembly  
State House  
West State Street  
Trenton, New Jersey

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gregory E. Nagy, Esq.  
Staff Counsel  
Election Law Enforcement Commission  
Suite 1114, National State Bank  
Building  
28 West State Street  
Trenton, NJ 08608

The Election Law Enforcement Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-186.

The agency proposal follows:

#### **Summary**

The proposed new rules concern the recordkeeping, depositing and reporting of funds received and expenditures made by an individual, or by a committee in the individual's behalf, solely for the purpose of determining whether that individual should become a candidate for public elective office in this State. Such activity is commonly referred to as "testing the waters." The proposed rules would clarify that funds received and payments made for such purposes become subject to the provisions of the Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.) if the individual on whose behalf they are received or made in fact becomes a candidate. Specifically, the affected sections of the regulations are as follows:

1. N.J.A.C. 19:25-1.7 contains definitions of the terms "Contribution" and "Expenditure." The proposed regulations add to these definitions so that funds received or payments made for "testing the waters" are excluded so long as the individual on whose behalf they are received or made is not a candidate.

2. N.J.A.C. 19:25-3 is proposed for repeal. This subchapter currently regulates the limitation on total campaign expenditures of candidates for all State public offices. The existing regulations were promulgated in furtherance of N.J.S.A. 19:44A-7, as it was enacted in Chapter 83 of the Laws of 1973, effective April 24, 1973. However, the text of the statute was amended by Chapter 74 of the Laws of 1980, effective July 23, 1980 so that the expenditure limits apply currently only to candidates for the Office of Governor, who chose to accept partial public financing. Therefore the existing text for Subchapter 3 should be repealed. Regulations concerning the expenditure limits for candidates for the Office of Governor have been previously adopted as N.J.A.C. 19:25-15.11 and 19:25-16.9.

3. The new regulation codified as N.J.A.C. 19:25-3.1 requires recordkeeping and reporting for "testing the waters" funds received and payments made if the individual on whose behalf the activity is undertaken in fact becomes a candidate.

4. A new regulation to be codified as N.J.A.C. 19:25-11.6 is proposed specifying that when an individual becomes a candidate, all funds received or payments made in connection with his or her campaign prior to becoming a candidate shall be considered contributions, and shall be reported in accordance with the applicable reporting requirements in the first report filed by such candidate's campaign committee. Recordkeeping requirements are also set.

5. A new regulation, to be codified as N.J.A.C. 19:25-12.6 will specify that when an individual becomes a candidate, payments made in connection with his or her campaign prior to becoming a candidate shall be considered expenditures, and shall be reported in accordance with the applicable reporting requirements in the first report filed by such candidate's campaign committee. Recordkeeping requirements are also set.

Other proposed changes concern the public financing for the primary and general elections for the Office of Governor. These changes are as follows:

6. "Testing the water" bank accounts must be established by gubernatorial candidates. That account may later be designated as

eligible for receipt of matching public funds. The definition in N.J.A.C. 19:25-15.3 and 19:25-16.3 of "contribution eligible for match" has been amended to include "testing the waters" contributions if they comply with public financing restrictions.

7. The date of October 15, 1980 is deleted from several sections of the regulations concerning public financing of gubernatorial primary elections. N.J.A.C. 19:25-16. That date has been replaced by the date an individual becomes a candidate as the deadline for designation of a principal campaign committee, and N.J.A.C. 19:25-16.4, 16.9 and 16.12 have been accordingly amended.

8. Funds received for "testing the water" are subject to the \$800.00 contribution limit set forth in N.J.S.A. 19:44A-29 if the individual becomes a candidate for Governor in a primary or general election. Payments made for "testing the water" are to be included in the overall expenditure limit in N.J.S.A. 19:44A-7 if the individual becomes a gubernatorial candidate. See proposed N.J.A.C. 19:25-16.9, 16.12 and 15.12.

**Social Impact**

The proposed rules promote the public interest in achieving disclosure of sources of funds for "testing the waters" activities when the individual on whose behalf such activities are undertaken does in fact become a candidate for public elective office in this State. The Commission finds that "testing the water" activities on behalf of an individual who does not become a candidate does not raise a significant public interest in disclosure. However, where the individual does become a candidate, funds made available to that individual for the purpose of determining the feasibility of his or her candidacy should be identified by source and amount. Where the individual becomes a candidate, the Commission finds that contributions for the purposes of "testing of the waters" are significantly related to the candidacy as to fall within the public policy concerns articulated in N.J.S.A. 19:44A-2.

The regulations concerning the public financing of the primary election for the Office of Governor established October 15, 1980 as an arbitrary date by which certain actions had to be undertaken by candidates. The necessity of that date was raised because of the timing of the legislation which was not enacted until July 23, 1980. (Law 1980, c. 74). At that time, the Commission was faced with the difficult task of regulating primary election activity that had occurred prior to the effective date of the Act. Therefore, the Commission adopted October 15, 1980 as an arbitrary date by which gubernatorial primary candidates had to designate principal campaign accounts and certified compliance with the \$800.00 contribution limit enacted by the new law. In anticipation of the gubernatorial primary election to be conducted in 1985, the Commission no longer finds it necessary to establish an arbitrary date, but rather requires individuals to certify that they are conforming to the \$800.00 contribution limit and other requirements within 10 days after becoming candidates.

**Economic Impact**

The proposed rules may result in modest cost to candidates, because they require recordkeeping of activities previously not required to be reported by the Commission. However, "testing the waters" activities of candidates is a relatively small part of an overall candidacy, and therefore there should be a relatively slight increase in recordkeeping and reporting activity. No new reports are required. Rather, additional information may be required as part of a candidate's first report to the Commission. To the extent that the Commission is required to examine the reported contributions and expenditures of reporting entities, the Commission anticipates no measurable increase in its costs associated with administration of the requirements.

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

19:25-1.7 Definitions

The following words and terms, when used in this chapter and in the interpretation of the act, shall have the following meanings, unless a different meaning clearly appears from the context.

...  
 "Contribution" includes every loan, gift, subscription, advance or transfer of money or other thing of value, including any item of real property of personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made to any candidate, political committee, political party committee, political club or political information organization, and any pledge or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the act, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed. **As set forth in N.J.A.C. 19:25-3.1, funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not contributions.**

...  
 "Expenditure", except as otherwise set forth in N.J.A.C. 19:25-12.1 includes every transfer of money or other thing of value, including any item of real or personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made by any candidate, political committee, political party committee, political club or political information organization, and any pledge or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the act, any such commitment or assumption shall be deemed to have been an expenditure upon the date when such commitment is made or liability assumed. **As set forth in N.J.A.C. 19:25-3.1, funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not expenditures.**

[SUBCHAPTER 3. LIMITATION OF EXPENDITURES

19:25-3.1 Spending limit

(a) The amount which may be spent, including the total amount expended by the candidate and any other person, committee or organization, in aid of the candidacy of any candidate for a public office at any election shall not exceed \$0.50 for each voter who voted in the last preceding general election in a Presidential year in the district in which the public office is sought.

(b) No money or other thing of value shall be paid or promised, or expense authorized or incurred in behalf of any candidate for nomination or election to any office, whether such payment is made or promised, or expense authorized or incurred by the candidate himself or by an other person, political committee or organization, in furtherance or in aid of his candidacy, under any circumstances whatsoever, in excess of the sums provided; but such sums shall not include the traveling expenses of the candidate or of any person other than the candidate if such traveling expenses are voluntarily paid by such person without any understanding or agreement with the candidate that they shall be, directly or indirectly, repaid to him by the candidate.

19:25-3.2 Computation of spending limit

Published statistics respecting the numbers of voters who voted in the last preceding general election in a Presidential year are on file in the Law and General Reference Section, State Library, Trenton, New Jersey. (For example, the volume relating to the General Election for 1972 is entitled "State of New Jersey, Secretary of State, Results of the General Election Held November 7, 1972".) Current figures are also available at the office of the commission.

## 19:25-3.3 Review by the Commission

The commission will, at the request of any candidate, compute the spending limits or review the spending limits determined by such candidate and the calculations upon which such determination has been based. Upon request the commission will certify the correct spending limits.]

### SUBCHAPTER 3. PRE-CANDIDATE ACTIVITY; "TESTING THE WATERS"

#### 19:25-3.1 Exemption for activities conducted solely for the purpose of determining whether an individual will become a candidate; "Testing the Waters"

Funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not contributions or expenditures. Activities contemplated under this exemption include, but are not limited to expenses incurred for: conducting a poll, telephone calls and travel, to determine whether an individual should become a candidate. The individual shall keep records of all such funds received and payments made. If the individual subsequently becomes a candidate, the funds received and payments made are contributions and expenditures subject to the limitations, prohibitions and requirements of the Act. Such contributions and expenditures must be reported with the first report filed by the candidate or the campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not apply to funds received or payments made for general public political advertising; nor does this exemption apply to funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

## 19:25-9.3 Period covered

(a) During the period between the appointment of the campaign treasurer and the election, with respect to any contributions accepted or expenditures made by him or her, the campaign treasurer shall file his or her report:

1. On the 25th day preceding the election; and
2. On the seventh day preceding the election; and
3. On the 15th day following such election.

(b) The report shall cover the period ending with the day preceding the date of the report and beginning with the date when the most recent such report was filed, except that the first report shall cover the period beginning on the date of the appointment of the campaign treasurer, or the first receipt or expenditure by or on behalf of the candidate, or the date of filing of the petition, or the date of public declaration of candidacy whichever first occurred[.], and shall include all receipts and expenditures relating to pre-candidacy activity described in N.J.A.C. 19:25-3.1.

## 19:25-9.7 Time of filing; period covered

(a) The affidavit shall be filed on or before the 25th day preceding the election to which such affidavit relates.

(b) The affidavit shall cover the time period beginning on the date of the appointment of the campaign treasurer, or the first receipt or expenditure by or on behalf of the candidate, or the date of filing the petition, or the date of public declaration of candidacy, whichever first occurs, and shall include all receipts and expenditures relating to pre-candidacy activity described in N.J.A.C. 19:25-3.1 and ending on the date when all of the business regarding the election to which it relates has been wound up.

## 19:25-11.6 Contributions for pre-candidacy activity

When an individual becomes a candidate, all funds received or payments made in connection with his or her testing the waters activity prior to becoming a candidate shall be considered contributions or expenditures under the Act and shall be reported in accordance with the applicable reporting

requirements in the first report filed by such candidate's campaign committee. The individual shall keep records of the name of each contributor, the date of receipt and amount of all contributions received and all expenditures made in connection with the individual's testing the waters activity prior to becoming a candidate. Contributions received by an individual prior to becoming a candidate for nomination for or election to the Office of Governor, which contributions are not in compliance with the Act, shall be returned to the contributor within 10 days after the individual becomes a candidate. The individual shall keep records of all refunds made.

## 19:25-12.6 Expenditures for pre-candidacy activity

When an individual becomes a candidate, all funds received or payments made in connection with his or her testing the waters activity prior to becoming a candidate shall be considered contributions or expenditures under the Act and shall be reported in accordance with the applicable reporting requirements in the first report filed by such candidate's campaign committee. The individual shall keep records of the name of each contributor, the date of receipt and amount of all contributions received and all expenditures made in connection with the individual's testing the waters activity prior to becoming a candidate.

## 19:25-15.3 Definitions for this subchapter

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

...  
 "Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to N.J.S.A. 19:44A-44, no amount of the candidate's own funds in the aggregate in excess of \$800.00, no in-kind contribution and no other moneys received by the candidate, his campaign treasurer, or deputy campaign treasurer, except those contributions described in N.J.S.A. 19:44A-29(a), shall be deemed contributions eligible for match. **Funds received by an individual who is testing the waters may be matched when the individual becomes a candidate, if such contributions meet all the requirements of the regulations.**

...  
 "Matching fund account" means the campaign bank account opened pursuant to N.J.S.A. 19:44A-32 by a campaign treasurer of a candidate, or deputy campaign treasurer, with the permission of the Commission, in which only contributions eligible for match may be [contributed] deposited.

## 19:25-15.4 Appointment of treasurers and depositories

(a) Each candidate in a general election, whether or not publicly declared and whether or not intending to participate in public funding, must appoint a campaign treasurer and designate a depository bank account before any contribution is received by such candidate or in his or her behalf, or before any money is expended by him or her in his or her behalf in furtherance or aid of his or her candidacy, and such candidate must comply with the requirements of subchapter 5 (Appointment of treasurers and depositories) of this chapter (N.J.A.C. 19:25-5.1 et seq). The candidate shall promptly file with the Commission the name and mailing address of the appointed campaign treasurer and the bank name, mailing address and number of the designated depository bank account.

(b) All funds received by an individual, or a committee in his or her behalf, solely for the purpose of determining whether that individual should become a candidate (for example, "testing the waters") shall be deposited in a separate depository established solely for that purpose.

(c) In the event the individual on whose behalf funds are received and payments made solely for the purpose of determining whether the individual should become a candidate does in fact become a candidate, the separate depository established under (b) above may be designated by that individual as or incorporated with the matching fund account under N.J.A.C. 19:25-15.17(b), provided that the account and all of the contributions deposited in it meet all of the requirements of N.J.A.C. 19:25-15.17(b).

19:25-15.11 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the Act (N.J.S.A. 19:44A-1 et seq.) or these regulations, is subject to the following limitations:

1. No candidate receiving public funds may make expenditures from his or her own funds, including any contributions from his or her own funds, in aid of his or her candidacy in excess of \$25,000. Any loan guaranteed with such candidate's own funds must be included in calculating the aggregate contribution of the candidate in aid of his or her candidacy until such time as the loan is no longer outstanding.

2. No candidate, or his or her campaign treasurer or deputy campaign treasurer, shall borrow an amount that at any one time exceeds \$50,000 in the aggregate, and such loan must be repaid in full not later than 20 days prior to the general election for which the loan was made from moneys accepted or allocated pursuant to N.J.S.A. 19:44A-29. Certification of such repayment shall be made by the borrower to the Commission in accordance with N.J.A.C. 19:25-15.29.

3. The amount which any qualified candidate may spend in aid of his or her candidacy shall not exceed \$0.70 for each voter who voted in the last preceding general election in a presidential year in New Jersey, [except that such] which amount shall include all expenditures for testing the waters activity prior to candidacy. Such amount shall not include expenditures listed in N.J.A.C. 19:25-15.26.

4. Contributions by any candidate in excess of \$800.00 from his or her own funds in aid of his or her candidacy shall not be deposited in a matching fund account and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.

19:25-15.24 Use of public funds

(a) Public funds received on behalf of a qualified candidate from the fund for general election campaign expenses shall be deposited by the Commission in the candidate's public fund account and the candidate's use of such funds shall be strictly limited to the following purposes:

1. Purchase of time on radio and television stations;
2. Purchase of rental space on outdoor signs or billboards;
3. Purchase of advertising space in newspapers and regularly published magazines and periodicals;
4. Payment of the cost of producing the material aired or displayed on radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines and periodicals;
5. Payment of the cost of printing and mailing campaign literature and brochures distributed under the name of the candidate;
6. Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the Commission and with the public financing provisions of the Act;
7. Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within six months after the general election, a candidate shall return to the Commission the amount of any public funds used to pay such telephone deposits which are later returned.

(b) Expenditures made prior to the receipt of public funds, including expenditures made for pre-candidacy "testing the waters" activity, which fit within (a) 1 through 7 above, shall be expenses properly payable out of public funds.

[(b)] (c) Contributions, other than public funds, received by or in behalf of any candidate (including contributions eligible for match) shall not be subject to the limitations of (a) above, but may be expended for any lawful purpose in furtherance or aid of the candidacy of the candidate.

19:25-16.3 Definitions for this subchapter

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

....  
 "Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to section 15 of P.L. 1980, c. 74 (N.J.S.A. 19:44A-44), no amount of the candidate's own funds in the aggregate in excess of \$800.00, no in-kind contribution and no other moneys received by the candidate, his campaign treasurer, or deputy campaign treasurer, except those contributions described in subsection (a) of section 5 of P.L. 1980, c. 74 (N.J.S.A. 19:44A-29(a)), shall be deemed contributions eligible for match. **Funds received by an individual who is testing the waters may be matched when the individual becomes a candidate, if such contributions meet all the requirements of the regulation.**

....  
 "Matching fund account" means the campaign bank account opened pursuant to N.J.S.A. 19:44A-32 by a campaign treasurer of a candidate, or deputy campaign treasurer, with the permission of the Commission, in which only contributions eligible for match may be [contributed] deposited.

19:25-16.4 Designation of principal campaign committee

(a) [On or before October 15, 1980] **Upon becoming a candidate** each candidate, whether publicly declared or not, [on whose behalf campaign activity has been undertaken prior to that date] shall designate to the Commission the name and address of his or her principal campaign committee for the primary election, the name and address of his or her campaign treasurer and the name, address and number of his depository bank account. **As to certification of compliance with contribution limitations, see N.J.A.C. 19:25-16.12.** [A candidate may designate as his principal campaign committee a committee which has engaged in campaign activity on his behalf prior to October 15, 1980.

(b) No political committee (other than such principal campaign committee) may contribute to the candidate or expend on behalf of the candidacy more than \$800.00.

(c) A candidate who begins his campaign activity subsequent to October 15, 1980, shall designate his principal campaign committee, treasurer and depository to the commission at the time he notifies the commission of his intention to seek to qualify for public funding.]

19:25-16.5 Appointment of treasurers and depositories

(a) Each candidate in a primary election, whether or not intending to participate in public funding, must appoint a campaign treasurer and designate a depository bank account before any contributions is received by him or her in his or her behalf or any money is expended by him or her in his or her behalf in furtherance or aid of his or her candidacy, and must comply with the requirements of N.J.A.C. 19:25-5 (Appointment of Treasurers and Depositories).

(b) **All funds received by an individual, or a committee in his or her behalf, solely for the purpose of determining whether that individual should become a candidate (for example "testing the waters") shall be deposited in a separate depository established solely for that purpose.**

(c) In the event the individual on whose behalf funds are

received and payments made solely for the purpose of determining whether the individual should become a candidate does in fact become a candidate, the separate depository established under (b) above may be designated by that individual as or incorporated with the matching fund account under N.J.A.C. 19:25-16.18(b), provided that the account and all of the contributions deposited in it meet all of the requirements of N.J.A.C. 19:25-16.18(b).

19:25-16.9 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the Act (N.J.S.A. 19:44A-1 et seq.) or these regulations, is subject to the following limitations:

1. No candidate receiving public funds may make expenditures from his or her own funds, including any contributions from his or her own funds, in aid of his or her candidacy in excess of \$25,000. Any loan guaranteed with such candidate's own funds must be included in calculating the aggregate contribution of the candidate in aid of his or her candidacy until such time as the loan is no longer outstanding.

2. No candidate, or his or her campaign treasurer or deputy campaign treasurer, shall borrow an amount that at any one time exceeds \$50,000 in the aggregate, and such loan must be repaid in full not later than 20 days prior to the primary election for which the loan was made from moneys accepted or allocated pursuant to section 5 of P.L. 1980, c. 74 (N.J.S.A. 19:44A-29). Certification of such repayment shall be made by the borrower to the Commission in accordance with N.J.A.C. 19:25-16.30 (Borrowing of funds, repayment).

3. The amount which any qualified candidate may spend in aid of his or her candidacy shall not exceed \$0.35 for each voter who voted in the last preceding general election in a presidential year in New Jersey, which amount shall include all expenditures for testing the waters activity prior to candidacy. Such [except that such] amount shall not include expenditures listed in N.J.A.C. 19:25-16.27.

4. Contributions by any candidate in excess of \$800.00 from his or her own funds and in aid of his or her candidacy shall not be deposited in a matching fund account and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.

19:25-16.12 Contributions and loans prior to [October 15, 1980] candidacy

(a) Each candidate, whether or not intending to participate in public funding, shall certify to the Commission in writing [by October 15 in the year immediately preceding the year of a primary election] within 10 days after the date of commencement of his or her candidacy that:

[1. No contribution in excess of \$800.00 in the aggregate from a person or political committee has theretofore been received (whether or not prior to the effective date of P.L. 1980, c.74 (N.J.S.A. 19:44A-3, et seq.) on behalf of his candidacy; or

2. That contributions in excess of \$800.00 in the aggregate have been received, and the amount of each contribution in excess of \$800.00 in the aggregate has been returned to the contributor. The certification shall include:

i. A list of names and addresses of all contributors who contributed more than \$800.00 and the dates and amounts of all such contributions; and

ii. Written evidence, such as photocopy of check, showing that such excess amounts have been returned to the contributor.]

1. The candidate did not have a "testing the waters" account; or

2. The candidate did have a "testing the waters" account. In that event, the candidate shall notify the Commission whether the "testing the waters" account is to be designated as the matching fund account and whether contributions from the "testing the waters" account are to be deposited into the matching fund account.

3. No contribution in excess of \$800.00 in the aggregate from a person or political committee has theretofore been received for pre-candidacy "testing the waters" activity; or contributions in excess of \$800.00 in the aggregate have been received for that purpose, and the amount of each contribution in excess of \$800.00 in the aggregate has been returned to the contributor. The certification shall include:

i. A list of all contributors who contributed more than \$800.00 and the dates and amounts of all such contributions; and

ii. Written evidence such as photocopy of check, showing that such excess amounts have been returned to the contributor.

(b) [A] In addition to any other penalty provided by law, a candidate failing to make the certification in (a)2 above with respect to excess contributions will not be eligible to receive matching funds.

(c) Each candidate who receives contributions [on behalf of his candidacy on or before October 15, 1980] for pre-candidacy "testing the waters" activity and intends to qualify such contributions for matching public funds must [so notify the Commission and deposit such contributions on or before November 14, 1980, in a matching fund account established pursuant to N.J.A.C. 19:25-16.18(b), and notify the Commission of such deposit on or before November 14, 1980.] designate the "testing the waters" account as the matching fund account, or deposit such contributions in the matching fund account, within 10 days after the date of commencement of the candidacy. Each such candidate must also comply with the other provisions of N.J.A.C. 19:25-16.18 (Matching of funds). Except as otherwise provided in (d) below, contributions [prior to October 15, 1980] for pre-candidacy "testing the waters" activity not so deposited will not be eligible for match.

(d) Contributions spent [prior to October 15, 1980] for pre-candidacy "testing the waters" activity will be eligible to be matched with public funds if the candidate submits the information required by N.J.A.C. 19:25-16.18 (Matching of funds), and, at the same time, in lieu of evidence of deposit of such contributions in a matching fund account pursuant to N.J.A.C. 19:25-16.18(b), submits evidence of deposit in a [depository bank account] "testing the waters" account established pursuant to [N.J.S.A. 19:44A-12 and evidence in the form of invoices, paid bills, cancelled checks and similar written form, of the disbursements of such contributions for the candidacy] N.J.A.C. 19:25-16.5(b). Contributions expended [on or after October 15, 1980] which have not been deposited in the matching fund account established pursuant to N.J.A.C. 19:25-16.18 (Matching of funds) will not be eligible to be matched with public funds.

(e) Any candidate who [prior to October 15, 1980] contributed or expended [on behalf of his candidacy] for pre-candidacy "testing the waters" activity an amount in excess of \$25,000 from his or her own funds [contrary to the provisions of section 5 of P.L. 1980, c.74, (N.J.S.A. 19:44A-29),] shall reimburse his campaign account [on or prior to October 15, 1980] within 10 days after the date of commencement of the candidacy, such amount in excess of \$25,000 so contributed and expended, and shall certify to the Commission [on or prior to October 15, 1980,] that such reimbursement has been made.

(f) Any candidate who [prior to October 15, 1980] borrowed an amount in the aggregate in excess of \$50,000, [contrary to the provisions of section 15 of P.L. 1980, c.74 (N.J.S.A. 19:44A-44),] shall repay [on or prior to October 15, 1980] within 10 days after the date of commencement of the candidacy such amount in excess of \$50,000 so borrowed, and shall certify to the Commission [on or prior to October 15, 1980] that such excess amount has been repaid.

(g) The provisions of this section shall apply as well to a political committee described in section 18 of P.L. 1980, c.74, except that in lieu of returning to the contributor the amount in excess of \$800.00, the political committee may retain such excess in a depository bank account separate and segregated from both the

depository bank account and the matching fund account. Such excess amounts shall not be used directly or indirectly in aid of or in opposition to a candidate for Governor in a primary or general election. Any expenditure of such moneys by the political committee after October 15, 1980, by means of contributing or transferring such moneys or any part thereof to any candidate for any State, county or municipal office or to a political committee, State, county or municipal political party committee or political club shall be deemed to be an expenditure of funds used directly or indirectly in aid of or in opposition to a candidate for Governor. In determining whether an expenditure of such funds is for such a political purpose, the Commission may take into account among other criteria the purpose of the expenditure, whether the recipient is a candidate or political committee and the political relationship of the recipient to the candidate associated with the committee. On or before November 14, 1980 the political committee shall transfer such funds previously raised it wishes to qualify for public matching funds to a matching fund account and file with the Commission the information required in section 18 of P.L. 1980, c. 74.]

19:25-16.25 Use of public funds

(a) Public funds received on behalf of a qualified candidate from the fund for primary election campaign expenses shall be deposited by the Commission in the candidate's public fund account and the candidate's use of such funds shall be strictly limited to the following purposes:

1. Purchase of time on radio and television stations;
2. Purchase of rental space on outdoor signs or billboards;
3. Purchase of advertising space in newspapers and regularly published magazines and periodicals;
4. Payment of the cost of producing the material aired or displayed on radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines and periodicals;
5. Payment of the cost of printing and mailing campaign literature and brochures distributed under the name of the candidate;
6. Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the Commission and with the public financing provisions of the Act;
7. Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within six months after the primary election, a candidate shall return to the Commission the amount of any public funds used to pay such telephone deposits which are later returned.

**(b) Expenditures made prior to the receipt of public funds, including expenditures made for pre-candidacy "testing the waters" activity, which fit within (a)1 through 7 above, shall be expenses properly payable out of public funds.**

[(b)] (c) Contributions, other than public funds, received by or in behalf of any candidate (including contributions eligible for match) shall not be subject to the limitations of (a) above, but may be expended for any lawful purpose in furtherance or aid of the candidacy of the candidate.

# RULE ADOPTIONS

## BANKING

(a)

### DIVISION OF BANKING

#### State Chartered Commercial Banks Investments; Approved Subsidiaries

##### Adopted Amendment: N.J.A.C. 3:11-2.1

Proposed: February 7, 1983 at 15 N.J.R. 110(a).  
Adopted: March 24, 1983 by Michael M. Horn,  
Commissioner, Department of Banking.  
Filed: March 24, 1983 as R.1983 d.108, **without change.**

Authority: N.J.S.A. 17:1-8.1 and 17:9A-60(6).

Effective Date: April 18, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):  
June 23, 1983.

Summary of Public Comments and Agency Responses:  
**No comments received.**

(b)

### DIVISION OF BANKING, CONSUMER CREDIT BUREAU

#### Other Business Owner Financed Second Mortgages

##### Adopted Amendments: N.J.A.C. 3:17-7.1 and 7.3

Proposed: February 7, 1983 at 15 N.J.R. 111(a).  
Adopted: April 4, 1983 by Michael M. Horn,  
Commissioner, Department of Banking.  
Filed: April 4, 1983 as R.1983 d.120, **without change.**

Authority: N.J.S.A. 17:10-13 and 17:10-23.

Effective Date: April 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
June 18, 1986.

Summary of Public Comments and Agency Responses:  
**No comments received.**

## ENVIRONMENTAL PROTECTION

(c)

### DIVISION OF WATER RESOURCES

#### Flood Hazard Area Delineations Flood Delineations along the Stony Brook within the Township of East Amwell, Hunterdon County

##### Adopted Amendment: N.J.A.C. 7:13-1.11

Proposed: October 18, 1982 at 14 N.J.R. 1131(b).  
Adopted: March 18, 1983 by Robert E. Hughey,  
Commissioner, Department of Environmental  
Protection.

Filed: March 25, 1983 as R.1983 d.109, **without change.**

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

DEP Docket No. 049-82-09.

Effective Date: April 18, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):  
July 19, 1983.

Summary of Public Comments and Agency Responses:

The Department held on November 15, 1982, a public hearing concerning the proposed amendment at the Division of Water Resources, Trenton, New Jersey. Representatives from the Department presented the proposed amendment to those in attendance and expressed support for the proposed amendment.

Three people attended the hearing. All of the testimony given was in support of the amended flood delineation. No testimony was given in opposition to the amended flood delineation.

(d)

### THE COMMISSIONER

#### Joint Adoption: Recycling Grants and Loans Programs Supplementary Projects Funding

##### Adopted New Rules: N.J.A.C. 7:26-15.8 and N.J.A.C. 14A:3-15.8

Proposed: December 6, 1982 at 14 N.J.R. 1346(a).  
Adopted: March 31, 1983 by Robert E. Hughey,  
Commissioner, Department of Environmental Protection

and Leonard S. Coleman, Jr. Commissioner, Department of Energy.  
 Filed: March 31, 1983 as R.1983 d.119, **without change.**

Authority: Recycling Act, P.L. 1981, c.278; N.J.S.A. 13:1E-6(a)2 and N.J.S.A. 52:27F-11q.

Effective Date: April 18, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978): February 16, 1987.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

**HEALTH**

**(a)**

**CONSUMER HEALTH SERVICES**

**Manufacturing, Storage, Distribution and Handling of Nonalcoholic Beverages and Bottled Water**

**Adopted New Rule: N.J.A.C. 8:21-12**  
**Adopted Repeal: N.J.A.C. 8:21-2.34**

Proposed: November 15, 1982 at 14 N.J.R. 1265(a).  
 Adopted: March 30, 1983 by J. Richard Goldstein, Commissioner, Department of Health.  
 Filed: March 30, 1983 as R.1983 d.115, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 24:2-1.

Effective Date: April 18, 1983.  
 Operative Date: June 1, 1983.  
 Expiration Date pursuant to Executive Order No. 66(1978): April 18, 1988.

**Summary of Public Comments and Agency Responses:**

**Comment:**  
 There was a request to exempt mineral water from meeting the bacteriological, physical, chemical, and radiological water quality standards set forth in the proposal until such time as the U.S. Food and Drug Administration adopts national standards relevant to mineral water.

**Response:**  
 The current Federal standards completely exempts mineral water from meeting bacteriological, physical, chemical, and radiological water quality standards, that are imposed on all other types of bottled water. Furthermore, mineral water is not defined by this agency. Therefore, any firm can label its bottled water "Mineral Water" and exempt itself from the Federal water quality standards. The department does not agree with this exemption because mineral water is a type of bottled water and should be regulated accordingly.

**Comment:**  
 A request to expand the proposed definition of mineral water to

accommodate bottled water which contains less than 500 ppm dissolved solids.

**Response:**  
 The department recognizes that some domestic and imported mineral water may contain less than the proposed level of dissolved solids. Therefore, we have expanded the definition to include "light mineral water" which is bottled water containing 250 ppm but less than 500 ppm of naturally impregnated mineral solids and derived from an underground source.

**Comment:**  
 To delete the proposed sodium standard because it is overly restrictive and not consistent with other Federal and State standards.

**Response:**  
 The department recognizes that the proposed sodium standard may result in an adverse economic impact to the industry and, therefore, has deleted it from the proposal.

**Comment:**  
 To delete the provisions that require the type of bottled water to be identified and its source indicated on the label.

**Response:**  
 The department feels the consumer has the right to know what type of water, for example, mineral, spring, well, etc., that he is purchasing and drinking. To eliminate fraud in this area, the department feels these definitions are needed.  
 Also, the department feels the consumer has the right to know where the water originated from, for example, spring in Blairstown, New Jersey or Hackensack River. This information is also useful in the event of a waterborne outbreak associated with a contaminated water source.

**Comment:**  
 To expand the proposed definition of "demineralized" water.

**Response:**  
 The department has expanded this definition in order to accommodate "distilled" and "purified" bottled water which is currently being marketed.

**Comment:**  
 Not to limit water quality testing of product and source water to only New Jersey Certified Laboratories.

**Response:**  
 The department recognizes that this proposal was overly restrictive and accordingly has revised it to allow for the use of other approved laboratories located out of state/country to be used.

**Full text** of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks **\*thus\***; deletions from proposal shown in brackets with asterisks **\*[thus]\***).

- 8:21-12.5 Labeling requirements specific to bottled water  
 (a) (No change from proposal.)  
 (b) Type: The type of source water for bottled water purposes shall be clearly and prominently identified on the primary container according to the following criteria:  
 1. "Demineralized water"\***, "distilled water" or "purified water"**\* means water which has been treated by deionization, distillation, reverse osmosis, or other approved processes **\*and contains no less than 10 ppm total dissolved solids\*** **\*[which adequately removes the mineral content of the source water]\***.  
 2. (No change. from proposal.)  
**\*3. "Light mineral water" is water containing more than 250 ppm but less than 500 ppm of naturally impregnated mineral solids and derived from an underground source.\***

\*[3.]\*\*4.\* "Mineral water" \*[means water which complies with the bacteriological, physical, chemical, and radiological water quality standards set forth herein and having a dissolved solid content greater than 500 parts per million]\* **\*means water containing at least 500 ppm of naturally impregnated mineral solids and derived from an underground source.\***

\*[4.]\*\*5.\* (No change from proposal.)

\*[5.]\*\*6.\* (No change from proposal.)

(c)-(e) (No change from proposal.)

**\*(f) Additional types of bottled water may be distributed if approved by the Department.\***

8:21-12.7 Bottled water quality standards

(a) Bottled water which is manufactured, distributed or sold within this State shall comply with the standards, i.e., microbiological, physical, chemical and radiological, set forth herein:

1.-2. (No change from proposal.)

3. Chemical quality: Bottled water, when a composite of analytical units of equal volume from a sample is examined by the methods described in (a)2 above, shall not contain chemical substances in excess of the following concentrations:

i. Substances	Milligrams per liter
Arsenic .....	0.05
Barium .....	1.0
Cadmium .....	0.01
Chloride .....	250.0
Chromium .....	0.05
Copper .....	1.0
Iron .....	0.3
Lead .....	0.05
Manganese .....	0.05
Mercury .....	0.002
Nitrate(N) .....	10.0
<b>*Phenols .....</b>	<b>0.001*</b>
Selenium .....	0.01
Silver .....	0.05
Sulfate .....	250.0
Total dissolved solids .....	500.0
Zinc .....	5.0
*[Sodium .....	50.0]*
ABS/LAS .....	0.5
Trihalomethanes .....	0.10

Organics

Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-1,4-endo,endo-5,8-dimethano naphthalene) .....

0.0002

Lindane (1,2,3,4,5,6-hexa-chlorocyclohexane, gamma isomer) .....

0.004

Methoxychlor (1,1,1-trichloro-2,2-bis (p-methoxyphenyl) ethane .....

0.1

Toxaphene (C<sub>10</sub>H<sub>10</sub>Cl<sub>16</sub>)\* -technical chlorinated camphene 67-69 (percent chlorine) .....

\*[0.0005]\* **\*0.005\***

2,4-D\*(2,4-dichlorophenoxy-acetic acid) .....

0.1

2,4,5-TP Silvex (2,4,5-trichlorophenoxypro-pionic acid) .

0.01

ii. (No change from proposal.)

iii. Bottled water packaged in this State to which no fluoride is added shall not contain fluoride in excess of the levels in Table 1 and these levels shall be based on the annual average of maximum daily air temperatures at the location where the bottled water is sold at retail.

Table 1

Annual average of maximum in daily air temperatures (°F)	Fluoride concentration in milligrams per liter
53.7 and below	1.7

PROPOSALS

53.8-58.3	1.5
58.4-63.8	1.3
63.9-70.6	1.2
*[79.3-90.3]* <b>*70.7-79.2*</b>	0.8
79.3-90.5	0.8

\*[Imported bottled water to which fluoride is added shall not contain fluoride in excess of 0.8 milligrams per liter.\*]

**\*Imported bottled water to which no fluoride is added shall not contain fluoride in excess of 1.4 milligrams per liter.\***

**\*iv. Bottled water packaged in the United States to which fluoride is added shall not contain fluoride in excess of levels in Table 2 and these levels shall be based on the annual average of maximum daily air temperatures at the location where the bottled water is sold at retail.**

Table 2

Annual average of maximum daily air temperature (°F)	Fluoride concentration in milligrams per liter
<b>53.7 and below</b>	<b>1.7</b>
<b>53.8-58.3</b>	<b>1.5</b>
<b>58.4-63.8</b>	<b>1.3</b>
<b>63.9-70.6</b>	<b>1.2</b>
<b>70.7-79.2</b>	<b>1.0</b>
<b>79.3-90.5</b>	<b>0.8</b>

**Imported bottled water to which fluoride is added shall not contain fluoride in excess of 0.8 milligram per liter.\***

4. (No change from proposal.)

5. Frequency and method of sampling is prescribed as follows:

i.-iii. (No change from proposal.)

iv. Chemical, microbiological and physical analyses for product and source water shall be performed by a New Jersey State certified laboratory.\*[.]\* **\*or by a laboratory that is qualified to provide water quality testing and approved by the state or country in which the water is gathered or processed.\***

**\*6. Bottled water, the chemical, physical, and/or radiological quality of which is below that prescribed in this section, shall be labeled with a statement of substantial quality as follows:**

i. "Excessively Turbid", "Abnormal Color", and/or "Abnormal Odor".

ii. "Contains Excessive Chemical Substance", if the bottled water fails to meet any of the chemical quality standards set forth in this section. The specific chemical(s) may be declared in lieu of the words "Chemical Substances" in the statement "Contains Excessive Chemical Substances." When a specific designation is declared, that name by which the chemical(s) is designated in this section shall be used. Example: "Contains Excessive Copper."

iii. "Excessively Radioactive" if the bottled water fails to meet the requirements of this section.

7. Bottled water containing a substance at a level considered injurious to health shall be deemed adulterated, regardless of whether or not the bottled water bears a label statement of substandard quality prescribed in this section.

8. The statement of substandard quality shall appear on the principal display panel or panels and shall immediately and conspicuously precede or follow, without intervening written, printed or graphic matter, the name of the food.\*

## HIGHER EDUCATION

(a)

### BOARD OF HIGHER EDUCATION

#### Public Colleges and Universities Tuition Policies for Senior Citizens

#### Adopted New Rule: N.J.A.C. 9:5-1.5

Proposed: January 17, 1983 at 15 N.J.R. 73(b).  
Adopted: March 29, 1983 by the Board of Higher Education,  
T. Edward Hollander, Chancellor and Secretary.  
Filed: March 31, 1983 as R.1983 d.118, **without  
change.**

Authority: N.J.S.A. 18A:62-3 and P.L. 1982 c.137.

Effective Date: April 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
October 3, 1985.

#### Summary of Public Comments and Agency Responses:

The Department received over 100 letters of comment in response to the publication of the proposed rule. Comments were received from senior citizens, county colleges, social service agencies and municipal governments. All of the comments received opposed the enactment of the rule and argued that without State financial support, public colleges and universities would not permit senior citizens to participate in regular college courses nor would they offer special courses for senior citizens at senior citizen centers and other off campus locations. The agency responded that the statute which authorized the promulgation of the regulation neither provided for State financial support of the program nor for special senior citizens courses. The law simply permits senior citizen enrollments in regular college courses, without payment of tuition, on a space available basis. If enough tuition paying students were enrolled to justify the offering of a college course, senior citizens would accordingly be permitted to enroll in the course and fill any remaining empty seats. Accordingly no change was made in the proposal.

## HUMAN SERVICES

(b)

### DIVISION OF PUBLIC WELFARE

#### Food Stamp Program

#### New Rules and Amendments Required by the Omnibus Budget Reconciliation Act of 1982 and the Food Stamp and Commodity Distribution Amendments of 1981

Readopted Amendments: N.J.A.C. 10:87-2.32,  
2.34, 2.35, 3.23, 3.24, 4.3, 4.8, 5.5, 6.2,  
6.3, 6.16, 6.17, 6.18, 12.5 and 12.6

#### Readopted New Rule: N.J.A.C. 10:87-7.18

Proposed: February 22, 1983 at 15 N.J.R. 247(a).

Adopted: April 4, 1983 by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: April 4, 1983 as R.1983 d.121, **with substantive  
and technical changes** not requiring additional public  
notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4B-2, the Omnibus Budget  
Reconciliation Act of 1982 (P.L. 97-253), the Food  
Stamp and Commodity Distribution Amendments of  
1981 (P.L. 97-98, Title 13), 47 FR 53309 issued  
November 26, 1982, 47 FR 53828 issued November  
30, 1982, 47 FR 55463 issued December 10, 1982, 47  
FR 55903 issued December 14, 1982, 47 FR 57666  
issued December 28, 1982 and 48 FR 6836 issued  
February 15, 1983.

Effective Date: April 4, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):  
March 1, 1984.

#### Summary of Public Comments and Agency Responses: No comments received.

**Full text** of the changes between proposal and adoption follows  
(additions to proposal shown in boldface with asterisks **\*thus\***;  
deletions from proposal shown in brackets with asterisks **\*[thus]\***).

10:87-2.35 Special procedures for expediting service  
(a) The CWA shall use the following **\*[procedure]\***  
**\*procedures\*** when expediting certification and issuance.  
1.-5. (No change from proposal.)

10:87-3.24 Social Security numbers  
(a) (No change from proposal.)  
1.-3. (No change from proposal.)  
4. Determining good cause: To determine good cause for failure  
to provide a SSN, the CWA shall consider information from the  
household member, SSA or the CWA itself (especially if the CWA  
was designated to submit Form SS-5 to SSA and either did not  
process the form or did not process it in a timely manner).  
Documentary evidence or collateral information that indicates the  
individual has applied for a SSN, or made every effort to supply  
SSA with the necessary information, shall be considered good  
cause for not complying with this requirement in a timely manner.  
**If the household member(s) can show good **\*[casuse]\* **\*cause\***  
why a SSN has not been provided in a timely manner, he or she  
shall be allowed to participate for an additional 30 days.**** If the  
individual applying for a SSN has been unable to obtain the  
documents required by SSA, the certification worker must make  
every effort to assist the individual in obtaining the necessary  
documents.

#### 10:87-7.18 Deeming of income and resources of alien sponsors

(a)-(b) (No change from proposal.)  
(c) **Deeming of resources: To determine the amount of  
resources deemed available to the alien:**

1. **Determine the total amount of resources of the sponsor (and  
sponsor's spouse if applicable) in accordance with N.J.A.C.  
10:87-4 and reduce the amount **\*[of]\* **\*by\*** \$1500.** The  
remainder shall be deemed available to the household which  
contains the sponsored alien.**

2. (No change from proposal.)

(d) **Multiple sponsorship: If a sponsored alien can  
demonstrate that his or her sponsor also sponsors other aliens,  
the amount of income deemed available in (b) above and the  
amount of resources deemed available in (c) above shall be  
divided among the **\*[aliens sponsored]\* **\*number of such aliens  
that apply for or are participating in the program\*** and that  
amount shall be used to determine eligibility and benefit level  
of the household containing the sponsored alien.****

(e) and (f) (No change from proposal.)

(g) **Claims for over issuance:**

1.-2. (No change from proposal.)

3. **Claims against sponsors:** The CWA shall initiate \*collection\* against a sponsor by sending a written demand letter which informs the sponsor of the amount owed, the reason for the claim, how the claim may be repaid, and that the sponsor will not be held liable if he or she can demonstrate that he or she was not at fault or had good cause for providing incorrect information. The CWA shall follow the demand letter with a personal contact if possible.

i.-iii. (No change from proposal.)

4. (No change from proposal.)

## LAW AND PUBLIC SAFETY

(a)

### BOARD OF PROFESSIONAL PLANNERS

#### Examination Fees

#### Adopted Amendment: N.J.A.C. 13:41-3.2

Proposed: January 17, 1983 at 15 N.J.R. 79(a).

Adopted: March 8, 1983 by New Jersey Board of Professional Planners, Dean K. Boorman, President (with the approval of Irwin I. Kimmelman, Attorney General of New Jersey).

Filed: March 30, 1983 as R.1983 d.114, **without change.**

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

Effective Date: April 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): April 22, 1985.

Summary of Public Comments and Agency Responses:  
**No comments received.**

(b)

### BOARD OF SHORTHAND REPORTING

#### Certified Shorthand Reporting Failure to Disclose Title and License Number

#### Adopted New Rule: N.J.A.C. 13:43-3.3

Proposed: January 17, 1983 at 15 N.J.R. 80(a).

Adopted: March 8, 1983 by New Jersey State Board of Certified Shorthand Reporting, Terence E. Headd, President.

Filed: April 4, 1983 as R.1983 d.122, **without change.**

Authority: N.J.S.A. 45:1-11, 45:1-22 and 45:15B-1 et seq.

Effective Date: April 18, 1983.

Expiration Date pursuant to Executive Order No. 66:(1978): April 18, 1988.

Summary of Public Comments and Agency Responses:  
**No comments received.**

(c)

### BOARD OF VETERINARY MEDICAL EXAMINERS

#### General Rules of Practice Temporary Permits

#### Adopted Amendment: N.J.A.C. 13:44-2.9

Proposed: February 7, 1983 at 15 N.J.R. 130(a).

Adopted: March 23, 1983 by Board of Veterinary Medical Examiners, David Eisenberg, President.

Filed: March 30, 1983 as R.1983 d.113, **without change.**

Authority: N.J.S.A. 45:16-3, N.J.S.A. 45:16-9.7.

Effective Date: April 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): September 14, 1983.

Summary of Public Comments and Agency Responses:  
**No comments received.**

## TRANSPORTATION

(d)

### TRANSPORTATION OPERATIONS

#### Restricted Parking and Stopping Route US 202

#### Adopted Amendment: N.J.A.C. 16:28A-1.55

Proposed: February 7, 1983 at 15 N.J.R. 131(a).

Adopted: March 15, 1983 by David W. Gwynn, Chief Engineer, Transportation Operations and Local Aid.

Filed: March 25, 1983 as R.1983 d.111, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.

Effective Date: April 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): August 1, 1983.

Summary of Public Comments and Agency Responses.

There was one written comment from the Director of Subregional Transportation Planning, Morris County Planning Board referring to Speedwell Avenue. A review of the site plan in the Bureau of Traffic Engineering, Department of Transportation revealed that the Avenue was Mt. Kemble and not Speedwell. The Director was

advised by telephone and in writing of the change. The Department amended the proposal to reflect the change.

**Full text** of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks **\*thus\***; deletions from proposal shown in brackets with asterisks **\*[thus]\***).

16:28A-1.55 Route US 202

(a) The certain parts of State highway route US 202 described in (a) of this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-3. (No change.)

4. No stopping or standing in Morris Township, **Morris County**:

i.-ii. (No change.)

iii. **Along both sides:**

**(1) Beginning at a point 1,450 feet north of the northerly curb line of **\*[Blackwell Avenue]\*** **\*Mt. Kemble\*** and extending **1,300 feet northerly.****

5.-9. (No change.)

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

## TREASURY-GENERAL

(a)

### DIVISION OF INVESTMENT

#### Common and Preferred Stocks Applicable Funds; Limitations

#### Adopted Amendments: N.J.A.C. 17:16-17.2 and 17.3

Proposed: February 7, 1983 at 15 N.J.R. 133(a).  
Adopted: March 22, 1983 by State Investment Council,  
Roland M. Machold, Director, Division of Investment.  
Filed: March 22, 1983 as R.1983 d.107, **without  
change.**

Authority: N.J.S.A. 52:18A-91.

Effective Date: April 18, 1983.  
Expiration Date pursuant to Executive Order No. 66 (1978):  
April 18, 1988.

Summary of Public Comments and Agency Responses:  
**No comments received.**

## OTHER AGENCIES

(b)

### CASINO CONTROL COMMISSION

#### Junkets Fees, License and Reporting Requirements

**Readopted New Rules: N.J.A.C. 19:41-9.9A;  
19:49**

**Readopted Amendments: N.J.A.C. 19:45-1.1,  
1.9**

**Readopted Repeal: N.J.A.C. 19:45-1.8**

Proposed: February 7, 1983 at 15 N.J.R. 135(a), 257(a).  
Adopted: March 29, 1983 by Casino Control Commission,  
Walter N. Read, Chairman.  
Filed: March 29, 1983 as R.1983 d.112, **with substantive  
changes** not requiring additional public notice and  
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 5:12-63(c), 69 and 102.

Effective Date: March 29, 1983.  
Expiration Date pursuant to Executive Order No. 66 (1978):  
N.J.A.C. 19:41 and 19:45 exempt pursuant to N.J.S.A.  
5:12-70; N.J.A.C. 19:49, March 29, 1988.

Summary of Public Comments and Agency Responses:  
**No comments received.**

**Full text** of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks **\*thus\***; deletions from proposal shown in brackets with asterisks **\*[thus]\***).

19:49-3.1 Junket prearrival reports  
(a)-(b) (No change from proposal.)  
(c) Prearrival reports shall be **\*[verified]\*** **\*certified\*** by an  
authorized agent of the casino licensee and shall include:  
1.-8. (No change from proposal.)  
(d)-(e) (No change from proposal.)

19:49-3.2 Junket arrival reports  
(a)-(b) (No change from proposal.)  
(c) Arrival reports shall be **\*[verified]\*** **\*certified\*** by an  
authorized agent of the casino licensee and shall include:  
1.-2. (No change from proposal.)

19:49-3.4 Monthly reports: non-junket gaming arrangements  
(a) (No change from proposal.)  
(b) The report required by (a) above shall be filed on a monthly  
basis with the Division by the casino licensee on or before the 15th  
**\*day\*** of the following month.  
(c) (No change from proposal.)

**(a)**

**CASINO CONTROL COMMISSION**

**Entertainment  
Prohibited Entertainment Activities**

**Adopted Amendment: N.J.A.C. 19:52-1.4**

Proposed: February 7, 1983 at 15 N.J.R. 139(a).  
Adopted: April 4, 1983 by Casino Control Commission,  
Walter N. Read, Chairman.  
Filed: April 5, 1983 as R.1983 d.123, **without change**.

Authority: N.J.S.A. 5:12-63(c) and 70(p).

Effective Date: April 18, 1983.  
Expiration Date pursuant to Executive Order No. 66(1978):  
Exempt pursuant to N.J.S.A. 5:12-70.

**Summary of Public Comments and Agency Responses:**

One written comment was received during the comment period. The comment, by a casino licensee, supported the proposed amendment. There were no recommendations regarding changes of any nature.

---

**EMERGENCY****ADOPTIONS****HUMAN SERVICES****(a)****DIVISION OF PUBLIC WELFARE****Food Stamp Program****Amendments Required by the Food Stamp Act Amendments of 1982 and the Omnibus Budget Reconciliation Act of 1981****Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:87-2.3, 2.21, 3.10, 3.11, 4.4, 4.6, 4.7, 4.14, 4.16, 5.4, 5.6, 7.14, 7.15 and 9.7.**

Emergency Amendment Adopted: March 25, 1983 by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): March 30, 1983.

Emergency Amendment Filed: March 31, 1983 as R.1983 d.116.

Authority: N.J.S.A. 30:4B-2, the Food Stamp Act Amendments of 1982 (P.L. 97-253), the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), 47 FR 53309 issued November 26, 1982 and 48 FR 6836 issued February 15, 1983.

Emergency Amendment Effective Date: March 31, 1983.

Emergency Amendment Operative Date: April 1, 1983.

Emergency Amendment Expiration Date: May 30, 1983.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Acting Director  
Division of Public Welfare  
CN 716  
Trenton, NJ 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The concurrent proposal is known as PRN 1983-206.

The agency emergency adoption and concurrent proposal follows:

**Summary**

The Food Stamp Act Amendments of 1982 (P.L. 97-253) were enacted on September 8, 1982. Section 192(a) of the 1982 Amendments established the enactment date of the 1982 Amendments as the effective date for those provisions of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) not yet implemented by the Department of Agriculture. The Department of Agriculture has mandated that these provisions have an effective date of April 1, 1983. Therefore, the Department of Human Services is mandated by Federal law and regulations to implement the following amendments.

The Food Stamp Program emergency rule, operative February 1, 1983 (the full text of which can be found at 15 N.J.R. 247(a)) amended the regulation at N.J.A.C. 10:87-2.3(c) to provide that, in addition to being disqualified for fraud or failure to provide a Social Security number, an individual may also be disqualified from the program for being an ineligible alien and clarifies that the income and resources of disqualified individuals be counted in determining eligibility and benefit level of any remaining household members. Federal regulations at 47 FR 53309 (issued November 26, 1982) require that, effective April 1, 1983 an individual whose citizenship status is questionable shall also be ineligible to participate in the program and shall have his or her income and resources considered in the same manner as a disqualified individual. Subsequent Federal regulations at 48 FR 6836 (issued February 15, 1983) revised the current category of "disqualified individuals" to "excluded individuals" to clearly distinguish those individuals who are nonhousehold members from those individuals who are excluded from participation because they are ineligible aliens or have questionable citizenship status or because of disqualification for failure to provide a Social Security number or for intentional program violation. Additionally, the phrase "intentional program violation" replaces language previously referred to as fraud or intentional misrepresentation, as required by 48 FR 6836.

Existing regulations require that a household member whose citizenship is questionable be allowed to participate for two months pending verification of citizenship. The amended rule at N.J.A.C. 10:87-2.21 requires verification of questionable citizenship prior to issuance of benefits. Until verification is obtained, the resources and prorated income of the member whose citizenship is in question shall be considered available to any remaining household members. The changes concerning verification of questionable citizenship and treatment of income and resources in this situation is consistent with current requirements pertaining to verification of alien status and provisions regarding treatment of income and resources of ineligible aliens.

Clarifying language has been specifically added regarding the treatment of income and resources of ineligible aliens, individuals whose citizenship is questionable and excluded household members in general at N.J.A.C. 10:87-2.21, 3.10, 3.11, 4.4, 4.6, 4.7, 4.14, 4.16 and 5.6.

N.J.A.C. 10:87-5.4 and 7.15 have been amended to provide a method of determining income when the earned income of one or more household members are combined into one wage. If the household's share can be identified, the county welfare agency shall count that portion as earned income to the household. If the household's share cannot be identified, the income shall be prorated among those persons it was intended to cover and the prorated share counted as earned income to the household.

Under existing regulations at N.J.A.C. 10:87-7.14 the income of a disqualified household member is counted as available to the household after a pro rata share for the disqualified member has

been deducted. The amended regulations retain this procedure for a household member excluded for being an ineligible alien, having questionable citizenship status, or because of disqualification for refusal to provide a Social Security number. However, the amended rule requires that all of the income of an individual excluded for an intentional program violation continue to be counted in its entirety to the remaining household members. Additionally, the amended rule specifies that the excluded member shall not be included when determining household size for the purpose of establishing income or resource eligibility or assigning a benefit level. The regulation specifically prohibits any increase in benefits solely as a result of a household member being disqualified for intentional program violation.

Notice requirements in N.J.A.C. 10:87-7.14 specify that if a household's benefits are reduced or terminated because a member of the household was disqualified for intentional program violation, the household is not entitled to a notice of adverse action. This amendment is also reflected in N.J.A.C. 10:87-9.7. If a household's benefits are reduced or terminated because a member of the household is excluded for other causes, the household is entitled to a notice of adverse action.

N.J.A.C. 10:87-9.7 is amended to reflect that individual notice of adverse action is not required when a household's food stamp allotment is reduced to repay a claim as a result of failure by the household to make agreed upon installment payments in cash and/or food stamp coupons.

#### Social Impact

Amendments to terminology revising the category of disqualified individuals to excluded individuals reflects a technical correction in Federal regulations and has no impact on program participation. However, individuals whose citizenship is questionable have been added to the category of individuals who are excluded from program participation until proof of United States citizenship is verified.

The amended rule requiring verification of questionable citizenship prior to participation in the program and the provisions requiring that the resources and prorated income of the member whose citizenship is questionable be considered available to any remaining household members is consistent with the existing eligibility provisions for aliens. This change will reduce administrative complexity. It should be noted that the rule does not impose mandatory verification of citizenship; it only requires verification in cases of questionable claims of citizenship.

Amendments to the rule on the treatment of income and resources of excluded individuals provides that all of the income of an individual excluded for intentional program violation be counted in its entirety as available income to any remaining household members. This amendment corrects an inequity which existed in some cases. Under previous program regulations, the income of an individual disqualified for fraud was counted after a pro rata share was deducted which resulted in some households receiving an increase in benefits. The amended rule specifically prohibits any increase in benefits to the household of a person disqualified for intentional program violation to ensure that imposition of the penalty results in a benefits loss to the household.

The several amendments which add clarifying language regarding the treatment of income and resources of ineligible aliens, individuals whose citizenship is questionable and excluded individuals in general will facilitate administration of the program and will have minimal impact on the program population.

#### Economic Impact

The revised citizenship requirement may result in an insignificant decrease in program participation and some decrease in benefit levels, dependent upon individual household circumstances. However, noncompliance with the requirement is not expected as the citizenship verification process is not unduly burdensome.

Amendments regarding the treatment of income of a household

member excluded for intentional program violation will decrease allotment levels for affected households.

The basic purposes of these amendments is to reduce fraud and abuse, administrative complexity, and program costs. However, any reduction in benefit levels is contingent on specific household circumstances. Therefore, it is not possible to determine any overall loss of benefits. It is anticipated that these changes will not impact significantly on administrative costs of State and county welfare agencies.

Any reduction in program benefit expenditures will result in no fiscal savings to the State or county governments as the Federal government fully funds such expenditures.

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

10:87-2.3 Nonhousehold members, boarders and [disqualified individuals] **excluded household members**

(a) Nonhousehold members: The individuals in (a)1 and 2 below residing with a household shall not be considered household members in determining a household's eligibility or allotment.

1. (No change.)

2. The following nonhousehold members are ineligible to participate in the program as separate households.

[i. Ineligible aliens: Individuals who do not meet the citizenship or eligible alien status criteria in N.J.A.C. 10:87-3.5 through 3.7 such as, but not limited to, alien visitors, tourists, diplomats, and students, as described in N.J.A.C. 10:87-3.9.]

[ii. ]i.(No change in text.)

(b) (No change.)

[c] (c) Disqualified individuals: Individual household members may be disqualified for fraud (see N.J.A.C. 10:87-11.1) or for failure to obtain or refusal to provide a Social Security number (see N.J.A.C. 10:87-3.24(a)3) or for being an ineligible alien (see N.J.A.C. 10:87-3.8 for listing of eligible aliens). During the period of time that such household members are ineligible, the income and resources of such individuals shall be counted in accordance with N.J.A.C. 10:87-7.14 when determining the eligibility and benefit level of any remaining household members.]

**(c) Excluded household members: The following individuals residing with a household shall be excluded from the household when determining the household's size for the purpose of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. However, the income and resources of an excluded household member shall be considered available to the remaining household members in accordance with N.J.A.C. 10:87-7.14. Excluded household members may not participate in the program as separate households.**

**1. Intentional program violation: Individuals disqualified for intentional program violation (see N.J.A.C. 10:87-11.1);**

**2. Social Security number: Individuals disqualified for failure to obtain or refusal to provide a Social Security number (see N.J.A.C. 10:87-3.24(a)3);**

**3. Ineligible alien status: Individuals who do not meet criteria for eligible alien status (see N.J.A.C. 10:87-3.8 for listing of eligible aliens); or**

**4. Questionable citizenship status: Individuals whose citizenship is questionable (see N.J.A.C. 10:87-2.21(a)8iii regarding verification of questionable citizenship).**

10:87-2.21 Mandatory verification

(a) The CWA shall verify the following information prior to certification for households initially applying for food stamp benefits.

1. (No change.)

2. Alien status: For each household member identified on the application as an alien, the CWA shall determine if that member

is an eligible alien (see N.J.A.C. 10:87-3.8) by requiring that the household present verification for each alien member.

i.-iv. (No change.)

v. Awaiting verification of alien status: While awaiting acceptable verification, the alien whose status is questionable shall be ineligible, but the eligibility of the remaining members of the household (if any) shall be determined in accordance with the procedures in N.J.A.C. 10:87-7.15]. If the alien does not wish to contact INS or give permission for the CWA to contact INS, the household shall be given the option of withdrawing its application or participating without that member. **The income and resources of the ineligible alien shall be treated in the same manner as an excluded individual as set forth in N.J.A.C. 10:87-7.14(c) and shall be considered available in determining the eligibility of any remaining household members.**

3.-7. (No change.)

8. Verification of questionable information: With the exception of liquid resources and loans, the CWA shall verify all other factors of eligibility prior to certification only if they are questionable and affect the household's eligibility or benefit level. Procedures for verifying loans and liquid resources are described in [paragraph 8 of this subsection] **(a)8v below.**

i.-ii. (No change.)

iii. Citizenship: When a household's statement that one or more of its members is a United States citizen is questionable, the household shall be asked to provide acceptable verification. Acceptable forms of verification include birth certificates, religious records, voter registration cards, or certificates of citizenship or naturalization provided by INS, such as Identification Cards for Use of Resident Citizens in the United States (INS Form I-179 or INS Form I-197) or U.S. Passports.

(1)-(2) (No change.)

(3) The member whose citizenship is in question shall be [allowed to participate for two months pending verification of citizenship if the household is otherwise eligible and efforts are being made to obtain the necessary verification. If verification has not been obtained within two months, the member whose citizenship is in question shall be ineligible and his/her income and resources shall not be considered available to any remaining household members] **ineligible to participate until proof of United States citizenship is obtained. Until proof of United States citizenship is obtained, the member whose citizenship is in question shall have his or her resources considered available to any remaining household members as set forth in N.J.A.C. 10:87-7.14(c).**

iv.-v. (No change.)

9. (No change.)

#### 10:87-3.10 Income and resources of ineligible aliens and individuals whose citizenship is questionable

The income and resources of an ineligible alien [living with a household] , **or individual whose citizenship is questionable, who would be considered a member of a household if he or she did not have ineligible alien status or questionable citizenship status** shall [not] be considered in determining eligibility [or] and level of benefits of the household **in the same manner as the income and resources of an excluded individual** as specified in N.J.A.C. 10:87-[7.15] **7.14(c).**

#### 10:87-3.11 Awaiting verification

(a) If verification of eligible alien status **or citizenship** as required by N.J.A.C. 10:87-2.21(a)2 **and (a)8, respectively,** is not provided on a timely basis, the eligibility of the remaining household members shall be determined. [The alien(s) whose status is unverified shall be considered a nonhousehold member(s), and the remaining members shall be determined in accordance with N.J.A.C. 10:87-7.15.] **The income and resources of the alien(s) whose status is unverified or individual whose citizenship is questionable shall be treated in the same manner as an excluded member as specified in N.J.A.C. 10:87-7.14(c) and considered**

**available in determining the eligibility of the remaining household members.**

1. Subsequent verification: If verification of eligible alien status **or citizenship** is subsequently received, the CWA shall act on the information as a reported change **in household membership** in accordance with timeliness standards in [subchapter 9 of this chapter] **N.J.A.C. 10:87-9.**

#### 10:87-4.4 Jointly owned resources

(a) (No change.)

(b) Inaccessible: The resource shall be considered totally inaccessible to the household if the resource cannot be practically subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. **For the purpose of this provision, excluded household members (as described in N.J.A.C. 10:87-2.3(c)) residing with the household shall be considered household members.**

(c) (No change.)

#### 10:87-4.6 Resources of nonhousehold and excluded household members

[The resources of nonhousehold members shall not be counted as available to the household unless the individual is disqualified from the program for committing fraud pursuant to N.J.A.C. 10:87-11.1 et seq. or for failure to comply in providing or applying for a Social Security number pursuant to N.J.A.C. 10:87-3.24(a)3.]

**(a) Nonhousehold members: The resources of nonhousehold members, as described in N.J.A.C. 10:87-2.3(a), shall not be counted as available to the household.**

**(b) Excluded household members: The resources of excluded household members, as described in N.J.A.C. 10:87-2.3(c), shall be counted as available to the remaining household members in accordance with N.J.A.C. 10:87-7.14(b)1 and (c)1.**

#### 10:87-4.7 Resource exclusions

In the determination of resource eligibility, any item classified as a resource exclusion shall not be considered in the determination of eligibility for participation in the program. **Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an excluded household member whose resources are being counted as part of the household's resources.**

#### 10:87-4.14 Transfer of resources

At the time of application, households shall be asked to provide information regarding any resources which any household member **(or excluded household member whose resources are being considered available to the household)** has transferred within the three month period immediately preceding the date of application.

#### 10:87-4.16 Transfers not subject to disqualification

(a) Eligibility for the program will not be affected by the following transfers:

1.-2. (No change.)

3. Transfer within household: Resources which are transferred between members of the same household **(including excluded household members whose resources are being considered available to the household);** or

4. (No change.)

#### 10:87-5.4 Earned income

(a) For the purposes of determining Net Food Stamp Income, earned income shall include:

1. (No change.)

**2. Combined income of household members and nonhousehold members: When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household member shall be determined as follows:**

- i. If the household's share can be identified, the CWA shall count that portion as earned income to the household; or
- ii. If the household's share cannot be identified, the CWA shall prorate the earned income among those persons it was intended to cover and count that prorated share as earned income to the household.

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

[3.] 4. (No change in text.)

#### 10:87-5.6 Income of [disqualified] **excluded** individuals

[Earned income or unearned income of an individual disqualified from the household for fraud (see N.J.A.C. 10:87-11.1 et seq.) or for failure to comply in providing or applying for a Social Security number (see N.J.A.C. 10:87-3.24(a)3) shall continue to be counted as income, less the prorated share for that individual. The remaining income is included in the household's earned and/or unearned income. Procedures for calculating this pro rata share are described in N.J.A.C. 10:87-7.16.]

(a) **Income of individual disqualified for intentional program violation:** The earned or unearned income of an individual disqualified from the household for intentional program violation as set forth in N.J.A.C. 10:87-11.1 et seq. shall continue to be attributed in its entirety to the remaining household members (see N.J.A.C. 10:87-7.14(b)).

(b) **Income of individual excluded for other causes:** The earned or unearned income of individuals excluded from the household for failing to comply with the requirement to provide a Social Security number (see N.J.A.C. 10:87-3.24(a)3) or for being an ineligible alien (see N.J.A.C. 10:87-3.8 for listing of eligible aliens) or for having questionable citizenship status (see N.J.A.C. 10:87-2.21(a)8) shall continue to be counted as income, less the pro rata share for that individual, to the remaining household members. Procedures for calculating this pro rata share are described in N.J.A.C. 10:87-7.14(c).

#### 10:87-7.14 Treatment of [Income] income and resources of [disqualified] **excluded** household members

[(a) Individual household members may be disqualified for fraud (see N.J.A.C. 10:87-11.1) or for failure to comply in providing or applying for a Social Security number (see N.J.A.C. 10:87-3.24(a)3). During the period of time a household member is disqualified, the eligibility and benefit level of any remaining household members shall be determined as follows:]

(a) **Individual household members may be excluded for being ineligible aliens, having questionable citizenship status, because of disqualification for failure or refusal to obtain or provide a Social Security number, or for intentional program violation.** During the period of time that such household members are ineligible, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in (b) or (c) below, as appropriate.

(b) **Excluded for intentional program violation disqualification:** The eligibility and benefit level of any remaining household members of a household containing individuals excluded because of disqualification for intentional program violation shall be determined as follows:

1. **Resources:** The resources of the excluded household member shall continue to count in their entirety to the remaining household members.

2. **Income and deductions:** The income of the excluded household member shall continue to be counted in its entirety and the entire household's allowable 18 percent earned income, standard, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

3. **Eligibility and benefit level:** The excluded member shall not be included when determining the household's size for the purpose of:

- i. Comparing the household's resources with the resource eligibility limits;
- ii. Comparing the household's monthly income with the income eligibility standards; or

iii. **Assigning a benefit level to the household.** The CWA shall ensure that no household's coupon allotment is increased solely as a result of the exclusion of one or more household members.

(c) **Excluded for other causes:** The eligibility and benefit level of any remaining household members of a household containing an individual excluded as an ineligible alien, having questionable citizenship status, or because of disqualification for refusal to obtain or provide a Social Security number shall be determined as follows:

1. **Resources:** The resources of the [disqualified] **excluded** member shall continue to count in their entirety to the remaining household members[;].

2. **Income:** A pro rata share of the income of the [disqualified] **excluded** member shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions (see N.J.A.C. 10:87-5.9) from the [disqualified] **excluded** member's income and then dividing the income evenly among the household members, including the [disqualified] **excluded** member. All but the [disqualified] **excluded** member's share is counted as income to the remaining household members.

3. **Deductible expenses:** The 18 percent earned income deduction shall only apply to that portion of the [disqualified] **excluded** member's earned income which is attributed to the household in N.J.A.C. 10:87-7.14[(a)](c)2. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the [disqualified] **excluded** member shall be divided evenly among the household members, including the [disqualified] **excluded** member. All but the [disqualified] **excluded** member's share is counted as a deductible shelter expense for the remaining household members.

4. **Eligibility and benefit level:** The [disqualified] **excluded** member shall not be included when determining the household's size for purposes of [assigning a benefit level to the household or for purpose of comparing the household's net monthly income with the income eligibility standards.]:

i. **Comparing the household's resources with the resource eligibility limits;**

ii. **Comparing the household's monthly income with the income eligibility standard; or**

iii. **Assigning a benefit level to the household.**

[5.] (d) Reduction or termination of benefits within certification period: Whenever an individual is [disqualified] **excluded** within the household's certification period, the CWA shall determine the eligibility or ineligibility of the remaining household members based, insofar as possible, on information in the case record and shall take the following action:

i. **Fraud disqualification:** If a household's benefits are reduced or terminated within the certification period because one of its members has been disqualified for fraud (see N.J.A.C. 10:87-11.1), the CWA shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of its disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

ii. **Social Security number disqualification:** If a household's benefits are reduced or terminated within a certification period because a member of the household failed to comply in providing or applying for a Social Security number (see N.J.A.C. 10:87-3.24(a)3), the CWA shall issue a notice of adverse action which informs the household that one of its members has been disqualified, the reason for the disqualification, and the eligibility and benefit level of the remaining members and the action the household must take to end the disqualification.]

1. **Excluded for intentional program violation**

**disqualification:** If a household's benefits are reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional program violation, the CWA shall notify the remaining members of their eligibility and benefit level at the same time the excluded member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits, unless the issue of the amount of the claim was addressed at the time of the administrative disqualification hearing.

2. Excluded for other causes: If a household's benefits are reduced or terminated within the certification period because one of its members is an ineligible alien, has questionable citizenship status, or was disqualified for refusal to obtain or provide a Social Security number, the CWA shall issue a notice of adverse action which informs the household of the exclusion, the reason for the exclusion, the eligibility and benefit level of the remaining household members, and the action the household must take to end the exclusion.

10:87-7.15 Treatment of income and resources of other nonhousehold members

(a) For those nonhousehold members who are ineligible for reasons other than those set forth in N.J.A.C. 10:87-2.3(c) [disqualification], such as [ineligible aliens (see N.J.A.C. 10:87-2.3(a)4) and] ineligible students (see N.J.A.C. 10:87-2.3(a)5)2], the income and resources of the nonhousehold member shall not be considered available to the household.

1.-3. (No change.)

4. **Combined income of household members and nonhousehold members:** When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household member shall be determined as follows:

i. If the household's share can be identified, the CWA shall count that portion as earned income to the household; or

ii. If the household's share cannot be identified, the CWA shall prorate the earned income among those persons it was intended to cover and count that prorated share as earned income to the household.

10:87-9.7 Changes

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

(c) Changes not requiring advance notice. Individual notices of adverse action are not required when:

1.-5. (No change.)

6. **Disqualification for [fraud] intentional program violation:** A household member is disqualified for [fraud] intentional program violation in accordance with N.J.A.C. 10:87-11.1 et seq. or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by [fraud] intentional program violation disqualifications are explained in N.J.A.C. 10:87-7.14(d) and 11.1 et seq.

7.-9. (No change.)

10. **Converting household from cash and/or food stamp coupon repayment to benefit reduction:** The household's food stamp allotment is reduced to repay a claim as a result of failure to make agreed upon installment payments in cash and/or food stamp coupons (see N.J.A.C. 10:87-11.28 (a)2iii).

(a)

## DIVISION OF PUBLIC WELFARE

### Food Stamp Program Disqualification Penalties for Intentional Program Violation and Improved Recovery of Overpayments

#### Adopted Emergency Amendments and Concurrent Proposal: N.J.A.C. 10:87-11.1 through 11.12, 11.15, 11.16 and 11.20 through 11.29

Emergency Amendment Adopted: March 30, 1983 by  
George J. Albanese, Commissioner, Department of  
Human Services.

Gubernatorial Approval (see: N.J.S.A. 52:14B-4(c)):  
March 31, 1983.

Emergency Amendments Filed: March 31, 1983 as R.1983  
d.117.

Authority: N.J.S.A. 30:4B-2, the Food Stamp Act  
Amendments of 1982 (P.L. 97-253), the Omnibus  
Budget Reconciliation Act of 1981 (P.L. 97-35), and  
48 FR 6836 issued February 15, 1983.

Emergency Amendment Effective Date: March 31, 1983.

Emergency Amendment Operative Date: April 1, 1983.

Emergency Amendment Expiration Date: May 30, 1983.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before May 18, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Acting Director  
Division of Public Welfare  
CN 716  
Trenton, NJ 08625

The amendments were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The concurrent proposal is known as PRN 1983-207.

The agency emergency adoption and concurrent proposal follows:

#### Summary

The Food Stamp Act Amendments of 1982 (P.L. 97-253) were enacted on September 8, 1982. Section 192(a) of the 1982 Amendments established the enactment date of the 1982 Amendments as the effective date for those provisions of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) not yet implemented by the U.S. Department of Agriculture. The Department of Agriculture has mandated that these provisions have an effective date of April 1, 1983. Therefore, the Department of Human Services is mandated by Federal law and regulations to implement the following amendments.

N.J.A.C. 10:87-11.1 is amended to incorporate the revised

mandatory disqualification for intentional program violation for a period of six months for the first offense, 12 months for the second offense, and permanent disqualification for the third offense. The rule also stipulates the time frames within which these penalties must be imposed. Additionally, revised regulations provide that individuals accused of intentional program violation have the option of signing a waiver of right to an administrative disqualification hearing or a disqualification consent agreement, thereby agreeing to the disqualification penalty and reduction of benefits for the period of the disqualification.

Amendments at N.J.A.C. 10:87-11.2 redefine fraud as "intentional program violation" and provide an expanded definition of intentional program violation to include the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts as well as the commission of any act that violates the Food Stamp Act or Food Stamp Program regulations.

At N.J.A.C. 10:87-11.3 language has been added to provide clarification regarding county welfare agency responsibilities for initiating referrals for administrative disqualification hearings and referrals to courts of appropriate jurisdiction.

N.J.A.C. 10:87-11.4 is amended to delete references to local level hearings and add language to reflect that responsibility for conducting hearings rests with the Office of Administrative Law. Amendments to this section also add that the request for postponement of a hearing must be made at least 10 days in advance of the scheduled hearing date and stipulate specifically what information must be included in the advance notice of a hearing.

The regulation at N.J.A.C. 10:87-11.6 is deleted in its entirety as it is incorporated in other sections of this subchapter.

Amendments to N.J.A.C. 10:87-11.5 and 11.7 replace references to fraud with the new terminology of "intentional program violation" and delete references to local level hearings.

Regulations at N.J.A.C. 10:87-11.8 are removed and replaced by amended material to delete the reference to local level hearings and to add language to the effect that no further administrative appeal exists after an adverse hearing decision has been rendered.

Language at N.J.A.C. 10:87-11.9 is removed to delete obsolete material regarding disqualification penalties and is also amended to change references to fraud to be intentional program violation. Additionally, the amended rule directs counties to impose a disqualification penalty even if the court does not impose one, unless contrary to court order.

Revisions to N.J.A.C. 10:87-11.10, 11.11, 11.12 and 11.16 change references to "fraud" to "intentional program violation" and delete a reference to a three-month disqualification period.

N.J.A.C. 10:87-11.20A and 10:87-11.20 are redesignated N.J.A.C. 10:87-11.20 and 10:87-11.21, respectively.

The existing regulation at N.J.A.C. 10:87-11.21 is deleted in its entirety and replaced with revised language defining inadvertent household error and administrative error at the renumbered section at N.J.A.C. 10:87-11.22.

Existing regulations on nonfraud claims at N.J.A.C. 10:87-11.22 are also removed in their entirety and are replaced at the section renumbered N.J.A.C. 10:87-11.23 with specific regulatory material to define when inadvertent household error claim should be established; when an administrative error claim should be established; when neither claim is appropriate and how to calculate the amount of a claim.

N.J.A.C. 10:87-11.23 is redesignated N.J.A.C. 10:87-11.24 and is amended to require that the county initiate collection action against claims of less than \$35.00 when multiple overissuances equal \$35.00 or more and further amends the rule to expand the information that must be provided to the household in a written demand letter. Additionally, regulations are revised regarding what action is required when a household fails to respond to a demand letter and criteria for suspending collection of a claim.

N.J.A.C. 10:87-11.24 has been renumbered N.J.A.C. 10:87-11.25 and amended to include the option of a waiver of right to an

administrative disqualification hearing and disqualification consent agreement.

N.J.A.C. 10:87-11.25 is redesignated N.J.A.C. 10:87-11.26. Language is amended to replace references to "fraud" with "intentional program violation" and revises the rule to allow that claims may be established on overissuances which occurred not more than six years prior to discovering the overissuance. The rule regarding a claim for overissuance as a result of failure to report a change established that the first month benefits were overissued shall be the first month in which the change would have been effective had it been reported.

N.J.A.C. 10:87-11.26 is redesignated N.J.A.C. 10:87-11.27 and is amended to include the options of a waiver of right to an administrative disqualification hearing and disqualification consent agreement; to include exactly what information is required on a written demand letter; to include the regulation that when a household fails to respond to a written demand letter, the agency may reduce the household's coupon allotment; and amends the criteria for suspension of a claim to be limited to when the cost of further collection action is likely to exceed the amount of the claim.

N.J.A.C. 10:87-11.27 is redesignated N.J.A.C. 10:87-11.28. The amendment provides regulations regarding what action is required when the household composition changes and a claim is involved.

N.J.A.C. 10:87-11.28 is redesignated N.J.A.C. 10:87-11.29 and is expanded to include that food coupons can be accepted as payment of a claim and that allotment reduction can be employed to collect a claim.

#### **Social Impact**

These amendments expand the basis for disqualification for intentional program violation and provide that mandatory disqualification periods of six months for the first offense, 12 months for the second offense, and permanent disqualification for the third offense be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or in a court of law. These regulations prohibit individuals who have committed an intentional program violation from participating in the program thus decreasing program participation and decreasing benefits to households containing disqualified members.

Additionally, these regulations provide for improved recovery of overpayments. The household of a disqualified individual, rather than the household member guilty of intentional program violation, is held responsible for repaying the resultant overissuance and must agree to repayment in cash or to a reduction in its allotment. In cases of inadvertent household error or agency error, county welfare agencies are required to collect overissuances from those persons still participating in the program by reducing future allotments. The regulations pertaining to improved recovery of overpayments will result in a decrease in food stamp benefits to an undetermined number of households for some period of time dependent on individual household circumstances.

Overall, these amendments should serve to deter and reduce fraud in the Food Stamp Program.

#### **Economic Impact**

The amendments mandating longer disqualification periods for each intentional program violation will result in these disqualified individuals being ineligible for the Food Stamp Program for longer periods of time. This will also result in reduced benefits for the remaining household members and an even further reduction in benefits if the resulting overpayment claim is repaid through allotment reduction.

The purpose of these amendments is to reduce fraud and abuse and program costs. Any reduction in benefit levels is contingent on specific household circumstances. It is not anticipated that these changes will impact significantly on administrative costs of the State or the county welfare agencies. However, it should be noted

that county welfare agencies are allowed to retain 50 percent of the value of claims collected as a result of intentional program violations and 25 percent of the value of the collection of claims resulting from inadvertent household error. Therefore, local agencies should realize some increased funds from such collections.

Any reduction in program benefit expenditures will result in no fiscal savings to the State or county governments since the Federal government fully funds such expenditures.

**Full text** of the emergency adoption and concurrent proposal follows (additions indicated by boldface **thus**; deletion indicated in brackets [thus]).

#### SUBCHAPTER 11. [FRAUD AND] INCORRECT ISSUANCES

##### 10:87-11.1 [Fraud] **Intentional program violation** disqualification

[Individuals found to have committed fraud through an administrative fraud hearing shall be ineligible to participate in the program for three months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than six months and not more than twenty-four months as determined by the court. The CWA shall disqualify only the individual and not the entire household.]

(a) **Individuals found to have committed intentional program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the program for six months for the first violation, 12 months for the second violation and permanently for the third violation.**

1. **One or more intentional program violation disqualifications which occurred prior to April 1, 1983 shall be counted as one disqualification in determining the appropriate penalty.**

i. **If the act of intentional program violation occurred prior to notification of the disqualification penalties specified in this section, the individual shall be disqualified in accordance with the disqualification periods in effect at the time of the offense.**

2. **If a court fails to impose a disqualification period for an intentional program violation, the CWA shall impose the appropriate disqualification penalty unless it is contrary to the court order.**

3. **The CWA shall disqualify the individual determined to have committed intentional program violation or who signed a waiver of right to an administrative disqualification hearing or a disqualification consent agreement and not the entire household.**

4. **Imposing disqualification periods: If the individual is not eligible at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits. However, once a disqualification period is imposed, the period of disqualification shall continue uninterrupted regardless of the eligibility of the individual.**

i. **For individuals who sign a waiver of the right to an administrative disqualification hearing, the disqualification period shall begin with the first month which follows the date the household member received written notification of the disqualification.**

ii. **For individuals who sign a disqualification consent agreement, the disqualification period shall begin within 45 days of the date the individual signed the agreement.**

iii. **For individuals found guilty of intentional program violation by an administrative disqualification hearing, the**

**disqualification period shall begin with the first month following the date the household member receives written notification of the hearing decision.**

iv. **For individuals found guilty of intentional program violation by a court of appropriate jurisdiction, the disqualification period shall begin within 45 days of the date the disqualification was ordered or if no disqualification period is specified by the court within 45 days of the date the court found the individual guilty of civil or criminal misrepresentation or fraud.**

5. **Notification of disqualification: Whenever a household member is disqualified for intentional program violation, the CWA shall provide written notice of the disqualification, in advance of the disqualification if possible. The notice shall inform the household member of the disqualification and when it will take effect. The CWA shall also provide written notice to the remaining household members of the allotment they will receive during the period of disqualification.**

(b) **Waiver of right to administrative disqualification hearing: The accused individual shall have the option of waiving his or her right to an administrative disqualification hearing. The CWA shall provide written notification of this option to the client only after ensuring that the evidence against the client has been reviewed by someone other than the eligibility worker assigned to that case and that such evidence warrants the scheduling of a disqualification hearing. The written notification which informs the individual of the option of waiving his or her right to a disqualification hearing shall include:**

1. **The date that the signed waiver must be received by the CWA to avoid the holding of a hearing and a signature block for the accused individual, along with a statement that the head of household must also sign the waiver if the accused individual is not the head of household, with an appropriately designated signature block;**

2. **A statement of the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him or her in a court of law;**

3. **The fact that a waiver of the disqualification hearing will result in disqualification and a reduction in benefits for the period of disqualification, even if the accused individual does not admit to the facts as presented by the CWA;**

4. **An opportunity for the accused individual to specify whether or not he or she admits to the facts as presented by the CWA;**

5. **The telephone number and, if possible, the name of the person to contact for additional information; and**

6. **The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.**

(c) **Disqualification consent agreement: Individuals accused of intentional program violation which are referred to a court of appropriate jurisdiction but for which no determination of guilt is obtained due to the accused individual having met the terms of a court order or which were not prosecuted due to the accused individual having met the terms of an agreement with the prosecutor, shall be allowed to sign a disqualification consent agreement. The CWA shall make arrangements with the county prosecutors to provide advance written notification to the household member of the consequences of consenting to disqualification as a result of deferred adjudication and to include the disqualification consent agreement in agreements between the prosecutors and the accused individuals or in the court orders.**

1. **The advance notice and agreement shall include, at a minimum:**

i **A statement for the accused individual to sign that the accused individual understands the consequences of consenting to disqualification, along with a statement that the head of**

household must also sign the consent agreement if the accused individual is not the head of household, with an appropriately designated signature block;

ii. A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud;

iii. A warning that the disqualification penalties for intentional Program violation under the Food Stamp Program which could be imposed are a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty will be imposed as a result of the accused individual having consented to disqualification;

iv. A statement of the fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

2. If the individual signs the disqualification consent agreement, he or she shall be disqualified in accordance with this section unless contrary to the court order. The period of disqualification shall begin within 45 days of the date the household member signed the consent agreement. If the court specifies a disqualification period or specifies a date for initiating disqualification, the CWA shall adhere to the court order.

#### [10:87-11.2 Definition of fraud

(a) For purposes of determining at an administrative fraud hearing whether or not fraud was committed, fraud shall consist of any action by an individual to knowingly, willfully and with deceitful intent:

1. Make false statement: Make a false statement to the CWA, either orally or in writing, to obtain benefits to which the household is not entitled;

2. Conceal information: Conceal information to obtain benefits to which the household is not entitled;

3. Alter ATPs: Alter ATPs to obtain benefits to which the household is not entitled;

4. Improper use of coupons: Use coupons to buy expensive or conspicuous nonfood items such as alcohol or cartons of cigarettes;

5. Improperly obtained coupons or ATPs: Use or possess improperly obtained coupons or ATPs; or

6. Trade or sell coupons or ATPs: Trade or sell coupons or ATPs.]

#### 10:87-11.2 Definition of intentional program violation

(a) For purposes of determining whether or not a person has committed an intentional program violation, intentional program violations shall consist of having intentionally:

1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or

2. Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or ATPs.

#### 10:87-11.3 Administrative disqualification

[(a) An administrative fraud hearing shall be initiated by the CWA whenever the CWA has documented evidence to substantiate that a currently certified household member has committed one or more acts of fraud as defined in section 2 of this subchapter and CWA believes the household member should be disqualified.

(b) Suspected fraud of less than \$35: Fraud hearings shall not be conducted if the amount the CWA suspects has been fraudulently obtained is less than \$35 or the value of the ineligible items that have been purchased with food stamps is under \$35.

(c) Burden of proof: The burden of proof is on the CWA.

(d) Household member not certified: If the household member is not certified when the suspected fraud is discovered, the CWA shall initiate the hearing when the household member becomes certified.

(e) Other legal action planned: Even though other legal action is planned against the household member, the hearing may still be conducted.]

(a) A referral for an administrative disqualification hearing or referral to a court of appropriate jurisdiction shall be initiated by the CWA whenever the CWA has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional program violation as defined in N.J.A.C. 10:87-11.2 regardless of the current eligibility of the individual.

1. Referral for an administrative disqualification hearing shall be made:

i. When the facts of the case do not warrant prosecution through the court system;

ii. When a case previously referred for prosecution is declined by the appropriate legal authority;

iii. When no action has been taken in a reasonable length of time on a case which has been referred for prosecution and the referral has been formally withdrawn.

(b) A referral for an administrative disqualification hearing shall not be made against an individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by a court of appropriate jurisdiction.

#### 10:87-11.4 [Fraud] Administrative disqualification hearing procedures

(a) Administrative [fraud] **disqualification** hearings will be conducted [by the CWA] in accordance with the requirements of this section. [Any household member found to have committed fraud by the CWA shall have the right to appeal such finding to the State Agency.]

(b) [Hearing officer: The hearing officer shall be an employee of the CWA who does not have any personal stake or involvement in the case; was not directly involved in the initial action being contested; and was not the immediate supervisor of the eligibility worker who took the action. The hearing officer shall:

1. Insure that all relevant issues are considered;

2. Request, receive and make part of the record all evidence determined necessary to decide the issues raised;

3. Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;

4. Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually agreeable to the household member and the CWA;

5. Provide a hearing record and recommendation for final decision by the Director of the CWA.]

**Hearings will be scheduled by the Office of Administrative Law (OAL) and will be conducted by an administrative law judge (hearing officer) assigned by the Director of OAL.**

(c) [Hearing] **Final** decisions: **The final [D]decisions** shall be made by the Director of the [CWA] DPW based on the hearing record and shall comply with [f]Federal law and regulations.

(d) Hearing record: An official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for a final decision by the Director of the [CWA] DPW.

(e) (No change.)

(f) Attendance at hearing: The hearing shall be attended by a household member and/or his/[ ] or her representative. The hearing may also be attended by friends or relatives of the household member if the member so chooses. [The hearing officer shall have the authority to limit the number of persons in attendance at the hearing if space is limited.]

(g) (No change.)

(h) Right to refuse to answer questions: At the [fraud] **administrative disqualification** hearing, the hearing [officer] **official** shall advise the household member or representative that they may refuse to answer questions during the hearing.

(i) Decision within 90 days: Within 90 days of the date the household member is notified in writing that [a fraud] **an administrative disqualification** hearing has been scheduled, the [CWA] **OAL** shall conduct the hearing, arrive at a decision and initiate administrative action which will make the decision effective.

[1. Appeal: If the household decides to appeal the decision of the CWA to the State Agency, the State Agency shall conduct a hearing, arrive at a decision and initiate administrative action which will make the decision effective within 60 days of the date the household member appealed its case.]

[2.] **Postponement:** The household member or representative is entitled to a postponement of up to 30 days **provided that the request for postponement is made at least 10 days in advance of the scheduled date of the hearing.** If the hearing is postponed, the above limits shall be extended for as many days as the hearing is postponed.

(j) Advance notice of hearing: The CWA shall provide written notice to the household member suspected of [fraud] **intentional program violation** at least 30 days in advance of the date [a fraud] **an administrative disqualification** hearing has been scheduled. The notice shall be mailed by Certified Mail - Return Receipt Requested.

**1. The advance notice shall contain at a minimum:**

- i. The date, time, and place of the hearing;**
- ii. The charge(s) against the household member;**
- iii. A summary of the evidence, and how and where the evidence can be examined;**
- iv. A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;**
- v. A statement that the household member or representative will have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;**
- vi. A warning that a determination of intentional program violation will result in a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the CWA believes is applicable to the case scheduled for a hearing;**
- vii. A listing of the household member's rights as contained in N.J.A.C. 10:87-11.4(g);**
- viii. A statement that the hearing does not preclude the State or Federal Government from prosecuting the household member for intentional program violation in a civil or criminal court action, or from collecting the overissuances; and**
- ix. If there is an individual or organization available that provides free legal representation, the notice shall advise the household member of the availability of the service.**

**2. The advance notice shall inform the household of its right to obtain a copy of the State agency's published hearing procedures upon request.**

[(k) Notice of appeal hearing: If the household member suspected of fraud is appealing the decision of the CWA to the State Agency, the DPW shall provide written notice to that household member at least 10 days in advance of the scheduled hearing.]

[(l)] **(k) Scheduling of hearing:** The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of [fraud] **intentional program violation.**

[(m)] **(l) Household member cannot be located or fails to appear:** If the household member or its representative cannot be located or fails to appear at a hearing initiated by the CWA without good cause, the hearing shall be conducted without the household member represented.

1. Consideration of evidence: Even though the household member is not represented, [the hearing officer is required to carefully consider the evidence and determine if fraud] **the evidence submitted by the CWA shall be carefully considered and a determination if intentional program violation was committed shall be based on clear and convincing evidence.**

[(n) ] **(m) Good cause for failure to appear:** If the household member is found to have committed [fraud] **intentional program violation** but a [hearing officer later determines] **determination is subsequently made by OAL** that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid. [The CWA shall conduct a new hearing.] **A new hearing shall be conducted.** The hearing [officer] **official** who originally ruled on the case may conduct [the] **a new hearing.** A hearing [officer] **official** must enter the good cause decision into the hearing record. Good cause is defined in N.J.A.C. 10:87-3.20(d).

1. Period to present good cause: The household member has 10 days from the [receipt of the fraud decision] **date of the scheduled hearing** to present reasons **to OAL** indicating a good cause for failure to appear.

[(o) Failure to appear for appeal hearing: If a CWA fraud hearing decision is appealed to the State Agency but the household member or its representative fails to appear for the hearing, the DPW shall dismiss the hearing request and notify the household member that it will be disqualified for three months in accordance with the CWA decision unless the household member or its representative provides good cause for not appearing within 10 days of receipt of the notice.

1. Rescheduling of appeal hearing: If the hearing officer determines that the household member or representative had good cause for not appearing, the State Agency shall reschedule the hearing.]

10:87-11.5 Participation while awaiting a hearing

(a) A pending [fraud] **administrative disqualification** hearing shall not affect the individual's or the household's right to be certified and participate in the program. Since the CWA cannot disqualify a household member for [fraud] **intentional program violation** until the hearing [official] **decision** finds that the individual has committed [fraud] **intentional program violation**, the CWA shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household.

Example: If the action for which the household member is suspected of [fraud] **intentional program violation** does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances.

(b) (No change.)

(c) Evidence of ineligibility or eligibility for fewer benefits: The CWA shall reduce or terminate the household's benefits if the CWA has documentation which substantiates that the household is ineligible or eligible for fewer benefits and the household fails to request a fair hearing and continuation of benefits pending the hearing. This provision applies even if the same evidence led to the suspicion of [fraud] **intentional program violation** and the resulting [fraud] **disqualification** hearing. For example, the CWA may have facts which substantiate that a household failed to report a change in its circumstances even though the CWA has not yet demonstrated that the failure to report involved [a] **an [fraudulent] act of intentional program violation.**

10:87-11.6 [Criteria for determining fraud] **(Reserved)**

[The Director of the CWA shall base the determination of fraud

on clear and convincing evidence which demonstrates that the household member knowingly, willfully and with deceitful intent committed fraud as defined in section 2 of this subchapter.]

#### 10:87-11.7 Decision format

The decision of the [Director of the CWA] **administrative law judge** shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent regulation, and respond to reasoned arguments made by the household member or representative.

#### [10:87-11.8 Appeal after CWA hearing

(a) If the Director of the CWA rules that the household member has committed fraud, the household member may appeal the decision. The appeal hearing at the State level shall be a new hearing and no consideration shall be given to the CWA decision. The State level appeal must be completed within 60 days from the request.

(b) Time period for appeal: A household member found to have committed fraud by the Director of the CWA has 15 days after the member receives the decision notice to appeal the decision to the State Agency. The notice of the decision shall be mailed by Certified Mail - Return Receipt Requested.

(c) Appeal requested: If the household member requests an appeal hearing within the 15-day period, the household member shall not be disqualified unless the appeal hearing later finds the household member has committed fraud.

(d) Appeal not requested: If an appeal hearing is not requested within the 15-day period, the household member shall be disqualified for three months beginning with the first month after the 15-day period has expired.

1. Disqualification period: The three-month disqualification shall apply in all cases without regard to the amount of food stamps fraudulently obtained or the number of fraudulent acts the Director of the CWA finds the individual has committed.

(e) Appeal hearing confirms fraud determination: If a household member has been found to have committed fraud by the appeal hearing officer, the household member shall be disqualified for three months beginning with the first month which follows the date the household member has received the notice of the appeal hearing decision.

1. No further appeal: No further administrative appeal procedure exists after an adverse appeal hearing. The determination of fraud made by the appeal hearing official cannot be reversed by a subsequent fair hearing decision.

2. Judicial relief: The household member is entitled to seek relief in a court having appropriate jurisdiction. The disqualification period may be subject to stay or other injunctive remedy.

(f) Notice of fraud hearing decision: Upon decision in a fraud hearing, the CWA shall promptly notify the household member of that decision by mailing a "Notification of Fraud Hearing Decision".]

#### 10:87-11.8 No further administrative appeal

**No further administrative appeal procedure exists after the signing of a waiver of the right to a disqualification hearing or an adverse disqualification hearing decision. The disqualification penalty cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.**

#### 10:87-11.9 Court imposed disqualifications

[(a) A court of appropriate jurisdiction, with either the State, the county, or the United States as prosecutor or plaintiff, may order an individual disqualified from participation in the program for not less than six months and not more than 24 months if the court finds the individual guilty of civil or criminal fraud. Court ordered

disqualifications may be imposed separate and apart from any action taken by the CWA to disqualify the individual through an administrative fraud hearing.]

[(b)] (a) Referral for prosecution: CWAs are encouraged to refer for prosecution under State [fraud] statutes those individuals suspected of committing [fraud] **intentional program violation**, particularly if large amounts of food stamps are suspected of being [fraudulently] obtained **by acts of intentional program violation** or if the individual is suspected of committing more than one [fraudulent] act of **intentional program violation**.

1. (No change.)

2. Recommendations of penalty: The CWA shall also encourage prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act be imposed in addition to any other civil or criminal [fraud] penalties **for such violations**.

**i. If the court does not impose a disqualification period, the CWA shall impose the appropriate disqualification period unless contrary to the court order.**

[(c) CWA action upon court imposed disqualification: The CWA shall disqualify an individual found guilty of fraud by the courts only if the court orders disqualification and only for the length of time specified by the court. If the disqualification is ordered but a date for initiating the disqualification period is not specified, the CWA shall initiate the disqualification with the first month following the date the disqualification was ordered.

1. Concurrent disqualification: A court ordered disqualification may run concurrently with the three-month period of disqualification imposed as a result of an administrative fraud hearing.

2. Action contrary to court order: The CWA shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.]

#### 10:87-11.10 Reversed [fraud] intentional program violation disqualifications

(a) In cases where the determination of [fraud] **guilty of intentional program violation** is reversed by a court of appropriate jurisdiction, the CWA shall reinstate the individual in the program if the household is eligible.

(b) (No change.)

#### 10:87-11.11 Restoration of lost benefits

The CWA shall restore to the household benefits which were lost whenever the loss was caused by an error by the CWA. Additionally, the CWA shall restore lost benefits when this Manual specifically states that the household is entitled to restoration of lost benefits or [a fraud] **an intentional program violation** disqualification was subsequently reversed as specified by N.J.A.C. 10:87-11.10. In SSI jointly processed cases the CWA shall restore to the household benefits which were lost whenever the loss was caused by an error by the CWA or by the SSA/DO. Such an error shall include, but not be limited to, the loss of an applicant's food stamp application after it has been filed with the SSA/DO. Benefits shall be restored even if the household is currently ineligible. The CWA shall maintain an accounting system for documenting a household's entitlement to restoration of lost benefits and for recording the balance of lost benefits that must be restored to the household. The CWA shall, at a minimum, document how the amount to be restored was calculated and the reason for restoration. The accounting system shall be designed to readily identify those situations where a claim against a household can be used to offset the amount to be restored.

#### 10:87-11.12 Period of restoration

(a) With the exception of benefits which are restored as a result of a reversal of [a fraud] **an intentional program violation** disqualification penalty, benefits shall not be restored if lost more than 12 months prior to the most recent of the following:

1.-3. (No change.)

## 10:87-11.15 Computing amount to be restored

(a) After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the 12 month time limits described in [section 12 of this subchapter] **N.J.A.C. 10:87-11.12**, the CWA shall calculate the amount to be restored as follows:

1.-4. (No change.)

5. Offsetting claims: If a claim against a household is unpaid or held in suspense as provided in [N.J.A.C. 10:87-11.26(a)3] **N.J.A.C. 10:87-11.27(a)3**, the amount to be restored shall be offset against the amount due on the claim before any restoration is made to the household. At the point in time when the household is certified and receives an initial allotment, the initial allotment shall not be reduced to offset claims, even if the initial allotment is paid retroactively. Similarly, initial allotments given at recertification shall not be reduced to offset claims.

## 10:87-11.16 Individuals disqualified for [fraud] intentional program violation

(a) **Restrictions on restoration:** Individuals disqualified for [fraud] intentional program violation are entitled to restoration of any benefits lost during the months they were disqualified only if the decision which resulted in disqualification is subsequently overturned or reversed. For example, an individual would not be entitled to restoration of lost benefits for the [three-month] period he[or] she was disqualified based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the disqualification in a separate court action.

(b) (No change.)

10:87-11.20[A] (No change in text.)

10:87-11.[20]21 (No change in text.)

## [10:87-11.21 Instances requiring a claim determination

(a) Instances which may result in a claim include, but are not limited to, the following:

1. Incomplete or incorrect information: The household failed to provide the CWA with correct or complete information.
2. Failure to report a change: The household failed to report to the CWA changes in its household circumstances.
3. Altered ATP: The household altered its ATP.
4. Improper transaction of ATP: The household transacted both the original and its replacement ATP.
5. CWA delays action on a change: The CWA failed to take prompt action on a change reported by the household.
6. Incorrect allotment: The CWA incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.
7. Duplicate ATPs: The CWA incorrectly issued duplicate ATPs to a household which were subsequently transacted.
8. Benefits pending a fair hearing decision: The household was found to be ineligible or eligible for fewer benefits than it received pending a fair hearing decision.]

## 10:87-11.22 Inadvertent household error and administrative error claims

**Inadvertent household error claims and administrative error claims are those claims established against households for overissuances which were not caused by intentional program violation but are caused by an error on the part of the CWA or a misunderstanding or inadvertent error on the part of the household.**

## [10:87-11.22 Nonfraud claims

(a) Nonfraud claims are those claims established against households for overissuances which were not caused by fraud, such as, but not limited to, overissuances caused by administrative error

on the part of the CWA or a misunderstanding or inadvertent error on the part of the household. (See section 24 of this subchapter for Fraud Claims.)

(b) Criteria for establishing a nonfraud claim: If less than 12 months have elapsed between the month a nonfraud overissuance occurred and the month the CWA discovered a specific case involving an overissuance, the CWA shall take action to establish a claim against the household that received the overissuance.

(c) Failure by the CWA: A nonfraud claim shall not be established if an overissuance occurred as a direct result of CWA failure to insure that a household fulfilled the following procedural requirements:

1. Signed the application form;
2. Completed a work registration form; or
3. Was certified in the correct county.

(d) Benefits received after expiration of certification: A nonfraud claim shall not be established against a household which continued to receive food stamp benefits after its certification period expired without a reapplication determination, regardless of a subsequent determination of eligibility or ineligibility.

(e) Transaction of expired ATP: A nonfraud claim shall not be established against a household which transacted an expired ATP unless that household altered the ATP.

(f) Increase in public assistance grant: A nonfraud claim shall not be established against a household which did not receive food stamp benefits at a reduced level because its public assistance grant increased and the CWA failed to act on the change.

(g) Calculating amount of the nonfraud claim: After excluding those months that are more than 12 months prior to the date the overissuance was discovered, the CWA shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance was in effect. If the household received a larger allotment than it was entitled to receive, the CWA shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(h) Claim offset by benefits not yet restored: After calculating the amount of the nonfraud claim, the CWA shall offset the amount of the claim by any amounts which have not yet been restored to the household in accordance with section 11 of this subchapter. The CWA shall then initiate collection action for the remaining balance, if any.

(i) Cases involving reported change: In cases including reported changes the CWA shall determine the month the overissuance initially occurred as follows:

1. Failure to report: In cases when the household failed to report a change in household circumstances within 10 days of the date the change became known to the household (and fraud is not established pursuant to section 1 of this subchapter), the first month affected by the household's failure to report shall be the month after the month in which the change occurred.
2. CWA failure to act on reported change: If the household timely reported a change, but the CWA did not timely act on the change, the first month affected by the CWA's failure to act shall be the first month the CWA should have made the change effective. Therefore, if a notice of adverse action was required but was not sent, the CWA shall assume that the maximum advance notice period would have expired without the household requesting a fair hearing.]

## 10:87-11.23 Instances requiring a claim determination for inadvertent household errors or administrative errors

(a) Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:

1. The household unintentionally failed to provide the CWA with correct or complete information;
2. The household unintentionally failed to report to the CWA changes in its household circumstances; or

3. The household unintentionally received benefits or more benefits than it was entitled to receive pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

(b) Instances of administrative error which may result in a claim include, but are not limited to, the following:

1. The CWA failed to take prompt action on a change reported by the household;
2. The CWA incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
3. The CWA incorrectly issued duplicate ATPs to a household which were subsequently transacted;
4. The CWA continued to provide food stamp allotments to a household after its certification period had expired without benefit of a reapplication determination; or
5. The CWA failed to provide a household a reduced level of food stamp benefits because its public assistance grant changed.

(c) Neither an administrative error claim nor an inadvertent household error claim shall be established if an overissuance occurred as a result of the following:

1. The CWA failed to insure that a household fulfilled the following procedural requirements:
  - i. Signed the application form;
  - ii. Completed a current work registration form; or
  - iii. Was certified in the correct county;
2. The household transacted an expired ATP, unless the household altered its ATP.

(d) **Criteria for establishing an inadvertent household error or administrative error claim:** If less than six years have elapsed between the month an inadvertent household error or administrative error overissuance occurred and the month the CWA discovered a specific case involving an overissuance, the CWA shall take action to establish a claim against the household that received the overissuance.

(e) **Calculating amount of the inadvertent household error or administrative error claim:** After excluding those months that are more than six years prior to the date the overissuance was discovered, the CWA shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance was in effect. If the household received a larger allotment than it was entitled to receive, the CWA shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(f) **Claim offset by benefits not yet restored:** After calculating the amount of the inadvertent household error or administrative error claim, the CWA shall offset the amount of the claim by any amounts which have not yet been restored to the household in accordance with N.J.A.C. 10:87-11.11. The CWA shall then initiate collection action for the remaining balance, if any.

10:87-11.[23]24 **Collecting [nonfraud] inadvertent household error and administrative error claims**

(a) The CWA shall initiate collection action unless one of the following conditions apply:

1. Claim offset by unrestored benefits: The claim is fully offset by any amounts not yet restored to the household [(see section 20 of this subchapter)].
2. Claim less than \$35.00: The total amount of the claim is less than \$35.00 and the claim cannot be recovered by reducing the household's allotment.
  - i. The CWA shall initiate collection action for other claims under \$35.00 at such time that multiple overissuances for a household total \$35.00 or more.
3. (No change.)

(b) **Demand letters:** The CWA shall initiate collection action by

sending the household a ["Demand Letter for Overissuance - Nonfraud"] **written demand letter** informing the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, [and] how the household may repay the claim **and the household's right to a fair hearing if they have not already had a fair hearing on the amount of the claim. If free legal representation is available, the letter shall also advise the household of the availability of the service. The household shall also be advised of its right to request a renegotiation of any repayment schedule to which the household has agreed should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block.**

1. For inadvertent household error claims, the household shall also be advised of the length of time the household has to decide which method of repayment it will choose and inform the CWA of its decision and of the fact that the household's allotment will be reduced if the household fails to make restitution.

2. For administrative error claims, the household shall also be informed of the availability of allotment reduction as a method of repayment if the household prefers to use this method.

(c) [Household failure to respond to demand letter: If the household does not respond to the first demand letter, additional demand letters shall be sent at 30 day intervals until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending or terminating collecting action, as specified below, have been met.] **The following procedures are to be followed when a household fails to respond to a demand letter:**

1. When a household fails to respond to a written demand letter for repayment of an inadvertent household error claim within 30 days, the CWA shall reduce the household's monthly coupon allotment (see N.J.A.C. 10:87-11.29(a)3).

2. If a nonparticipating household or a participating household against which a claim for an administrative error has been made fails to respond to a written demand letter, the CWA shall send additional demand letters at 30 day intervals until the household pays or agrees to pay the claim or until criteria for suspending the claim have been met.

(d) **Criteria for suspending collection of inadvertent household error or administrative error claim:** A claim shall be suspended if no collection action was initiated because of conditions specified in [subsection] (a) above [of this section]. If collection action was initiated, and at least one demand letter has been sent, further collection actions shall be suspended when:

- [1. Household unable to pay: The household is financially unable to pay the claim;
2. Little likelihood payment: There is little likelihood that the household will pay the claim.];
- [3.]1. Unable to locate household: The household cannot be located; or
- [4.]2. Cost of collection: The cost of further collection action is likely to exceed the amount that can be recovered.

(e) **Terminating collecting of an inadvertent household error or administrative error claim:** A claim shall be determined uncollectible after it is held in suspense for three years. A CWA may use an uncollectible claim to offset benefits in accordance with N.J.A.C. 10:87-11.15(a)5.

(f) **Postponing collecting of an inadvertent household error claim:** CWA may postpone collection action on [non-fraud] **inadvertent household error claims** in cases where an overissuance is being referred for possible prosecution or for [a fraud] **an administrative disqualification hearing** and the CWA [is advised in writing] **determines** that collection action will prejudice the case.

10:87-11.[24]25 **[Fraud] Intentional program violation claims**

A claim shall be handled as [a fraud] **an intentional program**

violation claim only if an administrative [fraud] **disqualification** hearing or a court of appropriate jurisdiction has found a household member guilty of [fraud] **intentional program violation** as defined in [section 1 of this subchapter] N.J.A.C. 10:87-11.1 through 11.2 or if the individual signed a waiver of a right to an **administrative disqualification hearing or a disqualification consent agreement**. Prior to the determination of [fraud] **intentional program violation**, the claim against the household shall be handled as [nonfraud] **an inadvertent household error or administrative error** claim, in accordance with [section 20 of this subchapter] N.J.A.C. 10:87-11.23 through 11.24.

10:87-11.[25]26 **Establishing [a fraud] an intentional program violation claim**

(a) For each month that a household member [fraudulently] participated **while committing an act of intentional program violation**, the CWA shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the [fraud] **intentional program violation** claim shall be calculated back to the month the [fraudulent] act of **intentional program violation** occurred, regardless of the length of time that elapsed since the determination of [fraud] **intentional program violation** was made. **However, the CWA shall not include in its calculation any amount of overissuance which occurred in a month more than six years prior to the date the overissuance was discovered.**

(b) Failure to report a change: If the household member is determined to have committed [fraud] **intentional program violation** by knowingly, willfully and with deceitful intent failing to report a change in its household circumstances, the first month benefits were overissued, shall be the [month after the month in which the change occurred] **first month in which the change would have been effective had it been reported. However, in no event shall the CWA determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.**

(c) Offset against unrestored benefits: Once the amount of the [fraud] **intentional program violation** claim is established, the CWA shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with [section 11 of this subchapter] N.J.A.C. 10:87-11.11.

10:87-11.[26]27 **Collecting [fraud] intentional program violation claims**

(a) If the household member is found to have committed [fraud] **intentional program violation** at either an administrative [fraud] **disqualification** hearing or a court of appropriate jurisdiction, or has signed a waiver of right to an **administrative disqualification hearing or a disqualification consent agreement**, the CWA shall initiate collection action unless the household has repaid the overissuance as a result of [nonfraud] **inadvertent client error or administrative error** demand letters[,] or the CWA has documentation which shows the household cannot be located[, or the legal representative prosecuting a member of the household for fraud advises in writing that collection action will prejudice the case] or the CWA **determines that such collection action may prejudice a case which has been referred for prosecution**. In cases where the household was found guilty of [fraud] **intentional program violation** by a court, the CWA shall request the matter of restitution be brought before the court.

1. Procedure for collection of [fraud] **intentional program violation** claims: Collection action shall be taken by sending the household a ["Demand Letter for Overissuance Fraud".] **written demand letter** which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, [and] how the household may pay the claim **and the household's right to a fair**

**hearing if the household disagrees with the amount of the claim, unless the issue of the amount of the claim has already been dealt with at the administrative disqualification hearing. If there is an individual or organization available that provides free legal representation, the written demand letter shall also advise the household of the availability of the service. The household shall also be informed of the length of time the household has to decide which method of repayment it will choose and inform the CWA of its decision and of the fact that the household's allotment will be reduced if the household fails to agree to make restitution. In addition, any household against which the CWA has initiated collection action shall be informed of its right to request renegotiation of any repayment schedule to which the household has agreed should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block. A written demand letter for [a fraud] an intentional program violation claim shall be sent even if the household has previously received [a non fraud] an inadvertent household error or administrative error demand letter[, because the time period is different for fraud and nonfraud claims]. In addition to the written demand letter, a personal contact shall be made, if possible.**

[2. Household fails to respond to first demand letter: If the household does not respond to the first demand letter, additional demand letters shall be sent at 30 day intervals until the household agrees to pay the claim, or the criteria for suspending or terminating collection action as specified in paragraphs 3 and 4 of this subsection have been met.]

**2. Household fails to respond to first demand letter: If the household fails to respond to the first demand letter the following shall apply:**

i. **If the household is currently participating in the program and does not respond to the first demand letter within 30 days of the date it was mailed, the CWA shall reduce the household's food stamp allotment.**

ii. **If the household is currently not participating in the program and does not respond to the first demand letter, additional demand letters shall be sent at 30 day intervals until the household agrees to pay the claim, or the criteria for suspending or terminating collection action as specified in (a)3 and 4 below have been met.**

3. Criteria for suspension of collection action: The CWA shall suspend collection action at any time it has documentation that the household cannot be located. If the CWA has sent at least one demand letter for claims under \$100.00, at least two demand letters for claims between \$100.00 and \$400.00, and at least three demand letters for claims of more than \$400.00, further collection action shall be suspended when[.] **the cost of further collection action is likely to exceed the amount that can be recovered.**

[i. Household unable to pay: The household is financially unable to pay the claim;

ii. Collection unlikely: There is little likelihood that the CWA can collect or enforce collection of any significant sum from the household; or

iii. Cost of collection: The cost of further collection action is likely to exceed the amount that can be recovered.]

4. Criteria for terminating collection action: A claim shall be determined uncollectible after it is held in suspense for three years. A CWA may use [an uncollectible] **a suspended or terminated** claim to offset benefits in accordance with N.J.A.C. 10:87-11.15(a)5.

10:87-11.[27]28 **Changes in household composition**

[If a household's membership has changed since the overissuance occurred, the CWA shall initiate collection action against the head of the household. If the head of the household is no longer living or cannot be located, the CWA shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.]

(a) If a change in household membership occurs, the CWA shall initiate collection action against the household containing a majority of the individuals who were household members at the time the overissuance occurred. If the CWA cannot locate or determine the household which contains the majority of the household members, the CWA shall initiate collection action against the household at the time the overissuance occurred.

1. In cases of intentional program violation when the CWA cannot locate or determine the household containing the majority of the household members, the CWA may initiate collection action against the household containing the individual who committed the act of intentional program violation.

10:87-11.[28]29 Methods of collection

(a) The CWA shall collect [fraud or nonfraud] **intentional program error, inadvertent household error and administrative error** claims as provided below[.]:

1. Lump sum repayment: The CWA shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum. **However, the household shall not be required to liquidate all of its assets to make a lump sum payment.**

i. If the household is financially unable to pay the entire amount of the claim at one time but wishes to make a lump sum payment as partial payment of the claim, the CWA shall accept this method of payment.

ii. If the household chooses to make a lump sum payment of food coupons as full or partial payment of the claim, the CWA shall accept this method of payment.

2. Installments: If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, the CWA shall negotiate a payment schedule. [p] Payments shall be accepted by the CWA in regular installments. The household may use food coupons as full or partial payment of any installment.

i. In the case of inadvertent household error and intentional program violation claims, the CWA shall ensure that the negotiated amount to be repaid each month through installments is not less than the amount which could be recovered through allotment reduction (see (a) 3 below). Once negotiated, the amount to be repaid each month shall remain the same regardless of changes in the household's monthly coupon allotment. However, the CWA and the client have the option to initiate renegotiation of the payment schedule if they believe the household's economic circumstances have changed enough to warrant such action.

[i. jii. Compromise of claim: If the full amount of the claim cannot be liquidated in three years without creating a financial hardship on the household, the CWA shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in three years. The CWA may use the amount of such reduction of the claim to offset benefits in [section 11 of this subchapter] N.J.A.C. 10:87-11.11.

iii. If the household fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the CWA shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the CWA to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the CWA is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which an inadvertent household error or intentional program violation claim has been established may be reduced without a notice of adverse action.

(1) If the household responds to the notice, the CWA shall take one of the following actions as appropriate:

(A) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(B) If the household requests renegotiation of its payment schedule, the CWA will attempt to renegotiate a new payment schedule. If a settlement cannot be reached or if the CWA believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the CWA shall invoke allotment reduction against a participating household for whom an inadvertent household error or intentional program violation has been established.

(2) If a currently participating household against which an inadvertent household error or intentional program violation claim has been established fails to respond to the notice, the CWA shall invoke allotment reduction.

[3. Civil court action: The CWA may initiate civil court action to obtain payment of a claim. However, the CWA shall not deny, terminate or reduce a household's benefits for failure to repay a claim, to agree to a repayment schedule, or to make the agreed upon payments. Nor shall the CWA threaten the household with a denial, termination or reduction in benefits or otherwise infer that it has the power to do so.]

3. Allotment reduction: The CWA shall collect payments for inadvertent household error and intentional program violation claims from households currently participating in the program by reducing the household's food stamp allotment.

i. Administrative error claims may be collected through allotment reduction if the household prefers this method of repayment.

ii. Prior to reducing the household's monthly allotment, the CWA shall advise the household of the appropriate formula to be used to determine the amount of food stamps to be recovered each month, the effect on the coupon allotment and the availability of other methods of repayment. If the household does not select another method of repayment, the CWA shall determine the amount to be recovered each month as follows:

(1) Inadvertent household error: The household's food stamp allotment shall be reduced by the greater of 10 percent of the monthly allotment or \$10.00.

(2) Administrative error claims: The household's food stamp allotment shall be reduced by an amount agreed upon by the household.

(3) Intentional program violation claims: The household's food stamp allotment shall be reduced by the greater of 20 percent of the household's entitlement or \$10.00.

(A) Entitlement refers to the amount of food stamps the household would be entitled to receive if the disqualified individual were not disqualified.

(4) The provision for a \$10.00 minimum benefit for one or two member households shall apply to the allotment before reduction.

4.-6. (No change.)

# TRANSPORTATION

(a)

## THE COMMISSIONER

### Designated Routes for Special Categories of Trucks

#### Adopted Emergency New Rule and Concurrent Proposal: N.J.A.C. 16:32

Emergency New Rule Adopted: April 6, 1983 by John P. Sheridan, Jr., Commissioner, Department of Transportation.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): April 6, 1983.

Emergency New Rule Filed: April 6, 1983 as R.1983 d.124

Authority: N.J.S.A. 27:1A-5 and 39:3-84.

Emergency New Rule Effective Date: April 6, 1983.  
Emergency New Rule Expiration Date: June 5, 1983.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before June 1, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
Trenton, NJ 08625

These rules were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency rules are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rules become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The current proposal is known as PRN 1983-213.

The agency emergency adoption and concurrent proposal follows:

#### Summary

The Federal Surface Transportation Assistance Act of 1982 (P.L. 97-424), as amended, has made significant changes in truck size and weight requirements. In New Jersey, N.J.S.A. 39:3-84 has been amended to bring State laws into conformity with the Federal requirements. The Department of Transportation has adopted the following regulations on an emergency basis to fulfill its obligations under the new State and Federal statutes and concurrently proposes them for adoption on a permanent basis.

Section 411 of the Surface Transportation Assistance Act of 1982 (P.L. 97-424) requires that states accept double-trailer truck combinations (sometimes referred to as "double bottoms" or "twin trailers") on the Interstate system and on certain qualifying portions of the Federal-aid primary system. In New Jersey, N.J.S.A. 39:3-84, as amended, authorizes the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, to designate routes where double-trailer combinations may be operated.

N.J.A.C. 16:32 designates these routes. It should be noted that the routes designated here do not include all the routes designated by the United States Secretary in the Federal Register of April 5. These additional routes are the subject of discussion with the Federal Highway Administration.

Section 416 of the Surface Transportation Assistance Act of 1982, as amended, requires that the State adopt a maximum truck width standard of 102 inches on the Interstate system and on those portions of the Federal-aid system designated by the United States Secretary of Transportation. In New Jersey, N.J.S.A. 39:3-84, as amended, makes 102 inches the standard maximum width and also authorizes the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, to impose a 96-inch maximum where it is determined that the interest of public safety and welfare require it.

N.J.A.C. 16:32-1.2 imposes the 96 inch limit on all highways in the State of New Jersey, except for the routes designated in N.J.A.C. 16:32-1.1.

Vehicles operating on the New Jersey Turnpike and the Atlantic City Expressway will be subject to the regulations of the New Jersey Turnpike Authority and the New Jersey Expressway Authority, respectively.

N.J.A.C. 16:32-1.3 provides for reasonable access from the designated system to trucking terminals and facilities for food, fuel, repairs and rest which are not located on that system. Persons who desire such access must apply in writing to the Department's Bureau of Traffic Engineering. The Bureau will investigate the request and make a suitable determination. A letter of permission from the Bureau will constitute legal permission to gain access to the terminal or facility under the terms set forth in the letter. Household goods carriers have automatic permission of access from the designated system to points of loading and unloading.

#### Social Impact

The effect of these regulations will be to implement Federal and State statutory requirements to permit longer and wider trucks on certain highways in New Jersey. Strict restriction of routes will minimize any potential adverse safety effects. However, motorists should exercise due caution while becoming familiarized with the longer and wider vehicles.

#### Economic Impact

These regulations will be beneficial to truckers and shippers in New Jersey by: (1) permitting the use of more efficient cargo carrying vehicles and (2) facilitating interstate freight movements through adoption of uniform national standards.

**Full text** of the emergency adoption and concurrent proposal follows.

### CHAPTER 32 DESIGNATED ROUTES FOR SPECIAL CATEGORIES OF TRUCKS

Authority  
N.J.S.A. 39:3-84

#### 16:32-1.1 Double trailers

(a) Except as provided in N.J.A.C. 16:32-1.3, double-trailer truck combinations may be operated in New Jersey only on Interstate highways, on the New Jersey Turnpike and the Atlantic City Expressway and on Route 42, from Interstate Route 295 to the Atlantic City Expressway.

(b) Double-trailer truck combinations operating on the New Jersey Turnpike and the Atlantic City Expressway are subject to the regulations of the New Jersey Turnpike Authority and the New Jersey Expressway Authority, respectively.

**16:32-1.2 Wide trucks**

The maximum width of any truck combination operating on any highway in New Jersey is 96 inches, except that the maximum width permitted on the routes designated in N.J.A.C. 16:32-1.1 is 102 inches.

**16:32-1.3 Reasonable access to terminals and other facilities**

(a) Any person who wishes to gain access for a double-trailer truck combination or wide truck from the system designated in N.J.A.C. 16:32-1.1 to a terminal or to a facility for food, fuel, repairs and rest which is not located on that system should apply in writing to the Chief, Bureau of Traffic Engineering, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625. The application should be specific as to the exact location of the terminal or facility and the exact route or routes of access requested. When the Bureau determines that an access route is reasonable and prudent, it will issue a letter of permission, specifying the route of access and any other conditions of operation deemed appropriate. The letter of permission will constitute legal authority for use of the access route under the conditions specified therein.

(b) A household goods carrier is deemed to have permission of access from the system designated in N.J.A.C. 16:32-1.1 to a point of loading or unloading.

# MISCELLANEOUS NOTICES

## COMMUNITY AFFAIRS

(a)

### DIVISION OF HOUSING

#### Uniform Construction Code Code Change Proposals

#### Notice of Public Hearing

**Take notice** that a public hearing will be held on **May 5, 1983**, at 10:00 A.M., at the main office of the Bureau of Construction Code Enforcement, Princeton Pike Office Park, 3131 Princeton Pike, Lawrenceville, New Jersey, for the purpose of receiving recommendations for changes in the national model codes which constitute the adopted subcodes of the State Uniform Construction Code.

In the past, New Jersey State-sponsored code change proposals have frequently been adopted by the code-writing organizations. Public participation in the code change procedure has proven to be an effective way of improving the codes by developing sound proposals for State sponsorship.

The public hearing is open both to interested individuals and to representatives of governmental bodies, companies and associations. Persons who wish to speak are requested to provide as much factual information as may be necessary for the Department and the Code Advisory Board to make an informed decision regarding the proposal.

Persons who wish to speak may arrange to be scheduled by calling Michael L. Tickin, Esq., Administrative Practice Officer of the Division of Housing, at 609-292-7898. Written proposals may be sent to the Bureau of Construction Code Enforcement, CN 805, Trenton, New Jersey 08625 on or before May 5, 1983. A form for submitting proposals may be obtained from the Bureau at that address or by calling 609-292-6364.

## ENVIRONMENTAL PROTECTION

(b)

### DIVISION OF WATER RESOURCES

#### Continuation of Flood Control Bond Grant Program

#### Public Notice

**Take notice** that Robert E. Hughey, Commissioner of the Department of Environmental Protection, pursuant to the Emergency Flood Control Bond Act, P.L. 1978, c.78, and the Flood Control Bond Grant Regulations, N.J.A.C. 7:23, shall continue the Flood Control Bond Grant program during Fiscal Year 1984. Some funds remain available from the proceeds of the bonds

authorized by the Act to the Department for the purpose of providing State grants to local units for flood control facilities.

**Applications** may be obtained for Flood Control Bond Grants from the Bureau of Flood Plain Management at the address listed below. Any questions or applications concerning the Flood Control Bond Grants should be addressed to:

Narinder Ahuja, P.E.  
Bureau of Flood Plain  
Management  
Division of Water Resources  
1911 Princeton Avenue  
CN 029  
Trenton, NJ 08625

Flood Control Bond Grant applications must be received by the Bureau of Flood Plain Management on or before **August 20, 1983**.

This Notice is published as a matter of public information.

(c)

### DIVISION OF ENVIRONMENTAL QUALITY

#### Bureau of Air Pollution Control Guidelines for Air Pollution Control for Resource Recovery Facilities and Incinerators

#### Public Hearings: May 18 and 19, 1983

**Take notice** that Robert E. Hughey, Commissioner, Department of Environmental Protection, pursuant to the authority to control air pollution throughout the State of New Jersey (N.J.S.A. 26:2C-9 and 9.2), will conduct public hearings with respect to guidelines for air pollution control for resource recovery facilities and incinerators.

**Interested persons** may submit in writing, data, views or arguments relevant to the guidelines on or before May 27, 1983 to:

William O'Sullivan, Chief  
Bureau of Engineering and Technology  
Division of Environmental Quality  
Department of Environmental  
Protection  
CN 027  
Trenton, NJ 08625

**Copies** of a basis and background document for the guidelines are available from William O'Sullivan.

**Interested persons** may present comments, statements or arguments at the public informational hearings on the following days:

May 18 at 9:30 until the close of testimony at:  
The State Museum Auditorium  
205 West State Street  
Trenton, NJ

May 19 at 7:00 P.M. until the close of testimony at:

Lewis Herman Labor Education  
Center  
Ryders Lane  
(Corner of Clifton Avenue,  
1 block west of Route 1)  
Cook College Campus  
Rutgers University  
New Brunswick, NJ

This notice is to inform the public and prospective applicants for permits of the Department's intent to require efficient control of particulate, acid gas and organic emissions from resource recovery facilities and incinerators. The Department will continue to use the existing authority of the Air Pollution Control Act to require that applicants for permits for air pollution control equipment demonstrate to the satisfaction of the Department that the equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted, N.J.S.A. 26:2C-9.2. The Department will use the proposed guidelines in its determination of whether the air pollution control technology proposed by each applicant represents the state-of-the-art. Each applicant must additionally demonstrate compliance with all other Federal and State air pollution control requirements. The public will have an opportunity to comment on each major resource recovery permit application as it is proposed for approval by the Department.

Following are maximum emission levels and minimum design standards achievable using state-of-the-art air pollution control technology. Efficient air pollution control equipment includes baghouses or electrostatic precipitators, wet or dry scrubbers, and auxiliary burners. The Department intends that air pollution control technology on resource recovery facilities and incinerators which have a total capacity greater than 800 pounds of waste per hour meet these standards at a minimum. Additional requirements and more stringent emission limitations may be set based on case-by-case review of the individual permit applications.

#### A. Total Particulates

1. 0.03 grains per dry standard cubic feet (gr/dscf) at 7% oxygen (O<sub>2</sub>) measured by United States Environmental Protection Agency (EPA) Test Method 5, C.F.R. Part 60, Appendix A.
2. 0.10 gr/dscf at 12% carbon monoxide (CO<sub>2</sub>) measured by the Department test method for incinerators.
3. Continuous opacity monitoring.

#### B. Lead and Other Heavy Metals

1. Demonstration that lead emissions will not cause, or significantly contribute to, a violation of the national ambient air quality standard (NAAQS), which is 1.5 micrograms per cubic meter quarterly average.
2. Evaluation of predicted ambient concentrations of the following metals: arsenic, beryllium, cadmium, chromium, mercury, and nickel.

#### C. Organic Substances and Carbon Monoxide

1. At least 1800°F combustion gas design temperature after secondary air injection. 1500°F minimum operating temperature.
2. At least one second combustion gas residence time calculated at 1800°F after secondary air injection.
3. Auxiliary burner to maintain 1500°F combustion gas temperature after secondary air injection for at least one second. Capability to raise temperature to 1800°F for one second combustion gas residence time.
4. Applicant must specify maximum carbon monoxide, maximum total organic emissions, and minimum oxygen on permit application. Representative pesticides, toxic volatile organic substances, combustion by-products and refractory organics must also be specified.
5. Continuous oxygen and carbon monoxide monitoring.

6. No odor from the facility is permitted in any area of public use or occupancy pursuant to air pollution control regulations concerning incinerators, N.J.A.C. 7:27-11.3(d).

#### D. Acid Gases

1. Minimum of 90% hydrochloric acid (HCl) control efficiency or maximum stack gas concentration of 50 parts per million by volume (wet basis) HCl at 7% O<sub>2</sub>.
2. Maximum of 0.32 lbs sulfur dioxide (SO<sub>2</sub>) per million British Thermal Units (BTU) heat input.

The Department requests comments, statements or arguments relevant to the proposal in general and, in particular, on the following issues:

1. Which representative combustion by-products, toxic volatile organic substances, organic pesticides, and refractory organics should be required to be specified on the air pollution control permit application for a major resource recovery facility or incinerator?
2. What minimum oxygen content should be maintained in the combustion gases in the secondary combustion zone?
3. In addition to the specified design standards, should maximum allowable concentrations of carbon monoxide and total organic substances be specified in the stack gases. If so, what should be the maximum allowable concentrations?
4. Should a stack gas concentration limit or an efficiency of SO<sub>2</sub> removal standard, rather than the 0.32 pound per million BTU standard proposed in these guidelines, be the basis for the SO<sub>2</sub> standard?
5. How should increases in ambient levels of metals be evaluated?
6. What temporary acid gas control device by-pass provisions should be included as conditions of each facility's operating permit?
7. The guidelines are applicable to facilities with the capacity to burn greater than 800 pounds of waste per hour. Is this an appropriate size cutoff for use of these guidelines?

(a)

## DIVISION OF ENVIRONMENTAL QUALITY

### Office of Pesticide Control Guidelines for Local Pesticide Control Ordinances

**Take notice** that Robert E. Hughey, Commissioner of the Department of Environmental Protection, in accordance with his authority to review and approve pesticide ordinances or regulations adopted by any governing body of a municipality or county or board of health (N.J.S.A. 13:1D-1 et seq. and 13:1F-1 et seq.), published a notice of pre-proposal for guidelines for the adoption of pesticide control ordinances or regulations by a local governing body on August 2, 1982 (at 14 N.J.R. 809(a)). Pursuant to said notice, preliminary hearings were held on August 19, 20, and 23, 1982 with respect to the initiation of subsequent rulemaking proceedings covering the standards which the Department would apply in the review and approval of all local pesticide control ordinances or regulations submitted to it for review pursuant to N.J.S.A. 13:1F-13.

Testimony was heard and numerous written comments were received. After careful consideration, the Department has determined not to proceed with rule making on this matter at this time, but will reserve the option to do so in the future. The Department will, however, use the guidelines in the review of all local pesticide control ordinances or regulations submitted to it pursuant to N.J.S.A. 13:1F-13.

In response to and after evaluation of the comments on the pre-proposal, several revisions have been incorporated into the guidelines. Definitions of certain terms (active ingredient, brand or brand name or trade name, customer, EPA, pest, and use) were added to explain terms used in the model ordinance which terms were not previously defined. Section 7 has been expanded to be consistent with a similar section of the provision of the recently adopted N.J.A.C. 7:30-10 (adopted February 17, 1983 and effective March 7, 1983; see 15 N.J.R.333(b)). The community or area wide notification system of Section 9 was revised to clarify the concepts of newspaper notification, inclusion of a contact person, and exemption of additional specified pesticide applications. The ornamental notification system of Section 10 was completely revised and now includes reference to adjacent and contiguous property instead of the pre-proposed 200 feet distance. Also, the format to deliver the ornamental notification was modified and the ornamental notification information requirements were clarified. The contact person concept was included along with record keeping requirements to verify that ornamental notification was provided. Section 10 has also been rewritten to exempt agricultural applications and all applications where the target site is greater than 100 feet from a property line. The beekeeper notification system of Section 11 was revised to provide a 36 hour warning period, to require registration of the beekeeper with the Department of Environmental Protection, to establish a computerized listing, and to extend the exemptions to any person applying to less than three acres as specified and to all agricultural applications except those listed. The fine schedule which was pre-proposed as Section 13 has been deleted.

Full text of the guidelines follows:

#### Pesticide Model Ordinance

### 1. DEFINITIONS

The following words and terms, when used in an ordinance, shall have the following meanings:

"Act" means the Pesticide Control Act of 1971 as amended, N.J.S.A. 13:1F-1 et seq.

"Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animal.

"Brand" or "Brand name" or "Trade name" means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used, or transported in the State of New Jersey.

"Commercial pesticide applicator" means any person (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator."

"Commercial pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a certified and registered responsible pesticide applicator.

"Community or area wide" means any pesticide application performed on aggregate areas greater than three acres of land which is part of a pest control program administered by a governmental agency or which is contracted for or performed by one person who has control over the use of the land to which the pesticide is applied.

"Customer" means any person who hires a commercial pesticide applicator business to perform an ornamental pest control application utilizing hydraulic spraying equipment operating at a

rate greater than 300 psi and 10 gpm, airblast sprayers, or aerial application equipment on property owned or controlled by him. For the purposes of this definition, the term "customer" shall include any person who makes such application on property owned or controlled by him.

"EPA" means the United States Environmental Protection Agency.

"Ornamental" means trees, shrubs, and other planting in and around habitations generally, but not necessarily in located urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means (a) any insect, rodent, nematode, fungus, weed, or (b) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which the EPA does not consider to be a pesticide.

"Pesticide applicator business" means any person who either wholly or in part holds himself out for hire to apply pesticides in the State of New Jersey.

"Private pesticide applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation, other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Proper enforcement personnel" means an official designated by the municipality, subject to approval by the New Jersey Department of Environmental Protection, whose duties are to enforce the rules and regulations promulgated under the ordinance.

"Responsible pesticide applicator" means any individual who is accountable for the use of a pesticide by himself or any person under his direct supervision.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2 or so classified by the Administrator of the United States Environmental Protection Agency.

"State regulations" means pesticide rules and regulations promulgated under the Act and codified in N.J.A.C. 7:30.

"Target site" means a specific location, including but not limited to any crop, commodity, object, delineated field or area, or structure or part thereof, that is intended to be treated by a pesticide so that any pests therein or thereon are controlled. This term does not include any similar site which was not a part of the original agreement between the contracting parties even if such site is included on the label or labeling of the pesticide.

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;
2. Handling, transporting, or storing a pesticide or pesticide container;
3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

### 2. COMMERCIAL PESTICIDE OPERATOR

(a) No persons shall engage in the activities of a commercial pesticide operator without having satisfied the applicable

requirements established by the New Jersey Department of Environmental Protection and having obtained a valid pesticide operator registration issued by that department.

(b) Each commercial pesticide operator shall at all times have in his/her possession the valid registration card and shall produce it upon request by proper enforcement personnel.

### 3. COMMERCIAL PESTICIDE APPLICATOR

(a) No person shall engage in the activities of a commercial pesticide applicator without having satisfied the applicable requirements established by the New Jersey Department of Environmental Protection and having obtained a valid commercial pesticide applicator registration issued by that Department.

(b) Each commercial pesticide applicator shall at all times have in his/her possession the valid registration card and shall produce it immediately upon request by proper enforcement personnel.

(c) Each commercial pesticide applicator must keep records of each application of pesticides in accordance with provisions of State regulations. Such records shall be made available to all proper enforcement personnel.

### 4. PESTICIDE APPLICATOR BUSINESS

(a) No person shall engage in the activities of a pesticide applicator business without having satisfied the applicable requirements established by the New Jersey Department of Environmental Protection and having obtained a valid pesticide applicator business registration issued by that department. The business registration shall be made immediately available upon request of proper enforcement personnel.

(b) The pesticide applicator business must keep records of each application of pesticides in accordance with provisions of State regulations. Such records shall be made available to all proper enforcement personnel.

### 5. PRIVATE PESTICIDE APPLICATOR

(a) No person shall engage in the activities of a private pesticide applicator without having satisfied the applicable requirements established by the New Jersey Department of Environmental Protection and having obtained a valid private pesticide applicator registration issued by that department.

(b) The valid registration card shall be made available within 24 hours of the request of proper enforcement personnel.

(c) All private pesticide applicators must keep records of each application of pesticides in accordance with provisions of State regulations. Such records shall be made available to all proper enforcement personnel.

### 6. STORAGE OF PESTICIDES

No person shall store restricted use pesticides without first meeting the applicable provisions of State regulations.

### 7. PESTICIDE EQUIPMENT

No person shall add water to any pesticide handling, storage, or application equipment via a hose, pump, or other equipment unless such hose, pump, or other equipment is fitted with an effective valve or device to prevent backflow of pesticides or liquids containing pesticides into water supply systems, streams, lakes, other sources of water or other areas; except that such backflow devices or valves are not required when the hose, pump, or other equipment is not allowed to contact or fall below the level of the liquid in the handling, storage, or application equipment to which water is being added and no other possible means of establishing a back-siphon or backflow exists.

### 8. SAFETY EQUIPMENT

All persons having employees who use, apply, transport or other wise handle any pesticide shall make available to such employees any necessary and appropriate safety equipment in good working order and shall train such employees in the proper operation of such safety equipment.

### 9. NOTIFICATION - COMMUNITY OR AREA WIDE APPLICATIONS

(A) No person shall apply any pesticide on a community or area wide basis unless prior notification of the proposed application has been given to persons residing in the vicinity of the proposed target

site.

1. The notification shall be made through advertisement in at least two newspapers having the greatest likelihood of informing the public within the area of application.

2. The newspaper notification must be given a maximum of 60 days and a minimum of seven days prior to the proposed application date.

3. The notification must contain at least:

- i. The proposed application date;
- ii. The location of the application;
- iii. The name, address, and registration number of the applicator business or the responsible pesticide applicator associated with the application;
- iv. The brand name and active ingredients of the pesticide(s) to be used;
- v. Application equipment to be used; and
- vi. The name, address, and phone number of a person who may be contacted and is responsible for supplying updated information on the advertised pesticide applications to those persons requesting it.

4. Upon the request by a person residing in the vicinity of the proposed target site, to a person designated pursuant to (a)3vi above, such designated person shall provide, at a minimum, the following information at least 12 hours prior to the application, except that if a reasonable attempt to provide notice is unsuccessful, an attempt to notify such person, by telephone, shall be made immediately prior to the application.

- i. The actual time and date of application;
- ii. The actual pesticide to be applied including the EPA registration number; and
- iii. Any precautionary statement(s) on the product's Federal registered label.

5. The person designated pursuant to (a)3vi above shall maintain a record of all telephone calls, attempted and completed with persons requesting information referred to in (a) 4 above, and a file of related correspondence. Such record and file shall be made available to the proper enforcement personnel upon request. The minimum information required to be kept on the call record shall include:

- i. Name and phone number of the person contacted; and
- ii. The time and date of the call.

6. The person making the application subject to the notification requirements shall keep a record of the newspapers in which the advertisement was placed and the dates published. This information shall be made available to the proper enforcement personnel upon request.

(b) The provisions of this section shall not apply to any pesticide application which is made for the purpose of producing an agricultural commodity, mosquito larviciding applications, or the application of granular formulations in non-residential areas.

### 10. NOTIFICATION - ORNAMENTAL APPLICATIONS

(a) No person shall cause or allow an outdoor ornamental pest control application utilizing hydraulic spraying equipment operating at a rate greater than 300 psi and 10 gpm, airblast sprayers, or aerial application equipment on property owned or controlled by him unless the following procedures have been implemented:

1. General public requesting notification - Any person desiring notification of outdoor ornamental pesticide applications may register with the town clerk or other designated municipal agent by April 1 of the calendar year in which the applications subject to notification will occur, unless the municipality chooses not to maintain this registry.

2. If the municipality maintains the registry referred to in (a) 1 above, the customer shall obtain the names and addresses of persons requesting notification from the town clerk or other designated municipal agent or through other available resources such as personal contact with residents of property adjacent and contiguous to the customer's property and shall provide notice, at

least 48 hours prior to the proposed application, by mail or by personal delivery, such notice to contain the following information:

- i. A general statement of the purpose of the notification and procedures to follow to obtain additional updated information;
- ii. The proposed application date(s);
- iii. The location of the application;
- iv. The name, address, and registration number of the applicator business or the responsible pesticide applicator associated with the application;
- v. The brand name and active ingredients of the pesticide(s) to be used; and
- vi. The name, address, and phone number of the applicator who may be contacted and is responsible for supplying updated information on the proposed pesticide applications to those persons requesting it.

3. If the municipality does not maintain the registry referred to in (a) 1 above, the customer may obtain copies of notices from the commercial pesticide applicator and shall deliver such notices, at least 48 hours prior to the proposed application, to residents of property adjacent and contiguous to the customer's property, such notice to contain the following information:

- i. A general statement of the purpose of the notification and procedures to follow to obtain additional updated information;
- ii. The proposed application date(s);
- iii. The location of the application;
- iv. The name, address, and registration number of the applicator business or the responsible pesticide applicator associated with the application;
- v. The brand name and active ingredients of the pesticide(s) to be used; and
- vi. The name, address, and phone number of the applicator who may be contacted and is responsible for supplying updated information on the proposed pesticide applications to those persons requesting it.

4. Upon the request of any resident of property adjacent and contiguous to the customer's property, to the applicator designated pursuant to (a)2vi or (a)3vi above, such designated applicator shall provide, at a minimum, the following information at least 12 hours prior to the application, except that if a reasonable attempt to provide notice is unsuccessful, an attempt to notify such person, by telephone, shall be made immediately prior to the application:

- i. The actual time and date of application; and
- ii. Any precautionary statement(s) on the product's Federal registered label.

5. The applicator designated pursuant to (a)2vi or (a) 3vi above, shall maintain a record of all telephone calls, attempted and completed with persons requesting information referred to in (a)4 above, and a file of related correspondence. Such record and file shall be made available to the proper enforcement personnel upon request. The minimum information required to be kept on the call record shall include:

- i. Name and phone number of the person contacted; and
- ii. The time and date of the call.

6. The customer shall keep a record or file of the notice he provided, which may include a copy of the receipt for the certified letter(s), if certified mail is utilized.

7. The provisions of this section shall not apply to an additional application made on the same day and in the same locality as an application governed by this section, if the following requirements are satisfied:

- i. The customer demonstrates to the satisfaction of the local governing authority that he had not hired the applicator more than 48 hours prior to the start of the application governed by this section;
- ii. If the municipality maintains a registry referred to in (a) 1 above, the customer has personally contacted residents listed on the registry and whose property is adjacent and contiguous to property on which the additional application is proposed and no objections were raised; and

iii. If a municipality does not maintain a registry referred to in (a)1 above, the customer has personally contacted residents of property adjacent and contiguous to property on which the application is proposed and no objections were raised.

8. A waiver of the minimum amount of prior notice required in (a)2 and (a)3 above, may be granted at the discretion of the local governing authority.

(b) Prior to performing an outdoor ornamental pest control application subject to the notification provisions, the commercial pesticide applicator shall provide the customer with a written statement outlining the customer's notification responsibilities and the specifics of the proposed application referred to in (a) 2 and (a) 3 above.

(c) The customer may delegate, in writing, his notification responsibilities to the commercial pesticide applicator; providing the commercial pesticide applicator agrees, in writing, to assume the notification responsibilities as delineated in the ordinance.

(d) The commercial pesticide applicator is not responsible for any actions resulting from the failure of the customer to fulfill his notification obligations unless the customer has delegated and the commercial pesticide applicator has assumed the notification responsibilities as stated in (c) above.

(e) The provisions of this section shall not apply to any pesticide application which is made for the purpose of producing an agricultural commodity or to any person required to supply advance notification pursuant to the provisions of N.J.A.C. 7:30-10.9.

(f) The provisions of this section shall not apply where the target site is greater than 100 feet from the contractor's property line.

#### 11. NOTIFICATION - APIARISTS

(a) No person shall make an outdoor application of a pesticide product which has information on its label or labeling noting that the product is toxic to bees unless such person first notifies, at least 36 hours prior to the application, each apiarist who:

1. Desires notification;
2. Maintains an apiary which is located within one-half mile of the target site; and
3. Has been registered with either the New Jersey Department of Environmental Protection or the New Jersey Beekeepers Association by April 1 of the calendar year in which the applications subject to the notification requirements of this section will occur.

(b) Notification pursuant to (a) above may be given to the apiarist directly or, in the case of any apiarist registered with the New Jersey Beekeepers Association, through the local designated agent of that association; provided that the agent has agreed to make the required notification and has himself been given notification at least 72 hours prior to the intended application.

(c) The notification must include the following information:

1. The intended date of the application;
2. The approximate time of the application;
3. The brand name and active ingredient of the pesticide to be applied;
4. The location of the land on which the application is to be made; and
5. The name and certified pesticide applicator registration number of the responsible pesticide applicator.

(d) If the application date is changed so that the application will not occur on the intended date specified in the original notification of application but will be conducted during the next consecutive day, notification must be given to the individual apiarist as soon as reasonably possible but not later than 10:00 P.M. the night prior to the new application date.

(e) If the owner or operator of an apiary does not choose to move, cover, or otherwise protect the apiary, the application may be made without delay; provided that such application complies with the pesticide labeling and any provisions of the Act or any rules and regulations promulgated thereunder.

(f) The provisions of this section shall not apply to any person

using a pesticide on an aggregate area less than three acres; provided that the application is not made with hydraulic spraying equipment operating at a rate greater than 300 psi and 10 gpm, airblast sprayers, or aerial equipment.

(g) Any person required to notify apiarists pursuant to the provisions of this section shall not be responsible for notifying any apiarist who cannot be notified because:

1. The New Jersey Department of Environmental Protection and the New Jersey Beekeepers Association have failed to provide information deemed necessary by the department for such notification; or
2. The New Jersey Beekeepers Association has failed to or been unable to notify any apiarist(s) after agreeing to do so.

(h) The provisions of this section shall not apply to any pesticide application which is made for agricultural purposes, except to the crops within the dates and/or stage as stated below:

- |                           |                      |
|---------------------------|----------------------|
| 1. Apples                 | April 15 to May 15   |
| 2. Pears                  | April 15 to May 15   |
| 3. Strawberries           | April 15 to May 15   |
| 4. Blueberries            | April 15 to May 31   |
| 5. Cranberries            | June 15 to August 15 |
| 6. Holly                  | June 1 to June 30    |
| 7. Vine Crops (Cucurbits) | June 1 to August 31  |
| 8. Sweet Corn             | Flowering Stage      |

**12. VIOLATION OF THE ORDINANCE**

Any person violating any provision of this ordinance shall be subject to ... (appropriate enforcement actions as determined by the municipality). A copy of the report of such enforcement actions will be forwarded to the Bureau of Pesticide Control within the New Jersey Department of Environmental Protection.

# INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between April 19, 1982 and April 4, 1983, and which have not been adopted and filed by April 4, 1983. The index does not contain rules proposed in this Register and listed in the *Table of Rules in This Issue*. These proposals will appear in the next *Index of Proposed Rules*.

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit 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 of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings  
CN 301  
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
<b>ADMINISTRATIVE LAW—TITLE 1</b>			
1:1-2.2	Public hearing: Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 674(a)
1:1-5.2, 5.3	Pre-hearing information	6-21-82	14 N.J.R. 607(a)
1:6A-3.3, 4.4, 4.5	Special Education Program hearing rules	3-21-83	15 N.J.R. 451(a)
1:20	Representation fee hearings before PERC Appeal Board	8-16-82	14 N.J.R. 862(a)
1:30-3.8	Rulemaking: Agency status reports	11-1-82	14 N.J.R. 1185(a)
<b>AGRICULTURE—TITLE 2</b>			
2:23	Voluntary Gypsy Moth Suppression Program	3-21-83	15 N.J.R. 370(a)
2:71-2.28	Fruits and vegetables: Rates for inspection services	4-4-83	15 N.J.R. 462(a)
2:85-1	Repeal Agricultural Preserve Demonstration Program	3-21-83	15 N.J.R. 371(a)
<b>BANKING—TITLE 3</b>			
3:6-9	Super NOW deposit accounts	8-2-82	14 N.J.R. 786(a)
3:6-13	Automated teller machines	2-22-83	15 N.J.R. 190(a)
3:11-7.2, 7.8, 7.9	Expanded lending limitations	2-22-83	15 N.J.R. 192(a)
3:23-2.1	License fees for credit sales and loan businesses	4-4-83	15 N.J.R. 463(a)
3:26-3.1	Readopt rules on action upon detection of crime	3-21-83	15 N.J.R. 372(a)
<b>CIVIL SERVICE—TITLE 4</b>			
4:1-7.11	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-15.2	Lateral title change	9-7-82	14 N.J.R. 940(b)
4:1-16.13	Request for reemployment (local)	3-7-83	15 N.J.R. 272(b)
4:1-18.2, 18.6-18.8	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-18.5	Inclement weather emergency policy (State)	3-7-83	15 N.J.R. 273(a)
4:1-18.9, 18.10	Flexitime and operation hours (State)	3-21-83	15 N.J.R. 373(a)
4:1-18.11	Alternative workweek programs (State)	3-21-83	15 N.J.R. 374(a)
4:1-20.9	Tuition aid program (State)	3-7-83	15 N.J.R. 274(a)
4:1-25.1	Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:2-7.1	Repeal: Hours of work	9-7-82	14 N.J.R. 938(a)
4:2-15.2	Repeal: Lateral title change	9-7-82	14 N.J.R. 940(b)
4:2-18.1	Repeal (see 4:1-18.5)	3-7-83	15 N.J.R. 273(a)
4:2-20.3	Granting of increments after denial	2-7-83	15 N.J.R. 112(a)
4:2-20.9	Repeal (see 4:1-20.9)	3-7-83	15 N.J.R. 273(a)
4:2-20.12	Repeal: Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:6	Overtime Committee Rules	10-18-82	14 N.J.R. 1126(a)
<b>COMMUNITY AFFAIRS—TITLE 5</b>			
5:10-1.4	Row houses and multiple dwelling jurisdiction	3-21-83	15 N.J.R. 375(a)
5:13-1.1, 1.3, 1.5, 1.19-1.27	Limited dividend and nonprofit housing corporations-associations	2-22-83	15 N.J.R. 193(a)
5:23	Readopt Uniform Construction Code	11-15-82	14 N.J.R. 1247(a)
5:23-5.11(d)	Uniform Construction Code: Licensing	7-19-82	14 N.J.R. 734(a)

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL DATE</b>	<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>
5:27-3.1	Limited tenure residents and boarding houses	3-21-83	15 N.J.R. 375(b)
5:30	Readopt Local Finance Board rules (except 5:30-16)	4-4-83	15 N.J.R. 463(b)
5:30-10.1, 10.2	Local Finance Board: Municipal port authorities	8-2-82	14 N.J.R. 786(b)
<b>EDUCATION—TITLE 6</b>			
6:3-1	School districts: General provisions	3-21-83	15 N.J.R. 376(a)
6:3-1.10	School districts: Standards for determining seniority	4-4-83	15 N.J.R. 464(a)
6:11-4.2, 4.3, 4.4	Temporary, provisional and emergency certificates	9-20-82	14 N.J.R. 1011(a)
6:11-10.2, 10.4, 10.7-10.9	Administrative certification	6-21-82	14 N.J.R. 614(a)
6:21-5	Standards for school buses	3-21-83	15 N.J.R. 383(a)
6:21-6, 18, 19	Repeal (see 6:21-5)	3-21-83	15 N.J.R. 383(a)
6:28-11	Programs for preschool handicapped children	4-4-83	15 N.J.R. 556(a)
6:64-2.1-2.4	County library reorganization	2-22-83	15 N.J.R. 194(a)
6:68-4.1-4.9	Library Construction Incentive Act rules	2-22-83	15 N.J.R. 196(a)
<b>ENVIRONMENTAL PROTECTION—TITLE 7</b>			
7:1-8, 9	Siting of commercial hazardous waste facilities	2-7-83	15 N.J.R. 113(a)
7:1D-1	Emergency water projects: Allocation of costs	2-7-83	15 N.J.R. 117(a)
7:1G	Loan procedures: Water supply interconnections	9-20-82	14 N.J.R. 1012(a)
7:7-2.2, 2.6-2.9, 2.11, 2.15	"Repair" of waterfront structures; removal of unauthorized fill; permit duration	7-6-82	14 N.J.R. 679(b)
7:7A-1.13	Wetlands maps in Cape May County	12-6-82	14 N.J.R. 1330(a)
7:7A-1.13	Wetlands maps in Atlantic and Cumberland counties	2-7-83	15 N.J.R. 119(a)
7:7A-1.13	Wetlands in Middlesex County	3-21-83	15 N.J.R. 386(a)
7:11-2	Consolidated Rate Schedule: D&R Canal and Spruce Run-Round Valley	2-7-83	15 N.J.R. 122(a)
7:11-4	Repeal Spruce Run-Round Valley rates	2-7-83	15 N.J.R. 122(a)
7:13-1.11	Floodway delineations within Bass River Basin	7-6-82	14 N.J.R. 683(b)
7:13-1.11	Floodway delineations within Atlantic Basin	7-19-82	14 N.J.R. 736(a)
7:13-1.11	Floodway delineations in Somerset and Union counties	10-18-82	14 N.J.R. 1131(a)
7:13-1.11	Floodway delineations in Mercer County	10-18-82	14 N.J.R. 1132(a)
7:13-1.11	Floodway delineations in Mullica River Basin	10-18-82	14 N.J.R. 1133(a)
7:13-1.11	Floodway delineations in Monmouth County	10-18-82	14 N.J.R. 1134(a)
7:13-1.11	Floodway delineations in Ocean-Monmouth Counties	11-1-82	14 N.J.R. 1189(a)
7:13-1.11	Floodway delineations in Burlington County	12-20-82	14 N.J.R. 1434(a)
7:13-1.11	Floodway delineations in Monmouth County	2-22-83	15 N.J.R. 198(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:19-4	Diversion assessment and payment for public water supply	3-7-83	15 N.J.R. 276(a)
7:20A	Water diversion for growing use	11-15-82	14 N.J.R. 1249(a)
7:20A	New comment period: Water diversion for growing use	11-15-82	15 N.J.R. 73(a)
7:25-2.14	Field trials and horseback riding permits	3-21-83	15 N.J.R. 387(a)
7:25-7.13	Crab dredging off Atlantic coast	3-21-83	15 N.J.R. 388(a)
7:25-9.1	Taking of hard clams: Size tolerance control	7-6-82	14 N.J.R. 689(a)
7:25-14	Crab pots	3-21-83	15 N.J.R. 388(b)
7:25-15.1	Relay of hard clams (with Emergency Adoption)	9-20-82	14 N.J.R. 1055(a)
7:25-22.1	Marine finfish: Menhaden season	9-7-82	14 N.J.R. 945(a)
7:25A-1.1, 1.2, 2.1, 2.3-2.5	Oyster vessel licensing and use	2-22-83	15 N.J.R. 199(a)
7:25A-3.1	1983 oyster seed bed season	2-22-83	15 N.J.R. 200(a)
7:26-1.4, 2.9, 2.13	Sanitary landfill closure	8-16-82	14 N.J.R. 883(a)
7:26-1.4, 9.1, 12.1	Hazardous waste recycling	12-20-82	14 N.J.R. 1435(a)
7:26-1.4, 9.1, 12.1	Hazardous waste: Gas cylinder exemption	3-21-83	15 N.J.R. 390(a)
7:28-1, 2	Radiation protection	3-21-83	15 N.J.R. 391(a)
7:30	State Pesticide Control Code (see 14 N.J.R. 1385(a), 15 N.J.R. 333(b))	8-2-82	14 N.J.R. 787(a)
7:30	Pesticide Control Code: Extension of comment period	9-7-82	14 N.J.R. 946(a)
7:36-5.2	Green acres additional funding	12-20-82	14 N.J.R. 1436(a)
7:38-1	Wild and Scenic Rivers System	11-15-82	14 N.J.R. 1256(a)
<b>HEALTH—TITLE 8</b>			
8:23-1.4	Psittacosis testing of quarantined birds	4-4-83	15 N.J.R. 466(a)
8:25	Readopt Youth Camp Safety rules	4-4-83	15 N.J.R. 467(a)
8:30	Repeal (see 8:39)	3-7-83	15 N.J.R. 279(a)
8:31-26.1	Health care facilities: Ownership by convicted persons	3-7-83	15 N.J.R. 307(a)
8:31-26.3	Health care facilities: Employee physical exams	4-4-83	15 N.J.R. 470(a)
8:31A-7	SHARE Manual: Relief from overspending challenge	2-22-83	15 N.J.R. 200(b)
8:31A-8.1	Hospital reporting: Medical discharge abstract	4-4-83	15 N.J.R. 470(b)
8:31B-3.26, 3.27,	Hospital rate setting: Procedure and methodology	2-22-83	15 N.J.R. 201(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
3.72, 3.73			
8:31B-3.26, 3.72	Hospital rate setting: Procedure and methodology	4-4-83	15 N.J.R. 471(a)
8:33-2.2	Batching cycle for long-term care facilities	3-7-83	15 N.J.R. 307(b)
8:33H-3.3	Long-term care: Expansion and new construction	4-4-83	15 N.J.R. 473(a)
8:37	Repeal (see 8:39)	3-7-83	15 N.J.R. 279(a)
8:39	Licensure of long-term care facilities	3-7-83	15 N.J.R. 279(a)
8:40	Repeal interim rules for abortion facilities	3-7-83	15 N.J.R. 308(a)
8:42-2	Repeal (see 8:42B)	3-21-83	15 N.J.R. 397(a)
8:42B	Drug treatment facilities: Licensure	3-21-83	15 N.J.R. 397(a)
8:43-4.13	Residential care facilities: Personal needs allowance	3-7-83	15 N.J.R. 309(a)
8:43-8	Residential health care: Maintenance and monitoring services	3-7-83	15 N.J.R. 309(b)
8:43B-8.3	Early detection of biochemical disorders in newborn infants	3-7-83	15 N.J.R. 311(a)
8:43F-3.3	Health care facilities: Ownership by convicted persons	3-7-83	15 N.J.R. 307(a)
8:43F-4.3, 4.20	Medical day care: Admission physical; social work services	3-7-83	15 N.J.R. 312(a)
8:65-7.5	Prescriptions for controlled substances: Time limits	2-7-83	15 N.J.R. 125(a)
8:65-10.5	Remove Loperamide from Controlled Substances	2-7-83	15 N.J.R. 126(a)
8:71	Additions to generic drug list (see 14 N.J.R. 836(a), 1160(a))	4-19-82	14 N.J.R. 369(a)
8:71	Additions to generic drug list (see 14 N.J.R. 1160(b), 1392(a); 15 N.J.R. 91(a))	7-6-82	14 N.J.R. 690(a)
8:71	Generic drug list additions (see 15 N.J.R. 90(a), 147(e))	8-16-82	14 N.J.R. 888(a)
8:71	Additions to generic drug list (see 15 N.J.R. 148(a))	10-4-82	14 N.J.R. 1077(a)
8:71	Generic drug list changes (see 15 N.J.R. 339(a))	11-15-82	14 N.J.R. 1278(a)
8:71	Generic drug list changes	2-7-83	15 N.J.R. 126(b)
8:71	Generic drug list additions	2-7-83	15 N.J.R. 127(a)
8:71	Generic drug list additions	3-21-83	15 N.J.R. 420(a)
<b>HIGHER EDUCATION—TITLE 9</b>			
9:1-1.6	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
9:4-1.2, 2.14	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
9:4-1.6	County colleges: General education requirements	2-22-83	15 N.J.R. 203(a)
9:4-5	County colleges reduction in force rules	2-7-83	15 N.J.R. 128(a)
9:7	Readopt Student Assistance Programs	2-7-83	15 N.J.R. 129(a)
9:7-2.10	Student Assistance Programs: Minimum academic progress	2-22-83	15 N.J.R. 205(a)
9:7-3.1	1983-84 Tuition Aid Grant Award Table	2-22-83	15 N.J.R. 206(a)
9:9	Readopt Student Loan Program rules	4-4-83	15 N.J.R. 475(a)
9:11-1.5, 1.16	Educational Opportunity Fund financial aid guidelines	2-22-83	15 N.J.R. 206(b)
9:12-1.11	Educational Opportunity Fund: Minimum academic progress	2-22-83	15 N.J.R. 207(a)
<b>HUMAN SERVICES—TITLE 10</b>			
10:5	Social Services Block Grant (Title XX)	2-22-83	15 N.J.R. 208(a)
10:49-1.4	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:51-3.14, 5.18	Pharmaceutical payment in long-term care	6-7-82	14 N.J.R. 542(a)
10:51-5	Readopt PAAD services manual	2-22-83	15 N.J.R. 209(a)
10:51-6	Expiration: Institutional pharmacy permits	2-22-83	15 N.J.R. 209(a)
10:55-1.1, 1.2, 1.7, 1.9	Prosthetic and orthotic "approved" providers defined	9-20-82	14 N.J.R. 1032(a)
10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:63-1.5	Medical Evaluation Team (LTC) and alternate care option	4-4-83	15 N.J.R. 485(a)
10:63-2	Readopt billing procedures in long term care	3-21-83	15 N.J.R. 421(a)
10:66-1.2, 1.3, 1.6, 1.7	Ambulatory surgical centers	7-6-82	14 N.J.R. 697(a)
10:66-1.6, 3.3	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:66-3.3	Independent Clinic Services: Procedure code revisions	12-6-82	14 N.J.R. 1339(a)
10:69A	Readopt PAAD eligibility manual	2-22-83	15 N.J.R. 211(a)
10:85-3.1	GAM: Household size	2-22-83	15 N.J.R. 212(a)
10:85-3.2(f)	GAM: Residency and municipal responsibility	3-7-83	15 N.J.R. 313(a)
10:85-3.2(g)	GAM: Determination of unemployment	3-7-83	15 N.J.R. 314(a)
10:87-3.23	Food Stamp Program: Student eligibility	1-3-83	15 N.J.R. 12(a)
10:87-4.8, 4.12, 5.5	Food Stamp Program: Resource exclusions	2-22-83	15 N.J.R. 212(b)
10:89-3.1	Home Energy Assistance: Automatic payments	9-7-82	14 N.J.R. 957(a)
10:94-4.4, 5.3	Medicaid Only: Exclusion of burial spaces and funds	3-21-83	15 N.J.R. 422(a)
10:98	State Plan for Vocational Rehabilitation Services	11-1-82	14 N.J.R. 1193(a)
10:122-1.1-1.3, 2.1, 2.1, 2.2, 2.4-2.6, 3.1-3.6, 4.4, 4.6, 5.1, -5.4, 6.1-6.9, 7.1, 7.2, 7.6, 7.7	Child care centers for children 2 1/2-5	2-22-83	15 N.J.R. 214(a)
10:123-1	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL DATE</b>	<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>
10:125	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:126	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:127	Residential child care facilities	4-4-83	15 N.J.R. 486(a)
<b>INSURANCE—TITLE 11</b>			
11:3-6.1–6.4	Automobile insurance identification cards	3-7-83	15 N.J.R. 315(a)
11:3-8	Nonrenewal of automobile policies	2-22-83	15 N.J.R. 231(a)
11:10	Dental plan organizations	3-21-83	15 N.J.R. 423(a)
<b>LAW AND PUBLIC SAFETY—TITLE 13</b>			
13:2-24.6	Alcoholic beverage wholesale pricing	1-3-83	15 N.J.R. 13(a)
13:4-2.3	Fact-finding conferences on discrimination complaints	4-4-83	15 N.J.R. 500(a)
13:4-12.1	Discrimination complaints and hearings before OAL	4-4-83	15 N.J.R. 501(a)
13:19-2.1	Repeal probationary driver licenses	4-4-83	15 N.J.R. 501(b)
13:21-8.10	Vision standards for motor vehicle drivers	7-6-82	14 N.J.R. 700(a)
13:27-3.13	Architect examination fees	4-4-83	15 N.J.R. 502(a)
13:29-1.7	Board of Accountancy: Conditional credit	11-15-82	14 N.J.R. 1279(a)
13:32-1.8	Pressure seal on plumbing permit applications	7-19-82	14 N.J.R. 759(a)
13:35-1-6	Board of Medical Examiners: Standards and rules	4-4-83	15 N.J.R. 503(a)
13:35-7, 9, 10	Repeal (see 13:35-1-6)	4-4-83	15 N.J.R. 503(a)
13:39-8.14, 9.14	Pharmacist-in-charge; in-store pharmacies	8-16-82	14 N.J.R. 898(b)
13:39-8.14, 9.14	Extension of comment period	8-16-82	14 N.J.R. 1222(b)
13:39-8.14, 9.14	Public hearing	8-16-82	15 N.J.R. 164(c)
13:40-6.1	Examination fees for engineers and surveyors	1-17-83	15 N.J.R. 78(b)
13:45A-19	Deceptive advertising and prizes	11-15-82	14 N.J.R. 1281(b)
13:47A-1.1, 1.8	Securities industry: Nonduplication of fingerprinting	6-7-82	14 N.J.R. 550(a)
13:45B-4	Temporary help service firms	2-22-83	15 N.J.R. 233(a)
13:70-9.18	Jockey fees	4-4-83	15 N.J.R. 518(a)
<b>PUBLIC UTILITIES—TITLE 14</b>			
7:26-6	Interdistrict and intradistrict solid waste flow	9-20-82	14 N.J.R. 1027(b)
14:1-3.3	Board proceedings and ex parte communications	10-18-82	14 N.J.R. 1148(a)
14:3-7.11A	Uniform budgeting plan for residential customers	9-20-82	14 N.J.R. 1048(a)
14:17-18	CATV rate regulation	5-3-82	14 N.J.R. 422(b)
14:18-3.9	CATV refunds for service interruptions	9-7-82	14 N.J.R. 972(a)
<b>ENERGY—TITLE 14A</b>			
No current proposals.			
<b>STATE—TITLE 15</b>			
15:10-1.4	Voter registration: Timely filing	10-18-82	14 N.J.R. 1148(b)
<b>TRANSPORTATION—TITLE 16</b>			
16:28-1.23	Speed limits on Route 18 in Monmouth and Middlesex counties	4-4-83	15 N.J.R. 519(a)
16:28-1.90	School zone on Route 166 in Dover Township	4-4-83	15 N.J.R. 520(a)
16:28A-1.9	Parking on Route 17 in Paramus	4-4-83	15 N.J.R. 520(b)
16:28A-1.15	Parking on Route 23 in Sussex County (with Emergency Adoption)	4-4-83	15 N.J.R. 555(a)
16:28A-1.16	Parking on US 9W in Fort Lee	4-4-83	15 N.J.R. 521(a)
16:28A-1.18	Route 27 parking in South Brunswick	3-7-83	15 N.J.R. 317(a)
16:28A-1.25	Route 35 parking in Dover Township	3-7-83	15 N.J.R. 318(a)
16:28A-1.37	Parking on Route 70 in Lakewood	3-21-83	15 N.J.R. 426(a)
16:28A-1.70	Parking on Route 439 in Elizabeth	4-4-83	15 N.J.R. 521(b)
16:28A-1.81	Parking along Route 87 in Atlantic City	2-22-83	15 N.J.R. 234(a)
16:30-2.5	Stop intersection on Route 71, Oceanport-Eatontown	3-7-83	15 N.J.R. 318(b)
16:30-3.7	Bus lane on US22 in Westfield-Mountainside	4-4-83	15 N.J.R. 522(a)
16:31-1.1	U turns on US 206 in Bordentown	3-21-83	15 N.J.R. 426(b)
16:31-1.1	Turns on US 206 in Somerset County	4-4-83	15 N.J.R. 522(b)
16:31-1.3, 1.21	Turns on Routes 15 and 46 in Dover, Morris County	3-7-83	15 N.J.R. 319(a)
16:41-2.1, 2.3–2.14, 2.18, 2.19, 3.3	Access driveways along highways	11-15-82	14 N.J.R. 1284(a)
16:41-7.2	Street intersections	11-15-82	14 N.J.R. 1289(a)
16:53-1-9	Autobus specifications	12-6-82	14 N.J.R. 1347(a)
<b>TREASURY-GENERAL—TITLE 17</b>			
17:1	Readopt pension rules on General Administration	4-4-83	15 N.J.R. 523(a)
17:1-8.12	Social Security transmittals: Late filing penalties	3-7-83	15 N.J.R. 319(b)
17:1-12.4	Interfund transfers: Court attendants appointed sheriff's officers	4-4-83	15 N.J.R. 525(a)
17:1-12.5	Interfund transfers and accumulated interest	4-4-83	15 N.J.R. 526(a)
17:3	Readopt Teachers' Pension and Annuity Fund rules	4-4-83	15 N.J.R. 526(b)

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL DATE</b>	<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>
17:4-5.5	Police and Firemen's Retirement: Reinstatement	2-7-83	15 N.J.R. 132(b)
17:7	Readopt Prison Officers' Pension Fund rules	4-4-83	15 N.J.R. 527(a)
17:8-2.6, 3.3	Supplemental Trust: Suspended deductions; withdrawal or retirement	1-17-83	15 N.J.R. 81(a)
17:9	Readopt State Health Benefits Program rules	4-4-83	15 N.J.R. 529(a)
17:9-2.10	HMO options for employees who move	1-17-83	15 N.J.R. 81(b)
17:10	Readopt judicial Retirement System rules	4-4-83	15 N.J.R. 530(a)
17:10-1.3, 1.4, 2.1, 3.6, -4, 5.1-5.3, 6.1	Judicial retirement administration	11-15-82	14 N.J.R. 1296(b)
17:10-1.8	Judicial Retirement System: Proof of age	11-15-82	14 N.J.R. 1298(a)
17:10-3.1	Judicial Retirement: Computation of benefits	11-15-82	14 N.J.R. 1299(a)
17:16-5.1, 5.2	State Investment Council: Classification of funds	4-4-83	15 N.J.R. 531(a)
17:19-2	Contractor classification: Bid prequalification	2-22-83	15 N.J.R. 235(a)
<b>TREASURY-TAXATION-TITLE 18</b>			
18:7-3.5	Corporation Business Tax: Short tax table	3-7-83	15 N.J.R. 320(a)
18:7-5.2	Correction: Corporation Business Tax	11-1-82	14 N.J.R. 1299(b)
18:7-5.2	Corporation Business Tax: Entire net income	3-21-83	15 N.J.R. 427(a)
18:12-4	Local property tax: Revaluation of real property	3-7-83	15 N.J.R. 322(a)
18:24-4.6, 5.16	Sales tax and capital improvements	10-4-82	14 N.J.R. 1086(a)
18:24-11.3	Sales Tax increase: Transitional provisions	3-7-83	15 N.J.R. 324(a)
18:35-1.15	Gross income tax withholding exclusion	11-16-82	13 N.J.R. 839(b)
<b>TITLE 19 SUBTITLES A-L-OTHER AGENCIES (Except Casino Control Commission)</b>			
19:3-1.1, 1.2, 1.4	Subdivision and zoning fees	3-21-83	15 N.J.R. 428(a)
19:4-4	Waterfront Recreation Zone: Permitted uses	7-6-82	14 N.J.R. 706(a)
19:4-4.18A-4.27A	New planned park zone	1-3-83	15 N.J.R. 16(b)
19:4-6.28	Zoning change in Little Ferry	2-7-83	15 N.J.R. 133(b)
19:4-6.28	Zoning change in Secaucus	4-4-83	15 N.J.R. 532(a)
19:4A	Flood plain management	1-3-83	15 N.J.R. 18(a)
19:17	Appeal Board on representation fees	8-16-82	14 N.J.R. 903(a)
19:25-19	Financial disclosure by candidates for State elective office	3-7-83	15 N.J.R. 326(a)
19:30-2.2	Additional administrative fees	3-21-83	15 N.J.R. 429(a)
<b>TITLE 19 SUBTITLE K-CASINO CONTROL COMMISSION</b>			
19:40-3	Confidential information: Maintenance and release	2-22-83	15 N.J.R. 238(a)
19:41	Readopt rules on Applications	4-4-83	15 N.J.R. 532(b)
19:41-5	Repeal (see 19:41)	4-4-83	15 N.J.R. 532(b)
19:42	Readopt rules on Hearings	4-4-83	15 N.J.R. 534(a)
19:45	Readopt accounting and internal controls	2-22-83	15 N.J.R. 240(a)
19:45-1.11	Line of authority; reporting of violations	10-4-82	14 N.J.R. 1087(b)
19:45-1.36	Slot machine entry	9-20-82	14 N.J.R. 1052(a)
19:45-1.39	Resetting of progressive slot machines	9-20-82	14 N.J.R. 1053(a)
19:46	Readopt gaming equipment rules	3-21-83	15 N.J.R. 429(b)
19:46-1.1, 1.6	Gaming chips and plaques	8-2-82	14 N.J.R. 828(a)
19:46-1.2	Gaming plaques	7-6-82	14 N.J.R. 708(a)
19:46-1.16, 1.18	Use of cards and dice	8-2-82	14 N.J.R. 829(a)
19:46-1.17	Use of cards in baccarat	7-19-82	14 N.J.R. 754(a)
19:46-1.19	Blackjack equipment	6-7-82	14 N.J.R. 559(b)
19:47	Readopt rules of the games	3-21-83	15 N.J.R. 429(b)
19:47-1.10	Craps: Point thrown	2-22-83	15 N.J.R. 242(b)
19:47-2.1	Exclusion of card counting in blackjack	5-17-82	14 N.J.R. 467(a)
19:47-2.1-2.7	Blackjack play and wagering (see 14 N.J.R. 841(b), 991(a))	6-7-82	14 N.J.R. 559(b)
19:47-2.2	Correction: Double shoe in blackjack		14 N.J.R. 832(a)
19:47-2.5	"Shuffle-at-will" in blackjack	5-17-82	14 N.J.R. 469(a)
19:47-2.8, 2.13, 2.23-2.26	Blackjack rules	8-16-82	14 N.J.R. 907(a)
19:47-2.9-2.12, 2.15, 2.16	Blackjack play and wagering (see 14 N.J.R. 841(b))	6-7-82	14 N.J.R. 559(b)
19:47-2.16-2.19	Card counting exclusion	5-17-82	14 N.J.R. 467(a)
19:47-2.20-2.22, 5.7	Blackjack play and wagering (see 14 N.J.R. 841(b))	6-7-82	14 N.J.R. 559(b)
19:50	Readopt Casino Hotel Alcoholic Beverage Control rules	4-4-83	15 N.J.R. 539(a)
19:50-1.3, 1.6-1.13	See 19:50	4-4-83	15 N.J.R. 539(a)
19:53	Readopt equal employment opportunity rules	3-21-83	15 N.J.R. 433(a)
19:54	Readopt Gross Revenue Tax rules	3-7-83	15 N.J.R. 328(b)

The following rules were proposed in the New Jersey Register, but have not been timely adopted and therefore have expired pursuant to N.J.A.C. 1:30-4.2(c).

5:80-2	Housing Finance Agency project conversions	4-5-82	14 N.J.R. 301(b)
6:11-8	Minimum standards for teacher education	4-5-82	14 N.J.R. 305(a)
10:51-1.2; App. B,D	Non-legend device addition	4-5-82	14 N.J.R. 320(a)
16:74	Regular route bus service: Destructive competition claims	4-5-82	14 N.J.R. 326(b)
19:75	Atlantic County Transportation Authority	3-15-82	14 N.J.R. 272(a)

## CONTENTS

(Continued From Front Cover)

<b>HEALTH</b>	
Non-alcoholic beverages and bottled water .....	623(a)
<b>HIGHER EDUCATION</b>	
State funding for senior citizens .....	625(a)
<b>HUMAN SERVICES</b>	
Readopt Food Stamp Program revisions .....	625(b)
<b>LAW AND PUBLIC SAFETY</b>	
Professional planning examination fees .....	626(a)
Certified Shorthand Reporter disclosure .....	626(b)
Veterinary board: Temporary permits .....	626(c)
<b>ENERGY</b>	
Recycling grants and loans: Supplementary projects ..	622(d)
<b>TRANSPORTATION</b>	
Parking on US 202 in Morris Township .....	626(d)
<b>TREASURY—GENERAL</b>	
State Investment Council: Applicable funds; equity investments .....	627(a)
<b>OTHER AGENCIES</b>	
<b>CASINO CONTROL COMMISSION</b>	
Readopt junket rules .....	627(b)

Casino room entertainment .....	628(a)
<b>EMERGENCY ADOPTIONS</b>	
<b>HUMAN SERVICES</b>	
Food Stamp Program revisions .....	629(a)
Food Stamp Program revisions .....	633(a)
<b>TRANSPORTATION</b>	
Designated routes for special categories of trucks .....	643(a)
<b>MISCELLANEOUS NOTICES</b>	
<b>COMMUNITY AFFAIRS</b>	
Uniform Construction Code: National model code changes .....	645(a)
<b>ENVIRONMENTAL PROTECTION</b>	
Continuation of Flood Control Bond Grant Program ..	645(b)
Air pollution control for resource recovery facilities ...	645(c)
Local pesticide control ordinances .....	646(a)
<b>INDEX OF PROPOSED RULES .....</b>	<b>651</b>

### Filing Deadlines

<b>May 16 issue:</b>	
Proposals .....	<b>April 21</b>
Adoptions .....	<b>May 2</b>