

NEW JERSEY



REGISTER

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RULE PROPOSALS

COMMUNITY AFFAIRS

(a)

THE COMMISSIONER

Nonpublic Records Rental Assistance Applications

Proposed Amendment: N.J.A.C. 5:3-2.1

Authorized By: John P. Renna, Commissioner, Department
of Community Affairs.

Authority: N.J.S.A. 47:1A-2, 52:27D-3(f) and 55:13B-4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
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 1983-598.

The agency proposal follows:

Summary

The amendment will add to the existing list of public records of the Department of Community Affairs all records containing personal or financial information submitted by, or with respect to, applicants for rental assistance under the Section 8 Existing Housing, Section 8 Moderate Rehabilitation and Boarding Home Life Safety Loan programs.

N.J.S.A. 47:1A-2 provides that all records required by law to be

made, maintained or kept by a Department shall be deemed public records, except as otherwise provided by regulation promulgated under authority or any statute. The Commissioner of the Department of Community Affairs, pursuant to N.J.S.A. 52:27D-3(f), proposes to amend the regulation to classify records containing personal or financial information and submitted by, or with respect to, the various types of rental assistance applicants with whom the Department deals, to be nonpublic records.

Social Impact

Rental assistance applicants will be able to participate in the various programs with assurance that information concerning their personal and financial affairs will not be subject to unrestricted public examination.

Economic Impact

There will be no apparent economic impact as a result of this amendment.

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

5:3-2.1 Nonpublic records

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

(See proposal at 15 N.J.R. 1152(a).)

(d) The following records of the Division of Housing and Development are also deemed to be nonpublic records:

1. (No change.)

2. All records containing personal or financial information submitted by applicants for rental assistance under the Section 8 Existing Housing, Section 8 Moderate Rehabilitation and Boarding House Life Safety Loan programs or submitted by public agencies or other persons with respect to such applicants.

(e) (No change.)

NEW JERSEY REGISTER

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PROPOSALS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Departmental fees; licensing

Proposed Amendments: N.J.A.C. 5:23-4.20, -5.5 and -5.9

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 December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq. Administrative Practice Officer Division of Housing and Development 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 1983-594.

The agency proposal follows:

Summary

1. N.J.A.C. 5:23-4.20 is being amended to reduce the certificate of occupancy fee for certain farm structures and to increase certain other departmental fees so as to cover the cost of the services provided by the Department of Community Affairs in municipalities where it is the construction code enforcing agency.

2. N.J.A.C. 5:23-5.5 is amended to eliminate the requirement of a temporary appointment as a construction or subcode official prior to the issuance of a provisional license, to clarify the nature of the experience and education required for various licenses, to require possession of, or eligibility for, a lower level license before an applicant can claim eligibility for a higher level license in the same series, to revise the requirements for an inplant inspector license and to set forth certain procedures related to examinations. This regulation is being promulgated to accurately reflect the policy of the Department regarding the application of N.J.A.C. 5:23-5.9 which was set forth in Department publications provided to code enforcement officials.

3. N.J.A.C. 5:23-5.9 is amended to specify the examination modules that must be taken for different license specialties and to establish certain new requirements, and delete certain existing requirements, for examinations. Tests will now be required for the first time to electrical inspector H.H.S., fire protection inspector H.H.S., plumbing inspector H.H.S. and inplant inspector.

Social Impact

The added examination requirements will give the public additional assurance as to the competence of those responsible for enforcing the State Uniform Construction Code.

Economic Impact

The additional revenue received by the Department for certain inspections will better enable the Department to keep its local inspection program self-supporting and not dependent on general State revenues. Farmers will benefit from the reduced fees for agricultural structures.

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

5:23-4.20 Department fees

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

(c) Departmental (enforcing agency) fees:

1.-5. (No change.)

6. The fee for a certificate of occupancy shall be in the amount of 10 percent of the new construction permit fee which would be charged by the department pursuant to these regulations. The minimum fee shall be \$50.00, except for one- or two-family (use group R-3 of the building subcode) [residences] structures of less than 5,000 square feet in area and less than 30 feet in height, and structures on farms used exclusively for storage of food or grain, or sheltering of livestock, for which the minimum fee shall be \$25.00.

i. The fee for a certificate of occupancy granted pursuant to a change of use group shall be [\$50.00] \$75.00.

ii. The fee for a certificate of continued occupancy shall be [25.00] \$50.00.

iii. (No change.)

7. The fee for a permit to install an elevator shall be \$150.00[;]. [for each reinspection the fee shall be \$37.50; and for each five-year reinspection the fee shall be \$125.00;]

8.-9. (No change.)

10. Fees for the periodic departmental reinspection [by the Department] of equipment and facilities granted a certificate of approval for a specified duration in accordance with N.J.A.C. 5:23-2.23 shall be as follows:

i. For elevators, escalators and moving walks requiring reinspection every six months, the fee shall be [\$30.00] \$37.50, except for each five-year inspection and witnessing of tests on elevators, for which the fee shall be \$125.00.

ii.-v. (No change.)

5:23-5.5 Requirements for a license

(a) (No change.)

(b) Requirements are:

1. Construction officials: A candidate for a license as construction official [H.H.S., I.C.S. or R.C.S.] shall meet the following qualifications:

i.-ii. (No change.)

iii. A provisional license shall be issued to any person [who has been temporarily appointed to the position of construction official in a local enforcing agency,] provided that such person is licensed as a subcode official. Such person shall have successfully completed the educational program required herein within 24 months of issuance of the [temporary appointment] provisional license.

2. Subcode officials: A candidate for a license as a building, electrical, fire protection or plumbing subcode official [H.H.S., I.C.S. or R.C.S.] shall meet the following qualifications:

i.-ii. (No change.)

iii. Completion of such additional experience in the subcode of qualification as may be required, beyond that needed for licensure as a technical inspector, to provide at least the following total experience:

(1)-(3) (No change.)

iv. (No change.)

v. A provisional license shall be issued to any person who possesses the required experience listed above [who has been temporarily appointed to the position of subcode official in a local enforcing agency,] provided that such person is licensed as a technical inspector. Such person shall have successfully completed the educational program required herein within 24 months of issuance of the [temporary appointment] provisional license.

3. Building inspector:

i. Building inspector H.H.S.: A candidate for a license as a building inspector H.H.S. shall meet the following requirements:

(1) (No change.)

COMMUNITY AFFAIRS

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(2) Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.6 for building inspector H.H.S. **and an examination as required by N.J.A.C. 5:23-5.9** prior to application.

(3) Possession of, or eligibility for, the building inspector I.C.S. license.

ii. Building inspector I.C.S.: A candidate for a license as a building inspector I.C.S. shall meet the following requirements:

(1)-(2) (No change.)

(3) Possession of, or eligibility for, the building inspector R.C.S. license.

iii. (No change.)

iv. Persons having a college degree **in engineering related to the building subcode** or a New Jersey professional license in engineering or architecture shall be exempted from the educational program requirements for building inspector R.C.S., [and] building inspector I.C.S., **and building inspector H.H.S.**

4. Electrical inspector:

i. Electrical inspector H.H.S.: A candidate for a license as an electrical inspector H.H.S. shall meet the following requirements:

(1) (No change.)

(2) Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.6 for electrical inspector H.H.S. **and an examination as required by N.J.A.C. 5:23-5.9** prior to application.

(3) Possession of, or eligibility for, the electrical inspector I.C.S. license.

ii. Electrical inspector I.C.S.: A candidate for a license as an electrical inspector I.C.S. shall meet the following requirements:

(1) (No change.)

(2) Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.6 for electrical inspector I.C.S. and an examination as required by N.J.A.C. 5:23-5.9 prior to application.

iii. Persons having a college degree **in electrical engineering** or a New Jersey professional license in engineering or architecture shall be exempted from the educational program requirements **for the electrical inspector H.H.S. and I.C.S. licenses.**

5. Fire protection inspector:

i. Fire protection inspector H.H.S.: A candidate for a license as a fire protection inspector H.H.S. shall meet the following requirements:

(1) (No change.)

(2) Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.6 for fire protection inspector H.H.S. **and an examination as required by N.J.A.C. 5:23-5.9** prior to application.

(3) Possession of, or eligibility for, the fire protection inspector I.C.S. license.

ii. Fire protection inspector I.C.S.: A candidate for a license as a fire protection inspector I.C.S. shall meet the following requirements:

(1)-(2) (No change.)

(3) Possession of, or eligibility for, the fire protection inspector R.C.S. license.

iii. (No change.)

iv. Persons having a college degree **in fire science** or a New Jersey professional license in engineering or architecture shall be exempted from the educational program requirements for the fire protection inspector I.C.S., [and] fire protection inspector R.C.S. **and fire protection inspector H.H.S. licenses.**

6. Plumbing inspector:

i. Plumbing inspector H.H.S.: A candidate for a license as a plumbing inspector H.H.S. shall meet the following requirements:

(1) (No change.)

(2) Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.6 for plumbing inspector H.H.S. **and an examination as required by N.J.A.C. 5:23-5.9** prior to application.

(3) Possession of, or eligibility for, the plumbing inspector I.C.S. license.

ii. Plumbing inspector I.C.S.: A candidate for a license as a plumbing inspector I.C.S. shall meet the following requirements:

(1) (No change.)

(2) Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.6 for plumbing inspector I.C.S. and an examination as required by N.J.A.C. 5:23-5.9 prior to application.

iii. Persons having a college degree **in mechanical engineering** or a New Jersey professional license in engineering or architecture shall be exempted from the educational program requirements **for the plumbing inspector I.C.S. and plumbing inspector H.H.S. licenses.**

7. Inplant inspector: A candidate for a license as an inplant inspector shall meet the following requirements:

i. [Possession of the qualifications established herein for at least one of the following specialties plus successful completion of the education component or a substitute established in N.J.A.C. 5:23-5.8 and N.J.A.C. 5:23-5.9 in the remaining specialties:

(1) Building inspector R.C.S.;

(2) Electrical inspector R.C.S.;

(3) Fire protection inspector R.C.S.;

(4) Plumbing inspector I.C.S.]

Five years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building, electrical, fire protection or plumbing subcode, or a combination thereof; or five years of experience as a building, electrical, fire protection or plumbing inspector, or a combination thereof; or five years of experience as a construction contractor currently regulated by any one of the four above enumerated subcodes, or a combination thereof; or graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering and three years of experience in any one or more of the fields regulated by the above enumerated subcodes; or possession of a current New Jersey license or registration to practice engineering or architecture at the time of application; and

ii. Successful completion of examinations as required by N.J.A.C. 5:23-5.9 prior to application.

8. (No change.)

9. Facility fire protection supervisor: A candidate for a technical license as a facility fire protection supervisor shall meet the following requirements:

i. (No change.)

ii. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.6 for fire protection inspector I.C.S. and an examination as required for fire protection inspector I.C.S. by N.J.A.C. 5:23-5.9 prior to application. Persons having a college degree **in fire science** or a New Jersey professional license in engineering or architecture shall be exempted from the educational program requirement.

(c) The department shall determine, by examination of the application and review of any supporting documents, including any evidence of experience, training and/or education submitted, whether an applicant is qualified for a license of the type and specialty for which the application has been made. If the application is satisfactory, the commissioner shall issue a license to the applicant upon payment of the required fee. This license will show that the person has met the established requirements and is [entitled] **eligible** to be employed in this State in accordance with the provisions of these regulations.

1. The commissioner may deny or refuse to issue a license to an applicant **if the application is incomplete** or upon proof that there has been any act or omission which would constitute grounds for revocation under this subchapter.

2. **Upon receipt of an incomplete application, the application fee shall be collected and a letter of acknowledgement forwarded to the applicant setting forth the manner in which**

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COMMUNITY AFFAIRS

the application is incomplete.

3. The applicant shall submit a complete application within six months of receipt of the letter of acknowledgment. If a complete application is not submitted within this six month period, the application shall be deemed abandoned, no further action shall be taken on it by the department and a new application and fee shall be required if the applicant desires to reapply.

4. No credit shall be given by the department for any skilled trade experience not involving the construction or alteration of buildings.

(d) (No change.)

(e) Applicants for a technical license for building inspector R.C.S., building inspector I.C.S., fire protection inspector R.C.S., fire protection inspector I.C.S., plumbing inspector I.C.S. or electrical inspector I.C.S. who completed the required educational courses pursuant to N.J.A.C. 5:23-5.5 and 5:23-5.6 prior to February 1, 1982 but who did not make a formal application prior to February 1, 1982 may be granted such license(s) without having to successfully complete the National Certification Examination required by N.J.A.C. 5:23-5.9 if the applicant applies for the license(s) by March 31, 1984 and is determined by the Department to be otherwise qualified.

5:23-5.9 Examination requirements

(a) Examinations shall be held at least twice annually, to establish eligibility for the following license[s] specialties: building inspector R.C.S., building inspector I.C.S., building inspector H.H.S., electrical inspector I.C.S., electrical inspector H.H.S., fire protection inspector I.C.S., fire protection inspector H.H.S., facility fire protection supervisor, [and] plumbing inspector I.C.S., plumbing inspector H.H.S., elevator inspector and inplant inspector. In instances where more than one license level within a given subcode area requires the successful completion of one or more examination modules, award of the higher level license specialty will be dependent upon successful completion of the educational program in accordance with N.J.A.C. 5:23-5.6 and the examination module(s) required for the lower level license or possession of the applicable lower level license. Applicants for [these] the licenses listed above shall demonstrate competence [through] by successful completion of the relevant examination modules of the National Certification Program for Construction Code Inspectors [Tests] administered by the Educational Testing Service for the department.

1. Examination requirement for the building inspector R.C.S.:

i. Successful completion of examination module 1A–Building One and Two Family Dwelling.

2. Examination requirements for building inspector I.C.S.:

i. Prerequisite: successful completion of building inspector R.C.S. examination requirements or possession of the building inspector R.C.S. license.

ii. Successful completion of examination modules 1B–Building General and 4A–Mechanical One and Two Family Dwelling.

3. Examination requirements for building inspector H.H.S.:

i. Prerequisite: successful completion of building inspector I.C.S. examination modules or possession of the building inspector I.C.S. license.

ii. Successful completion of examination module 1C–Building Plan Review.

4. Examination requirements for electrical inspector I.C.S.:

i. Successful completion of examination modules 2A–Electrical One and Two Family Dwelling and 2B–Electrical General.

5. Examination requirements for electrical inspector H.H.S.:

i. Prerequisite: successful completion of electrical inspector I.C.S. examination requirements or possession of an I.C.S. license.

ii. Successful completion of examination module 2C–Electrical Plan Review.

6. Examination requirements for fire protection inspector I.C.S.:

i. Successful completion of examination module 3B–Fire Protection General.

7. Examination requirements for fire protection inspector H.H.S.:

i. Prerequisite: successful completion of examination requirements for fire protection inspector I.C.S. or possession of a fire protection inspector I.C.S. license.

ii. Successful completion of examination module 3C–Fire Protection Plan Review.

8. Examination requirements for facility fire protection supervisor:

i. Successful completion of examination module 3B–Fire Protection General.

9. Examination requirements for plumbing inspector I.C.S.:

i. Successful completion of examination modules 5A–Plumbing One and Two Family Dwelling and 5B–Plumbing General.

10. Examination requirements for plumbing inspector H.H.S.:

i. Prerequisite: successful completion of examination requirements for plumbing inspector I.C.S. or possession of a plumbing inspector I.C.S. license.

ii. Successful completion of examination module 5C–Plumbing Plan Review.

11. Examination requirements for inplant inspector:

i. Successful completion of examination modules 1A–Building One and Two Family Dwelling, 2A–Electrical One and Two Family Dwelling, 4A–Mechanical One and Two Family Dwelling and 5A–Plumbing One and Two Family Dwelling.

12. Examination requirements for elevator inspector:

i. Successful completion of examination module 6B–Elevator General.

(b) Rules concerning notice of examinations are:

1. Notice of examinations shall be given by announcements{

i. Announcements} displayed at the offices of the department and at such other places as the department may determine to be appropriate.

ii. Announcement in the New Jersey Register at least two months before the closing date for filing applications;

iii. Information concerning the filing of applications, time and location of test.

(c) In order to qualify for examination, an applicant must file an application on the form furnished by the Office of Code Enforcement Official Licensure, setting forth fully and truthfully all information required, and submit all necessary supporting documentation, on or before the announced closing date for filing such application.

(d) Examinations shall be designed to test fairly and to determine the fitness and ability or aptitude of applicants to perform the duties of the specialty and position for which they are making application and may consist of written or performances tests.

(e) Rules concerning the time for filing applications:

1. The department shall determine and include in the public announcement of every examination a closing date for the filing of applications. Applications not received within the prescribed time limit will not be accepted, except that applications sent by mail will be accepted if postmarked on the last day for filing and received before the examination is held.

2. The time of receipt shall be recorded on each application and this record shall be conclusive in any dispute concerning the time of filing.

(f) Rules concerning the amendment of applications are:

1. Prior to the expiration of the period for filing applications for an examination, an application which has been filed (and which contains errors or is incomplete) may be amended or supplemented:

i. By the filing of corrective or supplemental information; or

ii. By the filing of an amended application, clearly designated as such, which shall be complete in itself but shall include the desired corrections and additions and shall be accompanied by necessary

ENVIRONMENTAL PROTECTION

PROPOSALS

documentation.

2. After the expiration of the period for filing applications for an examination, an application which has been filed (and which contains errors or is incomplete) may not be amended or supplemented by the addition of new items. Further information may be requested of the applicant. This information must be submitted to the department to explain obvious inconsistencies or to amplify and clarify information previously furnished.

(g) All applications for examinations filed with the department shall be held confidential and not open to public inspection.

(h) Applications for examinations, when properly filed, shall be retained in the manner authorized by regulation of the department.]

(i) renumbered as (c).

[(j) Rules on rating tests (Reserved)]

(k) renumbered as (d).

[(l) Rules concerning protests against grade are:

1. Applicants who believe an error has been made may file a written protest with the commissioner.

2. The department shall review all protests or requests for rescoring.]

[(m)](e) The following records pertaining to every examination shall be preserved:

1. A copy of the public announcement;

2. The resulting list of grades;

3. [Applications, including those of applicants who were examined and those who were rejected;

4.] Such other records or information in the custody of the department as may be pertinent.

(f) Where only one examination module of the National Certification Program for Construction Code Inspectors is required for license qualification and a person fails this module three consecutive times, said person shall be required to complete an applicable refresher course with any national code administrative agency before being permitted to retake this examination module.

(g) Where multiple examination modules of the National Certification Program for Construction Code Inspectors are required for license qualification and a person fails any one module three consecutive times, said person shall be required to take refresher courses and to retake all modules applicable for licensure qualification.

December 7, 1983 at 7:30 P.M.
Franklin Township Municipal Building
Route 57
Broadway (Franklin Township), NJ 08808

December 8, 1983 at 7:30 P.M.
Auditorium, Manchester High School
1 Colonial Drive
Lakehurst, NJ 08733

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Barbara M. Greer
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, NJ 08625

At the close of the period for comments, the Department of Environmental Protection and the Board of Public Utilities, may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1983-608.

The joint proposal follows:

Summary

The Department of Environmental Protection (Department) and the Board of Public Utilities (BPU) are proposing to amend the "waste flow rules", N.J.A.C. 7:26-6, to redirect solid waste generated in various municipalities in Warren, Hunterdon and Morris Counties from disposal in the High Point Sanitary Landfill located in Franklin Township, Warren County to the Ocean County Landfill Corporation landfill, located in Manchester Township, Ocean County. The waste types being redirected are 10 (municipal), 13 (bulky), 23 (vegetative), 25 (animal/food processing), and 27 (non-chemical industrial waste). Approximately 573 tons per day of waste will be redirected. The proposal would also permit the affected municipalities to utilize disposal facilities located outside of New Jersey when such disposal is in compliance with the laws and regulations of the receiving state.

The redirection of waste is necessitated by the denial of the application for expansion of the High Point Sanitary Landfill on September 12, 1983 and the closure of the landfill on October 24, 1983 as a result of the Administrative Consent Order of the Department dated December 1982 and because of determinations made by the Department concerning the safety of continued operations at the landfill.

The Department and the BPU, after evaluating all viable alternatives, determined that the waste directed to High Point Sanitary Landfill should be redirected to the Ocean County Landfill Corporation landfill. This decision was made after consideration and balancing the following planning principles derived from the Statewide Solid Waste Management Plan: facilities should not be overloaded; transportation distances should be minimized; wastes should be disposed of within the district of generation; and waste flow directions should provide long term stability for disposal. An Emergency Redirection Order effecting this decision was issued on October 16, 1983.

The Department and the BPU, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., are proposing to amend the "waste flow rules" to include the provisions of the emergency redirection. This procedure was proposed to the Supreme Court of the State of New Jersey which ordered the Department and the BPU to hold an expedited hearing on the waste flow redirection. This

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WASTE MANAGEMENT

BOARD OF PUBLIC UTILITIES

Interdistrict and Intradistrict Solid Waste Flow

Joint Proposed Amendment: N.J.A.C. 7:26-6.5

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection, and Board of
Public Utilities, Barbara A. Curran, President.
Authority: N.J.S.A. 13:1B-3, 13:1E-6, 13:1E-23 and
48:13A-1 et seq.
DEP DOCKET No. 060-83-10.

Public hearings concerning this proposal will be held on the following dates:

proposal will provide the public with an opportunity to comment on the redirection in an expeditious manner, including comments on proposals made by certain affected solid waste haulers for reconsideration of Middlesex and Burlington County facilities as sites for the redirected waste flow.

Social Impact

The public will benefit in that the threat posed by continued disposal of wastes in an unsafe manner in the High Point Sanitary Landfill will be eliminated by redirecting the waste to a facility which has the capacity to safely receive it. Warren County solid waste planning officials may subsequently designate a suitable substitute disposal site within the county.

Economic Impact

The BPU estimates that, overall, there will be a negative economic impact upon the generators of waste in the affected municipalities. The tipping fees at the Ocean County Landfill Corporation landfill are \$1.65 per cubic yard for both residential and commercial, compared to the High Point Sanitary Landfill rates of \$2.41 per cubic yard, residential, and \$2.91 per cubic yard, commercial. The lower tipping fee, however, will be offset by the increased costs to transport the waste over a greater distance. The increase in costs for collection will include transportation costs, labor costs, vehicle, tire and maintenance costs, fuel costs and the need for additional vehicles and equipment and the financing thereof.

Rate adjustment proceedings were held at the Office of Administrative Law and a determination is expected by November 10, 1983. The BPU will make the record and the administrative decision on these proceedings available upon request.

Environmental Impact

A positive environmental impact will result from redirecting the solid waste as described above. The High Point Sanitary Landfill facility operation posed a serious threat to the environment. By directing the waste to the Ocean County Landfill Corporation facility, which has the capacity to dispose of it in an environmentally sound manner, further environmental degradation will be avoided.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]). The current text of N.J.A.C. 7:26-6, Interdistrict and Intradistrict Solid Waste Flow, appears at 15 N.J.R. 900(a).

7:26-6.5 District waste flow planning requirements and disposal facility designations

Due to the lack of adequate disposal capacity within certain solid waste districts, and pursuant to a finding by the BPU that the public interest will be best served by designating specific disposal facilities as the ultimate destination of specific waste streams, it is necessary to direct waste flows, as described in this section.

(a)-(j) (No change.)

(k) Waste flows within, into and out of the Hunterdon County District:

1. All solid waste types 10, 13, 23, [23,] **25**, and 27 generated from within the Hunterdon County municipalities of Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, **Clinton Township, Delaware, East Amwell, Flemington**, Franklin, Glen Gardner, Hampton, High Bridge, Holland, **Kingwood**, Lambertville, Lebanon Boro, Lebanon Township, Milford, **Raritan, Readington, Tewksbury**, Union and West Amwell shall be disposed of at [High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.] **the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.**

i. All solid waste directed to the Ocean County Landfill

Corporation landfill may be disposed of at out-of-state facilities when such disposal does not violate any law or regulation of the receiving state.

2. All solid waste types 10, 13, 23, 25 and 27 generated from within the Hunterdon County municipalities of Stockton and Frenchtown are given the option of utilizing disposal facilities [in Pennsylvania.] **out-of-state.** If this disposal option is not used, then Stockton and Frenchtown shall utilize [High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.] **the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.**

[3. All solid waste types 10, 13, 23, 25, and 27 generated from within the Hunterdon County municipalities of Clinton Township, Delaware, East Amwell, Flemington, Kingwood, Raritan, Readington and Tewksbury shall be disposed of at Edgeboro Disposal Landfill, facility number 1204A, located in East Brunswick until the expiration of the interdistrict agreement. At such time, all solid waste from these municipalities shall be disposed of at High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.]

(l) (No change.)

(m) (See related proposal at 15 N.J.R. 1417(a).)

(n) (No change.)

(o) Waste flows within, into and out of Morris County District:

1.-10. (No change.)

11. All waste types 10, 13, 23, 25, and 27 generated from within the Morris County municipality of Washington Township shall be disposed of at [High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.] **the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.**

i. All solid waste directed to the Ocean County Landfill Corporation landfill may be disposed of out-of-state when such disposal is in compliance with the laws and regulations of the receiving state.

12. (No change.)

(p) Waste flows within, into and out of the Ocean County District:

1.-8. (No change.)

9. All waste types 10, 13, 23, 25, and 27 generated from within the Warren County municipalities of Allamuchy, Alpha, Blairstown, Frelinghuysen, Hackettstown, Hardwick, Hope, Independence, Knowlton, Liberty, Mansfield, Oxford, Pahaquarry, Phillipsburg, Washington Borough, and Washington Township shall be disposed of at the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.

10. All waste types 10, 25, and 27 generated from within the Warren County municipalities of Belvidere and White shall be disposed of at the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.

11. All waste types 10, 13, 23, 25, and 27 generated from within the Hunterdon County municipalities of Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, Clinton Township, Delaware, East Amwell, Flemington, Franklin, Glen Gardner, Hampton, High Bridge, Holland, Kingwood, Lambertville, Lebanon Borough, Lebanon Township, Milford, Raritan, Readington, Tewksbury, Union, and West Amwell shall be disposed of at the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.

12. All waste types 10, 13, 23, 25, and 27 generated from within the Morris County municipality of Washington Township shall be disposed of at the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.

13. All wastes directed to the Ocean County Landfill

Corporation landfill from the Warren, Hunterdon and Morris County municipalities as set forth in (p)9, 10, 11 and 12 above may be disposed of at out-of-state facilities when such disposal does not violate any law or regulation of the receiving state.

(q)-(u) (No change.)

(v) Waste flows within, into and out of the Warren County District:

1. All solid waste types 10, 13, 23, 25 and 27 generated from within the Warren County municipalities of Allamuchy, Alpha, Blairstown, Frelinghuysen, Hackettstown, Hardwick, **Hope, Independence, Knowlton, Liberty, Mansfield, Oxford, Pahaquarry, Phillipsburg, Washington Boro, and Washington Township** shall be disposed of at [High Point Sanitary Landfill, facility number 2015A, located in Franklin Township, Warren County, New Jersey.] **the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.**

2. All solid waste types 10, 13, 23, 25 and 27 generated from within the Warren County municipalities of Franklin, Greenwich, [Harmong] **Harmony, Lopatcong and Pohatcong** are permitted to utilize disposal facilities [in Pennsylvania] **out-of-state**, so long as these municipalities or any collector/hauler which services these municipalities are able pursuant to [Pennsylvania] law. In the event that any of these municipalities are unable to continue disposal of the solid waste [in Pennsylvania] **out-of-state**, the waste [types 10, 13, 23, 25 and 27] shall be [directed to High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.] **disposed of at the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.**

[3. All solid waste types 10, 13, and 23 generated from within the Warren County municipality of Hope Township shall be disposed of at Hope Township Landfill, 2111A, located in Hope Township, Warren County, New Jersey.

i. Upon closure of the Hope Township Landfill, waste types 10, 13, and 23 generated from within Hope Township shall be disposed of at High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.

4. All solid waste types 25 and 27 generated from within the Warren County municipality of Hope Township shall be disposed of at High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.

5. All solid waste types 10, 13, and 23 generated from within the Warren County municipality of Independence Township shall be disposed of at Independence Township Sanitary Landfill, facility number 2112B, located in Independence Township, Warren County, New Jersey.

i. Upon closure of this facility, all waste types 10, 13, and 23 generated from within Independence Township shall be disposed of at High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.

6. All solid waste types 25 and 27 generated from within the Warren County municipality of Independence Township shall be disposed of at High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.]

[7.] 3. All solid waste types 13 and 23 generated from within the Warren County municipalities of Belvidere and White shall be disposed of at Belvidere-White Landfill, facility number 2123A, located in White Township, Warren County, New Jersey.

i. Upon closure of the Belvidere-White Landfill, waste types 13 and 23 shall be disposed of at [High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.] **the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.**

[8] 4. All solid waste types 10, 25, and 27 generated from within the Warren County municipalities of Belvidere and White shall be disposed of at [High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New

Jersey.] **the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.**

[i. All solid waste types 10, 13, 23, 25, and 27 generated from within the Morris County municipality of Washington Township shall be disposed of at High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.

ii. All solid waste types 10,13,23,25, and 27 generated from within the Hunterdon County municipalities of Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, Franklin, Glen Gardner, Hampton, High Bridge, Holland, Lambertville, Lebanon Boro, Lebanon Township, Milford, Union and West Amwell shall be disposed of at High Point Sanitary Landfill, facility number 2105A, located in Franklin Township, Warren County, New Jersey.]

5. **All solid waste types 10, 13, 23, 25 and 27 generated from within Warren County municipalities as set forth in (v)1, 3 and 4 above are permitted to be disposed of at out-of-state facilities so long as the municipalities or any collector/hauler which services the municipalities are able pursuant to any law or regulation of the receiving state.**

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

County Colleges Contract Rules

Proposed New Rules: N.J.A.C. 9:4-8 Proposed Repeal: N.J.A.C. 9:4-3.7

Authorized By: Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.
Authority: N.J.S.A. 18A: 64A-25.1 et seq., specifically 18A:64A-25.29.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Eric M. Perkins
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, NJ 08625

The Board of Higher Education thereafter 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 1983-607.

The agency proposal follows:

Summary

On December 1, 1982 legislation was enacted creating a county college contracts law in recognition of the unique purchasing requirements of the county colleges as educational institutions. The Board of Higher Education was assigned the responsibility of supervising the administration of the law and developing

regulations for its implementation. The proposal responds to statutory language directing the establishment of regulations to govern the process to be followed in purchasing items which cannot reasonably be bid, the method of awarding food service management contracts, accounting procedures for contracts extending beyond one fiscal year and the process for joint purchasing agreements with other public entities.

Social Impact

Implementation of the proposed new rules will assure fiscal prudence by county colleges while permitting timely purchasing at the lowest cost available.

Economic Impact

The proposed new rules will implement the provision of the county college contract law, thus permitting an undetermined savings to county colleges in the acquisition of materials and services for the operation of the institution.

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

9:4-3.7 [Compliance with Local Public Contract Law] (Reserved)

[Each county college shall comply with the provisions of the Local Public Contracts Law N.J.S.A. 40A:11-1 et seq.]

SUBCHAPTER 8. RULES GOVERNING THE COUNTY COLLEGE CONTRACTS LAW

9:4-8.1 Extraordinary unspecifiable services and products

(a) Any purchase, contract or agreement qualifying as an extraordinary unspecifiable service and product which is expected to exceed the total sum set forth in N.J.S.A. 18A:64A-25.3 in a single fiscal year shall be authorized by resolution at a public meeting of the County College Board of Trustees.

(b) Services or products which qualify as extraordinary unspecifiable services and products may not be combined in a contract with other services or products which are characterized as being biddable.

9:4-8.2 Accounting procedures for contracts which do not coincide with a fiscal year

All purchase agreements that extend over two fiscal years and which exceed the total sum set forth in N.J.S.A. 18A:64A-25.3 shall be awarded in accordance with the county college contract law. The colleges shall allocate funds between the two fiscal years in accordance with the American Institute of Certified Public Accountants guidelines.

9:4-8.3 Contracts for food service management and food supplies

Contracts or agreements for food service management or food vending machine services shall be made, negotiated or awarded by the College Board of Trustees after solicitation and receipt of the contract proposal for such services.

9:4-8.4 Joint purchasing agreements

All purchase agreements regarding joint purchasing which exceed the total sum set forth in N.J.S.A. 18A:64A-25.3 shall be approved by the County College Board of Trustees.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual Authorization Process

Proposed Amendment: N.J.A.C. 10:63-1.6

Authorized By: George J. Albanese, Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:4D-6a(4)(a), b(14), 7 and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health Services
CN 712
Trenton, NJ 08625

At the close of the period for comments, the Department of Human Services may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1983-595.

The agency proposal follows:

Summary

The proposal basically concerns admissions to long term care (LTC) facilities, and notification of this admission to the Division of Medical Assistance and Health Services. The proposal concerns Medicaid patients who are admitted to LTC facilities directly from an approved general hospital, a class "A" special hospital, or a New Jersey Title XIX certified psychiatric hospital. The LTC facility is required to notify the Medicaid District Office (MDO) within 30 days. If the LTC facility fails to provide the timely notification to the MDO, then payment may commence from the date of assessment by the Division's Regional Staff Nurse rather than the date of the patient's admission to the LTC facility.

The purpose of this proposal is to encourage LTC facilities to promptly report new Medicaid admissions to the MDO.

Social Impact

There is really no social impact on Medicaid patients, because this proposal does not affect their admission to LTC facilities.

The proposal does impact on LTC facilities who are Medicaid providers, because they are required to provide notice to the MDO within 30 days from the date of admission.

Economic Impact

There is no economic impact on the Division, who will continue to reimburse LTC facilities in the usual manner. There is no cost to the Medicaid patient.

There is no economic impact on LTC facilities who provide the MDO with timely notification. Those LTC facilities who do not provide timely notification may not be able to claim reimbursement

back to the date of admission. Instead, reimbursement will commence with the date of assessment by the Regional Staff Nurse.

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

10:63-1.6 Authorization process

(a) If a Medicaid recipient has been prior authorized for admission, the LTCF must submit a Notification from Long-Term Care Facility of Admission or Termination of a Medicaid Patient, Form MCNH-33 (Exhibit No. 7) to the [LMAU] MDO serving the county where the LTCF is located, within two working days of admission.

(b) If a Medicaid recipient did not require prior authorization for admission and was admitted directly from an approved general hospital, or a Class "A" special hospital, or a New Jersey Title XIX certified psychiatric hospital after a 3 day inpatient stay, the LTCF must submit an MCNH-33 form (Exhibit No. 7 along with a copy of the Patient Information Transfer form, Exhibit No. 30) to the [LMAU] MDO serving the county where the LTCF is located, within two working days of admission.

(c) If a LTCF fails to notify the [LMAU] MDO of the admission of a Medicaid eligible recipient by submission of an MCNH-33 (Exhibit No. 7) and a hospital information transfer form (Exhibit No. 30) within the 30 days guaranteed authorization period, [any] the time between the [30th day] date of admission and the date of assessment may not be authorized for payment.

(d)-(j) (No change.)

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program
Food Stamp Allotment Proration Formula

Proposed Amendment: N.J.A.C. 10:87-12.5

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 December 21, 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

At the close of the period for comments, the Department of Human Services may adopt this proposal, with minor changes not in violation of the rulemaking procedure at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1983-606.

The agency proposal follows:

Summary

This amendment concerns the Food Stamp Program proration policy in effect as of February 1, 1983, when revised proration tables and multiplication factors were implemented by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). Such implementation resulted in areas of

inconsistency. Manual computation of the allotment by application of the regulatory formula (the method used by this State) or use of multiplication factors to obtain a prorated allotment did not produce the same prorated allotment indicated in the "look-up" tables. Thus, in certain instances there were dollar discrepancies between allotments calculated manually and the prorated allotments found in the proration table.

FNS has advised that the above discrepancies were due to intermediate rounding when using the formula and truncating of certain repeating decimals, and that the tables they provided earlier did not consistently follow the regulatory formula. Consequently, FNS recently issued a revised formula and multiplication factors as well as corrected proration "look-up" tables which clarify procedures and correct the discrepancies between manual computation of certain allotments and the allotments found in the tables.

The amendment at N.J.A.C. 10:87-12.5 revises the regulatory formula in order to eliminate intermediate rounding of repeating decimals. Under normal circumstances slight differences in rounding make only small differences in the final result. However, in the proration procedure there are other rounding rules (\$.01 to \$.99 rounds to zero, and \$9.99 and less rounds to zero) which interact with the small rounding difference resulting in a downward bias.

The revised formula is mathematically equivalent to the previous formula but prescribes a different sequence of operation which always avoids intermediate decimals. The revised rule specifies the sequence of operation to be used when applying the formula.

This change aligns the manual computation with computer system calculation and the revised "look-up" tables provided by FNS. The revised computation will result in a one dollar increase in certain prorated allotments.

Social Impact

Since this amendment revises the proration formula to eliminate a downward bias, it will have a positive impact on certain food stamp households whose initial month's benefits are subject to proration.

Economic Impact

The economic impact, in terms of allotment levels, is negligible. However, any increase in food stamp benefit costs will be fully met by the Federal government. This change will not impact significantly on administrative costs of the Department or county welfare agencies.

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

10:87-12.5 Food stamp allotment proration

(a) The formula for determining food stamp proration follows:

[(31 minus date of application)
Full month's benefits X 30 = allotments]
Full month's benefits X (31 minus date of application)
30 = prorated allotment

1. The computation in (a) above is to be carried out in the following sequence:

- i. Subtract the date of application from 31;
ii. Multiply the result in step (a)Ii above by the full month's benefit; and
iii. Divide the result in step (a)Iii above by 30.

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

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Automobile Insurance Insurance Identification Cards

Proposed Readoption with Amendments: N.J.A.C. 11:3-6

Authorized By: Joseph F. Murphy, Commissioner,
Department of Insurance.
Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 39:3-29.1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

W. Morgan Shumake
Executive Director of Insurance
Department of Insurance
CN 325
Trenton, NJ 08625

The Department of Insurance thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), this subchapter expires on December 31, 1983. The readoption of the existing rules becomes effective upon acceptance by the Office of Administrative Law of a notice of their readoption. The concurrent amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1983-599.

The agency proposal follows:

Summary

In accordance with Executive Order No. 66(1978), the Department of Insurance proposes to readopt with amendments the provisions of N.J.A.C. 11:3-6.1 through 11:3-6.5 concerning insurance identification cards.

The Insurance Identification Card rules were designed to promote the implementation and enforcement of the State's compulsory insurance laws. As promulgated, these rules: (1) require insurance companies to issue insurance identification cards to all named insureds; (2) establish formats for permanent and temporary identification cards; (3) provide general guidelines regarding issuance, time restrictions and replacement of identification cards; and (4) exempt commercial vehicles regulated by the Interstate Commerce Commission or the New Jersey Department of Public Utilities.

On March 7, 1983 at 15 N.J.R. 315(a), the Department proposed amendments to this subchapter. Several of the proposed amendments were technical or editorial in nature, eliminating historically obsolete language and correcting an erroneous statutory citation. However, the proposal also required that insurers use a standard identification card based upon the design, format and printing specification provided by the ACORD form identification card.

Most commenters on the proposal objected to the mandatory imposition of the ACORD card, arguing that current unexhausted card stock and reprogramming computer systems to the new format could increase administrative costs. In addition, some commenters noted that the imposition of a completely uniform card would result

in the elimination of certain valuable information, such as company claims office locations and toll-free numbers, which may currently appear on such cards. Most commenters, however, favored the ACORD format as an optional alternative.

In response to these comments, N.J.A.C. 11:3-6.2(c) proposes the ACORD card as an alternative. This rule will particularly benefit insurers which currently use the ACORD format in other states. It is hoped that this rule will encourage transition to the new format which would eventually lead to a greater standardization, thereby promoting efficiency and economy.

Another amendment, N.J.A.C. 11:3-6.2(d), anticipates the implementation of the New Jersey Automobile Full Insurance Underwriting Association (N.J.A.F.I.U.A.), and provides for issuance of insurance identification cards by the servicing carrier on behalf of the N.J.A.F.I.U.A. Finally, several technical and editorial revisions have been included in this proposal.

The Department of Insurance, in consultation with the Division of Motor Vehicles, has reviewed the rules in accordance with Executive Order No. 66 (1978) and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which they were promulgated." The rules provide the basis upon which enforcement of the compulsory insurance law is predicated.

Social Impact

Minimal additional social impact is anticipated by the proposed readoption with amendments. The rules proposed for readoption have proven to be an effective mechanism for promoting compliance with the State's compulsory insurance laws. Issuance of automobile insurance identification cards afford readily available proof of insurance coverage. These identification cards are familiar to law enforcement officials and their continued utilization encourages enforcement of the compulsory insurance laws. They provide a simple yet efficient method for promoting compliance. The proposed amendments ensure that the same mechanism is utilized by the New Jersey Automobile Full Insurance Underwriting Association when it becomes operational.

Economic Impact

It is anticipated that the proposed readoption with amendments will have minimal additional economic impact. Financial responsibility which assures a source of recovery to injured victims of automobile accidents is promoted. Continuation of the existing card format should aid in containing administrative costs by enabling current card stock to be utilized. The proposed use of the ACORD card format as an alternative may encourage insurers to gradually convert to the new format once existing card stock is depleted. If the ACORD format is utilized by an insurer in more than one state, significant administrative savings may be promoted.

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

SUBCHAPTER 6. INSURANCE IDENTIFICATION CARDS

11:3-6.1 Scope

In order to properly implement and administer the compulsory insurance law of New Jersey, [which becomes effective January 1, 1973,] all insurance companies are required to issue an insurance identification card to all **named** insureds.

11:3-6.2 Permanent identification card (form IV-1)

[(a) All companies writing automobile liability insurance coverage in New Jersey are required to furnish a permanent insurance identification card to all named insureds no later than November 15, 1972, but not before November 1, 1972.]

(a) Permanent insurance identification cards shall be issued in accordance with the specifications contained in either (b) or (c) below.

(b) The specifications on the permanent insurance identification card are as set forth below:]

(b) A permanent insurance identification card shall conform to the following specifications:

1. The size shall be approximately 3 1/2 inches by 5 inches (tolerance of 1/4 inch permitted).

2. The weight shall be 24 pound white ledger paper stock (minimum).

3. The color shall be white stock, black print.

4. The front of card shall include the following:

i. The company name: Group name may be shown instead if it will identify the specific company involved. Insurance company logos are permitted;

ii. Named insured: The surname of the insured must agree with surname shown on the motor vehicle registration certificate. The Division of Motor Vehicles will check on surname basis;

iii. Address: The replacement of identification cards when there is a change of address will be optional with the insurance companies;

iv. Policy number: The complete policy number will be listed;

v. Effective date and expiration date: Month, day and year must be shown;

vi. Description of the vehicle: Year, make and vehicle identification number shall be noted on the insurance identification card. The model of the vehicle (that is, Vega instead of Chevrolet) may be shown as the make. The make of the vehicle may be abbreviated, but the complete vehicle identification number must be shown. [If only a portion of the vehicle identification number is available, that portion shall be indicated on the identification card. Any identification card without the vehicle identification number will be acceptable during the initial phases of this program;]

[vii. All insurance companies should immediately begin capturing the full vehicle identification number as the Division of Motor Vehicles' future requirement will include the complete vehicle identification number;]

[viii.] **vii.** In the case of fleets, dealerships or leasing companies where the owner insures the vehicles, the make, year and VIN need not be recorded. In lieu of the make, year and VIN, the insurance company may insert "ALL OWNED VEHICLES" or "FLEETS". If the lessee insures the vehicles, the name of the owner as shown on the motor vehicle registration must be shown on the I.D. card in addition to the name of the insured if the designation "FLEET" is used without the VIN;

[ix.] **viii.** Red or blue ink is to be used in printing of one or more of the following areas:

(1) Company name; or

(2) Authorized signature; or

(3) Company logo (if logo is used);

[x.] **ix.** The insurance company code will be printed immediately preceding the insurance company name. This code will be the same code presently used to identify companies licensed to do business in New York;

[xi.] **x.** The name and address of the office or agency issuing the identification cards must be shown. The cards must contain a signature of an agent or other authorized representative of the named company (facsimile signatures are acceptable);

[xii.] **xi.** Assignment of form number IV2A(2/73), to be shown in the upper left corner;

[xiii.] **xii.** Inclusion of an unlabeled block directly above the title to be used by the motor vehicle examiner for insertion of license plate number for insurance verification.

[NOTE: The above two changes are introduced at the request of the Division of Motor Vehicles. The color of the card is being changed from buff to pink. Until current supplies are exhausted, cards with either color will be in use for a limited time.]

(c) Insurers may, as an alternative to (b) above utilize the design and format copyrighted by the ACORD 50 (7-82) insurance identification card.

(d) Servicing carriers of the New Jersey Automobile Full Insurance Underwriting Association shall issue an insurance identification card in accordance with (b) or (c) above. Provided, however, that the card shall indicate that coverage is being issued by the servicing carrier on behalf of the New Jersey Automobile Full Insurance Underwriting Association.

11:3-6.3 Temporary identification card (form IV-2)

(a) The specifications for [the] temporary insurance identification cards for motor vehicles not insured through the New Jersey Automobile Insurance Plan are [as follows] set forth below:

1. [Size: Same] **The size shall be the same as the permanent identification card;**

2. [Weight: 24-pound stock] **The weight shall be 24 pound white stock (minimum);**

3. [Color: Pink stock, black print;] **The color shall be the same as the permanent identification card;**

4. Number of copies: Original and one duplicate;

5. [Content: Same] **The content of the temporary card shall be the same as the permanent identification card except as noted below:**

i. Title: "TEMPORARY" to precede heading on card;

ii. Policy number: Indicate policy number if available; otherwise, the application or binder number is acceptable;

iii. Effective date: Month, day and year that coverage becomes effective. Expiration date is not required;

iv. Expiration: The [form] card shall contain the following statement: "This card expires 60 days after the effective date shown above".

(b) The specifications for [the] temporary identification cards for motor vehicles insured through the New Jersey Automobile Insurance Plan are set forth below:

1. [Size: Same] **The size shall be the same as the permanent identification card;**

2. [Weight: 24-pound stock] **The weight shall be 24 pound white stock (minimum);**

3. [Color: Buff stock, black print;] **The color shall be the same as the permanent identification card;**

4. Number of copies: Original and one duplicate;

5. [Content: Same] **The content of the temporary card shall be the same as the permanent identification card except as noted below:**

i. Title: "Temporary" to precede heading on card;

ii. Two check-off boxes with the following legend:

999 New Jersey Automobile Insurance Plan on behalf of an insurer to be designated by the plan.

An authorized New Jersey insurer will issue an owner's policy of liability insurance, in accordance with the provisions of the New Jersey Automobile Insurance Plan. If this vehicle is being added to or is replacing a vehicle presently insured in the plan, the name of the existing insurance company and policy number must be set forth as indicated below.

Next to second check-off box, space for **the company code number, the name of the insurance company and the policy number** [Company code shall be in accordance with section 2(b) 4. x. of this subchapter];

iii. Effective date: Month, day and year that coverage becomes effective;

iv. Expiration: The [form] card shall contain the following statement: "This card expires 60 days after the effective date shown above". [Notwithstanding such expiration date, temporary identification cards issued to Gateway Insurance Company policyholders shall continue in force pending resolution of insolvency proceedings regarding Gateway Insurance Company or until the policy has been effectively cancelled.]

11:3-6.4 General provisions

(a) The order of the information to be contained on the identification cards may be rearranged in order to accommodate fixed printout systems already established by a company. No drastic changes shall be made without obtaining approval of the New Jersey Division of Motor Vehicles.

(b) Additional information may be printed on the reverse side of the identification cards, provided the additional information is appropriately captioned, and does not interfere or detract from the information required as per the attached samples.

(c) One permanent identification card shall be issued for each vehicle insured under the policy. The temporary identification card shall be issued in duplicate. The insured will be required to surrender one copy of the temporary identification card at time of vehicle inspection. This copy will be used in insurance verification procedures. Replacement identification card or cards will be issued at the request of insured in the event of loss of same.

(d) Each identification card shall be effective for no more than one year from the effective date indicated on its face. A replacement identification card shall be issued to all insureds each year upon renewal of the policy. A replacement identification card must be issued upon either a change of vehicle or the acquisition of an additional vehicle. Upon assignment of a new policy number, a new card must also be issued.

(e) [It is contemplated that to inaugurate this program, insurance companies will floodmail identification cards to their insureds prior to November 15, 1972. As this program is new, a letter of transmittal should be included. The letter should explain the basic requirements. The insured must be informed that the identification card must be carried in the vehicle at all times. It should be emphasized that he will need the card when his vehicle is presented for inspection. When he is involved in an auto accident; when stopped for a moving violation or a road spot check. Insurance companies may include other information they deem pertinent.] Identification cards will not be required for trailers as the liability burden is on the towing or power unit.

(f) The insurance company shall, prior to the expiration of a 60-day temporary identification card, issue to the insured a permanent identification card.

(g) New Jersey law authorizes the Director of Motor Vehicles, after consultations with the Commissioner of Insurance, to promulgate rules concerning notice by insurers of termination of insurance. All terminations of insurance shall be forwarded to the Director of Motor Vehicles pursuant to N.J.S.A. 39:3-4.

11:3-6.5 Commercial motor vehicles; exemption

Commercial motor vehicles regulated by the Interstate Commerce Commission or the New Jersey Department of Public Utility Commissioners shall be exempted from this regulation.

NOTE: To require an I.C.C. or P.U.C. carrier to carry such an identification card would be an unnecessary duplication. The insurance and filing requirements of the I.C.C. and the P.U.C. present a comparable safeguard to that sought by the newly required identification insurance cards.

LAW AND PUBLIC SAFETY**(a)****DIVISION OF ALCOHOLIC BEVERAGE CONTROL****Marketing and Advertising
Regulation of Display Services and Advertising Promoters****Proposed New Rule: N.J.A.C. 13:2-24.12**

Authorized By: John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control.

Authority: N.J.S.A. 33:1-3, 1-23, 1-35, 1-39.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

John F. Vassallo, Jr., Director
Division of Alcoholic Beverage Control
Richard J. Hughes Justice Complex
CN 087
Trenton, NJ 08625

The Director, Division of Alcoholic Beverage Control 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 1983-605.

The agency proposal follows:

Summary

The Director of the Division of Alcoholic Beverage Control has, through legislative provisions, the authority to license and regulate the manufacture, sale and distribution of alcoholic beverages in the State of New Jersey. There is no specific regulatory control at the present time over advertising promoters or display service operators who deal directly with retail licensees or who promote supplier or wholesale licensees' interests in several different ways. For example, advertising cooperatives have been formed in conjunction with joint advertising that is permitted pursuant to N.J.A.C. 13:2-24.10(a)7, and such cooperatives are promoted and handled by non-licensees upon payment of fees by such licensees. To what extent these non-licensees control the incidents of ownership and operation of retail licensed business is now only ascertainable through extensive and time consuming Division investigations. A recent investigation of this nature resulted in disciplinary proceedings and findings of guilt to various statutory violations in consequence of the control the advertising promoter exercised over retail licensees. The registration, recordkeeping and reporting requirements of the proposed new rule will enable the Division to more efficiently and expeditiously control this recently introduced practice that is a by-product of "deregulation."

Another area of concern is a service which is retained by an alcoholic beverage manufacturer or supplier to place an in-store display in a retail licensed premises. Lately, several display companies have been formed to perform this function and the Division has reason to believe that such display companies have indirect, if not direct, relationships with alcoholic beverage wholesale licensees or retail licensees.

The "tied-house" statute, N.J.S.A. 33:1-43, prohibits any person having any interest in the manufacturing or wholesaling of alcoholic

beverages to have any interest, whether direct or indirect, in the retailing of any alcoholic beverages except as otherwise authorized by that section of the statute. N.J.S.A. 33:1-43 specifically provides that no interest in the retailing of alcoholic beverages shall be deemed to exist by reason of the ownership, delivery or loan of interior signs designed for and exclusively used for advertising the product offered for sale by such brewery, winery, distillery or rectifying or blending plant or wholesaler. This exception, however, does not permit the absolute control of such sign placement, other possible discriminatory practices, the exercise of retailer marketing and purchasing decisions or the passage of monies or other things of value in an indirect way, which could happen and therefore requires monitoring. The proposed new regulation, N.J.A.C. 13:2-24.12, will provide a means for the Division to monitor these display services and advertising promoters who deal with New Jersey licensees or registrants. This will allow auditing of records and will give the Division a means to insure compliance with statutes and regulations.

Social Impact

The proposed new rule, N.J.A.C. 13:2-24.12, will afford the Division of Alcoholic Beverage Control a better means of monitoring trade practices and of preventing illegal practices, as well as assuring compliance with statutes and regulations. This will enable the Division to better achieve its goals of promoting temperance and a stable industry, which are basic purposes for the existence of the statute, regulations, and the Division itself.

Economic Impact

There is no significant economic impact envisioned by reason of the adoption of N.J.A.C. 13:2-24.12.

Full text of the proposed new rule follows.

13:2-24.12 Display services and advertising promoters

(a) No licensee, permittee, or registrant privileged to engage in the commerce of alcoholic beverages in this State shall, directly or indirectly, furnish to, provide payment for, receive or accept anything of value from, or otherwise utilize in any manner whatsoever, any display service or advertising promoter unless such service or promoter has registered with the Division in a form prescribed by the Director. Such registration shall include:

1. The name and address of the display service or advertising promoter and all officers, directors, partners, stockholders and/or employees thereof;

2. An affidavit or certification that no person listed in N.J.A.C. 13:2-24.12(a)1 would be disqualified from having an interest in an alcoholic beverage license in this State;

3. Copies of all existing promotion or service agreements with licensees, permittees, registrants, suppliers, importers, manufacturers or cooperatives doing business in the State of New Jersey; and

4. The issuance of a special permit, which shall be renewable on March 1 of each year, upon payment of a fee to be established by the Director.

(b) Every display service or advertising promoter shall file with the Director quarterly reports on or before the 15th of January, April, July and October for the preceding calendar quarter, which reports shall identify the amounts and sources of all monies received from any licensee, permittee, registrant, supplier, importer or manufacturer of alcoholic beverages, or cooperative; indicate the name, address, and license number of all licensees to which services were furnished; and set forth, if applicable, the value of the advertising or display materials furnished to or on behalf of each such licensee. Such reports shall be confidential pursuant to N.J.A.C. 13:2-29.2(a)3.

(c) Every licensee, permittee or registrant privileged to engage in the commerce of alcoholic beverages in this State shall maintain on its licensed premises all written agreements and detailed records of

all transactions with any display service or advertising promoter for a period of three years.

(a)

DIVISION ON CIVIL RIGHTS

Processing of Civil Rights Complaints When Hearings Ordered; Temporary Injunction

Proposed Readoption: N.J.A.C. 13:4-12.1 and 12.3

Authorized By: Division on Civil Rights, Pamela S. Poff, Director.

Authority: N.J.S.A. 10:5-8(g); 10:5-15; 10:5-13; and 10:5-14.1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Pamela S. Poff, Director
Division on Civil Rights
Room 400
1100 Raymond Boulevard
Newark, NJ 07102

The New Jersey Division thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules expire December 14, 1983. The readoption of these rules becomes effective upon acceptance by the Office of Administrative Law of a notice of their readoption.

This proposal is known as PRN 1983-600.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Division on Civil Rights proposes to readopt two regulations contained in subchapter 12 of N.J.A.C. 13:4-1, which is scheduled to expire on December 14, 1983. These regulations are N.J.A.C. 13:4-12.1 concerning when hearings are ordered and N.J.A.C. 13:4-12.3 regarding temporary injunctions.

N.J.A.C. 13:4-12.1 implements two sections of the Law Against Discrimination, N.J.S.A. 10:5-15 which authorizes the Director to order a hearing and N.J.S.A. 10:5-13 concerning an individual's right to sue. N.J.A.C. 13:4-12.1 was recently amended effective September 6, 1983, to include a provision detailing the procedures whereby a complainant may present his/her case to the Office of Administrative Law pursuant to N.J.S.A. 10:5-13.

N.J.A.C. 13:4-12.3 implements the Director's authority to seek injunctive relief in the Superior Court pursuant to N.J.S.A. 10:5-14.1.

These regulations were promulgated to clarify the rights and remedies available during the processing of discrimination complaints. N.J.A.C. 13:4-12.1(a), (b) clearly set forth the statutory authority of the Director to decide when a complaint shall proceed to hearing either before or after an attempt has been made to eliminate the complaint of unlawful discrimination. N.J.A.C. 13:4-12.1(c) explains the right of a complainant to present his/her case to the Office of Administrative Law any time after 180 days from the filing of a Verified Complaint with the Division on Civil Rights. N.J.A.C. 13:4-12.3 details the Director's authority to seek

temporary injunctive relief in the Superior Court where appropriate to prevent the interests of the complainant from being irreparably damaged by the lapse of time before a hearing.

The regulations effectively define the authority of the Director to order hearings and seek injunctive relief where appropriate. Likewise, the regulations clearly explain the rights and options available to a complainant under the Law Against Discrimination. Upon internal review of these regulations, the Division on Civil Rights has found them adequate, reasonable, understandable and necessary for the purpose for which they were promulgated. Therefore, the Division on Civil Rights is seeking to preserve the benefits to the public by readopting the regulations in their present form.

The Division on Civil Rights intends to permit the remaining six regulations contained within subchapter 12 of N.J.A.C. 13:4 to expire on December 14, 1983. These regulations, specifically N.J.A.C. 13:14-12.2, 12.4, 12.5, 12.6, 12.7 and 12.8, set forth the procedural rules defining the conduct of cases heard by hearing examiners on behalf of the Division on Civil Rights. Pursuant to N.J.S.A. 52:14F-1 et seq., the duties of hearing examiners have been transferred to the Office of Administrative Law eliminating hearing examiners and the need for regulations defining proceedings before these hearing officers.

Social Impact

The regulations as initially adopted contribute to the public's awareness of the processing of civil rights complaints as well as the rights and remedies available under the Law Against Discrimination. The proposed readoption will continue to advise the public of the nature of civil rights proceedings and therefore will have no new or additional social impact on the adjudication of civil rights complaints because parties are required to observe and obey procedures as proscribed by law.

Economic Impact

The regulations as promulgated implement the duties of the Division and the rights of civil rights complainants as set forth in the Law Against Discrimination. Therefore the regulations have no additional economic impact on the State or on complainants. The proposed readoption of the regulations is not foreseen to have any significant economic impact on affected parties.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:4-12.1 and 12.3, as amended in the New Jersey Register.

(a)

DIVISION OF MOTOR VEHICLES

Enforcement Service Alcohol Countermeasures

Proposed Readoption with Amendments: N.J.A.C. 13:20-31

Authorized By: Clifford W. Snedeker, Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:3-10, 39:3-11, 39:4-50(d), 39:4-50.4 and 39:5-30.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford W. Snedeker, Director
Division of Motor Vehicles
25 South Montgomery Street
Trenton, NJ 08666

The Division of Motor Vehicles thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules expire January 5, 1984. The readoption of these rules becomes effective upon acceptance by the Office of Administrative Law of a notice of their readoption. The amendments become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1983-603.

The agency proposal follows:

Summary

In accordance with Executive Order No. 66(1978), the Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:20-31.1 through 13:20-31.6 concerning countermeasures taken by the Division to improve the driving behavior and attitude of drivers who have incurred alcohol-related violations. The rules implement the provisions of the Motor Vehicle and Traffic Law pertaining to driver licensing and suspension (N.J.S.A. 39:3-10 and 39:5-30) by providing a means by which the Division of Motor Vehicles may determine whether a driver who has incurred an alcohol related violation is a proper person to maintain his driving privileges.

The rules provide that the Bureau of Alcohol Countermeasures may schedule drivers who have been convicted of driving while under the influence of intoxicating liquor to attend an interview and test or group evaluation at an Alcohol Countermeasures Clinic to determine the extent of said drivers' alcohol-related problem. On the basis of the test and interview, the Clinic may refer a driver to an appropriate treatment or rehabilitation program or to the Alcohol Safety Institute for educational programs concerning alcohol and its effect on operating a motor vehicle. A driver who fails to appear at the Alcohol Countermeasures Clinic or the Alcohol Safety Institute or who fails to comply with a treatment or rehabilitation program may have his/her driving privileges suspended.

The Bureau of Alcohol Countermeasures is authorized to receive referrals from courts, health agencies, social service agencies and Divisional hearings which have determined that a person has an alcohol-related problem which may affect safe driving.

The Bureau of Alcohol Countermeasures may recommend the full or conditional restoration of driving privileges upon termination of a court-imposed suspension. Conditional restorations are with the explicit understanding that the driver's failure to continue recommended rehabilitation programs prescribed by the Bureau of Alcohol Countermeasures will be cause for the suspension of driving privileges. Conditions may not be imposed for more than one year from the date the driver was referred to a rehabilitation program. Portions of N.J.A.C. 13:20-31.4 and 13:20-31.5 have been deleted in view of 42 C.F.R. section 2.1 et seq. (Confidentiality Regulations).

The Division has reviewed the rules in accordance with Executive Order No. 66(1978) and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which they were promulgated."

Social Impact

The rules proposed for readoption have a beneficial social impact for licensees who participate in the program and the general public in that they promote highway safety. The rules provide a means for determining whether a driver who has incurred an alcohol-related violation has an alcohol problem which adversely affects his ability to operate motor vehicles safely.

Economic Impact

There is an economic impact on the State in funding the

operations of the Division's Bureau of Alcohol Countermeasures. The economic impact is partially defrayed by the statutory fee of \$40.00 which is imposed on drivers who are required to attend an alcohol education or rehabilitation program.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:20-31, as amended in the New Jersey Register.

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

13:20-31.4 Other actions authorized

(a) The Bureau of Alcohol Countermeasures is authorized to receive referrals from courts, highway safety agencies, law enforcement agencies, health agencies or social service agencies. [If the nature of the information is deemed sufficient, the Bureau of Alcohol Countermeasures may recommend the proposed suspension of the individual's driving privileges in accordance with N.J.S.A. 39:5-30.] The Bureau of Alcohol Countermeasures may schedule an interview with the individual at an appropriate alcohol countermeasures component for investigation and appropriate action as authorized under section 3(c) (Action subsequent to convictions for N.J.S.A. 39:4-50) of this subchapter. Failure to appear at a component appointment may result in suspension of New Jersey driving privileges.

(b) The Bureau of Alcohol Countermeasures is authorized to receive referrals from any Divisional hearing or investigation in which it is determined that alcohol may have been involved in the operation of a motor vehicle, independent of court findings reported to the Division as a result of court action under N.J.S.A. 39:4-50.

(c) The Bureau of Alcohol Countermeasures may refer a licensee who has previously participated in an alcohol countermeasures program of education or rehabilitation directly to a treatment or rehabilitation program.

13:20-31.5 License actions authorized

(a) The Bureau of Alcohol Countermeasures may recommend to the Driver Improvement Bureau of the Division of Motor Vehicles the following types of license actions:

- [1. Suspension of New Jersey driving privileges upon termination of a court-imposed suspension.]
- [2.] 1. Full restoration of New Jersey driving privileges upon termination of a court-imposed suspension.
- [3.] 2. Imposition of conditions in order to retain driving privileges.
- [4. Suspension of a driver's license independent of court action.]

(b) When any activity against a motorist's license is recommended by the Bureau of Alcohol Countermeasures, the Driver Improvement Bureau will afford the individual all the rights guaranteed to him under the applicable State law and the Division's regulation on Administrative hearings.

(a)

DIVISION OF CONSUMER AFFAIRS

Representations Concerning and Requirements for the Sale of Kosher Food

Proposed New Rules: N.J.A.C. 13:45A-21

Authorized By: Irwin I. Kimmelman, Attorney General of New Jersey.
 Authority: N.J.S.A. 56:8-4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

James J. Barry, Jr., Director
 Division of Consumer Affairs
 Room 504
 1100 Raymond Boulevard
 Newark, NJ 07102

The Division of Consumer 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 1983-604.

The agency proposal follows:

Summary

The proposed new rules make it unlawful for any establishment engaged in the sale of food or food products to sell, offer for sale or possess with intent to sell, any food which is falsely represented as Kosher or Kosher for Passover. The rule also makes it unlawful to sell both Kosher and Non-Kosher foods unless certain signs or notices are displayed. In addition, if both Kosher and Non-Kosher foods are displayed in any display cabinet, signs describing the foods as "Kosher ..." and "Non-Kosher ..." must be posted over the foods. The rules further set forth certain requirements regarding the methods by which Kosher food or food products must be kept, prepared for sale and sold.

The proposed new rules were originally published in the New Jersey Register, October 8, 1981, and are now published in revised form as a result of comments received thereafter.

Social Impact

The preparation of Kosher foods involves certain slaughtering and sanitary procedures and often results in a more expensive food product. These rules makes it illegal to falsely represent foods as Kosher or Kosher for Passover and thus will protect the consumer who, for reasons of religion, conscience, quality or health, intends to purchase Kosher foods. In addition, whenever both Kosher and Non-Kosher foods are sold or displayed by an establishment, a notice to that effect is required, thereby providing the consumer with full disclosure of the type of foods offered within.

Economic Impact

The proposed new rules create the limited economic impact of having to post signs and maintain separate display cabinets, slicing machines or knives whenever both Kosher and Non-Kosher food or food products are sold or displayed. This impact is minimal when contrasted with the benefits of full disclosure and the ensured integrity of Kosher food or food products.

Full text of the proposed new rules follow.

SUBCHAPTER 21. REPRESENTATIONS CONCERNING AND REQUIREMENTS FOR SALE OF KOSHER FOOD

13:45A-21.1 Definitions

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

"Kosher" means a food or food product which is prepared and maintained in strict compliance with the laws and customs of the Orthodox Jewish religion.

"Kosher for Passover" means a Kosher food or food product which is prepared and maintained in strict compliance with the laws and customs relating to the Jewish holiday of Passover.

"Non-packaged Kosher food or food product" shall mean a Kosher food or food product which shall be kept in a separate display cabinet and sliced with a separate knife or on a separate slicing machine used solely for Kosher food or food products.

"Kosher-Style," "Kosher-Type," "Jewish" or other similar words shall mean a Non-Kosher food or food product which has not been prepared or maintained in strict compliance with the laws and customs which are generally recognized as being among the Orthodox Jewish religious requirements, but rather has either been prepared in such a way as to simulate the taste, appearance and/or consistency of a Kosher food or food product or has originally been prepared in accordance with the above religious requirements but has not been maintained in the proper manner.

13:45A-21.2 Unlawful practices

(a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., it shall be unlawful thereunder for any person to engage in any of the following practices:

1. Sell, offer for sale, expose for sale or have in his possession with intent to sell, in any restaurant, hotel, store or other place where food or food products are sold, any food or food product which is falsely represented to be Kosher, Kosher for Passover or as having been prepared under, and/or with a product or products sanctioned by, the Orthodox religious requirements, by any of the following means:

- i. By direct statements, orally or in writing; or
- ii. By display of the word "Kosher" in English or Hebrew letters, or by display of any sign, emblem, insignia, six-pointed star, symbol or mark in simulation of the word Kosher; or
- iii. By inscription on any food or food product, or its package, container or contents, the word "Kosher" in English or Hebrew letters, or by display of any sign, emblem, insignia, six-pointed star, symbol or mark in simulation of the word Kosher; or
- iv. By display on any menu or otherwise, or by inscription on any food or food product or its package, container or contents, the words "Kosher-Style," "Kosher-Type," "Jewish" or other similar words, either alone or in conjunction with the word "Type," "Style" or other similar expression, unless the word "Non-Kosher" is conspicuously displayed or inscribed thereon or thereat.

2. Sell, offer for sale, expose for sale or have in his possession with intent to sell, in any restaurant, hotel, store or other place where food or food products are sold, such Non-Kosher products, either raw or prepared for human consumption, unless there is affixed to any display cabinet wherein Kosher and Non-Kosher food or food products are co-mingled a sign in block letters at least four inches in height indicating KOSHER AND NON-KOSHER FOODS are contained therein; provided, however, that should any display cabinet contain only Kosher food or food products there shall be a sign in block letters at least four inches in height affixed to said cabinet indicating that only KOSHER FOOD is contained therein.

13:45A-21.3 Display requirements

(a) Kosher food or food products which are contained in hermetically sealed packages may be co-mingled with Non-Kosher food or food products which are contained in hermetically sealed packages.

(b) Kosher food or food products which are not contained in hermetically sealed packages shall be kept in a separate display cabinet which shall not contain any Non-Kosher food or food product which is not contained in a hermetically sealed package. Such Kosher food or food products shall be sliced with a separate knife or on a separate slicing machine used solely for Kosher food or food products. Under no circumstances may Non-Kosher foods or food products be co-mingled with non-hermetically sealed Kosher food or food products.

13:45A-21.4 Exterior sign requirements

(a) Any restaurant, hotel, store or other place where both Kosher and Non-Kosher food or food products are sold shall display in a prominent place in its front window the following signs which shall be printed in block letters at least four inches in height.

1. "KOSHER AND NON-KOSHER FOOD PRODUCTS SOLD HERE";

2. "Kosher food or food products may be identified by the presence of the 'K' and/or '(U)' symbols; and

3. "The terms 'Kosher-Style,' 'Kosher-Type,' 'Jewish' or other similar words do not represent that a food or food product is Kosher."

(b) The restaurant, hotel, store or other place where both Kosher and Non-Kosher food or food products are sold shall have the option of displaying the required information in either three signs or one all-inclusive sign.

13:45A-21.5 Presumptions

Possession of any Non-Kosher food or food product in any restaurant, hotel, store or other place where food or food products are sold which holds itself out as only selling Kosher food or food products, is presumptive evidence that the person is in possession of such food or food product with the intent to sell the same.

13:45A-21.6 Exculpatory section

A restaurant, hotel, store or other place where food or food products are sold shall have no liability under N.J.A.C. 13:45A-18.2 and 18.3 if it can be shown by a preponderance of the evidence that it relied in good faith upon the representations of a slaughterhouse, manufacturer, processor, packer or distributor of any food or food product represented to be Kosher, Kosher for Passover or as having been prepared under or sanctioned by Orthodox Jewish religious requirements.

(a)

OFFICE OF WEIGHTS AND MEASURES

General Weighing and Measuring Devices

Proposed Readoption with Amendments: N.J.A.C. 13:47B

Authorized By: Thomas W. Kelly, State Superintendent,
Office of Weights and Measures
Authority: N.J.S.A. 51:1-61.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Thomas W. Kelly, Superintendent
New Jersey Office of Weights and Measures
187 West Hanover Street
Trenton, NJ 08625

The Office of Weights and Measures thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on January 10, 1984. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The amendments become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-587.

The agency proposal follows:

Summary

In accordance with the provisions of Executive Directive No. 83-1, the State Superintendent of the Office of Weights and Measures pursuant to the general authority of N.J.S.A. 51:1-61 proposes to readopt, or amend, as the case may be, the rules governing the use of commercial weighing and measuring devices, to wit;

N.J.A.C. 13:47B-1.1 to provide for adequate testing apparatus and procedures by retail gasoline dealers,

N.J.A.C. 13:47B-1.2 to ban the use of counter tacks as legal devices of linear measures,

N.J.A.C. 13:47B-1.4 to clarify the language of the present rule and provide for metric sizes for liquid measure containers,

N.J.A.C. 13:47B-1.5 to continue to provide for approval as to construction and type for commercial weighing and measuring devices,

N.J.A.C. 13:47B-1.6 to insure that consumers can view weighing devices and procedures at time of sale,

N.J.A.C. 13:47B-1.8 to repeal this section because hand-operated gasoline pumps are no longer a viable machine for dispensing motor fuels,

N.J.A.C. 13:47B-1.9 to provide for limited usage of portable self-contained vehicle scales,

N.J.A.C. 13:47B-1.10 to outlaw the use of household scales for commercial weighing purposes,

N.J.A.C. 13:47B-1.12 to allow the use of wagon scales to be used for commercial weighing under limited conditions,

N.J.A.C. 13:47B-1.14 to limit the use of uncompensated spring scales to the sale of fruits and vegetables and provide for suitable use limitation marking on these weighing devices,

N.J.A.C. 13:47B-1.16 to provide that official inspection certificates are retained by the merchant as proof of official inspection and test of commercial weighing and measuring devices,

N.J.A.C. 13:47B-1.17 to limit the maximum height for hanging type spring scales,

N.J.A.C. 13:47B-1.18 to repeal this rule because it duplicates amended 13:47B-1.14,

N.J.A.C. 13:47B-1.19 is amended to control the alteration of commercial gasoline dispensers and to provide for notification of any such alteration to Weights and Measures Officers,

N.J.A.C. 13:47B-1.20 to continue to provide that National Bureau of Standards Handbook H-44 will continue to be the official specifications, tolerances and technical requirements for commercial weighing and measuring devices in the State of New Jersey,

N.J.A.C. 13:47B-1.22 to provide a uniform manner in which approaches for vehicle scales will be constructed to maintain the accuracy of such scales and to provide exemptions from the rule for law enforcement use under certain conditions and provisions,

N.J.A.C. 13:47B-1.23 to repeal the rule allowing half price sales of gasoline because the industry has had ample time to convert commercial gasoline pumps to full value computation.

Subchapter 3 to provide penalties for non-compliance to these rules and regulations, and,

Subchapter 4 to provide the necessary basic training for newly appointed Weights and Measures Officers.

The Office of Weights and Measures has reviewed these rules internally and found them to be adequate, reasonable and necessary.

Social Impact

Regulations governing the use of commercial weighing and measuring devices have been continuously promulgated since 1911. This latest review and revision of those rules and regulations will continue the uninterrupted control of these devices to protect both the buyer and seller in commercial transactions.

Economic Impact

There should be no additional costs to the regulatory agencies because the rules are basically unchanged in scope. The merchant

will face little or no added costs for the same reason. The consuming public will continue to be protected in their multi-billion dollar purchases of foodstuffs, fuels, clothing, pharmaceuticals and construction materials.

Full text of the proposed re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:47B, as amended in the New Jersey Register.

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

13:47B-1.4 Liquid measure containers

[(a) All containers such as cartons, pails, boxes and similar containers composed of cardboard, paper or other similar materials, of every type and description whatsoever, used in the State of New Jersey for the sale of ice cream, ices or kindred frozen products, or for liquid or semi-liquid commodities customarily sold or offered for sale by liquid measure, shall be of legal standard capacities of one gallon, a multiple of the gallon or a binary submultiple of the gallon; that is, a measure obtained by dividing the gallon by the number two or by a power of the number two; provided, however, that nothing in the Section shall be construed to prevent the use of containers for ice cream exclusively, in five pint or three pint sizes.

(b) Containers of the following standard capacities only may, therefore, be employed: one gallon, 2 1/2 quarts, two quarts, 1 1/2 quarts, one quart, one pint, 1/2 pint and one gill. All containers shall have conspicuously stamped, printed or indelibly expressed on the outside thereof the capacity in terms of liquid measure only, together with the name and address of the manufacturer.]

(a) All nonrigid measure containers will be of the capacity, metric or customary, shape and marked as specified in the National Bureau of Standards Handbook 44, 1983 Edition, Section 4.45.

(b) Measure containers employed for the sale of ice cream and frozen desserts shall be as specified in N.J.S.A. 51:1-31.1, et seq.

(c) All measure containers shall have conspicuously stamped, printed or indelibly expressed on the outside the capacity thereof together with the name and address of the manufacturer of said measure container.

13:47B-1.8 [Obsolete gasoline pumps](Reserved)

[(a) All hand-operated piston-type gasoline dispensing pumps shall be considered obsolete in the State of New Jersey.

(b) Such pumps already on installation may remain in service provided they can be maintained in accuracy.

(c) Such pumps removed for any cause whatsoever, shall not be reinstalled on their original location nor at any other location, nor shall any new pumps of the obsolete type referred to be installed on any new or old location in this State.]

13:47B-1.14 Uncompensated spring scales

(a) Spring scales not equipped with a device intended to compensate for changes in the elasticity of the springs due to temperature effects or not so designed as to be substantially independent of such changes shall not be used in the retail sale of foodstuffs other than fruits and vegetables.

**(b) The following legend shall be plainly, conspicuously and permanently marked on all uncompensated spring scales in commercial service:
"LEGAL FOR FRUITS AND VEGETABLES - ILLEGAL FOR OTHER FOODS."**

[(b)] (c) The provisions of this section shall be nonretroactive.

13:47B-1.18 [Scale legend](Reserved)

[(a) The following legend shall be plainly, conspicuously and permanently marked on all uncompensated spring scales in commercial service:

“LEGAL FOR FRUITS AND VEGETABLES – ILLEGAL FOR OTHER FOODS.”

(b) The provisions of this section shall be nonretroactive.]

13:47B-1.19 Alteration gasoline dispensers

(a) Upon the conversion of any gasoline dispensing device, altering or changing its basic design, the official State approval as granted the original manufacturer, pursuant to N.J.S.A. 51:1-93 will be rescinded for the device so converted, altered or changed, and the responsibility for the converted unit and multiples thereof will then repose in the converter.

[(b) The various models and makes of gasoline dispensing devices when converted, altered or changed in their basic design shall be subject to State approval requirements and procedures as provided in the N.J.S.A. 51:1-93 and shall be submitted to the State Superintendent of Weights and Measures for approval as to type, construction and operation. No converted gasoline dispensing device shall be legal or approved for commercial service that has not undergone such procedures.

(c) Positive identification markings as to model numbers designated by the original manufacturers will be permitted to be retained on altered devices, with the provision that the converter shall apply to each and every converted gasoline dispensing unit the word “converted” together with the name and location of the converter in a conspicuous and permanent manner, by an affixed plate or by other means on the device.

(d) Replacement of any mechanical elements within a converted, rebuilt or reconditioned device shall be with parts identical to those provided by the manufacturer in the original construction of the device.]

[(e)] (b) Notifications to weights and measures officers of the installation of altered gasoline dispensing devices pursuant to N.J.S.A. 51:1-93 shall be so worded as to clearly indicate that the device or devices have been converted.

13:47B-1.20 National Bureau of Standards Handbook 44

All specifications, tolerances and regulations for weighing and measuring devices as contained in National Bureau of Standards Handbook H-44, [Fourth] 1983 Edition together with all amendments and supplements thereto adopted by the [Sixty-third] National Conference on Weights and Measures are hereby adopted and promulgated as the legal requirements for all weighing and measuring devices used for commercial purposes and law enforcement in the State of New Jersey; provided, however, that the Superintendent of the Office of Weights and Measures of the Department of Law and Public Safety may from time to time further amend or supplement said specifications, tolerances and regulations for the purpose of conforming to the needs of any situation affecting the interests of the State and its people.

13:47B-1.22 Approaches for vehicles scales

At each end of a vehicle scale there should be a straight approach in the same plane as the platform for a distance equal to at least the length of the scale platform or 40 feet, whichever is less; provided, however, that where a scale location does not lend itself to approaches of the stipulated lengths, this requirement may be waived by the State [Division] Office of Weights and Measures of the Department of Law and Public Safety, and the scale considered as a legal weighing device when its accuracy is established upon test by a weights and measures officer; and provided further, that any such scale used by law enforcement officers for the weighing of vehicles in the enforcement of the Motor Vehicle Traffic Act of New Jersey shall be exempt from the provisions of this section and shall be deemed legal for regulatory weighings when the scale and its approaches are approved and recommended for such service by said [Division] Office of Weights and Measures.

13:47B-1.23 [Half price sales of gasoline](Reserved)

[(a) The following words or terms shall have the meaning set forth unless otherwise indicated by the text.

1. “Retail dealer” shall mean any person operating a service station, filling station, store, garage or other place of business for the sale of motor fuel for delivery into the service tank or tanks of any vehicle propelled by an internal combustion engine.

(b) Upon proper application made to the State Superintendent or a County or Municipal Superintendent of Weights and Measures by a retail dealer, said superintendent shall issue an exemption from the provisions of N.J.A.C. 13:47B-1.20 insofar as said regulation incorporates Section s.1.4.4. of the National Bureau of Standards Guidelines. Said exemption shall permit a retail dealer to sell gasoline through metering devices on the terms and conditions hereinafter set forth.

(c) A state Superintendent or a County or Municipal Superintendent of Weights and Measures shall grant an exemption to a retail dealer for a period of one year where the application therefore sets forth:

1. The maximum allowable retail price to be charged for each type or grade of gasoline to be sold to the public as established by applicable Federal regulation. A State Superintendent or a County or Municipal Superintendent of Weights and Measures shall issue the exemption only in those cases where the application demonstrates a maximum allowable retail price of \$1.00 per gallon or greater.

2. A certification by the retail dealer that his current metering devices are incapable of registering per gallon retail prices including all applicable taxes of greater than 99.9 cents per gallon including all applicable taxes.

3. A certificate by the retail dealer that new or substitute metering devices to meet the needs of the retail dealer have been ordered for purchase, or will, within a period of two years following the date of issuance of initial exemption, have in use metering devices that will permit full value computation.

(d) Upon securing an exemption as authorized herein, a retail dealer may sell and deliver gasoline through previously authorized metering devices by conspicuously displaying the term “X2” by sign, tag or sticker following the total price window and cost per gallon window on the pump or metering device provided, however, no such pricing shall be implemented by a retail dealer where the price per gallon of gasoline is less than \$1.00. Such sign, tag or sticker shall be no smaller than the size of the numbers shown in the windows showing price per gallon and total price.

(e) A retail dealer securing the exemption authorized herein shall continue to comply with the provisions of N.J.S.A. 56:6-2 requiring the posting of a sign stating the total price per gallon of motor fuel from such pump or dispensing device.]

SUBCHAPTER 3. PENALTIES

13:47B-3.1 Penalties

[(a)] Any violation of or noncompliance with any of the provisions of this chapter shall subject the violator to a [fine] **penalty** [of not less than \$25.00,] as [authorized] **prescribed** by the provisions of N.J.S.A. 51:1-89.

[(b) Any violation of or noncompliance with any of the provisions of subchapter 2 (Farm milk tanks) of this chapter shall subject the violator to a maximum fine of \$50.00 only, as authorized by N.J.S.A. 51:1-93. The minimum fine of \$25.00 set forth in subsection (a) of this section is likewise applicable to subchapter 2.]

(a)

NEW JERSEY RACING COMMISSION

Horse Racing

Ownership Approval; Listing of Shareholders

Proposed Amendments: N.J.A.C. 13:70-3.5 and 3.6

Authorized By: New Jersey Racing Commission, Harold G. Handel, Executive Director.

Authority: N.J.S.A. 5:5-30, L.1983, c.254.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Bruce H. Garland, Deputy Director
New Jersey Racing Commission
Justice Complex
CN 088
Trenton, NJ 08625

The New Jersey Racing 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 1983-602.

The agency proposal follows:

Summary

The proposed amendments would limit the need for approval by the New Jersey Racing Commission to persons with a five percent or greater ownership interest in any association or corporation which has been granted a permit to conduct a horse race. The proposed amendments will also conform the regulations to recently enacted legislation (see L. 1983, c.254).

Social Impact

It is anticipated that the proposed amendments will have a positive social impact by making it easier to purchase or transfer small quantities of stock, since only meaningful stock purchases or transfers (those above five percent) will be investigated.

Economic Impact

Limiting the need for approval by the New Jersey Racing Commission to persons with a five percent or greater ownership interest will facilitate the purchase and transfer of stock or certificates which will have a positive economic impact upon the investing public.

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

13:70-3.5 Ownership approval

No person shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership [of any] **comprising a five percent or greater** interest in any association or corporation which has been or shall be granted a permit to hold or conduct a horse race meeting without first obtaining the approval of the New Jersey Racing Commission pursuant to these rules and regulations. **For purposes of this section "person" shall be construed to include the spouse and/or children of any such applicant and compliance with this section shall be required of all such persons holding any interest whatsoever whenever the total interest held by such persons as**

an aggregate exceeds the five percent requirement. Failure to comply with this regulation shall subject the applicant to disqualification and the permit holder to the penalties and sanctions provided by law.

13:70-3.6 [Approval; prior and present owners] **Annual listing of shareholders**

[Such approval must be obtained by all persons whether or not they have previously or presently possess such ownership, or intend to own such interest for the first time.]

Racing associations shall file on an annual basis with the Commission a list of all persons possessing directly or indirectly any shares of stock or certificates or other evidence of ownership of any interest in any association or corporation. Said filing shall take place prior to June 1 of each calendar year.

(b)

NEW JERSEY RACING COMMISSION

Harness Racing
Associations

Proposed New Rules: N.J.A.C. 13:71-6.25, 6.26, 6.27, 6.28, 6.29 and 6.30

Authorized By: New Jersey Racing Commission, Harold G. Handel, Executive Director.

Authority: N.J.S.A. 5:5-30.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Bruce H. Garland, Deputy Director
New Jersey Racing Commission
Justice Complex
CN 088
Trenton, NJ 08625

The New Jersey Racing 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 1983-601.

The agency proposal follows:

Summary

The proposed amendments would limit the need for approval by the New Jersey Racing Commission to persons with a five percent or greater ownership interest in any association or corporation which has been granted a permit to conduct a horse race. The proposed amendments will also conform the regulations to recently enacted legislation (see L. 1983, c.254).

Social Impact

It is anticipated that the proposed amendments will have a positive social impact by making it easier to purchase or transfer small quantities of stock, since only meaningful stock purchases or transfers (those above five percent) will be investigated.

Economic Impact

Limiting the need for approval by the New Jersey Racing Commission to persons with a five percent or greater ownership interest will facilitate the purchase and transfer of stock or certificates which will have a positive economic impact upon the investing public.

Full text of the proposed new rules follow.

13:71-6.25 Ownership approval

No person shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership comprising a five percent or greater interest in any association or corporation which has been or shall be granted a permit to hold or conduct a horse race meeting without first obtaining the approval of the New Jersey Racing Commission pursuant to these rules and regulations. For purposes of this section "person" shall be construed to include the spouse and/or children of any such applicant and compliance with this section shall be required of all such persons holding any interest whatsoever whenever the total interest held by such persons as an aggregate exceeds the five percent requirement. Failure to comply with this regulation shall subject the applicant to disqualification and the permit holder to the penalties and sanctions provided by law.

13:71-6.26 Annual listing of shareholders

Racing associations shall file on an annual basis with the commission a list of all persons possessing directly or indirectly any shares of stock or certificates or other evidence of ownership of any interest in any association or corporation. Said filing shall take place prior to June 1 of each calendar year.

13:71-6.27 Application forms; approval

Approval may only be given to such persons who make application therefor on the form prescribed by the New Jersey Racing Commission and only when such application is filed with the Director of the Racing Commission properly completed and executed in all respects.

13:71-6.28 Investigation

The commission may investigate the applicant or any person named in the application, with respect to such person's criminal record, subversive activities record and any other reports concerning such persons, in order to determine whether the applicant or a person for whom ownership is directly or beneficially to be held has not been convicted of a crime of moral turpitude, has not violated any rules and regulations previously or presently prescribed by the New Jersey Racing Commission, and who possesses sufficient moral responsibility so as not to be detrimental to the best interests of racing in New Jersey.

13:71-6.29 Review of application approval

Applications may be approved, after due consideration by the Executive Director of the Racing Commission to whom such power is delegated, but the New Jersey Racing Commission may, in its discretion, review any such findings made by the Executive Director to determine whether any applicant merits approval.

13:71-6.30 Application denials; notice

When an applicant, after due consideration, cannot be approved for reasons expressed in N.J.S.A. 5:5-22 et seq., as amended and supplemented, or if, in the opinion of the New Jersey Racing Commission, approval of such person will be detrimental to the best interests of racing in New Jersey, or if an applicant will hold ownership for another whose interest is beneficial, indirect or otherwise and the indirect or beneficial owner could not qualify to hold direct ownership for reasons expressed herein, the commission may disapprove such applicant by notifying **by registered mail** the Secretary of the association or corporation licensed to conduct a horse race meeting. Such disapproved person may request, and the commission shall hold, a hearing which request and hearing shall be made and had as provided for in N.J.S.A. 5:5-22 et seq.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route 179

Proposed Amendment: N.J.A.C. 16:28A-1.53

Authorized By: John P. Sheridan Jr., Commissioner,
Department of Transportation.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and
39:4-139.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

The Department of Transportation 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 1983-592.

The agency proposal follows:

Summary

The proposed amendment will establish "no parking" zones along Route 179 in East Amwell Township, Hunterdon County for the efficient flow of traffic and the enhancement of public safety.

Based upon requests from local officials, the Department's Bureau of Traffic Engineering conducted traffic studies in the area. The engineering studies and data obtained indicated that the installation of signs restricting parking and establishing "no parking" zones would facilitate traffic flow in the area.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.53 regarding "no parking" zones along Route 179 in East Amwell Township, Hunterdon County in compliance with the request from local officials, and to make nonsubstantive language changes.

Social Impact

The proposed amendment will establish "no parking" zones along Route 179 in East Amwell Township for the safe and efficient flow of traffic and the enhancement of public safety in the areas designated and the interest of mass transit. Appropriate signs will be erected advising the motoring public.

Economic Impact

The Department and local authorities will incur direct and indirect costs for personnel for mileage and equipment requirements. There will be no economic impact on any businesses within the areas where parking is being restricted. However, fines will be levied for the motoring public in violation of the law. Local authorities will be responsible for the placement of signs establishing "no parking" zones.

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

16:28A-1.53 Route 179

(a) The certain parts of State [H] highway Route 179 described [herein below] in this section shall be[, and hereby are] designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No Stopping or standing in East Amwell Township,[:] **Hunterdon County:**

i.-ii. (No change.)

iii. **Along the northbound side from the southerly curb line of Wertsville Road to a point 100 feet southerly therefrom.**

2. (No change.)

(b) The certain parts of State [H] highway Route 179 (Bridge Street) in Lambertville described [herein below] in this section shall be[, and hereby are] designated and established as "no parking" zones for cleaning purposes during certain designated days and hours except as provided in N.J.S.A. 39:4-199.

1.-2. (No change.)

(a)

CONSTRUCTION AND MAINTENANCE UNIT

Contract Administration Distribution and Sale of Construction Plans and Supplementary Specifications

Proposed Amendment: N.J.A.C. 16:44-3.2 (Recodified from 16:65-3.2)

Authorized By: John P. Sheridan Jr., Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1, 14A:1 et seq., and 14:15-2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

The Department of Transportation 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 1983-596.

The agency proposal follows:

Summary

The proposed amendment will require purchasers (other than over the counter customers) to accept delivery of plans and specifications on a cash on delivery (C.O.D.) basis and submit the proper remittance for each sheet.

Based upon a request from the Chief, Bureau of Contract Administration, the Department's Bureau of Administrative Systems conducted a survey to determine the most efficient and cost effective method of operations. The survey included the review and analysis of processing forms, mailing procedures and operating costs directly related to distributing Plans and Specifications.

The Bureau of Administrative Systems developed and tested

proposed forms, performed a sample survey of the mailing procedure and prepared flowcharts of the present distribution system. As a result of this test several forms were revised and consolidated and the distribution system was revised realizing substantial savings in time and man-hours.

The Department therefore proposes to amend N.J.A.C. 16:44-3.2 (formerly codified as 16:65-3.2) in view of the findings and recommendations proposed.

The detailed report which consists of 23 pages and 29 exhibits may be reviewed at the Department of Transportation.

Social Impact

The proposed amendment will require purchasers who request Plans and Specifications to accept delivery on a C.O.D. basis and submit the proper remittance for each sheet. It will have no significant impact on those purchasers who request over the counter service. The reduction and consolidation of forms and the reduction of man-hours have enhanced the overall operation of the Distribution Unit, in the Bureau of Contract Administration.

Economic Impact

The proposed amendment will cause the Department to realize substantial savings in postage for the mailing of Plans and Specifications, forms processing and man-hours. Those purchasers requesting Plans and Specifications (other than over the counter purchasers) will be required to pay the C.O.D. charges in addition to the fee charged per page for Plans.

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

OFFICE OF ADMINISTRATIVE LAW NOTE: N.J.A.C. 16:44 was recently recodified from 16:65. See the October 17, 1983 Register at 15 N.J.R. 1772(a).

16:44-3.2 Requirements

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

(e) Requests from outside the NJDOT for distribution of a set or sets of plans, or for any portion thereof, or for any individual sheet or sheets therefrom shall be honored during the advertised period[;]. [h] However, distribution [pursuant to] **under** such requests will only be made after [one of] the following:

1. The Department Cashier has furnished a receipt indicating that the proper remittance (\$0.60 per sheet not to exceed the scheduled price for a complete set of blank line prints) has been submitted; [or] **and**

2. The purchaser has indicated that delivery of the plans and supplementary specifications will be accepted on a C.O.D. basis;

3. (No change.)

(f) (No change.)

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

Local Property Tax County Boards of Taxation; Petitions of Appeal

Proposed Amendment: N.J.A.C. 18:12A-1.6

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

Authority: N.J.S.A. 54:3-14.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack Silverstein
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
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 1983-593.

The agency proposal follows:

Summary

The proposed amendment will delete the requirement that the first three quarters of current year local property taxes must be paid before the county board of taxation can hear an appeal. The proposal conforms with the opinion of the Tax Court in **Verden Realty Management Co. v. City of East Orange**, N.J. Tax (1983) and provides that the county board cannot enter judgment unless the first three quarters of current year taxes have been paid and unless the municipality has filed for dismissal.

Social Impact

The amendment will benefit local property taxpayers on appeal by insuring administrative review of the assessment by the county board of taxation.

Economic Impact

Since the county board of taxation cannot render judgment until the first three quarters of current year taxes have been paid, the proposal protects the collection of local property tax revenue from undue delay. Thus, the proposal accommodates the fiscal needs of municipalities. No adverse economic impact is anticipated by reason of this proposal.

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

18:12A-1.6 Petitions of appeal

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

(d) A taxpayer who shall file an appeal from an assessment against him shall pay to the collector of the taxing district no less than the first three quarters of the taxes assessed against him for the current tax year in the manner prescribed in R.S. 54:4-66 even though his petition to the county board of taxation might request a reduction in excess of one quarter of the taxes assessed for the full year. [No county board of taxation shall hear the appeal unless the first three quarters of the current year taxes shall have been paid.] **A county board of taxation shall not enter a judgment regarding a tax appeal filed by a taxpayer unless the first three quarters of the current year's taxes have been paid and unless the municipality has applied to the county board for a dismissal of the taxpayer's appeal.**

(e)-(k) (No change.)

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Taxes

Section 144 Investment Obligation and Investment Alternative Tax

Proposed New Rules: N.J.A.C. 19:54-2

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 5:12-69(a), 5:12-70(e) and 5:12-144(f).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert J. Genatt
General Counsel
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5
CN 208
Trenton, NJ 08625

The Casino Control 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 1983-597.

The agency proposal follows:

Summary

By petition filed pursuant to N.J.S.A. 5:12-69(c), the Public Advocate requested that the Commission approve for publication in the New Jersey Register proposed regulations concerning the investment obligation and investment alternative tax imposed upon casino licensees by N.J.S.A. 5:12-144. These proposed regulations were approved for publication by the Commission at its October 5, 1983 public meeting. Concurrently, the Commission approved for publication a Commission proposal on the same subject matter which was published in the November 7, 1983 Register. The following regulations, proposed by the Public Advocate and approved for publication by the Commission, represent proposed amendments to the Commission's proposed new regulations appearing in the November 7, 1983 Register. These proposed amendments were approved for publication by the Commission for the sole purpose of securing public comment thereon and do not necessarily represent the views of all or any of the members of the Commission.

Generally, the Public Advocate's proposed amendments target casino investments towards the redevelopment of Atlantic City. These regulations are:

1. A requirement that all investments and cumulative investments are subject to a determination of eligibility by the Commission;
2. A requirement that the Commission determine the eligibility of particular investments based upon the ability of the investment project or proposal to address the pressing social and economic needs of Atlantic City and the region;
3. A requirement that, as to investments in Atlantic City, each

licensee make at least 25 percent of total investments for the construction or rehabilitation of low or moderate income housing or 100 percent of the investments in projects or proposals undertaken in accordance with a plan or plans adopted by the Commission for the redevelopment of blighted areas in Atlantic City; and

4. A requirement that licensees submit applications for a determination of eligibility of investments in accordance with the standards and requirements established in 2 and 3 above.

Social Impact

These regulations would target casino investments towards the redevelopment of blighted areas in Atlantic City which is an important public policy underlying casino gambling. N.J.S.A. 5:12-1(b)(4). These regulations would also target casino investments towards addressing the need for safe, decent and affordable housing in Atlantic City, a need which has become acute with the growth of the casino industry.

Economic Impact

The proposed regulations would implement the casino investment program established in Section 144 of the Casino Control Act. As a result, adoption of the regulations would not have any financial impact beyond that already imposed by Section 144. By targeting investments towards redevelopment of blighted areas and housing in Atlantic City, the regulations will have an economic benefit to residents of Atlantic City through improved neighborhoods and housing opportunities.

Full text of the proposed new rules follow.

19:54-2.1 General description of investment obligation and investment alternative tax
(See 15 N.J.R. 1839.)

19:54-2.2 Definitions
(See 15 N.J.R. 1839.)

"Blighted areas" means a portion of Atlantic City which contains one or more of the criteria for blighted areas set forth in L. 1949, c. 306, Section 3, the Redevelopment Agencies Law, at N.J.S.A. 40:55-3.

"Eligibility" means the status of all or part of an investment or cumulative investment which status results from a determination by the commission based upon the public interest, including the social and economic benefits to be derived from such investments for the people of the State and, for investment projects and proposals for Atlantic City. This determination shall also include consideration of the pressing social and economic needs of Atlantic City and the region and the ability of the investment project to address those needs.

"Low income" means a household with an income from 0 percent to no greater than 50 percent of the median income for the Standard Metropolitan Statistical Area (SMSA), with adjustments for household size.

"Moderate income" means a household with an income no greater than 80 percent and no less than 50 percent of the median income for the Standard Metropolitan Statistical Area (SMSA), with adjustments for household size.

"Redevelopment" means those activities defined in L. 1980, c. 121, Section 1, paragraph (1), the Redevelopment Agencies Law, at N.J.S.A. 40:55C-5(1), except that such activities can be undertaken in accordance with any plan or plans adopted by the commission for the redevelopment of blighted areas in Atlantic City and incorporated into N.J.A.C. 19:54-2.22.

19:54-2.3 through 2.5
(See 15 N.J.R. 1841.)

19:54-2.6 Eligibility determination; application

(a) A casino licensee may apply to the commission for a

determination of eligibility as to cumulative investment or investment by filing with the commission a properly completed application for eligibility determination which shall include, but not be limited to the following:

1. A detailed narrative description of the project;
2. Architectural and site plans; and
3. A cost analysis reflecting real property costs and total costs.

(b) In addition, the application shall specify in detail the manner in which the particular investment project or proposal satisfies the standards set forth in N.J.A.C. 19:54-2.7 and shall indicate whether the particular investment project or proposal is a required investment pursuant to N.J.A.C. 19:54-2.22.

(c) The application shall be completed, signed and filed in conformance with the general applications rules set forth in N.J.A.C. 19:41-1.

(d) In addition to filing a properly completed and signed application, the applicant shall provide any other information, assurances and documentation requested by the commission to establish the eligibility of the cumulative investment or investments.

19:54-2.7 Eligibility; standards

In determining eligibility, the commission shall consider the public interest, including the social and economic benefits to be derived from such investments for the people of this State and, for projects and proposals for Atlantic City, the residents of Atlantic City. In deciding whether these standards are met, the commission shall consider the pressing social and economic needs of Atlantic City and the region and the ability of the project to address those needs.

19:54-2.8 Eligibility determination; procedures; priorities

(a) In considering whether a particular project or proposal is an eligible investment or cumulative investment, the commission shall conduct whatever hearing or hearings as may be necessary or appropriate to determine whether the project or proposal satisfies the standards set forth in these regulations. The commission may conduct such hearings directly or may designate an appropriate hearing examiner to preside at the hearing and to render a report and recommendation to the full commission. In addition to considering information provided by the applicant or introduced at the hearing, the commission shall be entitled to utilize any relevant information or data which is within its knowledge or which is supplied by any Federal, State or local agency with relevant experience or jurisdiction, such as, but not limited to, the Department of Housing and Urban Development; the Department of Community Affairs; the Department of the Public Advocate; the Department of Labor and Industry; the Department of Transportation; and regional county or local housing planning and redevelopment agencies.

(b) Aside from considering the eligibility of a particular project or proposal, the commission may at any time:

1. Conduct such investigative or fact-finding hearings as may be helpful to identify factors bearing upon eligibility, such as:
 - i. The needs of Atlantic City or the region;
 - ii. The effects, if any, of casino development in Atlantic City or the region; and
 - iii. The nature and types of projects which would best respond to such needs and demands.

2. Adopt by regulation or resolution policies and priorities regarding the nature and type of investment project which would be required for eligibility. Policies and priorities accepted for Atlantic City and the region shall require for eligibility those investment projects which meet the pressing social and economic needs of Atlantic City and the region, as determined by the commission. Where such policies and priorities have been adopted, the commission shall apply them in determining the eligibility of any particular project or proposal.

3. Adopt by resolution a plan or plans for the redevelopment of blighted areas in Atlantic City which plan or plans may be incorporated in N.J.A.C. 19:54-2.22.

19:54-2.9 through 2.21
(See 15 N.J.R. 1842-1846.)

19:54-2.22 Eligibility; required investments

(a) As to investments in Atlantic City, each licensee shall be required to:

1. Make at least 25 percent of the total investment in projects or proposals for the construction or rehabilitation of housing for low or moderate income households; or

2. Make 100 percent of the total investment in projects or proposals which are undertaken in accordance with a plan or plans adopted by the commission for the redevelopment of blighted areas in Atlantic City.

(b) The investments required by this section shall apply for each year for which the licensee has an investment obligation.

Renumber the commission's proposed new rules 19:54-2.22 through 2.37 as **19:54-2.23** through **2.38**.

(a)

ATLANTIC COUNTY TRANSPORTATION AUTHORITY

Rules of Operation

Proposed New Rules: N.J.A.C. 19:75

Authorized By: Atlantic County Transportation Authority,
Ian Jerome, Executive Director.

Authority: N.J.S.A. 40:35B-15(h).

A **public hearing** will be held on Monday, December 5, 1983 at 7 P.M. in council chambers, Atlantic City Hall, 1201 Bacharach Boulevard, Atlantic City.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Ian P. Jerome, Executive Director
Atlantic County Transportation Authority
19 South New York Avenue
Atlantic City, NJ 08401

The Atlantic County Transportation Authority 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 1983-584.

The agency proposal follows:

Summary

With the advent of casino gambling in Atlantic City, Atlantic County has experienced a substantial influx of motorized traffic. A major component of this growth is derived from the large volume of daily visitors that arrive by bus. Delays in dispatching buses at the casinos have caused traffic congestion to extend onto local streets. Bus congestion problems have also occurred in other areas of Atlantic County.

Pursuant to the authority in N.J.S.A. 40:35B-15 (1) (x) (2), the Atlantic County Transportation Authority (ACTA) is committed to the development of a comprehensive Bus Management Program. This program is aimed primarily, but not exclusively, at the casino market, and is consistent with the objectives and strategies adopted in the ACTA Master Plan. The subchapters of these rules cover the

general provisions, the responsibilities of ACTA in administering the program, collection of \$1.00 entry fee per bus, restrictions covering bus operations, passenger discharging and loading, bus parking, intercepting and routes of travel. In addition, provision is made for fines and penalties for violation of these rules.

Social Impact

The proposed new rules will affect Atlantic County residents, Atlantic City businesses and Atlantic County visitors. The results will include improved management and operation of this portion of the transportation system in Atlantic County. The social benefits will include reduced traffic congestion, improved levels of air, noise and visual pollution, increased traffic safety, improved emergency vehicle access, the ability to evacuate bus patrons in the occurrence of regional emergency and overall improvements in accessibility for visitors and local residents. These rules are necessary to mitigate the above social impacts and provide continued accessibility to the growing recreational industry in Atlantic County.

Economic Impact

These rules will result in a per bus management fee of \$1.00 charged to the owner or operator, to meet the costs of the Bus Management Plan. These rules also allow ACTA's acceptance and application of any voluntary private/public aid, donation or contribution to the programs implementing the Bus Management Plan.

These rules will reduce travel time in Atlantic City resulting in fuel savings to bus operators and other motorized traffic that must queue for periods caused by bus traffic congestion. Improved casino bus management will allow casinos to handle more people thus generating more revenue to casinos, bus operators and related businesses. Reduced congestion and improved bus parking facilities are expected to result in reduced bus related accidents and therefore cost savings to vehicle owners, as well as improved air quality.

Full text of the proposed new rules follow.

CHAPTER 75 RULES OF THE ATLANTIC COUNTY TRANSPORTATION AUTHORITY (ACTA)

SUBCHAPTER 1. GENERAL PROVISIONS

19:75-1.1 Definitions

"Activity Center" means all such land uses, other than the Atlantic City Municipal Bus Terminal, whose activities generate bus traffic from outside Atlantic County and at whose site bus passengers are loaded or discharged. Included in this definition, but not limited thereto, are the following facilities: Golden Nugget Hotel-Casino, Tropicana Hotel-Casino, Playboy Hotel-Casino, Bally's Park Place Hotel-Casino, Claridge Hotel-Casino, Sands Hotel-Casino, Resorts International Hotel-Casino, Harrah's Marina Hotel-Casino, World International Hotel, Atlantic City Convention Center, and Gardner's Basin.

"Authority" means the Atlantic County Transportation Authority.

"Bus" means all multi-passenger vehicles engaged in motorbus regular route service and motor bus charter service as defined by N.J.S.A. 40:35B-3(h) and (j) respectively.

"Bus parking lot" means any off street facility on which buses subject to these Regulations remain stationary during the period between discharge and loading of passengers at an activity center. A bus shall not be considered parked during a reasonable period of time actually required to effectuate necessary repairs or maintenance.

"Combination bus" means a bus subject to this chapter and entering the City of Atlantic City having, in the same trip more than one destination or point at which passengers are loaded or discharged.

“Completed application” means an application for bus parking lot, discharge/loading, major variance approval containing all information required by N.J.A.C. 19:75-6.2(b) and declared to be complete by the Authority.

“Impact statement” means a statement included with a bus parking lot approval application which includes such facts and analysis necessary to evaluate the benefits and adverse effects of the proposed facility. The statement shall include the following major sections:

1. Inventory: existing land use, social, economic and environmental conditions of the site and surroundings.
2. Project description: a detailed description of what the applicant proposes to do with the lot, where and how.
3. Environmental Assessment: an assessment of the probable beneficial and adverse impacts of the facility. On site as well as off site impact shall be assessed. Impact shall be quantified wherever possible and shall address geology, soils, hydrology, traffic conditions, public safety, noise, and air quality.

“Intercept” means the procedure of temporarily holding buses at off-street facilities for the purpose of regulating the flow of bus traffic to activity centers.

“Manifest” means a record of daily bus arrivals by activity center, to include at a minimum bus company, bus number, and arrival and departure times.

19:75-1.2 Bus itinerary

(a) The owners or operators of all regular route motorbuses and charter buses entering or operating in Atlantic County, unless specifically exempted elsewhere in this Chapter, may be required within seven days of the date of written demand by the Authority, to file with the Authority a notice indicating proposed routes of travel and destination or destinations within the county and the bus parking lot at which such buses shall park. All such proposed routes, destinations and bus parking lots shall be in conformance with this Chapter.

(b) The owners or operators of all combination buses shall file the notice provided in (a) above prior to the operation of any combination buses in Atlantic County.

19:75-1.3 Exempt buses

The provisions of this Chapter shall apply to all motorbus charter services and motorbus regular route services in Atlantic County except those services operated under “The New Jersey Public Transportation Act of 1979”, including, but not limited to, New Jersey Transit buses which operate solely from municipal bus terminals approved by the Authority, and buses operated by the Atlantic City Transportation Company and such other services specifically exempted herefrom by the New Jersey Department of Transportation. A schedule of such exempted motorbus services shall be forwarded to the Authority, which shall thereafter serve such schedules on the police departments of the several municipalities in Atlantic County.

SUBCHAPTER 2. ROUTES OF TRAVEL

19:75-2.1 Routes of travel: generally

(a) All buses subject to the provisions of this Chapter while operating in Atlantic County shall travel only on routes as shown in Diagrams “A” and “B” below.

(b) Except for Atlantic City, bus routes in Atlantic County are US Route 30, US Route 40/322 and the Atlantic City Expressway. All other routes are considered to be feeder routes to these major access roadways. The major access roadway is designed to enable the bus to enter the city in the zone where its destination is located.

1. US Route 206/54 is to be used as a feeder route in the western area of the county.
2. The Garden State Parkway is to be used as a feeder route in the eastern area of the county.
3. All other county roadway networks approved for bus travel are for special purposes. Some of these are as follows:

i. US Route 9: For certificated buses authorized to use this roadway, and for travel to and from Smithville, via New Jersey Route 157 between US Route 30 and connection with US Route 9.

ii. Alternate Route 561: Access to and from Smithville between US Route 9 and exit 44 Garden State Parkway.

iii. County Route 561/Jimmy Leeds Road: Access from Route 30 at Pomona to and from US Route 9.

iv. Delilah Road (County Route 46) from US Route 40/322 to US Route 30: To be used by traffic transferring from one major access roadway to another and for transfer of airport-destined traffic.

v. Airport access to Atlantic City Expressway: Via Tilton Road to Cardiff Circle (US 40/322) to Washington Avenue to Garden State Parkway entrance to Exit 37 Atlantic City Expressway.

vi. County Route 563 from Egg Harbor City US Route 30 to Renault Winery.

19:75-2.2 Atlantic City access routes

(a) For the purpose of designating routes for bus entry thereinto and exit therefrom, the City of Atlantic City is hereby divided into four zones as shown in Diagram “B” below.

(b) All buses entering or exiting Atlantic City shall do so only on routes prescribed for the zone in which is located the destination or point of departure of such buses, as the case may be, as set forth below:

ZONES	ENTRY/EXIT ROUTE
Zone 1	Route 40
Zone 2	Atlantic City Expressway
Zone 3	Route 30*
Zone 4	Route 30

*Buses entering or leaving Zone 3 may use Atlantic City Expressway via Atlantic Avenue.

(c) All combination buses entering or exiting Atlantic City shall do so only on routes prescribed for the zone in which is located the initial destination of such bus, and shall exit only on such routes prescribed for the zone in which is located the final point of departure.

19:75-2.3 Routes of travel to and from casino hotels

(a) Golden Nugget:

1. Arrival: via Albany Avenue to Pacific Avenue to Providence or Boston Avenues and entry to the Golden Nugget Garage.

2. Departure: From the Golden Nugget Garage to Providence or Boston Avenues to Captain O’Donnell Parkway/Atlantic Avenue to Albany Avenue.

(b) Tropicana:

1. Arrival: via Albany Avenue to Atlantic Avenue to Brighton Avenue to the Casino.

2. Departure: via Brighton Avenue to Atlantic Avenue/Captain O’Donnell Parkway to Albany Avenue.

(c) Playboy:

1. Arrival: via Atlantic City Expressway to Missouri Avenue to Atlantic Avenue to Mississippi Avenue to Pacific Avenue then to Convention Hall at Georgia Avenue, or to casino via Florida Avenue.

2. Departure: From the casino or Convention Hall via Pacific Avenue to Arkansas Avenue to the Expressway. At such time as Mississippi Avenue shall become a 2-way street, departures shall be by way of Pacific Avenue to Mississippi Avenue to Atlantic Avenue to Arkansas Avenue to the Expressway.

(d) Caesar’s:

1. Arrival: via the Atlantic City Expressway to Missouri Avenue to casino bus parking lot.

2. Departure: From the casino via Arkansas Avenue to the Atlantic City Expressway.

(e) Brighton Park Casinos (Bally, Claridge and Sands):

1. Arrival: Atlantic City Expressway to Missouri Avenue to Atlantic Avenue (buses arriving at Bally and Claridge use Ohio Avenue, and buses arriving at Sands use Illinois Avenue).

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2. Departure: via Indiana Avenue for buses departing from Bally and Sands. All Claridge buses turn right from Park Place onto Pop Lloyd Boulevard and thereafter proceed north on Michigan Avenue, left turn onto Atlantic Avenue to the Atlantic City Expressway. Claridge buses may alternatively continue south on Park Place around Brighton Park and exit via Indiana Avenue, to Atlantic Avenue to the Atlantic City Expressway.

(f) Resorts:

1. Arrival: via Absecon Boulevard to Virginia Avenue and south to the casino, and as an exception via the Atlantic City Expressway to Missouri Avenue to Atlantic Avenue to Virginia Avenue.

2. Departure: Virginia Avenue to Atlantic Avenue to Pennsylvania Avenue to Absecon Blvd. and alternatively as an exception down Atlantic Avenue to Arkansas Avenue to the Atlantic City Expressway.

(g) Harrah's:

1. Arrival: via Absecon Boulevard to Huron Avenue to Brigantine Boulevard, over the Brigantine Bridge to the casino, via the turnaround on the Brigantine side of the Bridge.

2. Departure: From the casino via Brigantine Boulevard to Huron Avenue to Absecon Blvd.

SUBCHAPTER 3. BUS INTERCEPT

19:75-3.1 Conditions requiring intercept

Those buses travelling to activity centers whose bus volume at any time shall exceed their on-site bus capacity shall be subject to intercept.

19:75-3.2 Intercept procedure

All buses subject to intercept and so notified by the activity center and/or the Authority, shall proceed to the approved intercept facility designated by the activity center and/or the Authority, and shall be dispatched as and when on-site capacity permits, or as otherwise directed by the Authority. Intercept and dispatch by other than Authority personnel shall be subject to review and modification by the Authority.

SUBCHAPTER 4. DISCHARGING AND LOADING OF PASSENGERS

19:75-4.1 Discharging and loading: generally

All buses shall discharge and load passengers on sites designated by the Authority.

19:75-4.2 On-site bus capacity; designated discharging and loading areas; certificate

(a) The Authority, on its own or upon application by an activity center or proposed activity center, may designate the number of buses which may be present at any given time at each activity center, which number shall constitute the "on-site bus capacity" for the several activity centers. The Authority may also designate the specific area or areas on-site where buses may discharge and load passengers at the activity centers. Where appropriate or necessary, on-site capacity and designated areas may be allocated by the Authority between buses carrying:

1. Passengers arriving and leaving on the same day (day buses), and
2. Passengers remaining overnight or longer (overnight bus).

(b) The Authority shall issue to each activity center a certificate setting forth its on-site bus capacity and designating all day bus and overnight bus discharging and loading areas, a copy of which shall be filed with the police department of the municipality in which such activity center is located. Certificates shall be for a period of one year unless earlier modified by the Authority pursuant to N.J.A.C. 19:75-4.3.

(c) No activity center shall:

1. Exceed its specific on-site capacity; nor
2. Permit any buses to be present on-site other than in designated discharging and loading areas; nor

3. Utilize overnight bus areas for day bus discharging and loading.

19:75-4.3 Modification of authorized on-site capacity; emergency procedures

(a) The Authority shall regularly monitor all bus operations at activity centers. When, in the opinion of the Authority, traffic conditions in Atlantic City and Atlantic County require, the Authority shall notify any activity center of its intention to reduce or otherwise modify the on-site bus capacity of such activity center or alter its discharging and loading areas.

1. Such notice shall be served upon the activity center no less than fifteen days prior to the effective date of the proposed action, and shall set forth the reasons for such proposed action.

2. A copy of the notice of intention to reduce or modify shall be filed simultaneously with the police department of the municipality in which the activity center is located.

3. The activity center may request a hearing before the Board of the Authority to oppose the intended action, which request must be in writing and must be served on the Authority within five business days of receipt by the activity center of the Authority's notice of intention to reduce or modify.

4. If requested, the hearing shall be held at the next regularly scheduled board meeting of the Authority or at a meeting duly called for that purpose and shall be conducted under the procedures set forth in N.J.A.C. 19:75-9.4(a)(3).

5. The proposed action by the Authority shall not take effect until such hearing is concluded and a **determination rendered therein**.

6. Failure to make timely written request for such hearing shall result in the proposed action taking effect on the date set forth in the notice of intention to reduce or modify, and the Authority shall issue a new certificate setting forth the specific reductions and/or modifications pursuant to N.J.A.C. 19:75-4.2(b).

(b) When, in the opinion of the Executive Director of the Authority, extraordinary traffic volumes or other circumstances create an imminent peril to the health, safety and welfare of the residents of Atlantic City and Atlantic County, which peril may be reduced or avoided by the limitation of on-site bus operations at the activity centers, the Executive Director of the Authority may issue an emergency order reducing on-site bus capacity and/or modifying discharging and loading areas for any or all of the activity centers.

1. Such emergency orders shall be in writing, setting forth the specific reasons for such orders and shall become effective immediately upon service of the order upon the affected activity center or centers, and the police department of the municipality in which the affected activity centers are located.

2. Such emergency orders shall continue in effect until the imminent peril to health, safety and welfare has ceased, or for a period of seven days, whichever is shorter, unless extended by the Board of the Authority at a duly scheduled hearing.

3. Written notice of such hearing shall be served upon the affected activity centers and the police departments of the municipalities in which the affected activity centers are located.

4. Such hearing shall be conducted under the procedures set forth in N.J.A.C. 19:75-9.4(a)(3).

5. During the effective period of any emergency order, the Authority shall endeavor, by means of bus intercept or other procedures, to minimize the impact of the emergency on bus operations at the activity centers.

19:75-4.4 Additional site approval; requests by activity centers to increase or modify on-site bus capacity or discharging or loading areas

(a) Additional sites may be approved as activity centers with on-site bus capacities and designated discharging and loading areas by the Authority upon written application, containing, without limitation, the following:

1. Location, dimensions and legal description of the proposed location;
2. Number of buses proposed to be on site at any one time;
3. Security measures and traffic control to be provided;

4. Evidence of on-site radio/telecommunication equipment;
5. A traffic impact statement;
6. Drawing to scale, with dimension in feet, showing discharging/loading site.

(b) All applications shall be submitted with eight copies. One additional copy of the application shall be served upon the police department of the municipality in which the proposed site is located and proof of such service by way of affidavit or certified mail return receipt must be filed with the Authority. Upon filing with the Authority, the application shall be acted upon in the manner and under the procedure set forth in N.J.A.C. 19:75-9.4, and thereafter the Authority shall issue a certificate, pursuant to N.J.A.C. 19:75-4.2(b).

(c) In making a determination, the Authority shall consider, among other things, the availability of other sites, anticipated traffic conditions, the impact of the request on the traffic flow, the necessity to the applicant for the additional site, and compatibility with designated routes as provided herein.

(d) As a condition of approval, all discharge/loading sites must have:

1. Dimensions no less than 45 feet by 12 feet for each bus;
2. Supervisory personnel on site during discharging/loading of passengers;
3. Radio or telecommunication equipment for the purpose of intercept and dispatch procedures.

(e) No discharging/loading sites located in the traffic or curb lanes of Pacific Avenue in the City of Atlantic City will be approved.

(f) All activity centers in Atlantic County constructed subsequent to the effective date of this Chapter must obtain Authority approval for bus discharging/loading site capacity.

(g) Any existing activity center may apply to the Authority for additional on-site bus capacity or modified discharging and loading areas in the manner set forth in (a) through (e) above which request shall constitute a request for a major variance governed by N.J.A.C. 19:75-9.

SUBCHAPTER 5: BUS OPERATIONS

19:75-5.1 Procedure following discharge of passengers

Upon discharging of all passengers, buses shall forthwith proceed to an approved bus parking lot on the most direct approved route. Buses shall not be operated solely for the convenience of the driver between discharge and loading of passengers.

19:75-5.2 Speed limit in parking lots

Operating speeds in parking lots will not exceed 5 miles per hour.

19:75-5.3 Engine running requirements

(a) No buses shall be stopped with their engines running in excess of five minutes, except to load or discharge passengers at a designated loading and/or discharging site or Authority intercept lot, or when undergoing necessary repairs or maintenance, or as otherwise provided herein. At such time as the bus reaches a bus parking lot, the engine shall be shut off.

SUBCHAPTER 6: PARKING

19:75-6.1 Approved parking lots; exceptions

(a) The following bus parking lots have been and are hereby approved for the parking of buses:

1. Authority lots located at:
 - i. Missouri Avenue in the City of Atlantic City;
 - ii. Albany Avenue in the City of Atlantic City (Two Guys site);

(b) All buses subject to the provisions of this Chapter shall park in lots approved by the Authority with the following exceptions:

1. Until July 1, 1986, buses may park in any lot licensed by a municipality as a bus parking lot and operating as such prior to February 1, 1983, whether or not such lot has been approved by the Authority; or

2. Privately owned bus parking lots in existence as of February 1, 1983 which exclusively accommodate motorbuses owned by the owner of any such parking lot and are not rented or leased to any other motorbus may continue in operation whether or not approved by the Authority.

(c) The requirement of Authority approval for bus parking lots shall nevertheless apply to the exceptions contained in this subchapter in the event that the licensed parking capacity of such exempted bus parking lot shall increase after February 1, 1983, or if the license for such exempted bus parking lot shall be transferred after February 1, 1983.

19:75-6.2 Bus parking lot approvals

(a) All proposed bus parking lots or bus parking lots commencing operation subsequent to February 1, 1983, in addition to any and all other required municipal, county, State or Federal approvals, must obtain approval from the Authority. Authority approval shall be granted only if the proposed lot:

1. Is within a one-way driving distance of five miles of that portion of Atlantic Avenue between Maine and Albany Avenues within the corporate limits of Atlantic City;

2. Has a minimum of 50 bus parking spaces, all of which have minimum dimensions of 45 feet by 12 feet;

3. Segregates bus and car parking, which shall require at a minimum separate exits and entrances and a physical barrier separation;

4. Has lighting and is attended during all hours of operation;

5. Contains signs conforming to the standards of the municipality in which the lot is located;

6. Is located on bus routes approved by the Authority;

7. Possesses two-way radio or telephone equipment sufficient to participate in bus intercept and dispatch activity;

8. Does not materially impair the intent and purpose of these regulations;

9. Has filed an impact statement acceptable to the Authority, which includes without limitation air quality, traffic circulation and neighborhood impact analysis.

(b) Applicants for Authority approval of any proposed bus parking lot shall submit eight copies of the application on forms approved by the Authority, including any maps, plats or drawings required by the Authority containing, and without limitation, the following:

1. Location, dimensions and legal description of proposed lot;

2. Hours of operation;

3. Security measures to be provided;

4. Evidence of on-site radio/telecommunications equipment; and

5. Impact statement as defined in Subchapter 19:75-1.1(g).

(c) One additional copy of the application shall be served upon the police department of the municipality in which the proposed bus parking lot is located and proof of such service by way of affidavit or certified mail return receipt must be filed with the Authority. Upon filing with the Authority, the application shall be acted upon in the manner and under the provisions set forth in N.J.A.C. 19:75-9.4.

(d) The requirement of Authority approval for bus parking lots shall nevertheless apply to the exceptions contained in this Subchapter in the event that the licensed parking capacity of such exempted bus parking lot shall increase after February 1, 1983, or if the license for such exempted bus parking lot shall be transferred after February 1, 1983.

(e) All approvals shall be conditioned upon compliance with the following:

1. Municipal zoning or planning board approval;

2. Maintenance of the bus parking lot in the condition set forth in the application or any amended application approved by the Authority;

3. On-site posting in a conspicuous place of Authority-approved bus routes and regulations;

4. Submission of weekly reports on forms supplied by the Authority, setting forth, at a minimum, the number of buses parked.

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(f) The Authority retains the right to enter upon and inspect all approved bus parking lots during hours of operation for the purpose of verifying compliance with the provisions of this Chapter. In the event that the owner and/or operator of any bus parking lot shall fail to comply with any provision of this Subchapter, the Authority shall notify such owner/operator of the specific violation thereof. The Authority, in addition to any other violation provided for herein, shall revoke approval of such bus parking lot unless the enumerated violations have been corrected within 15 days of notification to the owner/operator.

(g) All approvals granted by the Authority pursuant to this Subchapter shall be for a period of one year, unless:

1. The use of the property as a bus parking lot is terminated within such one year period; or
2. The approval by the Authority is withdrawn pursuant to this subchapter.

SUBCHAPTER 7: BUS MANAGEMENT FEE

19:75-7.1 Mandatory payment of fees; proof of payment

(a) The owners/operators of any bus subject to the provisions of this Chapter shall:

1. Pay a bus management fee to the Authority in the amount of \$1.00 for each bus which it owns or operates and which enters a municipality within the district in which casino gambling is authorized. Payment of the aforesaid fee shall be for each such entry by any bus;
2. Exhibit proof of such payment in the door right side window.

19:75-7.2 Modes of payment

(a) Bus operators or owners required to pay the fee provided for in this subchapter shall do so in accordance with the following:

1. Payment of a fee may be made in advance by sending a check or money order payable to the Authority at Atlantic County Transportation Authority, 19 South New York Avenue, Atlantic City, N. J. 08401, and enclosing a self-addressed stamped envelope. Such advance payment must be received no less than two weeks prior to the scheduled arrival date of any bus subject to this subchapter.
2. Payment of the fee may be made prior to the discharge of any passengers at the following Authority locations:
 - i. Albany Avenue (Two Guys) bus parking lot;
 - ii. Missouri Avenue bus parking and intercept lot (Missouri Ave. & Baltic Ave.);
 - iii. All approved private bus parking facilities.

19:75-7.3 Proof of payment required at bus parking lots/activity centers

No owner or operator of an approved bus parking lot or activity center operating under the provisions of N.J.A.C. 19:75-6.1(a) or (b) shall permit any bus subject to the provisions of this chapter to park/load/unload thereon unless such bus properly exhibits proof of payment of the Bus Management Fee as provided for in N.J.A.C. 19:75-7.1(b).

19:75-7.4 Activity center manifest

The Authority will require each activity center to maintain a daily bus activity manifest per Diagram "C", such manifest to be completed and made available to the Authority on a weekly basis.

SUBCHAPTER 8. VIOLATIONS AND PENALTIES

19:75-8.1 Specific offenses

For any violation of the following provisions of this Chapter, the violator will be subject to minimum penalties as set forth below:

Penalty	Fine		
	1st Offense	2nd Offense	3rd Offense
Travelling on			

unapproved routes Subchapter 2.	\$75.00	\$200.00	\$400.00
Illegal bus parking Subchapter 6.	75.00	200.00	400.00
Non-payment of bus management fee Subchapter 7.	50.00	200.00	400.00
Failure to intercept when required Subchapter 3.	50.00	200.00	400.00
Failure to possess variance if required Subchapter 9.	50.00	200.00	400.00
Discharge/load passengers at non-approved location Subchapter 4.	50.00	200.00	400.00
Activity center exceeding capacity Subchapter 4.	75.00	200.00	400.00

19:75-8.2 All other violations

For any violations of this Chapter except those specifically set forth in N.J.A.C. 19:75-8.1, the violator will be subject to a minimum fine of \$50.00 for the first offense, \$150.00 for a second offense, and \$250.00 for any subsequent offense, up to a maximum of \$500.00 for all offenses.

19:75-8.3 Uncorrected violations

Any violations of this Chapter shall subject the violator to the penalties set forth herein for each day such violation shall continue uncorrected.

SUBCHAPTER 9. VARIANCES; PROCEDURE

19:75-9.1 Variances; minor and major

(a) In particular cases and for special reasons, the Authority may grant a variance from the strict application of the provisions of this Chapter. Such variances shall be designated as minor variances and major variances.

1. A minor variance, if granted, shall permit a one-time deviation without penalty from the provisions regarding designated routes, sites and site capacity for loading and discharging passengers, parking and/or intercept. A minor variance shall be granted for a specified date. The procedure for application for and determination of a minor variance are as set forth in N.J.A.C. 19:75-9.2 below.

2. A major variance, if granted, shall permit a permanent or long-term deviation without penalty from all or any provisions of this Chapter. The procedure for the application for and determination of a major variance is set forth in N.J.A.C. 19:75-9.4.

19:75-9.2 Application for minor variance; determination by Executive Director; appeal to board.

(a) An application for a minor variance shall be in writing setting forth the following:

1. Name and address of applicant;
2. Narrative statement describing exact nature of variance requested, the special reasons why such variance should be granted and the impact such variance, if granted, will have on the neighborhood and traffic conditions;
3. Citation of specific subchapters from which variance is sought; and
4. Date for which variance is requested.

(b) All applications must be filed in duplicate with the Executive Director of the Authority and an additional copy with the police department of the municipality or municipalities affected by the variance, no later than five business days prior to the date for which the variance is requested. Proof of service of the application on the police department or police departments affected must be filed with the Authority by way of affidavit or certified mail return receipt prior to a determination on the application.

(c) The Executive Director or designee shall review all applications for minor variances and shall grant such variance upon a showing of special reasons and only if the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the provisions of this Chapter.

(d) If the Executive Director shall grant any minor variance, he or she shall forthwith notify the applicant and the police department or departments affected in writing. Such notice must be in possession of the applicant or bus operator, as the case may be, and displayed to any enforcement official upon request. Failure to possess and display the aforesaid notice of variance may result in the imposition of penalties under subchapter 8 notwithstanding the grant of a minor variance.

(e) If the Executive Director shall deny any minor variance he or she shall forthwith notify the applicant and the police department or departments affected in writing, setting forth the specific reasons for such denial, and advising the applicant that it may appear before the Board of the Authority at its next scheduled meeting and present testimony or other evidence on behalf of its application. At such board meeting, the Board of the Authority may affirm, reverse, or modify the decision of the Executive Director.

(f) All determinations on minor variances shall be immediately forwarded to the police department or departments affected.

19:75-9.3 Application for major variance

(a) An application for a major variance shall be in writing setting forth the following:

1. Name and address of applicant;
2. Narrative statement describing exact nature of variance requested, the special reasons why such variance should be granted, and the impact such variance, if granted, will have on the neighborhood and traffic conditions;
3. Citation of specific subchapters from which variance is sought;
4. Period for which variance is requested, if not permanent; and
5. Legal description and scale drawing of property for which variance is requested, if applicable.

(b) All applications must be filed in eight copies with the Board of the Authority, and an additional copy with the police department of the municipality or municipalities affected by the variance. Proof of service of the application on the police department or departments affected must be filed with the Authority by way of affidavit or certified mail return receipt prior to a determination on the application.

19:75-9.4 Hearing procedure for major variances, bus parking lot approvals, additional activity center on-site approvals, and other hearings

(a) All applications for major variances (N.J.A.C. 19:75-9.1(b) and 9.3), bus parking lot approvals (N.J.A.C. 19:75-6.2), and additional site approvals (N.J.A.C. 19:75-4.3) shall be reviewed by the appropriate division of the Authority.

1. Within 30 days following receipt of application, the Authority, through the appropriate division, shall notify the applicant in writing by certified mail regarding its completeness for filing. The Authority may declare the application to be complete for filing or shall notify the applicant of specific deficiencies. The Authority, within 15 days following the receipt of additional information to correct the deficiencies shall notify the applicant of the completeness for filing of the amended application, or shall specify the unaddressed deficiencies. The application shall not be

considered to be filed until it has been declared complete for filing by the Authority.

2. The appropriate division of the Authority shall recommend approval or disapproval of all completed applications, which recommendation shall be provided to the applicant prior to Authority determination.

3. Except in the case of major variances under N.J.A.C. 19:75-9.3, the Authority shall approve or disapprove all completed applications by a vote of the majority of the Board, pursuant to Authority bylaws, at the next Board meeting following the release of the recommendation by the appropriate division. In the case of major variances approval shall require an affirmative vote of five members of the Board of the Authority. The applicant shall be notified in writing of the date of such meeting, and may appear in person or through legal counsel and present testimony or other evidence on behalf of the application. The Chairman or the Vice Chairman in his absence, shall preside at all proceedings for application approval or disapproval. The New Jersey Rules of Evidence shall not apply in such proceedings, but the presiding official shall limit all evidence presented to that which is material and relevant to the application. At the close of the presentation of all evidence, the Board of the Authority shall vote on the application. Any applicant who fails to obtain Authority approval may resubmit a revised application at any time.

(b) All approvals shall be considered where applicable upon compliance with the following:

1. Municipal zoning or planning board approval;
2. Maintenance of the affected property, if any, in the condition set forth in the application or any amended application approved by the Authority;
3. On-site posting in a conspicuous place of Authority-approved bus routes and regulations;
4. Submission of reports on forms supplied by the Authority, at the Authority's request.

(c) All police departments affected by the application determined pursuant to the procedure set forth in this subchapter shall receive prior written notice of any Board meeting at which such applications shall be heard. Representatives of such police departments may appear and give testimony pertinent to the applications. All police departments will be notified immediately in writing of the decision of the Board of the Authority.

SUBCHAPTER 10: SEVERABILITY

19:75-10.1 Severability

If any section or provision of this Chapter shall be adjudged invalid, such adjudication shall apply only to that section or provision so adjudged, and the remainder of the Chapter shall continue in full force and effect, and is hereby declared severable.

OFFICE OF ADMINISTRATIVE LAW NOTE: Diagrams A, B and C were submitted as a part of this proposal but have not been reproduced here. Those documents may be inspected at the Office of Administrative Law.

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice for Contested Cases Placement of Case on Inactive List

Adopted Amendment: N.J.A.C. 1:1-3.2

Proposed: September 6, 1983 at 15 N.J.R. 1399(a).
Adopted: October 24, 1983 by Howard H. Kestin, Director,
Office of Administrative Law.
Filed: October 25, 1983 as R.1983 d.515, **without change.**

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

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
June 15, 1985.

Summary of Public Comments and Agency Responses:
No comments received.

(b)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice for Contested Cases Interlocutory Review

Adopted Amendment: N.J.A.C. 1:1-9.7

Proposed: September 6, 1983 at 15 N.J.R. 1399(b).
Adopted: October 24, 1983 by Howard H. Kestin, Director,
Office of Administrative Law.
Filed: October 25, 1983 as R.1983 d.517, **without change.**

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

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
June 15, 1985.

Summary of Public Comments and Agency Responses:
No comments received.

(c)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice for Contested Cases Notice of Opportunity to Intervene or Participate

Adopted New Rule: N.J.A.C. 1:1-12.4

Proposed: September 6, 1983 at 15 N.J.R. 1400(a).
Adopted: October 24, 1983 by Howard H. Kestin, Director,
Office of Administrative Law.
Filed: October 25, 1983 as R.1983 d.516, **without change.**

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

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
June 15, 1985.

Summary of Public Comments and Agency Responses:
No comments received.

AGRICULTURE

(d)

DIVISION OF ADMINISTRATION

Organization of Department

Readoption with Amendments: N.J.A.C. 2:1-2

Proposed: September 19, 1983 at 15 N.J.R. 1538(a).
Adopted: October 28, 1983 by Arthur R. Brown, Jr.,
Secretary, Department of Agriculture.
Filed: November 1, 1983 as R.1983 d.528, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:14-3(1).

Effective Date (Readoption): November 1, 1983.

Effective Date (Amendments): November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
November 1, 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]***).

2:1-2.3 Functions of departmental units

(a) Functions of the various units within the State Department of Agriculture are as follows:

1. State Board of Agriculture members are elected by the State Agricultural Convention and recommended to the Governor for appointment with the advice and consent of the Senate. Through the Secretary of Agriculture, the Board assigns and supervises all departmental personnel and functions. To carry out the intent of the statutes governing the Department, the Board has the authority to establish rules and regulations for its own proceedings and for the government and control of the Department, the officers and employees ***[wherein]* *therein*** in the performance of their duties.

1.-ii. (No change from proposal.)

2.-3. (No change from proposal.)

4. Division of ***[Animal Health]* *Administration*** provides personnel [and general service support to all Divisions and the Office of the Secretary], **budget accounting, program improvement, training, and other administrative support services to all units of the Department.**

5.-[10]9. (No change from proposal.)

[11]10. Division of Rural Resources is [organized to maintain, conserve, and develop New Jersey's agricultural industry and improve rural areas; to control soil erosion and sedimentation and to conserve, protect and develop soil, water and related renewable natural resources in rural and urban areas of the State for improved agricultural productivity, environmental improvement, and economic growth.] **given the responsibility to maintain, conserve and develop the agricultural and natural resources of the State. Through the State Soil Conservation Committee, it provides for the control of soil erosion and sedimentation from all land disturbance activities; the control of non-point sources of water pollution; the prevention of flood and storm water damages; and the conservation, protection and development of soil, water and related renewable natural resources throughout the State. The Agriculture Retention, *[right]* *Right*** to Farm and the Farmland Preservation Bond statutes are administered through the division. Agricultural statistics are collected, analyzed and published in cooperation with the Federal Crop Reporting Service.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Water Supply Bond Loan Regulations for Rehabilitation of Water Supply Facilities

Adopted Amendments: N.J.A.C. 7:1A-2.3, 2.4, 2.5, 2.8, 2.9, 2.12, 2.13, 2.14, 2.18, 2.20 and 2.35

Proposed: August 15, 1983 at 15 N.J.R. 1307(a).

Adopted: October 24, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: November 2, 1983 as R. 1983 d. 534, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: Water Supply Bond Act of 1981, P.L. 1981, c.261.

DEP Docket No. 044-83-07.

Effective Date: November 21, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): June 7, 1987.

Summary of Public Comments and Agency Responses:

The Department of Environmental Protection afforded the public an opportunity from August 15, 1983 through September 14, 1983 to provide written comments on the record concerning the proposal. Only two written comments were received by the Department relating to the proposal from two firms engaged as consulting municipal engineers. However, the Department also conducted another in-house review of the proposal.

Both commentors were opposed to N.J.A.C. 7:1A-2.9(c) which allows for a loan maturity period of not more than 10 years unless a longer loan maturity period not to exceed 15 years, reduced from 20 years, can be justified to the satisfaction of the Department. The Department proposed this amendment to insure more rapid repayment and reuse of loan funds for new projects. One commentor felt that the 10 year/15 year loan maturity period placed an economic strain on small communities and that consideration should be given to extending the loan maturity period to a minimum of 20 years. Another commentor felt that the proposal to shorten the loan maturity period could adversely affect the water user rates. This commentor felt that the proposed changes are not in the best interest of water supply system users. The Department remains interested in rapid reutilization of loan funds. However, the Department also acknowledges the need for flexibility concerning loan maturity periods in special cases, particularly for water supply systems serving small numbers of residents. Therefore, the Department has returned to its previous regulatory policy of allowing for a loan maturity period of ten years unless a longer loan maturity period not to exceed 20 years can be justified to the satisfaction of the Department.

One commentor felt that the program should be expanded in scope to include rehabilitation projects relating to water sources and/or water treatment. In the alternative, this commentor believed that a new program should be created to assist municipalities in financing water source and/or water treatment improvements. The Department acknowledges that financial assistance may be necessary for municipalities regarding rehabilitation of water source and/or water treatment. However, due to limited available funding and the Department's interpretation of the purpose of the program, water source and/or water treatment improvements have not been included as eligible costs for the program. The Department does not plan to expand the program at this time to include more than the rehabilitation of transmission and distribution facilities.

In the Summary section of the August 15, 1983 proposal the Department noted that the priority determination section at N.J.A.C. 7:1A-2.12 would not apply to the initial 16 applications already received by the Department by November 1, 1982. However, the Department also noted that other changes proposed to facilitate the administration and final award of individual loans shall be applied to the initial 16 applications. The Department would like to clarify its policy concerning the amendments. N.J.A.C. 7:1A-2.12(a)5 now allows for waiving certain provisions of the priority determination section of N.J.A.C. 7:1A-2.12 provided that there are less eligible projects than funds available for the various size categories established at N.J.A.C. 7:1A-2.12(a). This situation currently exists for the initial 16 applications already received by the Department. The Department will continue to process the initial 16 applications and intends to apply N.J.A.C. 7:1A-2.12(a) 5 to further expedite the process of awarding loans. Please note that this provision will not effect the priority or eligibility determination of any of the initial 16 applications. The

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Department's utilization of N.J.A.C. 7:1A-2.12(a)5 will only facilitate the administration and final award of loans to the initial 16 applications if eligible.

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 *[thus]*).

7:1A-2.9 Amount and terms of loan

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

(c) The loan maturity period shall be for a period of no more than 10 years from the date payments to the borrower begin, unless a longer loan maturity period not to exceed *[15]* ***20*** years can be justified to the satisfaction of the Department. Principal and accrued interest may be prepaid by the borrower prior to the end of the loan maturity period without penalty.

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

(a)

DIVISION OF COASTAL RESOURCES

**Wetlands Management
Wetlands Maps in Middlesex County**

Adopted Amendment: N.J.A.C. 7:7A-1.13

Proposed: March 21, 1983 at 15 N.J.R. 386(a).
Adopted: October 31, 1983 by Robert E. Hughey,
Commissioner of Environmental Protection.
Filed: November 2, 1983 as R. 1983 d.535, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:9A-2.
DEP Docket No. 009-83-02.

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 11, 1985.

Summary of Public Comments and Agency Responses:

Public hearings concerning this proposal were held in New Brunswick on April 7 and June 15, 1983. Comments received at the hearings fell into five general categories:

1. Whether the Department has authority to delineate and regulate wetlands along the Raritan River;
2. Whether the Department has authority to adopt new maps at all;
3. Whether adequate public notice was given;
4. Whether the wetlands mapping process is consistent with development plans for the region; and
5. Whether the maps were accurate.

A number of commenters questioned the Department's authority to regulate wetlands along the Raritan River. This comment is based on the fact that certain water bodies are listed in the Wetlands Act, and that the Raritan is not among them. However, Section 2 of the Act (N.J.S.A. 13:9A-2) clearly states that the term "coastal wetlands" shall include land along the Raritan Bay "or at any inlet, estuary or tributary waterway or any thereof". The Raritan River is a tributary of the Raritan Bay and as such may be regulated under this section.

A number of commenters also questioned whether the Department has the authority to adopt new wetlands maps at all. This comment is based on the fact that Section 1 of the Wetlands

Act (N.J.S.A. 13:9A-1) provides that the Department "shall, within 2 years of the effective date of this act, make an inventory and maps of all tidal wetlands within the State" (the Act's effective date was November 5, 1970). However, Section 2 of the Act provides that the Department "may, from time to time, adopt, amend, modify or repeal orders regulating, restricting, or prohibiting dredging, filling, removing or otherwise altering, or polluting, coastal wetlands." The Department interprets this provision as including the necessary authority to revise existing wetland maps or to adopt new maps for wetlands which were bypassed by the original 1972 mapping.

A number of persons challenged the adequacy of the public notice process. Section 3 of the Act spells out, in great detail, the steps that the Department must take before it amends a map. These steps include mailing notice of a public hearing to each affected property owner at the address shown on municipal tax records at least 21 days prior to the hearing, and publication of notice of the hearing at least six times in a local newspaper. The Department adhered to all of these requirements, held two public hearings, provided a set of maps to the county clerk for public inspection prior to the hearing, and also provided a copy of the relevant map to any property owner requesting it.

A number of commenters asked whether the land use restrictions associated with the Wetlands Act are consistent with the development plans for the Raritan region. The Division of Coastal Resources has examined this question, and has found that existing development plans do not, for the most part, propose the filling of wetlands. In addition, most waterfront development projects already require DEP approval, so the wetlands requirements do not represent a significant increase in its regulatory authority.

Finally, a number of comments concerned the accuracy of the maps. As a result, minor revisions were made to maps 595-2082, 595-2094, 602-2088, 602-2094 and 609-2094. In addition, two proposed maps were determined to have no wetlands on them, and one was determined to be beyond the jurisdiction of the Wetlands Act due to its location on the Arthur Kill.

A copy of all comments and responses is on file with the Office of Administrative Law.

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]*).

7:7A-1.13 Areas affected

(a) The Wetlands Order and the accompanying rules and regulations shall be applicable only to those areas shown below (seaward of) the "Upland (inland) wetlands boundary" line on the following wetlands maps:

1. Middlesex County (filed in the Office of the County Recording Officer - New Brunswick):
 - i. 581-2100
 - ii. 581-2106
 - iii. 581-2112
 - iv. 581-2118
 - v. 588-2106
 - vi. 588-2112
 - vii. 588-2118
 - viii. 595-2106
 - ix. 602-2100
 - x. 609-2100
 - *[xi. 567-2082]*
 - *[xii.]* ***xi.*** 574-2082
 - *[xiii.]* ***xii.*** 574-2088
 - *[xiv.]* ***xiii.*** 581-2082
 - *[xv.]* ***xiv.*** 581-2088
 - *[xvi.]* ***xv.*** 588-2076
 - *[xvii.]* ***xvi.*** 588-2082
 - *[xviii.]* ***xvii.*** 595-2070
 - *[xix.]* ***xviii.*** 595-2076
 - *[xx.]* ***xix.*** 595-2082

*[xxi.]***xx.*** 595-2088
 *[xxii.]***xxi.*** 595-2094
 [xxiii. 602-2058]
 *[xxiv.]***xxii.*** 602-2064
 *[xxv.]***xxiii.*** 602-2070
 *[xxvi.]***xxiv.*** 602-2076
 *[xxvii.]***xxv.*** 602-2082
 *[xxviii.]***xxvi.*** 602-2088
 *[xxix.]***xxvii.*** 602-2094
 *[xxx.]***xxviii.*** 602-2106
 *[xxxi.]***xxix.*** 609-2094
 *[xxxii.]***xxx.*** 609-2106
 [xxxiii. 609-2112]
 2.-11. (No change from proposal.)

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Fish and Game Council 1984-85 Fish Code

Adopted Amendment: N.J.A.C. 7:25-6

Proposed: August 1, 1983 at 15 N.J.R. 1217(a).
 Adopted: September 13, 1983 by Anthony DiGiovanni,
 Chairman, Fish and Game Council.
 Filed: November 3, 1983 as R. 1983 d.542, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1B-30 et seq. and 23.1 et seq.

Effective Date: November 21, 1984.
 Operative Date: January 1, 1984.
 DEP Docket No. 039-83-06.

Summary of Public Comment and Agency Responses:

A total of 1,983 letters and one petition bearing 345 signatures were received prior to the public hearing and 21 persons presented oral statements at the hearing before the New Jersey Fish and Game Council. In addition, the members of the Council contacted the county federations of sportsmen clubs prior to the public hearing to poll their opinion on the proposal. Consideration was given to all comments.

The bulk of the public comment related to the proposal to create a "natural trout fishing area" on the Big Flat Brook. A total of 1,980 letters and 19 oral statements related to this proposal. There were 1,443 letters, representing 1,005 individuals (many writers sent letters to the division as well as each council member), which favored the proposal and 537 letters, representing 515 individuals which opposed it. Several letters stated that they represented groups in favor or opposed. However, since the membership of these groups were not polled, only the signer was considered to be represented by these letters. The majority of mail, for both points of view, merely stated the signer's position and did not elaborate the reasons therefor. The bulk of the correspondence were form letters.

Nineteen oral statements were made on this proposal. Of these, 14 favored the proposal and five opposed it.

The major bases for opposition to a natural trout fishing area on the Big Flat Brook were that: (1) it would reserve a portion of the State's finest trout streams for a select group of anglers; (2) that the

stream was incapable of supporting a sufficient number of trout throughout the year to create an attractive fishery; and (3) this concept would not be acceptable to the majority of fishermen that currently fish the area, thus forcing them to seek their angling recreation on other already overcrowded waters.

The Division's information disputes the contention that the stream cannot support trout year-round.

Those in favor of the proposal indicate that: (1) New Jersey needs an alternative to its "put-and-take" trout-stocking program; (2) the management technique, as proposed, would produce a quality year-round fishery; (3) the proposal only involved 2.2 miles out of the 12 miles of the Big Flat Brook which is open to public fishing; and (4) this would be one of only two such areas in the entire State.

After consideration of the comments received at the public hearing, it was the opinion of the Council that, although the written and oral statements favored the proposal by approximately a two to one margin, the comments in favor of the proposal were generated by only one organization, Trout Unlimited, and, therefore, represented a minority viewpoint. The Council felt that a more accurate measure of public sentiment on the proposal was expressed through the county federations of sportsmen clubs. The comments of these organizations, although not presented at the public hearing, were made known to the Council members at regular meetings that they had attended.

The Council considered that there was no demonstrated need for a natural fishing area program and was simply a neutral alternative to an existing management scheme. Therefore, in accordance with the Council's authority under N.J.A.C. 13:1B-30, rejected the proposed changes in the rules for the Big Flat Brook.

Three letters and a petition, bearing 345 signatures, were presented in opposition to the proposal to change the stocking days for the Musconetcong River from Friday to Tuesday and for the South Branch of the Raritan River and the Pohatcong Creek from Tuesday to Friday. In addition three oral statements were made in opposition to this proposal. The primary concern of those commenting on this proposal was that, if adopted, it would result in land closures along the South Branch of the Raritan River. In view of the opposition to the proposal which was received at the hearing and also expressed by the Somerset County Federation of Sportsmen Clubs, the Council rejected this proposal. The consequence of this action is that the stocking dates for these streams will remain as in past years.

One individual gave an oral statement urging the Council to list Stony Brook (Mercer County) with those waters having "closed" stocking dates. This item was not related to the proposal.

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]***).

7:26-6.2 Trout season and angling in trout-stocked waters

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

(d) Trout stocked waters for which in-season closures will be in force; waters will be closed from 5:00 A.M. to 5:00 P.M. on dates indicated.

1.-5. (No change from proposal.)

6. Musconetcong River - Lake Hopatcong Dam to Delaware River including all main stem impoundments, but excluding Lake Musconetcong, Netcong - ***[April 10, 17, 24; May 1, 8, 15, 22]*** ***April 13, 20, 27; May 4, 11, 18, 25***.

7.-8. (No change from proposal.)

9. Pohatcong Creek - Route 31 to Delaware River - ***[April 11, 18, 25; May 2, 9, 16, 23]*** ***April 10, 17, 24; May 1, 8, 15, 22***.

10.-11. (No change from proposal)

12. Raritan River, S. Br. - Budd Lake dam through Hunterdon and Somerset Counties to Jct. with N. Br. Raritan River - ***[April 13, 20, 27; May 4, 11, 18, 25]*** ***April 10, 17, 24; May 1, 8, 15, 22***.

13.-16. (No change from proposal.)

(e)-(i). (No change from proposal.)

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7:25-6.3 Fly-fishing waters

(a) From and after 5:00 A.M. on Monday April 16, 1984 to and including November 30, 1984 the following stretches are open to fly-fishing only, and closed to all fishing from 5:00 A.M. to 5:00 P.M. on the days listed for stocking:

1. Big Flat Brook, Sussex County - from the concrete bridge on Route 206 downstream to the *[Polegate, the upstream terminus of the Big Flat Brook Natural Trout Fishing Area clearly defined by markers.]* ***Roy Bridge on Mountain Road, a distance of approximately 4 miles, except that portion known as the Blewett Tract, regulated in (b)1 below.***

2. (No change from proposal.)

***(b) Beginning January 1, 1984 to midnight March 18, 1984 and from 8:00 A.M. on April 7, 1984 to midnight, March 17, 1985, the following stretch is open to fly-fishing only, but is closed to all fishing 5:00 A.M. to 5:00 P.M. on the days listed for stocking:**

1. Big Flat Brook, Sussex County - that portion known as the Blewett Tract, which extends from the Three Bridges Road to a point immediately upstream on the junction of the Big Flat Brook and the Little Flat Brook, a distance of approximately 0.5 miles, this stretch being clearly defined by markers.*

[(b)] *(c)* (No change in text from proposal.)

[(c)] *(d)* (No change in text from proposal.)

7:25-6.4 Natural trout fishing area*[s]*

(a) The following unstocked stretch*[es]* of water *[are]* ***is*** hereby designated as ***a*** Natural Trout Fishing Area*[s]*:

1. (No change from proposal.)

[2. Big Flat Brook, Sussex County - The stretch of water, clearly defined by markers, extending from the Polegate Area downstream to the Roy bridge, a distance of approximately 2.2 miles.]

(b) The following regulations apply to the above designated Natural Trout Fishing Area*[s]*:

1. ***[The Big Flat Brook is closed to fishing from midnight March 18, 1984 to 8:00 A.M. April 7, 1984 and from 5:00 A.M. to 5:00 P.M. on those days that the Big Flat Brook is listed for stocking.]*** Van Campens Brook is open to fishing year-round.

2. No bait or lures of any kind may be used except artificial lures and flies ***[both Van Campens Brook and the Big Flat Brook; the Big Flat Brook limited to single hook artificial lures and flies]*.**

3. (No change from proposal.)

4. No person shall kill or have in possession while fishing any trout less than ***[twelve inches in total length on the Big Flat Brook Natural Trout Fishing Area and less than]*** ten inches in total length ***[on the Van Campens Brook Natural Trout Fishing Area]*.**

5. (No change from proposal.)

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Shellfisheries

Crab Dredging in the Atlantic Coast Section

Adopted Amendment: N.J.A.C. 7:25-7.13

Proposed: September 6, 1983 at 15 N.J.R. 1413(a).

Adopted: November 2, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: November 3, 1983 as R.1983 d.541, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 23:2B-6, 50.1-5 and specifically 50.4-2.

Effective Date: November 21, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): March 13, 1984.

Summary of Public Comments and Agency Responses:

Comments received at the public hearing made by crab dredgers indicated that they think that a 100 yard "buffer zone" around marked leased shellfish ground would put too much ground off-limits to dredging. The agency response was to reduce the zone to 50 yards. The idea of a buffer zone was strongly supported by clam lease holders who at first had requested that entire bays in Atlantic County be closed to crab dredging. The 50 yard buffer zone represents the agency's compromise.

The only other change from the proposal clarifies the language and intent of N.J.A.C. 7:25-7.13(b) by adding the word "marked" to describe the leased grounds.

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]***).

7:25-7.13 Crab dredging in the Atlantic Coast section

(a) (No change from proposal.)

(b) No person shall catch, take, or attempt to take crabs from any of the ***marked*** leased grounds except the lessee or his employee; and no person shall **dredge or attempt to dredge** crabs on any [of the] State oyster beds [and] or grounds **as defined in N.J.A.C. 7:25-19.1** [except at such times and in such places as the division and the Commissioner of Environmental Protection may authorize].

1. No one shall dredge or attempt to dredge crabs within * [100]* *50* yards of any marked leased shellfish grounds.

(c)-(e) (No change from proposal.)

(b)

DIVISION OF ENVIRONMENTAL QUALITY

Specifications for Exhaust Gas Analytical System

Readopted Amendment: Standards Referenced in N.J.A.C. 7:27-15.1

Proposed: September 19, 1983 at 15 N.J.R. 1607(a).

Adopted: November 2, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: November 2, 1983 as R.1983 d.536, **without change.**

Authority: P.L. 1983, c.236, amending N.J.S.A. 39:8-1, 39:8-2 and P.L. 1975, c.156, and supplementing Title 39 of the Revised Statutes.

DEP Docket No. 054-83-08.

Effective Date: November 2, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): Exempt under 42 U.S.C. 7401 et seq.

HUMAN SERVICES

ADOPTIONS

Pursuant to Paragraph 3 of Executive Order No. 66, signed by Governor Byrne on April 14, 1978, this amendment shall be exempted from the Sunset provisions of that Order. This amendment is adopted in compliance with the Clean Air Act, as amended August, 1977, 42 U.S.C. 7401 et seq. An application of Executive Order No. 66, resulting in an automatic termination of this rule, would cause the State to be in violation of that Federal law.

Summary of Public Comments and Agency Responses:

One comment was received in support of the proposed amendment.

HUMAN SERVICES

(a)

DEPARTMENT OF HUMAN SERVICES

Veterans' Loans, Emergency and Temporary Housing Projects, Emergency Housing Programs

Adopted Repeal: N.J.A.C. 10:13, 10:14 and 10:15

Proposed: September 6, 1983 at 15 N.J.R. 1430(a).
Adopted: October 26, 1983 by George J. Albanese, Commissioner, Department of Human Services.
Filed: October 28, 1983 as R.1983 d.523, **without change.**

Authority: P.L. 1944, c.126 as amended and supplemented by P.L.1945, c.185 and P.L.1946, c.121 (N.J.S.A. 38:23B-1 et seq.)

Effective Date: November 21, 1983.

Summary of Public Comments and Agency Responses:
No comments received.

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Lifeline Credit Program
Tenants Lifeline Assistance Program**

Adopted New Rule: N.J.A.C. 10:69B

Proposed: August 1, 1983 at 15 N.J.R. 1227(a).
Adopted: October 26, 1983 by George J. Albanese, Commissioner, Department of Human Services.
Filed: October 28, 1983 as R.1983 d.524, **without change.**

Authority: N.J.S.A. 48:2-29.15 et seq., N.J.S.A. 48:2-29.31 et seq.

Effective Date: November 21, 1983.

Expiration Date pursuant to Executive Order 66(1978):
November 21, 1988.

Summary of Public Comments and Agency Responses:

One comment was received from Mr. Jacques O. Lebel, Director, Division on Aging, Department of Community Affairs. Mr. Lebel suggested there be regulations governing payment adjustments if a person moves, or becomes a tenant whose utility is included in the rental payment. In these situations, the Division has established internal procedures to insure that a beneficiary (of the Lifeline Credit Program) receives the full credit of \$200.00.

Mr. Lebel also suggested modifications to brochures and applications. However, the Division has already distributed the material for the 1983-84 program, but will consider the suggestions for the 1984-85 program.

LABOR

(c)

THE COMMISSIONER

**Maximum Weekly Benefit Rates
1984 Maximum Weekly Benefits for
Unemployment Compensation and State
Plan Temporary Disability**

Adopted Amendment: N.J.A.C. 12:15-1.3

Proposed: September 6, 1983 at 15 N.J.R. 1434(a).
Adopted: October 13, 1983 by Roger A. Bodman, Commissioner, Department of Labor.
Filed: October 27, 1983 as R.1983 d.521, **without change.**

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-3(c) and 43:21-40.

Effective Date: November 21, 1983.
Operative Date: January 1, 1984.
Expiration Date pursuant to Executive Order No. 66(1978):
December 31, 1984.

Summary of Public Comments and Agency Responses:
No comments received.

(d)

THE COMMISSIONER

**Taxable Wage Base
1984 Taxable Wage Base Under the
Unemployment Compensation Law**

Adopted Amendment: N.J.A.C. 12:15-1.4

Proposed: September 6, 1983 at 15 N.J.R. 1435(a).
Adopted: October 13, 1983 by Roger A. Bodman, Commissioner, Department of Labor.

ADOPTIONS

Filed: October 27, 1983 as R.1983 d.522, **without change.**

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-7(b)(3).

Effective Date: November 21, 1983.
Operative Date: January 1, 1984.
Expiration Date pursuant to Executive Order No. 66(1978):
December 31, 1984.

Summary of Public Comments and Agency Responses:
No comments received.

(a)

THE COMMISSIONER

**Benefit Rates
Workers' Compensation Benefit Rates for
1984**

Adopted Amendment: N.J.A.C. 12:235-1.5

Proposed: September 6, 1983 at 15 N.J.R. 1437(a).
Adopted: October 13, 1983 by Roger A. Bodman,
Commissioner, Department of Labor.
Filed: October 27, 1983 as R.1983 d.520, **without change.**

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:15-12.

Effective Date: November 21, 1983.
Operative Date: January 1, 1984.
Expiration Date pursuant to Executive Order No. 66(1978):
December 31, 1984.

Summary of Public Comments and Agency Responses:
No comments received.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

**Certification of Debts
Regulation of Credit**

**Adopted Amendments: N.J.A.C. 13:2-7.10
and 24.4**

Proposed: September 19, 1983 at 15 N.J.R. 1557(a).
Adopted: October 25, 1983 by John F. Vassallo, Jr.,
Director, Division of Alcoholic Beverage Control.
Filed: November 3, 1983 as R.1983 d.545, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 33:1-39 and N.J.S.A. 33:1-1(w).

Effective Date: November 21, 1983.

LAW AND PUBLIC SAFETY

Expiration Date pursuant to Executive Order No. 66(1978):
April 12, 1984.

Summary of Public Comments and Agency Responses:

Opportunity was afforded by the Notice of Proposal for Interested Persons to submit in writing, data, views or arguments relevant to the proposed regulation on or before October 19, 1983, and, pursuant thereto, one letter was received from such interested persons. A summary of such comment follows:

A letter was sent to Senator Herman T. Costello, Chairman, Alcoholic Beverage Control Study Commission, by Anthony J. Napodano, Esq., of Edison, New Jersey, an attorney and member of the Alcoholic Beverage Control Study Commission, and counsel for a group of licensees which have formed a buying cooperative. Mr. Napodano requested the Director of the Division of Alcoholic Beverage Control to accept the comments addressed to the Alcoholic Beverage Control Study Commission as if addressed to the Director, and in direct comment on the regulation. The Director agreed to do so. Mr. Napodano's letter made five points, the first being that the proposal would violate N.J.S.A. 33:1-26, which provides that under no circumstances shall a license be deemed property subject to, among other things, a lien. The second point made by Mr. Napodano was that the proposal did not, as was indicated in the summary to the proposal, adopt the position of the Special Panel on Credit which had been set forth in its report on July 10, 1981, but that it was only one of two alternatives, the other alternative having been the one previously adopted by the former Director. The third point was that the former Director of the Division of Alcoholic Beverage Control had issued a report in March, 1981 indicating that the credit regulations would be repealed, and the proposal that is now being made is in essence what was repealed by the former Director. The fourth point was that the proposal would not serve to preserve industry stability, but instead would have the opposite effect. The fifth and last point concerned the substitution of first-class mail service requirement for the present requirement for physical service of the Notice of Obligation, and a point was made that certified mail, return receipt requested, should be utilized and that service should be deemed complete when delivered and received, rather than upon mailing.

In response to Mr. Napodano, the Director responded that the proposal and amendment to N.J.A.C. 13:2-24.4 would not create a property right in the license and would not be in any sense a lien. Wholesalers would acquire no right or ability of collection by means of the amendment to the regulation. All it would do would be to prevent a licensee, who had abused the license privilege by not paying for purchased goods within 30 days as presently required, to transfer a valuable privilege. A license cannot now be transferred free and clear of pending disciplinary proceedings or even of the past record of disciplinary proceedings, and the proposed regulatory amendment will again accomplish the same thing with obligations for paying for goods. It will not, however, in any way create a lien on the license.

In answer to the second point, the Director pointed out that the Special Panel on Credit had recommended what is now being proposed, and the present existing regulation, which was adopted by the former Director, was an alternate proposal if the primary recommendation was not adopted. The recommendations were not set forth as two alternatives, but rather as a primary recommendation and an alternative one. Likewise, as to the third point, although the former Director indicated an intent to, and indeed did, repeal the former credit regulation, it was with the understanding there would be established the Special Panel on Credit and that a new credit regulation would be adopted pursuant to the panel's recommendations. That is indeed what happened. As said above, the proposed amendment to N.J.A.C. 13:2-24.4 is to adopt the primary recommendation of the Special Panel on Credit rather than the alternative proposal, which was adopted, and which the Division deems not to have worked.

LAW AND PUBLIC SAFETY

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The fourth point made by Mr. Napodano was answered by the Director's stating a belief that the proposed regulatory amendment will indeed tend toward industry stability. Certainly, where there is a situation that licenses can be transferred free and clear of obligations extending to the license privilege, there presents a situation which can lend to greater instability and which indeed has lent to greater instability as evidenced by the number of outstanding debts presently existing. Certainly, if there were any thought that the proposal would lead to greater instability, it would not be adopted.

As to the fifth point, regarding the substitution of service either by personal service or first-class mail, instead of requiring that the Notice of Obligation be served by physical delivery, in making this proposal, the Director recognizes the realities of first-class mail, and the fact that mail is usually delivered in a fairly timely manner. Moreover, the Notice of Obligation is really only a reminder since the retail licensee certainly has received the invoice and knows that payment is due. If certified mail were to be required, as Mr. Napodano suggested, it could lead to a situation whereby the retail licensee could avoid service of the Notice of Obligation by simply not accepting or claiming the certified mail item. The amendment to the regulation takes into consideration that occasionally a notice might not be received and there is an immediate remedy should a licensee be placed upon the default list without having received the Notice of Obligation. For this reason, the effective date of a mailed notice of obligation will be changed to be the second business day following the date of mailing.

It should also be noted that the proposed regulation and Mr. Napodano's comments were discussed by the Alcoholic Beverage Control Study Commission at a public meeting of the full Commission held on October 12, 1983. The recommendation of the Commission was that members of the Commission with views on the regulation should direct written comments to the Director, but that the Commission would not take any collective view on the regulation. No comments other than those presented to the Study Commission by Mr. Napodano were received.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks *thus*; no deletions were made).

13:2-7.10 (No change from proposal.)

13:2-24.4 Regulation of wholesaler credit

(a) (No change from proposal.)

(b) In the event that a wholesaler has not received payment in accordance with the terms of sale as set forth upon an individual delivery invoice pursuant to N.J.A.C. 13:2-39.1, such wholesaler shall [physically serve], **personally or by first class mail**, serve a "Notice of Obligation" upon any such defaulting retailer or its employee within three business days after the obligation is due. **Service shall be deemed complete on the *second business day following the* date of mailing or when personal service is made.**

1. (No change.)

(c)-(h) (No change from proposal.)

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Conduct of Licensees; Prohibited Promotions

Adopted Amendment: N.J.A.C. 13:2-23.16

Proposed: September 19, 1983 at 15 N.J.R. 1558(a).

Adopted: October 24, 1983 by John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control. Filed: November 1, 1983 as R.1983 d.527, **with technical changes not requiring additional public notice and comment** (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 33:1-39, 33:1-39.2 and 33:1-93.

Effective Date: November 21, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): February 14, 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*).

13:2-23.16 Prohibited promotions

(a) No [license] licensee or registrant privileged to sell or solicit the sale of alcoholic beverages within this State shall, directly or indirectly, allow, permit or suffer any practice or promotion that:

1. (No change.)

2. Offers to a patron or consumer a free drink, gift, prize or anything of value, conditioned upon the purchase of an alcoholic beverage or product, except branded or unique glassware or souvenirs in connection with a single ***purchase*[:]** or **consumer mail-in rebates offered by alcoholic beverage producers or importers in accordance with N.J.A.C. 13:2-24.11;** or

3. (No change.)

(b)

DIVISION OF MOTOR VEHICLES

Enforcement Service

Motor Vehicle Reinspection Centers

Readoption: N.J.A.C. 13:20-32.4, 32.14 and 32.15

Proposed: September 19, 1983 at 15 N.J.R. 1608(a). Adopted: November 1, 1983 by Clifford W. Snedeker, Director of the Division of Motor Vehicles. Filed: November 1, 1983 as R.1983 d.525, **without change.**

Authority: N.J.S.A. 39:8-34 (P.L. 1983, c.236, § 13).

Effective Date: November 1, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): February 7, 1988.

**Summary of Public Comments and Agency Responses:
No comments received.**

ADOPTIONS

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS

**Board of Marriage Counselor Examiners
General Provisions; Professional Misconduct;
Unlicensed Persons – Permissible Activities;
Qualification for Admission to
Examination**

**Adopted New Rules: N.J.A.C. 13:34-1.3, 1.4,
1.5, 1.6, 1.7, 2.1, 3.1, 3.2, 3.3, 3.4, 3.5,
3.6, 3.7, 4.1, 4.2**

Adopted Amendment: N.J.A.C. 13:34-1.1

Proposed: September 6, 1983 at 15 N.J.R. 1441(a).
Adopted: October 20, 1983 by John Zane, President,
New Jersey Board of Marriage Counselor Examiners.
Filed: November 3, 1983 as R. 1983 d.544, **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. 45:8B-9 et seq., specifically 45:8B-13.

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
November 21, 1988.

Summary of Public Comments and Agency Responses:

The Board received a comment from Jeffrey Faue, Executive Director of the National Association of Social Workers - New Jersey. The Association objected to the following: 1) the omission of reference to the MSW degree in the section dealing with educational requirements for admission to examination, 2) doubt regarding whether internships of social work students who are given placements in marriage counseling and family therapy must be reported to the Board and 3) failure to mention in subchapter 3 regarding permissible activities of unlicensed persons, those persons exempted from licensure pursuant to N.J.S.A. 45:8B-8 as suggested by the court in **Sonnheim v. State Board of Marriage Counselor Examiners**.

The Board received similar comments from Daniel Katz, the Chairperson of the casework sequence at the State University of New Jersey - Rutgers School of Social Work, at least as to comments 1 and 2 of the NASW above, and Dr. Katz also commented that the definition of a community agency as one "supported wholly or in major part by public funds" in subchapter 3 is inadequate, objected to what he termed the Board's effort to extend its oversight to the field of family therapy, protested what he sees as the exclusion of "a large number of women who work part-time because of the specification of the number and concentration of hours of supervised experience required and requested a public hearing because of the scope of the changes in the regulations.

The Board responded at a public meeting and in writing indicating that the MSW degree is clearly acceptable under the statute without reference to the coursework evaluation provided only for allied degrees, doctors of medicine and post masters degrees in marriage and family counseling pursuant to N.J.A.C. 13:34-4.2; that student internships approved by accredited educational institutions will not be reviewed by the Board; that the Board responded to the **Sonnheim** case in the section regarding misconduct by licensees incorrectly and is now recodifying the

section from the proposal (N.J.A.C. 13:34-2.1(a)19xvii) to be part of subchapter 3 regarding permissible activities of unlicensed persons (N.J.A.C. 13:34-3.7). Although the thrust of the rule is unchanged, minor technical and grammatical changes were made.

The Board responded to additional comments submitted by Dr. Katz by stating that the definition of a community agency as one supported in major part by public funds (N.J.A.C. 13:34-3.2) was merely one method of proving that an agency is a "bona fide community agency", and other methods are possible. The Board disagreed with Dr. Katz's contention that its authority did not extend to family therapy, (see N.J.S.A. 45:8B-2(b) for example), and explained that candidates who work part-time can attain the required number of hours of "supervised experience" by working fewer hours for a longer period of time. Finally, the Board rejected the request for a public hearing as unnecessary.

The Board also deleted from its proposal N.J.A.C. 13:34-2.1(a)12 regarding claims of professional superiority, as it determined that section to be inconsistent with N.J.A.C. 13:34-2.1(a)19iii.

Full text of the changes between proposal and adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks * [thus]*).

13:34-2.1 Misconduct defined
(a) (No change from proposal.)
1.-11. (No change from proposal.)
[12. Making claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof.]
13.-18. (No change from proposal.)
19. (No change from proposal.)
i.-xvi. (No change from proposal.)
[xvii. In the case of advertising by or on behalf of an unlicensed individual who is authorized to practice marriage or family counseling pursuant to N.J.S.A. 45:8B-6 or N.J.S.A. 45:8B-8 fails to disclose the name of the unlicensed individual and the fact of non-licensure.]

***13:34-3.7 Advertising by unlicensed persons**
Advertising by or on behalf of an unlicensed individual who is authorized to practice marriage or family counseling pursuant to N.J.S.A. 45:8B-6 or N.J.S.A. 45:8B-8, shall disclose the name of the unlicensed individual and the fact of non-licensure.*

(b)

BOARD OF PSYCHOLOGICAL EXAMINERS

**Academic and Professional Experience
Requirements for Licensure; Examinations;
Fee Schedule; Psychological Work by
Members of Other Professional Groups**

**Readoption with Amendments: N.J.A.C.
13:42**

Proposed: September 6, 1983 at 15 N.J.R. 1497(a).
Adopted: October 24, 1983 by Robert Willis, President
New Jersey Board of Psychological Examiners.
Filed: November 3, 1983 as R. 1983 d.543, **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. 45:14B-13, 45:14B-14(e), 45:1-3.2.

Effective Date (Readoption): November 3, 1983.
 Effective Date (Amendments): November 21, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 November 3, 1988.

Summary of Public Comments and Agency Responses:

The Board received a comment from the New Jersey Psychological Association commending the Board for its outstanding work on the revision of the regulations. The Board received further comments from the association as follows:

1) N.J.A.C. 13:42-4.1(a)1.xvii.(3) regarding misconduct in the practice of psychology by participating in a conflict of interest which may include "failure to attempt to prevent misuse of a licensee's influence due to personal,...organizational" or other pressures, was criticized for unclear intent, and as leaving "unclear what the psychologist is supposed to prevent...". The Board responded by amending the proposal to include misuse of the licensee's work and to delete the description of possible pressures on the psychologist. The Board felt that these changes made what the licensee was obligated to attempt to prevent clear.

2) N.J.A.C. 13:42.1(a)1.xix.(2) regarding an obligation on the part of supervisors to provide informed choice, confidentiality and protection from harm among other things, to subordinates was said by the association to subject a psychologist to sanction whether or not she was "negligent or otherwise at fault". The Board responded by amending the proposal by deleting the requirement that psychologist-supervisors protect their subordinates "from physical and mental harm". The Board stated that the psychologist was not a guarantor of the end result and was only required to act reasonably to provide the subordinate with confidentiality, due process, etc.

3) N.J.A.C. 13:42-4.1(a)1.xxi.(1) and (2) defining misconduct to include failure to "safeguard the best interests of the client in financial arrangements and regarding ensuring that clients understand financial arrangements, was criticized as vague, and it was suggested that the specific prohibitions contained in the other subparagraphs of the section adequately dealt with improper dealings concerning financial arrangements with clients. The Board rejected the comment on vagueness and stated that the language regarding safeguarding the best financial interests of the client allows the Board flexibility in dealing with new developments in financial arrangements in the future and was not vague. The Board also amended the language in subparagraph (2) to indicate that a psychologist is responsible to "assist clients" to understand financial arrangements rather than to "ensure" that they understand the arrangements in accordance with the criticism of the association.

4) N.J.A.C. 13:42-4.1(a)1.xxiv.(1)(A) requiring maintenance of confidentiality unless there is "a clear and imminent danger to the individual or to society" was criticized because first, all the psychologist can do is determine that in his or her best professional judgment there is a danger, second, because the word "society" is too general, and third, because the regulation doesn't allow the psychologist to warn the threatened individual. The Board responded by indicating that the standard regarding whether there was a clear and imminent danger would be according to a reasonable professional judgment, amended the regulation to substitute "the public" for "society" to make it clearer, and changed the section to allow the psychologist to warn "the threatened individual(s) or their representatives".

The Board also received a comment from Steven Weitz, a licensed psychologist, who objected to the requirement that a supervisor of a candidate must hold licensure for at least three years prior to the supervision. He opined that the three-year requirement was arbitrary and that there should be more stringent requirements of competency imposed on supervisors.

The Board responded by indicating that the three-year requirement was founded on the belief that there should be at least minimal experience as a licensed practitioner prior to becoming a

supervisor and was reasonable. The Board further accepted the comment as to establishing competency criteria for supervisors by appointing a committee to study this issue with a view toward eventually amending the regulations to require further standards of competence for supervisors over and above basic licensure and experience.

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]*).

13:42-2.1 Allied degree

(a) (No change from proposal.)

1.-2. (No change from proposal.)

3. A residency requirement of personal matriculated attendance during at least one continuous academic year, defined as the period between the time school opens in the institution after the general summer vacation until the next succeeding summer vacation shall begin (but no less than eight months), of doctoral study is enforced ***[:]* ***, **but this shall not prohibit a part-time study program;***

4. (No change from proposal.)

(b) The doctoral degree must be based upon at least 40 doctoral credit hours earned specifically within the field of psychology and within one doctoral program ***taken in personal attendance at the degree granting institution ***. The applicant shall submit evidence of an additional 20 credit hours, also specifically in the field of psychology, but which do not have to be obtained as part of the doctoral program. Such credits may have been granted at a pre-doctoral or post-doctoral graduate level and must be obtained as part of an educational program in a regionally accredited institution.

(c) Thirty-six of the required 60 credit hours specifically in the field of psychology must be distributed across the following areas of graduate study:

1. Personality Theory and Human Development Theory - six credits;

2. Learning Theory and/or ***[p]* *P***hysiological Psychology - six credits;

3. Psychological Measurement and~~[/or]*~~ ***Psychological*** Assesment - six credits;

4. Psychopathology - six credits;

5. Psychological Therapy ~~*[and/or]*~~ ***/** Counseling *****, or **Industrial/Organizational Psychology*** - six credits;

6. Research and Statistical Design - six credits.

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

13:42-2.4 Supervised experience

(a) (No change from proposal.)

1.-2. (No change from proposal.)

3. The equivalent of one year of full-time practice for a candidate is set at a minimum of 1,750 hours which must include at least 1,000 client contact hours and 200 hours of supervision of which 100 hours must be face-to-face supervision with no more than 20 client contact hours per week and a minimum of four hours of supervision per week on a 50 week basis. ***Supervision of a non-therapy nature, for example, supervision of psychological assessments or of industrial/organizational psychology shall meet the requirements for total hours and reflect an appropriate range of activities.***

13:42-2.5 Temporary permit

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

(c) (No change from proposal.)

1.-4. (No change from proposal.)

5. For applicants already employed in an exempt setting pursuant to N.J.S.A. 45:14B- 6(a), and (b), a temporary permit may be granted for the following reasons:

i. To increase the number of actual client contact hours up to the permitted 20 hours per week;

ii. To obtain experience with clients that the candidate intends to

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work with and in *[therapy]* ***interventions or assessments*** of the kind the candidate intends to use under a license and which are unavailable in the exempt setting;

iii. To experience working with a given supervisor whose orientation and experience is different from that of the supervisor in the exempt setting, in order to broaden the candidate's training.

13:42-3.1 American Association of State Psychology Boards
Exam; required

(a) (No change from proposal.)

(b) All candidates passing the written examination shall then take an oral examination of their professional practice based on a work sample in accord with guidelines to be supplied to the candidate by the Board and as follows:

1. A current work sample representative of the candidate's present practice shall be presented prior to the oral examination.

2. The work sample shall be specified as being in the area of clinical, counseling, industrial*, **organizational** or school* *[or social]* psychology.

3. The text of the work sample shall *[be between 15 and]* ***not exceed*** 20 pages in length, ***be*** typed and double-spaced. All tests and protocols used as the basis for professional intervention shall be presented as appendices.

13:42-4.1 Misconduct; generally

(a) (No change from proposal.)

1. (No change from proposal.)

i.-xvi. (No change from proposal.)

xvii. Participating in a conflict of interest may include:

(1)-(2) (No change from proposal.)

(3) Failure to attempt to prevent misuse of licensee's influence ***or professional work.*** *[due to personal, social, organizational, financial or political situations and pressures.]*

(4) Exploitation of the trust and dependency of clients.

(5) Failure to inform all parties involved in a conflict of interest*[s]* that has arisen of the nature and direction of the loyalties and responsibilities involved, and to take appropriate action.

xviii. (No change from proposal.)

xix. In supervisory positions, failure to:

(1) Provide adequate and timely evaluations where required to employees, trainees, students and others whose work they supervise.

(2) Provide informed choice, confidentiality *[,]* ***and*** due process ***[and protection from physical and mental harm]*** to their subordinates.

(3) Provide appropriate working conditions, constructive consultation, and experience opportunities.

xx. (No change from proposal.)

xxi. In financial arrangements with clients, failure to:

(1) Safeguard the best interests of the client.

(2) ***[Ensure that]* *Assist*** clients ***to*** understand financial arrangements in advance of incurring a financial obligation to the psychologist including but not limited to specifying what the fee is, whether and to what extent it will be covered by insurance or by other third party coverage and whether the psychologist will accept installment payments.

(3) Assist clients in finding needed services in the instances where payment of the usual fee would be a hardship.

(4) Refuse the giving or receiving of a commission, rebate or other form of remuneration for referral of clients for professional services, whether by an individual or by an agency.

xxii.-xxiii. (No change from proposal.)

xxiv. Failure to maintain professional confidentiality including the following:

(1) Failure to safeguard information about an individual that has been obtained by a psychologist in the course of his or her teaching, practice, or investigation unless:

(A) There is a clear and imminent danger to the individual or ***[to society.]* *the public.*** In such cases information should be

revealed only to appropriate professional workers*, ***[or]*** public authorities ***and the threatened individual(s) or their representatives***.

(B)-(F) (No change from proposal.)

xxv.-xxvi. (No change from proposal.)

PUBLIC UTILITIES**(a)****BOARD OF PUBLIC UTILITIES****Diversion of Service
Basis of Discontinuance****Adopted New Rule: N.J.A.C. 14:3-7.16
Adopted Amendment: N.J.A.C. 14:3-3.6**

Proposed: May 16, 1983 at 15 N.J.R. 787(a).

Adopted: October 31, 1983 by Board of Public Utilities,
Barbara A. Curran, President.

Filed: November 1, 1983 as R.1983 d.526, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-20, 48:2-25,
48:3-1, 48:3-2 and 48:3-3.

Effective Date: November 21, 1983.

Summary of Public Comments and Agency Responses:

General Comments: Scope and Impact of Rule

(a) Costs

Atlantic Electric (ACE) and Jersey Central Power and Light Company (JCP&L) claim that the costs of implementing the rule such as expenditures for recordkeeping, semiannual notices, investigation, preparation of adjusted bills, written reports on the results of the diversion investigation and conference, are far in excess of the value of the uncollectibles account which is sought to be reduced by the rule. (Letter of James Franklin on behalf of ACE, pp. 8, 11; letter of JCP&L, p.4, sec. 3). Atlantic Electric further notes that the costs of the rule, especially (d) which requires the utility to investigate all allegations of unexplainably high utility bills, would necessarily be borne by all ratepayers whereas the benefits would inure only to the tenant-customer class. (ACE, p. 11, para. 3).

Under the rule as amended, some costs, such as those related to a second diversion investigation within 12 months that fails to discover a diversion, will be borne by tenant-customers. The utility may also bill the diverter, when identified, for all related expenses incurred by the utility, in addition to the costs attributable to the diversion. Further, under the rule, not all allegations of unexplainably high utility bills need be followed by a diversion investigation. Diversion investigations are required only where a tenant-customer has requested such an investigation in writing pursuant to N.J.A.C. 14:3-7.16(d)1.

(b) Class Affected by the Rule

The New Jersey Council of the Multi-Housing Industry recommends that in addition to diversions by landlords and other tenants, diversions by tenants from landlords should be covered by the rule. (Letter of the New Jersey Council of Multi-Housing

Industry). Public Service Electric and Gas Company (PSE&G) recommends that tenant-to-tenant diversion should be excluded from the rule because it is impossible to determine if a tenant has cooperated in the diversion. (Summary of PSE&G Comments, p. 6, sec. J). PSE&G also suggests that the rule should cover only residential tenancy arrangements, not commercial. (PSE&G letter, p. 4, sec. 7). Middlesex County Legal Services Corporation (MCLSC) recommends that the rule cover diversions on the tenant's premises. (Letter of MCLSC, p. 1).

The Board rejects the recommendation to exclude tenant-to-tenant diversion. Exclusion of such coverage would provide incentive to the unscrupulous tenant, who might otherwise tamper with his or her own meter to reduce utility bills, to divert service from another tenant instead. The unscrupulous tenant would prefer diversion over personal meter tampering because it carries no criminal sanctions. Upon discovery of the diversion, such a tenant-beneficiary would be free to move and suffer no recourse from the utility. Pursuant to these regulations, utilities would be unable to bill the tenant-customer whose service was diverted and would therefore be saddled with an uncollectible account.

The Board rejects the inclusion of rule coverage for diversions from landlords because such diversions are rare and are considered, when they occur, to be a cost of doing business. Commercial tenants are not covered by the rule. In response to Middlesex County Legal Services Corporation's suggestion, the Board has added a definition for "Diversion" which provides for tapping of utility service on the tenant-customer's premises, as long as it isn't obvious to the tenant-customer by looking at the premises.

Specific Comments: Section by Section Analysis of Rule

(a) Definition of Terms

Passaic County Legal Aid Society (PCLAS) advocates addition of a definition for "Beneficiary" to denote that entity legally responsible for paying for the diverted service. (PCLAS letter, p. 3). PCLAS notes that another tenant may, in fact, be benefiting from the diverted service in the sense of using it while it is the landlord who is benefiting monetarily from the diversion.

The Board has adopted PCLAS's recommendation but has defined "Beneficiary" as the "entity financially benefiting" rather than the "entity legally responsible..."

(b) Tariff Provisions Involving Diversion of Service

PSE&G suggests that the language of this provision be changed to remove the connotation of intentional discrimination against tenant-customers.

The Board has adopted a change in this language pursuant to this suggestion.

(c) Notification of Possible Diversion

PSE&G, ACE and New Jersey Natural Gas Company (NJNG) suggest that tenant consent or non-consent for payment for service outside the tenant-customer's premises can only be documented by a written lease. They note that in dwellings where wiring patterns demand that tenants pay for energy used outside their premises, there is often an agreement between the landlord and tenant to structure the rent to compensate for this metering of utilities.

To remedy this, PSE&G suggests that the proposed rule should not be applicable unless the tenant has a written lease. (PSE&G letter, p. 3, para. 2). ACE advocates that duplex homes and dwelling units of less than four units should be exempt from the rule due to the "common practice of metering common services" through one meter. (ACE, p. 5).

The Board rejects these suggestions. Narrowing the scope of the rule to include only tenant-customers with written leases would exclude a high percentage of precisely those whom the rule was designed to protect. Further, the rule now protects only those tenant-customers whose meters measure only their own electric and/or gas usage. Presumably, if the services of more than one

tenant were metered through a common meter, the tenant-customer would not have the utility service only in his or her name.

South Jersey Gas Company (SJGC) states that it is not able to comply with section (c) because its records do not reveal the necessary information. (Letter of SJGC, p. 2).

The Board believes that a utility's lack of information on whether a customer is a tenant does not justify noncompliance with the notification requirement. If the records do not identify whether a customer is a tenant, the Board suggests that the utility send the notification to all customers.

(d) Investigation of Alleged Diversions

PSE&G, JCP&L and ACE object to the requirement in section (d) that the utility investigate all allegations of diversions of service, especially repeated allegations from the same customer. PSE&G suggests that proof of diversion should be required before the utility is required to investigate repeat cases. (Summary of PSE&G Comments, p. 5, sec. E). JCP&L believes that the burden of establishing a diversion of service should be placed on the tenant-customer. (JCP&L, p. 6, para. 10). ACE notes the absence of the imposition of a good faith standard on the tenant-customer in reporting diverted service and contends that the New Jersey Department of Consumer Affairs, not the utility, should have the responsibility for investigation. (ACE, pp. 4, 9).

The utilities contend that potential abuse of this investigation requirement may be prevented by requiring customers to bear some of the costs of investigation. For example, PSE&G suggests that costs of investigating a second unsubstantiated allegation of a diversion should be borne by the party initiating it. (PSE&G letter, p. 3, para. 1).

The Board responded to these comments by requiring that diversion requests be made in writing on a form provided by the utility. The form includes a statement notifying the tenant that the costs of a second diversion investigation in a 12-month period that fails to uncover a diversion must be borne by the tenant. This new provision, plus a requirement that tenant-customers allege diversions in good faith, should serve to reduce the incidence of abuse in diversion requests.

In contrast to the utilities' suggestions, PCLAS believes the investigation requirement should reach even further by requiring investigation by a utility of any customer complaint of unexplainably high utility bills, even if the complaint does not allege a diversion of service. (PCLAS, p. 2).

In response, the Board anticipates that because of the changes referred to above in the investigation request process, the utilities will be more willing to offer the diversion investigation service to tenant-customers who notify the utility of unexplainably high utility bills.

The utilities cited access problems involved with compliance with the section (d)1 investigation requirement. For example, JCP&L states that a utility has authority to enter only the customer's premises, not a third party diverter's premises. (JCP&L, p. 5, para. 4). Further, Atlantic Electric contends that the utility does not have the right to examine beneath the walls of the building to discover a diversion. (ACE, p. 9).

The Board has addressed this concern by incorporating into the regulation a presumption that all alleged diversions constitute safety hazards until the utility inspects them. N.J.A.C. 14:3-7.16(d)1. Utilities have the right of reasonable access to a customer's premises and all property furnished by the utility for purposes of inspection when a safety hazard is suspected pursuant to N.J.A.C. 14:3-3.8.

Regarding section (d)2, PSE&G and JCP&L object to the burden placed upon the utility to identify the beneficiary of the diversion. (JCP&L, p. 4, para. 2; PSE&G letter, p. 3, sec. 3). PSE&G recommends that the rule not be applicable unless the tenant provides the utility the name and address of the landlord.

The Board believes that imposing on the utility the burden of identifying a landlord who is unknown to the tenant is not

unreasonable because such information is readily available from local or municipal property taxation authorities. Armed with the identity of the landlord, the utility will be able to identify the beneficiary with greater ease.

The section (d)3 requirement of a written report on the findings of the investigation is unclear, according to New Jersey Natural, in the event that the utility discovers no abnormal condition on the tenant's premises. (New Jersey Natural, p. 3). New Jersey Natural suggests that the preparation of the report be preceded by a requirement of the discovery of an unauthorized alteration of service.

The Board has clarified N.J.A.C. 14:3-7.16(d)3 to state that if no diversion is found, an investigation report stating this must still be filed. When the report is filed, the diversion proceedings shall terminate. The Board believes that a report must still be required in the absence of a diversion to document that no diversion in fact was found.

PCLAS recommends that the section (d)2 investigation report be required to include information on the estimated cost of the diverted service so that this data may be considered at the conference provided for in section (f). (PCLAS, p. 2).

The Board has adopted this recommendation. N.J.A.C. 14:3-7.16(d)3.

(e) Continuation of Service

South Jersey Gas and JCP&L favor the inclusion of a presumption in section (e) that any diversion of energy is unsafe and should be considered for discontinuance upon its discovery unless it can be proven that the diversion presents no danger. (South Jersey Gas, p. 2; JCP&L, p. 5, para. 6). New Jersey Natural considers section (e) unnecessary as duplication of protection already provided for by existing regulation.

As discussed above, the Board has incorporated such a presumption into N.J.A.C. 14:3-7.16(d)1. The Board believes that N.J.A.C. 14:3-7.16(e) is not duplicative.

The legal services respondents, however, favored broadening the scope of section (e)'s protection against discontinuance. PCLAS advocates the addition of two extra preconditions to termination of service. (PCLAS, p. 3). In addition, PCLAS favors lengthening the period for appeal before termination of services may occur to four weeks after the mailing of the utility's report on the investigation or the conference provided for in section (f). (PCLAS, p. 3).

The Board believes that section (e) as stated provides tenant-customers with adequate protection against termination. The Board has lengthened the period during which the parties may request Board intervention to four weeks after the conference.

(f) Billing Where Diversion Has Occurred

The respondents generally found section (f) unclear as to whether corrective billing includes retroactive billing and as to the date to which corrective billing would be retroactive. PCLAS suggests that section (f) be amended to include references to "prospective" and "retrospective" billing. (PCLAS, p. 3).

In response, the Board has revised and amended the billing provision to clarify that a tenant-customer's bill would be corrected prospectively and retrospectively. Section (f) as proposed has become the new section (g) to clarify that in the chronology of the proceedings, all bill corrections will follow the conference.

PSE&G ideally believes that tenants should be required legislatively to pay for diverted utilities, then be authorized to withhold a corresponding amount of rent from the landlord. (PSE&G letter, p. 3, para. 6). However, in the absence of such a provision, PSE&G contends that retroactive billing should be limited to cases where evidence of the beginning of the diversion can be produced. (PSE&G letter, p. 3, sec. 5).

The Board would favor a statutory authorization for tenants to pay their utility bills and withhold a corresponding amount from their rent. In the absence of such a law, the Board is empowered only to promulgate regulations protecting tenant-customers from

paying for service they are not using.

New Jersey Natural Gas claims that section (g) does not address when billing for unauthorized service should commence and who assumes the burden of establishing a retroactive billing date when the tenant claims the condition existed throughout his/her tenancy. (New Jersey Natural, p. 3).

The Board has clarified the billing provision to respond to this concern. Further, (g) 6 has been added to provide the duration for retroactive correction of bills.

Regarding (g)1, PSE&G suggests that the methods of estimating the amount of service diverted should be expanded to include hours-of-use and energy use characteristics of appliances, degree day and temperature-humidity-index information, etc. (PSE&G letter, p. 3, sec. 4). New Jersey Citizen Action prefers the load survey method of estimation over the others proposed. (Comments of New Jersey Citizen Action, p. 2).

In response, the Board has added "cooling degree hours" to the methods for estimating diverted service. The Board believes that this addition enables the utilities to accurately estimate the amount of diverted service.

JCP&L objects to (g)2 of the proposed rule which it interprets to say that if the utility cannot identify the beneficiary of the diversion, the tenant-customer will not be liable for the diverted service which must necessarily be written off as an uncollectible. (JCP&L, p. 6, para. 7). South Jersey Gas contends that a utility cannot be placed in the position of collecting unpaid amounts from third parties with whom the utility has no business relationship. (SJGC, p. 1).

The Board believes that this section is essential for preservation of the purpose of the rule: to protect tenant-customers from paying for unused utility service. In response to South Jersey Gas Company's comment, the Board would favor a legislative codification of the defacto customer status assumed by a third-party diverter who previously had no account with the utility.

JCP&L, PSE&G and South Jersey Gas contend that section (g)4 is unworkable because collusion between tenants is impossible for the utility to determine. (JCP&L, p.4, para. 1; PSE&G Comments, p. 6, sec. J; SJGC, p. 1).

The Board contends that although the potential for collusion exists, removing tenant-to-tenant diversions would undermine the goal of protecting tenants from paying for any service which they are not using.

PSE&G and JCP&L object to section (g)5's allowance of amortization of payments for diverted service. (PSE&G Comments, p. 7, sec. K; JCP&L, p. 6). New Jersey Natural Gas believes there should be no differential between treatment of payment for construction error and intentional diversions. (NJNG, p. 4).

The Board has changed the billing provision to provide that utilities are not always required to, but they may allow amortization of payments when diversions are the result of construction error.

PSE&G and JCP&L comment that the Board of Public Utilities has no authority to create section (g)5's four-year statute of limitations for retroactive billing. (PSE&G Comments, p. 8, sec. P; JCP&L, p. 6). Atlantic Electric further believes that this provision is unworkable because of the difficulties of proving the duration of the alleged diversion and the problems of identifying and dealing with former tenants and landlords. ACE recommends that retroactive recovery be limited to tenants in possession for a period of four years or for the length of the tenancy, whichever is less. (ACE, p. 7).

Section (a)'s revised definitions restrict these diversion proceedings only to current landlords and to tenant-customers who are the customers of record at the time of the complaint. Section (g)6 has been added to limit retroactive correction to the date of the beginning of the tenant-customer's tenancy, to the beginning of the diversion, or to four years, whichever is shorter.

(g) Conference

The respondents' major criticism of section (f) is that it is ineffective in compelling the landlord to correct the diversion. New Jersey Citizen Action, Middlesex County Legal Services and Essex-Newark Legal Services believe that the utility should inform the landlord at the conference that the diversion must be corrected within 30 days or be liable for the entire bill. (New Jersey Citizen Action, p. 2; MCLSC, p. 2; E-NLS, pp.2-3).

The Board believes that due process problems are inherent in any requirement that the landlord pay the entire utility bill if he or she fails to correct a diversion. A billing correction which imposes the estimated cost of the diverted service will supply the pressure necessary to compel the landlord to correct the diversion.

As an additional incentive to landlords, PSE&G recommends that service not be established for any subsequent new customer unless the diversion is corrected. (PSE&G letter, p. 3, para. 5).

The Board agrees with this recommendation and has added such a statement to section (f)1 of the rule.

PSE&G objects to section (g)'s requirement that the utility should have the burden of seeking remuneration from the beneficiary and of preparing and distributing a summary of the conference. (PSE&G Summary, p. 7, sec. L&M). In response, the Board contends that though these requirements may be somewhat burdensome, the utility is the only entity in a position to assume these responsibilities.

Attendance at the conference and retroactive billing arrangements should include only the current parties of record, not all landlords and tenants involved with the apartment within the statute of limitations period, according to New Jersey Natural Gas. (NJNG, pp. 3-4).

The Board feels that the changes in sections (a) and (g) discussed above address these concerns.

(h) Post-Conference Notification

Passaic County Legal Aid Society recommends that the utility provide all parties with a copy of the conference agreement and a notice of right to appeal (PCLAS, p.7). The Board contends that section (f) already requires that the conference summary include a copy of the conference agreement, if one is reached.

Miscellaneous Comments

PCLAS recommends that a new paragraph be added stating that no agreement entered into shall constitute a tenant's waiver of any right he/she has pursuant to any law. (PCLAS, p.6).

The Board contends that no agreement may violate the law. Tenant-customers should be vigilant to prevent rights not expressly protected by law from being abridged in any agreement formed.

The following parties favor the rule as proposed:

- * N.J. Federation of Senior Citizens
- * Consumers League of New Jersey
- * Steven P. McCabe, Esq.
- * Hudson County Legal Services Corp.
- * Puerto Rican Association for Human Development, Inc.
- * Kathy Davis
- * WCBS-TV
- * New Jersey Tenants Organization

No comments were received on the proposed amendment to N.J.A.C. 14:3-3.6(a)3i and it is adopted without 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]*).

14:3-7.16 Diversion of service

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

"Beneficiary" is the person, corporation or other entity financially benefiting from the service.

"Diversion" is an unauthorized connection to pipes and/or wiring by which utility service registers on the tenant-customer's meter although such service is being used by other than the tenant-customer of record without his or her knowledge or cooperation. The unauthorized connection must not be apparent from the premises.

"Landlord" means both those persons, corporations or other entities who ***currently*** lease residential dwellings, as well as condominium associations or other owners' associations in instances where occupants own their premises in a multi-family building.

"Premises" are those areas of the residence where service outlets are visible and under the direct control of the tenant-customer of record.

"Tenant-customer" is a residential customer of record ***at the time of the complaint who rents a dwelling unit in a multi-family building or owns a condominium*** ***[whose meter is located off of their rented or owned premises].***

"Utility" or "company" means those public electric and/or natural gas utilities under the jurisdiction of the Board of Public Utilities.

(b) Each electric and/or gas utility shall file tariff amendments to ***[eliminate any provisions that require tenant-customers to pay for service where service is]*** ***provide that tenant-customers shall not be required to pay for service*** supplied outside their premises without the tenant-customers' consent.

(c) Each electric and/or gas utility shall notify tenant-customers who apply for service that if the utility's tariff provides for billing through one meter for the tenant-customers' own usage and for service ***diverted*** outside the tenant-customers' premises, the tenant-customers may not be required to pay for such ***[outside]*** ***diverted*** service absent their consent ***or cooperation*** for such service.

(d) Investigation of alleged diversions shall be conducted as follows:

1. Where a tenant-customer alleges ***in good faith*** that the level of consumption reflected in his or her utility bill is unexplainably high, ***[because of diversion of service, the utility shall investigate the allegation within two months.]*** ***the tenant-customer may request the utility supplying gas and/or electricity to conduct a diversion investigation at no cost to the customer. Such request shall be made in writing by the tenant-customer by completing and returning to the utility a diversion investigation application provided by the utility. The application shall state that the utility may bill the customer for the cost of the second investigation within a 12-month period that fails to uncover the utility diversion. The utility must investigate the alleged diversion within two months of the receipt of the investigation request. Each diversion investigation must include a meter test conducted in accordance with N.J.A.C. 14:3-4.5.***

i. The utility shall have the right of reasonable access pursuant to N.J.A.C. 14:3- 3.8. ***For purposes of utility access, the alleged diversion is presumed to constitute a hazardous condition until the utility investigates.***

ii. If as a result of such investigation, the utility determines that the service from the pipes and/or wires serving the tenant-customer, ***[but not on his or her premises,]*** has been diverted, the utility shall notify the landlord or his or her agent and instruct him or her ***[that the diversion must be corrected immediately]*** ***to correct the diversion within 30 days through rewiring or repiping***. However, this provision shall in no way prohibit a utility from disconnecting service if the utility determines that an unsafe condition exists.

2. The utility shall attempt to determine the identity of the ***[party benefiting from such diverted service]*** ***beneficiary.***

i. A tenant-customer seeking relief shall be responsible for furnishing ***to the utility*** the identity and address of the landlord or agent ***[to the utility]***, and of the ***[benefiting party,]*** ***beneficiary,*** if known.

ii. Additionally, the tenant-customer shall provide any other

information which may assist the utility in its investigation.

3. The utility shall furnish **[a report in writing on the findings of its investigation]** to the tenant-customer, the tenant-customer's landlord, and to the **[party benefiting from the diverted service]** **beneficiary** (if different from the landlord) **].** **within 14 days of the investigation, a written report on the findings of the investigation. This report shall include information on the estimated cost of diverted service based upon prior use, degree day analysis, load study and/or cooling degree hours, whichever is appropriate. If the utility locates a diversion,** **[T]** **the utility shall attempt to reach an agreement with the parties involved or, in lieu of such agreement, proceed to the conference described in [(g)] (f) below. If no diversion is located, these diversion proceedings shall end when the utility has completed and filed its investigation report pursuant to (j).**

(e) **Utility** **[S]** **service shall be continued as follows:**

1. As of the date of the tenant-customer's allegation, the utility shall continue the tenant-customer's service provided the tenant-customer pays (or makes an agreement to pay) amounts not in dispute.

2. A utility may not terminate service to a customer involved in a diversion dispute until one of the following has occurred, whichever is latest:

i. **[Three]** **Four** weeks have elapsed after the conference **[(g) below]** **described in (f)** and no Board intervention has been sought; or,

ii. The Board has rendered a decision on **[an informal or]** a formal petition, **or Board staff has rendered a decision on an informal complaint** if **[such]** **either** is filed as described in **[(i)] (h).**

[(g)] (f) If an agreement has not been reached within two weeks of the completion of the utility's investigation, the utility shall invite the landlord, tenant-customer, beneficiary and any other parties which it has reason to believe may be involved with the diversion to a conference with a company representative. Reasonable efforts shall be made to **[schedule]** **hold** the conference **within 30 days of the investigation** at a mutually convenient time and place.

1. Prior to the conference, the utility shall attempt to have the landlord correct the diversion through rewiring and/or repiping. If the landlord or his or her agent fails to appear or to eliminate the diversion, **or if the beneficiary fails to appear,** the utility shall adjust the beneficiary's **[and the tenant-customer's]** billing and future bills by the process described in **[(f) above] (g) below.**

The utility may also refuse to establish utility service for any new tenant of the landlord if the diversion remains uncorrected and the tenant-customer moves from the premises.

2. At the conference, the parties shall negotiate the adjusted billing and payments pursuant to **[(f) above] (g) below.**

3. At the conference, the utility shall have the burden of presenting the results from the investigation and seeking remuneration from the beneficiary.

4. **If the diversion has not already been corrected,** **[A]** **a** **n** attempt shall be made at the conference to have the landlord or his or her agent to file an agreement with the tenant-customer and the utility that necessary corrections to the facilities shall be made within a specified time. **[Any agreement shall also provide that if a specified time period elapses without corrections having been made, the tenant-customer shall be provided with an automatic bill adjustment.]**

5. At the conference the utility shall provide all parties with a copy of these regulations.

6. The utility shall **[keep and make available to all parties upon request]** **provide to all parties within two weeks of the date of the conference** a detailed summary of the conference which shall include determinations, conclusions, **a copy of the investigation report** and the names of the participants.

[(f)] (g) **After the conference,** **[B]** **b** **illing** where diversion has occurred shall be **adjusted** as follows:

1. The tenant-customer whose service has been diverted by another party shall be billed by the utility only for service used, based upon **[prior use, degree day analysis and/or load study, whichever is appropriate.]** **the estimation contained in the investigation report described in (a) 4 above.**

2. **[In cases where the utility cannot identify the party benefiting from the diversion,]** **Where the utility can locate a diversion but not the beneficiary,** the tenant-customer shall not be liable for the diverted service. **Where the beneficiary can be identified, liability shall be imposed as follows:**

i. If the **[utility identifies the party benefiting from the diversion]** **beneficiary is currently a customer of the utility on another account,** the utility shall bill that beneficiary for the **[excess usage which is not attributable to the tenant-customer whose service has been diverted]** **amount the utility estimates is attributable to the diversion** plus all related expenses incurred by the utility in accordance with the company's tariff.

ii. **[If the beneficiary has an existing account, the utility shall bill that account.]** **If the beneficiary is not a customer of the utility, the utility may bill that beneficiary for the excess usage which is not attributable to the tenant-customer plus all related expenses incurred by the utility.**

3. In cases where the diversion of gas or electricity is a result of a construction error in the pipes and/or wires which was not the responsibility of the **[utility]** **beneficiary or landlord,** the account of the tenant-customer involved shall be adjusted to charge only for service used based upon a prior use, **[and/or]** degree day analysis, **load study and cooling hours** whichever is appropriate.

4. In instances where the tenant-customer benefited from or cooperated in the diversion, the utility may collect from the tenant-customer of record for the diverted service plus that portion of the related expenses incurred by the utility in accordance with the company's tariff.

5. The utility may permit the beneficiary to amortize the amount due for the diverted service. In cases of diversion due to construction error, the company **[shall]** **may** allow the customer to amortize the amount due for the diverted service in equal installments over a period of time equal to the period of the diversion, for up to a maximum of four years.

6. Billings shall be corrected retroactively to the most recent of the following dates:

i. **The date of the beginning of the diversion;**

ii. **The date of the beginning of the tenancy; or**

iii. **The date four years prior to the date of the tenant-customer's diversion complaint.**

[(h) After the conference, in the absence of an agreement by the parties involved, the utility shall bill the tenant-customer only for service metered less the estimated amount of service diverted pursuant to (f). The utility shall explain in writing its method of calculating the amount of service billed, forward such to all parties and make such writing a part of the detailed summary.]

[(i)] (h) If an agreement cannot be reached at the conference, the landlord, tenant-customer and **[party benefiting from the diversion]** **beneficiary** shall be advised by the utility that, within **[two]** **three** weeks of the **[conference date,]** **date on which the conference summary is available,** they may request Board intervention.

[(j)] (i) Each electric and/or gas utility shall send the following notice to its tenant-customers **[semi-annually:]** **with the tenant-customer's initial bill and annually thereafter:**

Pursuant to Board of Public Utilities regulation, no tenant-customer may be billed or disconnected for failure to pay for electric and/or gas service which was diverted outside of his/her premises without the tenant-customer's permission. Upon suspecting that his/her utility bill is unexplainably high because of a diversion of service, the tenant-customer should notify the utility immediately by calling the following

number: _____.

(k) *(j)* The utility shall keep records of diversion complaints and their resolution in accordance with the Board's existing regulations governing customer record retention per N.J.A.C. 14:3-6.1, 14:3-7.8. *Each electric and/or gas utility shall report to the Board, one year after the effective date of these regulations and annually thereafter, on the utilization of the diversion complaint proceedings provided for in sections (a)-(k) above. This report shall be provided on a Board-approved report format.*

*(l) Statute of Limitations

A statute of limitations of six years is established for retroactive correction of billings.]*

14:3-3.6 Basis of discontinuance of service

(a) The utility shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following reasons:

1.-2. (No change.)

3. For any of the following acts or omissions on the part of the customer:

i. Nonpayment of a valid bill due for service furnished at a present or previous location. However, nonpayment for business service shall not be a reason for discontinuance of residence service;) except in cases of diversion of service pursuant to N.J.A.C. 14:3-7.16*[*];**.*

ii.-xi. (No change.)

4. (No change.)

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

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route 47

Adopted Amendment: N.J.A.C. 16:28A-1.33

Proposed: September 19, 1983 at 15 N.J.R. 1559(b). Adopted: October 25, 1983 by David W. Gwynn, Chief Engineer, Transportation Operations and Local Aid. Filed: November 2, 1983 as R.1983 d.531, without change.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.

Effective Date: November 21, 1983. Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

Summary of Public Comments and Agency Responses: No comments received.

(b)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes 70 and 183

Adopted Amendment: N.J.A.C. 16:28A-1.37 Adopted New Rule: N.J.A.C. 16:28A-1.96

Proposed: September 19, 1983 at 15 N.J.R. 1560(a). Adopted: October 25, 1983 by David W. Gwynn, Chief Engineer, Transportation Operations and Local Aid. Filed: November 2, 1983 as R.1983 d.532, without change.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-6, 39:4-138.1, 39:4-139 and 39:4-199.

Effective Date: November 21, 1983. Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

Summary of Public Comments and Agency Responses: No comments received.

(c)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes 82 and 208

Adopted Amendments: N.J.A.C. 16:28A-1.43 and 1.88

Proposed: September 19, 1983 at 15 N.J.R. 1562(a). Adopted: October 25, 1983 by David W. Gwynn, Chief Engineer, Transportation Operations and Local Aid. Filed: November 2, 1983 as R.1983 d.533, without change.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-6, 39:4-138.1, 39:4-139 and 39:4-199.

Effective Date: November 21, 1983. Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

Summary of Public Comments and Agency Responses: No comments received.

(a)

TRANSPORTATION OPERATIONS**Permits****Permits for Driveway (Access)****Adopted Amendments: N.J.A.C. 16:41-2.1, 2.3 through 2.14, 2.18, 2.19, and 3.3**

Proposed: November 15, 1982 at 14 N.J.R. 1284(a).
 Adopted: October 14, 1983 by James A. Crawford, Acting
 Commissioner for Transportation Services.
 Filed: November 1, 1983 as R. 1983 d.530, **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, 27:7-21 and 27:7-44.1.

Effective Date: November 21, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 November 15, 1987.

Summary of Public Comments and Agency Responses and Changes upon Adoption:

There were six comments received regarding this proposal. Written comments on the proposed amendments were received from the New Jersey Industrial Development Association (NJIDA); Office of Business Advocacy, New Jersey Department of Commerce and Economic Development; New Jersey Society For Environmental Economic Development (SEED); Taylor Wiseman & Taylor Consulting Engineers, Surveyors and Planners; Coleman Dember & Jaffe, representing many developers of commercial real estate and property owners, and New Jersey Alliance For Action for Bellemead Development Corporation. The comments were acknowledged.

The majority of the commentors were in favor of the many administrative and technical improvements over the existing permit procedure as proposed after lengthy discussions with the Department Staff and representatives of the private sector. However, several sections within the proposal contained items which were cause for concern.

The New Jersey Industrial Development Association (NJIDA); Office of Business Advocacy, Department of Commerce and Economic Development; New Jersey Society for Environmental Economic Development (SEED); Coleman Dember & Jaffe; and New Jersey Alliance For Action felt that N.J.A.C. 16:41-2.1 (b) gives outright priority to the highway user's rights to safety, freedom of movement and efficient use of the highway and relegates the land owner's rights to a very secondary position, which can result in the imposition of overbearing restrictions to gain access to a highway, or even an outright denial of such access which could result in an outright taking of property without just compensation. Additionally, it will create additional impediments which will discourage, if not virtually prohibit, the commercial growth so sorely needed in these difficult economic times.

Response: The Department felt that the efficient and safe operation of a highway contributes to the health and welfare of the State's citizens; it is a factor not the entity. Highway "system" implies total highway network. The granting of highway access normally affects the operations of the highway(s) in the immediate vicinity and the only right that a property owner has to access on a public highway is that of reasonable access. Additionally, the Department's evaluation is limited to the land owner's access rights

and does not cover other land owner's rights. The intent and objectives of the original draft regulations have been retained.

Taylor Wiseman & Taylor stated that N.J.A.C. 16:41-2.1(d) "defined various requirements an owner of a development is obliged to provide in seeking an access permit, especially provisions for public transportation, and requested that "Provisions for Public Transportation" requirement be well defined or deleted. Additionally, they presented the following questions: (1) Are provisions to be provided on site or within the State R.O.W.? (2) Are provisions to be provided for every site, without regard to size and type of development? (3) What type of public transportation must be provided for? (4) What portion of a site must be relinquished for these provisions? (5) What are "provisions"?

Response: The Department found the comment from Taylor Wiseman & Taylor to be valid in that the wording could lead to misinterpretation. The Department therefore deleted "provisions for public transportation," and included what provisions may be made, thus new paragraph 6 was added to N.J.A.C. 16:41-2.1(d).

The New Jersey Society of Environmental Economic Development (SEED) and New Jersey Alliance For Action stated that N.J.A.C. 16:41-2.4 (n) provides that any change in use which results in more than a 10 percent increase of vehicles (but in no case less than 50 vehicles daily) will result in the cancellation of an existing access permit, and would require the owner or developer to apply for a new permit which may or may not be approved by the Department, and if approved could impose conditions so onerous that the project is no longer economically viable.

The New Jersey Industrial Development Association (NJIDA) felt that N.J.A.C. 16:41-2.4 (n) should be significantly modified or eliminated because of restrictions imposed and the additional hardship to the industrial and economic development communities in light of the economy we now face.

Response: It was felt that the objectives of the regulations should be maintained but clarify and expand the requirements for reapplication and provide added specific procedures to be followed. The subparagraph was substantially amended. Additionally, it was not the Department's intent to arbitrarily impose any hardships which would adversely affect the industrial and economic development of communities.

The New Jersey Industrial Development Association (NJIDA) and the Office of Business Advocacy, Department of Commerce and Economic Development commented on N.J.A.C. 16:41-2.4(o). NJIDA suggested that this section be modified or eliminated because of restrictions and hardships caused to the industrial and economic development communities. The Office of Business Advocacy, Department of Commerce and Economic Development stated this section "implied NJDOT had the right to impose limits upon the volume of traffic that may use a driveway and reflects a significant departure from past philosophy and intending to impose increased state control on business and industrial development."

Response: The Department felt that the authority and responsibility provided in N.J.S.A. 27 is the vehicle to ensure that the highway system operation is safe and efficient and some means of controls, for example, speed limits, etc., should be retained to provide standardization and permit full utilization of the roadway in which the public has invested.

The staff also recommended several inconsequential language and administrative changes not requiring any further public comment. N.J.A.C. 16:41-2.4(d) was amended to define traffic planning and management data.

N.J.A.C. 16:41-2.13(a)3. was amended upon the Deputy Attorney General's recommendations to preclude misinterpretation.

The Department staff felt that the amendments incorporated in this regulation are reasonable, adequate and do not impose any additional hardships on the economy and development of communities. Additionally, they provide guidelines for the safe and efficient movement of traffic along the highway system and to and from abutting properties.

The proposed amendments were reviewed and discussed at meetings held with the Cabinet Committee on Permit Coordination and the Alliance Subcommittee members.

Full text of the changes between proposal and adoption follows (additions with asterisks indicated in boldface ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

16:41-2.1 Introduction

(a) (No change.)

(b) The efficiency and safety of a ***State*** highway ***[remains]*** ***is*** under the jurisdiction of the Commissioner of Transportation in order to ***[provide for]*** ***aid*** the health and welfare of the citizens of the State. This efficiency and safety depends to a large extent upon the amount and character of roadside ***[interference]*** ***activity*** which in turn impacts the movement of traffic. One of the major factors that influence the operating characteristics of highways is the movement of traffic to and from abutting properties. Thus, it is necessary for the Commissioner, in evaluating access permit requests to ascertain their impacts upon the efficiency and safety of the highway ***[system]*** ***operation*** prior to granting approval. Abutting land owners have ***[certain]*** ***reasonable*** rights of access that must be ***[made]*** consistent with the ***[road user's rights to safety, freedom of movement and]*** efficient ***and safe*** use of the highway. In ***[evaluating]*** ***defining*** these land owner ***access*** rights, the level of service provided by the highway and the impacts upon this level of service by the proposed development will provide the basis for ***[any restrictions imposed upon the means of access]*** ***the extent and type of access that will be permitted*** in order ***[that]*** ***to ensure*** the ***[road user's rights to safety, freedom of movement and]*** efficient ***and safe*** use of the highway. ***[are not unduly impaired.]***

(c) (No change.)

(d) In defining the development for which an access permit is being sought, the owner will be obligated to provide for the following:

1. Proper design of entrances and exits, including adequate provisions for emergency vehicles, and compliance ***with current State and Federal*** handicap regulations;

2. Adequate on-site parking^{*,*}; ***[and provisions for public transportation.]***

3.-5. (No change.)

6. Where the Department deems appropriate, provisions for pedestrians, bicycles, and public transportation will be sought. Such provisions might include, but not be limited to sidewalks, pedestrian crossings, passenger pick-up drop-off accommodations, entrance and exit geometrics which permit on-site ingress and egress by buses, shelters, route schedule information display, etc.

16:41-2.4 Permit provisions

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

(d) Plans to support application ***shall*** include:

1. (No change.)

2. Application for all other access driveway(s) must be supported by six copies and eight copies for a major development of a detailed plan to a scale no greater than 50 feet to one inch, preferably 30 feet to one inch using an engineer's scale, setting forth the following information:

i.-xix. (No change.)

xx. Traffic planning and ***traffic*** management data ***[as well as design features for Major development]*** ***substantiating the property owner's plans to control the amount of development - related vehicular traffic;***

xxi.-xxiv. (No change.)

(e)-(m) (No change.)

(n) ***[When differences in existing land use or major expansions of existing land use]*** ***Major land use changes or expansions**

which are proposed or which occur* ***[which are beyond those uses specified]*** ***[in comparison with those specified* in an approved permit]*** ***[, then the existing permit may]*** ***will require a new application for access, and could necessitate new permit-related requirements by the Department.*** ***[become null and void a new permit may be required.]*** Major ***land use changes or*** expansions shall be considered ***to be*** any instance where ***[a modification in]*** ***the changed or expanded*** use results in ***development-related vehicular traffic*** increases of ***[10%]*** ***ten percent*** or more ***[in number of vehicles]*** ***[based on trip generation rates specified in the Institute of Traffic Engineer's manual or other professionally accepted standards],*** but in no case less than ***[50]*** ***100*** vehicles ***[daily]*** ***per hour*.*[]** associated with the facility as specified in the original permit.] ***Development-related vehicular traffic increases will be measured relative to the amount of development-related vehicular traffic forecast in the original permit application or the observed development-related vehicular traffic, whichever is the lesser.*** ***[Such cancellation consistent with Departmental hearing practices will occur after 30 days written notice to the permittee, providing due opportunity to make a new application and take any remedial steps necessary.]***

***1. The Department will require such a new application to determine whether the increased traffic will materially affect the safety and efficiency of general traffic flow, and will determine what improvements, or modifications to driveway access are necessary, if any, to maintain acceptable traffic conditions.**

2. Property owners with existing permits who are contemplating major land use changes or expansions are expected to comply with this provision by filing a new application. In instances where an application should have been filed but was not, and where the resultant development-related traffic poses a safety or congestion hazard, the Department shall seek remedies in accordance with its existing authority.

3. If a development has access to a state highway, and said access predates the New Jersey Department of Transportation's access permitting approval process, any proposed change or expansion in land use which will result in increased traffic will necessitate an access permit application.*

(o)-(q) (No change.)

16:41-2.13 Materials and workmanship

(a) (No change.)

1.-2. (No change.)

3. ***[If the work is deemed of sufficient importance, the Department may assign an inspector to the job whose time and expenses may be charged to the permittee based upon supporting documentation.]*** ***On projects whereby the Department enters into an agreement with the developer to assign Department personnel for the inspection of the project, salary, overhead and expenses of the inspector will be charged to the permittee. Billing will be based upon supporting documentation.***

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

16:41-2.14 General information

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

(c) Landscaping shall be as follows:

1. Only very low growing ground cover may be maintained within the border area, subject to Department approval. In special cases ***[with the approval of]*** ***after considering safety, aesthetics and maintenance requirements*** the Department^{*,[]*} ***may approve*** ornamental stone mulch, wood or bark mulch, bituminous concrete portland cement concrete, or brick walks ***[may be placed]*** within the border area. Artificial turf, trees, shrubs, and plants are not permitted. Continuous maintenance and freedom from undesirable growth shall be the responsibility of the property owner. Plantings or ground cover shall not interfere with sight distance.

2.-3. (No change.)

ADOPTIONS

OTHER AGENCIES

(d)-(i) (No change.)

(a)

CONSTRUCTION AND MAINTENANCE UNIT

**Permits
Street Intersections**

Adopted Amendment: N.J.A.C. 16:41-7.2

Proposed: November 15, 1982 at 14 N.J.R. 1289(a).
Adopted: October 14, 1983 by James A. Crawford, Acting Assistant Commissioner for Transportation Services.
Filed: November 14, 1983 as R.1983 d.529, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-21 and 27:7-44.1.

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978): November 15, 1987.

Summary of Public Comments and Agency Responses:
No comments received.

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

**Accounting
Due Date for Transmittals and Reports**

Adopted Amendment: N.J.A.C. 17:1-1.3

Proposed: September 6, 1983 at 15 N.J.R. 1457(a).
Adopted: November 2, 1983 by William J. Joseph, Director, Division of Pensions.
Filed: November 3, 1983 as R.1983 d.546, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:18A-96.

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978): May 15, 1988.

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]***).

17:1-1.3 Due dates for transmittals and reports
(a)-(c) (No change.)
(d) Monthly reports for Alternate Benefit Program participants of county colleges and State monthly locations are due in the Division of Pensions the [first] **fifth** day of the month following the close of

the preceding month *, **with the exception that those institutions which are prepaying both the employer and employee contributions and have agreed to be completely accountable and responsible for the timely submission of such contributions shall submit the monthly reports to the Division of Pensions by the fifteenth day of the month following the close of the preceding month*.**

(e)-(i) (No change from proposal.)

OTHER AGENCIES

(c)

CASINO CONTROL COMMISSION

**Gaming Equipment
Gaming Chips; Value and Non-Value; Physical Characteristics
Primary and Secondary Sets of Gaming Chips**

Adopted Amendments: N.J.A.C. 19:46-1.1 and 1.3

Proposed: August 1, 1983 at 15 N.J.R. 1239(a).
Adopted: November 3, 1983 by Walter N. Read, Chairman, Casino Control Commission.
Filed: November 3, 1983 as R.1983 d.539, **with technical 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), 5:12-69(a) and 5:12-70(i).

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978): May 4, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

The changes between proposal and adoption are made solely to correct publication errors; additions to proposal shown in boldface with asterisks ***thus***.

19:46-1.1 Gaming chips; value and non-value; physical characteristics

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

[2.] **1.** \$0.50 - ["Blue"] "**Mustard Yellow**" which shall mean that color classified as [2.5PB 4/10] **5Y 7/6** on the Munsell System of Color Coding which shall be reproduced to within the following tolerances:

	Upper Limits	Lower Limits
Hue	H + [5BP 4/10] 7.5Y 7/6	H - [10B 4/10] 2.5Y 7/6
Value	V + [2.5PB 4.5/10] 5Y 8/6	V - [2.5PB 3.5/10] 5Y 6/6
Chroma	C + [None] 5Y 7/8	C - [*2.5PB 4/9] 5Y 7/4

2.-11. (No change from proposal.)
(d) (No change from proposal.)
1.-3. (No change from proposal.)
4. (No change.)
(e)-(g) (No change from proposal.)

(h) Non-value chips issued at a roulette table shall only *be* used for gaming at that table and shall not be used for gaming at any other table in the casino nor shall any casino licensee or its employees allow any casino patron to remove non-value chips from the table from which they were issued.

(i)-(p) (No change from proposal.)

19:46-1.3 Primary, secondary and reserve sets of gaming chips
(No change from proposal.)

(a)

CASINO CONTROL COMMISSION

**Gaming Equipment
Dice; Receipt, Storage, Inspections and
Removal From Use**

Adopted Amendment: N.J.A.C. 19:46-1.16

Proposed: August 15, 1983 at 15 N.J.R. 1368(a).
Adopted: November 3, 1983 by Walter N. Read, Chairman,
Casino Control Commission.
Filed: November 3, 1983 as R.1983 d.540, **without
change.**

Authority: N.J.S.A. 5:12-63(c).

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
May 4, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

(b)

CASINO CONTROL COMMISSION

**Gaming Equipment
Dice; Receipt, Storage, Inspections and
Removal From Use**

Adopted Amendment: N.J.A.C. 19:46-1.18

Proposed: August 15, 1983 at 15 N.J.R. 1370(a).
Adopted: November 3, 1983 by Walter N. Read, Chairman,
Casino Control Commission.
Filed: November 3, 1983 as R.1983 d.538, **without
change.**

Authority: N.J.S.A. 5:12-63(c).

Effective Date: November 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
May 4, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

EMERGENCY ADOPTIONS

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Shellfisheries Relay of Hard Clams

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 7:25-15.1

Emergency Amendment Adopted: October 11, 1983 by
Robert E. Hughey, Commissioner, Department of
Environmental Protection.
Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): October
22, 1983.
Emergency Amendment Filed: October 27, 1983 as R.1983
d.519.

Authority: N.J.S.A. 50:1-5.

Emergency Amendment Effective Date: October 27,
1983.
Emergency Adoption Expiration Date: November 18,
1983.
DEP Docket No. 061-83-10.

A **public hearing** concerning this proposal will be held on
Thursday, December 7, 1983 at 7:00 P.M. at:
Ocean County Court House
Court Room One
Toms River, NJ

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before December 21,
1983. The submissions should be addressed to:
Gale Critchlow, Chief
Division of Fish, Game and Wildlife
Bureau of Shellfisheries
CN 400
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 re-adoption in compliance with the normal
rulemaking requirements of the Administrative Procedure Act,
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 1983-609.

The agency emergency adoption and concurrent proposal
follows:

Summary

The proposed amendments clarify the procedure by which
licensed commercial clammers may move (relay) clams from

polluted waters to areas in clean water (relay lots) where the clams
can, over a period of time, purge themselves of impurities to
become wholesome and fit for market. One change requires that
clams be planted before sunset or 5:00 P.M., whichever is earlier,
and that the designated enforcement unit chooses the landing and
off-loading sites for the relay.

The hard clam relay program has been expanded this season to
include harvesting in northern Monmouth County waters. The
number of participants in the relay increased from a total of 10
active harvesters last season (approximately 30 permit holders) to
60 active harvesters (156 permit holders) this year.

Whereas the number of participants has increased sixfold, the
available enforcement personnel has not. The Department is
concerned that increased violations of the relay rules, because of
their previous flexibility, poses a threat to the public health, safety,
and welfare. It is essential to the continued success of the relay
program, and to the welfare of the entire hard clam industry in New
Jersey that none of the clams taken from polluted waters reach
market without going through the 30-day relay purification process.
Illnesses traced to bad clams include hepatitis and gastrointestinal
upset. Cases of shellfish related illnesses have turned up in a
number of northeastern states, none traceable to New Jersey clams
at present. In addition to the obvious problems presented by those
suffering from the illnesses, the reports of these illnesses have a
detrimental effect on the sale of all shellfish. Any reports traceable
to New Jersey clams would have a catastrophic effect on the New
Jersey shellfish industry. Therefore, this emergency rule tightening
up these regulations is being adopted to allow for adequate policing
of the program.

Other changes clarify the language of the existing rule to close
loopholes, not originally obvious, in the description of the harvest
techniques and the role of the area coordinator.

Social Impact

The hard clam relay program provides valuable employment for
many baymen who would otherwise be unable to work steadily at
their chosen trade. The proposed changes are necessary to facilitate
the continuation of the relay.

Economic Impact

Loss of a source of legitimate income, if the relay were to be
discontinued, would have a catastrophic economic impact on the
clammers involved and the families they support on income from
the hard clam relay. The baymen who work on the relay are hard
working and they are dedicated to making a living on the water. It
is what they know best, and as pollution has forced them to adapt
their way of life, many have come to depend on the State's relay
programs for them to continue their work without serious
disruption.

Environmental Impact

The effect of the changes in the method of relay harvest will have
little environmental impact on the bay or the clam resource. To halt
the relay because of enforcement problems could cause a severe
negative health impact if clammers resorted to illegal harvest of
clams from the polluted waters now being safely used for relay.

Full text of the emergency adoption and concurrent proposal
follows (additions indicated in boldface **thus**; deletions indicated in
brackets [thus]). The current text of the rule appears at 14 N.J.R.
1055(a) and 1300(d).

7:25-15.1 Relay of hard clams
(a)-(b) (No change.)

(c) The participants shall be responsible for the appointment of one relay coordinator **and alternate** for each **group of no more than 10** participants. The relay coordinators **and alternates** shall [act as liaison with] **be chosen by the participants with the approval** of the designated enforcement unit [and the Bureau of Shellfish Control of the Division of Water Resources and the Bureau of Shellfisheries of the Division of Fish, Game and Wildlife for scheduling areas for harvest].

1. The relay coordinators **or their alternates** will count each participant's daily harvest and seal the individual bags of clams with seals provided by the Department as specified below.

2. The relay coordinators will also record the bags on report forms provided by the Department as specified below.

3. **It shall be the responsibility of each participant in the relay program to ensure that a coordinator or alternate coordinator is available to seal bags and to fill out the proper relay forms.**

i. **If no coordinator is available to seal bags and complete relay forms, the relayers shall not harvest clams.**

ii. **Failure of a participant to have bags of clams properly sealed or failure to produce his copy of that day's relay receipt shall be a violation of these rules.**

4. **The Department will schedule areas for harvest and designate the landing site and so notify the participants.**

i. **The Department will designate as off limits to the use of rakes and tongs for the harvest of hard clams such shallow water areas as are abundant with soft clams.**

ii. **Charts of the designated soft clam areas will be provided to all participants. Treading of hard clams shall be permitted in these areas.**

(d) Any person who wishes to participate in this program must comply with the following rules and conditions in order to remain eligible for participation:

1. (No change.)

2. [Hold] **Possess** one of the following special permits issued by the Division of Water Resources (N.J.S.A. 58:24-3 and N.J.A.C. 7:12-2) to harvest and/or buy and/or sell hard clams from condemned waters (a fee of \$25.00 is required for each permit issued, Chapter 156, P.L. 1971):

i.-ii. (No change.)

3. (No change.)

i. Violations of these conditions may subject the violator to prosecution (N.J.S.A. [58:24-10] **50:1-5 and 58:24:1 et seq.**) and may cause the violator's permit to be revoked **or suspended** and may cause the violator's boat and equipment to be seized and forfeited. Pursuant to the Administrative Procedure Act, such individual may apply to the [Division of Water Resources] **Department** for an administrative hearing regarding the decision to revoke **or suspend** such permit.

(e) Any person applying for permit 5a must have acquired a special relay lease from the Department for three one-half acre plots of shellfish cleansing grounds on which the relay shellfish are to be [deposited] **planted** by the means [hereinafter] set forth in **(e)1 below**. No person shall hold more than one relay lease.

1. i.-v. (No change.)

vi. Signs having a white background with [legible] **six-inch** black lettering giving the participant's special relay permit number **or code symbol** and relay lot Section A, B or C shall be placed and maintained on the participant's relay lot corners;

vii. The participant's harvest boat shall be marked on both sides amidships with [three-inch] **six-inch** black letters on a white background giving the participant's first initial, last name and special relay permit number while he is engaged in any phase of the program;

viii. **The designated enforcement unit shall have the authority to inspect the relay lots to ensure compliance with all relay program regulations. Shellfish found on relay lots contrary to these and other applicable statutes and regulations shall be subject to seizure.**

(f) [Clams taken from the Special Restricted or Condemned

Harvest Areas] **All clams harvested by the participant** shall be bagged [by the participant], **three-quarter bushel to the bag**, and sealed by the coordinators with seals provided by the Department before being transported to the lots. The bags shall remain sealed until the clams are planted on the lots. **The sealed bags of clams will be directly transported to the respective planting lots and immediately planted thereon. All clams shall be removed from bags and planted on the relay lots.**

1. The sealed bags will be counted by the relay coordinators **or alternates**[and the harvester] and listed on the **numbered** three-part Relay Report Forms which shall be [signed] **certified** by the coordinators **or alternates** and the harvester. In the case of clams harvested under Relay Permit 5b, the form shall be [signed] **certified** by **both the harvester and the buyer-planter** [also].

2. The coordinators shall retain one copy, forward one copy to the Bureau of Shellfisheries and **give** the third copy to the harvester or buyer who shall carry it with the bagged clams directly to the relay lot. **Spoiled or voided forms shall be returned to the Bureau of Shellfisheries with the completed forms no later than Saturday of each harvest week.**

3. Participants will place their sealed, counted bags in trucks provided by them and approved by the designated enforcement unit for transportation to [a designated landing.] **the planting areas**. Each participant shall inform the designated enforcement unit of the route he will routinely follow from the harvest area to the planting area. Deviation will not be tolerated except in an emergency.

i. **In the case of a breakdown or other deviations, the designated enforcement unit shall be notified immediately.**

ii. **The designated enforcement unit will also notify all participants of the harvest area landing site and the off-loading site at the planting areas to be used.**

4. Bagged clams shall be relayed to the participant's leased plots and planted before **5:00 P.M. or sunset, whichever shall occur first**, of the same harvest day.

5. Participants shall not harvest [approved clams] **any shellfish** on the same trip they plant clams from the day's relay.

6. The coordinators shall [notify] **contact** the Bureau of Shellfisheries, Nacote Creek Office, (609) 441-3284, daily [of] **to determine** the area to be harvested and **to report** the number of participants and the bag count for the previous day.

(g)-(h) (No change.)

(i) The Department shall establish a schedule of dates and times [when] **for the relay and the areas of** the Special Restricted or Condemned Waters **which** shall be opened to participants in this program for the harvest of clams. [It is the intention of the Department to operate this program on a regular basis for a period and at times to be determined by the Department with the advice of the Atlantic Coast Shellfish Council.]

(j) The Department may terminate this program at any time for just cause and upon notice to all participants. Just cause shall include, but not be limited to, **peril to public health**, excessive depletion, or threat thereof, of shellfish stocks, lack of industry participation, and violations of the rules of the relay program deemed detrimental to the program. Possession of an unsealed bag of clams, possession of fewer bags than are listed on the relay report, [or] possession of clams, bagged or loose, in a vessel which has left the relay lots after planting, **or any misrepresentation on the receipt form by the coordinator, alternate coordinator, harvester, or buyer** shall be prima facie evidence of a violation of these rules.

(k) (No change.)

(l) A violation of these rules is a violation of N.J.S.A. 50:1-5 and is subject to a penalty under N.J.S.A. 23:2B-14 (first offense \$100.00 to \$3,000, second offense \$200.00 to \$5,000).

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Automobile Insurance

Automobile Rate Filers: Deductibles for Private Passenger Automobile Collision and Comprehensive Coverages

Adopted Emergency Amendments and Concurrent Proposal: N.J.A.C. 11:3-13

Emergency Amendment Adopted: October 25, 1983 by Joseph F. Murphy, Commissioner, Department of Insurance.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): November 1, 1983.

Emergency Amendment Filed: November 2, 1983 as R.1983 d.537.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and the New Jersey Automobile Insurance Reform Act of 1982, P.L. 1983, c.65, N.J.S.A. 17:29A-33 et seq., specifically N.J.S.A. 17:29A-39 as amended by Assembly Bill No. 3896, P.L. 1983, c.359.

Emergency Amendment Effective Date: November 3, 1983.

Emergency Amendment Expiration Date: January 4, 1984.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 21, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

W. Morgan Shumake
Executive Director of Insurance
Department of Insurance
CN 325
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 re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted 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 1983-612.

The agency emergency adoption and concurrent proposal follows:

Summary

On October 4, 1983, Governor Thomas Kean signed into law New Jersey Assembly Bill No. 3896, P.L. 1983, c. 359, which amends the provisions of N.J.S.A. 17:29A-39 (Section 10 of the New Jersey Automobile Insurance Reform Act of 1982, P.L. 1983, c.65). The statute, as amended, extends the required offering of a range of private passenger automobile collision and comprehensive deductibles from up to at least \$1,000 to up to at least \$2,000. In

addition, the amended law provides for coinsurance options on collision and comprehensive coverages where the insured pays a percentage of the loss in excess of the deductible.

Pursuant to the requirements of N.J.S.A. 17:29A-39, on September 29, 1983, the Commissioner of Insurance adopted N.J.A.C. 11:3-13 which became effective on October 17, 1983 (see 15 N.J.R. 1342(a), 15 N.J.R. 1769(b)). This rule established certain minimum schedules of collision and comprehensive deductibles, filing and reporting requirements necessary to the implementation of the rule and notice provisions designed to apprise new and existing policyholders of the availability of the deductibles.

This emergency adoption and concurrent proposal amends N.J.A.C. 11:3-13 in order to comply with the revised requirements of N.J.S.A. 17:29A-39. In view of the limited time available before the January 1, 1984 operative date of the statute, these amendments are being adopted on an emergency basis to facilitate the timely implementation of necessary filing procedures and to ensure that the required deductibles and coinsurance options are available to the public by January 1, 1984.

This proposal adds two new deductible amounts (\$1,500 and \$2,000) to the required schedules of collision and comprehensive deductibles set forth at N.J.A.C. 11:3-13.3(a)1 and 2. In addition, the proposal, at N.J.A.C. 11:3-13.4, establishes two coinsurance options of 10 and 20 percent which are applicable separately to collision and comprehensive coverages for covered losses in excess of the applicable deductible. For example, if an insured who selects a \$500.00 deductible with a 10 percent coinsurance option, sustains a \$2,000 covered loss, the recovery would be computed as follows:

\$2,000	Covered Loss
- 500	Deductible
<u>\$1,500</u>	Loss in excess of deductible
- 150	Coinsurance option (10 percent of loss in excess of deductible)
\$1,350	Recovery

The proposal also amends N.J.A.C. 11:3-13.5(c) to clarify the relationship between rating organizations and their members or subscribers. Finally, the notice requirements set forth at N.J.A.C. 11:3-13.6 have been revised slightly in anticipation of other written notice requirements which will be implemented in 1984 pursuant to the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984, P.L. 1983, c.362.

Social Impact

The proposed amendments will expand the range of deductibles currently available to insureds and, through the use of coinsurance options, are expected to promote greater flexibility in coverage choices. The proposed amendments are, therefore, expected to enhance the insured's ability to select coverages which are consistent with desires and economic circumstances. In addition, the selection of higher deductibles and coinsurance options should serve as an incentive for insureds to control claim costs.

Economic Impact

The selection of higher deductible amounts can substantially decrease the cost of collision and comprehensive coverages. The proposed amendments are expected to heighten an insured's ability to select deductibles which are cost beneficial. The availability of higher deductibles and coinsurance options should aid in the overall efforts to contain insurance costs.

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

**CHAPTER 3
AUTOMOBILE INSURANCE**

**SUBCHAPTER 13. AUTOMOBILE RATE FILERS:
DEDUCTIBLES AND COINSURANCE
OPTIONS FOR PRIVATE PASSENGER
AUTOMOBILE COLLISION AND
COMPREHENSIVE COVERAGES**

11:3-13.1 Purpose

[The New Jersey Automobile Insurance Reform Act of 1982 (P.L. 1983, c.65, N.J.S.A. 17:29A-33 et seq.) requires that each insurer offer a range of deductibles up to at least \$1,000 for private passenger automobile collision and comprehensive coverages.]

(a) The New Jersey Automobile Insurance Reform Act of 1982, as amended (P.L. 1983, c.65, P.L. 1983, c.359, N.J.S.A. 17:29A-33 et seq.) requires that each insurer offer:

1. A range of deductibles up to at least \$2,000 for private passenger automobile collision and comprehensive coverages; and

2. Coinsurance options applicable separately to private passenger automobile collision and comprehensive coverages.

i. Under such coinsurance options, the insured is responsible for paying a percentage, in the amount of at least 10 percent but subject to a limit established by the Commissioner by regulation, of a loss covered by the policy in excess of an applicable deductible.

(b) This subchapter provides rules for the implementation of [this] these requirements.

11:3-13.2 Scope

This subchapter applies to every insurer authorized to transact the business of automobile insurance in this State and every rating organization engaged in the business of rate-making for such insurers.

11:3-13.3 Deductibles for private passenger automobile collision and comprehensive coverages

(a) Paragraphs 1 and 2 below set forth the minimum schedules of deductibles for private passenger automobile collision and comprehensive coverages which each insurer shall offer, effective January 1, 1984, pursuant to N.J.S.A. 17:29A-39.

1. Deductibles for collision coverage:

- \$100.00
- \$150.00
- \$250.00
- \$500.00
- \$1,000.00
- \$1,500.00**
- \$2,000.00**

i. An insurer may offer a \$200.00 collision deductible in lieu of, or in addition to, the \$250.00 deductible contained in (a)1 above.

2. Deductibles for comprehensive coverage:

- \$50.00
- \$100.00
- \$150.00
- \$250.00
- \$500.00
- \$1,000.00
- \$1,500.00**
- \$2,000.00**

i. An insurer may offer a \$200.00 comprehensive deductible in lieu of, or in addition to, the \$250.00 deductible contained in (a)2 above.

(b) In addition to the required schedules in (a) above, an insurer may offer other intermediary ranges of deductibles as well as deductibles which are in excess of [\$1,000] **\$2,000**.

1. The offering of such intermediary and additional deductibles shall be subject to the Commissioner's approval as set forth in N.J.A.C. [11:3-13.4] **11:3-13.5**.

(c) Insurers may offer actual cash value comprehensive coverage.

11:3-13.4 Coinsurance options applicable separately to private passenger automobile collision and comprehensive coverages

(a) Paragraphs 1 and 2 below set forth the schedules of coinsurance options, applicable separately to private passenger automobile collision and comprehensive coverages, which each insurer shall offer pursuant to N.J.S.A. 17:29A-39 whereby the named insured may elect to be responsible for paying a percentage of a loss covered by the policy in excess of an applicable deductible.

1. Coinsurance options applicable to collision coverage:

- i. 10 percent of the covered loss in excess of the deductible.
- ii. 20 percent of the covered loss in excess of the deductible.

2. Coinsurance options applicable to comprehensive coverage:

- i. 10 percent of the covered loss in excess of the deductible.
- ii. 20 percent of the covered loss in excess of the deductible.

(b) Nothing in this rule shall be deemed to prohibit an insurer from offering, subject to the approval of the Commissioner pursuant to N.J.A.C. 11:3-13.5, other coinsurance options in addition to the minimum options set forth in (a) above.

[11:3-13.4]11:3-13.5 Filing and reporting requirements

(a) Within 30 days of the effective date of this subchapter, every automobile filer shall submit to the Commissioner for approval filings of rates or manual rules which provide at least the minimum schedules of deductibles set forth in N.J.A.C. 11:3-13.3(a) and the minimum schedules of coinsurance options in excess of an applicable deductible set forth in N.J.A.C. 11:3-13.4(a).

(b) All filings of collision and comprehensive deductibles and coinsurance options in excess of an applicable deductible submitted for approval pursuant to this subchapter, and all changes and amendments thereto, shall be prepared in accordance with insurance laws and regulations, including the applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's existing filing procedures.

(c) The filing of a rating organization shall be applicable to the members and subscribers of the organization who have authorized the organization to file on their behalf.

1. Members or subscribers may submit to the Commissioner for approval a separate filing which deviates from the rating organization's filing. Such filings shall be prepared and submitted in accordance with the requirements of this subchapter.

[11:3-13.5]11:3-13.6 Notice requirements

(a) Effective January 1, 1984, every insurer shall furnish an applicant for private passenger automobile insurance with a schedule of collision and comprehensive deductibles and coinsurance options on a form attached to or accompanying all applications.

(b) At least annually, every insurer shall furnish its insureds with a written notice of its schedule of collision and comprehensive deductibles and coinsurance options. [The schedule may be attached to or accompany initial policies, renewal questionnaires, renewal policies or notices.]

EMERGENCY ADOPTIONS

LAW AND PUBLIC SAFETY

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Enforcement Service
Standards and Procedures to be Used by
Licensed Reinspection Centers

Adopted Emergency Amendments and
Concurrent Proposal: N.J.A.C. 13:20-33.1,
33.2, 33.50 and 33.51.

Emergency Amendment Adopted: November 2, 1983 by
Clifford W. Snedeker, Director, Division of Motor
Vehicles.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)):
November 4, 1983.

Emergency Amendment Filed: November 7, 1983 as
R.1983 d.547.

Authority: N.J.S.A. 39:8-26 (P.L. 1983, c.236, §5).

Emergency Amendment Effective Date: November 7,
1983.

Emergency Amendment Expiration Date: January 6,
1984.

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before December 21,
1983. These submissions, and any inquiries about submissions and
responses, should be addressed to:

Clifford W. Snedeker, Director
Division of Motor Vehicles
Department of Law and Public Safety
25 South Montgomery Street
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. 51:14B-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 1983-615.

The agency emergency adoption and concurrent proposal
follows:

Summary

The proposed amendments implement P.L. 1983, chapter 236,
by authorizing certain licensed reinspection centers to conduct
initial inspection for a trial period of 12 months commencing June
30, 1983 and ending July 1, 1984. The present statute permits
licensed reinspection centers to conduct reinspections of vehicles
that have failed inspection at State inspection stations.

Social Impact

The proposed amendments would reduce waiting lines at the 38
State inspection stations by permitting 4,600 reinspection centers
to conduct initial inspections. The public will benefit as a result of
reduced waiting lines.

Economic Impact

There will be an economic impact on the State in monitoring the
reinspection centers. There will be an economic impact on those
persons who utilize reinspection center's for initial inspection.
Those persons will be charged a fee equal to one-half the
reinspection centers hourly rate for motor vehicles and one-quarter
the hourly rate for motorcycles.

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

13:20-33.1 General provisions; Class I and II licensees

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

(c) A reinspection center license authorizes placement of a
reinspection sticker on a vehicle as certification that the defects for
which the vehicle was rejected at a State inspection station have
repaired, adjusted or corrected by the licensed reinspection center.
When such repairs, adjustments or corrections are made, the
condition of the rejected item must be brought to the standards
described in this manual. Licensed reinspection centers are required
to make the checks, tests or inspections as part of the repair job
which is standard automotive repair practice. Centers may charge
the vehicle owner a fee of not more than [\$1.00] **\$1.50** for the
certification (placing the sticker on the vehicle); however, other
charges may not be made except for parts and labor related to the
actual repair job.

(d)-(g) (No change.)

[(h) A licensed reinspection center may not accept a motor vehicle
for certification unless it has a rejection sticker on the windshield
and the motorist provides the inspection card (readable) used at the
inspection station when the vehicle was inspected and rejected. If
the motorist has lost the inspection card, the vehicle must be
returned to the State inspection station and go through the
inspection lane again. A sample of the inspection card, form VI-1,
is reproduced following Table A at the end of the manual.]

[(i) (h) If the defective items have been corrected so as to meet
the standards shown in this manual, the vehicle may be certified by
removing the rejection sticker and replacing it with an approval
sticker. The approval sticker shall be placed about three inches from
the bottom of the windshield and about four inches from the [right]
left side, but in every case, the sticker must be completely visible
from the front of the vehicle.

[(j)-(q) (i)-(p) (No change.)

**(q) Class I and II "full service" licensed reinspection centers
shall be required to conduct initial motor vehicle inspections for
a period of 12 months ending July 1, 1984, pursuant to the
regulations and procedures for conducting reinspections.**

**(r) A fee which an authorized reinspection center may charge
for an initial inspection shall not exceed one-half (1/2) of the
reinspection center's hourly labor charge. The maximum fee
for an initial inspection shall be posted on a prominent place on
the premises. A copy of the fee shall also be sent to the Licensing
Section of the Vehicle Inspection Bureau.**

**(s) Charges for initial inspections, reinspections and repairs
shall be separately stated.**

**(t) No reinspection center shall require as a condition of
performing the initial inspection, that any repairs or
adjustments be done by the person, or at the facility of the
person performing the inspection.**

**(u) No service or adjustment shall be performed on the vehicle
at the same licensed reinspection center where the vehicle was
inspected unless the customer signs a written acknowledgement
and waiver that he understands his right to have service and
adjustments done elsewhere and expressly waives his rights.**

13:20-33.2 Credentials; Classes I and II licensees

[If a vehicle is rejected because of improper credentials (vehicle
registration, insurance identification card or drivers license), the

LAW AND PUBLIC SAFETY

EMERGENCY ADOPTIONS

vehicle must be returned to the State inspection station for approval.]

The driver shall present a valid drivers license, a valid New Jersey registration certificate, and an insurance identification card for the vehicle. Photocopies are not acceptable. All forms of credentials must be legible and not altered.

13:20-33.50 General information; Class III licensees

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

(c) A reinspection center license authorizes placement of a reinspection approval sticker on a motorcycle as certification that the defects for which the motorcycle was rejected at a [Statsinspection] **State inspection** station have been repaired, adjusted or corrected. When such repairs, adjustments or corrections are made, the condition of the rejected items must be brought to the standards described in this manual. Licensed reinspection centers are required to make the checks, tests or inspections as part of the repair job - which is standard automotive repair practice. Centers may charge the motorcycle owner a fee of not more than [\$1.00] **\$1.50** for the certification (placing the sticker on the motorcycle). However, other charges may not be made except for parts and labor related to the actual repair job.

(d)-(m) (No change.)

(n) **Class III licensed reinspection centers shall be required to conduct initial motorcycle inspections for a period of 12 months ending July 1, 1984, pursuant to the registrations and procedures for conducting reinspections.**

(o) **A fee which an authorized reinspection center may charge for an initial inspection shall not exceed one quarter (1/4) of the reinspection center's hourly labor charge. The maximum fee for an initial inspection shall be posted on a prominent place on the premises. A copy of the fee shall also be sent to the Licensing Section of the Vehicle Inspection Bureau.**

(p) **Charges for initial inspections, reinspections and repairs shall be separately stated.**

(q) **No reinspection center shall require as a condition of performing the initial inspection, that any repairs or adjustments be done by the person, or at the facility of the person performing the inspection.**

(r) **No service or adjustment shall be performed on the motorcycle at the same licensed reinspection center where the motorcycle was inspected unless the customer signs a written acknowledgment and waiver that he understands his right to have service and adjustments done elsewhere and expressly waives his rights.**

13:20-33.51 Credentials; Class III licensees

[If a motorcycle is rejected because of improper credentials (motorcycle registration, insurance identification card or motorcycle operator's license), the motorcycle must be returned to the State inspection station for approval.]

The driver shall present a valid motorcycle operator's license, a valid New Jersey motorcycle registration certificate, and an insurance identification card for the motorcycle. Photocopies are not acceptable. All forms of credentials must be legible and not altered.

MISCELLANEOUS NOTICES

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Petition for Rulemaking

N.J.A.C. 4:1-15, Assignments and Transfer

Petitioner: Mr. Robert Pursell on behalf of the
Communication Workers of America (CWA).

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

Take notice that on September 2, 1983, Mr. Robert Pursell, CWA Representative, filed a petition on behalf of the Communications Workers of America for a recodification of N.J.A.C. 4:1-15. Petitioner requests that: 1) subchapter 15 be reordered and written in plain English and that matters such as seniority, salary, accumulated leave time and standing on a promotional list be delineated in this subchapter; 2) consideration should be given to hardship in involuntary transfer circumstances and a request for transfer should not be unreasonably denied; and 3) the reassignment process should be regulated primarily based upon considerations of class level seniority to discourage abuse.

Department of Civil Service Response

The Department of Civil Service has responded to the petitioner that a comprehensive review of subchapter 15 will be made and that, with respect to item one, he will be consulted in the process. Regarding item two, we are concerned that, as written, these proposals do not present sufficient guidelines or set appropriate limits in such matters. We will study these matters further during the aforementioned review. Concerning item three, in the past, CWA and others have expressed concerns about overregulation by the Civil Service Commission. The adoption of the CWA proposal as submitted could constitute such over involvement in this area. Presently, there is flexibility on the part of employees seeking positions or shift assignments best suited to their talents or needs and of managers making assignments to maximize employee potential or staffing requirements. The proposal would appear to narrow employee and employer options in this regard and would not appear beneficial at this time. We also note in this circumstance that job posting matters might best be reviewed in the particular jurisdictions by employee representatives with management.

(b)

CIVIL SERVICE COMMISSION

Administrative Correction: N.J.A.C. 4:3-10.1, Permanent Status in Noncompetitive or Labor Positions After Four Months

Authority: N.J.S.A. 52:14B7g and N.J.A.C. 1:30-2.7.

Take notice that N.J.A.C. 4:30-10.1 (formerly subpart C.S.P.M. 10-3.101 (local)) was rescinded by the Civil Service Commission on May 2, 1978, notice of which was duly published in the New Jersey Register on July 6, 1978 at 10 N.J.R. 273(a). The rescinded rule was inadvertently included in the volume of subparts that were subsequently adopted by the Civil Service Commission and became effective as part of the New Jersey Administrative Code on December 7, 1981 at 13 N.J.R. 885(a). The rule was therefore published in the New Jersey Administrative Code, Title 4, in the June 21, 1982 printing.

Since N.J.A.C. 4:3-10.1 was published due to an administrative oversight, the Civil Service Commission proposes the rule be administratively corrected pursuant to N.J.A.C. 1:30-2.7. Eugene J. McCaffrey, Sr., President, Civil Service Commission affirms that the corrective action will have a positive impact on local government appointing authorities and employees since the repeal will correct an error that could be misleading. This action, of deleting the rule from the Code, does not alter Civil Service policy or practice in the case of non-competitive or labor division appointees. Therefore, in order to ensure regulatory continuity, the Commission has requested that N.J.A.C. 4:3-10.1 be deleted from the Code. The Office of Administrative Law is undertaking an administrative correction to this effect.

Full text of the deleted rule follows.

SUBCHAPTER 10. [APPOINTMENTS IN NONCOMPETITIVE AND LABOR DIVISIONS WITHOUT EXAMINATION](RESERVED)

[4:3-10.1 Permanent status in noncompetitive or labor positions after four months

(a) This section explains the method by which a noncompetitive or labor division temporary appointee will obtain permanent status.

(b) Procedure:

1. Effective November 22, 1976, the following procedure will be followed by the Department of Civil Service.

2. All appointees to noncompetitive or labor positions, without regard to citizenship, who have been appointed temporarily for four months, will be automatically granted permanent status at the end of the four month period unless the appointing authority takes action to terminate the services of the temporary appointee and notifies the Department of Civil Service of this intended action prior to the end of the four months.

3. If the employee remains beyond the four month period, he will be recorded as a permanent employee serving a working test period.]

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Service Programs for Aged, Blind or Disabled Persons N.J.A.C. 10:100-1, Organization and Administration

Public Notice

Take notice that the Department of Human Services, in accordance with the sunset and other provisions of Executive Order No. 66(1978), conducted review of N.J.A.C. 10:100-1, which expired on July 23, 1983, and determined that the rules were obsolete and the absence of a readoption was not detrimental to the public. Therefore, the expiration of N.J.A.C. 10:100-1 is appropriate.

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between November 15, 1982, and November 7, 1983, and which have not been adopted and filed by November 3, 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 N.J.A.C.

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

CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
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1:1-1.3	Reaching the merits	9-6-83	15 N.J.R. 1398(a)
1:1-16.5	Final decisions: remanding	9-6-83	15 N.J.R. 1400(b)
1:6A-5.2	Special Education hearings: record keeping	9-6-83	15 N.J.R. 1402(a)
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2:69-1.11	Commercial values for fertilizers and conditioners	5-2-83	15 N.J.R. 658(a)
BANKING--TITLE 3			
3:1-13.1	Insurance tie-in prohibition by lenders	6-6-83	15 N.J.R. 820(a)
3:1-13.1	Public hearing: insurance tie-in prohibition by lenders	8-1-83	15 N.J.R. 1207(a)
3:1-2.22, 2.23	Commercial and savings banks: full branch applications	10-17-83	15 N.J.R. 1706(a)
3:6-3.2, 3.3	Limitations on loans to bank executive officers	11-7-83	15 N.J.R. 1786(a)
3:11-5	Bank investments and domestic operating subsidiaries	11-7-83	15 N.J.R. 1787(a)
3:19-2.1	Repeal maximum interest rate on home repair contracts	11-7-83	15 N.J.R. 1788(a)
3:22-1	Repeal maximum finance rate on insurance premiums	10-17-83	15 N.J.R. 1707(a)
CIVIL SERVICE--TITLE 4			
4:1-7.6	Title reevaluation requests and appeals (State)	8-15-83	15 N.J.R. 1290(b)
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)
4:3-8.2	Repeal county welfare board promotion rules	11-7-83	15 N.J.R. 1788(b)
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5:10	Readopt Hotel and Multiple Dwellings rules	5-16-83	15 N.J.R. 727(a)
5:23-1.4, 4.5, 4.19	Uniform Construction Code: record keeping and standard forms	11-7-83	15 N.J.R. 1789(a)
5:26-8.7	Planned real estate developments: annual audits	9-6-83	15 N.J.R. 1408(a)
5:27-11.7	Home energy assistance payments and boarding house residents	10-3-83	15 N.J.R. 1622(a)
5:30-10.1, 10.2	Local finance: municipal port authorities	8-15-83	15 N.J.R. 1304(a)
5:37-11.6	Municipal and county employees deferred compensation programs: annual audit	9-6-83	15 N.J.R. 1408(b)
5:70	Congregate Housing Services Program for aged	11-7-83	15 N.J.R. 1791(a)
5:80-2	Private investment in HFA-financed housing	8-1-83	15 N.J.R. 1208(a)
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6:28-11	Programs for preschool handicapped children	4-4-83	15 N.J.R. 556(a)
6:39-1.1-1.4	Statewide testing program	6-20-83	15 N.J.R. 979(b)
6:69-1	Repeal Public Library Construction grant rules	9-6-83	15 N.J.R. 1410(a)
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7:1D-1	Emergency water projects: Allocation of costs	2-7-83	15 N.J.R. 117(a)
7:1I	Sanitary Landfill Facility Contingency Fund	8-1-83	15 N.J.R. 1213(a)
7:6	Readopt Boating Regulations	11-7-83	15 N.J.R. 1799(a)

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7:11-2.10-2.13	Sale of water from D/R Canal and Spruce Run/Round Valley	8-15-83	15 N.J.R. 1311(a)
7:13-1.11	Floodway delineations in Monmouth County	2-22-83	15 N.J.R. 198(a)
7:13-1.11(c)30	Delineated floodways for Delaware Bay tributaries	9-19-83	15 N.J.R. 1541(a)
7:13-1.11(d)	Floodway delineation in Roseland, Essex County	8-15-83	15 N.J.R. 1313(a)
7:13-1.11(d)	Floodway delineation along Third River in Clifton	9-6-83	15 N.J.R. 1412(a)
7:13-1.11(d)42	Delineated floodways for Green Brook and Bound Brook	9-19-83	15 N.J.R. 1540(a)
7:14-4.4	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:14A-1.9, 10.1, 10.5, 13.1, 13.2, 13.5-13.8	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:14A-4.5	Hazardous waste management: interim authorization	11-7-83	15 N.J.R. 1800(a)
7:14A-14	NJPDES: oil and grease effluent limitations	8-15-83	15 N.J.R. 1313(b)
7:15	Water quality management planning and implementation process	5-16-83	15 N.J.R. 765(b)
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)
7:25-11.1, 20.1	Endangered species and status of nongame species	10-3-83	15 N.J.R. 1623(a)
7:25-12.1	Preservation of sea clams	9-6-83	15 N.J.R. 1414(a)
7:25A-1.2	Sale of licensed oyster vessel	9-6-83	15 N.J.R. 1415(a)
7:25A-3.1	Oyster seed beds	9-6-83	15 N.J.R. 1415(b)
7:25A-4	Oyster cultch program	9-6-83	15 N.J.R. 1416(a)
7:26-1.1, 1.4, 7.6, 9.1-9.6, 9.8-9.14, 11.4, 12.2, 12.12	Hazard waste management: interim authorization	11-7-83	15 N.J.R. 1800(a)
7:26-1.4, 2.6, 2.11, 2.13, 3.5	Solid waste management	5-2-83	15 N.J.R. 660(a)
7:26-1.4, 9.1, 12.1	Hazardous waste recycling	12-20-82	14 N.J.R. 1435(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow	9-6-83	15 N.J.R. 1417(a)
7:26-8.14	Delist leather tanning and TiO ₂ wastestreams	11-7-83	15 N.J.R. 1816(a)
7:26-8.15(f)	Delist Indomethacin as hazardous waste	11-7-83	15 N.J.R. 1817(a)
7:28-1, 2	Radiation protection	3-21-83	15 N.J.R. 391(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)
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8:21A-2.45	Retention period for radioactive drug samples	11-7-83	15 N.J.R. 1818(a)
8:31A-7	Readopt SHARE Rate Review Guidelines	9-19-83	15 N.J.R. 1542(a)
8:31A-8.1	Hospital reporting: readopt medical discharge abstract rule	10-17-83	15 N.J.R. 1708(a)
8:31B-2.4, 2.6	Uniform bill-patient summaries (inpatient)	8-15-83	15 N.J.R. 1325(a)
8:31B-3	Hospital rate setting: 1984 procedure and methodology	8-15-83	15 N.J.R. 1326(a)
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8:31B-5.1, 5.2	1984 Hospital Financial Elements and Reporting	8-15-83	15 N.J.R. 1334(a)
8:33	Diagnosis related groups and outliers	8-15-83	15 N.J.R. 1336(a)
8:34	Readopt Certificate of Need Application and Review Process	10-17-83	15 N.J.R. 1708(b)
8:43-6	Readopt Rules for Licensing Nursing Home Administrators	10-3-83	15 N.J.R. 1624(a)
8:43-7.2	Residential health care facilities: Dietary Services	10-17-83	15 N.J.R. 1710(a)
8:43B-17	Home energy assistance payments and residential health care patients	10-17-83	15 N.J.R. 1713(a)
8:43E-2	Readopt Cardiac Diagnostic and Surgical Services rules	10-17-83	15 N.J.R. 1713(b)
8:43E-3	Adult open acute psychiatric beds: need certification	10-17-83	15 N.J.R. 1717(a)
8:43E-4	Psychiatric inpatient screening beds: need certification	10-17-83	15 N.J.R. 1720(a)
8:71	Children's acute psychiatric beds: need certification	10-17-83	15 N.J.R. 1723(a)
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8:71	Generic drug list additions	11-7-83	15 N.J.R. 1819(a)
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9:4-5.7	Layoff notification at county colleges	7-5-83	15 N.J.R. 1070(b)
9:9-1.9, 3.5	Student loans: disbursement procedures; accrued interest	11-7-83	15 N.J.R. 1820(a)
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10:5	Social Services Block Grant (Title XX)	2-22-83	15 N.J.R. 208(a)
10:6	Administrative hearings and reviews	10-17-83	15 N.J.R. 1725(a)
10:49-1.3, 1.4	Personal care services: Administration Manual, Home Health Services, Independent Clinic manuals	10-17-83	15 N.J.R. 1726(a)
10:49-1.4	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:54-1.7	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:54-3	Procedure Code Manual updating	10-17-83	15 N.J.R. 1730(a)
10:56-1.14, 1.21, 2.2, 3.3, 3.6, 3.7, 3.15	Orthodontic treatment by general practitioners	7-18-83	15 N.J.R. 1160(a)
10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:60-1.1-1.3, -2, 3.4	Person care services: Home Health Services Manual	10-17-83	15 N.J.R. 1726(a)
10:60-1.4	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:62-1, 2	Vision Care Manual: readopt Eye Care and Optical Appliances rules	10-17-83	15 N.J.R. 1731(a)
10:63-1.4	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:63-1.4	Long Term Care: services requiring consultations or referrals	9-19-83	15 N.J.R. 1543(a)
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10:66-1	Independent Clinic Services Manual: readopt General Provisions	10-17-83	15 N.J.R. 1732(a)
10:66-1.2	"Medical day care center" defined	8-15-83	15 N.J.R. 1337(a)
10:66-1.5, 1.6, 3.3	Personal care services: Independent Clinic Manual	10-17-83	15 N.J.R. 1726(a)
10:66-1.6, 3.3	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:81-7.18	PAM: lost or stolen assistance checks	11-7-83	15 N.J.R. 1820(b)
10:82-5	ASH: readopt Other Payments	10-3-83	15 N.J.R. 1628(a)
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10:85-3.1	GAM: determination of household size	10-3-83	15 N.J.R. 1629(a)
10:85-3.2	GAM: initial work registration	10-3-83	15 N.J.R. 1630(a)
10:85-5.3	GAM: DRG rates for outpatient services	5-2-83	15 N.J.R. 666(a)
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10:87-3.23	Food Stamp Program: Student eligibility	1-3-83	15 N.J.R. 12(a)
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10:100-1.23	SSI payment levels recodified as 10:100-App. A (with Emergency Adoption)	7-18-83	15 N.J.R. 1188(a)
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10:123-3.2	Residential health care and boarding homes; personal needs allowance	10-17-83	15 N.J.R. 1735(a)
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10:133	Aversive conditioning of autistic patients	9-6-83	15 N.J.R. 1432(a)
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12:175	Ski lift safety standards	9-19-83	15 N.J.R. 1553(a)
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13:25-8	Readopt Operation of Motorized Bicycles on Specific Highways	9-6-83	15 N.J.R. 1440(a)
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13:35-6.10	Board of Medical Examiners: advertising by licensees (pre-proposal)	10-3-83	15 N.J.R. 1631(a)
13:35-11	Out-of-State medical school clinical training	9-6-83	15 N.J.R. 1444(a)
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13:49-1-8	State Medical Examiner: death investigations	8-15-83	15 N.J.R. 1351(a)
13:49-1-8	Death Investigations rules: extension of comment period	10-3-83	15 N.J.R. 1672(a)
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