

# NEW JERSEY



# REGISTER

## IN THIS ISSUE "INDEX OF PROPOSED RULES"

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# RULE PROPOSALS

## EDUCATION

(a)

### STATE BOARD OF EDUCATION

#### Business Services State Aid

#### Proposed Readoption with Amendments: N.J.A.C. 6:20-5

Authorized By: New Jersey State Board of Education,  
Saul Cooperman, Secretary.  
Authority: N.J.S.A. 18A:4-15, 18A:17-45 and 18A:58-33, 39.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita  
Executive Assistant for Administrative  
Practice and Procedure  
Department of Education  
225 West State Street  
Trenton, New Jersey 08625

At the close of the period for comments, the State Board of Education may readopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on December 1, 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 to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-503.

The agency proposal follows:

#### Summary

Under the provisions of Executive Order No. 66, 1978 (which provides for the expiration of amended or new rules within five years), N.J.A.C. 6:20-5, State Aid, will expire December 1, 1984.

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, 18A:17-45 and 18A:58-33.39, proposes to readopt this subchapter with amendments.

Proposed N.J.A.C. 6:20-5.1 was originally adopted in October 1967, as N.J.A.C. 6:20-5.2 to implement the provisions of N.J.S.A. 18A:17-45 after the enactment of the "Public School Safety Law" in 1967.

This rule sets forth the information required on the application to employee public school law enforcement officers. This information enables the Department to determine whether a district board of education is eligible for public school law enforcement officer State aid and to determine the amount of aid that will be requested. In addition the rule limits the State aid to reimbursement for one public school law enforcement officer for every 500 pupils or fraction thereof enrolled in any school building. The rule also prohibits school law enforcement officers from being assigned any other school duties and forbids officers from carrying firearms.

Relatively minor changes are being proposed for subsections (a), (b), (d), (e), (g) and (h) for the following reasons:

1. To correct technicalities of wording;
2. To remove sexist language;
3. To make the rule more readable.

The changes being proposed for subsections (c) and (f) are significant changes from the present rule. The experience of the Department over the years with the "Public School Safety Law" has shown that the information now required in these two subsections is unnecessary when determining the amount of State Aid reimbursement. The necessary information is being included in the proposed amendments.

Proposed N.J.A.C. 6:20-5.2 was originally adopted in December 1979 as N.J.A.C. 6:20-5.4 after consultation with the

## NEW JERSEY REGISTER

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## PROPOSALS

## EDUCATION

State Treasurer as required by N.J.S.A. 18A:58-33.39. This rule establishes standards for construction progress, fiscal control, accounting procedures and auditing of funds for district boards of education receiving entitlements under the "Additional State School Building Aid Act" L.1978, c.74. Minor changes are being proposed to correct technicalities of wording.

This rule has been effective in insuring the proper use of funds provided by the Act because it makes certain that funds expended under the Act are done so only to meet the required payments for construction or acquisition of the educational facilities financed by the issuance of the bonds under the Act. Further, the rule insures that all remaining balances after the completion of the approved projects are returned to the State Treasurer.

The Department of Education has submitted this proposal to the senior staff of the Department and to the Department's Administrative Code Review Committee which includes representatives from the following individuals and associations for review and evaluation.

1. County Superintendents of Schools;
2. New Jersey Association of School Administrators;
3. New Jersey Association of School Business Officials;
4. New Jersey Education Association;
5. New Jersey Principals and Supervisors Association;
6. New Jersey School Boards Association.

It is necessary to retain these rules in order to give full force and effect to the existing statutes. If the rules are not re-adopted, the Department could not implement the statutes successfully. District boards of education have to be advised of the necessary information affecting the State aid reimbursement for the cost of school law enforcement officers and of the reporting and refund requirements necessary to insure that L.1978, chapter 74 additional building aid funds are being properly expended.

#### Social Impact

Readoption of this subchapter with amendments will impact the approximately 70 district boards of education each year which employ law enforcement officers and the 81 district boards of education which have additional State school building aid entitlements pursuant to L.1978, C.78. (N.J.S.A. 18A:58-33.22 et seq.) The amendments will not have any significant new impact since the amendments for the most part only correct technicalities of wording, make the rules more readable or eliminate unnecessary information. If the rules are not readopted, there would be no limit on the number of public school law enforcement officers which could be employed by a district board of education and no standards for fiscal control, accounting procedures and auditing of the Chapter 74 additional State school building aid funds.

#### Economic Impact

Readoption of this subchapter with amendments will eliminate the costs of collecting unnecessary information on the application to employ school law enforcement officers. Re-adopted of this subchapter will also ensure that necessary requirements are in effect to ensure that Chapter 74 additional State school building aid funds are properly expended. Overall these rules have a positive economic impact on district boards of education: N.J.A.C. 6:20-5.1 because it results in cost savings to the district boards of education by reducing the costs of collecting unnecessary information; N.J.A.C. 6:20-5.2 because it requires district boards of education to be in compliance with fiscal controls and accounting procedures

that eliminate improper expenditures and ensure the return of unexpended funds to the State Treasurer.

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

#### SUBCHAPTER 5. STATE AID

##### [6:20-5.1 (Reserved)]

##### [6:20-5.2] **6:20-5.1** Law enforcement officer

(a) Any **district** board of education [wishing] **intending** to employ a public school law enforcement officer shall submit to the county superintendent of schools an application for [authorization to make such appointment] **approval to employ school law enforcement officers.**

(b) The application shall set forth the reasons for the request, **the name of the** school or schools with enrollments for which officers are requested, **the** hours during which such protection is required, **a** job description, **the** salary range to be used, **the** qualifications or training required, and the number of officers to be assigned to each school.

(c) If the **district** board of education is requesting State aid [for such law enforcement officer], the following information shall be [included: density of population, per pupil wealth, school tax rate, and total tax rate for the municipality or municipalities comprising the school district] **filed: the name or names of the law enforcement officer or officers, the school assignment or assignments and the wages or salaries paid.**

(d) The county superintendent of schools shall review the application from the **district** board of education. If [he finds that] there is a need for such law enforcement officer or officers, [he shall approve] the application[,] **shall be approved** and forwarded [it] to the Commissioner of Education [, with any recommendation he may wish to make].

(e) The Commissioner of Education will review the application. If [he finds] the appointment of such law enforcement officer **or officers** is necessary, [he shall approve] the [application] **Commissioner shall authorized reimbursement within the limits of available appropriations.**

(f) If the **district** board of education has requested State aid **reimbursement**, the Commissioner of Education shall, within the limits of the available appropriations for said purposes, make a determination of the amount of State aid reimbursement to which the district **board of education** shall be entitled [, taking into consideration the density of population, school tax rate, total tax rate for the municipality, and such other factors as he may deem appropriate]. Such reimbursement shall not exceed 75 per cent of the cost.

(g) No **district** board of education shall be authorized to employ more than one public school law enforcement officer for every 500 pupils or fraction thereof enrolled in any school building, for duty at a given time.

(h) School law enforcement officers shall not be assigned any other duties while carrying out **the** responsibilities of **a** law enforcement officer. They shall not be permitted to carry any firearms [in the school building].

(i) All appointments of law enforcement officers shall be made subject to the provisions of Title 11 of the N.J.S.A., which applicable.

##### [6:20-5.4] **6:20-5.2** Additional State school building aid

(a) [Local] **District** boards of education receiving entitlements in accordance with the provisions of N.J.S.A. 18A:58-

33.22 et seq., [must] **shall** establish a separate bank account to disburse moneys for projects approved [under the provisions of this Act]. All proceeds of financing [must] **shall** be deposited initially in the account established for this purpose. Monthly bank statements [must] **shall** be submitted to the Division of Finance [and Regulatory Services].

(b) If temporary financing is used for additional vocational facilities for the handicapped, State aid will be paid based upon a pro rata share of the debt service in accordance with N.J.S.A. 18A:58-33.24.

(c) [Local] **District** boards of education [must] **shall** expend the district's portion of the cost of approved projects first, except for additional vocational facilities for the handicapped.

(d) [Local] **District** boards of education [must] **shall** use temporary financing, only as required **in accordance with N.J.S.A. 18A:24-3**, after a request to temporarily finance the funds has been submitted to and approved by the Commissioner of Education.

(e) Proceeds of bonds sold subject to the provisions of N.J.S.A. 18A:58-33.22 et seq., which are not immediately required, [must] **shall** be invested and the earnings returned to the State on or before January 10 of each year. Investments [must] **shall** be made in the State of New Jersey Cash Management Fund [pursuant to] **in accordance with** N.J.S.A. 52:18A-90.4.

(f) [Local] **District** boards of education [must] **shall** submit a report to the Division of Finance [and Regulatory Services] by July 10 of each year listing any additional temporary financing, bonds sold, investments, and interest earned from investments during the preceding six months.

(g) [Local] **District** boards of education [must] **shall** submit a report to the Division of Finance [and Regulatory Services] on or before January 10 of each year showing a schedule by month of anticipated cash requirements for the following year and listing any additional temporary financing, bonds sold, investments, and interest earned from investments during the preceding six months. District[s] **boards of education** [will] **shall** refund interest earned from the investment of funds during the preceding year when such report is filed.

(h) [Local] **District** boards of education [must] **shall** submit annual reports concerning construction progress until such time as the facilities are completed and occupied and **shall** comply with the requirements of [N.J.A.C. 6:22-1.1 et seq.] **the Department of Education concerning educational adequacy.**

(i) [Local] **District** boards of education shall return all balances remaining after the completion of the approved project, if such project was funded exclusively with State funds. **District boards of education shall return a pro rata share of all balances remaining after the completion of the approved project, if such project was funded with State and local funds.**

6:20-5.3 (Reserved)

6:20-5.4 (Reserved)

(a)

## STATE BOARD OF EDUCATION

### Business Services Debarment, Suspension and Disqualification of Person(s) Concerning Contract Administration

#### Proposed Readoption with Amendments: N.J.A.C. 6:20-7

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

Authority: N.J.S.A. 18A:-15, 18A:18A-27 and Executive Order No. 34 (1976).

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita  
Executive Assistant for Administrative  
Practice and Procedure  
Department of Education  
225 West State Street  
Trenton, New Jersey 08625

At the close of the period for comments, the State Board of Education may readopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on December 1, 1984. The re-adoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-502.

The agency proposal follows:

#### Summary

Under the provisions of Executive Order No. 66, 1978 (which provides for the expiration of amended or new rules), N.J.A.C. 6:20-7, Qualification, Debarment, Suspension and Disqualification of Person(s) concerning Contract Administration, will expire December 1, 1984.

This subchapter was originally adopted pursuant to N.J.S.A. 18A:18-8 et seq. and Executive Order No. 34(1976) and was filed and became effective on December 7, 1976. After the enactment of the "Public School Contracts Law" in 1977, the Department had the authority in N.J.S.A. 18A:18A-27 to delegate the qualification of prospective bidders upon contracts for public work to the Department of Treasury or some other State agency. In order to delegate this function to the Department of Treasury amendments to this subchapter were adopted and became effective on December 7, 1979.

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Relatively minor changes are being proposed to correct technicalities of wording. Aside from these minor wording changes, no other changes are proposed.

It is necessary to retain these rules to permit the Department of Treasury to continue to qualify prospective bidders upon contracts for public work with district boards of education. If these rules are not readopted, the State Board of Education would be eliminating the rules to control the qualifications of prospective bidders upon contracts for public work with district boards of education and would have to adopt other rules delegating this authority to some other State agency or adopt other rules under which the Department of Education would qualify prospective bidders upon contracts for public work with district boards of education.

Retaining these rules means that the qualification of prospective bidders for public work with district boards of education will continue to be governed by rules adopted by the Department of Treasury. Experience has shown this qualification procedure to be both effective and necessary.

The Department of Education submitted this proposal to the senior staff of the Department and the Department's Administrative Code Review Committee which consists of representatives from the following individuals and associations for review and evaluation:

1. County Superintendents of Schools;
2. New Jersey Association of School Administrators;
3. New Jersey Association of School Business Officials;
4. New Jersey Education Association;
5. New Jersey Principals and Supervisors Association;
6. New Jersey School Boards Association.

**Social Impact**

The overall intent of these rules is to ensure that district boards of education only receive bids for public work where the entire cost will exceed \$20,000 from prospective bidders qualified to perform the work which is being bid. Under N.J.S.A. 18A:18A-29 all such prospective bidders must be qualified to bid on public work with district boards of education. The Department is required to perform or to delegate this function to some other State agency. These rules delegate the qualification authority to the Department of Treasury which has been qualifying prospective bidders for the Department of Education since 1979. Experience has shown that the Department of Treasury is doing an effective job in qualifying prospective bidders for the Department of Education.

In addition to the social impact on district boards of education these rules have an impact on the bidders who bid on public work with district boards of education and the taxpayers who provide the funds to support the cost of the public works. The qualification of prospective bidders by the Department of Treasury means that bidders must maintain certain financial and performance standards if they are to qualify for public work with district boards of education. Thus, the integrity of prospective bidders is ensured.

**Economic Impact**

Readoption of these rules will not impose any additional costs on district boards of education. These rules merely continue the delegation of the qualification of prospective bidders on public work with district boards of education to the Department of Treasury.

The overall fiscal impact on district boards of education is related to the Department of Treasury's ability to more effectively qualify prospective bidders than the Department of Education.

If these rules are not readopted the Department of Education would be required to prequalify prospective bidders for public work with district boards of education. Since the Department of Education has less expertise than the Department of Treasury in qualifying prospective bidders, it is possible that district boards of education would be negatively impacted if the Department of Education were to permit unqualified bidders to bid for public work with district boards of education. The readoption of these rules allows the Department of Treasury, where the expertise exists, to continue to perform this function. District boards of education will be positively impacted by readoption of these rules because they insure that only qualified bidders will be able to join in the bidding process. Ultimately, the public and taxpayers benefit because bids are awarded only to vendors who are prequalified and who are able to perform the work at the lowest responsible price.

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

**SUBCHAPTER 7. QUALIFICATION, DEBARMENT, SUSPENSION AND DISQUALIFICATION OF PERSON(S) CONCERNING CONTRACT ADMINISTRATION**

**6:20-7.1 Definitions**

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

“Debarment” means exclusion from contracting with **district** boards of education for public work and Department of Education contracting on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance.

“Department of Education contracting” means any arrangement giving rise to an obligation to supply any thing to or perform any service for the Department of Education, other than by virtue of State employment, or to supply any thing to or perform any service for a private person where the Department of Education provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service or the persons who may supply or perform the same.

“Disqualification” means a debarment or a suspension which denies or revokes or fails to renew a classification to bid or otherwise engage in contracting with **district** boards of education or which denies or revokes a qualification to bid or otherwise engage in contracting with the Department of Education pursuant to statute or rules [and regulations].

“**District** [“B]board of education” means and includes the **district** board of education of any local school district, consolidated school district, regional school district, county vocational school **district** and any other board of education or other similar body other than the State Board of Education, established and operating under the provisions of Title 18A of the New Jersey Statutes and having authority to engage contractors for the performance of public works for the board.

“**District** [“B]board of education contracting” means any arrangement giving rise to an obligation to supply any thing to or perform any service for **district** boards of education,

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other than by virtue of contracts of employment, or to supply any thing to or perform any service for a private person where the **district** board of education provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service or the person who may supply or perform the same.

“Person” means any natural person, company, firm, association, corporation, or other entity.

“Qualification” is the procedure whereby all prospective bidders for public work with **district** boards of education are classified as to the character and amount of public work on which they shall be qualified to submit bids.

“Suspension” means exclusion from contracting with **district** boards of education for public work and from Department of Education contracting for a temporary period of time, pending the completion of an investigation or legal proceedings.

### 6:20-7.2 Qualification of bidders

Pursuant to N.J.S.A. 18A:18A-27, the authority to qualify bidders for **district** board of education contracting or Department of Education contracting is delegated to the Department of Treasury. Such action is to be governed by [regulations] **rules** adopted by the Department of Treasury for this purpose.

### 6:20-7.3 Debarment, suspension and disqualification of person(s)

Debarment, suspension and disqualification of person(s) from **district** board of education contracting or Department of Education contracting is delegated to the Department of Treasury. Such action shall be taken in accordance with [regulations] **rules** adopted by the Department of Treasury for such purpose.

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# ENVIRONMENTAL PROTECTION

(a)

## OFFICE OF THE COMMISSIONER

### Interim Safe Drinking Water Testing Schedule for Hazardous Contaminants by Public Community Water Systems

#### Proposed Amendment: N.J.A.C. 7:10-14.7

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

Authority: New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., specifically 58:12A-4 and 58:12A-9 (P.L. 1977, c. 224), as amended by P.L. 1983, c.443.

DEP Docket No.: 055-84-08.

**Interested persons** may submit, in writing, data, views or arguments relevant to the proposal on or before October 17, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Joseph N. Schmidt, Jr., Esq.  
New Jersey Department of  
Environmental Protection  
Office of Regulatory Services  
CN 402  
Trenton, New Jersey 08625

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

This proposal is known as PRN 1984-510.

The agency proposal follows:

#### Summary

This proposal, cited as N.J.A.C. 7:10-14.7(b) 1 and 2, completes and further supplements the Interim Testing Schedule for Hazardous Contaminants by Public Community Water Systems, N.J.A.C. 7:10-14 (“Regulations”). The regulations, except for N.J.A.C. 7:10-14.7(b) 1 and 2, have been adopted with substantive and technical changes not requiring additional public notice and comment in the September 4, 1984 issue of the New Jersey Register. The regulations represent the Department’s initial efforts to implement the testing requirements for hazardous contaminants mandated by Section 1 of the amendments to the New Jersey Safe Drinking Water Act, P.L. 1983, c. 443, commonly known as A-280.

Most commenters on the original June 4, 1984 proposal of the regulations (see 16 N.J.R. 1301(a)) strongly urged the New Jersey Department of Environmental Protection (NJDEP) to revise N.J.A.C. 7:10-14.7 titled “Periodic Testing Requirements for 2(a) List” to require semi-annual periodic testing for all public community water systems regardless of the number of residents served or the source of water utilized. The June 4, 1984 proposal required periodic testing frequencies ranging from one test every three years to four tests every year. Commenters felt that uniform semi-annual periodic testing would more accurately reflect the Act’s legislative intent and that the citizens of New Jersey obtaining their water from public community water systems serving a relatively smaller number of residents deserved the protection afforded by semi-annual testing. Many commenters felt that periodic testing four times every year went beyond the Act’s legislative intent. N.J.S.A. 58:12A-12 (Section 1 of P.L. 1983, 443) requires that after initial testing for 2(a) and 2(b) List contaminants, semi-annual periodic testing for 2(a) and annual periodic testing for 2(b) List contaminants will be required thereafter pursuant to a schedule established by the Commissioner “unless the Commissioner shall determine, on a case-by-case basis, that greater or lesser frequency of testing is necessary or sufficient to ensure public health and safety.”

NJDEP’s June 4, 1984 proposal interpreted the case-by-case review in two ways: 1) a generic case-by-case breakdown based on the source of water and the number of residents served and 2) a mechanism for individual case-by-case reviews as set forth in N.J.A.C. 7:10-14.11 titled “Modification of Periodic Testing Frequency by Commissioner”. This NJDEP approach appeared necessary after consideration of the administrative and enforcement burdens a uniform semi-annual periodic testing schedule would create for the Department. Also, the economic impact on the smaller public community

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water systems in meeting the demands of semi-annual periodic testing were considered by NJDEP. After internal NJDEP discussion, N.J.A.C. 7:10-14.7(b) has been revised to require uniform semi-annual testing by all public community water systems with their own source of water. N.J.A.C. 7:10-14.7(a) has been adopted in the September 4, 1984 New Jersey Register and does not require uniform semi-annual periodic testing for all public community water systems who obtain total bulk purchase water from other supply sources. The Department believes that the regulations adequately address public community water systems who obtain total bulk purchase water from other supply sources as previously proposed and adopted.

**Social Impact**

The proposal provides a major positive impact by completing the regulations that initiate the Department's important A-280 program. The uniform semi-annual periodic testing of the water by public community water systems with their own water sources shall determine the presence of hazardous contaminants in the water consumed by citizens of the State. The periodic test results shall provide data to assist the Drinking Water Quality Institute in establishing recommendations for Maximum Contaminant Levels (MCLs) for the hazardous contaminants on the 2(a) List and 2(b) List. The Institute's recommendations will allow the Commissioner to establish by regulatory process MCLs for the hazardous contaminants on the 2(a) List and the 2(b) List which will activate the enforcement provisions of A-280. The proposal constitutes a major effort in the process of utilizing A-280 to ensure safer drinking water to the citizens of New Jersey.

**Economic Impact**

Owners and operators of public community water systems with their own source of water serving less than 500 residents will increase periodic testing from once every three years under the June 4, 1984 proposal to twice every year under this proposal. Owners and operators of public community water systems with their own source of water serving over 10,000 residents will decrease periodic testing from four times every year under the June 4, 1984 proposal to twice every year under the proposal. Testing costs will be substantially increased for such water system serving less than 500 residents and substantially decreased for such water systems serving over 10,000 residents. However, after consideration of the public comments received pursuant to the June 4, 1984 proposal, the Department now believes that uniform semi-annual periodic testing for all water systems with their own water sources is more consistent with the Department's A-280 statutory mandate. The Legislature and the Department believes that the owners or operators of public community water system with their own source of water should properly incur these expenses to ensure safer drinking water to the citizens of New Jersey.

Please note that N.J.A.C. 7:10-14.11, titled "Modification of Periodic Testing Frequency by Commissioner", provides all public community water systems with a regulatory mechanism allowing for possible reduction of their testing frequency, after the initial testing required by Section I of A-280 and N.J.A.C. 7:10-14.6, upon a case-by-case review by the Commissioner. Reductions in testing frequency may be granted by the Commissioner if a lesser frequency of testing would be necessary or sufficient to ensure the public health and safety.

**Environmental Impact**

The Department believes that the proposal and the regulations shall have a major positive environmental impact for the citizens, property and natural resources of New Jersey. The proposal and the regulations constitute the initial step in developing the important new A-280 program that will ensure utilization of safe drinking water sources by public community water systems.

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

7:10-14.7 Periodic testing requirements for 2(a) List

(a) (No change.)

(b) Public community water systems with their own source of water supply shall, after the initial testing required by N.J.A.C. 7:10-14.6, conduct at a minimum periodic tests of the water provided to customers by the system in order to determine the presence of hazardous contaminants on the 2(a) List as follows:

**1. Two tests every year (by the end of June and the end of December of every year) for public community water systems serving less than 10,000 residents from a representative location in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed.**

**2. Two tests every year (by the end of June and the end of December of every year) for public community water systems serving over 10,001 residents consisting of one sample per water treatment plant serving the distribution system.**

**i. For the purpose of this subsection, the number of samples required to be taken by the water system shall be based on the number of treatment plants used by the water system, except that multiple treatment plants or wells using raw water from the same source of water or aquifer may, after written approval from the Department, be considered one treatment plant for determining the number of samples.**

(c)-(e) (No change.)

**(a)**

**DIVISION OF WATER RESOURCES  
FLOOD HAZARD AREA DELINEATIONS**

**Delineated Floodways for the Paulins Kill  
and its Tributaries Dry Brook, Culvers  
Creek, Lafayette Township Tributary,  
Moore's Brook and Sparta Junction  
Tributary**

**Proposed Amendment: N.J.A.C. 7:13-7.1  
(formerly N.J.A.C. 7:13-1.11)**

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

Authority: N.J.S.A. 13:1D-1 et seq. and 58:16A-50 et seq.

DEP Docket No. 054-84-08.

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A **public hearing** concerning this proposal will be held on October 3, 1984 at 1 P.M. at:

County Administration Building  
Newton  
Warren County

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clark Gilman  
Bureau of Flood Plain Management  
Division of Water Resources  
CN 029  
Trenton, New Jersey 08626

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

This proposal is known as PRN 1984-511.

The agency proposal follows:

**Summary**

The proposed amendment provides for the application of rules concerning the development and use of lands in designated floodways to various tributaries and streams within Warren and Sussex Counties. Rules of delineated flood hazard areas are designed to preserve flood carrying capacity and to minimize the threat to the public safety, health and general welfare.

**Social Impact**

The proposed delineation applies added flood protection for the municipalities of Andover Township, Branchville Borough, Frankfort Township, Hampton Township, Lafayette Township, Town of Newton, Sparta Township and Stillwater Township in Sussex County and Blairstown Township, Warren County, all in the Delaware River Basin.

**Economic Impact**

The proposed amendment will have an economic impact on the affected municipalities. The delineation would more clearly define the flood hazard area, thus resulting in less requirements for flood insurance, and minor reductions in property value could result by restricting future development in the floodway and requiring elevated construction designs in flood fringe areas. However, minor property value diminution would be offset by the savings to governmental bodies and private homeowners due to little or no future rehabilitation and rescue expenditures from flood damage in the delineated area.

**Full text** of the proposal follows (additions indicated in boldface **thus**). See the Index of Adopted Rules for previous amendments to N.J.A.C. 7:13-7.1 (previously codified as 7:13-1.11).

7:13-7.1 Delineated floodways

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

(c) A list of delineated streams in the Delaware Basin follows:

1.-29. (No change.)

**30. Paulins Kill within Blairstown Township, Warren County and from West End Drive, Stillwater Township, Sussex County, upstream to its confluence with Moore's Brook in**

**the Town of Newton; Dry Brook from its confluence with the Paulins Kill upstream through Branchville Borough; Culvers Creek from its confluence with Dry Brook upstream to the Culvers Lake Dam; Lafayette Township Tributary from its confluence with the Paulins Kill to 4720 feet upstream; Sparta Junction Tributary from its confluence with the Paulins Kill upstream to Layton Lane in Sparta Township; and Moore's Brook from its confluence with the Paulins Kill upstream to 1350 feet upstream from Lake Avenue in the Town of New-**  
**town.**

(d)-(g) (No change.)

**(a)**

**DIVISION OF WATER RESOURCES**

**Flood Hazard Area Delineations  
Delineated Floodway along North Branch  
Foulerton's Brook, Borough of Roseland,  
Essex County**

**Proposed Amendment: N.J.A.C. 7:13-7.1  
(formerly N.J.A.C. 7:13-1.11)**

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

Authority: N.J.S.A. 13:1D-1 et seq. and N.J.S.A. 58:16A-50 et seq.

DEP Docket No. 058-84-08.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clark Gilman  
Bureau of Flood Plain Management  
Division of Water Resources  
CN 029  
Trenton, New Jersey 08625

The Department of Environmental Protection 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 1984-517.

The agency proposal follows:

**Summary**

This is a reproposal of an amendment which was originally proposed on August 15, 1983 at 15 N.J.R. 1313(a). The Department of Environmental Protection held a public hearing on September 15, 1983 at the Roseland Borough Hall, Eagle Rock Avenue at Harrison Avenue, Roseland, New Jersey. A representative of the Department explained the proposal and its positive impact on the stream. One other person spoke at the hearing in support of the proposal. No other comments were received at the hearing or during the comment period.

The proposed amendment is a modification of the floodway and flood hazard area delineation of the North Branch

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## ENVIRONMENTAL PROTECTION

Foulerton's Brook in the Borough of Roseland, which was adopted in November 1979. This amendment would affect the floodway and flood hazard area limits along 750 feet of the North Branch Foulerton's Brook in Roseland. It is proposed to reconstruct a spillway, construct a retention basin, and construct a riprap trapezoidal channel between Eagle Rock Avenue and the downstream face of the reconstructed spillway and the upper reach of the retention basin upstream to Becker Farm Road. The modification has been proposed by the owner of the parcel, Bellemead Development Corporation, to allow for development along this portion of the North Branch.

### Social Impact

The proposed delineation applies added flood protection to the Borough of Roseland, Essex County, within the Passaic River Basin. This proposed delineation would more accurately define the flood hazard area to coincide with the proposed development after completion of the development project. The public safety, health, and general welfare shall continue to be adequately protected if the amended flood delineation should be adopted by the Department.

### Economic Impact

The proposed floodway delineation will have a relatively positive economic impact by allowing development in a previously designated floodway while still preserving the flood carrying capacity of the North Branch Foulerton's Brook.

**Full text** of the proposal follows (additions indicated in boldface **thus**). N.J.A.C. 7:13-7.1 was formerly codified as N.J.A.C. 7:13-1.11. See the Index of Adopted Rules for previous amendments under that designation.

#### 7:13-7.1 Delineated floodways

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

(d) A list of delineated streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follow:

1.-49. (No change.)

**50. The floodway and flood hazard area of the North Branch Foulerton's Brook for approximately 750 feet from Eagle Rock Avenue Bridge upstream to Becker Farm Road Bridge.**

## (a)

### DIVISION OF WATER RESOURCES

#### Water Supply Management Act Rules

#### Proposed New Rule: N.J.A.C. 7:19-6

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

Authority: N.J.S.A. 58:1A-1 et seq., specifically 58:1A-5.

DEP Docket No. 056-84-08.

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

October 10, 1984

10:00 A.M.

Council Chambers

Parsippany-Troy Hills Municipal Building

1001 Parsippany Boulevard

Parsippany, New Jersey

October 11, 1984

10:00 A.M.

Borough Hall

Red Bank Borough

32 Monmouth Street

Red Bank, New Jersey

October 16, 1984

10:00 A.M.

Haddonfield Municipal Building,

Room 102

Haddonfield Borough

242 Kings Highway

Haddonfield, New Jersey

October 18, 1984

10:00 A.M.

Room CC-103

"C" Building (Parking lot #1)

Stockton State College

Pomona, New Jersey

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 24, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

William Whipple, Assistant Director

Water Supply and Watershed Management

Administration

Division of Water Resources

CN-029

Trenton, New Jersey 08625

The Department of Environmental Protection 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 1984-509.

The agency proposal follows:

### Summary

The proposed new rules implement the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., by providing the administrative mechanism to meet the objectives of the Act and the Water Supply Master Plan.

The rule includes provisions for the determination of safe or dependable yield of water supplies by the purveyor or the Department and procedures to decrease or increase the safe or dependable yields. The proposed rule also provides for the procedures for determining unaccounted-for water and the powers for the review and improvement of unaccounted-for water usage in the State. Requirements are also set forth in the rule regarding water conservation, water system rehabilitation, maintenance of water system pressure and storage and water system interconnection requirements are also set forth in the proposed rule.

A program for the designation of critical areas for water supply purposes is also included in the proposed rule. This program provides for the determination of critical areas and the management of water supply in any such designated critical areas.

It is the obligation of all water supply purveyors to provide appropriately for the physical maintenance of their physical plant. The appropriate amount of monetary investment in this maintenance varies with the character, age and state of prior maintenance of their systems. New Jersey's larger systems have expanded gradually, over a period of years, and all have valves, pumps, electrical equipment, mains and treatment works requiring maintenance and rehabilitation and replacement as necessary. If such work is performed only when the systems break down, costly emergencies and disruptions of service often result. In the interests of good management, it is essential that a program of planned renewal and rehabilitation be adopted and that resources be made available for that purpose. Therefore, this proposal sets a base level of expenditure for planned renewal and rehabilitation which must be met by purveyors unless there is a complete management and status survey, which establishes, to the satisfaction of the Department, that a lesser level of investment is sufficient. The Department has chosen a minimum funding level of ten percent of water rate revenues to be designated to infrastructure rehabilitation. The level of ten percent is somewhat less than the average level of such expenditure projected by reports prepared by 31 purveyors, and submitted to the Department, describing planned water supply infrastructure rehabilitation.

#### Social Impact

The proposed rules will implement the programs contemplated by the Water Supply Management Act, the result of which will be a more ready availability of existing water supplies in the State and more efficient use of those supplies. These programs should enhance New Jersey's ability to meet the water needs of its citizens during drought conditions and in response to increased future demands.

#### Economic Impact

The proposed new rules will have an economic impact on water purveyors and the Department. Purveyors will have to meet the reporting and system improvement requirements set forth in the proposal and the Department will have to revise and administer these requirements.

Certain purveyors will be required to pay fees pursuant to N.J.S.A. 7:19-6.4(d)(5), if they are determined to be delinquent in achieving water conservation and leakage control. Any increased costs to purveyors for system rehabilitation and expansion will be passed on to the water users.

Full text of the proposed new rule follows.

### SUBCHAPTER 6. WATER SUPPLY MANAGEMENT ACT RULES

#### 7:19-6.1 Scope and Authority

(a) The Statewide Water Supply Master Plan represents the planning mechanism by which the State approaches its water needs. Inclusion of a project in the Master Plan is a prerequisite for the expenditure of funds under the Water Supply Bond Act of 1981.

(b) This subchapter is intended to provide administrative mechanisms through which some of the objectives of the Water Supply Management Act and more specific goals of the Water Supply Master Plan may be accomplished.

(c) The specific provisions mandated by this subchapter are subject to modification by administrative order by the Department. The provisions of this subchapter shall not supercede the provisions of administrative orders issued by the Department prior to the effective date of this subchapter.

(d) This subchapter includes administrative procedures and policies to carry out specified management responsibilities of the Department. These requirements supplement other rules adopted by the Department, such as the water allocation procedures for agricultural and non-agricultural uses of water (see N.J.A.C. 7:19 et seq.)

(e) To avoid the imposition of needless administrative burdens on water purveyors and users, only a limited number of specified requirements in this subchapter apply throughout New Jersey. Other requirements are only applicable within designated water supply critical areas, where special situations require a greater degree of control to be exercised by the Department.

#### 7:19-6.2 Definitions

The following words and terms shall have the following meanings unless the context indicates otherwise:

"Act" means the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., P.L. 1981, c.262.

"Adverse impact upon wells" means a forced reduction in pumping rate or a required change in the construction of an affected well.

"Aquifer" means any water-saturated zone in sedimentary or rock stratum which is significantly permeable so that it may yield sufficient quantities of water from wells or springs in order to serve as a practical source of water supply.

"Allocation permit" means the document issued by the Department to a person, granting that person the privilege, so long as the person complies with the conditions of the permit, to divert water for any purpose other than agricultural or horticultural use.

"Class A standard" means the capacity of one or more interconnections with an adjacent water system, having the combined capacity to supply 75 percent of the average water usage of the receiving system, while relying on no more than one adjacent system for more than 25 percent of the average water supply of that adjacent system.

"Class B standard" means the capacity of one or more interconnections with an adjacent water system, having the combined capacity to supply 50 percent of the average water usage of the receiving system, while relying on one adjacent system for no more than 35 percent of the average water supply of that adjacent system.

"Confined aquifer" means an aquifer which contains groundwater confined under pressure between relatively impermeable or significantly less permeable material so that its groundwater surface rises above the top of the aquifer.

"Critical area" means a water supply area in which it is officially determined by the Department, after public notice and a public meeting, that adverse conditions exist, related to the ground or surface water, which require special measures in order to achieve the objectives of the Act.

"Dependable yield of subsurface sources" means that yield of water from a subsurface source or sources available continuously during future conditions, including a repetition of the most severe drought of record, without creating undesirable effects. Undesirable effects may include adverse impact upon other wells of a depth of 50 feet or more, increased risk of introducing saline water or polluted water into the aquifer or unacceptable reduction of surface flow of streams.

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“Dependable yield of combined surface/ground water sources” means the yield of water by a water system which is available continuously throughout a repetition of the most severe drought of record, without causing undesirable effects, as described in the definition of “Dependable yield of subsurface sources” above.

“Drought” means a condition of dryness due to lower than normal rainfall, resulting in such effects as reduced stream flows, reduced soil moisture and lowering of the potentiometric surface in wells.

“Interconnection” means a water supply connection with another water supply system or systems.

“Multiple sources” means one or more production wells, surface water intakes, or a combination of wells and surface water intakes utilized to meet the demands of a public community water system.

“Normal demand” means the average demand during the three preceeding non-drought years.

“Purveyor” means any person who owns or operates a public community water system.

“Public community water system” means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

“Safe yield from surface sources” means the yield maintainable by a water system continuously throughout a repetition of the most severe drought of record, after compliance with requirements for maintaining minimum passing flows.

“Single prime source” means a single diversion of surface or groundwater, capable of providing the peak water demand of a public community water supply system.

“Unaccounted-for water” means water withdrawn by a purveyor from a source and not accounted for as being delivered to customers in measured amounts.

“Unconfined or semi-confined aquifer” means an aquifer close to the land surface with continuous layers of materials with permeabilities in the high to low range, extending from the land surface to the base of the aquifer.

“User” means any persons and other entity which utilizes water.

“Water supply system” means a facility for providing potable water.

“Water table” means the water surface in the uppermost part of the water-saturated zone which is at atmospheric pressure.

“Water table aquifer” means a geological formation which carries water at atmospheric pressure at the top of the saturated zone.

“Yield of a water resource system” means the output of water from a system, available with monthly variations corresponding to the needs of the system.

### 7:19-6.3 Determination of safe or dependable yield

(a) Each purveyor serving over 10,000 people during the month of peak demand, within the first year after the effective date of this subchapter, and other purveyors within one year after request by the Department, shall either accept an estimate of safe yield from surface supplies or of dependable yield of subsurface sources previously made by the Department or submit an independent evaluation and estimate for the approval of the Department.

(b) A purveyor is required to provide a safe or dependable yield of water from its own sources, which, when added to water supplies available by contract and after subtraction of

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water obliged to be delivered by the purveyor by contract, shall be sufficient to provide for its own customers.

1. A progressive reduction in the potentiometric surface of an aquifer will be considered presumptive evidence that dependable yield of a subsurface source is less than current withdrawals, subject to a showing to the contrary.

2. Water supplies available by contract may be relied upon only if the contract is not subject to cancellation or suspension and assures the availability of water throughout a period of drought. Water obtainable through interconnections shall not be included unless reliable delivery is assured by contract.

3. All contracts relied upon to meet the requirement of this subsection shall be subject to review and approval by the Department.

4. Increased safe yield or dependable yield of individual water supply systems may be allowed, to take advantage of system diversity and interconnections, but only in conformance with regional arrangements approved by the Department, under which coordinated systems of operation will assure system-safe yields greater than that which could be provided by the individual water systems.

(c) If a determination of yield in accordance with (a) above shows that a purveyor has insufficient capacity to meet the normal demands of its customers, the purveyor may elect to announce its intentions to revise existing contract arrangements by a given date, as necessary, in order to serve the balance of its customers reliably during a drought.

1. In such a case, the users who will not be reliably served will be required by the Department to immediately obtain a firm yield from some other source.

2. Normal demand shall be defined as the average demand during the three preceeding, non-drought years.

(d) As an alternative to (c) above, the Department may order a ban on further extensions of service to new customers or expansions of service to existing customers, or the Department may order the acquisition of additional water supply capability, or both. The Department must allow reasonable time for acquisition of additional water supply.

### 7:19-6.4 Unaccounted-for water

(a) Water purveyor size classes are as follows:

1. Those serving a population of up to 10,000 population;
2. 10,001 to 50,000 population; and
3. Above 50,000 population.

(b) For each of the water purveyor size classes, an annual enumeration will be made by the Department of all purveyors with unaccounted-for water in excess of 12 percent. The Department may, at a later date, increase this percentage, if experience indicates that the 12 percent figure is low.

(c) For each purveyor size class, the Department shall determine the percentage of purveyors having the highest proportion of unaccounted-for water, and these purveyors will be determined by the Department to be provisionally delinquent. This determination may not include more than 35 percent of the total number of purveyors each year. These purveyors will be notified of their provisionally delinquent status.

(d) Purveyors found provisionally delinquent will be allowed one year in which to eliminate leaks, to establish records of use of previously unaccounted-for water and to submit a schedule for further corrective action. After consideration of supplementary information and the schedule submitted by the purveyor, an annual review of each provisionally delinquent purveyor will be conducted by the Department.

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1. If the review establishes that the percentage of unaccounted for water has been reduced to the median percentage for purveyors of that class, the provisionally delinquent status of the purveyor will be terminated.

2. If the provisionally delinquent status is reaffirmed and unless the purveyor submits a schedule for corrective action which is approved by the Department, an order will be issued by the Department, requiring the elimination of all undue losses in the system in accordance with a specified compliance schedule.

3. If the purveyor does not accept the findings of the annual review, it may request that the Department hold an informal, public fact-finding meeting, the findings of which must be approved by the Department.

4. Purveyors whose systems draw from and are laid in water table aquifers may be exempted from the requirements of this section provided that circumstances are such that leakage losses will not contribute to water shortages and that this is adequately documented by the purveyor.

5. The fee for conducting this delinquent status review will be \$1,000 for classes 1 and 2 and \$300.00 for class 3 (see (a) above). After two years from the effective date of this subchapter, if it is determined that the average cost of conducting such reviews has decreased, the fees will be adjusted downward accordingly.

### 7:19-6.5 Water conservation

(a) Unless more stringent water conservation measures are required by the Department, all public community water systems shall:

1. Proceed expeditiously to correct leakage in the total distribution system, as detected through a systematic program to monitor leakage. Program results may be required to be submitted to the Department at least once every three years;

2. Adopt and implement, to the satisfaction of the Department, an on-going program to encourage water conservation for all types of use within the area served by the system;

3. Submit a water conservation report to the Department on or before the first anniversary of the date on which an allocation permit is granted, or other date specified in the permit. This report must describe the actions taken pursuant to the conservation program and the associated results;

4. Establish water rate structures which provide incentives for water conservation;

5. Require installation of water meters for all new service connections; and

6. In critical areas, require installation of water meters for all existing service connections.

### 7:19-6.6 Rehabilitation

(a) Purveyors shall comply with the following requirements for preparation and implementation of management and status surveys:

1. Within one year after the effective date of this subchapter, all purveyors serving over 50,000 population must perform management and status surveys in accordance with criteria to be provided by the Department, except that those having had such surveys or partial surveys performed within the preceding five years may, with the approval of the Department, submit such completed work in partial or complete compliance with this requirement. The survey must include an analysis of the current status of the system infrastructure and the planned renewal and rehabilitation required to maintain the system in good physical condition. The survey shall be accompanied by an evaluation of the status of the system,

including acceptance or rejection of each recommendation and a schedule for planned renewal and rehabilitation. Within two years of the effective date of this subchapter, all purveyors serving between 10,000 and 50,000 population must also submit such surveys and evaluations.

2. Upon approval by the Department, the schedule of planned renewal and rehabilitation shall commence upon the next fiscal year starting after approval by the Department; thereafter it shall be implemented annually by the purveyor.

3. If no management and status survey is submitted pursuant to the above requirements or if the recommended schedule is disapproved by the Department, planned renewal and rehabilitation of system infrastructure shall be carried out by each purveyor to the extent of 10 percent of total gross water supply revenue, in accordance with Departmental criteria.

4. Upon the effective date of these regulations, all purveyors serving 10,000 population or over must initiate administrative preparation for planned renewal and rehabilitation programs, of the magnitude contemplated by this section, as applied to each purveyor's particular situations. This shall be done, without awaiting the completion of the management and status surveys required above.

(b) Upon determination by the Department that any component(s) of a water supply system have deteriorated to a degree that may jeopardize the ability of the system to deliver an adequate and reliable supply of water or may cause waste of an unduly large amount of water, the purveyor shall submit, within a time period required by the Department, a report and implementation schedule specifically identifying the scope of rehabilitation work necessary, the time required for work implementation and the required water rate modification to finance the work.

(c) Upon approval of the report by the Department, the purveyor shall commence rehabilitation work in an expeditious manner and shall perform the work in a manner which minimizes system disruptions.

(d) All rehabilitation work performed on water supply systems shall conform to the current design requirements specified in the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A et seq., and this subchapter.

(e) For planned or required transmission/distribution system rehabilitation **loans will be provided on a priority basis pursuant to the Water Supply Bond Act of 1981 (Public Law 1981 ch. 261) and associated rules (N.J.A.C. 7:1A-1 et seq.), to the extent that eligibility** requirements of the regulations are met and the funding availability allows.

1. In cases where a critical water supply source disruption exists, pursuant to N.J.A.C. 7:1A-6, application may be made for an emergency, interim rehabilitation loan. Upon approval of said loan, the emergency applicant is required to make full application for a Water Supply Rehabilitation Loan, pursuant N.J.A.C. 7:1A-1 and 2.

(f) Water system revenues shall be used to pay for all rehabilitation work unless otherwise approved by the Department.

### 7:19-6.7 System pressure and storage

(a) Public community water systems shall be adequately maintained so as to sustain minimum water pressures of at least 20 pounds per square inch at street level, in all parts of the distribution network, under all required flow conditions. Pressures shall be sustained by providing such measures as balances and interrelationships of source location, interconnections, transmission and distribution grid, size of transmission-distribution system lines, location of booster pumps, existence of pressure zones and location of storage facilities.

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(b) Under no circumstances shall total water storage be less than 20 percent of the average, daily production from prime sources. Such storage should be spread out and located at different points within the system.

1. With respect to the total capacity of system storage, the following minimum requirements apply to all systems serving more than 10,000 population:

Type of System	Minimum Storage Percentage of Average Daily Demand
i. Single, prime source, no interconnection(s), no auxiliary power at water source	100 percent
ii. Single, prime source, no interconnection(s), auxiliary power provided at water source†	80 percent
iii. Single, prime source with interconnection(s)††	50 percent
iv. Multiple source, no interconnection(s), no auxiliary power at water source	80 percent
v. Multiple sources, no interconnection(s), auxiliary power provided at water source†	50 percent
vi. Multiple sources, with interconnection(s)	50 percent
vii. Multiple sources, interconnection(s)††, auxiliary power provided at water source†	30 percent
viii. Same as vii. above, and distributing more than an average of 50 million gallons per day	20 percent

† Auxiliary power must be able to supply at least 50 percent of average production.

†† Combined interconnection(s) must be able to supply at least 50 percent of average production; contract commitment from supplier is required.

### 7:19-6.8 Interconnections

(a) In order to assure the availability of water during times of emergency, including drought, the Department may require interconnections of the Class A or Class B standard (see N.J.A.C. 7:6-6.2, Definitions) to the extent practicable and economically feasible for all purveyors serving over 10,000 population. The purveyor, upon being notified of such a requirement, is required to conduct a interconnection feasibility study which must identify the most cost-effective alternative and schedule for project completion. The conclusions of the study shall be approved by the Department before project implementation. Prior to issuing an order requiring interconnections, the Department shall advise the purveyor(s) of the proposed action and thereafter allow 30 days for submission of information by the purveyor(s). If undue hardship would be caused by the proposed action, it may be waived by the Department.

(b) Potential interconnections shall be presumed to be economically feasible in all cases in which the actual service areas of two-purveyor systems are closer than 1000 feet, at the closet point, measured between mains at least eight inches in diameter. Exceptions to this requirement may be granted where hardship can be shown, such as where system pressures require a pumping station. In cases where there is a minimum distance of over 1000 feet, but less than a mile, between adjacent service areas, a feasibility study may be required. Where adjacent service areas are more than a mile distant at all points, a feasibility study will be required only in cases where there are special conditions threatening the continued viability of the existing source of water.

(c) Unless it can be clearly shown that benefits accrue mainly to one system, costs of interconnections shall be

## ENVIRONMENTAL PROTECTION

shared between the participating systems. Where both systems benefit, distribution of costs between participating systems shall be proportionate to the benefits, as approved by the Department.

(d) Large, integrated water systems may be exempt from the requirements of N.J.A.C. 7:19-6.8 where it can be demonstrated that system components provide adequate alternative sources.

(e) If found to be necessary to accomplish the purposes of the Act, the Department may order the constructions of interconnections by purveyors serving less than 10,000 population.

### 7:19-6.9 Operation of interconnections

(a) All purveyors serving over 50,000 population shall make a report as to the status of interconnections within one year of the effective date of this subchapter.

(b) All purveyors serving over 10,000 population shall make a report as to status of interconnections within three years of the effective date of this subchapter.

(c) If found to be necessary to accomplish the purposes of the Act, the Department may require purveyors serving less than 10,000 population to provide a report as to the status of interconnections.

(d) The operator of all public community water systems serving over 10,000 population shall make interconnection flow tests (without measurement) on an annual basis on all interconnections six inches or more in diameter, unless exempted by the Department.

1. Such annual tests shall be attended by representatives of both interconnected systems.

2. When specifically ordered to do so by the Department, the operator of any public community water system shall be required to perform complete interconnection flow tests.

(e) The operator of all interconnections between public community water systems shall have rate tariffs for sale of water through such interconnections which shall be part of the overall tariff for that system. The purveyor shall submit the tariff, once established, to the Board of Public Utilities, if appropriate, and to the Department.

(f) Higher rates may be charged during an emergency (see the Emergency Water Supply Allocation Plan Regulations, N.J.A.C. 7:19A-8.2).

(g) There shall be a written agreement between interconnected systems, specifying the conditions for use of each interconnection of six inches or more in diameter. The agreement must be approved by the Department and a copy placed on file with the Department.

### 7:19-6.10 Water supply critical areas: general

(a) Water supply critical areas are those areas in which it is officially determined by the Department, after public notice and a public meeting, that adverse conditions exist, related to the ground or surface water, which require special measures in order to achieve the objectives of the Act. The adverse conditions may include one or more of the following:

1. Shortage of surface water by the diversions from surface or groundwater sources which leave insufficient surface water for authorized users or for environmental protection purposes in an area at least ten square miles in extent.

2. Shortage of ground water by overdraft on at least ten square miles of an aquifer, beyond its permanent, dependable yield. This may be demonstrated by a verified mathematical groundwater model. In the event that such model is unavailable, it may be demonstrated by one or more the following:

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i. A progressive lowering of ground water to the extent that existing wells of 50 feet or more in depth are threatened or rendered inoperative;

ii. A reduction of the annual, average potentiometric surface in a ten square mile or other given area of a confined aquifer to at least 30 feet below mean sea level (MSL), a portion of which area is within five miles of the sea or which contains 250 parts per million or more of chloride isochlor;

iii. A reduction of the annual average potentiometric (pressure) surface in an unconfined or semi-confined aquifer to mean sea level or lower, within a ten square mile area or greater, a portion of which area is either within five miles of the sea or contains 250 parts per million chloride isochlor;

3. Aquifer pollution, where actual pollution contaminates a substantial part of the aquifer or where major source(s) of hazardous or toxic pollution may be reasonably anticipated to contaminate the aquifer;

4. Location within the Delaware River Basin Commission planning areas, where, by interstate agreement, certain reporting, well-drilling, allocation or other requirements apply which are not required elsewhere in New Jersey.

(b) For water supply critical areas described in (a)1, 2 and 3 above, the delineation shall include all areas adversely affected and areas which may be adversely affected if present trends continue, such as where a progressive reduction of the potentiometric surface threatens existing wells or an aquifer with saline contamination. It may also include adjacent areas, where the slope of the potentiometric surface indicates a major source of water for the overdrawn area.

(c) Within water supply critical areas of the type described in (a)1 and 2 above, where it is necessary to balance competing needs, the Department may, by Administrative Order, reduce the privilege given to users to withdraw water, as previously allocated or authorized, and require those users to substitute water from a reasonably available alternative source. To the extent practicable, all users shall equitably share the burden of reductions and/or costs of replacement supplies.

(d) Within critical areas of the type described in (a)2 and 3 above, the Department, by Administrative Order, may require the following:

1. Special quality testing;
2. Reduction in the amounts of water withdrawn by users;
3. Substitution of alternative sources, as described in (c) above;
4. Artificial recharge, to prolong the life of the aquifer or to avoid or delay salt water intrusion;
5. Substitution of a different aquifer for the one already in use.

(e) A reduction in withdrawal amount shall not exceed the amount considered necessary to reduce the aggregate withdrawal from the aquifer to the dependable yield from subsurface sources (see N.J.A.C. 7:19-6.2, Definitions).

(f) Within critical areas of the type described in (a)4 above, the Department may require water allocation for all wells withdrawing between 10,000 and 100,000 gallons per day, exclusive of single family residences.

(g) In specified portions of water supply critical areas of the types described in (a)1 and 2 above, where access to an alternative water supply source would be unduly expensive, users may be allowed to withdraw their full allocation from the source in short supply, in accordance with the following:

1. Full allocation is compensated for by corresponding additional reductions on the part of other users; and
2. The Department has given prior approval to the arrangements for full allocations; and

3. The extra costs of the alternative source are or will be equitably distributed between all users within the critical area;

4. Reduction or other restrictions may be arranged through participation in a regional plan.

(h) Within critical areas of the types described in (a)1, 2 and 3 above, the Department may require additional measures for water conservation, metering and leakage control which are more stringent than those required elsewhere in this chapter.

(i) Within critical areas of the type described in (a)4 above, the Department may only institute controls and requirements required by interstate mandate unless the same area is also a critical area of the type described in (a)1, 2 or 3 above. If so classified, the additional controls and requirements may include water allocation for diversions of less than 100,000 gallons per day, metering, added reporting requirements, restriction of inter-basin diversions, restriction of consumptive uses and water quality testing of wells.

(j) Any area, meeting the criteria of more than one of the critical area types described in (a) above, is subject to the requirements for each applicable type.

### 7:19-6.11 Critical areas in other than the coastal plain

(a) The establishment of critical water supply areas in other than coastal plain aquifers will depend upon the geological conditions.

(b) In large areas of fairly uniform characteristics, such as pleistocene buried valley aquifers, criteria may be the same as for coastal zone aquifers.

(c) Where aquifer characteristics are irregular, such as hard rock aquifers and unstratified glacial deposits, such that delineation of lowered piezometric pressure zone is impracticable, only widespread pollution or the existence of general deficiency in water supply without practicable alternative sources, may be bases for establishment of a water supply critical area.

### 7:19-6.13 Procedure for application of critical area requirements

(a) When the Department determines that a critical area should be established or that arrangements should be initiated for disproportionate water allocations which consequent financial adjustments in an established critical area, the following requirements shall be met:

1. A written explanation and request for action shall be sent to parties known to be directly concerned.
2. Public notice shall be given and a public meeting shall be held.
3. Opportunity for written comments shall be given.

(b) Upon completion of the requirements in (a) above, the Department may issue an administrative order requiring establishment of the arrangements described in (a) above.

### 7:19-6.14 Administrative hearings

A purveyor may request to the Department an administrative hearing before the Office of Administrative Law within 15 days of an order or other final decision pursuant to N.J.A.C. 7:19-6.3(d), 6.6(a)3, 6.8(e), 6.10(c) and 6.13(b). The request for a hearing shall specify in detail the basis for the request. The Department may attempt to settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate. Should the efforts to settle the dispute fail, the Department will forward the request for a hearing to the Office of Administrative Law, pursuant to the provisions of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

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7:19-6.15 Penalties

Any person that violates any of the provisions of this subchapter shall be subject to the remedies and penalties set forth in section 16 of the Act (N.J.S.A. 58:1A-16).

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### (a)

## DIVISION OF ENVIRONMENTAL QUALITY

### Noise Control Notice of Public Hearing and Extension of Comment Period

#### Proposed Amendments: N.J.A.C. 7:29-1.1, 1.2, 1.3, 1.4 and 1.5

**Take notice** that the Division of Environmental Quality will hold a public hearing on the proposed amendments to N.J.A.C. 7:29-1.1, 1.2, 1.3, 1.4 and 1.5 appearing in the July 2, 1984 Register at 16 N.J.R. 1682(a). The public hearing will be held on October 18, 1984 at 9:00 A.M. at:

Lewis Hermann Labor Education Building  
Ryders Lane  
Rutgers University  
New Brunswick, New Jersey

The comment period for the proposal is hereby extended to permit interested persons to submit in writing data, views, or arguments relevant to the proposal on or before October 31, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Edward DiPolvere  
Division of Environmental Quality  
65 Prospect Street  
Trenton, New Jersey 08625

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### (b)

## OFFICE OF GREEN ACRES

### Green Acres Program

#### Proposed Amendments: N.J.A.C. 7:36

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

Authority: P.L. 1983, c.354, Section 6; N.J.S.A. 13:8A-7, 13:8A-25 and 13:8A-41.  
DEP Docket No. 057-84-08.

**Interested persons** may submit, in writing, data, views or arguments relevant to the proposal on or before October 17, 1984, to:

## ENVIRONMENTAL PROTECTION

Dennis Davidson, Chief  
Local Grant Administration Program  
Green Acres Office  
Department of Environmental Protection  
CN 404  
Trenton, New Jersey 08625

The Department may thereafter 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 1984-508.

The agency proposal follows:

#### Summary

The New Jersey Green Acres Recreational Opportunities Program provides funds for the acquisition and development of outdoor recreational areas by State and local governments. Local assistance grants have been made available under Green Acres bond issues passed in 1961, 1971, 1974 and 1978. The New Jersey Green Acres Bond Act of 1983 (P.L. 1983, c.354) also authorizes the provision of low interest "Green Trust" loans, "urban aid" grants and "environmental incentive" grants to local governments.

This proposal updates the existing Green Acres regulations by establishing a procedure for implementing the Green Trust and environmental incentive provisions of the 1983 Act. It establishes criteria and funding levels for the selection of projects to be funded, and procedures to be followed in applying for such funding.

#### Social Impact

The proposed amendments will expand the availability of assistance loans and grants to local governments. The amendments will provide and make available more types of funding such as Green Trust Loans, Urban Aid packages and Environmental Incentive packages. Furthermore, under the proposed amendments more types of areas will qualify for assistance under the Green Acres Program. The local governments are further impacted since the amendments propose changes in the loan and grant procedures. The public at large will be impacted and benefit from the amendments since it will be able to enjoy an increased amount and variety of recreational land.

#### Economic Impact

The proposed amendments will facilitate the distribution of funds for Green Acres Projects, such as making funds available for correcting problems in the terrain of Green Acres projects. The amendments also outline the criteria used to determine eligibility of acquisition costs. The types of eligible acquisitions which will be reimbursed are enumerated. Moreover, the interest rate for Green Trust Loans is set at two percent.

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

## SUBCHAPTER 1. PRIORITIES AND OBJECTIVES

### 7:36-1.1 Introduction

(a) The New Jersey Green Acres and Recreational Opportunities Program, administered by the Department of Environmental Protection [(DEP)], increases the public use and enjoyment of permanent outdoor recreational areas.

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(b) The Local Assistance portions of the 1974, **1978, and 1983** programs make State funds available for development of outdoor recreation facilities and for acquisition of open space lands.

7:36-1.[6] **2 Definitions**

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

“Acquisition project” means[:] [1. A] a single parcel of land[;] or [2. S]several parcels of land that form a contiguous public recreation or conservation open space area.

“**Department**” means the **Department of Environmental Protection**.

“Development project” means[:] [1. A] a single recreation development on one site[;], [2. S]several types of recreation development on one site[;] or

[3.] [D]development of several sites for similar activities.

“Permanent” means the use of lands for public recreation and/or conservation in perpetuity.

“**Project**” means the acquisition or development activity for which **Green Acres financial assistance is being sought**.

“**Urban aid**” area is an urban area as defined in P.L. 1971 c.64.

7:36-1.[2] **3 Eligible applicants**

(a) Any municipality or county of the State of New Jersey, or any agency thereof authorized to acquire, administer, protect, develop and maintain lands for recreation and conservation purposes is eligible to make application under the program. Any such agency will hereafter be referred to as the “local unit”.

(b) School boards, parking authorities, housing authorities and similar public agencies without primary recreation or conservation responsibilities are not eligible for Green Acres assistance.

(c) An open space project that complements a non-eligible agency’s program may be approved under the Green Acres program if such open space project is sponsored by an eligible county or municipal government.

(d) A Green Acres application [may] should be prepared with the assistance of various local agencies such as the park and recreation commission, the planning board, and/or the environmental commission.

7:36-1.[3] **4 [Basis of] Green Acres loans and grants**

(a) [DEP] **The Department** makes local assistance matching grants in amounts up to 50 percent of the total allowable cost, **pursuant to the Green Acres bond issues passed in 1961, 1971, 1974 and 1978; loans in amounts of up to 100 percent of the total allowable costs and local assistance grants of up to 25 percent for eligible urban aid and environmental incentive projects, pursuant to the Green Acres Bond Act of 1983, L. 1983, c. 354.**

(b) **All Green Trust loans shall bear an interest rate of two percent, as provided by P.L. 1983, c. 354.**

1. Initial development project limits are set at the time [the project is approved] **of funding offering**, and are based on a [New Jersey] licensed professional engineer’s, **landscape architect’s** or architect’s cost estimate.

2. Initial acquisition project limits are set [when the project is approved] **at the time of funding offering**, and are based on the [documented] **estimated** fair market value of the land to be acquired.

[(b) A] (c) **Pursuant to the Green Acres bond issues passed in 1961, 1971, 1974 and 1978, a local unit may use as its**

matching share any other source of funding which may be available from a private agency, group or foundation or from a [state or] Federal program as well as local capital funds, bond revenues, surpluses or specific appropriations.

[(c) In] (d) **When submitting [an] a preapplication for development or acquisition funding, under the 1983 Green Acres bond program, a local unit must consider the financial impact of operating, maintaining, policing and protecting the site.**

(e) **Three categories of funding are available under the 1983 program:**

1. **Green Trust Loans covering 100 percent of project costs are available in the following categories:**

i. **The acquisition and development of County parks and major municipal facilities. Available funds shall be based on yearly appropriations.**

ii. **Acquisition or development projects not to exceed \$100,000 in total project cost.**

iii. **Loans shall also be available for the acquisition of small projects, inholdings, and neighborhood parks. Generally, no maximum dollar amount is set. However, available funds are based on yearly appropriations.**

2. **“Urban aid” packages are available for urban aid areas as defined in P.L. 1971, c. 64, consisting of a Green Trust loan covering up to 75 percent of the cost of an acquisition or development project, together with a Green Acres grant of up to 25 percent for the remainder. Generally, no maximum dollar amount is set. However, available funds shall be based on yearly appropriations, and in no event shall exceed 100 percent of the total project cost.**

3. **“Environmental Incentive” packages consist of a Green Trust loan for up to 75 percent of the cost of an acquisition project with up to a 25 percent Green Acres grant for the remainder. Generally, no maximum dollar amount is set. However, available funds are based on yearly appropriations, and in no event shall exceed 100 percent of the total project cost.**

7:36-1.[4] **5 Procedures**

(a) In both the local acquisition and development programs [four] **three** basic steps will be followed in **loan and grant** procedures:

1. The local unit shall submit a written [proposal] **preapplication package** for a project and meet with the Green Acres staff concerning the specifics of the particular **loan or grant** application.

2. Upon [completion of detailed information] **notification of funding offering**, a formal application shall be submitted [to DEP for review. A notice of receipt shall be sent to other State, county and municipal officials.] **to the Department for review and a contractual agreement between the State and the local unit will be executed covering among other items, the following:**

- i. Loan and/or grant amount;
- ii. Time period; and
- iii. Project scope.

[3. At the time of official DEP approval, a contractual agreement between the State and the local unit will be executed covering among other items, the following:

- i. Grant amount;
- ii. Time period;
- iii. Project scope.]

**3. A notice of receipt of preapplications shall be sent from Green Acres to other State, county and municipal officials.**

[4.] (b) **Pursuant to the Green Acres bond issues of 1961, 1971, 1974 and 1978 State funds will be released to the local**

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unit upon successful completion of the entire project, or, on an interim basis, when either a specific construction phase is completed or when a specific parcel has been acquired.

(b) DEP shall prepare a procedural guide and make it available to all local units].

(c) [DEP] **The Department** shall annually solicit [program interest] **preapplications from** local units according to the following schedule[:], **which may be waived by the Department for good cause for only acquisition projects provided funds are available.**

1. [October] **January:** [DEP] **the Department** shall request [identification of potential] Green Acres preapplications from county and municipal governments.

2. **March:** Local units [shall respond,] **must submit preapplications no later than March 31** advising [DEP] **the Department** of any Green Acres participation interest for the calendar year.

3. [April] **June:** Priority lists and funding [schedule] **offerings** will be [developed] **made** by [DEP] **the Department** [to be used as guides in the disbursement of grant funds].

**(d) The Department shall prepare a procedural guide and make the guide available to all local units.**

### 7:36-1.5]6 Priorities

(a) When more than one request for funding is submitted **by a local unit**, a priority ranking for applications shall be established by [the local] **that** unit.

(b) DEP processing of lower priority applications will not be initiated until significant progress on the application already approved has been demonstrated by the local unit.]

### 7:36-1.7 General program criteria

(a) Decisions on applications reflect the extent to which applications meet the [following] criteria[:] **established by the Department on the basis of the State Comprehensive Outdoor Recreation Plan (SCORP), which include, but are not limited, to the following:**

1. Serve multiple recreation and conservation purposes;
2. Serve recreation needs of a wide variety of citizens and provide for the special needs of groups such as handicapped, elderly, disadvantaged and/or low-income families and individuals;
3. Consider **public** access [to the public] by economical and energy conserving means [such as] **including** public transit (existing or to be established), pedestrian or bicycle access;
4. Meet the most critical and under-supplied recreation needs as defined in the State Comprehensive Outdoor Recreation Plan;
5. Combine with other public facilities;
6. Represent a regional program of joint municipal or county/municipal efforts;
7. Include active public participation in the planning phase;
8. Evidence construction readiness;
9. Enhance, preserve or restore unique natural areas or land types;
10. Acquire development rights, life estates, remainder interests, conservation easements, or other less than fee simple interest.

(b) No minimum or maximum acreage restrictions are placed on lands to be acquired or developed.

(c) [No] **Generally, no** established minimum or maximum dollar grants are set **except as provided in N.J.A.C. 7:36-1.3.**

(d) Each project must:

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1. Be a logical recreation and/or conservation unit;
2. Be accomplished within a specific time;
3. Provide a net increase in outdoor recreation/conservation activity.

### 7:36-1.8 General [policy statements] regulations

(a) Prior to [consideration for] **formal approval** of a [DEP Green Acres] **Green Trust** loan or **Green Acres** grant, the local unit must obtain conceptual approval from Federal, State, regional or local agencies for all necessary permits, licenses and grants. **Project scope and design must conform to existing State policies.**

(b) Prior to the payment of a [DEP Green Acres] **loan or grant**, the local unit must [have adopted]:

1. **Adopt** a comprehensive park ordinance which governs conduct and uses of the public park [facilities] **facility.**

2. **Submit and receive approval from Green Acres of a mapped inventory of environmental, recreational and open space resource related information and, based on the mapping a concise concept plan or strategy for providing open space, recreation and natural resource protection.**

**NOTE: Sample ordinance and guidelines for planning requirement are located in the appendix of procedural guidelines.**

(c) Receipt of a [DEP] Green Acres grant does not relieve the local unit of the responsibility to recognize, evaluate and protect the water quality and the historic, cultural and natural features of the site.

(d) Future development of a Green Acres area, inconsistent with the application as approved, or any proposed change in its use requires prior DEP review and consent.

(e) Rules on fees are as follows:

1. The local unit may charge a fee for **the use of a recreation facility;**

2. Any conditions for registration, scheduling or membership must be clearly posted at the site;

3. Provisions must be made for use on a daily basis, **without the requirement of a seasonal or yearly membership;**

4. Differential rates based on family and seasonal registrations are permitted;

5. All fees schedules of over [\$1.00] **\$2.00** per person must be approved by [DEP] **the Department.** A fee schedule may include the following categories:

i. Yearly, seasonal, monthly, weekly, **daily;**

ii. Individual, group, family;

iii. Resident, non-resident (**when any per person fee exceeds \$2.00**, non-resident fees may not exceed double the rate charged to a resident);

iv. Handicapped, senior citizens, disadvantaged.

6. Fees may be developed for each individual facility[. Each] and will be considered on a project by project basis.

7. [Fees collected may not exceed the actual cost of operating and maintaining the recreation programs of the local unit as a whole. However, fee calculations cannot be based on the amortization of any portion in the capital expenditure of acquisition or development, or both, that was funded in part by Green Acres.] **Fees collected must be used for the operation, maintenance and/or capital expenses related to the recreation facility or program as a whole.**

8. Any proposed change in the approved fee schedule must be submitted to [DEP] the Department for review and consent.

(f) Facilities may be operated through a concession awarded through competitive bidding. Any payments, fees or rentals involved are to be charged and collected directly by the

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local unit and must be used to offset the operating cost of the **recreation** program as a whole.

(g) Use of the Green Acres facilities shall not be restricted on the basis of **residency**, race, creed, color, sex, or national origin.

[(h) Use of the Green Acres facility shall not be restricted on the basis of residency.]

[(i) **(h)** Any liabilities incurred as a result of ownership, construction or operation of a facility are the responsibility of the local unit.

[(j) Naming of a park area is at the discretion of the local unit.]

[(k) Programming] (i) **Scheduling** the use of a facility to accommodate organized sports, recreation or conservation activities is permitted and is the responsibility of the local unit.

1. No exclusive use agreements or discriminatory programming **based on residency, race, creed, color, sex or national origin** will be permitted.

2. Facilities cannot be programmed solely for the specific use of a conservation group, sporting association or athletic club.

[(l) **(j)** Lands acquired and/or developed with Green Acres funds may not be diverted to non-recreation or non-conservation uses or disposed of without the prior approval of the Commissioner and the State House Commission pursuant to law. [See Subchapter 7 of this chapter.] (See **N.J.A.C. 7:36-7.**)

[(m) **(k)** Upon receipt of an acquisition or development **loan or grant**, other lands owned, dedicated or maintained for public recreation or conservation purposes by the local unit may not be diverted or disposed of for uses other than those of public recreation or conservation without the prior approval of the Commissioner and the State House Commission. (See **N.J.A.C. 7:36-7.**)

1. A local unit sponsoring a new recreation facility on non-Green Acres lands may adopt fees and schedules without being considered to have diverted its lands as described [in this subsection] **above** as long as the facility is operated by the local unit itself or by a utility authority or an agent or agency thereof.

2. Development and operation of a new private "club" facility which would limit use of lands or facilities exclusively to members thereof and which restricts public use and enjoyment of a public recreation or conservation area is considered a diversion and will require Commissioner and State House Commission approval.

3. A local unit may continue to operate a recreation facility on non-Green Acres land under practices established prior to [their receiving a] Green Acres [local] **loan or grant** assistance [matching grant] without being in conflict with provisions of this section.

4. Change of any public recreation or conservation facility to a non-recreation/conservation use although remaining a public facility is a diversion and requires Commissioner and State House Commission approval.

[(n)] (l) Rules concerning signs are as follows:

1. A sign **provided by Green Acres** is to be posted in a prominent place indicating that the site was acquired and/or developed with State of New Jersey Green Acres financial assistance.

[i. DEP shall provide the local unit with a permanent project sign noting State participation in the project.]

[iii]. i. Where appropriate, signs indicating the accessibility of the facility to the handicapped shall be posted.

[iii]. ii. The local unit shall be responsible for [erecting and maintaining] **the erection, maintenance and replacement** of all project signs.

[iv. the local unit shall be responsible for replacement of all project signs.]

2. Permanent commercial billboards or any other type of displayed advertising or promotion of products or services available elsewhere is prohibited.

3. Posting of political campaign signs on the site is prohibited.

4. Posting of signs that restrict public access or use must be approved by [DEP.] **the Department.**

[(o)](m) Reservoir[s]/flood control project rules are as follows:

1. A Green Acres loan/grant may be used for the acquisition and/or development of the recreation portion of a reservoir, flood detention area or storm water retention basin.

2. Recreation provided at Green Acres funded facilities must be available for public use and enjoyment.

[Note: Regulation, control, use and distribution of water is the responsibility and authority of the Water Policy and Supply Council and is not intended to be covered by these rules and regulations. Information should be obtained directly from the Division of Water Resources, DEP.]

7:36-1.9 Public access to files

(a) Upon [receipt of an application] **approval of a preapplication for loan or grant funds or upon the receipt of an application for State House Commission review**, a notice requesting comments within 30 days will be sent by [DEP] **the Department** to State, county and municipal officials and agencies.

(b) Public access to development project files will be permitted.

(c) Public access to acquisition project files will be permitted except on those items concerning appraisal, fair market value, loan or grant amount request or other matters involving price.

(d) Any application materials or project information will be provided with a standard charge made for any copies requested.

7:36-1.10 Compliance

(a) Contract compliance at the time of grant or loan reservation shall include:

1. **Development:** The local unit shall conform to the specific time limitations of the [development project agreement] **loan or grant contract** by;

i. Completing a standard development project in 24 months;

ii. Completing an extraordinary development project in accordance [to] with a schedule agreed upon at the time of project approval.

2. **Acquisition:** The local unit shall conform to the specific time limitations of the [acquisition encumbrance] **loan or grant** contract by:

i. Completing a standard [purchase] **acquisition** project within 12 months **after receipt of a Fair Market Value Certificate (FMVC)**;

ii. Completing an extraordinary [purchase] **acquisition** project in accordance [to] with a schedule agreed upon at the time of project approval.

3. [DEP] **The Department** will further require that in a development project the local unit:

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i. Have plans and specifications certified by a [New Jersey] licensed **professional engineer, landscape architect** or architect within 150 days after the [project approval] date of **funding offering**;

ii. Advertise for bids within 180 days after the [project approval] date of **funding offering**.

[iii. Award contract within 240 days after the project approval date.]

4. [DEP] **The Department** will further require [in] **that for** an acquisition project [that] the local unit:

i. Enter into a purchase agreement or institute condemnation proceeding within 150 days after the [project approval date] receipt of **FMVC**;

ii. Establish a firm date of closing within 12 months after the [project approval date] **receipt of FMVC**.

5. In the event that the local unit fails to meet the established time limits, [DEP] **the Department** may cancel the reservation of **loan or grant** funds established for a specific project. Any financial obligations incurred by the local unit at the time of cancellation are the sole responsibility of the local unit.

6. Upon request of the local unit, a **loan or grant** reservation of funds for a specific project involved in a court action will be maintained by [DEP] **the Department** until the completion of such court actions.

7. The **loan or grant** reservation period may be extended by the approval of the Commissioner. Review of extenuating circumstances will be made on a contract by contract basis.

(b) Contract compliance after a [Green Acres] **loan or grant** has been made shall include:

1. On-site inspections by [DEP] the Department to insure compliance [to] **with all Green Acres rules and regulations**.

2. The local unit shall submit supplemental information as may be required by [DEP] **the Department**.

3. [DEP] **The Department** may conduct inspections of all other recreation/conservation lands [listed] in the open space inventory [filed] at the time of grant payment.

4. In the event the local unit refuses or fails to comply with and abide by the Green Acres rules and regulations, [DEP] **the Department** may institute a suit to enjoin, exparte, by temporary and/or permanent injunction such violation. [DEP] **the Department** does not waive or forfeit the right to take other legal action as may be necessary to insure compliance by the local unit with said Green Acres rules and regulations.

#### SUBCHAPTER 2. FUNDING ALLOCATIONS IN COORDINATION WITH [BUREAU OF OUTDOOR RECREATION (BOR)] UNITED STATES DEPARTMENT OF INTERIOR

##### 7:36-2.1 Eligibility

Within the limits of available resources, [DEP] **the Department** may combine Green Acres Funds with available [Federal Bureau of Outdoor Recreation,] United States Department of the Interior, Land and Water Conservation Funds. [(BOR) money to provide up to 90 percent funding for development projects in the urban aid cities as defined by P.L. 1971, c. 64.]

##### 7:36-2.2 [Limitations] (Reserved)

[(a) Acquisition projects do not qualify for combine funding.

(b) The project must meet applicable HCRS standards.

(c) The project funding consists of:

1. Green Acres and Land and Water Conservation Funds' share up to 90 percent.

2. Local share 10 percent or balance.]

##### 7:36-2.3 [Priorities] (Reserved)

[Priority for combined funding goes, first, to development projects of county governments and second, to municipal projects of regional significance.]

#### SUBCHAPTER 3. BASIS FOR ASSISTANCE: DEVELOPMENT OF LANDS FOR RECREATION AND CONSERVATION PURPOSES

##### 7:36-3.1 Terms of loan or grant

(a) No commitment of funds may be made by the local unit prior to [DEP] **the Department** [project approval] **funding offering**. Costs incurred before project approval will not be paid. The only exceptions are costs incurred for preliminary planning and engineering which are directly related to the project site.

(b) Pursuant to the **Green Acres bond issues passed in 1961, 1971, 1974 and 1978** once the project has been completed and all outstanding obligations paid, the local unit may bill [DEP] **the Department** for reimbursement. Reimbursement is based on amounts up to 50 percent of the lowest qualified bid or up to 50 percent of the actual cost, whichever is lower. Interim billings based on costs incurred may be accepted by [DEP] the Department for up to 90 percent of the grant amount **prior to audit by the Department**.

(c) **Loan funds must be maintained in a separate bank account, established at the time the funding offering is accepted, and may be used only for the purpose of administering the project for which the grant or loan was made. This account shall be subject to audit by the Department.**

##### 7:36-3.2 Allowable costs

(a) Construction project contracts must be awarded to the lowest qualified bidder **in conformance with N.J.S.A. 40A:11-1 et seq.**

(b) In addition to the construction bid, the following costs are [allowed] **eligible** for up to 50 percent reimbursement pursuant to the **Green Acres bond issues passed in 1961, 1971, 1974 and 1978 and up to 100 percent of the total allowable costs pursuant to the Green Acres Bond Act of 1983, L. 1983, c.354.**

1. Engineering plans and specifications, supervision and inspection [may] costs not to exceed 13 percent of the total cost of construction of the project. Incidental costs such as legal fees and advertising fees should not be included in the total construction cost.

2. Equipment required to make a facility initially operational.

(c) Force account labor (employees of the local unit) expenses are [reimbursable] **eligible** costs only under exceptional circumstances. Each request will be reviewed on a project by project basis.

##### 7:36-3.3 Control of land

(a) Projects must be located on land which is owned in fee simple by the local unit, or

(b) The local unit must obtain a minimum 25 year irrevocable lease or easement agreement.

(c) Development projects may be located on lands purchased without Green Acres Assistance.

**ENVIRONMENTAL PROTECTION**

**PROPOSALS**

7:36-3.4 Development project elements

(a) Development projects must increase outdoor recreational opportunities and may include necessary support elements.

7:36-3.5 Renovation or rehabilitation projects

(a) Renovation or redevelopment of an existing facility is eligible. [when its use is impaired or it has become a health or safety hazard. Renovation or redevelopment is not eligible if:

1. The facility or element was the result of poor professional design or execution;
2. Vandalism has been a major factor in deterioration, unless ameliorating design and planning considerations are being incorporated.]

(b) In the event that insurance compensation covers the renovation or redevelopment, **loan and grants** will be reduced by the amount of the insurance payment.

7:36-3.6 Park/school development

The development of facilities on **leased (see N.J.A.C. 7:36-3.3(b))** public school grounds for school as well as general public use is eligible, provided that the facilities are not **exclusively used for the normal and usual [responsibility] activities** of the educational institution.

7:36-3.7 Non-eligible projects

Assistance will not be provided for amusement parks, employee residences, lodges, luxury cabins, or wholly indoor recreational facilities.

**SUBCHAPTER 4. DESIGN CRITERIA**

7:36-4.1 Structures

(a) Structures necessary and directly related to an outdoor recreation activity to be constructed within the project area will be eligible.

(b) Structures required for the proper administration and maintenance of project facilities will be eligible.

(c) Structures which are primarily intended for a recreational activity to be conducted wholly within the structure are normally ineligible. Exceptions may be made for structures which partially enclose an outdoor recreation facility for the purpose of extending the season of use. **Requests will be reviewed on a case by case basis.**

(d) The local unit must maintain a standard insurance policy. The policy should cover losses due to fire and lightning, resultant damages caused by smoke and water, windstorm, hail, riot attending a strike or damages from falling aircraft. The face amount shall be adequate to cover the cost of replacing the facility and shall be periodically adjusted to reflect changing costs. [DEP] **The Department** shall be named beneficiary in the policy or policies to the extent of its matching grant **or for the term of the loan, where applicable.**

7:36-4.2 Vandalism

Design criteria must consider elements that will reduce vandalism.

7:36-4.3 Underground utility service

(a) The local unit [should] **must** consider placing all new utility lines underground in the general area of developed recreation facilities.

(b) The burial, relocation, or screening of existing overhead utility lines may be eligible for [matching] **loan or grant** assistance.

7:36-4.4 Storm water runoff

(a) [Where possible every] **Every** project shall be designed to provide a system whereby all storm water runoff created by the development will be retained on site for a period of time equal to the natural site runoff and absorption time.

(b) A storm water runoff plan which will include both drawings and a narrative must be prepared by a licensed professional engineer, **architect or landscape architect** and submitted to the [DEP] **the Department** for approval prior to the commencement of construction **and must be coordinated with the local soil conservation district.**

7:36-4.5 [Parking and energy conserving means of transportation] **(Reserved)**

[(a) Design and planning must give consideration to:

1. Energy conserving means of transportation;
2. Use of public transportation;
3. Minimizing or eliminating paved parking lots;
4. Creating grass and/or gravel overflow parking areas to accommodate peak use demands;
5. Alternate uses for paved parking areas.]

7:36-4.6 Dredging of lakes and ponds

(a) Green Acres funds for dredging and rehabilitating lakes and ponds will be considered only when all of the following are satisfied:

1. The lake or pond is in public ownership;
2. Substantial public access to the water area is provided;
3. A clear outdoor recreational benefit [can] **must** be shown in [(addition to any flood control advantages)];
4. It is a first time **Green Acres dredging** project and once funded, maintenance will be [up to] **the responsibility of the local unit;**
5. The project will [have permanent] **incorporate long-term** corrective features **such as, but not limited to, sedimentation basins and other methods of maintaining the depth of the dredged area;**
6. The entire watershed has been taken into account and upstream and downstream conditions have been considered, **particularly stormwater management and sediment/erosion control practices;**
7. An effort has been made to coordinate the activities of upstream **and downstream** governments and/or projects;
8. [If unsuccessful in upstream project coordination, the individual project] **Project** design [must] includes facilities for sedimentation and siltation controls;
9. The project is planned in consultation with **the** Soil Conservation Service.

(b) Any dredging **and spoils disposal** must be done in conformance with the rules and regulations of the [DEP] **Department's** Divisions of Water Resources, **Coastal Resources, and Waste Management,** and with the United States Army Corps of Engineers, **where applicable.**

[Note: Information on permits should be obtained directly from the DEP Divisions of Water Resources, DEP Division of Marine Services and United States Army Corps of Engineers.]

7:36-4.7 (Reserved)

7:36-4.8 [Extending periods of use] **(Reserved)**

[The local unit should incorporate multiple use of facilities, night lighting and seasonal conversions that will extent the use of a recreational facility, wherever feasible.]

## PROPOSALS

## ENVIRONMENTAL PROTECTION

### SUBCHAPTER 5. BASIS FOR ASSISTANCE; ACQUISITION OF LAND FOR RECREATION AND CONSERVATION PURPOSES

#### 7:36-5.1 Terms of grant

[(a) DEP will accept lands acquired by the local unit through donation or gift as an in-kind credit to be used as all or part of the local share of a specific approved acquisition project.]

[(b)] (a) Lands to be acquired must be consistent with the comprehensive master plan program for the municipality, county or region as a whole.

#### 7:36-5.2 Eligible and ineligible acquisition costs

(a) [Eligible costs are cash amounts expended to acquire title or a permanent interest in the land.] **The following costs are eligible:**

**1. Cash amounts expended to acquire title or permanent interest in the land based on approved amount of loan or grant;**

**2. Reasonable relocation payments for persons, families or businesses displaced by the acquisition are normally eligible, however shall be subject to the availability of funding therefor. Evidence of an approved W.R.A.P. (Workable Relocation Assistance Plan) from the New Jersey Department of Community Affairs must be approved;**

**3. Appraisal costs, ordered under the direction of Department of Environmental Protection and the Department of Transportation for initial Fair Market Value Certifications (F.M.V.C.) and any approved updates;**

**4. Survey costs incurred during the actual field determination of acquired acreage.**

(b) The following costs will not be eligible:

1. Usual local government expenses;
2. Administrative costs related to acquisition;
3. Real property taxes;
4. Increases in land costs [over] in excess of the approved fair market value [that] as a result [from] of negotiations;

[5. Relocation payments for persons, families or businesses displaced by the acquisition.]

(c) Increases resulting from condemnation may be eligible for a supplemental grant. See [section 5 of this subchapter] **N.J.A.C. 7:36-5.5.**

#### 7:36-5.3 Eligible acquisitions

(a) Acquisition may include the purchase of title, [or easements to] **development rights, life estates, remainder interests, conservation easements, or other interests in real property suitable for open space purposes.**

(b) Areas of historic significance, **areas having unique natural features (such as ravines, outstanding overlook sites, etc.)** or areas suitable for recreational use or development to enhance civic, community or recreation centers may be acquired.

(c) Sites with existing buildings or structures that will be utilized[,] or renovated [or developed] for **the support of outdoor recreation are eligible if there is evidence that the sites will be properly maintained and operated by the local unit.**

(d) Sites with existing buildings or structures that will be demolished to provide an open space area are eligible.

[(c) Acquisition of permanent conservation easements is eligible.]

[(f)] (e) Acquisition of an open space area that includes, but is not substantially consumed by a library, an art gallery,

or a museum is eligible. Such facility, if included, would be subject to all of the regulations governing a more standard recreational facility as described in **N.J.A.C. 7:36-1.8** (General [policy statements] **regulations**).

**(f) The Department will participate in the funding of grants and loans for the acquisition of perpetual conservation easements that are in conformance with a comprehensive local master plan when a clear public use or benefit is demonstrated, only if:**

**1. It is contiguous and beneficial to significant public lands, or**

**2. It provides for pedestrian or vehicular use, or**

**3. It provides for acquisition of those rights necessary to serve as a buffer or protective area to existing permanent open space or to a unique natural or wildlife habitat.**

**(g) Environmental incentive grants will be limited to projects predominantly in and which should remain in a natural state, except for areas suitable for development as waterfront recreation areas.**

#### 7:36-5.4 Non-eligible acquisitions

Non-eligible acquisitions are sites [that, when developed,] **which would be predominantly covered by buildings or structures, when developed.**

#### 7:36-5.5 Supplemental loan or grant payments

(a) A supplemental loan or grant may be approved, if funds are available, to help reduce the financial impact of condemnation awards. Guidelines are:

**1. Timing:** The local unit has demonstrated significant progress and efficient use of the time between **loan or grant approval** and the initiation of condemnation action (see **N.J.A.C. 7:36-1.10(a)4**).

**2. Land cost:** The final price paid [must be] is the result of a condemnation action.

**3. Appeals:** Appeals from Condemnation Commission awards or court judgements shall be taken whenever either the State or local unit deems it necessary or advisable.

**4. Value documentation:** All updating or revision to appraisals necessitated by the court action shall be completed in accordance with the procedures as outlined in the New Jersey Department of Transportation (DOT) [DEP] and **Department of Environmental Protection** Memorandum of Agreement dated July 12, 1976.

**[5. Amount:** In no case will the total Green Acres grant, including supplemental grant, exceed 50 percent of the total acquisition cost.]

### SUBCHAPTER 6. ACQUISITION REGULATIONS

#### 7:36-6.1 Appraisal procedures

(a) The local unit shall follow the New Jersey Department of Transportation (DOT) appraisal procedures as outlined in the DOT-[DEP] **Department** Memorandum of Agreement dated July 12, 1976.

#### 7:36-6-2 Acquisition procedures

(a) After [approval of the grant application by DEP,] **issuance of an FMVC by DOT**, negotiations are the responsibility of the local unit. The local unit should make every reasonable effort to acquire real property expeditiously by negotiation.

(b) If the property is acquired for more than the established appraised value, a statement of justification must be submitted.

(c) All pertinent records documenting conformance to these provisions shall be accurately and permanently kept on

file by the local unit as all records are subject to audit and review by the State.

(d) The local unit must show the full cost of the acquisition as the local purchase expenditure. The [Green Acres] **loan or grant** and any other grant contributions, gifts or donations must be noted and shown on all accounting records.

7:36-6.3 Relocation procedures

(a) Any relocation, if applicable, is the **administrative** responsibility of the local unit.

(b) All pertinent records documenting conformance to N.J.S.A. 20:4-1 et seq. (Relocation) [should] **shall** be accurately and permanently kept on file by the local unit.

7:36-6.4 Eminent domain

(a) Condemnation: [Prior] **Green Acres must be informed prior** to the local unit initiating court action [, Green Acres must be informed].

(b) Condemnation proceedings are the responsibility of the local unit.

(c) All pertinent records documenting conformance to N.J.S.A. 20:3-1 et seq.(Eminent Domain) [should] **shall** be accurately and permanently kept on file by the local unit.

(d) Although the State is assisting the local unit in the acquisition of the lands and is involved in value determinations for grant purposes, no State agency will participate in condemnation hearings.

(e) Green Acres payments will [only] be made when the local unit has taken title to the **subject property** [in question.] **or at time of closing, if necessary arrangements are made in advance.**

7:36-6.5 Closings

Closings are the sole responsibility of the local unit.

7:36-6.6 (Reserved)

7:36-6.7 Purchase concessions

(a) Purchase concessions such as temporary leasebacks, life rights, life estates, remainder interests and similar techniques [are] **may be permitted under the Green Acres Program, and will be reviewed on a project by project basis.**

[1. The details of temporary leasebacks are the responsibility of the local unit.]

[2.] 1. Prior to any final settlement, any final arrangement on life rights, life estates, remainder interests or any other purchase concession must be submitted to [DEP] **the Department** for review, comment and approval.

7:36-6.8 Donations

[Donations] (a) **Pursuant to the 1983 Green Acres bond program donations** of land received by a local unit may be used as a credit [on all or part of the local share of a specific project] **towards a grant of up to 25 percent of a specific project cost.**

(b) **Pursuant to the Green Acres Bond issues passed in 1961, 1971, 1974 and 1978 the Department will accept lands acquired by the local unit through donation or gift as an in-kind credit to be used as all or part of the local share of a specific approved acquisition project.**

7:36-6.9 Temporary use

(a) Lands, buildings or structures that have been acquired as part of a local Green Acres acquisition may be used or leased for non-recreational uses on a temporary basis to a private individual or public agency when in conformance to a

master plan for development of the site. **Terms of lease will be negotiated at time of contract on a project by project basis.**

(b) Before leasing any land, building or structure[,], purchased with the aid of a Green Acres grant, the local unit must file with [DEP] **the Department** for review and approval, a copy of each of the following:

1. A statement as to the purpose and need for the lease;
2. The proposed lease agreement identifying the [lease] lessee and the use to which the building, structure or land will be put;
3. The park master plan;
4. A park capital improvement program for the next five years indicating when **the park will be** [development will (or is anticipated to) take place.] **developed.**

7:36-6.10 Acquisition of a developed recreational facility

(a) A **loan or grant** for the acquisition of [a] **an outdoor** developed facility including but not limited to a marina, ski area or golf course is eligible under the Green Acres Program[.] **only when the local unit agrees to maintain and preserve the land and its physical improvements in a condition equal to or better than that which existed at the time of funding. This condition is to be determined by a qualified, unbiased third party on an annual basis. For example, in the case of a golf course, the United States Golfing Association.**

[(b) When such an acquisition is made, the local unit must agree to maintain and preserve the land and its physical improvement in a condition equal to or better than that which existed at the time of funding. This condition is to be determined by a qualified, unbiased third party on an annual basis.]

[(c)] (b) Specific provisions for controls will be included in the Green Acres **Loan or Grant Contract.**

[(d)] (c) Any acquired developed facility will be operated under the same provisions, rules and regulations governing a similar facility developed with Green Acres funds.

7:36-6.11 [Acquisition of improved properties] **(Reserved)**

[(a) In those cases where buildings or structures purchased as part of an acquisition program are to be demolished to destroyed so as to provide an open space, the local unit must submit evidence that alternate sites were examined and that no other suitable vacant area exists.]

(b) Buildings or structures that are purchased for recreation/conservation purposes must be maintained and operated by the local unit.]

7:36-6.12 Waterfront acquisitions

[(a) Lake and riverfront acquisitions must provide adequate public access to and use of the water.]

[(b) Beach front acquisitions must, in] (a) **In addition to private land above the high waterline, beach front acquisitions must include all private lands and interests below the current mean high waterline and continue to where the public interest begins.**

Note: Each local unit should contact the Department's [of Environmental Protection's] Division of [Marine Services] **Coastal Resources** directly before progressing with any acquisition involving riparian interest.

7:36-6.13 [Grant] **Loan and grant** payments

- [(a) Grant payments may be made to the local unit as:
1. A reimbursement after closing has taken place and title is in the name of the local unit;
  2. An advance when a firm closing has been established.]

(a) Loan and grant payments may be made only to the local unit.

1. No payment will be made in advance of 30 days of firm date of closing or contract payment due date.

[(b) All grant payments will be made directly to the local unit. No payments will be made to individual property owners.]

[(c) When payments are made after closing has taken place, the local unit must submit the following:

- 1. A certified copy of the recorded deed as proof of purchase;
- 2. Proof of title insurance;
- 3. Green Acres payment request information including necessary forms, contracts and documents;
- 4. Copy of cancelled check.]

[(d) When payments are to be made in advance of actual closing, the local unit must submit the following:

- 1. A purchase contract indicating the date, time and place of scheduled closing;
- 2. Proof that title to the property is insurable (title insurance binder);
- 3. Green Acres payment request information including necessary forms, contracts and documents;
- 4. And further, following closing:
  - i. A certified copy of the recorded deed as proof of purchase;
  - ii. Proof of title insurance;
  - iii. Green Acres payment request information including necessary forms, contracts and documents;
  - iv. Copy of cancelled check.]

SUBCHAPTER 7. STATE HOUSE COMMISSION REVIEW: BASIS FOR REVIEW

7:36-7.1 Retention and use

(a) Upon receipt of a loan or grant, lands and facilities used for public outdoor recreation purposes shall remain as public park, recreation, conservation and/or open spaces.

(b) Such property shall not be converted in whole or part for purposes other than public outdoor recreation use without the approval of the Commissioner and the State House Commission.

(c) Such approval may be granted by the Commissioner only when, singularly or combined, the local unit has agreed to the:

- 1. Substitution of other properties of at least equal fair market value and of reasonably equivalent usefulness, quality, and location.
- 2. Cash repayment based on current appraised value.

7:36-7.2 [Department interests] (Reserved)

[If the need arises to dispose of or direct parkland, open space, conservation or recreation land, or facilities to another use, the local unit must first contact the Green Acres staff to discuss the submission of a formal application for commissioner review and State House commission action.]

# HUMAN SERVICES

(a)

## DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

### Administration Manual; Long Term Care Services Manual Completion of a Field Audit

### Proposed Amendment: N.J.A.C. 10:49-1.27, 10:63-1.22

Authorized By: George J. Albanese, Commissioner, Department of Human Services.  
Authority: N.J.S.A. 30:4D-17(f).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 17, 1984. These 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 rule-making procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of 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 1984-485.

The agency proposal follows:

#### Summary

This proposal concerns the tolling of interest on audits of long term care facility (LTCF) providers.

The New Jersey Medicaid Law (N.J.S.A. 30:4D-17(f)) requires that preliminary notification of an overpayment be given to a provider within 180 days following completion of a field audit. If the Division does not give the required notification (following completion of the field audit), no interest shall toll until the notification is given.

This proposal amends the definition of "completion of the field audit" by adding a clause to deal with cases pending on March 1, 1983 that are or have been or will be referred to the Legal Action Committee, or to the Division of Criminal Justice or other agency for criminal investigation. In these instances, the field audit will be "completed" when the Office

of Program Integrity Administration (within the Division) receives authorization to take administrative action. The Division will then have 180 days to issue the required notice.

The proposal will allow interest to continue to toll on those cases that are undergoing criminal review or investigation.

**Social Impact**

The Division assesses interest on the LTCF providers that are found to have been overpaid on audit. The interest stops 180 days following the completion of the field audit if the Division gives no preliminary notification to the provider. If the Division does provide the required notification, then interest runs until repayment.

**Economic Impact**

The rule potentially impacts all LTCFs, whose cost studies are subject to audit. This proposal actually impacts on those LTCFs where an audit has uncovered both an overpayment and possible criminal violations. The economic impact on an LTCF would vary, depending on the amount of overpayment and the current rate of interest. If the audit reveals no overpayment, then no interest penalty is applied to the LTCF.

The Division wishes to continue to collect interest on cases that are being reviewed or investigated.

This proposal has no economic impact on the Medicaid patient.

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

10:49-1.27 Audits

(a) Field audits shall be subject to the following:

1. "Completion of the field audit" for long-term care facility providers for purposes of N.J.S.A. 30:4D-17 (f) shall be defined in the following manner:

i. (No change.)

ii. **For all such audits and audit recovery cases pending on March 1, 1983, which are, have been or will be referred either to the Legal Action Committee, or to the Division of Criminal Justice or other agency for criminal investigation, it shall mean the date the Office of Program Integrity Administration (OPIA) receives authorization to take administrative action.**

[ii.] iii. (No change in text.)

2.-5. (No change.)

(b) (No change.)

10:63-1.22 Audits

(a) "Completion of the field audit" for long-term care facility providers for purposes of N.J.S.A. 30:4D-17 (f) shall be defined in the following manner:

1. (No change.)

2. **For all such audits and audit recovery cases pending on March 1, 1983, which are, have been or will be referred either to the Legal Action Committee, or to the Division of Criminal Justice or other agency for criminal investigation, it shall mean the date the Office of Program Integrity Administration (OPIA) receives authorization to take administrative action.**

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

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

# INSURANCE

(a)

## DIVISION OF ADMINISTRATION

### **Automobile Insurance Personal Injury Protection Coverage, Residual Medical Payments Coverage and Cancellation of Automobile Coverage of Nonpayment of Premium N.J.A.C. 11:3-7.1 through 11:3-7.8 90-Day Waiver of Executive Order No. 66(1978)**

Authorized By: Governor Thomas H. Kean.

**Take notice** that the regulations of the Department of Insurance, N.J.A.C. 11:3-7.1 through 11:3-7.8, dealing with personal injury protection coverage, residual medical payments coverage and cancellation of automobile coverage of nonpayment of premium, was due to expire on August 17, 1984 pursuant to the sunset provision of Executive Order No. 66(1978). Although the Insurance Department intends to re-adopt these regulations, they will expire before re-adoption can be accomplished. The Insurance Department has informed Governor Thomas H. Kean that the re-adoption will be completed by November 15, 1984.

These regulations cover such important matters as additional personal injury protection coverage to be made available by insurers, rate filings and procedures for cancellation of a policy for nonpayment of premium. In order that there be no regulatory hiatus between expiration and re-adoption, Governor Kean has found that good cause has been shown to grant the Insurance Department's request that the current regulations remain in effect.

On August 8, 1984, Governor Kean, by authority vested in him by Executive Order No. 66(1978), directed that the five year sunset provision of Executive Order No. 66(1978) be waived for the regulations N.J.A.C. 11:3-7.1 through 11:3-7.8 and the expiration for these regulations be extended for the period of 90 days, from August 17, 1984 to and including November 15, 1984.

# LAW AND PUBLIC SAFETY

## (a)

### BOARD OF MEDICAL EXAMINERS DIVISION OF CONSUMER AFFAIRS

#### Requirements for Issuing Prescriptions for all Medications; Special Requirements for Prescribing or Dispensing Controlled Drugs

#### Proposed Amendment: N.J.A.C. 13:35-6.6

Authorized By: Board of Medical Examiners, Edwin H. Albano, M.D., President.  
Authority: N.J.S.A. 45:9-2.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposed rule on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-512.

The agency proposal follows:

#### Summary

The proposed amendment deals with minimum data requirements on drug prescriptions issued by physicians and podiatrists. The present rule requires a variety of data regarding identification of the medication and of the patient for whom it has been prescribed. The rule also requires identification of the prescriber by full name, address, telephone number and "proper degree designation as appears on prescriber's license." The proposal would provide the prescriber the option of including either the degree designation or a designation of the professional licensure category.

#### Social Impact

The risk to the public from issuance of a prescription for medication, whether for a prescription legend drug or a Controlled Dangerous Substance, is such that it is essential to facilitate identification of the prescriber and the licensed scope of practice. The proposed amendment allows a prescriber the alternative of including on the prescription the academic degree conferred on the physician such as M.D. or D.O., as the case may be, or the option of identifying the category of professional licensure such as physician, surgeon, podiatrist, as the case may be.

#### Economic Impact

The proposal is not expected to have any economic impact on current prescribers, as the rule retains for them the option

of continuing to use their current prescription pads, all of which had been required for years to include their degree designation. The rule provides an option to discard those current prescription pads if the prescriber wishes not to use the degree designation but prefers to identify the professional licensure designation instead.

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

13:35-6.6 Requirements for issuing prescriptions for all medications; special requirements for prescribing or dispensing controlled drugs

(a) (No change.)

(b) Physicians and podiatrists shall provide the following on all prescriptions:

1. Prescriber's full name, address, telephone number and [proper degree as appears on prescriber's license] **identification of the professional practice for which licensed. Identification may be in the form of a general term of plenary or limited licensure and/or of a practice specialty; for example: Dr. John Doe, physician and surgeon; or Dr. Jane Smith, physician; or Dr. John Doe, surgeon; or Dr. Jane Smith, licensed to practice medicine and surgery; or Dr. John Doe, physician, practice limited to (name of specialty); or Dr. John Doe, podiatrist; or similar accurate descriptive terms.**

2.-11. (No change.)

(c)-(i) (No change.)

# TRANSPORTATION

## (b)

### NEW JERSEY TRANSIT CORPORATION

#### Use or Occupancy of NJ TRANSIT-Owned Property

#### Proposed New Rule: N.J.A.C. 16:77

Authorized By: New Jersey Transit Corporation, Jerome C. Premo, Executive Director.  
Authority: N.J.S.A. 27:25-5(e), (h), (k) and (o).

**Interested persons** may submit in writing data, views, or arguments relevant to the proposal on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Albert R. Hasbrouck III  
Assistant Executive Director  
New Jersey Transit Corporation  
P.O. Box 10009  
Newark, New Jersey 07101

NJ TRANSIT 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 1984-515.

The agency proposal follows:

**Summary**

The New Jersey Transit Corporation (NJ TRANSIT) was established by the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.) as the instrumentality of the State government responsible to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the programs by which NJ TRANSIT proposes to fulfill this responsibility is through the issuance of permits for certain fees to use its railroad right of way for various types of occupations. Permits are license agreements for the use and occupancy of railroad property by a utility or private entity. The existing fee schedule for such permits has not been changed in five years. The proposed new rules establish guidelines, procedures and fees pursuant to which NJ TRANSIT will operate its use or occupancy program.

**Social Impact**

The proposed new rules and fee schedules will have a minimal social impact on the citizens of New Jersey as a whole but will specifically impact on the utilities and individuals who presently or may in the future occupy and use NJ TRANSIT property. Those parties affected will have to pay the fees as increased by the proposed new rules. The fee increases are detailed in the new rules.

**Economic Impact**

The proposed increased fees will have a positive impact on NJ TRANSIT. More revenues will be available to reduce the deficits of its bus and rail operations. The users of NJ TRANSIT property (utilities and private entities) will be forced to pay fees increased by an overall average of 100 percent. However, these fees have not been increased in five years. In addition the impact on the users especially the major utility companies is considered minimum and it is anticipated that it can be borne by the parties in the ordinary course of business.

Full text of the proposed new rule follows.

CHAPTER 77  
USE OR OCCUPANCY OF  
NJ TRANSIT-OWNED PROPERTY

SUBCHAPTER 1. PERMITS AND CONDITIONS

16:77-1.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings:

“Cable” means consisting of more than two conductors insulated from each other, with or without a protective covering, either self supporting or having a common support.

“Composite coaxial cable” means a cable made up of one or more transmission lines in which one conductor is centered inside a metallic tube that serves as the second conductor. Other standard insulated conductors may be included in the same overall sheath.

“Wire” means a solid or stranded single conductor, either bare or insulated.

“Coaxial television cable” means a transmission line cable having an inner conductor surrounded by insulation and an outer sheath serving as the second conductor.

“Communication wires” means wires used for telegraph, telephone, fire alarm, police, and signal circuits for public or private communication of signal service, which operate at not

exceeding 400 volts to ground or 750 volts between any two points of the circuit and the transmitted power of which does not exceed 150 watts.

“Individual service” means a service to a single individual dwelling.

“Involved jurisdiction” means the New Jersey Transit Corporation (NJ TRANSIT), its authorized representative(s), and the NJ TRANSIT’s authorized railroad operator, where appropriate.

“Lightfiber, fiberoptic and glassfiber cable” means any cable using light as a transmitter and receiver and a glass or plastic fiber as the transmission medium.

“Longitudinal occupation” means any occupation of NJ TRANSIT-owned property other than a direct crossing over or under railroad tracks and right-of-way as defined under Item 15.

“Messenger wires” means shall be considered as part of the wires or cables supported and no charge shall be assessed therefor.

“NJ TRANSIT-owned property” means railroad property in the State of New Jersey or New York owned and operated by NJ TRANSIT regardless of operating agent.

“Permit” means the written permission for the use or occupancy of NJ TRANSIT-owned property including short term uses. Uses or occupancies of NJ TRANSIT-owned property shall include:

1. Transverse or longitudinal crossings on, over, or under NJ TRANSIT-owned property:

i. Aerial or underground wires and cables (communications and power);

ii. Poles, towers, guys and anchors;

iii. Pipes and sewers;

iv. Uses for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facility which NJ TRANSIT shall determine as requiring a permit.

2. Uses or occupancies for short term activities, of less than one year duration.

“Permittee” means the owner of a facility which is to be constructed, installed or maintained on NJ TRANSIT-owned property, or a user of said property for a fixed short term.

“Power wires” means all wires used for transmitting a supply of electrical energy except those defined as “communication wires” above.

“Transverse occupation” means that part of any overhead or undergrade line which crosses a track or tracks of the NJ TRANSIT-owned railroad within the limits of that portion of its right-of-way intended for railroad purposes.

16:77-1.2 Permit applications

(a) No person may use or occupy NJ TRANSIT-owned property without obtaining a permit from NJ TRANSIT. All requests for permits shall be submitted by letter and addressed to:

New Jersey Transit Corporation  
Department of Property Management  
and Development  
McCarter Highway and Market Street  
P.O. Box 10009  
Newark, NJ 07101

(b) Once an application has been received, the applicant shall be responsible to NJ TRANSIT for application fees, regardless of permit completion.

(c) Once an application has been entered into the review process, the applicant shall be responsible to the involved jurisdiction for the applicable review fees, regardless of permit completion.

## PROPOSALS

(d) No refund shall be made after an application for a permit has been submitted.

(e) Upon the applicant's request and proper NJ TRANSIT approval, NJ TRANSIT will notify the application of its decision regarding the issuance of a permit. If NJ TRANSIT approves the application after being reviewed by the involved jurisdiction, a permit will be sent to the applicant for completion. It shall be the applicant's responsibility to complete the permit and return it to NJ TRANSIT with the designated fee. No permit shall be issued unless the designated fee, for use and occupancy of NJ TRANSIT-owned property, has been collected, as provided in N.J.A.C. 16:77-1.6. In addition to the above, the applicant shall reimburse the party operating over the affected property for costs related to their review of the applicant's plans and specifications, if applicable.

(f) If the permittee seeks to modify its use or occupancy of the NJ TRANSIT-owned property during the term of the permit, the permittee shall be required to apply for a new permit according to the provisions of this section.

(g) Upon expiration of a permit, NJ TRANSIT may issue a new permit without requiring the permittee to submit a new application. A new fee will be assessed in accordance with the fee schedule rates in effect at that time.

### 16:77-1.3 Permit conditions

(a) The permittee shall provide the indemnification insurance required by NJ TRANSIT.

1. The permittee shall indemnify, keep and save harmless NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, and other railroad(s) operating on the affected property, their successors, assigns, agents, employees, servants, and officials, and each and every one of them, against all claims, just or unjust, made against NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, and other Operating Railroad(s), or the permittee, or their successors, assigns, agents, employees, servants or officials on account of injuries, deaths, losses of any kind whatsoever, damages, suits, liabilities, judgments, claims for infringement of patent, trademark or copyright, costs and expenses which may in anywise accrue against NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the other operating railroad(s), their successors, assigns, agents, employees, servants, and officials, in consequence of the granting of a permit or which may in anywise result therefrom, and whether or not it shall be alleged or determined that the cause thereof was the negligence, acts, or omissions of NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the other operating railroad(s), or permittee, their successors, assigns, agents, employees, servants and officials, or of other persons, and the permittee shall appear, defend and pay, at its own expense, all costs, including counsel fees, arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, or the operating railroad(s), their successors, assigns, agents, employees, servants and officials, in any such action, the permittee shall, at its own expense, satisfy and discharge the same.

(b) The permittee shall properly safeguard all work performed under the conditions of the permit. If considered necessary by the involved jurisdiction, the permittee will be required to employ additional safety devices including uniformed traffic directors.

(c) Upon approval of a permit, the permittee shall give notice in writing to the involved jurisdiction, at least seven days prior to the use, work, or occupancy of NJ TRANSIT-owned property.

## TRANSPORTATION

(d) Construction work materials and workmanship shall conform to NJ TRANSIT specifications.

(e) Work or occupancy shall not begin until a formal notice in writing is issued to the permittee by NJ TRANSIT.

(f) All uses, work or occupancy within NJ TRANSIT-owned property shall be subject to the review by the involved jurisdiction affecting the safety and operations of the trains. The safety and continuity of railroad operation shall be of the first importance and shall be at all times protected, and safeguarded, and the permittee, and the permittee's contractor and/or subcontractors shall perform and arrange all use, work, and occupancy accordingly. All use and work shall be performed carefully and shall be regulated so as to avoid interruption and interference of train movements and damage to the tracks and all other facilities and appurtenances.

(g) Upon vacation of the site, the permittee shall restore the affected area to the satisfaction of NJ TRANSIT and/or involved jurisdiction.

(h) NJ TRANSIT assumes no obligations whatsoever in connection with the use, work, and/or occupancy by the permittee and is not obligated to make any repairs to the property or furnish men, equipment or materials in connection with use, work and/or occupancy by the permittee. The use, work, and/or occupancy provided for by the permit shall be performed at no cost to the involved jurisdiction.

(i) The permittee shall reimburse the involved jurisdiction for all costs incurred by the involved jurisdiction as a result of the permit project which shall include, but not be limited to, inspectors, watchmen, operators, flagmen, and other personnel.

(j) The permittee shall have the responsibility during the term of the permit to maintain its facility in a safe and proper manner, to the satisfaction of the involved jurisdiction. If repair or maintenance of the permittee's facility is required, the permittee must notify NJ TRANSIT in writing and request permission to initiate, repair, or maintain such facility. The permittee may not begin such work without prior written approval from NJ TRANSIT.

1. In the event of an emergency, the permittee shall take immediate action upon notification of the operating agency and secondly, NJ TRANSIT.

(k) If it is deemed necessary by NJ TRANSIT, the permittee shall be required to submit a certified check in an amount sufficient to guarantee that, should the permittee fail to restore the disturbed area in a safe and proper manner, there will be enough money to pay for the cost of any work performed by the involved jurisdiction in consequence of that failure. This guarantee shall not operate to waive the permittee's complete responsibility with regard to restoring the affected area.

(l) When applications require movement or relocation of facilities by NJ TRANSIT, NJ TRANSIT and/or the appropriate involved jurisdiction shall prepare an estimate of cost. Using this estimate, NJ TRANSIT shall request as a condition in granting the permit, a written agreement by the permittee, stating that the permittee shall assume all expenses involved in the movement or relocation of facilities and any expenses for additional facilities necessitated by the move.

(m) Upon the termination of the permit, the permittee, subject to the review and approval by NJ TRANSIT, shall remove all permit related facilities and shall restore the affected area to the satisfaction of NJ TRANSIT. The permittee is responsible for all costs incurred for restoring the affected area.

(n) The involved jurisdiction reserves the right to impose special conditions in appropriate cases, as required.

**TRANSPORTATION**

**PROPOSALS**

16:77-1.4 Administrative fees

(a) Administrative fees will be charged as follows:

- 1. Wire and cable crossings and longitudinal occupations over or under NJ TRANSIT-owned property:
  - i. Not exceeding 300 volts to one individual service \$100.00
  - ii. All other transverse crossings ..... \$200.00
  - iii. All longitudinal occupations and any agreement regardless of voltage, not less than ..... \$400.00
- 2. Pipe and sewer crossings and longitudinal occupations over or under NJ TRANSIT-owned property:
  - i. Pipe not exceeding 3 inches inside diameter of one individual service ..... \$100.00
  - ii. All other transverse crossings ..... \$200.00
  - iii. All longitudinal occupations and any agreement regardless of size of pipe, not less than ..... \$400.00
- 3. All surface drainage not contained within a pipe occupying NJ TRANSIT property ..... \$400.00
- 4. Short term or occupancy:
  - i. Application for the use or occupancy of track, trains, or property which will require the alteration of track usage or train schedules ..... \$250.00
  - ii. Application for the use or occupation of NJ TRANSIT-owned property not covered by i. above ..... \$100.00
- 5. Additional fees
  - i. All occupations requiring engineering reviews will be assessed an additional fee as compensation to NJ TRANSIT Rail Operations.
  - ii. In addition, when railroad personnel or services are utilized by the permittee, reimbursement to NJ TRANSIT Rail Operations or other involved jurisdictions will be made within 30 days of receipt of billing.

16:77-1.5 Permit fees: general conditions

(a) Long term use or occupancy permit fees are subject to the following conditions:

- 1. The permit fee equals the annual occupancy rate multiplied by the estimated duration of occupancy in years, not to exceed 20 years and no less than one unless otherwise described within this schedule.
- 2. The minimum annual permit fee under any application shall be \$100.00.
- 3. Should the facility be terminated at any time less than the estimated years of occupancy, the fees collected are not subject to a refund for any permit less than the estimated years of occupancy. (Minimum 1 year—Maximum 20 years).
- 4. NJ TRANSIT reserves the right to consider additional fees or crossings in excess of 200 feet. When increased preparation costs are incurred, the increases will be passed on to the permittee.
- 5. Any occupation of NJ TRANSIT property other than transverse track crossings will be charged as a longitudinal crossing based on the lineal foot of the occupation.
- 6. Fees are based on a minimum right-of-way width of 30 feet with a fee applicable up to a 200 foot width. For all crossings in excess of 200 linear feet, a per foot charge at the applicable 30 foot rate will be assessed.
- 7. All fees for occupancies encased as a group or otherwise bundled or joined together will be calculated as if they were individual occupations.
- 8. Should the facility be modified during the term of the permit, new permit, or supplement to the existing permit, the associated fees will be required. If a new permit is approved, an amount proportionate to the time remaining on the superseded permit will be credited toward the new fee.

9. In the event the facility goes beyond its paid estimated life, a new fee will be assessed in accordance with the fee schedule rates in effect at that time.

10. Drainage discharge onto NJ TRANSIT property shall be calculated as if it were contained in a circular pipe and the fees shall be in accordance with the transverse occupation fee schedule, under pipes and sewers.

(b) An annual occupancy fee for attachments will be charged as follows when higher rates are not fixed:

- 1. Attachments of aerial wires and cables to poles or other structures of NJ TRANSIT-Owned facilities used in wire line construction:
    - i. Up to and including 32,500 volts for each attachment to NJ TRANSIT-Owned cross-arms or brackets ..... \$5.00
    - ii. Up to and including 32,500 volts for each attachment to (licensee's) permittee's cross-arms or brackets when they are attached to a NJ TRANSIT-owned facility .. \$4.00
    - iii. Wires over 32,500 volts attached to the NJ TRANSIT-owned cross-arms or brackets ..... \$10.00 per attachment
    - iv. Wires over 32,500 volts and attached to (licensee's) permittee's cross-arms or brackets when those brackets are attached to NJ TRANSIT-owned facilities ..... \$8.00 per attachment
  - 2. Attachments of aerial wires and cables to buildings or other structures:
    - i. Each wire or cable attached to railroad bridges or structures, including railroad or highway bridges ..... \$10.00 per attachment
  - 3. Attachments of cable terminals to poles, buildings, or structures including highway bridges, railroad bridges owned by NJ TRANSIT:
    - i. Each cable terminal, loading coil, transformer, or like device is subject to special consideration in each case, but not less than \$36.00.
  - 4. Pipeline carried along NJ TRANSIT-owned property on bridges or other supports are subject to special consideration in each case if permitted by current New Jersey Department of Transportation specifications.
  - 5. Charges for attachments of pipes to bridges, buildings, or structures of the NJ TRANSIT-owned property are subject to special consideration in each case.
- (c) An annual occupancy fee for guy wire crossings and overhanging cross-arms and power wires and cables of pole lines outside of NJ TRANSIT-owned right-of-way will be calculated as follows:
- 1. Each guy wire crossing NJ TRANSIT-owned property but not anchored thereon ..... \$5.00
  - 2. Cross-arms overhanging NJ TRANSIT-owned property from poles located outside thereof, one or more cross-arms on any pole .....\$3.00
  - 3. Power wires and cables overhanging NJ TRANSIT-owned property from poles located outside thereof shall be calculated at the rates specified in N.J.A.C. 16:77-1.6(b) and (c) "Permit fees: transverse occupations" and on a pro-rated basis, depending upon the number of overhanging wires, excluding the neutral, ground static or lighting wires.
- (d) In any event, if a permit fee is determined to be less than the minimum \$100.00 annual fee, the duration of the permit will be extended to whatever multiple is necessary to achieve the minimum fee.
- (e) Occupation charges for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facilities not covered by this section will be subject to special consideration.

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**TRANSPORTATION**

(f) The minimum permit fee under any agreement where a miscellaneous use of occupancy is involved, not previously defined, shall be \$100.00. The applicant may be subject to possible charges which may result from expenses incurred by NJ TRANSIT's subsidiaries or involved jurisdictions.

(NOTE: Permit fees for miscellaneous use or occupancy of NJ TRANSIT-owned property will be determined and charged on an individual basis because of the various types of requests.)

(g) Short-term use on occupancy fees are subject to the following conditions:

1. The permit fee equals the annual occupancy rate prorated for the estimated duration of occupancy.
2. The minimum permit fee under any application shall be \$100.00.
3. Should the facility be terminated at any time less than the estimated period of occupancy, the fees collected are not subject to a refund.
4. At no time shall the short-term use and/or occupancy fee be less than the estimated annual fee for the same use covered under the long-term fee schedule.
5. Should the facility be modified during the term of the permit, a new permit and fee will be required. If a new permit is approved, an amount proportionate to the time remaining on the superseded permit will be credited toward the new fee.
6. In the event the facility goes beyond its paid estimated life, a new fee will be assessed in accordance with the fee schedule rates in effect at that time.

16:77-1.6 Permit fees: transverse occupation

(a) All fees in this section are based on a minimum right-of-way width of 30 feet with a fee applicable up to a 200 foot width. For all crossings in excess of 200 feet, a per foot charge at the applicable 30 foot rate will be assessed.

(b) Aerial and underground wire (power and communication) crossings not exceeding 200 feet in length will be charged an annual occupancy fee as follows:

1. Power:
  - i. All crossings up to but not exceeding 6,900 volts ..... \$100.00
  - ii. Over 6,900 volts but not exceeding 32,500 volts ..... \$180.00
  - iii. Over 32,500 volts but not exceeding 50,000 volts ..... \$300.00
  - iv. Over 50,000 volts but not exceeding 345,000 volts ..... \$400.00
  - v. Over 345,000 volts but not exceeding 500,000 volts ..... \$600.00
  - vi. Over 500,000 volts ..... \$800.00
  - vii. Ducts or pipes carrying conductors ... NO CHARGE
  - viii. Manholes (each) ..... \$50.00

(NOTE: Attachments of wires, cables, etc. to bridges, buildings, poles or structures of railroad subject to special consideration in each case.)

2. Communication:
  - i. Telephone and other communication cables (not including composite coaxial cables):
    - (1) Cable containing not more than 500 pairs ... \$100.00
    - (2) Cable containing 501 to 1100 pairs ..... \$175.00
    - (3) Cable containing 1101 to 1800 pairs ..... \$250.00
    - (4) Cable containing over 1800 pairs ..... \$400.00
  - ii. Composite coaxial cables and coaxial television cables containing not more than 4 conductors ..... \$150.00
  - iii. All cables containing over four conductors shall be at a rate of \$20.00 for each additional conductor.

3. Fiberoptics:

i. All fiberoptics installations will be charged through a negotiated fee.

(NOTE: Crossings of right-of-way by pipe type cable consisting of one or more high voltage cables encased in a steel pipe under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted sand should be subject to special consideration and each case handled individually.)

(c) Poles, towers, guys, and anchors and spare ducts or pipes will be charged an annual fee as follows:

1. Single wooden pole (per pole) ..... \$25.00
2. All other supporting structures other than the auxiliary facilities and appurtenances listed in 3, 4, 5, 6, 7 and 8 below ..... \$50.00
3. Each brace, stub pole, or anchor ..... \$25.00
4. Each guy anchored on or crossing NJ TRANSIT-Owned railroad property ..... \$5.00
5. All towers, if not included in a longitudinal occupation shall be assessed per tower leg at ..... \$30.00
6. Each span guy wire crossing ..... \$25.00
7. Spare or unoccupied ducts or pipes, each (when the duct shall be occupied in the future by a cable, the annual fee shall govern and the \$25.00 charge cease) ..... \$25.00
8. Guys, stubs, anchors, and push or pull braces required by specification for the support of a crossing pole on NJ TRANSIT-owned right-of-way at the request of the NJ TRANSIT-owned shall be considered as a part of the crossing pole and no charge made therefore.

(NOTE: The above charges in (c)1-8 are in addition to the wire and cable occupation charges provided in (b)1-3 above.)

(d) Annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length will be calculated as follows:

1. Circular lines carrying no pressure:
  - i. Pipes up to and including 12 inches ID ..... \$100.00
  - ii. Pipes over 122 inches and not exceeding 24 inches ID ..... \$125.00
  - iii. Pipes over 24 inches and not exceeding 60 inches ID will be charged at a rate of \$3.00 per inch of ID over the first 24 inches. This rate is in addition to a minimum fee of \$150.00
  - iv. Pipes over 60 inches ID will be charged at a rate of \$2.00 per inch of ID over the first 60 inches. This rate is in addition to a minimum fee of ..... \$300.00
2. Circular lines under pressure and carrying non-flammable, non-explosive, or non-combustible supporting materials, except coal and water slurry:
  - i. Pipes up to and including 24 inches ID ..... \$100.00
  - ii. Pipes over 24 inches ID and not exceeding 60 inches ID will be charged at a rate of \$5.00 per inch of ID over the first 24 inches. This rate is in addition to a minimum fee of \$120.00
  - iii. Pipes over 60 inches ID will be charged at a rate of \$3.00 per inch of ID over the first 60 inches. This rate is in addition to a minimum fee of ..... \$250.00
3. Circular lines under pressure and carrying flammable, explosive, or combustible supporting materials, except coal and water slurry:
  - i. Pipe not exceeding three inches inside nominal diameter—minimum charge for any one crossing .. \$150.00
  - ii. Pipe over three inches inside nominal diameter and not exceeding 12 inches inside diameter—minimum charge for any one crossing ..... \$200.00
  - iii. Pipe over 12 inches inside diameter and not exceeding 24 inches inside diameter shall

**TREASURY-GENERAL**

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be charged at a rate of \$9.00 per inch of ID over the first 12 inches. This rate is in addition to a minimum charge for any one crossing of . . . . . \$200.00

iv. Pipe exceeding 24 inches in diameter shall be charged at a rate of \$10.00 per inch of ID over the first 24 inches. This is in addition to a minimum charge for any one crossing of . . . . . \$320.00

4. Charges for non-circular pipes shall be determined by the diameter of a circular pipe having an equivalent cross-sectional area.

5. Charges for pipe tunnels or other special underground construction shall be subject to special consideration.

6. Pipe lines carried over NJ TRANSIT-owned or other supports subject to special consideration in each case if permitted by NJ TRANSIT current specifications.

7. Manholes (each) . . . . . \$50.00

8. Charges for attachments of pipes to bridges, buildings, or structures of the NJ TRANSIT-owned property subject to special consideration in each case.

9. Where pipe or pipes are encased in a protective pipe of larger diameter, no charge shall be made for the protective encasement.

**16:77-1.7 Permit fee: longitudinal occupations**

(a) Recognizing the many variables and intangibles involved in each longitudinal occupation of NJ TRANSIT-owned property, each application shall be considered on its own merits, with suggested minimum permit fee per year of occupancy being applied as set below.

(b) For occupations less than one mile in length, the charge shall be a proportionate amount of the rates calculated to the nearest dollar but no fee for any wire cable, duct, or pipe occupation shall be less than the charge for one-quarter mile of such occupation.

(c) The following charges cover the complete transmission line occupation and additional charges are not to be made unless there are attachments to NJ TRANSIT-owned facilities. For the purpose of determining voltage, guy wires, messengers and grounded conductors shall be considered as zero voltage. All other conductors shall be rated at voltage to other conductors, whichever is higher.

**1. Aerial wires:**

i. Transmission line, highest voltage not exceeding 6,900 volts . . . . . \$1,000 per circuit per mile.

ii. Pole line over 6,900 volts up to but not including 32,500 volts . . . . . \$1,800 per circuit per mile.

iii. Transmission line over 32,500 volts, up to and including 50,000 . . . . . \$2,500 per circuit mile.

iv. Pole line, 50,000 volts and over. The fee will be based on a negotiated rate.

**2. Aerial and underground cables:**

i. Telephone communication cables (not including composite coaxial cables):

(1) Cable containing not more than 1,100 pairs . . . . . \$1,000.00 per cable per mile

(2) Cable containing 1,101 to 1,800 pairs . . . . . \$1,800.00 per cable per mile

(3) Cable containing over 1,800 pairs: The fee will be negotiated at a rate not less than \$1,800.00 per cable mile.

(4) For underground communication cables the minimum charge is \$2,000.00 per cable per mile.

ii. Composite coaxial cable and coaxial television cables subject to negotiation but not less than . . . \$2,500 per mile

**iii. Underground power cables:**

(1) When cable is buried in an open trench and covered with soil: Minimum charge . . \$1,500.00 per circuit per mile.

(2) When cable is buried in an open trench and surrounded with from 6 to 12 inches of thermal sand:

Minimum charge . . . . . \$2,500.00 per circuit per mile

(3) When cable is encased in a steel pipe under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted sand:

\$5.00 per inch of nominal diameter of the largest pipe per 100 feet of occupation or fraction thereof with a minimum charge of \$2,500.00 per mile.

iv. Spare or unoccupied ducts or pipes, each per mile . . . . . \$300.00

v. Manholes, splicing chambers on pull boxes, each when these structures are necessary for longitudinal occupation . . . . . NO CHARGE

vi. An additional charge shall be made for use of NJ TRANSIT-owned property duct lines based on the value of the facility.

(NOTE: Charges shown under iv., v., vi., above are in addition to the charges shown under i. to iii. inclusive.)

(d) All manholes necessary for periodic inspection, cleaning and maintenance will be covered under the longitudinal pipeline fee. On transverse occupations all manholes will be charged in excess of the transverse facilities occupancy fee.

(e) All structures other than manholes will be charged based through their own individual negotiations. Examples of these structures are meter chambers, siphon chambers, substations, pump station, etc.

(f) An annual occupancy fee for pipes and sewers will be charged as follows:

1. Circular lines carrying no pressure: \$2.00 minimum charge per inch of inside nominal diameter or fraction thereof per 100 feet of occupation or fraction thereof.

2. Circular lines under pressure and carrying non-flammable, non-explosive, and non-combustible supporting materials, except coal and water slurry: \$2.50 minimum charge per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

3. Circular lines under pressure and carrying flammable, explosive, and combustible supporting materials, and coal and water slurry: \$5.00 minimum charge per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

4. Charges of non-circular pipes shall be determined by the diameter of a circular pipe having an equivalent cross-sectional area.

5. Charges for pipe tunnels or other special underground construction shall be subject to special consideration.

**TREASURY-GENERAL**

**(a)**

**DIVISION OF PENSIONS**

**Administration**

**Administration Expenses Proration**

**Proposed Amendment: N.J.A.C. 17:1-1.17**

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

Authority: N.J.S.A. 52:18A-96 et seq.

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**Interested persons** may submit in writing, data, views or arguments relevant to the proposed rule on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-505.

The agency proposal follows:

**Summary**

The proposed amendment changes the date that the Chief of Administrative Services prepares the statements of administrative expenses from November 15 to not later than 60 days from the receipt of the expenditures by account. The proposed changes are intended to provide flexibility in the administration of the Division's accounting of the various pension systems.

**Social Impact**

The proposed amendment may affect public employers who participate in the various New Jersey State-administered retirement systems and which are subject to the Division's rules.

**Economic Impact**

The proposed amendment does not appear to have any significant, adverse effect upon the public employers that may be affected by the proposed amendment.

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

17:1-1.17 Administrative expenses; proration among systems

- (a) Not later than [November 15 of each year] **60 days after receipt of the expenditures by account** the Chief of Administrative Services of the Division of Pensions will prepare a complete fiscal statement indicating the administrative expenses incurred by the Division within its State appropriation for the previous fiscal year, the year ending the prior June 30:
  - 1.-6. (No change.)
  - (b)-(c) (No change.)

**(a)**

**DIVISION OF PENSIONS**

**Social Security  
Late Filing Penalties**

**Proposed Amendments: N.J.A.C. 17:1-8.12**

Authorized By: Douglas R Forrester, Director, Division of Pensions.  
Authority: N.J.S.A. 52:18A-96 et seq.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposed rule on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Gorman, Esquire  
Administrative Practice Officer  
Division of Pensions  
20 West Front Street  
Trenton, NJ 08625

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

This proposal is known as PRN 1984-504.

The agency proposal follows:

**Summary**

The proposed amendments are intended to clarify the penalties and interest that are charged to employers who are delinquent in forwarding the required Social Security contributions, transmittals and reports to the Division of Pensions in a timely manner. The purpose of the Federal and State penalties is to encourage employers to forward such data in a timely manner. The proposed amendments tie the interest rate to the prime rate of interest and the penalty for failure to file is a flat \$50.00 per day, with a maximum of \$1,000.00 per month.

**Social Impact**

The proposed amendments may affect all public employers who are delinquent in forwarding the required Social Security reports, transmittals and contributions in a timely manner to the Division of Pensions.

**Economic Impact**

If public employers forward the requested data in a timely manner, the proposed amendments will not have any adverse, economic impact upon them. If they are delinquent within that regard, they can be assessed additional penalties and interest.

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

17:1-8.12 Late filing penalties

- (a) If proper transmittals [, reports] and contributions [for the semi-monthly period] are not received by the State Agency for Social Security by the due date, [they] **such employer** will be liable for any penalties assessed by the Federal government.
  - (b) The participating employer will be sent a delinquency notice covering late or rejected items. Whenever participating employers are delinquent for a period of 90 days in forwarding the appropriate contributions [and], transmittals **and/or reports**, the Division of Pensions shall notify the State Treasurer and the Director of [the Division of] Budget and Accounting, who are authorized to deduct any amount due from any monies payable to the employer by a department or agency of the State. In this event, the State Agency will estimate the contributions due by using the information from the last available transmittal. [, adding 25 percent and thus developing the estimated charge. The withheld funds will be returned to the employer when he submits the delinquent item.] **The State Agency will assess interest and report penalty**

**TREASURY-GENERAL**

**PROPOSALS**

charges for non-compliance of the above in the following manner:

1. Interest charges will be based on the prime rate as of January 1 of each calendar year.
2. Penalty charges for non-filing of reports will be assessed a charge of \$50.00 per day, not to exceed \$1,000.00 per month.

**(a)**

**DIVISION OF PENSIONS**

**State Health Benefits Commission  
Annual Enrollment Period**

**Proposed Amendment: N.J.A.C. 17:9-2.3**

Authorized By: State Health Benefits Commission,  
Gaius B. Mount, Acting Secretary.  
Authority: N.J.S.A. 52:14-17.27.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposed rule on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

The proposal is known as PRN 1984-513.

The agency proposal follows:

**Summary**

The proposed amendment would permit the State Health Benefits Commission more flexibility in establishing special enrollment periods in response to significant legislative changes, alterations in rates, or other developments which may justify opening a special enrollment period.

**Social Impact**

The proposed amendment may affect all current and future participants in the State Health Benefits program as well as their employers who contribute to the cost of the program.

**Economic Impact**

The proposed amendment may have a beneficial effect upon the participants and their employers if the changes necessitating the special enrollment period (for example, a reduction in rates) result in lower costs or increased benefits at no additional cost to the participants.

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

17:9-2.3 Annual enrollment period

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

(c) **The State Health Benefits Commission may, at its discretion, establish a special enrollment period at any time it deems necessary to do so.**

**(b)**

**DIVISION OF PENSIONS**

**State Health Benefits Program  
Dependents; Ineligibility**

**Proposed Amendments: N.J.A.C. 17:9-2.8,  
2.12, 3.4, 3.7**

Authorized By: State Health Benefits Commission,  
Gaius B. Mount, Acting Secretary.  
Authority: N.J.S.A. 52:14-17.27 et seq., specifically  
52:14-17.31.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposed rule on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-514.

The agency proposal follows:

**Summary**

The proposed amendments eliminate the normal activities test requirement for eligibility for dependent coverage in the State Health Benefits Program. The test is a medical review to determine whether a dependent can perform the functions of normal life, for example whether a person is ambulatory. Eliminating this test makes coverage more available to disabled dependents. If a dependent is confined in a medical facility prior to the date that the coverage would become effective, the dependent would not be eligible for coverage until the final medical release from all such confinement is obtained. If a dependent is confined to a medical facility while coverage becomes effective, coverage for the entire confinement is declined.

**Social Impact**

The proposed amendments may directly affect participants in the State Health Benefits Program who have dependents who cannot pass a normal activities test or who are temporarily confined in a medical facility on the date that such coverage is to become effective. Previously, such dependents may

PROPOSALS

TREASURY-TAXATION

not have qualified as eligible participants in the State Health Benefits Program but may now do so under the circumstances specified in the proposed amendments.

Economic Impact

Since the proposed amendments may result in more participants, due to the elimination of the normal activities test, and perhaps more claims in the State Health Benefits Program, the employers who participate in the Program may experience additional costs as a result of this proposal.

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

17:9-2.8 Effective date; ineligible employees and dependents

(a) An employee who, at the time of his or her coverage would otherwise become effective, is not actively at work on a full-time basis at his or her customary place of employment or other location to which his or her employment requires him or her to travel, [or who cannot satisfy the normal activities test of an individual of the same sex or age, or is confined in an institution.] shall not be covered until he or she is so actively at work. [and can satisfy the normal activities test.] Such employee shall be eligible for coverage immediately upon his or her return to active full-time work.

(b) [A] **The major medical coverage for a dependent (except a newborn child), who, at the time of his or her coverage would otherwise become effective, is [unable to satisfy the normal activities test of an individual of the same sex and age, or is] confined in [an institution, shall not be covered until he can establish insurability.] a medical facility primarily for medical care or treatment on the date the major medical coverage would otherwise become effective with respect to that dependent, will be deferred until his or her final medical release from all such confinement.**

(c) (No change.)

17:9-2.12 Major Medical; eligible charges at enrollment (local employees)

(a) For purposes of local coverage, all eligible charges incurred by an eligible employee or his or her covered dependents, from January 1 of a calendar year to the effective date of coverage for his or her participating employer, will be considered to satisfy the \$100.00 deductible required under the Major Medical coverage. The above provision is contingent upon the eligible employee being actively at work on the effective date of coverage and his or her dependents [being able to satisfy the normal activities test required by the contract] **not be deferred as stated under N.J.A.C. 17:9-2.8(b).**

(b) (No change.)

17:9-3.4 Certification of dependency

An employee who elects to enroll an eligible dependent for any coverage shall report such dependent's relationship or status on the enrollment form and such listing of the dependent shall constitute the required certification that at the time of enrollment such dependent is wholly dependent upon the employee for support and maintenance [and such certification will not be complete if the dependent is confined in an institution or cannot satisfy the normal activities test of an individual of the same sex and age].

17:9-3.7 Major Medical; ineligible dependents

The Major Medical benefits coverage of [a] **any dependent (except a newborn child)** who, at the time [his] **the** coverage would [otherwise] become effective, is confined [to an institu-

tion for care and treatment, or who is unable to carry on the normal activities of a person in good health of the same age and sex, shall not become effective until the dependent has carrier on the normal activities of a person in good health of the same age and sex for a period of 31 consecutive days. Coverage shall then become effective on the 32nd day.] **in a medical facility primarily for medical care or treatment on the date that the Major Medical coverage would otherwise become effective with respect to that dependent, the coverage for that dependent will be deferred until his or her final medical release from all such confinement.** See N.J.A.C. 17:9-2.8.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Corporation Business Tax  
Casino Business Consolidated Return

Proposed New Rule: N.J.A.C. 18:7-1.17  
Proposed Amendment: N.J.A.C. 18:7-11.15

Authorized By: John R. Baldwin, Director, Division of Taxation.  
Authority: N.J.S.A. 5:12-148(b).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 17, 1984. 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, New Jersey 08646

The Division of Taxation thereafter may adopt these proposals 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 1984-500.

The agency proposal follows:

Summary

The proposal describes the principles of consolidation which are to be followed by casino businesses in complying with the requirements of N.J.S.A. 5:12-148(b). While consolidated returns are not permitted by the Corporation Business Tax Act (see also N.J.A.C. 18:7-4.15 and 18:7-11.15) under N.J.S.A. 5:12-148(b) such returns are required for casinos. The rule makes clear that such return is separate and independent from and in addition to any corporate return to be filed by a member of the casino consolidated group. The rules contain certain safeguards to avoid double taxation of corporations.

Social Impact

The rule would affect entities that are involved in filing a casino return including individuals, partnerships, or corpora-

tions or any other entity or combination holding a license pursuant to the Casino Control Act, but provides that individuals whose sole connection with the casino is as a licensed employee shall not be required to join in the consolidated return.

**Economic Impact**

The adoption of this proposal will lower costs of administration of the tax imposed by N.J.S.A. 5:12-148(b) by supplying taxpayers with a uniform rule rather than continuing the necessity of making frequent case by case determinations in this industry.

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

18:7-1.17 Application of the tax to licensees under the Casino Control Act; casino business consolidated return

(a) Pursuant to N.J.S.A. 5:12-148(b), any business conducted by an individual, partnership, or corporation, or any other entity, or any combination thereof, holding a license pursuant to the Casino Control Act shall, in addition to all other taxes imposed by that Act, file a consolidated corporation business tax return pursuant to the Corporation Business Tax Act and pay the taxes indicated thereon.

(b) The consolidated return to be filed under the Casino Control Act is in addition to, and not in lieu of, any return due under the Corporation Business Tax Act. Provided, however, that where any corporation is a licensee under the Casino Control Act, it shall exclude from the return due under the Corporation Business Tax Act any item of income or loss appearing on its consolidated return, but which would otherwise have been reported on its own separate return under the Corporation Business Tax Act. Provided, further, that where any corporation is a partner in a licensee under the Casino Control Act, it shall similarly exclude its share of distributable income or loss attributable to its partnership interest in the licensee which would otherwise have been reported by it on its own separate return under the Corporation Business Tax Act.

(c) The principles of consolidation are determined by regarding each casino hotel as a single business in its own right. The business conducted by each casino hotel shall give rise to an obligation to file a separate consolidated corporation business tax return based on all of the business activities conducted with respect to that casino hotel. All persons or entities subject to common effective control, without respect to their form of organization or the form of license held, except for licenses issued to individuals in their capacity as employees, must join in filing the consolidated return, and all transactions between or among them are to be eliminated in consolidation. Accordingly, where the same person or entity is a participant in the business conducted by more than one casino hotel, it must join in filing a consolidated return with each such business. The degree of common ownership is irrelevant in making this determination. A change in common effective control terminates the fiscal year for purposes of filing the consolidated return.

(d) A rider shall be attached to any return filed under this section identifying such return as a casino business consolidated return.

18:7-11.15 Consolidated returns

(a) Corporations are not permitted to file [a] consolidated returns. **Provided, however, any business conducted by an individual, partnership, or corporation, or any other entity,**

**or any combination thereof holding a license pursuant to the Casino Control Act shall file a consolidated corporation business tax return as described at N.J.A.C. 18:7-1.17.**

(b) **Except as provided in (a) above,** [W]where a taxpayer has filed a consolidated return with the [Bureau of] Internal Revenue **Service** for Federal income tax purposes, it must complete its return under the act and must reflect its entire net income and entire net worth as if it has filed its Federal return on its own separate basis.

(c) (No change.)

**(a)**

**DIVISION OF TAXATION**

**Local Property Tax Exemptions from Taxation**

**Proposed Amendments: N.J.A.C. 18:12-6A.1 and 6A.2**

Authorized By: John R. Baldwin, Director, Division of Taxation.  
 Authority: N.J.S.A. 54:4-3.79 and 54:4-3.121 et seq.

**Interested persons** may submit, in writing, data, views or arguments relevant to the proposal on or before October 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

John C. Raney, Superintendent  
 Local Property Branch  
 Division of Taxation  
 CN 52  
 Trenton, New Jersey 08625

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 1984-501.

The agency proposal follows:

**Summary**

The Division of Taxation proposes to amend the regulations which it has adopted to facilitate the implementation by municipalities of P.L. 1979, c.233, which allows tax exemptions and abatements for improvements to multiple dwellings and for the conversion of non-residential buildings to multiple dwellings.

These tax exemption and abatement statutes are available for adoption by any municipality which has one or more neighborhoods or areas which are determined to be in need of rehabilitation. The Division of Taxation has responsibility for the design and distribution of the application forms which must be used by property owners to apply for tax exemptions and abatements and for the forms required to be used by tax assessors for determining eligibility, and jointly regulates the law in cooperation with the Department of Community Affairs.

The definition of "multiple dwelling" in N.J.A.C. 18:12-6A.1 is proposed to be amended because the definition of that term in the Hotel and Multiple Dwelling Law, which the

definition in N.J.S.A. 54:4-3.122h. incorporates by reference, has been amended by legislation. The requirement in N.J.A.C. 18:12-6A.2(a)6 that an area designated as "in need of rehabilitation" not have more than 15 percent of the privately-owned land therein under common ownership should be deleted because of a possible conflict with the previous two paragraphs, requiring that the delineated area bear a reasonable relationship to existing neighborhoods or zones and that the boundary not unreasonably include or exclude any particular property.

#### Social Impact

These regulations are required by legislative mandate and are considered to be necessary for the proper implementation of applicable law. Municipalities would hesitate to act without this guidance, with consequent confusion to property owners and officials alike.

#### Economic Impact

Without procedures for implementation and standards for evaluating applications, tax assessors might deny applications for which property owners might otherwise qualify, with resulting losses to property owners who fail to receive the benefits of the exemptions and abatements and further losses to both owners and municipalities by reason of appeal costs.

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

#### 18:12-6A.1 Definitions

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

“Multiple Dwelling” means any building or structure of one or more stories, and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling

space are occupied, or are intended to be occupied, by three or more persons who live independently of each other. This definition shall not include hotels, motels, motor hotels, guesthouses, properties subject to the Rooming and Boarding House Act of 1979, or [dwelling units of any mutual housing corporation constructed under the Lanham Act (National Defense Housing) on or before June 1, 1941.] **any building section containing not more than two dwelling units held under a condominium or cooperative form of ownership, or by a mutual housing corporation, where all the dwelling units in the section are occupied by their owners, if a condominium, or by shareholders in the cooperative or mutual housing corporation, and where such building section has at least two exterior walls unattached to any adjoining building section and is attached to any adjoining building sections exclusively by fire walls having a two hour fire rating and/or by fire separation walls having a one and one-half hour rating, or any building of three stories or less, owned and controlled by a nonprofit corporation organized under any law of this state for the primary purpose of providing for its shareholders or members housing in a retirement community, as defined in the “Retirement Community Full Disclosure Act” (N.J.S.A. 45:22A-1 et seq.). “Multiple Dwelling” also means and includes any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two units of dwelling space are occupied or intended to be occupied by two persons or households, living independently of each other, and any land appurtenant thereto, and any portion thereof.**

#### 18:12-6A.2 Areas in need of rehabilitation

(a) Standards for determining if any area is in need of rehabilitation are as follows:

1.-5. (No change.)

[6. No area shall be so delineated that more than 15 percent of the privately-owned land contained therein consists either of a single property or of two or more contiguous properties under common ownership or control.]

# RULE ADOPTIONS

## AGRICULTURE

### (a)

#### DIVISION OF RURAL RESOURCES

#### State Agriculture Development Committee Soil and Water Conservation Project Cost-Sharing

#### Adopted New Rule: N.J.A.C. 2:76-5

Proposed: July 2, 1984 at 16 N.J.R. 1637(a).

Adopted: August 29, 1984 by Arthur R. Brown, Jr.,  
Chairman, State Agriculture Development Committee.

Filed: August 29, 1984 as R.1984 d.419, **without change.**

Authority: N.J.S.A. 4:1C-5f.

Effective Date: September 17, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): August 29, 1989.

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

**Full text** of the adoption follows.

#### SUBCHAPTER 5. SOIL AND WATER CONSERVATION PROJECT COST-SHARING

##### 2:76-5.1 Applicability

This subchapter identifies State Agriculture Development Committee rules which provide for persons enrolled in a farmland preservation program or a municipally approved farmland preservation program to apply for and receive grants for soil and water conservation projects. These rules shall be utilized in conjunction with N.J.A.C. 2:90-2 and 2:90-3, promulgated by the State Soil Conservation Committee, which prescribes procedures for development of conservation plans and approval of projects.

##### 2:76-5.2 Definitions

As used in this subchapter, the following words and terms shall have the following meanings:

“Board” means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

“Committee” means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

“Development easement” means an interest in land, less than fee simple absolute title thereto, which enables the owner to develop the land for any nonagricultural purpose as determined by and acquired under the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and any relevant rules or regulations promulgated pursuant thereto.

“Farmland preservation program” means any voluntary program, the duration of which is at least eight years, autho-

rized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and the maintenance and support of increased agricultural production as the first priority use of that land.

“Fund” means the “Farmland Preservation Fund” created pursuant to the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276.

“Municipally approved farmland preservation program”, hereinafter referred to as “municipally approved program,” means any voluntary program, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and the maintenance and support of increased agricultural production as the first priority use of that land. Any municipally approved program shall be established pursuant to N.J.S.A. 4:1C-21.

“Secretary” means the Secretary of Agriculture.

“Soil and water conservation project”, hereinafter referred to as project, means any project designed for the control and prevention of soil erosion and sediment damages, the control of pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soils to achieve maximum agricultural productivity.

“Soil conservation district” means a governmental subdivision of this State organized in accordance with the provisions of N.J.S.A. 4:24-1 et seq.

“State Soil Conservation Committee” means an agency of the State established pursuant to N.J.S.A. 4:24-1 et seq.

##### 2:76-5.3 Approved practices and cost-share limitations

(a) The State Soil Conservation Committee, pursuant to procedures established in N.J.A.C. 2:90-2, shall approve projects that are eligible for cost-sharing.

(b) The following cost-share limitations shall be applicable for soil and water conservation projects:

1. The State Agriculture Development Committee shall determine the limits of funding for the following:

i. Allocation from the fund for soil and water conservation project grants;

ii. Maximum allocation, on a Statewide basis, per eligible applicant, or unit of land, where a development easement has not been permanently retired;

iii. Maximum allocation, on a Statewide basis, per eligible applicant, or unit of land, where a development easement has been permanently retired.

2. The committee shall inform the board of Statewide maximum funding limitations for project cost-sharing.

3. The board shall, on a jurisdiction wide basis adopt the committee's maximum per eligible applicant or unit of land allocation or establish a lower maximum on a uniform basis.

4. The board shall inform the soil conservation district of the maximum funding available to persons enrolled in a farmland preservation program or municipally approved program

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who apply to the soil conservation district for grants for projects.

### 2:76-5.4 Eligible applicants

(a) Any landowner or farm operator as an agent for the landowner who is in a farmland preservation program or a municipally approved program shall be eligible to apply for a grant for projects.

(b) The farm operator, as an agent for the landowner, shall be designated in writing by the landowner.

### 2:76-5.5 Submission of application

(a) An applicant shall apply to the soil conservation district and the board for a grant for a project pursuant to N.J.A.C. 2:90-3.

### 2:76-5.6 Approval for project funding

(a) For projects where the applicant provides at least 50 percent of the project cost without assistance from the county and upon the soil conservation district's approval in accordance with N.J.A.C. 2:90-3, the following procedures shall apply:

1. The application shall be forwarded to the State Soil Conservation Committee for approval;

2. A copy of the approved application shall be sent to the board for its information.

(b) For projects where the applicant receives financial assistance from county funds for the cost of projects and upon soil conservation district approval in accordance with N.J.A.C. 2:90-3, the following procedures shall apply:

1. The soil conservation district approved application shall be forwarded to the board for concurrence;

2. Following board approval, the application shall be forwarded to the State Soil Conservation Committee for approval.

(c) The State Soil Conservation Committee upon review and verification of conformance with this subchapter, N.J.A.C. 2:90-2 and 2:90-3 shall recommend funding approval by the committee.

(d) The committee shall review and approve, conditionally approve or disapprove applications for project funding and;

1. Certify that the land is part of a municipally approved program or farmland preservation program;

2. Proceed to secure project funding when approval has been granted; and

3. Notify the soil conservation district of committee's action (informational copy sent to the State Soil Conservation Committee and the board).

### 2:76-5.7 Payment

(a) Upon project completion, as verified by the soil conservation district, the applicant shall request payment pursuant to procedures established by N.J.A.C. 2:90-3.

(b) The committee, following State Soil Conservation Committee verification of compliance with N.J.A.C. 2:90-2 and 2:90-3, shall request the Secretary to direct payment to the applicant. The State Soil Conservation Committee, soil conservation district and board shall be advised to such action.

(a)

## DIVISION OF RURAL RESOURCES

### State Agriculture Development Committee Acquisition of Development Easements

#### Adopted New Rule: N.J.A.C. 2:76-6

Proposed: July 2, 1984, at 16 N.J.R. 1639(a).

Adopted: August 29, 1984 by Arthur R. Brown, Jr., Chairman, State Agriculture Development Committee.

Filed: August 29, 1984 as R.1984 d.418, **without 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. 4:1C-5f.

Effective Date: September 17, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): August 29, 1989.

#### Summary of Public Comments and Agency Responses and Reasons for Making Changes:

1. Comment: The Monmouth County Agriculture Development Board expressed a concern that the deed restrictions at N.J.A.C. 2:76-6.15 should focus on restrictions prohibiting non-agricultural development and not dictating how the land should be farmed. A second concern of the Board was to include a provision in the deed restrictions which would allow for the temporary cessation of retaining the land in agricultural use and production under exceptional circumstances.

Response: The Committee accepts these concerns. The deed restrictions at N.J.A.C. 2:76-6.15 are not intended to mandate how the land must be farmed but to ensure that the land will be retained for agricultural use and production. Therefore, the proposed rule will be amended accordingly. N.J.A.C. 2:76-6.15(a) will include a new provision which enforces the intent of the statute which states "any development of the premises for non-agricultural purposes is expressly prohibited." N.J.A.C. 2:76-6.15(a)1. will be amended to require the premises be retained "for" agricultural use and production. The word "in" will be deleted. N.J.A.C. 2:76-6.15(a)2. will be deleted from the proposal which mandates that the landowner shall comply with agricultural management practices. N.J.A.C. 2:76-6.15(a)3. will be amended by deleting the words "production and related". N.J.A.C. 2:76-6.15(a)10 will be amended by adding the statement "Nothing herein shall be construed as diminishing the application of the other provisions of this statement".

2. Comment: Several county agriculture development boards and other individuals suggested the proposed rule be amended to provide an alternative to allow a landowner to be eligible to negotiate the sale of his or her development easement prior to being committed to entering into a farmland preservation program or a municipally approved program.

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Response: The Committee seriously considered this alternative or option, and concurs to amend the proposed rule to enable a landowner to sell his or her development easement under these circumstances. A landowner that submits an application for sale of the development easement will also be required to submit a petition for the creation of a farmland preservation program or a municipally approved program and an option agreement. The option agreement will stipulate the landowner's binding offer to sell the development easement as well as the time period for which the board may exercise the option. Upon a commitment to purchase the easement, the land shall be enrolled into one of the eight year programs. N.J.A.C. 2:76-6.2, 6.3, 6.4 and 6.5 have been amended to reflect this alternative.

3. Comment: The Morris County Agricultural Development Board suggested that the proposed rule be amended to obligate the Committee to pay 50 percent of the appraisal costs (and other costs) once the Committee has given preliminary approval. The Board's second comment suggested that the landowner should be responsible for paying a portion of the appraisal cost initially and at the time of sale or shortly after being disapproved, he or she should be reimbursed. The landowner's withdrawal from the transaction would not be grounds for reimbursement.

Response: The Committee rejected the first comment on the basis that according to the statute, the Committee may authorize payment for 50 percent of the costs for acquisition of the development easement only if the easement is purchased. A preliminary approval does not guarantee that an easement will be purchased. The Committee also rejects the Board's second concern. Because county agriculture development boards are responsible for establishing their own farmland retention programs and for tailoring their programs to reflect local conditions, it would be more appropriate to let each board determine whether or not a landowner should pay a portion of the appraisal costs. Again by statute, the landowner could not be reimbursed with State monies unless the easement was purchased.

4. Comment: An individual suggested that a provision be incorporated in the proposed rule under N.J.A.C. 2:76-6.13 requiring the landowner to receive final commitments from all lien holders and others to subrogate their liens, easements or right-of-ways on the land at the time of transfer of the development easement.

Response: The Committee fully agrees that subrogation of prior rights must occur at the time of sale. N.J.A.C. 2:76-6.13 has been amended to include the following provision:

"Upon the landowner's acceptance of an offer to sell a development easement, the landowner shall provide evidence that current lien, easement and right-of-way holders will, as required by the Committee and board, subrogate their rights to the rights and privileges granted by the sale of the development easement to the board and shall supply recordable evidence of their subrogation at the time of transfer of the easement".

**Summary of Changes Upon Adoption:**

In reviewing the proposed rule, the Committee proposes these additional amendments:

2:76-6.5(a)3, 6.9(b)3, and 6.11(a)3. A publication error was corrected by changing the word "nonagriculture" to "nonagricultural".

2:76-6.9(a) For clarification purposes, the statement "inform the landowner of the fair market value certification and shall proceed to" was added.

2:76-6.11(b)1. A publication error was corrected by changing the word "document" to "development".

2:76-6.13(b) For clarification purposes, the provision will require an "insured" title search and "survey" be conducted on the land.

2:76-6.13(c) For clarification purposes, the statement "conditions of conveyance and" and "in the same manner as the deed was originally recorded" were added.

2:76-6.13(c) For clarification purposes, the provision will state:

1. "The statement containing the conditions of conveyance and terms of the restrictions shall be recorded with the county clerk."

Notification sent to the municipal clerk was deleted since notice is also provided to the municipal governing body. Notice provided to the municipal tax assessor will be included under N.J.A.C. 2:76-6.13(c)2.

2:76-6.14(b) For clarification purposes, a provision requiring proof of title insurance and a certified copy of the recorded deed will be added.

2:76-6.15(a) The words "devises" and "legal representatives" were eliminated because they are repetitive terms.

For clarification purposes, the words "in perpetuity" were deleted because the legal sense of the word may not imply forever.

2:76-6.15(a)1 For clarification purposes, the words "and conservation" were added to the definition of agricultural use.

2:76-6.15(a)8 A publication error was corrected by changing the word "fo" to "for".

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*).

**SUBCHAPTER 6. ACQUISITION OF DEVELOPMENT EASEMENTS**

**2:76-6.1 Applicability**

The principal purpose for acquisition of development easements is for the long term preservation of agricultural lands in order to maintain and enhance the agricultural industry in the State. These lands shall be retained for agricultural production and shall be restricted from any non-agricultural development.

**2:76-6.2 Definitions**

As used in this subchapter, the following words and terms shall have the following meanings:

"Application" means a standard form adopted by the State Agriculture Development Committee.

"Board" means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

"Committee" means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

"Cost" as used with respect to cost of development easements includes, in addition to the usual connotations thereof, the cost of inspection, appraisal, legal, financial, and other professional services, estimates and advice; and the cost of organizational, administrative and other work and services, including salaries, supplies, equipment and materials.

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"Development easement" means an interest in land, less than fee simple absolute title thereto, which enables the owner to develop the land for any nonagricultural purpose as determined by and acquired under the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, and any relevant rules or regulations promulgated pursuant thereto.

"Farmland preservation program" means any voluntary program, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the "Farmland Preservation Bond Act of 1981," P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, and the maintenance and support of increased agricultural production as the first priority use of that land.

"Governing body" means, in the case of a county, the board of chosen freeholders, and in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality.

"Municipally approved farmland preservation program", hereinafter referred to as "municipally approved program", means any voluntary program, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the "Farmland Preservation Bond Act of 1981," P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, and the maintenance and support of increased agricultural production as the first priority use of that land. Any municipally approved program shall be established pursuant to N.J.S.A. 4:1C-21.

"Option agreement" means a written agreement for consideration between an owner of land and the board whereby the board has a right to purchase the development easement within a specified time for a designated price.\*

"Secretary" means the Secretary of Agriculture.

## 2:76-6.3 Eligible applicants

\*[(a) Any landowner who is in a farmland preservation program or a municipally approved program shall be eligible to apply to the board to sell a development easement.]\*

**\*(a) Any owner of land that applies to the board in compliance with N.J.A.C. 2:76-6.4(a) and is in a farmland preservation program or a municipally approved program shall be eligible to sell a development easement on that land.\***

**\*(b) Any owner of land that applies to the board in compliance with N.J.A.C. 2:76-6.4(b) shall be eligible to sell a development easement on that land provided the board determines the land qualifies for a farmland preservation program or a municipally approved program.\***

## 2:76-6.4 Application

\*[The landowner shall submit a completed application to the board for review.]\*

**\*(a) Under the provision of N.J.A.C. 2:76-6.3(a), the landowner shall submit a completed application to the board.\***

**\*(b) Under the provision of N.J.A.C. 2:76-6.3(b), the landowner shall submit the following:**

- 1. A completed application;**
- 2. A petition for the creation of a farmland preservation program or a municipally approved program; and**
- 3. An option agreement which shall state the following conditions:**

**i. The landowner's binding offer to sell the development easement at a specific price;**

**ii. The time limitation, not to exceed one calendar year, during which the board may exercise the option;**

**iii. Sufficient consideration for the option to purchase the development easement shall be provided by the board to the landowner;**

**iv. Disapproval by either the board, committee or, when applicable, the municipal governing body, concerning the creation of a farmland preservation program or a municipally approved program, shall terminate and nullify any transaction or agreements concerning the sale of the development easement; and**

**v. Disapproval by either the board, committee or municipal governing body, concerning the purchase of the development easement, shall terminate and nullify any transaction or agreements concerning the creation of a farmland preservation program or a municipally approved program.\***

## 2:76-6.5 Preliminary board review

(a) The board shall review and evaluate all applications to determine the suitability of the land for development easement purchase on the basis of the following factors:

1. Landowner's asking price;
2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;
3. The degree of imminence of change of the land from productive agriculture to \*[nonagriculture]\* **\*nonagricultural\*** use; and
4. Available funding.

**\*(b) The board shall, concerning a petition submitted under the provision of N.J.A.C. 2:76-6.4(b)2, review the petition in accordance with N.J.A.C. 2:76-3.4 and 3.5 or N.J.A.C. 2:76-4.4 and 4.5.\***

**\*(c) The board shall, concerning an application submitted in accordance with N.J.A.C. 2:76-6.4(b)1 and which has received preliminary board approval, enter into an option agreement with the landowner.\***

**\*((b))\* \*(d)\*** The board shall forward a copy of the application and recommendations to the committee for preliminary review.

## 2:76-6.6 Preliminary committee review

(a) Upon receipt of an application from the board, the committee shall review and evaluate the application to determine the suitability of the land for development easement purchase on the basis of the following factors:

1. Landowner's asking price;
2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;
3. The degree of imminence of change of the land from productive agriculture to nonagricultural use;
4. Available State funds.

(b) The committee shall forward its recommendation(s) to the board.

## 2:76-6.7 Municipal review

(a) Provided the board and the committee have determined that the land is suitable for development easement purchase, the board shall forward a copy of the application to the municipal governing body for review.

(b) Unless previously granted by prior ordinance, the municipal governing body shall by resolution approve or disapprove the application and so notify the board.

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2:76-6.8 Appraisals

(a) Two appraisals shall be conducted on lands that have received board, committee, and municipal approvals.

(b) The procedure for conducting and reviewing appraisals shall be as follows:

1. The committee shall adopt a list of appraisers;
2. The board in accordance with county procedures shall select two appraisers from the list adopted by the committee;
3. Appraisers shall perform appraisals in accordance with procedures detailed in the appraiser's handbook. (The committee shall prepare an appraiser's handbook and make it available to the boards.);
4. Upon completion of the appraisals, the appraisers shall forward appraisal reports directly to the committee;
5. The committee shall appoint a review appraiser to evaluate the two appraisals and establish a reasonable fair market value of the development easement;
6. Upon completion of the reviewer's fair market value determination, a fair market value certification shall be issued to the board and the committee.

2:76-6.9 Final board review

(a) The board shall **\*inform the landowner of the fair market value certification and shall proceed to\*** negotiate a purchase price of the development easement with the landowner. In no case shall the committee make a grant to the board for more than 50 percent of the fair market certification.

(b) The board shall review the application and the negotiated offer to determine the suitability of the land for development easement purchase on the basis of the following factors:

1. Priority consideration shall be given, in any one county, to offers with higher numerical values obtained by applying the following formula:

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}{\text{nonagricultural development value} - \text{agricultural value}} - \text{landowner asking price}$$

2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;

3. The degree of imminence of change of the land from productive agriculture to **\*[nonagriculture]\* \*nonagricultural\*** use; and

4. Available funds.

(c) The board shall:

1. Approve the application and rank the application in accordance with the provisions in (b) above; or
2. Disapprove the application and state the reasons for denial.

(d) The board shall determine whether or not to proceed with processing low priority applications.

2:76-6.10 Board application to the committee

(a) The board shall submit the following information to the committee:

1. Negotiated development easement offer; and
2. Justification for arriving at its decision.

2:76-6.11 Final committee review

(a) The committee shall review the negotiated development easement offer and determine the suitability of the land for development easement purchase on the basis of the following factors:

1. Priority consideration shall be given, in any one county, to offers with higher numerical values obtained by applying the following formula:

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}{\text{nonagricultural development value} - \text{agricultural value}} - \text{landowner asking price}$$

2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;

3. The degree of imminence of change of the land from productive agriculture to **\*[nonagriculture]\* \*nonagricultural\*** use; and

4. Available funds.

(b) The committee shall:

1. Approve the application to sell the **\*[document]\* \*development\*** easement and rank the application in accordance with the provisions in (a) above; or

2. Disapprove the application and state reasons for denial.

(c) The committee shall authorize funding for 50 percent of the cost of the development easement on applications receiving a priority ranking.

2:76-6.12 Landowner decision

Upon approval and authorization of funding by the board and the committee, the board shall present to the landowner an offer to purchase the development easement. A binding offer shall be contingent upon compliance with the provisions stated in N.J.A.C. 2:76-6.13.

2:76-6.13 Terms, contingencies and conditions of purchase

(a) Upon the landowner's acceptance of an offer to sell a development easement, the **\*[board shall authorize a title search be conducted on the subject land.]\* \*landowner shall provide evidence that current lien, easement and right-of-way holders will, as required by the committee and board, subordinate their rights to the rights and privileges granted by the sale of the development easement to the board and shall supply recordable evidence of their subrogation at the time of transfer of the easement.\***

**\*(b) The board shall authorize an insured title search and a survey be conducted on the subject land.\***

**\*(b)\* \*(c)\*** Upon the purchase of the development easement by the board, a statement containing the **\*conditions of conveyance and\*** restrictions on the use and development of the land shall be attached to and recorded with the deed of the land **\*in the same manner as the deed was originally recorded\*** (see N.J.A.C. 2:76-6.15).

1. Subject to committee approval, the board may establish more stringent deed restrictions for the purpose of recognizing local conditions.

**\*(c)\* \*(d)\*** Deed restrictions shall be recorded as follows:

1. The statement **\*containing the conditions of conveyance and\*** **\*[of the deed]\*** restrictions shall be recorded with the **\*[following:]\* \*county clerk.\***

**\*[i. County clerk;]\***

**\*[ii. Municipal clerk; and]\***

**\*[iii. Municipal tax assessor.]\***

2. The board shall provide for notification of the development easement purchase to the following:

i. County governing body;

ii. County planning board;

iii. Municipal governing body;

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- \*iv. **Municipal tax assessor;\***
- \*[iv.]\* \*v.\* **Municipal planning board; and**
- \*[v.]\* \*vi.\* **Soil conservation district.**

2:76-6.14 **Payment procedures; schedule of payment**

(a) The board and the landowner may agree upon and establish a schedule of payment which provides that the landowner may receive consideration for the easement in a lump sum, or in installments over a period of up to ten years from the date of settlement, provided that:

1. If a schedule of installments is agreed upon, the State Comptroller shall retain in the fund an amount of money sufficient to pay the landowner pursuant to the schedule.

2. The landowner shall receive, annually, interest on any unpaid balance remaining after the date of settlement. The interest shall accrue at a rate established in the installment contract.

(b) The committee, upon receipt of all approvals and verification of costs incurred by the board, shall authorize the Secretary to issue a grant to the board for 50 percent of the costs for acquisition of the development easement.

**\*1. Proof of title insurance and a certified copy of the recorded deed shall be forwarded to the committee when requesting payment.\***

2:76-6.15 **Deed restrictions**

(a) The following statement shall be attached to and recorded with the deed of the land:

“Whereas the Grantors are the present owners of lands described in Schedule “A”, hereinafter referred to as Premises, which is attached hereto and made a part hereof;

“The Grantors covenant for themselves, their heirs, \*[devisees, legal representatives,]\* successors and assigns, that the Premises will \*[in perpetuity]\* be held, used and conveyed subject to, and not used in violation of, the following restrictions as said restrictions may be limited or affected by the provisions of the following:

**\*“1. Any development of the Premises for non-agricultural purposes is expressly prohibited.\***

\*[“1.]\* **\*“2.\*** The Premises shall be retained \*[in]\* **\*for\*** agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and all other rules promulgated by the State Agriculture Development Committee. Agricultural use shall mean the use of land for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, \*[and]\* grazing **\*and conservation.\***

\*[“2. The Grantors will comply with agricultural management practices insofar as those practices are applicable to the land and the type of farming conducted thereon. Agricultural management practices means practices either formally set forth in current published New Jersey Agricultural Experiment Station recommendations or practices which represent the best collective professional judgment and opinion of the appropriate faculty of the New Jersey Agricultural Experiment Station and practices related to soil and water conservation and management approved by the State Soil Conservation Committee.]\*

“3. The land and its buildings which are affected hereby may be sold collectively or individually for continued agricul-

tural \*[production and related]\* uses as defined in Section \*[1.]\* **\*2.\*** hereof. However, no subdivision of the land shall be permitted without the joint approval in writing of the board and the committee. Such approval is in addition to necessary local approvals.

“4. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. The Grantor hereby retains and reserves unto itself, its heirs, successors, and assigns, all oil, gas, and other mineral rights in the land underlying the Premises, provided only that any prospective drilling and/or mining will be done by slant from adjacent property or in any other manner which will not materially affect the agricultural operation.

“5. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly permitted as an agricultural management practice.

“6. No activity shall be permitted on the land which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor any other activity which would be detrimental to the continued agricultural use of the land.

“7. Grantee and its agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. Grantee agrees to give Grantor 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week. The interior of buildings shall not be inspected.

“8. The Grantors, their heirs, successors and assigns, may use such lands to derive income from recreational activities which generally utilize the land in its existing state, so long as such activities do not interfere with the actual use of the land **\*[fo]\* \*for\*** agricultural production.

“9. Nothing herein shall be construed to convey a right to the public of access to or use of the Premises except as herein provided or as otherwise provided by law.

“10. Nothing herein shall impose upon the Grantor any duty to maintain or require that the Premises be maintained in any particular state, or condition, notwithstanding the Grantor’s acceptance hereof. **\*Nothing herein shall be construed as diminishing the application of the other provisions of this statement.\***

“11. Nothing herein contained shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises on the date hereof. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

“12. The Grantors, their heirs, successors, and assigns may use, maintain, and improve the existing buildings and said lands for personal and family residential and recreation use subject to the following conditions: No new residential units or buildings or recreation buildings or improvements to existing buildings for purposes other than agricultural production shall be allowed except for such new residential structure or structures or improvements or converted residential structures as will provide housing for agricultural labor for the subject farm or such new residential unit or structures or converted residential unit or structures as will serve as a farm house for a household which will derive its primary source of income from agricultural production. Such exceptions are subject to prior joint approval in writing by the board and the committee.

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“13. In the event a violation of these restrictions or the terms and conditions thereof is found to exist, the Grantee, or its successors or assigns, or any citizen of the State of New Jersey, acting by and through the State Agriculture Development Committee, may, after notice to the Grantors, or their personal representatives, heirs, successors, or assigns, institute a suit to enjoin by ex parte, temporary and/or permanent injunction, such violation, to require the restoration of the Premises to its prior condition, or to recover damages. The Grantee, or its successors or assigns, does not waive or forfeit the right to take other legal action as may be necessary to insure compliance with the terms, conditions, and purposes of this deed restriction by a prior failure to act.

“14. It is understood that this instrument imposes no obligation on the Grantor and no restrictions on use of the Premises except as specifically set forth herein. Nothing herein contained shall be construed to interfere with the right of the Grantor, its successors, assigns, licensees, and any party claiming under them to utilize the Premises in such manner as they may deem desirable, subject to the terms and conditions hereof.

“15. This instrument shall be binding upon the Grantor, its successors and assigns, and upon the Grantee, its successors and assigns.”

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**(a)**

**OFFICE OF SCIENCE AND RESEARCH**

**Worker and Community Right to Know Act  
Environmental Hazardous Substance List**

**Adopted Amendment: N.J.A.C. 7:1G-2.1**

Proposed: July 16, 1984 at 16 N.J.R. 1861(a).  
Adopted: August 28, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.  
Filed: August 29, 1984 as R.1984 d.416, **without change**.

Authority: N.J.S.A. 34:5A-1 et seq. and N.J.S.A. 13:1D-9.

Effective Date: September 17, 1984.  
Expiration Date pursuant to Executive Order No. 66(1978): July 12, 1989.  
DEP Docket No: 041-84-06.

**Summary of Public Comments and Agency responses:  
No comments received.**

**Full text** of the adoption follows.

CHAPTER 1G  
WORKER AND COMMUNITY RIGHT TO KNOW  
REGULATIONS

**SUBCHAPTER 2. ENVIRONMENTAL HAZARDOUS  
SUBSTANCE LIST**

**7:1G-2.1 Designation of substances**

The following substances and corresponding Chemical Abstract Services (C.A.S.) numbers are designated as Environmental Hazardous Substances pursuant to the Act. Each substance has further been identified according to the classifications, in N.J.A.C. 7:1G-2.2. Substances may have numerous synonyms which are not included herein.

Chemical	CAS Number	Group Number
...		
Amitrol	61-82-5	28
...		
1,1-Dimethyl hydrazine	57-14-7	17
...		
Hexachlorocyclopentadiene	77-47-4	15
...		
Vinylidene chloride	75-35-4	15

**(b)**

**DIVISION OF WATER RESOURCES  
FLOOD HAZARD AREA DELINEATIONS**

**Delineated Floodway along Bear Brook,  
Park Ridge Borough, Bergen County**

**Adopted Amendment: N.J.A.C. 7:13-7.1**

Proposed: July 16, 1984 at 16 N.J.R. 1865(a).  
Adopted: August 22, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.  
Filed: August 23, 1984 as R.1984, d.404, **without change**.

Authority: N.J.S.A. 58:16A-50 et seq.

Effective Date: September 17, 1984.  
Expiration Date pursuant to Executive Order No. 66(1978): July 19, 1988.

**Summary of Public Comments and Agency Responses:**

The Department of Environmental Protection held a public hearing on July 30 at 1 P.M. at the Park Ridge Borough Municipal Building, Bergen County. Five persons attended. No adverse oral comments were received. The Mayor of Park Ridge indicated that local Planning Board approval would be made contingent upon NJDEP approval. No written comments were received. Therefore, the re-delineation of this segment of Bear Brook was approved as proposed, without change.

**Full text** of the adoption follows.

7:13-7.1 Delineated floodways  
(a)-(c) (No change.)

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(d) A list of streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follows:

- 1.-46. (No change.)
- 47. . . . Amended for Bear Brook, from Brae Boulevard to Audobon Road within Park Ridge Borough.
- 48.-49. (No change.)
- (e)-(g) (No change.)

**(a)**

**DIVISION OF WASTE MANAGEMENT  
DIVISION OF WATER RESOURCES**

**Hazardous Waste Land Disposal**

**Notice of Correction: N.J.A.C. 7:14A-4.4,  
6.1 and 6.15; 7:26-10.6, 10.8, 11.3 and  
12.2**

**Take notice** that errors appeared in the May 21, 1984 issue of the New Jersey Register at 16 N.J.R. 1230 concerning the land disposal of hazardous waste and groundwater monitoring/response requirements. The errors appeared in the following sections:

N.J.A.C. 7:14A-4.4	N.J.A.C. 7:26-10.6
7:14A-6.1	7:26-10.8
7:14A-6.15	7:26-11.3
	7:26-12.2

**Full text** of the corrected sections follows (additions to the adopted rules indicated in boldface with asterisks **\*thus\***; deletions from the adopted rules indicated with asterisks and brackets **\*[thus]\***).

- 7:14A-4.4 Application for a permit
- (a) (No change.)
  - (b) For land treatment facilities only.
    - 1. (No change.)
    - 2. The requirements for applications for land treatment demonstration permits are as follows:
      - i. For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of N.J.A.C. 7:14A-4.7(e) of this subchapter the Department may issue a NJPDES permit for a treatment demonstration project. In addition to the general requirements for all NJPDES permits, the permit must contain only those requirements necessary to meet the standards in N.J.A.C. 7:14A-4.7(e)2. The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction **\*,\* operation and maintenance of the land treatment unit.**
        - (11)-(2) (No change.)
        - ii. (No change.)
        - iii. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, the owner or operator **\*shall\*** submit to the Department a certification, signed by a person authorized to sign a permit application or report, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in

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phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Department approves a later date.

- iv. (No change.)
  - (c)-(d) (No change.)
- 7:14A-6.1 General requirements
- (a) Scope:
    - 1.-3. (No change.)
    - 4. N.J.A.C. 7:14-6.3 through 6.6 shall be applicable to:
      - i. (No change.)
      - \*[II.]\* **\*ii.\*** IWMF's which are existing facilities under N.J.A.C. 7:14A-4.3; and
      - iii. (No change.)
      - 5.-7. (No change.)
  - (b) (No change.)

- 7:14A-6.15 Criteria for groundwater protection and response **\*[for hazardous waste facilities and IWMFs subject to groundwater monitoring requirements]\***
- (a)-(c) (No change.)
  - (d) The groundwater pollutant identification is as follows:
    - 1. (No change.)
    - 2. The Department may exclude a hazardous waste constituent identified in N.J.A.C. 7:26-8.16 from the list of hazardous constituents specified in the permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the Department will consider the following:
      - i. Potential adverse effects on groundwater quality in an aquifer where the discharge is occurring or that may be hydraulically connected to the aquifer where the discharge is occurring, considering:
        - (1)-(8) (No change.)
        - \*(9) The persistence and permanence of the potential adverse effects; and\***
          - ii. (No change.)
        - 3. (No change.)
        - (e)-(g) (No change.)
      - (h) The owner or operator shall comply with the following requirements for any groundwater monitoring program developed to satisfy (i), (j), or (k), below:
        - 1.-7. (No change.)
        - 8. The owner or operator shall use the following statistical procedure in determining whether background values or permit concentration limits have been exceeded:
          - \*[(i) An owner or operator required to establish a detection monitoring program under this section shall, at a minimum, discharge the following responsibilities:]\*
            - \*[1. The owner or operator shall monitor for indicator parameters (such as, pH, specific conductance, total organic carbon, or total organic halogen), waste constituents, or reaction products that provide a reliable indication of the presence of hazardous constituents in groundwater. The Department shall specify the parameters or constituents to be monitored in the permit, after considering the following factors:]\*
              - i. If, in a detection monitoring program, the level of a constituent at the compliance point is to be compared to the constituent's background value and that background value has a sample coefficient of variation less than 1.00:
                - (1)-(2) (No change.)
                - ii. (No change.)

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- (i) (No change.)
- (j) An owner or operator required to establish a compliance monitoring program under this subsection shall, at a minimum, discharge the following responsibilities:
  - 1.-8. (No change.)
  - \*[i.]\* **\*9.\*** If the owner or operator determines, pursuant to (j)8, above, that the groundwater protection standard in (j)1, above, is being exceeded at any groundwater monitoring well at the point of compliance, the owner or operator shall:
    - i.-ii. (No change.)
    - 10.-13. (No change.)
  - (k) (No change.)
- 7:26-10.6 Surface impoundments
  - (a)-(g) (No change.)
  - (h) An owner or operator of a surface impoundment shall comply with the following closure requirements:
    - 1.-2. (No change.)
    - 3. For existing surface impoundments that will be closed in accordance with (h)2, above, the owner or operator shall place final cover over the surface impoundment which will provide long-term minimization of migration of liquids into the closed impoundment. The final cover shall function with minimum maintenance and consist of the following:
      - i. (No change.)
      - ii. A drainage layer with the following design characteristics:
        - (1) (No change.)
        - \*[(b)]\* **\*(2)\*** Be designed to allow for an effective drainage path for flow through the vegetative top cover to minimize head on the liner system;
        - iii. (No change.)
      - 4.-6. (No change.)
- 7:26-10.8 Hazardous waste landfills
  - (a)-(b) (No change.)
  - (c) A landfill that is used for the disposal of hazardous wastes shall have a liner system that is designed, constructed, and installed to prevent any migration of wastes out of the landfill to the adjacent subsurface soil or groundwater or surface water during the active life of the landfill including the closure period as described in N.J.A.C. 7:26-9.8(i).
    - 1. (No change.)
    - i.-ii. (No change.)
    - iii. The secondary or lower liner shall consist of soil at least five feet (1.5 meters) thick with a maximum saturated hydraulic conductivity of  $3.28 \times 10^9$  ft/sec ( $1 \times 10^7$  cm/sec) under maximum anticipated hydrostatic head or shall consist of synthetic material at least 40 **\*[mils]\* \*mils\*** (.04 inches) thick which is designed to prevent the flow of liquid through the liner. The liner shall have properties of such a nature to ensure the prevention of liquid flow through the liner is maintained throughout, at a minimum, the active life (including the closure period) of the facility;
      - iv.-x. (No change.)
    - 2. (No change.)
    - (d)-(h) (No change.)
    - (i) Closure and post-closure requirements for hazardous waste landfills include the following:
      - 1.-3. (No change.)
      - 4. The owner or operator shall consider at least the following factors in addressing the closure and post-closure objectives of (i)3i, ii, and iii, above.
        - i.-vi. (No change.)
        - \*vii. Surface and subsurface hydrology of the site;\***
      - 5. (No change.)
      - (j) (No change.)

- 7:26-11.3 Surface impoundments
  - \*[(a)-(b)]\* **\*(a)-(d)\*** (No change.)
  - (e)-(g) (No change.)
- 7:26-12.2 Permit applications
  - (a)-(e) (No change.)
  - (f) The following additional information is required from an owner or operator of specific types of hazardous waste management facilities that are used or to be used for storage or treatment:
    - 1.-2. (No change.)
    - 3. For facilities that store or treat hazardous waste in surface impoundments, except as otherwise provided in N.J.A.C. 7:26-10.6(a), the owner or operator shall submit detailed plans and specifications accompanied by an engineering report which shall collectively include the information itemized in N.J.A.C. 7:26-12.2(f)3i through xii. For new surface impoundments, the plans and specifications shall be in sufficient detail to provide complete information to a contractor hired to build the surface impoundment even if the owner or operator intends to construct the surface impoundment without hiring a contractor. For existing surface impoundments, comparable detail shall be provided, but the form of presentation need not assume contractor construction except to the extent that the facility will be modified.
      - i.-iii. (No change.)
      - iv. A basis of design and design analysis of any dikes to comply with N.J.A.C. 7:26-10.6(c)3 and N.J.A.C. 7:26-10.6(c)4. The design analysis shall show that any dike will meet the requirements of N.J.A.C. 7:26-**\*[10.6(g)4]\* \*10.6(f)5\***.
      - v.-x. (No change.)
      - xi. Site geology and hydrology information including but not limited to:
        - \*(1)-(6) (No change.)\***
        - xii. (No change.)
        - \*[(1)-(6) (No change.)]\***
      - 4.-5. (No change.)
      - (g)-(j) (No change.)

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**(a)**

**DIVISION OF PUBLIC WELFARE**

**Organizational Rule  
Organization of the Division of Public Welfare**

**Adopted New Rule: N.J.A.C. 10:80**

Adopted: August 17, 1984, by George J. Albanese, Commissioner, Department of Human Services.  
Filed: August 23, 1984 as R.1984 d.409.

Authority: N.J.S.A. 52:14B-3(1) and 52:14B-4(b).  
Effective Date: August 23, 1984.  
Expiration Date pursuant to Executive Order No. 66(1978): August 23, 1989.

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### Summary

George J. Albanese, Commissioner, Department of Human Services, hereby adopts as a rule, a description of the organizational structure and operation of the Division of Public Welfare. This rule is intended to inform the public of the existence of and the basic tasks and responsibilities delegated to the Division of Public Welfare (DPW) and how it is organized to implement those duties. The rule also provides procedures for obtaining copies of the various officially promulgated regulations governing participation in and benefits of the public assistance programs currently under the jurisdiction of the Division of Public Welfare.

This organizational rule is exempt from the notice and hearing requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and becomes effective upon filing.

### Social Impact

There should be a positive social impact since the public will be provided with an official and ready reference of general information concerning the operation and structure of the Division of Public Welfare, thereby promoting citizen participation and understanding.

### Economic Impact

There will be no additional cost, either to the public or to any State agency, as a result of this rule which merely describes existing operational activities.

Full text of the agency adoption follows.

## CHAPTER 80 ORGANIZATION OF THE DIVISION OF PUBLIC WELFARE

### SUBCHAPTER 1. ORGANIZATION

#### 10:80-1.1 DPW responsibilities

(a) DPW is charged by statute (N.J.S.A. 30:4B-1 et seq.) with the responsibility for the direct administration or supervision of specified program functions required or authorized under all public assistance programs in the State of New Jersey. To accomplish this, DPW must establish, maintain and supervise an orderly, uniform and efficient public assistance system for those New Jersey residents in need of income maintenance services. DPW must ensure the provision of financial assistance and related services, based on existing standards of need, to all eligible individuals and families and assist such individuals and families in their efforts to regain financial self-sufficiency. DPW must also ensure that the public is kept informed of public assistance program needs, priorities and developments.

(b) Currently, DPW is responsible for administering, directing and overseeing the following public assistance programs which are implemented through the county welfare agencies (CWAs).

1. Aid to Families with Dependent Children (AFDC)—(Title IV-A, Social Security Act; 45 CFR Chapter II; N.J.S.A. 44:10-1 et seq.)

2. Cuban/Haitian Entrant Program (CHEP)—(Section 501(a), P.L. 96-422 and Executive Order 12341; 45 CFR, Part 401)

3. Refugee Resettlement Program (RRP)—(Immigration and Nationality Act, Section 412(a); 45 CFR, Part 400)

4. Federal Food Stamp Program—(Food Stamp Act of 1977 as amended; 7 CFR Chapter II; N.J.S.A. 30:4B-2 et seq.)

5. Federal Low Income Home Energy Assistance Program (HEA)—(45 CFR, Parts 16, 74 and 96)

6. For certain aged, blind and disabled individuals not covered under the federally administered Supplemental Security Income program, CWAs, under the supervision of DPW, perform eligibility determinations for Medicaid only with respect to cases in long term care facilities and in the community.

7. DPW is also responsible for making eligibility determinations for Medicaid only (Title XIX, Social Security Act; 42 CFR, Chapter IV) with respect to individuals in Title XIX approved facilities operated by the State and certain counties (psychiatric hospitals in Camden, Essex and Bergen counties).

(c) DPW directs and oversees the General Assistance Program (N.J.S.A. 44:8-107 et seq.) which is administered through municipal welfare departments (MWDs). It also costs the appropriate charges for health care services authorized General Assistance recipients.

#### 10:80-1.2 DPW organizational unit functions

(a) The responsibilities described in N.J.A.C. 10:80-1.1 are accomplished through functions assigned to the various constituent units of DPW.

1. The Office of the Director is responsible for the entire operation of DPW. The Director sets priorities, coordinates efforts, resolves disputes, ensures implementation of Federal and State laws, Federal regulations and applicable court decisions, adheres to departmental policies and ensures that DPW operates in a professional and prudent manner through a network of components.

i. Administrative Operations: Primarily, Administrative Operations coordinates and directs units within DPW involved with the computerization of the public assistance programs. It also administers and monitors the federally funded HEA program operation throughout the 21 CWAs and the development and maintenance of the HEA data processing system to ensure timely and efficient provision of program benefits to eligible households.

(1) The task of achieving and maintaining an overall public assistance electronic data management system involves numerous functions as listed below:

(A) Management of feasibility studies, cost benefit analysis, budget estimation, detailed design specifications, programming, systems tests and user orientation/approval.

(B) Liaison to Electronic Data Processing (EDP) audit and user groups.

(C) Management of production and distribution scheduling, negotiations with distribution vendor (armored courier) and with support vendors (keypunch, printing).

(D) Monitoring the computer terminal network utilization and security procedures as well as all operational system outputs.

(E) Providing field support in implementing projects approved for EDP conversion/implementation.

ii. Fiscal and Management Operations: The Fiscal and Management Operations segment of DPW is responsible for preparing, monitoring and revising the public assistance portions of DPW's spending plan, and providing fiscal evaluations for program proposals. Additionally, it participates with administrators within DPW in the development of managerial policies in the area of administrative budgets and spending plans, administrative accounting, purchasing/inventory control, management operations and public welfare research and statistics.

(1) The following highlights the functions assigned to Fiscal and Management Operations.

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(A) Account for all administrative and public assistance expenditures in the 21 CWAs and 567 MWDs.

(B) Coordinate the CWA budget process and act as cost consultants to CWAs, MWDs and units within DPW.

(C) Implement and revise the Cost Allocation Plan, provide fiscal procedures, information and monthly reports of fiscal data.

(D) Distribute, account for and reconcile the Authorization to Participate (ATP) cards in the Food Stamp Program for the 21 CWAs and handle all fiscal activity relating to food stamp coupon issuances in accordance with Federal regulations.

(E) Record child support payments received and reported by the 21 CWAs and act as a clearing house for collected support monies and incentives which are due the 50 states or 21 CWAs within New Jersey.

(F) Perform all the accounting functions for the HEA program and coordinate activity between banks.

(G) Maintain caseload figures and projections; prepare and tabulate various required statistical reports for publication for Federal, State and county use as well as private agencies, and produce the sample selection of public assistance cases for quality control purposes.

(H) Direct all DPW management support services, that is, mailroom, messenger service, records management, research library, telephones, State cars, inventory, and security; and, maintain a word processing center to provide typing support through the use of sophisticated equipment and specialized staff.

iii. Income Maintenance Operations: Income Maintenance Operations has responsibility for developing and recommending policy for all the public assistance programs, including the Federal Food Stamp Program, and providing policy interpretations of Federal and State regulations to CWA administrative staff, municipal welfare directors, public and private agencies, and the general public. It prepares comments on pending legislation affecting the responsibilities of DPW and assists in drafting legislation when required.

(1) Specific functions with respect to Income Maintenance Operations are as follows:

(A) Supervising and monitoring the operations of local welfare agencies (county and municipal), and providing a channel of communication between such agencies and DPW.

(B) Timely preparation (in accordance with State and Federal law, Federal regulations and applicable legal decisions) of accurate, concise and easily understandable policy and regulatory material.

(C) Translation, into Spanish, of all appropriate forms, pamphlets and notices developed by DPW.

(D) Development of allowance standards and benefit levels.

(E) Determination of Medicaid eligibility for patients and residents in State facilities and certain county facilities.

(F) Coordination of the quality control case review process, analysis of quality control statistics for error trends, and recommendation of action to reduce errors.

(G) Maintenance of a system for detection of intentional program violations by public assistance recipients and conduct of internal investigations of suspected criminal activity related to assistance programs in the state, counties and municipalities.

(H) Conduct of various studies and surveys, as requested by DPW management, in all programs administered by DPW.

iv. Bureau of Child Support and Paternity Programs (BCSPP): Pursuant to Title IV-D of the Social Security Act, and certain other amendments, the State has established the

BCSPP to administer the Child Support Program throughout the State. The BCSPP acts to locate absent parents, establish paternity and/or child support obligations and to recover past due child support payments in order to preclude non-welfare families from requiring public assistance to survive and to reduce the general tax burden on the public. Under the direction of this Bureau, every county has been required to establish a local Child Support and Paternity Unit within the welfare agency. Also under the provisions of the Act, BCSPP has entered into cooperative agreements with State and local agencies involved in the collection of child support. These agencies include the Administrative Office of the Courts, county probation departments, county prosecutors, county adjusters, county sheriffs, county law departments, and Juvenile and Domestic Relations Court intake units. The BCSPP supervises and directs the activities of all agencies involved in the collection of child support and ensures that Federal regulations and requirements in regard to the collection of child support are met. The BCSPP also operates the State Parent Locator Service (SPLS) which has direct access to other State agency files, that is, Labor, Motor Vehicles, Treasury, Corrections, and to the Federal Parent Locator Service, Social Security Administration, Internal Revenue Service, Veterans Administration, and so forth. SPLS is also available to non-public assistance persons as well as individuals receiving public assistance benefits.

v. Bureau of Medical Affairs: The Bureau of Medical Affairs is a service unit providing medical assistance services to DPW staff, and units under the cognizance of DPW, that is, county and municipal welfare agencies, relative to areas of health care and medical-social work consultant services which are components of the Medical Assistance (Medicaid) Program. Its functions primarily relate to medical eligibility determinations and redeterminations.

(1) Other related functions include the following:

(A) Participate in fair hearings based on denial of eligibility for medical assistance.

(B) Determine appropriateness of charges for health care services, including charges for medication from pharmacy providers, authorized by MWDs.

(C) Conduct special studies concerned with the utilization review of drug use, abuse and overuse by clients and providers.

(D) Function as a resource for special health projects encompassing DPW programs.

vi. Bureau of Administrative Review and Appeals: The Bureau of Administrative Review and Appeals is responsible for receiving and registering requests for fair hearings from recipients/applicants appealing actions affecting their eligibility for, or continued entitlement to the various public assistance programs supervised or administered by DPW. Fair hearing requests are transmitted to the Office of Administrative Law (OAL) for scheduling and conduct of the hearings. After the hearing is conducted by OAL and an initial decision rendered, this Bureau is responsible for the preparation or review of all final hearing decisions for action by the Director, and monitoring the implementation of the decision.

(1) Additional miscellaneous duties include:

(A) Preparation of various State and Federal statistical reports.

(B) Preparation of responses to the large quantity of complaint correspondence received directly from clients for the Director's signature.

vii. Bureau of Staff Development and Training: the Bureau of Staff Development and Training develops training programs which are presented to the staff of DPW, other State

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agencies, CWAs, and MWDs. Additionally, the Bureau coordinates functions related to contracts for training, develops annual training plans, and provides audio-visual assistance for the Department and DPW.

(1) Specific functions include:

(A) Coordinating training activities sponsored by other agencies such as the Department's Office of Manpower Planning, Development and Training, to supplement Bureau "in-house" training.

(B) Providing direct training for DPW and CWA staff and coordinating the county consultation process in the area of training.

(C) Serving as a resource to other agencies of the Department.

(D) Evaluating educational leave requests and managing the tuition aid process for DPW staff.

(E) Developing training packages specifically designed to address corrective action issues and concerns of DPW, CWAs, and MWDs.

viii. Bureau of Employment Programs: This Bureau supervises the State operation for employment and training activities designed for public assistance recipients, inclusive of the Work Incentive (WIN) Program. Administrative functions are provided through four State regional offices which direct the operations in respective counties. Specifically, this entails registration, screening, counseling and placement.

ix. Office of Publications: The Office of Publications prepares public informational materials regarding public assistance programs and provides technical support to CWAs and MWDs regarding public information. It produces pamphlets and other informational tools designed to increase awareness of DPW activities, programs and services.

(1) Other related functions include the following:

(A) Liaison with the Department's Office of Public Information.

(B) Preparation of responses to correspondence referred to DPW from the Offices of the Governor and Commissioner relevant to inquiries and complaints about program services and actions of DPW and CWAs.

x. Office of Personnel: Personnel activities on both the State and county levels are under the supervision of the Office of Personnel.

(1) Specific functions relative to operation on the State level include:

(A) Announcement of promotional examinations; responsibility for certification, disposition and appointments from promotional and open competitive lists; processing necessary forms for appointments, working test periods, terminations, salary increases, anniversary dates and pension enrollments; position control; reclassifications; new title requests; and, maintenance of employee records.

(2) Specific functions relative to overseeing the personnel operations of the 21 CWAs include:

(A) Pursuant to Public Law 1984, Chapter 14, the Division is responsible for the review and analysis of all collective bargaining agreements between CWAs and their respective labor organizations; review the staffing portion of CWA budgets; review for approval of all county personnel actions and classification requests (for the Somerset CWA only since that agency is not covered under Civil Service law and regulations); respond to procedural questions and provide technical assistance; and, conduct evaluation of overall personnel operations in the CWAs.

10:80-1.3 Public information requests

The public may obtain information or copies of the various officially promulgated manuals, upon payment of the requisite fee, by addressing inquiries to: Director's Office, Division of Public Welfare, CN 716, Trenton, New Jersey 08625.

(a)

### DIVISION OF PUBLIC WELFARE

#### Public Assistance Manual

#### Public Assistance in New Jersey; Methods of Payment for Assistance; Continuing Eligibility in Aid to Families with Dependent Children (AFDC)

**Readoption: N.J.A.C. 10:81-1, 4 and 5**

**Adopted Amendments: N.J.A.C. 1.2, 1.8, 1.11, 4.1, 4.2, 4.3, 4.4, 4.10, 4.18, 4.21, 4.22, 4.24, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 5.9, 5.10, 5.12 and 5.13**

Proposed: June 18, 1984 at 16 N.J.R. 1446(a).

Adopted: August 21, 1984, by George J. Albanese, Commissioner, Department of Human Services.

Filed: August 23, as R.1984 d.405, **without change**.

Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 206.10(a)(9)iii; and 45 CFR, Parts 400 and 401.

Effective Date of Readoption: August 23, 1984.

Operative Date of Amendments: October 1, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): August 22, 1989.

**Summary of Public Comments and Agency responses:**  
**No comments received.**

**Full text** of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:81-1, 4 and 5.

**Full text** of the adopted amendments to the readoption follows.

10:81-1.2 Opportunity and decision to apply

Any person who believes he or she and his or her children are eligible for public assistance must be given the opportunity to apply without delay. Applicants will be informed about the eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

10:81-1.8 Appeal from county welfare agency procedures

A client shall have the right to appeal any action or inaction of the county welfare agency affecting him or her or his or her family.

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### 10:81-1.11 Income maintenance programs

(a) This manual describes policy for the income maintenance programs which are:

1. (No change.)
2. Cuban/Haitian Entrant Program (CHEP), through which financial assistance is provided to individuals who meet the following criteria:
  - i. Cubans: A citizen of Cuba who either entered or was paroled into the United States after April 20, 1980 and who meets specified eligibility criteria (see N.J.A.C. 10:81-10.3(a)1).
  - ii. Haitians: A citizen of Haiti who has been either "Paroled" or granted voluntary departure and who meets specified eligibility criteria (see N.J.A.C. 10:81-10.3(a)2).
3. Refugee Resettlement Program (RRP), through which financial assistance is provided to a citizen of any country who meets any of the Immigration and Naturalization Service (INS) statuses outlined in N.J.A.C. 10:81-10.2.

### 10:81-4.1 Responsibility for assistance payments

- (a)-(b) (No change.)
- (c) The CWA director has specific authority to issue payments prior to formal welfare board action. All payments so authorized by the director are subject to ratification, revision, or termination, by the board. Therefore in exercising his or her authority, the director has a special responsibility to expedite further investigation, if any is required; to have the formal record of the case completed; and to present the case to the welfare board at its next subsequent meeting for action thereon.

### 10:81-4.2 Federal participation in AFDC-C and -F

- (a) (No change.)
- (b) To qualify for Federal matching, a money payment must meet the the following conditions:
1. The check must be drawn to the order of and delivered to the recipient or his or her authorized payee (see N.J.A.C. 10:81-4.5).
  - 2.-3. (No change.)
- (c) An explanation, oral or written to the recipient as to how the amount of his or her payment is determined is not considered restrictive but such explanation must not state or imply that the recipient must pay for a specific item of goods or services.
- (d)-(e) (No change.)

### 10:81-4.3 Initial payment

- (a) When immediate need is apparent and the applicant provides evidence of eligibility by a written statement signed under oath, the CWA director shall issue a grant based on presumptive eligibility, as of the date of application and shall then proceed with the validation. This shall also be the case when immediate need arises before completion of the investigation (see N.J.A.C. 10:81-1.3).
- (b) Authorization shall be by personal signature of the director or deputy director, which signature may be typescript or facsimile signature if initialed by an authorized member of staff.
1. When the client has received an initial payment for a partial month as provided in the Assistance Standards Handbook, he or she shall continue to receive payments until final validation has been made or until he or she has been determined to be ineligible.
  2. (No change.)
  3. (No change.)

(d) If the completed investigation shows the applicant to have been ineligible for reasons other than need, the county welfare agency shall not be obliged, in the absence of fraud or misrepresentation, to take action for the recovery of any assistance granted pending completion of such investigation.

1. If CWA has demonstrated a reasonable attempt at validation within the requisite period of time but has been unsuccessful in completing the investigation despite such attempt, Federal participation only will be withheld; State matching for assistance payments will continue to be available whether or not the case is found to be eligible.

(e) Formal board action: When an initial payment is authorized by the CWA director prior to approval of the welfare board, the application shall be presented for formal action at the next regular or special meeting of the board.

(f) Reports to State division: Reporting new and reopened cases for which initial payments are authorized by the director is accomplished by established procedures.

### 10:81-4.4 Changes in need during assistance

When a change in the circumstances of the recipient results in an authorized adjustment upward or downward in the amount of the assistance payment, the effective date of such adjustment shall be as of the first day of the next regular payment period following the date the change in circumstances was reported to or identified by the CWA, subject to timely notice. Additional payment(s) supplementing the last regular payment may be issued during the current payment period for any of the reasons listed in N.J.A.C. 10:82-2.20(b).

### 10:81-4.10 Selection of a protective payee

- (a)-(c) (No change.)
- (d) If it is in the best interest of the recipient for a staff member of a private agency, of the county welfare agency, or of any other appropriate organization to serve as a protective payee, such selection shall be made preferably from the staff of an agency or that part of an agency providing protective services for families. The selection shall not include:
- 1.-4. (No change.)
  5. Any person who has himself or herself been determined by professional diagnostic procedures to be incompetent or "marginally incompetent".

### 10:81-4.18 Change of representative payee

- (a) When a representative payee wishes to be released from his or her responsibilities there must be application to the court for such release.
- (b) (No change.)

### 10:81-4.21 Suspended grant

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

### 10:81-4.22 Emergency assistance

- (a) The basic monthly assistance payment is intended for use in meeting the routine expenses of daily living. It is recognized, however, that there will be occasions when it becomes necessary for the county welfare agency to provide additional financial assistance for a brief period of time because of unusual circumstances as defined below which could neither be foreseen nor controlled by the recipient.
- (b) (No change.)
- (c) See N.J.A.C. 10:82-5.10 for policy and procedures relative to authorization and issuance of emergency assistance payments.

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### 10:81-4.24 Periodic notice to client

(a) The client shall be informed periodically (at least once every six months) of his or her continuing obligation to furnish accurate and timely information to the CWA concerning changes in income, resources or other circumstances which may affect the amount of the grant. The applicant will receive, and have explained if necessary, a copy of the pamphlet *Your Rights and Responsibilities*, (PA-197). This pamphlet will be given to the applicant at the time of application and at each redetermination if the recipient has not retained the copy previously provided. The client shall inform the CWA of any change as soon as possible but in no event later than two weeks after the change takes place. Failure of the client to so inform the CWA shall constitute willful withholding of information.

(b) (No change.)

(c) The client, by signing the affidavit, agrees that he or she has received the pamphlet (PA-197), has been informed of his or her rights and obligations as stated in the pamphlet, and understands them.

### 10:81-5.2 Requirements for periodic redetermination

(a) In AFDC, except for those cases subject to monthly reporting requirements, complete reinvestigations shall be done at least once every six months at which time the parent(s) shall execute a formal written application for continuation of assistance. In cases subject to monthly reporting a complete reinvestigation shall be done at least once every 12 months (see N.J.A.C. 10:90). If this is not done and the CWA is responsible, the right of the client to continued assistance shall not be jeopardized.

(b) (No change.)

### 10:81-5.3 Process of redetermination

(a) Personal interviews: Recipients shall be personally interviewed regarding the application for continuation of assistance. The IM worker shall assist the recipient in the completion of the application form, providing explanation as necessary. If the recipient cannot read, the contents of the form shall be read to him or her. Upon request, the client will be given a copy of his or her executed application form, with any attachments. Signature requirements shall be the same as for initial application. The contact shall focus on discussion of the eligibility factors which are subject to change and shall include information about any change in agency policy or procedure which affects the recipient's status or his or her assistance payment. There will also be a reevaluation of the family's need for social services. When the parent is represented by a protective payee or has a representative payee, such person shall also be interviewed. A summary report including all pertinent information shall be made for each contact with the parent(s), parent-person(s) or collateral sources.

(b) Redetermination of financial eligibility: In each redetermination, it is the responsibility of the IM worker to complete a new Form PA-3A or Form 105, as appropriate, in accordance with instructions provided in the Assistance Standards Handbook and CODES Manual, respectively.

1. When there is a pending claim, as described in N.J.A.C. 10:81-3.40(c)1, follow the appropriate procedure in N.J.A.C. 10:81-3.40(c), (d), and (e).

(c) Residence: Attention shall be given to any change in residence which may effect county responsibility.

(d) Age and school attendance: Eligibility in respect to age and school attendance must be evaluated for a child who is

nearing the age beyond which he or she is no longer eligible. The eligibility of the family must be evaluated when the youngest child is nearing the age and school situation beyond which he or she will no longer be eligible.

### 10:81-5.4 Competency status in AFDC

(a) (No change.)

(b) If it is the finding of the CWA that the parent or parent-person has demonstrated such inability to manage funds that payments are not being used in the best interest of the child(ren), third party payments will be initiated. In such cases the client will be fully advised of his or her rights.

### 10:81-5.5 Institutional status in AFDC

Upon the parent's(s') or parent-person's(s') admission to an institution, the IM worker should be alert to the initiation of "temporary payee" as provided in N.J.A.C. 10:81-4.7.

### 10:81-5.6 Requirements with respect to deprivation of parental support or care in AFDC-C

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

(d) "Incapacitated" natural or adoptive parent who secures employment:

1. When, subsequent to a finding of "approved" on the "incapacity" factor, CWA learns that the parent has obtained full-time employment at normal rate of pay for a job appropriate to his or her capacity, then incapacity no longer exists.

(e) When "incapacitated" natural or adoptive parent is in institution:

1. (No change.)

2. Submittal to Medical Review Team: As soon as the date of discharge is known, or if the CWA learns that the parent has already been discharged to his or her home, the CWA shall submit the required record material to the Medical Review Team as appropriate to the situation; that is, if official determination of incapacity had already been made, the previous record shall be submitted for review with a completed Form PA-6A; if the case had not been previously submitted, then a PA-6 giving current situation and Form PA-5 (Examining Physician's Report) shall be submitted. Whenever practical, the PA-5 form should be prepared by a staff physician of the institution.

3. (No change.)

### 10:81-5.7 Marriage or remarriage

In AFDC-C, when eligibility is based on the absence of one parent and the remaining parent marries or remarries, such marriage or remarriage does not in and of itself terminate eligibility but does require prompt redetermination of financial need in accordance with N.J.A.C. 10:82-2.9.

### 10:81-5.8 Special conditions relating to parent(s) in AFDC-F and -N

(a) When a parent becomes absent from the home and continuous absence is established (see N.J.A.C. 10:81-2.7(d)), the AFDC-F or -N case shall be transferred to the AFDC-C segment. No interruption of assistance shall result if AFDC-C eligibility begins with the absence.

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

### 10:81-5.9 Registration for WIN program in AFDC-C and -F

(a) (No change.)

(b) For persons who were previously exempt and now must register, the IM worker will complete and transmit to ES/

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WIN Part A of Form R-1. If a person was previously registered as a volunteer, a letter shall be sent by the CWA to such individual advising that he or she is now a mandatory WIN registrant and, as a result, is subject to appropriate WIN sanctions. The letter shall also state the reason for loss of exempt status.

(c) For persons who were previously required to register but are now exempt, the CWA shall send a letter advising that he or she is now a voluntary registrant and that he or she may withdraw such registration at any time without adversely affecting his or her assistance payments, provided WIN status does not change in a way which would again require WIN registration. The letter shall also state the reason for his or her change to voluntary status.

(d)-(g) (No change.)

10:81-5.10 Legally responsible relatives capacity to support

(a) (No change.)

(b) Each legally responsible relative shall be contacted unless it can be verified that the relative:

1.-2. (No change.)

3. Is himself or herself dependent upon a relative (other than the client) for support; or

4. (No change.)

5. Cannot reasonably be anticipated to have experienced a change in income since the last evaluation which would affect his or her capacity to support. (The IM worker will consult with his or her supervisor when this appears to be the situation.)

(c) (No change.)

(d) The CWA shall avoid making routine requests of other county welfare agencies or of out-of-State agencies to contact relatives for reevaluation of capacity to support. When, after careful evaluation of the need for such service, it is considered essential to request an interview, the letter of request shall clearly identify both the nature and the purpose of the desired service.

10:81-5.12 Disposition of application for continuation

(a) Following supervisory approval, an application for continuation shall be acted upon by one of the following methods:

1. Action by executive authority: The CWA director (or his or her authorized representative) shall by his or her legal authority, adjust, suspend or terminate the grant when in his or her judgment such action should be taken in advance of the next meeting of the welfare board.

2. (No change.)

10:81-5.13 Notice of agency decision

Each applicant shall receive timely and adequate written notice of any agency decision which relates to his or her eligibility status or change in the amount of his or her grant, in accordance with N.J.A.C. 10:81-7.1.

**(a)**

**DIVISION OF PUBLIC WELFARE**

**Public Assistance Manual  
Continued Absence**

**Adopted Amendment: N.J.A.C. 10:81-3.17**

(CITE 16 N.J.R. 2440)

NEW JERSEY REGISTER, MONDAY, SEPTEMBER 17, 1984

Proposed: April 16, 1984 at 16 N.J.R. 825(a).

Adopted: August 27, 1984, by George J. Albanese, Commissioner, Department of Human Services.

Filed: August 29, 1984, as R.1984 d.415 with **substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:7-6 and 44:10-3, and 45 CFR 232.11 and 233.90(c)(1)(iii).

Effective Date: September 17, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): July 20, 1988.

**Summary of Public Comments and Agency Responses:**

Comment: With regard to N.J.A.C. 10:81-2.7(d), one letter of comment was received from a legal services agency totally objecting to the amendment as proposed. The commenter observed that the wording used was too indefinite and the regulation would deprive children of separated parents access to the absent parent. Further, the interpretation was that it would permit termination of assistance merely because of frequent visitation by the absent parent. Additionally, the commenter felt that the amendment was contrary to Federal statutes and regulations.

Response: The proposed amendment was not aimed at denying contact between a child and absent parent or denial of assistance. It was merely intended to clarify that an absent parent would continue to be considered absent as long as there was evidence that the absent parent had, in fact, established a separate dwelling. However, in view of observations presented, and in the interests of preserving the family unit, the Department has decided not to adopt this amendment in order to conduct a further review.

Comment: Two letters of comments were received from county welfare agencies. Both raised questions concerning eligibility for assistance and calculation of available income in the event that the convicted offender has other sources of earned or unearned income.

Response: The questions raised were valid and additional language has been added to address those concerns. The additional language are not new substantive provisions but simply are a reiteration of current rules governing the treatment of income and resources of parents who are not included in the eligible unit.

**Full text** of the changes between proposal and adoption follows (additions to proposal indicated by boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***).

10:81-2.7 Deprivation of parental support in AFDC-C

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

(d) **Absence:** Continued absence of the parent from the home constitutes deprivation of parental support or care. Absence will be considered continued when it interrupts or terminates the parent's functioning as a provider of maintenance, physical care or guidance for the child; and the known or indefinite duration of the absence precludes the parent's performance of his[**/**] **or** her function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he [**/**] **or** she may have left only recently or sometime previously.

\*[1. When there is an indication that a continuing relationship exists, as evidenced by frequent and/or ongoing visits

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between the alleged absent parent and his or her children, continued absence will exist when there is evidence that the absent parent has in fact established residence in a separate dwelling unit.]\*

(e) (No change.)

10:81-3.17 Continued absence of the parent from the home

(a) (No change.)

(b) Each applicant and recipient is required to cooperate in obtaining support and establishing paternity whenever necessary as a condition of eligibility for AFDC in accordance with the procedures set forth in N.J.A.C. 10:81-11.

(c) "Continued absence from the home" (see N.J.A.C. 10:81-2.7(d)) may be for any reason. The following are some of the ways to establish absence:

1.-2. (No change.)

**3. Convicted offender living at home and serving court sentence: A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home. The CWA shall verify such court-imposed sentence and document its findings in the case record prior to case validation.**

**\*i. Such parent shall not be eligible for AFDC benefits.**

**ii. The resources of such a parent shall be considered fully available to the eligible unit.**

**iii. Income, if any, of such a parent shall be treated in accordance with N.J.A.C. 10:82-2.3(b).**

**iv. For child support and paternity purposes, the family is considered to be intact and is not subject to the CSP process.\***

Renumber 3.-6. as 4.-7. (No change in text.)

(d)-(g) (No change.)

**(a)**

**DIVISION OF PUBLIC WELFARE**

**General Assistance Manual  
Maternity Home Care**

**Adopted Amendment: N.J.A.C. 10:85-3.3**

Proposed: April 2, 1984 at 16 N.J.R. 683(a).  
Adopted: August 16, 1984, by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: August 21, 1984, as R.1984 d.403, **without change.**

Authority: N.J.S.A. 44:8-111(d).

Effective Date: September 17, 1984.

Operative Date: October 1, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): July 25, 1988.

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

**Full text** of the adoption follows.

10:85-3.3 Financial eligibility

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

(f) Assistance allowance standards are as follows:

1.-3. (No change.)

4. Room and board living arrangements: When an individual is purchasing a room and board living arrangement, the following shall apply:

i. (No change.) (See current proposal at 16 N.J.R. 119(b))

ii.-iv. (No change.)

v. Maternity homes: When an eligible individual has been found by the Division of Public Welfare, Bureau of Medical Affairs (DPW/BMA) to be in need of the services provided by a maternity home approved by the Division of Youth and Family Services (DYFS) and the individual is receiving such services, the monthly allowance shall be the rate established by DYFS. The MWD may obtain current rate information by communicating with DPW/BMA. However, the MWD shall not accept responsibility for payment at that rate prior to receipt of a report of affirmative findings from DPW/BMA. Until the report is received, the allowance shall be that for a single individual as given in Schedule I or II, as appropriate, less any countable income. For DPW/BMA approved cases, the DYFS rate shall apply with retroactive adjustment, if necessary, from the date of application or the date of admission to the maternity home, whichever is later.

(1) The submittal to DPW/BMA may be in any appropriate form or format. It must consist of the objective recommendation of the MWD with supporting documentation. The DPW/BMA will consider the individual's age, mental and physical health, family circumstances, and other conditions peculiar to the situation. Form PA-5 (Examining Physician's Report) and/or Form PA-6 (Medical-Social Information Report) may be used in presenting the documentation.

5. Shelter continuity: When a person who had been living alone and is otherwise eligible for General Assistance is hospitalized for more than 30 days, grants of assistance may be continued for up to 60 additional days for the purpose of retaining shelter to which the person can return. See N.J.A.C. 10:85-3.3(e)4ii for appropriate deductions for in-kind income.

(g) (No change.)

**(b)**

**DIVISION OF PUBLIC WELFARE**

**Food Stamp Program  
Resource Eligibility**

**Adopted Amendment: N.J.A.C. 10:87-4.1**

Proposed: July 16, 1984 at 16 N.J.R. 1934(a).  
Adopted: August 27, 1984, by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: August 29, 1984, as R.1984 d.414, **without change.**

Authority: N.J.S.A. 30:4B-2 and 7 CFR 273.8(a).

Effective Date: September 17, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): March 1, 1989.

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

**Full text** of the adoption follows.

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10:87-4.1 Applicability

(a) The resource criteria and eligibility standards of this section apply to all applicant households, except those in which all members are also applicants for or recipients of AFDC and AFDC resource eligibility is established.

1. For public assistance/food stamp (PA/FS) households in which all members of the food stamp household are also applying for or receiving AFDC, and resource eligibility is or has been established for AFDC, such household is resource eligible for food stamps notwithstanding other provisions of this subchapter.

**(a)**

**DIVISION OF PUBLIC WELFARE**

**Food Stamp Program  
Revised Maximum Income Eligibility Limits  
Adopted Amendment: N.J.A.C. 10:87-12.3,  
12.4 and 12.7**

Proposed: July 16, 1984 at 16 N.J.R. 1935(a).  
Adopted: August 27, 1984, by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: August 29, 1984, as R.1984 d.413, **without  
change.**

Authority: N.J.S.A. 30:4B-2, the Food Stamp Act of  
1977, as amended (7 USC 2014), 7 CFR 273.9(a), and  
49 FR 21388.

Effective Date: September 17, 1984.  
Expiration Date pursuant to Executive Order No.  
66(1978): March 1, 1989.

**Summary of Public Comments and Agency responses:  
No comments received.**

Full text of the adoption follows.

10:87-12.3 Maximum allowable net income standards

TABLE III  
Maximum Allowable Net Income

Household Size	Maximum Allowable Income
1	\$ 415
2	560
3	705
4	850
5	995
6	1140
7	1285
8	1430
9	1575
10	1720
Each Additional Member	+ 145

10:87-12.4 Maximum allowable gross income standards

TABLE IV  
Maximum Allowable Gross Income

Household Size	Maximum Allowable Income
1	\$ 540
2	728
3	917
4	1105
5	1294
6	1482
7	1671
8	1859
9	2048
10	2237
Each Additional Member	+ 189

10.87-12.7 165 percent of poverty level

(a) The following table is to be used when determining separate household status for elderly and disabled individuals in accordance with N.J.A.C. 10:87-2.2(a)4.

TABLE VII  
165% of Poverty Level

Household Size	Maximum Allowable Income
1	\$ 685
2	924
3	1164
4	1403
5	1642
6	1881
7	2121
8	2360
9	2600
10	2840
Each Additional Member	+ 240

**(b)**

**COMMISSION FOR THE BLIND AND  
VISUALLY IMPAIRED**

**Organization of the Commission for the  
Blind and Visually Impaired**

**Adopted New Rule: N.J.A.C. 10:95-1**

Adopted: August 23, 1984 by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: August 23, 1984, as R.1984 d.406.

Authority: N.J.S.A. 52:14B-3(1).  
Effective Date: August 23, 1984.  
Expiration Date pursuant to Executive Order 66(1978):  
August 23, 1989.

## ADOPTIONS

## HUMAN SERVICES

### Summary

George J. Albanese, Commissioner, Department of Human Services, hereby adopts, as a rule, a description of the organization of the Commission for the Blind and Visually Impaired. This rule is intended to inform the public of the existence of and the basic tasks, responsibilities delegated to the Commission.

This organization rule is exempt from the notice and hearing requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and becomes effective upon filing.

### Social Impact

There should be a positive social impact since the public will be provided with an official and ready reference of general information concerning the operation and structure of the Commission for the Blind and Visually Impaired, thereby promoting citizen utilization and understanding.

### Economic Impact

No additional costs, either to the public or any State agency is expected as a result of this rule, as it provides information regarding existing programs and activities.

Full text of the agency adoption follows:

### CHAPTER 95

### ORGANIZATION OF THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

### SUBCHAPTER 1. OPERATION AND PROCEDURES OF THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

#### 10:95-1.1 Composition and functions of the Commission

(a) The Commission for the Blind and Visually Impaired is an integral part of the Department of Human Service.

(b) The Commission's entire service delivery system is vested in two Statewide and four regional offices. The two Statewide offices offer Statewide vocational rehabilitation and specialized services while all others are provided through the regional offices. The four regional offices are: Northern, which includes Bergen, Morris, Passaic, Sussex and Warren Counties; Metropolitan, which includes Essex, Hudson, Somerset and Union Counties; Central, which includes Hunterdon, Mercer, Middlesex, Monmouth and Ocean Counties; and Southern, which includes Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem Counties.

(c) The Commission is coordinated by a Central Office that includes staff headed by an Executive Director appointed by the Commissioner of Human Services. It provides support functions to the Statewide and regional offices. Some of these functions are policy and procedure development and publication, management and fiscal services, monitoring and staff training. Policy and procedure manuals, as they are prepared, will be available to the public.

(d) The Commission owns and supervises vending stands at many locations, the majority of which are in governmental buildings.

(e) The Commission operates:

1. A rehabilitation center;
2. A textbook and materials center; and
3. A summer camp for blind and visually impaired children

(f) Services provided directly or purchased for clients by the Commission through the regional offices include the following:

1. Case management: Professional responsibility to assure development of appropriate individualized service plans which will provide needed assistance in "least restrictive" education and rehabilitation settings.

2. Vision related medical: Referral and payment for diagnosis and evaluation of eye conditions.

3. Medical/Diagnostic: Referral and payment for evaluation of general health, hearing and speech.

4. Psychometric: Referral and payment for psychological testing and evaluation.

5. Skill assessment: Evaluation of the need for instruction and training in the areas of self-care, independent travel, eye care, communication, education, employment, social and recreational skills.

6. Related costs-diagnosis and evaluation: Payment of transportation and other costs which enables individuals to travel to and from community facilities in order to receive medical diagnostic and evaluation services.

7. Vision related restorative treatment: Referral and payment for any surgery, treatment, specialist fees, medical supplies and equipment needed to restore vision.

8. Non-vision related restorative treatment: Referral and payment for any surgery, medical, dental, or psychological treatment needed to restore general physical and mental health.

9. Provision of prosthetics and aids: Referral and payment for devices and lenses which assist blind and visually impaired people in using or enhancing their remaining vision or other senses and which also improves their general health.

10. Restoration-related medical costs: Referral and payment for the drugs, inpatient, outpatient, and convalescent care, and x-rays and lab tests needed to improve the vision or general health of blind and visually impaired persons.

11. Provision of training materials and equipment: Supplying aids to blind and visually impaired persons to assist them in accommodating to visual handicap in the areas of self-care, vocational training, education and independent travel.

12. Tuition payments: Financial assistance to enable blind and visually impaired persons to attend colleges, day camps, nursery schools, or to obtain vocational training.

13. Skill acquisition instruction: Teaching methods to blind and visually impaired persons to help them function independently in the areas of communication, self-care and travel.

14. Job readiness: Assistance to blind and visually impaired people designed to enhance their job seeking skills and to make suitable vocational choices.

15. Related training costs: Payment for transportation to and from training facilities.

16. Room and/or board payment: Financial assistance to blind and visually impaired persons covering the costs of maintenance needed to obtain training or restorative treatment.

17. Other maintenance: Payment for daily living expenses during vocational training or restorative treatment.

18. Training-related services to families: Referral and payment for psychiatric/psychological treatment, medical consultation, and day care expenses or counseling directly provided by a Commission staff member to families of blind and visually impaired persons.

19. Counseling: Ongoing guidance and discussions dealing with an emotional problem or difficult life situation.

20. Job placement: Contact with prospective employers and purchase of the equipment necessary to fill a specific vacancy with a blind and visually impaired person.

21. Information and referral: Information given to blind and visually impaired persons about services available from other public and private agencies based on an assessment of their needs.

22. Consultation: Guidance provided by Commission staff to school personnel, medical or health professionals or employers on a particular client.

23. Equalization: Referral and payment for reader or interpreter services.

24. ID/Pass distribution: Certifying blind and visually impaired people for special access to community facilities provided to disabled persons.

25. Emergency assistance: Payment and referral for food, clothing or shelter in response to an immediate and urgent need.

26. Volunteers: Linking blind and visually impaired persons to sighted persons in their communities who will assist them in activities of daily living on a volunteer basis.

27. Advocacy: Assistance in securing entitlements, accessing resources and addressing problems related to handicapping circumstances.

10:95-1.2 Responsibilities and goals

(a) The Commission is charged with the responsibility to "ameliorate the condition of the blind." Its functions include but are not limited to:

1. Providing access to the Commission's services to all blind and visually impaired persons living in New Jersey.

2. Preventing blindness and loss of vision.

3. Providing and/or securing instruction and related services, so that individuals can develop the skills and knowledge necessary to enable them to achieve educational goals related to their abilities and interests.

4. Providing evaluation, training and restorative services to enable visually handicapped individuals to obtain employment appropriate to their skills and vocational goals.

5. Providing instruction and counseling so that, within the limits of their abilities, visually handicapped persons may acquire maximum utilization of residual vision, safe travel, health maintenance, communication and self-care skills.

6. Acting in an advocacy role to assure that visually handicapped persons are not discriminated against in education, employment or other areas of daily living.

7. Promoting positive public awareness of the facts related to blindness and visual impairment, as well as the competencies of blind and visually impaired persons in all facets of personal and community life.

8. Assisting blind and visually handicapped individuals secure local, State, Federal and other entitlements.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Boarding Homes

Readoption with Amendments: N.J.A.C. 10:123-2

Proposed: June 18, 1984 at 16 N.J.R. 1450(a).

Adopted: August 29, 1984 by George Albanese, Commissioner, Department of Human Services.

Filed: August 29, 1984 as R.1984 d.417, 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. 44:7-87 and 55:13B-1 et seq.

Effective Date: Readoption effective on August 29, 1984. Amendments effective on September 17, 1984. Expiration Date pursuant to Executive Order No. 66(1978): August 29, 1989.

Summary of Public Comments and Agency Responses:

The Division received one comment from the Office of the Ombudsman for the Institutionalized Elderly.

Comment: The Ombudsman believes that N.J.A.C. 10:123-2.1(b)2 should not be deleted because one of the purposes of the Rooming and Boarding House Act of 1979 (P.L. 1979, c.496) as stated in the legislative findings of the Act, is to "promote the growth and continued improvement of . . . residential health care facilities . . . ."

Response: The Division concurs with this suggestion and the text has been added accordingly but cited as N.J.A.C. 10:123-2.1(b)4.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:123-2.

Full text of the adopted amendments and changes upon adoption follows (additions shown in boldface with asterisks \*thus\*).

SUBCHAPTER 2. BOARDING HOMES

10:123-2.1 Purpose

(a) (No change.)

(b) The purpose of the law is to:

1. Provide for the health, safety and welfare of all those who reside in rooming houses, boarding houses, and residential health care facilities in this State;

[2. Promote the growth and continued improvement of residential health care facilities;]

[3.] 2. Ensure that all agencies of this State work in unison for the protection and care of the residents of rooming houses, boarding houses and residential health care facilities; and

[4.] 3. Ensure that needed social and remedial services are made available to the residents of such facilities through the efforts of County Welfare Agencies.

\*4. Promote the growth and continued improvement of residential health care facilities.\*

# LAW AND PUBLIC SAFETY

## (a)

### DIVISION OF MOTOR VEHICLES

#### Driver Control Service Cardiovascular Disorders Readoption: N.J.A.C. 13:19-4

Proposed: July 2, 1984 at 16 N.J.R. 1694(a).  
Adopted: August 17, 1984 by Clifford W. Snedeker,  
Director, Division of Motor Vehicles.  
Filed: August 23, 1984 as R.1984 d.407, **without  
change.**

Authority: N.J.S.A. 39:3-10 and 39:5-30.

Effective Date: August 23, 1984.  
Expiration Date pursuant to Executive Order No.  
66(1978): August 23, 1989.

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

**Full text** of the readoption appears in the New Jersey Ad-  
ministrative Code at N.J.A.C. 13:19-4.

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## (b)

### DIVISION OF MOTOR VEHICLES

#### Licensing Service Registrations

#### Readoption with Amendments: N.J.A.C. 13:21-5

Proposed: July 2, 1984 at 16 N.J.R. 1695(a).  
Adopted: August 17, 1984 by Clifford W. Snedeker,  
Director, Division of Motor Vehicles.  
Filed: August 23, 1984 as R.1984 d.408, **without  
change.**

Authority: N.J.S.A. 39:3-4, 39:3-8, 39:3-30, 39:3-33,  
39:3-43 and 39:10-4.

Effective Date: September 17, 1984 for amendments.

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

**Full text** of the readoption appears in the New Jersey Ad-  
ministrative Code at N.J.A.C. 13:21-5.

**Full text** of the adopted amendments to the readoption  
follows.

#### 13:21-5.1 Weight class

(a) In determining the weight class of all 1958 or later  
models of passenger automobiles which are being initially

registered or titled in New Jersey, the manufacturer's shipping  
weight on the Certificate of Origin shall govern.

(b) (No change.)

#### 13:21-5.2 Certificate of Origin

(a) N.J.S.A. 39:10 requires a Certificate of Origin when  
any new motor vehicle is delivered in this State by the manu-  
facturer to his agent or dealer, or to a person purchasing  
direct from the manufacturer.

(b) Where registration or title is sought for a 1958 or later  
model passenger automobile for which no Certificate of Ori-  
gin has been issued and which vehicle is not in violation of  
N.J.S.A. 39:10-8, the owner will be required by the Director  
or his agent to register the vehicle in accordance with the  
weight classification described in the published listing of all  
models issued by this office.

(c) Only in a case where the published listing indicates that  
there may be a difference in weight in vehicles of the same  
model, shall the owner be required by the Director or his  
agent to produce a certification of weight of the vehicle exe-  
cuted by a certified weightmaster.

13:21-5.3-5.9 (No change.)

#### 13:21-5.10 Surrender of registration plates

(a) Whenever an owner of a motor vehicle registered in  
accordance with N.J.S.A. 39:3-4 transfers ownership of the  
motor vehicle and does not register another motor vehicle for  
the unexpired portion of the registration period as provided in  
N.J.S.A. 39:3-30, he shall remove the registration plates from  
the motor vehicle and surrender them to the Division of Mo-  
tor Vehicles within five days of the transfer of ownership.

(b) (No change.)

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## (c)

### DIVISION OF MOTOR VEHICLES

#### Licensing Service Driver License

#### Readoption with Amendments: N.J.A.C. 13:21-8

Proposed: July 16, 1984 at 16 N.J.R. 1955(b).  
Adopted: August 22, 1984 by Clifford W. Snedeker,  
Director, Division of Motor Vehicles.  
Filed: August 28, 1982 as R.1984 d.411, **without  
change.**

Authority: N.J.S.A. 39:3-10, 39:3-11.1, 39:3-13, 39:3-  
13a and 39:3-13.1.

Effective Date: August 28, 1984 for Readoption; Sep-  
tember 17, 1984 for amendments.

Expiration Date pursuant to Executive Order No.  
66(1978): August 28, 1989.

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

## LAW AND PUBLIC SAFETY

## ADOPTIONS

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:21-8.

Full text of the adopted amendments to the readoption follows.

### SUBCHAPTER 8. DRIVER LICENSE

#### 13:21-8.1 Definitions

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

“Applicant” means every person who has made application for a license as provided in N.J.S.A. 39:3-10 or who has complied with the provisions of N.J.S.A. 39:3-11.1 or N.J.S.A. 39:3-13.1 et seq.

“Driving test” means that portion of the Driver License Examination wherein the applicant for a New Jersey automobile or motorcycle license demonstrates his ability to exercise safe and reasonable control in the operation of a motor vehicle of the type or general class of vehicles for which the license he has applied for would be valid.

“Examinations” means a test or series of tests designed to check the applicant’s visual acuity, color perception, knowledge of laws and safe operation of motor vehicles and administered by the Bureau of Driver Testing.

“Permit” means learner’s permit, driver examination permit or any written instrument issued under the provisions of N.J.S.A. 39:3-13 or 39:3-13.1 et seq.

“Requirements” means prerequisites applicants must meet before examinations will be administered, or applications will be approved.

(a)

### DIVISION OF STATE POLICE

#### Plan of Operations for Federal Surplus Property Readopted New Rule: N.J.A.C. 13:58

Proposed: July 16, 1984 at 16 N.J.R. 2010(a).

Adopted: August 29, 1984 by Irwin I. Kimmelman, Attorney General, Department of Law and Public Safety, and Colonel Clinton L. Pagano, Superintendent, Division of State Police.

Filed: August 30, 1984 as R.1984 d.420 **without change**.

Authority: N.J.S.A. 52:17B-4.d.

Effective Date: September 17, 1984.

Expiration Date pursuant to Executive Order 66(1978): September 17, 1989.

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

Full text of the readopted new rule follows.

### CHAPTER 58 PLAN OF OPERATIONS FOR DONATIONS OF FEDERAL SURPLUS PROPERTY

#### SUBCHAPTER 1. LEGAL AUTHORITY, HISTORY AND PURPOSE OF STATE PLAN OF OPERATION FOR DONATIONS OF FEDERAL SURPLUS PROP- ERTY

##### 13:58-1.1 Purpose

(a) This plan of operation sets forth the operating procedures and practices to be observed by the New Jersey State agency for Surplus Property in effecting fair and equitable distribution of Federal surplus personal property to public agencies of State and local governments and to certain non-profit, tax-exempt health and educational activities as are eligible to receive donations of surplus personal property under the provisions of Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), as amended by Public Law 94-519, October 17, 1976 (90 Stat. 2451), effective October 17, 1977. Law 94-519, October 17, 1976 (90 Stat. 2451), effective October 17, 1977.

(b) Operating procedures and practices described in this chapter are in accordance with Federal Property Management Regulations (FPMR) 101-44 (541 CFR 101-44) as revised and promulgated by the General Services Administration (GSA) in conformance with Public Law 94-519. In the event of a conflict with the regulations in this chapter, the Federal standards shall be controlling.

##### 13:58-1.2 History

(a) The Federal Property and Administrative Services Act of 1949, 40 U.S.C. §484, permits the distribution of surplus Federal personal property. That Act was amended by P.L. 94-519, effective October 17, 1977, to require that each state that chooses to participate in the donations program develop a permanent plan of operation for the distribution of surplus property. That amendment specified that state plans be developed in accordance with applicable state law, be certified to by the Governor, and submitted to the General Services Administration (hereinafter “GSA”) by July 14, 1977. In the event that states were unable to develop, obtain approval for and submit permanent plans to the GSA by that date, the Act permitted those agencies designated as the State Agencies for Surplus Property (SASP) to operate and to receive Federal surplus property under temporary plans of operation approved and submitted by the Governor. No final deadline was provided for the submission of permanent plans, and no penalty was established for any failure to submit a permanent plan. By letter dated January 27, 1978, then Governor Brendan T. Byrne submitted a temporary plan for New Jersey for participation in the Federal surplus personal property donations program. That plan was accepted by the GSA.

(b) On January 5, 1982, GSA issued a memorandum—FPRS Donation Program Memorandum No. DPD 4-82—to all SASP’s advising them that permanent state plans must be submitted for review and acceptance no later than June 30, 1984 as a condition of continued participation in the program. The purpose of these regulations is to convert and thus permanently adopt that State’s temporary plan of operations into a permanent plan.

##### 13:58-1.3 Legal authority

(a) The Emergency Management Section of the Division of State Police has been designated as the SASP for New Jersey.

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This is the result of several transfers of authority within the State administrative structure. The New Jersey SASP was first established as the Bureau of Surplus Property in the Department of Education pursuant to the provisions of N.J.S.A. 18:3-3. The authority of that agency to act as the State's recipient agency for surplus Federal property was reaffirmed by an Executive Order issued by Governor Robert B. Meyner on August 2, 1956, and in an opinion letter of Attorney General Grover C. Richman, Jr. dated November 30, 1956. Thereafter, pursuant to the provisions of L.1972 c.98, the Bureau of Surplus Property in the Division of Field Services of the Department of Education was transferred to the Division of Purchase and Property in the Department of Treasury. The Bureau was thereafter transferred to the Division of Civil Defense—Disaster Control in the Department of Defense on November 30, 1973, pursuant to the provisions of L.1973 c.284. As part of that transfer, the functions, powers and duties of the Bureau of Surplus Property were consolidated with other Federal aid programs administered by the Division of Civil Defense—Disaster Control. Thereafter, pursuant to the provisions of the State's "Executive Reorganization Act," Governor Byrne transferred the Division of Civil Defense—Disaster Control from the Department of Defense to the Department of Law and Public Safety, effective September 25, 1976. On January 12, 1978, Attorney General William Hyland, the head of the Department of Law and Public Safety, issued a directive assigning the functions, powers, duties and responsibilities of the former Division of Civilian Defense—Disaster Control, which included the duties and functions of the Bureau of Surplus Property, to the State Police. The Division of State Police is an agency of the Department of Law and Public Safety. N.J.S.A. 52:17B-3.

(b) The Emergency Management Section of the Division of State Police, as the designated State agency for Surplus Property, is vested with full authority to:

1. Acquire, warehouse and distribute Federal surplus personal property for general public tax-supported purposes; for nonprofit, tax-exempt health and educational activities; and for all other purposes authorized by the Federal Property and Administrative Services Act of 1949, as the same has been or may be amended or supplemented from time-to-time; and to
2. Fix and assess handling charges as may be reasonable and necessary to defray costs incurred by the State in the administration of this program; and to
3. Executive certifications and enter into cooperative agreements required by said Act, and/or FPMR 101-44-206; and to
4. Take all other actions as may be appropriate or necessary to cooperate with the Federal Government in carrying out the purpose of said Act, as amended or supplemented.

### SUBCHAPTER 2. DESIGNATION OF THE STATE AGENCY FOR SURPLUS PROPERTY

#### 13:58-2.1 Designation of State SASP

(a) The Emergency Management Section, Division of State Police, Department of Law and Public Safety is designated as the official State Agency for Surplus Property (hereinafter "SASP" or "EMS").

(b) The Chief, Bureau of Federal Aid Programs is directly responsible for the administration and execution of this plan and is vested with full authority to perform the duties incumbent upon him as Chief of the State Agency for Surplus Property.

(c) The supervisor of Emergency Management has general supervision over the Chief, Bureau of Federal Aid Programs.

(d) The State distribution center for Federal surplus personal property is presently located in building number 82 Executive Avenue, Heller Industrial Park in Edison, New Jersey; this facility consists of 30,000 square feet of space and includes an outside storage area of approximately 5,000 square feet immediately adjacent to the building. The EMS has authority to obtain other suitable sites as necessary for the efficient operation of the Federal property donation program.

### SUBCHAPTER 3. INVENTORY CONTROL AND ACCOUNTING SYSTEMS

#### 13:58-3.1 Scope of accountability system

The State agency shall maintain inventory control and accountability for all Federal property received, warehoused and distributed on a line-item basis. Property shall be valued at original government acquisition cost when new, as shown on Forms SF 123, or such other suitable forms as may be designated, which transfer property to the State agency. Accountability records for all passenger motor vehicles and single items having an original acquisition cost of \$3,000 or more, and other items as may be subject to special restrictions shall be kept separately from other property records for ease of identification, survey and control during the period of such restrictions.

#### 13:58-3.2 Inventory controls

(a) Inventory control of property shall be as follows:

1. Immediately upon receipt, property is moved into the receiving area where it can be checked in. If personnel are not immediately available, the property will be secured in a hold area until the check in process can be accomplished.

2. Shipping documents and the applicable Form SF 123, or other designated suitable forms, are used to check and identify property. Upon verification of the description, condition and quantity, warehouse stock tags will be prepared and attached to identify individual items as follows:

- i. Allocation transfer (Form SD 123) number;
- ii. Line item number;
- iii. Unit acquisition cost;
- iv. Description; including serial number if applicable;
- v. Unit of issue or measurement; and
- vi. Unit handling charge.

3. Certain items such as nuts, bolts, screws, washers, paints, office expendables, clothing, etc., which lend themselves to more efficient handling and accountability as lots, pounds, bales or other units of measurement, may be consolidated into such units of measurement during check in processing.

4. Stock record inventory control cards are prepared for each line item appearing on a Form SF 123 upon verification of receiving such property. All actions including receipt and subsequent issues, inventories and balance on hand will be posted as these actions occur. These stock record inventory control cards will be retained for not less than three years after a zero balance is recorded.

5. Overages and shortages discovered during the check-in will be reported to GSA in accordance with FPMR 101-44.115 on an Overage/Shortage Report Form. Additionally, when the estimated fair value or acquisition cost of an overage item is more than \$500.00 it will be listed on a supplemental SF 123 to be mailed to the GSA Regional Office for the region from which the property was received.

6. The total value of all items received will be posted to the monthly report of incoming shipments which is maintained

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for compilation of reports to GSA at close of each month's operation.

(b) Issuance of property shall be as follows:

1. Property will be issued only to individuals duly appointed by the executive head of donee organizations which are determined eligible by the Chief of the State agency in accordance with this plan. The New Jersey State Driver's License number and facsimile signature will be maintained on file at the Distribution Center for identification of authorized donee representatives.

2. Donees visiting the Distribution Center will screen and select property for which they have a recognizable need. As they make their selections they will record the items and other pertinent information on a property listing form. The property listing form will be authenticated by Distribution Center personnel as property selected is loaded on the donee's vehicle. The donee's representative will sign receipt for the property and record his New Jersey Driver's License number on the property listing form; this form will be countersigned by the Distribution Center Manager evidencing issuance of the property. One copy of this form will be given the donee's representative before departing the Distribution Center. The second copy of the form will be used for preparation of a typewritten Warehouse Issue Sheet which will be forwarded by mail to the donee organization with invoice for payment of handling charges. Both the property listing form and the warehouse issue form will have a certificate of acceptance printed on the reverse thereof which shall record the applicable terms, conditions and restrictions under which the donee accepts property listed on the face of the designated form. Copies of the Warehouse Issue Sheet are filed in the donee's file, the Master file of Warehouse Issue Sheets, and with the State agency's office in Trenton.

3. As property is issued, stock record inventory control cards will be posted to reflect the Warehouse Issue Number, date, quantity issued, and balance.

4. As an exception to the above, arrangements may be made whereby a donee may receive property as a direct pickup at the Federal installation holding the property, or property may be shipped to the donee direct from the holding agency. In either event, follow up is made to obtain a copy of the receipt executed between the donee and the Federal issuing agency after which stock record inventory control cards, and Warehouse Issue Sheets are processed to document this transfer of property.

(c) The Form SF 123 establishes the means by which the audit trail can be traced from the Federal property disposal activity, through the State agency to the donee. The State agency transfer number assigned to the SF 123 makes this trace possible, that is, an approved copy of the SF 123 is transmitted by GSA to the Federal property disposal activity holding the property; the disposal activity records the State agency's transfer number on its issue/receipt document when the property leaves Federal custody; the State agency prepares a stock tag, and a stock record inventory control card upon receipt of the property at the Distribution Center, each of which records the State agency transfer number as shown on the Form SF 123; the Warehouse Issue Sheet records the SF 123 number when the item is issued to the donee; and the stock record inventory control card reflects the Warehouse Issue Sheet number on which the item was issued to the donee.

(d) Verification of inventory balances shall be as follows:

1. A random sampling inventory of property on hand may be conducted periodically to verify accuracy of balances re-

flected on stock record inventory control cards. Additionally, stock record inventory cards showing a zero balance may be verified by random selection and comparison with Warehouse Issue Sheets upon which the cards reflect an issue of property.

2. A complete physical inventory will normally be taken annually of all material in possession of the State agency. This physical inventory will be accomplished by preparing 3x5 cards for each item. These items are then physically counted and the physical count verified with the balance shown on stock record inventory control cards. Stock cards will be posted to reflect date of inventory and quantity on hand. Shortages and overages are recorded on an inventory adjustment report which must be approved by the Chief of the State agency before the adjustments can be posted to the stock record inventory control card. Adjustments will be authorized only after all reasonable efforts have been made to determine the reason for the variance. When authorized adjustments have been made to the stock record inventory control card, a copy of the inventory adjustment report will be filed with the SF 123 file pertaining to that property.

3. The State agency shall conduct at least one complete physical inventory or two random sampling inventories each fiscal year.

4. Listings will be prepared during periodic inventories to reflect property which has been on hand in the Distribution Center nine months or longer and for which there is obviously no possible requirement for such property within the State in the foreseeable future. This list will be circularized to other State agencies to determine desirability, if any, for transfer of this property to another state. Such lists will be referred to GSA with request for disposition instructions after it has been determined no other State agency desires transfer of this property.

### 13:58-3.3 Fiscal accounting system

Fiscal accounting for the State agency is performed by the Bureau of Budgets and Accounts in the Division of Civil Defense. The "Appropriation/Revenue Accounting System Procedures Manual", or its successor, as promulgated by the Division of Budget and Accounting in the New Jersey Department of the Treasury establishes procedures. The Statewide Appropriation/Revenue Accounting System is a fully automated financial information system. Weekly and monthly "Appropriation Transaction Reports" serve as journals and ledgers showing all transactions and a beginning/ending balance for the reporting period. Accounts are established in accordance with the Division of Budget and Accounting in Circular Letter 77-16, March 1, 1977 as the same may be further amended or superseded from time-to-time.

## SUBCHAPTER 4. RETURN OF DONATED PROPERTY

### 13:58-4.1 Return of donated property

(a) When it is determined that a donee has useable property in its possession which it has not placed in use for the purpose for which received within one year of the date it was issued, or the donee has not continued the property in use for one year thereafter as required by the terms and conditions of agreement under which the property was issued, the State agency shall cause the donee to take such of the following actions as it may direct:

1. Transfer the property to another eligible donee having a need for it, or to a Federal Agency as may be required by GSA.

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2. Return the property at donee's expense to the State agency's distribution center where it can be made available to other donees in the State or to the authorized agency of another State having a need for the property.

3. Other action as may be authorized or required by GSA.

(b) The State agency will periodically emphasize this requirement when corresponding and meeting with donees and when surveying the utilization of donated property at donee facilities.

### SUBCHAPTER 5. FINANCING AND SERVICE CHARGES

#### 13:58-5.1 Financing

(a) The State agency Chief participates with the Bureau of Budget and Accounting, Division of State Police in developing a budget for operation of the agency during the State fiscal year which is July through June.

(b) Funds to support the agency's budget are transferred from the Revolving Fund Revenue Account to the Operational Account at beginning of the new fiscal year.

(c) All program expenses of the agency are disbursed by the Division of Budget and Accounting in the State Department of the Treasury per procedures established in the Appropriations/Revenue Accounting System Procedures Manual.

(d) All revenue generated by the State agency through the assessment and collection of service charges is deposited to the Revolving Fund Revenue Account where it is accumulated during the current fiscal year for transfer to the Operating Account in the following fiscal year. Appropriated funds may be requested from the State Legislature if Revolving Fund Account revenue is insufficient to support the annual budget approved for operation of the State agency.

#### 13:58-5.2 Service charges

(a) Operations of the State agency will be financed with funds obtained from the assessment of service charges on property it distributes to participating agencies. Operational costs will include employee wages and fringe benefits, lease of warehouse and distribution center facilities; utilities; telephone charges; office supplies and equipment; printing; postage; insurance; services; vehicle office supplies and equipment; printing; postage; insurance; services; vehicle operation and maintenance; travel and per diem expenses; and such other costs as may be incurred in the process of making property available for distribution to participants.

(b) Service charges will be assessed in a fair and impartial manner. Emphasis will be given to keeping the service charge at a minimum consistent with the need to generate sufficient funds with which to operate the program for public benefit in a financially sound and efficient manner.

(c) Service charge funds will be used only for the purpose of the Surplus Federal Property Program, to cover the direct and indirect costs of the State agency operations, to acquire or improve office and warehousing/distribution center facilities, and to purchase, repair and/or replace necessary equipment. When the working capital reserve exceeds program requirements, the service charge shall be adjusted downward until an even balance of fund requirements has been achieved. In event the program should be terminated, assets of the program shall be converted to cash, and after all outstanding obligations have been satisfied, the balance of funds shall be transferred to another program from which the best interests of the public may benefit.

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(d) Factors to be considered in determining the amount of service charge to be assessed on a piece of property are: the original acquisition cost of the item when it was purchased new by the Federal Government; current market value in its present condition; estimate of cost to repair or rehabilitate the property; utility value remaining after repair; any extraordinary expense the State may have incurred for inspection, packing, crating, repair, transportation or other costs in making this property available for distribution; desirability among program participants for a particular type of property, and its frequency of availability. These are all judgmental factors which must be weighed on the basis of experience, and the best interest of the general public.

(e) As a general guide, the State agency will assess a handling charge of 25 percent of the original acquisition value of the property. This amount may be adjusted downward as may be warranted by condition of the property and other considerations, or, it may be adjusted upward if the actual market value of the property is considerably higher than the reported acquisition value because of inflation or other causes. For inventory control purposes, property will always be distributed at "acquisition" value; comment will be made on distribution documents when the service charge is based upon "market" value.

### SUBCHAPTER 6. TERM AND CONDITIONS ON DONABLE PROPERTY

#### 13:58-6.1 Certifications, agreements and restrictions

(a) The State agency will require each eligible donee, as a condition of eligibility, to file with the agency an Application and a Certification and Agreement form assuring compliance with the certifications, agreements, terms, conditions, reservations, and restrictions under which all Federal surplus personal property will be donated. Each form must be signed by the Chief Executive or Administrative Officer of the donee activity, agreeing to these requirements prior to the donation of any surplus property. The certifications and agreements, and the terms, conditions, reservations and restrictions will be printed on the reverse side of each State agency warehouse issue document.

(b) The following periods of restriction are established by the State agency on all items of property with a unit acquisition cost of \$3,000 or more, and on all passenger motor vehicles, except for such items of major equipment, listed on a warehouse issue document, on which the State agency has designated a further period of restriction:

1. All passenger motor vehicles—18 months from the date the property is placed in use.

2. Items with a unit acquisition cost of \$3,000 or more, except Aircraft and Vessels (50 feet or more in length)—18 months from the date the property is placed in use.

3. Aircraft (except combat type) and Vessels (50 feet or more in length) with a unit acquisition cost of \$3,000 or more—60 months from the date the property is placed in use. This property is also subject to the provisions of a Conditional Transfer Document suitable to GSA.

4. Aircraft (combat type)—restricted in perpetuity. Donation of combat Aircraft shall be subject to the requirements of a Conditional Transfer Document suitable to GSA.

(c) The State agency may reduce the period of restriction on items of property falling within the provisions of (b), 1, 2, and 3 above at the time of donation for good and sufficient reasons, such as the condition of the property, or the proposed use (secondary, cannibalization, etc.).

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(d) The State agency, at its discretion, and when considered appropriate may impose such terms, conditions, reservations and restrictions, as it deems reasonable, on the use of donable property other than items with a unit acquisition cost of \$3,000 or more, and passenger motor vehicles.

### 13:58-6.2 Amendment of terms and conditions

The State agency may amend, modify, or grant releases of any term, condition, reservation, or restriction, it has imposed on donated items of personal property in accordance with the Standards prescribed by GSA provided that the conditions pertinent to each situation have been affirmatively demonstrated to the prior satisfaction of the State agency and made a matter of public record.

### 13:58-6.3 Special handling conditions

(a) The State agency will impose on the donation of any item of surplus Federal property, regardless of its unit acquisition cost, such conditions involving special handling or use limitations as the General Services Administration may determine necessary because of the characteristics of the property.

(b) GSA will use special processing codes in offering property to the State agency which requires special handling. These codes, their meaning, and the State agency's certification to GSA for their use, are shown in Attachment 6 to this Plan. The State agency will use these codes in lieu of full statement of their meaning in making requests to GSA on Standard Forms 123 for transfer of this property to the State agency.

(c) The full meaning of special processing codes will be entered on the State agency's Warehouse Issue Documents when transferring this property from the State agency to an eligible donee.

(d) The State agency for Surplus Property will use the Special Processing Codes and formats on forms suitable to GSA in accordance with instructions contained in GSA/FPRS Donations Program Memorandum No. DPD-9-82, and/or as codified in the GSA/FPRS Donations Handbook, PRM P 4025.1 and that such use shall be made with the intent that the processing requirements represented by the Code will be adhered to as if written in full.

### 13:58-6.4 Statutory requirement

The State agency will impose on all donees the statutory requirement that all items donated must be placed into use within one year of donation and be used for one year after being placed in use or, if the property ceases to be used for a full year and the property is still useable, the property must be returned to the State agency or otherwise transferred as the State agency shall direct in accordance with Subchapter 4 of this Plan.

## SUBCHAPTER 7. NON-UTILIZED DONABLE PROPERTY

### 13:58-7.1 Transfer of non-utilized surplus property

(a) All property in the possession of the SASP for 18 months, which cannot be utilized by eligible donees shall be reported to the General Services Administration for disposal authorization in accordance with FPMR 101-44.205. In accordance with this regulation the SASP shall:

1. Transfer the property to another SASP, Federal Agency, or as otherwise directed by GSA;
2. Sell the property by public sale;
3. Abandon or destroy the property.

(b) In the event of disposal by transfer to another SASP or by public sale the SASP may seek such reimbursement as is authorized in accordance with FPMR 101-44.205.

## SUBCHAPTER 8. FAIR AND EQUITABLE DISTRIBUTION

### 13:58-8.1 Distribution of property

(a) The State agency will make property available to eligible donees on a fair and equitable basis. When several donees have interest in the same property, it will be distributed fairly and equitably based upon their relative needs, available resources, and ability to utilize the property. Factors considered are:

1. Relative needs:
  - i. Population served;
  - ii. Size and type of program conducted;
  - iii. Purpose and frequency of intended use;
  - iv. Economic condition of the donee activity;
  - v. Urgency of need;
  - vi. Geographical location (urban, suburban or rural).
2. Available resources:
  - i. Availability and source of funding;
  - ii. Quantity of like items owned by donee;
  - iii. How long have they been waiting on the "Want List" for this item.
3. Ability to utilize:
  - i. Earliest date item will be needed;
  - ii. Period of time for which required;
  - iii. Availability of funds to repair or maintain property;
  - iv. Ability of the donee to remove property from the distribution center or Federal activity on a timely basis.

(b) The State agency operates a distribution center to serve the needs of eligible donees. To insure that eligible donees located great distances from the distribution center receive equity in the distribution of desirable property, they are encouraged to submit listings of major items needed, such as vehicles, construction equipment, machine tools, generators, air compressors, business machines, boats, aircraft, electronic and scientific type equipment, etc. Agency screeners will be guided by these requests in their search and selection of property. Major items of equipment will be distributed on the basis of need, available resources, and donees ability to utilize the property as outlined above.

1. Miscellaneous items will be available at the distribution center for donee selection as in a super market. Quantities may be limited so as to make items available to a greater number of donees.

2. Catalogs and bulletins will be made available periodically to assist donees in locating desirable property.

3. The SASP will recommend to General Services Administration the certification of donee screeners, as are qualified and needed in accordance with FPMR 101-44-116. The State agency will, insofar as practical, economical, and considering equitable distribution among its donees, select property located by donees, and will arrange for direct pickup or shipment of property to the donee if requested.

4. Donees which experience a local disaster and/or loss of equipment due to fire, flood, tornado, etc., will be given a temporary priority for requested items of property. Special efforts will be made to locate and distribute property according to their needs.

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### SUBCHAPTER 9. ELIGIBILITY

#### 13:58-9.1 State agency responsibility

The State agency will determine the eligibility of public agencies and nonprofit health and educational institutions and organizations in accordance with the Federal Property and Administrative Services Act of 1949 as amended, and implementing Federal regulations FPMR 101-44-207.

#### 13:58-9.2 Procedure for determining eligibility

(a) Each applicant requesting a determination of eligibility to participate in the Federal surplus personal property donations program will be required to execute the following documents which shall be furnished the applicant by the State agency:

1. Application form: This form shall require the applicant to furnish the following information:

- i. Legal name and address of the applicant;
- ii. Status of the applicant as a public agency or a nonprofit educational or public health activity. Nonprofit agencies must furnish evidence that they are tax-exempt under the provisions of section 501 of the Internal Revenue Code of 1954;
- iii. Sources of revenue and other financial data.

2. Public agencies must furnish details concerning the various programs for which it will utilize Federal surplus property, and provide evidence that the applicant is approved, accredited, or licensed when this is a requirement of one or more of its programs, i.e., hospital, school, etc.

3. Nonprofit agencies shall provide assurance that they are approved, accredited, or licensed by the regulating agency of government or other controlling agency if applicable to their program(s). Bylaws, organizational charters, brochures, and other information pertinent to an understanding of the agency and its program(s) must accompany the application when it is submitted to the State agency for review.

4. Assurance of compliance with GSA Regulations under Title VI of the Civil Rights Act of 1964, Section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended.

5. Statement of certifications and agreements: This Statement sets forth the certifications and agreements, including terms, conditions, reservations and any other restrictions that are applicable to donations of all items of Federal surplus personal property. These same certifications and agreements are listed on the reverse side of every warehouse issue document which donee representatives sign as agent for the donee, upon receipt of surplus property.

6. Authorization document: This is a written authorization by which the donee designates the individual(s) who will represent the donee as its agent(s) for the purpose of acquiring surplus property for which payment of service charges will normally be required, and who will sign warehouse issue sheets certifying and agreeing to the acceptance of terms, conditions, restrictions, and any other special handling conditions or limitations which may be applicable to the donee's acceptance of the property.

(b) The above-mentioned application forms must be signed by the Chief Administrative Officer or the Executive Head of the donee activity or executed by a resolution of the governing board or body of the donee activity, which ever would be legally applicable to the donee activity.

(c) The applicant will be advised in writing of the determination made of its eligibility status. Surplus property shall not

be issued to an applicant until after its application has been approved by the State agency.

#### 13:58-9.3 Needs and resources

Applicants for eligibility will be encouraged to submit with their applications a listing of the various kinds of property they can utilize in their programs in order to assist the State agency in giving fair and equitable consideration to the relative needs of all eligible donees in making distributions of property.

#### 13:58-9.4 Maintaining eligibility

(a) The State agency shall update a donee's eligibility record on a periodic basis but not less than once every three years, to ensure continuing eligibility.

(b) The State agency shall terminate its distribution to an activity when it ceases to operate or when it loses its license, accreditation, program approval, or otherwise fails to maintain its eligibility status.

(c) Donee files may be removed from the current active files and be placed in the suspense file when a periodic review indicates the donee has not participated in the surplus property program from a period of two years. During the ensuing twelve months every reasonable effort will be made to re-establish contact with the donee and to encourage participation in the program.

(d) Donee eligibility will automatically lapse when the activity has failed to renew its eligibility within three years of the last date it renewed or established its eligibility.

#### 13:58-9.5 Public relations

(a) The State agency will attempt to contact and instruct all known potential donees in the State on the procedures to follow to establish their eligibility to participate in the surplus program.

(b) In establishing a list of potential donees the State agency will use standards and guidance set forth in FPMR 101-44.207, and such listings and other sources of information as includes but is not limited to the following:

1. Public agencies:
  - i. Listings of municipalities and counties;
  - ii. Listings of State departments, institutions and agencies;
  - iii. Listings of quasi official governmental agencies, authorities, commissions, committees, etc., that is, municipal utility authorities, mosquito control commissions, sewerage authorities, conservation and environmental commissions, etc.
2. Nonprofit, tax-exempt activities:
  - i. State departments and others for listings of activities licensed, approved and/or accredited by them;
  - ii. Publications received from Parochial School systems listing schools, colleges, seminaries and other eligible program activities;
  - iii. Inquiries, letters, telephone calls, etc., received from these activities relative to eligibility.

(c) Contacts with potential donees will be made by letter, telephone, and attendance at general meetings and conferences with groups, supplemented when necessary by news releases, and informational bulletins.

### SUBCHAPTER 10. COMPLIANCE AND UTILIZATION SURVEYS

#### 13:58-10.1 Program monitoring

(a) The SASP shall conduct a planned program of regular utilization surveys to ensure donated property is used in com-

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pliance with statutory requirements. Representatives of the SASP will survey a minimum of 10 percent of active donees each fiscal year as determined from a review of Warehouse Issue Sheets. Included in this number will be donees receiving passenger motor vehicles, property with a unit acquisition cost of over \$3,000, and property with special handling or use limitations issued during the preceding year. A report shall be prepared indicating that the donee was visited, the property was inspected, and any corrective actions were taken. These reports shall be available for inspection by authorized representatives of the Administrator of GSA.

(b) In cases where fraud or misuse of donated property is indicated, the SASP shall initiate an investigation to determine if further legal action is required. Where fraud is indicated, the SASP shall notify the Federal Bureau of Investigation and the appropriate regional office of GSA. Further, the SASP will assist GSA or other responsible agencies in any investigation of the alleged fraud or misuse.

### SUBCHAPTER 11. CONSULTATION WITH ADVISORY GROUPS-PUBLIC AND PRIVATE GROUPS

#### 13:58-11.1 Special meetings

The State agency will arrange for and participate in local, regional and Statewide meetings of such public and private organizations and associations representing public agencies, education, public health and civil defense to present information on the program, discuss procedures and problems and to obtain recommendations as to donee needs, resources and special requirements, the utilization of donable property by donees, and the distribution of property to fill existing needs.

#### 13:58-11.2 News media

The State agency will regularly provide and disseminate information on the donation program in the form of bulletins, announcements, procedural circulars, property listings and other informational media including surveys of specific needs, to State and local officials and to heads of nonprofit institutions and organizations.

#### 13:58-11.3 Mail

The State agency by mail surveys and in consultation with advisory bodies and public and private groups, will request eligible donees to provide expressions of need for specific items so that the State agency may advise the General Services Administration of requirements for property to meet specific and unusual needs.

#### 13:58-11.4 Special Advisory Boards

The State agency may establish an Advisory Board, for the purpose of meeting periodically, reporting on the donation program and to obtain expressions of need and interest from eligible donees so that GSA may be advised of such requirements for specific items of property. The membership of such board would be composed of representatives of both public and private donee agencies, institutions, and organizations and would include but not be limited to, representatives of the following: the State Departments of Education, Law and Public Safety, Health; the New Jersey League of Municipalities; and representatives from the fields of education and public health.

### SUBCHAPTER 12. AUDITS

#### 13:58-12.1 State audits

(a) Commencing 18 months after acceptance of this plan and every two years thereafter, the State agency will be audited as follows:

1. An internal audit will be conducted by such person or agency as the Director for the Division of Civil Defense may direct, at least once every two years.

2. An external audit will be conducted by the State Auditor or by a certified or licensed public accounting firm as the Attorney General, may direct, every two years.

#### 13:58-12.2 Scope of audit

The audits referred to in N.J.A.C. 13:58-12.1 will include a review of the State agency's conformance with the provisions of this plan and the requirements of the Federal Property and Management Regulations (FPMR) 101-44 (41 CFR 101-44).

#### 13:58-12.3 Distribution of audit reports

A copy of all audits will be sent to the Regional Director of the General Services Administration with an endorsement from the Chief of the State agency in response to any irregularities or deficiencies noted in the Audit Report.

#### 13:58-12.4 Audits by Federal agencies

The General Services Administration and other agencies of the Federal Government may conduct such audits of the State agency as they may desire from time-to-time after notifying the Governor of the reasons for such audit. All records of the State agency will be made available for inspection of GSA, GAO and other Federal agencies.

#### 13:58-12.5 Informal surveys for compliance

The General Services Administration may review State agency operations periodically by coordination with the Chief of the State agency in order to ascertain that the agency is functioning in accordance with acceptable standards of operation and in accordance with the provisions of applicable laws and regulations of the Federal Government.

### SUBCHAPTER 13. COOPERATIVE AGREEMENTS

#### 13:58-13.1 Cooperative agreements

The State agency is authorized to enter into cooperative agreements. It is the desire of the State agency to continue, and/or renew those agreements which existed prior to October 17, 1977 and to enter into such other agreements as are authorized under Section 203(n) of the Federal Property and Administrative Services Act of 1949, as amended.

### SUBCHAPTER 14. LIQUIDATION

#### 13:58-14.1 Withdrawal from program

If and when a determination is made to liquidate the State agency, advance notice will be given to GSA, in accordance with the specific requirements of FPMR 101-44.202(c)(14), with the reason for liquidation; schedule of time to effect the closure; and report to GSA of the property on hand for retransfer, destruction, or sale. Physical assets will be converted to cash, and all cash assets will be returned to the participating donees. Records and accounting information will be retained for two years after closure.

**ADOPTIONS**

**LAW AND PUBLIC SAFETY**

**SUBCHAPTER 15. FORMS**

**13:58-15.1 Proper recording**

The recording of transactions of property under this program between the Federal Government and the State agency and between the State agency and donees shall be recorded on forms designated by the GSA or in such other manner suitable to the GSA.

**SUBCHAPTER 16. RECORDS**

**13:58-16.1 Retention schedule**

(a) Copies of Surplus Personal Property Transfer Orders (Standard Form 123) Warehouse Issue Sheets, Invoice Documents, Log Books, and all other official records of the State agency will be retained for no less than three years, except that:

1. Records involving property subject to restrictions for more than two years will be kept for one year beyond the specific period of restriction.

2. Records involving property in compliance status at the end of the period of restriction will be kept for at least one year after the case is closed.

**(a)**

**NEW JERSEY RACING COMMISSION**

**Harness Racing:  
Prohibition of Use of Controlled Dangerous  
Substances by Drivers; Urine Tests**

**Adopted New Rule: N.J.A.C. 13:71-18.2**

Proposed: June 18, 1984 at 16 N.J.R. 1459(a).

Adopted: August 22, 1984 by Harold G. Handel, Executive Director, New Jersey Racing Commission.

Filed: August 28, 1984, as R.1984 d.412 **without change.**

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

Effective Date: September 17, 1984.

Operative Date: January 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): September 17, 1989.

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

**Full text** of the adoption follows.

**SUBCHAPTER 18. TESTING OF PARTICIPANTS**

**13:71-18.1 Breathalyzer test**

(No change in text.)

**13:71-18.2 Urine Test**

(a) No driver shall use any controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act", N.J.S.A. 24:21-1, et seq, or any prescription legend drug, unless such substance was obtained directly or pursuant to a valid prescription or order from a licensed

physician, while acting in the course of his professional practice. It shall be the responsibility of the driver to give prior notice to the State Steward or Presiding Judge that he is using a Controlled Dangerous Substance, or prescription legend drug, pursuant to a valid prescription or order from a licensed practitioner.

(b) Every driver for any race, qualifier, or fair event at any licensed racetrack or fair site, may be subjected to a post-race urine test, or other non-invasive fluid test, at the direction of the State Steward and/or Presiding Judge, in a manner prescribed by the New Jersey Racing Commission. Any driver who fails to submit to a urine test when requested to do so by the State Steward and/or Presiding Judge, shall be liable to the penalties provided in N.J.A.C. 13:71-2.

(c) Any driver who is requested to submit to a post-race urine test shall provide the urine sample, without undue delay, to a Chemical Inspector of the Commission. The sample so taken shall be immediately sealed and tagged on the form provided by the Commission, and the evidence of such sealing shall be indicated by the signature of the tested driver. The portion of the form which is provided to the laboratory for analysis shall not identify the individual driver by name. It shall be the obligation of the driver to cooperate fully with the Chemical Inspector in obtaining any samples which may be required and to witness the securing of such sample.

(d) A "positive" controlled dangerous substances or prescription legend drug result shall be reported, in writing, to the Executive Director or his designee. On receiving written notice from the official chemist that a specimen has been found "positive" for controlled dangerous substance, or prescription legend drug, the Executive Director or his designee shall proceed as follows:

1. He shall, as quickly as possible, notify the driver involved, in writing;

2. For a driver's first violation, he shall issue a written reprimand and warning and notify the driver that he will be subject to mandatory drug testing and that any further violation shall result in the sanctions described in 3 and 4 below;

3. For a driver's second violation, he shall require the driver to enroll in a Supervisory Treatment Program approved by the New Jersey Racing Commission upon such reasonable terms and conditions as he may require. The driver shall be permitted to participate unless his continued participation shall be deemed by the Executive Director or his designee to be detrimental to the best interests of racing. It shall be the driver's responsibility to provide the Commission with written notice of his enrollment, weekly status reports, and written notice that he has successfully completed the program and has been discharged. If a driver fails to comply with these requirements, he shall be liable to the penalties provided in N.J.A.C. 13:71-2.

4. For a driver's third or subsequent violation, he shall be liable to the penalties provided in N.J.A.C. 13:71-2 and may only enroll into a supervisory treatment program, in lieu of said penalties, with the approval of the New Jersey Racing Commission.

(e) The results of any urine test shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the reports of any "positive" results shall be limited to the Commissioners of the New Jersey Racing Commission, the Executive Director and/or his designee and the subject driver, except in the instance of a contested matter.

# TRANSPORTATION

## (a)

### TRANSPORTATION OPERATIONS

#### Restricted Parking and Stopping Route 24 in Morristown

#### Adopted Amendment: N.J.A.C. 16:28A-1.16

Proposed: July 2, 1984 at 16 N.J.R. 1702(a).

Adopted: August 14, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Aid Design.

Filed: August 27, 1984 as R.1984 d.410 **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.

Effective Date: September 17, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): November 11, 1988.

#### Summary of Public Comments and Agency Responses:

There was one comment received from Mr. Jeffrey Rich, Sieber & McIntyre, Inc., Court House Plaza, 60 Washington Street, Morristown, New Jersey 07960, regarding the proposed rule.

##### Comment:

"In light of the fact that Morristown has inadequate parking facilities for the general public, I am strongly opposed to further limitations being put on what is already insufficient access to the shops along the green. I do not agree that additional parking restrictions will ease the cramped and ill-conceived traffic system seemingly inherent to Northern Jersey."

##### Response:

Based upon a request from the Morristown local officials, the Department conducted a traffic investigation. The investigation, which consisted of accident data, traffic count and analysis and traffic volume, substantiated the requirement for the imposition of "no stopping or standing" zones in the areas designated for the safe and efficient flow of traffic and the enhancement public safety.

The Department therefore adopts the rule as proposed concerning Restricted Parking and Stopping along Route 24 in the Town of Morristown, Morris County, as proposed in the Notice published in the New Jersey Register on July 2, 1984 at 16 N.J.R. 1702(a) without change.

Full text of the adoption follows.

#### 16:28A-1.16 Route 24

(a) The certain parts of State highway Route 24 described in this subsection are designated and established "no parking" zones where stopping or standing is prohibited at all time except as provided in N.J.S.A. 39:4-139.

1.-2. (No change.)

3. No stopping or standing in the Town of Morristown, Morris County:

i. Along the south side (South Street):

(1) From Bank Street to a point 200 feet east of the easterly curb line of Market Street.

(2) From a point 62 feet west of the westerly curb line of Madison Street to a point 110 feet east of the easterly curb line of Madison Street.

(3) From a point 190 feet east of the easterly curb line of Madison Street to Madison Avenue.

ii. Along the South Side (Madison Avenue):

(1) From South Street to a point 1,805 feet easterly therefrom.

(2) From a point 1910 feet east of the easterly curb line of South Street to Turtle Road.

(3) From a point 105 feet east of the easterly curb line of Turtle Road to the Morristown-Morris corporate line.

iii. Along the north side (Madison Avenue):

(1) From the Morristown-Morris Township corporate line to a point 105 feet east of the easterly curb line of Franklin Street.

(2) From the westerly curb line of Franklin Street to the easterly most driveway of the Morristown Memorial Hospital.

iv. Along the north side (Madison Avenue-South Street):

(1) From a point 100 feet west of the westerly curb line of the easterly most driveway of the Morristown Memorial Hospital to a point 56 feet west of the westerly curb line of Elm Street.

v. Along the north side (South Street):

(1) From a point 430 feet west of the westerly curb line of Elm Street to a point 88 feet westerly therefrom.

(2) From a point 606 feet west of the westerly curb line of Elm Street to a point 192 feet westerly therefrom.

(3) From a point 226 feet west of the prolongation of the westerly curb line of Community Place to a point 56 feet west of the prolongation of the westerly curb line DeHart Street.

(4) From the easterly curb line of South Park Place to a point 54 feet easterly therefrom.

4. No Stopping or Standing 2:00 A.M. to 10:00 A.M.

i. Along the south side (South Street):

(1) From a point 200 feet east of the easterly curb line of Market Street to a point 62 feet west of the westerly curb line of Madison Street.

(2) From a point 110 feet east of the easterly curb line of Madison Street to a point 80 feet easterly therefrom.

5. No Stopping or Standing 2:00 A.M. to 7:00 A.M. and 3:30 P.M. to 6:30 P.M.

i. Along the north side (South Street):

(1) From a point 56 feet west of the westerly curb line of Elm Street to a point 374 feet westerly therefrom.

(2) From a point 518 feet west of the westerly curb line of Elm Street to a point 88 feet westerly therefrom.

(3) From a point 158 feet east of the easterly curb line of Pine Street to a point 226 feet west of the prolongation of the westerly curb line of Community Place.

(4) From a point 54 feet east of the easterly curb line of South Park Place to a point 54 feet easterly therefrom.

6. No stopping or standing along the north side of Route 24 (Washington Street):

(1)-(4) (No change.)

7. No stopping or standing along the south side of Route 24 (Washington Street):

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

8. (No change in text. See 14 N.J.R. 553(a), 14 N.J.R. 919(f)).

(b) The certain parts of State highway Route 24 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In

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accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established LOADING ZONE:

- 1. (No change.)
- 2. No parking loading zone in the Town of Morristown, Morris County:
  - i. Along the north side (South Street):
    - 1. From a point 35 feet west of the prolongation of the westerly curb line of Community Place to a point 50 feet westerly therefrom:
    - 2. From a point 56 feet west of the prolongation of the westerly curb line of DeHart Street to a point 50 feet westerly therefrom.
  - (c) The certain parts of State highway Route 24 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all time. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stop:
    - 1.-3. (No change. See 14 N.J.R. 553(a), 14 N.J.R. 919(f)).
  - 4. No parking bus stops in the Town of Morristown, Morris County:
    - i. Along the south side (Madison Avenue):
      - (1) Near side bus stop-(South Street) from a point 1,805 feet east of the easterly curb line of South Street to a point 105 feet easterly therefrom.
      - (2) Far side bus stop-(Turtle Road) from the easterly curb line of Turtle Road to a point 105 feet easterly therefrom.
    - ii. Along the north side (Madison Avenue):
      - (1) Near side bus stop-(Franklin Street) from the easterly curb line of Franklin Street to a point 105 feet easterly therefrom.
      - (2) Far side bus stop-Morristown Memorial Hospital Driveway (easterly) from the westerly curb line of the easterly most driveway of the Morristown Memorial Hospital to a point 100 feet westerly therefrom.

**OTHER AGENCIES**

**(a)**

**NEW JERSEY HIGHWAY AUTHORITY  
GARDEN STATE PARKWAY**

**Parking, Standing and Stopping on Parkway  
Handicapped Parking Spaces**

**Notice of Correction: N.J.A.C. 19:8-1.8**

**OTHER AGENCIES**

An error appeared in the September 4, 1984 issue of the New Jersey Register at 16 N.J.R. 2380(a) concerning parking, standing or stopping on Parkway prohibited except in emergency. N.J.A.C. 19:8-1.8 should have appeared as follows:

- 19:8-1.8 Parking, standing or stopping on Parkway prohibited except in emergency
  - (a)-(h) (No change.)
  - (i) Parking in any space \*[approximately]\* **\*appropriately\*** marked for vehicles for the physically handicapped pursuant to P.L. 1977, c.202 (c. 39:4-197.5), unless the vehicle is authorized by law to be parked therein, is prohibited.

**(b)**

**CASINO CONTROL COMMISSION**

**Applications  
Form of Application; Personal History  
Disclosure Form 4A**

**Notice of Correction: N.J.A.C. 19:41-7.14**

**Take notice** that an error appeared in the August 20, 1984 Register at 16 N.J.R. 2302(c) concerning the Operative Date for the use of amended PHD Form 4A. Although the amendments are effective upon publication in the Register of the notice of adoption (N.J.A.C. 1:30-4.5), the amendments will not be operative (implemented), and PHD Form 4A, as amended, will not be utilized, until January 1, 1985.

# EMERGENCY

# ADOPTION

## TRANSPORTATION

(a)

### TRANSPORTATION LOCAL AID

#### 1984 New Jersey Transportation Trust Fund Authority Act Federal Aid Urban System Substitution Program: County and Municipal Aid Municipal Aid

#### Adopted Emergency New Rule and Concurrent Proposal: N.J.A.C. 16:20A and 16:20B

Emergency New Rule Adopted: August 22, 1984 by  
John P. Sheridan, Jr., Commissioner, Department of  
Transportation.

Gubernatorial Approval (see N.J.S.A. 14B(c)): August  
27, 1984.

Emergency New Rule Filed: September 6, 1984 as  
R.1984 d.423.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-13, 27:7-  
47, 27:7-13.1 et seq. and the "1984 New Jersey  
Transportation Trust Fund Authority Act".

Emergency New Rule Effective Date: September 6,  
1984.

Emergency New Rule Expiration Date: November 5,  
1984.

**Interested persons** may submit in writing, data, views or  
arguments relevant to the proposal on or before October 17,  
1984. 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

These rules were adopted on an emergency basis and be-  
come effective upon acceptance for filing by the Office of  
Administrative Law (see N.J.S.A. 52:14B-4(c) as imple-  
mented by N.J.A.C. 1:30-4.4). Concurrently, the provisions  
of these emergency rules 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 rules become 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 1584-534.

The agency emergency adoption and concurrent proposal fol-  
lows:

#### Summary

The new rules will establish procedures and guidelines for  
counties and municipalities to follow in the receipt of aid  
from the State in accordance with the "1984 New Jersey  
Transportation Trust Fund Authority Act," P.L. 1984, C. 73  
approved July 10, 1984.

The new rules will assist to ensure a safe and reliable Trans-  
portation system which is essential to the well-being of the  
State's citizens.

The Funds under the Act are appropriated by the Legisla-  
ture as the State's share of the cost for construction, recon-  
struction, replacement, improvement, planning, acquisition,  
engineering and rehabilitation of public transportation proj-  
ects, which will enable the State to construct and maintain a  
safe and efficient transportation system.

The chapters are summarized as follows:

N.J.A.C. 16:20A-1 outlines the general provisions of the reg-  
ulations.

N.J.A.C. 16:20A-2 prescribes the responsibilities of the State  
and local governments in the projects costs.

N.J.A.C. 16:20A-3 provides the responsibility of local gov-  
ernment in the preparation of plans and specifications.

N.J.A.C. 16:20A-4 describes the procedure to be followed in  
the awarding of contracts and the cost sharing or cost partici-  
pation by the responsible agency.

#### N.J.A.C. 16:20B

16:20B-1 outlines the general provisions of the regulations.

16:20B-2 prescribes the responsibility of the municipality in  
the preparation of plans and specifications.

16:20B-3 provides the procedure to be followed in the award-  
ing of contracts.

16:20B-4 describes the cost sharing or cost participation by  
the responsible agency.

The Department therefore adopts as an emergency rule and  
concurrently proposes N.J.A.C. 16:20A and 16:20B in com-  
pliance with P.L. 1984, c. 73, July 10, 1984 "New Jersey  
Transportation Trust Fund Authority Act".

#### Social Impact

These new rules will provide a source of added revenues to  
the local governments in the construction, reconstruction,  
repair and rehabilitation of transportation projects. The rules  
will also assist in providing a safe, balanced, sound and effi-  
cient transportation system necessary for the well-being of the  
State's citizenry.

#### Economic Impact

The Department and local officials will incur direct and  
indirect costs for its work force in the processing of plans and  
specifications, engineering, contractual agreements and cost  
sharing regarding the specific rehabilitation or improvement  
project of the transportation system. The cost of repair and

## EMERGENCY ADOPTION

## TRANSPORTATION

reconstruction will increase geometrically and the economic well-being and safety of users of the State's transportation system will be endangered if funding is not provided and counties and municipalities will be unable to meet the cost of maintaining, rehabilitating and improving transportation facilities which form a vital and integral part of the State's transportation system.

**Full text** of the emergency new rule and concurrent proposal follows:

CHAPTER 20A  
1984 NEW JERSEY TRANSPORTATION  
TRUST FUND AUTHORITY ACT  
FEDERAL AID URBAN SYSTEM SUBSTITUTION  
PROGRAM: COUNTY AND MUNICIPAL AID

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 16:20A-1.1 Appropriation of funds

In order to expedite the construction of critically needed county/municipal transportation projects, a Federal Aid Urban System Substitution Program will be implemented on or before October 1, 1984. As a substitution for Federal Aid Urban System funds, 1984 New Jersey Transportation Trust Fund Authority Act funds are appropriated by the Legislature for the improvement of any public road or bridge under the jurisdiction of a county, regardless of location within that county, and any road or bridge located on the Federal Aid Urban System. Federal Aid Urban System Substitution funds may also be used for county and municipal public transportation projects and other transportation projects eligible for funding under the Federal Aid Urban System Program on September 30, 1984.

#### 16:20A-1.2 Distribution of funds

Each county and Jersey City and Newark shall receive an annual State Aid allotment not less than the combined total of their 1984 apportionment of Federal Aid Urban System funds plus State match including their portion of non-attributable funds made available for Small Urban Areas. Each county and Jersey City and Newark must agree that Federal Aid Urban System Substitution funds are provided in lieu of any Federal aid from the Federal Aid Urban System Program. In any year in which insufficient funds have been appropriated to meet the minimum county allocations, or if no appropriation is provided, the Commissioner of Transportation shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the Federal Aid Urban System Program sufficient funds to meet the minimum allocations.

#### 16:20A-1.3 Minimum Allotment

The State Aid allotment to each county and Jersey City and Newark shall result in a minimum amount of \$300,000 for transportation projects annually regardless of the combined total of their 1984 Federal Aid Urban System apportionment plus State match. Local governments in a Federal Aid Urban System loan situation will be required to repay their Federal Aid Urban System loan plus State match over a three-year period commencing on October 1, 1984. If their annual State Aid allotment minus their annual loan payback is less than \$300,000, supplemental funds will be allotted to assure that a minimum of \$300,000 is available annually for transportation improvements.

#### 16:20A-1.4 Federal Aid Urban System backlog funds

Each jurisdiction will also retain any unexpended portions of its 1984 Federal Aid Urban System apportionment and accumulated Federal Aid Urban System backlog funds for use on active local transportation projects previously commenced with Federal Aid Urban System funds. The required match for these latter funds will be provided by the State.

#### 16:20A-1.5 Transition: Federal Aid Urban System to State aid

(a) It is expected that counties and municipalities will expeditiously expend available Federal Aid Urban System funds for the completion of phases of project development commenced under the Federal Aid Urban System Program.

1. As an example, if preliminary engineering or right-of-way acquisition is in the process of being accomplished with Federal Aid Urban System funds, where possible, that phase shall be completed with available Federal Aid Urban System funds.

2. If sufficient Federal Aid Urban System funds are not available to support the cost of succeeding phases such as right-of-way acquisition and construction, these phases shall be completed in conformance with criteria developed for the Federal Aid Urban System Substitution Program (State Aid).

3. Each phase of work (engineering, right-of-way acquisition, construction, etc.) supported with Federal Aid Urban System funds will be subject to all Federal Highway Administration reviews and approvals, projects must be continued through the completion of construction in compliance with appropriate Federal and State laws, rules and regulations governing Federal Aid Urban System projects.

(b) In any instance where a project supported in any part with Federal Aid Urban System funds is either not continued through the completion of construction or not completed in accordance with Federal Highway Administration requirements, the Department of Transportation reserves the right to determine, in coordination with the Federal Highway Administration, the extent of Federal Highway Administration participation in the cost of the completed work. The Department of Transportation, at its discretion, may reduce the county's annual State Aid allotment by an amount equal to the cost of work determined to be non-participating by the Federal Highway Administration.

(c) Subject to the availability of State Capital funds, the Department may elect to refund any existing local preliminary engineering project for which Federal Aid Urban System funds have been authorized as of the effective date of this program but, due to insufficient Federal Aid Urban System backlog funds, succeeding phase of work must be performed with State Aid funds. At the discretion of the Department of Transportation, Federal funds withdrawn from such projects will be used:

1. For the payment of incurred but otherwise unbillable costs on Federal Aid Urban System projects which are in an authorized status as of the effective date of this program or;

2. In the event that there is an excess balance of such funds, they may be used for projects on the State System.

(d) It is expected that as soon as possible after June 30, 1984, the Transportation Improvement Program affecting each county will be modified in a way to expedite the use of Federal Aid Urban System backlog funds and reduce the number of Federal Aid Urban System projects. A priority will be assigned to funding those projects where a work phase (preliminary engineering, right-of-way or construction) can be completed prior to September 30, 1986. At the discretion of

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the Department of Transportation, the State Aid allotment to a jurisdiction with a backlog of Federal Aid Urban System funds on July 1, 1987, may be reduced with a backlog of Federal Aid Urban System funds on July 1, 1987, may be reduced by the backlog amount.

(e) After September 30, 1984, the Department of Transportation, at its discretion, may elect to make Federal Aid Urban System and State matching funds available to support projects of a regional or critical nature. After that date, all other new projects will be accomplished in conformance with criteria developed for the federal Aid Urban System Substitution Program (State Aid) and will not be eligible for Federal Aid Urban System funding.

### SUBCHAPTER 2. FEDERAL AND URBAN SYSTEM SUBSTITUTION PROGRAM: STATE AID

#### 16:20A-2.1 Eligible costs

(a) Except as stated below, State participation in project cost shall be limited to 100 percent of the cost of construction including construction supervision, inspection and material testing. The cost of design engineering and right-of-way acquisition shall be borne totally by the county or municipality.

1. State Aid participation in projects initiated by municipalities qualified by the Department of Community Affairs for Urban Aid funding under P.L. 1978, Chapter 14 as amended by P.L. 1983, Chapter 384 or for depressed rural centers aid may, at the discretion of the Department of Transportation, be increased up to 100 percent of total project cost including construction, engineering and right-of-way acquisition (see qualified municipalities listed in Appendices I and II).

2. For projects initiated by a county, State participation may also be increased up to 100 percent of project cost in special hardship cases justified by the county and concurred in by the Department of Transportation.

#### 16:20A-2.2 Project approval

(a) Annually, prior to September 30, each county and Jersey City and Newark will be advised for budgetary purposes of the amount of Federal Aid Urban System Substitution funds they can anticipate for the following calendar year. The Transportation Improvement Program with a State aid element or, at the discretion of the county and Jersey City and Newark, a Capital Transportation Program shall be submitted for approval by the Department prior to February 1 of the next succeeding calendar year.

1. Capital Transportation Programs shall be completed on forms provided by the State. Each project shall be listed by name and location with a brief description as to how each project conforms with the county's overall Transportation Plan. Except in the case of Jersey City and Newark, conformity shall be with the Municipal Transportation Plan.

2. Each program shall cover a four-year period and list the phase (engineering, right-of-way, construction) of each project to be undertaken in a specific year. A cost estimate shall be provided for each phase of work. This cost estimate shall indicate the amount of anticipated State participation and the amount of local participation. The total cost of work in the first year of the program (in which State participation is requested) shall not exceed the county's annual share of Federal Aid Urban System Substitution funds. The State reserves the right to recoup State Aid funds that are not obligated by a State/County/Municipal Project Agreement within one year after the Department of Transportation approval of the

County/Municipal Capital Transportation Program. Recouped amounts shall be placed in a discretionary fund for use on other eligible projects throughout the State.

3. Each county shall develop a four-year program (including both county and municipal projects) for approval by the Board of Chosen Freeholders and submission to the Department of Transportation for final approval. Newark and Jersey City shall also develop their own individual four-year program for approval by the Mayor and Council and submission to the Department of Transportation for final approval.

4. Each county and Newark and Jersey City shall make reasonable further progress in the attainment and maintenance of National Ambient Air Quality Standards consistent with the New Jersey State Implementation Plan. The Department of Transportation shall advise each county and affected municipality within each county of specific project approvals prior to April 1st.

5. Concurrently, each county/municipality will be required to execute State/County/Municipal Agreements for each project on forms provided by the State. Each agreement shall specify a date for the completion of the work. In the event work is not completed by that date, the State, at its discretion, may either grant a time extension or recoup the State funds. Funds that are recouped will be placed in a discretionary fund for use on other eligible projects throughout the State.

6. Escalations in a project's cost that exceed the approved amount in the State/County/Municipal Agreement may be reviewed by the county (when applicable, Newark or Jersey City) to determine eligibility for State participation. A request may be made for Department of Transportation approval to modify the Capital Transportation Program to permit State participation in the additional work. Otherwise, all cost escalations will be totally borne by the county or municipality.

#### 16:20A-2.3 Discretionary funds

Annually, subject to funds appropriated by the Legislature, a Discretionary Fund shall be established to address emergency and regional needs throughout the entire State. Any municipality or county may make application to the Department of Transportation at any time. Projects need not be included in the Capital Transportation Program. Project approvals are at the discretion of the Commissioner of Transportation.

#### 16:20A-2.4 Standards

(a) The proposed road and bridge improvements shall conform to the design criteria of the appropriate American Association of State Highway and Transportation Officials publications listed below. Any exceptions to these design criteria must be justified by the local engineer to be in the public interest.

1. Geometric Design Guide for Resurfacing, Restoration and Rehabilitation (R-R-R) of Streets;
2. A Policy on Geometric Design of Rural Highways;
3. A Policy on Arterial Highways in Urban Areas;
4. Geometric Design Guide for Local Roads and Streets;
5. Standard Specifications for Highway Bridges;
6. Guide for the Development of New Bicycle Facilities 1981.

(b) All workmanship and materials shall conform with the New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction.

(c) Standards for transportation projects other than roads and bridges shall be pre-approved by the Department of Transportation.

## EMERGENCY ADOPTION

## TRANSPORTATION

### SUBCHAPTER 3. PLANS AND SPECIFICATIONS

#### 16:20A-3.1 Local government responsibility

(a) The local government shall be responsible for engaging a professional engineer registered in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering and inspection and material testing as required.

(b) The local government will provide such maps, reports, construction plans and specification and contract documents as may be required by the State.

### SUBCHAPTER 4. CONTRACTS

#### 16:20A-4.1 Award of contract

(a) The local government will advertise and award the contract, subject to approval of the State, in accordance with the provisions of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Within 10 days, or such longer period as the Local Aid District Office will approve, following the receipt of construction bids, the local government shall submit the following to the Local Aid District Office:

1. Two copies of the contract plans and specifications;
2. Two copies of the engineer's estimate of cost;
3. Two copies of the summary of construction bids; and
4. A resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department.

(c) When all information relative to the bidding has been approved by the State, the local government shall be advised of the approval of the award of the contract.

#### 16:20A-4.2 Contract completion and payment

(a) The State will pay funds on a reimbursement basis after acceptance by the Local Government Unit and the State of the work completed. Progress payments may be made on a monthly basis when requested by the Local Government Unit when the total amount of reimbursement requested is not less than \$5,000.

(b) When all the work has been completed satisfactorily, the local government will prepare and submit to the Local Aid District Office the following:

1. A statement of the work performed, certified by the municipal/county engineer, for acceptance and approval of the completed work;
2. A certification by the county/municipal auditor that the project's records have been examined and all expenditures are supported by valid documentation; and
3. A request for reimbursement by the State, on vouchers supplied by the State.

(c) After a final inspection of the completed work by the State and a determination has been made by audit that all documents are in proper order, action shall be taken to reimburse the county/municipality.

(d) The county/municipality shall maintain complete documentation of the project for a period of three years after receiving reimbursement by the State. An evaluation of the acceptability of the work by the Department and a determination of the extent of State participation in the cost thereof, will be based on an inspection of the completed project and a review of the documentation maintained by the county/municipality.

#### 16:20A-4.3 Cost of engineering, inspection and construction supervision

(a) In the case of qualified municipalities and in hardship cases approved by the Department, the State may participate

in the cost of engineering accomplished by either a consultant engaged by the county/municipality or by their full time engineering staff. Prior approval of the State's participation in the cost of engineering fees shall be obtained before any engineering services are performed.

(b) Local governments desiring State participation in the cost of engineering shall submit to the Department of Transportation a list of the scope of services to be performed by the Engineer. The State shall participate in accordance with the percentage range as outlined in the current policy and procedure of the Department concerning engineering fees.

(c) Payment for engineering fees shall be made on a reimbursement basis. Claims shall be presented on forms provided by the State.

(d) The State shall also participate in the cost of inspection and construction supervision including the necessary material testing. The State shall participate in accordance with the percentage range as outlined in the current policy and procedure of the Department concerning inspection and construction supervision fees.

#### 16:20A-4.4 Cost of right-of-way acquisition

(a) In the case of qualified municipalities and in hardship cases approved by the Department, the State may participate on a reimbursement basis in the cost of lands and/or easement rights acquired for right-of-way.

(b) Cost is the actual purchase price amount paid for each parcel of land or easement rights acquired for the project as a result of a negotiated purchase agreement or, where negotiations have failed, the just compensation amount awarded by the courts for a particular parcel as a result of a subsequent condemnation action.

(c) Counties and municipalities requesting State participation in the cost of right-of-way acquisition shall in advance of any right-of-way acquisition activity for the project make application to the Local Aid District Office and provide right-of-way maps depicting the lands and/or easement rights necessary to be acquired for the project.

(d) County and municipal governments will be notified in writing upon the approval of their right-of-way project application and of the approval of the right-of-way maps prerequisite for State participation in the right-of-way acquisition costs of each particular approved project.

(e) County and municipal governments requesting State participation in the cost of acquiring right-of-way shall submit appraisals of property to be acquired on appraisal forms provided by the Department of Transportation and which have been prepared in accordance with Department of Transportation Manual standards and requirements.

(f) In advance of the institution for any property, the appraisals shall be submitted by the concerned county or municipality to the appropriate New Jersey Department of Transportation Right of Way Division District Office for review and a fair market value participation certification.

(g) Upon completion of the review and the registration of the fair market value, the local government will be notified in writing by the State of the registered cost participation amount established as a result of the appraisal review for each parcel on the project. Subject to the availability of funds, the registered cost participation amount will govern the State's reimbursement participation for a particular parcel except, in condemnation awards resulting from contested court adversary proceedings.

(h) Subject to the availability of funds, the State will participate in the actual amount of such court awards providing they are not substantially in excess of the approved parcel participation amount in which instances, the concerned

**TRANSPORTATION**

**EMERGENCY ADOPTION**

county or municipality shall normally appeal the award.

(i) Right of way acquisition activities by counties and municipalities shall be conducted in accordance with all requirements and conditions set forth within the State of New Jersey Uniform Eminent Domain Law of 1971, N.J.S.A. 20:3-1 et seq.

(j) Where owner or tenant occupants of any property being acquired for the project will be displaced, the county or municipality shall provide a Relocation Plan and accomplish Relocation Assistance in accordance with the State Department of Community Affairs Relocation Assistance Act, N.J.S.A. 20:4-1 et seq., and with all published procedures, conditions and requirements of the State Department of Community Affairs pertaining to this statute.

(k) Reimbursement claims for lands and/or easements on approved projects and parcels shall be presented on invoice forms provided by the State accompanied by satisfactory evidence of legal ownership of the property by the county and/or municipality, as applicable. Other costs incurred incidental to the right-of-way acquisition shall not be reimbursable.

(l) Where properties have been acquired with State participation and are later declared by the county or municipality as excess to the project and are in turn sold, the participation amount shall be then returned to the State.

(m) These procedures are limited to direct State funded, State-aid projects and are not applicable to Federally funded State-aid projects.

Municipalities Qualified for  
Depressed Rural Centers Aid

APPENDIX I

County	Municipality
Burlington	Beverly City
Burlington	Wrightstown Borough
Gloucester	Swedesboro Borough
Hunterdon	Frenchtown Borough
Hunterdon	Hampton Borough
Hunterdon	High Bridge Borough
Middlesex	Lambertville City
Monmouth	Jamesburg Borough
Monmouth	Shrewsbury Township
Morris	Netcong Borough
Morris	Victory Gardens Borough
Ocean	Lakehurst Borough
Salem	Woodstown Borough
Somerset	South Bound Brook Borough
Sussex	Sussex Borough
Union	Winfield Township
Warren	Alpha Borough

Municipalities Qualified for  
Urban Aid Funding

APPENDIX II

Asbury Park City	East Orange City
Bayonne City	Elizabeth City
Belleville Township	Englewood City
Bloomfield Township	Garfield City
Bridgeton City	Gloucester Township
Camden City	Hamilton Township (Mercer)
Carteret Borough	Hillside Township

Hoboken City  
Irvington Town  
Jackson Township  
Jersey City  
Keanburg Borough  
Kearny Town  
Lakewood Township  
Lindenwold Borough  
Lodi Borough  
Long Branch City  
Millville City  
Montclair Township  
Neptune Township  
Newark City  
New Brunswick City  
North Bergen Township  
Old Bridge Township

Orange City  
Passaic City  
Paterson City  
Pemberton Township  
Pennsauken Township  
Perth Amboy City  
Phillipsburg Town  
Plainfield City  
Rahway City  
Roselle Borough  
Trenton City  
Union City  
Vineland City  
Weehawken Township  
West New York Town  
Willingboro Township  
Winslow Township  
Woodbridge Township

CHAPTER 20B  
1984 NEW JERSEY TRANSPORTATION  
TRUST FUND AUTHORITY ACT  
MUNICIPAL AID

SUBCHAPTER 1. GENERAL PROVISIONS

16:20B-1.1 Appropriation of funds

1984 New Jersey Transportation Trust Fund Authority Act funds are appropriated by the Legislature as the State's share of the cost for the improvement of public highways under municipal jurisdiction.

16:20B-1.2 Standards

(a) The proposed road and bridge improvement projects shall conform to the design criteria of the appropriate American Association of State Highway and Transportation Officials publications listed below:

1. Geometric Design Guide for Resurfacing, Restoration and Rehabilitation (R-R-R) of Streets;
2. A Policy on Geometric Design of Rural Highways;
3. A Policy on Arterial Highways in Urban Areas;
4. Geometric Design Guide for Local Roads and Streets;
5. Standard Specifications for Highway Bridges.

(b) Any exceptions to the above design criteria must be justified by the municipal engineer to be in the public interest.

(c) All workmanship and materials shall conform with the New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction.

16:20B-1.3 Applications and agreements

(a) Each municipality may submit fully executed applications and agreements for 1984 New Jersey Transportation Trust Fund Authority Act funds to the Local Aid District Office of the New Jersey Department of Transportation.

(b) Application and agreement forms are available to the municipalities at the district offices.

16:20B-1.4 Procedures

(a) The application and agreement provides for an engineering description of the existing road or bridge and the description of the proposed road improvement indicating the right-of-way width, paved and graded widths, shoulder widths, type and depth of proposed pavement and an estimate of the cost of the proposed work. The district offices shall make a field investigation of all projects for which applications have been received.

## EMERGENCY ADOPTION

(b) Applications will be evaluated by a screening committee comprised of municipal engineers and staff of the New Jersey Department of Transportation appointed by the Commissioner of Transportation. Recommendations will be presented to the Commissioner of Transportation for consideration. In project approval, consideration will be given to the volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity.

(c) Upon approval of the project by the Commissioner of Transportation, the Department will enter into an agreement with the municipality to determine a firm progress and funding schedule for each project.

(d) State aid funds for municipal projects in each county will be allocated according to the formula set forth in the legislation appropriating said funds. For the purpose of said formula, population figures will be obtained from the New Jersey Department of Labor and municipal road mileage will be determined by the New Jersey Department of Transportation.

### 16:20B-1.5 Contracts

All work must be performed by the contract method unless otherwise approved by the State.

### 16:20B-1.6 Discretionary funds

Annually, subject to funds appropriated by the Legislature, a Discretionary Fund shall be established to address emergency and critical municipal transportation projects. Any municipality may make application to the Department of Transportation at any time. The rapid construction, reconstruction, or rehabilitation of these type projects will reduce undue hardships to the traveling public or correct unsafe conditions in a timely fashion. All rules, regulations and procedures included in this chapter shall apply except that due to the nature of the projects, applications will not be evaluated by a Municipal Engineers Screening Committee. Final project approvals will be at the discretion of the Commissioner of Transportation.

## SUBCHAPTER 2. PLANS AND SPECIFICATIONS

### 16:20B-2.1 Municipal responsibility

(a) The municipality shall be responsible for engaging a professional engineer registered in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering and inspection and material testing as required.

(b) The municipality will provide such maps, reports, construction plans and specifications and contract documents as may be required by the State.

## SUBCHAPTER 3. CONTRACTS

### 16:20B-3.1 Award of contract

(a) The municipality will advertise and award the contract, subject to the approval of the State, in accordance with the provisions of local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Within 10 days, or such longer time as the Local Aid District Office will approve, following the receipt of construction bids, the municipality shall submit the following to the Local Aid District Office:

1. Two copies of the contract plans and specifications;
2. Two copies of the engineer's estimate of cost;
3. Two copies of the summary of construction bids;

## TRANSPORTATION

4. A resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department.

(c) When all information relative to the bidding has been approved by the State, the municipality shall be advised of the approval of the award of contract.

### 16:20B-3.2 Contract completion and payment

(a) The State will pay funds on a reimbursement basis after acceptance by the municipality and the State of the work completed. Progress payments may be made on a monthly basis when requested by the municipality when the total amount of reimbursement requested is not less than \$5,000. Vouchers submitted for project payments shall include a statement of the work performed certified by the municipal engineer.

(b) When all work has been completed satisfactorily, the municipality will prepare and submit to the Local Aid District Office the following:

1. A statement of the work performed, certified by the municipal engineer, for acceptance and approval of the completed work;
2. A certification by the municipal auditor that the project's records have been examined and all expenditures are supported by valid documentation;
3. A request for reimbursement by the State on vouchers to be supplied by the State.

(c) After a final inspection of the completed work by the State and a determination has been made by audit that all documents are in proper order, action shall be taken to reimburse the municipality.

(d) The municipality shall maintain complete documentation of the project for a period of three years after receiving reimbursement by the State. An evaluation of the acceptability of the work by the Department and a determination of the extent of State participation in the cost thereof will be based on an inspection of the completed project and a review of the documentation maintained by the municipality.

## SUBCHAPTER 4. STATE PARTICIPATION IN COST

### 16:20B-4.1 General requirements

(a) State participation shall not exceed the lesser of either 100 percent of the cost of the completed construction work including construction supervision, inspection and material testing or the project appropriation. Except as hereinafter provided, the cost of design engineering and right-of-way acquisition shall be borne totally by the municipality.

(b) Subject to the availability of funds, State Aid participation in projects initiated by municipalities qualified by the Department of Community Affairs for Urban Aid funding under P.L. 1978, Chapter 14 as amended by P.L. 1983, Chapter 384 or for Depressed Rural Centers Aid may, at the discretion of the Department of Transportation, be increased up to 100 percent of total project cost including design engineering, right-of-way acquisition and construction (see qualified municipalities listed in Appendices I and II).

### 16:20B-4.2 Cost of engineering, inspection and construction supervision

(a) In the case of qualified municipalities, the State may participate in the cost of engineering accomplished by either a consultant engaged by the municipality or by their full time engineering staff. Prior approval of the State's participation in the cost of engineering fees shall be obtained before any engineering services are performed.

## TRANSPORTATION

## EMERGENCY ADOPTION

(b) Local governments desiring State participation in the cost of engineering shall submit to the Department of Transportation a list of the scope of services to be performed by the engineer. The State shall participate in accordance with the percentage range as outlined in the current policy and procedure of the Department concerning engineering fees.

(c) Payment for engineering fees shall be made on a reimbursement basis. Claims shall be presented on forms provided by the State.

(d) The State shall also participate in the cost of inspection and construction supervision including the necessary material testing. The State shall participate in accordance with the percentage range as outlined in the current policy and procedure of the Department concerning inspection and construction supervision fees.

### 16:20B-4.3 Cost of right-of-way acquisition

(a) In the case of qualified municipalities, the State may participate on a reimbursement basis in the cost of lands and/or easement rights acquired for right-of-way.

(b) Cost is the actual purchase price amount paid for each parcel of land or easement rights acquired for the project as a result of a negotiated purchase agreement or, where negotiations have failed, the just compensation amount awarded by the courts for a particular parcel as a result of a subsequent condemnation action.

(c) Municipalities requesting State participation in the cost of right-of-way acquisition shall in advance of any right-of-way acquisition activity for the project make application to the Local Aid District Office and provide right-of-way maps depicting the lands and/or easement rights necessary to be acquired for the project.

(d) Municipal governments will be notified in writing upon the approval of their right-of-way project application and of the approval of the right-of-way maps prerequisite for State participation in the right-of-way acquisition costs of each particular approved project.

(e) Municipal governments requesting State participation in the cost of acquiring right-of-way shall submit appraisals of property to be acquired on appraisal forms provided by the Department of Transportation and which have been prepared in accordance with Department of Transportation Manual standards and requirements.

(f) In advance of the institution of negotiations for any property, the appraisals shall be submitted by the concerned municipal government to the appropriate New Jersey Department of Transportation Right of Way Division District Office for review and a fair market value participation certification.

(g) Upon completion of the review and the registration of the fair market value, the local government will be notified in writing by the State of the registered cost participation amount established as a result of the appraisal review for each parcel on the project. Subject to the availability of funds, the registered cost participation amount will govern the State's reimbursement participation for a particular parcel except, in condemnation awards resulting from contested court adversary proceedings.

(h) Subject to the availability of funds, the State will participate in the actual amount of such court awards providing they are not substantially in excess of the approved parcel participation amount in which instances, the concerned municipal government shall normally appeal the award.

(i) Right-of-way acquisition activities by municipal governments shall be conducted in accordance with all requirements and conditions set forth within the State of New Jersey Uniform Eminent Domain Law of 1971, N.J.S.A. 20:30-1 etc.

(j) Where owner or tenant occupants of any property being acquired for the project will be displaced, the municipal government shall provide a Relocation Plan and accomplish Relocation Assistance in accordance with the State Department of Community Affairs Relocation Assistance Act, N.J.S.A. 20:4-1 et seq., and with all published procedures, conditions and requirements of the State Department of Community Affairs pertaining to this statute.

(k) Reimbursement claims for lands and/or easements on approved projects and parcels shall be presented on invoice forms provided by the State accompanied by satisfactory evidence of legal ownership of the property by the municipal government, as applicable. Other costs incurred incidental to the right-of-way acquisition shall not be reimbursable.

(l) Where properties have been acquired with State participation and are later declared by the municipal government as excess to the project and are in turn sold, the participation amount shall be then returned to the State.

(m) These procedures are limited to direct State funded, State-aid projects and are not applicable to Federally funded State-aid projects.

**EMERGENCY ADOPTION**

**TRANSPORTATION**

**APPENDIX I**  
Municipalities Qualified for  
Depressed Rural Centers Aid

<u>County</u>	<u>Municipality</u>
Burlington	Beverly City
Burlington	Wrightstown Borough
Gloucester	Swedesboro Borough
Hunterdon	Frenchtown Borough
Hunterdon	Hampton Borough
Hunterdon	High Bridge Borough
Hunterdon	Lambertville City
Middlesex	Jamesburg Borough
Monmouth	Allentown Borough
Monmouth	Shrewsbury Township
Morris	Netcong Borough
Morris	Victory Gardens Borough
Ocean	Lakehurst Borough
Salem	Woodstown Borough
Somerset	South Bound Brook Borough
Sussex	Sussex Borough
Union	Winfield Township
Warren	Alpha Borough

**APPENDIX II**  
Municipalities Qualified for  
Urban Aid Funding

Asbury Park City	Millville City
Bayonne City	Montclair Township
Belleville Township	Neptune Township
Bloomfield Townshihp	Newark City
Bridgeton City	New Brunswick City
Camden City	North Bergen Township
Carteret Borough	Old Bridge Township
East Orange City	Orange City
Elizabeth City	Passaic City
Englewood City	Paterson City
Garfield City	Pemberton Township
Gloucester Township	Pennsauken Township
Hamilton Township (Mercer)	Perth Amboy City
Hillside Township	Phillipsburg Town
Hoboken City	Plainfield City
Irvington Town	Rahway City
Jackson Township	Roselle Borough
Jersey City	Trenton City
Keanburg Borough	Union City
Kearny Town	Vineland City
Lakewood Township	Weehawken Township
Lindenwold Borough	West New York Town
Lodi Borough	Willingboro Township
Long Branch City	Winslow Township
	Woodbridge Township

# MISCELLANEOUS NOTICES

## ENVIRONMENTAL PROTECTION

NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(a)

(b)

### DIVISION OF WATER RESOURCES

### DIVISION OF WATER RESOURCES

#### Amendment to the Mercer County Water Quality Management Plan

#### Amendment to the Monmouth County Water Quality Management Plan

##### Public Notice

##### Public Notice

**Take notice** that Mercer County has submitted for approval an amendment to the Mercer County Water Quality Management (WQM) Plan concerning the delineation of sewer service areas in Hamilton Township. This amendment proposes to include within the sewer service area of the Hamilton Township Water Pollution Control Board additional parcels of land within Hamilton Township generally west of U.S. Route 130 to the corporate boundary. The amendment also designates Crosswicks Marsh, Great Bear Swamp, and the wetlands along the Assunpink Creek as areas where sewer service will not be provided (wetlands delineation will be established on a case-by-case basis). All land development within the designated sewer service area will be subject to the approved policies and provisions of the Non-Point Source Control component of the WQM Plan applicable to land development. A Stormwater Control Program will be implemented for the county, municipality, and/or individual land developments to mitigate the impacts of land development on ground water within the Raritan-Magothy aquifer recharge area within Hamilton Township.

**Take notice** that the Township of Ocean Sewerage Authority (TOSA) has submitted for approval a plan amendment for the Monmouth County Water Quality Management (WQM) Plan, according to the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4). The proposed amendment provides for the expansion of the TOSA sewage treatment plant from the current design capacity of 3.0 million gallons per day (mgd) to 7.5 mgd, at secondary treatment. The increased capacity will be used to serve present and future flows in the Township of Ocean and in the Borough of Deal. The Deal treatment plant, a primary facility with a design capacity of .28 mgd, will be abandoned as a result of this expansion. A compliance schedule for the expansion of the TOSA plant and abandonment of the Deal plant will be included as part of the amended NJPDES permits.

**This notice** is being given to inform the public that a plan amendment has been developed for the Mercer County WQM Plan. All information dealing with the aforesaid WQM Plan, the "New Jersey Water Quality Planning Act," and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards located at 25 Arctic Parkway in the Township of Ewing, Mercer County. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

**This notice** is being given to inform the public that a plan amendment has been developed for the Monmouth County WQM Plan. All information dealing with the aforesaid WQM Plan, the "New Jersey Water Quality Planning Act," and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards located at 25 Arctic Parkway in the Township of Ewing, Mercer County. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

**Interested persons** may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

**Interested persons** may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any **interested person** may request in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to George Horzepa at the

Any **interested person** may request in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to George Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

## LABOR

(a)

### THE COMMISSIONER

#### 1985 Taxable Wage Base Under the Unemployment Compensation Law

##### Notice of Correction: N.J.A.C. 12:15-1.4

An error appears in the September 4, 1984 issue of the New Jersey Register at 16 N.J.R. 2344(a) concerning 1985 taxable wage base under the Unemployment Compensation Law. N.J.A.C. 12:15-1.4 should have appeared as follows:

12:15-1.4 Taxable wage base under the Unemployment Compensation Law

(a) In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first [\$9,600] **\$10,100** during the calendar year [1984] **1985**.

(b)

### THE COMMISSIONER

#### Worker's Compensation Benefit Rates for 1985

##### Notice of Correction: N.J.A.C. 12:235-1.5.

An error appears in the Social Impact Statement appearing in the September 4, 1984 issue of the New Jersey Register at 16 N.J.R. 2346(a) concerning the regulation Workers' Compensation Benefit Rates for 1985, N.J.A.C. 12:235-1.5. The Social Impact Statement should have appeared as follows:

##### Social Impact

The proposed amendment will increase from \$255.00 to \$269.00 the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate for temporary disability, permanent total disability, and dependency under the Worker's Compensation Law.

## TREASURY-GENERAL

(c)

### DIVISION OF BUILDING AND CONSTRUCTION

#### New Project Solicitation of Design Services

Applications (DBC Form 48B) for the project described below are due in DBC no later than 5:00 P.M., September 7, 1984, and shall be submitted to the attention of Ron Wengerd, Secretary of the A/E Selection Board. Submissions received after this time and date will not be considered. If not currently prequalified by DBC, applicants must have submitted a completed DBC Form 48A by the closing date of August 31, 1984.

DBC No: E139

Title: Facility Inventory and Master Plan  
Marie H. Katzenbach School for the Deaf  
West Trenton, NJ

DBC is seeking to engage the services of an architectural firm to develop a comprehensive facility inventory and master plan for the referenced institution. The study will include an inventory and assessment of all existing buildings and utilities as well as an analysis of present and projected educational, operational, and maintenance requirements in harmony with all applicable codes, regulations, and the program philosophy of the Department of Education and the institution.

Only architectural firms with a DBC Rating of \$5,000,000 or more and relevant experience will be considered. At least one firm of a Joint Venture must have a DBC Prequalification Rating of \$5,000,000. Applicants must identify their pertinent engineering and specialty consultants on the 48B submittal.

(d)

### DIVISION OF BUILDING AND CONSTRUCTION

#### New Project Solicitation of Design Services

Applications (DBC Form 48B) for the project described below are due in DBC no later than 5:00 P.M., September 21, 1984, and shall be submitted to the attention of Ron Wengerd, Secretary of the A/E Selection Board. Submissions received after this time and date will not be considered. If not currently prequalified by DBC, applicants must have submitted a completed DBC Form 48A by the closing date of September 14, 1984.

**TREASURY-GENERAL**

**MISCELLANEOUS NOTICES**

DBC No.: P450  
CCE: \$1,000,000  
Title: Closure Levee-North Cove  
Liberty State Park  
Jersey City, NJ

DBC is seeking to engage the services of a civil engineering firm to prepare program and design documents and to administer construction contracts for the referenced project. The scope of work calls for the development of a protective closure levee approximately 1800 linear feet along the perimeter of the North Cove to prevent flooding of the upland of the park, conforming to the existing seawall design and allowing for appropriate landscaping in back of the levee for recreational purposes. Relocation of existing utility lines will be required.

Only civil engineering firms with a DBC Rating of \$2,500,000 or higher and relevant waterfront experience will be considered. At \$2,500,000 or more. Applicants must identify their pertinent specialty consultants on the 48B submittal.

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**DIVISION OF BUILDING AND  
CONSTRUCTION**

**New Project  
Solicitation of Design Services**

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Wengerd, Secretary of the A/E Selection Board. Submissions received after this time and date will not be considered. If not currently prequalified by DBC, applicants must have submitted a completed DBC Form 48A by the closing date of September 14, 1984.

DBC No.: P453  
CCE: \$1,000,000  
Title: Fire Engine Museum  
Allaire State Park  
Wall Township, Monmouth County

DBC is seeking to engage the services of an architectural firm to prepare program and design documents and to administer construction contracts for a new museum building to exhibit fire engine equipment and to tell the history of firefighting in New Jersey. Design of the associated utility and site requirements and development of the interpretive program for the presentation of the firefighting artifacts are included in the scope of services to be provided by the selected consultant.

Only architectural firms with a DBC Rating of \$2,500,000 or higher and relevant museum and/or exhibit experience will be considered. At least one firm of a Joint Venture must have a DBC Rating of \$2,500,000 or more. Applicants must identify their site/landscape, electrical/mechanical, and any specialty consultants on their 48B submittal.

# INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between September 6, 1983 and September 4, 1984, and which have not been adopted and filed by August 29, 1984. **The index does not contain rules proposed in this Register and listed in the Table of Rules in This Issue. These proposals will appear in the next Index of Proposed Rules.**

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings  
CN 301  
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
<b>ADMINISTRATIVE LAW—TITLE 1</b>			
1:1-1.3	Reaching the merits	9-6-83	15 N.J.R. 1398(a)
1:1-2.2	Jurisdiction of OAL	7-2-84	16 N.J.R. 1636(a)
1:1-3.3	Transcripts at public expense for use on appeal	7-16-84	16 N.J.R. 1834(a)
1:1-3.7, 3.12, 3.13	Lay representation in contested cases	6-18-84	16 N.J.R. 1408(a)
1:1-5.2	Notification of second jurisdictional claims	9-4-84	16 N.J.R. 2320(a)
1:1-17.1	Approving the settlement	9-6-83	15 N.J.R. 1401(a)
1:2-2.10	Lay representation in contested cases	6-18-84	16 N.J.R. 1408(a)
1:2-3.4	Motor vehicle surcharge cases failure to appear at in-person hearing	8-20-84	16 N.J.R. 2186(a)
1:6A-3.1	Special education hearings: emergency relief applications	4-16-84	16 N.J.R. 780(a)
1:6A-4.2	Lay representation in contested cases	6-18-84	16 N.J.R. 1408(a)
1:6A-5.3	Special education hearings: transfer of record	3-5-84	16 N.J.R. 408(a)
1:10-17.1	Division of Public Welfare cases	5-7-84	16 N.J.R. 945(a)
<b>AGRICULTURE—TITLE 2</b>			
2:5-4	Area quarantine for avian influenza (with Emergency Adoption)	12-19-83	15 N.J.R. 2176(a)
2:52-2.1, 2.2, 3.1, 3.2	Changes in milk suppliers: notice requirements	8-6-84	16 N.J.R. 2028(a)
2:52-6.1, 6.2, 6.3	Determining the cost of milk and milk products	8-6-84	16 N.J.R. 2030(a)
2:53-3.2	Determining the cost of milk and milk products	8-6-84	16 N.J.R. 2030(a)
2:53-4.1, 4.2	Changes in milk suppliers: notice requirements	8-6-84	16 N.J.R. 2028(a)
2:90-2	Eligible projects for soil and water conservation cost sharing	6-18-84	16 N.J.R. 1416(a)
<b>BANKING—TITLE 3</b>			
<b>CIVIL SERVICE—TITLE 4</b>			
4:1-1.1-1.10	Purpose and application of rules	5-21-84	16 N.J.R. 1132(a)
4:1-2.1	Words and phrases defined	8-20-84	16 N.J.R. 2187(a)
4:1-5.5	Awarding back pay	1-17-84	16 N.J.R. 97(a)
4:1-10.2, 13.9, 13.10	Working test period; seniority and promotions	6-4-84	16 N.J.R. 1296(a)
4:1-14.6	Interim appointments and return to permanent titles	5-21-84	16 N.J.R. 1134(a)
4:1-14.7	Emergency appointments	8-20-84	16 N.J.R. 2191(a)
4:1-18.3	Compensation for holidays	6-18-84	16 N.J.R. 1421(a)
4:2-8.1	Seniority and promotions	6-4-84	16 N.J.R. 1296(a)
4:2-14.1	Interim appointments and return to permanent titles	5-21-84	16 N.J.R. 1134(a)
4:2-18.1, 18.2, 18.3	Compensation for holidays	6-18-84	16 N.J.R. 1421(a)
4:3-8.3	Seniority and promotions	6-4-84	16 N.J.R. 1296(a)
4:3-14.2	Interim appointments and return to permanent titles	5-21-84	16 N.J.R. 1134(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
<b>COMMUNITY AFFAIRS—TITLE 5</b>			
5:22	Readopt tax exemption rules for improvements to residential dwellings	8-20-84	16 N.J.R. 2191(b)
5:23-4.12	Uniform Construction Code: private enforcing agencies	9-4-84	16 N.J.R. 2321(a)
5:23-4.12, 4.22, 4.25	UCC: private enforcing agencies; premanufactured construction	8-6-84	16 N.J.R. 2031(a)
5:23-5.4	Uniform Construction Code: inspector trainees	7-2-84	16 N.J.R. 1643(a)
5:23-5.5	Uniform Construction Code: engineer and architect licensure; fire service experience	7-2-84	16 N.J.R. 1644(a)
5:26-1.1, 1.3, 1.4, 3.1, 4.3, 9.3, 11.3	Planned real estate full disclosure	8-6-84	16 N.J.R. 2032(a)
5:27-5.3	Fire safety in rooming and boarding houses	2-21-84	16 N.J.R. 299(a)
5:31	Local Finance Board: local authorities	7-16-84	16 N.J.R. 1835(a)
5:80-6	Housing and Mortgage Finance Agency projects: Tenant Selection Standards	5-7-84	16 N.J.R. 954(a)
5:80-7	Housing and Mortgage Finance Agency: housing sponsor's role	8-6-84	16 N.J.R. 2178(a)
<b>EDUCATION—TITLE 6</b>			
6:11-1-8	Teacher Preparation and Certification	7-2-84	16 N.J.R. 1646(a)
6:11-12	Readopt Supplement to Standards for State Approval of Teacher Education	7-16-84	16 N.J.R. 1841(a)
6:22-1.8	School districts: long-range facilities plans	7-16-84	16 N.J.R. 1850(a)
6:39-1	Evaluation: readopt Statewide Assessment rules	7-16-84	16 N.J.R. 1852(a)
<b>ENVIRONMENTAL PROTECTION—TITLE 7</b>			
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7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control	8-20-84	16 N.J.R. 2193(a)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	6-4-84	16 N.J.R. 1306(a)
7:13-1.11(d)49	Floodway delineations in Union County	5-21-84	16 N.J.R. 1146(a)
7:13-1.11(d)51	Floodways along North Branch Raritan (Project U)	6-4-84	16 N.J.R. 1307(a)
7:13-7.1(c)31	Project MR floodway delineations in Warren, Hunterdon, Sussex and Morris counties	7-16-84	16 N.J.R. 1863(a)
7:13-7.1(d)42	Floodway delineation along Green Brook in Somerset and Union counties	7-16-84	16 N.J.R. 1864(a)
7:13-7.1(d)52	Supplemental Project I floodway delineations in the Passaic River Basin	7-16-84	16 N.J.R. 1865(b)
7:19-5	Small water company takeover	3-19-84	16 N.J.R. 563(a)
7:19A	Emergency Water Supply Allocation Plan rules	2-21-84	16 N.J.R. 308(a)
7:19B	Emergency Water Surcharge Schedule	2-21-84	16 N.J.R. 314(a)
7:20	Dam Safety Standards	4-16-84	16 N.J.R. 790(a)
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	6-4-84	16 N.J.R. 1309(a)
7:25-4.19	Endangered and Nongame Species Advisory Committee	8-6-84	16 N.J.R. 2033(a)
7:25-5.29	1984 shotgun deer season permit quotas	8-20-84	16 N.J.R. 2195(a)
7:25-6	1985-86 Fish Code	8-6-84	16 N.J.R. 2034(a)
7:25-16.1	Readopt freshwater fishing license lines	8-6-84	16 N.J.R. 2044(a)
7:25-18.2	Ocean and bay pound nets	7-16-84	16 N.J.R. 1866(a)
7:25-22.2	Purse seine fishing of menhaden	7-2-84	16 N.J.R. 1668(a)
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	6-18-84	16 N.J.R. 1425(a)
7:26-1.4, 2.6, 2.10, 2.13, 3.5	Disposal of asbestos waste	3-5-84	16 N.J.R. 440(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow	5-7-84	16 N.J.R. 1000(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow	5-21-84	16 N.J.R. 1149(a)
7:26-7.3-7.6	Hazardous waste: national uniform manifest system	8-6-84	16 N.J.R. 2044(b)
7:26-10.7	Hazardous waste incinerators	8-6-84	16 N.J.R. 2046(a)
7:27	Air quality standards: State Implementation Plan for lead	7-2-84	16 N.J.R. 1669(a)
7:27-8	Air pollution control: permits and Certificates	7-2-84	16 N.J.R. 1671(a)
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	7-2-84	16 N.J.R. 1676(a)
7:27-18.1, 18.2, 18.3, 18.4, 18.7	Air pollution control: emission offset rules	7-2-84	16 N.J.R. 1679(a)
7:29-1.1-1.5	Noise control	7-2-84	16 N.J.R. 1682(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
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8:31-30.1	Health care facilities: computing plan review fee	8-6-84	16 N.J.R. 2047(a)
8:31A-7	SHARE: Rate Review Guidelines	5-7-84	16 N.J.R. 1002(a)
8:31B-3	Hospital reimbursement: procedure and methodology	9-4-84	16 N.J.R. 2321(b)
8:31B-3.23, 3.24, 3.43, 3.75	Hospital rate setting; outpatient dialysis reimbursement hospital-based physician costs	4-2-84	16 N.J.R. 669(a)
8:31B-4.6, 4.65	Hospital reimbursement: financial elements and reporting	9-4-84	16 N.J.R. 2326(a)
8:33E-2.1-2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	8-20-84	16 N.J.R. 2196(a)
8:33H-2.1, 3.1-3.6	Long term care facilities and services: need review	8-20-84	16 N.J.R. 2200(a)
8:33I-1	Megavoltage radiation oncology services: need review	8-20-84	16 N.J.R. 2205(a)
8:35	Repeal (see 8:43B-8)	2-6-84	16 N.J.R. 188(a)
8:43A	Ambulatory Care Facilities: readopt standards for licensure	8-20-84	16 N.J.R. 2208(a)
8:43B-8	Hospital licensure: obstetric and newborn services	2-6-84	16 N.J.R. 188(a)
8:59	Worker and Community Right to Know Act	7-16-84	16 N.J.R. 1869(a)
8:59-3	Worker and Community Right to Know: Trade Secrets (see also 7:1G-6)	7-16-84	16 N.J.R. 1924(a)
8:65-2	Readopt Security Requirements over Controlled Dangerous Substances	6-4-84	16 N.J.R. 1311(a)
8:65-7	Prescription requirements for controlled dangerous substances	9-4-84	16 N.J.R. 2327(a)
8:65-10.1	Controlled dangerous substances, Schedule I: Alfentanil	9-4-84	16 N.J.R. 2332(a)
8:71	Generic drug list additions (see 16 N.J.R. 142(b), 1093(a))	11-7-83	15 N.J.R. 1819(a)
8:71	Additions to generic drug list (see 16 N.J.R. 1092(a), 1595(a), 1994(a))	2-6-84	16 N.J.R. 202(a)
8:71	Generic drug list additions	6-18-84	16 N.J.R. 1436(a)
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9:2-4, 5, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	8-20-84	16 N.J.R. 2216(a)
9:2-11	Recodify as 9:7-7	8-20-84	16 N.J.R. 2218(a)
9:2-14	Monitoring of violence and hazing on campus	7-16-84	16 N.J.R. 1930(a)
9:5-2	Tuition-free job training courses	7-16-84	16 N.J.R. 1931(a)
9:6	State College: policies and standards	8-20-84	16 N.J.R. 2209(a)
9:7-3.1	Tuition Aid Grant Award Table, 1984-85 (with Emergency Adoption)	8-20-84	16 N.J.R. 2308(a)
9:7-7	Readopt Veteran's Tuition Credit Program	8-20-84	16 N.J.R. 2218(a)
9:9-1.16	Defaulted student loans: interest liability	5-7-84	16 N.J.R. 1012(a)
9:9-9.2	PLUS Program: direct loan prerequisites	5-7-84	16 N.J.R. 1012(b)
9:11-1.7	Educational Opportunity Fund: undergraduate grants	7-16-84	16 N.J.R. 1932(a)
<b>HUMAN SERVICES—TITLE 10</b>			
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10:49-1.1	Medicaid eligibility	8-20-84	16 N.J.R. 2219(a)
10:49-1.7	Administration Manual: utilization of insurance benefits	7-16-84	16 N.J.R. 1933(a)
10:52-1.2, 1.3	Covered and non-covered inpatient hospital services	3-19-84	16 N.J.R. 483(a)
10:53-1.2, 1.3	Covered and non-covered inpatient hospital services	3-19-84	16 N.J.R. 483(a)
10:54-1.3	Progress notes for mental health providers	9-4-84	16 N.J.R. 2333(a)
10:54-3	Preproposal: radioimmunoassay laboratory fees	4-2-84	16 N.J.R. 677(a)
10:54-3	Procedure Code Manual revisions	7-2-84	16 N.J.R. 1685(b)
10:56-1.11	Dental Services: utilization of insurance benefits	7-16-84	16 N.J.R. 1933(a)
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	8-6-84	16 N.J.R. 2048(a)
10:63-1.6	Changes in level of long-term care	8-6-84	16 N.J.R. 2049(a)

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL DATE</b>	<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>
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10:66-1.9	Progress notes for mental health providers	9-4-84	16 N.J.R. 2333(a)
10:67-1.6	Progress notes for mental health providers	9-4-84	16 N.J.R. 2333(a)
10:69A-6.9	PAAD: authorization to release prescription information	8-6-84	16 N.J.R. 2050(a)
10:69A-7.1	Pharmaceutical assistance: recovery of benefits correctly made	8-6-84	16 N.J.R. 2051(a)
10:81-3.34	PAM: Temporary absence of children from home	12-19-83	15 N.J.R. 2134(a)
10:81-6	PAM: complaints, hearings and administrative reviews	8-6-84	16 N.J.R. 2051(b)
10:81-2.19	ASH: recovery of overpayments	8-6-84	16 N.J.R. 2055(a)
10:82-3.1-3.7	ASH: resource eligibility in AFDC	3-19-84	16 N.J.R. 486(a)
10:82-4	ASH: readopt Income rules	9-4-84	16 N.J.R. 2336(b)
10:85-3.2, 4.6	GAM: nonresident eligibility; travel grants	8-20-84	16 N.J.R. 2219(a)
10:85-3.3	GAM: unearned income	8-6-84	16 N.J.R. 2056(a)
10:85-7	GAM: readopt Notices and Hearings rules	8-20-84	16 N.J.R. 2221(a)
10:99	Commodities and Services Council: Rehabilitation Facilities	9-4-84	16 N.J.R. 2338(a)
10:122B	Readopt Family Day Care Standards	7-16-84	16 N.J.R. 1936(a)
10:128	Residential Child Care rules	1-3-84	16 N.J.R. 10(b)
10:129	Readopt rules on Child Abuse and Neglect Cases	8-20-84	16 N.J.R. 2224(a)
10:133	Aversive conditioning of autistic patients	9-6-83	15 N.J.R. 1432(a)
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11:1-5	Readopt Administrative Orders and Declarations (FAIR Plan, cancellation of fire-casualty coverage, fire insurance premium tax)	7-2-84	16 N.J.R. 1689(a)
11:1-15	Petitions for rulemaking	8-20-84	16 N.J.R. 2224(b)
11:2-1.1	Required courses for licensees in property and casualty field	7-16-84	16 N.J.R. 1940(a)
11:2-1.3	Required courses for licensees in life and health field	7-16-84	16 N.J.R. 1943(a)
11:2-18, Exh. B	Readable policies: Affidavit of Compliance	7-16-84	16 N.J.R. 1945(a)
11:3-7.8, 7.9	PIP premium on additional automobiles	3-19-84	16 N.J.R. 488(a)
11:3-8	Nonrenewal of auto insurance policies	1-17-84	16 N.J.R. 120(a)
11:3-14.3, 14.4, 14.5	Auto insurance: Personal Injury Protection (PIP) options	7-2-84	16 N.J.R. 1692(a)
11:3-15.6	Auto insurance: Buyer's Guide and Written Notice requirements for PIP deductibles	7-2-84	16 N.J.R. 1693(a)
11:4-6	Reserve standards for individual health insurance policies	8-20-84	16 N.J.R. 2225(a)
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11:4-22	Correction: Gender Blended Mortality Tables	6-18-84	16 N.J.R. 1946(a)
11:5-1.19	Real estate branch offices	8-20-84	16 N.J.R. 2228(a)
11:5-1.24	Closing or transfer of real estate brokerage	8-20-84	16 N.J.R. 2228(b)
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11:15-2	Joint insurance funds for local government units	5-21-84	16 N.J.R. 1164(a)
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12:15-1.3	Unemployment Compensation and Disability: 1985 benefit rates	9-4-84	16 N.J.R. 2343(a)
12:15-1.4	Unemployment Compensation: 1985 taxable wage base	9-4-84	16 N.J.R. 2344(a)
12:15-1.5	Unemployment Compensations: 1985 Contribution rates for governmental entities	9-4-84	16 N.J.R. 2344(b)
12:15-1.6	Base week for Unemployment Compensation and Disability	9-4-84	16 N.J.R. 2345(a)

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL DATE</b>	<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>
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12:16-10	Hearings concerning unemployment and temporary disability insurance	8-20-84	16 N.J.R. 2240(a)
12:17-1.2-1.6, 3.1, 4.1, 4.2, 5.1, 11.2, 12	Unemployment benefit payments	8-20-84	16 N.J.R. 2237(a)
12:17-2.1, 2.2, 2.3	Income Security: registration for work and claims for benefits	6-18-84	16 N.J.R. 1456(a)
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12:20-3.2	Unemployment benefit payments	8-20-84	16 N.J.R. 2237(a)
12:90	Boilers, pressure vessels and refrigeration systems: safe operation	5-21-84	16 N.J.R. 1172(a)
12:100	Safety and health standards for public employees	8-6-84	16 N.J.R. 2057(a)
12:235-1.5	1985 Workers' Compensation Benefit Rates	9-4-84	16 N.J.R. 2346(a)
<b>COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A</b>			
12A	Departmental rules; small business set-aside contracts (see also 17:12-6).	7-16-84	16 N.J.R. 1955(a)
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14A:11-2	Readopt reporting rules for Supplies of Home Heating Oil	8-20-84	16 N.J.R. 2254(a)
14A:12-1	School boards and shared-savings contracts	8-20-84	16 N.J.R. 2255(a)
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16:30-2.9	Yield intersections along US 130, North Brunswick	8-6-84	16 N.J.R. 2070(b)
16:31-1.22	Turns on US 130 in North Brunswick	8-6-84	16 N.J.R. 2071(a)
16:32	Designated routes for special categories of trucks	10-3-83	15 N.J.R. 1644(a)
16:32-1.2	Pre-proposal: Regulation of 102-inch-wide trucks	10-3-83	15 N.J.R. 1636(b)
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16:49	Transportation of hazardous materials	3-19-84	16 N.J.R. 513(a)
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19:46-1.27	Gaming equipment: slot stools	9-6-83	15 N.J.R. 1465(a)
19:54-2	Investment obligations and investment alternative tax	11-21-83	15 N.J.R. 1931(a)

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**The following rules were proposed in the New Jersey Register, but have not been timely adopted and therefore have expired pursuant to N.J.A.C. 1:30-4.2(c).**

7:13-1.11(d)	Floodway delineation in Roseland, Essex County	8-15-84	15 N.J.R. 1313(a)
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