

NEW JERSEY



REGISTER

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* *The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State Agency rule changes, see the Register Index of Rule Proposals and Adoptions in this issue.*

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **February 6, 1985**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice.

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice

Rules of General Application

Rules for Summary Proceedings

Proposed Readoption: N.J.A.C. 1:1 and 1:2

Authorized By: Ronald I. Parker, Acting Director, Office of Administrative Law.

Authority: N.J.S.A. 52:14F-56(e), (f) and (g).

Proposal Number: PRN 1985-38.

Address comments and inquiries to:

Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Bldg. 9, CN 049
Quakerbridge Road
Trenton, NJ 08625

The agency proposal follows:

Summary

Executive Order No. 66(1978) mandates the "sunsetting" of administrative rules unless they are reviewed and readopted prior to their expiration. Pursuant to this Executive Order, the OAL is currently undergoing a thorough evaluation of its Rules of General Application and Rules for Summary Proceedings which will expire on June 19, 1985.

The OAL anticipates that the Governor's Committee on the Office of Administrative Law will soon be issuing its report concerning its recommendations on the OAL.

Before the OAL can proceed with proposing those changes which it believes are necessary, any recommendations for change contained in the Governor's Committee Report which would require implementation by the OAL must be known. The OAL wishes to have sufficient time to study the recommendations, to draft any necessary amendments and to proceed through rulemaking, which includes a preproposal and a public hearing.

Due to the uncertainty as to when the Governor's Committee Report will be issued, the OAL is proposing to readopt its uniform rules and summary proceeding rules in order to prevent their lapse on June 19, 1985. Once the report of the Governor's Committee is issued, the OAL will be better able to ensure that the rule changes it believes are necessary will conform to the Governor's Committee's recommendations.

The OAL's existing Rules of General Application have governed the conduct of contested and uncontested cases since their inception on July 1, 1980, subject to any Rules of Special Applicability. The Rules of General Application are divided into 17 subchapters summarized as follows:

NEW JERSEY REGISTER

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PROPOSALS

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AGRICULTURE

N.J.A.C. 1:1-1 concerns applicability, scope, citation, construction and relaxation of the contested case rules;

N.J.A.C. 1:1-2 discusses how a contested case commences and jurisdiction of the Office of Administrative Law;

N.J.A.C. 1:1-3 discusses how contested cases are conducted generally;

N.J.A.C. 1:1-4 explains how a period of time is computed or enlarged by rule or order;

N.J.A.C. 1:1-5 outlines how a contested case is filed and transmitted to the Office of Administrative Law and the format in which all papers must be filed;

N.J.A.C. 1:1-6 contains rules on pleading;

N.J.A.C. 1:1-7 explains how papers are served and filed;

N.J.A.C. 1:1-8 discusses the scheduling and conduct of proceedings, including first notice of hearing, prehearing conference and subpoenas;

N.J.A.C. 1:1-9 discusses motion procedures;

N.J.A.C. 1:1-10 discusses prehearing procedures and conferences;

N.J.A.C. 1:1-11 contains rules on discovery;

N.J.A.C. 1:1-12 contains rules on intervention and participation;

N.J.A.C. 1:1-13 describes motions for summary decision;

N.J.A.C. 1:1-14 contains rules concerning consolidation of cases multiple agency jurisdiction claims and determinations of predominant interest;

N.J.A.C. 1:1-15 contains evidence rules;

N.J.A.C. 1:1-16 discusses conclusions of hearing, proposed findings of fact, conclusions of law, forms of order, issuance of initial decisions, filing exceptions to initial decisions and issuance of a final decision;

N.J.A.C. 1:1-17 contains rules on settlements and withdrawals.

The Rules for Summary Proceedings (N.J.A.C. 1:2) were adopted on March 21, 1983. The rules contained in N.J.A.C. 1:2-2 govern the conduct of conference hearings in contested Civil Service Commission cases involving layoffs, disciplinary actions other than termination from employment, termination after probationary work period and upon request of the employee and termination from employment. The rules contained in N.J.A.C. 1:2-3 concern the conduct of hearings on the papers in contested Division of Motor Vehicles cases involving excessive points, other than license revocations, and Merit Rating Plan surcharges.

Social Impact

The readoption of OAL's existing Rules of General Application and Rules for Summary Proceedings will continue the existing procedures used in conducting hearings for contested and uncontested agency matters.

By means of these rules, a wide variety of disputes are addressed and resolved, and numerous members of the public, as well as State agencies and departments are impacted.

The 44 Administrative Law Judges hear approximately 10,000 contested cases between citizens and public entities annually. The disputes often are related to the regulatory efforts of the State agencies and department.

The present structure was created to supersede a procedure in which the individual agencies' own hearing officers conduct the hearings, and was designed to provide a more impartial setting for the conduct of contested cases.

The procedures which are proposed for readoption have resulted in prompt settlements and/or decisions in large numbers of contested matters. Their readoption will assure continuation of these procedures until the OAL can conclude its extensive study of the existing procedures.

Economic Impact

Office of Administrative Law believes that the current process, which is being continued by this readoption has resulted in substantial cost saving to the State. Statistics demonstrate that the current process is cost effective and substantially less expensive than the preexisting system.

The Report of the Governor's Committee on the OAL is expected to contain some economic observations on the OAL and its procedures. Once the report is issued, the OAL will be better able to assess economic implications.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 1:1 and 1:2.

AGRICULTURE

(a)

DIVISION OF MARKETS

New Jersey Sire Stakes Program Rules

Proposed Amendments: N.J.A.C. 2:32-2

Authorized By: Sire Stakes Board of Trustees; Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Authority: N.J.S.A. 5:5-91.

Proposal Number: PRN 1985-11.

Address comments and inquiries to:

John J. Repko, Director
Division of Markets
New Jersey Department of Agriculture
CN 330
Trenton, New Jersey 08625
Telephone (609) 292-5536

The agency proposal follows:

Summary

The New Jersey Sire Stakes is a thirteen year old program which has given the State of New Jersey prominence in Standardbred race horse breeding. The State is currently ranked in the top three states or provinces in North America for breeding standardbred race horses. The program has also resulted in preserving open space in New Jersey as a result of the increased number of horse farms. The proposed amendments attempt to insure that top quality horses are involved in the program. The amendments also provide for fees to be charged program participants and sanctions for violation of the procedures and rules.

The proposed amendment to N.J.A.C. 2:32-2.7 eliminates nomination payments for the New Jersey Pacing Classic and the Charles I. Smith Memorial Trotting Classic. This amendment includes nomination payments for the Lou Babic Pace and gives details on supplemental nominations.

The proposed amendment to N.J.A.C. 2:32-2.11 gives details on how money is allocated.

The proposed amendment to N.J.A.C. 2:32-2.16 gives details regarding entry fee payments and associated penalties for failure to make timely payments.

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The proposed amendment to N.J.A.C. 2:32-2.17 enumerates conditions for a satisfactory qualifying time for both the pari-mutuel and fair divisions.

The proposed amendment to N.J.A.C. 2:32-2.23 reflects an increase in first and second sustaining fees for both the fair and pari-mutuel divisions.

Amendment to N.J.A.C. 2:32-2.24 gives details for moving an event and locating it at another facility, and changing fees, dates and purses.

Proposed amendment to N.J.A.C. 2:32-2.25 eliminates the naming of specific fairs.

N.J.A.C. 2:32-2.32 has been eliminated since the New Jersey Sire Stakes program will no longer run any more baby races.

Proposed amendment 2:32-2.32 has replaced usage of money/earnings in determining entrance into finals and will now only use points for this determination.

Proposed amendment 2:32-2.35 sets the minimum purses which will be used in a final race. In the case of fair finals, the minimum purse has been lowered from \$20,000 to \$10,000 per class. This amendment also gives details as to how finalists are chosen.

Proposed amendment 2:32-2.37 brings dress requirements into alignment with the New Jersey Racing Commission rule concerning mandatory attire.

Proposed amendment 2:32-2.38 states penalties associated with the issuance of dishonored checks.

Proposed amendment 2:32-2.40 is a disclaimer about advertised purses.

Proposed amendment 2:32-2.41 eliminates payment of a \$1,000 award for the Fair's Universal Driver's Rating Award and the Fair dash winner.

Proposed amendment 2:32-2.42 allows the receipt of cash only for entry fees. All other fees must be paid by check or money order and payable in United States funds.

Proposed amendment 2:32-2.43 expands upon the invalid use of frozen, desiccated or transported semen.

Proposed amendment 2:32-2.44 details the receipt of revenues derived from the broadcasting of New Jersey Sire Stakes races.

Social Impact

The proposed amendments will affect owners, trainers and drivers of New Jersey Sire Stakes eligible horses who will be required to comply with the new provisions and procedures contained in the proposed amendments. Those affected number in excess of 6,500 persons, many of whom make their livings racing New Jersey bred horses.

Economic Impact

The proposed amendments reflect a stabilizing influence which was needed in order to balance the Sire Stakes Program budget. The budget had to be diminished due to the closing of Freehold Raceway. The budget balancing will take two different directions. On the expense side, the Sire Stakes purses will be slightly discounted. On the revenue side, the sustaining fees on all horses have been raised. The implication of these changes on individual horsemen will be minimal. It is believed that the monetary changes, in themselves, will not cause horsemen to abandon the New Jersey Sire Stakes program. In more concise terms, the overall decrease has gone from a high of approximately \$6.7 million in 1984, to an estimated \$5.8 million in 1985.

Amendment N.J.A.C. 2:37-2.7 benefits horsemen by allowing supplemental nomination payments. Even though the cost of a supplemental nomination is \$400.00 this is more than

offset by the added value a horse gains by its being eligible to the New Jersey Sire Stakes. The major advantage that the program gains by allowing a supplemental payment is hoped to be a reduction in litigation.

Amendment N.J.A.C. 2:32-2.12 increases entry fees at the Meadowlands by \$100.00. This increase was considered reasonable since purses at the Meadowlands are larger.

Amendment N.J.A.C. 2:32-2.16 attempts to reduce the number of accounts receivable, but does not affect the amounts paid to the program.

Amendment N.J.A.C. 2:32-2.17 will have minimal impact, but could slightly increase the number of pari-mutuel entries. On the other hand, it could diminish the number of fair entries.

Amendment N.J.A.C. 2:32-2.23 increased across the board all sustaining fees. Horsemen will pay up to \$200.00 per horse per year in order to race in the pari-mutuel division. Horsemen will pay up to \$100.00 per horse per year in order to race in the fair division. The estimated addition to Sire Stakes revenues is one-half million dollars.

Amendment N.J.A.C. 2:32-2.24 has minimal economic impact, but does allow the board of directors to alter fees and purses in an emergency situation.

Amendment N.J.A.C. 2:32-2.32 from 1984, involved eliminating baby races. The savings to the program from this action is estimated at \$21,000.

Amendment N.J.A.C. 2:32-2.35 reduces the minimal fair final purse from \$20,000 per race to \$10,000 per race for a total saving to the program of \$1,000.

Amendment to N.J.A.C. 2:32-2.38 gives details on penalties which could be enforced when dishonored checks are presented. Economic impact on the program is minimal. Impact upon the horsemen who receive the penalty can range from zero to thousands of dollars.

Amended N.J.A.C. 2:32-2.40 alerts horsemen to the fact that purses can change under certain conditions.

Amended N.J.A.C. 2:32-2.41 eliminates monetary awards for universal driver rating and the dash winner. The total loss to the horsemen and savings to the program is \$2,000.00.

Amendment N.J.A.C. 2:32-2.43 could slightly reduce the number of eligible yearlings in the Sire Stakes program. This would allow the remaining horses a better chance of winning purse money.

Amendment N.J.A.C. 2:32-2.44 establishes the criteria for the receipt of broadcasting revenues. If broadcasting revenues are received, then the subsequent years purses should reflect the addition of these funds.

The remaining amendments have no economic impact.

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

2:32-2.2 Certificate of mating

When a mare is bred to the New Jersey registered stallion, the stallion owner must supply the New Jersey Standardbred Breeders and Owners Association, the New Jersey Department of Agriculture and the United States Trotting Association a certificate of mating, stating that the mare has been [bread] **bred** to said stallion. The certificate is to be supplied by August 15 of the breeding season and must include the name and address of the owner of the mare that was bred.

2:32-2.4 Registration; deadlines

All Standardbred horses, to be eligible to compete in the New Jersey Sire Stakes Program, must be bred in the State of New Jersey and be the product of a registered New Jersey

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stallion. The stallion must be registered with the Standardbred Breeders and Owners Association of New Jersey as such and listed in their registry books no later than November 1 of each year. **Stallions being registered for the first time are granted an extension until December 1.** The stallions must be standing on their respective stud farms by January 1 of the following year.

2:32-2.5 Adoption of by laws

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

(g) All disbursements therefrom for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the Board of Trustees, and any other appropriate expenses, shall be made by the Secretary of Agriculture [of] or his designee.

(h)-(o) (No change.)

2:32-2.7 Closing of yearling nominations

The date of the closing of nominations of yearlings to the Pari-mutuel and Fair Divisions shall be May 15 of each year, in accordance with the United States Trotting Association regulations, with no exceptions. A copy of the horse's United States Trotting Association's Certificate of Registration must accompany the yearling nomination payment. A \$40.00 payment per horse covers the nomination fee to both the Fair and Pari-mutuel Divisions. Thereafter, each division will have separate sustaining payments with separate due dates. In addition, beginning in [1983] **1985**, for foals of [1982] **1984**, the yearling nomination payment form will also include the nomination to [the New Jersey Pacing Classic at \$15.00 or the Charles I. Smith Memorial Trotting Classic at \$15.00] **the Lou Babic Pace at \$25.00.** If one chooses to nominate to [either] **both** of these events, the yearling nomination payment will be a total of [\$55.00] **\$65.00** and be due on or before May 15 of each year. **Supplementary nominations may be made to the New Jersey Sire Stakes commencing with foals of 1984. Parties delinquent to either or both the required May 15 yearling nomination fee and date or submission of the yearling's copy of the United States Trotting Association registration, are given until January 15th of the two-year-old season to fulfill the aforementioned conditions of nominations for a fee of \$400.00 for each of the above nominations.**

2:32-2.10 Guaranteed purse

A purse **plus** added money will be guaranteed for each Sire Stakes Race at each Fair for two-, **three-**, and four-year-old trotters and pacers.

2:32-2.11 Allocation for Sire Stakes purse money

(a) After deduction of the Fair Division portion of the Sire Stakes purse money, **as well as special event, administrative costs and finals money** is made, the Pari-mutuel Division of the Sire Stakes purse money will be allocated as follows:

1. 40 percent of all remaining monies for 2 year olds;
2. 50 percent of all remaining monies for 3 year olds;
3. 10 percent of all remaining monies for 4 year olds.

2:32-2.12

Only the starting fees will be added to the basic purse. Beginning with the [1983] **1985** program, the starting fees will be:

Pari-mutuel Division	Fair Division	Meadowlands
2 year olds ... \$400.00	2 year olds ... \$75.00	2 year olds ... \$500.00
3 year olds ... \$400.00	3 year olds ... \$75.00	3 year olds ... \$500.00
4 year olds ... \$200.00	4 year olds ... \$75.00	4 year olds ... \$300.00

2:32-2.16 Entry fee deadline

(a) Beginning with yearlings nominated in 1983, all Sire Stakes Race entry fees must be paid at the time of the race or the horse will not be allowed to start.

(b) **All New Jersey Sire Stakes horses entered and drawn to post positions are required to pay starting fees. This starting fee is required even though a horse is scratched.**

(c) **The starting fee must be paid or the horse will not be permitted to race in any Sire Stakes event until the fee is paid and collected. The United States Trotting Association rule will prevail regarding the death of an entered horse.**

2:32-2.17 Qualifying conditions

(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the qualifying conditions in this section for the [1984] **1985** racing season.

(b) The [1984] **1985** New Jersey Sire Stakes Qualifying Times at the Pari-mutuel tracks will be as follows:

	1 Mile Track	5/8 Mile Track	1/2 Mile Track
Two-Year-Old Trot	210	211	212
Three-Year-Old Trot	205	206	207
Four-Year-Old Trot	203	204	205
Two-Year-Old Pace	205	206	207
Three-Year-Old Pace	203	204	205
Four-Year-Old Pace	202	203	204

(c) **When qualifying for a mile track, two seconds are allowed off the half mile time, but when qualifying for a half mile track, two seconds are added to the mile track time.**

[(c)](d) If a horse initially makes qualifying time but then fails to meet qualifying time in a subsequent event, it must then requalify to meet the standards of the raceway at which the race is to be contested.

[(d)](e) Official workouts are not acceptable as a substitute for a qualifying racing time.

[(e)](f) All other qualifying standards in effect at the track where the race is being conducted must be adhered to.

[(f)](g) All starters in the New Jersey Sire Stakes Fair Division must meet the following condition for the [1983] **1985** racing season:

[1. All horses, two-, three-, and four-year-olds, must have at least one satisfactory racing line in 2:15 or better within 30 days of declaration. A satisfactory racing line is defined as a qualifying or racing line, charted in 2:15 or better, and without any breaks.]

1. All starters must have at least one satisfactory racing line within 45 days of declaration. A satisfactory racing line is defined as a qualifying or racing line charted in the following times or better with allowance for track conditions:

	Trotters	Pacers
Two-year-olds	2:15	2:13
Three-year-olds	2:13	2:11
Four-year-olds	2:11	2:09

2. Horses may be placed on the steward's list for subsequent poor performance.

2:32-2.23 Fee schedule

[Beginning with horses nominated May 15, 1979, and applicable to all subsequent nominees, the sustaining fee schedule will be:]

Age	[PARI-MUTUEL DIVISION]	
	First Sustaining Fee	Second Sustaining Fee
2	\$200.00 (Feb. 15)	\$400.00 (Apr. 15)
3	\$250.00 (Feb. 15)	\$500.00 (Apr. 15)
4	\$150.00 (Jan. 15)	\$300.00 (Mar. 15)

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FAIR DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	\$ 50.00 (Jan. 15)	\$100.00 (Mar. 15)
3	\$ 50.00 (Jan. 15)	\$100.00 (Mar. 15)
4	\$ 50.00 (Jan. 15)	\$100.00 (Mar. 15)]

In 1985 the sustaining fee schedule will be as follows:

PARI-MUTUEL DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	\$300.00 (Feb. 15)	\$500.00 (Apr. 15)
3	\$350.00 (Feb. 15)	\$600.00 (Apr. 15)
4	\$250.00 (Jan. 15)	\$400.00 (Mar. 15)

FAIR DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)
3	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)
4	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)

2:32-2.24 Transfer of race

[If it becomes impossible to race a Sire Stakes event at a given track, the Board of Trustees reserves the right to transfer the event to another track.]

(a) If for any reason it becomes impractical or undesirable, in the opinion of the New Jersey Sire Stakes Board of Trustees, to hold the race(s) at the advertised track, the New Jersey Sire Stakes Board, while making every effort to adhere as closely as possible to the advertised location, fees, date and purse, reserves the right to change any of the foregoing or to cancel the event.

(b) It shall not be the responsibility of the New Jersey Sire Stakes Board of Trustees to individually inform Sire Stakes nominators, agents, or trainers of any of the aforementioned changes.

(c) The Board shall advertise or publicize changes in racing interest trade magazines such as the various Standardbred related magazines and/or newsletters, and suggests all program participants communicate with the New Jersey Sire Stakes offices.

2:32-2.25 Heats

(a) In all Fair Sire Stakes, unless they are conducted on a Pari-mutuel track, an event will be split into heats if there are more than eight horses in a field. [At Johnson Park, Fiore C Farm, and Scenic View Acres, no more than seven starters will be allowed per dash. At these three tracks, five horses will race in the front tier, and two horses will race in the second tier as trailers.]

(b) At certain tracks, at the discretion of the judges, there may be less than eight starters allowed per division. Five horses will race in the front tier, and two horses will race in the second tier as trailers.

[2:32-2.32 Baby races

All Baby Races shall consist of no more than eight starters per heat at Freehold and Showplace Farms, and 10 starters per heat at the Meadowlands. There must be at least four horses entered in a division in order to conduct a heat solely for that division. If less than four horses are entered in a division, the remaining horses shall be seeded into other divisions. The New Jersey Sire Stakes representative shall be permitted to seed horses in Baby Races according to owners, trainers, money earned, sex.]

[2:32-2.33] 2:32-2.32 Final Race eligibility monies

Total [monies] points accumulated towards Final Race eligibility in the Pari-mutuel Division shall include only Pari-mutuel Division [earnings.] points. [and not Baby Race earnings.]

ings.] Only Fair Division race [earnings] points count toward the Fair Final eligibility, which will include the top eight [money] point winners in each division.

[2:32-2.34] 2:32-2.33 Program continuation

The four-year-old New Jersey Sire Stakes Program scheduled to expire in 1977 will be continued in 1978 and thereafter.

[2:32-2.35] 2:32-2.34 Notification of change of horse's name, gait or driver

Owners, trainers, drivers, or Stake Services shall notify the New Jersey Sire Stakes Program of a name, gait, or driver change of a horse by the time of declaration to a race, or the entry will not be accepted for that race.

[2:32-2.36] 2:32-2.35 Establishment of "Final" race

(a) There will be a two- and three-year-old "Final" race in each division with a minimum purse of \$50,000 as well as a "Final" race in the four-year-old divisions with a minimum purse of \$25,000 at both Freehold and the Meadowlands raceways. There will be a \$20,000 Fair "Final" race in each division. There will be no entry fees for these events and each is open to the top 10 New Jersey Sire Stakes point winners at the Meadowlands and the top eight New Jersey Sire Stakes point winners at Freehold in each division. This applies to yearlings nominated in 1982. The two-, three-, and four-year-old Finals at Freehold in 1982 will consist of 10 starters, the three- and four-year-old Finals in 1983 will consist of 10 starters, and the four-year-old Finals in 1984 will consist of 10 starters. In the event that one or more of the top 10 point earners cannot start, the ninth, 10th, 11th, and 12th, etc., horse(s) will move up. In addition, two "Also Eligibles" will be carried in each division. Two-year-old "Baby Race" points will not be considered as points toward the "finals" in either the Fair or Pari-mutuel Divisions.

(b) Beginning in 1984, all horses competing in both the Pari-mutuel and Fair "Finals" at all tracks will be determined on a point basis. The point value will be awarded as follows:

1. 50 points for winning a heat;
2. 25 points for placing second in a heat;
3. 12 points for placing third in a heat;
4. 8 points for placing fourth in a heat;
5. 5 points for placing fifth in a heat.]

(a) There will be a two- and three-year-old "Final" race in each Division with a minimum purse of \$50,000 as well as a "Final" race in the four-year-old Divisions with a minimum purse of \$25,000 at the Pari-mutuel raceways as scheduled by the New Jersey Sire Stakes Board of Trustees. Effective in 1985 there will be a minimum \$10,000 Fair "Final" Race in each Division. There will be no entry fees for these events and each is open to the top ten New Jersey Sire Stakes point winners at the Meadowlands and Garden State Racetrack in each Division. Trailers are not permitted to start in any New Jersey Sire Stakes Finals.

(b) Beginning in 1984, all horses competing in both the Pari-mutuel and Fair finals at all tracks will be determined on a point basis. The point value will be awarded as follows:

1. 50 points for winning a heat;
2. 25 points for placing second in a heat;
3. 12 points for placing third in a heat;
4. 8 points for placing fourth in a heat;
5. 5 points for placing fifth in a heat.

(c) In the event of a tie in point standings, money won in Sire Stakes races in which points were accumulated shall take precedence prior to the finals, judges "official order of finish" will be used in determining eligibility to finals exclusive

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of all appeals yet to be decided at time of closing of the entry box for finals.

(d) In the event of a dead heat for any position in a New Jersey Sire Stakes race, the points will be split equally between the two horses as is currently done with the monies. In the event of a tie in both points and money, the last spot in the top ten or eight will be drawn by lot.

[2:32-2.37] **2:32-2.36** Supervising Race Secretary

A member of the New Jersey Sire Stakes staff will be appointed Supervising Race Secretary at all future Fair meets. Furthermore, the New Jersey Sire Stakes Board Secretary is responsible for the complete supervision of the New Jersey Sire Stakes Program as it pertains to the Fairs.

[2:32-2.38] **2:32-2.37** Dress requirements

Racing colors, helmet, and white pants in accordance with the New Jersey Racing Commission rules, will be required to be worn by any person warming-up a horse on a New Jersey fair track. Violators will be subject to a fine or suspension.

[2:32-2.39] **2:32-2.38** Dishonored checks

[A check for either a sustaining payment, a nomination payment, or an entry fee which is dishonored by the bank without a valid reason, can result in the disqualification of a horse from future eligibility to the New Jersey Sire Stakes Program. The Board of Trustees shall decide the merits of a case involving a dishonored check.]

An individual whose check for either a sustaining payment, a nominating payment or an entry fee is dishonored by the bank, will have a period of 10 days from the time the check is returned to the Sire Stakes office in Trenton to make the check good by either a money order or certified check. If the check has not been made good within this time period the individual's name will be given to the New Jersey Racing Commission for appropriate action. Following this action the Sire Stakes Board of Trustees will decide as to the future eligibility of the horse to the New Jersey Sire Stakes program.

[2:32-2.40] **2:32-2.39** Separate Fair Division

A separate New Jersey Sire Stakes Fair Division, with a separate payment schedule, will begin with yearlings nominated in 1980.

[2:32-2.41] **2:32-2.40** Fund policy

[The New Jersey Sire Stakes Program collects its 49 percent of one percent at the Meadowlands and its 56 percent of one percent of the total Standardbred Pari-mutuel handle in one calendar year and races for these funds in the following calendar year. The interest on these funds is also kept in the program. This policy began on April 1, 1971.]

Advertised purse monies for all New Jersey Sire Stakes races, including contributions to special event races, are predicated upon the Pari-mutuel handle of New Jersey harness tracks and therefore are subject to change without notice.

[2:32-2.42] **2:32-2.41** Qualification for Fairs' Universal Driver's Rating Award

[In order to qualify for the Fairs' Universal Driver's Rating Award of \$1,000, a driver must have driven in a minimum of 10 percent of the total heats contested in both the New Jersey Sire Stakes and Garden State Fair Stakes Events at the 10 Fairs. Drives in the Fair Finals do not count.]

In order to qualify for the Fairs' Universal Driver's Rating Award and the dash winners trophies, a driver must have driven in a minimum of 10 percent, rounded out to the nearest full percentage point, of the total heats contested in the New

Jersey Sire Stakes Events at the 10 Fairs. Drives in the Fair Finals do not count.

[2:32-2.43] **2:32-2.42** No cash payment or partial payment [Beginning in 1983, the New Jersey Sire Stakes Program will accept no cash payment or partial payment on individual horses.]

Beginning in 1985, the New Jersey Sire Stakes Program will accept no cash payment on nominating and sustaining payments. All fees will be paid in United States Funds. No partial payments on a nominating, sustaining, or entry fee will be accepted on individual horses.

[2:32-2.44] **2:32-2.43** Qualification for the New Jersey Sire Stakes

(a) In order to qualify for the New Jersey Sire Stakes, a foal must be the product of the mating of a mare with a New Jersey registered and resident stallion. The mare to be bred must either be a resident at the farm on which the stallion stands or be shipped to the farm on which the stallion stands when impregnated. The shipping or mailing of a New Jersey registered stallion's semen to a broodmare is strictly prohibited.

(b) **A foal conceived by semen which is frozen, desicated or transported off the premises from where it is produced, or not implanted on the same day it is collected, is not eligible for nomination to the New Jersey Sire Stakes Program.**

2:32-2.44 Broadcasting revenues

(a) In the event the Sire Stakes Board receives revenues derived from the broadcast of Sire Stakes events, any incremental revenues derived from these broadcasts shall be exclusively used by the New Jersey Sire Stakes Program to supplement the purses of Sire Stakes races.

(b) The nominator and/or owner of horses racing in Sire Stakes events expressly and irrevocably assign to the New Jersey Sire Stakes the ownership rights of any broadcast revenues derived therefrom.

(a)

DIVISION OF RURAL RESOURCES

**State Soil Conservation Committee
Soil and Water Conservation Project Cost
Sharing: Procedural Rules**

Proposed New Rule: N.J.A.C. 2:90-3

Authorized by: Arthur R. Brown, Jr., Chairman, State Soil Conservation Committee.

Authority: N.J.S.A. 4:24-3 and 4:1C-24.

Proposal Number: PRN 1985-22.

Address comments and inquiries to:

Samuel R. Race, Executive Secretary
State Soil Conservation Committee
CN 330
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Farmland Preservation Bond Act of 1981 authorized the sale of bonds by the State of New Jersey for the appropriation of funds to the Department of Agriculture to provide grants for up to 50 percent of the cost of acquisition of development easements on farmland and to provide grants to landowners for up to 50 percent of the cost of soil and water conservation projects under programs established for this purpose. The Agriculture Retention and Development Act of 1983 established this program which authorized landowners, who participate in farmland preservation programs, approved by the County Agricultural Development Board, to apply to the local soil conservation district for cost sharing for installation of soil and water conservation projects approved by the State Soil Conservation Committee. Approval for cost share grants is contingent upon a written agreement that the projects shall be maintained for a specified period of time not less than three years and shall be a component of a farm conservation plan approved by the soil conservation district.

To carry out its responsibilities under this legislation the State Soil Conservation Committee proposes to promulgate these proposed new rules which describe procedures for processing and approving applications for cost sharing submitted to the local soil conservation districts and the Committee for approval.

Social Impact

The proposed new rules will have a favorable impact on the citizens of New Jersey through the protection and enhancement of the productivity of the State's farmland and the quality of State water and air through control of pollution from agricultural activities.

In addition, the strengthening of State support for protection of agricultural resources through soil and water conservation project cost sharing will provide greater stability and permanency to agriculture and enhance the quality of life in farming communities. The non agricultural sector of the population will also benefit from this increased stability and permanency through a more secure local source of food production and an improved living environment.

Economic Impact

The proposed new rules will have a favorable impact upon the public through the increased assurance of reliable local food producing capability. Farmers will be assured of strong State policy favoring the continuation of agriculture and encouraged to invest in the maintenance and improvement of their lands. The investment of State funds in soil and water conservation projects will generate at least equivalent private investment for the same purposes.

The condition of the agricultural economy will be substantially enhanced and employment of persons providing conservation and related agricultural lands will be increased. Long term value of agricultural lands will be increased and the production and sale of farm products will also increase thereby generating corresponding increases in related food and produce handling business. Personal and public revenue increases will result.

Full text of the proposed new rule follows.

SUBCHAPTER 3. WATER CONSERVATION PROJECT COST SHARING: PROCEDURAL RULES**2:90-3.1 Applicability**

This subchapter contains State Soil Conservation Committee rules which describe procedures for soil conservation districts and other participating conservation agencies regarding the review and approval of applications for soil and water conservation projects pursuant to the Agricultural Retention and Development Act, N.J.S.A. 4:1C-11 et seq., (P.L. 1983, C.32). These rules shall be utilized in conjunction with N.J.A.C. 2:90-2 and N.J.A.C. 2:76-5.

2:90-3.2 Definitions

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

"Agricultural Conservation Program" (ACP) means a Federal Cost Share Program administered by the Agricultural Stabilization Conservation Service of the United States Department of Agriculture.

"Agricultural Stabilization Conservation Service" (ASCS) means the Agricultural Stabilization Conservation Service of the United States Department of Agriculture.

"Application form" means a standard form adopted by the State Soil Conservation Committee.

"County Agricultural Development Board" (CADB) 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.

"District" or "Soil Conservation District" (SCD) means a governmental subdivision of this State, organized in accordance with the provisions of N.J.S.A. 4:24-1 et. seq.

"Farm conservation plan" or "plan" means a plan which indicates needed land treatment and related conservation and resource management measures that are determined practical and reasonable for a particular farm to conserve and protect natural resources and enhance agricultural productivity.

"Farmland Preservation Program" means any voluntary "Farmland Preservation Program" or "municipally approved farmland preservation 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 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 the land.

"New Jersey Bureau of Forest Management" means the Bureau of Forest Management, Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

"Soil and water conservation project" means any project designated 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. Definitions of individual projects are contained in United States Department of Agriculture, Soil Conservation Service standards and specifications, Technical Guide Section 4, which are incorporated herein by reference.

“Soil Conservation Service” (SCS) means Soil Conservation Service of the United States Department of Agriculture.

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

“State Soil Conservation Committee” (SSCC) means an agency of the State established pursuant to N.J.S.A. 4:24-1 et seq.

“Standards and specifications” means the United States Department of Agriculture Soil Conservation Service standards and specifications, Technical Guide Section 4, which are hereby adopted by reference. All forest management type practices shall be in accordance with standards and specifications adopted by New Jersey Bureau of Forest Management. Where determined necessary, the State Soil Conservation Committee may develop and adopt additional standards and specifications for installation of projects.

“Technical agency” means the United States Department of Agriculture Soil Conservation Service or the New Jersey Bureau of Forest Management or other agents having responsibility for standards and specifications as identified above for soil and water conservation projects approved by the State Soil Conservation Committee.

2:90-3.3 Eligibility

Any landowner enrolled in a Farmland Preservation Program is eligible to apply for State funding assistance for soil and water conservation projects approved by the State Soil Conservation Committee and promulgated in N.J.A.C. 2:90-2. A farm operator may act as agent for the landowner when designated in writing by the landowner.

2:90-3.4 Application procedure

(a) An applicant shall apply to the appropriate SCD for up to 50 percent of the cost of installing a soil and water conservation project(s) on the application form as defined. N.J.A.C. 2:90-3.2.

(b) The SCD shall advise the applicant of program provisions and policies and may assist the applicant in providing the appropriate information to complete the application.

(c) A copy of the completed application shall be sent to the CADB for its information.

2:90-3.5 Feasibility review and technical agency referral

(a) The SCD shall seek the assistance of appropriate technical agencies or agent having responsibility for standards and specifications to determine the applicability of the requested projects to the land.

(b) The technical agency shall review the application and recommend projects that are essential and applicable to the landowners' proposed operation. If the technical agency determines that the requested projects are not feasible and upon the SCD concurrence, the applicant shall be so advised.

2:90-3.6 Preparation of conservation plan

(a) If the technical agency determines that the requested projects are feasible, it shall prepare a farm conservation plan in consultation with the landowner. The plan shall indicate the proposed projects, their location, schedule for installation, and estimated costs.

(b) Upon completion of the plan and application, the technical agency shall submit same to the SCD for review and approval. The landowner shall be advised by the SCD of action taken on the plan.

(c) The plan may be modified at the landowners request subject to technical agency concurrence and SCD approval.

2:90-3.7 Coordination with other cost share programs

(a) The SCD shall forward the plan and application to ASCS or other Federal agencies administering cost share programs to determine availability of funds for the project(s) in the approved plan.

(b) If the ASCS or other Federal agencies cannot share in the cost of projects, they shall return the plan and application to the SCD with appropriate certification.

(c) Where Federal cost-sharing is available, the SCD shall coordinate the appropriate integration of projects.

(d) If the project(s) in the approved plan can be entirely or partially cost-shared with ACP funds, the SCD shall secure ASCS coordination of potential joint State-ACP cost sharing and the completion of appropriate portions of the application form.

(e) The SCD shall advise the applicant of funding available via other programs and recommend appropriate division of projects in the approved plan to assure maximum utilization of all other funding sources. Applicants will be required to seek maximum ACP and other Federal program funding on all projects.

(f) No Federal cost share program may be used as the landowners matching portion of costs for projects funded under the provisions of this program.

2:90-3.8 District approval process

(a) Following review by the technical agencies and coordination with other cost share programs, the SCD shall review the application for program conformance.

(b) Upon verification that all eligibility criteria and other program provisions have been satisfied, the SCD shall approve or conditionally approve the application.

(c) The SCD shall promptly advise the applicant of its determinations in writing.

(d) For projects where the applicant provides at least 50 percent of the project cost without assistance from the county, the approved application shall be forwarded by the SCD to the State Soil Conservation Committee for approval. The SCD shall send a copy of the approved application to the CADB for its information.

(e) For projects where the applicant receives financial assistance from county funds for the cost of projects, the SCD shall forward the approved application to the CADB for concurrence. Following its approval, the CADB shall forward the application to the SSCC for approval.

2:90-3.9 State review and approval process

(a) The SSCC shall review and verify that the application is in conformance with program guidelines.

(b) Following verification, the SSCC shall approve the application and recommend SADC approval for funding. The SSCC may delegate this authority to the appropriate staff.

(c) Following SADC approval the SSCC and the SCD shall be advised of project funding approval.

(d) The SCD shall advise the applicant and appropriate technical agencies of application approval.

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2:90-3.10 Project completion and payment

(a) Upon project completion, the applicant shall notify the SCD and request payment.

(b) The SCD shall secure technical agency verification that the project(s) has been completed in accordance with technical standards and specifications and also verify applicants' payment claims. If payment claims are satisfactory, the SCD shall forward the payment request to the SSCC.

(c) The SSCC shall verify that program provisions have been satisfied prior to recommending SADC payment to the applicant.

2:90-3.11 Maintenance

The SCD shall be responsible for inspecting the project(s) for maintenance in accordance with guidelines provided by the SSCC. In no instance shall such inspections be performed at a frequency less than a five percent random selection of the total number of projects per year within the SCD.

2:90-3.12 Violations

If the SCD determines that an applicant fails to comply with the provisions for maintenance of the project, the SCD shall advise the landowner of required corrective measures. The SCD shall forward a copy of such notification to the SSCC.

2:90-3.13 Records

The SCD shall retain application forms, plans, performance reports, and all other related information pertaining to the applicant and approved projects.

Summary

Current N.J.A.C. 4:1-12.15 is being amended so that the provisions concerning disposition of a certification will be uniform for both State and local governments. Current paragraph (b), which is proposed for deletion, provides that the local government appointing authorities must dispose of a certification within 15 days from receipt. Appointing authorities are not able to comply with this provision which results in the Department of Civil Service instituting payroll disapprovals. The proposal will rectify this problem and satisfy Departmental policy to apply rules uniformly to both State and local governments whenever possible.

Social Impact

The proposal is expected to have a positive social impact since it will alleviate the need to institute payroll disapprovals against provisional employees in the certification title when the reason for delay in the disposition is due to an inoperable time frame.

Economic Impact

The proposal will have a positive economic impact on the Department of Civil Service and the appointing authority since unnecessary payroll disapprovals will no longer be issued. A precise figure for the staff time and paperwork entailed in a payroll followed by a late disposition of a certification cannot be determined.

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

4:1-12.15 Appointment of eligible certified

(a) The appointing authority, after receiving a certification of interested eligibles, shall:

1. Appoint the eligible whose name has been certified from the special reemployment list;
2. Appoint the eligible whose name has been certified from the regular reemployment list; or
3. Appoint one of the top three eligibles from the open or promotional employment list, provided that:
 - i. From an open competitive list, disabled veterans and veterans shall be appointed in their order;
 - ii. From a promotional list, if the eligible who ranks first in the certification is a veteran, a non-veteran may not be appointed.

[(b) In local government services, the appointing authority shall notify the Department of Civil Service of the disposition of the certification within 15 days after receipt of the certification, or when the appointing authority is vested in a board or commission, at its next meeting following receipt of the certification.]

(b) [(c) In State service, t]The appointing authority shall forward the record of the disposition of the certification to the Department of Civil Service by the disposition date indicated on the certification. See also 4:1-12.18.

(c) [(d)] If the certification will result in the displacement of a provisional employee who holds permanent status in a lower title and it is necessary to institute layoff procedures, the Department of Civil Service, upon written request from the appointing authority, may extend the time period for disposing of the certification for an additional 45 days. See N.J.A.C. 4:2-14.1 and N.J.A.C. 4:3-14.2.

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

**Certification and Appointment
Appointment of eligible certified**

Proposed Amendment: N.J.A.C. 4:1-12.15

Authorized By: Civil Service Commission, Peter J. Calderone, Assistant Commissioner, Department of Civil Service.

Authority: N.J.S.A. 11:1-7a, 11:5-1a, 11:10-1, 11:10-5.

Proposal Number: PRN 1985-9.

Address comments and inquiries to:

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

The agency proposal follows:

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(a)

NEW JERSEY WATER SUPPLY AUTHORITY

Establishment of New Debt Service Assessment Rate to Provide for the Repayment of 1981 Water Supply Bond Funds Used for the Financing of the Rehabilitation of the Delaware and Raritan Canal Water Supply System

Proposed Amendments: N.J.A.C. 7:11-2.3, 2.5, 2.8, 2.9, 2.10, 2.11 and 2.12

Authority By: Robert E. Hughey, Chairman, New Jersey Water Supply Authority and Commissioner, New Jersey Department of Environmental Protection.

Authority: N.J.S.A. 58:1B-7.

DEP Docket No. 074-84-12.

Proposal Number: PRN 1984-24.

A public hearing concerning this proposal will be held at the following time and location:

February 20, 1985, 9:30 A.M.
Labor Education Center
Rutgers University
Ryderson Lane and Clifton Avenue
New Brunswick, New Jersey 08903

Interested persons may submit, in writing, information or arguments concerning the proposal until February 6, 1985 to ensure appropriate responses to any questions at the public hearing. The New Jersey Water Supply Authority staff will make every reasonable effort to answer those comments received later than February 6, 1985 but before February 20, 1985 at the time of the public hearing. The New Jersey Water Supply Authority shall hold the public hearing record open to receive comments on the proposal until March 27, 1985.

Address comments and inquiries to:

Rocco D. Ricci, Executive Director
New Jersey Water Supply Authority
Post Office Box 5196
Clinton, New Jersey 08809

The agency proposal follows:

Summary

The proposal amendments by the New Jersey Water Supply Authority ("Authority") shall amend N.J.A.C. 7:11-2.3(c) of the Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Delaware & Raritan Canal and the Spruce Run/Round Valley Reservoirs, N.J.A.C. 7:11-2 et seq., to reflect the rate adjustment necessary to raise additional revenue for the Authority's repayment of 1981 Water Supply Bond Funds from the Water Supply Bond Act of 1981, P.L. 1981, c.261. The Authority will borrow these funds from the State Treasurer between October 1, 1985 and September 1, 1986 to retire the existing tax exempt commercial paper used for temporary financing of the Delaware and

Raritan Canal sediment removal program. Please note that the Authority reserved N.J.A.C. 7:11-2.3(c) for 1981 Water Supply Bond debt service assessment rates subject to this proposal. The Authority also takes this opportunity to clarify the existing regulations under N.J.A.C. 7:11-2. Minor technical revisions have been proposed at N.J.A.C. 7:11-2.3(b), 2.5, 2.8, 2.9, 2.10, 2.11 and 2.12.

Social Impact

The proposed amendments will impact the water supply needs of Central New Jersey. The Authority has undertaken a major project for the removal of sediment from 32 miles of the Delaware and Raritan Canal. The work is being carried out under three separate contracts with a total estimated cost, including engineering inspection, construction contracts and contingencies, of \$19,257,000. Fees to users, most of whom are public community systems, will increase, and result in increased charges to their customers. The proposed amendment will aid in the providing of the basic water supply for 1,200,000 New Jersey citizens.

Economic Impact

An economic impact will result from these proposed amendments by increasing the charges for such raw waters withdrawn, diverted or allocated from the Delaware and Raritan Canal and/or the Spruce Run/Round Valley Reservoir Complex effective October 1, 1985. The increased rates and charges will be required from the users of the water from these facilities and will be incorporated in all water use agreements with users of these facilities.

The approved appropriations from the 1981 Water Supply Bond Fund, together with a letter of credit from Chemical Bank, have been used in support of a Tax-Exempt Commercial Paper ("TXCP") program for temporary financing of the dredging project. Use of the TXCP program will have delayed the need for a rate increase for a period of two years from the commencement of the dredging project in October, 1983 through September, 1985. The program has and will continue to result in a lower overall cost to the rate payers and the proposed rate adjustment is necessary to raise sufficient revenues to retire the TXCP and borrow funds from the State Treasurer.

Environmental Impact

The proposed amendment to N.J.A.C. 7:11-2.3(c) shall have a positive environmental impact by providing the Authority with the revenues necessary to restore the full water supply carrying capacity of the Delaware and Raritan Canal to satisfy the water supply needs of central New Jersey. The Delaware and Raritan Canal, together with the Spruce Run/Round Valley Reservoirs System, provides the basic water supply for 1,200,000 New Jersey citizens.

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

7:11-2.3 Debt service assessments

(a) (No change.)

(b) The debt service assessment rate for the 1958 Bonds and 1969 Bonds shall be based on a [the current] sales base of [149,986] **149.986** million gallons per day, excluding water users of the Delaware and Raritan Canal within the Delaware River Basin. This debt service assessment rate does not apply to Delaware and Raritan Canal customers in the Delaware River Basin.

1. (No change.)

2. 1969 Bond Funds:

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Period	Allocation	Rate/Million Gallons
7/1/88 to 6/30/2002	Million gallons per day (mgd)	\$14.07

(c) [Reserved for 1981 Bond Debt Service Assessment Rate] **1981 Water Supply Bond Funds are to be borrowed from the State Treasurer between October 1, 1985 and September 1, 1986 to retire the existing tax exempt commercial paper used for temporary financing of the Delaware and Raritan Canal sediment removal program. The following debt service assessment rate, based on a sales base of 149.472 million gallons per day, in addition to that included in (b) above, will be applied to all customers effective October 1, 1985:**

Period	Allocation	Rate/Million Gallons
10/1/85 to (see Note 1)	Million gallons per day (mgd)	\$41.98

Note 1: This rate will remain in effect until the 1981 Water Supply Bond Funds are borrowed from the State Treasurer after which the rate and repayment period will be adjusted to reflect the terms of the loan from the State Treasurer.

7:11-2.5 Equivalent sustained supply: Spruce Run/Round Valley Reservoirs System

In operating the Spruce Run/Round Valley Reservoirs System to augment natural stream flow during a period of low runoff, optimum dependable supply is attained at the confluence of the Millstone River where the combined flow from the tributaries to the Raritan River above that point becomes effective. Each application for the diversion, withdrawal or allocation of water from the Raritan River Basin is therefore to be evaluated, and **differentiation** [differentiation in rates, charges and assessments shall be made on the basis of quantities of water to be supplied, distance between the facility and point of diversion, the cost in making such water available, the place where the water is to be used, and the character of such use.

7:11-2.8 Standby service

- (a) (No change.)
- (b) The New Jersey Water Supply Authority reserves the right to revoke such standby service classification at any time on 30 [days'] days written notice to the user.
- (c) Such revocation shall not prejudice the right of the user to submit an application for normal water use either prior to [,] or following the effective date of revocation.

7:11-2.9 Standby charge

- (a) (No change.)
- 1. For Delaware and Raritan Canal Standby Contracts within the Delaware River Basin:

Maximum withdrawal capacity	Charge per month
Each 1 mgd (700 gpm) or fraction thereof.	\$81.80 plus annual debt service assessment rate for 1981 Bonds. [when assessed.]

- 2. For Standby Contracts within the Raritan River Basin:

Maximum withdrawal c[C]apacity	Charge per month
Each 1 mgd (700 gpm) or fraction thereof[:].	\$81.80 plus annual debt service assessment rates for 1958 Bonds, [and 1969 Bonds [plus] and 1981 Bonds. [debt service rate when assessed.]

7:11-2.10 Rate adjustment

(a) The New Jersey Water Supply Authority reserves the right to review and revise the General Rate Schedule from time to time by the establishment of a new General Rate Schedule promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and any regulations promulgated thereto.

- 1.-3. (No change.)

(b) The New Jersey Water Supply Authority reserves the right to annually review the sales base to make adjustments, if necessary, in the General Rate Schedule as set forth at N.J.A.C. 7:11-2.2 and the Debt Service Assessment Rate as set forth at N.J.A.C. 7:11-2.3. Any [said] such adjustments shall be promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and any regulations promulgated thereto.

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

7:11-2.11 Procedures for rate adjustments

(a) Prior to adopting an adjustment in the Schedule of Rates, Charges and Debt Service Assessments established in this Subchapter, the Authority shall comply with the following rate-making procedures and schedule:

- 1. (No change.)
- 2. Supporting documents and financial records: All appropriate supporting documents and financial records of the Authority in support of the proposed adjustment shall either be supplied to all contractual water customers; the Department of the Public Advocate, Division of Rate Counsel; and other interested parties upon request, or shall be made available for review at the Authority's offices in Clinton, New Jersey at the time official notice of the proposed rate adjustment is given. This information shall be deemed to be part of the record of the proceedings for purposes of preparing the hearing officer's report required under (a)[(7)]7 below.

3. Requests for additional information: The contractual water customers and the Department of the Public Advocate, Division of Rate Counsel shall be afforded the opportunity to submit written questions and requests for additional data prior to the time of the meeting required under (a)[(4)]4 below. The Authority staff shall provide written answers to the questions and supply the additional data requested prior to the meeting.

4. Meeting with contractual customers and the Public Advocate, Division of Rate Counsel: Within 45 days after sending official notice to the contractual water customers and the Public Advocate, Division of Rate Counsel, regarding the proposed rate adjustment, Authority staff shall meet with representatives from the contractual water customers and the Public Advocate's office in order to present and explain the proposal.

- i. (No change.)
- ii. In order to be answered at the public hearing, such questions must be received by the Authority no later than 15 days prior to the public hearing. The Authority staff will make every reasonable effort to answer those questions received later than 15 days prior to the public hearing at the time of the hearing. All questions will be answered as part of the hearing record at the time of the hearing or as indicated under (a)[(5)]5vi below.

5. Public hearing: After meeting with the contractual customers and after giving sufficient opportunity for submission

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of written questions on the proposed rate adjustment, a public hearing shall be held, at which one or more members of the Authority shall serve as hearing officer(s). The public hearing agenda shall include, but not be limited to [:], **the following:**

- i. Opening statement by the hearing officer(s);
- ii. (No change.)
- iii. Oral statements, written statements and any supporting evidence are to be presented and entered into the record by all interested parties including the contractual water customers, the Public Advocate, Division of Rate Counsel, intervenors who are judged by the hearing officer(s) to meet the criteria established in [(a)iv] **(a)5iv** below, and any other party of interest].;
- iv. Requests for intervention for purposes of directing questions to the staff as delineated under [(a)v] **(a)5v** below[.]; (1)-(3) (No change.)
- v. Questions by contractual waters customers and qualified intervenors[.]; **and** (1)-(2) (No change.)
- vi. Responses from staff. (1) (No change.) (2) Within 10 working days [of] **after** receipt of the answer, contractual water customers, the Public Advocate, Division of Rate Counsel, and attendees will be permitted to respond in writing to the answers of the staff for the record. 6. (No change.) 7. (No change.)

7:11-2.12 Special user rates: Spruce Run/Round Valley Reservoirs System

Where the water withdrawn within the Raritan River Basin, as supported by releases from Spruce Run and Round Valley Reservoirs, is returned to the stream channel at a point reasonably considered to be in the near vicinity of the point of withdrawal, substantially undiminished in quantity[, or] **and not** substantially degraded in quality, all as determined by the New Jersey Water Supply Authority, the purchaser shall only pay at the rate specified under the General Rate Schedule as set forth at N.J.A.C. 7:11-2.2, as applied to the daily allotment. The annual Demand Charge for such use shall be determined by multiplying the daily allotment charge by 365.

(a)

DIVISION OF WATER RESOURCES

New Jersey Pollutant Discharge Elimination System Permit Program Fee Schedule for Permittees 1984-85 Annual Fee Report and Proposed Fee Assessments

Proposed Amendments: N.J.A.C. 7:14A-1.8

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

Authority: N.J.S.A. 58:10A-1 et seq.

DEP Docket No. 073-84-12.

Proposal Number: PRN 1985-10.

A public hearing concerning the proposed amendments, the 1984-85 Annual Fee Report, and the proposed 1984-85 fee assessments will be held at the following time and location:

February 8, 1985, 9:30 A.M.
Labor Education Center
Cook College, Rutgers University
New Brunswick, N.J.

Interested persons may submit, in writing, information or arguments concerning the proposal until February 11, 1985.

Address comments and inquiries to:

Patricia E.G. Skelly
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, N.J. 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (hereinafter the Department) is responsible for regulating the discharge of pollutants into the surface and ground water of the State. Its authority is derived from the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. which grants the Department the authority to issue permits for discharges to the waters of the State. On March 6, 1981, the Department promulgated regulations implementing this permitting program. These regulations are known as the New Jersey Pollutant Discharge Elimination System (NJPDES) regulations, N.J.A.C. 7:14A-1.1 et seq. Section 9 of the Act provides the necessary statutory authority for the State to "establish and charge reasonable annual administrative fees" which cover the costs of the NJPDES program.

On April 25, 1984, the Appellate Division of the Superior Court in the case of PSE&G et al. v. NJDEP (193 N.J. Super. 676) rendered a decision which invalidated in part the Department's 1982-1983 NJPDES permit fee assessment methodologies. The Court determined that the 1982-83 fee structure, which was based solely upon the one pollutant which a permittee discharged in greatest quantity, did not adequately consider the relative environmental risk of the discharge or the total quantity of pollutants discharged. In response to the Court decision the Department has revised the fee methodology, and is proposing to amend the regulations to reflect the new methodology.

NJPDES fee schedules have undergone significant changes which will affect primarily industrial and ground water dischargers. The most significant change in the fee methodology is that the formulas take into account the total quantity of all the pollutants discharged by the permittee and the relative risks associated with the discharge of these pollutants.

The relative risk will be based on the type and quantity of the pollutants discharged, a bioassay factor, and, for ground water dischargers, the potential of the aquifer at risk. The bioassay factor is intended to assess the synergistic and antagonistic effects of the discharge. Major facilities are required to perform bioassays. Bioassay results below standards will reduce a permittee's fee. If no bioassay data is submitted, a bioassay factor of 1.00 will be used. All permittees may request a bioassay permit requirement.

Several other changes have been incorporated into the NJPDES regulations. The minimum fees for all categories have been increased. The Department has also included a requirement that all permittees monitor and report monthly for Chemical Oxygen Demand (COD), Total Kjeldahl Nitro-

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gen, and flow. In addition, the Department will use assumed values for fee calculations if the permittee failed to submit the data required on Discharge Monitoring Reports and Monitoring Report Forms.

For purposes of clarity the present text of N.J.A.C. 7:14A-1.8(e) through 1.8(l) is being deleted and replaced by new language.

Social Impact

A positive social impact will result from the proposed amendments. The amendments will provide for a more equitable distribution of the cost of the New Jersey Pollutant Discharge Elimination System (NJPDES) program among NJPDES permittees. The revised fee schedules in this proposal will provide the Department with a self-sustaining budget for an effective ground and surface water pollution protection program.

Economic Impact

For the next billing year the cost of these amendments to dischargers to surface waters will be \$3,515,402; to dischargers requesting 316 variances it will be \$37,290; to significant indirect users it will be \$271,831; and to dischargers to ground water it will be \$2,359,020. The amendments distribute the costs of the NJPDES program on a fair share basis to each discharger. The proposed amendments are necessary to carry out the intent of N.J.S.A. 58:10A-9 that the NJPDES programs be self-supporting.

The Department will assess a separate NJPDES laboratory certification fee in addition to the permit fee which covers all other costs to issue, monitor, and administer NJPDES permits. The NJPDES laboratory certification budget and fee schedule is included in the Annual Fee Report. The fees are consistent with the Regulations Governing Laboratory Certification and Standards of Performance. N.J.A.C. 7:18-1.1 et seq.

Environmental Impact

At present, there are approximately 400 hazardous waste clean-ups which need to be performed in this State. There are approximately 1,000 other identified sources of ground water pollution and for surface water there are approximately 1,300 existing dischargers in the State. These discharges emit a wide variety of pollutants, including toxic chemicals, with known deleterious effects on both human and non-human biota. These regulations will provide the Department with a self-sustaining program to effectively mitigate and prevent the effects of these discharges.

The Department has prepared a Basis and Background Document which more fully explains the new fee assessment methodology.

It has also prepared a 1984-85 Annual Fee Report, which describes the 1983 activities of NJPDES Permit Program, the budget for the 1984-85 program, and the proposed 1984-85 fee assessments for all dischargers. The Annual Report also contains extensive explanations of NJPDES surface water and ground water activities, as well as of the laboratory certification program.

Copies of these documents, as well as the proposed amendments to the regulations, may be viewed at all 75 New Jersey depository libraries for State documents. They include all area reference libraries. Interested persons may contact their local library to ascertain the depository library most

convenient to them. Copies may also be obtained by writing to:

Administrator
Water Quality Management
NJPDES Permit Administration
Division of Water Resources
CN 029
Trenton, New Jersey 08625

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

7:14A-1.8 Fee schedule for NJPDES Permittees **and applicants**

(a) Annual fee:

1. The Department shall collect annual fees which shall be based upon the estimated cost of administering the NJPDES Permit program, which includes processing, monitoring, and administering the permits. **Except for the laboratory certification portion of the fee,** [The] the yearly fee for a discharge shall be computed according to a sliding scale formula. The fee is determined on the basis of the estimated administrative cost for permit management, processing, issuance, surveillance and monitoring. **In general,** [T]he fee relates these costs to the total quantity of specific pollutants discharged by the permittee[,] **and the relative risks associated with the discharge of these pollutants.**

2. **In addition to any fees assessed pursuant to this section, a permittee owning a certified laboratory or a laboratory applying for certification shall be assessed, as the laboratory certification portion of the NJPDES fee, the appropriate fee for the category or categories in which it is certified or is seeking certification based upon the fee schedule set forth in N.J.A.C. 7:18-2.6. This portion of the annual NJPDES fee shall be billed separately.**

3. **A permittee failing to pay the laboratory certification portion of its NJPDES fee or failing to pay it in a timely manner may have its certification suspended or revoked in accordance with N.J.A.C. 7:18-2.12.**

(b) Annual evaluation of fees:

1. The Department in an **Annual Fee Schedule Report** shall [annually examine and may amend on a yearly basis] **establish the values for** the coefficients of the fee formulae in order to account for changing conditions and costs. The Department shall hold an annual public hearing concerning the fees to be assessed for the following year. The hearing shall be held prior to the actual assessment of the fees.

2. Thirty days prior to the holding of the hearing, the Department shall use best efforts to mail notice of the hearing to each known discharger with a DSW, SIU, IWFMF or DGW permit and any applicant for a DGW, SIU, IWFMF or DSW permit. Such notice shall include a copy of the fee schedule report and the permittee's proposed fee for the following year.

3. the fee schedule report shall be prepared annually by the Department and shall include the following:

i. A detailed financial statement showing the anticipated costs for the following year. The statement shall include a breakdown by totals for account title (e.g., printing and office expenses, vehicular, and maintenance of vehicles) and include a breakdown by totals for types of discharge (e.g., industrial DSWs, municipal DSWs, thermal DSWs and DGWs);

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ii. A detailed financial statement of the previous year's expenditures including a breakdown by account titles, breakdown by totals for types of discharges, actual amount of fees collected, any surplus which can be credited, or any deficit which must be assessed when determining next year's fees

iii. A report on the previous year's activities including the following:

- (1) A list of permits issued;
- (2) The number of compliance sampling inspections (24 hour monitoring) undertaken, the facilities inspected and a summary of the results thereof;
- (3) The number of wasteload allocations completed;
- (4) A list of facilities inspected;
- (5) The number of administrative orders and consent orders issued by the Department including a breakdown by type of order, resolution and type of discharge involved; and
- (6) A summary of Section 316 variance request activities; and

iv. A list of Section 316 variance requests which are expected to be processed in the following year.

(c) Annual fee for dischargers to surface waters (DSW) and to groundwaters (DGW):

1. Any person who submits a NJPDES permit application, received a NJPDES permit prior to the adoption of these regulations, or is issued a NJPDES permit based upon information available to the Department pursuant to N.J.A.C. 7:14A-2.1(c), shall be assessed a fee in accordance with (e), (f), (g), (h), (i), [and] (j) and (k) below. Such fee shall be assessed as follows:

i. The fee shall be based upon information submitted to the Department in the application or available to the Department, in accordance with (f) thru (k) below. Failure of an applicant to submit information necessary to calculate the fee or to pay the fee within 30 days of assessment [will] may result in return of the application, [and may result in] permit denial, and/or appropriate enforcement action;

ii. The fee assessment shall be pro-rated based upon the date of application submittal and the number of remaining days in the fee year minus 120 days;

iii. The next year's fee shall be adjusted based upon the facility's actual performance and the date the final NJPDES permit is issued;

iv. Neither the pro-rated fee nor adjustment shall result in payment of a fee less than the minimum. If a final permit has not been issued in the first fee year, a credit for the number of days in excess of 120 which remained in the first fee year shall be applied to the next year's fee;

v. Any delay in review of the application caused by the applicant not submitting a complete application or additional information, as required by N.J.A.C. 7:14A-2.1(c) and 7.3(b) shall not be eligible for credit purposes in determining the next year's fee. The period of delay shall be based upon the date of request to the date of receipt of the information;

vi. Whenever a NJPDES permit denial is issued, the permit fee shall be retained and any re-application within one year will not result in assessment of a fee.

2. All fees are payable within 30 days of assessment.

3. The [yearly] **annual** fee for a DSW [and a DGW by land disposal (when used in this section, "a discharge to groundwater by land disposal" means the application of wastewater onto or into the land, including, but not limited to, discharges by spray irrigation, infiltration-percolation lagoons, and industrial/commercial facilities into individual subsurface sewage disposal systems, exclusive of sanitary landfills, surface impoundments, land application of septage and sludge, and community subsurface sewage disposal systems)] shall be

based on the following [parameters as reported to the Department by the permittee]:

i. For domestic treatment works which have DSWs [and/or DGWs by land disposal,] the average daily biochemical oxygen demand (BOD.);

ii. For dischargers of industrial pollutants which have DSWs [and/or DGWs by and disposal,] the average daily quantity of [one of the following pollutants] (as expressed in kilograms per day) [, whichever] **all the** pollutants [is discharged in the largest amount]. **limited in the permittee's NJPDES Permits and the risk factors associated with each pollutant (See Table I).**

- [(1) Aluminum (Al);
- (2) Cadmium (Cd);
- (3) Cobalt (Co);
- (4) Lead (Pb);
- (5) Nickel (Ni);
- (6) Arsenic (As);
- (7) Silver (Ag);
- (8) Chromium (Cr);
- (9) Copper (Cu);
- (10) Mercury (Hg);
- (11) Biochemical Oxygen Demand (BOD.);
- (12) Chemical Oxygen Demand (COD);
- (13) Total Organic Carbon (TOC);
- (14) Total Dissolved Carbon (TDC);
- (15) Cyanide (CN);
- (16) Total Suspended Solids (TSS); and
- (17) Total Dissolved Solids (TDS).]

iii. To determine the quantities of pollutants for (c) 3ii above, the Department shall calculate the average daily quantity of those pollutants which are limited in the permittee's NJPDES permit, and if the permit has no limits, then the average daily quantity of those pollutants for which the permittee monitors as required by the NJPDES permit. The quantity may be determined on a net basis provided this has been authorized pursuant to N.J.A.C. 7:14A-3.14(h).

iv. For non-contact cooling water, the heat loading.

4. The annual fee for a DGW, exclusive of land application of residuals, landfills, and community on site subsurface disposal systems, shall be based upon the following:

i. The total loading of all pollutants required to be monitored;

ii. Risk Factors associated with each pollutant required to be monitored (See Table I); and

iii. The Aquifer Rating (See Table II).

iv. To determine the quantities of pollutants for (c)4i above, the Department shall calculate the average quantity (average flow x concentration) of those pollutants which are monitored as required by the NJPDES permit. For surface impoundments, capacity will be substituted for flow to determine the quantity of pollutants.

(d) Monitoring:

1. All DSW and SIU dischargers shall report on Discharge Monitoring Reports (DMRs) and on Monitoring Report Forms (MRFs). The data for the appropriate parameters shall be **monitored and** submitted as frequently as required by the discharger's NJPDES permit, **the requirements of the treatment works approval, and the requirements for the licensed operator (N.J.A.C. 7:10-13.12).** [Temperature shall be reported in degrees Celsius (°C).]

2. For all DGWs, the dischargers shall **monitor and** report groundwater monitoring data to the Department in accord-

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ance with the discharger's NJPDES permit on Monitoring Report Forms (MRFs).

3. Monitoring Report Forms may be obtained from:

Administrator
Water Quality Management
NJPDES Permit Administration
Division of Water Resources
CN 029
Trenton, New Jersey 08625

4. Wastewater flows shall be reported in millions of gallons per day (mgd). BOD₅ and the other pollutants [listed] in (c)3i. *,* ii, and (c)4i. above shall be reported in **micrograms per liter (ug/l) or milligrams per liter (mg/l) or kilograms per day (kg/day)**, as required by the discharger's NJPDES permit. Temperature shall be reported in degrees Celsius (°C).

5. Each DTW shall report every month the average daily flow (Q) and BOD₅ for that month.

6. Industrial and commercial dischargers, except for those dischargers covered by (d)8 below, shall report monthly the average daily flow (Q) and the amount discharged for that month of any of the pollutants [listed] in (c) 3ii [above] and (c)4i.

7. Permittees with DSW discharges consisting solely of non-contact cooling water shall report monthly on MRFs the average temperature (T_a) upstream from the point of discharge. (Temperature shall be reported in degrees Celsius (°C)). This point should be located outside the influence of the thermal plume. Where the intake water source is the receiving stream, intake water temperature shall be used instead of upstream water temperature. Where the average daily ambient temperature is not provided by the permittee, [the values in Appendix A shall be used for computing the annual fee. For the purposes of computing the thermal fees for the billing year beginning March 6, 1982, if the discharger's permit gives only winter and/or summer limitations, and unless monitoring data shows otherwise, for winter] the ambient water temperature shall be considered to be 5.57°C (November—April) and for summer it shall be considered to be 18.87°C (May—October).

8. Permittees with discharges to **to surface water** of non-process, nonthermal ground water from continuous dewatering operations of mining where the quality does not meet the ambient surface water quality standards of the receiving water shall report monthly the average daily flow (Q) and the average daily Total Suspended Solids (SS). Temporary dewatering operations needed for construction purposes are exempt from the requirements of this paragraph and of the fee requirements of this section.

9. Permittees with discharges consisting of a mixture of cooling water and industrial and/or commercial process water shall report as required by (d)6 and 7 above.

10. Only for the purposes of fee calculation, average daily discharge rate, BOD₅ mass loading, the average daily mass loading of the other pollutants [listed] in (c) 3ii and (c)4i above, and average daily heat [,] loading shall be computed as follows:

i. The reported average daily BOD₅ or the concentration of the discharge of the other pollutants [listed] in (c)3ii and 4i above, as submitted to the Department on MRFs or DMRs, shall be multiplied by the average daily discharge flow rate and the appropriate unit conversion factors to yield the average daily mass loading of each pollutant for the reporting period as specified in the permittee's NJPDES permit. If the average daily loading is reported to the Department, this figure will be used. The reported average daily ambient temperature T_a shall be subtracted from the reported average daily discharge temperature T_d, and the result shall be multi-

plied by the reported average daily discharge flow rate and the appropriate unit conversion factors to yield the average daily thermal loading for the reporting period. **For surface impoundments where no capacity is indicated in the permit application, the Department shall use total permitted surface area multiplied by an assumed depth of nine feet. The appropriate conversion factors will be used to determine the capacity in units of millions gallons. The permittee may submit supplemental information documenting the actual capacity.**

ii. The average daily mass loading of each pollutant or the average daily thermal loadings computed in (d)10i above shall be summed for the reporting year.

iii. The appropriate sum of the average daily loadings computed in (d)10ii shall be divided by the sum of the reporting periods to obtain a daily average for the year. For the purposes of fee calculation, this daily average shall be interpreted as the average mass loading of BOD₅ or the other pollutants [listed] in (c)3ii or (c)4 above per day or as the average heat loading per day for the discharge. These daily averages shall be summed by type of pollutant over all the discharges for the facility to yield the average daily mass loading of BOD₅ or the other pollutant [listed] in (c)3ii or (c)4i [above] or average daily heat loading to be used in the fee calculation **within each discharge category.**

iv. **With the exception of an initial NJPDES permit, [I] if the discharge has been in operation less than one year, the average daily mass or heat loading shall be based on the actual number of months of operation. The annual fee shall be proportional to the number of months of operation but not less than the minimum [amount given in (e)1. through 7, (k) or (l) below.] fee for the discharge category.**

11. The reporting year means the year ending with the period for which the most recent MRF or DMR submitted prior to the date of fee proposal is available on the Department's data management system.

12. Dischargers to surface water (DSW) and dischargers to ground water (DGW) shall monitor and report on a monthly basis Chemical Oxygen Demand (COD), total Kjeldahl nitrogen and flow.

Delete the current text of (e) through (l) found in the New Jersey Administrative Code and replace with the following new text.

(e) General provisions for [F] fee calculations:

1. The general fee formula is given by:

i. Fee = A + B E

ii. Where E is the environmental impact value for the particular facility.

2. The general fee formula contains A and B coefficients which are identified constants for each category of discharge. These coefficients define the slope of the line which represents the distribution of the budget among all permittees in a category. The values for A and B are determined by simultaneously solving two of the equations below which consider total environmental impact, maximum environmental impact, total budget for the category and maximum fee for the category; they are subject to a minimum fee equal to the minimum fee for that category. In the industrial category, when a discharge results in an environmental impact equal to 0, equation (iii) will be used.

i. N

$$\sum_{i=1}^N [A + (B E_i)] \text{ Budget For That Discharge Category}$$

ii. $A + B E_{\max} = \text{Maximum Fee For That Discharge Category}$

iii. $A + B E_{\min} = \text{Minimum Fee For Industrial Discharges (Category B)}$

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(1) Where E_i is the environmental impact value for facility i .

(2) Where E_{max} is the highest environmental impact value of all the facilities in that discharge category.

(3) Where $E_{min} =$ an environmental impact of 0.

3. Public and private schools, churches, and charitable institutions shall not be assessed a fee.

4. Where a facility has a combined treatment process including both a DSW and DGW by land disposal, the fee shall be assessed as follows:

i. Water treatment plants with surface impoundments used in the water treatment process shall be assessed the minimum fee of \$350.00 for the DGW/surface impoundment fee.

ii. Facilities which combines surface impoundments with final disposal of wastewater by a DSW or DGW (final disposal includes spray irrigation, overland flow, infiltration-percolation lagoons and subsurface disposal systems but excludes landfills and land application of residuals) shall be assessed the minimum fee of \$350.00 for the surface

iii. Facilities with infiltration-percolation (I/P) lagoons and final disposal by DSW shall be assessed a fee for each category of discharge. Flow shall be determined based upon the measured difference between monitored flow to the lagoon and monitored flow to the surface water. Facilities that do not report flow for both the I/P lagoon and surface water discharges shall be assessed \$1000 for both the I/P lagoon and the total flow will be used to calculate the surface water fees.

5. For permittees with discharges to surface water of non-process, nonthermal discharges of ground water from dewatering operations of which quality is not worse than the ambient surface water quality standards for the receiving waters, there shall be no annual fee assessed. In order to qualify for this exception, a facility must submit a written request within thirty (30) days of receipt of the initial bill, which will be subject to the approval of the Department. Such a request must be accompanied by sampling data showing that the discharge is of the required quality.

6. For the purpose of assessing a fee based upon a new application initial permit, or where the permittee has failed to report data, the Department will use the fee formula for the appropriate category of discharge. In order to insert the appropriate variables the Department will use an assumed value determined by the methods outlined below. The method chosen will be determined by following the sequence in which the methods are listed below until a first value can be determined.

i. For industrial dischargers, either:

(1) The average of the values reported by the permittee;

(2) The average or maximum daily pollutant value (Quantity or concentration; concentration will be used in conjunction with reported or limited flow.) which is authorized to be discharged in the NJPDES permit.

(3) The average daily pollutant loading for other dischargers within the same general SIC Code; or

(4) The average of all reported values by all permittees for that pollutant.

ii. For domestic treatment works:

(1) 30 mg/l BOD for secondary treatment or a higher level of treatment; or

(2) 100 mg/l BOD for primary treatment.

7. If a discharger believes that the Department has made an error in computation or that the fee is based on incorrect data in the discharger's DMR or MRF, the discharger must request an adjustment of the fee and provide documentation (including

DMRs/MRFs) or other reliable basis for such request in writing within 30 days of receipt of the initial bill. The fee remains payable on the due date. A refund will be issued to reflect any adjustment which has been approved by the Department.

8. The Department will not entertain requests for recalculations if a permittee has failed to submit the monitoring data required by the permittee's NJPDES permit or regulations.

9. Where a facility has separate or combined discharge of industrial pollutants and/or domestic wastes with noncontact cooling water, a fee shall be assessed for each category of discharge.

10. The minimum fee for any NJPDES/IWMF(DGW, DSW, or SIU) or a NJPDES permit issued for a discharge at a Hazardous Waste Facility (HWF) as defined by NJAC 7:26-12 and meeting the requirements of NJAC 7:14A-4.2(b)(1) shall be \$10,000.

(f) Fee calculations for DSWs

1. For domestic treatment works except for those covered by (e)4, the annual fee in U.S. dollars is given by the general formula in (e)2 above and computed according to the procedures described in (d)10 above; the minimum annual fee shall be \$300.

i. $E = (\text{Load})^{1/3} (\text{Bioassay Factor})$

ii. $\text{Load} = (D) (\text{BOD}_5)$;

iii. $D = \text{Pollutant Risk Factor}$;

iv. The Bioassay Factor is determined by formula below:

(1) Bioassay Factor = 50/percent effluent resulting in 96 Hour LC_{50}

(2) If no bioassay data Bio. Fac = 1.00

2. For dischargers of industrial pollutants, the annual fee in U.S. dollars is given by the general formula in (e)2 above and computed according to the procedure described in (d)10 above; the minimum annual fee shall be \$350.00

i. The environmental impact value (E) is calculated as follows:

$$\text{ii. } E = \sum_{\text{Pipe } 1}^{\text{Pipe } n} \left[\sum_{\text{Parm } i}^{\text{Parm } j} ((L_i) (D_i))^{1/3} \right] (\text{Bioassay Factor})$$

iii. $D =$ pollutant risk factor of parameter i

iv. $L_i =$ average load (kg/day) of parameter i discharged in pipe i

v. The Bioassay Factor is determined by formula below:

(1) Bioassay Factor = 50/ % effluent resulting in 96 Hour LC_{50}

(2) If no bioassay data Bio. Fac = 1.00

3. For dischargers of non-contact cooling water, the annual fee in U.S. dollars is given by the general formula in (e)2 above (where E is the Pollutant Risk Factor (Di) multiplied by the average daily heat load expressed as million BTUs (British Thermal Units) per hour computed according to the procedure described in (d)10 above and divided by 24; the minimum annual fee shall be \$250.00)

i. $E = (\text{Average Daily Heat Load})$;

ii. In addition to the fee assessed in accordance with 3 above, an additional fee shall be assessed against a discharger of non-contact cooling water for the processing and administering of the discharger's Section 316 variance request. Said fee shall be based upon the proposed budget for the following year and/or notification of the Department's estimated costs to administer, review, process, and issue a Section 316 decision. The discharger's current year's fee may be debited or

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credited in line with the Department's actual expenses for processing and administering the variance request.

4. Permittees whose only discharges are storm sewers or combined sewers (STR) will be assessed a minimum fee of [\$200.00] \$350.00 in U.S. dollars.

5. Discharges from oil/water separators (OWS) of stormwater will be assessed a minimum fee F₁ of \$350.00 in U.S. dollars.

(g) Fee calculations for DGWs, except land application of residuals, landfills, or community subsurface disposal. These fees shall be calculated pursuant to the basic fee formula found at (e)2 above where the environmental impact value (E) is determined by any one or a combination of the following to determine:

- 1. K - BOD = BOD₅ mass loading in Kg/day
- 2. D = Risk factor for each specific parameter, see Table I
- 3. PARM = Parameter concentration
- 4. AQ = Aquifer rating value, see Table II
- 5. LF = Loading factor is the flow or volume divided by 365 days.

i. For underground injection (other than subsurface disposal and noncontact cooling water), infiltration/percolation lagoon, spray irrigation, and overland flow of sanitary wastewater:

- (1) $E_v = [1 + (AQ/10)] [(K - BOD) (D)]^w$
- (2) The minimum fee shall be \$400.00.

ii. For underground injection (other than noncontact cooling water), infiltration-percolation, spray irrigation, overland flow, and subsurface disposal of industrial/commercial wastewater shall be as follows:

- (1) $E = [1 + (AQ/10)] \Sigma [(PARM) (D) (LF)]^w$;
- (2) The minimum fee shall be \$400.00.

iii. For surface impoundments (sanitary wastewater):

- (1) $E = [(1 + (AQ/10)) (K - BOD) (D)]^w$;
- (2) The minimum fee shall be \$350.00.

iv. For industrial/commercial surface impoundments. The annual fees in U.S. dollars are given by:

- (1) $E = [(1 + (AQ/10)) (\Sigma [(PARM) (D) (LF)])]^w$;
- (2) The minimum fee shall be \$350.00. Surface impoundments at mining facilities shall be assessed the minimum fee.

(h) Fees for the land application of sludge and septage and other residuals shall be calculated by the general formula in (e)2 above where the environmental impact value (E) is derived as follows:

1. P is the pathogen reduction factor and is determined as follows:

i. P = 1 where the residual to be land applied satisfies the requirements for Processes to Significantly Reduce Pathogens as per Federal Register 40 CFR 257

ii. P = .8 where the residual to be land applied satisfies the requirements for Processes to Further Reduce Pathogens as per Federal Register 40 CFR 257

2. TAN is the total plant available nitrogen applied to the site in pounds per acre multiplied by the total acres to which residuals may be applied. In terms of TAN, the calculation shall be based on the annual nitrogen application rate based on the proposed crop management plan.

3. TME is the total metal equivalent derived from the weighted average concentration of the heavy metals cadmium, copper, nickel, lead, and zinc in milligrams per kilogram of residuals applied or proposed to be applied per year, on a dry weight basis, multiplied by the relative toxicity value of that metal as follows:

$$TME = 10.0 = 0.4 + 1.0 + 1.0 + 0.2$$

4. If multiple residuals are applied under a single NJPDES permit, the weighted average of the heavy metals concentration of all sludges applied to the site in the previous year will be used to calculate TME.

5. For those NJPDES applications for which residuals quality cannot be determined, the residuals quality shall be assumed to be the median level. In terms of TME, a value of 713 shall be assumed.

i. For land application of sludge from domestic treatment works and septage, the environmental impact value (E) is determined as follows:

$E = (P) (TAN)^w + TME$; the minimum annual fee shall be \$500.00;

ii. For sludge from industrial treatment works and non-hazardous residuals not covered under N.J.A.C. 7:14A-1.8(h)5i.

$E = (TAN)^w + TME$, the minimum annual fee shall be \$1,000; and

iii. For operation of a domestic sludge processing facility which produces a sludge product which meets Federal requirements for a Process to Further Reduce Pathogens in accordance with 40 CFR 257, the fee is based on the total residual processed in dry tons per year.

$E = (P) (TAN)^w + TME$; the minimum fee shall be 500.00;

Where the sludge processing facility produces a compost TAN shall be equal to two pounds for every dry ton of compost produced. Where the sludge processing facility is the Zimpro Process TAN shall be equal to ten pounds for every dry ton of compost produced. For other sludge processing facilities TAN shall be determined from an analysis of the finished sludge product to be distributed.

iv. For hazardous waste residuals, the minimum annual fee shall be \$5,000.00.

v. For transfer stations for sludge and septage the annual fee shall be \$500.00.

(i) Fees for discharges from sanitary landfills are calculated according to the general formula found in (e)2 above where the environmental impact value (E) is determined as follows:

- 1. The minimum fee shall be \$500.00.
- 2. E shall equal the product of the numerical ratings from each of the four categories listed below and calculated by $E_v = (s)(w)(1)(aq)$:

i. s = Landfill Acreage—Ratings from 1 to 8 are determined based on acreage categories approved under the Solid Waste Registration as follows:

Size, Acres	Points
0.1-3	1
3.1-10	2
10.1-25	3
25.1-60	4
60.1-100	5
100.1-250	6
250.1-500	7
greater than 500	8

ii. w = Type of Waste—Ratings from 1 to 16 are based on various waste type categories under the existing Solid Waste Management Regulations and depend on the degree of hazard. w shall be determined by the sum of the points described below:

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ENVIRONMENTAL PROTECTION

Waste Types	Points
Types 13, 23 (Bulky wastes, and vegetative wastes)	1
Types 10, 12, 27, 72, 73, 74 (Municipal wastes, dry sewage sludges non-chemical industrial wastes, bulk liquids and semi-liquids, septic tank clean-out wastes and liquid sewage sludges)	2
Types 18, 25 (Dry non-hazardous chemical wastes, animal and food processing wastes)	4
Types 26, 70 (Oil spill clean-up wastes, waste oil and sludges)	8
Types 17, 28, 76, 77 (Dry hazardous wastes, liquid hazardous wastes, liquid chemical wastes)	16

iii. 1 = Presence or Absence of Impermeable Liner/Leachate Collection—Ratings of 1 or 10 are developed based on presence of a liner collection system beneath the entire fill area or the absence of a complete liner/collection system liner. Ratings shall be determined as follows:

- (1) Completely lined with leachate collection system = 1
- (2) Unlined = 10
- (3) A liner is defined as either: 1) two feet of clay having an in situ permeability of one × ten cm/sec or less; or 2) a 30 mil or greater hypolon liner or equivalent which is acceptable to the Department. When there is a failure in the liner the landfill will not be eligible for the lowest rating.

iv. aq = Geological Setting-Aquifer Location—Ratings are developed based on ground-water yield potential from “None” (1) to “Very Good” (10). Where a facility is located on two formations, the rating for the aquifer with greater ground water yield potential is used in the fee determination for aquifer rating. See table II.

(j) Initial fees for discharges from community onsite subsurface disposal systems shall be assessed on a one time basis by the general formula in (e)2 above where the environmental impact value (E) is equal to the on-site subsurface disposal system design flow in gallons per day. For each additional year there is a permit, a fee of \$300 shall be assessed.

(k) Annual permit fees for discharges to domestic treatment works:

1. Fees for discharges to domestic treatment works by NJPDES permitted significant indirect users or applicants, as defined, shall be assessed by the general fee formula in (e)2

above where the environmental impact value (E) is determined as follows:

i. $E = (\text{Toxic Factor}) (\text{COD PASSED})^{1/2}$

(1) Toxic Factor = Points associated with the Toxicity Group for that discharger.

(2)

Toxicity Group	Toxic Factor	Designation based upon
I	1	SIC Code
II	2	SIC Code
III	3	SIC Code
IV	4	SIC Code
V	5	SIC Code
VI	6	SIC Code
VII	10	Ground Water Decontamination
VIII	15	Landfill Leachate
IX	20	Hazardous Waste Facilities

For SIC Code Toxicity Group see 1984 Basis and Background Document for Annual Fee Schedule For NJPDES Permittees For Billing Period 1984-1985.

(3) COD PASSED = (COD Effluent (Kg/Day)) (BOD PASS THROUGH)

(4) COD Effluent = the discharge from the SIU to the POTW.

(5) BOD Pass Through = the weighted arithmetic average (weighted by number of months) of POTW BOD (Effluent Load) divided by POTW BOD (Influent Load)

iii. The minimum fee shall be \$500.00.

(l) For the purposes of this section, the billing year shall run from July 1 to June 30.

(m) Emergency permit: The Department shall assess a fee for emergency permits. The fees shall be determined based upon the fee formula for the appropriate category and prorated for the term of the permit. The minimum fee for all emergency permits except emergency domestic sludge storage shall be \$1,000. The fee for emergency domestic sludge storage permit will be determined based on the average flow as follows:

Average Flow	Fee
< .999 MGD	\$ 400.00
1 MGD-4.999 MGD	\$ 800.00
5 MGD-19.999 MGD	\$1,600.00
> 20 MGD	\$3,200.00

1. Failure to submit the fee as required by the Department shall result in automatic termination of the permit.

ENVIRONMENTAL PROTECTION

PROPOSALS

**TABLE I
RISK CATEGORIES**

Risk Factor	10 ⁰	10 ¹	10 ²	10 ³	10 ⁴	10 ⁵
SURFACE WATER						
TDS	TSS	Tin	Styrene	Petroleum hydrocarbons	Lead	
Chloride	Phosphorus	Aluminum	Nickel	Arsenic	Mercury	
Sulfate	Phtahalic Acid	Antimony	Copper	Beryllium	Cadmium	
Fluoride	Sulfide	Barium	Silver	Asbestos	Chromium-hex	
Iron	Molybdenum	Chromium-trivalent	Cobalt	Acid fraction compounds	Pesticides	
	Bismuth	Oil & Grease	Ammonia	Base-Neutral Compounds	PCB	
	Manganese	Surfactants	Cyanide		PBB	
	Zinc	N(nitrite, nitrate kjeldhal, diss. & Total) Oxidizable Matter	Selenium			
GROUND WATER						
TSS	TDS	Iron	Silver	Lead	Mercury	
Aluminum	Chloride	Manganese	Fluoride	Arsenic	Cadmium	
Phosphorus	Sodium	Chromium-trivalent	Barium	Beryllium	Chromium-hex	
	Antimony	Zinc	Nitrate	Pesticides	Petroleum	
	Bismuth	Copper	Phenol	Acid fraction compounds	hydrocarbons	
	Sulfate	Ammonia	Cobalt	Base-Neutrals	Total Volatile	
		Oil & Grease	Selenium		Organics	
		Surfactants	Nickel		(including	
		Oxidizable Matter			TTHM)	
		TOC				

**TABLE II
FORMATION RATINGS**

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>
<u>Quarternary</u>			
<u>Pleistocene</u>	Glacial drift		
	Mercer, Middlesex	Poor	2
	Other counties	Mod. to Very Good	10
	Cape May	Moderate to Good	8
	Pennsauken	Mod. to Minor	6
	Bridgeton	Mod. to Minor	6
<u>Tertiary</u>			
<u>Pleistocene</u>	Beacon Hill	Poor	2
<u>Pleistocene</u>	Cohansey	Very Good	10
<u>Miocene</u>	Kirkwood	Good to Mod.	8
<u>Miocene</u>	Piney Point	Minor	4
<u>Eocene</u>	Shark River	None	1
	Manasquan	Poor	2
<u>Paleocene</u>	Vincentown	Poor to Good	8
	Hornerstown	None to Poor	2
<u>Cretaceous</u>			
	Tinton	None to Poor	2
	Red Bank	Poor to Minor	4
	Navesink	None to Poor	2
	Mt. Laurel	Moderate	6
	Wenonah	Minor	4
	Marshalltown	None to Poor	2
	Englishtown	Good to Mod.	8
	Woodbury	None	1
	Merchantville	None	1
	Raritan-Magothy	Very Good	10

PROPOSALS

Interested Persons see Inside Front Cover

ENVIRONMENTAL PROTECTION

Triassic

Watchung	Minor	4
Diabase	Minor	4
Brunswick	Minor to Good	8
Lokatong	Poor	2
Stockton	Mod. to Good	8
Border Conglomerates	Minor	4

Devonian

Skunnemunk	Poor	2
Bellvale	Poor to Minor	4
Cornwall/Pequanac	Poor	2
Kanouse	Poor	2
Marcellus	Poor	2
Onondaga	Moderate	6
Schoharie	Minor	4
Esopus	Poor	2
Oriskany (includes Glenerie and Port Ewen)	Minor	4
Becraft (Minisink)	Poor	2
New Scotland	Minor	4
Kalkberg (Stormville)	Minor	4
Coeymans	Minor	4

Silurian

Manlius	Minor	4
Rondout	Minor	4
Decker	Minor	4
Bossardville	Minor	4
Poxono Island	Minor	4
High Falls	Minor	4
Longwood	Minor	4
Shawangunk and Green Pond	Poor	2

Ordovician

Jacksonburg	Minor	4
Ontelaunee	Minor	4
Epler	Minor	4
Rickenback	Moderate	6

Cambrian

Allentown, Upper	Minor	4
Lower	Mod. to Very Good	10
Leithsville	Very Good	10
Hardyston	Poor	2

Precambrian

Franklin	Minor to Mod.	6
Crystalline Rocks	Minor to Mod.	6

HIGHER EDUCATION

PROPOSALS

(a)

**COMMISSION ON RADIATION
PROTECTION**

Nuclear Medicine Technology

Proposed Readoption: N.J.A.C. 7:28-24

Authorized By: Commission on Radiation Protection,
Max Weiss, Chairman.
Authority: N.J.S.A. 13:1D-1 et seq. and 26:2D-1 et seq.
DEP Docket No. 075-84-12.
Proposal Number: PRN 1985-37.

Address comments and inquiries to:
Mary DiStefano
Bureau of Radiation Protection
380 Scotch Road
Trenton, New Jersey 08628

Pursuant to Executive Order 66(1978), these rules expire on February 14, 1985. The readoption becomes effective upon filing of a notice of adoption.

Summary

New Jersey Administrative Code 7:28-24 et seq. requires that all who practice nuclear medicine technology within New Jersey be licensed by the Department. By requiring such licensure, the rules insure that these technologies satisfy certain training and educational requirements. Technologists performing these procedures are evaluated so as to minimize or eliminate unnecessary radiation exposure to patients.

Specifically, N.J.A.C. 7:28-24 concerns the licensing for use of radionuclides and radiopharmaceuticals, examination requirements and licensing, approval of schools and curriculum, consideration of experience or training in lieu of school attendance, nuclear medicine records, revocation of penalties, registration and licensing requirements, physician's responsibility, fees, unethical conduct, and Departmental power to publish appropriate guidelines.

Social Impact

The regulations proposed for readoption establish radiation safety requirements for persons administering radiopharmaceuticals to humans for diagnostic or therapeutic purposes.

The regulations have successfully protected patient life and safety, and are used as a model by other states. The regulations have proved effective in the past, and are considered by the Department to be necessary to continue to protect the public in the future. Since the regulations were initially adopted, 533 people have been trained under them. On an annual basis, during the past four years, the renewal rate has been approximately 95 percent. The projected number of new licensees is approximately 60 to 75 per year.

Economic Impact

The expense incurred by the Department in its implementation of this Subchapter involves the development or acquisition and administration of examinations to evaluate technologists. Administrative support must be provided to score all examinations, address and mail applications, licenses and registrations and to conduct the examinations. Enforcement and curriculum accreditation procedures must be developed and personnel and other resources provided to implement them. Calculated projections have indicated that the expenses relat-

ing to this program will be recovered by the assessment of the fees described in N.J.A.C. 7:28-24.15(b)1, 2 and 3. The Department has evaluated the administrative expenses it will incur by implementing the nuclear medicine technology program and has determined that there is no need for additional fees. The fee assessed for the licensing examination application review is sufficient to cover the cost of the issuance of a temporary license. The assessment of an additional fee would be an unnecessary burden upon the nuclear medicine technology community.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:28-24.

HIGHER EDUCATION

Address comments and inquiries to:
Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, NJ 08625

(b)

BOARD OF HIGHER EDUCATION

**Teacher Education
Degree Standards: Curriculum**

Proposed Amendments: N.J.A.C. 9:2-12.2

Authorized By: T. Edward Hollander, Chancellor and Secretary.
Authority: N.J.S.A. 18A:3-14 (d) and (e).
Proposal Number: PRN 1985-36.

The agency proposal follows:

Summary

N.J.A.C. 9:2-12 governs the evaluation and approval of baccalaureate degree programs in teacher education at public colleges and universities. The proposal amends and sets certain credit hour and coursework requirements within such degree programs. The proposal, if adopted, will bring these regulations into conformity with similar regulations recently adopted by the State Board of Education at 16 N.J.R. 2788.

Social Impact

The proposal modifies the coursework which must be satisfactorily completed by a student to obtain a baccalaureate degree in a teacher education program from a public college or university within this State.

Economic Impact

As the proposal only changes baccalaureate degree requirements for teacher education programs at public colleges and universities within this State, there are no costs associated with this proposal.

PROPOSALS

Interested Persons see Inside Front Cover

HIGHER EDUCATION

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

9:2-12.2 Curriculum

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

(c) Each undergraduate teacher preparation program shall provide a minimum of [18] **nine** semester credit hours in the study of the behavioral and social sciences.

(d) At least 96 semester credit hours of the total program must be distributed among the general education, academic sequence, and behavioral/social aspects of the program.

[d)] (e) Each undergraduate teacher preparation program shall provide a coherent sequence of professional courses of **no more than 30 semester credit hours** which shall emphasize the study of school curriculum and teaching methodology. This component of the undergraduate program shall provide students, normally beginning in the sophomore year, with practical experiences in an elementary or secondary school setting; these opportunities shall increase in intensity and duration as the student advances through the program and culminate with a student teaching experience.

[(e)] (f) The student teaching experience of each undergraduate program shall be the equivalent of a full-time experience of one semester's duration.

Social Impact

The Tuition Aid Grant Program provides awards based on financial need to enable students to obtain an undergraduate degree not only from public but also the higher cost independent colleges in New Jersey. The proposed 1985-86 Tuition Aid Grant Award Table continues to expand eligibility intervals to permit approximately 3,000 additional moderate income students to receive increased awards to offset their educational expenses. The increase in awards at the New Jersey independent college sector equals approximately 41.6 percent of the average tuition charged to students attending institutions in this sector and reflects their higher tuition costs.

Economic Impact

Funds for the proposed 1984-85 Tuition Aid Grant Award Table were contained in the Fiscal Year 1985 Appropriations Act and supplemented with Federal State Student Incentive Grant funds. Sufficient funds for the proposed 1985-86 Award Table are contained in the Department of Higher Education's Fiscal Year 1986 Budget Request which was approved by the State Board of Higher Education and the Student Assistance Board. Adjustments will be made should funds not be available to support this proposed table.

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

9:7-3.1 Tuition Aid Grant Award Table

The value of the grant is related to the tuition charges of the various institutional sectors in New Jersey and the student's ability to pay for educational costs. The award tables below show[s] approximate award levels depending upon tuition and ability to pay[.]:

(Delete the existing table in the New Jersey Administrative Code at N.J.A.C. 9:7-3.1 and at 16 N.J.R. 2308(a), 16 N.J.R. 3206(a) and replace it with the following tables.)

(a) TUITION AID GRANT (TAG) AWARD TABLE FOR 1984-85
APPROXIMATE TUITION AID GRANT VALUES
NEW JERSEY COLLEGES AND UNIVERSITIES

New Jersey Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers U. & UMDNJ ¹	NJ Inst. of Tech.	Renewal ² Out-of-State Colleges & Universities
A	B	C	D	E	F	G
Under 750	\$750	\$1088	\$2000	\$1520	\$1796	\$450
750-1049	650	980	1900	1420	1690	260
1050-1349	550	880	1800	1320	1590	260
1350-1649	450	780	1700	1220	1490	260
1650-1949	350	680	1600	1120	1390	200
1950-2249	250	580	1500	1020	1290	0
2250-2549	200	480	1400	920	1190	
2550-2849	0	380	1300	820	1090	
2850-3149		280	1200	720	990	
3150-3449		200	1100	620	890	
3450-3749		0	1000	520	790	
3750-4049			900	420	690	
4050-4349			800	320	590	
4350-4649			700	200	490	
4650-4949			600	0	390	
4950-5249			500		290	
5250-5549			400		200	
5550-5849			300		0	
5850-6149			200			
Over 6149			0			

¹ Rutgers Engineering and Pharmacy students will have their awards increased to offset the higher tuition charged for these programs of study. Approved programs only at UMDNJ. Contact the financial aid office for details.

² "Renewals" are students who received a Tuition Aid Grant in 1981-82 or prior years.

STUDENT ASSISTANCE BOARD

Proposals numbered PRN 1985-34 and 35 are authorized by the Student Assistance Board, Joseph Streit, Chairman.

(a)

**Tuition Aid Grant program
1984-1985 Award Table
1985-1986 Award Table**

Proposed Amendment: N.J.A.C. 9:7-3.1

Authority: N.J.S.A. 18A:71-47(b) and 18A:71-48.
Proposal Number: PRN 1985-34.

The agency proposal follows:

Summary

The proposal establishes, in part, an increased award table for the Tuition Aid Grant Program for the 1984-85 spring term. The proposed increase is \$100.00 at New Jersey independent institutions with no change to the County College, State College, Rutgers, UMDNJ, N.J.I.T., and Out-of-State sectors. The proposal also establishes an award table for the Tuition Aid Grant Program for the 1985-86 academic year which raises the New Jersey Eligibility Index for maximum sector awards by 200 from 750 to 950 and changes the remaining New Jersey Eligibility Index intervals from 300 to 400. This award table also provides for an increase in the maximum award to \$2,300 for the neediest students attending New Jersey independent institutions and eliminates the renewal out-of-state colleges and universities due to the expiration period for grandfathering these previous award recipients.

(b) TUITION AID GRANT (TAG) AWARD TABLE
FOR 1985-86
APPROXIMATE TUITION AID GRANT VALUES
NEW JERSEY COLLEGES AND UNIVERSITIES

New Jersey Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers U. & UMDNJ ¹	NJ Inst. of Tech.
A	B	C	D	E	F
Under 950	\$750	\$1088	\$2300	\$1520	\$1796
950-1349	650	980	2150	1420	1670
1350-1749	550	880	2000	1320	1550
1750-2149	450	780	1850	1220	1430
2150-2549	350	680	1700	1120	1310
2550-2949	250	580	1550	1020	1190
2950-3349	200	480	1400	920	1070
3350-3749	0	380	1250	820	950
3750-4149		280	1100	720	830
4150-4549		200	950	620	710
4550-4949		0	800	520	590
4950-5349			650	420	470
5350-5749			500	320	350
5750-6149			350	200	200
6150-6549			200	0	0
Over 6549			0		

¹ Rutgers Engineering and Pharmacy students will have their awards increased to offset the higher tuition charged for these programs of study. Approved programs only at UMDNJ. Contact the financial aid office for details.

(a)

Public Tuition Benefits Program Eligibility Criteria

Proposed Amendments: N.J.A.C. 9:7-5.1 and 5.4

Proposed New Rule: N.J.A.C. 9:7-5.10

Authority: N.J.S.A. 18A:71-77.
Proposal Number: PRN 1985-35.

The agency proposal follows:

Summary

The proposed amendments provide eligible students attending New Jersey independent colleges with an award equal to the highest tuition charged at a public institution in New Jersey, limit benefits to students enrolled at least half time, and establish a maximum number of semesters of payment a student may receive benefits.

Social Impact

The proposed amendments to the Public Tuition Benefits Program will provide tuition assistance not only to students attending public colleges in New Jersey but also those enrolled at New Jersey independent colleges in their efforts to obtain an undergraduate degree.

Economic Impact

The proposed amendments provide for maximum public sector tuition awards for students attending New Jersey colleges and universities and set a maximum limit on the number of terms for which a student may be eligible for payment. The proposal will increase the cost of the Public Tuition Benefits Program to the extent required by P.L. 1983 c.4.

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

9:7-5.1 General provisions

(a) Chapter 229, Laws of 1979 as amended by Chapter 300, Laws of 1981 and Chapter 4, Laws of 1983, provide[s] that free tuition will be available at any public institution of higher education in the State and that portion of the tuition at an independent institution in the State not to exceed the highest tuition charged at a public institution of higher education in this State through the Public Tuition Benefits Program (PTB) to any child or surviving spouse of a member or officer of a New Jersey volunteer fire company, volunteer first aid or rescue squad or municipal fire, police, county police or park police department, State Fire Service or of the Division of State Police, or of a permanent, active and full-time officer employee of this State or any political subdivision thereof holding the following titles: State investigator, correction officer, recruit, senior correction officer, sergeant, lieutenant, captain, correction officer duty keeper, court attendant and sheriff's officer, court attendant and sheriff's officer lieutenant, court attendant and sheriff's officer captain, court attendant and sheriff's officer deputy chief, prosecutor's detective, prosecutor's investigator, narcotics officer, marine patrolman, senior marine patrolman, principal marine patrolman, chief, bureau of marine law enforcement, or who is an inspector, assistant, technician, supervisor or superintendent with respect to the enforcement and regulation of weights and measures, or civil defense or disaster control worker, which member, officer or worker was killed in the performance of his or her duties.

(b) General provisions for all programs administered by the Student Assistance Board (N.J.A.C. 9:7-2) which pertain to residency, foreign nationals, payments to students, student withdrawal or dismissal during period of an award, check endorsements, and fiscal responsibilities shall be in effect for the Public Tuition Benefits Program.

9:7-5.4 [Public] Eligible institutions

Tuition benefits are available to eligible students at the following [public] institutions of higher education located in New Jersey:

- County Colleges
- . . .
- [Commissions]
- . . .
- [Union County Technical Institute]
- . . .
- State Colleges
(No change.)
- Independent Institutions**
- Assumption**
- Berkeley (Garret Mtn)**
- Bloomfield**
- Caldwell**
- Centenary**
- College of Saint Elizabeth**
- Don Bosco**
- Drew**
- Edward Williams**
- Fairleigh Dickinson**
- Felician**
- Georgian Court**
- Monmouth**
- Northeastern Bible**
- Princeton**
- Rabbinical**
- Rider**
- Saint Peter's**

PROPOSALS

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HIGHER EDUCATION

Seton Hall
Stevens Institute of Technology
Upsala
Westminster Choir
Rutgers University, UMDNJ and NJ Institute
of Technology
...
UMDNJ
...

Social Impact

The Independent College and University Assistance Act each year provides financial support to private institutions of higher education which otherwise would not receive any direct State aid. The Act attempts to provide assistance to private institutions in order to maintain a balance between public and private higher education within the State, thereby giving students entering college a broader choice of attendance at several types of higher education institutions.

Over the past five years, the aid provided through the Act has provided greatly needed financial assistance to the private sector of higher education, which otherwise receives no direct State aid. Continuation of aid through the Act will help to ensure continued operation of those institutions which provide academic programs of high quality to students within the State.

Economic Impact

As the assistance provided under this Act is given directly to the institutions and not the students attending those institutions, the Act and this proposal does not have a direct economic impact on individuals but benefits the institutions receiving the aid.

The proposal itself sets forth auditing requirements which will ensure accurate distribution of aid pursuant to the Act.

The amount of aid received by independent institutions pursuant to the Act over the past five fiscal years is as follows:

- Fiscal year 1981—\$10.5 million.
- Fiscal year 1982—\$10.9 million.
- Fiscal year 1983—\$10.9 million.
- Fiscal year 1984—\$11.1 million.
- Fiscal year 1985—\$12.7 million.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 9:14.

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

9:14-1.1 Definitions

The following words and terms, when used in the Act pursuant to which these regulations are promulgated, shall have the following meanings, unless the context clearly indicates otherwise.

“Credit hours” means the number of credits (For the purpose of this Act one credit hour shall be equal to one regularly scheduled contact hour of classroom instruction or the equivalent, or three contact hours of laboratory instruction per week per semester, or as consistent with institutional practice as of July 1979, or the equivalent as recognized by the Department of Higher Education. The total number of credit hours generated shall be counted at the time the institution takes its official census.) generated by full-time and part-time undergraduate New Jersey students who have received instruction offered on the main New Jersey campus or at other locations approved by the Board or Chancellor of Higher Education and who were:

1. Enrolled in associate or baccalaureate programs in eligible [instructions] **institutions** chartered by the Legislature;
- 2.-3. (No change.)

9:7-5.10 Enrollment status and terms of payment

Eligible students shall be enrolled on at least a one-half time basis during any term in order to receive payment. Recipients shall not be eligible for more than eight semesters of payment for full-time enrollment or the equivalent for halftime enrollment. Payment for half-time enrollment shall count as one half a semester of payment. Students enrolled in a program of study normally requiring five years to complete shall be eligible for ten semesters of payment.

(a)

BOARD OF HIGHER EDUCATION

Independent College and University Assistance

**Proposed Readoption with Amendment:
N.J.A.C. 9:14**

Authorized By: T. Edward Hollander, Chancellor and Secretary.

Authority: N.J.S.A. 18A:72B-22.

Proposal Number: PRN 1985-33.

Pursuant to Executive Order 66 (1978), N.J.A.C. 9:14 expires on February 28, 1985. The readoption of this rule becomes effective upon acceptance for filing by the Office of Administrative Law of a notice of readoption.

The agency proposal follows:

Summary

The Board of Higher Education is statutorily authorized to promulgate rules and regulations to implement the Independent College and University Assistance Act, N.J.S.A. 18A:72B-15 et seq. The Act provides for financial assistance to independent universities and colleges within the State. Funding is generally provided upon a full time student equivalency basis.

First enacted by the Board of Higher Education in 1972, the current regulations expire on February 28, 1985 pursuant to the provisions of Executive Order No. 66(1978). The rules are being readopted without change with the exception of a correction in language.

The rules establish definitions and requirements regarding audits of the funds received under the Act such as for full-time equivalent enrollment and students receiving need-based financial aid.

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The following proposals are authorized by George J. Albanese, Commissioner, Department of Human Services.

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

For proposals numbered PRN 1985-6 and 20, address comments and inquiries to:

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(a)

Prosthetic and Orthotic Services

Proposed Readoption: N.J.A.C. 10:55-1.1 through 1.6

Proposed Readoption with Concurrent Amendments: N.J.A.C. 10:55-1.7 through 1.9

Authority: N.J.S.A. 30:4D-6b(6), 7, 7a, 7b.
Proposal Number: PRN 1985-20.

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:55-1 expires on March 11, 1985. The readoption of the existing rules becomes effective upon filing with the Office of Administrative Law of the notice of readoption. The concurrent amendments to the existing rules become effective upon publication in the Register of a notice of adoption.

The agency proposal follows:

Summary

This proposal is intended to readopt N.J.A.C. 10:55-Subchapter 1 the general provisions section of Prosthetic and Orthotic Services Manual. This subchapter covers such topics as eligible providers, prescription policies, prior authorization requirements, and policies governing repairs and replacements.

The Medicaid program provides prosthetic and orthotic appliances to Medicaid patients to enable them to remain in the community whenever possible. A prosthetic appliance is one that artificially replaces a missing portion of the body; an orthotic appliance is one that is designed to provide support, increase functioning, or overcome a physical impairment or defect.

An administrative review has been conducted, and a determination made that the rule is necessary, adequate, reasonable, efficient, understandable and responsive for the purpose for which it was promulgated. The rule allows Medicaid patients to obtain a prosthetic or orthotic appliance when prescribed by a physician and prior authorized by the Division's medical consultant at the Medicaid District Office.

The rule was amended in 1980 to indicate that orthopedic shoes would be reimbursable under three conditions—when the shoe is attached to a brace or bar; when the shoe is part of a postoperative or postfracture treatment program; or when the shoe is used to correct or adapt to gross foot deformities (R. 1980 d. 89, at 12 N.J.R. 193(a)).

The rule is being amended on readoption. The reference to resolving controversies by arbitration is being deleted from N.J.A.C. 10:55-1.7(b)9, 10. Language is being added to 10:55-1.9, "Basis of payment," to indicate that the statutorily prescribed method of resolving valid complaints or issues arising out of the claims payment process is a hearing (reference is made to N.J.S.A. 30:4D-7f). Hearing requests (for Medicaid providers) must be submitted in writing to the Division. If the case is certified as contested, it is sent to the Office of Administrative Law, who will assign an Administrative Law Judge to hear the case.

The reference to the standing committee (10:55-1.8) is also being deleted.

Section 10:55-1.9, formerly entitled "Basis of payment," is being amended to indicate that prosthetic and orthotic providers are reimbursed in accordance with the procedure codes, narrative description and corresponding fee schedules that was recently adopted as R. 1984 d.206, effective June 4, 1984. These codes and fee schedules are referenced at 10:55-3.1. Providers were issued individual copies of the updated procedure codes via a New Jersey Health Services Program Newsletter, Volume P-391, dated May 29, 1984.

The procedures governing reimbursement for labor and travel time are also set forth in more detail. A charge for labor is allowed when an appliance is being repaired but is not allowed for a new appliance because the fee schedule represents complete reimbursement. Travel time is allowed for both new appliances and repair of an existing appliance. This codification represents existing Division policy.

Social Impact

The rule is designed to enable handicapped persons to achieve their optimal level and remain in the community whenever possible. The rule should be continued because there are Medicaid patients who will need prosthetic and orthotic appliances.

The rule also impacts on Medicaid providers who supply these appliances.

Economic Impact

The Division recently adopted a revised procedure code listing in June 1984 as indicated above. Providers are reimbursed in accordance with this newly adopted fee schedule.

The Division spent approximately \$713,371 (federal-state share combined) on prosthetic and orthotic appliances in FY 1984.

The rule should be continued to insure receipt of federal matching funds for these necessary Medicaid services.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:55-1.

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

10:55-1.7 Duties of the provider; guarantee

(a) (No change.)

[(b) For a new appliance, the provider shall submit a unit price for each complete item in the New Jersey prosthetic and orthotic nomenclature which shall include:

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1. Cost of all labor required to prepare the appliance for final acceptance;

2. Cost of materials;

3. Cost for home visits beyond a ten-mile radius from the prosthetic and orthotic facility (maximum allowable home visits-three);]

(b) The provider is responsible for:

[4.] 1. Delivery of the appliance to the recipient within 45 calendar days of receipt of authorization by the facility from the [local medical assistance unit] **Medicaid District Office (MDO)**;

i. If it is not possible to provide an appliance within the stated time, the facility shall notify the Medicaid District Office that such time limit cannot be met in a particular case and state the reason(s) why;

ii. Liability for delinquency thereupon becomes a judgmental factor within the [local medical assistance unit] **MDO** which will act accordingly.

[5. Provision] 2. **Providing** that all appliances furnished by the approved facility will conform to the prescriber's prescription and the description of appliances set forth in the accepted nomenclature, will fit properly to the extent that the recipient's condition(s) permit, and will provide maximum efficiency and comfort consistent with the condition(s) of the recipient for whom the appliances are prescribed;

[6. Assumption of] 3. **Assuming liability** for material defects over which the provider has (or should have) control;

[7. Agreement] 4. **Agreeing** to accept rejection of all appliances when the prescribing physician, after appropriate evaluation of the appliance(s), determines that the appliance(s) does not conform to the prescription and description of the appliance set forth in the accepted nomenclature, does not fit properly, is not of acceptable quality or does not provide maximum efficiency and comfort consistent with the conditions of the recipient(s) for whom it is prescribed;

[8.] 5. (No change in text.)

9. Agreement that any controversies arising circumstances covered in the preceding paragraphs shall be resolved by arbitration of a special committee appointed by the Director, Division of Medical Assistance and Health Services, and consisting of personnel not involved in the case originally. The opinions of the committee shall be binding on all concerned: Division, provider, prescribing physician, recipient;

10. Acceptance of any action, punitive or otherwise, by the Division of Medical Assistance and Health Services resulting from recommendations of the special committee appointed to resolve controversies as indicated in (b)9 above.]

10:55-1.8 [Standing committee] **(Reserved)**

[(a) The Director, Division of Medical Assistance and Health Services, shall appoint a standing committee to review, alter and update prosthetic and orthotic nomenclature.

(b) This committee shall meet at least once a year to perform its assigned responsibility.]

10:55-1.9 [Basis of payment] **Policies and Procedures governing reimbursement for prosthetic and orthotic appliances**

[(a) Reimbursement shall be on the basis of the customary charge, not to exceed an allowance determined reasonable by the Commissioner of the Department of Institutions and Agencies, and further limited by Federal policy relative to reimbursement of practitioners and other individual providers.]

(a) **For a new appliance, the provider shall submit a claim form to the Prudential Insurance Company in accordance with the procedures set forth at N.J.A.C. 10:52-2, entitled Billing Procedures.**

1. **The provider will be reimbursed in accordance with the Prosthetic and Orthotic Procedure Codes, Descriptions, and corresponding fee schedules which are cited but not reproduced at N.J.A.C. 10:55-3.1.**

2. **There will be no additional labor charge for a new item or appliance.**

3. **If it is necessary for the provider to visit the patient in their home, apartment or other community setting to measure, fit or deliver a new appliance, the following conditions apply:**

i. **The provider will be reimbursed according to the allowance that corresponds to the narrative description captioned portal to portal travel time. (Reference is made to procedure codes 6645 and 6941 which appear in the listing of Prosthetic and Orthotic Procedure Codes, Descriptions and Fee Schedules which is cited at N.J.A.C. 10:55-3.1.)**

ii. **A maximum of three "home visits" will be allowed, unless there is adequate documentation, including a prescription, justifying the need for additional visits.**

(b) For an appliance that is being repaired, the following procedures apply:

1. **The provider will submit a claim form to the Prudential Insurance Company in accordance with the procedures set forth at N.J.A.C. 10:52-2, entitled Billing Procedures.**

i. **The provider will be reimbursed in accordance with the Prosthetic and Orthotic Procedure Codes, Descriptions, and corresponding Fee Schedules which are cited but not reproduced at N.J.A.C. 10:55-3.1.**

ii. **A charge for labor will be allowed. (Reference is made to procedure codes 6644 and 6939 which appear in the listing of Procedure Codes, Descriptions, and Fee Schedules, cited at N.J.A.C. 10:55-3.1.)**

iii. **Reimbursement for home or community visits will be allowed in accordance with the same criteria that is used for new appliances. This criteria appeared previously at (b)3 above.**

[(b)] (c) **In no event shall the allowance exceed the charge by the provider to other governmental agencies, or other groups or individuals in the community.**

(d) Providers are entitled to request a hearing on any valid complaint or issue arising out of the claims payment process. The procedures for requesting a hearing are set forth in N.J.A.C. 10:49-5.1 et seq.

(a)

**Home Care Services Manual
Home Health Services and Personal Care
Assistant Services**

**Proposed Readoption with Amendments:
N.J.A.C. 10:60-1, 2**

Authority: N.J.S.A. 30:4D-6b(2)(5)(16), 7, 7a, 7b;
30:4D-12; 42 CFR 440.70 Home Health Services, 42
CFR 440.170(f) Personal Care Services.

Proposal Number: PRN 1985-6.

Pursuant to Executive Order No. 66(1978), Subchapter One expires on June 22, 1987, and Subchapter Two expires on July 10, 1986. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of readoption. The concurrent amendments to the existing rules become effective upon publication in the Register of a notice of adoption.

The agency proposal follows:

Summary

This proposal is designed to readopt both Subchapter One which describes general policies, and Subchapter Two which explains billing procedures, of the Home Care Services Manual (formerly called the Home Health Services Manual). As part of the readoption process, there have been several recodifications that are intended to consolidate criteria, such as prior authorization, for all home care services under the appropriate section. These recodifications are more procedural than substantive, because they reflect existing standards, procedures and policies.

The rule is also being amended on readoption to include proprietary homemaker agencies as personal care assistant providers, and to provide for accreditation for homemaker agencies, and to revise definitions for occupational and physical therapy.

Home Health Services are authorized pursuant to federal regulations 42 CFR 440.70. These services, which include nursing service, home health aide service, and medical supplies and equipment, are provided to Medicaid patients in their place of residence upon written orders from a physician. Home Health Services are provided by home health agencies, which must be approved by the New Jersey Department of Health, certified under Title XVIII (Medicare), and are also approved for participation as a provider by the New Jersey Medicaid (Title XIX) Program.

Personal Care Assistant Services are authorized pursuant to federal regulations 42 CFR 440.170(f). These services must be prescribed by a physician, supervised by a registered nurse, and performed by a qualified individual. Personal care assistant services cannot be performed by a member of the patient's family. Homemaker agencies may perform personal care assistant services provided they have been approved by the Department of Human Services and received, or are in the process of obtaining, the appropriate accreditation. When the rule governing personal care assistant services was originally adopted (R.1984 d.21, effective February 6, 1984 at 16 N.J.R. 239(c)), only voluntary non-profit homemaker agencies could provide these services. The rule is now being amended to allow proprietary homemaker agencies to perform these serv-

ices. The proprietary agencies will be subject to the same requirements as the voluntary non-profit agencies, including accreditation by a state or national home care association. This is a new requirement applicable to all homemaker agencies.

It should be noted that personal care assistant services may not be provided simultaneously with home health services.

Other amendments associated with this proposal include changing the definitions of both occupational and physical therapy to conform with the federal regulations (42 CFR 440.110). In addition, the definition of physical therapist also contains the requirement that if the therapist is practicing in New Jersey they must be licensed by the State of New Jersey as required by P.L. 1983, Ch. 296, approved August 4, 1983. A definition of personal care assistant services has been added which includes the federal requirements for this service (42 CFR 440.170(f)). N.J.A.C. 10:60-1.3 has been recodified in a separate subchapter and is now entitled "covered home care services", and includes both home health services and personal care assistant services. The substantive text of personal care assistant services was recently adopted and appeared previously at N.J.A.C. 10:60-1.5 in the code. It has been recodified as 10:60-2.2. Subparagraph v was added to indicate providers are required by law (N.J.S.A. 30:4D-12) to maintain adequate records and to make these records available to the representatives of the New Jersey Medicaid Program.

N.J.A.C. 10:60-1.4 sets forth the requirements for prior authorization for both home health and personal care assistant services. These requirements have always existed, but they were coded in the billing subchapter. The recodification describes the proper method of obtaining prior authorization from the Medicaid District Office (MDO), and completion of the required form (FD-139) by the provider. If the request is approved, a copy of the FD-139 must accompany the claim form.

Subchapter 2, currently entitled "Authorization and Billing Procedures" is being recodified as Subchapter 3 and is being amended to read "Home Care Services Billing Procedures". Consequently, the current text of 10:60-2.1, entitled "Prior authorization", was deleted from this subchapter and the substantive material placed in 10:60-2.3 as indicated previously. The text of the rule describes the appropriate form to be used, the fiscal agent that is responsible for processing the claim, the procedures to be followed when the patient has both Medicare and Medicaid coverage, and instructions for completing the respective forms.

The remainder of the changes to Subchapter 2 are codification revisions. For example, 10:60-2.4, entitled "Submitting corrected bills", has been changed to 10:60-3.2, entitled "Submitting corrected claims". N.J.A.C. 10:60-3.3 describing toll free telephone service is new. The section entitled "Assessment of interest on overpayments" has been renumbered from 2.5 to 3.4. The section entitled "Automated Data Exchange" has been renumbered from section 2.6 to 3.5. N.J.A.C. 10:60-2.7 is being deleted.

An administrative review has been conducted, and a determination made that the rule is necessary, adequate, reasonable, efficient, understandable and responsive for the purpose for which it was created. The rule enables Medicaid patients to obtain health related services in the community, and provides an alternative to institutionalization. The rule also describes the procedures providers must follow when they render services and submit a claim for payment.

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The rule was recently amended to allow for the inclusion of Personal Care Assistant Services in the New Jersey Medicaid Program. The citation appears previously in this summary. The rule was also amended to allow for initial evaluation visits to be made without obtaining prior authorization (R.1983 d.583 at 15 NJR 2168(b)).

Social Impact

Since the same social conditions still exist, the rule should be continued. There will be Medicaid patients who require health related services that can be rendered in a community setting.

The rule impacts on Home Health Agencies and Homemaker Agencies since they provide the necessary services. Home Health Agencies can provide both home health services and personal care assistant services. Homemaker Agencies can provide home health aide services when they are under contract with a Home Health Agency; they can provide personal care assistant services directly by enrolling as a Medicaid provider.

This proposal will also enable proprietary Homemaker Agencies to become providers in the Medicaid program. They will be subject to the same program requirements as those homemaker agencies that currently participate in the Medicaid program.

The rule should be readopted to enable Medicaid patients to receive these services, and to allow providers to submit claims for rendering them.

Economic Impact

During fiscal year 1983, the Division's expenditures were approximately sixteen million dollars (federal-state share combined). In fiscal year 1984, the Division expended approximately eighteen million dollars (federal-state share combined). These figures do not include expenditures for Personal Care Assistant Services, because they were not included in the New Jersey Medicaid Program until late in fiscal year 1984. The rule should be continued to enable the Division to receive federal matching funds, and to enable providers to be reimbursed for rendering home care services.

There is no cost to the Medicaid patient for either home health services or personal care assistant services that are provided as part of the regular Title XIX (Medicaid) program.

Home Health Agencies and Homemaker Agencies will continue to be reimbursed in the same manner because there is no change in the existing principles of reimbursement.

Full text of the proposed re Adoption appears in the New Jersey Administrative Code at N.J.A.C. 10:60-1, 2.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:60-1.1 Scope

(a) **The Home Care Services Manual includes home health care services provided by a certified licensed home health agency and personal care assistant services provided by both a certified licensed home health agency and a homemaker agency (proprietary and voluntary non-profit).**

[(a)] (b) Home health agencies (**certified licensed**) must provide nursing services and homemaker-home health aide services. Certain medical supplies must be provided by the agency. Medical equipment and appliances must be arranged for by the agency. Additional services may include physical

therapy, occupational therapy, speech-language pathology **services**, medical social services, personal care assistant services, and other health care related services.

1. Medicaid reimbursement is available for these services when provided to Medicaid eligible patients in their places of residence, such as a private home, residential hotel, residential health care facility, rooming house and boarding [house] **home**, but not in a hospital, skilled nursing facility or intermediate care facility. Prior authorization is required for all services/visits except for the initial evaluation visit.

i. In residential health care facilities the personal care and household services of **either** a homemaker-home health aide **or personal care assistant** are excluded.

ii. **Personal Care Assistant Services may not be provided simultaneously with home health services.**

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

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

(c) Homemaker (proprietary and voluntary non-profit) agencies will be approved to provide Personal Care Assistant Services and the Initial Nursing Assessment Visit only as outlined in N.J.A.C. 10:60-2.2.

[(d) Voluntary non profit homemaker/health aide agencies will be approved by the New Jersey Medicaid Program to provide Personal Care Assistant Services and the Initial Nursing Assessment Visit only.]

[1. Each voluntary non-profit homemaker/home health aide provider must be individually approved by the Department of Human Services, Division of Medical Assistance and Health Services before it will be reimbursed for services rendered to Medicaid eligible recipients.]

10:60-1.2 Definitions

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

... "Discharge planning" means that component part of a total individualized plan of care formulated by all members of the agency's health care team, together with the patient and/or his family or interested person which anticipates the health care needs of the patient in order to provide for continuity of care. Such planning aims to provide humane and psychological preparation to enable the patient to adjust to his changing needs and circumstances.

"[Participating] Home health agency" means a public or private agency or organization, either proprietary or non-profit, or a subdivision of such an agency or organization, which qualifies as follows:

1. Is approved by the New Jersey State Department of Health including requirements for Certificate of Need and licensure when applicable.

2. Is certified as a home health agency under Title XVIII (Medicare) Program.

3. Is approved for participation as a home health agency provider by the New Jersey Medicaid Program.

"Homemaker Agency" means a proprietary or voluntary non-profit agency approved by the Department of Human Services, Division of Medical Assistance and Health Services, to provide Personal Care Assistant Services and the Initial Nursing Assessment Visit only. The following conditions must be met:

1. The agency has received the initial approval and is being evaluated for accreditation by the Home Care Council of New Jersey or the National Home Care Council which should be completed within 6 months from the date of the initial approval; or

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2. The agency is approved and accredited by the Home Care Council of New Jersey or the National Homecare Council, and

3. The agency is approved and accredited by the Home Care Council of New Jersey or the National Homecare Council on an annual basis.

"Homemaker-home health aide" means a person who has successfully completed a training program in personal care services approved by the New Jersey State Department of Health and who is assigned and supervised by a registered professional nurse of the home health agency.

"Levels of care" means [the following: 1.] two levels of home health care services, acute and chronic, [are] provided by a certified, licensed home health agency, as needed, to Medicaid eligible patients, upon request of the attending physician.

[i] 1. "Acute" home health care is a concentrated and/or complex professional and non-professional service on a continuing basis where there is anticipated change in condition and services required. Acute home health care services may be requested and authorized for a period up to 60 days. Services may be reauthorized as needed.

[ii] 2. "Chronic" home health care is either a long or short-term uncomplicated professional and non-professional care where there is no anticipated change in condition and services required. Chronic home health care services may be requested and authorized for a period up to six months. Services may be reauthorized as needed.

...

"Medical Consultant" means a licensed physician based in the Medicaid District Office whose responsibility is to review and evaluate requests for prior authorization for various medical services for the New Jersey Medicaid Program. [For Home Health Services the Medical Consultant may be assisted by a Medicaid nurse and social worker in the review and evaluation of the prior authorization requests.]

...

"Occupational therapist" means [a person who is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, or is eligible for certification by the American Occupational Therapy Association as a Occupational Therapist, Registered; and has one year of experience as an occupational therapist.] **an individual who is registered by the American Occupational Therapy Association, or a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association.**

"Personal care assistant" means a person who:

1. Successfully completed the 60 hour home health aide training and certification requirements of the New Jersey Department of Health.

2. Is primarily involved in the treatment and care of elderly and disabled individuals living in their own homes in the community.

3. Is assigned and supervised by a registered professional nurse of a Medicaid approved personal care assistant provider agency.

"Personal Care Assistant Services" means health related tasks performed by a qualified individual in a recipient's home, under the supervision of a registered professional

nurse, as certified by a physician in accordance with a written plan of care and prior authorized by the State Agency.

"Physical therapist" means [a person who is licensed as a physical therapist by the state in which the physical therapist is practicing and who meets one of the following requirements:

1. Has graduated from a physical therapy curriculum approved by the American Physical Therapy Association, or by the Council on Medical Education of the American Medical Association; or

2. Prior to January 1, 1966, was admitted to membership by the American Physical Therapy Association, or was admitted to registration by the American Registry of Physical Therapists or has graduated from a physical therapy curriculum in a 4 year college or university approved by the State Department of Education; or

3. Has two years of appropriate experience as a physical therapist and has achieved a satisfactory grade on a proficiency examination approved by the Secretary except that such determinations of proficiency will not apply with respect to persons initially licensed by a state as a physical therapist after December 31, 1977, or seeking qualification as a physical therapist after that date; or

4. Was licensed or registered prior to January 1, 1966, and prior to January 1, 1970 had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which services were rendered under the order and direction of attending and referring physicians; or

5. If trained outside the United States, was graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy, meets the requirements for membership in a member organization of the World Confederation for Physical Therapy, has one year of experience under the supervision of an active member of the American Physical Therapy Association, and has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.] **an individual who is a graduate of a program of physical therapy approved by both the Council on Medical Education of the American Medical Association and the American Physical Therapy Association or its equivalent; and**

i. if practicing in the State of New Jersey must be licensed by the State of New Jersey;

ii. if practicing out-of-state must be licensed in the state in which practicing (if applicable).

"Plan of care" means the individualized and documented program of health care services [to be] provided by all members of the home health agency or personal care assistant services provider involved in the delivery of [health] home care services to a patient. The plan includes short and long-term goals for rehabilitation, restoration or maintenance made in cooperation with the patient and/or responsible family member or interested person. Appropriate instruction of patient, and/or the family or interested person as well as a plan for discharge are also essential components of the treatment plan. The plan is reviewed periodically and revised appropriately according to the observed changes in the patient's condition.

...

"Speech-language pathologist" means a person who meets the education and experience requirements for a Certificate of Clinical Competence in speech-language pathology services granted by the American Speech-Language-Hearing Associa-

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tion; or meets the educational requirements for certification and is in the process of accumulating the supervised experience for a Certificate of Clinical Competence in the appropriate area (such as speech-language pathology services) granted by the American Speech-Language-Hearing Association.

[10:60-1.3 Covered home health services]

SUBCHAPTER 2. COVERED HOME CARE SERVICES (HOME HEALTH CARE SERVICES AND PERSONAL CARE ASSISTANT SERVICES)

10:60-2.1 Home health care services

(a) Home health care services covered by the New Jersey Medicaid Program must be prior authorized and are limited to those services provided directly by a home health agency approved to participate in the New Jersey Medicaid Program or through arrangement of that agency for other services.[:]

1. Those services provided directly by a home health agency approved to participate in the New Jersey Medicaid Program; or

2. Those written contractual arrangements by that agency with other individuals or agencies; or

3. By a voluntary non-profit Homemaker/Home Health Aide Agency providing Personal Care Assistant Services and the Initial Nursing Assessment Visit only.]

(b) Covered home health care services are those provided according to medical, nursing and other health care related needs as documented in the individual plan of care on the basis of medical necessity and on the goals to be obtained and/or retained.

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

[(c)] (d) The type of home health agency services covered include professional nursing by a public health nurse, registered professional nurse, or licensed practical nurse; homemaker-home health aide services, [personal care assistant services,] physical therapy, occupational therapy, speech-language pathology services, medical social services, nutritional services, [and

1. Nursing services: (No change in text.)

2. Homemaker-home health aide services: Homemaker-home health aide services are performed by a New Jersey certified homemaker-home health aide under the direction and supervision of a home health agency registered professional nurse. Services include personal care, health related tasks and household duties. In all areas of service, the homemaker-home health aide shall encourage the well members of the family, if any, to carry their share of responsibility for the care of the patient as per the written established plan of care.

i. (No change in text.)

ii. The registered professional nurse, in accordance with the physician's plan of care, prepares written instructions for the homemaker-home health aide to include the amount and kind of supervision needed, the specific needs of the patient and the resources of the patient, the family, and other interested persons. Supervision of the homemaker-home health aide shall be provided by the registered professional nurse or appropriate professional staff member at a minimum of one visit every two weeks when in conjunction with skilled nurs-

ing, physical, occupational or speech-language therapy. In all other situations, supervision shall be provided [as the home health agency feels necessary.] at the frequency of one visit every 30 days. Supervision may be provided up to one visit every 60 days with written justification in the agency's records.

iii. (No change in text.)

3. Special therapies:

i. Special therapies, include physical therapy, speech-language pathology services, and occupational therapy. Special therapists must review the initial plan of care and any change in the plan of care with the attending physician and the professional nursing staff of the home health agency. The attending physician must be given an evaluation of the progress of therapies provided as well as the patient's reaction to treatment and any change in the patient's condition. The attending physician must approve of any changes in the plan of care and delivery of therapy services.

ii. (No change in text.)

iii. Special therapists shall provide instruction to the home health agency staff, the patient, the family and/or interested persons in follow-up supportive procedures to be carried out between the intermittent services of the therapists to produce the optimal and desired results.

(1) (No change in text.)

(2) Speech-language pathology service: When the agency provides or arranges for speech-language pathology services, they shall be provided by a certified speech-language pathologist. The duties of a speech-language pathologist shall include but not be limited to the following:

(A) (No change in text.)

(B) Developing long and short-term goals and applying speech-language pathology service procedures to achieve identified goals;

(C)-(E) (No change in text.)

(3) Occupational therapy: (No change in text.)

4. Medical social services: (No change in text.)

5. Nutritional services: (No change in text.)

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

i. When a patient requires an unusual or an excessive amount of medical supplies costing more than \$30.00 per the period of authorization approved in Section [22] 23 of the FD-139, prior authorization for the supplier must be received from the appropriate Medicaid District Office. An approved medical supply dealer [or pharmacy] requests authorization by completing an MC-11 Form. The home health agency may also request authorization to furnish these medical supplies by completing an FD-139, section [21] 22. Requests for prior authorization of an unusual or an excessive amount of medical supplies must be accompanied by a personally signed, legible prescription from the attending physician.

7. Medical equipment: Medical equipment means an item, article or apparatus which is used to serve a medical purpose, is not useful to a person in the absence of disease, illness or injury and is capable of withstanding repeated use (durable). When durable medical equipment costing more than \$30.00 per the period of home health care authorization is essential in enabling the home health agency to carry out the plan of care for a patient, a request for authorization for the equipment must be made by an approved medical supply dealer. [or

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pharmacy.] The authorization, which is requested of the Medicaid District Office, requires a personally signed, legible prescription from the attending physician. Durable medical equipment either rented or owned by the home health agency cannot be billed to the New Jersey Medicaid Program.

10:60-1.4 recodified as 10:60-2.3, see below.

[10:60-1.5] **10:60-2.2 Personal care assistant service**

(a) Personal care assistant service may be provided by a certified, licensed home health agency or by a proprietary or voluntary non-profit homemaker agency. These services may not be provided simultaneously with home health services.

[(a)] **(b) Personal care assistant services are health related tasks performed by a qualified individual in a recipient's home, under the supervision of a registered professional nurse, as certified by a physician in accordance with a written plan of care and prior authorized by the State Agency. These services are available from a home health agency or a homemaker agency.**

1. (No change in text.)
2. Personal care assistant services are reimbursable when provided to Medicaid eligible recipients in:

- i. Their places of residence, such as a:
 - (1) private home;
 - (2) rooming house;
 - (3) boarding [house] **home**.

3. Medicaid reimbursement will not be made for personal care assistant service provided to Medicaid eligible recipients in:

- i. Residential health care facility;
- ii. Class C boarding home;
- iii. Hospital;
- iv. Skilled nursing facility;
- v. Intermediate care facility;
- vi. Division of Mental Retardation adult[s] foster care homes; and
- vii. Division of Youth and Family Services foster care homes.

4. Personal care assistant services provided by a family member are not covered services.

[(b)] **(c) Description of performance:**

[2.] **1. Activities of daily living—[group B—]performed by a Personal Care Assistant include but are not limited to:**

- i.-xi. (No change in text.)

[1.] **2. Household duties that are essential to the patients health and comfort—[group A—]performed by a Personal Care Assistant include but are not limited to:**

- i.-ix. (No change in text.)

3. Health related activities—[group C—]performed by a certified Personal Care Assistant are limited to:

- i.-vii. (No change in text.)

(d) Duties of the registered professional nurse: (No change.)

- 1.-2. (No change.)

(e) Recordkeeping

1. Clinical records and reports shall be maintained for each patient covering the medical, nursing, social and health related care in accordance with accepted professional standards. Such information must be readily available, as required, to representatives of the New Jersey Medicaid Program or its agents.

[(c)] **(f) Reimbursement**

1. The following are all inclusive maximum rates for personal care assistant services and the initial nursing assessment

visit. No direct or indirect cost over and above these established rates will be considered for reimbursement. A provider may not charge the New Jersey Medicaid Program in excess of present charges for other payors.

i. Personal care assistant services are limited to a maximum of 20 hours per week at a reimbursement rate up to—\$8.00 per hour for individual patient. Code No. **0056**; and

ii. Up to \$6.00 per hour for a group rate (two or more patients, with a maximum of eight patients in the same residential setting at the same time). Code No. **0057**; and

iii. Up to \$25.00 may be billed for an Initial Nursing Assessment Visit. Code **0055**.

[10:60-1.4]**10:60-2.3 [POLICIES AND] Requirements for authorization of covered services [(EXCEPT FOR PERSONAL CARE ASSISTANT SERVICES).]**

(a) This section outlines requirements governing the provision of home care services as well as the procedures to follow when requesting authorization to provide services.

(b) Home Health Care Services: Requirements for authorization of Home Health Care Services are outlined as follows:

[(a)] **1. (No change in text.)**

[(b)] **2. (No change in text.)** recodify 1. through 11. as i. through xi. (No change in text.)

[12.] **xii. Discharge planning in all areas of care (coordinated with short and long-term goals);**

[i.] **(1) As a significant part of the plan of care, a patient's potential for improvement is periodically reviewed and appropriately revised. These revisions should reflect changes in the medical, nursing, social and emotional needs of the patient, with attention to the economic factors when considering [alternate] alternative methods of meeting these needs.**

[ii.] **(2) (No change in text.)**

[13.] **xiii. (No change in text.)**

[(c)] **3. Medical Care: recodify 1. through 4. as i. through iv. (No change in text.)**

[(d)] **4. Nursing Care:**

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

[2.] **ii. (No change in text.)**

[3.] **iii. A determination shall be made of the patient's [psychological] psychosocial needs in relation to the utilization of other community resources.**

[4.] **iv. (No change in text.)**

[(e)] **5. Required records and reports: Federal requirements for clinical records and reports shall be met and include but not necessarily be limited to the following:**

[1.] **i. Clinical records containing pertinent past and current information according to accepted professional standards shall be maintained by the home health agency for each patient receiving home health care services. The clinical record shall include at least the following:**

[i.] **(1) Plan of care as described in N.J.A.C. 10:60[1.4]2.3(a)2;**

[ii.] **(2) (No change in text.)**

[iii.] **(3) (No change in text.)**

[2.] **ii. (No change in text.)**

[3.] **iii. (No change in text.)**

[4.] **iv. (No change in text.)**

[5.] **v. Transfer of the patient to [alternate] alternative health care shall include transfer of appropriate information from the patient's record.**

(c) Personal Care Assistant Services: Requirements for authorization of personal care assistant services are outlined as follows:

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1. Certification by the attending physician in accordance with a written plan of care;
2. Performed under the supervision of a registered professional nurse; and
3. Prior authorization of a plan of care by the Division of Medical Assistance and Health Services.

[(f)] (d) Prior authorization for home health care services and personal care assistant services:

[1. The home health agency may bill the Medicaid Fiscal Agent for the cost of one initial evaluation visit to eligible Medicaid patients without prior authorization. Prior authorization is required for all other visits and/or services. If the attending physician orders an evaluation for physical, speech-language or occupational therapy, an appropriate qualified therapist may make an initial visit to evaluate the need for special therapies (physical, speech-language or occupational) without prior authorization. All subsequent therapy visits require prior authorization]

1. Prior authorization for home health services and personal care assistant services means approval by the Medicaid District Office. Requests for authorizations are to be made to the Medicaid District Office. Home health services and personal care assistant services should not be provided until the authorization is received.

i. An initial visit to evaluate the need for home health services or personal care assistant services does not require prior authorization. Following the initial visit, prior authorization is required for all services provided to the Medicaid eligible person not covered under Medicare.

ii. If the attending physician orders an evaluation for physical, speech-language or occupational therapy, an appropriate qualified therapist may make an initial visit to evaluate the need for special therapies (physical, speech-language or occupational) without prior authorization. All subsequent therapy visits require prior authorization.

2. How to Obtain Prior Authorization: The Request for Home Care Authorization or Reauthorization, FD-139, should be promptly completed by the attending physician, relevant agency or provider staff and submitted for review and authorization by the appropriate Medicaid District Office. If the information is insufficient to render a decision, it may be necessary to communicate directly with the attending physician and/or provider, or, in exceptional cases, to conduct a home assessment, or to return the request. To facilitate processing, the FD-139 form incorporates the attending physician's prescription, the plan of care and the request for prior authorization of services into a single document.

[2.] 3. In requesting authorization or reauthorization, a written plan of care completed on a form FD-139, Request For Home [Health] Care Authorization or Reauthorization, must be submitted to the Medicaid District Office for approval [by the Medical Consultant]. If granted, such authorization may not exceed 60 days for acute cases and six months for chronic cases under the Home Health Care Program and six months for the Personal Care Assistant Program. Authorizations are renewable upon submission of an updated plan of care on a form FD-139. Additional information may be submitted to or be requested by the Medicaid District Office staff to support the plan of care.

4. Completing the Request for Home Care Authorization or Reauthorization, FD-139, (See Exhibit I) for Home Health Services and Personal Care Assistant Services. All items must be typed or printed clearly.

i. Items 1-8. Copy the patient's name, HSP(Medicaid) Case Number and person number exactly as they appear on the Medicaid Eligibility Identification Card/Validation Form;

(1) Enter patient's sex, age, address, Social Security Account Number and telephone number;

ii. Items 9-10. Enter the attending physician's name and telephone number;

iii. Items 11-13. Enter provider information;

iv. Item 14. If services to be provided are not allowable under Medicare or if Medicare benefits have been exhausted and a Medicare beneficiary is involved, item 14 must be signed by the Home Health Agency certifying that the agency has determined the services described are not covered by the Medicare Program (Title XVIII) or have verified that the patient's benefits have been exhausted and no additional billing will be submitted to Medicare for this patient.

(1) Since Personal Care Assistant Service is not a Medicare covered service, item 14 should not be completed;

v. Item 15. Designate the type of program; Home Health Care Services, Community Care Services or Personal Care Assistant Services;

vi. Items 16-21. Enter information;

vii. Item 22. Request information:

(1) Enter starting and ending dates of service;

(2) Enter number of visits/hours per week; charges/fee, per visit/per hour; total hours per period and fees;

(3) Enter signatures of physician and agency representative.

viii. Item 23. Disregard; For Division Use Only.

[3.] 5. While an authorization for home [health] care services is in effect and the condition of the patient changes, indicating a need for additional or different services, the [home health] agency, after consultation with the attending physician, may request authorization for these additional services from the Medicaid District Office. If the need is urgent, the request may be made and granted by telephone for no more than three additional visits and/or treatments. A new written plan of care on a completed Form FD-139 shall be submitted to the [Medical] Medicaid District Office for written authorization.

6. Distribution of form FD-139 (four-part snap-out): The Fiscal Agent (Contractor) copy, one Provider copy and the Medicaid District Office copy are submitted to the Medicaid District Office, with the agency retaining the second Provider copy.

i. Upon approval or denial of the request, the fiscal agent (contractor) copy and provider copy will be returned to the agency providing the service. The Medicaid District Office will retain its copy.

7. Submission of authorization or reauthorization to the appropriate fiscal agent (contractor):

i. For Home Health Care Services: If the Request for Home Care Authorization or Reauthorization, FD-139, is approved, the Fiscal Agent copy must accompany the Home Health Claim (MC-3C3-Exhibit II) and be submitted to the appropriate Fiscal Agent for reimbursement.

ii. For Personal Care Assistant Services: If the Request for Home Care Authorization or Reauthorization, FD-139, is approved, the Fiscal Agent copy must accompany the Independent Outpatient Health Facility Claim form (MC-14-Exhibit V) and be submitted to the Prudential Insurance Company for reimbursement.

8. Period covered by authorization or reauthorization:

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i. For Home Health Care Services: An approved request for Home Care authorization or reauthorization will be valid for a maximum of 60 days for acute cases or a maximum of six months for chronic cases. Periods of authorization will be included on the FD-139 (Item 23).

ii. For Personal Care Assistant Services: An approved request for Personal Care Assistant Services authorization or reauthorization will be valid for a maximum of six months. Periods of authorization will be included on the FD-139 (Item 23).

9. Renewing or extending a plan of care:

i. If home health care or personal care assistant service is needed beyond the period authorized, the attending physician will decide if the plan of care should be continued on the same basis or whether changes in frequency of service, etc., are needed, based on the condition of the patient. The agency will submit the new request for authorization or reauthorization (FD-139) to the appropriate Medicaid District Office. The Medicaid District Office may require a copy of the most recent progress report in the process of evaluating the request for authorization or reauthorization.

[(g)] (e) Service limitations: When the cost of home health care is equal to or in excess of the cost of institutional care over a period of six months, the Medical Consultant may opt to limit or deny future requests for home health services.

[Subchapter 2 Authorization and Billing Procedures]

Personal care assistant services are limited to a maximum of twenty hours per week.

SUBCHAPTER 3. Billing Procedures for Home Care Services (Home Health Care Services and Personal Care Assistant Services)

[10:60-2.1 Prior Authorization] (Delete entire text.)

[10:60-2.2 Billing procedures] (Delete entire text.)

[10:60-2.3 Completing the home health claim form (MC-3C)] (Delete entire text.)

10:60-3.1 Home care services billing procedures

(a) For all Home Health Care Services provided by a certified licensed home health agency, a Home Health Claim, MC-3C, must be submitted and received by the appropriate Fiscal Agent (Blue Cross or the Prudential Insurance Company) within 12 months from the earliest date of service on the claim form. (See 10:49-1.12)

(b) For all Personal Care Assistant Services provided by a home health and homemaker agency, an Independent Outpatient Health Facility form, MC-14, must be submitted and received by the Prudential Insurance no later than 90 days after the last date the services were rendered and no later than 12 months from the earliest date of service on the claim form. (See N.J.A.C. 10:49-1.12)

1. Claims not submitted timely will not be approved for payment in those instances where it is demonstrated that the claim could have been submitted and resubmitted within the time limitation as defined.

(c) Medicare/Medicaid coverage:

1. When the patient is covered under both Medicare and Medicaid, a HCFA-1487 Medicare form, (Home Health Agency Report and Billing, Hospital and Medical Insurance Benefits—Social Security Act), should be completed (Exhibit III). Item 14 (Block E) of the HCFA-1487 form must be checked and the HSP (Medicaid) Case Number and Person

Number must be indicated. Prior authorization is not required.

2. Since Personal Care Assistant Services is not a Medicare covered service, item 14 on the FD-139 should not be completed.

3. For Home Health Care Service: If service is not covered under the Medicare Program or when Medicare benefits are exhausted, a Medicaid Home Health Claim form (MC-3C3) must be completed. Prior authorization is required before providing services to a Medicaid recipient. See Section 10:60-1.4(c).

4. When only part of a particular service provided on the same day is covered by Medicare, a separate Medicaid Home Health Claim form (MC-3C3) must be submitted with a copy of the approved FD-139 attached for the non-covered portion of the service. Prior authorization is required.

(d) Completing the Home Health Claim Form (MC-3C3), all items must be typed or printed clearly.

1. Item 1: Copy the patient's last name and first name, exactly as they appear on the Validation Form/Medicaid Eligibility Identification Card.

2. Item 2: Copy the Case last name and first name, exactly as they appear on the Validation Form/Medicaid Eligibility Identification Card.

3. Item 3: Indicate patient's sex by entering "X" in the appropriate block.

4. Item 4: Use six (6) digits to enter the patient's birthdate (e.g., May 6, 1977 is written 05/06/77). If only the year is known, enter the year. If birthdate is unavailable, submit claim without birthdate.

5. Item 5: Use six (6) digits to indicate the date when approved home health care was initiated (e.g., 02/01/81).

6. Item 6: Use six (6) digits to indicate the date of the first service for which you are billing on this claim (e.g., 02/20/81).

7. Item 7: Use six (6) digits to indicate the date of the last service for which you are billing on this claim (e.g., 03/25/81).

8. Item 8: Enter the number of visits being billed.

9. Item 9: This information is usually preprinted. If not preprinted, write in provider name and address.

10. Item 10: Enter the patient's Medical Record Number.

11. Items 11 and 12: Copy the patient's HSP (Medicaid) Case Number and Person Number exactly as they appear on the Validation Form/Medicaid Eligibility Identification Card. The complete number consists of a ten digit case number and a two digit individualized person number.

12. Item 13: This information is usually preprinted. If the information is not preprinted enter your agency's six digit provider number.

13. Items 14 and 15: Enter the patient's address and telephone number. Complete as fully as possible.

14. Items 16 and 17: If the patient was referred by a physician from another setting, you must indicate the 9 digit Individual Medicaid Practitioner (IMP) Number and the name of the referring practitioner.

15. Item 18: Patient Certification, see N.J.A.C. 10:49-1.26.

16. Items 19 and 20: Enter the 9 digit Individual Medicaid Practitioner (IMP) Number and the name of the attending physician. If the attending physician is a "non-participating" physician (in the Medicaid Program), the Home Health Agency must write "NON PAR" in the space indicated. This item must be completed on all claim forms.

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17. Item 20a: Enter the Physician Case Manager's name and 9 digit IMP Number if the recipient is enrolled in the Medicaid Personal Physician Plan (MP Plan).

i. If an IMP number of a physician is not known, the Home Health Agency may call the physician and obtain the number or it may call the Fiscal Agent's toll free number for this information (see N.J.A.C. 10:60-3.3)

ii. This item must be completed on all claim forms if the recipient is enrolled in the MP Plan.

18. Item 21: Prior authorization is required for services following the initial visit. A claim for the initial evaluation visit must be submitted to the appropriate Fiscal Agent on the Home Health Claim form, MC-3C3, with the comment in the "Remarks" section "initial visit only". Copy the prior authorization number designated by the Medicaid District Office on the FD-139 form. Attach FD-139 to claim when submitting for payment.

19. Item 22: Type of Service: Enter date of each service opposite the code which appropriately describes the service. Use only two (2) dates per line item if the services were not given on consecutive days; if the services were provided on consecutive days, for example: 10/8; 10/9; 10/10; more than two (2), but not more than five (5), dates per line item can be submitted for reimbursement:

- i. 02 (Skilled Nursing Care) 10/7; 10/9
- ii. 03 (Homemaker-Home Health Aide)
- iii. 10 (Physical Therapy)
- iv. 11 (Speech-Language Therapy)
- v. 12 (Occupational Therapy)

20. Item 23: Complete this item for patients under 21 years of age.

i. Ask the patient and/or referring physician or clinic whether the illness requiring services was detected during an EPSDT screening.

ii. Indicate if this patient is such a referral by checking the appropriate block.

21. Item 24: Check the block, if services indicated on the claim are ascribable to "Family Planning". These should include Home Health visits related to contraception or subsequent to family planning related surgical procedures.

22. Item 25: Indicate the source of Third Party Payment, by entering the appropriate digit in the block. Do not leave blank; if none, enter "0".

23. Item 26: Indicate the patient's status by entering the appropriate digit in the block. If plans for home health care extend beyond this billing period, enter "1", still patient.

24. Item 27: Using six digits, enter the date of the last visit under the plan of treatment, or the date of admission to the hospital, skilled nursing facility or intermediate care facility.

25. Item 28: Using standard medical terminology, enter all the diagnoses which relate to the condition requiring the current services. The primary diagnosis is the illness or condition which was the primary reason for the services. Other diagnoses should be shown under secondary.

i. Enter the primary and secondary diagnosis codes as obtained from the International Classification of Diseases, ICD-9-CM, Adapted (ICDA). Use the basic three (3), four (4), or five (5) digit diagnosis code. For example: Acidosis 250.1 is written 2501. Insert the code on the MC-3C3 billing form just as it appears.

26. Item 29: Enter the number of visits and charges for the period covered by the claim in the appropriate column.

i. Use lines 27 and 28 to list additional services.

ii. Enter the total charges on line 98.

27. Item 30: Reserved solely for other insurance coverage. 28. Items 29 and 30: Cannot be completed on the same claim form.

i. If the patient is covered under Medicare, see Section 2.1(b).

ii. If the patient does not have Medicare coverage, enter charges not covered by other insurance on line 32 of item 30.

(1) The amount received from the other insurer must be entered on the bottom line, "Third Party Payment Amount".

29. Item 31: Check as appropriate.

i. If the patient's illness or injury is work related, enter name and address of employer.

ii. Indicate whether injury resulted from an automobile accident.

iii. If the injury or illness is related to an auto accident, enter the auto insurance carrier and policy number in item 32 below.

30. Item 32: Check appropriate block to indicate whether the patient has other health insurance, liability coverage, or No Fault Auto Coverage.

i. If yes, you must attach a copy of the denial notice or a copy of the explanation of payment from the carrier.

ii. Enter the name of the carrier and policy number under which other health insurance benefits are available.

31. Item 33: Read the Provider Certification carefully.

i. An authorized representative of the Home Health Agency must sign the MC-3C3 before the claim can be considered for payment.

ii. Indicate the billing date which is the date the claim is mailed. The billing date cannot be earlier than the "Claim Thru Date", item 7.

32. REMARKS: Use this space to enter additional information.

33. Items 34-39: Leave blank; for Fiscal Agent use only.

(e) Completing the Independent Outpatient Health Facility Claim form (MC-14) for Personal Care Assistant Services.

1. Items 1-4. Copy the Patient's Name, HSP (Medicaid) Case Number, Person Number and address exactly as they appear on the Medicaid Eligibility Identification Card/Validation Form;

2. Items 5-6. Indicate the patient's age and identify the patient's sex;

3. Item 7. Check the appropriate block to indicate whether the patient has other health insurance, liability coverage or No Fault Auto Coverage. If you are aware that the other coverage will not cover the services provided, please indicate so on the claim form. If yes, attach a copy of the decline notice or a copy of the explanation of payment from the Carrier;

4. Item 8. Leave blank;

5. Item 9. If not preprinted, write in the provider's name, address, provider number and the telephone number.

6. Item 10. Check as appropriate. If patient's illness or injury is work related, enter the name and address of employer. Indicate whether injury resulted from an automobile accident;

7. Item 11. Leave blank;

8. Item 12. Do not write in this space; for Division use only;

9. Item 13A. Enter date(s) of each visit;

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13B. Enter procedure code. The procedure codes are listed in (f) below and also in your approval letter;

13C. Enter diagnosis (written narrative and number description);

13D. Describe procedure or service;

13E. Personal Care Assistant Service providers are to utilize this item to indicate the place where the service was provided. Applicable codes are:

2-Patient's Home;

4-Boarding Home;

9-Other (Rooming House).

13F. Enter your standard charge for the appropriate service;

10. Item 14. Leave blank;

11. Item 15. Enter facility IMP Number;

12. Item 16 and 16a. Leave blank;

13. Item 17. Patient Certification, See N.J.A.C. 10:49-1.26;

14. Item 18. Read the Provider Certification carefully. The provider must sign the MC-14 before the claim can be considered for payment. Indicate the billing date which is the date the claim is mailed.

(f) Procedure Codes for Personal Care Assistant Services:

Code	Description
1. 0055	Initial Nursing Assessment Visit
2. 0056	Personal Care Assistant Service (Individual)
3. 0057	Personal Care Assistant Service (Group) Care provided involves two or more patients, with a maximum of eight patients in the same residential setting at the same time.

(g) For reimbursement, submit the Fiscal Agent copy of the Independent Outpatient Health Facility Claim form, MC-14, to:

The Prudential Insurance Company
 P.O. Box 1900
 Millville, New Jersey 08332

1. Refer any questions regarding claim preparation to the Medicaid Claim Division II (609) 293-2175 or the toll-free number 1-800-582-7052.

10:60-[2.4] 3.2 Submitting corrected [bills] claims

To correct a previously submitted [bill] claim, the Home Health Agency and Personal Care Assistant Services provider should reproduce a legible copy of the submitted [bill] claim. Corrections should be made in red in the appropriate items. The corrected [bill] claim should be marked DEBIT-ADJ in the upper right hand margin. If all charges and visits reported on the previously submitted [bill] claims are to be deleted, mark it CANCEL ONLY. A corrected [bill] claim should be submitted if the charges change by more than \$1.00.

10:60-3.3 Toll free telephone service

Refer any questions pertaining to Individual Medicaid Practitioner (IMP) Numbers to 1-800-582-7052. This toll free service is available from 8:00 A.M. to 4:00 P.M. Monday through Friday, except holidays.

10:60-[2.5] 3.4 Assessment of interest on overpayments (Home Health Agency Services Only)

(a) When a Home Health Agency files a cost report and the report indicates that there has been an overpayment, full

refund should be remitted with the report. In situations where this is not done, or where the [Medicaid contractor] Fiscal Agent, Blue Cross or Prudential, discovers an overpayment during desk review, field audit, or final settlement, the [contractor] Fiscal Agent will, within seven days of discovery, contact the provider and attempt to recoup the overpayment by obtaining a refund in a lump sum.

(b) If the provider is unable to make a lump sum refund, the [contractor] Fiscal Agent will, within 30 days after the date it notifies the provider that an overpayment exists, work out a repayment agreement by a series of set-offs against interim payments or by a combination of set-offs and cash repayments or through cash repayments only.

(c) The type of arrangement to be worked out with the provider is left to the discretion of the [contractor] Fiscal Agent. The [contractor] Fiscal Agent shall, as a matter of policy, attempt to recoup the overpayment as quickly as possible. The period of recovery shall not exceed 12 months unless a longer period of repayment is approved by the Director, Division of Medical Assistance and Health Services.

(d) Effective 30 days after the adopting of this regulation, all repayment agreements, including those in existence at the time of adoption, shall be in writing, signed by a duly authorized officer of the provider organization and an appropriate representative of the [contractor] Fiscal Agent.

(e) If a repayment arrangement cannot be concluded within 30 days of notification by the [contractor] Fiscal Agent, the [contractor] Fiscal Agent shall make recovery through deductions from interim payments. In this instance, full recovery shall be made within 120 days from the date of initial contact.

(f) Recovery of the overpayments shall be made without regard to disputes in whole or in part of the [contractor's] Fiscal Agent's determination of the overpayment or pending appeals with the Provider Reimbursement Review Board (PRRB). As appeals are adjudicated, appropriate adjustments will be recognized and payments made.

(g) In all instances where full repayment cannot be made within 30 days of the [contractor's] Fiscal Agent's initial contact, interest shall be charged on the outstanding balance on the fifteenth of every month. The amount of interest shall be at the maximum legal rate on the date of the repayment agreement or thirty days after the date of initial contact, whichever is sooner.

(h) Where the discovery of an overpayment is prevented or burdened by errors contained within the cost report, either inadvertently or willfully, interest shall be charged as of the fifteenth of the first month (after) the cost filing was originally due.

(i) When cost filings are submitted more than 120 days after the close of the Home Health Agency's fiscal year and an overpayment is determined, interest shall be charged beginning on the fifteenth of the first month (after) the cost filing was originally due.

10:60-[2.6] 3.5 Automated Data Exchange.

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

(c) Any provider approved for an Automated Data Exchange claim submission system must comply with all regulations and restrictions set forth by the New Jersey Medicaid Program.

(d) (No change in text.)

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[10:60-2.7 Completing the Independent Outpatient Health Facility Form (MC-14) for Personal Care Assistant Services.

(a) The Independent Outpatient Health Facility Form (MC-14) must be used by the Home Health and Homemaker Home Health Aide Agency to bill for personal care assistant services and the initial nursing evaluation visit under the Personal Care Program.

(b) The Outpatient Health Facility Claim Form (MC-14) must be received by the Contractor no later than 90 days after the last day the services were rendered and no later than 12 months from the earliest date of service on the claim form.]

DIVISION OF PUBLIC WELFARE

For proposals numbered PRN 1985-4, 5, and 23, address comments and inquiries to:

Audrey Harris, Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

(a)

**General Assistance Manual
Household Size**

Proposed Amendment: N.J.A.C. 10:85-3.1

Authority: N.J.S.A. 44:8-111(d).
Proposal Number: PRN 1985-23.

The agency proposal follows:

Summary

The purpose of this proposed amendment is twofold. First, it clarifies the status of roomers with respect to other residents of a dwelling unit. Normally, roomers, like roomer-boarders, are to be considered as households of one, the number of others present in the dwelling unit notwithstanding. Experience has shown, however, that errors have occurred resulting in consideration of roomers as members of the common household for grant computation purposes, thereby producing a somewhat lower grant. While each such problem has been rectified through administrative directive, this change should prevent the situations from recurring by specifying the "household of one" status of roomers.

Second, this proposed amendment bars from "household of one" status any person who lives in the same dwelling with his or her spouse who is a Supplemental Security Income (SSI) recipient. When a New Jersey SSI recipient lives with an ineligible (for SSI) spouse and no one else, SSI considers that ineligible spouse to be an "essential person" and pays the benefit level for a couple. Thus, this change is meaningful

only when there are at least three individuals present. Under the specific circumstances of a household which contains an SSI recipient, the spouse of the recipient who is not eligible for SSI, and at least one other person, the ineligible spouse will be included in the household size of the SSI recipient. The grant level for the ineligible spouse will thereby be lower.

Social Impact

This proposed amendment represents programmatic recognition of de facto social situations. The situations are not expected to undergo any change as a result.

Economic Impact

The specification that roomers represent households of one is a detailed explanation of current regulatory intent. To the extent that it serves to prevent or correct ambiguity, it will result in small increases in grants of assistance. There may also be a small administrative saving of the staff time needed to correct errors. The impact on the public treasury is not expected to be perceptible.

The amendment with respect to spouses of SSI recipients whose needs are not included in the SSI benefit will serve to reduce the grants of those individuals. The number of people to whom the change applies is extremely small. Thus, the impact on the public treasury is expected to be imperceptible.

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

10:85-3.1 Persons eligible for General Assistance

(a) (No change.)

(b) Eligibility for general assistance is determined according to the number of persons applying as a unit (eligible unit) and the number of persons with whom such person(s) lives (household size).

1. (No change.)

2. Household size: Household size is defined as the number of related persons [under age 60] living together as a family unit. It is not necessarily the same as eligible unit size. In room and board or residential treatment situations, each person is a household of one. **Each roomer is a household of one.** In all other situations, the household shall consist of:

i. (No change.)

ii. **Any spouse of any member of the eligible unit when the spouse lives in the same home and has not been included in the eligible unit, and**

[ii.]iii. If all members of the eligible unit are under age 60, all other persons who are under age 60 who live in the same home and who **are not roomers or roomer-boarders and who are related by blood or marriage to any member of the eligible unit. If any member of the eligible unit is over age 60, the household size is that of the eligible unit plus any spouse of an eligible unit member who was included in the household size in accordance with (b)2ii above.**

3. (No change.)

(c)-(f) (No change.)

(a)

**Medicaid Only Manual
Medicaid District Offices**

Proposed Amendment: N.J.A.C. 10:94-3.16

Authority: N.J.S.A. 44:7-87.
Proposal Number: PRN 1985-5.

The agency proposal follows:

Summary

This proposed amendment is primarily one of clarification. It changes the title "Local Medical Assistance Units" to "Medicaid district offices" (MDOs). Additionally, the proposed amendment updates the addresses and telephone numbers of the MDOs, thereby providing clients and members of the community with an accurate source for obtaining Medicaid information through the appropriate district office.

Social Impact

As a result of this proposed amendment, welfare recipients, community advocate groups and the general public will benefit socially by having an accurate and current listing of MDOs that can assist them with information concerning what services are available through the Medicaid program.

Economic Impact

No measurable economic impact is anticipated as a result of this proposed amendment. The modifications do not represent a budgetary or program change, but rather an administrative change.

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

10:94-3.16 Medical assistance units

(a) **Medicaid district office (MDO)**: The Division of Medical Assistance and Health Services has local **medical** offices throughout the State, known as Medicaid district offices (MDOs). The role of these offices is to provide liaison with providers of health services [,]; provide information about Medicaid to recipients and [to] members of the community [,]; provide utilization review in determining the medical need for certain covered services requiring prior authorization[,]; and provide information about Medicaid to, and cooperate with, appropriate agencies in order to [insure] **ensure** maximum utilization of the services available through the Medicaid program.

(b) Any questions with respect to policy, regulations, or procedures of the Medicaid program should be directed to the appropriate MDO as listed below:

[Local Medicaid Offices]

Atlantic [1601 Atlantic Ave., 6th floor]
1 S. New York Avenue
Atlantic City (609) [344-2861]
411-3620

Bergen	50 Main Street, 1st floor Hackensack (201) 488-5667
Burlington	[Chesley & Alloway Bldg., 2nd floor Rt. 38 & Eayrestown Road] 50 Rancocas Road Mt. Holly (609) [261-0448] 261-0488
Camden	[530 Cooper Street, 2nd floor] Parkade Building, Room 207 519 Federal Street Camden (609) [365-3926] 757-2870
Cape May	[1601 Atlantic Avenue, 6th floor Atlantic City (609) 344-2861] 501 Landis Avenue (basement) Vineland (609) 696-6560
Cumberland	[7 East Broad Street Bridgeton (609) 451-6550] 501 Landis Avenue (basement) Vineland (609) 696-6560
Essex	155 Washington Street Newark (201) 648-2470 [505 South 15th Street Newark (201) 648-3700]
Gloucester	[42 Delaware Avenue] Woodbury Plaza 251 N. Delsea Drive Woodbury (609) 845-7185
Hudson	[100 Newkirk Street, 5th floor] 880 Bergen Ave. Jersey City (201) 792-6390
Hunterdon	[6 Court Street] 84 Park Avenue Flemington (201) 782-1130
Mercer	[316 East State Street] 28 West State Street Trenton (609) 292-7315
Middlesex	75 Paterson Street [basement] New Brunswick (201) 246-0653
Monmouth	[320 Broad Street Red Bank (201) 842-6440] 1200 Memorial Drive Asbury Park (201) 775-5700
Morris	[4 Court Street] 10 Park Place Morristown (201) 267-1700
Ocean	[1851] 1861 Hooper Avenue Toms River (201) 255-6226
Passaic	[152 Market Street] 100 Hamilton Plaza Paterson (201) 523-2800
Salem	[42 Delaware Avenue] Woodbury Plaza 251 N. Delsea Drive Woodbury (609) 845-7185
Somerset	[6 Court Street] 84 Park Avenue Flemington (201) 782-1130
Sussex	[4 Court Street] 10 Park Place Morristown (201) 267-1700

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HUMAN SERVICES

Union [7 Bridge Street, 4th floor]
125 Broad Street
 Elizabeth (201) [355-8860]
648-4630

Warren [6 Court Street]
84 Park Avenue
 Flemington (201) 782-1130

on Form PA-3L (Statement of Income Available for Long Term Care Facility Payment).
 1.-3. (No change.)
4. Health insurance premiums: Health insurance premiums covering the recipient may also be deducted.
 i. If the premium is not paid monthly, the amount shall be prorated over the period it is intended to cover.
 ii. If the premium covers other individuals in addition to the recipient, only that portion attributable to the recipient shall be deducted.
 (f)-(g) (No change.)

(a)

**Medicaid Only Manual
Allowance for Health Insurance Premiums**

Proposed Amendment: N.J.A.C. 10:94-5.6

Authority: N.J.S.A. 44:7-87 and 30:4D-7; 42 CFR 435.725(c)(4).
 Proposal Number: PRN 1985-4.

The agency proposal follows:

Summary

Existing regulations at N.J.A.C. 10:94-5.6(e) provide that prior to applying the income of an institutionalized individual to the cost of long-term care, county welfare agencies (CWAs) are to deduct a personal needs allowance, an allowance for the maintenance of dependents, and an allowance for the maintenance of a home. Federal regulations at 42 CFR 435.725(c)(4) provide that, in addition to the aforementioned, an allowance for the cost of health insurance premiums covering the recipient must be deducted as well. Hence, N.J.A.C. 10:94-5.6(e) is being amended to include an allowance for the cost of health insurance premiums covering the recipient.

Social Impact

To the extent that this amendment allows for the continuation of private health insurance, a greater portion of an institutionalized individual's health care costs will be met through the individual's own insurance coverage. It is expected that, in the long term, this amendment will decrease Medicaid expenditures, thereby lessening the fiscal burden on the general public.

Economic Impact

Medicaid is designed to cover only those expenses that have not been met through other means. As such, there is a relationship between the monies expended through health insurance coverage and the monies expended through Medicaid funds. It is therefore expected that as monies expended through health insurance coverage increase, fewer funds will be expended through Medicaid.

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

10:94-5.6 Income eligibility standards

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

(e) Living allowance deductions: When an individual is in a Title XIX facility and program eligibility has been determined under the Medicaid "Cap", certain income deductions shall be made in the calculation of excess income available for payment to the facility. These amounts shall be clearly noted

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Social Services Program for Individuals and Families

Personal Needs Allowance: Residential Health Care Facilities and Boarding Homes

Proposed Amendment: N.J.A.C. 10:123-3.2

Authority: N.J.S.A. 44:7-87.
 Proposal Number: PRN 1985-19.
 Address comments and inquiries to:

Steve Valli
 Boarding Home Coordinator
 Division of Youth and Family Services
 1 South Montgomery Street
 CN 717
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The amendment provides that the owner or operator of each residential health care facility or boarding house shall reserve to each Supplemental Security Income recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing therein a personal needs allowance in an amount of at least \$52.00 per month for the individual recipient.

Social Impact

The personal needs allowance increase represents an equitable distribution of the Supplemental Security Income between the residents and the owners or operators of boarding houses and residential health care facilities.

Economic Impact

Recipients of the increased personal needs allowance will have additional resources for use in purchasing personal incidentals. There will be no negative impact on the facility owners or operators because the increase in their personal needs allowance from \$50.00 to \$52.00 is proportionate to the total **January 1, 1985** Supplemental Security Income Increase.

CORRECTIONS

PROPOSALS

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

10:123-3.2 Amount

The owner or operator of each residential health care facility or boarding house shall reserve to each Supplemental Security Income recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing herein, a personal needs allowance in the amount of at least [~~\$50.00~~ **\$52.00**] per month. No owner or operator or agency thereof shall interfere with the recipient's retention, use, or control of the personal needs allowance.

Subchapter four contains the requirements for the physical plant of juvenile detention facilities including the building and grounds, fire protection, sleeping rooms, kitchen and dining areas, indoor and outdoor recreational areas, reception and visiting areas and medical facilities.

Subchapter five contains the rules on intake and admission including eligibility criteria, pre-admission, intake and admission procedures. Subchapter six covers the rules on records and reports such as intake information, individual case records, medication and temporary restriction logs. Subchapter eight deals with physical care of juveniles such as food and nutrition, clothing and personal hygiene. Subchapter nine concerns required program services such as medical, recreational, educational, community activities, social, psychological and psychiatric services, religious and visitation rights.

Subchapter ten concerns general staff requirements such as personnel policies, selection, qualifications, health, staff coverage and development. Subchapter eleven concerns staff responsibilities covering administrator, child care and social workers, teachers, physicians, clerical and food staff, maintenance and housekeeping staff.

It is necessary to readopt these standards as new rules to permit the Department of Corrections to continue to maintain the minimum standards which must be met by counties seeking to establish and operate juvenile detention facilities.

CORRECTIONS

(a)

DIVISION OF JUVENILE SERVICES

County Juvenile Detention Centers

Proposed New Rule: N.J.A.C. 10A:32

Authorized By: New Jersey Department of Corrections,
William H. Fauver, Commissioner.

Authority: N.J.S.A. 2A-4A-37 and 30:1B-10.

Proposal Number: PRN 1985-7.

Address comments and inquiries to:
Joseph DeJames, Director
Juvenile Detention and Monitoring Unit
Department of Corrections
Whittlesey Road, P.O. Box 7387
Trenton, New Jersey 08628

The agency proposal follows:

Summary

This chapter was originally adopted pursuant to authority of N.J.S.A. 2A:4-57 and 30:1B-10, and was filed and became effective on January 11, 1980, as R.1980 d.14. See 11 N.J.R. 284(b) and 12 N.J.R. 87(b).

Under the provisions of Executive Order No. 66(1978) (which provides for the expiration of new rules within five years), the rules in this chapter will expire on February 1, 1985.

The New Jersey Department of Corrections, pursuant to the authority of N.J.S.A. 2A:4A-37 and 30:1B-10, proposes to readopt this chapter as a new rule, without changes or amendments to the current text found in the New Jersey Administrative Code at N.J.A.C. 10A:32.

The chapter contains eleven subchapters. Subchapter one contains definitions and objectives of juvenile detention. Subchapter two contains legal provisions such as the Department's legal authority and inspection and enforcement provisions. Subchapter three describes the organization and administration of detention facilities which details the responsibilities of the County Freeholders and financial requirements of detention facilities.

Social Impact

It is anticipated that the proposed standards will continue to have a positive social impact on the juvenile detention facilities, on the juveniles in residence and on the general community. The standards should provide for the secure custody of juveniles who have been deemed a threat to the community; minimize the potentially damaging effects of juvenile confinement by providing support for a juvenile's physical, emotional and social development; and provide a constructive rehabilitation program. Facilities which meet the standards in this chapter will be in compliance with Federal, State, and local sanitation, safety and health codes.

The facility built according to these standards will be able to provide the services which, for lack of space and staff, could not be provided in a sub-standard institution. The maintenance of these minimum standards of care and services will ensure that only those facilities which provide an acceptable program of services and care, and which have adequate space, will be permitted to receive juvenile residents.

Economic Impact

The economic impact of the readoption of this chapter is expected to be minimal. The quality of care and service provided in most of the existing facilities already exceeds the minimum standards currently in effect. Therefore, there should be no appreciable increase in the cost of maintaining the standards proposed for readoption. A facility which meets these standards is more likely to be eligible for loans and grants to increase staff and services.

At the same time these rules will serve as a measure by which the citizens of each county may judge whether the funds allocated are providing the juvenile services which are needed in their respective communities.

Full text of the proposed rules appears in the New Jersey Administrative Code at N.J.A.C. 10A:32.

INSURANCE

The following proposals are authorized by Kenneth D. Merin, Commissioner, Department of Insurance.

Address comments and inquiries to:

Jasper J. Jackson, Director
Legislative and Regulatory Affairs
Department of Insurance
CN 325
Trenton, New Jersey 08625

(a)

DIVISION OF ADMINISTRATION

Approval of Business Names

Proposed New Rule: N.J.A.C. 11:1-18

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:22-9, 17B:22-22, 17:22-6.6, 17:22-6.14, 56:1-1 et seq., 14A:2-1 et seq.

Proposal Number: PRN 1985-26.

The agency proposal follows:

Summary

The proposed new rule, N.J.A.C. 11:1-18, establishes criteria and procedural requirements with respect to the review and approval of business names used by insurance licensees.

N.J.A.C. 11:1-18.1 sets forth the purpose and scope of the subchapter. In particular, the section clarifies the meaning of the term "business name" as it is used in the context of the subchapter.

N.J.A.C. 11:1-18.2 outlines procedures for the submission of business names and covers filings made by an applicant for an insurance license as well as by an existing licensee. Except as specified in subsection (c) of the rule (which excludes non-resident property and casualty brokers), the filings must be accompanied by certified true copies of documents which are required by statute to be filed with county or state authorities for individuals or partnerships and corporations, respectively. Special requirements are also included in this section for the filing of a business name used by a nonresident licensee.

The proposal, at N.J.A.C. 11:1-18.3, establishes a procedure which permits the resident applicant or licensee to request approval of a business name prior to filing with the appropriate county or state authority as specified in N.J.A.C. 11:1-18.2. Final approval of the business name under this procedure is contingent, however, on the fulfillment of the requirements of 11:1-18.2 including submission of documents noted above.

The proposed N.J.A.C. 11:1-18.4 provides criteria to be used by the Commissioner in the approval of business names. The rule prohibits the use of a name which has the capacity or tendency to mislead. For example, a business name which incorporates the word "insurance" must also include "agency" to distinguish that entity from an insurance company. Similarly, a single proprietorship, may not use the word "Associates" or like designations. Finally, the rule prohibits the use of franchise names by a licensee.

Social Impact

The proposed new rule will prohibit the use of misleading names and should assist the public in distinguishing insurance agencies from actual insurance companies. Insurance agents and brokers will present themselves as being separate from insurance companies. The procedural requirements of the rule will facilitate the handling of licensee applications. The prior approval of business names should serve to minimize delays in license processing which result from the submission of an inappropriate name.

Economic Impact

The Department does not anticipate any economic impact on the public as a result of this rule. Costs to prospective licensees in meeting the rule's substantive and procedural requirements should be minimal.

The Department anticipates little or no impact from the proposed new rule. Filing fees will remain the same. No new revenue will be realized.

Full text of the proposed new rule follows.

SUBCHAPTER 18. APPROVAL OF BUSINESS NAMES

11:1-18.1 Purpose and scope

(a) This subchapter sets forth criteria and procedures used by the Commissioner of Insurance in the approval of a business name submitted by an individual, partnership or corporation who or which is licensed to act as an agent or broker in this State and to any applicant for such a license.

(b) For the purposes of this subchapter, the term "business name" shall include:

1. With respect to an individual or partnership applicant or licensee, any assumed name, other than the real name(s) of the individual(s) who conduct or intend to conduct the business, as specified at N.J.S.A. 56:1-2; and

2. With respect to a corporate applicant or licensee, any corporate name as specified at N.J.S.A. 14A:2-1 et seq., including a fictitious name.

11:1-18.2 Filing of business names

(a) No licensed agent or broker may conduct insurance business under a business name, unless the name has been filed with and approved by the Commissioner pursuant to the provisions of this subchapter.

1. The approval of the business name shall be evidenced by the issuance to the licensee of a Department Notice of Correction.

(b) A business name intended for use by an applicant for a license to act as an agent or broker shall accompany the application for such license.

1. Issuance of the license to the applicant shall denote approval of the business name.

(c) The filing of a business name by an individual or partnership applicant or licensee resident in this State shall be accompanied by a certified true copy of the certificate of business name filed with the proper county clerk as required by N.J.S.A. 56:1-1 through 56:1-5.

(d) The filing of a business name by a corporate applicant or licensee shall be accompanied by a certified true copy of the corporate filing listed with the office of the Secretary of State as required by N.J.S.A. 14A:2-1 through 14A:2-4.

1. The requirements of (d) above shall not include any foreign corporation applying for a broker's license which has

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not complied with the general corporation act and obtained a license thereunder, but which has, pursuant to the provisions of N.J.S.A. 17:22-6.7 and 17:22-6.9, filed with the Commissioner a duly executed power of attorney.

(e) A business name filing submitted by a nonresident applicant or licensee shall be accompanied by a letter from the proper official of the state in which the resident license is held certifying that the applicant holds a valid license.

1. Unless such name has been specifically disapproved by the New Jersey Secretary of State, the nonresident licensee shall use the business name approved for use in the state of domicile.

11:1-18.3 Prior approval of proposed business names

(a) Notwithstanding the requirements of N.J.A.C. 11:1-18.2(c) and (d), an applicant or licensee, resident in this State, may apply to the Commissioner for approval of a proposed business name before filing with the county clerk or other state authority. The proposed business name should be submitted to:

New Jersey Department of Insurance
Director of Licensing
License Division
CN 325
201 East State Street
Trenton, New Jersey 08625

(b) Use of a business name approved pursuant to this section shall not commence until the licensee or applicant has satisfied the applicable requirements of N.J.A.C. 11:1-18.2 and final approval has been granted as specified therein.

11:1-18.4 Standards for business names

(a) No business name shall have the capacity or tendency to be misleading or deceptive.

1. If the word "insurance" or its equivalent is contained in the name, it must be joined with such wording as "agency" or "brokerage" to distinguish the entity from an insurance company.

2. A fictitious name of a corporation shall not include any form of the word "corporation" in such name.

3. The business name of an individual proprietorship shall not include the word "associates", or other word(s) of similar import.

4. No business name shall include the word "company".

(b) No business name shall consist of or include any franchise designation.

(a)

DIVISION OF LICENSING

Branch Offices

Proposed New Rule: N.J.A.C. 11:1-19

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:17-12, and 17B:17-13.

Proposal Number: PRN 1985-28.

The agency proposal follows:

Summary

The proposed new subchapter is designed to assist the Department of Insurance in the enforcement of N.J.S.A. 17:17-12 and 17B:17-13 which prohibit the unauthorized transaction of insurance business.

N.J.A.C. 11:1-19.1 describes the scope of the proposed rule. N.J.A.C. 11:1-19.2 requires that the Department be notified of the intent to open a branch office and provides the requirements for completion of branch office registration applications, for payment of the appropriate fee and mailing.

N.J.A.C. 11:1-19.3 requires that branch offices be staffed by at least one insurance agent, broker or solicitor, who is to be present during normal business hours. This section is specifically designed to enforce the prohibition against the unauthorized transaction of insurance business specified at N.J.S.A. 17:17-12 and 17B:17-13. N.J.A.C. 11:1-19.4 addresses compliance and N.J.A.C. 11:1-19.5 of the proposal provides requirements for existing branch offices.

Social Impact

The uniform registration of branch offices will aid the Department of Insurance in its administrative and investigative functions. The Department will be better able to enforce the prohibition against the unauthorized transaction of insurance business found in N.J.S.A. 17:17-12 and 17B:17-13. The public interest will be protected by assuring that a licensed agent, broker or solicitor is assigned to, and present at, all branch offices.

Economic Impact

Insurance licensees should incur minimal expense in complying with the registration requirement. The additional expense incurred by the Department of Insurance in processing forms will be absorbed by the certification fee and the Department's general operating budget.

Full text of the proposed new rule follows.

SUBCHAPTER 19. BRANCH OFFICES

11:1-19.1 Scope

This subchapter applies to any person, partnership, corporation or other entity licensed by the Commissioner of Insurance as an agent or broker. It is not intended to supersede requirements contained in any other applicable rule or regulation.

11:1-19.2 Registration of branch offices

(a) All licensees of the Department of Insurance must provide the Commissioner of Insurance with written notification of intent to open a branch office within 20 calendar days prior to the opening of any branch office.

(b) Upon receipt of the notification of intent to open a branch office, the Department will forward a branch office registration application, the form of which shall be prescribed by the Commissioner. The registration application shall be completed in full and returned, with a \$5.00 registration fee, to the Department within 10 days.

(c) Upon receipt of a properly completed branch office registration application along with the fee, the Department shall issue a Branch Office Certification.

(d) It shall be the responsibility of the licensed agent or broker to notify the Department of any changes in the information provided in the branch office registration application within 20 calendar days of such change.

(e) All notifications of intent to open branch offices and branch office registration forms shall be sent by certified

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mail, return receipt requested, or shall be delivered personally, to the:

New Jersey Department of Insurance
License Division
201 East State Street
CN 325
Trenton, New Jersey 08625

11:1-19.3 Licensees

(a) No branch office may be opened or continue to operate unless at least one licensed insurance agent, broker or solicitor is permanently assigned to that office and present during normal business hours.

1. If the licensee is an individual agent or broker, a licensed solicitor shall be permanently assigned to the branch office and present during normal business hours.

2. If the licensee is a corporation or partnership, an active officer, active member or solicitor shall be permanently assigned to the branch office and present during normal business hours.

11:1-19.4 Compliance

Failure to comply with the requirements of this subchapter shall constitute violation of 17:22-6.16(a) and (h) and 17B:22-27(a)(1) and (12).

11:1-19.5 Existing branch offices

It shall be the responsibility of all licensees who have opened branch offices prior to the effective date of this subchapter and continue to operate such offices to be in compliance with the branch office registration requirements contained in this subchapter not later than the date upon which their license is next renewed.

(a)

DIVISION OF ADMINISTRATION

Automobile Insurance

Automobile Reparation Reform Act

Proposed Readoption with Amendments:

N.J.A.C. 11:3-7

Authority: N.J.S.A. 17:1-8.1, 18:1C:6-(e), 39:6A-1 et seq., and 39:6A-10.

Proposal Number: PRN 1985-30.

The readoption of N.J.A.C. 11:3-7 becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of readoption. The amendments to the existing rule become effective upon publication in the Register of a notice of adoption.

The agency proposal follows:

Summary

The Automobile Reparation Reform Act (N.J.S.A. 39:6A-1 et seq.) was enacted to make certain benefits available to injured policyholders regardless of fault. For example, the law requires policies to provide specified basic benefits for income continuation, essential services and death benefits.

The Act also authorizes the Commissioner of Insurance to set the amount and terms of increased levels of certain benefits by regulation. N.J.A.C. 11:3-7 implements this statutory mandate by establishing a minimum schedule of such benefits and requiring the submission of appropriate rate filings by insurers. In addition, this regulation provides substantive and procedural requirements with respect to the cancellation for non-payment of premium of certain automobile policies which are subject to N.J.S.A. 39:6A-1 et seq.

N.J.A.C. 11:3-7, which is also entitled Automobile Reparation Reform Act, was scheduled to "sunset" on August 17, 1984, pursuant to Executive Order No. 66 (1978). This expiration date has been waived by Governor Kean and the rule extended to February 13, 1985. The Department of Insurance has conducted an administrative review of this subchapter and has determined that it should be continued. However, the need for many of the original provisions of this rule has been obviated by various amendments to N.J.S.A. 39:6A-1 et seq. The proposed readoption reflects these changes and eliminates historical references. In addition, certain editorial and technical changes are being made to the rule as part of the readoption.

This proposal deletes the definitions section set forth at N.J.A.C. 11:3-7.1 which contained references to the Second Official Copy Reprint of Assembly Bill No. 667 (1972) and clarifications of terms therein. The existing statute has a comprehensive definitions section that is self-explanatory.

The original N.J.A.C. 11:3-7.2 (Payments) is also being deleted. P.L. 1983, c.362, specifically N.J.S.A. 39:6A-5 and 7, effective October 4, 1983, establishes detailed provisions for benefit payments. For example, the statute describes when benefit payments by an insurer can be delayed, how the insured must be notified and when payments can be denied. In addition, the statute provides for arbitration of disputed claims. Since the payment provisions of the rule have been superseded and the statute is comprehensive, N.J.A.C. 11:3-7.2 is being deleted as no longer necessary.

N.J.A.C. 11:3-7.2 (Minimum schedule of personal injury protection benefits), originally section 3, has been amended to indicate that the additional personal injury protection (PIP) benefits must be offered at least annually or at the time of application or renewal on a form prescribed by the Commissioner. The amendment further provides that the Buyer's Guide/Written Notice form approved by the Department and required to accompany policy forms by N.J.S.A. 39:6A-23 satisfies the notice provision of the statute.

N.J.A.C. 11:3-7.3 (Policy form or endorsement), originally section 4, has been amended to list the five PIP benefits that must be offered by insurers pursuant to N.J.S.A. 39:6A-4. N.J.A.C. 11:3-7.6(b) and (c) (Residual medical payments coverage) have been deleted as they are of historical interest only. N.J.A.C. 11:3-7.6(a) has been redrafted to make it correspond to policy forms currently in use. This subsection, which requires insurers to offer excess medical payments coverage of \$1,000 or \$10,000, has been recodified at N.J.A.C. 11:3-7.3(b).

N.J.A.C. 11:3-7.5 is being deleted because the statutory provision which denied "essential services benefits" to an income producer has been amended; any injured person covered by the policy can get such benefits.

The section entitled "Filings", originally N.J.A.C. 11:37.7, is being readopted at N.J.A.C. 11:3-7.4. Editorial changes in subsection (a) eliminate a historical reference to proposed rate filings. Subsection (d) of this section has been redrafted to clarify exactly what benefits are covered under this provision.

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The subsection now specifically states that insurers are required to offer income continuation benefits for as long as the disability persists at rates which must be made available to the insured upon request.

The section entitled "Cancellation of automobile coverage for non-payment of premium," originally N.J.A.C. 11:3-7.8, is being readopted at N.J.A.C. 11:7-5 in its original form except for the deletion of subsection (f), which refers to the effective date of the original rule and is of historical interest only.

Social Impact

A need for N.J.A.C. 11:3-7 continues because the rule describes the types of personal injury protection benefits which are available and sets forth the terms and amounts of certain additional personal injury protection benefits that must be offered by insurers. For example, the rule provides a schedule of optional additional income continuation coverage with a maximum weekly income benefit of \$700.00. The public benefits by having a broad range of coverage options available from which they can select one which is well suited to their needs.

The provisions of this rule which require that notice of these options be furnished by insurers at least annually ensure that policyholders are adequately and on a continuing basis apprised of their availability. The cancellation provisions of this subchapter which are recodified at N.J.A.C. 11:3-7.5 protect the public by prohibiting issuance of non-payment cancellation where a substantial portion of unearned premium is held by the insurer.

In promulgating N.J.A.C. 11:3-7, the Commissioner is responding to a statutory authorization. The rule provides insurers with clear notice of the additional benefits which they must provide and specifies the manner and forms by which policyholders shall be advised of their availability.

Economic Impact

The Automobile Repairment Reform Act empowers the Commissioner to set the amounts of additional personal injury protection benefits that insurers must make available to consumers. The rule being readopted contains those benefit schedules. By means of the rule insureds can choose the benefit option that best meets their financial needs and resources.

Insurers will incur some costs in modifying the Buyer's Guide/Written Notice form to describe the additional required coverage options.

The Department does not anticipate any additional costs as a result of the readoption of the rule.

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

SUBCHAPTER 7. AUTOMOBILE REPARATION REFORM ACT

[11:3-7.1 Definitions

In Section 2, line 4C, the term "Long-term contract" means a written agreement or lease for not less than 12 months.

In Section 2, line 4A, the term "Automobile" does not include motorcycles; the term does include vehicles used for family recreational purposes, such as campers and motor homes, except if such vehicles are customarily used:

1. In the occupation, profession or business of the insured; or
2. For the transportation of passengers other than members of the insured's family and guests.

Coverage shall not apply when such vehicles are located for use as residence or premises.

NOTE: A commercial vehicle customarily used in business, when used occasionally to hold a camper body for personal recreational purposes, is not included in the definition of "automobile".

In Section 2G "Named insured" means the person(s) or the organization named in the declaration of the policy and, if an individual, shall include the spouse if a resident of the same household.

NOTE: A person not owning an automobile but provided an automobile for his own use by an organization may be afforded no-fault coverage by appropriate endorsement as though he owned an automobile.

In Section 4b, "survivors benefits" shall mean any unpaid medical expenses plus either the unpaid remaining portion of the maximum \$5,200 in the case of death of an income producer or the unpaid remaining portion of the maximum \$4,380 in the case of the death of a person performing essential services.]

11:3-7.1 Purpose

This subchapter implements certain provisions of the Automobile Repairment Reform Act, N.J.S.A. 39:6A-1 as amended. The Act empowers the Commissioner to establish the amounts and terms of additional Personal Injury Protection benefits which must be provided in policies covering automobiles as defined in N.J.S.A. 39:6A-2.

[11:3-7.2 Payments

(a) Under Section 5b and c, payments shall not be overdue where there is a charge pending which would make operative an exclusion in accordance with Section 7.

(b) If the injured party is found not guilty of such charge, benefits shall be overdue if not paid 30 days after the insured is furnished written notice of the disposition of such charge.]

11:3-7.[3]2 Minimum schedule of additional personal injury protection benefits

(a) In addition to the personal injury protection benefits insurers must provide according to N.J.S.A. 39:6A-4, insurers must offer additional benefits pursuant to this subchapter.

[(a)](b) Table 1 in N.J.A.C. 11:3-7.[7]4(b) outlines the minimum schedule of "additional personal injury protection" coverage benefits that insurers must make available in accordance with N.J.S.A. 39:6A-10.

[(b)](c) The additional coverage shall be offered by the insurer at least annually on a form **prescribed by the Commissioner of Insurance which shall be attached to or accompany all applications, initial policies and renewal policies or renewal notices.** [see N.J.S.A. 39:6A-10, as amended by L.1981 c.533]

1. The Buyer's Guide/Written Notice specified at N.J.S.A. 39:6A-23 and N.J.A.C. 11:3-15 will meet the requirements of (c) above.

[(c)](d) Each insured shall be provided with a form on which he may conveniently indicate any change in benefits desired.

11:3-7.[4]3 Policy form or endorsement

(a) The policy form or endorsement providing the personal injury protection benefits shall provide that the [Section 4] benefits required by N.J.S.A. 39:6A-4 as stated in 1 through 5 below shall be afforded by the insurer of the injured person, subject to any deductibles or exclusions elected by the policyholder pursuant to N.J.S.A. 39:6A-4.3:

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Interested Persons see Inside Front Cover

INSURANCE

1. Medical expense benefits;
2. Income continuation benefits;
3. Essential services benefits;
4. Death benefits; and
5. Funeral expense benefits.

(b) Each policy form or endorsement shall include excess medical payments coverage, corresponding to Section II, Extended Medical Expense Benefits Coverage of the personal automobile policy. Insurers must offer a minimum coverage of \$1,000 and may offer coverage of \$10,000.

11:3-7.5 Reimbursable expenses

Expenses incurred under "essential services benefits" in Section 4 shall be reimbursable only if the injured person other than an income producer is unable to perform essential services as a result of bodily injury caused by an automobile accident and the substitute services are actually performed for a charge.]

11:3-7.6 Residual medical payments coverage

(a) Appropriate language shall be included in the policy form or the personal injury protection endorsement to add residual medical payments coverage, corresponding to Coverage C in the Family Automobile Policy to provide such coverage at a limit of \$1,000 per person on an excess basis over other collectible insurance and with a subrogation provision.

(b) With respect to insureds carrying medical payments coverage in excess of \$1,000 per person on policies remaining in force beyond January 1, 1973, a company may provide \$9,000 of additional medical payments coverage per person in addition to the \$1,000 limit included in the bodily injury coverage in accordance with the preceding paragraph.

(c) Appropriate rate filings for the Commissioner's approval will have to be made, and it is the Commissioner's present intention to approve a rate of no more than \$1.00 per car for the period of coverage of additional \$9,000.]

11:3-7.[7]4 Filings

(a) Additional personal injury protection coverage: Every rate filer's [shall submit a proposed] schedule of rates [to] shall provide at least the benefit schedules set forth in Table 1 in (b) below.

(b) The additional personal injury protection coverage table follows:

Table 1

Option	Income		Essential Services		Death
	Weekly	Total	Per Day	Total	
1	\$100	\$10,400	\$12	\$ 8,760	\$10,000
2	125	13,000	20	14,600	10,000
3	175	18,200	20	14,600	10,000
4	250	26,000	20	14,600	10,000
5	400	41,600	20	14,600	10,000
6	500	52,000	20	14,600	10,000
7	600	62,400	20	14,600	10,000
8	700	72,800	20	14,600	10,000

(c) The following rules apply to Table 1 in (b) above.

1. The benefit indicated in each option for Income Benefits and Essential Services Benefits is the aggregate of the Basic and Additional Personal Injury Protection Benefits.

2. The additional personal injury protection income benefits are limited to 75 percent of the insured's weekly income.

3. Limits apply per person, per accident.

4. Death Benefits shall be payable provided death occurs within 90 days from the date of the accident.

[(d) Broader forms of additional injury protection benefits may be made available on a "refer to Company" basis.]

(d) Income continuation benefits for as long as the disability persists shall be made available by each insurer. Rates for such benefits shall be given on request by the insured.

(e) Nothing in this section is intended to prohibit the marketing of Additional Coverage on a per car basis.

11:3-7.[8]5 Cancellation of automobile coverage for non-payment of premium

(a) This rule applies to all automobile policies delivered or issued for delivery in this State, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, not rented to others; or

2. Any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not customarily used in the occupation, profession or business of insured, other than farming or ranching, provided, however, that this rule shall not apply to any policy insuring more than four automobiles, or to any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards.

(b) The effective date of the cancellation of a policy for nonpayment of premium shall be not earlier than 10 days prior to the last full day of which premium received by the company prior to the date of preparation of the cancellation notice, would pay for coverage on a pro rata basis. In calculating the effective date of the cancellation as provided in this section, the premium applicable to the coverages provided by the policy and the premium received by the company at or prior to the time cancellation notice was prepared shall be the premium used for the calculation and determination of such effective date.

(c) Cancellation for nonpayment of premium does not include cancellation at the request of a premium finance company or of a producer of record under N.J.A.C. 11:1-3.1.

(d) No cancellation notice shall be mailed prior to 30 days in advance of its effective date.

(e) The rule shall not apply to deposits accompanying New Jersey Automobile Insurance Plan applications which are insufficient under Plan rules or those of any succeeding residual market availability plan.

[(f) This rule shall be effective for all cancellation notices sent on policies issued or renewed within an effective date on or after 120 days from the date of adoption of this rule.]

(a)

DIVISION OF LIFE AND HEALTH

Employees' Dental Benefit Plans; Alternate Coverage

Proposed Amendments: N.J.A.C. 11:10-2

Authority: N.J.S.A. 17:1-8.1; 17:1C-6(e); P.L. 1983, c.142 through 145 (17:48D-9.1 to 9.3; 48C-18.1 to 18.3; 17B:27-51.10a to 51.10c; 17B:41.4 to 41.6).

Proposal Number: PRN 1985-25.

INSURANCE

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The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 11:10-2 are intended to clarify the existing subchapter and source laws. These amendments are proposed in response to employer and employee inquiries regarding procedures for compliance. Three new sections are proposed.

A definitions section has been added (N.J.A.C. 11:10-2.3). Definitions of "other organizations" and "dental plan contract" which had been included as a part of the scope and application section were removed and included in the new definitions section along with other definitions. These definitions should clarify much of the confusion involving the source law regarding procedures.

The second section added, "General Rules," (N.J.A.C. 11:10-2.5) outlines certain requirements for the entities involved in the issuance of dental plan contracts and sets up a mechanism to insure compliance with the statutes and this subchapter.

N.J.A.C. 11:10-2.5(a) requires that entities issuing dental plan contracts obtain written verification from each employer or other organization of the existence of alternative coverage. Conversely, N.J.A.C. 11:10-2.5(b) places a requirement on the employers and other organizations to furnish this verification to the issuing entities.

N.J.A.C. 11:10-2.5(c) requires that employers or other organizations, at the time of giving an option to choose between a dental plan contract or alternative coverage to its employees or members, provide an outline of the differences in coverage and cost.

N.J.A.C. 11:10-2.5(d) indicates the manner in which the alternative coverage can be provided.

N.J.A.C. 11:10-2.5(e) provides that the employer's or other organization's contribution to the alternative coverage must always be at least equal to the contribution made for a dental plan contract.

Social Impact

The amendments will serve to strengthen the intended goal of P.L. 1983, c.142 through 145. The amendments will insure that employees and members are provided with sufficient information to choose between a closed panel dental plan and one which provides freedom of choice of providers.

Economic Impact

There should be little economic impact upon health insurers, dental service corporations, dental plan organizations, employers, or other organizations as a result of these amendments. Some expense may be incurred in preparing and distributing the outline of coverage required by proposed N.J.A.C. 11:10-2.5(c). The Department of Insurance will not incur any additional cost as a result of implementation of the amendments.

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

11:10-2.2 Scope and application

(a) (No change.)

[(b) For the purpose of this subchapter, "other organization" includes, but is not limited to, a group such as, a labor union and an association, which enters into a dental plan contract. As used in this subchapter, a "dental plan contract" is a contract issued by a health insurer, dental plan organization, or dental service corporation, which contract restricts

covered persons in selecting the providers of dental services to a single provider or a limited number of providers.]

[(c)] (b) Insurers, dental plan organizations, and dental service corporations which are authorized to enter into contracts providing dental coverage are also subject to this subchapter.

11:10-2.3 Definitions

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

"Alternative coverage" means a plan that permits covered persons to obtain dental services from any licensed dentist.

"Dental plan contract" means any contract issued by a health insurer, dental plan organization, or dental service corporation which restricts covered persons in selecting the providers of dental services to a single provider or a limited number of providers.

"Enrollment period" means a period of time, of not less than one month's duration, prior to the renewal of a dental plan contract during which employees or members are afforded the option to be covered under the dental plan contract or alternative coverage.

"Other organization" means a group of 25 or more members to which a dental plan contract has been or is to be issued including, but not limited to, labor unions and associations.

"Renewal" means to begin a new term of the contract or to add an amendment to the contract.

[11:10-2.3] **11:10-2.4** Notification of affected parties
(No change in text.)

11:10-2.5 General rules

(a) Each health insurer, dental service corporation, or dental plan organization shall, at the time a dental plan contract is offered or at the time of renewal, obtain written verification from each employer or other organization of compliance with P.L. 1983, c.142 through 145, and this subchapter.

(b) Each employer or other organization, at the time of offering or renewal of a dental plan contract shall furnish to the health insurer, dental service corporation, or dental plan organization written verification of compliance with P.L. 1983, c.142 through 145 and this subchapter.

(c) Each employer or other organization at the time of offering or renewal of a dental plan contract shall provide in the written notice required by N.J.A.C. 11:10-2.4(b) and (c) an outline of the differences in coverages and cost to the employee or members and their eligible dependents between a dental plan contract and the alternative coverage.

(d) The alternative coverage may be provided through an insurance contract, on a self-funded basis, or by any means which meets the approval of the Commissioner of Insurance.

(e) Each employer or other organization shall contribute to the alternative coverage an amount equal to the premium or cost which it pays or contributes to the dental plan contract. Such contribution shall be adjusted when the premium or cost which it pays or contributes to the dental plan changes.

[11:10-2.4] **11:10-2.6** Separability
(No change in text.)

(a)

DIVISION OF ADMINISTRATION

General Requirements Verification and Claim Form Statements

Proposed New Rule: N.J.A.C. 11:16

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), New Jersey Fraud Prevention Act, N.J.S.A. 17:33A-6.
Proposal Number: PRN 1985-29.

The agency proposal follows:

Summary

The New Jersey Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq., was enacted to combat insurance fraud in New Jersey. The statute mandates that where insurance claims are involved, a provider of materials or services must verify under oath that the services or materials were necessary before seeking payment from an insurer or from the insured.

The proposed new rule requires that the verification shall be an affidavit sworn before a notary, attached to the bill, and specifies what information the affidavit must contain. An example of a satisfactory verification is provided.

The proposed new rule requires that insurers promptly inform claimants under a policy that providers of materials or services must provide a verification with their bills when reimbursement by the insurer is sought. The rule provides a consumer notice form that insurers must send to claimants.

The proposed new rule requires that insurance claim forms contain a statement, in a form approved by the Commissioner, that there are civil and criminal penalties for knowingly filing false or misleading information in a claim form.

Social Impact

The proposed rule affects providers of materials and services by implementing the statutory requirement for verification as a prerequisite to reimbursement by an insurer. Providers may experience some difficulties in implementing the procedural requirements of this new rule, particularly with respect to the notarization of documents. Insurers will need to make adjustments in their claims handling procedures to distribute the required notices to consumers. The Department's view is that once insurers and providers of materials and services standardize their procedures the benefit to the public by discouraging insurance fraud will outweigh any inconvenience to the parties affected.

Economic Impact

Providers of materials or services may incur costs in printing verification forms. There may be additional costs to providers in getting the verifications notarized. Insurers will incur costs in printing and mailing the consumer notice to claimants and modifying their claim forms to include the warning statement. Insurers may also wish to provide verification affidavits to providers. The Department of Insurance does not anticipate incurring any costs in connection with this rule.

Providers will not be able to seek payment for materials and services that are to be reimbursed by an insurer unless a verification is supplied. This requirement, together with the fines provided in N.J.S.A. 17:33A-5, should inhibit the submission of fraudulent or inflated insurance claims.

Full text of the proposed new rule follows.

AGENCY NOTE: The Department of Insurance intends to make this chapter operative approximately 120 days after the effective date of the adoption.

SUBTITLE L.

INSURANCE FRAUD PREVENTION

CHAPTER 16 GENERAL REQUIREMENTS

SUBCHAPTER 1. VERIFICATION AND CLAIM FORM STATEMENTS

11:16-1.1 Scope; definitions

(a) This subchapter applies to all insurers transacting the business of insurance in the State of New Jersey and to all persons or practitioners, as defined in N.J.S.A. 17:33A-3, seeking payment for services or materials from insurers.

(b) "Insurer" means any person, corporation, association, partnership, company, fraternal benefit society, eligible unauthorized surplus lines insurer and other legal entity engaged as an indemnitor or contractor in the business of insurance. For the purposes of this subchapter, "insurer" shall include any individual, corporation, association, partnership or other legal entity authorized to represent an insurer with respect to a claim.

(c) "Provider" means a person or practitioner, as defined in N.J.S.A. 17:33A-3, who furnishes materials or services for which reimbursement from an insurer may be sought.

11:16-1.2 General requirements

(a) No provider shall seek payment for services or materials that will be reimbursed all or in part by an insurer before verifying under oath as required in N.J.A.C. 11:16-1.3 that the services or materials were necessary and were, in fact, provided.

(b) The provider shall make a reasonable effort to discover from any person requesting services or materials whether an insurance claim has been or will be filed.

11:16-1.3 Form and content of verification

(a) The verification shall be an affidavit sworn before a notary.

1. The verification shall be attached to or included in the provider's bill for services and materials.

2. The verification may be on a form furnished by the insurer or provider, but it, together with the bill, must contain the information detailed in (b) and (c) below. An acceptable example of a verification may be found at the end of this subchapter as Appendix A.

(b) Verifications required under this subchapter shall:

1. Contain a statement that the services and materials furnished were necessary and were, in fact, furnished by the provider;

2. Be sworn and subscribed to by the provider before a notary public of the State of New Jersey or other individual authorized to take oaths pursuant to N.J.S.A. 41:2-1;

3. Contain the claim form warning statement required in N.J.A.C. 11:16-1.5(a); and

4. Contain a statement that the provider is aware that payment by the insurer or recourse against the insured is conditioned upon furnishing the required verification.

(c) The bill for services or materials must contain:

1. Name and address of the provider of goods or services;

2. Name and address of claimant;

3. Identification and description of the type of services performed or materials provided; and

LAW AND PUBLIC SAFETY

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4. Dates upon which the services were rendered or materials furnished.

11:16-1.4 Notification to claimant

(a) Every insurer, upon receiving notification of claim, shall, within 10 working days of such notice, provide the claimant with the written notice found at the end of this subchapter as Appendix B.

1. In complying with this subsection, an insurer may include the notice with any written acknowledgement of claim or provision of claim forms furnished pursuant to N.J.A.C. 11:2-17.6(b) and (c).

2. A copy of the written notice shall be maintained in the claim file.

(b) Whenever notification of a claim is given other than in writing, an insurer, agent or broker shall at that time inform the claimant that providers of materials or services must furnish with their bill a provider's verification under oath that the services or materials were necessary and provided.

1. The informational requirement of this subsection shall be in addition to the insurer's furnishing of a written notice as specified in (a) above.

2. The insurer's, agent's or broker's records shall reflect provision of this information in accordance with standards applicable to pertinent communications under N.J.A.C. 11:2-17.

11:16-1.5 Statement of liability for fraud on claim forms

(a) Insurers transacting the business of insurance in New Jersey must elect one of the following warnings to appear on all claim forms:

1. "Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties."

2. "Any person who knowingly and with intent to defraud any insurance company or other persons, files a statement of claim containing any materially false information, or concerning any fact, material thereto, commits a fraudulent insurance act, which is a crime, subject to criminal prosecution and civil penalties."

3. "Warning: Any person who knowingly and with the intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any material fact thereto, is subject to criminal and civil liability under state and/or federal law."

(b) A claim form warning other than one of the above must be approved in writing by the Commissioner.

Appendix A

AFFIDAVIT/VERIFICATION

State of New Jersey
County of _____

Before me this day personally appeared _____ who, being sworn according to the law, upon his oath, deposes and says:

I have read the attached report and bill for services and/or materials rendered to _____. I declare that the treatments, services, or materials rendered or provided by me were reasonable, necessary, and were, in fact, furnished and provided on the dates set forth.

Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

I understand that any person who knowingly and with intent to defraud any insurance company or other persons, files a statement or claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact, material, thereto, commits a fraudulent insurance act, which is a crime, subject to criminal prosecution and civil penalties.

I further understand that the furnishing of this verification is a condition precedent to payment by the insurer or recourse against the insured person to whom, or for whom, the services, treatments, or materials were rendered or supplied.

SIGNATURE OF PERSON MAKING AFFIDAVIT

Sworn to and subscribed to
Before me this _____ day of _____, 19____

Signature of Notary

My commission expires: _____

Appendix B

CONSUMER NOTICE

VERIFICATION REQUIRED WITH BILLS TO BE REIMBURSED

No one may ask you to pay for any materials or services furnished in conjunction with this claim, unless they give you an affidavit verifying that the materials or services were necessary and provided. The affidavit must be included in or attached to their bill.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

**Motorized Bicycles
Motorized Bicycle Operator License**

**Proposed Repeal: N.J.A.C. 13:25-3.15, 3.16
and 3.17**

Proposed New Rule: N.J.A.C. 13:25-3.15

Authorized By: Clifford W. Snedeker, Director.
Authority: N.J.S.A. 39:4-14.3c
Proposal Number: PRN 1985-32.

Address comments and inquiries to:
Clifford W. Snedeker, Director
Division of Motor Vehicles
25 So. Montgomery Street
Trenton, New Jersey 08666

Summary

The proposed repeal of N.J.A.C. 13:25-3.15 through 13:25-3.17 relates to those sections of the motorized bicycle regulations which provide for the issuance of "valid in New Jersey Only" motorized bicycle operator's license to nonresidents. The repeal does not mean a non-resident may not obtain a moped license. It only means any license issued will not bear a special legend. The repeal of these provisions also will conform the motorized bicycle regulations to the driver license regulations (N.J.A.C. 13:21-8.1 et seq.) which contained identical provisions which were separately repealed in 1982 and 1984.

The proposed new rule provides that motorized bicycle operators' licenses shall be valid for four years and shall be renewed at no-fee. Presently, operators' licenses have no expiration date and are therefore retained on the Division's data base indefinitely. The four year expiration date will permit the Division to purge expired licenses from its data base.

Social Impact

The proposed repeal of the "Valid in New Jersey Only" provisions of the motorized bicycle regulations brings these regulations into conformity with the driver license regulations. A divergent administrative procedure is eliminated resulting in a uniform licensing procedure for drivers' licenses and motorized bicycle operators' licenses.

Economic Impact

While there is no economic impact on motorized bicycle operators, there is an economic impact upon the Division of Motor Vehicles in that a uniform licensing procedure will result in the expeditious processing of motorized bicycle operators' licenses. Administrative man-hours required to implement the motorized bicycle regulations will be reduced. The adoption of a four year expiration date for motorized bicycle operators' licenses will result in increased administrative costs in processing license renewals. The ability to purge expired operators' licenses from the Division's data base will, however, lower computer software costs.

The agency proposal follows:

Full text of the repeal appears in the New Jersey Administrative Code at N.J.A.C. 13:25-3.15 through 13:25-3.17.

Full text of the proposed new rule follows.

13:25-3.15 Expiration of motorized bicycle operator license; no-fee renewal

(a) Every motorized bicycle operator license shall expire on the last day of the forty-eighth calendar month following the calendar month in which the license was issued.

(b) All applications for renewals of licenses shall be made on forms prescribed by the director and shall be issued at no-fee.

(a)

BOARD OF BEAUTY CULTURE CONTROL

Beauty Culture Industry

Proposed Readoption: N.J.A.C. 13:28-1

Authority By: Bridget Damiano, President, Board of Beauty Culture Control.

Authority: N.J.S.A. 45:4A-13 and 16.

Proposal Number: PRN 1985-15.

Address comments and inquiries to:

Richard G. Griswold
Executive Secretary
Board of Beauty Culture Control
1100 Raymond Boulevard, Room 311
Newark, New Jersey 07102

Pursuant to Executive Order No. 66(1978), N.J.A.C. 13:28-1 expires on February 25, 1985. The readoption of these rules becomes effective upon acceptance for filing by the Office of Administrative Law of a notice of readoption.

Summary

The Board of Beauty Culture Control proposes to readopt N.J.A.C. 13:28-1.1 through N.J.A.C. 13:28-1.56 concerning the Beauty Culture Industry. These rules expire on February 25, 1985. The Board's legislative committee has extensively reviewed these regulations and recommended readoption of the entire Subchapter after determining that its provisions are "necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which they were promulgated," in accordance with Executive Order No. 66(1978).

A summary of the pertinent sections follows.

N.J.A.C. 13:28-1.1 to 1.13; and 1.19: These regulations deal with shop licenses. The minimum requirements for licensed beauty shops are set out, including adequate working space, equipment, and lavatory facilities (section 1.3). The application for a shop license must be accompanied by a diagram demonstrating compliance with these requirements (section 1.1). Beauty shops cannot be combined with barber shops or use the same entrance (section 1.2). If a shop is located in a private residence it must have a separate entrance and the licensed premises may not be used for domestic purposes (sections 1.8 and 1.9). No other trade may be practiced on the premises except the sale of merchandise (section 1.10). A sign indicating that beauty culture is being practiced on the premises must be clearly displayed (section 1.6). When moving a shop to a new location three weeks notice must be given to the Board (section 1.4). Shop licenses are not transferable (section 1.5), and only one shop license may be issued for a single location (section 1.7). The shop must be maintained in a sanitary condition (section 1.11). All shops are subject to inspection to ensure compliance with these rules (section 1.2), and the shop owner is responsible for compliance with the

rules (section 1.13). If a shop license lapses for more than one year the premises must be reinspected and the fee for initial licenses is charged (section 1.19).

N.J.A.C. 13:28-1.14, 1.15 and 1.55: These regulations concern manager-operators. Each shop is required by N.J.S.A. 45:4A-8 to be under the supervision of a licensed manager-operator at all times. The manager-operator shares responsibility with the owner for compliance with Board rules, and is responsible for the administration of the business (section 1.14). If he or she changes employment the Board must be notified (section 1.15). If he or she is to be absent from the shop notification must be given to the Board and an experienced operator will be permitted to serve as manager in his or her place for reasonable periods (section 1.55).

N.J.A.C. 13:28-1.17, 1.18, 1.20 to 1.28: These regulations concern operator's licenses and demonstrator's licenses. Procedures for applications for the various licensing examinations are explained (sections 1.26 to 1.28) and the conditions for reciprocal licensing for licensees from out-of-state are set forth (section 1.21). Requirements for temporary permits to practice while awaiting examination and their duration are described (section 1.22 and 1.23), as are student permits (section 1.24) and demonstration permits (section 1.25). Section 1.20 points out that itinerant operator licenses are no longer issued and that all practice must be carried out in connection with a licensed shop. Operator's licenses must be displayed in the shop where employed, and lost licenses can only be replaced on affidavit and payment of a replacement fee (sections 1.17 and 1.18).

N.J.A.C. 13:28-1.29 to 1.32, 1.34 to 1.50: Pursuant to N.J.S.A. 45:4A-16 the Board must prescribe regulations concerning sanitation in beauty shops. These sections set out in detail Board requirements for the safe and sanitary operation of licensed shops, including the handling of linens and sterilization of equipment. Section 1.50 requires patch testing before application of hair dyes to prevent irritation to sensitive skin and prohibits leaving a patron during permanent wave processing.

N.J.A.C. 13:28-1.51 to 1.54: Section 1.51 requires licensees to keep copies of Board regulations in each shop. Section 1.51 points out that violation of the regulations subjects licensees to Board penalties. Section 1.53 states that violations should be reported to the Board and Section 1.54 requires posting a notice in each shop informing consumers that complaints about licensees may be directed to the Board.

N.J.A.C. 13:28-1.56 requires posting of prices for all services offered in beauty shops.

Social Impact

The regulations to be readopted are of benefit to both consumers and licensees. Consumers are assured that beauty shops are to be operated in a safe and sanitary manner by trained personnel under a licensed manager operator. That employees are licensed in good standing can be verified by observing the posted licenses. Moreover, the posted prices for each service inform the consumer in advance of the exact costs of the services to be selected. The detailed rules concerning procedures for application for licensure and requirements for opening and operating a shop provide necessary information for licensees and applicants. Pursuant to N.J.S.A. 45:4A-13 copies of Board rules must be provided to all applicants and licensees for this purpose. The burden of enforcing these rules and the burden of compliance are no greater than what is necessary to conform with the provisions of the Beauty Culture Act.

Economic Impact

Compliance with these regulations causes no economic impact on licensees other than the costs that would in any event be necessary to do business in a minimally equipped, safe and sanitary shop. Readoption will have a positive economic effect on consumers by assuring that the quality of services rendered by licensees remains high. The administrative costs of enforcement are no more than what is necessary to effectuate the purposes of the Beauty Culture Act.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:28-1.1 to 1.56.

(a)

BOARD OF MORTUARY SCIENCE

Fees and Charges

Proposed Amendment: N.J.A.C. 13:36-1.6

Authorized by: Paul Ippolito, President, Board of Mortuary Science.

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

Proposal Number: PRN 1985-31.

Address comments and inquiries to:

Maurice W. McQuade
Executive Secretary
Board of Mortuary Science
1100 Raymond Boulevard, Room 513
Newark, New Jersey 07102

Summary

The Board of Mortuary Science has determined that to meet its estimated expenses an increase in eleven of its fees and establishment of two new fees is necessary. In 1982 the practitioner examination fee was raised from \$50.00 to \$80.00, the practitioner reexamination fee from \$25.00 to \$80.00, the embalmer examination fee from \$25.00 to \$80.00 and the funeral director examination fee from \$25.00 to \$80.00. Beyond these four increases the fees for the Board of Mortuary Science have not changed since 1974. Over the years, however, the administrative and other expenses of the Board have increased significantly. In order to comply with the mandate of N.J.S.A. 45:1-3.2 that the charges established pursuant to that section defray all proper expenses incurred by the Board, the Board proposes eleven increases and two additions to its fee schedule.

Social Impact

The proposed new fees and fee increases will benefit the Board in that sufficient funds will be raised to cover its expenses. The increase fees will more realistically reflect the Board's administrative and other expenses than the current fees. The proposed language changes are anticipated to have no social impact.

Economic Impact

The proposed amendment will impose a greater economic burden on licensees and certain interns than presently exists. No economic impact on consumers is anticipated.

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

13:36-1.6 Fees and charges

(a) There shall be paid to the State Board of Mortuary Science the following fees set forth:

- 1. Certification fee[\$1.00] **\$25.00;**
- 2. Practitioner examination fee[\$80.00] **\$100.00;**
- 3. Practitioner reexamination fee[\$80.00] **\$100.00;**
- 4. Embalmer examination fee[\$80.00] **\$100.00;**
- 5. Funeral director examination fee ..[\$80.00] **\$100.00;**
- 6. [Trainee] **Intern** registration fee ...\$50.00;
- 7. [Trainee] **Intern** reregistration fee ...[\$5.00] **\$25.00;**
- 8. New installation fee\$100.00;
- 9. New licenses[\$25.00] **\$40.00;**
- 10. Rules and regulations\$1.00;
- 11. License renewal fee:
 - i. Practitioner[\$25.00] **\$40.00;**
 - ii. Embalmer[\$25.00] **\$40.00;**
 - iii. Funeral director[\$25.00] **\$40.00;**
 - iv. †License revival fee\$75.00;
 - v. Certificates of registration ...[\$50.00] **\$85.00;**
- 12. **Duplicate license card fee\$10.00;**
- 13. **Duplicate certificate fee\$10.00;**

† Plus \$25.00 for each year that said license is not renewed.

(a)

BOARD OF NURSING

Schools of Professional Nursing and Practical Nursing

Proposed New Rules: N.J.A.C. 13:37-1.1 and 13:37-1.2

Proposed Repeals: N.J.A.C. 13:37-1.1 through 13:37-1.25 and N.J.A.C. 13:37-8.1 through 13:37-8.17

Authorized By: New Jersey State Board of Nursing, Dr. Kathleen M. Dirschel, President.

Authority: N.J.S.A. 45:11-33, 45:11-24(d) (12) (13) (14) and (19).

Proposal Number: PRN 1985-13.

Address comments and inquiries to:

Sister Teresa Louise Harris
State Board of Nursing
Room 319
1100 Raymond Boulevard
Newark, NJ 07102

The agency proposal follows:

Summary

The proposed new rules set forth the standards, curricula and requirements for accreditation of programs in professional and practical nursing and are closely modeled after the longtime practice of the Board. N.J.A.C. 13:37-1.1 sets forth the procedure to be followed by a program seeking initial accreditation. It requires the submission of certain documentation to insure that there is sufficient need for, and sound

educational, administrative and financial support for the program. N.J.A.C. 13:37-1.2 sets forth the criteria used by the Board in determining whether to grant initial and continuing accreditation. It prescribes the broad scope of nursing programs as well as the accreditation status imposed by the Board based on its initial and continued compliance with its rules. Finally, it sets forth the standards and requirements of the various essential elements of a nursing program including: organization and its administration, philosophy and objectives, faculty and administrator qualifications, curriculum clinical affiliates and student policies. The new rules repeal the current accreditation regulations because they are incomplete and do not set forth in full the substantive and procedural requirements which have always been imposed by the Board in its practice.

Social Impact

The proposed new rules are expected to have a favorable social impact. Its main social impact will be to benefit all persons who participate in the development and implementation of a program in nursing because it will clarify for all concerned the specific criteria necessary to be accredited and the consequences of their failure to comply with these stated standards and requirements. It will also have a beneficial social impact because it will promote uniformity and consistency among all nursing programs.

Economic Impact

The proposed new rules will have a minimal economic impact. The only financial burden placed on the nursing program and participants in its development and implementation is for them to utilize the sufficient financial resources necessary to meet the standards curricula and requirements established by the Board.

Full text of the rules proposed for repeal appear in the New Jersey Administrative Code at N.J.A.C. 13:37-1.1 through 1.25 and 13:37-8.1 through 8.17.

Full text of the proposed new rule follows.

SUBCHAPTER 1. SCHOOLS OF PROFESSIONAL NURSING

13:37-1.1 Application for initiating and developing a program in nursing

(a) An institution seeking to initiate and develop a program in nursing shall submit to the Board of Nursing the following items:

- 1. A statement of the philosophy and objectives of the proposed program;
- 2. Documented evidence of the need for the proposed program;
- 3. Evidence of financial resources adequate for the planning, implementation and continuation of the proposed program including a projected budget for a five year period;
- 4. Organizational chart describing the administrative structure of the proposed program and its relationship to the sponsoring institution;
- 5. The names and curricula vitae of all nurse educators and consultants responsible for developing the proposed program.

(b) These materials shall be submitted to the Board no later than October 1 of any year for a program anticipated to begin in September of the following year.

(c) After reviewing these materials the Board shall:

- 1. Grant permission to develop the proposed program with the stipulation that this permission does not insure that provisional accreditation will be granted;

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2. Recommend revision of the proposed program or submission of further information;

3. Deny permission to develop the proposed program. The institution shall be given the opportunity for a hearing before the Board to appeal this decision.

(d) After receiving permission to develop the proposed program, the institution shall submit to the Board no later than five full calendar months prior to the month anticipated for the start of the program the following items:

1. Updated statement of the philosophy and objectives of the program as contained in (a) above;

2. Updated evidence of financial resources as contained in (a) above;

3. Updated organizational chart as contained in (a) above;

4. Information on the student population, including number of students to be admitted to each of its first four classes, maximum size of the student population, timetable for attained maximum population size, admission policies, sources of recruitment of students and student services;

5. Information on the faculty and staff including number of faculty to be employed, dates of appointment of initial faculty members, and subsequent schedules of increases in faculty as needed and plans for faculty recruitment;

6. Evidence of compliance with all the requirements of N.J.A.C. 13:37-1.2 (Criteria for accreditation).

13:37-1.2 Criteria for accreditation

(a) The following educational entities shall be considered eligible for accreditation:

1. A school, division or department of nursing authorized to operate by its own charter, articles of incorporation or resolution of the governing board of its sponsoring institution.

2. Degree granting institutions shall be approved and licensed by the New Jersey State Department of Higher Education and accredited by the appropriate academic accrediting agencies.

(b) The following educational programs shall be considered eligible for accreditation:

1. Baccalaureate Degree Program: Programs leading to a baccalaureate degree in nursing accredited by the New Jersey State Board of Nursing conducted by an educational unit in nursing as an integral part of a higher educational institution licensed by the New Jersey State Department of Higher Education for the purpose of granting baccalaureate degrees. Baccalaureate degree programs shall include both generic and upper division curricula.

2. Associate Degree Program: Programs leading to an associate degree in nursing, accredited by the New Jersey State Board of Nursing, conducted by an educational unit in nursing as an integral part of a higher educational institution, licensed by the New Jersey State Department of Higher Education for the purpose of granting associate degrees.

3. Diploma Program: Programs leading to a diploma in nursing, (and, for a cooperative program, an Associate Degree in Applied Science) accredited by the New Jersey State Board of Nursing, conducted by an educational unit in nursing under the sponsorship of a hospital or consortium of hospitals in the State of New Jersey.

4. Practical Nursing Program: Within the meaning of N.J.S.A. 45:11-27(a)(4), programs conducted for the purpose of giving basic required education in practical nursing accredited by the New Jersey State Board of Nursing. A program in practical nursing operated by the public school district or Board of Education and certified by the New Jersey State Department of Education, offering a course of study in prac-

tical nursing shall show evidence of its compliance with the requirements of the New Jersey State Board of Nursing and shall include clinical experience within cooperating clinical affiliates approved by the Board of Nursing.

(c) Accreditation shall be granted as follows:

1. Full accreditation shall be granted to any eligible program meeting all the standards and requirements of this subchapter. A certificate of full accreditation shall be issued in accordance with N.J.S.A. 45:11-34.

2. Conditional accreditation shall be given to any accredited program which subsequently fails to meet and maintain the standards and requirements for accreditation contained in this subchapter. The Board may limit the number of students enrolled in such a program. The institution shall be given the opportunity for a hearing to appeal this decision.

i. A program shall be placed on conditional accreditation if less than 75 percent of its graduates achieve passing grades in the licensing examination for a period of two consecutive years. The program shall be sent written notification of conditional accreditation by the Board.

ii. A program shall be placed on conditional accreditation if it fails to comply with any of the standards and requirements of the Board contained in this subchapter. The program shall be sent written notification of conditional accreditation by the Board including the conditions which must be corrected within a specific time period set by the Board.

iii. Removal from conditional accreditation may be granted if it can be demonstrated that the standards and requirements contained in this subchapter have been met.

3. Provisional accreditation shall be granted to a new program that meets the standards and requirements for accreditation until the licensing examination results of the first graduating class are received and evaluated by the Board.

4. A program which fails to correct deficiencies to the Board's satisfaction, within the time limit set by the Board, shall be placed on probation. The program shall be unable to accept new or transfer students into the program. The institution shall be given the opportunity for a hearing to appeal this decision.

i. Nursing programs will be given two years, but under no circumstances more than three years, to revise or improve the nursing curriculum to upgrade the quality of nursing students graduating. Failure to achieve satisfactory results in subsequent licensing examinations may indicate a need for further Board action, including possible loss of accreditation.

5. A program which does not meet the standards and requirements of this subchapter shall have its accreditation withdrawn. The institution shall be given the opportunity for a hearing to appeal this decision.

Note: Any change in the accreditation status as described in (c) 1, 2, 3 and 4 above of a program in nursing shall not affect the eligibility of students currently enrolled in the program to sit for the licensing examination.

(d) Plans of organization and administration shall be subject to the following:

1. The institution shall have an effective plan of organization and administration appropriate to the purpose and implementation of the program in nursing. There shall be a written organizational plan describing the internal organization of the program, lines of authority, procedures for providing communication with the governing body and clinical affiliates and the role of any advisory committee associated with the program.

2. The program shall be assured of stable, financial resources adequate for and effectively allocated to support its

educational activities. There shall be a budget prepared in accordance with sound educational and financial practices. The financial statement shall give a clear picture of the status of the program.

3. There shall be a qualified administrator of the nursing program who shall have direct authority and responsibility for administering the program. The administrator shall be responsible to the governing body of the sponsoring institution.

(e) The philosophy, purposes and objectives of the program shall be:

1. Clearly defined in a written statement;
2. Formulated and accepted by the faculty of the program and ratified by the governing body of the sponsoring institution;
3. The basis for planning, implementing and evaluating the total program;
4. Consistent with N.J.S.A. 45:11-23 (Definition of Nursing) and professional, educational and ethical standards of nursing.

(f) Administrator qualifications follow:

1. Administrator of Registered Nursing Programs (Baccalaureate): In addition to the qualifications contained in (g)1 below, the administrator shall hold a masters degree with a major in nursing and an earned doctoral degree.

2. Administrator of Registered Nursing Programs (Associate Degree and Diploma): In addition to the qualifications contained in (g)1 below, the administrator shall hold a minimum of a masters degree with a major in nursing.

3. Administrator of Licensed Practical Nursing Programs: In addition to the qualifications contained in (g)1.i, iii, iv and v below, the administrator shall hold a minimum of a bachelors degree in nursing with additional courses in education.

(g) Faculty qualifications follow:

1. The program shall provide and maintain a qualified faculty. For purposes of this subsection, faculty shall include persons from out-of-state nursing programs who are responsible for teaching students in a clinical affiliate located in New Jersey. The qualifications for all faculty members shall include:

- i. Current registration in New Jersey as a professional nurse;
- ii. Graduation from accredited Masters Degree Program in nursing;
- iii. Academic and professional qualifications appropriate to the specific area of responsibility of the appointed position. For purposes of this subchapter, all degrees shall be earned at accredited schools of nursing;
- iv. Maintenance of up-to-date professional competence (that is, participation in on-going clinical practice, continuing education, professional conferences, workshops, seminars, advanced academic courses, research projects and writing);
- v. Compliance with all academic and professional qualifications for appointment required by the sponsoring institution.

2. Faculty in Registered Nursing Programs: In addition to the qualifications contained in (g)1 above, all faculty members shall hold a masters degree with a major in nursing.

NOTE: Only those faculty members who began their employment on or before September 1, 1981 may qualify for an exemption from this requirement in accordance with previous Board policy.

3. Faculty in Licensed Practical Nursing Programs: In addition to the qualifications contained in subsection (g)1, i, iii, iv and v above, all instructors shall hold a bachelors degree

with a major in nursing. Instructors in any school operated by a public board of education in any local or county school district shall meet the same professional qualifications.

(h) The number of faculty members in the program shall be sufficient to achieve the goals as stated in its philosophy and objectives. The required number of faculty shall be determined by the following factors:

1. Number of students enrolled;
2. Number and locations of clinical affiliate facilities;
3. Total reasonable work-load capacity of the faculty;
4. Maintenance of a student-faculty ratio of not more than ten students to one clinical faculty member.

(i) Responsibility for developing and implementing the program shall be placed in the nursing faculty. Faculty responsibilities shall include, but not be limited to:

1. Development and implementation of the purposes, philosophy and objectives of the program;
2. Active participation in the construction, implementation, teaching and evaluation of the curriculum;
3. Establishment and implementation of criteria for faculty promotion and retention;
4. Establishment and implementation of criteria for student admission, promotion, retention, and completion of the program, consistent with the overall policies of the sponsoring institution;

5. Evaluation of student achievement on the basis of written criteria prepared or selected by the faculty;

6. Determination of eligibility of students for graduation and admission to the licensing examination;

7. Development of a written plan for evaluation of the effectiveness of the curriculum. The plan shall include instruments for evaluation, time of the evaluation, and intended uses of the evaluation. Evaluations shall be kept current and in accordance with the written plan. The Board may request evidence of the implementation of such evaluation.

(j) The curriculum shall be organized as follows:

1. The curriculum shall be designed by the faculty to reflect the stated philosophy and objectives of the program;

2. The conceptual framework of the curriculum shall be clearly stated and facilitate implementation of the curriculum goals;

3. Rationale shall be specified for the organization of the allocation of credit for the nursing courses;

4. Non-nursing courses shall be attended with students in other disciplines.

(k) Curriculum content shall include the following:

1. All professional nursing programs shall reflect and implement a written theoretical framework which utilizes the nursing process. It shall include sufficient learning experiences encompassing casefinding, health teaching, health counseling, and the provisions of care supportive to or restorative of life and well-being;

2. All professional nursing programs shall include a broad spectrum of liberal arts and science offerings. Each student shall be required to take at least one college level course leading to proficiency in English composition. Content areas in the biological, physical and behavioral sciences shall include but not be limited to anatomy, physiology, chemistry, microbiology, physics, psychology, sociology and anthropology;

3. All professional nursing programs shall contain nursing courses with content from the major areas: medical-surgical, psychiatric, mental health, parent-child health, as well as promotion and maintenance of health, prevention and detection of illness and restoration of life. Clinical laboratory experi-

ence shall be planned as an integral part of the curriculum;

4. All professional nursing programs shall contain course content on ethical issues affecting practice and professional responsibilities;

5. All practical nursing programs shall be designed to incorporate materials and concepts from the physical, biological and behavioral sciences relevant to the principals and practice of nursing and contemporary issues in health care. The course of study shall be a minimum of 44 weeks in length excluding holidays and vacations. Forty percent of the total hours shall be devoted to classroom theory and laboratory. The remaining 60 percent shall be devoted to clinical experience and clinical conference. The program shall be organized so that theory and clinical practice are offered concurrently throughout the entire program.

(l) The following changes require prior Board approval:

1. Whenever a change in the curriculum of any nursing program is contemplated, the Board shall be notified of the proposed change(s) in writing for its review and approval prior to implementation of the change.

2. Changes that require Board review and approval are:

i. Changes in philosophy, theoretical framework, purposes or objectives used in the curriculum;

ii. Major reorganization of the content structure;

iii. Changes in the use of clinical resources constituting a change in the agreement;

iv. Major changes in course content.

3. Written notification to the Board shall include:

i. A description of the current curriculum;

ii. A description of the contemplated change, including all revisions, deletions, additions or structural alterations proposed;

iii. Reasons for the proposed change.

4. Written notification as contained in (1)3 above shall be submitted at least four calendar weeks prior to the Board meeting at which approval is sought.

(m) The following educational and administrative resources shall be made available:

1. Classrooms, laboratories, conference rooms, offices and other space as needed, shall be provided to meet the needs of the students and faculty;

2. Adequate office space and equipment shall be provided for the administrator, faculty and clerical staff;

3. Furnishings, supplies and equipment shall be provided to achieve the educational purposes of the program;

4. The library shall be adequate in size and holdings to meet the educational needs of the students and faculty. Provision shall be made in the budget for regular and adequate acquisitions to the library collection. Library facilities, including audio-visual equipment shall be adequate and available to students and faculty.

(n) Clinical affiliates shall be subject to the following:

1. Resources for training in clinical practice shall be provided by a clinical affiliate. Every clinical affiliate utilized in a nursing program shall be approved by the Board of Nursing and by the appropriate accrediting authority of the facility prior to the assignment of students.

2. There shall be a written agreement between the nursing program and the clinical affiliate. The agreement shall be jointly approved by the parties and shall include but not be limited to provision for the following:

i. Periodic review of the terms of the agreement;

ii. Adequate notice of termination of the agreement by either party;

iii. Control of student education by the faculty of the nursing program;

iv. Continuous educational planning for students assigned to the clinical affiliate;

v. Joint annual evaluation of the effectiveness of the clinical experience;

vi. Student-faculty ratio of not more than ten students to one faculty member.

3. A clinical affiliate located outside of New Jersey shall meet the requirements of 1 and 2 above and shall be approved as a qualified institution for providing clinical experience in nursing by the Board of Nursing of the state in which it is located.

4. Whenever a change in the clinical facilities is contemplated, the Board shall be notified of the proposed change in writing for its review and approval prior to the implementation of the change.

(o) All programs in nursing and clinical affiliates shall be visited at regular intervals as determined by the Board by a field representative of the Board staff. The field representative shall examine all "Criteria of Accreditation" in accordance with this subchapter and prepare a written report for the review of the Board.

(p) Students shall be subject to the following:

1. Admission requirements shall meet all the requirements of N.J.S.A. 45:11-26 or 11-27.

2. Students shall be selected on the basis of established criteria without regard to race, creed, sex or national origin.

3. There shall be written policies for admission, readmission promotion, retention, graduation and transfer of students.

4. There shall be written criteria for granting course credit for programs admitting students with advanced standing.

5. There shall be written policies governing payment and refund of tuition and other fees.

6. Dates shall be set for the beginning and ending of each term.

7. A grievance procedure shall be established and made available to the students.

8. Individual liability insurance shall be required for all students.

(q) Written policies regarding health, counseling and guidance services, financial aid, and living accommodations shall be established.

(r) All written policies affecting students shall be distributed to students.

(s) Every nursing program shall maintain a system of record-keeping which shall contain all data relating to its accreditation. Such data shall include course outlines, faculty organization, committee minutes, agency contracts, pertinent correspondence, reports of standardized tests and survey. These records shall be made available to the Board of Nursing upon request.

(t) There shall be a recordkeeping system that provides for accurate recording of admission data and student academic records. Provision shall be made for safe storage of records to prevent loss by destruction and unauthorized use. Student records shall be made available to the Board of Nursing upon request.

(u) Current information about the school shall be distributed to students, applicants for admission and the Board of Nursing. The bulletin shall include the following items:

1. General description of the program;

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2. Philosophy and objectives of the program and its sponsoring institution;
3. Accreditation;
4. Admission, retention, promotion and graduation requirements;
5. Curriculum plan and course descriptions;
6. Statement of tuition fees and refund policies.

[13:37-1.26] 13:37-1.3 Change of address
(No change in text.)

(a)

OFFICE OF THE STATE ATHLETIC COMMISSIONER

Boxing and Wrestling Standards of Conduct

Proposed Repeal: N.J.A.C. 13:46-4.20, 13:46-5.26

Proposed New Rules: N.J.A.C. 13:46-23

Authorized By: Office of the State Athletic Commissioner, Robert W. Lee, Acting Commissioner.

Authority: N.J.S.A. 5:2-5.

Proposal Number: PRN 1985-18.

Address comments and inquiries to:

Robert W. Lee, Acting Commissioner
Office of the State Athletic Commissioner
Richard J. Hughes Justice Complex
CN 151
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed regulations would provide specific standards for the personal and professional conduct of officers, employees, appointees and licensees of the Office of the State Athletic Commissioner. The current provisions lack clear, workable guidelines setting forth ethical restrictions applicable to the various classes of individuals involved in the boxing industry in this State. Rather, the present regulations touch upon the area of conflicts of interest only in a general way. Those provisions appear throughout the various subchapters of Chapter 46 and fail to facilitate the uniform application of standards to the employees, appointees and licensees of the Office of the State Athletic Commissioner. The proposal would create a separate subchapter entitled "Standards of Conduct" and would set forth ethical standards to govern and guide the conduct of individuals involved in the regulation and administration of boxing and wrestling. A code of ethics formulated by the Office of the State Athletic Commissioner pursuant to N.J.S.A. 52:13D-23, was approved by the Executive Commission on Ethical Standards and became effective on October 3, 1984. The proposed regulations, which are generally consistent with the guidelines set forth in the ethics code, would provide standards of conduct applicable to a broader class of individuals than that subject to the jurisdiction of the Executive Commission on Ethical Standards. Those appointees and licensees of the Office of the State

Athletic Commissioner who may not fall within the N.J.S.A. 52:13D-13(b) definition of "state officer or employee", would be restricted by the proposed regulations regardless of whether they would also be subject to the Office of the State Athletic Commissioner's code of ethics. It is essential that all of the individuals involved in regulating and administering boxing and wrestling discharge their duties so as to promote and preserve public trust and confidence in those sports within New Jersey.

The following is a detailed synopsis of the content of the proposal. New rule N.J.A.C. 13:46-23.1 would prohibit all officers, employees and appointees of the Office of the State Athletic Commissioner and their families from holding a financial interest in any athlete licensed by the Office of the State Athletic Commissioner. The purpose of this regulation would be to avoid circumstances which might result in the impairment of the objectivity of an individual involved in administering or regulating boxing or in the favored treatment of one licensed athlete over another. This section would also assist representatives of the Commissioner to prevent situations which might create an impression in the minds of members of the general public that those involved in boxing on behalf of the State are engaged in conduct which might serve their personal interests. The proposal would also add new rule N.J.A.C. 13:46-23.2 which would restrict officers, employees and appointees of the Office of the State Athletic Commissioner and their families from having an interest in a licensed promoter. For purposes of this provision, the ownership of less than 10 percent of the publicly traded stock in a corporation for profit is not included in the definition of "interest." N.J.A.C. 13:46-23.3 would prohibit officers, employees or appointees of the Office of the State Athletic Commissioner and members of their families from having any financial interest in a manager's or a second's contract with a licensed athlete or in any assignment of such a contract. Proposed regulation N.J.A.C. 13:46-23.4 would similarly restrict Office of the State Athletic Commissioner officers, employees or appointees and their families from holding a financial interest in a matchmaker's contract with a licensed promoter or in the assignment of such a contract.

N.J.A.C. 13:46-23.5 would bar officers, employees and appointees of the Office of the State Athletic Commissioner from accepting gifts, favors, services or any other thing of value, including complimentary meals, the use of hotel rooms or the reimbursement or payment of travel expenses from any licensed promoter, athlete, manager, second or matchmaker or from the owner of a premises at which a boxing bout, wrestling exhibition or sparring exhibition is held. The proposal also requires that any offer of such a gift, favor, service or other thing of value be disclosed in writing to the State Athletic Commissioner and to the Attorney General. Proposed regulation N.J.A.C. 13:46-23.6 would restrict promoters and their family members from having any financial interest in athletes competing on premises owned or leased by the promoter unless such interest is disclosed in writing and mailed or hand delivered to the Athletic Commissioner's Trenton office at least 10 days prior to the authorized event. The proposal would repeal N.J.A.C. 13:46-4.20. N.J.A.C. 13:46-23.7 would restrict a licensed promoter or a member of his family from acting as the manager or second for a licensed athlete. It would further prohibit a promoter or his family member from having any financial interest in a manager's or second's contract with a licensed athlete or, in the assignment of such a contract unless such interest is disclosed in writing and mailed or hand delivered to the Office of the State Ath-

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letic Commissioner in Trenton at least 10 days prior to the authorized event.

Proposed regulation N.J.A.C. 13:46-23.8 would restrict a licensed promoter from holding an interest in another licensed promoter except as provided in N.J.A.C. 13:46-4.29 which provides for the licensure of a co-promoter associating himself with a licensed promoter. N.J.A.C. 13:46-23.9 would prohibit a licensed manager or second from holding a financial interest in two competing athletes. The proposal would further bar a licensed athlete from holding a financial interest in his opponent in any contest. The provision would repeal N.J.A.C. 13:46-5.26 which restricts a boxer from competing against another boxer "from the same stable". It is unclear from the language of the current provision whether the intent is to prohibit contests between boxers under the same management or between boxers who have trained in the same gymnasium. The proposed regulation would clarify that ambiguity, prohibiting contests, bouts or exhibitions where a manager has actually contracted with the two athletes and where a single manager holds a financial interest in competing athletes.

Social Impact

The proposal would have a positive social impact. If adopted, the regulations will provide comprehensive guidelines for the personal and professional conduct of individuals involved in the boxing industry in this State. The standards will assist these individuals to avoid actual conflicts of interest as well as to assist in preventing the appearance of improper conduct. The result will be to promote the public trust and confidence in the industry and will have an overall beneficial impact on the integrity of the sport.

Economic Impact

With the promotion of the public trust and confidence in the sport within this State, the overall interest in the sport will increase, resulting in a positive economic impact.

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

13:46-4.20 [Financial interest in participants] **Reserved**

[No promoter shall have, either directly or indirectly, any financial interest in any boxer or wrestler competing on premises owned or leased by the promoter or in which such promoter is otherwise interested.]

13:46-5.26 [Boxers from same stable] **Reserved**

[Any contest between two boxers from the same stable is forbidden.]

Full text of the proposed new rule follows.

SUBCHAPTER 23. STANDARDS OF CONDUCT

13:46-23.1 Interest in athlete prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, nor any spouse, child, parent or sibling of any such individual, shall have any direct or indirect financial interest in any boxer or wrestler licensed by the Office of the State Athletic Commissioner.

13:46-23.2 Interest in promoter prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, nor any spouse, child, parent or sibling of any such individual,

shall have a direct or indirect financial interest in any person, partnership, firm, corporation or association licensed by the Office of the State Athletic Commissioner to hold or conduct boxing bouts, wrestling exhibitions, or sparring exhibitions pursuant to N.J.A.C. 13:46-4.1. For purposes of this section, "financial interest" does not mean the ownership of less than 10 percent of the publicly traded stock in a corporation for profit.

13:46-23.3 Interest in manager's or second's contract prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, nor any spouse, child, parent or sibling of any such individual, shall have any direct or indirect financial interest in any manager's or second's contract with any athlete licensed by the Office of the State Athletic Commissioner or in any assignment thereof.

13:46-23.4 Interest in matchmaker's contract prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, nor any spouse, child, parent or sibling of any such individual, shall have any direct or indirect financial interest in any matchmaker's contract with a promoter licensed by the Office of the State Athletic Commissioner or in any assignment thereof.

13:46-23.5 Acceptance of gift, favor, service or other thing of value prohibited

No officer, employee or appointee of the Office of the State Athletic Commissioner, including referees, judges, inspectors, timekeepers, physicians, doormen and box office employees, shall accept any gift, favor, service or any other thing of value whatsoever, including but not limited to complimentary meals, the use of hotel rooms, travel expenses or other gratuities, from any applicant for license or from any licensee of the Office of the State Athletic Commissioner, including promoters, athletes, managers, seconds and matchmakers or from the owner of any premises at which a boxing bout, wrestling exhibition or sparring exhibition is held. Any offer of a gift, favor, service or other thing of value shall be disclosed in writing to the State Athletic Commissioner and to the Attorney General.

13:46-23.6 Promoter's interest in athlete prohibited

No person, partnership, firm, corporation or association licensed by the Office of the State Athletic Commissioner to hold or conduct boxing bouts, wrestling exhibitions or sparring exhibitions pursuant to N.J.A.C. 13:46-4.1, nor any person or entity holding an interest in said licensee of the nature described in N.J.A.C. 13:46-23.2, nor the spouse, child, parent or sibling of any such individual, shall have any direct or indirect financial interest in any boxer or wrestler competing on premises owned or leased by said person or entity unless said interest is disclosed in writing and sent by regular or certified mail or hand delivered to the Office of the State Athletic Commissioner, Richard J. Hughes Justice Complex, Trenton, New Jersey, at least 10 days prior to the authorized event.

13:46-23.7 Promoter prohibited from acting as manager or second of participant

No person, partnership, firm, corporation or association licensed by the Office of the State Athletic Commissioner to hold or conduct boxing bouts, wrestling exhibitions or spar-

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LAW AND PUBLIC SAFETY

ring exhibitions pursuant to N.J.A.C. 13:46-4.1, nor any person or entity holding an interest in said licensee of the nature described in N.J.A.C. 13:46-23.2, nor the spouse, child, parent, or sibling of any such individual, shall serve or act as the manager or second for a licensed athlete or shall have any direct or indirect financial interest in any manager's or second's contract with any athlete licensed by the Office of the State Athletic Commissioner or in any assignment thereof unless such interest is disclosed in a writing sent by regular or certified mail or hand delivered to the Office of the State Athletic Commissioner, Richard J. Hughes Justice Complex, Trenton, New Jersey, at least 10 days prior to the time of the authorized event.

13:46-23.8 Promoter prohibited from holding interest in other promoter

No person, partnership, firm, corporation or association licensed by the Office of the State Athletic Commissioner to hold or conduct boxing bouts, wrestling exhibitions or sparring exhibitions pursuant to N.J.A.C. 13:46-4.1, shall hold an interest of the nature described in N.J.A.C. 13:46-23.2 in any other such licensee except as provided by N.J.A.C. 13:46-4.29.

13:46-23.9 Financial interest in opponent prohibited

No licensed manager or second of any licensed athlete and no assignee of a manager-athlete or a second-athlete contract shall have any direct or indirect financial interest in the opponent in any contest in which said athlete participates. No licensed athlete shall have any direct or indirect financial interest in his opponent in any contest.

NEW JERSEY RACING COMMISSION

The following proposals are authorized by the New Jersey Racing Commissioner, Harold G. Handel, Executive Director.

Address comments and inquiries to:

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

(a)

Thoroughbred and Harness Rules: Claiming

Proposed Readoptions: N.J.A.C. 13:70-12 and 13:71-14

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

Proposal Number: PRN 1985-17.

Pursuant to Executive Order 66(1978), these rules expire on February 27, 1985. The readoption of these rules becomes effective upon acceptance for filing by the Office of Administrative Law of a notice of readoption.

The agency proposal follows:

Summary

The rules of the New Jersey Racing Commission govern all aspects of pari-mutuel wagering and the conduct of harness

and thoroughbred racing. Individual subchapters delineate specific areas of regulation, such as claiming.

N.J.A.C. 13:70-12 and 13:71-14 contain rules concerning claiming. In claiming races, any horse is subject to be sold, or claimed, for its entered price, by any owner who has started a horse at the meeting at which the claim is made. These subchapters describe such things as who may claim horses, how the claim must be made, restrictions on claimed horses, agents, number of claims, agreements to claim or not to claim, form of claims, time of claims, irrevocability of claims, title of claims, delivery, responsibility for the horse after claim, the price, sale of claimed horse, protests and testing of claimed horses. Pursuant to Executive Order 66(1978) the subchapters are scheduled to expire on February 27, 1985. Extensive amendments were made in 1980, with other amendments made in 1982 and 1984. The regulations contained in these subchapters are an integral part of the overall regulation of the racing industry.

The New Jersey Racing Commission has undertaken an intensive review of the foregoing rules prior to notice for readoption. The Commission expects public comment to be received stimulating further review as a result of the re adoption procedure being instituted. The Commission has determined these subchapters are necessary to protect the public interest with respect to pari-mutuel horse racing and that they constitute a reasonable and effective means to effectuate such a goal.

Social Impact

The subchapters proposed for re adoption have a positive social impact since claiming races insures competitive racing since anyone who enters a horse in a claiming race risks losing that horse for its entered price. Claiming races benefit the racing industry because they promote the competition of evenly matched horses. For example, in a particular race, the purse may be \$5,000, and the claiming price set at \$10,000. This disparity would discourage an owner of a horse who was far superior to (and had a higher value than) the remainder of the competing horses, from entering his horse and winning the purse, as the horse could be claimed for a price which was far less than the value of the animal. In this way, horses of the same approximate value compete against each other, to the benefit of the racing industry and the public.

Economic Impact

These regulations have positive economic impact upon the State of New Jersey since claimed horses generate sales tax of six percent for each transaction, which is paid to the State. There really is no other economic impact upon the State, the public, the Racing Commission or the racing industry.

Full text of the proposed readoptions appears in the New Jersey Administrative Code at N.J.A.C. 13:70-12 and 13:71-14.

(b)

Harness Rules: Applications

Proposed Amendment: N.J.A.C. 13:71-7.7

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

Proposal Number: PRN 1985-16.

TRANSPORTATION

PROPOSALS

The agency proposal follows.

Summary

The proposed amendment further defines the role of the Steward in making recommendations to the New Jersey Racing Commission on license applications and specifically, places the burden upon the applicant to show that he is qualified. By adding the three paragraphs following the main rule, the harness rule will now be uniform with the thoroughbred rule 13:70-4.8.

Social Impact

The proposed amendment will have a positive social impact because it places the burden of proving qualifications upon the applicant and empowers the steward to be able to require the applicant and the applicant's endorsers to appear before him. Therefore, it allows for a more thorough investigation of licensees, which is designed to preserve the integrity of racing.

Economic Impact

There should be no direct economic impact upon the State, the Racing Commission, the public or the applicants as a result of this proposed amendment. The amendment clarifies an existing rule and conforms to a rule which has already proved successful in the thoroughbred licensing operation.

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

13:71-7.7 Applications

(a) (No change in text.)

1. In considering each application for a license, the steward may require the applicant, as well as the applicant's endorsers, to appear before him.

2. The burden shall be upon the applicant to show that he, she or it is qualified in every respect to receive the license applied for.

3. Ability, as well as integrity, must be clearly shown by the applicant in order to receive the steward's recommendation to the New Jersey Racing Commission for the granting of the license.

TRANSPORTATION

TRANSPORTATION OPERATIONS

The following proposals are authorized by John P. Sheridan, Jr., Commissioner, Department of Transportation.

Address comments and inquiries to:

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

(a)

Restricted Parking and Stopping Routes 27 in Union County and 45 in Gloucester County

Proposed Amendments: N.J.A.C. 16:28A-1.18 and 1.31

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.

Proposal Number: PRN 1985-1.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" bus stop zones along Route 27 in the City of Linden, Union County and "no parking" zones along Route 45 in West Deptford Township, Gloucester County for the safe and efficient flow of traffic, the enhancement of safety, the safe on/off loading of passengers at established bus stops and the safety of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" bus stop zones and "no parking" zones were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.18 and 1.31 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendment will establish "no parking" bus stop zones along Route 27 in the City of Linden, Union County and "no parking" zones along Route 45 in West Deptford Township, Gloucester County for the safe and efficient flow of traffic, the enhancement of safety, the safe on/off loading of passengers at established bus stops and the safety of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking" zone signs and the local officials, the cost for "no parking" bus stop signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.18 Route 27

(a) (No change.)

(b) The certain parts of State **highway Route 27** described in [(b) of] this section shall be **designated and established** as "no parking" zones where parking is **prohibited** at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is [hereby] granted to erect appropriate signs at the following [establishment] **established** bus stops:

1.-21. (No change.)

22. Along the northbound (easterly) side in the City of Linden, Union County:

i. Far side bus stop:

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TRANSPORTATION

(1) Wood Avenue—Beginning at the northerly curb line of N. Wood Avenue and extending 160 feet northerly therefrom.

16:28A-1.31 Route 45

(a) The certain parts of State highway Route 45 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-5. (No change.)

6. No stopping or standing in West Deptford Township, Gloucester County:

i. Along the westerly side:

(1) Beginning at the northerly curb line of Hessian Avenue and extending 200 feet northerly therefrom.

(a)

No Passing

Routes 31 in Hopewell Township, 324 in Gloucester County, 15 in Morris County, and 159 in Essex County

Proposed Amendments: N.J.A.C. 16:29-1.4

Proposed New Rule: N.J.A.C. 16:29-1.46, 1.47 and 1.48.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-201.1.

Proposal Number: PRN 1985-2.

The agency proposal follows:

Summary

The proposal will establish new rules concerning "no passing" zones along Route 324 in Logan Township, Gloucester County, Route 15 in the Town of Dover, Rockaway Township and Wharton Borough, Morris County, and Route 159 in Fairfield Borough, Essex County, for the safe and efficient flow of traffic, the enhancement of safety and the safety of the populace. Additionally, this proposal will effect an administrative correction in N.J.A.C. 16:29-1.4 which will not affect the purpose of the rule as originally proposed at 110 N.J.R. 515(b), November 9, 1978 and adopted at 11 N.J.R. 40(b), January 4, 1979.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no passing" zones were warranted.

The Department therefore proposes new rule N.J.A.C. 16:29-1.46, 1.47 and 1.48 based upon the request from local officials and the traffic investigations, and amends N.J.A.C. 16:29-1.4 to correct an administrative error.

Social Impact

The proposed new rule will establish "no passing" zones along Route 324 for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate markings will be applied to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs

for the installation of appropriate marking on the highway. Motorists who violate the rules will be assessed the appropriate fine.

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

16:29-1.4 Route 31

(a) The following certain parts of State highway Route 31 shall be [and hereby are] designated and established as "No Passing" zones [.]:

1. Within City of Trenton, Ewing Township, Hopewell [Borough] Township and Pennington Borough in Mercer County and described in drawing number HNPZ-014 dated August 15, 1977.

2.-3. (No change.)

16:29-1.46 Route 324

(a) The following certain parts of State highway Route 324 shall be designated and established as "No Passing" zones:

1. That part within Logan Township, Gloucester County and described in drawing number HNPZ-077 dated October 5, 1984.

16:29-1.47 Route 15

(a) The following certain parts of State highway Route 15 shall be designated and established as "No Passing" zones:

1. That part within the Town of Dover, Rockaway Township and Wharton Borough, Morris County and described in drawing number HNPZ-078 dated October 15, 1984.

16:29-1.48 Route 159

(a) The following certain parts of State highway Route 159 shall be designated and established as "No Passing" zones:

1. That part within Fairfield Borough, Essex County and described in drawing number HNPZ-080 dated October 17, 1984.

(b)

THE COMMISSIONER

Notice of Public Hearing on Proposed New Rule, N.J.A.C. 16:62, concerning Air Safety and Hazardous Zoning

Take notice that a public hearing will be held on January 16, 1985, at 10:00 A.M. in Room #140 (Hearing Room) at the Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey, concerning Proposed Rule N.J.A.C. 16:62 "Air Safety and Hazardous Zoning" as proposed in the New Jersey Register on Monday, April 16, 1984 at 16 N.J.R. 860(b).

The public hearing will be conducted in a quasi-legislative rather than quasi-judicial manner and is open to interested individuals, representatives of governmental bodies and companies and associations.

Interested persons are invited to participate through written comments or oral presentations. Comments will be restricted to the rule as proposed. Persons wishing to make oral presentation or submit written comments are requested to do so on or before January 11, 1985, by notifying:

TREASURY-GENERAL

PROPOSALS

Charles L. Meyers
Administrative Practice Officer
New Jersey Department of Transportation
CN 600
Trenton, New Jersey 08625
Telephone: (609) 292-0053

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Teachers' Pension and Annuity Fund
Definition of Full-time Employment

Proposed Amendments: N.J.A.C. 17:3-2.3

Authorized By: Board of Trustees, Teachers' Pension and Annuity Fund.

Authority: N.J.S.A. 18A:66-56.

Proposal Number: PRN 1985-12.

Address comments and inquiries to:

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

The agency proposal follows:

Summary

The purpose of this proposed amendment is to clarify the requirement for full-time employment to be eligible for enrollment in the Teachers' Pension and Annuity Fund. To be eligible for membership in the fund, a person must be a "teacher" as defined in the law. The definition of teacher under N.J.S.A. 18A:66-2 provides that "No person shall be deemed a teacher within the meaning of this article who is . . . a teacher not regularly engaged in performing one or more of these functions as a full-time occupation outside of vacation periods." The current rule expands upon this requirement and provides that a "teacher" employed under a regular annual contract and performing all of the duties required of the position, although he may only work part of the day every day or only two or three days every week shall be considered a full-time employee subject to enrollment in the fund."

This requirement of the law as expanded by the current rule has been very difficult to administer. The proposed amendment provides that a teacher would have to work an average of at least 20 hours a week to be considered a full-time employee. This will provide an objective hourly standard which will make administration of this requirement considerably easier for all involved. A similar standard has been adopted by the State Board of Education for the purpose of determining eligibility for tenure.

Social Impact

New teachers who regularly work less than 20 hours a week will be ineligible for membership in the Teachers' Pension and

Annuity Fund as a result of this proposed amendment. They will be enrolled in the Public Employees Retirement System. The benefits under both systems are essentially the same. Teachers currently enrolled in the fund on the basis of the present rule would not be affected by the rule change. They would continue to be members of the fund.

Economic Impact

The proposed amendment would result in an increase in costs to school districts for retirement benefits for their employees. The State pays the employer's cost for school employees in the Teachers' Pension and Annuity Fund. School districts pay the employer's cost for employees in the Public Employees' Retirement System. Under the proposed amendment, some school employees now being enrolled in the Teachers' Pension and Annuity Fund would be enrolled in the Public Employees' Retirement System.

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

17:3-2.3 Full-time

(a) A "teacher" employed under a regular annual contract and performing all of the duties required of the position[, although he may only work part of the day every day or only two or three days every week] **who works an average of 20 hours per week or a minimum of two full contract days** shall be considered a full-time employee subject to enrollment in the fund.

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

(b)

STATE INVESTMENT COUNCIL
Certificates of Deposit

Proposed New Rules: N.J.A.C. 17:16-27

Authorized By: State Investment Council, Roland M. Machold, Director, Division of Investment.

Authority: N.J.S.A. 52:18A-91.

Proposal Number: PRN 1985-3.

Address comments and inquiries to:

Roland M. Machold, Director
Division of Investment
349 West State Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 17:16-27 expired under Executive Order No. 66(1978) on October 31, 1984. As a result of the expiration, the text of the rules currently found in the New Jersey Administrative Code are being proposed as new rules. To facilitate ease in reading and identifying changes from the expired text, the new rules are proposed with amendments to the expired text.

The amendments would eliminate the present capital requirements of at least \$40 million for banks to be eligible for uncollateralized certificates of deposit as an appropriate credit standard. The limit was imposed in prior years by savings banks investment laws. This standard was reviewed by

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the banking commissioner who no longer believes the standard is an appropriate credit test.

Size, delivery and procedure standards which reflect actual purchasing practices have been added: (1) total investment in certificates of deposit of any one bank, combined with the total investment in bankers acceptances of any one bank, shall not exceed 10 percent of the bank's net worth designated as capital, surplus and undivided profits; (2) the issuer shall deliver to a third-party bank designated by the Division of Investment; (3) the prospective issuer shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for ten minutes; (4) the certificate of deposit is in an amount of at least \$1 million.

Social Impact

Neither the proposed new rules nor the amendments will have a direct effect upon the public. The amendments would simply eliminate a standard imposed by savings banks investment laws which are no longer appropriate.

Economic Impact

No costs are involved in the implementations of the new rules or amendments. The proposal is intended to maximize efficient management of funds under the jurisdiction of the Division of Investment.

Full text of the new rules with amendments to the expired text follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

SUBCHAPTER 27. CERTIFICATES OF DEPOSIT

17:16-27.1 Permissible investments

(a) Subject to the limitations contained in this article, the Director may invest and reinvest moneys of any pension and annuity, static, demand, temporary reserve or trust group fund in [uncollateralized] certificates of deposit of commercial banks provided that:

1. The investment in the certificates of deposit is limited to a term of one year or less;
2. The issuer of the certificate of deposit is a bank or trust company which:
 - i. Is headquartered in the United States;
 - ii. Is not controlled by a foreign entity; and
 - iii. Is a member of the Federal Reserve System; and

3. The issuer, at the date of its last published balance sheet preceding the date of investment, [i. Had a combined total of capital stock, surplus, reserve for contingencies and undivided profits equal to at least \$40,000,000; and ii. Had consolidated assets exceeding \$15 billion, or, if consolidated assets were less than \$15 billion] **had the following minimum ratio of primary capital to total assets (as defined by the Federal Reserve Board):**

Assets	Minimum Primary Capital Ratio
Over \$1 billion [to \$15 billion]	5%
Less than \$1 billion	6%

(b) Subject to the limitations contained in this article, the Director may invest and reinvest moneys of any pension and annuity, static, demand, temporary reserve or trust group fund in collateralized certificates of deposit provided that:

1. The investment in the certificate of deposit is limited to a term of one year or less;
2. The issuer is a [bank or] savings and loan association which (a) is headquartered in the United States and (b) is not controlled by a foreign entity;
3. The issuer demonstrates the capacity to wire collateral against payment through the Federal Reserve System to a designated custodian bank;

4. The issuer provides collateral against payment consisting of United States Treasury obligations or obligations of the following United States Government agencies:

- i. Federal Farm Credit Banks Consolidated Systemwide Bonds;
- ii. Federal Financing Bank;
- iii. Federal Home Loan Banks;
- iv. Federal Land Banks.

5. At the time of purchase the market value of the collateral provided under 4 above shall be equal to at least 120 percent of the purchase price of the certificate of deposit; and

6. The securities selected as collateral shall have a maturity not exceeding ten years from the date of the purchase of the certificate of deposit.

17:16-27.2 Other limitations

(a) The total investment in the certificates of deposit of any one bank, combined with the total investment in the bankers acceptances of any one bank, shall not exceed [25 percent] **10 percent** of the bank's net worth designated as capital, surplus and undivided profits. [In making this calculation, certificates of deposit and bankers acceptances purchased for the following State agencies will be taken into account:]

- [New Jersey Building Authority]
- [New Jersey Economic Development Authority]
- [New Jersey Educational Facilities Authority]
- [New Jersey Health Care Facilities Financing Authority]
- [New Jersey Housing Finance Agency]
- [New Jersey Mortgage Finance Agency]
- [New Jersey Sports and Exposition Authority]

(b) The issuer of a certificate of deposit shall deliver such certificate to a third party bank designated by the Division of Investment.

(c) The prospective issuer of a certificate of deposit shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for ten minutes.

(d) The certificate of deposit is in an amount of at least \$1,000,000.

17:16-27.3 Legal papers

Prior to any commitment to purchase obligations of the type described in this article, it shall be ascertained that the security under consideration is included on a list of banks which has been certified by the Director and a member of his staff as having met the requirements of this regulation.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

**Rules of the Games
Opening of Table for Gaming in Blackjack,
Baccarat—Punto Banco and
Baccarat—Chemin de Fer**

**Proposed Amendments: N.J.A.C. 19:47-2.4,
3.4 and 4.3**

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

OTHER AGENCIES

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Authority: N.J.S.A. 5:12-63(c), 5:12-69, 5:12-70(g)(1) and 5:12-101.

Proposal Number: PRN 1985-8.

Address comments and inquiries to:

Michael A. Santaniello
Deputy Director, Operations
Division of Financial Evaluation and Control
Casino Control Commission
3131 Princeton Pike Office Park
Bldg. No. 5, CN 208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments will modify those areas relative to card inspections to bring them into consistency with N.J.A.C. 19:46. As a minimum standard for inspection, the amendments will require that the dealer's inspection of cards be verified by a floorperson assigned to the table. Presently, N.J.A.C. 19:47 requires that an independent inspection be performed by the floorperson, while N.J.A.C. 19:46 requires verification by the floorperson. Should a casino wish to have its floorpeople perform independent inspections, they may do so, as this reinspection will satisfy the verification requirement.

Social Impact

It is not expected that any control over the inspection of cards will be lost or that any social impact will occur since all of the casinos presently have either the floorperson verify the inspection or perform a separate inspection of their own; either case being an acceptable alternative.

Economic Impact

Those casinos revising their written, as well as actual card inspection procedures will incur a one-time, significant economic impact. This will be due to the additional paperwork necessary to amend submissions and various in-house docu-

mentation such as training manuals to make them consistent and to state house policies regarding the interpretation of the term "verification."

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

19:47-2.4 Opening of table for gaming

(a) After receiving the one or more decks of cards at the table, the dealer shall sort and inspect the cards **and the floorperson assigned to the table shall verify the inspection** in accordance with N.J.A.C. 19:46-1.18(f). [after which a floorman or other casino supervisor shall also inspect the cards.]

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

19:47-3.4 Opening of table for gaming

(a) (No change.)

(b) Following the inspection of the cards by the dealer and [a floorman] **the verification by the floorperson** assigned to the table, the cards shall be spread out face upwards on the table for visual inspection by the first participant or participants to arrive at the table. The cards shall be spread out in columns by deck according to suit and in sequence. The cards in each suit shall be laid out in sequence within the suit.

(c) (No change.)

19:47-4.3 Opening of table for gaming

(a) (No change.)

(b) Following the inspection of the cards by the dealer and [a floorman] **the verification by the floorperson** assigned to the table, the cards shall be spread out face upwards on the table for visual inspection by the first participants to arrive at the table. The cards shall be spread out in columns by deck according to suit and in sequence. The cards in each suit shall be laid out in sequence within the [unit] **suit**.

(c) (No change.)

RULE ADOPTIONS

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(a)

DIVISION OF RURAL RESOURCES

State Agriculture Development Committee Creation of Farmland Preservation Programs

Adopted Amendment: N.J.A.C. 2:76-3.12

Proposed: November 5, 1984 at 16 N.J.R. 2867(a).

Adopted: December 14, 1984 by Arthur R. Brown, Jr.,
Chairman, State Agriculture Development Committee.

Filed: December 17, 1984 as R.1984 d.596, **without change.**

Authority: N.J.S.A. 4:1C-5f; 4:1C-7a and 4:1C-24.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): June 4, 1989.

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

Full text of the adoption follows:

2:76-3.12 Deed restrictions

(a) The following deed restrictions shall be agreed to by the board and the landowner(s) when entering into a farmland preservation program and shall run with the land:

"Whereas the Grantors are the present owners of lands, hereinafter referred to as Premises, more particularly described in Schedule "A" which is attached hereto and made a part hereof;

"The Grantors covenant for themselves, their heirs, executors, administrators, personal or legal representatives, successors and assigns, that the Premises shall at all times for the term of the agreement be held, used and conveyed subject to:

"1. (No change.)

"2. The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns shall 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 judgement 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 agricultural production and related uses as defined in Section 1. hereof.

"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. Grantors hereby retain and reserve unto themselves, their heirs, executors, administrators, personal or legal representatives, 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 change.)

"6. (No change.)

"7. The Grantors, their heirs, executors, administrators, personal or legal representatives, 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 for agricultural production.

"8. (No change.)

"9. Nothing herein shall impose upon the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns any duty to maintain or require that the buildings and/or structures be maintained in any particular state, or condition, notwithstanding the Grantors', their heirs', executors', administrators', personal or legal representatives', successors', and assigns' acceptance hereof. The Grantors, their heirs, executors, administrators, personal or legal representatives, 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.

"10. Nothing herein contained shall be deemed to restrict the right of Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns to maintain all roads and trails existing upon the Premises on the date hereof. Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

"11. In the event a violation of these restrictions or the terms and conditions thereof is found to exist, the Grantee, or its heirs, executors, administrators, personal or legal representatives, successors and 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, their heirs, executors, administrators, personal or legal representatives, successors and assigns, institute a suit to enjoin by ex parte, temporary and/or permanent injunction, such viola-

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tion, to require the restoration of the Premises to its prior condition, or to recover damages. The Grantee, or its heirs, executors, administrators, personal or legal representatives, successors and 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.

"12. It is understood that this instrument imposes no obligation and restrictions on the Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns' use of the Premises except as specifically set forth herein. Nothing herein contained shall be construed to interfere with the right of the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns to utilize the Premises in such manner as they may deem desirable, subject to the terms and conditions hereof.

"13. This instrument shall be binding upon the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns, and upon the Grantee, its heirs, executors, administrators, personal or legal representatives, successors and assigns."

(a)

DIVISION OF RURAL RESOURCES

**State Agriculture Development Committee
Creation of Municipally Approved Farmland
Preservation Programs**

Adopted Amendment: N.J.A.C. 2:76-4.11

Proposed: November 5, 1984 at 16 N.J.R. 2869(a).
Adopted: December 14, 1984 by Arthur R. Brown, Jr.,
Chairman, State Agriculture Development Committee.
Filed: December 17, 1984 as R.1984 d.597, **with technical 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; 4:1C-7a; and 4:1C-24.

Effective Date: January 7, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): June 4, 1989.

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

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

2:76-4.11 Deed restrictions

(a) The following deed restrictions shall be agreed to by the board, the municipal governing body and the ***[land owner(s)]* *landowner(s)*** when entering into a municipally approved program and shall run with the land:

"Whereas the Grantors are the present owners of the lands, hereinafter referred to as Premises, more particularly de-

scribed in Schedule "A" which is attached hereto and made a part hereof;

"The Grantors covenant for themselves, their heirs, executors, administrators, personal or legal representatives, successors and assigns, that the Premises shall at all times for the term of the agreement be held, used and conveyed subject to:

"1. (No change.)

"2. The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns shall 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 judgement 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 agricultural production and related uses as defined in Section 1, hereof.

"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. Grantors hereby ***retain*** and reserve unto themselves, their heirs, executors, administrators, personal or legal representatives, 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 change.)

"6. (No change.)

"7. The Grantors, their heirs, executors, administrators, personal or legal representatives, 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 for agricultural production.

"8. (No change.)

"9. Nothing herein shall impose upon the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns any duty to maintain or require that the buildings and/or structures be maintained in any particular state, or condition, notwithstanding the Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns' acceptance hereof. The Grantors, their heirs, executors, administrators, personal or legal representatives, 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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"10. Nothing herein contained shall be deemed to restrict the right of Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns to maintain all roads and trails existing upon the Premises on the date hereof. Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

"11. In the event a violation of these restrictions or the terms and conditions thereof is found to exist, the Grantee, or its heirs, executors, administrators, personal or legal representatives, successors and 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, their heirs, executors, administrators, personal or legal representatives, successors and 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 heirs, executors, administrators, personal or legal representatives, successors and 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.

"12. It is understood that this instrument imposes no obligation and restrictions on the Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns' use of the Premises except as specifically set forth herein. Nothing herein contained shall be construed to interfere with the right of the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns to utilize the Premises in such manner as they may deem desirable, subject to the terms and conditions hereof.

"13. This instrument shall be binding upon the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns, and upon the Grantee, its heirs, executors, administrators, personal or legal representatives, successors and assigns."

(a)

DIVISION OF RURAL RESOURCES

**State Agriculture Development Committee
Acquisition of Development Easements**

Adopted Amendment: N.J.A.C. 2:76-6.15

Proposed: November 5, 1984 at 16 N.J.R. 2871(a).
Adopted: December 14, 1984 by Arthur R. Brown, Jr.,
Chairman, State Agriculture Development Committee.
Filed: December 17, 1984 as R.1984 d.595, **without change.**

Authority: N.J.S.A. 4:1C-5f and 4:1C-31.

Effective Date: January 7, 1985.

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:

2:76-6.15 Deed restrictions

(a) The following statement shall be attached to and recorded with the deed of the land and shall run with the land:

"Whereas the Grantors are the present owners of lands, hereinafter referred to as Premises, more particularly described in Schedule "A" which is attached hereto and made a part hereof;

"The Grantors covenant for themselves, their heirs, executors, administrators, personal or legal representatives, successors and assigns, that the Premises shall be held, used and conveyed subject to:

"1. Any development of the Premises for non-agricultural purposes is expressly prohibited:

"2. The Premises shall be retained 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, grazing and conservation.

"3. The land and its buildings which are affected hereby may be sold collectively or individually for continued agricultural uses as defined in Section 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 Grantors hereby retain and reserve unto themselves, their heirs, executors, administrators, personal or legal representative, 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, its heirs, executors, administrators, personal or legal representatives, successors, assigns and 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, its heirs, executors, administrators, personal or legal representatives, successors and assigns agree to give Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the

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daylight hours on regular business days of the week. The interior of buildings shall not be inspected.

"8. The Grantors, their heirs, executors, administrators, personal or legal representatives, 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 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 Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns any duty to maintain or require that the Premises be maintained in any particular state, or condition, notwithstanding the Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns' 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 Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns, to maintain all roads and trails existing upon the Premises on the date hereof. Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns, 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, executors, administrators, personal or legal representatives, 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.

"13. In the event a violation of these restrictions or the terms and conditions thereof is found to exist, the Grantee, or its heirs, executors, administrators, personal or legal representatives, successors and 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, their heirs, executors, administrators, personal or legal representatives, successors, and 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 heirs, executors, administrators, personal or legal representatives, successors and 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 and restrictions on the Grantors', their heirs', executors', administrators', personal or legal representatives', and assigns' use of the Premises except as specifically set forth

herein. Nothing herein contained shall be construed to interfere with the right of the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns 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 Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns, and upon the Grantee, its heirs, executors, administrators, personal or legal representatives, successors and assigns."

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(a)

CIVIL SERVICE COMMISSION

Authority and Purpose

Purpose and Application

Adopted New Rule: N.J.A.C. 4:1-1.1

Adopted Amendments: N.J.A.C. 4:1-1.7, 1.8, and 1.9

Adopted Repeal: N.J.A.C. 4:1-1.1 through 1.6 and 4:1-1.10

Proposed: May 21, 1984 at 16 N.J.R. 1132(a).

Adopted: December 4, 1984 by the Civil Service Commission, Eugene J. McCaffrey, Sr., President.

Filed: December 17, 1984 as R.1984 d.603, **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. 11:1-7a, 11:5-1a.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 2, 1986.

Summary of Public Comments and Agency Responses:

Donald Phillipi, Business Manager of the International Federation of Professional and Technical Engineers (IFPTE), submitted a comment supporting the proposal.

Various local chapters of the Communications Workers of America (CWA) submitted a general objection to the proposed repeal of N.J.A.C. 4:1-1 and specifically to N.J.A.C. 4:1-1.3 which had required public hearing prior to adopting, repealing or amending any rule. It was stated that a public forum is necessary for employees to air their concerns and have input regarding changes in Civil Service rules.

All Civil Service rules are developed in full compliance with the Administrative Procedure Act (APA), which requires that the public be provided with notice of proposed rules and an opportunity to comment. Since broad public awareness of proposed regulations is provided in a uniform manner for State agencies, the Department of Civil Service receives numerous comments and suggestions during this statutory period. Moreover, on prior advice of the Attorney General,

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current N.J.A.C. 4:1-1.3 had been inoperative since all rules are processed under the Administrative Procedures Act. However, in response to the public comments concerning public hearings, it was determined that a provision should be added to Subchapter 1, specifying that the Civil Service Commission may hold public hearings on specific rule proposals.

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

SUBCHAPTER 1. PURPOSE AND APPLICATION

4:1-1.1 Purpose

The purpose of these regulations is to prescribe the rules and procedures to provide a modern, efficient personnel system based on merit and fitness and to ensure that applicants and employees ***[in the classified service]*** are treated fairly and impartially. This Title shall apply only to the classified service unless specified otherwise.

4:1-1.2 Compliance

All appointing authorities and employees subject to or operating under the provisions of Title 11, Civil Service, New Jersey Statutes, shall comply with ***[this Title]* **these regulations*****.

4:1-1.3 Records and information

Appointing authorities shall provide duly designated Civil Service representatives with free access to their premises and to all records and information necessary to carry out the functions prescribed by these rules.

4:1-1.4 Severability

If a rule or part of a rule is declared invalid for any reason, the validity of the remainder of the rules shall not be affected by such determination.

4:1-1.5 Petition for promulgating, amending or repealing rules and regulations

(a) Any interested person may petition the Civil Service Commission to promulgate, amend or repeal a rule or regulation. Such petition must state clearly and concisely:

1. The substance or nature of the rule request;
2. The petitioner's interest in the request;
3. The petitioner's reasons for the request; and
4. References to the Commission's authority to take the requested action.

(b) The proposed rule, amendment or repeal must conform to all the requirements of the Administrative Procedure Act. For example, the copy must be typewritten in a style conforming with the Administrative Code editorial specification including identification of the appropriate rule number, section heading and subsection. The Director, Division of Administrative Practices and Labor Relations, may refuse to accept any petition or rule which does not substantially comply with procedural and editorial requirements.

(c) A petition for a new rule must be designated as such, explain the reason or need for the new rule and indicate in what subchapter it properly belongs.

(d) A petition for an amended rule must include the full existing text of the rule. Material to be deleted should be bracketed and material to be added should be underlined.

(e) A petition for repealing a rule must indicate the reason why the rule is no longer useful or needed.

(f) The petition and a copy of the proposed rule or amendment or repeal should be submitted to the Director, Division of Administrative Practices and Labor Relations, who shall:

1. File a notice of the petition with the Office of Administrative Law stating the name of the petitioner, the nature of the request and the problem or purpose which is the subject of the request;

2. Send notice of the petition to the President of the Civil Service Commission who, within 30 days, shall either deny the petition stating the reasons for the denial or approve the petition for processing through the established rule-making procedures of the Department of Civil Service;

3. File notice of the action taken on the petition with the Office of Administrative Law.

4:1-1.6 Public hearings for promulgating, amending or repealing rules and regulations

The Commission may hold a public hearing to gather information concerning any proposed rule, amendment, or repeal. The Commission shall publish the place, date and time of the meeting at least 15 business days before the date of the hearing.

(a)

CIVIL SERVICE COMMISSION

Definitions

Words and Phrases Defined

Adopted Amendment: N.J.A.C. 4:1-2.1

Proposed: August 20, 1984, at 16 N.J.R. 2187(a).

Adopted: December 4, 1984 by the Civil Service Commission, Eugene J. McCaffrey, Sr., President.

Filed: December 17, 1984 as R.1984 d.604, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 11:1-7a, 11:5-1a.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): February 1, 1985.

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

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

4:1-2.1 Words and phrases defined

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

“Appointing authority” means a person or group of persons having power of appointment or removal.

“Appointment” means the offer and acceptance of employment.

“Appointment date” means the recorded date a person was employed.

“Base salary” means the employee's rate of pay exclusive of any additional payments or allowances.

“Break-in-service” means a resignation or removal between periods of employment:

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“Certification” means an authorized, ranked list of eligibles to be considered for employment by an appointing authority.

“Class of positions” means a position or group of positions sufficiently alike in duties, authority and responsibilities to require the same qualifications and having the same title.

“Classification” means the assignment of an individual position to a class in the classification plan.

“Classified service” means all offices and titles which are in the service of the State, municipality, county, school district or other agency subject to the provisions of Title 11, Civil Service, New Jersey Statutes Annotated.

“Class title.” See definition of “Title” in this section.

“Commission” means the Civil Service Commission of the State of New Jersey.

“Competitive division” means a part of the classified service which includes titles for which merit and fitness are determined by competitive examinations.

“Continuous service” means employment without break-in-service.

“Days” means calendar days unless otherwise specified.

“Demotion” means a reduction in scale of compensation or title.

“Disabled veteran” means a veteran as defined in this section who also meets the following criteria:

1. A veteran with a record of disability incurred in line of duty; or

2. A veteran who, before the announced closing date for filing applications for a test for a title in the competitive division or before appointment to a title in the noncompetitive or labor divisions, presents evidence that, under the United States Veterans’ Administration qualifications, he or she is receiving or is entitled to receive compensation for service-connected disability of 10 percent or more arising out of military or naval service during any of the periods specified by Civil Service rule or law; or

3. The wife of a disabled veteran, the widow of a soldier, sailor or marine who died in service, or the mother of a soldier, sailor or marine who died in service, as qualified by N.J.S.A. 11:27-1 et seq.

“Disposition” means the written report of actions taken by the appointing authority regarding a certification.

“Division” means the classified service as divided into the competitive division, noncompetitive division, labor division, or exempt division.

“Eligible” means a person whose name appears on an eligible list.

“Eligible list” means a list of persons who are eligible for employment or reemployment; the list may be an open competitive list, a promotional list, a regular reemployment list or a special reemployment list.

“Emergency appointment.” See “Emergency appointments” at N.J.A.C. 4:1-14.7.

“Employment list.” See Eligible list in this section.

“Examination” means the process of determining the relative merit and fitness of applicants for specific titles.

“Exempt division” means a part of the classified service which includes titles that are so designated.

“Fine” means a disciplinary measure which requires the payment of money as restitution or the performance of service without pay.

“Immediate family” means father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, foster child, sister or brother of the employee. It shall

also include relatives of the employee residing in the employee’s household.

“Interim appointment” means any appointment to a specific position or title which is held by a permanent employee who is on an approved leave of absence.

“Interim relief” means a temporary stay, waiver or modification of an action granted at the discretion of the Civil Service Commission or its President following the institution of a timely appeal.

“Jurisdiction” means any county, municipality, school district or other autonomous political subdivision.

“Labor division” means a part of the classified service which includes titles involving mainly manual labor.

“Layoff” means the separation of a permanent employee from employment for reasons other than delinquency or misconduct.

“Local service” means Civil Service offices and positions in any county, municipality, school district, authority or other autonomous political subdivision operating under the provisions of the Civil Service Law.

“Noncompetitive division” means a part of the classified service which includes titles for which it is not practicable to secure eligibles by competitive examination.

“Open competitive examination” means a test which is open to members of the public who meet the prescribed requirements for admission.

“Part-time employee” means an employee whose regular hours of duty are less than the regular and normal workweek for that class or agency.

“Permanent employee” means an employee who has acquired permanent status.

“Permanent status” means the attainment of tenure and rights resulting from regular appointment and successful completion of the working test period.

“Position” means specific duties and responsibilities requiring the full or part-time employment of one person.

“Probationary employee” means an employee who is serving his or her working test period.

“Probationary period”. See definition of working test period in this section.

“Promotion” means an advancement in scale of compensation or title.

“Promotional examination” means a test open to permanent employees who meet the prescribed requirements for admission.

“Provisional appointment” (PA) means employment pending the appointment of a person from an eligible list.

“Reallocation” means the change of a title from one division to another within the classified service, within the unclassified service or between the unclassified and classified services.

“Reclassification” means the change of an individual position from one title to a different title.

“Regular appointment” (RA) means the employment of an eligible to fill a position leading to permanent status; this appointment is conditioned upon the employee’s successful completion of the working test period.

“Regular appointment date” means the recorded date an employee receives a regular appointment and, except as otherwise provided, begins work.

“Regular reemployment list” means a list of names of persons who had been permanent employees and who resigned in good standing and are entitled to be certified for reemployment.

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“Removal” means termination of a permanent employee from employment for cause.

“Salary range” means a scale of compensation within established minimum and maximum base salaries.

“Title series” means titles involving the same kind of work and ranked according to level of difficulty and responsibility.

“Special reemployment list” means a list of names of persons who had been permanent employees but were laid off for reasons other than misconduct or delinquency.

“State service” means Civil Service offices and titles under the employment of the State of New Jersey.

“Suspension” means temporary separation from employment for cause.

“Title” means a descriptive name that identifies a position or class of positions.

“Unclassified service” means offices and titles not subject to the provisions of the Civil Service Law or Commission rules.

“Veteran” means:

(a) A person who, before the announced closing date for filing applications for a test for a title in the competitive division or before appointment to a title in the noncompetitive or labor divisions, presents evidence that he or she was:

1. A soldier, sailor, marine, airman, nurse or army field clerk who served in the active United States military or naval service and has been discharged or released therefrom under conditions other than dishonorable, in the several wars, uprisings, insurrections or expeditions enumerated in N.J.S.A. 11:27-1, including the most recent as follows:

i. The Mexican punitive expedition between March 14, 1916 and February 7, 1917;

ii. The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911 and June 16, 1919;

iii. World War I between April 6, 1917 and November 11, 1918;

iv. World War II, after September 16, 1940 and ending September 2, 1945, conditioned as follows:

(1) Such person must have served at least 90 days of active service beginning on or before the terminal dates of World War II or the Korean Conflict respectively;

(2) Such minimum 90 day period shall not include any period of assignment for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of his or her civilian course, nor shall it include any time spent as a cadet or midshipman at one of the service academies;

(3) Any such person receiving a service incurred injury or disability shall be classed as a veteran whether or not he or she has completed the 90 day service.

v. Korean Conflict, after June 23, 1950 and ending July 27, 1953, conditioned as provided in paragraph 4 of this definition;

vi. Vietnam Conflict, after December 31, 1960 who shall have served at least 90 days active service commencing on or before August 1, 1974 and conditioned as follows:

(1) Such minimum 90-day period shall not include any period of assignment for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of his or her civilian course, nor shall it include any time spent as a cadet or midshipman at one of the service academies;

(2) Any such person receiving a service-incurred injury or disability shall be classed as a veteran whether or not he or she has completed the 90 day service; or

2. An honorably discharged soldier, sailor, marine or nurse who served in any army or navy of the United States allies in World War I between July 14, 1914 and November 11, 1918, or World War II between September 1, 1939 and September 2, 1945, and who:

i. Was inducted into such military service through voluntary enlistment; and

ii. Was a United States citizen at the time of enlistment; and

iii. Did not, during or by reason of such service renounce or lose his or her United States citizenship.

(b) The widow of a veteran, as herein defined, until she remarries.

(c) A disabled veteran. See “Disabled veteran” in this section.

“Working test period” means a part of the testing process after regular appointment, during which time the work performance and conduct of the appointee is evaluated to determine if the employee shall merit permanent status.

(a)

CIVIL SERVICE COMMISSION

Provisional and Temporary Appointments

Interim Appointments

Return of Probationary, Interim, and Provisional Employees to Their Permanent Titles

Adopted New Rule: N.J.A.C. 4:1-14.6

Adopted Amendments: N.J.A.C. 4:2-14.1 and 4:3-14.2

Proposed: May 21, 1984, at 16 N.J.R. 1134(a).

Adopted: November 20, 1984 by the Civil Service Commission, Eugene J. McCaffrey, Sr., President.

Filed: December 17, 1984 as R.1984 d.605, **without change.**

Authority: N.J.S.A. 11:1-7a, 11:4-2; 11:5-1; 11:21-1.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): December 7, 1986.

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

Full text of the adoption follows.

4:1-14.6 Interim appointments

(a) In State service, an interim appointment applies to a specific position. In local service, an interim appointment applies to a specific title.

(b) Any appointment to a specific position (title) which is currently held by a permanent employee who is on an approved leave of absence shall be considered an interim appointment. The interim appointment shall remain in effect only during the period of time the permanent employee is on leave of absence. At the end of the leave period, the interim appointee shall have rights to return to his or her permanent title.

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(c) When a permanent employee is on an approved leave of absence, the appointing authority shall reserve a position (title) as being held by the employee. The appointing authority may, at its discretion, leave the position (title) vacant or fill it by interim appointment.

(d) If an interim appointment has been made or is to be made and a complete eligible list exists or is promulgated for that title, appointment shall be made from the list. The appointment shall not cause the appointee's name to be removed from the eligible list. See N.J.A.C. 4:1-12.11.

(e) The interim appointee shall continue to accrue seniority in his or her permanent title. See N.J.A.C. 4:1-8.4.

(f) In case of layoff, the interim appointee's layoff rights shall be determined from his or her permanent title.

(g) A person who does not possess the minimum qualifications may not receive an interim appointment.

(h) Appointing authorities shall advise interim appointees of their rights under an interim appointment.

4:2-14.1 Return of probationary, interim, and, provisional employees to their permanent titles

(a) This section describes the procedure for returning displaced employees, probationary, interim, or provisional, to their permanent titles.

(b) When an employee with permanent status in a title at the same or lower class level fails the working test period in another title, is displaced by a certification, is displaced from his/her interim appointment, or has his/her interim or provisional appointment terminated by the appointing authority, s/he will be returned to a position in the former permanent title in the same organizational unit. The organizational unit is the department or legally constituted authority, office or commission, as appropriate.

(c) The appointing authority and affected employee shall resolve the situation, if possible, through the Level 1 procedures before proceeding to Level 2.

1. Level 1: Ordinary procedure for returning displaced employees:

i. The operating agency shall:

(1) Reassign the displaced employee to a vacant position in his/her permanent title; or

(2) Terminate a provisional employee with no permanent status serving in the displaced employee's permanent title and assign the displaced employee to the vacated position; or

(3) Return an employee serving provisionally in the permanent title of the displaced employee to his/her permanent title and assign the displaced employee to the vacated position.

Example:

X is serving as a probationer or provisionally in a Supervising Research Analyst title and has permanent status in the lower title of Principal Research Analyst.

Y is serving provisionally as Principal Research Analyst and has permanent status in the lower title of Senior Research Analyst.

Z is serving provisionally as a Senior Research Analyst. Z has no permanent status.

X is displaced.

Z is terminated since s/he has not permanent status.

Y is returned to his/her permanent status title as Senior Research Analyst as vacated by 2., leaving a position as Principal Research Analyst free.

X, the originally displaced employee, is then assigned to the vacant position as Principal Research Analyst.

2. Level 2: Optional procedures for returning displaced employees.

i. The operating agency may offer the employee other positions for which s/he qualifies in addition to Level 1 positions. This may be in the same or different title or series.

ii. The displaced employee may voluntarily accept appointment to a position in the same or another title for which s/he qualifies in the same or another organizational unit. The status and salary of an employee who exercises this option shall be determined in accordance with Department of Civil Service rules and policy.

(d) Enforcement of level 1 and level 2 procedures:

1. If the operating agency offers other options, in addition to level 1 procedures, the employee may accept the level 1 or level 2 choices. If the operating agency offers level 1 procedures and no level 2 options, the employee must accept the level 1 procedures.

(e) Level 3: Layoff procedures:

1. If the appointing authority and employee cannot utilize any of the above options, the employee must be apprised of his/her layoff, demotional and reemployment rights pursuant to N.J.A.C. 4:1-16.5 and layoff procedures will be instituted. Layoff (reduction-in-force) procedures are to be followed as described in N.J.A.C. 4:2-16.2.

2. If it is necessary to follow reduction-in-force procedures and a certification is outstanding, the operating agency shall request, in writing, that the Department of Civil Service extend the disposition of the certification for 45 days or longer to allow for the required 45 day notice of layoff.

4:3-14.2 Return of probationary, interim, and, provisional employees to their permanent titles

(a) This section describes the procedure for returning displaced employees, probationary, interim, or provisional, to their permanent titles.

(b) When an employee with permanent status in a title at the same or lower class level fails the working test period in another title, is displaced by a certification, is displaced from his/her interim appointment, or has his/her interim or provisional appointment terminated by the appointing authority, s/he will be returned to a position in the former permanent title in the same organizational unit. The organizational unit is the department or legally constituted authority, office or commission, as appropriate.

(c) The appointing authority and affected employee shall resolve the situation, if possible, through the level 1 procedures before proceeding to level 2.

1. Level 1: Ordinary procedure for returning displaced employees. The operating agency shall:

i. Reassign the displaced employee to a vacant position in his/her permanent title; or

ii. Terminate a provisional employee with no permanent status serving in the displaced employee's permanent title and assign the displaced employee to the vacated position; or

iii. Return an employee serving provisionally in the permanent title of the displaced employee to his/her permanent title and assign the displaced employee to the vacated position.

iv. Example: X is serving as a probationer or provisionally in a supervising research analyst title and has permanent status in the lower title of principal research analyst.

Y is serving provisionally as principal research analyst and has permanent status in the lower title of senior research analyst.

Z is serving provisionally as a senior research analyst. Z has no permanent status.

(1) X is displaced.

(2) Z is terminated since s/he has no permanent status.

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(3) Y is returned to his/her permanent status title as senior research analyst as vacated by (2) above, leaving a position as principal research analyst free.

(4) X, the originally displaced employee, is then assigned to the vacant position as principal research analyst.

2. Level 2: Optional procedures for returning displaced employees.

i. The operating agency may offer to the employee other positions for which s/he qualifies in addition to level 1 positions. This may be in the same or different title or series.

ii. The displaced employee may voluntarily accept appointment to a position in the same or another title for which s/he qualifies in the same or another organizational unit. The status and salary of an employee who exercises this option shall be determined in accordance with Civil Service rules and policy.

(d) If the operating agency offers other options, in addition to level 1 procedures, the employee may accept the level 1 or level 2 choices. If the operating agency offers level 1 procedures and no level 2 options the employee must accept the level 1 procedures.

(e) Level 3: Layoff procedures:

1. If the appointing authority and employee cannot utilize any of the above options, the employee must be apprised of his/her layoff, demotional and reemployment rights pursuant to N.J.A.C. 4:1-16.5 and layoff procedures will be instituted. Layoff (reduction-in-force) procedures are to be followed as described in N.J.A.C. 4:3-16.2.

2. If it is necessary to follow reduction-in-force procedures and a certification is outstanding, the operating agency shall request, in writing, that the Department of Civil Service extend the disposition of the certification for 45 days or longer to allow for the required 45 day notice of layoff.

Authority: N.J.S.A. 54:4-3.79 and 3.123.

Effective Date for Readoption: December 10, 1984.

Effective Date for Amendments: January 7, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): December 1, 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. 5:22.

Full text of the adopted amendments follows.

5:22-2.1 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 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 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 fire 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 to provide 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 continuous 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.

5:22-2.2 Areas in need of rehabilitation

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

1.-5. (No change.)

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(a)

DIVISION OF HOUSING AND DEVELOPMENT

Exemptions from Taxation

Readoption: N.J.A.C. 5:22

Adopted Amendments: N.J.A.C. 5:22-2.1 and 2.2

Proposed: August 20, 1984 at 16 N.J.R. 2191(b).

Adopted: December 10, 1984 by John P. Renna, Commissioner, Department of Community Affairs.

Filed: December 10, 1984 as R.1984, d.590, **without change.**

(a)

Local Finance Board

Local Authorities

Adopted New Rule: N.J.A.C. 5:31

Proposed: July 16, 1984 at 16 N.J.R. 1835(a).
 Adopted: December 10, 1984 by Local Finance Board,
 Barry P. Clark, Executive Secretary.
 Filed: December 17, 1984 as R.1984 d.601, **with sub-
 stantive changes** not requiring additional public no-
 tice and comments (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 40A:5A-10 and 15.

Effective Date: January 7, 1985.
 Expiration Date pursuant to Executive Order No.
 66(1978): December 1, 1989.

**Summary of Public Comments and Agency Responses
 and Reasons for Making Changes:**

The Board has carefully reviewed the written comments submitted during the public comment period on its proposed new rules for local authorities, N.J.A.C. 5:31-1 through 5:31-7.

There were several suggestions on individual items, such as advocating cash basis budgeting and the modified accrual basis of accounting for local authorities and districts; suggesting that all authorities adopt a fiscal year beginning February 1st; protesting the requirement for a majority vote of the full membership for budget introduction, adoption and amendment; suggesting that rules and regulations provide for grading local authorities for efficiency ratings; and recommending a change in the definition of "audit." The Board believes that these suggestions did not require modification to the proposed rules, except that the definition of "audit" has been changed in N.J.A.C. 5:31-1.1 and 5:31-1.2 to conform to present audit definition.

The following summary covers the sections for which there were multiple comments:

Two comments suggested changes in the dollar amount of the threshold for capital budgets. The Board believes that the dollar amount, predicated on the necessity for a debt authorization, is reasonable as proposed. N.J.A.C. 5:31-2.2.

Two comments requested clarification of the definition of "depository" in N.J.A.C. 5:31-3.1. As a response this language was clarified to conform to N.J.S.A. 17:9-41.

Two comments suggested that the regulations contain a provision be made for emergency appropriations. The Board believes that the proposed regulations and the present law provide sufficient latitude to deal with emergency situations.

Two comments requested clarification in the amount of depreciation required by N.J.A.C. 5:31-7.1. The Board believes that since depreciation on fixed assets is required under generally accepted accounting principles it is adequately explained in the proposed regulation.

Two comments protested the requirement for filing introduced budgets 60 days before the beginning of the authority's fiscal year and suggested alternate times for filing. The Board believes that the filing date corresponds to budget timetables included in many bond indentures and allows a reasonable

time for the budget review and approval and that alternate budget revision and amendment procedures are provided, where necessary.

Two comments protested the rule requiring approval of planned electronic data processing systems or process center utilization. The Board believes that this rule, which is similar to that in effect for local governments, will provide meaningful assistance to local authorities contemplating such installations or services and has proved to be effective.

Two comments protested the requirement for three signatures on checks for disbursing funds and the designation of the Secretary as one of the check signers. The Board believes that this rule is not unreasonable and allows the authority sufficient latitude in designating the check signers.

Changes in the language used in certain sections of the rules have been made in response to comments received, such as changing the word "statement" to "schedule" in N.J.A.C. 5:31-7.4(b)5.

The requirement that an "annual financial report" be compiled and submitted to the Director was removed because the Board determined that this type of report was not within the intended scope of the legislation. The requirements to complete and submit an annual "audit report", which was to be a component of the "annual financial report," remain in N.J.A.C. 7:31-7.4(d) and (e), and N.J.A.C. 5:30-1.2.

The time limitations placed on the Director's approval of budgets were removed due to their arbitrary nature. The Board believes that sufficient restrictions as to the amount of time the Director may reasonably take in reviewing budgets are provided by the legislation and the remaining regulations. N.J.A.C. 5:31-2.3(d), 5:31-2.4(g), 5:31-2.4(k) and 5:31-2.6(c).

The accounting policy for treatment of inventories of materials and supplies has been revised to clarify the intent of the regulation and to eliminate the potential for inconsistent accounting practice among authorities. N.J.A.C. 5:31-7.2(a)2ii.

The accounting policy for treatment of accumulated employee benefits has been removed because it was felt that such policy is a restatement of current standard accounting practice and is therefore unnecessary and impractical as a regulation. N.J.A.C. 5:31-7.2(a)2iv.

N.J.A.C. 5:31-2.1(c) and (d) were removed and reinserted as N.J.A.C. 5:31-2.3(b) and (c). This constitutes a technical change which provides a more concise and orderly sequence.

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

CHAPTER 31
 LOCAL AUTHORITIES

SUBCHAPTER 1. GENERAL PROVISIONS

5:31-1.1 Scope

This chapter shall constitute the rules governing the preparation, introduction, approval, adoption and execution after adoption of any budget by a local authority, the accounting principles and policies for such authorities, the administration of financial affairs of such authorities, the annual audit of the ***[books, accounts and financial transactions]*** ***financial statements*** of such authorities, and financial reporting practices of such authorities under the Local Authorities Fiscal Control Law, L.1983, c.313.

5:31-1.2 Definitions

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

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“Act” means the Local Authorities Fiscal Control Law, L.1983, c.313 (N.J.S.A. 40A:5A-1 et seq.)

“Authority” means a body, public and corporate, created by one or more municipalities or counties pursuant to any law authorizing that creation, which law provides that the public body so created has at least the following powers:

1. To adopt and use a corporate seal;
2. To sue and be sued;
3. To acquire and hold real or personal property for its purposes; and
4. To provide for and secure the payment of its bonds or other obligations, or to provide for the assessment of a tax on real property within its district, or to impose charges for the use of its facilities, or any combination thereof; but shall not include any public body for which Federal or State fiscal controls differing from those imposed by the Act, have been explicitly established by law, but only to the extent of that difference.

[“Annual financial report” means the annual report by an authority for a fiscal year including management’s discussion of operations, other relevant information and the audit report for the corresponding fiscal year, as more specifically described in N.J.A.C. 5:31-7.3 and 7.4.]

“Audit” means an examination of the *[books, accounts, transactions, internal controls, financial administration procedures and]* financial statements of an authority ***in accordance with generally accepted auditing standards as promulgated by the American Institute of Certified Public Accountants*** by the independent auditor or by the Division of Local government Services engaged by the authority, in the manner more specifically described by these regulations.

“Audit report” means the report on the results and findings of the audit by the independent auditor or by the Division of Local Government Services engaged by the authority.

“Budget” means the budget of an authority.

“Capital budget” means the first year of a capital program.

“Capital program” means a projected, multi-year plan and schedule for capital projects, which shall set forth among other things all prospective financing sources including, but not limited to, proceeds of bond sales, grants and budget appropriations.

“Capital project” means any of the following activities or undertakings which an authority is empowered to bond for, with an estimated useful life of five years or more and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of \$25,000 or more, regardless of the financing sources:

1. Acquisition and/or development of land;
2. Acquisition of equipment, furnishings or other personal property;
3. Acquisition, construction, improvement and/or renovation of buildings, roads, utilities, structures improvements or public works;
4. Any other matter for which an authority is empowered to issue bonds.

“Director” means the Director of the Division of Local Government Services in the Department of Community Affairs.

“Division” means the Division of Local Government Services in the Department of Community Affairs.

“Full membership” means the number of members of the governing body when all seats are filled.

“Governing body” means the Board having control of the finances of an authority.

“Financing agreement” means an agreement of a local unit or units intended to provide security for an issue of obligations of an authority, including, but not limited to, a contract providing for payments by a local unit or units with respect to use, services or provision of a project, facility or public improvement of an authority or payments for debt service therefor.

“Local Finance Board” means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

“Local unit or units” means a county or municipality which created or joined in the creation of an authority, or which proposes to create or join in the creation thereof, or which has entered or proposes to enter into a financing agreement with an authority.

“Operations” means all activities of an authority conducted in accordance with N.J.S.A. 40A:5A-1 et seq. and any other legislation governing the affairs of the authority.

“Project financing” means the financing by an authority of a facility for the benefit of the inhabitants of a local unit or units and includes payment for the design and plan for the facility.

“Security agreement” means a bond resolution of an authority, or a trust indenture to be executed by an authority, or other similar proceeding or document.

SUBCHAPTER 2. BUDGETS

5:31-2.1 Annual budget preparation and content

(a) Every authority as herein defined shall prepare an annual budget for each fiscal year in which an expenditure of money is expected.

(b) The budget shall comply with the terms of any security agreement and be prepared in compliance with these regulations.

*(c) The budget shall set forth all anticipated revenues of the authority, including the following, where applicable:

1. Retained earnings (fund balance);
2. Rents, fees and other charges which are reasonably expected to be realized from users of facilities and/or services provided by the authority;
3. Amounts expected to be received from local unit or units pursuant to financing agreements with respect to use, services, or provisions of a project, facility or public improvement of an authority or payments for debt service therefor;
4. Interest on investments and deposits (investments, certificates of deposit, savings accounts, etc.) held for operating purposes as opposed to other purposes;
5. Other income, consisting of amounts reasonably expected to be collected from regular and recurring sources;
6. Amounts reasonably expected to be collected from unrestricted grants which may be used to finance budget appropriations;
7. Total anticipated revenues.

(d) The budget shall set forth all of the appropriations of the authority including the following, where applicable:

1. Administrative and operating expenses including maintenance and repair of facilities and improvements;
2. Provision for bond principal maturing during the budget year;
3. Provision for note principal maturing during the budget year;
4. Provision for future plant reconstruction and replacement, consisting of amounts determined by management to

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provide a reserve fund for future plant reconstruction and replacement;

5. Contribution to the Public Employees' Retirement System;
6. Contribution to the Social Security System;
7. Contribution to the Unemployment Compensation Insurance fund;
8. Addition to the Renewal and Replacement Account;
9. Provision for interest accruing during the fiscal year on debt issued and outstanding;
10. Provision for deficit of the preceding fiscal year and anticipated deficit of the current fiscal year;
11. Total appropriations.*

[(e)] *(e)* The total budget appropriations shall not exceed total anticipated revenues reasonably expected to be realized.

5:31-2.2 Capital budget and capital program

(a) Every authority shall prepare and adopt a capital budget, in conjunction with its annual budget, for any year in which it proposes to undertake a capital project.

(b) No authority shall adopt a security agreement unless its provisions are in agreement with a previously adopted capital budget, temporary capital budget or amended capital budget.

(c) Every authority which adopts a capital budget shall also adopt a capital program or modify or add a year to an existing capital program, provided that no capital program shall be required if the authority has not expended more than \$25,000 annually for capital projects for the immediate previous three years. The capital program shall be submitted to the Director with the capital budget.

(d) Any capital budget or capital program that is to be adopted shall:

1. Be prepared and assembled by the officer(s) responsible for preparing the annual budget;
2. Be adopted by the affirmative vote of a majority of the full membership of the governing body;
3. Be treated as part of the official annual budget;
4. The capital budget shall include by title all projects scheduled for startup in the current budget year, the amounts appropriated and the anticipated financing by source and amount. The capital program period shall include the budget year and five succeeding years;

[5.] *(e)* The Director shall, as part of his review of each authority annual budget, determine whether a capital budget and program are required, and if so, whether it has been included in proper form. The review shall not extend to any determination as to the sufficiency or wisdom of its content. Failure to properly submit the capital budget and program may delay approval of the entire annual budget.

[(e)] *(f)* No authority shall make appropriations or authorize expenditures or obligations for capital projects in the absence of an adopted capital budget except for the preliminary expenses of plans, specifications and estimates.

5:31-2.3 Budget introduction and adoption for other than special districts

(a) The governing body shall introduce and approve its annual budget by resolution, passed by not less than a majority of the full membership.

[(b)] The authority shall transmit three certified copies of the budget, to the Director at least 60 days prior to the end of the current fiscal year, together with all relevant information and documentation as prescribed in these regulations or as otherwise may be required by the Director.*

***(b) The budget shall set forth all anticipated revenues of the authority, including the following, where applicable:**

- 1. Retained earnings (fund balance);**
- 2. Rents, fees and other charges which are reasonably expected to be realized from users of facilities and/or services provided by the authority;**
- 3. Amounts expected to be received from local unit or units pursuant to financing agreements with respect to use, services, or provisions of a project, facility or public improvement of an authority or payments for debt service therefor;**
- 4. Interest on investments and deposits (investments, certificates of deposit, savings accounts, etc.) held for operating purposes as opposed to other purposes;**
- 5. Other income, consisting of amounts reasonably expected to be collected from regular and recurring sources;**
- 6. Amounts reasonably expected to be collected from unrestricted grants which may be used to finance budget appropriations;**
- 7. Total anticipated revenues.***

***(c) The budget shall set forth all of the appropriations of the authority including the following, where applicable:**

- 1. Administrative and operating expenses including maintenance and repair of facilities and improvements;**
- 2. Provision for bond principal maturing during the budget year;**
- 3. Provision for note principal maturing during the budget year;**
- 4. Provision for future plant reconstruction and replacement, consisting of amounts determined by management to provide a reserve fund for future plant reconstruction and replacement;**
- 5. Contribution to the Public Employees' Retirement System;**
- 6. Contribution to the Social Security System;**
- 7. Contribution to the Unemployment Compensation Insurance fund;**
- 8. Addition to the Renewal and Replacement Account;**
- 9. Provision for interest accruing during the fiscal year on debt issued and outstanding;**
- 10. Provision for deficit of the preceding fiscal year and anticipated deficit of the current fiscal year;**
- 11. Total appropriations.***

[(b)] *(d)* The authority shall transmit three certified copies of the budget, to the Director at least 60 days prior to the end of the current fiscal year, together with all relevant information and documentation as prescribed in these regulations or as otherwise may be required by the Director.

[(c)] *(e)* The following information and documentation shall accompany the budget:

1. A computation of ***the projected balance of*** retained earnings;
2. The schedule of rates, fees and charges in effect or proposed and computation of revenue reasonably expected to be realized;
3. Summary of applicable provisions of service agreements and computation of amount due from each local unit and total amount due under such provisions;
4. Computation or explanation of amounts expected to be realized from other sources accompanied by copies of grant agreements or other applicable agreements, if any;
5. Schedule of debt service (principal and interest) for the budget year and next succeeding four years;
6. Computation of an anticipated deficit or net income for the current year.

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[(d)] The budget and all relevant information and documentation shall be reviewed by the Director and either approved or disapproved within 45 days of the Director's receipt thereof.]*

[(e)] *(f)* No authority budget shall be finally adopted until the Director shall have approved the same. Final budget adoption shall be by resolution passed by a majority of the full membership of the authority governing body.

[(f)] *(g)* The budget shall be adopted not later than the beginning of the authority's fiscal year, except that the governing body may adopt or amend the budget at any time after the Director shall have approved the same.

1. Two certified copies of the budget as adopted, shall be transmitted to the Director within three days after adoption.

2. One certified copy of the budget as adopted shall be transmitted to each local unit within three days after adoption.

[(g)] *(h)* Upon adoption, the budget shall constitute an appropriation for the purposes stated therein for the purposes of the authority.

5:31-2.4 Budget introduction and adoption for fire and other special districts

(a) The Board of Commissioners shall introduce its annual budget by resolution, passed by not less than a majority of the full membership.

(b) The budget shall set forth all anticipated revenues ***and other financing sources*** of the district, including the following, where applicable:

1. Surplus which shall not exceed the amount of the ***[actual or]*** estimated fund balance held in cash or quick assets ***[of]* *at*** the beginning of the budget year;

2. Miscellaneous revenues which shall be such amounts as may reasonably be expected to be realized in cash during the budget year from known and regular sources, or from sources reasonably capable of anticipating, including amounts expected to be received from municipalities appropriating money for district purposes, but not including revenues from taxes to be levied to support the district budget;

3. Amount to be raised by taxation to support the district budget which shall be the amount to be certified to the assessor of the municipality to be assessed against the taxable property in the district. Such ***[amounts]* *amount*** shall be equal to the amount of the total appropriations set forth in the budget minus the total amount of surplus (fund balance) and miscellaneous revenues set forth in the budget.

(c) The budget shall set forth all of the appropriations of the district, including the following where applicable:

1. For operating appropriations the following shall be included where applicable:

- i. Administration;
- ii. Operation and maintenance of each office or agency of the district;

iii. Reimbursement to employees of a fire district and any volunteer firemen having membership in a volunteer fire company within the fire district for expenses and losses actually incurred in the performance of their duties;

iv. Each paid position of a fire district, along with the compensation to be paid therefor;

v. Amounts necessary to fund any deficit, or anticipated deficit, from the preceding budget year.

2. Capital appropriations shall include the following:

- i. Amounts necessary in the current budget year to fund or meet obligations incurred for capital purposes, including principal and interest on bonds, itemized according to purpose.

3. Total appropriations shall be the sum of items 1 and 2 above.

(d) The total budget appropriations shall not exceed total anticipated revenues reasonably expected to be realized.

(e) The district shall transmit three certified copies of its budget to the Director at least 60 days prior to the annual election, together with all relevant information as prescribed in these regulations or as otherwise required by the Director.

(f) The following information and documentation shall accompany the budget:

1. A computation of the ***[actual or]*** estimated fund balance or deficit from the preceding fiscal year;

2. Schedule of debt service (principal and interest) for the budget year and next succeeding four ***[year]* *years***;

3. Computations supporting budget appropriation or appropriations for services or supplies to be furnished under contractual agreements supported by a summary of the provisions and terms of such contractual agreements.

[(g)] The budget and all relevant information shall be reviewed by the Director and the budget shall either be approved or disapproved within 35 days of the Director's receipt thereof.]*

[(h)] *(g)* No district budget shall be adopted by the Commissioners until the Director shall have approved same. Budget adoption shall be by resolution passed by a majority of the full membership of the commission.

1. Two certified copies of the budget as adopted shall be transmitted to the Director within three days after adoption.

2. One certified copy of the budget as adopted shall be transmitted to the local unit within three days after adoption.

[(i)] *(h)* In the event that the adopted budget is rejected at the annual election of the district, the governing body of the local units shall, within seven days after the annual election prepare and introduce, by resolution adopted by a majority vote of the full membership of the governing body of the local unit, the budget for the fiscal year of the district.

[(j)] *(i)* Within three days after its introduction the local unit shall transmit three certified copies of the budget, ***[and]* *as*** introduced by the local unit, to the Director, together with a written explanation of the changes made by the local unit.

[(k)] The district budget introduced by the local unit shall be reviewed by the Director and either approved or disapproved within 15 days of the Director's receipt thereof.]*

[(l)] *(j)* No district budget shall be finally adopted by the local unit until the Director shall have approved same. Final district budget adoption by the local unit shall be by resolution passed by a majority vote of the full membership of the governing body of the local unit. Two certified copies of the district budget as finally adopted shall be transmitted to the Director within three days after adoption.

5:31-2.5 Late approval of budget; Temporary appropriations

(a) The Director may approve any budget not filed with him within the time prescribed, provided a resolution of the authority setting forth the reasons for the delay, satisfactory to the Director, shall accompany the proposed budget.

(b) All actions taken by the Director and authority, with respect to approval by the Director and adoption by the authority, shall be taken forthwith and as if the filing by the authority had occurred on time.

(c) The governing body may and, if any contracts, commitments or payments are required to be made prior to the

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adoption of the budget, shall, by resolution adopted prior to the beginning of the fiscal year or within the first 30 days of the fiscal year make temporary appropriations to provide for the period between the beginning of the fiscal year and the adoption of the budget. The total appropriations made in accordance with the provision of this section shall not exceed the total of the appropriations made for all purposes in the budget for the preceding fiscal year.

(d) Nothing contained in these regulations shall prevent or relieve the governing body from making appropriations for all interest and debt redemption charges maturing subsequent to the end of a fiscal year and prior to the date of adoption of the budget.

5:31-2.6 Budget review by Director

(a) Upon receipt of an introduced budget, the Director shall review the budget to determine the following:

1. All estimates of revenue are reasonable, accurate and correctly stated;
2. Items of appropriation are properly set forth;
3. In itemization, form and content, the budget will permit the comptroller function within the authority;
4. The schedule of rates, fees and charges then in effect will produce sufficient revenues, together with all other anticipated revenues, to satisfy all obligations to the holders of bonds of the authority, to meet operating expenses, capital outlays, debt service requirements and to provide for such reserves, all as may be required by law, regulations or terms of contracts or agreements.

(b) The Director may require such documentation, records and other information, and undertake any audit or investigation, as he may deem necessary in connection with his review.

(c) If the Director finds that all requirements of law and the rules and regulations of the Local Finance Board have been met, he shall, *[within 45 days of his receipt of the budget,]* approve it; otherwise he shall *[within that time]* refuse to approve it.

(d) The Director in refusing to approve a budget:

1. Shall not substitute his discretion with respect to the amount of an appropriation when that amount is not made mandatory by law or regulation.
2. Shall transmit in writing his reasons for disapproval and the conditions upon which approval will be granted.

5:31-2.7 Appeals

(a) Any decision of the Director in the course of budget review, pursuant to these rules, may be appealed to the Local Finance Board in the manner generally provided by N.J.S.A. 52:27BB-15.

1. The appellant must file the appeal application with the Director within 10 days of the Director's decision.
2. The appellant must set forth in the application the reasons and basis for the appeal.
3. The appellant must submit all documentation required to substantiate the appeal.

5:31-2.8 Budget amendments

(a) Amendments to the budget and capital budget are permitted as follows:

1. Decrease in revenue with corresponding decrease in budgeted costs;
2. Reclassification of budgeted amounts among expense categories;
3. Increase in budgeted costs with corresponding increases in budgeted revenues;

4. Decrease in specific capital project costs or elimination of previously identified projects;

5. Deferral of capital projects funding to future years;

6. Increase in capital project costs or additional projects with identification and timing of anticipated funding sources.

(b) All amendments to the budget shall be approved and adopted by resolution of the authority, passed by not less than a majority of the full membership. The resolution shall set forth the reasons for the amendment.

(c) Two certified copies of the amendment and all relevant resolutions shall be transmitted to the Director within three days after adoption. One certified copy of the amendment shall be transmitted to each local unit within three days after adoption.

(d) No proposed budget or amendment thereto shall become effective prior to approval by the Director.

SUBCHAPTER 3. CASH MANAGEMENT

5:31-3.1 Cash management plan; Legal depositories for public moneys'; Receipt and deposit of funds

(a) The governing body shall, by resolution, passed by not less than a majority of the full membership, adopt a cash management plan which shall *[designate as a depository the State of New Jersey Cash Management Fund, or a bank or trust company having its place of business in New Jersey and organized under the laws of the State of New Jersey.]* ***include the designation of a depository the State of New Jersey Cash Management Fund or a public depository or depositories as defined in N.J.S.A. 17:9-41 and may permit deposits in such depository or depositories as permitted in N.J.S.A. 17:9-44.***

1. The cash management plan shall be designed to assure to the extent practicable the investment of authority funds in interest bearing accounts.

2. The cash management plan may be modified from time to time in order to reflect changes in Federal or State law or regulations.

(b) All moneys received by the authority from any source shall within 48 hours be deposited to the credit of the authority in its legal depository.

(c) No authority shall engage in the practice of cashing checks with public funds.

SUBCHAPTER 4. APPROVAL AND PAYMENT OF CLAIMS

5:31-4.1 Payment of authority moneys; Approval of claims

(a) All persons submitting a claim for payment from authority moneys shall present a detailed bill of items or demand, specifying how the bill or demand is made up, with the certification of the party claiming payment that it is correct.

(b) All claims shall carry a certification of an official or designated employee of the authority having knowledge of the facts that the goods have been received by, or the services rendered to the authority.

(c) The governing body shall approve or disapprove all claims in accordance with regulations adopted by the authority.

(d) All claims approved for payment by the governing body shall be recorded in the minutes of the authority meetings and shall, upon approval of the minutes, be open to the public.

(e) Payment of claims shall be by check drawn on the authority, signed by the governing body chairman or other chief executive officer and the secretary and countersigned by such other officer or officials as designated by resolution.

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(f) The governing body shall by resolution, passed by not less than a majority of the full membership, designate the manner in which and the time in which salaries, wages or other compensation for services shall be paid.

5:31-4.2 Signatures on checks drawn upon the treasury of the authority

(a) Every authority shall at each organizational meeting designate by resolution the individuals, in addition to the signature of the secretary, whose signatures shall appear on checks drawn upon the treasury of the authority.

SUBCHAPTER 5. DATA PROCESSING

5:31-5.1 Approval of electronic data processing systems or process center utilization

(a) An authority planning any electronic data processing installation or utilizing the services of an electronic data processing center for applications that are primarily financial in nature shall, before entering into any agreement or contract, submit to the Director a request for approval including a detailed description of the system, the type thereof, the results to be obtained, the personnel required, the estimated cost of operation and the benefits to be obtained. Material to be submitted with the request for approval shall include copies of the bid specifications, vendors bids and such other documents that will identify the computer applications proposed.

1. After satisfactory completion of a review of the proposed system the Division will express its approval in writing.

2. The Division will disapprove a proposed system if there are inadequate controls or any other undesirable features such as failure to document data processed or to provide an audit trail or visible records to facilitate audit thereof.

SUBCHAPTER 6. SURETY BONDING

5:31-6.1 Surety bond for authority employees and officials

The governing body of an authority shall by resolution designate authority employees and officials required to furnish surety bonds and determine minimum bonds for each such employee and official. The minimum requirement for the surety bond shall be determined with due regard for the duties and responsibilities of each such designated employee and official. Each person in the office handling funds shall be bonded in accordance with their responsibility.

SUBCHAPTER 7. ACCOUNTING AND AUDITING

5:31-7.1 Accounting principles and policies for other than special districts

(a) Accounting transactions and records shall be maintained on the accrual basis of accounting.

1. Revenues shall be recognized and recorded in the accounting period in which they are earned and become measurable.

i. Revenue from services rendered shall be recognized when services have been performed and are billable.

ii. Revenue from use of money or property such as interest or rent shall be recognized upon the passage of time as the resources are used.

2. Expenses shall be recognized and recorded in the period incurred, if measurable. Expenses resulting from the consumption of materials and supplies may be recognized and recorded as they are consumed or alternatively, may be recognized at date of purchase if the amount of expenses in a fiscal period would not be materially distorted as a result of such alternative treatment.

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(b) Fixed assets of any authority shall be reflected in the accounts at cost, or if the cost is not practically determinable, at estimated cost. Donated fixed assets shall be recorded at their estimated fair value at the time received.

(c) Depreciation of fixed assets shall be recognized and recorded annually so that the asset cost will be spread over the estimated useful lives of the assets.

1. The straight line method shall be used in recording depreciation.

2. The estimated useful lives of the separate assets or classes of assets shall be determined by the management of each authority.

(d) Assets, cash and investments restricted for specific non-operating purposes by security agreements, financing agreements and management policy shall be separately identified in the accounting records. Liabilities payable from such restricted assets shall also be separately identified in the accounting records.

(e) Accounts comprising the fund equity group of accounts shall be separately classified as contributed capital and retained earnings.

1. The contributed capital account group shall include accounts separately identified as to the source of the contribution (Federal government, State government, local government, developers, etc.)

2. The retained earnings account group shall include accounts separately identified as unreserved retained earnings and reservations of retained earnings comprising tentative plans by management for utilization in a future period.

(f) The management of an authority shall be responsible for instituting a plan providing for the following separations of accounting function, wherever practical, so as to provide a system of internal control over initiating and recording financial transactions with the objective of safeguarding assets and maintaining reliable financial records:

1. Separate the function of revenue billing from that of collecting and depositing receipts.

2. Separate the function of disbursing funds from that of purchasing and receiving materials and services.

3. Separate the function of reconciling balances on deposit with depositories with general ledger controls from those of receiving, depositing and disbursing cash.

4. Separate the function of payroll preparation from that of distributing payroll checks to employees.

5. Separate the function of hiring, promoting, establishing and adjusting compensation and terminating employees from the functions enumerated in item 4 above.

5:31-7.2 Accounting principles and policies for special districts

(a) Accounting transactions and records shall be maintained on the modified accrual basis of accounting for governmental fund types as described in the publication, Governmental Accounting, Auditing and Financial Reporting and subsequent statements published by the Municipal Finance Officers Association of the United States and Canada located at 180 North Michigan Avenue, Suite 800, Chicago, Illinois 60601.

1. Revenues shall be recognized and recorded in the accounting period in which they become measurable and available to finance expenditures of the current fiscal period.

2. Expenditures are recognized when the related liability is incurred. Exceptions to this general rule are:

i. Unmatured principal and interest on general obligation debt are recognized when payable;

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[ii. Inventories of material and supplies may be considered expenditures when purchased or when consumed, but under either method significant amounts of inventory should be reported on the balance sheet. When the purchase method is used, reported inventories are equally offset by a fund balance reserve account;]

ii. Inventories of material and supplies shall be considered expenditures when purchased. Significant amounts of inventory should be reported on the balance sheet, equally offset by a fund balance reserve account.

iii. Expenditures for insurance and similar services extending over more than one accounting period need not be allocated between or among accounting periods but may be accounted for as expenditures of the period of acquisition;

[iv. Accumulated unpaid vacation, sick pay and other employee benefits need not be recorded in the current period but, if more than a normal year's accumulation exists, must be disclosed in the notes to the financial statements.]

(b) The accounting system shall be organized and operated on a fund basis, each fund being defined as a fiscal and accounting entity with a self-balancing group of accounts recording cash and other financial resources, together with all related liabilities and residual *[entities]* ***equities*** or balances and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives.

1. The general fund is used to account for all financial resources, except those to be accounted for in another fund. Current operating expenditures, certain capital outlays and debt service expenditures are accounted for in the general fund. Their spending is controlled primarily through the annual operating budget.

i. Estimated general fund expenditures and the proposed revenues required to finance them are set forth in the annual operating budget which, when adopted, provides authorization for general fund spending.

ii. Budgetary accounts are formally integrated into the general fund ledger.

2. The capital fund is used to account for the purchase or construction of major capital facilities, or fixed assets. The activities are financed primarily through general obligation bond issues or intergovernmental funds. Capital fund spending is controlled primarily by bond indenture provisions or intergovernmental fund grant requirements.

3. Fixed assets of a district shall be reflected in the General Fixed Assets Account Group at cost, or if the historical cost is not practically determinable, at estimated cost. Donated fixed assets shall be recorded at their estimated fair value at the time received.

4. Depreciation of general fixed assets should not be recorded in the accounts of governmental funds. Depreciation of general fixed assets may be recorded in cost accounting systems or for cost finding analysis; and accumulated depreciation may be recorded in the General Fixed Assets Account Group.

5:31-7.3 Auditing procedures and scope

(a) The audit shall cover all the financial transactions of the authority for a complete fiscal year, and include a review of the records of all officials or employees who handle funds.

1. Cash on hand shall be counted at the date of starting the audit and all cash balances shall be reconciled with independent verifications obtained directly from the depositories.

2. The audit shall include a review of the authority's internal control and financial administrative procedures, compli-

ance with the statutes and the Division rules and regulations, and compliance with the security and financing agreements.

3. Exceptions in compliance and ***major*** weakness in internal control and financial administrative procedures observed during the audit shall be documented and shall be stated by specific comments and recommendations in a separate section of the audit report.

(b) The audit shall be conducted in accordance with generally accepted auditing standards and with the *[guidelines and]* procedures, rules and regulations as promulgated by the Local Finance Board and with such additional procedures as shall be required by any security and financing agreements.

(c) The audit shall embrace all the books, accounts and transactions of the authority in sufficient depth and scope to enable the auditor to express an opinion on the financial statements. The auditor shall comment on any non-compliance with law and regulations, security and financing agreements and ***major*** weakness in internal control and financial administration procedures ***which came to his attention during the audit*** and include his recommendations thereon to the governing body.

(d) The audit report shall be signed by and conducted by or supervised by the registered municipal accountant or an employee of the Division of Local Government Services or the certified public accountant, who has been engaged by the authority to conduct the annual audit.

(e) The auditor must utilize an appropriate written audit program based on his analysis of the system of internal control and other pertinent factors.

(f) All audit workpapers shall indicate the name or initials of the person who performed the audit work. All workpapers shall be made available to the Director upon request. Workpapers shall be retained by the auditor for a minimum of seven years. The audit workpapers shall include the following:

1. Audit program utilized;
2. Internal control review documentation;
3. Extent and basis of statistical sampling utilized;
4. Workpapers evidencing audit work performed and auditor's statement of objectives and conclusions;
5. Abstracts of official minutes and resolutions.

(g) If the auditor's examination causes him to believe or suspect that irregularities or illegal acts have occurred, the Division shall be notified at once by means of the special confidential report. This rule is not directed merely toward conditions which might indicate a shortage in the accounts of any authority, but to unusual conditions or suspicious circumstances.

1. The governing body shall be advised to make immediate report to the surety bonding company upon presentation of the preliminary report of the auditor. It is the duty of the governing body to report every shortage or irregularity involving public moneys to the prosecutor.

2. ***[At its confidential report inception a]* ***At its inception a confidential report*** need not be submitted to the governing body at the time it is filed with the Division. However, should further investigation reveal any clear irregularity, such irregularity must be reported to the governing body immediately.**

5:31-7.4 Audit reports and financial reporting practices* for other than special districts*

(a) All authority audits shall be completed and the audit reports thereon shall be filed with the governing bodies within four months after the close of the authority's fiscal year or

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within such shorter period specified in the authority's security or financing agreement, or in the statute authorizing the creation of the authority. After expiration of the due date, the Division shall have the prerogative to perform the audit itself or to engage a qualified auditor to conduct the audit. The costs of any such work, after approval by the Director, shall be billed to and paid by the authority.

(b) Each audit report shall include the *[author's]* **auditor's** report on the financial statements and the following information for the current and immediately preceding fiscal year:

1. Comparative balance sheet;
2. Comparative statement of revenues, expenses and changes in retained earnings;
3. Comparative statement of changes in financial position;
4. Notes to the financial statements, required by generally accepted accounting principles;
5. Supplementary information comprising *[a statement]* **a schedule** of Federal grants, *[a statement]* **a schedule** of revenues, expenses and changes in retained earnings for each account group, *[a statement]* **a schedule** of cash receipts, cash disbursements and changes in cash and investments for each account group, *[a statement]* **a schedule** of revenues classified by source and expenses classified by object and comparison with the annual budget;
6. Such other supplementary schedules as deemed necessary or requested by the authority;
7. General comments and recommendations including the auditor's report on internal control.

(c) Within five days after the audit report is filed with the authority, the auditor shall file a copy with the Director and with the governing body of each local unit having created the authority.

(c)* *(d) The auditor shall file a copy of the completed internal control questionnaire with the Bureau of Authority Regulation in the New Jersey Division of Local Government Services within 15 days of filing the audit report.

***(d)** Within five days after the original audit report is filed with the authority, the authority shall file the annual financial report with the Director of the Division of Local Government Services; the governing body of each local unit having created, or joined in the creation, of the authority; and, if required by a security agreement, the trustee and any bondholder requesting a copy.]*

***(e)** The annual financial report shall include the following:

1. Table of contents;
2. Management's discussion of operations;
3. Other relevant information, including a list of authority officials, surety bonds in force, a summary of customers or users by class and amounts billed for the year;
4. The audit report.]*

5:31-7.5 ***(Reserved)***

***5:31-7.6* Audit of federal grants**

When the auditor is engaged to conduct a financial and compliance audit of programs, activities and functions funded in whole or in part by Federal grants, the audit shall be conducted in accordance with the standards for financial and compliance audits contained in the United States General Accounting Office's, standards for Audit of Governmental Organizations, Programs, Activities and Functions, 1981 and subsequent revisions, and with due regard to the compliance requirements of Circular 102, Attachment P, promulgated by the Federal Office of Management and Budget.

ENVIRONMENTAL PROTECTION

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

**Bureau of Marine Fisheries
Spearfishing in the Marine Waters of the State**

Adopted New Rule: N.J.A.C. 7:25-18.4

Proposed: October 1, 1984 at 16 N.J.R. 2478(a).
Adopted: December 13, 1984, by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: December 17, 1984, as R.1984 d.609, **with technical and substantive changes** not requiring additional public notice and comment (see: N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 23:2B-6.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): September 17, 1985.

DEP Docket No. 061-84-08.

Summary of Public Comments and Agency Responses:

Three written comments to the proposed new rule were received, all requesting an expansion of the proposed new rule's applicability from solely those waters along the Atlantic Coast to all marine waters of the State. The agency response is to expand the scope of this adoption accordingly.

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

7:25-18.4 Spearfishing

It shall be lawful to take, catch, or kill all species of fish by means of spearfishing, during the open season therefor, except for those species of fish specifically protected. For the purpose of this rule, spearfishing shall mean the taking of fish by means of a spear, harpoon, or other missile, while completely submerged*[, only in the waters of the Atlantic Ocean or in the waters of adjacent inlets where skin and/or scuba diving is explicitly permitted by other statute or code.]* ***in the marine waters of the State.***

HEALTH

(a)

HOSPITAL REIMBURSEMENT

Standard Hospital Accounting and Rate Evaluation (SHARE) 1985 Rate Review Guidelines

Adopted Amendment: N.J.A.C. 8:31A-7.3, 7.4

Proposed: October 15, 1984 at 16 N.J.R. 2727(a).
Adopted: December 14, 1984, J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of the Health Care Administration Board.
Filed: December 17, 1984 or R.1984 d.599, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b.

Effective Date: January 7, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): February 6, 1989.

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

Full text of the adoption follows.

8:31A-7.3 Auditing of costs

- (a) (No change.)
- (b) Hospitals which exceed the rate year licensed bed capacity shall not be entitled to reimbursement for those excess admissions unless a waiver has been granted by the Director of Licensure.

8:31A-7.4 Methodology for calculating Global Rates

(a) Global Rate will be developed from the hospital's prior year Global Rate established pursuant to the SHARE Guidelines. Acceptance of the Global Rate shall constitute a waiver of any right of appeal concerning the rate and no adjustments to any prior year shall affect the Global Rate.

- 1. (No change.)
- 2. The adjusted approved Global Rate will be calculated by adjusting the prior year's Global rate in existence on December 1 by the following factors:
 - i. A volume adjustment will be calculated on the variances between budgeted volumes and the projected volumes using volume variances as detailed in Appendix A. Substantial changes in volume will be reviewed for reasonableness in cost.
 - ii.-v. (No change.)
 - 3.-7. (No change.)
- (b) The hospital's prior year Global Rate and/or Base year Alternate Rate covered inpatient cost base includes the 1979 overspending adjustment. The current rate year Global and/or Alternate Rate will be determined from the prior year Global and/or Alternate Rate.

(b)

HOSPITAL REIMBURSEMENT

1985 Uniform Bill—Patient Summary (Inpatient) Regulations

Readoption with Amendments: N.J.A.C. 8:31B-2

Proposed: October 15, 1984 at 16 N.J.R. 2728(a).
Adopted: December 14, 1984 by J. Richard Goldstein, M.D., Commissioner, Department of Health (with the approval of the Health Care Administration Board) with change.

Filed: December 17, 1984 as R.1984 d.610, **with technical and substantive changes** not requiring additional notice and comment (see N.J.A.C. 1:30-3.5).
Authority: N.J.S.A. 26:2H-1, specifically 26:2H-5.

Summary of Public Comments and Agency Responses:

COMMENT: The Department is making the effort to assure that hospitals provide accurate and timely information with a penalty for non-compliance. No provision, however, is required of the date intermediaries. Hospitals should not be mandated to deal with firms that are paid by the Hospital and that do not respond to our needs.

RESPONSE: The ultimate responsibility for the completeness and accuracy of the data submitted to the Department of Health rests with the hospital in accordance with this regulation. The proposed changes in this regulation allow the hospital to contract an approved data intermediary of their choice who will be responsive to their needs.

COMMENT: The imposition of a penalty for late data submission to the Department of Health should always be subject to Commission review and approval and the application of the penalty should never be made mandatory.

RESPONSE: In accordance with N.J.A.C. 8:31B-2.5(g)ii., the imposition of the penalty, and amount to be paid (within the stated limit), will be at the discretion of the Commission.

COMMENT: 8:31B-2.2(c)1xi In order to ensure the accuracy and consistency of the data submitted, it is suggested that the Department define this term by delineating the specific data elements which fall under the category of "all billing information."

RESPONSE: The Department agrees with this comment and specific data elements have been added appropriately.

COMMENT: 8:31B-2.2(c)2 The regulation makes general reference to the submission of outpatient data. It is our understanding that the Department of Health is not requesting outpatient data in 1985 and we suggest that this reference be deleted until such time as the specifics and cost of collecting this data is evaluated by all parties involved.

RESPONSE: At this time, outpatient data is required for Federal patients on the UB-82 and the Department is merely reserving this section for future use of other payors as referenced in N.J.A.C. 8:31B-3.45.

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COMMENT: 8:31B-2.3(b)2 In order to clarify this section which states that a complete record must be submitted to the Data Intermediary, even if for cash flow purposes the claim has been interim billed, it is recommended that the wording in the second sentence be revised to reflect "interim billing".

RESPONSE: The Department agrees with this comment and appropriate language has been added.

COMMENT: This proposed amendment required that a UB-82 be completed and finalized for each patient within 30 days of discharge. We would not oppose this regulation if completion of a UB-82 were under the total control of the hospital. However, we must await "approvals" before we can complete and submit bills for Medicare and N.Y. Blue Cross patients. We are still awaiting approvals from Prudential for over 30 patients discharged in the first six months of 1984. We would advise that the wording of this regulation be revised to reflect this time-lag which is not under our control and affects all hospitals.

RESPONSE: The 30 day requirement has been in accordance with this regulation since 1981. The Department prefers not to give extensions because the 30 days should be sufficient time within which to comply with the data submission requirement. However, if it is difficult to comply, hospitals should contact the Department (inquiries directed to Faith Goldschmidt) which will determine if extensions can be granted.

COMMENT: 8:31B-2.5 The following statement which is taken from N.J.A.C. 8:31B-2.5(a) of the 1984 version of the regulation and allows for payors to obtain their own data should also be included in N.J.A.C. 8:31B-2.5:

"Upon request of a payor the final UB-PS information shall be provided to the payor, for its own cases, by the UB-PS Intermediary(ies)."

RESPONSE: The Department agrees with this comment and this language has been added at 8:31B-2.5(f)6.

COMMENT: 8:31B-2.5(d)2 This regulation allows audit adjustments to a hospital's case-mix and final reconciliation to be made by the Commissioner. The regulation should also state that any adjustments are subject to review and approval by the Hospital Rate Setting Commission.

RESPONSE: The Department agrees with the comment and new language has been added.

COMMENT: 8:31B-2.5(g) The proposed regulations would impose an automatic penalty upon hospitals for the late submission of data. We do not believe that the penalty should be automatic as late submission is not always under the control of the hospital. We do not oppose the imposition of reasonable deadlines. However, we believe that similar deadlines should be imposed on the data intermediaries with regard to the processing of data and the production of monitoring reports for hospitals.

RESPONSE: When the Department is notified by the hospital of delays in data submission and reasonable efforts are made to correct the problem, an extension for submission of data may be granted. Hospitals should be reviewing the periodic reports from the Department on an ongoing basis to determine the existence of problems.

The Department does not regulate the intermediaries and the hospital must ensure time frame compliance through individual contract.

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

SUBCHAPTER 2. HOSPITAL REPORTING OF UNIFORM BILL-PATIENT SUMMARIES (INPATIENT)

8:31B-2.1 Purpose

(a) The purpose of this rule is to provide the basis for a single patient data reporting system to satisfy the requirements of Chapter 83, P.L. 1978. The revised rule is designed to incorporate the National Uniform Bill (UB-82 HCFA-1450) as the common hospital billing format for all payors. The data ***elements*** and design of the form have been determined by the National Uniform Billing Committee (NUBC). The NUBC includes representatives of the Federal Government, major payors, and hospital associations.

(b) This rule will continue to allow hospitals to:

1. Satisfy Department of Health reporting requirements for bills and abstracts,
2. Allow for common and consistent reporting of revenues for services related to patient care used in the calculation of Preliminary Cost Bases under Chapter 83, P.L. 1978, and
3. Promote uniformity and accuracy of patient data reporting. Confidentiality of individual patients and physicians shall be maintained in fulfilling the above purposes.

8:31B-2.2 Implementation

(a) Beginning January 1, 1981 N.J.A.C. 8:31B-2.1, the rule on Hospital Reporting of Uniform Bill-Patient Summaries (Inpatient), has been used as a common billing form and reporting mechanism for each inpatient discharged and ambulatory same day surgery outpatient treated in each hospital covered under Chapter 83, P.L. 1978.

(b) As of January 1, 1985, revisions to N.J.A.C. 8:31B-2 become operative.

(c) The revisions to N.J.A.C. 8:31B-2 provide for the submission of sufficient patient information for reconciliation of payments consistent with N.J.A.C. 8:31B-3.71 through 3.86.

1. "Sufficient patient information" shall consist of the following for all inpatients discharged and ambulatory same day surgery outpatients treated and shall be submitted in the format specified pursuant to N.J.A.C. 8:31B-2.5(g).

- i. Hospital Provider Number;
 - ii. Patient Control Number;
 - iii. Discharge Date;
 - iv. Date of Birth;
 - v. Admission Date;
 - vi. Medical Record Number;
 - vii. DRG Number and Outlier Indicator;
 - viii. Principal and Other Diagnosis Codes;
 - ix. Principal and Other Procedure Codes;
 - x. Payor Codes;
 - xi. And all billing information ***(items 51-56, 64)***.
2. Outpatient Data (Reserved)

(d) The reasonable cost of compliance with **the revisions** to this Subchapter net of any cost savings shall be considered by the Commission in accordance with N.J.A.C. 8:31B-3.45.

[(g)]* *(e) Upon admission to the hospital, each patient shall be given written DRG information to include at least the following:

1. Patient's right to appeal a DRG assignment and/or inequitable bill to the hospital Utilization Review Committee and the State Certified Utilization Review Organization.

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2. Patient's right to a prompt-payment discount with the currently approved discount schedule, and

3. The primary contact person in the hospital for DRG related problems.

8:31B-2.3 Billing form

(a) The UB-82 is a multi-part form set printed in green ink. Form sets will be composed of three payor copies and one or more hospital copies. If more than three payors are involved, a second bill will be required. Detailed specifications are included with the UB-82 completion guidelines.

(b) The form is designed to be typed or computer printed. It will be available as unit sets or in a printed version. The number of copies in each form set will be determined by the hospital according to its planned use of the forms.

8:31B-2.4 Guidelines for completion of the patient billing and abstract form

(a) Procedural guidelines for completing the patient billing and abstract form follow:

1. Guidelines for completing the billing form, UB-82 HCFA-1450, have been developed by the NUBC for Medicare, Civilian Health and Medical Program of the Uniform Services (CHAMPUS), and Commercial Insurers.

2. Specific instructions for Blue Cross, Medicaid, and other payors will be provided by those payors.

3. Additional data elements required for the Department of Health by this rule are described in detail by an addendum to the National Uniform Bill Manual. Note: ***[This addendum will be available at adoption.]* *The addendum consists of instructions for filling out the new, Federally mandated form; copies of the addendum can be obtained from the Department.***

(b) Building timeliness requirements are as follows:

1. A UB-82 must be completed and finalized for each patient within 30 days of discharge of the patient.

2. Where claims administration and cash flow considerations would dictate a more current billing than the 30 day requirement, a preliminary version of the UB-82 containing only those items required in (a) above for the particular payor need be utilized at the time of billing and such information is sufficient to adjudicate a claim for prompt payment discount. ***[In such cases,]* *In interim billing cases, it is necessary that* the completed patient billing and abstract information noted in (c) below must be submitted to the appropriate Data Intermediary in compliance with the Data Intermediary time limits and the Department of Health Data Requirements (see N.J.A.C. 8:31B-2.5(g)).**

[Editor's Note: All of the inpatient procedural guidelines and coding tables, not reproduced at N.J.A.C. 8:31B-2.4, are obsolete.]

8:31B-2.5 Health data submissions to the Department of Health

(a) A data intermediary shall be selected as follows:

1. A data intermediary is an approved data processor responsible for collecting, editing, generating selected reports, and submitting the billing and abstract data to the Department of Health.

2. A single data intermediary shall be chosen by each hospital from the NJDOH approved list of data processors, and shall be responsible for all patients regardless of payor class.

(b) Contractual arrangements between the hospital and the data intermediary shall include the following:

1. The contractual arrangements between a hospital and its data intermediary shall include:

i. Provisions for compliance with the data submission time limits specified in N.J.A.C. 8:31B-2.4(b);

ii. Provisions for permitting delays in such submissions to the intermediary when circumstances require;

iii. Provisions for resolution of any resulting disputes.

2. Provisions must not affect the ability of the intermediary to comply with the timing requirements set forth in (g) below.

(c) The contractual arrangements shall provide for the quality control measures needed to ensure accurate and reliable data submission by the hospital.

(d) Audit requirements will be conducted as follows:

1. To assess the accuracy and reliability of the data provided to the Department of Health, the Department of Health shall periodically audit selected patient records in the hospital with no attempt to tie together patient names and patient identification numbers at the Department of Health.

2. The results of any audit shall be used to estimate the impact on the assignment of DRGs and the Commissioner shall make appropriate adjustments to the case-mix and reconciliation of the period or take appropriate corrective action ***subject to review and approval by the Hospital Rate Setting Commission*.**

(e) Data shall be edited as follows:

1. The data received by the Intermediary from the hospital must be edited prior to submission to the Department of Health.

i. The edits to be performed shall be agreed upon and confirmed by amendments to the current memorandum of understanding between the Department of Health and the Data Intermediaries and approved by September 1, 1984.

2. Problems detected by these edits shall be corrected by the Intermediary and the hospital.

3. Information required from the hospital by the Intermediary for edit correction must be provided within five working days of the request unless separate arrangements are made between the hospital and intermediary.

(f) Reports shall be produced as follows:

1. Each data intermediary shall produce, for the Department of Health and each hospital, a set of periodic reports which will accurately represent the data submitted by each hospital.

2. The reports to be produced will be agreed upon and confirmed by amendment to the current memorandum of understanding between the Department of Health and the data intermediaries.

3. A single intermediary may be selected from among the approved intermediaries to produce these reports. In such a case, all other intermediaries will transmit the data for their hospitals to the appropriate intermediary in a timely manner.

4. These reports are to be used by the hospitals, in conjunction with any other information provided by their data collector or the Department of Health, to verify the accuracy and reliability of the data submitted.

5. The ultimate responsibility for the completeness and accuracy of the data submitted to the Department of Health, pursuant to N.J.A.C. 8:31B-3.45 and N.J.A.C. 8:31B-4, rests with the hospital.

6. Upon request of a payor the final UB-PS information shall be provided to the payor, for its own cases, by the UB-PS Intermediary(ies).

(g) Data shall be submitted to the Department of Health as follows:

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1. Those data elements required to be submitted to the Department of Health by each hospital through their data intermediary are described in detail in the addendum to the UB-82 guidelines.

i. These required data, edited pursuant to (e) above, shall be submitted to the Department of Health in a computer processable format and medium, specified by amendment to the current memorandum of understanding, within 90 days of the end of each calendar quarter.

ii. Each submission is to include the data on all patients discharged during the calendar quarter.

2. Records not received by the Department of Health (including corrections of fatal errors), within the time frames specified, may not be included in the hospital's Final Reconciliation, and the direct costs associated with them may be forgone by the hospital unless a penalty is paid to the Hospital Rate Setting Commission.

i. The amount of the penalty may be up to \$200.00 times the number of working days from the date the patient billing and abstract records were due to the date the last record is received by the Department of Health.

ii. The imposition of the penalty, and amount to be paid (within the stated limit), will be at the discretion of the *Commissioner* *Commission*.

iii. Under no circumstances will data be allowed to be submitted after June 30 of the year following the close of the rate year without the imposition of a fine.

3. All data submitted to the Department of Health will be edited upon receipt and any problems detected shall be corrected by the data intermediary with any necessary assistance from the hospital.

(h) All data collected by the data intermediary pursuant to this regulation are confidential in accordance with Section 1106(a) of the Federal Privacy Act of 1974 as amended by the Congressional Reports Elimination Act of 1982 (p.197-375).

Full text of the adoption follows.

8:31B-3.45 Uniform Bill-case mix determination—financial reports

(a) Hospitals shall submit to the Department through the UB-PS Intermediary(ies) and within 90 days of the end of the calendar quarter, information on all inpatients discharged for the quarter containing final diagnoses and such other patient specific information as set forth in the Rule on Hospital Reporting of Uniform Bill-Patient Summaries. The net cost of the hospital of any information provided to the Department by a UB-PS Intermediary for a hospital under a memorandum of understanding developed under N.J.A.C. 8:31B-2.1 of the Rule on Hospital reporting of Uniform Bill-Patient Summaries shall be considered by the Commission in the Preliminary Cost Base established for the hospital. Beginning on or before the first quarter of 1988 hospitals shall also submit Uniform Bill-Patient Summaries on all outpatients containing final diagnosis or reason for visit (as defined by the Department), for each outpatient. Included with such reporting shall be a statement of gross revenue by revenue center for patients discharged in the quarter (including in-house accounts of the previous period but excluding in-house accounts of the current quarter) for inpatient, emergency service, clinic, home health, outpatient dialysis, ambulatory surgery, same day psychiatry, and private referred patients. UB-PS records not received by the Department within the time frames specified may not be included in the hospital's Final Reconciliation unless the hospital pays to the Commission a fine as specified in the Uniform Bill-Patient Summary (inpatient) Regulation, Section IV-E. This decision will be at the discretion of the Commission.

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

(a)

HOSPITAL REIMBURSEMENT

**Procedural and Methodological Regulations
Uniform Bill; Financial Reports**

Adopted Amendment: N.J.A.C. 8:31B-3.45

Proposed: October 15, 1984 at 16 N.J.R. 2733(c).

Adopted: December 14, 1984, J. Richard Goldstein, M.D., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Filed: December 17, 1984 as R.1984 d.598, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): October 17, 1985.

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

(b)

CONSUMER HEALTH SERVICES

**Controlled Dangerous Substances
Prescription Requirements for Controlled
Dangerous Substances**

Adopted New Rule: N.J.A.C. 8:65-7

Proposed: September 4, 1984 at 16 N.J.R. 2327(a).

Adopted: December 14, 1984, J. Richard Goldstein, M.D., Commissioner of Health.

Filed: December 17, 1984, as R.1984 d.607, **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. 24:21-9.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order 66(1978):
January 7, 1990.

Summary of Public Comments and Agency Responses:

Written comments were received from the New Jersey State Board of Pharmacy (hereinafter referred to as the Board); the

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New Jersey Pharmaceutical Association (hereinafter referred to as the Association); and overlook hospital. The comments and responses are summarized as follows:

1. Comment: At N.J.A.C. 8:65-7.2, The New Jersey Board of Pharmacy commented that the definition of "Institutional Practitioner" required clarification.

Response: No further clarification is required, because the present definition is sufficient. "Institutional Practitioner" is not an individual and includes such areas as a (1) hospital, (2) research facility, (3) teaching facility and/or (4) narcotic treatment clinic. All these are empowered to dispense controlled and other drugs to their clients/patients. Therefore the term appears to be adequate as stated.

2. Comment: At N.J.A.C. 8:65-7.3(a)1, the Board commented that this portion of the proposal is not inclusive of all licensed practitioners practicing inside their jurisdiction, but only to licensed practitioners practicing within the jurisdiction of the criteria of CFR 21 part 1301.24(c) or 1301.25.

Response: The Department agreed with the comment. The language was extended to include all licensed practitioners.

3. Comment: At N.J.A.C. 8:65-7.3(a)3, the Association suggested that only the practitioner be enabled to convey the controlled prescription.

Response: The Department agrees that transmitting a prescription for controlled drugs is solely the practitioner's responsibility, and has made the appropriate change in the text.

4. Comment: At N.J.A.C. 8:65-7.(d)4, overlook hospital inquired as to the meaning of "dispense".

Response: In this context, "dispense" means to do without, in other words, if the pharmacist fails to notify the Department of Health, he will be prohibited from filling further emergency oral prescriptions.

5. Comment: At N.J.A.C. 8:65-7, 8(c), overlook hospital inquired whether the subsection required that all Schedule II drugs be dispensed to individual patients, rather than being dispensed to missing units as "Floor Stock" with accompanying decreasing inventory audit records. The commentor was opposed to the abandonment of the Floor Stock System.

Response: The regulation does not eliminate floor stock, but states the manner in which an unlicensed practitioner can obtain and dispense drugs.

6. Comment: At N.J.A.C. 8:65-7.8(d)1, The Board commented that the words "not to exceed a 72 hour supply" should be added to the regulation.

Response: The comment is valid and will be included to reflect the 72 hours time limit, as it will explain what is meant by the emergency period.

7. Comment: At N.J.A.C. 8:65-7.8(d)4, The Association commented that the statement regarding emergency prescriptions for Schedule II drugs that requires the pharmacist to notify the Department of Health if the prescribing practitioner fails to deliver a written prescription to him within the 72-hour time limitation. Federal regulations also require the pharmacist to notify the nearest DEA office, and the Association we believe this information should also be contained in this paragraph. Pharmacists will be confused, and thus in violation, if the regulations lead them to believe that notification of the Department is all that is required. The Department could serve the profession better by expanding that sentence to include the words "and the nearest office of the Drug Enforcement Administration".

Response: The Department agrees, and will include notification of both agencies.

8. Comment: At N.J.A.C. 8:65-7.8(e), Overlook hospital inquired whether "dosage forms" meant tablets, capsules, etc., or whether it meant doses.

Response: "Dosage forms" means a unit of measure, ie tablet, capsule, or teaspoon. Thus, the taking of "two tablets every six hours" is the equivalent of eight tablets daily (24 hours). It is not the dose, but the dosage form that is administered.

9. Comment: At N.J.A.C. 8:65-7.11(a), The Board commented that in the statement "conforming to the provisions set forth in N.J.S.A. 24:21-17" the requirements of the necessity of including the prescriber's DEA registration number and address on the prescription label are impractical and hopes in any review of 24:21-17 that this is taken into consideration.

Response: The Department cannot implement the requested change, because it involves a function of the Legislature rather than the Department. (See N.J.S.A. 24:21-17).

10. Comment: At N.J.A.C. 8:65-7.13(d), the Association, Overlook Hospital, and Board commented that the entire section required clarification.

Response: The question arose due to an omission in the proposal at 16 N.J.R. 2330. The text of the adoption has been corrected to reflect the proper language.

11. Comment: At N.J.A.C. 8:65-7.14(a), The Association suggested that the date of issuance should run from the date that the pharmacist fills the prescription.

Response: The Department disagreed with the commentor's interpretation of the date of issuance of a prescription, and has clarified the relevant language by stating that the date is the date upon which the practitioner prescribed the medication and not the date upon which the pharmacist filled the prescription.

12. Comment: At N.J.A.C. 8:65-7.14(e)1, The Board commented that the words "address, and DEA registration number" should be deleted from that portion of the proposal. The Board further commented that under the same section the words "and the total number of refills authorized by the prescribing practitioner" should be deleted.

Response: The Department rejected the comment. The language "address and registration number" should be retained in order to promote proper accountability procedures with regard to the second part of the comment "and" was changed to "or." The entire phrase "or the total number of refills authorized by the prescribing physician," was retained. This information should be retained in a computer system. Both the name and address of the prescriber with the corresponding D.E.A. number clearly identifies the prescriber. There has to be some record entered of the total number of refills authorized so refilling dates and quantities can be verified.

13. Comment: At N.J.A.C. 8:65-7.14(e)1, The Association commented that this subsection requires computerized pharmacies to enter both the quantity prescribed and the quantity dispensed on CDS prescription, and that, computerized pharmacies can not comply with a requirement to enter both numbers into their records. The Association suggested the word "and" should be changed to "or".

Response: The department agreed with the comment. (See response to the Board's comment for this section).

14. Comment: At N.J.A.C. 8:65-7.14(e)3, The Board commented that the statement "This documents shall be maintained in a separate file at the pharmacy for a period of two years from the dispensing date," should be revised to delete the words "in a separate file."

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Response: The Department agrees that separate files are not required, and that the regulation is satisfied as long as records are maintained.

15. Comment: At N.J.A.C. 8:65-7.14(e)3, The Association commented that this subsection requires a pharmacy to maintain a document log for a two-year period while the Board of Pharmacy, under N.J.A.C. 13:39-6.8(g), requires the same log to be maintained for a five-year period. These conflicting requirements may lead to confusion on the part of the practitioner and should be uniform in nature.

Response: This subsection applies to information as to what was entered into a computer on a day to day basis, not the total information as to the prescription history. The Department is cognizant that the Board of Pharmacy requires prescriptions to be kept for a period of five years. This daily information entry log, which is kept for two years is adequate to allow an accountability audit because an audit can not go back beyond two years as that is the biennial inventory cutoff date. The log referred to in this subsection is not presently covered by Board of Pharmacy regulations.

17. Comment: At N.J.A.C. 8:65-7.14(e)4, The Board commented that the statement "For Example, this would include a refill-by-refill audit trail for any specific strength and dosage form of any controlled substance (by either brand or generic name or both)" should be deleted from the section. Furthermore, that portion of the statement "name and identification code of the dispensing pharmacist" should of the dispensing pharmacist."

Response: The first part of the comment was rejected, and the language was retained in order to promote proper accountability procedures. The Department agrees with the second part of the comment, and has included initials of pharmacists as part of the proper identification.

17. Comment: At N.J.A.C. 8:65-7.14(e)4, The Association commented that the Department's computer requirements are at variance with those of the New Jersey Board of Pharmacy.

Response: The Department disagreed with the comment and noted that the information is necessary in order to promote proper accountability procedures.

18. Comment: At N.J.A.C. 8:65-7.15(a)3, the Association commented that the date of issuance occurs when the prescription is first filled by the pharmacist.

Response: The Department disagreed with the comment, because the date of issuance occurs when the prescription is issued by the prescriber.

19. Comment: At N.J.A.C. 8:65-7.16(a), the Board commented that regarding the statement "conforming to the provisions set forth in N.J.S.A. 24:21-17" the requirements of the necessity of including the prescriber's DEA registration number and address on the prescription label are impractical and hoped in any review of 24:21-17 that this is taken into consideration.

Response: The Department cannot implement the requested change, because it involves a function of the Legislature rather than the Department. (See N.J.S.A. 24:21-17).

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

SUBCHAPTER 7. PRESCRIPTION REQUIREMENTS FOR CONTROLLED DANGEROUS SUBSTANCES

8:65-7.1 Scope

Rules governing the issuance, filling and filing of prescriptions are set forth specifically by the sections of this subchapter.

8:65-7.2 Definitions

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

"Act" means the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:21-1 et seq.).

"Federal Act" means the Controlled Substances Act (Title 21, United States Code 801: 84 Stat. 1242).

"Individual practitioner" means a physician, dentist, veterinarian, or other individual licensed, registered, or otherwise permitted, by the United States, the jurisdiction in which he practices, or in New Jersey, to dispense a controlled substance in the course of professional practice, but does not include a pharmacist, a pharmacy, or an institutional practitioner.

"Institutional Practitioner" means a hospital or other person (other than an individual) licensed, registered, or otherwise permitted, by the United States, the jurisdiction in which it practices, or in New Jersey, to dispense a controlled substance in the course of professional practice, but does not include a pharmacy.

"Pharmacist" means any pharmacist licensed by the State of New Jersey to dispense controlled substances and shall include any other person (e.g., a pharmacist intern authorized by the State to dispense controlled substances under the supervision of a pharmacist licensed by the State).

"Prescription" means an order for medication which is dispensed to or for an ultimate user but does not include an order for medication which is dispensed for immediate administration to the ultimate user (e.g., an order to dispense a drug to a bed patient for immediate administration in a hospital is not a prescription).

"Register" and "registered" refer to registration required and permitted by Section 10 of the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:21-10).

Any term not defined in this section shall have the definition set forth in the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:21-1 et seq.).

8:65-7.3 Persons entitled to issue prescriptions

(a) A prescription for a controlled substance may be issued only by an individual practitioner who is:

1. Authorized to prescribe controlled substances by the *[New Jersey Professional Board]* ***jurisdiction in which* he is licensed ***to practice his profession; and*****

2. Either registered or exempted from registration pursuant to the Code of Federal Regulations, Title 21, part 1301.24(c) or 1301.25.

(b) A prescription issued by an individual practitioner may be communicated to a pharmacist ***[by an employee or agent of]* ***by* the individual practitioner.****

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8:65-7.4 Purpose of issue of prescription

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of Law relating to controlled substances.

(b) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription may not be used for the dispensing of narcotic drugs listed in any schedule for "detoxification" or "maintenance treatment" as defined in N.J.A.C. 8:65-11.1.

8:65-7.5 Manner of issuance of prescriptions

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, and the name, address and registration number of the practitioner. All prescriptions for controlled substances, regardless of schedule, shall be presented to a pharmacist for filling within 30 days after the date when issued. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescription may be prepared by a secretary or agent for the signature of the practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by these regulations.

(b) An intern, resident, or foreign-trained physician, or physician on the staff of a Veteran's Administration facility, exempted from registration under the Code of Federal Regulations, Title 21, part 1301.24(c) shall include on all prescriptions issued by him the registration number of the hospital or other institution and the special internal code number assigned to him by the hospital or other institution as provided in the Code of Federal Regulations, Title 21, part 1301.24(c), in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician.

(c) An official exempted from registration under the Code of Federal Regulations, Title 21, part 1301.25 shall include on all prescriptions issued by him, his branch of service or agency (e.g., "U.S. Army" or "Public Health Service") and his service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee is his Social Security identification number. Each prescription shall have the name of the officer stamped, or handprinted on it, as well as the signature of the officer.

8:65-7.6 Persons entitled to fill prescriptions

A prescription for controlled substances may only be filled by a pharmacist acting in the usual course of his professional practice and either registered individually or employed in a registered pharmacy or registered institutional practitioner.

8:65-7.7 Administering or dispensing of narcotic drugs

(a) The administering or dispensing directly (but not prescribing) of narcotic drugs listed in any schedule to a narcotic drug dependent person for "detoxification treatment" or "maintenance treatment" as defined in N.J.A.C. 8:65-11.1 shall be deemed to be within the meaning of the term "in the course of professional practice or research"; Provided that the practitioner is separately registered with the Department of Health as required by N.J.A.C. 8:65-11.2 and then thereafter complies with the regulatory standards imposed relative to treatment qualifications, security, records and unsupervised use of drugs pursuant to the Act.

(b) Nothing in this section shall prohibit a physician who is not specifically registered to conduct a narcotic treatment program from administering (but not prescribing) narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three days and may not be renewed or extended.

(c) This section is not intended to impose any limitations on a physician or authorized hospital staff to administer or dispense narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction, or to administer or dispense narcotic drugs to persons with intractable pain in which no relief or cure is possible or none has been found after reasonable efforts.

8:65-7.8 Requirements of prescriptions; schedule II

(a) A pharmacist may dispense directly a controlled substance listed in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, only pursuant to a written prescription signed by the prescribing individual practitioner, except as provided in subsection (d) of this section.

(b) An individual practitioner may administer or dispense directly a controlled substance listed in schedule II in the course of his professional practice without a prescription, subject to N.J.A.C. 8:65-7.6.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in schedule II only pursuant to a written prescription signed by the prescribing individual practitioner or to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user.

(d) In the case of an emergency situation, as defined by the Secretary in the Code of Federal Regulations, Title 21, part 290.10, a pharmacist may dispense a controlled substance listed in schedule II upon receiving oral authorization of a prescribing individual practitioner, provided that:

1. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period ***not to exceed 72 hours*** (dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing individual practitioner);

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2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in N.J.A.C. 8:65-7.4, except for the signature of the prescribing individual practitioner;

3. If the prescribing individual practitioner is not known to the pharmacist, he must make a reasonable effort to determine that the oral authorization came from a registered individual practitioner, which may include a callback to the prescribing individual practitioner using his phone number as listed in the telephone directory and/or other good faith efforts to insure his identity; and

4. Within 72 hours after authorizing an emergency oral prescription, the prescribing individual practitioner shall cause a written prescription for the emergency quantity prescribed ***(not to exceed the amount for a 72 hours period)*** to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of N.J.A.C. 8:65-7.4, the prescription shall have written on its face "Authorization for Emergency Dispensing", and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it must be post-marked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the Department of Health ***and the nearest office of the DEA in his district*** if the prescribing individual practitioner fails to deliver a written prescription to him; failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense with a written prescription of a prescribing individual practitioner.

(e) A practitioner shall not prescribe or dispense a schedule II controlled substance to an individual patient in excess of 120 dosage forms or a 30 days' supply, whichever is the lesser amount, except that prescriptions for patients in a Long Term Care Facility (LTCF) may be in amounts as set forth in N.J.A.C. 8:65-7.10(d).

8:65-7.9 Refilling prescriptions; schedule II

The refilling of a prescription for a controlled substance listed in schedule II is prohibited.

8:65-7.10 Partial filling of prescriptions; schedule II

(a) The partial filling of a prescription for a controlled substance listed in schedule II is permissible, if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and he makes a notation of the quantity supplied on the face of the written prescription (or written record of the emergency oral prescription).

(b) The remaining portion of the prescription may be filled within 72 hours of the first partial filling; however, if the remaining portion is not or cannot be filled within 72-hour period, the pharmacist shall so notify the prescribing individual practitioner.

(c) No further quantity may be supplied beyond 72 hours without a new prescription.

(d) Prescriptions for schedule II controlled substances written for patients in Long Term Care Facilities (LTCF) may be filled in partial quantities, to include individual dosage units. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed and the identification of the dispensing pharmacist. The total quantity of schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions, for patients in a LTCF, shall be valid for a

period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of medication.

(e) Information pertaining to current schedule II prescriptions for patients in a LTCF may be maintained in a computerized system if this system has the capability to permit:

1. Output (display or printout) of the original number, date of issue, identification of prescribing individual practitioner, identification of patient, identification of LTCF, identification of medication authorized (to include dosage form, strength and quantity), and listing of partial fillings that have been dispensed under each prescription and the information required in (d) above;

2. Immediate (real time) updating of the prescription record each time a partial filling of the prescription is conducted;

3. Retrieval of partially filled schedule II prescription information in accordance with procedures specified in N.J.A.C. 8:65-7.14(e)1 through 5 for schedule III and IV prescription refill information.

8:65-7.11 Labeling of substances; schedule II

(a) The pharmacist filling a written or emergency oral prescription for a controlled substance listed in schedule II shall affix to the package a label, conforming to the provisions set forth in N.J.S.A. 24:21-17.

(b) The requirements of (a) above do not apply where a controlled substance listed in schedule II is prescribed for administration to an ultimate user who is institutionalized: Provided, that:

1. Not more than a seven day supply of the controlled substance listed in schedule II is dispensed at one time;

2. The controlled substance listed in schedule II is not in the possession of the ultimate user prior to the administration; and

3. The institution maintains appropriate safeguards and records regarding the proper administration, control, dispensing, and storage of the controlled substance listed in schedule II; and

4. The system employed by the pharmacist in filling a prescription is adequate to identify the supplier, the product, and the patient, and to set forth the directions for use and cautionary statements, if any, contained in the prescription or required by law.

8:65-7.12 Filing of prescriptions; schedule II

All written prescriptions and written records of emergency oral prescriptions shall be kept in accordance with requirements of N.J.A.C. 8:65-5.17.

8:65-7.13 Requirements of prescriptions; schedule III and IV

(a) A pharmacist may dispense directly a controlled substance listed in schedule III or IV which is a prescription drug as determined under the Federal Food, Drug and Cosmetic Act, pursuant to a written prescription of a duly registered individual practitioner.

(b) A pharmacist may dispense directly a controlled substance listed in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug and Cosmetic Act, pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist containing all information required in N.J.A.C. 8:65-7.5(a) except for the signature of the prescribing individual practitioner.

(c) An individual practitioner may administer or dispense directly a controlled substance listed in Schedule III or IV in the course of his professional practice without a prescription, subject to section 6 of this subchapter.

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(d) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in schedule III or IV pursuant to an oral prescription made by a prescribing individual practitioner, or pursuant to an order for medication made by an individual user, subject to section 7 of this subchapter.

8:65-7.14 Refilling of prescriptions; schedules III and IV

(a) No prescription for a controlled substance listed in schedule III or IV shall be filled or refilled more than six months after the date on which such prescription was issued and no such prescription authorized to be refilled may be refilled more than five times.

(b) Each refilling of a prescription shall be entered on the back of the prescription (or on another appropriate uniformly maintained, readily retrievable record, such as medication records, which indicates by the number of the prescription the following information:

1. The name and dosage form of the controlled substance;
2. The date of each refilling;
3. The quantity dispensed;
4. The identity or initials of the dispensing pharmacist in each refilling; and
5. The total number of refills for that prescription, initialed, and dated by the pharmacist as of the date of dispensing, and shall state the amount dispensed.

(c) If the pharmacist merely initials and dates the back of the prescription he shall be deemed to have dispensed a refill for the full face amount of the prescription.

(d) Additional quantities of controlled substances listed in schedule III or IV may only be authorized by a prescribing practitioner through issuance of a new prescription as provided in section 13 of this subchapter which shall be a new and separate prescription.

(e) As an alternative to the procedures provided by subsection (a) through (d), an automated data processing system may be used for the storage and retrieval of refill information for prescription orders for controlled substances in Schedule III and IV, subject to the following conditions:

1. Any such proposed computerized system must provide on-line retrieval (via CRT display or hard-copy printout) of original prescription order information for those prescription orders which are currently authorized for refilling. This shall include, but is not limited to, data such as the original prescription number, date of issuance of the original prescription order by the practitioner, ***date of first filing,*** full name and address of the patient, name^[,] ***and*** address ^[and DEA registration number] of the practitioner, and the name, strength, dosage form, quantity of the controlled substance prescribed (^[and] ***or*** the quantity dispensed if different from the quantity prescribed), and the total number of refills authorized by the prescribing practitioner.

2. Any such proposed computerized system must also provide on-line retrieval (via CRT display or hard-copy printout) of the current refill history for Schedule III or IV controlled substance prescription orders (those authorized for refill during the past six months). This refill history shall include, but is not limited to, the name of the controlled substance, the date of refill, the quantity dispensed, the identification code, or name or initials of the dispensing pharmacist for each refill and the total number of refills dispensed to date for that prescription order.

3. Documentation of the fact that the refill information entered into the computer each time a pharmacist refills an original prescription order for a Schedule III or IV controlled

substance is correct must be provided by the individual pharmacist who makes use of such a system. If such a system provides a hard-copy printout of each day's controlled substance prescription order refill data, that printout shall be verified, dated, and signed by the individual pharmacist who refilled such a prescription order. The individual pharmacist must verify that the data indicated is correct and then sign this document in the same manner as he would sign a check or legal document (e.g., J.H. Smith, or John H. Smith). This document shall be maintained ***[in a separate file]*** at that pharmacy for a period of two years from the dispensing date. This printout of the day's controlled substance prescription order refill data must be provided to each pharmacy using such a computerized system within ***[72]* *48*** hours of the date on which the refill was dispensed. It must be verified and signed by each pharmacist who is involved with such dispensing. In lieu of such a printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in such dispensing shall sign a statement (in the manner previously described) each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him and is correct as shown. Such a book or file must be maintained at the pharmacy employing such a system for a period of two years after the date of dispensing the appropriately authorized refill.

4. Any such computerized system shall have the capability of producing a printout of any refill data which the user pharmacy is responsible for maintaining under the Act, and its implementing regulations. For example, this would include a refill-by-refill audit trail for any specific strength and dosage form of any controlled substance (by either brand or generic name or both). Such a printout must indicate name of the prescribing practitioner, name and address of the patient, quantity dispensed on each refill, date of dispensing for each refill, name and identification code of the dispensing pharmacist, and the number of the original prescription order. In any computerized system employed by a user pharmacy, the central recordkeeping location must be capable of sending the printout to the pharmacy within 48 hours and if a representative of the Department of Health requests a copy of such printout from the user pharmacy, it must, if requested to do so by the representative of the Department of Health verify the printout transmittal capability of its system by documentation (e.g., postmark).

5. In the event that a pharmacy which employs such a computerized system experiences system down-time, the pharmacy must have an auxiliary procedure which will be used for documentation of refills of schedule III and IV controlled substance prescription orders. This auxiliary procedure must insure that refills are authorized by the original prescription order, that the maximum number of refills has not been exceeded, and that all of the appropriate data is retained for on-line data entry as soon as the computer system is available for use again.

(f) When filing refill information for original prescription orders for schedule III or IV controlled substances, a pharmacy may use only one of the two systems described in this section.

(g) Any registrant who intends to use a system provided by (e) through (f) above must first apply for a Permit to Maintain Central Records as required by the Department of Health.

(h) The transfer of original prescription information for a controlled dangerous substance listed in schedule III or IV for the purpose of refill dispensing is permissible between phar-

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macies on a one time basis subject to the following requirements:

1. The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information:

i. Write the word "VOID" on the face of the invalidated prescription;

ii. Record on the reverse of the invalidated prescription the name, address and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information;

iii. Record the date of the transfer and the name of the pharmacist transferring the information.

2. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

i. Write the word "TRANSFER" on the face of the prescription;

ii. Provide all information required to be on a prescription pursuant to N.J.S.A. 24:21-17 and include:

(1) Date of issuance of original prescription;

(2) Original number of refills authorized on original prescription;

(3) Date of original dispensing;

(4) Number of valid refills remaining and date of last refill;

(5) Pharmacy's name, address and DEA registration number and original number from which the prescription information was transferred;

(6) Name of transferor pharmacist.

3. Both the original and transferred prescription must be maintained for a period of two years from the date of the last refill.

4. Pharmacies electronically accessing the same prescription record must satisfy all information requirements of a manual mode for prescription transferral.

5. The procedure allowing the transfer of prescription information for refill purposes is permissible only if allowable under existing State or other applicable law.

8:65-7.15 Partial filling of prescriptions; schedules III and IV

(a) The partial filling of a prescription for a controlled substance listed in schedule III, IV, or V is permissible, provided that:

1. Each partial filling is recorded in the same manner as a refilling;

2. The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed; and

3. No dispensing occurs after six months after the date on which the prescription was issued.

8:65-7.16 Labeling of substances; schedules III and IV

(a) The partial filling of a prescription for a controlled substance listed in schedule III or IV shall affix to the package a label conforming to the provisions set forth in N.J.S.A. 24:21-17.

(b) The requirements of subsection (a) of this section do not apply when a controlled substance listed in schedule III or IV is prescribed for administration to an ultimate user who is institutionalized: provided, that:

1. Not more than a 34-day supply or 100 dosage units, whichever is less, of the controlled substance listed in schedule III or IV is dispensed at one time;

2. The controlled substance listed in schedule III or IV is not in the possession of the ultimate user prior to administration;

3. The institution maintains appropriate safeguards and records the proper administration, control, dispensing and storage of the controlled substance listed in schedule III or IV; and

4. The system employed by the pharmacist in filling a prescription is adequate to identify the supplier, the product, and the patient, and to set forth the directions for use and cautionary statements, if any, contained in the prescription or required by law.

8:65-7.17 Filing prescriptions; schedules III and IV

All prescriptions for controlled substances listed in schedules III and IV shall be kept in accordance with N.J.A.C. 8:65-5.17.

8:65-7.18 Requirement of prescriptions; schedule V

(a) A pharmacist may dispense directly a controlled substance listed in schedule V pursuant to a prescription as required for controlled substances listed in N.J.A.C. 8:65-7.13 schedules III and IV. A prescription for a controlled substance listed in schedule V may be refilled only as expressly authorized by the prescribing individual practitioner on the prescription; if no such authorization is given, the prescription may not be refilled. A pharmacist dispensing such substance pursuant to a prescription shall label the substance in accordance with N.J.A.C. 8:65-7.16 and file the prescription in accordance with N.J.A.C. 8:65-7.17.

(b) An individual practitioner may administer or dispense directly a controlled substance listed in schedule V in the course of his professional practice without a prescription, subject to N.J.A.C. 8:65-7.7.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in schedule V only pursuant to a written prescription signed by the prescribing individual practitioner or pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist (containing all information required in N.J.A.C. 8:65-5.4(b) except for the signature of the prescribing individual practitioner), or pursuant to an order for medication made by an individual practitioner, which is dispensed for immediate administration to the ultimate user, subject to N.J.A.C. 8:65-7.7.

(d) The transfer of original prescription information for a controlled dangerous substance listed in schedule V for the purpose of refill dispensing is permissible between pharmacies on a one time basis subject to the following requirements:

1. The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information:

i. Write the word "VOID" on the face of the invalidated prescription;

ii. Record on the reverse of the invalidated prescription the name, address and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information;

iii. Record the date of the transfer and the name of the pharmacist transferring the information.

2. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

i. Write the word "TRANSFER" on the face of the prescription;

ii. Provide all information required to be on a prescription pursuant to N.J.S.A. 24:21-17 and include:

(1) Date of issuance of original prescription;

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(2) Original number of refills authorized on original prescription;

(3) Date of original dispensing;

(4) Number of valid refills remaining and date of last refill;

(5) Pharmacy's name, address and DEA registration number and original number from which the prescription information was transferred;

(6) Name of transferor pharmacist.

3. Both the original and transferred prescription must be maintained for a period of two years from the date of the last refill.

4. Pharmacies electronically accessing the same prescription record must satisfy all information requirements of a manual mode for prescription transferral.

5. The procedure allowing the transfer of prescription information for refill purposes is permissible only if allowable under existing State or other applicable law.

8:65-7.19 Dispensing without prescription

(a) A controlled substance listed in schedule V, and a controlled substance listed in schedule II, III, or IV which is not a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that:

1. Such dispensing is made only by a pharmacist (as defined in 8:65-7.1), and not by a nonpharmacist employee even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his professional and legal responsibilities set forth in this section, the actual cash, credit transaction, or delivery, may be completed by a nonpharmacist);

2. Not more than 240 cc. (eight ounces) of any such controlled substance containing opium, nor more than 120 cc. (four ounces) of any other such controlled substance nor more than 48 dosage units of any such controlled substance containing opium, nor more than 24 dosage units of any other such controlled substance may be dispensed at retail to the same purchaser in any given 48-hour period;

3. The purchaser is at least 18 years of age;

4. The pharmacist requires every purchaser of a controlled substance under this Section not known to him to furnish suitable identification (including proof of age where appropriate);

5. A bound record book for dispensing of controlled substances under this Section is maintained by the pharmacist, which book shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or initials of the pharmacist who dispensed the substance to the purchaser (the book shall be maintained in accordance with the record-keeping requirement of N.J.A.C. 8:65-5.4); and

(b) A prescription is not required for distribution or dispensing of the substance pursuant to an other Federal, State or local law.

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

General Assistance Manual Outpatient Facility Services

Adopted Amendment: N.J.A.C. 10:85-5.3

Proposed: October 1, 1984 at 16 N.J.R. 2488(a).

Adopted: December 12, 1984 by George J. Albanese,
Commissioner, Department of Human Services.

Filed: December 13, 1984, as R.1984 d.593, **without change.**

Authority: N.J.S.A. 44:8-111(d).

Effective Date: January 7, 1985.

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.

10:85-5.3 Other medical payments

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

(c) Outpatient facility services are as follows:

1. Hospital emergency room: The director of welfare shall authorize payment at the rate regularly charged by the hospital or a lesser rate if such has been negotiated between the MWD and the hospital.

2. Hospital clinics: The director of welfare shall authorize payment at the rate regularly charged by the hospital or a lesser rate if such has been negotiated between the MWD and the hospital.

3. Independent clinics: The director of welfare shall authorize payment for physician services and other professional provider services, X-ray (diagnostic therapeutic, and so forth) and laboratory services, at the Medicaid rate or at a lesser rate if such has been negotiated between the clinic and the MWD.

4. (No change in text.)

(d)-(i) (No change.)

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(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Appeals

Readoption with Amendments: N.J.A.C. 13:2-17

Proposed: November 5, 1984 at 16 N.J.R. 2954(a).
Adopted: December 11, 1984 by John F. Vassallo, Jr.,
Director, Division of Alcoholic Beverage Control.
Filed: December 17, 1984 as R.1984 d.608, **without change.**

Authority: N.J.S.A. 33:1-22, 1-23, 1-26, 1-38, 1-39, 1-40 and 1-41.

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

Full text of the readoption with adopted amendments follows.

13:2-17.1 Notice and petition of appeal; contents; fee
All appeals to the Director shall be commenced by the filing, in duplicate, of a notice and petition of appeal to the director of the Division of Alcoholic Beverage Control, setting forth the identity of the parties involved in the appeal, the subject matter of the appeal, the date and the action of the issuing authority from which the appeal is taken, the relief sought and the grounds therefor and a fee of \$50.00 payable to the Director, Division of Alcoholic Beverage Control.

13:2-17.2 Service of notice and petition of appeal
The appellant shall first serve, personally or by ordinary mail, a copy of the notice and petition of appeal upon the respondent issuing authority and, where the action appealed from is the grant, transfer or extension of a license, or the refusal to revoke or suspend a license, a copy shall also be so served upon the licensee, who shall also be joined as a respondent. The notice and petition of appeal, together with an acknowledgement or affidavit of service, must be filed with the director within the time set forth in N.J.A.C. 13:2-17.3.

13:2-17.3 Time for appeal
Appeals by any taxpayer or other aggrieved person from the issuance of a license or from the grant of an application for the extension or transfer of a license must be taken within 30 days from the date of issuance, extension or transfer of the license. All other appeals by a licensee or applicant for a license must be taken within 30 days after the personal service or mailing by registered mail of notice by the municipal issuing authority of the action taken against the licensee or the applicant.

13:2-17.4 Answer
Within 10 days after service of the notice and petition of appeal, each respondent shall file, in duplicate, an answer

with the director and serve a copy thereof on each of the parties to the appeal. The answer filed by the respondent issuing authority shall include a statement of the grounds for its action, together with a copy of the subject resolution.

13:2-17.5 Jurisdiction
Upon filing of the notice and petition of appeal and answer, the director shall determine whether the case is contested. If the director determines that the case is contested, he shall either file it with the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.1 or retain it under the provisions of N.J.S.A. 52:14F-8.

13:2-17.6 De novo hearing; burden of proof
All appeals shall be heard de novo, except as otherwise provided in N.J.A.C. 13:2-17.8. The burden of establishing that the action of the respondent issuing authority was erroneous, and should be reversed, shall rest with appellant.

13:2-17.7 Public hearing
All appeals shall be heard at the office of the Division of Alcoholic Beverage Control or designated location by the Office of Administrative Law, whichever agency is hearing the case, and shall be open to the public, unless otherwise directed by the director or Administrative Law Judge, whichever is hearing the case, pursuant to the standards set forth in N.J.A.C. 1:1-3.1.

13:2-17.8 Stipulations, offer of transcript
Where none of the material facts is disputed, the appeal may be presented, subject to the approval of the director or Administrative Law Judge, whichever is hearing the case, upon an agreed statement of facts. Where there is available a stenographic transcript or electronic recording of the proceedings before the issuing authority, either party may, if at least three days notice of intention so to do has been given opposing parties, or counsel therefor, offer the transcribed record thereof in lieu of producing said witnesses at the hearing of the appeal. In such event, any party may produce any additional evidence, oral or documentary, at the hearing of the appeal. Subject to the approval of the director or Administrative Law Judge, whichever is hearing the case, the parties may agree to present the appeal solely upon such stenographic or electronic transcript.

13:2-17.9 Subpoenas
Subpoenas and subpoenas duces tecum, signed by the director or Administrative Law Judge for the attendance of witnesses and the production of books, records and other documents at the hearing on the appeal, may be obtained by the parties upon request.

13:2-17.10 Failure to appear; failure to comply with orders or hearing requirements; obstructing the orderly conduct of proceedings
The failure of any party to an appeal to appear at a scheduled hearing, conference or motion, without just excuse or because of failure to give reasonable attention to the matter; the unreasonable failure to comply with an order or hearing requirements; or the engaging in behavior that obstructs the orderly conduct of proceedings by any party, attorney at law or other representative of a party may result in the imposition of sanctions and penalties as proscribed in N.J.A.C. 1:1-3.5.

13:2-17.11 Stays

An appeal from a suspension or revocation of a license shall act as a stay of such suspension or revocation pending the determination thereof, unless the director at the time of the filing of the appeal shall otherwise order. All other appeals shall not stay the effect of the action appealed from unless otherwise ordered by the director or Administrative Law Judge.

13:2-17.12 Extension of license term

Upon appeal from the denial of an application for renewal of a license the director may, at the time of the filing of the appeal, in his discretion, issue an order upon respondent issuing authority to show cause why the term of the license should not be extended pending the determination of the appeal, together with the ad interim relief extending the term of the license pending the return of the order to show cause and until further order of the director or Administrative Law Judge. If it shall appear upon the return of the order to show cause that a substantial question of fact or law has been raised, and that irreparable injury to the appellant would otherwise result, the director, or Administrative Law Judge, may, subject to such conditions as may be imposed, order that the term of the license be extended pending a final determination of the appeal.

13:2-17.13 Transfer, extension or renewal subject to appeal

When appeal is taken in any matter, any transfer, extension or renewal of any license involved therein shall be subject to the ultimate outcome of such appeal, unless otherwise ordered in the final administrative determination of the case.

13:2-17.14 Hearing procedure

Upon determination that the matter is a contested case, the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1-1.1 et seq.) shall govern the conduct of the case, except where the matter is submitted for determination upon an agreed statement of facts pursuant to N.J.A.C. 13:2-17.8.

13:2-17.15 Reserved

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Disciplinary Proceedings

Readoption with Amendments: N.J.A.C. 13:2-19

Proposed: November 5, 1984, at 16 N.J.R. 2957(a).
Adopted: December 11, 1984, by John F. Vassallo, Jr.,
Director, Division of Alcoholic Beverage Control.
Filed: December 17, 1984, as R.1984 d.606, **without change**.
Authority: N.J.S.A. 33:1-23, 1-31 and 1-39.

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. 13:2-19.

Full text of the adopted amendments to the readoption follows.

13:2-19.6 Jurisdiction and hearing procedure

(a) A Division instituted disciplinary proceeding shall be considered a contested case upon the entry of a "not guilty" plea by the licensee or upon the failure of the licensee to enter a timely plea. Contested cases shall be filed with the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.1 or retained by the Director under the provisions of N.J.S.A. 52:14F-8. Upon determination that the matter is a contested case, the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1-1. et. seq.) shall govern the conduct of the case.

(b) In uncontested cases before the division, written argument as to penalty may be submitted to the director within 10 days after entry of the plea. No oral argument may be had before the director, unless, on his own motion, the director decides to hear oral argument and notifies the parties or their attorneys of the time and place fixed therefore.

(b)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Seizure Hearings

Readoption: N.J.A.C. 13:2-31

Proposed: November 5, 1984, at 16 N.J.R. 2959(a).
Adopted: December 11, 1984, by John F. Vassallo, Jr.,
Director, Division of Alcoholic Beverage Control.

Filed: December 17, 1984, as R.1984 d.602, **without change**.

Authority: N.J.S.A. 33:1-23, 1-27, 1-39, 1-55, 1-66 and 33:2-1 et seq.

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

Full text of the readoption with adopted amendments follows:

13:2-31.1 Hearings generally

(a) Contested case hearings to determine whether seized property constitutes unlawful property and shall be forfeited, shall be conducted according to N.J.A.C. 1:1-1 et seq. and either retained by the Director under the provisions of N.J.S.A. 52:14F-8 or filed with the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.1. Such hearings shall be open to the public unless otherwise directed by the Director or Administrative Law Judge, whichever is hearing the case, pursuant to the standards set forth in N.J.A.C. 1:1-3.1.

13:2-31.2 Procedures; return of property seized

(a) Prior to final determination by the Director, claims for the return of property seized under N.J.S.A. 33:1-66 or N.J.S.A. 33:2-3 may be made to the Director upon payment

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in cash, under protest, of the retail value of the seized property, or upon the posting of a proper bond with sureties satisfactory to the Director in a sum double the retail value of the property. In lieu of such cash bond or surety bond, a claimant may institute an action for replevin against the Director in any court of competent jurisdiction according to the forms and procedure, including the delivery of a bond, of such court; such action to be commenced within 30 days from the seizure of such property and not thereafter. The Director may, in his discretion, refuse to entertain any such claim for the posting of a bond to obtain return of the property seized made more than 30 days from the date of the final order of forfeiture.

(b) The Director's appraisal of the retail value of seized property, upon claim for its return, shall be controlling.

(c) A person making payment in cash, or the posting of a proper bond, under protest, may either institute suit to recover such payment in a court of competent jurisdiction under the provisions of N.J.S.A. 33:1-66 or elect, by written stipulation satisfactory to the Director, to have the matter heard as a contested case and to have the Director decide whether the claim shall be recognized or denied, and whether such cash or bond should be forfeited or returned.

13:2-31.3 Forfeiture of seized property

(a) The order of forfeiture of seized property after hearing terminates all property interests therein and in any proceeds therefrom, including the interests of the owner, any conditional vendor, chattel mortgagee or lienor. The standards and procedure on claims addressed to the Director for the return of unlawful property or recognition of outstanding interests therein shall be as provided in (b), (c) and (d) below.

(b) Claims may be made by the person whose property has been seized or forfeited for the return of seized property on the ground that the claimant has acted in good faith and has unknowingly violated the law, by presenting evidence to that effect at the hearing. The Director may require a claimant to file a verified petition setting forth in detail all of the facts relied upon. Where the Director is satisfied that the claimant has acted in good faith and has unknowingly violated the law, he may order the return of the property upon payment by claimant of reasonable costs of seizure and storage.

(c) Claims may be made by any person having a bona fide and valid lien upon or interest in the seized or forfeited property for the recognition of the validity and priority of such lien or interest, by presenting evidence at the hearing that such claimant has acted in good faith, and had no knowledge of the unlawful use to which the property was put, or of such facts as would have led a person of ordinary prudence to discover such use. The Director may require such claimant to file a verified petition setting forth in detail the facts relied upon. Where the validity and priority of such lien or interest, the claimant's good faith and lack of knowledge of the unlawful use, and the absence of such facts as would have led a person of ordinary prudence to discover such use, have been established to the satisfaction of the Director, he may order the return of the property to the claimant where it appears that the amount or value of such lien or interest exceeds the value of the property plus costs upon payment of reasonable costs of seizure and storage; or order the retention thereof for the use of the State conditioned upon the payment of the lien or interest less costs of seizure and storage; or order the sale thereof upon condition that the payment of the lien or interest shall be made out of the proceeds of sale, after first deducting the reasonable costs of seizure and storage.

(d) Claims may be made by a common carrier whose vehicle has been seized for return of the vehicle by filing a verified petition with the Director substantiating such interest, together with a statement that claimant has acted in good faith and had no knowledge at the time of the seizure that the vehicle contained illicit alcoholic beverages. The Director may, in his discretion, if satisfied that these facts are established, order the return of the seized vehicle to the common carrier.

13:2-31.4 Hearing procedure

(a) Upon determination that the matter is a contested case, the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1-1.1 et seq.) shall govern the conduct of the case.

(a)

DIVISION OF STATE POLICE

Motor Vehicle Race Track

Adopted Repeal and New Rules: N.J.A.C. 13:22

Proposed: October 1, 1984 at 16 N.J.R. 2503(a).
Adopted: November 20, 1984 by Colonel Clinton L. Pagano, Superintendent, Division of State Police.

Filed: December 12, 1984, as R.1984 d.591, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 5:7-8 et seq., specifically 5:7-14 and Executive Directive 1982-2 of Attorney General Kimmelman.

Effective Date: January 7, 1985.

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

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

**CHAPTER 22
MOTOR VEHICLE RACE TRACK RULES**

SUBCHAPTER 1. DEFINITIONS

13:22-1.1 Words and phrases defined

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

"Acceleration and performance test" means a straightaway race against time or another vehicle, including acceleration and deceleration.

"Ambulance" means a motor vehicle certified to provide emergency medical services pursuant to the New Jersey Highway Safety Act of 1971 (N.J.S.A. 27:5F-1 et seq.).

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"Go-cart" means a small four-wheeled vehicle consisting of a frame, seat, one or more engines mounted to the rear of the driver's seat, steering mechanism and a braking system, and having no spring suspension system.

"Go-cart racing event" means a race involving vehicles commonly known as go-carts as defined in this chapter, either on a circular or oval track or on a road course involving curves, chicanes or other track characteristics designed to simulate varied road conditions.

"Motorcycle special events" include motorcrosses, scrambles and other events utilizing open road courses.

"Pit area" means that portion of a racing location where vehicles are serviced, repaired or refueled during a racing event.

"Racing event" means a motor vehicle race or exhibition of driving skill, including that time period proper to the actual race or exhibition, as well as the time period during the race or exhibition and until the conclusion of the race or exhibition wherein all competing vehicles have been removed from the racing surface.

"Reaction powered vehicles" means vehicles powered by jet or rocket engines.

"Snowmobile" means an engine driven motor vehicle designed primarily ***to travel*** over ice or snow of a type that uses sled type runners, skis, continuous belt tread, cleats or any combination of these similar means of contact with the surface upon which it is operated.

"Snowmobile racing event" means a race involving vehicles commonly known as snowmobiles as defined in this chapter on a circular or oval track, a road course involving curves, chicanes, or a straightaway race against time or other snowmobiles.

"The Superintendent" means the Superintendent of the Division of State Police.

"Thrill shows" means events specifically designed to demonstrate driving skill including, but not limited to ramp jumps and events requiring the intentional crashing of participating vehicles.

"Trained first aid attendant" means a person certified to provide emergency medical services pursuant to the "New Jersey Highway Safety Act" (N.J.S.A. 27:5F-1, et seq.).

SUBCHAPTER 2. MOTOR VEHICLE RACE TRACK LICENSE REQUIREMENTS AND LICENSEE RESPONSIBILITIES

13:22-2.1 License application procedure

(a) The application for a motor vehicle race track license must be submitted at least 90 days prior to the first day of racing or exhibition. An application for renewal of a license must be submitted within 60 days of the expiration date of the license and is to be accompanied by:

1. Insurance certificate;
2. Duplicate of the insurance policy;
 - i. The policy must be issued by a company approved by the Superintendent;
 - ii. The policy and the certificate are to contain a statement to the effect that they are noncancellable except upon 30 days prior written notice to the Superintendent;
3. A certified check or postal money order in the amount prescribed by law as the license fee;
4. A certification from the building inspector of the municipality where the track is located to the effect that he has inspected the spectator seats and found them safe for use.

Where the municipality does not have a building inspector, or a building code, a certification from a New Jersey State licensed structural engineer may be accepted. The approval of the building inspector, or other recognized authority, must be delivered to the office of the Superintendent of the Division of State Police, Division Headquarters, P.O. Box 7068, West Trenton, New Jersey 08625, anytime up to 24 hours before the first race is to run.

5. A sketch or sketches of the track and associated areas, as near to scale as practicable, indicating the location of required safety features such as hub rails, fences, light or flagman positions, spectator seating, entrances and exits, pit facility locations and other physical factors affecting the safety of spectators and participants. This requirement shall not apply to locations licensed prior to January 1, 1963, unless alterations are made to the track and associated areas on or after January 1, 1963.

13:22-2.2 Licensee's responsibility

The licensee is responsible for any violations of N.J.S.A. 5:7-8 et seq. or any of the provisions of this chapter.

13:22-2.3 Restrictions upon licensee

(a) The Superintendent may impose reasonable restrictions upon any licensee.

(b) The restrictions may include, but shall not be limited to:

1. Requirements for special protective devices for the participants in, or spectators attending, any race or exhibition;
2. Limitations concerning spectator areas;
3. Limitations concerning types of events and classes of vehicles;
4. Requirements for the protection of participants and spectators.

(c) The licensee will comply with any special restriction imposed by the Superintendent after receiving written notice thereof from the Superintendent.

(d) In addition to the restrictions specified in (b) above, the use of the following types of vehicles and/or events are prohibited, unless approved in writing by the Superintendent:

1. Reaction powered vehicles;
2. Thrill shows.

13:22-2.4 Rule modification

(a) When modification of a rule is warranted to meet the needs of a particular event, the Superintendent may temporarily modify a rule provided:

1. The modification will not adversely affect the safety of the public or participants at a racing event.

2. Request for a modification must be made in writing to the Superintendent at least 20 days prior to the racing event.

3. The request must contain a sufficient description of the event and the specific rule which the licensee is requesting to be modified.

4. The Superintendent shall notify the licensee of his determination prior to the racing event.

13:22-2.5 Infield pit areas; inspection

(a) Tracks having the pit area in the infield of a substantially circular or oval track will be subject to special inspection to determine whether arrangements are sufficient to provide reasonable protection for pit area personnel.

(b) Such inspection will be made following application to the Superintendent which shall be filed in conjunction with the application for the race track license.

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13:22-2.6 Alcoholic beverages and drugs

(a) No alcoholic beverages, nor narcotic, hallucinogenic or habit producing drugs will be permitted on the race track proper, the pit area, or any other area having unrestricted access to the race track proper. No person who has partaken of any alcoholic beverage or narcotic, hallucinogenic or habit producing drug in any amount whatsoever shall participate in any race or exhibition of driving skill, or perform any duties in the pit or pit area.

(b) Any vehicle containing alcoholic beverages or narcotic, hallucinogenic or habit producing drugs, and any person found to have partaken of alcoholic beverages or narcotic, hallucinogenic or habit producing drugs shall be removed from the pit area as soon as is practicable.

(c) No person who has been convicted of the use or possession *[or]* *of* a "controlled dangerous substance," as provided in N.J.S.A. 24:21-20, shall be permitted to enter into a pit area for a period of one year from the date of conviction.

13:22-2.7 Pit credentials

(a) The track management shall be responsible for the issuance of pit credentials and only those credentials issued by the track management shall be recognized as valid.

(b) Only persons holding pit credentials shall be admitted to the pit area or racing area.

(c) The issuance of pit credentials shall be limited to:

1. Mechanics assigned to race cars with a maximum of four to each car;
2. Drivers having cars entered in one of the events in the race;
3. Members of the track staff having business in the pit areas;
4. Race officials; and
5. Accredited photographers and reporters of the working press.

(d) The track management shall be responsible for the checking of credentials of persons entering the pit area to determine that no person shall enter the pit area or engage in a race or exhibition unless such person shall produce credentials showing his age to be at least 18 years.

(e) The licensee or the Superintendent may require a person to produce satisfactory evidence attesting to said person's physical and mental well-being as a prerequisite to obtaining permission to enter the pit area. Such evidence shall be on a form signed by a New Jersey licensed physician.

13:22-2.8 Announcements

(a) It shall be the responsibility of the licensee to make a suitable announcement over the public address system in the pit area, advising the public and pit personnel of the following:

1. The minimum age of persons permitted in the pit area;
2. The prohibition against smoking in the area where fuel is stored or refueling of vehicles takes place;
3. The prohibition against the use of alcoholic beverages in the pit area; and
4. The prohibition against the use of narcotic, hallucinogenic or habit producing drugs in the pit area.

(b) Such announcement is to be made approximately 15 minutes before the start of the day's program and periodically during the program.

(c) A sign shall be posted at all entrances to the pit area advising authorized persons in the pit area of the prohibition against the possession or use of alcoholic beverages or narcotic, hallucinogenic or habit producing drugs in the pit area,

of the prohibition against smoking in areas where fuel is stored or refueling of vehicles takes place, and of the minimum age of persons permitted in the pit area.

13:22-2.9 Monthly reports

The licensee shall file with the Superintendent a monthly report on the form approved and provided by the Superintendent. This report shall include the date of racing events held in the reported month, the type of event, the attendance, the number of vehicles entered, and an account of accidents resulting in personal injury or property damage, as well as an account of any other unusual incidents occurring at the track during the reporting period.

13:22-2.10 Accident reports and impounding of certain vehicles

(a) Accidents involving injury or death must be reported to the office of the Superintendent, by telephone, no later than 9:00 A.M. of the first business day following the accident.

(b) Such a report must be followed within 48 hours by a complete written report of the accident.

(c) Any vehicle which is involved in a crash resulting in serious or fatal injuries to a driver or spectators thereof shall be impounded by the licensee and *[detailed]* ***detained*** until such time as an inspection of the vehicle may be made by a representative of the Superintendent.

13:22-2.11 Report of deaths to local police

In addition to the reports to the Superintendent, the licensee shall report any accident resulting in a fatality to the police agency having jurisdiction by the quickest means available.

SUBCHAPTER 3. CONSTRUCTION REQUIREMENTS

13:22-3.1 Hubrails

(a) Hubrail construction must comply in all respects with the provisions of N.J.S.A. 5:7-14, or in the alternative, the owner or operator must have written authority for any changes from the Superintendent.

(b) Hubrails must be provided and maintained on the outer circumference of the track and around the entire circumference thereof and where spectators are allowed in the infield or within the inner circumference of the track, a hubrail, as described in this section, will be required around the inner circumference of the track.

(c) The hubrail must consist of at least two planks of hard wood or other suitable material, at least ten inches in width by three inches in thickness.

(d) The hubrail shall be supported by posts of similar material of at least six inches in width and six inches in diameter, or round post not less than seven inches in diameter, which are set in the ground at least four feet and shall extend above the ground at least two feet. The post shall be no higher than the hubrail planking and shall be spaced no more than six feet apart.

(e) The hubrail shall be mounted on the side of the post facing the track and running horizontally and parallel to each other.

(f) On the opposite side of the posts, not more than eight inches from the top thereof, there shall be a three-quarter inch steel cable running around the circumference of the track and securely fastened to the post with eye bolts.

(g) The hubrail entrance and exit gates to the pit area must be closed while vehicles are in motion on the track, unless

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alternate arrangements have been made by the installation of barriers of a type which will prevent cars out of control from leaving the track and entering the immediate pit working area.

(h) Where the licensee wishes to use methods other than gates, an inspection of such installations by a representative of the Superintendent will be required.

(i) The hubrail opening for vehicles shall be so located that a vehicle leaving the track must turn 90 degrees before entering the pit area.

(j) At locations using methods other than gates between the pit area and track, a guard will be required to prevent unauthorized persons from entering the track area.

(k) The use of baled hay or straw or any similar material as a protective device between participating vehicles and spectators is specifically prohibited.

13:22-3.2 Fences

All fences installed for the purpose of limiting spectator areas shall be constructed of welded wire fabric or chain link and shall be at least six feet in height and so constructed as not to be easily lifted, climbed over or moved aside except at motorcross events the fence shall be of the same construction but at least five feet in height.

13:22-3.3 Red and amber lights

(a) Each track used for automotive racing, except those used for acceleration and performance tests, must be equipped with a system of at least four red lights and four amber lights so arranged that at least one light of each color will be visible to the drivers as they enter each turn.

(b) Strips used for acceleration and performance tests need be equipped with only one red light.

(c) The lights shall be so arranged as to be controlled by a single switch and a responsible person must be assigned to be on duty, and to operate such switch during the entire time of each race.

(d) When the red lights are illuminated, all racing vehicles on the track will be required to stop as soon as possible and to remain stopped until such time as the red lights are turned out.

(e) When the amber lights are illuminated, all racing vehicles on the track will be required to slow down and maintain their position unless otherwise directed to change position by a track official.

13:22-3.4 Flagmen

(a) Tracks over one mile in length may use flagmen in lieu of the red and amber lights, provided the assistant flagman in the starter's stand is in constant two-way radio or telephone communication with all flagmen.

(b) Where flags are used, the display of the red flag will cause all racing vehicles to stop as soon as possible and to remain stopped until such time as the red flag is removed from display.

(c) Where flags are used, the display of the amber flag will cause all racing vehicles to slow down and maintain their position.

13:22-3.5 Starters

All circular or oval tracks, road courses and other locations utilizing the services of flagmen to control the event shall also have an assistant flagman in the starter's stand. The assistant flagman used to control or start a race shall be in the starter's stand when starting and during the race.

13:22-3.6 Maximum protection

(a) All hubrails, fences, stands and buildings must be constructed and maintained so as to afford maximum protection for spectators.

(b) Any spectator stand erected or relocated on or after April 1, 1960, must be located at least 25 feet from the hubrail.

SUBCHAPTER 4. SAFETY REQUIREMENTS FOR VEHICLES AND PERSONNEL

13:22-4.1 Safety belts

(a) A quick release type of safety belt, shoulder harness and crotch belt in good condition shall be compulsory on all vehicles other than motorcycles.

(b) Both ends of the safety belt and crotch belt must be fastened to the frame of the vehicle. Both ends of the shoulder harness shall be fastened to the frame of the vehicle and come over a round bar at the driver's shoulder height.

(c) All fittings and connections on the safety belt, shoulder harness and crotch belt must be metal. Belts and harnesses with cloth or plastic fittings or connections may not be used.

(d) The belts and shoulder harness must be in use during the entire time the vehicle is being driven in a race.

(e) All safety belts and shoulder harnesses must bear the date of manufacture and may not be in use for more than five years, except that vehicles of the stock, pure stock and super stock classes, used in acceleration and performance tests, are exempt from this subsection.

13:22-4.2 Inspection of vehicles

(a) Vehicles which are to be used in automobile races or exhibitions of driving skill are subject to inspection and approval at any time by the Superintendent.

(b) The licensee shall arrange for the inspection of each participating vehicle prior to the event, to determine that it meets the requirements of this chapter. Vehicles not meeting the requirements of this chapter are to be barred from participation or practice.

13:22-4.3 Number of persons in vehicle

No vehicle shall carry more than one person at any time during a race or warmup, except that during a bona fide training period an instructor may accompany the trainee.

13:22-4.4 Seats

All seats shall be attached to the frame of the vehicle, the frame of the roll cage or to a substantial metal plate attached to the frame or roll cage with at least six, three line, five-sixteenths inch bolts. Four five-sixteenths inch bolts shall be installed in the base of the seat not more than three inches from the outside edge of the seat at the four most practical, widely spaced points; two bolts shall be installed at the two most practical, widely spaced points at the top of the seat back. A metal strap at least two inches in width and at least one-eighth inch thick shall connect every two bolts.

13:22-4.5 Bumpers

(a) Stock cars shall be equipped with bumpers on the front and rear.

1. The minimum height of the bumpers shall be three inches.

2. The rear bumper, or combination of rear bumper and nerf bar, shall cover the full width of the rear of the vehicle to at least the center of the rear tires.

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3. The rear bumper shall be centered at the height of the rear wheel hub.

4. The front bumper shall be mounted at the same height as the rear bumper and cover the width of the chassis.

5. Stock bumpers shall be acceptable if mounted at a height common to all competitors in a race.

6. The bumper height of all competing vehicles in a race shall meet the specifications of this section and be of common height.

13:22-4.6 Doors

Race cars equipped with bodies having permanent tops shall have doors on the driver's side secured by welding, metal straps or "U" bolts installed with the nuts on the outside of the body, or other arrangement approved by the Superintendent. Where "U" bolts are used, nuts on the "U" bolts must be of the wing-nut type with free-running standard threads.

13:22-4.7 Roll-over bars

(a) All race cars shall be equipped with roll-over bars of a design, construction and quality approved by the Superintendent and maintained with a view toward affording the driver maximum protection against injury.

1. Roll-over bars installed in race cars must be a minimum of three inches above, and six inches behind the driver's head.

2. Roll-over bars must be bolted or welded to the frame of the car.

3. Roll-over bars welded, bolted or otherwise fastened to the floor of the car will not be permitted.

4. All roll-over bars must be plainly visible so as to be readily inspected, with the exception that built-in or integral roll-over bars will be accepted; provided, that the Superintendent is furnished with a manufacturer's detailed drawing showing the existence, dimensions and material of the integral roll-over bar.

13:22-4.8 Nerfing bars

(a) Race cars of the so-called "midget" and "stock" type shall be equipped with auxiliary bumpers, sometimes known as "nerfing bars", of a construction and design approved by the Superintendent.

(b) "Nerfing bars" shall extend within two inches of, but not beyond, the outside edge of the tire.

(c) All stock cars shall be equipped with "nerfing bars" unless the vehicle body is of such a design so as to preclude the need for "nerfing bars" as a safety device.

13:22-4.9 Exhaust system

(a) The outlet for the exhaust system shall be outside the vehicle and shall extend at least to the rear of the front fire wall on closed racing cars.

(b) The exhaust system shall be so constructed as to prevent the escape of exhaust gases except at the outlet.

13:22-4.10 Fire wall and flooring

(a) All vehicles participating in races shall have suitable metal flooring and a metal fire wall between the fuel supply and the driver and between the engine and the driver.

(b) Any vehicle equipped with an automatic transmission shall have a steel safety mat, plate, or blanket installed over the transmission so as to protect the driver from injury caused by fragmentation of the automatic transmission upon explosion.

(c) The drive shaft of any vehicle shall be enclosed or secured, front and rear, by a steel strap one-quarter inch by

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one inch, a one-half inch steel rod, or one inch steel tubing with .06 wall thickness.

13:22-4.11 Fuel lines and fuel pumps

(a) No fuel line or fuel pump will be permitted in the driver's compartment unless shielded properly to prevent leakage in the event the line or pump is damaged or broken.

(b) Fuel lines must be more than three inches from the headers or, if closer than three inches, be shielded by metal.

13:22-4.12 Batteries

Wet cell batteries, if located in the driver compartment, shall be shielded to prevent leakage in the event of damage or turnover.

13:22-4.13 Braking system and pedal reserve

(a) A representative of the track licensee will be required to test and approve each race car for brake pedal reserve before the car leaves the pit area to enter the track.

(b) No vehicle shall be permitted to participate in any race or exhibition if the braking system includes the direct application of pressure to any of the tires.

13:22-4.14 Fuel tanks

(a) All stock cars must have a fuel tank located within the frame of the vehicle.

(b) A reinforcing member of the same kind and size material as that used in the roll cage or chassis shall be installed to the rear of the fuel tank joining the rearmost portion of the chassis.

(c) Fuel tanks must be secured by at least three steel straps. Each strap shall be a minimum of one inch wide and one-eighth inch thickness. Each strap shall be bolted with at least two five-sixteenths inch three line bolts. Rubber protection shall be placed between the strap and the tank for all tanks other than fuel cells.

13:22-4.15 Tires

(a) No vehicle will be permitted to participate in any race or acceleration and performance test if the tires are equipped or fitted with any studs, hobs or other projections.

(b) This section is not intended to prohibit the use of rubber knobbed tires normally used on dirt race tracks.

13:22-4.16 Ignition switch

All vehicles participating in races shall have an ignition switch which is easily accessible within the driver's compartment. The ignition switch shall be conspicuously labeled.

13:22-4.17 Fuel supply shut-off valve

(a) All vehicles participating in races shall be equipped with a fuel shut-off valve which is easily accessible within the driver's compartment.

(b) The fuel shut-off valve shall be conspicuously labeled with a brightly colored paint.

13:22-4.18 Repairs

No repairs may be made on any vehicle during the course of a race unless the vehicle is removed to the pit area.

13:22-4.19 Drivers

(a) No driver shall compete in any event with his head or arm extended outside of the doors or windows of a race car.

(b) Drivers competing in oval or road course type racing, with the exception of go-cart and field trial events, are re-

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quired to wear fire resistant underwear and one-piece fire resistant clothing covering their body, legs and arms. The material used in the manufacture of this clothing must be approved by the Superintendent before use in any racing event.

(c) Drivers competing in oval or road course type racing, with the exception of go-cart racing, motorcycle events and field trial events, are required to wear gloves of a fire resistant material approved by the Superintendent.

13:22-4.20 Helmets and head cushions

(a) All drivers, except drivers of stock diesel truck tractors competing in acceleration and performance tests, participating in races and exhibitions of driving skill must wear a safety helmet which meets or exceeds the American National Standard Institute (A.N.S.I.) Z-90.1 testing standard and is approved by the Superintendent.

(b) All closed cockpit vehicles used in oval racing shall be equipped with a head cushion attached to the roll bar or to the back portion of a one-piece seat. The cushion shall be mounted so that it shall be at the approximate height of the center of the driver's helmet.

(c) The head cushion shall be a minimum of sixteen square inches in area with at least two inch thick padding. The minimum length of any side of the head cushion shall be four inches.

13:22-4.21 Goggles or face shield

(a) Windproof, shatterproof goggles or a face shield of the type specified in N.J.A.C. 13:20-24.3 and 13:20-24.6 must be worn by drivers of all vehicles not equipped with windshields.

(b) Stock cars without complete windshields shall have the rear of the hood sealed or shall be equipped with a deflector so as to prevent hot liquids from entering the driver's compartment.

13:22-4.22 Window nets; arm restraints

(a) All closed cockpit vehicles used in competition on an oval or road course track shall be equipped with an approved window net.

(b) Drivers competing in vehicles wherein the seat is located in the middle of the vehicle may use arm restraints or such other device as approved by the Superintendent in lieu of the window net.

13:22-4.23 Ambulances; first aid attendant

No race or exhibition of driving skill shall be conducted unless there is available for immediate use at the licensed location at least one vehicle suitable for ambulance purposes, together with one trained first aid attendant.

13:22-4.24 Fire fighting equipment

(a) No race or exhibition of driving skill shall be conducted unless there is available at suitable locations around the track Class B Underwriter labeled approved fire extinguishers.

(b) All extinguishers shall be fully charged at the beginning of each day's activities.

(c) All extinguishers shall be checked at least once a year and carry a label to show the date of inspection.

(d) In addition there shall be a reserve consisting of a recognized paid or voluntary fire company with their equipment or at least 150 points of dry chemical available to move to the scene of any major fire.

13:22-4.25 Wreckers

(a) Only authorized personnel shall be permitted to ride on any wrecker.

(b) No person shall be permitted to ride outside the cab of any wrecker.

(c) Wreckers shall be operated with due care and circumspection.

13:22-4.26 Refueling

(a) In all instances where refueling is permitted with the engine running, it is required that a member of the pit crew equipped with an approved type fire extinguisher be in close proximity to the fill pipe of the fuel tank.

(b) Smoking shall not be permitted in any area where fuel is being transferred or stored.

(c) The use of welding and acetylene torches are not permitted in any area where fuel is being transferred or stored unless a fully charged fire extinguisher is in close proximity.

13:22-4.27 Water overflow tanks

Water overflow tanks or reservoirs shall not be installed inside the driver compartment. Tanks or reservoirs mounted in the roll cage must be fully shielded to protect the driver.

13:22-4.28 Security personnel

(a) The licensee shall furnish sufficient security protection to maintain peace and good order.

(b) Guard personnel will be furnished by the licensee at each unlocked gateway between the spectator areas and the track and/or pit areas.

(c) Guard personnel will be furnished by the licensee at each unlocked gateway between the pit area and the track area.

SUBCHAPTER 5. SAFETY REQUIREMENTS FOR VEHICLES AND PERSONNEL: OPEN COCKPIT

13:22-5.1 Safety belts, shoulder harness and crotch belt

(a) A quick release type of safety belt, shoulder harness and crotch belt in good condition shall be compulsory on all vehicles.

(b) Both ends of the safety belt, shoulder harness and crotch belt must be fastened to the frame of the vehicle.

(c) All fittings and connections of the safety belt, shoulder harness and crotch belt must be metal.

(d) The belt and shoulder harness must be in use during the entire time the vehicle is being driven in a race.

(e) All safety belts and shoulder harnesses must bear the date of manufacture and may not be used for more than five years from that date.

(f) The shoulder harness shall be secured to the frame of the vehicle and come over a round bar at the driver's shoulder height.

13:22-5.2 Inspection of vehicles

Vehicles which are used in automobile races or exhibitions of driving skill are subject to inspection and approval at any time by the Superintendent.

13:22-5.3 Number of persons in vehicle

No vehicle shall carry more than one person at any time during a race or warm-up.

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13:22-5.4 Seats

A molded metal or fiberglass seat with openings which allow a seat belt bolted to the frame to come through, shall be attached to the frame with at least four three line five-sixteenth inch bolts. Two bolts shall be installed at the bottom of the seat not more than three inches from the outside edge and two bolts shall be installed at the two most practical widely spaced points at the top of the seat back. A metal strap at least two inches in width and at least one-eighth inch thick shall connect each two bolts.

13:22-5.5 Bumpers

- (a) All vehicles shall be equipped with bumpers on the rear.
- (b) The bumper shall be fastened to the frame or structural component of the car.
- (c) The width of the bumper must be as high as the center of the wheel and at least two inches in height.

13:22-5.6 Roll-over bars

- (a) All vehicles shall be equipped with a roll-over bar of a design, construction and quality approved by the Superintendent and maintained with a view toward affording the driver maximum protection against injury.
- (b) Roll-over bars must be a minimum of three inches above the driver's head.
- (c) Roll-over bars must be bolted or welded to the frame of the car.

13:22-5.7 Nerfing bars

- (a) All vehicles shall be equipped with auxiliary bumpers, also known as nerfing bars, of a construction and design approved by the Superintendent.
- (b) Nerfing bars shall extend within two inches of, but not beyond, the outside edge of the tire.

13:22-5.8 Exhaust system

- (a) The outlet for the exhaust system shall be outside of the vehicle and extend at least to the rear of the front firewall.
- (b) The exhaust system shall be designed and constructed so as to direct the exhaust flow out and away from the driver.

13:22-5.9 Firewall and flooring

- (a) All vehicles shall have suitable metal flooring from the front firewall to the center of the driver's seat.
- (b) All vehicles shall have a permanent firewall between the fuel supply and driver, unless the fuel supply consists of a shell with an inner rubber bladder in which case the firewall is not required.

13:22-5.10 Fuel lines and fuel pumps

- (a) No fuel line or fuel pump will be permitted in the driver's compartment unless shielded properly to prevent leakage in the event the line or pump is damaged or broken.
- (b) Fuel lines must be more than three inches from the headers, or if closer than three inches, be shielded by metal.

13:22-5.11 Batteries

Wet cell batteries, if located in the driver compartment, shall be shielded to prevent leakage in the event of damage or turnover.

13:22-5.12 Braking system and pedal reserve

- (a) A representative of the track licensee will be required to test and approve each race car for pedal reserve before the car leaves the pit area to enter the track.

- (b) No vehicle shall be permitted to participate in any race or exhibition if the braking system includes the direct application of pressure to any of the tires.

13:22-5.13 Fuel tanks

- (a) Vehicles using a self-contained unit with an inner rubber bladder must be bolted to the frame of the vehicle with at least three five-sixteenths-inch three line bolts.
- (b) If the unit is not bolted to the frame, a one inch metal strap, two-eighths inch thick, bolted to the frame of the vehicle by at least two three-eighths inch three line bolts and angled in such a manner so as to apply maximum pressure against the tank to the frame, is required.
- (c) A conventional type tank must be bolted within the frame of the vehicle.
- (d) A reinforcing member of the same kind and size material as that used in the roll cage or chassis shall be installed to the rear of the fuel tank joining the rear most portion of the chassis.

- (e) A vehicle utilizing a fuel tank mounted to the front of the front firewall shall have a reinforcing member of the same kind of material as that used in the roll cage or chassis, installed in such a manner as to afford maximum protection to the tank.

13:22-5.14 Tires

- (a) No vehicle will be permitted to participate in any race if the tires are equipped or fitted with any studs, hobs, or other projections.
- (b) This section is not intended to prohibit the use of rubber knobbed tires normally used on dirt race tracks.

13:22-5.15 Ignition switch

All vehicles shall have an ignition switch which is easily accessible within the driver compartment. The switch shall be conspicuously labeled.

13:22-5.16 Fuel supply shut-off valve

- (a) All vehicles shall be equipped with a fuel shut-off valve or switch which is easily accessible within the driver's compartment.
- (b) The fuel shut-off valve or switch shall be conspicuously labeled with a brightly colored paint.

13:22-5.17 Repairs

No repairs may be made on any vehicle during the course of a race unless the vehicle is removed to the pit area.

13:22-5.18 Drivers

- (a) All drivers are required to wear fire resistant underwear and one-piece fire resistant clothing covering their body, legs, and arms. The material used in the manufacture of this clothing must be approved by the Superintendent.
- (b) All drivers are required to wear gloves of a fire resistant material approved by the Superintendent.

13:22-5.19 Helmets and head cushions

- (a) All drivers must wear a safety helmet of the type approved by the Superintendent.
- (b) All vehicles shall be equipped with a head cushion attached to the roll-bar or to the back portion of a one-piece seat. The cushion shall be mounted so that it shall be at the approximate height of the center of the driver's helmet.
- (c) The head cushion shall be a minimum of sixteen square inches in area with at least two inch padding. The minimum length of any side of the head cushion shall be four inches.

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13:22-5.20 Goggles or face shield

Windproof, shatterproof goggles or a face shield of the type specified in N.J.A.C. 13:20-24.3 and 13:20-24.6, and approved by the Superintendent must be worn by the driver of all vehicles not equipped with windshields.

13:22-5.21 Arm restraints

All drivers are required to use arm restraints or such other devices as approved by the Superintendent.

13:22-5.22 Automatic transmission safety mats

Any vehicle equipped with an automatic transmission shall have a steel safety mat, plate, or blanket installed over the transmission so as to protect the driver from injury caused by the fragmentation of the automatic transmission upon explosion.

13:22-5.23 Enclosed drive shaft

The drive shaft of a vehicle shall be enclosed or secured, front and rear, by a steel strap one-quarter inch by one inch, a one-half inch steel rod, or one inch steel tubing with .06 wall thickness.

13:22-5.24 Water overflow tank

Water overflow reservoirs shall not be installed inside the driver compartment. Tanks or reservoirs mounted in the roll cage must be fully shielded to protect the driver.

13:22-5.25 Refueling

(a) In all instances where refueling is permitted with the engine running, it is required that a member of the pit crew, equipped with an approved fire extinguisher be in close proximity to the fill pipe of the fuel tank.

(b) Smoking shall not be permitted in any area where fuel is being transferred or stored.

(c) The driver compartment shall not be occupied when the vehicle is being refueled if the fill pipe is located within 24 inches of the cockpit, except that the driver compartment may be occupied when the vehicle is being refueled from gravity fed fuel containers.

(d) The use of welding and acetylene torches is not permitted in any area where fuel is being transferred or stored unless a fully charged fire extinguisher is in close proximity.

SUBCHAPTER 6. ACCELERATION AND PERFORMANCE TESTS

13:22-6.1 Location

(a) A location approved for acceleration and performance tests shall provide for a stopping distance at least equal to the acceleration and timing distance.

(b) The acceleration area shall not exceed 1,386 feet.

(c) The entire racing strip including the deceleration area must be paved.

(d) The end of the acceleration area may be marked by an overhead banner; provided, the supports are of such construction that they will not present a hazard to the vehicles.

(e) The height of the banner shall be at least ten feet above the surface of the strip.

13:22-6.2 Vehicle equipment

(a) All of the safety devices and precautions specified in N.J.A.C. 13:22-4 (Safety requirements for vehicles and personnel) for other types of automobile racing will be required for this type event with the exception that on a temporary

basis only, cars need not have roll-over bars or door fastening; provided, there has been no modification of either body or engine.

(b) Exhaust systems shall be designed and constructed so as to direct the exhaust flow out and away from the driver.

(c) All vehicles equipped with parachutes shall have a red streamer attached to the safety pin. The safety pin must be removed from the parachute before the starting lights are activated.

(d) All vehicles utilizing two or more parachutes shall have at least two anchoring points for the parachute, each point separate from the other.

13:22-6.3 Spectator protection

Spectator protection is to be provided by a standard hubrail and six-foot high welded wire fabric or chain link fence so constructed as not to be easily lifted, climbed over or moved aside.

13:22-6.4 Pit area fences

The pit area, if located behind the starting line, shall be separated from the track by a six-foot high welded wire fabric or chain link fence so constructed as not to be easily lifted, climbed over or moved aside.

13:22-6.5 Vehicle positioning

Racing *[Vehicles]* ***vehicles*** may line up behind the starting line; provided, that only drivers and officials may be permitted in this area.

13:22-6.6 "Burnouts"

No "burnouts" shall be made unless the driver is secured in the vehicle and the doors are firmly closed.

SUBCHAPTER 7. MOTORCYCLE EVENTS

13:22-7.1 Hubrail construction

(a) Hubrail construction must comply in all respects with the provisions of N.J.S.A. 5:7-14, or, in the alternative, the licensee must have written authority for any changes from the Superintendent.

(b) Hubrail posts must be no higher than the hubrail planking.

(c) When required, hubrails *[constructed]* ***constructed*** for use on motorcycle tracks shall consist of safety rails two feet high, constructed of two two-inch by 12-inch planks, on four-inch by four-inch stanchions spaced not more than six feet apart, and so embedded in the ground that they will not pull out if struck.

(d) As an alternative to the two-inch by 12-inch planks, two planks made of marine plywood, three-quarter inches thick and 12 inches wide may be used on motorcycle tracks. These rails must be backed up either by a wire cable similar to the wire cable used on automobile hubrails, except that it *[neet]* ***need*** not exceed one-half inch in diameter, or in the alternative, a mound of packed earth shall be constructed in the back of the safety rail at least 18 inches high, and tapering to the ground level between the rail and the spectators.

13:22-7.2 Flagmen

(a) In motorcycle events, flagmen may be used in lieu of the red and amber lights provided for in N.J.A.C. 13:22-3 (Construction requirements). Flagmen shall be positioned so as to be visible to drivers entering each turn on the track or course.

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(b) If flagmen are used, the display of a red flag by the flagmen will mean that all racing vehicles on the track will be required to come to a stop as soon as possible, and to remain stopped until such time as the red flag is removed from display.

(c) If flagmen are used, the display of an amber flag by the flagmen will mean that all racing vehicles on the track will be required to slow down and maintain their position.

13:22-7.3 Braking systems

(a) A representative of the track licensee will be required to test each brake pedal reserve before the vehicle leaves the area to enter the track.

(b) This section is not to be construed to require brakes on racing motorcycles with a compression ratio higher than ten to one or with a compression ratio which, in the opinion of the Superintendent, is sufficiently high to bring the motorcycle to a stop when the ignition is cut off.

13:22-7.4 Shutoff device

(a) A "shutoff" device must be affixed to the handlebars on all competing motorcycles.

(b) The "shutoff" device must be of a type which is designed, constructed and maintained to stop the motor of the motorcycle immediately upon releasing or pressing the said device.

13:22-7.5 Minimum age requirements

(a) No person will be permitted to participate in a race or to enter the pit area while an exhibition or race is in progress unless that person shall have reached 18 years of age and shall have documentary evidence to the effect that he has had one full year of experience in the operation of a motorcycle.

(b) A motorcycle driver's license bearing appropriate date of issuance will be accepted as proof that the holder has had the requisite driving experience.

SUBCHAPTER 8. SNOWMOBILE EVENTS

13:22-8.1 Track construction

Construction of hubrails, fences and other safety devices for snowmobile events must comply in all respects with the provisions of N.J.S.A. 5:7-14 or in the alternative the licensee must have written authority for any changes from the Superintendent.

13:22-8.2 Safety requirements; vehicles and personnel

(a) All participants in a snowmobile race must wear a safety helmet which meets or exceeds the American National Standard Institute (ANSI) Z-90.1 testing standard and is approved by the Superintendent.

(b) All participants in a snowmobile race must wear wind-proof, shatterproof goggles or face shields approved by the Superintendent and meeting the specifications in N.J.A.C. 13:20-24.3 and 13:20-24.6.

13:22-8.3 Exhaust system

All exhaust systems shall be directed out of the cowl area and away from the operator.

13:22-8.4 Snow flaps

All snowmobiles shall be equipped with a rear snow flap designed and maintained to contain snow, water, mud and the like at all speeds.

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13:22-8.5 Shutoff device

A "shutoff" device must be affixed to the handlebars near the hand position. This device must be of the type which is designed, constructed, and maintained to stop the motor immediately upon releasing or pressing of said device.

13:22-8.6 Engine and transmission shielding

All snowmobiles shall have engine and transmission shields designed and constructed to protect the driver or bystander from fragments in the event of disintegration.

SUBCHAPTER 9. GO-CART EVENTS

13:22-9.1 Track construction

(a) Construction of hubrails, fences and other safety devices for go-cart events must comply in all respects with provisions of N.J.S.A. 5:7-14 or in the alternative, the licensee must have written authority for any changes from the Superintendent.

(b) The hubrail construction for go-cart events may be the same as the hubrail construction used for motorcycle events in that planks made of marine plywood three-quarter inches thick and 12 inches wide may be used.

(c) The licensee shall erect along any part of the track where spectators are permitted, whether outside of the track or in the infield, in addition to the hubrail, a fence of a type approved by the Superintendent six feet in height and located not less than four feet from the edge of the track.

13:22-9.2 Safety requirements

(a) Go-carts and personnel participating in races or exhibitions of driving skill on any track or facility licensed by the Superintendent shall comply with the following requirements:

1. No person under 18 years of age may operate a go-cart in any race or exhibition of driving skill, nor shall any such person be permitted in the pit area during any such race or exhibition of driving skill.

2. Go-carts participating in races or exhibition of driving skill shall have a wheelbase of not less than 40 inches nor greater than 50 inches measured from the center of the axle.

3. Go-carts participating in races or exhibitions of driving skill shall be of a length not exceeding 72 inches.

4. Go-carts participating in races or exhibitions of driving skill shall be of a width at least two-thirds of the wheelbases as measured from the center of the tread of the front tires.

5. Go-carts participating in races or exhibitions of driving skill shall be of a height not exceeding 26 inches as measured from the top of the driver's seat.

6. The frame of all go-carts shall be of metal construction.

7. All go-carts shall contain a metal firewall between the driver and engine with no openings between engine and driver. The firewall shall be so constructed as to not present any sharp edges.

8. All go-carts shall contain a floor pan of metal construction with no openings between the driver and the ground.

9. Steering must be direct with all linkage bolts and nuts cotter-keyed or safety-wired. All rod ends must have universal type swivel joints.

10. No go-cart will be permitted to participate in any race or exhibition of driving skill unless it is equipped with a braking system which is operated by a foot pedal. No go-cart will be permitted to participate if the braking system includes direct application of pressure to any of the tires.

11. The exhaust system must be designed and constructed so that exhaust gases are carried away from and to the rear of the driver.

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12. All go-carts shall be equipped with a foot-operated throttle.

13. The fuel and lubrication system on all go-carts must be designed so as to prevent leakage or spillage during competition.

14. No go-cart may be equipped with a transmission, gear-box or other device which permits a change of gear or sprocket ratios while the vehicle is in motion.

15. All go-carts must be equipped with a suitable chain guard or guards.

16. The driver's compartment shall be equipped with side rails, side plates or such other device as to afford the driver lateral support and protection.

17. Every go-cart must be equipped with a quick release type of seat belt in good condition. The seat belt must be fastened to the frame of the cart at both ends. The seat belt must be in use during the entire time the vehicle is being driven in a race. All fittings and connections on the safety belt must be metal. Safety belts with cloth or plastic fittings on connections may not be used. All safety belts must bear the date of manufacture and may not be in use for more than five years.

18. Every go-cart shall be equipped with a roll-over bar mounted so as to be a minimum of three inches above and six inches behind the driver's head designed and constructed so as to provide maximum protection for the driver.

19. Every go-cart must be equipped with auxiliary bumpers, sometimes known as "nerfing bars", **[or]** *of* a construction and design approved by the Superintendent.

20. Windproof, shatterproof goggles must be worn by all drivers of go-carts in any race or exhibition of driving skill.

21. No repairs may be made on any go-cart during the course of a race unless the vehicle is removed to the pit area.

22. A starting apron shall be provided where the go-carts are to be started. Persons shall not enter the race course to push a go-cart. A go-cart which has not been started on the starting apron may not be pushed onto the track proper but must be returned to the pit area or to the rear of the starting apron. No person may enter the race course for the purpose of starting a stalled car while any race or exhibition is in progress.

SUBCHAPTER 10. SPECIAL AGE PROVISIONS

13:22-10.1 Participant requirements

(a) Notwithstanding any other provision of this chapter to the contrary, a person between the ages of 14 and 18 years of age may be permitted to participate in go-cart, snowmobile and motorcycle events providing the following conditions are met:

1. The participant between the ages of 14 and 18 is covered by accidental death and dismemberment insurance in an amount of not less than \$10,000 for accidental death and \$3,000 for dismemberment.

2. The participant between the ages of 14 and 18 shall be required to furnish proof of successful completion of an operational and safety course for the particular vehicle which he desires to operate. This course must be one approved by the Superintendent.

13:22-10.2 Licensee responsibilities

(a) It shall be the responsibility of the licensee to insure that the conditions in N.J.A.C. 13:22-10.1 (Participant requirements) are met prior to permitting an individual to participate in any event.

(b) It shall further be the responsibility of the licensee to insure that the operation of vehicles covered by this subchapter by persons between the ages of 14 and 18 shall be restricted to the confines of an approved race or exhibition area and adjoining pit area.

(c) It shall further be the responsibility of the licensee to insure that individuals permitted to participate in go-cart, snowmobile and motorcycle events under this subchapter do not under any circumstances participate in any events in which the participants are 18 years of age or older.

SUBCHAPTER 11. APPEALS OF ADMINISTRATIVE ACTION

13:22-11.1 Hearings

(a) In the case of the suspension, denial or refusal to renew a license the Superintendent shall notify the applicant or licensee in writing of such action and the reasons for the action shall be stated in the notice.

(b) Upon such notification the Superintendent shall afford the applicant or licensee an opportunity for a hearing to appeal the action of the Superintendent. A request for a hearing of the Superintendent's action shall be made in writing to the Superintendent within 15 days from the receipt of the notice.

(c) If a request for a hearing is timely received, the Superintendent shall take the appropriate action in accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

(a)

BOARD OF MEDICAL EXAMINERS

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

Adopted Amendment: N.J.A.C. 13:35-6.6

Proposed: September 17, 1984 at 15 N.J.R. 2415(a).

Adopted: November 14, 1984 by New Jersey State Board of Medical Examiners, Edward W. Luka, M.D. President.

Filed: December 17, 1984 as R.1984 d.600, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:9-2.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order 66(1978): August 1, 1988.

Summary of Public Comment and Agency Responses:

This rule amendment deleted a phrase from a former Board rule which specified the manner in which a prescribing physi-

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cian must be identified on a prescription. That phrase called for the doctor's proper degree as appears on the prescriber's license. As a result of a court decision on that issue, although the Board evaluates a physician's academic degree in order to determine eligibility for licensure, the degree itself is no longer written on the doctor's license. Since that court decision, some physicians have been issuing prescriptions identifying the prescriber only as, for example, "Dr. John Smith" with no indication of the licensure authority. That situation made proper review of the prescription more difficult for authorities and individuals, including pharmacists, who are responsible for monitoring the proper filling and distribution of drugs, since prescription medications may be authorized only by practitioners licensed to do so, and then only such medications as are used in treatment within the licensee's lawful scope of practice.

Three responses were received. The chief of the drug control program of the State Department of Health had no objection to the rule amendment. A county medical society also had no objection but appeared not to realize that physicians could continue to utilize their proper academic degree, if desired, although that information was set forth in the summary, the social impact, and the economic impact statement preceding the proposal. The changes actually made in the rule, as adopted, reflect an effort to dispel the uncertainty expressed by that county medical society. The third comment from the Medical Society of New Jersey, was not responsive to any aspect of the rule.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[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 academic degree or*** 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]*** ***and may, in addition list*** 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.)

(a)

OFFICE OF STATE ATHLETIC COMMISSIONER

Boxing Rules

Adopted Amendments: N.J.A.C.

- 13:46-1A.3; 13:46-5.2; 13:46-5.19;**
- 13:46-5.20; 13:46-5.23; 13:46-8.5;**
- 13:46-8.9; 13:46-8.14; 13:46-11.3**

Adopted Repeals: N.J.A.C. 13:46-2, 3, 7, and 12; 13:46-4.13; 13:46-5.1, 5.9, 5.14, 5.22, 5.24, 5.25 and 5.30; 13:46-8.4, 8.20 and 8.34; 13:46-19.2

Adopted New Rules: N.J.A.C. 13:46-1A.4; 13:46-2, 3, 7, and 12; 13:46-19.2

Proposed: August 20, 1984, at 16 N.J.R. 2241(a).

Adopted: December 18, 1984, by Irwin I. Kimmelman, Attorney General of New Jersey.

Filed: December 18, 1984, at R.1984 d.611, **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. 5:2-1 et seq., specifically N.J.S.A. 5:2.5.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 1, 1987 for N.J.A.C. 13:46-1A and 13:46-4; January 7, 1990 for 13:46-2, -3, -5, -7, -8, -11, -12 and -19.

Summary of Public Comments and Agency Responses:

Comment:

The regulations refer to the "Commission" instead of the "Commissioner" or the "Office of State Athletic Commissioner."

Response:

To maintain consistency with N.J.S.A. 5:2-1 et seq. throughout the regulations, all references to the "Commission" have been replaced by the term "Commissioner" in the adoption.

Comment: 13:46-1A.3

This regulation governing the weighing of boxers should contain some flexibility, thus enabling a boxer to lose a small amount of weight on the day of a bout. All respondents who commented on this regulation stated that losing a great amount of weight on the day of the bout could be dangerous to the health of the boxer.

Response:

This comment has been accepted in part. Some latitude should be given to boxers who fail to make weight by only a very slight amount and can lose this weight in a manner that is not harmful to their health. However, losing too much weight on the day of a bout would be dangerous to the boxer. After considering these issues, it has been determined that a boxer may attempt to lose no more than one percent of his body weight on the day of a bout in order to make weight. This regulation will serve to safeguard the health of the boxer by restricting the amount of weight to be lost to one percent, while permitting some flexibility when boxers fail to make weight by only a small amount.

Comment: 13:46-2.3

This regulation should prohibit the sale of intoxicating liquors at boxing shows except in paper cups.

Response:

Because the regulation already provides that the Commissioner shall determine the terms and conditions under which

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the sale of intoxicating liquors can be made, this proposed change is not necessary and has been rejected.

Comment: 13:46-2.4

The respondents are in agreement with this regulation, provided sufficient funds are available, and state that the Commissioner's inspectors and physicians should take an active role in the supervision of training facilities.

Response:

This regulation will serve to safeguard the safety of boxers by ensuring that boxers do not train in substandard facilities.

Comment: 13:46-2.9

One respondent stated that advertising should never be contained on a round card.

Response:

After careful consideration, it has been determined that numbers need be printed on only one side of the round card. The Commissioner shall set the terms and conditions under which advertising may be included on the round card. This will permit some flexibility in the administration of this regulation which, unlike the other regulations included in this adoption, is not primarily concerned with the health and safety of the boxer.

Comment: 13:46-3.1

The Commissioner should have the discretion to waive or change the specifications for bandages on a boxer's hands set forth in this regulation.

Response:

This comment has been rejected. Strict regulation of the specifications for the bandages used to protect the boxer's hands is needed. The bandages will be inspected by the Commissioner's inspector to ensure that the bandages are of the proper type and size and that they have been correctly applied. The regulation as adopted should serve to reduce the risk of injury to a boxer's hands as well as prevent boxers with hand injuries from competing. Permitting the Commissioner to relax these requirements at the request of a boxer would enable boxers with hand injuries to compete.

Comment: 13:46-3.1(a)

The words "for each hand" should be added at the end of this regulation for purposes of clarity.

Response:

This comment has been accepted. This minor addition will make clear that the specifications set forth in the regulation apply to each of the boxer's hands, rather than the two hands combined.

Comment: 13:46-3.3

The term "adjust" in the regulation is unclear. The regulation should expressly state that, like the bandaging and taping of the boxer's hands, the actual placing of the gloves on the boxer's hands must take place in the presence of the Commissioner's inspector.

Response:

This comment has been accepted. As originally proposed, the term "adjusting the boxer's gloves" was ambiguous. This has been clarified in the adoption by specifying that the gloves shall be placed on the boxer's hands in the presence of the Commissioner's inspector. This will prevent tampering with the gloves and protect the health and safety of the boxer.

Comment: 13:46-3.3

Gloves should be removed in the ring to give the boxers relief and to permit immediate inspection by the Commissioner's inspector.

Response:

This comment has been accepted. Rather than require the boxer to wear the gloves until he reaches the dressing room, this regulation will require the gloves to be taken off in the ring. There they can be immediately inspected by the Commissioner's inspector and taken into custody if necessary.

Comment: 13:46-3.3

Gloves should not be inspected by the ringside physician.

Response:

This comment has been rejected. To ensure that no violation of the safety regulations has occurred, the gloves should be inspected by the ringside physician. The regulation as adopted will serve to protect the health and safety of the boxer.

Comment: 13:46-3.5

If a boxer loses his mouthpiece during the round, the round should be halted for purposes of rinsing and replacing the mouthpiece.

Response:

After careful consideration, this comment has been rejected. While such a rule would serve to protect the health and safety of a boxer, it could also be the subject of abuse, for example, in a situation where a boxer deliberately "loses" his mouthpiece in an attempt to rest or gain an advantage over his opponent. The requirement in the adopted regulation, that a boxer equip himself with a well-fitting mouthpiece that is subject to approval by the ringside physician prior to a bout, should serve to reduce the instances in which a mouthpiece is lost by a boxer during a bout.

Comment: 13:46-3.8

While all respondents commenting upon this regulation stated that beards should not be permitted, all who commented also stated that closely cropped moustaches should be allowed. The respondents also commented that certain hair styles and substances thereon, such as hair cream or lotions, should not be permitted and that a boxer should not be permitted to wear jewelry in the ring.

Response:

This comment has been accepted. A closely cropped moustache should not substantially impair the ability of the ringside physician to examine the boxer's face should he be cut. Therefore, the clean shaven rule will be relaxed to permit short moustaches. The regulation as adopted will also ensure that a boxer's hair style does not interfere with the vision of either fighter by requiring that the boxer's hair style be subject to the approval of the physician appointed by the Commissioner. Hair creams, lotions and sprays could possibly get into the eyes of the boxers. Therefore, the use of such substances will not be permitted. In addition, the regulation as adopted will prohibit boxers from wearing jewelry or earrings during a bout. Such jewelry could cause cuts and, in the interest of safety, should not be permitted.

Comment: 13:46-3.9

This regulation should also require that ice be available in a boxer's corner.

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Response:

Because N.J.A.C. 13:46-7.5 of this adoption already requires that ice be available in each boxer's corner, this proposed change is not necessary and has been rejected.

Comment: 13:46-5.1(b)

This regulation should not be repealed because the Commissioner should have the discretion to order a boxer to undergo a physical examination at any time.

Response:

Pursuant to N.J.A.C. 13:46-12.1(d), the Commissioner will have the authority to order such additional examinations of a boxer at any time for the purpose of determining his continued fitness and qualification to engage in a boxing contest. Therefore, N.J.A.C. 13:46-5.1(b) is no longer necessary and will be repealed by this adoption.

Comment: 13:46-5.2

Some respondents stated that individuals under the age of 18 should be permitted to box professionally if they have "extensive" amateur experience. Other respondents stated that no individual under the age of 18 should be permitted to box professionally regardless of prior experience. Respondents also stated that boxers over the age of 35 should be permitted to box if they are medically fit and still pursuing an active career.

Response:

This comment is accepted only in part. As a safety measure, individuals under the age of 18 will not be permitted to box professionally in New Jersey. This regulation will prevent minors from boxing and take note of the fact that, pursuant to proposed amended rule 13:46-5.3 (16 N.J.R. at 2969), minors under the age of 18 may not sign contracts to handle their own affairs. After careful consideration, it has been determined that boxers over the age of 35, however, may continue to box in New Jersey provided that they are able to satisfy the Commissioner and the physicians appointed by him that they are physically able to compete in boxing contests. In this manner, the health and safety of boxers over the age of 35 will be protected, while recognizing that boxers over this age may be able to pursue their careers.

Comment: 13:46-5.19(e)

The Commissioner should retain the discretion to waive the age limitations of rounds of boxing.

Response:

This comment has been rejected. By repealing 13:46-5.19(e), the adoption will require strict adherence to the age limitations on rounds of boxing. As a safety measure, this will permit the boxer to progress at a steady rate without forcing him to accept bouts for which he is not physically ready and for which he may be over-matched by an older, more experienced boxer.

Comment: 13:46-5.23

The regulation should only apply to boxers competing in the main event and boxers competing in bouts of ten rounds or more. The Commissioner should have the discretion, in other instances, as to whether to suspend a boxer for a period of time after a bout.

Response:

This comment has been rejected. An undercard bout may last just as long as a main event. Even bouts of less than ten rounds can be so physically demanding that a mandatory rest period is necessary to protect the health of the boxer. Mandatory

rest periods, therefore, are necessary for all boxers, not just those competing in main events. The Commissioner will retain his discretion under the adoption to increase the length of the suspension where longer rest periods are needed to enable the boxer to recover from a rigorous and physically-draining boxing contest.

Comment: 13:46-7.1

The respondents supported the creation of licensing and training standards for a boxer's seconds. Several respondents felt, however, that the standards should only apply to new seconds, not to those who have served in this capacity in the past.

Response:

This comment has been rejected. Licensing and training standards are necessary to ensure that the second is qualified to perform his tasks prior to assisting a boxer. This regulation will serve to bar unqualified seconds from serving in this capacity and, therefore, the licensing standards must be applied to all seconds working in New Jersey to ensure that only qualified seconds may so serve.

Comment: 13:46-7.2

Several respondents stated that in championship bouts a boxer should be permitted to have a fourth second in the corner, who must remain on the floor only.

Response:

This comment has been accepted. In championship bouts, no more than four seconds shall be permitted in a boxer's corner. However, as is the case in non-championship bouts, only one of such seconds shall be permitted in the ring between rounds.

Comment: 13:46-7.4

In addition to being examined by the ringside physician, first aid and other ring equipment should also be subject to inspection by the Commissioner's inspector.

Response:

This comment has been accepted. To ensure the safety of first aid and other ring equipment, it should be subject to inspection by both the ringside physician and the licensed inspector. This regulation is designed to prevent a second from utilizing medically unsafe equipment and, therefore, the decision of the ringside physician, who would have greater expertise in this area, not to permit the use of certain equipment, must remain final.

Comment: 13:46-7.7

Subsection (a) of this regulation should refer to the Subchapter rather than the section. In addition, a mandatory penalty of permanent license revocation should be imposed upon any second violating N.J.A.C. 13:46-7.5.

Response:

The adoption has been changed to clarify that the violations referred to pertain to violations of the regulations under Subchapter 7. However, the comment that mandatory revocation of a second's license must occur for violations of N.J.A.C. 13:46-7.5 has been rejected. Under N.J.A.C. 13:46-7.7(a), any second who violates any of the regulations under Subchapter 7 shall be subject to license revocation, suspension and/or fine at the discretion of the Commissioner. The Commissioner, in determining the penalty to be imposed, must be permitted to weigh the nature of the offense, the surrounding circumstances, a second's past record and any mitigating factors. The requirement of a mandatory revocation would not

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permit the Commissioner any discretion in this area and could possibly lead to unfair results based upon individual circumstances.

Comment: 13:46-8.14(a)

Several respondents stated that they supported the standing eight count. Those respondents who stated that they were opposed to the standing eight count stated that it should not be required because a boxer's condition may warrant stopping a bout at that point and the bout should, therefore, not continue after a standing eight count has occurred.

Response:

The respondents have misunderstood the intent of the standing eight count. Currently, a mandatory eight count only occurs when a boxer is knocked down. A standing eight count would occur when a boxer has sustained a serious and sustained beating without defending himself. Contrary to the comment, the referee or the ringside physician can stop the bout at any time the boxer is in physical danger and, therefore, can do so before the standing eight count begins. The standing eight count, like the eight count when a boxer is knocked down, will permit the referee and the ringside physician to assess the boxer's condition immediately and will prevent further punishment from occurring. This regulation is necessary to safeguard the boxer and will not be changed.

Comment: 13:46-8.14(b)

The ringside physician should not be permitted to stop a bout. Only the referee should be permitted to make this decision since he is closer to the boxers and can assess their condition.

Response:

The competency of the referee is not being questioned by this rule. However, because of his medical training, the ringside physician must be given the authority to stop a bout when he observes that a boxer is in physical danger. The physician will be seated at ringside with a clear view of the ring and, therefore, will be in a position from which he can observe the boxer's condition and, because of his medical expertise, be able to detect physical problems requiring that a bout be stopped to prevent injury to a boxer. To safeguard the boxer, the ringside physician, therefore, must have the authority to enter the ring, assess a boxer's condition and stop the bout. The physician's decision shall also not be subject to change by any other official. The health and safety of the boxer must be protected and is the paramount concern of this adoption.

Comment: 13:46-8.14(c)

There should not be a three knock down rule because a boxer may be able to continue boxing even though he has been knocked down three times in a single round.

Response:

This comment has been rejected. A boxer who has been knocked down as the result of a blow three times during a three-minute round is obviously in physical danger. To protect his safety, the referee and the ringside physician must be given the discretion to stop the bout at that point. The knock down must occur as a result of a blow, rather than from a slip or fall, which ensures that the knock downs are not merely accidents. The referee and ringside physician may also stop the bout after less than three knock downs.

Comment: 13:46-8.14(c) and (d)

The regulations should make clear that, in addition to the referee, the ringside physician may also terminate a bout after

three knock downs, to protect a badly beaten boxer and if a contest is too one-sided. The decision of the ringside physician to stop a bout should not be subject to change by any other official.

Response:

Part of this comment has been accepted. As set forth in the previous comment, the ringside physician, to safeguard the health of the boxer, must be given the authority to stop a bout after three knock downs or to protect a badly beaten fighter. His medical decision to terminate a bout in such circumstances will not be subject to change by any other official. Therefore, the adoption has incorporated these suggestions. However, whether or not a bout is too one-sided is a determination that should remain in the hands of the referee who is trained in the boxing rules and better able to make this determination. Therefore, this portion of the regulation has not been changed in this adoption.

Comment: 13:46-8.20

This regulation should not be repealed. The referee should remain the sole judge for stopping a bout.

Response:

This comment has been rejected. As discussed in the previous two comments, to protect the safety of the boxer, the ringside physician must also have the authority to stop a bout. His decision to terminate a contest for medical reasons will not be subject to change by any other official.

Comment: 13:46-8.34

This regulation should not be repealed. Championship bouts of 12 rounds ending in a draw should be extended for one additional round to determine a winner.

Response:

This comment has been rejected. This rule did nothing to safeguard the health of the boxer. If a bout is set for 12 rounds, the boxers pace themselves for 12 rounds. Their health is not safeguarded by requiring them to box another round after the time needed to make the original decision has passed.

Comment: 13:46-12.1

The regulations should make clear that the physicians referred to in this Subchapter are selected and paid by the Office of the State Athletic Commissioner.

Response:

This comment has been accepted. The regulations in this Subchapter have been clarified to state that the physicians referred to are physicians appointed by the Commissioner.

Comment: 13:46-12.1

This Subchapter contains significant reforms designed to give greater assurance that persons who engage in boxing are fit to do so.

Response:

The major goal of this proposal is to ensure that boxers are physically and mentally fit for competition.

Comment: 13:46-12.2

Pre-fight medical examinations should be conducted in private. The boxer or his manager should not be permitted to challenge a medical disqualification. The physician's decision should not be subject to change by any other official.

Response:

Part of this comment has been accepted. To prevent distractions, pre-fight examinations should be conducted pri-

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vately with no other persons present besides the physician and the boxer. Since the physician is medically trained to observe the physical condition of the boxer, his decision that a boxer is not fit to engage in a boxing contest should not be subject to change by any other official. Therefore, these suggestions have been incorporated in the proposal. However, before the physician's decision is made, the boxer or manager should be permitted to bring any contrary medical evidence to the attention of the physician to ensure that a full and complete review is made. Therefore, a bar to challenges to a decision should not be imposed.

Comment: 13:46-12.4(a)

More than one physician will be needed to perform the duties required by this Subchapter.

Response:

When the regulation is implemented, experience may or may not demonstrate that more than one physician is needed to perform the duties required by this Subchapter. The situation will be continually monitored by the Commissioner. At this time, there is no compelling need to mandate that two physicians be present at each boxing show.

After consideration, it has also been determined that there may be instances where a boxer would be justified in refusing to report to a hospital as ordered. Therefore, instead of a mandatory indefinite suspension, the adopted rule, 13:46-12.5(b), will permit the boxer to attempt to show good cause for his refusal to enter a hospital as ordered before a suspension is imposed.

Comment: 13:46-12.4(c)

Ringside physicians should not be permitted to enter the ring during the progress of a round.

Response:

For the reasons discussed in the responses to previous comments, this comment has been rejected. To protect the health of the boxer, the physician must have the authority to enter the ring during a round to examine the boxer or to stop a bout.

Comment: 13:46-12.6

The extent of the examination should be left to the discretion of the Commissioner and the physician.

Response:

The regulation already permits the examining physician to determine the procedures necessary to conduct medical examinations after a severe injury or actual knockout. Because the physician is medically trained, he alone should determine these procedures. Therefore, this comment has been rejected.

Comment: 13:46-12.6(b)

The suspensions should be subject to extension by the Commissioner and the physician.

Response:

The regulation already permits the physician to extend the suspension. Pursuant to N.J.A.C. 13:46-5.23 of this adoption, the Commissioner also may extend such suspensions. Therefore, this comment has been rejected.

Comment: 13:46-12.6(c)

The prohibition against contact training will be very difficult to enforce and should be left to the discretion of the Commissioner.

Response:

After very careful consideration, the decision has been made to remove the prohibition from contact training or sparring during a suspension from the regulation. This regulation, due to lack of sufficient manpower to police it, would be very difficult to enforce. In addition, it could lead to boxers training secretly in substandard facilities which would also impose a danger to the boxer's health. Prior to returning to the ring, the boxer will be required to submit to a thorough medical examination of the type specified in N.J.A.C. 13:46-12.1(a) and will not be permitted to box again unless the physician has certified his fitness to do so after a thorough examination. This should deter boxers from jeopardizing their opportunity to box professionally by contact training during their suspensions. Thus, the regulation will continue to ensure that boxers who compete in the ring are physically and mentally fit for competition. This suggestion has also been incorporated in N.J.A.C. 13:46-12.11(c), 12.7(a) and 12.11(c).

Comment: 13:46-12.7

Such suspensions should only be imposed in the Commissioner's discretion.

Response:

This comment has been rejected. A boxer who has lost six consecutive fights should be examined before being permitted to box again. The automatic suspension will ensure that such examinations, which will safeguard the health of the boxer, will be conducted.

Comment: 13:46-12.8

Referees should be given physical examinations prior to each bout.

Response:

The regulation clearly provides in subsection (b) that all referees must submit to a pre-fight medical examination by a physician appointed by the Commissioner on the day of the bout.

Comment: 13:46-12.9(c)

This regulation requires that a boxer and his manager report certain medical problems to the Commissioner and provides a penalty for boxers, but not for managers, who fail to do so. This omission should be corrected.

Response:

This comment has been accepted and this inadvertent omission has been corrected in the adopted regulation.

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 1. DEFINITIONS

(No change.)

SUBCHAPTER 1A. BOXING WEIGHT AND CLASSES

13:46-1A.1 through 1A.2

(No change.)

13:46-1A.3 Weighing of boxers

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

(f) ***[Any boxer failing to make the weight required by his boxing contract and by N.J.A.C. 13:46-1A.2 and 13:46-1A.3 at the weigh-in shall be immediately disqualified from partici-**

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pating in the boxing contest. Under no circumstances shall a boxer be given the opportunity to participate in a second weigh-in.]*

No boxer shall be permitted to lose more than one percent of his body weight on the day of the boxing contest in an attempt to make the weight required by his boxing contract and by N.J.A.C. 13:46-1A.3.

13:46-1A.4 Scales

Scales used for weighing-in boxers shall be of standard make, thoroughly tested and approved by the sealer of weights and measures annually in the municipality in which the club is located.

Delete current text at N.J.A.C. 13:46-SUBCHAPTER 2.

SUBCHAPTER 2. RING EQUIPMENT AND SAFETY REQUIREMENTS

13:46-2.1 Approval of premises for boxing

Licensed promoters may only arrange for and hold boxing bouts in premises approved by the *[Commission]* ***Commissioner***.

13:46-2.2 Duty to safeguard premises

All persons, clubs, corporations or associations licensed by the *[Commission]* ***Commissioner*** are required to make such arrangements to safeguard the premises where boxing bouts are conducted so as to insure to the *Commission's* ***Commissioner's*** satisfaction that adequate protection against riot or disorderly conduct has been provided. Any violation of this section subjects the offending licensee to such penalties as the *[Commission]* ***Commissioner*** may thereafter decide.

13:46-2.3 Sale of intoxicating liquors at boxing shows

The *[Commission]* ***Commissioner*** shall determine whether or not the sale of intoxicating liquors will be permitted at the scene of a boxing show and shall establish the terms and conditions under which such sales may be made.

13:46-2.4 Inspection of training quarters

The *[Commission]* ***Commissioner's*** inspectors and physicians shall have authority at all times to enter and inspect all training quarters of boxers under the jurisdiction of the *[Commission]* ***Commissioner*** to observe the conduct, facilities and cleanliness of such quarters and to appraise the activities and the physical condition of boxers during training.

13:46-2.5 Ring dimensions; floor covering; safety features

(a) The boxing ring shall be not less than 18 feet nor more than 24 feet square between the ring ropes.

(b) The ring platform must extend beyond the ropes for a distance of at least two feet.

(c) Every ring and platform used for boxing in New Jersey shall be equipped with a one-inch layer of Celotex Building Board Number 2 or a similarly approved substance. Said application shall be between the floor of the ring and the canvas-covered padding.

(d) The ring floor, both within and outside the ropes, must be padded to a thickness of at least a one-inch layer of "Ensolite Boxing Ring Pad" or similar material applied over the one inch base of Celotex Building Board or similar material.

(e) Ring padding must be covered by a clean, unbroken covering of canvas, duck or similar material tightly stretched and laced to the ring platform.

(f) Ring posts shall be at least 18 inches away from the ring ropes. Ring posts shall not be more than three inches in diameter and may extend from the floor of the ring to a height no more than 58 inches and shall be thoroughly padded to the satisfaction of the *[Commission]* ***Commissioner***.

(g) Ring ropes shall be maintained as follows:

1. There shall be four ring ropes, not less than one inch in diameter and well-padded at all times by a soft material approved by the *[Commission]* ***Commissioner***.

2. The lower rope shall be 13 inches above the ring floor, the second rope 26 inches above the ring floor, the third rope 39 inches above the ring floor, and the top rope 52 inches above the ring floor.

3. Ring ropes must be adjustable and shall be kept at the correct tautness.

(h) The height of the ring and/or steps shall be as follows:

1. The ring shall be not more than four feet above the floor of the building and shall be provided with two sets of suitable steps approved by the *[Commission]* ***Commissioner*** for the use of each of the contestants.

2. The boxer's steps shall be securely placed in diagonally opposite corners of the ring.

3. In addition, in all cases where space permits, a third set of steps leading to the boxing ring shall be securely installed in a neutral corner for use exclusively by the attending physician, referee, ring announcer, round card carriers and *[Commission]* ***Commissioner's*** representatives.

(i) The size and use of a gong or bell shall be as follows:

1. The gong or bell must not be less than 18 inches in diameter, and adjusted securely on a level with the ring platform.

2. The timekeeper shall use a metal hammer to indicate the beginning and ending of rounds, so that the contestants can hear the sound of the bell or gong.

(j) It shall be the responsibility of the promoter to have an attendant available at all times during the progress of the event capable of making repairs, corrections and adjustments to the ring, the lights and other necessary fixtures as shall be ordered by the *[Commission]* ***Commissioner***.

(k) The ring shall be amply illuminated by overhead lights which shall be arranged so that shadow is eliminated and discomfort from heat and glare minimized for persons in or near the ring.

13:46-2.6 Stools and/or chairs

(a) A ring stool of a type approved by the *[Commission]* ***Commissioner*** shall be ***[available]* *available*** for each boxer. Stools must be thoroughly cleaned or replaced after each bout.

(b) An appropriate number of stools or chairs, of a type approved by the *[Commission]* ***Commissioner,*** shall be available for each boxer's seconds in the corner of each boxer. Stools must be thoroughly cleaned or replaced after each bout.

(c) Suitable separate ringside seats for the judges, timekeeper, physicians and ***the*** *[Commission]* ***Commissioner's*** representatives, which must be approved by the *[Commission]* ***Commissioner*** before the commencement of any boxing program, must be provided.

1. Seats must be sufficiently high enough to give all ringside officials a clear, unobstructed view of the ring.

13:46-2.7 Ring to be clear of obstructions

The entire ring platform shall be cleared of all obstructions, including such articles as buckets and stools at the ten second whistle before the end of the rest period between rounds, and

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none of these articles shall be placed on the ring floor until the bell has ended the round.

13:46-2.8 Emergency medical facilities and equipment

All promoters must provide medical information, facilities and equipment, including but not limited to a stretcher and emergency oxygen, adequate for emergency occasions, and an ambulance for each boxing show, and all such medical facilities and equipment must be approved in advance by the **[Commission]** ***Commissioner***.

13:46-2.9 Round cards

Each boxing club shall provide a sufficient supply of white, squareshaped round cards, numbered on **[both]** ***one*** **[sides]** ***side*** from 1 to 15. These shall be visible from the ring to all spectators **.*** **[and shall contain no advertising or other printed matter.]** ***The Commissioner shall determine whether or not the round cards may contain advertising or any other printed matter and shall establish the terms and conditions under which such advertising or printed matter may be included thereon.***

Delete current text at N.J.A.C. 13:46-SUBCHAPTER 3.

SUBCHAPTER 3. BOXING EQUIPMENT AND SAFETY REQUIREMENTS

13:46-3.1 Specifications for bandages on boxer's hands

(a) In all weight classes up to and including middleweights, the bandages on each hand of a boxer shall be restricted to soft **[quaze]** ***gauze*** cloth not more than ten yards in length and two inches in width, held in place by not more than six feet of surgeon's adhesive tape one inch in width ***for each hand.***

(b) In all other classes (light heavyweights, ***cruiser-weights*** and heavy-weights), the bandages shall be not more than 13 yards in length and two inches in width, held in place by not more than eight feet of surgeon's tape one inch in width for each hand.

(c) One winding of surgeon's adhesive tape, not over one and one-half inches wide, shall be placed directly on each hand for protection near the wrist. The tape may cross the back of the hand twice but shall not extend to within one inch of the knuckles when the hand is clenched to make a fist.

(d) The bandages shall be evenly distributed across the hand, without zigzagging, lumping or curling.

(e) Bandages and tape shall be placed on the **[hand]** ***boxer's hands*** in the dressing room **[and adjusted]** **.*** in the presence of the **[Commission]** ***Commissioner's*** inspector and in the presence of the manager or chief second of his opponent.

(f) Under no circumstances are gloves to be placed on the hands of a contestant until the approval of the **[Commission]** ***Commissioner's*** **[representative]** ***inspector*** is received.

13:46-3.2 Condition and size of gloves

(a) The gloves shall be new for all main events and also for all bouts scheduled for 10 rounds or more. All gloves shall be in good condition or they must be replaced.

(b) All gloves are to be furnished by the licensed club or promoter.

(c) All gloves must weigh at least eight ounces, except that in the **[Commission]** ***Commissioner's*** discretion, six ounce gloves may be used in the flyweight, bantamweight and featherweight classes.

13:46-3.3 **[Adjustment of boxer's gloves]**

Placement of gloves on boxer's hands

(a) In all bouts, the gloves shall be inspected by the **[Commission]** ***representative*** ***Commissioner's inspector*** and the ringside physician prior to the fight. The gloves shall be **[adjusted]** ***placed on the boxer's hands*** in the dressing room under the supervision of the **[Commission]** ***representative*** ***Commissioner's inspector,*** and the laces of each glove shall be knotted on the back of the wrists and there shall be placed on the wrists of the gloves, over the laces, a strip of one-inch surgeon's adhesive tape. The gloves must be removed in the **[dressing room]** ***ring*** after the bout.

(b) If a glove bursts or is otherwise damaged during the progress of a bout, the referee shall interrupt the bout and require that such glove be replaced before the resumption of the bout.

13:46-3.4 Abdominal guard

(a) All boxers must equip themselves with a foul-proof abdominal guard of the boxer's own selection, type to be approved by the **[Commission]** ***Commissioner***.

(b) Abdominal guards shall be examined before all bouts by **[a representative of the Commission]** ***the Commissioner's inspector***.

13:46-3.5 Mouth pieces

No boxer shall be permitted to perform in any contest without equipping himself with a well-fitting mouthpiece, which shall be subject to examination and approval by the attending physician.

13:46-3.6 Boxer's trunks

Each boxer on a program must provide himself with trunks of a type approved by the **[Commission]** ***Commissioner***.

13:46-3.7 Types of shoes barred from ring

No shoes with spikes, cleats, hard soles or hard heels are permitted in the ring.

13:46-3.8 Cleanly shaven

[(a) All boxers must be cleanly shaven when they participate in ring contest.

(b) Hair must be trimmed or tied back in such a way, (subject to the approval of the Commission physician) as to not interfere with the vision of either fighter or cover any part of the boxer's face.]

[(a) All boxers must be cleanly shaven when they participate in a ring contest, except that a boxer may wear a closely cropped mustache.

(b) Hair must be trimmed or tied back in such a way (subject to the approval of the ringside physician) as to not interfere with the vision of either boxer or cover any part of a boxer's face. Hair grooming creams, lotions or sprays shall not be worn on a boxer's hair during a fight.

(c) No jewelry or earrings shall be worn by a boxer during a bout.*

13:46-3.9 Other boxing equipment

(a) For each bout there shall be a clean water bucket and a clean plastic bottle in each boxer's corner. These articles shall be provided by the licensed club or promoter.

(b) The licensed club or promoter shall also provide powdered resin for canvas and such other articles as may be required by the **[Commission]** ***Commissioner*** for conducting the boxing contests.

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SUBCHAPTER 4. LICENSES

13:46-4.1 through 4.12
(No change.)

13:46-4.13 (Reserved)

13:46-4.14 through 4.36.
(No change.)

SUBCHAPTER 5. BOXERS

13:46-5.1 (Reserved)

13:46-5.2 Age

(a) *[The Commission shall license no applicant as a professional boxer who is under the age of 18 or above the age of 35.]*

***The Commissioner shall license no applicant as a professional boxer who is under the age of 18.**

(b) A professional boxer above the age of 35 shall not be licensed by the Commissioner unless he is able to demonstrate to the satisfaction of the Commissioner and the physicians appointed by him that he is capable of engaging in a boxing contest.*

13:46-5.3 through 5.8
(No change.)

13:46-5.9 (Reserved)

13:46-5.10 through 5.13
(No change.)

13:46-5.14 (Reserved)

13:46-5.15 through 5.18
(No change.)

13:46-5.19 Age limitations on rounds of boxing

(a) Boxers 18 years of age are permitted to box six rounds.
(b) Boxers 19 years of age are permitted to box up to eight rounds.

(c) Boxers 20 years of age are permitted to box ten rounds.
(d) Boxers 21 years of age are permitted to box more than ten rounds.

13:46-5.20 Number of rounds

Boxers can be matched at four, six, eight, ten, 12 or 15 rounds.

13:46-5.21 Fouls
(No change.)

13:46-5.22 (Reserved)

13:46-5.23 Time between bouts

If a boxer has competed anywhere in a bout of ten rounds or more, he shall not be permitted to box in this State until 30 days have elapsed since his last bout. If a boxer has competed anywhere in a bout of six to 10 rounds, 20 days must elapse before his next bout. If a boxer has competed anywhere in a bout of four to six rounds, 14 days must elapse before his next bout. If a boxer has competed anywhere in a bout lasting three rounds or less, 10 days must elapse before his next bout.

At the *[Commission's]* ***Commissioner's*** discretion, the suspensions outlined above may be extended where indicated by the circumstances of the boxer's last fight.

13:46-5.24 (Reserved)

13:46-5.25 (Reserved)

13:46-5.26 through 5.28
(No change.)

13:46-5.30 (Reserved)

13:46-5.31 Grounds for suspension of license
(No change.)

Delete current text at N.J.A.C. 13:46-SUBCHAPTER 7.

SUBCHAPTER 7. SECONDS

13:46-7.1 Licensing and training standards for seconds

Prior to the issuance of a license of a boxing second, the applicant must pass a written and/or oral examination relating to the *[Commission's]* ***Commissioner's*** rules and regulations, treatment of injuries, physical conditioning, health care, nutrition, training, first aid, effects of drugs and alcohol and the bandaging of a boxer's hands.

13:46-7.2 Number of seconds

Each contestant must have at least two and no more than three seconds. ***However, in championship bouts, a contestant may have no more than four seconds.*** *[and each]* ***Each*** such second may wear only such costume as may be prescribed by the *[Commission]* ***Commissioner.*** Only one of such seconds may be inside the ring at the sound of the time-keeper's whistle, ten seconds before the round is to begin, and shall remove all obstructions, such as buckets and stools at that time.

13:46-7.3 Conduct of seconds

No second may coach any of the boxers during the progress of any round. No second may enter the ring and assist a boxer back to his corner unless the bout has been terminated by the referee or ringside physician.

13:46-7.4 Equipment subject to inspection

First aid and other ring equipment of a second shall in all cases at all times before, during and after use at a bout, be subject to inspection by the *[attending]* ***ringside*** physician ***and the Commissioner's inspector.*** *[whose decision as to the propriety of its use shall be final.]* ***The decision of the ringside physician not to permit the use of any such equipment shall be final.***

13:46-7.5 Items permitted in the boxer's corner

(a) A bucket with ice, plastic water bottle, sponge and surgical tape must be available in each boxer's corner. Without specific permission of the *[Commission]* ***Commissioner,*** the only other materials which a second may bring to or use at ringside are Vaseline, Adrenalin (in a manufacturer's vial, pre-measured in a 1/1,000 solution), cotton swabs, gauze pads, clean towels, thrombin, avitene, pressure plates, hydrogen peroxide, mouthwash solution, bandage scissors and sterile skin closures.

(b) The following materials are expressly prohibited: monsel solution, drugs of any type, "new skin," Flex Collodion,

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silver nitrate, any substance with an iron base, ammonia capsules and smelling salts.

13:46-7.6 Excessive spraying of water on boxers
Any excessive or undue spraying or throwing of water on any boxer between rounds is forbidden.

13:46-7.7 Penalties for violations
(a) Any second who violates any of the regulations under this **[section]** **Subchapter** shall be subject to license revocation, license suspension and/or fine at the discretion of the Commissioner.

(b) Any second holding a license may be suspended for arrest or conviction on a charge involving moral turpitude or for unbecoming conduct at any time or place reflecting discredit to boxing. Under similar circumstances, application for a license or a renewal thereof may be summarily rejected.

(c) Any second who gives incorrect information on any application may be suspended by the Commissioner.

(d) A second under suspension shall not work in any boxer's corner.

13:46-7.8 Second acting as manager
A second holding only a second's license shall not attempt to act as manager, or assist in any way in obtaining matches. If found guilty of such actions, he shall be suspended.

13:46-7.9 Aid to an injured boxer
No second shall attempt to render aid to an injured boxer before the ringside physician has had an opportunity to examine the boxer.

13:46-7.10 Advertising on persons of second
No advertising matter shall appear on the person or clothing of seconds appearing in the ring in any capacity.

13:46-7.11 Termination of boxer's performance
(a) No second may terminate the performance of the boxer he is serving either between rounds or during the progress of any boxing contest in which such boxer is a contestant.

(b) Violation of this Section shall result in automatic suspension of the second together with the boxer he is serving and the boxer's purse shall be withheld by the **[Commission]** **Commissioner** pending investigation of the violation.

SUBCHAPTER 8. BOXING REFEREES

13:46-8.1 through 8.3
(No change.)

13:46-8.4 (Reserved)

13:46-8.5 Apparel
(a) A referee may wear only such costume as may be prescribed by the **[Commission]** **Commissioner**.

(b) No jewelry or wristwatches shall be worn by a referee during a bout.

13:46-8.6 through 8.8
(No change.)

13:46-8.9 Persons in ring during round
No persons other than the contestant, the referee and the ringside physician may be in the ring during the progress of a round.

13:46-8.10 through 8.13
(No change.)

13:46-8.14 Mandatory eight count; three knockdowns in one round; stopping a bout

(a) A boxer shall be required to take a full count of eight if:
1. A boxer has been knocked down, even if he has regained his feet prior to or during the count of eight; or
2. A boxer has received a severe and sustained beating without defending himself.

(b) When a boxer receives a count of eight during a boxing contest, the referee or ringside physician may terminate the contest if a boxer appears to be in physical danger. In such cases, the decision of the ringside physician to terminate the contest shall be final.

(c) Three knockdowns in any one round, as the result of a blow, as distinguished from a slip or fall from being off balance, may be regarded, in the discretion of the referee **or the ringside physician**,* as justifiable reason for the referee **or the ringside physician**,* to halt a contest. A boxer's condition may also justify stopping a contest after less than three knockdowns.

(d) The referee **or the ringside physician*** may stop a bout to protect a badly beaten boxer. The referee may also stop a contest if he considers it too one-sided. In cases where a boxer sustains a cut or any other injury which the referee feels may incapacitate the boxer, the referee shall immediately call the ringside physician into the ring for examination of the boxer. The referee or ringside physician may terminate the contest if a boxer appears to be in physical danger. In such cases, the decision of the ringside physician to terminate the contest shall be final **and shall not be subject to change by any other official**.*

13:46-8.15 through 8.19
(No change.)

13:46-8.20 (Reserved)

13:46-8.21 through 8.33
(No change.)

13:46-8.34 (Reserved)

SUBCHAPTER 11. TIMEKEEPERS

13:46-11.1 through 11.2
(No change.)

13:46-11.3 Time of round; rest period
(a) A time keeper shall limit each round of boxing to three minutes.

(b) Each rest period between rounds shall last 60 seconds. This period may be extended by the ringside physician in order to allow the physician sufficient time to examine a boxer's physical condition between rounds.

13:46-11.4 through 11.9
(No change.)

Delete current text at N.J.A.C. 13:46—SUBCHAPTER 12.

SUBCHAPTER 12. RULES TO SAFEGUARD HEALTH

13:46-12.1 Pre-licensure medical examinations
(a) A boxer, as a condition to licensure or to the renewal of

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licensure by the *[Commission]* *Commissioner,* shall undergo a thorough medical examination by a physician or physicians appointed by the *[Commission]* *Commissioner,* one of whom is certified in neurology or neurosurgery, to establish his physical and mental fitness for competition.

(b) An examination within the meaning of (a) above shall include a complete history of the applicant (medical and ring record) and any or all of the following laboratory procedures at the discretion of the *[Commission]* *Commissioner* and the physician: chest X-ray, skull X-ray, flat abdominal X-ray, complete blood count for bleeding and coagulation time, serological examination for syphilis and any other test which might be indicated by the past record or present condition of the applicant. In all cases, the examination shall include the administration of an electrocardiogram and electroencephalogram, a urinalysis, and the conduct of a thorough ophthalmological examination. In appropriate cases upon the recommendation of the examining neurologist, a computerized tomography or any other test shall be administered and the results thereof and the recommendation of the examining neurologist forwarded to the *[Commission]* *Commissioner.*

(c) An examination shall be made no earlier than 30 days but no later than 10 days prior to licensure or the renewal thereof.

(d) In addition to the examination required by (a) above, the *[Commission]* *Commissioner* at *[its]* *his* discretion may order such additional examinations of a boxer at any time for the purpose of determining his continued fitness and qualification to engage in a boxing contest.

(e) No applicant shall be granted a license unless the *[Commission physician]* *physician appointed by the Commissioner* has certified his fitness to engage in a boxing contest.

13:46-12.2 Pre-fight medical examinations

(a) All boxers in all bouts must be given a medical examination by a physician appointed by the *[Commission]* *Commissioner* on the day of the bout, both at the weighing-in and in the evening, a short while before the boxing program commences. **All such examinations shall be conducted privately with no other persons present besides the physician and the boxer.*** This physical examination shall include as many of the procedures outlined in N.J.A.C. 13:46-12.1(b) as the examining physician may decide are necessary. In all cases, the examination shall include the administration of a thorough ophthalmological and neurological examination and a urinalysis.

(b) No boxer shall be permitted to enter the ring unless the *[Commission]* physician **appointed by the Commissioner*** has certified his fitness to engage in a boxing contest. **The physician's decision that a boxer is not fit to engage in a boxing contest shall not be subject to change by any other official.*** A boxer may be disqualified for any medical reason.

13:46-12.3 All drugs prohibited; drug testing

(a) The use of any drug, narcotic, stimulant, depressant, or analgesic of any description, or alcoholic substance, by a boxer either before or during a match, shall result in the immediate disqualification of the boxer from the match and indefinite suspension from boxing.

(b) The boxer must submit to any prefight or postfight urinalysis or other laboratory procedure ordered by the *[Commission]* physician **appointed by the Commissioner*** to detect the presence of any drug. Refusal to submit to such testing shall result in the immediate disqualification of the

boxer from the match and an indefinite suspension from boxing.

(c) The application of Monsel's solution or any of its derivatives, or any similar drug or compound, on the body of a boxer before a fight is prohibited.

13:46-12.4 Duties of ringside physician

(a) Ringside physicians shall be appointed by the *[Commission]* *Commissioner*. No boxing bout or wrestling exhibition may commence or proceed unless the ringside physician is present and seated at ringside.

(b) The ringside physician must terminate any boxing bout if in the opinion of such physician any contestant has received severe punishment or is in danger of serious physical injury. In the event of any serious injury, such physician shall immediately render any emergency treatment necessary, order further treatment or hospitalization if required, and fully report the entire matter to the *[Commission]* *Commissioner* within 24 hours and subsequently thereafter, if necessary. Such physician may also require that the injured boxer and his manager remain in the ring or on the premises or report to a hospital after the contest for such period of time as such physician deems advisable. Any boxer, manager or second refusing to comply with the physician's orders regarding hospitalization **[shall be suspended indefinitely]* **may be suspended by the Commissioner in the absence of good cause shown to the contrary.*****

(c) Anything to the contrary notwithstanding in these rules, the ringside physician may enter the ring during the progress of a bout or between rounds and terminate any boxing bout to prevent severe punishment or serious physical injury to a contestant.

13:46-12.5 Post-fight medical examinations

(a) All boxers in all bouts must be given a physical examination by a *[Commission]* physician **appointed by the Commissioner*** immediately following the bout. This physical examination shall include as many of the procedures outlined in N.J.A.C. 13:46-12.1(b) as the examining physician may decide are necessary. In all cases, the examination shall include the administration of a thorough ophthalmological and neurological examination.

(b) Any boxer refusing to submit to a post-fight-medical examination shall be immediately suspended for an indefinite period.

13:46-12.6 Medical examination of boxer after severe injury or actual knockout

(a) Any boxer who has sustained any severe injury or actual knockout in a bout shall within 24 hours be thoroughly examined by a physician **[approved]* **appointed***** by the *[Commission]* *Commissioner*. Such examination shall include any or all of the procedures as provided in N.J.A.C. 13:46-12.1(b) as the examining physician may decide are necessary. In all cases, the examination shall include the administration of an electrocardiogram and electroencephalogram and the conduct of a thorough ophthalmological examination and a neurological examination.

(b) Any boxer who is knocked out in a boxing match shall be suspended from boxing for a 60-day period. Any boxer who is technically knocked out in a boxing match shall be suspended for a 30-day period. Upon the physician's order, the *[Commission]* *Commissioner* shall extend the suspension already imposed.

(c) No boxer who has been suspended under the provisions of (b) above shall be permitted to enter the ring again **[or to**

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contact train or spar as a boxer outside the ring]* until a thorough medical examination of the type required by (a) above has been performed by a physician *[approved]* ***appointed*** by the *[Commission]* ***Commissioner*** and said physician has certified the boxer's fitness to engage in a boxing contest.

13:46-12.7 Mandatory medical examination of contestant losing six consecutive fights; inactivity for one year

(a) Any contestant who has lost six consecutive fights shall be automatically suspended from boxing *[and contact training as a boxer]*. The boxer shall not be reinstated until he has submitted to a medical examination, of the type specified by N.J.A.C. 13:46-12.1(b), conducted by a *[Commission]* physician ***appointed by the Commissioner.***

(b) Any boxer who has not been active for one year or more shall be suspended from boxing until such time as he has submitted to a medical examination, of the type specified by N.J.A.C. 13:46-12.1(b), conducted by a *[Commission]* physician ***appointed by the Commissioner.***

13:46-12.8 Medical examination of judges and referees

(a) Annual medical examinations must be given to all licensed judges and referees by a *[Commission-approved]* physician ***appointed by the Commissioner*** and such examinations shall be of the same type and thoroughness as specified by N.J.A.C. 13:46-12.1(b).

(b) All referees must also submit to a pre-fight medical examination, by a physician appointed by the *[Commission]* ***Commissioner*** on the day of the bout, of the type specified by N.J.A.C. 13:46-12.2(a).

(c) No referee shall be permitted to enter the ring unless the *[Commission]* physician ***appointed by the Commissioner*** has certified his fitness to perform his duties during the boxing contest.

13:46-12.9 Inability to perform contract due to injury or illness

(a) Whenever a licensed boxer considers himself unable by reason of injury or illness to participate in a bout for which he is under contract, he shall immediately notify the *[Commission]* ***Commissioner*** of this fact and, before entering the ring again, the boxer must submit to a medical examination performed by a *[Commission]* physician ***appointed by the Commissioner*** of the type specified by N.J.A.C. 13:46-12.1(b).

(b) In the event that a boxer is treated for any serious injury or disabling illness, or has been hospitalized, by his personal physician for any reason, he or his manager shall immediately notify the *[Commission]* ***Commissioner,*** ***[which]* *who*** will refer the matter to a *[Commission]* physician ***appointed by the Commissioner*** for review. The boxer, thereafter, must submit to such medical examination as may be ordered in the discretion of the *[Commission]* physician ***appointed by the Commissioner*** before engaging in any boxing contest.

(c) Any boxer ***or manager*** failing to immediately report an illness or injury to the *[Commission]* ***Commissioner*** as required by (a) and (b) above shall be immediately suspended for an indefinite period.

13:46-12.10 Medical reports

(a) The *[Commission]* physician ***appointed by the Commissioner*** shall make a detailed written record of each and every medical examination performed by him under this *[sec-

tion]* ***Subchapter,*** N.J.A.C. 13:46-12.1 et seq., on forms provided by the *[Commission]* ***Commissioner*** or on such other forms as may be necessary. The original of all such records shall be filed with the *[Commission]* ***Commissioner*** within 24 hours of each such examination.

(b) The *[Commission]* ***Commissioner*** shall provide copies of all medical records pertaining to an individual boxer to the *[Commission]* physician ***appointed by the Commissioner who is*** assigned to that boxer's next bout, at least one day in advance of said bout. No boxer shall be permitted to engage in a boxing contest unless the *[Commission]* physician ***appointed by the Commissioner who is*** assigned to that contest has the boxer's complete medical history in his possession prior to the pre-fight examination.

(c) *[Commission physicians]* ***Physicians appointed by the Commissioner*** must fill out and return to the Commissioner immediately after a boxing show a printed injury insurance form, reporting serious injuries.

13:46-12.11. Suspension notices

(a) The *[Commission]* ***Commissioner*** shall maintain a current listing of all boxers who are under suspension in this State and in any other boxing jurisdiction. The *[Commission]* ***Commissioner*** shall provide a copy of the suspension list to each attending physician at each boxing contest conducted in this State and shall promptly transmit a current copy of the suspension list to every other boxing jurisdiction. Under no circumstances shall a boxer on the suspension list be permitted to participate in a boxing contest. ***[or to contact train or spar as a boxer]***

(b) The *[Commission]* ***Commissioner,*** upon placing a boxer on the suspension list, shall immediately mail a written suspension notice to the boxer and his licensed manager at their last known addresses, specifying the nature of the suspension, the reason ***[therefore]* *therefor,*** and the length of the suspension, where known.

(c) Any boxer who participates in a boxing contest ***[or who engages in contact training as a boxer]*** during the period of his suspension shall have his license revoked. Any licensed manager of a boxer on the suspension list who participates in a boxing contest ***[or who engages in contact training as a boxer,]*** shall have his license revoked. Any licensed promoter of a boxing show in which a boxer on the suspension list participates shall have his license revoked.

SUBCHAPTER 19. MATCHMAKERS

13:46-19.1 Observance of rules

(No change.)

13:46-19.2 Approval of boxing match by *[Commission]* ***Commissioner***

(a) Before approving any boxing bout or match, the *[Commission]* ***Commissioner*** will inquire into the relative merits of the contestants, their past records, and whether or not they are suitable opponents. The *[Commission]* ***Commissioner*** shall have the right to disapprove any match or bout on the ground that it is not in the best interest of boxing or of the health of either of the contestants.

13:46-19.3 through 19.8

(No change.)

TRANSPORTATION

ADOPTIONS

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route 35 in Ocean County

Adopted Concurrent Proposal to Emergency Rule: N.J.A.C. 16:28A-1.25

Proposed: October 1, 1984, at 16 N.J.R. 2691(a).

Adopted: November 28, 1984, Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: December 6, 1984 as R.1984 d.588, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-21, 39:4-138.1 and 39:4-199.

Effective Date: January 7, 1985.

Expiration Date pursuant to Executive Order 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28A-1.25 Route 35

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

(d) The certain parts of State Highway Route 35 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established trolley stops:

1. Along the southbound (westerly) side thereof in Brick, Dover and Berkeley Townships, Seaside Park and Lavellette Boroughs, Ocean County:

i. Near side trolley stops:

(1) Seabreeze Way: Beginning at the northerly curb line of Seabreeze Way and extending 80 feet northerly therefrom.

(2) 7th Avenue: Beginning at the northerly curb line of 7th Avenue and extending 80 feet northerly therefrom.

(3) Melody Avenue: Beginning at the northerly curb line of Melody Avenue and extending 80 feet northerly therefrom.

(4) "O" Street: Beginning at the northerly curb line of "O" Street and extending 80 feet northerly therefrom.

(5) Fourteenth Avenue: Beginning at the northerly curb line of Fourteenth Avenue and extending 80 feet northerly therefrom.

ii. Far side trolley stops:

(1) Strickland Boulevard: Beginning at the southerly curb line of Strickland Boulevard and extending 80 feet southerly therefrom.

(2) Ocean Bay Boulevard: Beginning at the southerly curb line of Ocean Bay Boulevard and extending 80 feet southerly therefrom.

(3) Ortley Avenue: Beginning at the southerly curb line of Ortley Avenue and extending 80 feet southerly therefrom.

(4) President Avenue: Beginning at the southerly curb line of President Avenue and extending 80 feet southerly therefrom.

(5) Washington Avenue: Beginning at the southerly curb line of Washington Avenue and extending 80 feet southerly therefrom.

(6) Jersey City Avenue: Beginning at the southerly curb line of Jersey City Avenue and extending 80 feet southerly therefrom.

(7) First Avenue—Ortley Beach: Beginning at the southerly curb line of First Avenue and extending 80 feet southerly therefrom.

(8) Sixth Avenue—Ortley Beach: Beginning at the southerly curb line of Sixth Avenue and extending 80 feet southerly therefrom.

(9) Second Avenue: Beginning at the southerly curb line of Second Avenue and extending 80 feet southerly therefrom.

(10) Ninth Avenue: Beginning at the southerly curb line of Ninth Avenue and extending 80 feet southerly therefrom.

2. Along the northbound (easterly) side thereof in Brick, Dover and Berkeley Townships, Seaside Park and Lavellette Boroughs, Ocean County:

i. Near side trolley stops:

(1) Fourth Avenue: Beginning at the southerly curb line of Fourth Avenue and extending 80 feet southerly therefrom.

(2) "F" Street: Beginning at the southerly curb line of "F" Street and extending 80 feet southerly therefrom.

(3) "K" Street: Beginning at the southerly curb line of "K" Street and extending 80 feet southerly therefrom.

(4) Coolidge Avenue—Ortley Beach: Beginning at the southerly curb line of Coolidge Avenue and extending 80 feet southerly therefrom.

(5) First Avenue—Ortley Beach: Beginning at the southerly curb line of First Avenue and extending 80 feet southerly therefrom.

(6) Camden Avenue: Beginning at the southerly curb line of Camden Avenue and extending 70 feet southerly therefrom.

(7) Kerr Avenue: Beginning at the southerly curb line of Kerr Avenue and extending 70 feet southerly therefrom.

(8) Ocean Bay Boulevard: Beginning at the southerly curb line of Ocean Bay Boulevard and extending 80 feet southerly therefrom.

(9) Kittiwake Avenue: Beginning at the southerly curb line of Kittiwake Avenue and extending 80 feet southerly therefrom.

(10) Surf Road: Beginning at the southerly curb line of Surf Road and extending 80 feet southerly therefrom.

(11) Seabreeze Way: Beginning at the prolongation of the southerly curb line of Seabreeze Way and extending 80 feet southerly therefrom.

ii. Far side trolley stops:

(1) Twenty-Fourth Avenue: Beginning at the northerly curb line of Twenty-Fourth Avenue and extending 120 feet northerly therefrom.

(2) Fourteenth Avenue: Beginning at the northerly curb line of Fourteenth Avenue and extending 80 feet northerly therefrom.

(3) Sixth Avenue—Ortley Beach: Beginning at the northerly curb line of Sixth Avenue and extending 80 feet northerly therefrom.

(4) New York Avenue: Beginning at the northerly curb line of New York Avenue and extending 70 feet northerly therefrom.

(5) Seventh Avenue: Beginning at the northerly curb line of Seventh Avenue and extending 80 feet northerly therefrom.

ADOPTIONS

TREASURY-TAXATION

TREASURY-GENERAL

(a)

STATE LOTTERY COMMISSION

**Lottery License
Transfer of Ownership**

Adopted Amendments: N.J.A.C. 17:20-4.10

Proposed: October 15, 1984 at 16 N.J.R. 2758(a).
Adopted: December 3, 1984 by New Jersey Lottery Commission, Hazel Frank Gluck, Executive Director.
Filed: December 5, 1984 as R.1984 d.586, **without change**.
Authority: N.J.S.A. 5:9-7(a), (b) and (f).
Effective Date: January 7, 1985.
Expiration Date pursuant to Executive Order 66(1978): November 7, 1988.

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

Full text of the adoption follows.

17:20-4.10 Transfers of ownership (of license premise)
(a) A lottery license issued pursuant to these regulations is not transferable without the approval of the Director.
(b) The Lottery must be notified in writing at least 30 days prior to any change in ownership or any corporate stock transfer of an agent. Immediate written notice is also due when an agent advertises the sale of the licensed business.
(c) If the business to which a license is issued or the ownership thereof, including ownership of shares of stock, substantially changes, the Lottery license may be suspended immediately and, after notice to the agent, revoked.
(d) The new owner(s) of such a business may be issued a temporary license for a period not to exceed 90 days during which an application for licensure may be filed and reviewed, provided that the Division has received timely notice as described above.
(e) The Director may set a date on which responsibility passes from the current agent to the prospective agent with respect to obligations to and compensation from the Lottery. Such date may be the closing date submitted to the Division by the parties. The Director may also establish other procedures to facilitate such events.

(b)

STATE LOTTERY COMMISSION

**Lottery Tickets
Distribution**

Adopted Amendments: N.J.A.C. 17:20-6.1

Proposed: October 15, 1984 at 16 N.J.R. 2758(b).
Adopted: December 3, 1984 by New Jersey Lottery

Commission, Hazel Frank Gluck, Executive Director.
Filed: December 5, 1984 as R.1984 d.585, **without change**.

Authority: N.J.S.A. 5:9-7(a), (b), and (f).

Effective Date: January 7, 1985.
Expiration Date pursuant to Executive Order 66(1978): November 7, 1988.

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

Full text of the adoption follows.

17:20-6.1 Distribution of lottery tickets; conduct of business
(a) After an application has been accepted and approved by the Director, the agent shall be assigned to a courier.
(b) An agent may delegate authority to an employee regarding transactions with the Lottery. However, the agent shall remain liable to the Lottery regardless of what the delegatee may do or fail to do.
(c) The Director may issue an identification card to any agent which, if issued, must be displayed whenever the agent transacts business with the Lottery or the courier.
(d) The agent accepts all tickets in trust for the Lottery. Tickets in the hands of an agent are the agent's sole responsibility and it is the agent's sole duty as a fiduciary of the Lottery either to return the tickets to the Lottery within the specified time or to remit the face value of the tickets to the Lottery, minus any commissions, bonuses and reimbursements for redeemed tickets to which the agent is entitled.

TREASURY-TAXATION

(c)

DIVISION OF TAXATION

**Corporation Business Tax
Discretionary Adjustment of 100 Percent
Allocation Factor**

Adopted Amendment: N.J.A.C. 18:7-8.3

Proposed: November 5, 1984 at 16 N.J.R. 3001(a).
Adopted: December 13, 1984 by John R. Baldwin, Director, Division of Taxation.
Filed: December 17, 1984 as R.1984 d.594, **without change**.
Authority: N.J.S.A. 54:10A-8 and 54:10A-27.
Effective Date: January 7, 1985.

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

Full text of amendment follows.

18:7-8.3 Right of Director to independently compute allocation factor
(a) (No change.)

TREASURY-TAXATION

ADOPTIONS

(b) Reduction in tax for income duplicated on a return filed with another State pursuant to N.J.S.A. 54:10A-8 and this rule—100 percent allocation factor:

1. Eligibility:

i. Where the Business Allocation Factor under Section 6 of the Act is 100 percent and the taxpayer in fact paid a tax based on or measured by income to a foreign state, resulting in a duplication of income being taxed, it may, under Section 8 of the Act, apply for a reduction in the amount of its tax. The reduction is available only where the taxpayer in its own right acquired a taxable status in the foreign state by reference to at least one of the criteria described at N.J.A.C. 18:7-1.6 as if the New Jersey Corporation Business Tax Act were the law of that foreign state.

Example: S corporation does not maintain a regular place of business outside New Jersey, other than a statutory office. It was not a domestic corporation in State X, nor did it meet any of the other criteria described at N.J.A.C. 18:7-1.6 in that State which would have created a taxable status in New Jersey. Although it was not itself doing business in State X, it was a member of an affiliated group of corporations which conducted a unitary business in that State and as such is permitted or required to join in filing a combined or consolidated return in State X. In fact, it did so.

Any duplication of income being reported to New Jersey and to State X may not form the basis for a reduction in the tax.

2. Method:

i. An eligible taxpayer computes its reduction on a rider attached to its return by demonstrating that a part of entire net income is duplicated on a return filed with another state. It must attach a copy of all relevant portions of the return filed with the foreign state relating to income reported, the computation of all components of its apportionment fractions and the computation of the tax paid to the foreign state. It must also submit a schedule apportioning all property, receipts and payroll to a common denominator defined consistent with the return. For purposes of calculating the reduction:

(1) It may be based upon only so much of adjusted entire net income appearing on its Corporation Business Tax Return as is reported to the foreign state;

(2) The formula apportionment used in the foreign state may not exceed the Business Allocation Factor as determined under Section 6 of the Act and these rules;

(3) It must be computed by using the lesser of the tax rates of the foreign state or the tax rate under the New Jersey Corporation Business Tax Act.

Example 1:

Corporation A does not maintain a regular place of business outside New Jersey other than a statutory office. As a consequence, its Business Allocation Factor is 100 percent. It sold land for \$250,000 which had a tax basis and book value of \$100,000 and was situated in State Y. Under the laws of State Y, the entire gain is directly allocable to that State and is taxed at an eight percent rate. It may determine the portion of its tax which is measured by net income as follows:

	New Jersey Tax Income Base	Duplicated in State Y
Gross income exclusive of gain on sale of land	\$ 500,000	
Net gain on sale of land	+ 150,000	\$ 150,000
Total income	650,000	
Deductions	- 447,778	

Taxable income before net operating deductions and special deductions	202,222	
Adjustments—N.J. Corporation Business Tax Deducted—add back	+ 20,000	
Entire net income	\$ 222,222	
Tax at 9%—before reduction	\$ 20,000	
Formula apportionment not used in State Y		100%
Duplication of income		150,000
Reduction—may not exceed 9%		× .08
Tax paid to State Y		<u>\$ 12,000</u>
Reduction	- 12,000	
Paid with return	<u>\$ 8,000</u>	

Example 2:

Corporation B does not maintain a regular place of business outside New Jersey other than a statutory office. Its Business Allocation Factor is 100 percent. It did however start and complete a construction job in State Z and paid an income tax to that State at a ten and one-half percent rate. It may determine the portion of its Corporation Business Tax measured by net income as follows:

	New Jersey Tax Income Base	Duplicated in State Z
Taxable income before net operating loss deduction and special deductions	\$ 227,500	\$ 227,500
Add ACRS	\$15,000	
Less, NJ Depreciation	12,000	-0-
Taxes imposed on or measured by income from State Z return	28,800	22,500
N.J.C.B.T. paid or accrued—add back	22,500	22,500
Municipal bond interest—add back	+ 7,000	+ -0-
	\$ 260,000	250,000
Dividend exclusion—NJ State Z	10,000 -0-	- 10,000
Entire Net Income	<u>\$ 250,000</u>	
Portion of entire net income duplicated		240,000
Apportionment (computed below)		× .25
Tax @ 9%	22,500	<u>60,000</u>
Tax @ 10 1/2%		<u>\$ 6,300</u>
Reduction 60,000 @ 9%	- 5,400	
Reduced Tax	<u>\$ 17,100</u>	

Corporation B computed its apportionment on its State Z return as follows:

	State Z	Everywhere	%
Property Owned	\$140,000	\$ 500,000	
Leased (at 8 annual rentals)	+ 40,000	+ 100,000	
	<u>180,000</u>	<u>600,000</u>	.30

ADOPTIONS

TREASURY-TAXATION

Receipts	$\frac{200,000}{1,000,000}$.20
double weighted		.20
Payroll	$\frac{90,000}{300,000}$.30
Total		<u>1.00</u>
Average $1.0 \div 4$		<u>.25</u>

	<u>State Z</u>	<u>Everywhere</u>	
Property owned	\$ 140,000 ÷ \$	500,000	.28
Receipts	200,000 ÷	1,000,000	.20
Payroll	90,000 ÷	300,000	+ .30
			<u>.78</u>
Business Allocation Factor	.78-3		<u>.26</u>

The formula apportionment had it been determined in State Z consistent with the Corporation Business Tax Act would have been:

Since the apportionment fraction (.25) used in State Z does not exceed the Business Allocation Factor as it would have been determined under the Act and these Rules, it is used for purposes of determining the reduction.

EMERGENCY ADOPTIONS

AGRICULTURE

(a)

DIVISION OF PLANT INDUSTRY

Diseases of Bees

Acarine Mite Quarantine

Adopted Emergency New Rule and

Concurrent Proposal: N.J.A.C. 2:24-1.1 and 1.2

Emergency New Rule Adopted: November 27, 1984 by
Arthur R. Brown, Jr., Secretary, Department of Ag-
riculture.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)):
December 11, 1984.

Emergency New Rule Filed: December 12, 1984 as
R.1984 d.592.

Authority: N.J.S.A. 4:6-20.

Emergency New Rule Effective Date: December 12,
1984.

Emergency New Rule Expiration Date: February 11,
1985.

Interested persons may submit, in writing, information or
arguments concerning the proposal until February 6, 1985.
Address comments and inquiries to:

William W. Metterhouse, Director
Division of Plant Industry
New Jersey Department of Agriculture
CN 330
Trenton, N.J. 08625
Telephone: (609) 292-5441

This new rule was adopted on an emergency basis and became
effective upon acceptance for filing by the Office of Adminis-
trative Law (see: N.J.S.A. 52:14B-4(c) as implemented by
N.J.A.C. 1:30-4.4). Concurrently, the provisions of this
emergency new rule are being proposed for re-adoption in
compliance with the normal rulemaking requirements of the
Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The
re-adopted rule becomes effective upon acceptance for filing
by the Office of Administrative Law (see: N.J.A.C. 1:30-
4.4(d)).

The concurrent proposal is known as PRN 1985-40.

The agency emergency adoption and concurrent proposal fol-
lows:

Summary

An outbreak of highly pathogenic acarine mite disease of
honey bees has been found in New York and six other states
placing the New Jersey bee industry in imminent peril. The
bee industry is a highly migratory industry and since the true
extent of the acarine mite infection in the United States is not
known, it is imperative that all bee colonies, package bees,
queen bees, combs, used hives and any other appliances used

in association with bees be prohibited from infested states or
who have overwintered in infested states, entry into New
Jersey for at least 60 days while the New Jersey Department
of Agriculture conducts an extensive survey to determine
whether or not the mite is present.

There is concern that migratory beekeepers may seek to
store their colonies in New Jersey during the winter months
and thereby increasing the possibility of moving mite contam-
inated hives into New Jersey. The intent of the quarantine is
to prevent this movement.

Social Impact

This move will not have any great affect on farmers or
beekeepers since the bee colonies are dormant during the
winter months and not used for pollination purposes.

Economic Impact

Due to the fact that the quarantine will take place during
the winter months, the economic impact on the bee industry
in New Jersey will be minimal. This quarantine is to insure
that no contaminated colonies will be moved into New Jersey.

Full text of the emergency new rule and concurrent pro-
posal follows.

CHAPTER 24 DISEASES OF BEES

SUBCHAPTER 1. ACARINE MITE QUARANTINE

2:24-1.1 Acarine mite quarantine

(a) The Secretary of Agriculture declares that the acarine
mite, *Acarapis woodi*, an internal parasite of honey bees
which causes acarine disease, is detrimental to the welfare of
the bee industry of New Jersey.

(b) A quarantine is established against acarine mite, its
hosts, and possible carriers.

(c) The following articles and commodities are prohibited
entry into New Jersey:

1. Bee colonies, packaged bees, and queen bees of the
species *Apis mellifera* which originated in, or during the pre-
vious two years overwintered in, any state reported by State
agricultural officials or the United States Department of Agri-
culture to be infested with acarine mite or acarine disease,
whether shipped directly from an infested state or trans-
shipped from any other state, district, or territory of the
United States.

2. Comb, used hives, and any other appliances used in
association with bees as specified in 1. above.

2:24-1.2 Infested states

(a) The states which have been reported and are now
known to be infested with acarine mite/acarine disease are
Louisiana, Texas, Florida, New York, South Dakota, North
Dakota and Nebraska. This regulation will be amended as
often as practical to list additional states infested with the
mite/disease as such states are reported. The Department of
Agriculture shall maintain a list of such reported infested
states. The list shall be available on request to the Depart-
ment's Division of Plant Industry, CN 330, Trenton, New
Jersey 08625.

(b) Bee colonies, packaged bees, and queen bees of the
species *Apis mellifera*, which are not prohibited entry into
New Jersey in N.J.A.C. 2:24-1.1(c)1., may enter New Jersey

EMERGENCY ADOPTIONS

EDUCATION

provided each shipment is accompanied by the following document:

1. A written statement, signed by the shipper of the bees and declaring, under penalty of perjury, that none of the bees in the shipment originated in, or during the previous two years, were overwintered in Louisiana, Texas, Florida, New York, South Dakota, North Dakota and Nebraska, or any state reported to be infested with acarine mite or acarine disease.

EDUCATION

(a)

STATE BOARD OF EDUCATION

**Tuition Public Schools
Method of Determining Tuition Rates**

**Adopted Emergency Amendment and
Concurrent Proposal: N.J.A.C. 6:20-3.1**

Emergency Amendment Adopted: December 5, 1984 by State Board of Education, Saul Cooperman, Secretary.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): December 5, 1984.

Emergency Amendment Filed: December 10, 1984 as R.1984 d.589.

Authority: N.J.S.A. 18A:4-15, 18A:38-19 and 52:14B-4(c).

Emergency Amendment Effective Date: December 10, 1984.

Emergency Amendment Expiration Date: February 8, 1984.

Interested persons may submit, in writing, information or arguments concerning the proposal until February 6, 1985. Address comments and inquiries to:

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

The amendments were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency amendments 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 readopted amendments 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 1985-21.

The agency emergency adoption and concurrent proposal follows:

Summary

The State Board of Education, pursuant to the authority of N.J.S.A. 52:14B-4(c) and N.J.S.A. 18A:4-15 and 18A:38-19, adopted emergency amendments to N.J.A.C. 6:20-3.1(d), Tuition Public Schools, Method of Determining Tuition Rates, and proposes a concurrent proposal so that upon the 60-day expiration, the continuation of the rule will be in place.

There is an immediate need to amend N.J.A.C. 6:20-3.1(d) concerning tuition agreements between district boards of education.

Amendments to these rules were adopted in May, 1984 to apply to tuition agreements for both regular and special education pupils. In developing forms to implement the rule for the 1985-86 school year, the Department of Education became aware that two of the changes, if applied to tuition agreements for special education pupils, will cause harm to district boards of education and special education pupils. These amendments alleviate the harmful effects to district boards of education and special education pupils.

The rules currently require that district boards of education enter into a written contractual agreement for tuition "no later than seven days prior to the date on which the proposed budget for the ensuing school year is required to be submitted to the county superintendent." For the 1985-86 school year, the statutorily determined date on which the proposed budget is required to be submitted is January 15, 1985, which means that district boards of education will have to enter into written contractual agreements for tuition no later than January 8, 1985. In addition, district boards of education will have to determine placements for special education pupils in December, 1984, eight months prior to the beginning of programs, in order to be in a position to enter into a contract by January 8, 1985.

The application of this requirement to contractual agreements for tuition for special education pupils for the 1985-86 school year will force district boards of education to enter into a contract before all special education pupils have been properly reevaluated and processed by child study teams for placement in the appropriate programs.

The rules also currently require that "all adjustments which shall be made . . . shall only be made during the third school year following the contract year." The application of this requirement to contractual agreements for tuition for special education pupils means that district boards of education cannot terminate a contractual agreement during the contract year. This will cause district boards of education to endure financial hardship when agreements are entered into for programs which are inappropriate for specific special education pupils.

These amendments exempt contractual agreements for pupils enrolled in special education classes from these two requirements in the current rules.

Social Impact

Adoption of these amendments will impact almost all district boards of education in this State, since almost every district board of education is involved in some way with the sending or receiving of special education pupils. These amendments alleviate the potentially extreme harm to special education pupils who might be "locked" into an inappropriate program for the 1985-86 school year based upon a contractual agreement which was entered into before the pupil could be properly reevaluated and processed by a child study team for placement into an appropriate program.

District boards of education will react very positively to these amendments since there is almost universal agreement

EDUCATION

EMERGENCY ADOPTIONS

that the current rules will harm special education pupils if implemented for the 1985-86 school year.

Economic Impact

These amendments have a definite overall positive fiscal impact on district boards of education. The current rules will cause district boards of education to make tuition payments during the 1985-86 school year and leaves no ability to adjust or terminate those payments for special education pupils who are no longer placed in their original contractually agreed to programs. In some cases, district boards of education will, in effect, be under contract for two programs for the same child. These amendments eliminate this possibility by permitting district boards of education to adjust special education contracts at any time.

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

6:20-3.1 Method of determining tuition rates

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

(d) A tentative tuition charge shall be established for budgetary purposes by written contractual agreement between the receiving district board of education and the sending district board of education, and such tentative charge shall equal an amount not in excess of the receiving district's estimated cost per pupil for the ensuing school year for the purpose or purposes for which tuition is being charged, multiplied by the estimated average daily enrollment of pupils expected to be received during the ensuing school year. Such written contract shall be on a form prepared by the commissioner.

1. The sending district board of education and the receiving district board of education shall enter into a written contractual agreement for tuition for the ensuing school year, **except for a contractual agreement for a pupil enrolled in a special education class**, no later than seven days prior to the date on which the proposed budget for the ensuing school year is required to be submitted to the county superintendent. Such contractual agreement shall require the sending district board of education to pay ten percent of the tentative tuition charge no later than an agreed upon date each month from September through June of the contract year. The contractual agreement, **except for a contractual agreement for a pupil enrolled in a special education class**, shall require that all adjustments which shall be made because of a difference in cost or in the number of pupils sent shall only be made during the third school year following the contract year. [The] **All** contractual agreements shall contain a payment schedule for all adjustments which may be necessary.

2. The sending district board of education shall notify in writing the receiving district board of education of the esti-

ated average daily enrollment of pupils in each tuition category expected to be sent during the ensuing school year no later than December 15 preceding the beginning of the ensuing school year. The receiving district board of education shall notify in writing the sending district board of education of the estimated cost per pupil in each tuition category for the ensuing school year and the tentative tuition charge no later than January 1 preceding the beginning of the ensuing school year. The receiving district board of education shall submit to the sending district board of education a copy of its calculations to determine the estimated cost per pupil in each tuition category for the ensuing school year no later than January 1 preceding the beginning of the ensuing school year. Such calculations shall be on a form prepared by the commissioner.

3. If the commissioner later determines that the tentative tuition charge **established by written contractual agreement, except for a contractual agreement for a pupil enrolled in a special education class**, was greater than the actual cost per pupil during the school year multiplied by the actual average daily enrollment received, the receiving district board of education shall return to the sending district board of education in the third school year, following the contract year the amount by which the tentative charge exceeded the actual charge as determined above, or, at the option of the receiving district board of education shall credit the sending district board of education with the excess amount. **Such adjustment for a contractual agreement for a pupil enrolled in a special education class shall be made no later than the end of the third school year, following the contract year.**

4. If the commissioner later determines that the tentative charge **established by written contractual agreement, except for a contractual agreement for a pupil enrolled in a special education class**, was less than the actual cost per pupil during the school year multiplied by the actual average daily enrollment received, the receiving district board of education may charge the sending district board of education all or part of the amount owed by sending district board of education, to be paid during the third school year following the school year for which the tentative charge was paid. **Such adjustment for a contractual agreement for a pupil enrolled in a special education class shall be made no later than the end of the third school year, following the contract year.** The county superintendent of schools of the county in which the sending district board of education is located may approve the payment of the additional charge over another period, if the sending district board of education can demonstrate that payment during the third school year following the school year for which the tentative charge was paid would cause a hardship.

(e)-(f) (No change.)

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

DIVISION OF WATER RESOURCES

(a)

Amendment to Mercer County Water Quality Management Plan

Public Notice

Take notice that on October 25, 1984 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), the amendment to the Mercer County Water Quality Management Plan, for sewer service in Hamilton Township, was adopted by the Department.

(b)

Amendment to Mercer County Water Quality Management Plan

Public Notice

Mercer County has submitted for approval an amendment to the Mercer County Water Quality Management (WQM) Plan. This amendment provides for a procedure for the revision of the Mercer County WQM Plan as necessary to maintain the Plan as a technically sound and legally defensible document for the implementation of WQM objectives. This WQM Plan was adopted pursuant to the "New Jersey Water Quality Planning Act" (N.J.S.A. 58:11A-1 et seq.) which also authorizes the New Jersey Department of Environmental Protection, and county and regional agencies designated by the Governor, to develop and implement areawide WQM Planning programs.

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, and the proposed amendment is located at the Mercer County Planning Board, Room 420, County Administration Building, 640 South Broad Street, P.O. Box 8068, Trenton, N.J. 08650; and the NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to the Secretary, Mercer County Planning Board, at the Mercer County address cited above; and 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 the Planning Board and County Executive with respect to the amendment request. In addition, if the amendment is adopted by Mercer County, the NJDEP must review the amendment prior to final adoption. The comments received in reply to this notice will also be considered by the NJDEP during its review.

Any interested person may request in writing that the Planning Board hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to the Secretary at the address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended for 15 days following the public hearing.

(c)

Amendment to the Upper Raritan Water Quality Management Plan

Public Notice

The Raritan Township Municipal Utilities Authority (RTMUA), Hunterdon County, has submitted for approval an amendment to the Upper Raritan Water Quality Management (WQM) Plan. This amendment provides for the expansion of the RTMUA sewerage treatment plant from the current design capacity of 2.2 million gallons per day (mgd) to 3.8 mgd. This expansion may occur in incremental levels with concurrent incremental increases in the level of treatment required in accordance with a permit compliance schedule. The ultimate expansion of 3.8 mgd will require approximately Level 3 treatment with seasonal conditions. The increased capacity will be used to service planned development in Raritan Township, and all dry-weather sewerage flows from Flemington Borough. Flemington Borough, a service customer of RTMUA, has a treatment plant with a permitted treatment capacity of 0.3 mgd. This plant is to be abandoned except for treatment of stormwater overflows. All dry-weather flows will be conveyed to the RTMUA treatment plant.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Raritan WQM Plan, and that draft New Jersey Pollution Discharge Elimination System (NJPDES) permits have been developed for the affected facilities. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08628. 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, Chief, Bureau of Planning and Standards, at the NJDEP address cited above. A public hearing will be held at the Hunterdon County Central High School Auditorium, Route 31, Flemington, N.J. on February

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27, 1985 at 7:00 P.M. The hearing will also address the draft NJPDES permit modification for RTMUA and the draft revised NJPDES permit for Flemington Borough. All written comments must be submitted by the close of the public hearing. All comments submitted by interested persons in response to this notice or the public hearing, within the time limit, shall be considered by NJDEP with respect to the amendment and permit requests.

(a)

**Amendment Procedure for Sussex County
Water Quality Management Plan**

Public Notice

Take notice that on October 25, 1984 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), the Amendment Procedure for the Sussex County Water Quality Management Plan, was adopted by the Department.

ATTORNEY GENERAL'S OPINION

(a)

ATTORNEY GENERAL

Formal Opinion No. 2-1984

November 15, 1984

Honorable Michael M. Horn
State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION NO.2-1984

Dear Treasurer Horn:

It has been brought to our attention that Public Question Number 2 ("The Human Services Facilities Construction Bond Act"), which was presented on the ballot and approved by the people at the General Election held on November 6, 1984, contained language concerning the refinancing of bonds authorized by the Act which does not appear in section 22 of Senate Bill No. 2095, The Human Services Facilities Construction Bond Act of 1984. The question is raised whether the Issuing Officials may lawfully issue bonds pursuant to the provision of the Bond Act. For the following reasons, it is our opinion that the inclusion of additional wording on the ballot concerning the refinancing of bonds authorized by the Act constitutes an immaterial deviation from the substantive objective of the Bond Act and the Issuing Officials may lawfully and properly issue the bonds.

On September 13, 1984, the Legislature passed Senate Bill No. 2095, the Human Services Facilities Construction Bond Act of 1984 (hereinafter referred to as the Bond Act or Act). The Act authorized the creation of a debt of the State of New Jersey through the issuance of bonds as direct obligations of the State in the sum of \$60 million for the purpose of capital expenditures for the cost of construction of human services facilities. Specifically, it authorized capital expenditures for renovation and improvement of human services facilities; for the maintenance of physical plant accreditation standards; to upgrade solid waste facilities at human services institutions; for grants to establish alternative residential facilities for deinstitutionalized individuals, and for the replacement, rehabilitation, repair and improvement of human services facilities. The Act contained the usual provisions with respect to the issuance of State bonds. It provided that the bonds shall be serial bonds, term bonds, or a combination thereof, which shall be subject to redemption prior to maturity and which shall mature and be paid not later than 35 years from the date of issuance. It also authorized the Issuing Officials to issue refunding bonds and in an amount not to exceed the amount necessary to effectuate the refinancing of all or any bonds issued pursuant to the Act, for the purpose of refinancing any bonds issued pursuant to the Act, subject to the enactment of legislation providing for the issuance of refunding bonds in

accordance with and under the authorization of N.J. Const. (1947), Art. 8, Sec. 2, par. 3.

Of significance is the following provision contained in Section 22 of the Act:

For the purpose of complying with the provisions of the State Constitution this act shall, at the general election to be held in the month of November, 1984, be submitted to the people. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 15 days prior to the election, to cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the ballots, the following: . . .

HUMAN SERVICES FACILITIES CONSTRUCTION BOND ISSUE

Should the 'New Jersey Human Services Facilities Construction Bond Act of 1984,' which authorizes the State to issue bonds in the amount of \$60,000,000.00 for the planning, construction, re-construction, development, erection, acquisition, extension, improvement, rehabilitation, and equipping of human services facilities *[and in a principal amount sufficient to refinance all or any of these bonds if it will result in a present value savings,]* and providing the ways and means to pay for the principal and interest on these bonds, be approved?

INTERPRETIVE STATEMENT

Approval of this act will authorize the sale of \$60,000,000.00 in bonds to be used (1) to bring human services facilities into compliance with Life Safety Code requirements; (2) to maintain physical plant accreditation standards; (3) to upgrade solid waste facilities at human services institutions; (4) to provide grants to establish alternative residential facilities for deinstitutionalized individuals; *and* (5) to replace, rehabilitate, repair and improve human services facilities* [(6) and provide bonds in a sufficient amount to refinance all or any of these bonds if it will result in a present value savings]*. (Emphasis in original).

The Act explained that the matter enclosed in brackets above [thus] was not enacted and was to be omitted in the law.

Pursuant to section 22 of the Act, the Secretary of State certified to the county clerks of the respective counties that there should appear on the ballot to be voted upon by the voters of the entire State at the General Election to be held on November 6, 1984, as Public Question No. 2, the question and interpretive statement appearing in the Act. The question and interpretive statement published on the ballot used at the election were identical to that set forth in the Act, except that

ATTORNEY GENERAL

ATTORNEY GENERAL'S OPINION

the material contained within the brackets, dealing with how the bonds might be refinanced, was not deleted from, and therefore remained included in, the question and interpretive statement appearing on the ballot with the brackets themselves having been removed from the text. The question so published and stated in the official ballot was also contained in the General Election Sample Ballots distributed to voters in advance of the General Election. The Act was approved by a wide majority of the voters in the General Election of November 6, 1984. In view of the fact that the question and interpretive statement published on the official ballot for the General Election contained information concerning the possible refinancing of the bonds, which had been deleted from the question and interpretive statement stated in the Act, the precise issue is whether bonds may be issued by the State of New Jersey under and pursuant to the Act.

It is significant to note that the Act specifically contained a provision (Section 19) authorizing the Issuing Officials to issue refunding bonds and in an amount necessary to effectuate the refinancing of all or any bonds issued pursuant to the Act, at any time and from time to time, for the purpose of refinancing any bond issued pursuant to the Act, subject to the enactment of legislation providing for the issuance of refunding bonds in accordance with and under the authorization provided by *N.J. Const.* (1947), Art. 8, Sec. 2, par. 3. The Act further provided that such refunding bonds would constitute direct obligations of the State of New Jersey, and the faith and credit of the State would be pledged for the payment of the principal thereof and the interest thereon. Thus, the information included in the question on the ballot stating that the bonds would be issued "in a principal amount sufficient to refinance all or any of these bonds if it will result in a present value savings," and the information incorporated in the interpretive statement stating that approval of the Act "will . . . provide bonds in a sufficient amount to refinance all or any of these bonds if it will result in a present value savings" was not substantially different from the refinancing provisions actually contained in Section 19 of the Act.

More importantly, voter approval of the wording on the ballot authorizing the creation of a debt for the purpose of refinancing all or a portion of any outstanding bonds was not even required. Pursuant to an amendment to Art. 8, §2, ¶3, of the State Constitution, approved at the General Election of November 8, 1983, no voter approval is required for any law authorizing the creation of a debt in an amount for the refinancing of all or a portion of any outstanding debts of the state. The wording on the ballot concerning the possible refinancing of bonds which had in fact been deleted by the legislature from the question and interpretive statement in the Act was superfluous. It did not in any way materially alter the substantive object of the Act specifying the principal amount of bonds to be issued and the several purposes to which the proceeds of such bonds would be applied.

The great weight of authority recognizes that the inclusion of information in a question or interpretive statement concerning the technical or financial details of a bond issue, which is in excess of, and not required by, the statute authorizing the placement of the question on the ballot, is unlikely to affect in a meaningful way the choice of the electorate. Consequently, courts have regarded the incorporation of such information as an insubstantial irregularity that does not vitiate the validity of the election. *E.g.*, *Knappenberger v. Hughes*, 35 *N.E.2d* 317 (Ill. Sup. Ct. 1941); *Anselmi v. Rock Springs*, 80 *P.2d* 419 (Wyo. Sup. Ct. 1938); *Allison v. Phoenix*, 33 *P.2d* 927 (Az. Sup. Ct. 1934). Thus, in *Anselmi v. Rock Springs*, *supra*, the public question placed on the ballot

included a provision that the bonds to be issued by the City of Rock Springs, Wyoming, would be issued in an amount not exceeding 2% of the assessed valuation of the city, when computed together with outstanding general bonds. In actuality, the total bond indebtedness of the city at the time of the election was already nearly 4% of the assessed valuation and would be approximately 5½% when computed together with the proposed bonds. Nevertheless, the court approved the bonds. In doing so, the court noted that Wyoming Law did not require that a statement of the city's total indebtedness be included in the question placed on the ballot. Under these circumstances, the information included in the ballot was treated as surplusage which, even though incorrect, was found to be an insignificant irregularity which did not cast doubt on the validity of the election. 80 *P.2d* at 424-425. Similarly, in *Knappenberger v. Hughes*, *supra*, the statute providing that a question be placed on the ballot concerning whether or not an Illinois banking act should be amended did not require or provide that an explanatory statement of the question be included on the ballot. However, the Secretary of State added an interpretive statement on the ballot explaining the purpose of the proposed amendment. In rejecting the contention that the election was rendered invalid because the ballot was not in the form prescribed by the General Assembly, the court held that although the Secretary of State "overstepped his authority in having [the unnecessary information] placed on the ballot . . . the error was on the side of giving the voters more information and, if not stated so as to mislead them, it affords no ground for declaring the election void." 35 *N.E.2d* at 320. Likewise, in *Smith v. Calhoun Community Unit School Dist. No. 40*, 157 *N.E.2d* 59 (Ill. Sup. Ct. 1959), the Illinois Supreme Court considered the validity of school bonds to be issued by two counties. A special election for the purpose of submitting the bond issue question to the voters was called for by a resolution adopted by the two counties. The question, as set forth in the resolution, included information specifying the maturity dates of the bonds. However, when the question appeared on the ballot, one of the maturity dates was omitted from the question. As in *Anselmi v. Rock Springs*, *supra*, the Illinois School Code did not require that information pertaining to the maturity dates of school bonds be set forth in public questions concerning such bond issues. In approving the bonds, the court stated:

It is well settled that an official ballot will not be vitiated by the incorporation of information beyond that required by the statute. When such additional information is incorporated in the ballot, the test is whether it would tend to confuse or misinform a voter so as to affect his free choice . . . There is nothing misleading about the official ballot used in this section. [157 *N.E.2d* at 63; citations omitted].

Furthermore, even in instances where there have been mistakes, misstatements or omissions concerning financial provisions of proposed bond issues which appear in the ballot itself, bond statutes so approved by the voters have not been declared invalid; such irregularities do not have the tendency to mislead, deceive or confuse the people and are not considered substantial. *E.g.*, *Dunlap v. Williamson*, 369 *P.2d* 631 (Okla. Sup. Ct. 1962); *State v. Maxwell*, 60 *N.E.2d* 183 (Ohio Sup. Ct. 1945); *San Diego County v. Hammond*, 59 *P.2d* 478 (Cal. Sup. Ct. 1936). Where the ballot itself correctly sets forth the essential provisions of the bond proposition to be passed upon by the electorate (as in the present situation involving the Human Services Facilities Construction Bond

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Act (1984)), a misstatement, irregularity or omission of an insubstantial nature in a public question appearing on the election ballot will not suffice to vitiate the law authorizing the proposed bonds. *State v. McGlynn*, 135 N.E.2d 632 (Ohio Ct. of App. 1955).

In *Formal Opinion 6-1964*, issued on December 29, 1964, a question was raised as to the significance of differences between the Higher Education Construction Bond Act of 1964 as enacted and as published by the Secretary of State. The Attorney General concluded that there was no legal defect with respect to the publication because it constituted substantial compliance with the provisions of the Bond Act. It was reasoned that where the differences pertained to technical changes and minor alterations in phraseology and where the published act fully set forth the specific amount of indebtedness incurred for higher education purposes, those differences did not materially alter the substantive provisions of that Bond Act. Similarly, in the instant situation, the differences between the Bond Act and the wording presented on the ballot dealing with refinancing have no tendency to mislead, deceive or confuse the public with respect to the basic legislative object to incur a debt in the amount of \$60 million for improvements to human services facilities.

Decisions which have declared bond acts invalid because of defects in election notices or in the statement of the public questions submitted usually have involved instances where particular provisions or terms of proposed bonds have been in conflict with specific statutory requirements, *Mann v. City of Artesia*, 76 P.2d 941 (N.M. Sup. Ct. 1938), or where general provisions have been construed by state courts to require the inclusion of the subject matter omitted. *People v. Chicago, Rock Island & Pacific R. Co.*, 128 N.E.2d 710 (Ill. Sup. Ct. 1955).

New Jersey decisions pertaining to elections in general clearly support the conclusion that the Bond Act has been lawfully adopted. In *Sharrock v. Keansburg*, 15 N.J. Super. 11 (App. Div. 1951) it was contended that an election should be invalidated because of the failure of the county clerk to cause to be printed on the ballot the explanatory statement of the public question in the exact verbiage appearing in the pertinent section of the statute. The court noted that the explanatory statement printed on the ballot "displayed more clarity of expression than the one contained in the statute" and found that the variance in language was clearly insubstantial, stating:

[I]f it is evident that notwithstanding the dereliction of duty of the officer there was a fair election and an honest return and no violation of such matters as the recognized inherent and inviolable rights of the voters, the courts in the public interest have frequently ignored the harmless irregularity.

• • •

The right of suffrage in a government of and by a free people must always be regarded with jealous solicitude. To overthrow the expressed will of a large number of voters for no fault of their own and solely

because of some harmless irregularity would in many cases defeat the paramount object of the election laws [15 N.J. Super. at 18-19].

It has thus been recognized by the New Jersey courts that technical irregularities in election procedures cannot serve to invalidate the results of an otherwise fair election and thus frustrate the expressed will of the electorate. In *Wene v. Meyner*, 13 N.J. 185, 196 (1953), this essential policy was aptly expressed:

Where, as here, there is an unwitting omission of a formal requirement otherwise supplied in substance, the ballots are invulnerable; the overturning of the result in such circumstances would frustrate the will of the voters for errors and omissions of form not related to the merits; and this would do violence to the legislative will. In this regard, acts and omissions by the district board mandatory before election may for reasons of policy be deemed directory after the election, if it indubitably appears that the election result was not thereby prejudiced. The question is essentially one of fairness in the election. An election is not vitiated by the defaults of election officers not involving malconduct or fraud, unless it be shown that thereby the free expression of the popular will in all human likelihood has been thwarted.

The text of Public Question No. 2 on the official ballot contained all of the information set forth in Section 22 of Senate Bill No. 2095. Thus, the statement contained the question to be voted upon as well as the interpretive statement appearing in the Act. The incorporation on the ballot of additional information concerning how the bonds might be refinanced was merely superfluous. Because the Act already specifically set forth the manner in which the bonds could be refinanced, the inclusion of this information was not misleading; but rather a harmless irregularity. If anything, the voters were given more information than was necessary under the Act and, significantly, voter approval for such refinancing was not required pursuant to Art. 8, Sec. 2, par. 3. It is thus clear that the inclusion of the information on the ballot which had been deleted from the Act concerning the refinancing of bonds did not constitute a material deviation from the substantive objective of the Bond Act. For these reasons, it is our opinion the Human Services Facilities Construction Bond Act of 1984 was duly and validly approved by the people at the General Election. The Issuing Officials may lawfully issue bonds in accordance with the provisions of the Human Services Facilities Construction Bond Act of 1984.

Very truly yours,

MICHAEL R. COLE
Acting Attorney General

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

(The research supplement to the New Jersey Administrative Code)

The new Register Index of Rule Proposals and Adoptions combines the original Index of Proposed Rules and Index of Adopted Rules into a single listing published in every Register. In addition to simplifying research of State agency rulemaking, this important step refines the index in substance and form. *Rule adoptions promulgated in this issue already appear in the Index, and all adoptions in subsequent Registers will appear in the Index of the Register of promulgation.* Formerly, adoptions were not entered in the index listing until the month following adoption. This new feature will facilitate rule research by showing you at a glance all adopted rule changes in any rulemaking area since the most recent update to the Administrative Code.

Further improvements in the Index include the definition of key terms and abbreviations and the addition of an N.J.R. Citation Locator. The locator quickly leads you to the text of a proposal or adoption by converting an N.J.R. citation into the date of the Register in which the rule was published.

HOW THE INDEX WORKS

The Register Index of Rule Proposals and Adoptions is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule changes proposed in this issue will be entered in the Index of the next Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes to a given rule, scan the citations above and below that rule to find any entries which might contain related rule adoptions, including the one you are researching.

At the bottom of the index listing for each Administrative Code Title is the date of the latest update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the November 5, 1984 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1984 d.300 means the three hundredth rule adopted in 1984.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
16 N.J.R. 1 and 92	January 3, 1984	16 N.J.R. 1635 and 1832	July 2, 1984
16 N.J.R. 93 and 172	January 17, 1984	16 N.J.R. 1833 and 2026	July 16, 1984
16 N.J.R. 173 and 292	February 6, 1984	16 N.J.R. 2027 and 2184	August 6, 1984
16 N.J.R. 293 and 404	February 21, 1984	16 N.J.R. 2185 and 2318	August 20, 1984
16 N.J.R. 405 and 470	March 5, 1984	16 N.J.R. 2319 and 2390	September 4, 1984
16 N.J.R. 471 and 576	March 19, 1984	16 N.J.R. 2391 and 2474	September 17, 1984
16 N.J.R. 577 and 778	April 2, 1984	16 N.J.R. 2475 and 2708	October 1, 1984
16 N.J.R. 779 and 940	April 16, 1984	16 N.J.R. 2709 and 2864	October 15, 1984
16 N.J.R. 941 and 1130	May 7, 1984	16 N.J.R. 2865 and 3066	November 5, 1984
16 N.J.R. 1131 and 1294	May 21, 1984	16 N.J.R. 3067 and 3240	November 19, 1984
16 N.J.R. 1295 and 1406	June 4, 1984	16 N.J.R. 3241 and 3336	December 3, 1984
16 N.J.R. 1407 and 1634	June 18, 1984	16 N.J.R. 3337 and 3518	December 17, 1984
		17 N.J.R. 1 and 140	January 7, 1985

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-3.12	Non-lawyer representation in contested cases	16 N.J.R. 2710(a)	R.1984 d.587	16 N.J.R. 3426(a)
1:1-3.12	Correction to adoption			16 N.J.R. 3306(a)
1:1-5.2	Notification of second jurisdictional claims	16 N.J.R. 2320(a)	R.1984 d.490	16 N.J.R. 3004(a)
1:2-2	Civil Service cases: readopt conference hearings	16 N.J.R. 3338(a)		
1:2-3	Motor Vehicle cases: readopt hearings on the papers	16 N.J.R. 2711(a)	R.1984 d.553	16 N.J.R. 3426(b)
1:2-3	Motor Vehicle cases: readopt hearings on the papers	16 N.J.R. 3339(a)		
1:10	Public welfare hearings	16 N.J.R. 3068(a)		
1:10-17.1	Division of Public Welfare cases	16 N.J.R. 945(a)		
1:11-1.1, 15.1	Insurance filing cases	16 N.J.R. 2866(a)		
(TRANSMITTAL 8, dated October 15, 1984)				
AGRICULTURE—TITLE 2				
2:24-1.1, 1.2	Bee diseases: acarine mite quarantine	Emergency	R.1984 d.592	17 N.J.R. 118(a)
2:52-2.1, 3.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)		
2:52-6.1	Correction to adoption			16 N.J.R. 3306(b)
2:53-4.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)		
2:76-3.12	Farmland preservation: deed restrictions	16 N.J.R. 2867(a)	R.1984 d.596	17 N.J.R. 63(a)
2:76-4.11	Municipally-approved farmland preservation	16 N.J.R. 2869(a)	R.1984 d.597	17 N.J.R. 64(a)
2:76-6.15	Acquisition of development easements	16 N.J.R. 2871(a)	R.1984 d.595	17 N.J.R. 65(a)
(TRANSMITTAL 26, dated November 19, 1984)				
BANKING—TITLE 3				
3:1-9.2-9.5	Home mortgage disclosure	16 N.J.R. 2872(a)		
3:6-7.1-7.8	Loss deferral accounting for mutual savings banks	16 N.J.R. 2712(a)	R.1984 d.577	16 N.J.R. 3427(a)
3:28-5.1-5.8	Loss deferral accounting for mutual savings and loan associations	16 N.J.R. 2713(a)	R.1984 d.576	16 N.J.R. 3428(a)
(TRANSMITTAL 24, dated September 17, 1984)				
CIVIL SERVICE—TITLE 4				
4:1-1.1-1.10	Purpose and application of rules	16 N.J.R. 1132(a)	R.1984 d.603	17 N.J.R. 66(a)
4:1-2.1	Words and phrases defined	16 N.J.R. 2187(a)	R.1984 d.604	17 N.J.R. 67(a)
4:1-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4:1-14.6	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)
4:1-14.7	Emergency appointments	16 N.J.R. 2191(a)		
4:1-18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:1-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		
4:1-20.2	Certified Public Manager Program	16 N.J.R. 3072(a)		
4:2-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		
4:2-14.1	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)
4:2-18.1, 18.2, 18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:2-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		
4:2-20.7	Certified Public Manager Program	16 N.J.R. 3072(a)		
4:3-9	Readopt Examination Scoring	16 N.J.R. 2873(a)		
4:3-14.2	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)
4:3-15.1	Repeal rule concerning transfer of county caseworkers	16 N.J.R. 3073(a)		
4:3-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)		

(TRANSMITTAL 21, dated October 15, 1984)

COMMUNITY AFFAIRS—TITLE 5

5:12	Homelessness Prevention Program	Emergency	R.1984 d.570	16 N.J.R. 3497(a)
5:18, 18A, 18B	Uniform Fire Code; Fire Code Enforcement; High Level Alarms	16 N.J.R. 3339(b)		
5:22	Readopt tax exemption rules for improvements to residential dwellings	16 N.J.R. 2191(b)	R.1984 d.590	17 N.J.R. 71(a)
5:23-2.4, 2.6, 2.17A	UCC: rooming and boarding houses	16 N.J.R. 3073(b)		
5:23-3.8A	UCC: products in violation	16 N.J.R. 3074(a)		
5:23-5.4	UCC: trainee suspension, fire protection trainees	16 N.J.R. 3372(a)		
5:27-1.5	UCC: rooming and boarding houses	16 N.J.R. 3073(b)		
5:27-5.1	Fire safety in rooming and boarding houses	16 N.J.R. 3242(a)		
5:27-5.3	Fire safety in rooming and boarding houses	16 N.J.R. 299(a)		
5:31	Local Finance Board: local authorities	16 N.J.R. 1835(a)	R.1984 d.601	17 N.J.R. 72(a)
5:80-6	Housing and Mortgage Finance Agency projects: Tenant Selection Standards	16 N.J.R. 954(a)		
5:80-7	Housing and Mortgage Finance Agency: housing sponsor's role	16 N.J.R. 2178(a)		

(TRANSMITTAL 24, dated November 19, 1984)

EDUCATION—TITLE 6

6:11-4.3	Emergency certification	16 N.J.R. 3075(a)		
6:20-3.1	Tuition public schools: determining rates	Emergency	R.1984 d.589	17 N.J.R. 119(a)
6:20-5	Business services: readopt State Aid rules	16 N.J.R. 2392(a)	R.1984 d.546	16 N.J.R. 3429(a)
6:20-7	Business services: readopt Contracting Qualification and Debarment rules	16 N.J.R. 2394(a)	R.1984 d.545	16 N.J.R. 3430(a)
6:20-8	Readopt rules on Public School Contracts	16 N.J.R. 3372(b)		
6:22-1.8	School districts: long-range facilities plans	16 N.J.R. 1850(a)	R.1984 d.504	16 N.J.R. 3008(a)
6:26-3	Readopt rules on Elementary School Summer Sessions	16 N.J.R. 2715(a)		
6:27-3	Readopt rules on Secondary School Summer Sessions	16 N.J.R. 2717(a)		
6:29-7.1	Readopt Family Life Education Programs	16 N.J.R. 3377(a)		
6:30-2.5	Adult high school graduation requirements	16 N.J.R. 2719(a)		
6:31	Readopt Bilingual Education rules	16 N.J.R. 2721(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
6:39-1 6:70	Evaluation: readopt Statewide Assessment rules Library network services	16 N.J.R. 1852(a) 16 N.J.R. 3076(a)	R.1984 d.505	16 N.J.R. 3009(a)
(TRANSMITTAL 24, dated October 15, 1984)				
ENVIRONMENTAL PROTECTION—TITLE 7				
7:1C-1	90-day construction permits	16 N.J.R. 3243(a)		
7:7F-1, 3	Shore Protection Program; local government grants	16 N.J.R. 2881(a)		
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)		
7:10-14.7	Interim safe drinking water periodic testing requirements	16 N.J.R. 2396(a)	R.1984 d.582	16 N.J.R. 3431(a)
7:12	Shellfish-growing water classification	16 N.J.R. 3112(a)		
7:12-2.1, 2.2, 2, 3, 2.4	Correction: Shellfish-growing water classification	16 N.J.R. 3379(a)		
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control	16 N.J.R. 2193(a)		
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control: public hearing	16 N.J.R. 2476(a)		
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)		
7:13-1.11(d)49	Floodway delineations in Union County	16 N.J.R. 1146(a)		
7:13-1.11(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)		
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)		
7:13-7.1	Paulins kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(c)31	Project MR floodway delineations in Warren, Hunterdon, Sussex and Morris counties	16 N.J.R. 1863(a)	R.1984 d.542	16 N.J.R. 3307(a)
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)		
7:13-7.1(d)52	Supplemental Project I floodway delineations in the Passaic River Basin	16 N.J.R. 1865(b)		
7:19-5	Small water company takeover	16 N.J.R. 3380(a)		
7:19-6	Water Supply Management Act Rules	16 N.J.R. 2399(a)		
7:19A	Emergency Water Supply Allocation Plan rules	16 N.J.R. 308(a)		
7:19B	Emergency Water Surcharge Schedule	16 N.J.R. 314(a)		
7:20	Dam Safety Standards	16 N.J.R. 790(a)		
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	16 N.J.R. 1309(a)		
7:25-4.19	Endangered and Nongame Species Advisory Committee	16 N.J.R. 2033(a)	R.1984 d.509	16 N.J.R. 3010(a)
7:25-6	1985-86 Fish Code	16 N.J.R. 2034(a)	R.1984 d.498	16 N.J.R. 3011(a)
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)		
7:25-7.13	Crab dredging in Atlantic Coast section	Emergency	R.1984 d.537	16 N.J.R. 3216(a)
7:25-12.1	Preservation of sea clams	16 N.J.R. 2885(b)		
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-18.4	Spearfishing in marine waters	16 N.J.R. 2478(a)	R.1984 d.609	17 N.J.R. 79(a)
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)		
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	16 N.J.R. 1425(a)		
7:26-1.4, 2.6, 2.10, 2.13, 3.5	Disposal of asbestos waste	16 N.J.R. 440(a)		
7:26-10.7	Hazardous waste incinerators	16 N.J.R. 2046(a)	R.1984 d.581	16 N.J.R. 3432(a)
7:26-12.2	Hazardous waste rules: permit application	16 N.J.R. 2478(b)	R.1984 d.543	16 N.J.R. 3308(a)
7:26-14	Resource recovery grants and loans	16 N.J.R. 3385(b)		
7:26-16.3, 16.6, 16.13	Solid and hazardous waste industry licensing	16 N.J.R. 2480(a)	R.1984 d.541	16 N.J.R. 3310(a)
7:27	Air quality standards: State Implementation Plan for lead	16 N.J.R. 1669(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:27-8	Air pollution control: permits and Certificates	16 N.J.R. 1671(a)		
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)		
7:27-14	Diesel-powered motor vehicles: air pollution control	16 N.J.R. 2887		
7:27-15	Gas-fueled motor vehicles: air pollution control	16 N.J.R. 2889		
7:27-18.1, 18.2, 18.3, 18.4, 18.7	Air pollution control: emission offset rules	16 N.J.R. 1679(a)		
7:27B-4	Air Test Method 4 for motor vehicles	16 N.J.R. 2894		
7:29-1.1-1.5	Noise control	16 N.J.R. 1682(a)		
7:29-1.1-1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:36	Green Acres Program	16 N.J.R. 2405(b)		

(TRANSMITTAL 24, dated October 15, 1984)

HEALTH—TITLE 8

8:20-1	Birth Defects Registry	16 N.J.R. 3118(a)		
8:21-2.40	Baby foods and ethylene dibromide level	16 N.J.R. 2897(a)		
8:21A	Good drug manufacturing practices	16 N.J.R. 3248(a)		
8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	16 N.J.R. 1685(a)		
8:23-5	Animal control officer certification	16 N.J.R. 2725(a)	R.1984 d.575	16 N.J.R. 3432(a)
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)		
8:31-30.1	Health care facilities: computing plan review fee	16 N.J.R. 2047(a)	R.1984 d.499	16 N.J.R. 3019(a)
8:31A	Readopt SHARE Guidelines	16 N.J.R. 2898(a)		
8:31A-7.3, 7.4	SHARE: 1985 Rate Review Guidelines	16 N.J.R. 2727(a)	R.1984 d.599	17 N.J.R. 80(a)
8:31B-2	1985 uniform bill-patient summary	16 N.J.R. 2728(a)	R.1984 d.610	17 N.J.R. 80(b)
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
8:31B-3	Hospital reimbursement: procedure and methodology	16 N.J.R. 2321(b)	R.1984 d.531	16 N.J.R. 3197(b)
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	16 N.J.R. 2848(b)		
8:31B-3.23	Correction: Hospital reimbursement	16 N.J.R. 2733(b)		
8:31B-3.23, 3.24, 3.43, 3.75	Hospital rate setting; outpatient dialysis reimbursement hospital-based physician costs	16 N.J.R. 669(a)		
8:31B-3.45	Hospital rate setting	16 N.J.R. 2733(c)	R.1984 d.598	17 N.J.R. 83(a)
8:31B-4.6, 4.65	Hospital reimbursement: financial elements and reporting	16 N.J.R. 2326(a)	R.1984 d.500	16 N.J.R. 3019(b)
8:31B-5.2	Diagnosis Related Groups: outliers	16 N.J.R. 3119(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33E-2	Cardiac surgical centers	16 N.J.R. 3120(a)		
8:33E-2.1-2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F	Renal Disease Services: readopt Planning and Certification rules	16 N.J.R. 3124(a)		
8:39-2.1	All health care facilities: certificate of need approval letter	16 N.J.R. 3125(a)		
8:33H-2.1, 3.1-3.6	Long term care facilities and services: need review	16 N.J.R. 2200(a)	R.1984 d.501	16 N.J.R. 3020(a)
8:33I	Megavoltage oncology services: 1984 batching cycle deadline	_____	_____	16 N.J.R. 2310(b)
8:33I-1	Megavoltage radiation oncology services: need review	16 N.J.R. 2205(a)	R.1984 d.502	16 N.J.R. 3027(a)
8:35	Repeal (see 8:43B-8)	16 N.J.R. 188(a)		
8:40-1.1	Licensure of invalid coach and ambulance services	16 N.J.R. 3127(a)		
8:42-1	Home health agencies: readopt licensure standards	16 N.J.R. 3250(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:42-1.2	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:42A-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:42B-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:43-1.5	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:43A	Ambulatory Care Facilities: readopt standards for licensure	16 N.J.R. 2208(a)	R.1984 d.497	16 N.J.R. 3031(a)
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)		
8:43A-1.3	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:43B-1	Licensure of hospital facilities	16 N.J.R. 3275(a)		
8:43B-1.7	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:43B-6	Hospital facilities: readopt Medical Staff rules	16 N.J.R. 3152(a)		
8:43B-8	Hospital licensure: obstetric and newborn services	16 N.J.R. 188(a)		
8:43F	Medical day care facilities: readopt licensure standards	16 N.J.R. 3277(a)		
8:43F-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)		
8:59-1.3, 4.1, 5.1, 5.5, 6.1, 6.2, 6.3, 7.2, 7.5, 8.5	Worker and Community Right to Know Act	16 N.J.R. 2735(a)		
8:65-2	Readopt Security Requirements over Controlled Dangerous Substances	16 N.J.R. 1311(a)	R.1984 d.529	16 N.J.R. 3203(a)
8:65-7	Prescription requirements for controlled dangerous substances	16 N.J.R. 2327(a)	R.1984 d.607	17 N.J.R. 83(b)
8:65-10.1	Controlled dangerous substances, Schedule I: Alfentanil	16 N.J.R. 2332(a)	R.1984 d.532	16 N.J.R. 3204(a)
8:65-10.1, 10.2	Controlled dangerous substances: rescheduling of Sufentanil	16 N.J.R. 2900(a)		
8:65-10.4	Controlled dangerous substances: add Triazolam to Schedule IV	16 N.J.R. 2901(a)		
8:65-10.4	Controlled dangerous substances: additions to Schedule IV	16 N.J.R. 3390(a)		
8:65-10.8	Controlled dangerous substances: exempt chemicals	16 N.J.R. 3280(a)		
8:71	Generic drug list additions (see 16 N.J.R. 142(b), 1093(a)), 2672(a))	15 N.J.R. 1819(a)	Expired	
8:71	Additions to generic drug list (see 16 N.J.R. 1092(a), 1595(a), 1994(a)), 2673(a))	16 N.J.R. 202(a)		
8:71	Generic drug list additions (see 16 N.J.R. 2672(b))	16 N.J.R. 1436(a)		

(TRANSMITTAL 21, dated October 15, 1984)

HIGHER EDUCATION—TITLE 9

9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)		
9:2-4, 5, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-14	Monitoring of violence and hazing on campus	16 N.J.R. 1930(a)	R.1984 d.548	16 N.J.R. 3433(a)
9:5-2	Tuition-free job training courses	16 N.J.R. 1931(a)	R.1984 d.536	16 N.J.R. 3205(a)
9:6	State College: policies and standards	16 N.J.R. 2209(a)		
9:7-3.1	Tuition Aid Grant Award Table, 1984-85	16 N.J.R. 2308(a)	R.1984 d.535	16 N.J.R. 3206(a)
9:7-4.2	Garden State Scholars: award amounts	16 N.J.R. 3281(a)		
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)		
9:9-1.16	Defaulted student loans: interest liability	16 N.J.R. 1012(a)		
9:9-9.2	PLUS Program: direct loan prerequisites	16 N.J.R. 1012(b)		
9:11-1.7	Educational Opportunity Fund: undergraduate grants	16 N.J.R. 1932(a)	R.1984 d.549	16 N.J.R. 3434(a)

(TRANSMITTAL 22, dated August 20, 1984)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
HUMAN SERVICES—TITLE 10				
10:44A-1.1-1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled: Supportive Living Programs	16 N.J.R. 1438(a)		
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.7	Administration Manual: utilization of insurance benefits	16 N.J.R. 1933(a)		
10:49-1.27	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:51-1, App.B, C, D, E	Pharmaceutical Services: appendix changes	16 N.J.R. 2739(a)	R.1984 d.583	16 N.J.R. 3435(a)
10:51-1.17	Pharmacy Manual: legend drug dispensing fee add-ons	16 N.J.R. 2738(a)	R.1984 d.574	16 N.J.R. 3436(a)
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)		
10:52-2	Hospital Services: readopt Admission and Billing Procedures	16 N.J.R. 3159(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)		
10:54-1.3	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:54-3	Preproposal: radioimmunoassay laboratory fees	16 N.J.R. 677(a)		
10:56-1.11	Dental Services: utilization of insurance benefits	16 N.J.R. 1933(a)		
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)		
10:60-3	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)		
10:63-1.22	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:63-1.23	Long-term care: final audited rate calculation	16 N.J.R. 2335(a)	R.1984 d.572	16 N.J.R. 3436(b)
10:63-3	Long-term care: readopt Cost and Rate Guideline rules	16 N.J.R. 2484(a)	R.1984 d.573	16 N.J.R. 3437(a)
10:65-2	Medical Day Care Manual: readopt Billing Procedures	16 N.J.R. 2336(a)	R.1984 d.508	16 N.J.R. 3031(b)
10:66-1.1, 1.2, 1.3,1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.9	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:67-1, 2.6	Readopt Psychologist's Services Manual	16 N.J.R. 3163(a)		
10:67-1.6	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:69A-6.9	PAAD: authorization to release prescription information	16 N.J.R. 2050(a)		
10:69A-7.1	Pharmaceutical assistance: recovery of benefits correctly made	16 N.J.R. 2051(a)	R.1984 d.571	16 N.J.R. 3439(a)
10:81-1.6, -3, 4.10, 7.30, 7.32, 8.22	PAM: Federally-required AFDC revisions	16 N.J.R. 2833(a)	R.1984 d.569	16 N.J.R. 3439(b)
10:81-3.9, 3.17, 3.40	PAM: support rights; continued absence	16 N.J.R. 3282(a)		
10:81-3.34	PAM: Temporary absence of children from home	15 N.J.R. 2134(a)	Expired	
10:81-8.22	PAM: eligibility for medical assistance	16 N.J.R. 2740(a)		
10:82-1.2, 1.3, -2, -3, -4	ASH: Federally-required AFDC revisions	16 N.J.R. 2837(a)	R.1984 d.568	16 N.J.R. 3442(b)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:82-3.1-3.7	ASH: resource eligibility in AFDC	16 N.J.R. 486(a)		
10:82-4	ASH: readopt Income rules	16 N.J.R. 2336(b)	R.1984 d.528	16 N.J.R. 3206(b)
10:85-3.2, 4.6	GAM: nonresident eligibility; travel grants	16 N.J.R. 2219(b)	R.1984 d.506	16 N.J.R. 3031(c)
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: unearned income	16 N.J.R. 2056(a)	R.1984 d.507	16 N.J.R. 3032(a)
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3, 12	GAM: medical care eligibility; repeal income standards rules	16 N.J.R. 3165(a)		
10:85-5.3	GAM: outpatient facility services	16 N.J.R. 2488(a)	R.1984 d.593	17 N.J.R. 90(a)
10:85-7	GAM: readopt Notices and Hearings rules	16 N.J.R. 2221(a)	R.1984 d.578	16 N.J.R. 3447(a)
10:85-8	GAM: readopt Referral to Other Agency Programs	16 N.J.R. 3166(a)		
10:87-12.1, 12.2	Food Stamps: income deductions; coupon allotments	16 N.J.R. 2844(a)	R.1984 d.567	16 N.J.R. 3450(a)
10:89	Home Energy Assistance	Emergency	R.1984 d.538	16 N.J.R. 3217(a)
10:94-5.4-5.7	Medicaid Only: eligibility computation amounts	16 N.J.R. 2845(a)	R.1984 d.566	16 N.J.R. 3451(a)
10:99	Commodities and Services Council: Rehabilitation Facilities	16 N.J.R. 2338(a)		
10:100-App. A	Supplemental Security Income payment levels	16 N.J.R. 2846(a)	R.1984 d.565	16 N.J.R. 3453(a)
10:128	Residential Child Care rules	16 N.J.R. 10(b)		
10:129	Readopt rules on Child Abuse and Neglect Cases	16 N.J.R. 2224(a)	R.1984 d.489	16 N.J.R. 3033(a)

(TRANSMITTAL 22, dated October 15, 1984)

CORRECTIONS—TITLE 10A

10A:31	Adult county correctional facilities	16 N.J.R. 3284(a)		
10A:71	State Parole Board rules	16 N.J.R. 3391(a)		

(TRANSMITTAL 8, dated July 16, 1984)

INSURANCE—TITLE 11

11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-10	Repeal rules on Licensing of Financial Institutions, Subsidiaries and Affiliates	16 N.J.R. 2919(a)		
11:1-15	Petitions for rulemaking	16 N.J.R. 2224(b)	R.1984 d.511	16 N.J.R. 3033(b)
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:2-1.1	Required courses for licensees in property and casualty field	16 N.J.R. 1940(a)	R.1984 d.515	16 N.J.R. 3034(a)
11:2-1.3	Required courses for licensees in life and health field	16 N.J.R. 1943(a)	R.1984 d.477	16 N.J.R. 3036(a)
11:2-10.1	Repeal Personal Lines Insurance rule	16 N.J.R. 2920(a)		
11:2-18, Exh. B	Readable policies: Affidavit of Compliance	16 N.J.R. 1945(a)	R.1984 d.514	16 N.J.R. 3037(a)
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7	Automobile Reparation Reform Act rules	16 N.J.R. 3417(a)		
11:3-7.8, 7.9	PIP premium on additional automobiles	16 N.J.R. 488(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-11.1	Moped insurance	16 N.J.R. 3285(a)		
11:3-14.3, 14.4, 14.5	Auto insurance: Personal Injury Protection (PIP) options	16 N.J.R. 1692(a)	R.1984 d.480	16 N.J.R. 3037(b)
11:3-15.6	Auto insurance: Buyer's Guide and Written Notice requirements for PIP deductibles	16 N.J.R. 1693(a)	R.1984 d.479	16 N.J.R. 3038(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:3-16	Private passenger automobile rate filings	16 N.J.R. 2934(a)		
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)		
11:3-18	Filing review procedures	16 N.J.R. 2937(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)		
11:4-6	Reserve standards for individual health insurance policies	16 N.J.R. 2225(a)	R.1984 d.512	16 N.J.R. 3039(a)
11:4-8	Charitable annuities	16 N.J.R. 3172(a)		
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		
11:4-16.8	Medicare Supplement Coverage: disclosure standards	16 N.J.R. 2944(a)		
11:4-22	Individual life insurance: Use of Gender Blended Mortality Tables	16 N.J.R. 1452(a)	R.1984 d.478	16 N.J.R. 3040(a)
11:4-22	Correction: Gender Blended Mortality Tables	16 N.J.R. 1946(a)	R.1984 d.478	16 N.J.R. 3040(a)
11:4-23	Medicare Supplement Policies and Contracts	16 N.J.R. 2945(a)		
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:5-1.19	Real estate branch offices	16 N.J.R. 2228(a)		
11:5-1.24	Closing or transfer of real estate brokerage	16 N.J.R. 2228(b)		
11:5-1.32	Residential rental referral agencies	16 N.J.R. 2952(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)		
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:14-1.3	Correction: auto body repair facilities	16 N.J.R. 3453(b)		
11:15-2	Joint insurance funds for local government units	16 N.J.R. 1164(a)	R.1984 d.540	16 N.J.R. 3310(b)

(TRANSMITTAL 22, dated October 15, 1984)

LABOR—TITLE 12

12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:15-1.2	Unemployment benefit payments	16 N.J.R. 2237(a)	R.1984 d.516	16 N.J.R. 3046(a)
12:15-1.3	Unemployment Compensation and Disability: 1985 benefit rates	16 N.J.R. 2343(a)	R.1984 d.517	16 N.J.R. 3049(a)
12:15-1.4	Unemployment Compensation: 1985 taxable wage base	16 N.J.R. 2344(a)	R.1984 d.519	16 N.J.R. 3049(b)
12:15-1.4	Correction: 1985 Unemployment Compensation Taxable Wage Base	16 N.J.R. 2465(a)	R.1984 d.519	16 N.J.R. 3049(b)
12:15-1.4	Correction to adoption			16 N.J.R. 1320(a)
12:15-1.5	Unemployment Compensations: 1985 Contribution rates for governmental entities	16 N.J.R. 2344(b)	R.1984 d.518	16 N.J.R. 3050(a)
12:15-1.6	Base week for Unemployment Compensation and Disability	16 N.J.R. 2345(a)	R.1984 d.521	16 N.J.R. 3050(b)
12:15-1.7	Eligibility for Unemployment Compensation and Disability: alternate earnings test	16 N.J.R. 2345(b)	R.1984 d.520	16 N.J.R. 3050(c)
12:16	Contributions, records, reports	16 N.J.R. 2488(b)		
12:17-1.2-1.6, 3.1, 4.1, 4.2, 5.1, 11.2, 12	Unemployment benefit payments	16 N.J.R. 2237(a)	R.1984 d.516	16 N.J.R. 3046(a)
12:19	Contributions, records, reports	16 N.J.R. 2488(b)		
12:20-3.2	Unemployment benefit payments	16 N.J.R. 2237(a)	R.1984 d.516	16 N.J.R. 3046(a)
12:90	Boilers, pressure vessels and refrigeration systems: safe operation	16 N.J.R. 1172(a)	R.1984 d.557	16 N.J.R. 3454(a)
12:100	Safety and health standards for public employees	16 N.J.R. 2057(a)	R.1984 d.510	16 N.J.R. 3051(a)
12:235-1.5	1985 Workers' Compensation Benefit Rates	16 N.J.R. 2346(a)	R.1984 d.522	16 N.J.R. 3054(a)
12:235-1.5	Correction: 1985 Workers' Compensation Benefit Rates	16 N.J.R. 2465(b)	R.1984 d.522	16 N.J.R. 3054(a)

(TRANSMITTAL 17, dated October 15, 1984)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
LAW AND PUBLIC SAFETY—TITLE 13				
13:2-17	ABC: readopt rules on Appeals	16 N.J.R. 2954(a)	R.1984 d.608	17 N.J.R. 91(a)
13:2-19	ABC: readopt rules on Disciplinary Proceedings	16 N.J.R. 2957(a)	R.1984 d.606	17 N.J.R. 92(a)
13:2-23.16, -24, -35	ABC proposal: industry marketing and sales practices	16 N.J.R. 3292(a)		
13:2-31	ABC: readopt rules on Seizure Hearings	16 N.J.R. 2959(a)	R.1984 d.602	17 N.J.R. 92(b)
13:13	Discrimination against handicapped persons	16 N.J.R. 838(a)		
13:18-6.1	DMV: notification of liability coverage termination	16 N.J.R. 3174(a)		
13:19-10	Point System and Driving During Suspension: 25-day waiver of expiration of rules	16 N.J.R. 502(a)		
13:20-12	Motor Vehicles: readopt Accident Prevention Clinic rules	16 N.J.R. 2347(a)	R.1984 d.492	16 N.J.R. 3054(b)
13:20-28	New car inspection	16 N.J.R. 2500(a)		
13:20-32.14	Reinspection centers: mechanic certification	16 N.J.R. 3175(a)		
13:20-33.1, 33.50	Licensed reinspection centers	16 N.J.R. 3288(a)		
13:20-34	Motor vehicle registration identifying marks	16 N.J.R. 2743(a)		
13:20-37	Motor vehicles with modified chassis height	16 N.J.R. 2501(a)		
13:20-38	Maximum length for auto transporters	16 N.J.R. 3176(a)		
13:21-1.3, 1.4, 1.5	Driver's licenses and social security numbers	16 N.J.R. 2746(a)		
13:22	Motor vehicle race tracks	16 N.J.R. 2503(a)	R.1984 d.591	17 N.J.R. 93(a)
13:24-2	Motor Vehicles: readopt Emergency Vehicle Equipment rules	16 N.J.R. 2347(b)	R.1984 d.491	16 N.J.R. 3054(c)
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