

# 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 **September 4, 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)

#### Uniform Administrative Procedure Rules of Practice Conduct of Contested Cases; Appearances and Representation

#### Proposed Amendment: N.J.A.C. 1:1-3.7

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

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

Proposal Number: PRN 1985-412.

Submit comments by September 4, 1985 to:  
Steven L. Lefelt, Deputy Director  
Office of Administrative Law  
Quakerbridge Plaza, Building 9  
Quakerbridge Road, CN 049  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

N.J.A.C. 1:1-3.7(b) provides that attorneys from other states may participate in proceedings of the Office of Administrative Law. The purpose of the changes now proposed is to bring the requirements for such participation into conformity with R.1:21-2, the New Jersey Supreme Court rule governing appearances by out-of-state attorneys in the state's courts.

Under current OAL procedure, attorneys from other jurisdictions may be permitted to appear at the discretion of the administrative law judge hearing the matter. All pleadings, briefs and papers must be signed by an attorney authorized to practice in New Jersey and the New Jersey attorney must be present during the proceedings. The proposed change in N.J.A.C. 1:1-3.7(b) establishes a more formal application procedure for appearances pro hac vice and clarifies that out-of-state attorneys must fulfill all the requirements of R.1:21-2 in order to participate in OAL proceedings.

Under proposed N.J.A.C. 1:1-3.7(b), a motion seeking admission of an out-of-state attorney must be made by an attorney licensed in New Jersey. The motion must have attached an affidavit, signed by the out-of-state attorney, stating the following: (1) payment has been made by the out-of-state attorney to the Client's Security Fund and Ethics Financial Committee (as required annually of New Jersey attorneys under R.1:28-2); (2) he or she satisfies the conditions for admission, including good cause, set forth in R.1:21-2(a); and (3) he or she agrees to comply with the dictates of R.1:21-2(b). The latter requires that all pleadings, briefs and papers be signed by a New Jersey attorney, but it does not require that attorney to be present

## NEW JERSEY REGISTER

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**PROPOSALS**

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during the proceedings. In addition, R. 1:21-2(b) requires out-of-state attorneys to abide by New Jersey lawyer disciplinary rules.

Forms for the motion and affidavit will be available from the OAL.

An out-of-state attorney must comply with this admission procedure for each separate proceeding in which he or she wishes to participate. However, the payment to the Client's Security Fund and Ethics Financial Committee is required only once each year.

Proposed N.J.A.C. 1:1-3.7(b), like R. 1:21-2(c), permits the judge to revoke permission for the out-of-state attorney to appear for good cause shown.

**Social Impact**

The proposed change in N.J.A.C. 1:1-3.7(b) will bring OAL procedure into compliance with standards the New Jersey Supreme Court has established for participation by lawyers from other jurisdictions in proceedings before New Jersey courts. Although R. 1:21-2 does not specifically apply to appearances before administrative tribunals, the New Jersey Supreme Court controls the practice of law in the State (N.J. Const., 1947, Art. VI § II, par. 3) and therefore it was felt that out-of-state attorneys who participate in OAL proceedings must meet the same requirements as those who engage in the practice of law in New Jersey in other forums. Since the only parties to this application procedure are a New Jersey attorney and an out-of-state attorney, the increase in formality required by the amendment should not be burdensome.

Amended N.J.A.C. 1:1-3.7(b), by incorporating the criteria set forth in R. 1:21-2, makes clear that out-of-state attorneys who wish to appear in OAL proceedings are subject to the same ethical standards and financial obligations as attorneys licensed in New Jersey.

**Economic Impact**

The proposed amendment will not impose any financial burdens on State agencies. Moreover, it may result in additional payments to the Client's Security Fund and Ethics Financial Committee by out-of-state attorneys who, in their practice, wish to appear in OAL proceedings.

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

**1:1-3.7 Appearances and representation**

(a) (No change.)

[(b) Any attorney or counselor from any other jurisdiction of good standing there, may, at the discretion of the judge, be admitted for the one occasion to participate in a proceeding in the same manner as an attorney of this State; provided, however, that all pleadings, briefs and other papers shall be signed by an attorney of record authorized to practice in this State who shall be held responsible for them and who shall be present at all times during the proceedings unless excused by the judge.]

**(b) An attorney from any other jurisdiction, of good standing there, may, at the discretion of the judge, be admitted for the one occasion to participate in the proceeding in the same manner as an attorney of this State by complying with the following procedures:**

**1. An attorney authorized to practice in New Jersey, pursuant to New Jersey Supreme Court Rule 1:21-1, may move the admission for the one occasion of an attorney from another jurisdiction who is in good standing in the other state. Forms are available from the OAL for this purpose.**

**2. Each motion seeking admission for the one occasion shall be served on all parties and have attached a supporting affidavit, signed by the out-of-state attorney, which shall state that payment has been made to the Client's Security Fund and Ethics Financial Committee. The affidavit shall state how he or she satisfies each of the conditions for admission, including good cause, set forth in R. 1:21-2(a). The out-of-state attorney shall also agree in the affidavit to comply with the dictates of R. 1:21-2(b).**

**3. An annual payment made to the Client's Security Fund and Ethics Financial Committee shall entitle the out-of-state attorney to appear in subsequent matters during the payment year, provided the out-of-state attorney otherwise qualifies for admission.**

**4. An order granting admission shall set forth the limitations upon admission established in R. 1:21-2(b).**

**5. A judge may, at any time during the proceeding and for good cause shown, revoke permission for the attorney to appear.**

**COMMUNITY AFFAIRS**

**(a)**

**DIVISION OF HOUSING AND DEVELOPMENT**

**Uniform Construction Code Licensing Requirements**

**Proposed Amendments: N.J.A.C. 5:23-5.4 and 5.5.**

Authorized By: John P. Renna, Commissioner,  
Department of Community Affairs.  
Authority: N.J.S.A. 52:27D-124.  
Proposal Number: PRN 1985-397.

Submit comments by September 4, 1985 to:  
Michael L. Ticktin, Esq.  
Administrative Practice Officer  
Division of Housing and Development  
CN 804  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

Under this proposal, experience requirements for building, electrical and plumbing inspectors will be reduced by from one to three years, depending on the category of licensure and the other qualifications of the applicant. Also, a person having sufficient building, plumbing or electrical experience will be eligible for licensure at the same level in any subcode upon satisfactory completion of the required educational program and examination. Trainee requirements are also reduced. Persons already licensed as building, plumbing or electrical subcode officials will be exempted from the experience requirements for licensing as a subcode official for any other subcode.

The Department believes that it is reasonable to reduce experience requirements at this time because qualification is now evaluated by tests for these licenses as well as by experience.

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**Social Impact**

By reducing experience requirements, the Department will make it possible for more people to qualify as inspectors, subcode officials, and trainees. Many local enforcing agencies are experiencing difficulty in recruiting qualified personnel and any increase in the supply of eligible applicants will help alleviate that problem.

**Economic Impact**

There will be increased economic opportunity for persons who have not been able to qualify for code enforcement positions because of insufficient experience but who are otherwise qualified.

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

5:23-5.4 Licenses required

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

(d) Rules concerning trainee personnel are:

1.-2. (No change.)

3. Persons meeting the following experience requirements shall be eligible to be employed as trainees:

i. Fire protection inspector trainee—a minimum of [three] one year[s] of experience in the fire service [or as an architect or engineer].

ii. Building inspector trainee—a minimum of [three] one year[s] of experience [with] in building construction as a journeyman, inspector, contractor, [designer, architect or engineer] or designer draftsman relative to the building subcode.

iii. Plumbing inspector trainee—a minimum of [three] one year[s] of experience as a journeyman plumber, or as a contractor, [designer, architect or engineer] or designer draftsman relative to the plumbing subcode.

iv. Electrical inspector trainee—a minimum of [three] one year[s] of experience as a journeyman electrician or as a contractor [designer architect or engineer] or designer draftsman relative to the electrical subcode.

v. Persons having a college degree in architecture or engineering or in architectural or engineering technology, or a current New Jersey license to practice as an architect or engineer at the time of application, shall be exempt from the experience requirements for trainee employment.

4.-14. (No change.)

(e) (No change.)

5:23-5.5 Requirements for a license

(a) (No change.)

(b) Requirements are:

1. (No change.)

2. Subcode official: A candidate for a license as a building, electrical, fire protection or plumbing subcode official shall meet the following qualifications:

i.-v. (No change.)

vi. A person who is already licensed as a building, plumbing or electrical subcode official shall be deemed to have satisfied the experience requirement for any other subcode official license.

3. Building inspector:

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

(1) [Ten] Seven years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or [ten] seven years of experience as a building inspector; or [ten] seven years of experience as a

construction contractor in a field of construction currently regulated by the building subcode; or graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or an associate's degree in code enforcement and [five] two years of experience in the construction, design or supervision of construction work regulated by the building subcode; or a current New Jersey license to practice as an architect or engineer and [three] one year[s] of experience in construction work currently regulated by the building subcode; and

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

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

(1) [Seven] Five years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or [seven] five years of experience as a construction contractor in a field of construction currently regulated by the building subcode; or graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or an associate's degree in code enforcement and [three] one year[s] of experience in the construction, design or supervision of construction work regulated by the building subcode; or a current New Jersey license to practice as an architect or engineer [and one year of experience in construction work regulated by the building subcode] at the time of application; and

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

iii. Building inspector, R.C.S.: A candidate for a license as building inspector R.C.S. shall meet the following requirements:

(1) [Five] Three years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode, or [five] three years of experience as a building inspector; or [five] three years of experience as a construction contractor in a field of construction currently regulated by the building subcode; or graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or an associate's degree in code enforcement and one year of experience in the construction, design or supervision of construction work currently regulated by the building subcode; or possession of a current New Jersey license to practice architecture or engineering at the time of application; and

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

4. Electrical inspector:

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

(1) [Ten] Seven years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the electrical subcode; or [10] seven years of experience as a plumbing inspector, or [10] seven years of experience as a construction contractor in a field of construction currently regulated by the electrical subcode; or graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or an associate's degree in code enforcement and [five] two years of experience in the construction, design or supervision of construction work currently regulated by the electrical subcode; or possession of a New Jersey license to practice as an architect or engineer and [three] one year[s] of experience in construction, design or supervision of construction work currently regulated by the electrical subcode; and

(2) (No change.)

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

(1) [Seven] **Five** years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the electrical subcode; or [seven] **five** years of experience as a construction contractor in a field of construction currently regulated by the electrical subcode; or graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering **or in architectural or engineering technology or an associate's degree in code enforcement** and [three] **one** year[s] of experience in the construction, design or supervision of construction work currently regulated by the electrical subcode; or possession of a current New Jersey license to practice as an architect or engineer [and one year of experience in construction, design or supervision of construction work regulated by the electrical subcode] **at the time of application**; and

(2) (No change.)

iii. (No change.)

5. (No change.)

6. Plumbing inspector:

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

(1) [Ten] **Seven** years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the plumbing subcode; or [10] **seven** years of experience as a plumbing inspector; or [10] **seven** years of experience as a construction contractor in a field of construction currently regulated by the plumbing subcode; or graduation from an accredited institution of higher education with a bachelor's degree in architecture of engineering **or in architectural or engineering technology or an associate's degree in code enforcement** and [five] **two** years of experience in the construction, design or supervision of construction work currently regulated by the plumbing subcode; or possession of a current New Jersey license to practice as an architect or engineer and [three] **one** year[s] of experience in construction, design or supervision of construction work; and

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

(1) [Seven] **Five** years of experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the plumbing subcode; or [seven] **five** years of experience as a construction contractor in a field of construction currently regulated by the plumbing subcode; or graduation from an accredited institution of higher education with a bachelor's degree in architecture of engineering **or in architectural or engineering technology or an associate's degree in code enforcement** and [three] **one** year[s] of experience in the construction, design or supervision of construction work currently regulated by the plumbing subcode; or possession of a current New Jersey license to practice as an architect or engineer [and one year of experience in construction, design or supervision of construction work currently regulated by the plumbing subcode] **at the time of application**; and

(2) (No change.)

iii. (No change.)

7.-9. (No change.)

10. **An applicant who satisfies the experience requirements for licensure as a building inspector, electrical inspector or plumbing inspector shall be eligible for licensure as an inspector**

**at the same level or lower in any other subcode upon satisfactory completion of the approved educational program if applicable and the examination for that other subcode license.**

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

**(a)**

**Local Finance Board  
Local Authorities**

**Proposed Amendments: N.J.A.C. 5:31-2.1, 2.2, 2.3, 2.4, 2.5, 4.1, 4.2, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6 and 7.7**

Authorized By: Local Finance Board, Barry P. Clark, Executive Secretary.

Authority: N.J.S.A. 40A:5-1 et seq. (L.1983, c313).

Proposal Number: PRN 1985-398.

Submit comments by September 4, 1985 to:

Barry P. Clark, Executive Secretary  
Local Finance Board  
363 West State Street  
Trenton, N.J. 08625

**Summary**

The proposed amendments are designed to expand upon and clarify existing rules which regulate authority budget introduction and adoption, accounting principles and policies, auditing procedures and scope of audits. A more specific summary of the proposed amendments follows.

The required contents of the annual budget have been expanded to also include a budget message, classification of appropriations, handwritten signatures, the recorded vote of the governing body and the use of forms promulgated by the Local Finance Board (5:31-2.1).

Certain requirements relative to the submission of the capital budget and capital program have been restated for the sake of clarity (5:31-2.2).

An explanation of retained earnings has been added for better definition; the listing of potential budget appropriation titles and the corresponding support information to be submitted with the budget has been expanded due to the previous inadvertent omission of these items (5:31-2.3).

The requirement to submit computations of appropriations for contractual services has been deleted after it was determined to be not necessary in some cases; several timing requirements for budget submission and the time allowed the Director for budget review have been amended to better integrate with existing statutory requirements (5:31-2.4).

The number of votes needed to pass an authority resolution relative to a temporary appropriation or a delay in filing of the budget has been specified (5:31-2.5).

The requirement that the Director transmit in writing his reasons for disapproval of a budget has been replaced with the requirement that he notify the governing body of his reasons for refusing to approve the budget because it was determined that a written transmittal could cause unnecessary or undesired delays in the budget process (5:31-2.6).

The secretary has been removed as an official required to sign checks in payment of claims (5:31-4.1, 5:31-4.2).

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A new section titled Accounting Systems has been added as 5:31-7.1. All other sections of Subchapter 7 have been recodified to reflect this addition. Under this section, a double-entry accounting system, to include books of original entry, a general journal, a general ledger and a system of internal control, is required. This requirement expands in defined detail upon the existing accounting principles and policies prescribed in subchapter 7.

The bases of accounting prescribed for maintaining accounting transactions and records has been clarified for better understanding (5:31-7.2 and 5:31-7.3, recodified).

Descriptions of certain accounting requirements have been expanded to provide greater detail (5:31-7.3, recodified).

A rule that each authority shall cause an annual audit to be performed in accordance with generally auditing standards has been added due to its previous omission. Certain required inclusions in audit workpapers have been redefined (5:31-7.4, recodified).

The requirement that the auditor file an internal control questionnaire with the Bureau of Authority Regulation has been deleted and replaced with the requirement that the auditor file an audit questionnaire; the minimum inclusions in the synopsis of the annual audit required to be published by N.J.S.A. 40A:5A-16 have been added due to their previous inadvertent omission (5:31-7.5, recodified).

The minimum statistical information required to be included with the auditor's report on the financial statements has been detailed to provide greater uniformity among audit reports (5:31-7.6, recodified).

#### Social Impact

The proposed amendments will expand and clarify the existing rules which relate to accounting principles, auditing, financial reporting and budgeting for authorities and special districts. This clarification will allow an easier and more complete application of the principles and procedures prescribed by the Local Finance Board.

#### Economic Impact

A substantial portion of this proposal is a clarification and expansion of existing rules and should result in no discernible economic impact. In the case of the proposed amendment to 5:31-7.1 titled Accounting Systems, a double-entry accounting system is prescribed. For authorities not currently utilizing this system, conversion to the system may result in some added administrative expenses. For authorities currently employing the proposed system, no added expenses are contemplated.

Full text of the proposal follows (additions indicated in bold-face thus; deletions shown in brackets [thus]).

#### 5:31-2.1 Annual budget preparation and content

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

**(d) Every budget shall be prefaced by a narrative explanation of its contents, entitled "budget message". Content of the budget message shall be prescribed by the Director.**

**(e) Signatures required on all budget documents, budget amendments and information supporting the budget shall be hand-written signatures.**

**(f) Annual budgets, capital budgets and capital programs shall be prepared on standard forms provided by the Division as promulgated by the Local Finance Board.**

**(g) Operating appropriations shall be classified as to "salaries and wages" and "other expenses".**

**(h) All introduced budgets, adopted budgets and budget amendments shall contain the recorded vote of the governing body.**

#### 5:31-2.2 Capital budget and capital program

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

**(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.] Except for the cost of preliminary plans, specifications and estimates, no authority shall make appropriations, authorize expenditures or adopt a security agreement for a capital project unless its provisions are in agreement with a previously adopted capital budget, temporary capital budget or amended capital budget.**

#### 5:31-2.3 Budget introduction and adoption for other than special districts

(a) (No change.)

(b) The budget shall set forth all anticipated revenues of the authority, including the following, where applicable:

1. Retained earnings (fund balance)[;] **which shall not exceed the amount of working capital reduced by unrestricted assets not ordinarily convertible into cash; or the estimated year end balance of unreserved retained earnings; whichever is the lower;**

2.-7. (No change.)

(c) The budget shall set forth all of the appropriations of the authority including the following, where applicable.

1.-10. (No change.)

**11. Provision for amortization of intangible assets;**

**12. Provision for uncollectible accounts;**

**13. Capital outlay for property, plant and equipment acquisitions expected to be paid from the operating budget;**

[11.] **14. Total appropriations.**

(d) (No change.)

(e) The following information and documentation shall accompany the budget:

1.-2. (No change.)

**3. A computation of the budgeted provision for doubtful accounts, including the method utilized and the percentage to billings, compared with the most recent moving average of uncollectible accounts to billings;**

**4. A computation of the amount of the budgeted provision for future plant reconstruction or replacement;**

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

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

[5.] **7. (No change in text.)**

[6.] **8. (No change in text.)**

(f)-(h) (No change.)

#### 5:31-2.4 Budget introduction and adoption for fire and other special districts

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

(f) The following information and documentation shall accompany the budget:

1.-2. (No change.)

**[3. Computations supporting budget appropriations 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. 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 21 days of his receipt of the budget, approve it; otherwise he shall within that time refuse to approve**

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it. No district budget shall be adopted by the Commissioners until the Director shall have approved same[.], **provided however that if the Director has not notified the Commissioners of his approval or refusal to approve the budget and the conditions on which his approval will be granted at the end of the 21 day period, the budget will be deemed to have been approved.** 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] seven days after adoption.

2. One certified copy of the budget as adopted shall be transmitted to the local unit within [three] seven days after adoption.

(h) In the event that the adopted budget is rejected at the annual election of the district, the governing body of the local [units] unit shall, [within seven days after the annual election prepare and introduce,] **within 30 days after the annual election prepare and adopt, by resolution [adopted] passed 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. The budget adopted by the governing body of the local unit shall be in the same line item and detail as that rejected at the annual election of the district.**

(i) Within three days after its [introduction] adoption the local unit shall transmit [three] two certified copies of the budget, as [introduced] adopted by the local unit, to the Director [together with a written explanation of changes made by the local unit.] **and one certified copy of the budget, as adopted by the local unit, to the commissioners of the district.**

(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.] **No district budget adopted by a local unit shall become effective prior to approval by the Director.**

(k) **When the annual budget is approved at the annual election of the district or finally adopted by the local unit, as the case may be, it provides legal authorization for general fund spending. Adopted budgetary accounts shall be formally integrated in the general fund ledger.**

5:31-2.5 Late approval of budget; temporary appropriations

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

(e) **All resolutions referred to in this section shall be adopted by not less than a majority vote of the full membership of the governing body.**

5:31-2.6 Budget review by Director

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

(d) The Director in refusing to approve a budget:

1. (No change.)

2. Shall [transmit in writing his reasons for disapproval] **notify the governing body of his reasons for refusing to approve and the conditions upon which approval will be granted.**

5:31-4.1 Payment of authority moneys; approval of claims

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

(e) Payment of claims shall be by check drawn on the authority, signed by the governing body chairman, **the chief financial officer** [or other chief executive officer and the secretary] and countersigned by such other officer or officials as designated by resolution.

(f) (No change.)

## COMMUNITY AFFAIRS

5:31-4.2 Signatures on checks drawn upon the treasury of the authority

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.

5:31-7.1 Accounting systems

(a) **A double-entry accounting system for recording all transactions shall be required for authorities and special districts.**

(b) **The major components of the double-entry accounting system shall include books of original entry, a general journal, a general ledger and a system of internal control.**

1. **The books of original entry shall reflect all transactions involving cash receipts, cash disbursements, purchasing and payrolls.**

2. **The general journal shall maintain control over all adjustments to the general ledger that are not reflected in the books of original entry.**

3. **The general ledger shall reflect the impact of financial transactions on the revenues, expenses or expenditures, assets, liabilities and fund balances or equity of the entity.**

4. **The system of internal control shall provide for segregation of duties in originating and recording accounting transactions, insofar as practicable depending upon the size and complexity of the authority or district.**

(c) **The general ledger shall be summarized and balanced frequently by periodic trial balances.**

(d) **Revenue realized and expenditures or expenses incurred shall be compared with budgeted amounts at frequent intervals.**

[5:31-7.1] 5:31-7.2 Accounting principles and policies for other than special districts

(a) Accounting transactions and records shall be maintained on the accrual basis of accounting[.] **in accordance with generally accepted accounting principles (GAAP) for enterprise funds as described in Statement 1, "Governmental Accounting and Reporting Principles" promulgated by the National Council on Governmental Accounting (NCGA), located at 180 North Michigan Avenue, Suite 800, Chicago, Illinois 60601.**

1.-2. (No change.)

(b)-(f) (No change.)

[5:31-7.2] 5:31-7.3 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] **in accordance with generally accepted accounting principles for governmental type funds as described in Statement 1 promulgated by the National Council on Governmental Accounting (NCGA) located at 180 North Michigan Avenue, Suite 800, Chicago, Illinois 60601[.], as modified by regulation of the Local Finance Board.**

1. (No change.)

2. Expenditures are recognized when the related liability is incurred. Exceptions to the general rule are:

i.-ii. (No change.)

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[;]. **When prepaid insurance or other similar items are reported on the balance**

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sheet, the amount of such items must also be equally offset by fund balance reserve accounts.

(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 equities or balances and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives.

1. (No change.)

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. **Long term liabilities of a district are accounted for in the capital fund at their face value.**

3.-4. (No change.)

[5:31-7.3] **5:31-7.4** Auditing procedures and scope

(a) Each authority shall cause an annual examination of its financial statements performed in accordance with generally accepted auditing standards as promulgated by the American Institute of Certified Public Accountants (AICPA). 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.-3. (No change.)

(b)-(e) (No change.)

(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.-3. (No change.)

4. [Workpapers evidencing audit work performed] **Audit work performed, including tests of Federal, State and authority compliance and extent of testing of transactions relating to the financial audit, and auditor's statement of objectives and conclusions[;]on fairness of presentation;**

5. (No change.)

6. **Schedules and analyses supporting the financial statements.**

(g) (No change.)

[5:31-7.4] **5:31-7.5** Audit reports and financial reporting practices for other than special districts

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

(d) The auditor shall file a [copy of the] completed [internal control] audit questionnaire with the Bureau of Authority Regulation in the New Jersey Division of Local Government Services [within 15 days of filing] with the audit report. **The questionnaire is not to be filed with the authority nor the local unit.**

(e) The synopsis of the annual audit required to be published by N.J.S.A. 40A:5A-16 shall, as a minimum, include:

1. **Comparative balance sheet;**

2. **Comparative statement of revenue, expenses and changes in fund equity;**

3. **Summary of recommendations.**

[5:31-7.5] **5:31-7.6** Audit reports and financial reporting practices for special districts

(a) (No change.)

(b) Each audit report shall include the auditor's report on the financial statements and the following information for the current and immediately preceding fiscal year:

1.-2. (No change.)

3. Statistical information[;] which shall include, as a minimum:

i. A tabulation of district assessed valuations, property tax levies and property tax rates for the current and four preceding years;

ii. A tabulation of principal and interest for the next five fiscal years on district debt issued and outstanding at the end of the fiscal year under audit;

iii. A tabulation of the unreserved general fund balance or deficit and subsequent budget action thereon for the current and four fiscal years;

iv. Such other statistical information as prescribed by the Local Finance Board or desired by district officials.

4.-5. (No change.)

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

[5:31-7.6] **5:31-7.7** Audit of Federal grants  
(No change in text.)

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**(a)**

Proposals numbered PRN 1985 - 404 and 405 are authorized by Robert E. Hughey, Commissioner, Department of Environmental Protection.

**OFFICE OF THE COMMISSIONER**

**Hazardous Substance Discharges: Reports and Notices**

**Proposed New Rule: N.J.A.C. 7:1-7**

Authority: N.J.S.A. 13:1K-15 et seq. (P.L. 1984, c. 210).

Proposal Number: PRN 1985 - 405.  
DEP Docket No. 037-85-06.

Submit comments by September 4, 1985:

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

The agency proposal follows:

**Summary**

The New Jersey Department of Environmental Protection ("NJDEP") proposes this new rule to implement the provisions of N.J.S.A. 13:1K-15 et seq. (P.L. 1984, c. 210), commonly known as the "Hazardous Substance Discharge - Reports and Notices Act" ("Act"). N.J.S.A. 13:1K-18 (Section 4 of P.L. 1984, c. 210) requires NJDEP to adopt rules and regulations necessary to carry out the provisions of the Act. The proposal establishes reporting and notice procedures concerning discharges of hazardous substances to be followed by industrial establishments, governing bodies of municipalities, local boards of health and NJDEP pursuant to the Act.

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NJDEP, municipalities and local boards of health routinely receive notification of known or suspected discharges of hazardous substances from various sources. The Act, as implemented by the proposed new rule, establishes orderly reporting and notification requirements for NJDEP, the governing bodies of municipalities and local boards of health. The uniform and routine procedures required by the proposed new rule will ensure better communication about discharges of hazardous substances between these interested parties in hazardous discharge situations. Please note that compliance with the Act does not relieve any person or other parties from complying with any reporting and notice requirements or other obligations imposed by the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or any other act or regulations.

Owners or operators of an industrial establishment, or real property which once was the site of an industrial establishment, shall be required, within ten days of obtaining information concerning a known or suspected hazardous discharge, to inspect and file a written report concerning the hazardous discharge with the governing body of the municipality in which the industrial establishment is located and the local board of health. N.J.A.C. 7:1-7.5(b) describes the information required to be submitted by industrial establishments to the governing body of municipalities and the local board of health. NJDEP, pursuant to 7:1-7.5(c) and (d), shall be informed in writing and orally by the governing body of the municipality and the local board of health of any information received from industrial establishments pursuant to 7:1-7.5(a).

N.J.A.C. 7:1-7.6 states that any person reporting a hazardous discharge pursuant to 7:1-7.5 shall not, by submission of the written report required by N.J.A.C. 7:1-7.5(b), incur liability for the cleanup of the discharge. The provisions of 7:1-7.6, pursuant to 7:1-7.6(b), shall not affect a person's liability for the cleanup of a hazardous discharge under any other law, rule or regulation.

N.J.A.C. 7:1-7.7 delineates NJDEP's responsibility to immediately notify, in writing and orally, the appropriate local board of health and governing body of the municipality upon NJDEP's acquisition of any information which leads it to suspect that a hazardous discharge has occurred within their jurisdiction. NJDEP shall notify the contact person, or alternative contact person, designated by local authorities pursuant to 7:1-7.7(b). NJDEP shall take appropriate action to verify that a hazardous discharge has occurred as suspected, including the authorization of agent(s) or officer(s) of the municipality or local board of health by an appropriate NJDEP official to investigate the site of the suspected hazardous discharge (see 7:1-7.7(c)). The governing body of a municipality or local board of health has a reciprocal responsibility to notify NJDEP, in writing and orally, upon obtaining any information pursuant to 7:1-7.5(a) or from any other sources that a hazardous discharge has occurred within their jurisdiction (see 7:1-7.8).

Pursuant to the Act, 7:1-7.9 establishes procedures for the inclusion and exemption of subgroups or classes of operations as described in the Standard Industrial Classification manual, thereby authorizing NJDEP to expand or limit the scope of the definition of "industrial establishment" and the scope of the provisions of the Act and the proposed new rule (also see definition of "industrial establishment" at 7:1-7.3). Subsections (b) and (g) have been reserved to accommodate future amendments to add and/or delete SIC codes from the scope of this rule.

The penalty and injunctive relief provisions of the Act appear at N.J.A.C. 7:1-7.10 of the proposed new rule. Any person who fails to make a required report, knowingly gives or causes to be given any false information in any such report or otherwise

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violates the provisions of the Act or the proposed new rule would be liable to a penalty of not more than \$50,000.00. Such penalties, if of a continuing nature, shall constitute an additional, separate and distinct offense each day it continues (see 7:1-7.10(a)). 7:1-7.10(b) authorizes NJDEP, the governing body of a municipality or local board of health to institute a civil action for injunctive relief to prohibit and prevent the continuation of any continuing violation of the provisions of the Act and the proposed new rule.

N.J.S.A. 13:1K-17(b) directs NJDEP to prepare and distribute to the governing body of each municipality in the State a list of all hazardous discharges reported to NJDEP pursuant to the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or which NJDEP discovered by any other means, which occurred within the boundaries of the municipality between April 1, 1977 and December 10, 1984. NJDEP's list shall also include the status of NJDEP's response concerning each discharge. The Act directs NJDEP to complete this extensive data review within six months of the Act's effective date. NJDEP has been working on the required list and expects to distribute the list in the near future. The proposal does not address the NJDEP list pursuant to N.J.S.A. 13:1K-17(b). As a one time event, the list preparation does not appear to be an appropriate subject matter for regulation.

**Social Impact**

The proposed new rule will have a positive social impact by establishing procedures for the mandatory communication by required reports and notices between the interested parties concerning known or suspected discharges of hazardous substances in New Jersey. The institutionalization of the communication of vital information regarding the discharge of hazardous substances will greatly enhance the ability of NJDEP and local authorities to protect the environment of New Jersey.

**Economic Impact**

The proposed new rule will have only a minor economic impact. A slight increase in administrative costs for industrial establishments, municipalities and local boards of health may result from compliance with the proposed new rule. However, the proposed new rule imposes no new costs for additional cleanup liability other than that which already exists pursuant to other Federal and State environmental statutes.

**Environmental Impact**

The reporting and notice requirements of the proposed new rule will provide the information necessary to initiate and coordinate governmental responses to discharges of hazardous substances in New Jersey. The uniform procedure under the Act and the proposed new rule will allow for more efficient resolution of many environmental problems caused by hazardous substances discharges in the State.

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

**SUBCHAPTER 7. HAZARDOUS SUBSTANCE DISCHARGES: REPORTS AND NOTICES**

**7:1-7.1 Scope**

(a) This subchapter shall constitute the Department's rules governing the implementation of N.J.S.A. 13:1K-15 et seq. (P.L. 1984, c. 210), commonly known as the "Hazardous Substance Discharge - Reports and Notices Act." This subchapter establishes reporting and notice procedures concerning discharges of hazardous substances to be followed by industrial establishments, the governing bodies of municipalities, local

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boards of health, and the Department pursuant to N.J.S.A. 13:1K-15 et seq.

(b) Compliance with the Act and this subchapter shall not relieve any person or other parties from complying with any reporting and notice requirements or other obligations imposed by the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or any other applicable act or regulation.

**7:1-7.2 Construction**

(a) This subchapter shall be liberally construed to allow the Department of Environmental Protection to implement its statutory functions pursuant to N.J.S.A. 13:1K-15 et seq.

(b) This subchapter may be amended, repealed or rescinded from time to time in conformance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., as amended and supplemented, and the Office of Administrative Law's Rules for Agency Rulemaking, N.J.A.C. 1:30.

**7:1-7.3 Definitions**

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

"Act" means N.J.S.A. 13:1K-15 et seq. (P.L. 1984, c. 210), commonly known as the "Hazardous Substance Discharge-Reports and Notices Act."

"Agent(s) or officer(s) of the municipality" means a duly authorized representative of the municipality pursuant to N.J.A.C. 7:1-7.7(c).

"Department" means the New Jersey Department of Environmental Protection.

"Hazardous substance" means those elements and compounds, including petroleum products, which are defined as such by the Department, after public hearing, including, but not limited to the "List of Hazardous Substances" set forth in Appendix A of N.J.A.C. 7:1E, and which shall be consistent with, to the maximum extent possible, and which shall include, the list of hazardous substances adopted by the Environmental Protection Agency pursuant to Section 311 of the "Federal Water Pollution Control Act Amendments of 1972" (33 USC § 1321), and the list of toxic pollutants designated by Congress or the U.S. Environmental Protection Agency pursuant to Section 307 of that act (33 USC § 1317); except that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of the Act and this subchapter.

"Hazardous discharge" means a discharge of a hazardous substance required to be reported to the Department pursuant to the provisions of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. and any rules and regulations adopted pursuant thereto, but shall not include any hazardous discharge reported to the Department prior to December 10, 1984.

"Industrial establishment" means any place of business engaged in operations which involve the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of hazardous substances on-site, above or below ground, and having a primary Standard Industrial Classification number within Major Group Numbers 22-39 inclusive, 46-49 inclusive, 51, 55, 75 or 76 as designated in the Standard Industrial Classification manual prepared by the Office of Management and Budget in the Executive Office of the President of the United States.

**7:1-7.4 General program information**

Unless otherwise set forth pursuant to the provisions of this subchapter, all correspondence, questions, advice, or other requests regarding this subchapter shall be directed to: Department of Environmental Protection, Division of Waste Management, Field Operations, Compliance and Enforcement - Headquarters, 120 Route 156, Yardville, New Jersey 08625, Attention: N.J.A.C. 7:1-7 Program, (609) 292-0967.

**7:1-7.5 Reporting responsibility of owners or operators of industrial establishments**

(a) An owner or operator of an industrial establishment, or real property which once was the site of an industrial establishment, who knows or suspects the occurrence of any hazardous discharge on-site, above or below ground at the industrial establishment or real property shall, within ten days of obtaining information leading to this knowledge or suspicion, make an inspection thereof and file a written report concerning this hazardous discharge with the governing body of the municipality in which the industrial establishment or real property is located and the local board of health.

(b) The written report required by (a) above shall contain sufficient detail to adequately describe the information required below, including, but not limited to:

1. Name of industrial establishment;
2. Name of individual reporting discharge;
3. Address of individual reporting discharge;
4. Telephone number of individual reporting discharge;
5. Date and time of hazardous discharge;
6. Actual location of hazardous discharge, including but not limited to:
  - i. Name of company/site;
  - ii. Street address (including block and lot numbers);
  - iii. Municipality;
  - iv. County;
  - v. EPA ID number, if available; and
  - vi. Site map of appropriate scale, identifying area in which discharge occurred.
7. Types of hazardous substances discharged;
8. Quantities of substances discharged, by type;
9. Copy of Discharge Prevention Control and Countermeasure Plan pursuant to N.J.A.C. 7:1E-4.5, if applicable;
10. Detailed description of action taken by owner or operator to contain discharge and/or remove any waste material;
11. Name of company(ies) contracted for removal/disposal/cleanup activity, if applicable;
12. Description of type, quantity, and location of samples taken, if applicable;
13. Results of any analyses conducted both prior to and after containment activity, including Quality Assurance/Quality Control procedures, if applicable; and
14. Any other information concerning the hazardous discharge deemed necessary by the Department to carry out the provisions of the Act.

(c) A copy of the written report required by (b) above shall be sent by the governing body of the municipality and local board of health to:

New Jersey Department of Environmental Protection  
 Division of Waste Management  
 Field Operations Compliance and Enforcement  
 Headquarters  
 120 Route 156  
 Yardville, New Jersey 08625

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Attention: Assistant Director, N.J.A.C. 7:1-7  
Report

(d) In addition to the written report required by (b) above, the governing body of the municipality and local board of health shall also immediately notify the Department orally by telephoning the Department Hotline at (609) 292-7172 upon receipt of this information and provide the Department Hotline dispatcher with all information reasonably available required in (b) above.

(e) Any remedial actions, which may include sampling, containment, and/or disposal of hazardous substance(s), to be conducted at these sites shall be coordinated with the Department's Division of Waste Management, Field Operations, Compliance and Enforcement - Headquarters, Yardville, New Jersey, (609) 292-0967.

### 7:1-7.6 Reporting liability

(a) Any person reporting a hazardous discharge pursuant to N.J.A.C. 7:1-7.5 shall not, solely by submission of the written report required by N.J.A.C. 7:1-7.5(b), incur liability for the cleanup of the hazardous discharge.

(b) The provisions of this section shall not affect a person's liability for the cleanup of a hazardous discharge under any other law, rule or regulation.

### 7:1-7.7 Reporting responsibility of the department

(a) When the Department obtains any information which leads it to suspect that a hazardous discharge has occurred, it shall immediately notify, in writing and orally, the local board of health and the governing body of the municipality in which the hazardous discharge has occurred.

(b) The governing body of the municipality and local board of health shall provide the Department with the name, address, and telephone number of a contact person and alternative contact person for the purposes of (a) above within 30 days of the effective date of this subchapter:

1. If the Department is not notified of this contact person within the specified time, the clerk and local health officer shall be the individuals designated by the Department to be notified by the Department of any hazardous discharges within the boundaries of the municipality.

2. The governing body of the municipality and local board of health may change the contact person and alternative contact person designated to receive the information from the Department for the purposes of (a) above upon written notification to the Department.

(c) The Department shall take appropriate action to verify that a hazardous discharge has occurred as suspected, including the authorization of agent(s) or officer(s) of the municipality or local board of health by an appropriate Departmental official, to investigate the site of the suspected hazardous discharge:

1. The agent(s) or officer(s) of the municipality shall be a representative(s) of the governing body of the municipality and local board of health, including but not limited to, appropriately trained members of the police department, fire department, public health office, department of public works, township engineer, zoning officer, director of emergency management, or environmental compliance pollution officer.

2. Upon being contacted by the Department in writing or orally regarding a hazardous discharge, an agent(s) or officer(s) of the municipality may be duly authorized to:

- i. Conduct a visual assessment of the site of the hazardous discharge; and
- ii. Contact any parties potentially responsible for the hazardous discharge.

3. The agent(s) or officer(s) of the municipality shall report all findings to, and coordinate any further actions with, the Department as specified in N.J.A.C. 7:1-7.5(e).

### 7:1-7.8 Reporting responsibility of local officials

(a) Any governing body of a municipality or local board of health shall immediately notify the Department, in writing and orally as specified in this section, upon obtaining any information pursuant to N.J.A.C. 7:1-7.5(a) or from any other source that a hazardous discharge has occurred within their jurisdiction.

(b) The governing body of the municipality or local board of health shall provide the Department with information regarding any hazardous discharge pursuant to (a) above on the hazardous discharge report forms provided by the Department, except if the information already has been provided for pursuant to N.J.A.C. 7:1-7.5(c).

(c) The information required in (b) above shall also be immediately reported to the Department Hotline (609) 292-7172.

(d) The written report required by (a) above shall be sent within ten days of discovery of the hazardous discharge as specified in N.J.A.C. 7:1-7.5(c).

### 7:1-7.9 Procedure for inclusions or exemption of groups within SIC codes from the definition of an industrial establishment

(a) The Department may, by amendment to this subchapter, include within the range of applicable Standard Industrial Classification numbers any other place of business not currently classified as an industrial establishment as deemed necessary to carry out the provisions of the Act.

(b) The following major groups, sub-groups or classes of operations pursuant to (a) above shall also be considered and included as industrial establishments for the purposes of the Act and this subchapter:

(Reserved)

(c) Sub-groups or classes of operations within Standard Industrial Classification major group numbers within 22-39 inclusive, 46-49 inclusive, 51, 55, 75 or 76 may petition the Department, in writing, for an exemption as a class from the requirements of the Act and this subchapter based upon their determination that the operations of their type of industrial establishment do not pose a risk to public health and safety.

(d) Industrial establishments set forth in (c) above shall submit all appropriate documentation, evidence and other proofs that they deem justify exemption as a class from the Act and this subchapter.

(e) The Department on its own initiative may also establish a record based on experience or appropriate research justifying an exemption of a sub-group or class of operations as noted in (c) above.

(f) Upon a finding that a sub-group or class of operations noted in (c) above does not pose a risk to the public health and safety, the Department may amend (g) below pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., to exempt said sub-group or class of operations from consideration as an industrial establishment for the purposes of the Act and this subchapter.

(g) The following sub-groups or classes of operations within those sub-groups described in (c) above shall not be considered industrial establishments for the purposes of the Act and this subchapter:

(Reserved).

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**7:1-7.10 Penalty assessment and injunctive relief**

(a) A person who fails to make a required report, knowingly gives or causes to be given any false information in any such report or otherwise violates the provisions of the Act or this subchapter is liable to a penalty of not more than \$50,000.00 to be collected in a summary proceeding under "the penalty enforcement law," N.J.S.A. 2A:58-1 et seq., or in a court of competent jurisdiction wherein injunctive relief has been requested. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

(b) If any person violates any of the provisions of the Act or this subchapter, the Department of Environmental Protection, the governing body of the municipality or the local health department may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent the continuation of the violation and the court may proceed in a summary manner.

**(a)**

**DIVISION OF FISH, GAME AND WILDLIFE**

**Marine Fisheries  
Crab Pots**

**Proposed Readoption with Amendments:  
N.J.A.C. 7:25-14**

Authority: N.J.S.A. 23:2B-6 and N.J.S.A. 23:2B-14  
DEP Docket No.: 036-85-06.  
Proposal Number: PRN 1985-404.

Submit comments by September 4, 1985 to:  
Paul Hamer, Chief  
Bureau of Marine Fisheries  
Department of Environmental Protection  
Nacote Creek Research Station  
Star Route  
Absecon, N.J. 08201

The agency proposal follows:

**Summary**

In accordance with the "sunset" and other provisions of Executive Order 66(1978), the Department of Environmental Protection proposes to readopt N.J.A.C. 7:25-14 concerning crab pots. The entire subchapter shall expire on September 17, 1985. The proposed readoption is necessary to continue in full force and effect these Marine Fisheries Administration rules.

A summary of the text of each section in N.J.A.C. 7:25-14 follows:

N.J.A.C. 7:25-14.1, **Crab pots and trot lines defined**, defines methods for harvesting crabs under this subchapter.

N.J.A.C. 7:25-14.2, **Use of crab pots and trot lines**, stipulates who may tend, tamper with or remove crabs from any pot or trot line.

N.J.A.C. 7:25-14.3, **Hours for fishing**, sets the hours within which crab pots or trot lines legally may be tended.

N.J.A.C. 7:25-14.4, **Commercial licenses**, requires and sets the fee for a license to sell or barter crabs and for the display of that license number on a crabber's boat.

N.J.A.C. 7:25-14.5, **Noncommercial licenses**, establishes a no-fee license for the use of no more than two crab pots or trot lines and sets a limit on the daily harvest or possession of crabs under this license.

N.J.A.C. 7:25-14.6, **Placement and marking of pots and trot lines**, requires the marking of gear and sets certain restrictions on the placement of crab pots and trot lines.

N.J.A.C. 7:25-14.7, **Filing of reports**, requires the keeping and submission of records on forms provided by the Division of Fish, Game and Wildlife.

N.J.A.C. 7:25-14.8, **Penalties**, provides for penalties for violating any of the provisions of the subchapter.

N.J.A.C. 7:25-14.9, **Female crabs with eggs attached**, prohibits the taking of crabs with eggs or spawn attached or from which eggs or spawn have been removed.

N.J.A.C. 7:25-14.10, **Size of crabs taken**, establishes minimum size limits for hard, soft and shedder crabs.

The proposed amendment to N.J.A.C. 7:25-14.2 merely notes the doctrine of respondent superior whereby the principal, in this case the licensee, is liable for the wrongful acts of the agent while the agent is acting within the scope of authority based upon the apparent authority of the agent to act for his principal.

In addition two typographic errors are corrected.

**Social Impact**

Readoption of this subchapter will have a minimal social impact upon the general public. It is anticipated that the readoption of this subchapter with the aforementioned amendment and typographic corrections will permit the continued management of the marine fisheries resource and thereby permit the continued enjoyment and harvest thereof by affected commercial and recreational fishermen. The amendment is proposed solely to clarify the currently existing legal responsibility of the licensee for the wrongful acts of the agent acting within the scope of authority.

**Economic Impact**

The readoption of this subchapter will have no economic impact on the general public. It is anticipated that the readoption of this subchapter with the aforementioned amendment will continue management objectives permitting continued exploitation of the marine fisheries resource, thereby economically benefiting both recreational and commercial fisheries interests. Fishermen are required to pay fees for fishing licenses and are also subject to penalties for violating provisions of the subchapter.

**Environmental Impact**

The continuation of regulatory provisions as provided for in the readoption will permit continued effective conservation and management of the affected marine resources, thereby continuing their contribution to the marine ecosystem.

**Full text** of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:25-14.

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

**7:25-14.2 Use of crab pots and trot lines**

(a) No person shall tend or remove crabs from any pot or trot line unless he is the holder of a valid license, or as otherwise herein provided.

1.-2. (No change.)

**3. The licensee may be held liable and subject to the penalty provisions provided at N.J.A.C. 7:25-14.8 for the violation of**

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provisions of this subchapter actually committed by the agent based upon the apparent authority of the agent to act for his principal.

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

7:25-14.6 Placement and marking of pots and trot lines

(a) (No change.)

(b) Each trot line shall be marked at both ends with a clearly visible [state] stake or buoy. No trot line shall be set within 100 feet of another trot line.

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

7:25-14.8 Penalties

(a) (No change.)

(b) Any person not having a valid license in possession [of] or failing to exhibit same for inspection by any authorized law enforcement officer while tending a pot or trot line, or violating any of the provisions of N.J.A.C. 7:25-14.5 or 14.6 shall be liable to a penalty of \$20.00 for the first offense and \$40.00 for each subsequent offense.

(c)-(f) (No change.)

## HEALTH

### (a)

## OCCUPATIONAL AND ENVIRONMENTAL HEALTH

### Reporting of Occupational and Environmental Disease

**Proposed New Rule: N.J.A.C. 8:57-1.13**

**Proposed Amendment: 8:44-2.10**

Authorized By: Evelyn Geddes, Chairperson, Public Health Council.

Authority: N.J.S.A. 26:1A-7 and N.J.S.A. 45:9-42.34.

Proposal Number: PRN 1985-417.

A public hearing concerning the proposal will be held on Monday, August 21, 1985 at 9:30 A.M. at:

New Jersey Department of Health  
Commissioner's Conference Room  
Room 805, Health-Agriculture Building  
John Fitch Plaza  
Trenton, NJ

Submit comments by September 4, 1985 to:

Kenneth D. Rosenman, M.D., Director  
Occupational and Environmental Health  
Service  
New Jersey Department of Health  
CN 360  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

The Department of Health proposes to amend Chapter II of the State Sanitary Code - Reportable Diseases, to require hospitals to report to the State Department of Health the existence of

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the following occupational and environmental diseases: coal worker's pneumoconiosis, asbestosis, silicosis, extrinsic allergic alveolitis, other specified occupational lung disease and poisoning from various heavy metals and chemicals (N.J.A.C. 8:57-1.13). The Department also proposes to amend Chapter IV of the State Sanitary Code - Laboratories, to require clinical laboratories to report to the State Department of Health the existence of certain blood and urine levels of the following hazardous substances: lead, arsenic, mercury and cadmium (N.J.A.C. 8:44-2.10). All of the above substances are recognized occupational and environmental diseases. Occupational and environmental diseases are significant threats to the public's health in New Jersey. There are many known hazardous occupations and waste disposal sites which may cause harmful exposures to workers and members of the public. The discovery of harmful sites and workplaces is all too often a piecemeal and sporadic occurrence. By requiring the reporting of occupational and environmental diseases, the Department will be able to investigate the causes of clearly workplace-related diseases and prevent additional such diseases from occurring.

#### Social Impact

Occupational and environmental diseases cause illness, injury, and even death to persons exposed to hazardous substances in the workplace and the environment. Pain and suffering and increased medical costs are incurred by those who suffer from such diseases. Knowledge of the extent of occupational and environmental diseases will enable the Department of Health to investigate and ascertain the causes of these diseases and take steps to prevent future hazardous substance exposure and future illness and injury to present workers and members of the public.

#### Economic Impact

The reporting of diagnoses by hospitals and of test results by clinical laboratories will constitute minimal economic impact to these institutions. For hospitals, the Department estimates that less than 1500 reports per year will have to be made. Despite this small number these index cases will allow the Department of Health to identify a much larger number of additional cases. The number of cases reported from the hospital is small in comparison to the approximately one million discharges per year. The Department estimates the number of reports from laboratories to be appreciably less than that required for hospitals. On the other hand, the economic benefits from reducing occupational and environmental disease among workers and members of the public is significant not only to those affected persons but to companies who must pay out costs to injured persons. Costs from lost wages, workers compensation, medical expenses, etc., will be reduced by a reduction in occupational and environmental disease.

Full text of the proposal follows (additions indicated in bold-face thus):

#### **8:57-1.13 Reportable occupational and environmental diseases and poisons**

(a) **The chief administrator or other persons having control or supervision over any hospital in which any person is ill or infected with any of the diseases or poisons listed in (b) and (c) below shall, within 30 days after such disease or poison has been diagnosed, report such disease or poison to the reporting officer having jurisdiction over the territory in which such hospital is located. Reporting officers who receive reports of diseases or poisonings required under (b) and (c) below shall send a copy thereof to the State Department of Health within seven days of receipt of the report. The disease or poison shall be considered diagnosed if it is**

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listed as a primary or secondary diagnosis on the discharge summary.

(b) The following diseases are declared to be reportable to the State Department of Health for purposes of this section. All diseases listed herein coded according to the 9th ICD revision are to be reported in the manner prescribed by (d) below:

1. Extrinsic allergic alveolites ICD code 495, 495.1, 495.2, 495.3, 495.4, 495.7, 495.8
2. Coal workers pneumoconiosis ICD code 500 and 500.0
3. Asbestosis ICD code 501 and 501.0
4. Silicosis ICD code 502 and 502.0
5. Pneumoconiosis, other dust inorganic ICD code 503 and 503.0
6. Pneumonopathy due to organic dust ICD code 504 and 504.0
7. Pneumoconiosis, unspecified ICD code 505
8. Bronchitis, Pneumonitis, inflammation both acute and chronic and acute pulmonary edema due to fumes and vapors ICD code 506.0, 506.1, 506.2, 506.3, 506.4 and 506.9
9. Pneumonitis due to inhalation of solids or liquids ICD codes 507.1 and 507.8
10. Respiratory conditions due to unspecified external agents ICD codes 508.8 and 508.9

(c) Poisoning due to the following shall also be reported to the State Department of Health in the manner prescribed by (d) below.

petroleum products	ICD 981 and 981.0
benzene	ICD 982
carbon tetrachloride	ICD 982.1
carbon disulfide	ICD 982.2
chlorinated hydrocarbons	ICD 982.3
non-petroleum-based solvents	ICD 982.8
corrosive aromatics	ICD 983.0
acids	ICD 983.1
alkalies	ICD 983.2
caustic, unspecified	ICD 983.9
organic lead	ICD 984.1
mercury	ICD 985
arsenic	ICD 985.1
manganese	ICD 985.2
beryllium	ICD 985.3
antimony	ICD 985.4
cadmium	ICD 985.5
chromium	ICD 985.6
other specified metals	ICD 985.8
unspecified metals	ICD 985.9
nitrogen oxides	ICD 987.2
sulfur dioxide	ICD 987.3
freon	ICD 987.4
chlorine	ICD 987.6
hydrogen cyanide	ICD 987.7
other gas	ICD 987.8
unspecified gas, fume, vapor	ICD 987.9
hydrogen cyanide	ICD 989
pesticides	ICD 989.2, 989.3 and 989.4

(d) The report required by (a) above shall state the current ICD code of the disease, the name, home address, medical record number, year of birth and sex of the person ill or infected with such disease, the name of the attending physician, the reporting hospital, and such other information as may be required by the State Department of Health.

OFFICE OF ADMINISTRATIVE LAW NOTE: The text of N.J.A.C. 8:44-1 as it currently appears in the New Jersey

Administrative Code should properly be codified as Subchapter 2 (8:44-2) with Subchapter 1 marked Reserved. The unamended portions of N.J.A.C. 8:44-2.10 below currently appear at 8:44-1.10.

8:44-2.10 Reporting by laboratory supervisors

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

(d) Laboratory supervisors shall immediately report to the State Department of Health, results of laboratory examinations indicating levels of hazardous substances in blood and urine equal to or greater than the following:

1. Lead:
  - i. Blood lead levels equal to or greater than 25 ug/dl;
  - ii. Urine lead levels equal to or greater than 80 ug/l in individuals greater than 16 years of age.
2. Mercury:
  - i. Blood mercury levels equal to or greater than 2.8 ug/dl;
  - ii. Urine mercury levels equal to or greater than 20 ug/L.
3. Arsenic:
  - i. Blood arsenic levels equal to or greater than .07 ug/ml;
  - ii. Urine arsenic levels equal to or greater than 100 ug/L.
4. Cadmium:
  - i. Blood cadmium levels equal to or greater than 5 ug/L;
  - ii. Urine cadmium levels equal to or greater than 10 ug/l.

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Proposals numbered PRN 1985-411, 419, 420, 421 and 423 are authorized by George J. Albanese, Commissioner, Department of Human Services.

**(a)**

**DIVISION OF DEVELOPMENTAL DISABILITIES**

**Emergency Mechanical Restraint**

**Proposed New Rule: N.J.A.C. 10:42**

Authority: N.J.S.A. 30:1-12, 30:1-15.1, 30:4-1 et. seq. and 30:6D-5.

Proposal Number: PRN 1985-411.

Submit comments by September 4, 1985 to:  
 Administrative Practice Officer  
 Division of Developmental Disabilities  
 CN 700  
 Trenton, N.J. 08625

The agency proposal follows:

**Summary**

The Commissioner, Department of Human Services, proposes to adopt N.J.A.C. 10:42 to delineate the procedures and safeguards required for the use of emergency mechanical restraints with clients serviced by the Division of Developmental Disabilities.

Because some of the clients the Division serves at times exhibit behaviors that pose a threat to themselves or others, the use of emergency mechanical restraints becomes necessary in some situations. The Division recognizes its responsibility to minimize the need to use such extreme measures by providing its clients

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with environments and activities that support their growth and development. Where aggressive, destructive or self-injurious behaviors are exhibited on a regular basis, professionally designed programs are provided to attempt to change the problem behavior. These regulations identify the procedures to be followed when a client exhibits behaviors that put himself or others at risk and the application of emergency mechanical restraints is considered necessary.

Emergency mechanical restraint should be used only when other less restrictive techniques (e.g., diverting the client's attention to other activities or counseling) are not effective. The decision to use emergency mechanical restraint must be based on an assessment of the client's current condition and situation. Thus, these regulations require a decision to be made by a qualified professional at the time of crisis. The regulations also require that the restraint only be applied by staff trained in the use of the restraint and that regular checks of the client's condition be made and recorded as long as the client continues to stay in restraint, providing further safeguards for the client.

**Social Impact**

The proposal is expected to have a positive social impact since it will provide procedural safeguards for the use of restrictive mechanical restraints on developmentally disabled persons served by the Division of Developmental Disabilities.

**Economic Impact**

The proposal is expected to have no negative economic impact on persons served by the Division or on the public. The proposal reflects procedures previously implemented under Divisional administrative procedures and will require no additional expenditures.

Full text of the proposed new rule follows.

**CHAPTER 42****EMERGENCY MECHANICAL RESTRAINT****SUBCHAPTER 1. GENERAL PROVISIONS****10:42-1.1 General**

The Division of Developmental Disabilities recognizes that acceptable behavior in developmentally disabled children and adults is fostered and maintained by a stimulating environment, participation in activities that encourage development of new skills and support from the people with whom they come into contact. The Division is committed to providing a supportive environment to the developmentally disabled clients it serves. However, the Division also recognizes that, even in a supportive environment, some of its clients will exhibit aggressive, destructive or self-injurious behaviors. When such behaviors present a danger to the client him or herself or to other clients or staff, action must be taken to help the client control him or herself, or, if that is not possible, to control the client. If the client exhibits these problem behaviors on a regular basis, a professionally designed program (such as medical intervention or behavior modification) shall be applied to change these behaviors. When the client exhibits a dangerous behavior that has not been previously observed or reported, emergency measures must be available to staff to assist them in protecting the client him or herself, other clients or staff. Among the emergency measures that are used in such situations are mechanical restraints. Some of the devices used as mechanical restraints may also be used to help a client achieve functional body alignment or to protect the client from harm. In some instances, only the intended use of the device will determine whether it is a mechanical restraint or a piece of safeguarding equipment.

**10:42-1.2 Purpose**

The purpose of this rule is to detail the policies and procedures for the utilization of safeguarding equipment and emergency mechanical restraints by the various components of the Division of Developmental Disabilities as well as for the service providers who contract with or are regulated by the Division.

**10:42-1.3 Definitions**

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

"Client" means any person receiving services from the Division of Developmental Disabilities in a program operated by the Division or by service providers who contract with or are regulated by the Division.

"Human Rights Committee" means a group of individuals who function as an advisory body to the facility, agency or region's chief administrator on issues directly or indirectly impacting on clients' rights.

"Interdisciplinary Team" means a treatment team composed of professionals and para-professionals representing different fields of expertise (e.g., Social Worker, Psychologist, Nurse) who are charged with a responsibility for client evaluation and the development and/or implementation of individualized habilitation plans for clients.

"Mechanical restraint" means a device (excluding safeguarding equipment), applied to the body of an individual, which restricts freedom of movement either partially or totally. These devices include, but are not limited to: camisole, wristlets, ankle cuffs, restraint sheet, and body harness.

"Qualified Mental Retardation Professional (QMRP)" means a person who has specialized training or 1 year of experience in treating or working with the mentally retarded and is one of the following:

1. A psychologist with a master's degree from an accredited program.
2. A licensed doctor of medicine or osteopathy.
3. An educator with a degree in education from an accredited program.
4. A social worker with a bachelor's degree in:
  - i. Social work from an accredited program, or
  - ii. A field other than social work and at least 3 years of social work experience under the supervision of a qualified social worker.
5. A physical or occupational therapist as defined in the Code of Federal Regulation (CFR) 405.1101(m) or (q) of Title 42, Chapter IV.
6. A speech pathologist or audiologist as defined in CFR 450.1105(t) of Title 42, Chapter IV.
7. A registered nurse.
8. A therapeutic recreation specialist who:
  - i. Is a graduate of an accredited program; and
  - ii. If the State has a licensing or registration procedure, is licensed or registered in the State.
9. A rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.

"Regional Administrator" means the chief executive officer of a Division of Developmental Disabilities Community Services region.

"Safeguarding equipment" means devices used to provide support for the achievement of functional body position or proper balance and devices used for specific medical and surgical (as distinguished from behavioral) treatment.

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### SUBCHAPTER 2. SAFEGUARDING EQUIPMENT AND MECHANICAL RESTRAINTS

#### 10:42-2.1 Safeguarding equipment

(a) Safeguarding equipment shall only be applied by those staff trained in the use and application of the device.

(b) The need for the particular safeguarding device shall be documented in the Individual Habilitation Plan and re-evaluated as part of the routine review.

(c) The utilization of an approved form of body protection, such as a helmet to prevent accidental self-injury and permit a client's placement in a normal group setting is not considered mechanical restraint. However, the use of a helmet or other device for behavioral reasons, i.e., to keep the client from ingesting inedible objects or banging his head, is considered a mechanical restraint.

#### 10:42-2.2 Mechanical restraints

(a) Mechanical restraints shall be utilized only:

1. As an emergency measure to control a client in order to protect him or her or others from harm.

2. As part of an approved behavior modification program utilizing aversive techniques to attempt to change a targeted behavior.

(b) No facility or service provider may implement a program of mechanical restraint without specific authorization of the Director, Division of Developmental Disabilities.

(c) Mechanical restraints shall not be used as punishment, for the convenience of staff, or as a substitute for programming.

(d) The client must be placed in the least restrictive form of mechanical restraint appropriate to control the dangerous behavior exhibited.

(e) The client shall immediately be released from restraint when he/she ceases to present an imminent danger to himself/herself or others, or if the client appears to be in acute physical distress.

(f) Only personnel who have successfully completed a training program approved by the Division of Developmental Disabilities shall be permitted to apply mechanical restraints.

(g) Whenever a client exhibits a consistent pattern of serious assaultive, self-injurious, or destructive behavior, controllable only by use of mechanical restraint, a behavior modification plan shall be developed and applied with intent to change the maladaptive behavior.

### SUBCHAPTER 3. APPLICATION AND IMPLEMENTATION

#### 10:42-3.1 Application to use emergency mechanical restraints

(a) Each facility or service provider requesting approval to utilize emergency mechanical restraints must submit to the Director, Division of Developmental Disabilities written procedures governing the use of restraint at the facility. Once the facility's restraint policies/procedures have been approved by the Director, Division of Developmental Disabilities subsequent Division prior approval for each use of mechanical restraint is not required.

(b) The policies/procedures submitted shall include the following:

1. A statement specifically identifying the forms of mechanical restraint to be used and the minimum number of trained staff that shall be available to implement the program;

2. General criteria for use of mechanical restraint;

3. Specific criteria for use of each type of restraint at the facility;

4. A procedure utilized to ensure each use of mechanical restraint is appropriate to the individual client, including certification by a physician that the use of restraint is not medically contra-indicated for the individual;

5. A program for training staff that shall include, but not be limited to, training in the proper use and application of each form of mechanical restraint to be employed.

#### 10:42-3.2 Implementation standards: Developmental Centers and private residential facilities under contract with the Division of Developmental Disabilities Bureau of Special Residential Services

(a) Following approval by the Director, Division of Developmental Disabilities of the facility's application to use emergency mechanical restraints, the following standards shall apply:

1. Prior to the initial restraint authorization, a physician must certify that the technique to be employed is not medically contra-indicated for the individual client.

2. In an emergency situation, the Chief Administrator or his/her designee shall be responsible for authorizing the use of restraint. The authorizing agent must be a Qualified Mental Retardation Professional (QMRP).

3. As soon as possible, but in less than 24 hours, a physician must review and countersign the emergency restraint order.

4. Restraint orders shall be effective for not more than 12 consecutive hours. The renewal of restraint for more than 12 hours shall require a review by the administrator or his/her designee.

5. Restraint orders shall include documentation of the type of mechanical restraint authorized, the length of time to be applied, the reason for restraint, and any special instructions.

6. Each restraint order must be signed and dated by the authorized agent.

7. While the client is in mechanical restraint he shall be checked by a staff member every 15 minutes and such check shall be recorded in his record. The check should address the following:

- i. whether the continued use of the restraint is necessary;
- ii. whether the restraint is applied in accordance with principles of good body alignment, a concern for circulation and allowance for change of position.

8. The client shall be released from restraint for a period of not less than 10 continuous minutes during each hour of restraint.

9. The client's personal hygiene and nutritional needs shall be met while he/she is in restraint.

10. A special meeting of the interdisciplinary team shall be held to review programming and programming alternatives for any client requiring restraint for more than four occasions during a 30 day period. The purpose of the meetings shall be to develop a targeted behavior program in an attempt to change the maladaptive behavior.

#### 10:42-3.3 Implementation standards: community programs for the developmentally disabled

(a) In community programs, the utilization of emergency mechanical restraints will only be considered for those special programs adequately staffed by trained professional personnel and serving clients who present a danger to themselves and others.

(b) Following approval of an emergency mechanical restraint program by the Director, Division of Developmental Disabilities the following standards shall apply:

1. Only a licensed psychologist or physician may authorize each use of mechanical restraint.

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2. Prior to or at the time of the initial authorization, a physician must certify that the technique to be employed is not medically contra-indicated for the individual client.

3. Whenever possible, the restraint order shall be immediately signed by the person authorizing its use. However, the use of mechanical restraint may be authorized over the telephone by the qualified authorizing agent in accordance with the following:

i. Such approval is strictly temporary and the restraint order shall be reviewed and signed by the authorizing agent as soon as possible, but at least within 12 hours of its application.

ii. The specific circumstances necessitating approval over the telephone shall be part of the client's record and include the name of the party requesting the restraint.

4. Restraint orders shall be effective for not more than 12 consecutive hours.

5. Restraint orders shall include documentation of the type of mechanical restraint authorized, the length of time to be applied, the reason for restraint, and any special instruction for utilizing the restraint.

6. Each restraint order must be signed and dated by the authorizing agent.

7. While the client is in mechanical restraint, he shall be checked by a staff member every 15 minutes and such check shall be recorded in his record. The check shall address the following:

i. Whether the continued use of the restraint is necessary;  
ii. Whether the restraint is applied in accordance with principles of good body alignment, a concern for circulation and allowance for change of position.

8. The client shall be released from restraint for a period of not less than 10 continuous minutes during each hour of restraint.

9. The client's personal hygiene and nutritional needs shall be met while he is in restraint.

10. The service provider must notify the Regional Administrator of his/her designee prior to application when possible, but not later than 12 hours after the application of the mechanical restraint.

11. The Division of Developmental Disabilities may require a service provider to terminate restraint usage for an individual client if any requirements of this regulation are violated.

12. A special meeting of the interdisciplinary team must be held to review programming alternatives for any client requiring restraint for more than four occasions during a 30 day period.

i. The purpose of the meetings shall be to develop a targeted behavior program in an attempt to change the maladaptive behavior.

ii. The Interdisciplinary Team shall forward the results of their review to the Regional Human Rights Committee within 15 working days.

13. The Regional Human Rights Committee shall review the pertinent circumstances surrounding the utilization of each application of emergency mechanical restraint on a monthly basis. The results of this review shall be forwarded to the Deputy Director of Community Services, the appropriate Regional Administrator, and the Bureau of Operations.

## DIVISION OF PUBLIC WELFARE

For proposals numbered PRN 1985-399, 418, 419, 420, 421, 422 and 423, submit comments by September 4, 1985 to:

Audrey Harris, Director  
Division of Public Welfare

CN 716  
Trenton, New Jersey 08625

(a)

### Assistance Standards Handbook Child Care

#### Proposed Amendment: N.J.A.C. 10:82-5.3

Authority: N.J.S.A. 44:7-6 and 44:10-3.

Proposal Number: PRN 1985-419.

The agency proposal follows:

#### Summary

The proposed amendment at N.J.A.C. 10:82-5.3(b) will extend to parent-minors the rule allowing county welfare agencies (CWAs) to provide child care payments when the CWA has determined such care to be essential. Such care is usually determined to be essential in situations where the parent-minor who normally cares for the child is in training for employment or in a vocational rehabilitation program.

Language at N.J.A.C. 10:82-5.3(h) directs CWAs, when determining the amount of child care payments for eligible children who are expectant mothers receiving care in homes for unwed mothers, to use as the monthly allowance the rate established by the Division of Youth and Family Services. This amendment replaces the outdated amount of up to \$717.00 per month, and directs CWAs to obtain the current rate from the Division of Public Welfare.

#### Social Impact

Positive social impact is anticipated as a result of these proposed amendments. By allowing CWAs to pay for child care expenses incurred by certain parent-minors enrolled in training programs, the rule serves to ease the financial burden experienced by parent-minors receiving assistance. It will operate as a benefit to parent-minors who enroll in such training programs in an attempt to reduce dependency on public assistance and achieve a measure of self-sufficiency.

The proposed amendment will also provide for administrative ease and flexibility with respect to monthly allowances for child care payments for children in homes for unwed mothers. Additionally, the revised language will ensure comparability between programs under the aegis of the Department.

#### Economic Impact

Positive economic impact is anticipated as a result of the proposed amendments. The short-term costs of expenditures for child care payments to parent-minors will likely be offset in the long run when such families leave the assistance rolls because of improved family economic circumstances.

A negligible increase in assistance costs will result from adjustments made under the proposed amendment in the monthly allowance payable for child care on behalf of eligible children receiving care in homes for unwed mothers.

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

10:82-5.3 Child care

(a) (No change.)

(b) Child care may be provided when the county welfare agency determines that such care is essential because of any one or more of the following:

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1. The [parent or parent-person] **parent, parent-person or parent-minor** who normally cares for the child is in training for employment, or is in a program of vocational rehabilitation;

2. (No change.)

(c)-(g) (No change.)

(h) **Homes for unwed mothers:** When an eligible child who is an expectant mother is receiving care in an approved maternity home, the maximum rate for such care shall be the applicable rate for the facility as determined by the Division of Youth and Family Services [, not to exceed a maximum of \$717.00 per month]. **The CWA may obtain current rate information by communicating with the Division of Public Welfare, Bureau of Local Operations.** Such rate shall include all maintenance and care except medical services and shall be made as a vendor payment from the assistance account.

1. (No change.)

**(a)**

**General Assistance Manual  
Mental Health Services: Partial Care Program**

**Proposed Amendment: N.J.A.C. 10:85-5.3**

Authorized By: Geoffrey S. Perselay, Esquire, Acting  
Commissioner, Department of Human Services.

Authority: N.J.S.A. 44:8-111(d).

Proposal Number: PRN 1985-422.

The agency proposal follows:

**Summary**

The proposed amendment revises and recasts the General Assistance (GA) regulations on outpatient mental health care so as to coincide with the Partial Care Program of the Division of Mental Health and Hospitals. The existing regulations, written at a time of a different public approach to the problems of the mentally ill, do not fit the more current practices. The amended regulations will provide for payment under a range of conditions for the treatment of persons who would have previously been confined to State institutions. The proposed amendments are the result of a Task Force comprised of representatives from the Division of Public Welfare and the Division of Mental Health and Hospitals.

Specifically, the proposed regulations delete the present wording which limits payment from the GA program to the lowest amount for which a clinic or other provider offers the same service to anyone who is not a public assistance recipient. Substituted is provision for payment at the Medicaid rate or the rate negotiated locally, whichever is lower.

Persons in the Partial Care Program are divided into two groups according to the level of risk of psychiatric hospitalization or rehospitalization presented by each individual. Procedures for classification and other administrative procedures are included. Those persons more seriously at risk are expected to receive all day care for up to five days per week for up to two years. Those at lesser risk receive care for fewer hours per week for up to one year. Wide flexibility is provided in order to allow for appropriate responses to various case situations.

**Social Impact**

Outpatient treatment for persons who are at risk of confinement to mental hospitals is being provided by selected agencies,

mostly acute care hospitals, throughout the State. Those agencies, being denied payment because payment provisions have not kept pace with treatment methods, have been forced to choose between restricting services to some or overstretching their funds to extend service to all who need it. The agencies will now be relieved of that uneasy compromise situation which, if allowed to continue, could only result in serious gaps in our health services delivery system. Thus, there will be improved service not only for the GA recipients themselves, but for others for whom service might have been restricted so as to allow basic essential services for GA recipients.

**Economic Impact**

Payments to the various mental health providers will increase by an estimated \$868,771 per year. The amounts to each provider will be in direct proportion to the number of recipients served and the extent of the services to each on a fee-for-service basis. The costs will be divided between the State (75 percent) and the municipalities (25 percent).

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

10:85-5.3 Other medical payments

(a) (No change.)

(b) **Physicians, dentists and other health care providers:** The director of welfare shall authorize payment for services provided by licensed physicians (M.D. or D.O.), dentists and other health care providers including podiatrists, optometrists, pharmacists, opticians, prosthetists and orthotists who have not been deleted [from] for cause from the current list of approved Medicaid providers, unless such services are specifically prohibited under (b)2 below. The DPW/BMA will advise all MWDs of deletions from the approved list and of any reinstatements.

1. (No change.)

2. **Payments not authorized:** Payment to physicians, dentists or other health care providers shall not be authorized for the following services:

i. **Inpatient hospital care:** Payment shall not be authorized for professional services (for example, physicians, dentists, [podiatrists]podiatrists) rendered to persons receiving inpatient hospital care.

ii. **Outpatient or clinic care:** Payment shall not be authorized for professional services rendered in the outpatient department of a hospital[, or in a clinic of any kind. (Clinic fee may be paid when such service is not available without charge.)]

iii.-vi. (No change.)

3.-4. (No change.)

(c) **Outpatient facility services are as follows:**

1.-3. (No change.)

[4. **Outpatient mental health facilities:** The municipal director of welfare shall authorize payment for outpatient services rendered by the mental health facilities listed below when services have been approved by DPW/BMA. Approvals are made for periods of six months or less. Requests for approval of initial or continuing therapy may be submitted in any appropriate form or format including Medicaid form FD-07-C1.

i. **New Jersey State mental hospitals:** Payment shall be authorized for treatment in the outpatient department of any New Jersey State mental hospital.

(1) **Maximum fee:** Payment for such treatment shall not exceed the minimum fee for which treatment is supplied to non-public assistance recipients.

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ii. Community mental health clinics: Payment shall be authorized for diagnosis and/or treatment in any community mental health facility, provided that such treatment is not available to the client without cost.

(1) Maximum fee: Payment for such treatment shall not exceed the minimum fee for which treatment is supplied to non-public assistance recipients, or the applicable Medicaid rate (if any), whichever is less.

iii. Private psychologist or psychiatrist: If no local clinic offers such services, the director of welfare shall authorize payment to a private psychologist or psychiatrist, to the extent that such payment does not exceed the applicable Medicaid rate.

iv. Mental health services: Services provided by psychiatric social workers, unlicensed psychologists or psychiatric assistance in private practice are not payable.]

4. Mental health services: For all mental health services, the payment shall be deemed to cover all services of the provider. It does not cover prescription costs. If the MWD has negotiated a rate with the mental health agency or provider which is no higher than the rate which would otherwise be payable and which takes into account any funding by the municipality or county, that rate shall be used for all participants receiving services from that provider. In all other instances, payment to hospital based mental health facilities shall be at the rate regularly charged and payment to all other providers shall be at the Medicaid rate.

i. Partial Care Program (see N.J.A.C. 10:37-5.46 through 5.51): Partial Care is a program serving people who need more than hourly outpatient services and less than inpatient hospitalization. Some clients are served to avoid inpatient hospitalization; for others the program serves as a transition from institutional to community living. Clients usually receive services five days per week. This level of service is reduced as the client becomes more independent. Minimum attendance is one-half day per week. Services offered usually include case management, medication supervision, group therapy, activities of daily living (ADL), socialization, skill development, and prevocational activities. Program participants are divided into two Target Groups:

(1) Target Group I (see N.J.A.C. 10:37-5.2) consists of:

(A) Individuals currently in a State/County/Local psychiatric hospital who could live in the community with appropriate services.

(B) Individuals in the community with a history of psychiatric hospitalization, who are in serious risk of rehospitalization.

(C) Individuals in the community who are mentally, emotionally, and functionally impaired and in serious risk of psychiatric hospitalization.

(2) Target Group II (see N.J.A.C. 10:37-5.2) consists of individuals in the community who are mentally, emotionally, and functionally impaired and are not in serious risk of psychiatric hospitalization.

(3) Referral procedures: Proper referral is the responsibility of the mental health agency which seeks payment. It is in two parts:

(A) The agency will, within five working days of the acceptance of an individual for partial care, so notify the MWD in writing. Form PA-14, Inter-Agency Referral Form, or any substantially similar document may be used for this purpose.

(B) The agency will, within 30 calendar days of the acceptance of an individual for Partial Care, submit Medicaid Form FD-07 to the MWD. The Target Group classification must appear on the form. The MWD will record receipt of the form and send it promptly to DPW/BMA for approval.

(4) Service periods are as follows:

(A) The MWD will not authorize payment for any services rendered more than five days prior to notice (see (c)4i(3)(A) above)

nor more than 30 days prior to submittal of Form FD-07 (see (c)4i(3)(B) above).

(B) For Target Group I clients the expected term of service is two years from the date of acceptance into this program. For Target Group II clients the expected term of service is one year from the date of acceptance into the program. The MWD will authorize no payments beyond these periods without the specific written authorization of DPW/BMA.

ii. Other mental health services are as follows:

(1) Mental health clinics:

(A) For hospital-based mental health clinics, payment shall be authorized as described in (c)4 above.

(B) For all other clinics, payment shall be authorized as described in (c)4 above for an initial period of 30 days or until receipt by the MWD of a completed Medicaid Form FD-07, whichever occurs first. The MWD will record receipt of the form and forward it promptly to the DPW/BMA. The DPW/BMA will return the form indicating any further services which are approved. For services beyond the initial period, payment shall be authorized only for services approved by DPW/BMA.

(2) Private practitioners: If no local clinic offers services which are necessary, the MWD shall authorize payment to a private psychologist or psychiatrist in accordance with the provisions and limitations specified in (c)4ii(1)(B) above for clinics which are not hospital-based.

(3) Payments are not to be authorized for services provided by psychiatric social workers, unlicensed psychologists, or psychiatric assistants in private practice.

(d)-(i) (No change.) \_\_\_\_\_

**(a)**

**General Assistance Manual  
Fiscal Reporting Requirements**

**Proposed Amendment: N.J.A.C. 10:85-6.4**

Authorized By: Geoffrey S. Perselay, Esquire, Acting  
Commissioner, Department of Human Services.

Authority: N.J.S.A. 44:8-111(d).

Proposal Number: PRN 1985-418.

The agency proposal follows:

**Summary**

The proposed amendment serves to update General Assistance (GA) reporting procedures through inclusion of instructions for identifying employable and unemployable persons currently receiving assistance by use of the prefix of "E" or "U" on Form GA-6, Report of Assistance Commitments. Form GA-6, which lists all assistance payments made for a month, is completed monthly by municipal welfare departments and submitted to the New Jersey Division of Public Welfare (DPW) in order to provide DPW with fiscal and statistical information regarding the GA program.

**Social Impact**

Improvement in State planning for and analysis of the GA program should be realized because of the proposed amendment. By identifying what portion of each municipal welfare department's caseload is employable or unemployable, the reporting procedure will provide factual data on which to base employment, training and other similar GA program initiatives in order to better serve GA recipients.

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**Economic Impact**

The proposed amendment will provide for more effective program planning and thus should result in some undetermined long-term savings in program and administrative costs.

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

10:85-6.4 Fiscal and statistical reporting requirements

(a) General completion and [submitted] **submittal** requirements: Forms described below shall be completed and either submitted to the Division of Public Welfare, as indicated, or retained by each municipality approved to receive State aid in the General Assistance program. Use of the forms described herein is required.

1. **Application Register (Form GA-7)**: Each application shall be entered on the Application Register (Form GA-7) and shall be maintained by the MWD on an updated basis. The Application Register is subject to review by representatives of the Division of Public Welfare.

2. **Report of Assistance Commitments (Form GA-6)**: Form GA-6, accompanied by Form GA-6A, will be submitted on a monthly basis to the DPW/BBS within 10 days after the end of the assistance month. Cases are to be listed in sequential order according to case number. **Case numbers for all employable cases are to be identified with an "E" prefix and all unemployable cases are to be identified with a "U" prefix. At the end of each page, totals must be indicated for employables, unemployables, and all cases contained therein.** The list will include all cases for which assistance was granted during the calendar month of the report and for which the reporting municipality is financially responsible. It will include cases for which payments were made to medical facilities whether or not serviced by another municipality in accordance with N.J.A.C. 10:85-3.2(f)1 but shall not include any cases being serviced for another municipality. Payment for medical goods and/or services are to be reported on the Form GA-6 for the month in which the payments are actually made, date of authorization or commitment notwithstanding. Column 1-C (Social Security number) must be completed in the months of January, April, July and October.

3.-4. (No change.)

**(a)**

**General Assistance Manual  
Reporting General Assistance Work  
Registration Violations to the Food  
Stamp Office**

**Proposed Amendment: N.J.A.C. 10:85-10.8**

Authority: N.J.S.A. 44:8-111(d).  
Proposal Number: PRN 1985-423.

The agency proposal follows:

**Summary**

The proposed amendment at N.J.A.C. 10:85-10.8(b) establishes a reporting requirement relevant to General Assistance (GA) recipients who are concurrent Food Stamp (FS) beneficiaries. It requires that the municipal welfare department report to the appropriate county welfare agency (CWA) the failure of

any GA/FS program recipient to comply with GA work registration requirements. The CWA will then determine if the non-compliance with GA work registration requirements violates Food Stamp Program work registration requirements at N.J.A.C. 10:87-3.15 and 3.18(b), 7, ii, (1).

**Social Impact**

The proposed amendment will aid in the administration of the Food Stamp Program since it would make CWA food stamp offices aware of any failure by GA recipients to comply with GA work requirements which, under Federal regulations, may constitute a failure to comply with FS work registration provisions and cause ineligibility for the Food Stamp Program. The amendment may result in a decrease in the failure or refusal of GA recipients to comply with GA work registration requirements since such action would result in ineligibility for FS benefits.

**Economic Impact**

The proposed amendment has no direct economic impact on expenditures associated with the GA program since the sole purpose of the amendment is to provide information to another agency for another program. Savings may accrue to the Food Stamp Program inasmuch as some food stamp recipients will be terminated based on information speedily provided to the CWAs, which administer the federally funded Food Stamp Program.

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

10:85-10.8 GAEP reporting requirements

(a) Selected Data on Employability Status [(Form GA-61)] **Form GA-6D**: (Selected Data on Employability Status) will be completed each month and forwarded with the regular forms in the GA-6 series identified in N.J.A.C. 10:85-6.4(a)2 through 4. All activities relating to the GAEP which occur during the calendar month of the report shall be included.

(b) **The MWD will submit a written notice to the appropriate CWA when a General Assistance/Food Stamp Program recipient fails or refuses to comply with GAEP or any other General Assistance work registration requirement. Information provided shall include the recipient's name, address, Social Security number and the specific work registration requirement violated.**

**(b)**

**AFDC Work Incentive Program (WIN)  
General Provisions; Referrals; Policy for  
Determination of Financial Need; County  
Welfare Board Accounting and Reporting  
Procedures; Statistical Reporting; and, WIN  
Manual**

**Proposed Repeal: N.J.A.C. 10:86**

Authority: N.J.S.A. 44:10-3.  
Proposal Number: PRN 1985-420.

The agency proposal follows:

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**Summary**

In recognition of the sunset provisions of Executive Order No. 66 (1978), which mandate that administrative rules be evaluated on a periodic basis, the Division of Public Welfare conducted an internal review and evaluation of the rules at N.J.A.C. 10:86. After such review, that agency has deemed it necessary to propose the repeal of N.J.A.C. 10:86.

The Work Incentive (WIN) program was originally authorized in 1967 under Part C of Title IV of the Social Security Act in recognition of the need for an employment program directed to the special needs of public assistance recipients and their families.

Since its enactment, many federally mandated changes and updates to the WIN program were introduced in order to help furnish incentive opportunities and necessary services to individuals receiving Aid to Families with Dependent Children (AFDC) so that they could eventually achieve economic independence and assume useful roles in the community. Thus, WIN regulations were eventually incorporated into the applicable sections of N.J.A.C. 10:81, which deals with the AFDC program (Part A of Title IV of the Social Security Act), in order to maintain consistency and uniformity in the administration of the AFDC program.

Therefore, since the regulatory material at N.J.A.C. 10:86 is obsolete and regulations relevant to the WIN program can be found at N.J.A.C. 10:81, the Department of Human Services proposes to repeal N.J.A.C. 10:86.

**Social Impact**

The social impact is perceived as having a clarifying effect inasmuch as the repeal is for the sole purpose of removing obsolete material from the New Jersey Administrative Code.

**Economic Impact**

There will be no economic impact as a result of this repeal since it only serves to delete obsolete regulatory material.

Full text of the proposed repeal can be found at N.J.A.C. 10:86.

**(a)**

**Monthly Reporting Policy Handbook  
Definitions; Reporting Requirements; Income and Deductions; Recovery of Overpayments; Determining Eligibility and Computing the Assistance Payment/Food Stamp Benefit; CWA Action Reports and Other Reported Changes; Redeterminations/Recertifications; Case Reviews; Fair Hearings; and Transfers**

**Proposed Amendments: N.J.A.C. 10:90-2.2, 2.3, 2.4, 3.3, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 5.1, 5.2, 5.6, 6.1, 6.2, and 6.3**

**Proposed New Rules: N.J.A.C. 10:90-2.6, 4.8, 4.9 and 4.10**

Authority: N.J.S.A. 44:7.6, 44:10-3 and 30:4B-2; 7 CFR 273.21, 42 CFR 436.116, 45 CFR 206.10, and 45 CFR 233.20.

Proposal Number: PRN 1985-421.

The agency proposal follows:

**Summary**

The proposed rule amendment at N.J.A.C. 10:90 eliminates references to the Monthly Reporting (MR) System as a pilot project in two counties, because the system is now operating statewide, in all 21 county welfare agencies (CWAs), for certain categories of eligible units receiving Aid to Families with Dependent Children (AFDC) and food stamp households. The rule amended at N.J.A.C. 10:90-2.2 clarifies that New Jersey has a two-month retrospective budgeting system, where the payment month is the second month following the budget month (7 CFR 273.21(d)(2)). It defines the retrospective budgeting cycle as a three-month period consisting of a budget month, processing month and payment month.

The proposed rule amendment at N.J.A.C. 10:90-2.3 clarifies an existing rule of a timely report of earnings for AFDC-C and -F segment families. It precludes application of penalties for failure to report earnings timely where an eligible unit reports earnings timely but the Monthly Status Report (MSR) is incomplete for any other reason. The rule also defines the meaning of recent work history with respect to the monthly reporting requirements for AFDC eligible units.

The proposed rule requires CWAs to assist households in completing the monthly report form, who for special reasons such as disability or illiteracy cannot complete and file the reports themselves (7 CFR 273.21(b)(3)). The rule also states that migrant farmworker households and households without earned income whose adult members are all elderly and disabled are excluded from monthly reporting by law (7 CFR 273.21(b)(2)(i)). The Federal regulation states that certain additional categories of eligible units and households may be exempt from monthly reporting with approval of Federal agencies, and that households exempt from monthly reporting are required to report changes in income and circumstances periodically as they occur and at the time of recertification, in lieu of monthly reporting (7 CFR 273.21(1)(2)). The interval of the periodic report shall not be greater than 12 months and shall coincide with the recertification.

Treatment of certain types of income is clarified in N.J.A.C. 10:90-2.4 as follows. The best estimate of monthly income from child support payments used in the prospective eligibility determination shall be that amount provided by the CWA's Child Support and Paternity (CSP) fiscal unit. A child support payment made directly to an eligible household must be verified with regard to its source and amount. For AFDC purposes, the first \$50.00 of current monthly child support received on behalf of the eligible unit shall not be counted in the determination of the unit's total income. Disregarded Child Support (DCS) payments received in a budget month shall be considered income and retrospectively budgeted in the food stamp benefit for the corresponding payment month. AFDC supplemental payments provided under N.J.A.C. 10:82-5.11 shall be treated as non-recurring lump sum payments for food stamp purposes. Contract income actually received in a budget month, not the monthly averaged amount of contract income, shall be used to compute the assistance payment and food stamp benefits for the corresponding payment month. An evaluation of income from legally-responsible relatives is not required monthly, only at time of redetermination or annual case review.

At N.J.A.C. 10:90-2.6 the proposed rule clarifies that all eligible units, households and recipients of AFDC-Medicaid Only are subject to retrospective budgeting, except migrant farmworker households while in the migrant job stream and

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those nonpublic assistance (NPA) food stamp households exempt from monthly reporting (7 CFR 273.21(b)(1)).

The rule at N.J.A.C. 10:90-3.3 sets forth new requirements from the United States Department of Health and Human Services (USDHHS) that individuals reapplying for AFDC, whose assistance had been terminated either by request or for failure to file a complete MSR, must be examined for possible overpayments in the two months immediately preceding termination. Such families must complete MSRs for the two months immediately preceding the month of termination before assistance can be granted.

The proposed rule at N.J.A.C. 10:90-4.1 states that, in AFDC family groups living together, income of spouses and parents shall be deemed available to the other spouse and children, respectively, regardless of whether the spouse or parent is included in the eligible unit, as required by 45 CFR 233.20(a)(3)(vi). The rule clarifies AFDC treatment of the one-third disregard of earned income and the \$30.00 deduction from earned income (set forth in the Deficit Reduction Act of 1984) in both the prospective eligibility determination and the retrospective assistance payment calculation. The rule also states that extended Medicaid benefits for loss of AFDC eligibility due to increased earnings reported within the retrospective budgeting cycle shall begin with the payment month for which assistance is terminated in accordance with 42 CFR 436.116(b).

The rule at N.J.A.C. 10:90-4.2 provides that food stamp benefits issued for the month of application following a period of ineligibility shall be prorated from the application date.

The rule at N.J.A.C. 10:90-4.3 clarifies current regulations on noncontinuous and terminated sources of income which are received in a budget month and will not be received in the payment month, and extends the policy to income of individual eligible unit/household members in addition to entire families/households. Definitions are provided for noncontinuous income for AFDC purposes and income from a terminated source for food stamp purposes. A section has been added providing detailed steps to be followed in the eligibility determination and payment/benefit computation for AFDC and food stamps under retrospective budgeting.

Language has been added at N.J.A.C. 10:90-4.4 to clarify procedures regarding the addition of an individual to an AFDC eligible unit during a processing month. Any additional AFDC payments issued during a processing month shall not result in a food stamp benefit overissuance or underissuance for that month. The additional AFDC payment shall be counted as income either prospectively for the next payment month (if the additional payment was issued as part of the regular AFDC payment) or retrospectively when the budget month in which it was issued becomes the corresponding payment month (if the additional payment was issued as a separate check).

Additionally, N.J.A.C. 10:90-4.4 addresses treatment of income when an eligible unit's or household's circumstances change during a month. If an eligible unit that also receives food stamps reports an additional member, the additional assistance payment for the individual's partial month AFDC eligibility will not be considered as income for food stamp purposes. Where an individual has been added to a food stamp household and begins receiving food stamp benefits for the month following the month in which the additional member was reported, food stamps for the first two months will be prospectively budgeted (7 CFR 273.21(f)(2)(iv)). Language has been added to ensure that if an individual moves from one household into another, correct household expenses are counted and duplicate food stamps benefits will not be issued (7 CFR 273.21(f)(1)(iii)). If an eligible

unit or household loses income in a month, the assistance payment or food stamp benefit shall not be increased to offset this loss of income, although an eligible unit may apply for AFDC supplemental payments under N.J.A.C. 10:82-5.11.

Language has been added at N.J.A.C. 10:90-4.5 to permit suspension of assistance in a payment month to recover an overpayment due to ineligibility in the corresponding budget month. When assistance is suspended to recover overpayments, the eligible unit will remain eligible for Medicaid. Assistance payments and food stamp benefits may be suspended for two consecutive payment months where the reasons for the suspension are different. Prospective budgeting shall be used to compute assistance payments for the initial two payment months following the second month of suspension. Individuals whose assistance is suspended for a month are not eligible for AFDC supplemental payments authorized in N.J.A.C. 10:82-5.11 during the month of suspension.

At N.J.A.C. 10:90-4.6 language has been added stating that reinstatements are permitted for both AFDC and food stamps, and that if earnings were reported timely, regardless of late filing of the MSR, the eligible unit is entitled to disregards of earned income in the assistance payment issued for the month for which assistance is reinstated.

A section at N.J.A.C. 10:90-4.7 reflects a change in Federal regulations in 7 CFR 273.21(j)(3)(iii)(B) that if a household is using its actual utility costs, rather than a utility allowance, to establish its shelter cost deduction and the household does not verify such expenses in the monthly report, the CWA shall not allow a shelter cost deduction in computing food stamps.

A detailed new section at N.J.A.C. 10:90-4.8 was added concerning overpayments and underpayments of assistance to conform to and elaborate on existing Federal regulations at 45 CFR 233.20(a)(13). It states that an overpayment is a financial assistance payment made to or on behalf of an eligible unit which exceeds the amount of assistance for which that unit is eligible. An overpayment may occur regardless of whether the agency or recipient was at fault and regardless of when the agency or recipient became or could have become aware of the change in circumstances causing the overpayment. An overpayment may be caused by ineligibility for assistance or eligibility for assistance but at an amount less than that issued. All overpayments of assistance must be recovered promptly, either by grant reduction, suspending assistance, or through appropriate action under State law. If through recovery the amount payable to the eligible unit is reduced to zero, members of the eligible unit are still considered recipients of AFDC.

An underpayment is a financial assistance payment received by or for an eligible unit which is less than the amount for which the family was eligible, or failure to issue an assistance payment to an eligible unit if it should have been issued. The CWA must promptly correct any underpayments. Such corrective payments shall not be considered as income or resources in the month received or the following month. Assistance must be reinstated to any family determined prospectively ineligible for a month who was actually eligible for assistance in that month. The CWA may offset overpayments and underpayments to the same eligible unit.

Assistance payments issued during the first two months of prospective budgeting must be corrected either through recovery for overpayments or correction of underpayments, when the months' actual income and circumstances are known. Special rules are applied to recovery of overpayments of assistance caused by receipt of nonrecurring lump sum income. Where cases are closed for failure to file a monthly report or at the recipient's request, the CWA must determine if the family was

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eligible for assistance in the two months immediately preceding the month of termination. If the family reapplies for AFDC, the family must complete MSR forms for these two months before assistance may be granted, regardless of whether the family is or was subject to monthly reporting.

A new section has been added at N.J.A.C. 10:90-4.9 to establish when the CWA shall initiate a claim for food stamp benefit overissuance for public assistance (PA) and NPA households subject to monthly reporting and NPA households exempt from monthly reporting involving reportable changes other than increases in household size. Additionally, language has been included to indicate the budgeting methodology to be utilized in the calculation of the food stamp benefits following a period of suspension.

The section at N.J.A.C. 10:90-4.9 sets forth policy concerning determination and computation of overissuances and underissuances of food stamp benefits under retrospective budgeting. An overissuance occurs when a household receives more food stamps than it is eligible to receive under proper application of retrospective budgeting policy. However, claims need not be established for these overissuances if the food stamps were correct when issued. Correct means that the household reported the information timely and completely, and the agency acted upon the reported information timely and correctly in computing the amount of food stamps. The first month subject to a claim shall be the payment month corresponding to the first budget month in which the change occurred. For increases in household size, the first month subject to a claim shall be the month following the month in which the change was reported. This policy shall apply to the three types of claims: intentional program violation claims, inadvertent household error claims, and administrative error claims. Food stamp claims shall be computed using retrospective budgeting for all months except the month of application and the following month.

The rule specifies that upon receipt of the MSR form, after determining a household eligible for food stamps for a month, if the household's benefit changed from the prior months, the CWA must provide specific information on how the benefit was calculated by either a manually-prepared or computer-generated notice (7 CFR 273.21(j)(1)(ix)).

A new section has been added at N.J.A.C. 10:90-4.10 detailing the correct budgeting methodology to be utilized when NPA households experience a change in employment circumstances. When an NPA household gains or loses employment and becomes subject to monthly reporting and retrospective budgeting or exempt from such budgeting, the methodology used to calculate the food stamp benefit shall change from prospective to retrospective budgeting or vice versa. All changes in budgeting methodology are subject to adequate notice if they result from the MSR form or timely and adequate if they result from reporting by means other than the MSR.

A section has also been added at N.J.A.C. 10:90-4.10 stating that when an AFDC eligible unit applies for food stamps, income that will be or was received in the initial months of eligibility will be used to compute the food stamp benefits for a payment month. When a household changes between PA and NPA status due to change in AFDC eligibility, the method used to calculate food stamp benefits will depend on the household composition. For households in which all members apply and are determined eligible for AFDC, both the AFDC grant and food stamp benefits for the initial two payment months of eligibility will be calculated using prospective budgeting. For mixed households, in which only some members apply for or are determined eligible for AFDC, food stamps will be calculated using retrospective budgeting, but income from a terminated source

will be disregarded in the food stamp calculation. For households who lose AFDC eligibility, retrospective budgeting of food stamps will continue. If the resulting NPA household is in a category of households exempt from monthly reporting, retrospective budgeting will continue for one month only, then food stamp benefits will be budgeted prospectively. Requirements for timely and adequate notice of such changes in food stamp benefits will depend upon the method used to report the change in AFDC eligibility.

The rule amended at N.J.A.C. 10:90-5.6 provides that if an eligible unit receiving only Medicaid benefits (computed using retrospective budgeting) applies and is found eligible for AFDC, AFDC eligibility and payment and Medicaid eligibility for the initial two months of AFDC shall be computed using prospective budgeting. The rule states that, for a family terminated from assistance for reasons other than monthly reporting who becomes eligible for AFDC in the payment month, the assistance payment for that month will not be counted as income for food stamp purposes if the food stamps benefits for that month have already been issued. For households terminated for a payment month for reason other than monthly reporting who become eligible for participation in the month of termination, the date of the reported change will determine whether the household will receive food stamps for this payment month of termination.

The proposed rule amendment at N.J.A.C. 10:90-6.1 sets forth policy concerning redeterminations of eligibility for AFDC. It states that filing a MSR form constitutes a redetermination, and that CWAs are performing redeterminations of eligibility every month on MR cases, and every other month on families subject to bimonthly reporting, as set forth in 45 CFR 206.10(a)(9). For cases subject to monthly reporting, the CWA will conduct annual in-depth case reviews of eligibility that include an interview with the recipient. This case review will coincide with the food stamp recertification of eligibility and will use Form PA-1J, "Application and Affidavit for AFDC, MA, CPP, RRP, CHEP and Food Stamps". Eligible units will be redetermined using retrospective budgeting, that is, the assistance payment for the first month of the new redetermination period will be calculated by retrospectively budgeting income and circumstances from the corresponding budget month. Overdue redeterminations will also be computed using retrospective budgeting, but any intervening months must be examined for possible overpayments of assistance.

The proposed amended rule at N.J.A.C. 10:90-6.1 also sets forth new policy for recertifications of food stamp eligibility. In general, the CWA shall use retrospective budgeting to recertify an eligible household which timely reapplies and shall provide the household with an opportunity to participate within the household's normal issuance cycle (7 CFR 273.21(q)(1)). However, migrant farmworker households while in the migrant job stream will be recertified using prospective budgeting. Households will be recertified under normal food stamp procedures except that households in MR shall be assigned certification periods of not less than six months nor longer than 12 months, in accordance with 7 CFR 273.21(a)(3). PA households shall be recertified using both the MSR and relevant sections of Form PA-1J, and must conform to MSR filing deadlines; NPA households in MR shall be recertified using the MSR and relevant sections of Form FSP-901, "Application and Recertification for Participation in the Food Stamp Program" (7 CFR 273.21(q)(4)). NPA households not subject to MR shall be recertified using only Form FSP-901. CWAs will select a recertification policy for all NPA households in MR whereby the MSR is either mailed to households for completion before or at

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the recertification interview or is hand-delivered to the household at the recertification interview for completion in the office (7 CFR 273.21(q)(4)(ii) - (v)). If the MSR is hand-delivered at the interview, the household will not be sent an Extension Notice terminating benefits for failure to file a complete MSR. Regardless of which option is selected, a household subject to MR shall not be recertified without a complete MSR form.

At N.J.A.C. 10:90-6.2 fair hearing requirements have been changed pursuant to directives from USDHHS and food stamp regulation 7 CFR 273.21(p)(2) to require submittal of a complete MSR form by an eligible unit or household before assistance or food stamp benefits may be continued pending a hearing decision. If the fair hearing is with regard to termination for nonreceipt of the MSR by the CWA, then a new, complete MSR shall be submitted before assistance or food stamps may be continued.

The proposed rule amendment at N.J.A.C. 10:90-6.3 deletes policy concerning transfer of cases between MR and non-MR counties, because MR is operating in all counties. For all counties involved in the transfer of MR cases, the sending CWA must submit to the receiving CWA the most recent MSR completed by the eligible unit or household. The eligible unit or household must continue to file MSRs while responsibility for the case is being transferred between counties. Failure of an eligible unit or household to file a complete, timely MSR for any budget month during a transfer will result in denial of assistance and food stamps for the corresponding payment month.

#### Social Impact

Positive social impact will be realized through the proposed rule amendments at N.J.A.C. 10:90 by providing detailed clarification regarding the application and treatment of the eligibility criteria and budgeting methodologies as prescribed in the Monthly Reporting Policy Handbook, thereby establishing uniformity with current Federal regulations.

Specifically, the proposed rule change will allow food stamp benefits to reflect changes in income and circumstances quickly by allowing prospective budgeting for NPA households exempt from monthly reporting.

The households affected consist mostly of elderly members or those on fixed incomes, such as recipients of Supplemental Security Income and Retirement, Survivors and Disability Insurance.

#### Economic Impact

The proposed rule will have minimal economic impact, since the rule provides mostly policy clarification and not a change in the levels of AFDC or food stamp benefits. The provision disregarding terminated sources of income for individuals newly added to the AFDC eligible unit and food stamp household may result in very slight increases in assistance payments and food stamp benefits for up to two months. Likewise, the disregard of terminated sources of income for ongoing food stamp households may slightly increase food stamp benefits (100 percent federally-funded) for up to two months.

The proposed rule may increase Medicaid costs slightly by allowing AFDC eligible units to retain Medicaid coverage during any month in which their AFDC grant is suspended to recover a prior overpayment of assistance. However, this rule is federally-required, and its broad social and program benefits outweigh any increased costs for the relatively small number of families involved.

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

#### 10:90-2.2 Definitions

(a) The following terms and their definitions apply to MR: 1.-10. (No change.)

**11. Two-month retrospective system:** New Jersey has adopted a two-month retrospective budgeting system. In a two-month retrospective system, the payment month is the second month following its corresponding budget month. For food stamp program purposes, there are two beginning months of participation in this system, the first month and the following month.

**12. Retrospective budgeting cycle:** The retrospective budgeting cycle consists of three consecutive months: the budget month, processing month and payment month. In the retrospective budgeting cycle, income and circumstances existing in a budget month are reported by the eligible unit/household and acted upon by the CWA in the processing month to determine eligibility and compute the assistance payment/food stamp benefit for the payment month.

**i. Example:** In a retrospective budgeting cycle consisting of a budget month of January, a processing month of February, and a payment month of March, income and circumstances existing in January (Budget Month) would be reported by the eligible unit/household and acted upon by the CWA in February (Processing Month) to determine the assistance payment/food stamp benefit for March (Payment Month).

#### 10:90-2.3 Reporting requirements

(a) Monthly reporting: Each AFDC eligible unit/food stamp household is required to submit a report form (Monthly Status Report) to the CWA monthly except for food stamp households in (d) below.

1. Information to be reported: Each AFDC eligible unit/food stamp household is required to report the following information on the report form:

i. (No change.)

ii. Any changes in income, deductions, resources, or other relevant circumstances affecting continued eligibility which the eligible unit/household expects to occur in the current month or in future months; [and]

iii. Stepparent's income [and alien sponsor's income and resources], where appropriate[.]; and

iv. Income and resources of an alien's sponsor and sponsor's spouse, where appropriate.

2.-5. (No change.)

6. Timely report of earnings: The eligible unit must submit a timely report of earnings, whether or not the eligible unit is subject to monthly reporting at the time earnings are received. A report of earnings by the eligible unit will be considered timely if it is received by the CWA by the Extension Deadline and, if it is complete, with all verification attached (see N.J.A.C. 10:90-2.2(a)7 and 2.2(a)8).

**i. A report of earnings need not be submitted with a complete MSR for the earnings to be considered timely and completely reported.**

**ii. Incomplete report of earnings:** If an eligible unit provides a report of Budget Month earnings before or on the Processing Month's Extension Deadline, but the CWA discovers additional unreported earnings, the earnings report will not be considered timely or complete. Earned income disregards shall not be applied to Budget Month earnings in the appropriate eligibility determination and grant calculation, in accordance with (a)7 below.

**(1) Example:** On February 5, an eligible unit with recent work history submits the January Budget Month MSR showing zero earnings. The Extension Deadline for receipt of a timely and complete earnings report is February 17. On February 10, the

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CWA learns from another source that the client actually earned \$300.00 in January. The CWA shall not apply disregards to the January earnings in the eligibility determination and grant calculation, because the report of earnings was not timely or complete.

7. Penalty for failure to report earnings timely - AFDC-C and -F segment cases: If, for any Budget Month, an eligible unit does not report earnings timely, and cannot demonstrate good cause as defined in (a)8 below for failing to report earnings timely, its eligibility for that Budget Month and assistance payment for the corresponding Payment Month shall be computed without the application of earned income disregards: \$75.00 work expense deduction, child/adult care expense deduction, and \$30.00 and one-third disregard[.] (see N.J.A.C. 10:90-4.1(e)). The penalty of loss of disregards shall be applied only for failure to report earnings completely and timely. This penalty shall not be applied if the MSR form is incomplete for any other reason.

i. (No change.)

8. (No change.)

9. Recent work history: An eligible unit/household member has recent work history for a period of six budget months following a month in which employment (earned income) terminated. If an applicant has recent work history, that is, worked at any time in the six months prior to the initial month of eligibility for AFDC/food stamps, and the eligible unit/household has no other earned income, the eligible unit/PA household must file MSR forms for the number of budget months remaining in the six-month period that starts with the month after the last month of employment. If a recipient has recent work history, that is, stops working, and the eligible unit/PA household has no other earned income, the eligible unit/household must continue to file MSR forms for six budget months subsequent to the budget month in which employment terminated.

i. Example: A family with no income applies for AFDC on February 5, stating that one member stopped working in December. This eligible unit member has recent work history; the six month period extends from January through June. The eligible unit must file MSRs for a period of five budget months from February (initial month of eligibility for AFDC) through June.

ii. Example: An eligible unit member stops working in January; the family has no other earned income. The eligible unit member has recent work history; the eligible unit must file MSRs for the six budget months of February through July.

(b) (No change.)

(c) Special assistance in monthly reporting: The CWA shall provide special assistance in completing and filing monthly reports to households whose adult members are all either mentally or physically handicapped or are non-English speaking or otherwise lacking in reading and writing skills such that they cannot complete and file the required reports.

(d) Exclusions from monthly reporting: The following food stamp households are excluded from monthly reporting by Public Law 97-253:

1. Migrant farmworker households while they are in the migrant job stream; and

2. Households without earned income whose adult members are all elderly or disabled.

(e) Exemptions from monthly reporting: Categories of AFDC eligible units and food stamp households may be exempted from the monthly reporting requirement by the Division of Public Welfare with written approval of the Secretary, U.S. Department of Health and Human Services and the Secretary, U.S. Department of Agriculture. Eligible units and households who timely report all current income and circumstances, and any changes thereto, and who are not issued MSR forms by the CWA based on

this reported information, are considered exempt from the monthly reporting requirement. Eligible units and households who fail to timely report all current income and circumstances, and any expected changes, and who would have been issued MSR forms by the CWA based on this reported information, are considered to be subject to monthly reporting and all MR requirements and penalties.

(f) Periodic reporting: Households not subject to monthly reporting shall be subject to periodic reporting. Periodic reporting requires a household to report changes in income and circumstances in accordance with N.J.A.C. 10:87-9.7(a)1i, as changes occur and periodically, at time of recertification. The interval of the periodic report shall not be greater than 12 months and shall coincide with the recertification.

10:90-2.4 Income, employment and deductions

(a) Gross monthly income: The CWA shall use gross monthly income to determine eligibility prospectively and to compute the assistance payment and food stamp benefit (except for (b) below). Gross monthly income shall be determined according to the methods in this section. The CWA shall not multiply weekly gross income by 4.333 or use any other conversion factor to determine gross monthly income, except for certain NPA households in (a)3 below.

1. Eligibility determination: Gross monthly income used in the prospective eligibility determination shall be the CWA's best estimate of income that will exist in a Payment Month. The CWA shall estimate earnings or other income received more frequently than monthly (e.g., weekly or biweekly) based on a four-week payment month (see the Example in (a)2i(1) below).

i. Child support payments: The best estimate of income from child support payments to be used in the determination of prospective eligibility shall be the monthly support amount provided by the CWA's Child Support and Paternity (CSP) fiscal section. If the child support payment is paid directly to the eligible unit/household, the source and amount of the payment must be verified. For AFDC purposes, the first \$50.00 monthly current child support received on behalf of the eligible unit shall not be counted in the determination of total income.

2. Assistance payment/food stamp benefit computation: Gross monthly income used in the assistance payment/food stamp benefit computation shall be determined according to (a)2i or ii below.

i.-iii. (No change.)

iv. Disregarded Child Support (DCS) payment as income: A DCS payment, defined in N.J.A.C. 10:82-5.12, shall be retrospectively budgeted in the food stamp benefit computation. The DCS payment received by the eligible unit/household in a budget month shall be considered as income in computing the household's food stamp benefit for the corresponding payment month.

v. AFDC supplemental payments: Non-federally funded AFDC supplemental payments issued in accordance with N.J.A.C. 10:82-5.11 shall be considered non-recurring lump-sum payments (defined in N.J.A.C. 10:87-5.9(a)10) for food stamp purposes.

3. Weekly and biweekly income of NPA households exempt from monthly reporting and retrospective budgeting: For NPA households exempt from monthly reporting and retrospective budgeting, income received weekly or biweekly shall be converted to a monthly amount by applying a factor of 4.333 to weekly income and 2.167 to biweekly income. The monthly amount so obtained may be used in both the eligibility determination and the food stamp benefit calculation.

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

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(e) Contract income: The CWA shall prorate income received by individuals employed on a contractual basis over the period of the contract. The CWA shall use the monthly prorated contract income amount to determine eligibility and the contract income actually received in the budget month to compute the assistance payment/food stamp benefit. [Clients employed on a contractual basis, such as teachers, school aides, etc., are still required to report income and circumstances monthly to the CWA (see N.J.A.C. 10:90-4.3(c)).]

1. Example: A school aide's contract for 10 months is \$3,000 or a \$300.00 monthly prorated contract amount. The contract pays the full \$300.00 only if the aide works a full month. In January, due to snow, the aide works only 14 days and actually receives only \$200.00, and reports this income on the January Budget Month MSR (processed in February). For the corresponding March Payment Month, the CWA shall use \$300.00 in the prospective eligibility determination and \$200.00 in the retrospective assistance payment/food stamp benefit calculation.

(f) (No change.)

(g) Scholarships, educational loans and grants: For food stamp purposes, the CWA shall prorate nonexcluded scholarships, deferred educational loans, and other educational grants over the period they are intended to cover, in accordance with N.J.A.C. 10:87-6.9(a)6. The CWA shall use the monthly prorated amount to compute the food stamp benefit.

1. Example: In August a household member receives a \$1,000 scholarship covering four months, September through December. The monthly prorated scholarship amount of \$250.00 will be used to determine the household's eligibility prospectively for the payment months of September through December. Then, the \$250.00 monthly prorated amount will be treated as income received in the budget months of September through December, and used to retrospectively compute the food stamp benefits issued for corresponding payment months of November through February.

(h) (No change.)

(i) Contributions from legally-responsible relatives: The monthly amount of income from contributions from legally-responsible relatives (LRRs) computed at the semi-annual redetermination or annual case review shall be used to determine gross monthly income. A more frequent evaluation of LRR capacity to support, and a change in gross monthly income, is required only when the MSR or other report of change indicates a significant change in the monthly contribution figure.

#### 10:90-2.6 Eligible units/households subject to retrospective budgeting

(a) AFDC program: For all applicants and recipients, eligibility for AFDC shall be determined using prospective budgeting, in accordance with N.J.A.C. 10:90-4.1. Assistance payments for all applicants and recipients determined eligible for AFDC shall be computed in accordance with N.J.A.C. 10:90-4.2 in the initial two payment months of eligibility and N.J.A.C. 10:90-4.3 (retrospective budgeting) after the initial two payment months of eligibility.

(b) Food Stamp program: For all households, eligibility for participation in the food stamp program shall be determined using prospective budgeting, in accordance with N.J.A.C. 10:90-4.1. Food stamp benefits for households determined eligible for participation shall be computed in accordance with (b)1 through 3 below.

1. Migrant farmworker households: Food stamp benefits for all migrant farmworker households in the migrant job stream shall be computed using prospective budgeting, in accordance with N.J.A.C. 10:90-4.2. Once such farmworker households

cease to migrate, however, their food stamp benefits shall be calculated in accordance with (b)2 or 3 below.

2. All PA households and those NPA households subject to monthly reporting: Food stamp benefits for all PA households and those NPA households subject to monthly reporting, excluding migrant farmworker households in the job stream, shall be computed using prospective budgeting in the initial two payment months of eligibility, in accordance with N.J.A.C. 10:90-4.2, and retrospective budgeting after the initial two payment months of eligibility, in accordance with N.J.A.C. 10:90-4.3.

3. NPA households exempt from monthly reporting and retrospective budgeting: Food stamp benefits of NPA households exempt from monthly reporting and retrospective budgeting shall be computed for all payment months using prospective budgeting, in accordance with N.J.A.C. 10:90-4.1.

(c) AFDC-Medicaid Only cases: Entitlement to AFDC-Medicaid Only benefits, including Medicaid Special and Medicaid on behalf of an unborn child, for a payment month shall be determined by both determining eligibility prospectively and performing an assistance payment computation, using income from the corresponding budget month, even though an assistance payment will not be issued.

#### 10:90-3.3 Formal application

(a) If the individual elects to file a formal application as defined in N.J.A.C. 10:81-2.1(c), the CWA's additional responsibilities under Monthly Reporting include:

1.-2. (No change.)

3. Previous overpayments: The CWA shall determine if the applicant or eligible unit of which he or she is a member has an outstanding overpayment balance from prior receipt of assistance. If so, the CWA shall move to recover the overpayments.

i. If the applicant or eligible unit of which he or she is a member had been terminated from the AFDC program in a prior month either for failure to file a complete MSR or at the request of the recipient, the CWA shall determine if ineligibility, and therefore overpayment(s), existed before assistance was terminated. The CWA shall issue MSRs covering the two months prior to the month for which assistance was terminated. The applicant must complete these MSRs before assistance may be granted for the month of application and subsequent months (see N.J.A.C. 10:90-4.8(h) and (i)).

ii. Example: A family was terminated from assistance for March for failure to file a complete January Budget Month MSR. In June the family applies for AFDC. The CWA must issue, and the family must complete, MSRs for January and February before assistance can be granted for June and subsequent months.

#### 10:90-4.1 Determining eligibility prospectively in all payment months

(a) (No change.)

(b) Income eligibility: For any payment month, the CWA shall identify the number of individuals in the eligible unit/household and determine income eligibility prospectively according to (b)1 or (b)2 below. Prospective income eligibility is based on the anticipated income from all individuals whose income must be counted in determining eligibility, for example, members of the unit/household, sanctioned members who would otherwise be eligible, and individuals not receiving assistance but whose income is deemed (stepparents, alien sponsors). For purposes of AFDC, in family groups living together, income and sources of the spouse are considered available for the other spouse, and income and resources of a parent are considered available for children under 21, regardless of whether the spouse or parent is included in the eligible unit. However, if a spouse or

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parent is receiving SSI benefits (including a mandatory or optional State supplementary payment), then for the period for which such benefits are received, his or her income and resources shall not be counted as income and resources available to the AFDC eligible unit.

1. AFDC program: Income eligibility is established when the eligible unit meets both the maximum income eligibility test and the needs tests.

i. (No change.)

ii. Needs test: An eligible unit must be in need of assistance for any payment month. The CWA shall determine need prospectively for any payment month by comparing total countable income anticipated in that payment month, less appropriate disregards, to the allowance standard. **Appropriate disregards are all of the earned income disregards for which a family will be eligible in a payment month: work expense deduction, child care deduction, and \$30.00 and one-third disregard.** If the countable income remaining after disregards is less than the amounts in Schedules I and II of N.J.A.C. 10:82-1.2 for the appropriate eligible unit size and program segment, need for assistance has been established.

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

iii. (No change.)

2. (No change.)

(c) (No change.)

(d) **Four consecutive months of the \$30.00 and one-third disregard:** The \$30.00 and one-third disregard is applied to earnings for the first four consecutive months of receipt, in accordance with N.J.A.C. 10:82-4.4(c). Therefore, for newly-received earnings, the \$30.00 and one-third disregard will be applied first to the eligibility determination (needs test) for the month of receipt, and then to the grant calculated for the payment month corresponding to the budget month of receipt. For ongoing cases, the same four months of earnings will receive the \$30.00 and one-third disregard, although reflected in different months of AFDC eligibility and payment.

1. **Example:** A newly-employed client reports receipt of earnings starting in January. The \$30.00 and one-third disregard will be applied to the eligibility determination (needs test) for the four consecutive payment months of January, February, March and April. In the grant calculation, the \$30.00 and one-third disregard will be applied to earnings received in these same four budget months, January through April. However, due to retrospective budgeting, the \$30.00 and one-third disregard will be reflected in the AFDC grants issued for March, April, May and June.

2. **If an eligible unit receives earned income in an amount that causes ineligibility for AFDC without application of the one-third disregard, assistance shall be terminated effective for the first payment month for which the one-third will not be applied to the needs test.** The eligible unit will have received four consecutive months of the \$30.00 and one-third disregard in the eligibility determination, although only two months of this disregard in the grant calculation.

3. **Loss of the \$30.00 and one-third disregard due to a penalty situation:** Any month for which an individual loses the \$30.00 and one-third disregard for failure to report earnings timely shall be considered as one of the four consecutive months, in accordance with N.J.A.C. 10:82-4.4(c)2. In situations of unreported earnings the \$30.00 and one-third disregard, and penalty of its loss, shall be applied to the four consecutive months to which it would have been applied if earnings had been reported timely and completely.

i. **Example:** On June 5 the CWA discovers a family's unreported earnings for the months of January through April, and contacts the family. The family submits May Budget Month paystubs before the Extension Deadline in June and continues to report earnings timely. The \$30.00 and one-third disregard should have been applied to earnings received from January through April. The family will be penalized the loss of this disregard when the CWA recomputes both eligibility and the correct amount of assistance based on earnings received in January through April. Earnings received in May through August, the first four months for which the client reported earnings, would not be entitled to the \$30.00 and one-third disregard.

(e) **Eight months of the \$30.00 deduction from earnings:** A deduction of \$30.00 is applied to earnings for a period not exceeding eight months from the end of the four consecutive months of \$30.00 and one-third disregard, in accordance with N.J.A.C. 10:82-4.4(d). The \$30.00 deduction will be applied first to the eligibility determination (needs test) for the month in which earnings are received, and then to the grant calculated for the payment month corresponding to the budget month in which earnings are received. The \$30.00 deduction will be applied to the same eight months of earnings, although reflected in different months of AFDC eligibility and payment.

1. **Example:** A recipient began working in January. The \$30.00 and one-third disregard would be applied to earnings received in the four consecutive months of January through April, reflected in eligibility determinations for January through April and in assistance payments for March through June. The \$30.00 deduction would be applied to earnings received in the eight months of May through December, reflected in eligibility determinations for May through December and assistance payments for July through February.

2. **Expiration of eight-month period:** If an eligible unit receives earned income in an amount that causes ineligibility when the eight-month period of the \$30.00 deduction expires, assistance shall be terminated effective for the first payment month for which the \$30.00 deduction will not be applied to the needs test. The eligible unit will have received eight months of the \$30.00 deduction in the eligibility determination, although only six months of this deduction in the grant calculation.

3. **Loss of the \$30.00 deduction due to penalty:** Any month for which an individual loses the \$30.00 deduction for failure to report earnings timely shall be considered as one of the eight months. In situations of unreported earnings, the \$30.00 deduction, and penalty of its loss, shall be applied to the eight months to which it would have been applied if earnings had been reported timely and completely.

(f) **Ineligibility for failure to report earnings timely:** The penalty of loss of disregards in N.J.A.C. 10:90-2.3(a)7, when applied to budget month earnings not reported timely, may cause ineligibility in the budget month for failure to meet the needs test. The resulting overpayment of assistance must be recovered by suspending assistance for the corresponding payment month, if all conditions in N.J.A.C. 10:90-4.8(c)4 are met.

1. **Example:** A member of a four-person eligible unit began working in January but failed to report receipt of \$500.00 earnings until February 25, after the Extension Deadline of February 17. The eligible unit is penalized earnings disregards in both the eligibility determination for January and the grant calculated using January's earnings. Comparing the \$500.00 earnings received with the \$458.00 need standard renders the family ineligible for assistance in January for failure to meet the needs test. An overpayment results from this month of ineligibility, which must be recovered by suspending assistance for March.

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(g) Ineligibility due to excess earnings and extension of Medicaid benefits: N.J.A.C. 10:81-8.22(b)1 authorizes a four-month extension of Medicaid benefits for AFDC-C or -F families who lose eligibility due to increased earnings from or increased hours of employment. For earnings received and reported within the retrospective budgeting cycle, extension of Medicaid benefits shall begin with the payment month for which assistance was terminated. For earnings received and reported in time frames that exceed the retrospective budgeting cycle, extension of Medicaid benefits shall begin with the month in which the family is no longer eligible for an AFDC money payment.

1. Example: In February, an eligible unit reports receipt of increased earnings in the January Budget Month which cause ineligibility and are expected to continue. In the February Processing Month, the CWA will terminate assistance effective for the March Payment Month. Extended Medicaid benefits will be authorized for the four months of March through June.

2. Example: In July, the CWA discovers an eligible unit's unreported earnings received from January through the present which caused ineligibility and are expected to continue. The four-month period of extended Medicaid benefits began with January, the first month of ineligibility, and ended with April.

10:90-4.2 Computing the assistance payment/food stamp benefit in the initial two payment months of eligibility

(a) The CWA shall use prospective budgeting to compute the assistance payments/food stamp benefits for the initial two payment months of eligibility, except in situations detailed in (b) below. See N.J.A.C. 10:90-2.4(a)2i for determination of gross monthly income in these two months. The CWA will compute the assistance payment by counting the budget month income of the same individuals whose income was considered in the prospective eligibility decision in N.J.A.C. 10:90-4.1.

1. (No change.)

2. The CWA shall use prospective budgeting to compute the assistance payments (but not the food stamp benefits) for the initial two payment months of eligibility, if the initial month follows a payment month of suspension (defined in N.J.A.C. 10:90-4.5) and the eligible unit's circumstances for the initial month had changed significantly from those reported for the corresponding budget month. A significant change in circumstances is defined as an unanticipated loss of all earned or unearned income.

i. If a family was ineligible for assistance in the month immediately preceding the payment month of suspension, the CWA shall suspend assistance for a second payment month to recover the overpayment, in accordance with N.J.A.C. 10:90-4.8(c)4. Prospective budgeting shall be used to compute the assistance payments for the initial two payment months following this second payment month of suspension.

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

iii. Example: An eligible unit's AFDC grant for March is suspended for excess income from five pays received in the January Budget Month. The eligible unit's MSR, filed on March 4, shows receipt of overtime pay in the February Budget Month, causing ineligibility in February. The client advises the CWA in mid-March of the loss of employment and that employment is not anticipated in April. Although the circumstances in the initial month of April will be significantly different than circumstances in the corresponding budget month of February, assistance for April must be suspended to recover the overpayment caused by excess income in February. The eligible unit's AFDC grants for May and June will be calculated using prospective budgeting.

(b) (No change.)

(c) The CWA shall use prospective budgeting to compute the assistance payment/food stamp benefit for the initial two payment months of eligibility that follow a period of ineligibility of at least one full payment month.

1. If the period of ineligibility is less than one full payment month, the CWA shall use retrospective budgeting to compute the assistance payment/food stamp benefit. However, the food stamp benefits for the month of application would be prorated from the day of application.

2.-3. (No change.)

4. Example: An eligible unit/household requests that its AFDC and food stamp benefits be terminated effective February 1. On February 16 the family reapplies for AFDC/food stamps and is determined prospectively eligible for February and March. The AFDC and food stamp benefits issued for February and March must be calculated using retrospective budgeting, because the period of ineligibility of February 1 through 15 was less than one full payment month. However, the food stamp benefits for February would be prorated from February 16, the date of application.

10:90-4.3 Computing the assistance payment/food stamp benefit after the initial two payment months of eligibility

(a) (No change.)

(b) First and second months of retrospective budgeting: Except as provided in N.J.A.C. 10:90-4.2(b)1 above, for the first and second payment months for which retrospective budgeting is used, the CWA shall not count income from the Budget Month already considered for any Payment Month determined prospectively which is not of a continuous nature [(income from a terminated source).] or which is income from a terminated source. However, if such income has not been considered for any payment month determined prospectively, it must be counted retrospectively for the first and second payment months for which retrospective budgeting is used. This section applies to the income of both eligible units/households and individuals added to eligible units/households.

1. Income not of a continuous nature: In computing the assistance payment, nature of income refers to the category of either earned or unearned income. If income from one category (either earned or unearned) is received in either of the initial two payment months of eligibility, but will not be received from the same category after the initial two months, such income is not of a continuous nature.

2. Income from a terminated source: In computing the food stamp benefit, source of income refers to the specific origin of income, such as an employer or type of unearned income benefit (RSDI, SSI, and so forth). If income is received on a monthly or more frequent basis, it shall be considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month. If income is normally received less often than monthly, it shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

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

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

5. Example: An individual with \$100.00 RSDI income moves into a household and is found eligible for food stamp benefits effective January 1. The household's food stamp benefits for January will be computed by prospectively budgeting this \$100.00 RSDI income. On January 15, the household receives a notice terminating RSDI benefits and immediately advises the

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CWA. The household's food stamp benefits for the March Payment Month will be computed using retrospective budgeting, but disregarding the \$100.00 RSDI received in the January Budget Month because it was income from a terminated source.

6. Example: Given the situation in (b)3 above, the individual fails to report receipt of the \$100.00 RSDI, but the CWA discovers the income in February. The household's food stamp benefits for the March Payment Month will be calculated by retrospectively budgeting January's \$100.00 RSDI. Although the \$100.00 was income from a terminated source, it had not been considered prospectively in the January food stamp benefits, and therefore must be counted retrospectively.

[(c) Contract income: According to N.J.A.C. 10:90-2.4(e), the monthly prorated contract income amount shall be used to determine eligibility using prospective budgeting and to compute the assistance payment/food stamp benefit using retrospective budgeting. However, in any month in which the amount of income actually received is significantly different than the monthly prorated contract income amount (e.g., due to unforeseen circumstances or client illness), the CWA shall use:

1. The monthly prorated contract income amount for the prospective eligibility determination (the CWA's best estimate of income which will exist in the Payment Month), and

2. The actual income received in the Budget Month for the grant/food stamp calculation using retrospective budgeting.

i. Example: A school aide's contract for 10 months is \$3,000 or a \$300.00 monthly prorated contract amount. The contract pays the full \$300.00 only if the client works a full month. The CWA shall use \$300.00 for the prospective eligibility determination and retrospective grant/food stamp calculation. In January, due to snow, the client works only 14 days and actually receives only \$200.00, and reports this on the January Budget Month MSR (processed in February). For the corresponding March Payment Month, the CWA shall use \$300.00 in prospective eligibility determination and \$200.00 in the retrospective grant/food stamp calculation.]

(c) Determining eligibility and computing benefits of AFDC eligible units and food stamp households: CWAs shall follow (c)1 through 5 below to determine eligibility and compute benefits for the AFDC and Food Stamp programs.

1. Step 1: Determine eligibility of a family for AFDC for the payment month using prospective budgeting.

i. Income eligibility: Determine income eligibility using the best estimate of income that is expected to exist in the payment month and perform the maximum income eligibility and needs tests.

ii. Non-income eligibility: Determine non-income eligibility using all other factors as they are expected to exist on the date payment is made, usually the first day of the payment month.

2. Step 2: Compute the amount of the assistance payment for the payment month using either prospective or retrospective budgeting.

i. Prospective budgeting: Prospectively budget the best estimate of income that is expected to exist in the payment month.

ii. Retrospective budgeting: Retrospectively budget actual income received in the budget month. Determine if any budget month income is from a terminated source and disregard such income in the assistance payment computation for the corresponding payment month.

3. Step 3: Determine eligibility of a household for food stamp benefits for the payment month using prospective budgeting.

i. Income eligibility: Determine income eligibility using the best estimate of income that is expected to exist in the payment month and perform the gross and net income tests. Include as income the AFDC grant determined in (c)2 Step 2 above.

ii. Non-income eligibility: Determine non-income eligibility using all other factors as they are expected to exist on the date food stamps are issued, usually the first day of the payment month.

4. Step 4: Compute the amount of the food stamp benefit for the payment month using either prospective or retrospective budgeting. Include as income the AFDC grant, determined in (c)2 Step 2 above, to be received in the payment month and the DCS payment received in the corresponding budget month.

i. Follow (c)2i and ii above. Determine if any budget month income is from a terminated source and disregard such income in the food stamp benefit computation for the corresponding payment month.

10:90-4.4 Changes in circumstances

(a) Individual added to an eligible unit: In any month for which an individual will be determined eligible prospectively and will be added to an existing AFDC eligible unit, the CWA must meet the individual's needs to the same extent it would if the individual were an applicant for AFDC.

1. (No change.)

2. [N.J.A.C. 10:82-2.20(b)1 and (b)2 shall also apply.] During a processing month, if an individual is added to an AFDC eligible unit that also receives food stamps as a public assistance (PA) household, and the eligible unit receives an additional AFDC payment in that month for the new member's AFDC eligibility, this additional AFDC payment shall not result in an overissuance or underissuance of food stamp benefits for that processing month. However, when the month that the additional AFDC payment is received becomes the budget month, the additional payment will be counted as income retrospectively in the food stamp benefit calculation for the corresponding payment month.

i. Example: On January 16 an individual with no income is added to an eligible unit of three (with no income) that also receives food stamps as a PA household. On January 20 the unit receives an additional AFDC payment of \$26.00 for the new member's eligibility for January. When computing the household's food stamp allotment for the March Payment month, the additional AFDC payment of \$26.00 received in the January Budget Month will be counted as income. (The four-member eligible unit's assistance payment for March of \$443.00 shall also be counted as income in the food stamp benefit computation.)

3. During a processing month, if an individual is added to an AFDC eligible unit that also receives food stamps as a public assistance (PA) household, and the additional payment for the individual's processing month eligibility is included in the eligible unit's regular monthly AFDC payment, this additional payment shall be counted as income prospectively in the food stamp benefit calculation for the corresponding payment month.

i. Example: On January 16 an individual with no income is added to an eligible unit of three (with no income) that also receives food stamps as a PA household. The individual is eligible for an additional assistance payment of \$26.00, which is included in the AFDC payment issued for the February Payment Month. The amount of the payment received on February 1 is \$469.00, consisting of \$443.00 allowance for an eligible unit of four plus the \$26.00 additional payment for January. This \$469.00 is counted as income in the food stamp benefit computation for February.

(b) Individual added to a food stamp household: If a household [gains a member] reports in the processing month between the budget month and payment month that it has gained a new member, the CWA shall determine eligibility using the household's composition during the payment month. The CWA shall

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compute the household's payment month food stamp benefit by prospectively budgeting the new member's income and circumstances[.] for the first two months. The following shall also apply.

1. The new member must be added to the household for the payment month, the month following the month in which the household reported the change in composition. Food stamp benefits shall not be issued for the new member's processing month eligibility.

2. If the new member is not already certified to receive food stamps in another household participating within the State, the new member's income, deductible expenses, and resources from the payment month shall be considered in determining the household's eligibility and benefit level. When calculating the household's allotment, the CWA shall consider the new member's income and deductible expenses prospectively for two payment months, until the new member's first full month living with the household (as reported to the CWA) becomes the budget month.

3. If the individual has moved out of one household receiving food stamps within the State and into another, with no break in participation, the CWA shall include the individual and the individual's income, deductible expenses, and resources in determining the payment month eligibility and benefit level of the gaining household. When calculating the allotment, the CWA shall use the individual's income, deductible expenses, and resources retrospectively from the budget month, subject to the following.

i. The only deductible expenses for the budget month which the new member may include in the gaining household's deductions shall be medical, dependent care and shelter costs which are not included in the member's prior household's budget. For example, if a medical expense is being deducted for the prior household, it shall not be deducted for the gaining household for the same payment month.

ii. If the prior household is using a utility allowance and its full rent to establish its shelter deduction, then no shelter costs for the new member shall be included in the gaining household's deduction for the same payment month.

(c) Deleting an individual from an eligible unit/food stamp household: If an individual leaves an eligible unit/food stamp household, the CWA must prospectively delete this person from the AFDC grant/food stamp benefit for the next payment month, with proper notice. Refer to N.J.A.C. 10:90-4.1(b) for treatment of income of the departing eligible unit/household member, and, for AFDC purposes, treatment of income and resources of spouses and parents who request deletion from the eligible unit, but continue to live with the remaining eligible unit members.

1. (No change.)

2. If the AFDC payment was to have been suspended for a payment month to recover an overpayment in the corresponding budget month, but the individual whose income caused the overpayment left the eligible unit, the CWA shall [not] suspend assistance of the remaining eligible unit. [The CWA shall institute recovery from the individual responsible for the overpayment according to the methods in N.J.A.C. 10:82-2.19(a).]

3. (No change.)

(d) (No change.)

(e) AFDC eligible unit applies for food stamps: When an AFDC eligible unit applies for food stamps, eligibility will be determined and food stamp benefits computed for the initial two payment months of food stamp eligibility using prospective budgeting, based on the best estimate of income and circumstances that will exist in these two months.

1. For food stamp purposes, the CWA will consider as income the AFDC grant that was/will be issued in the two beginning

payment months, and will use the most current paystubs or other income verification available to estimate income.

2. If food stamp eligibility is not determined until the second payment month, allowing 30 calendar days to act on the application in accordance with N.J.A.C. 10:87-2.30(a), the CWA shall compute the first month's food stamp benefits based on the income (including the AFDC grant) actually received in the first month.

(f) Change in food stamp household between public assistance and non-public assistance status.

1. When a food stamp household changes from public assistance (PA) to non-public assistance (NPA) status, or NPA to PA status, due to a change in AFDC eligibility, food stamp benefits will be determined according to the methods in this section. A PA household is defined by N.J.A.C. 10:87-2.12(a) as a household in which any or all members are applying for AFDC. Households receiving extended Medicaid benefits whose AFDC cases have been closed are considered PA households for purposes of this section.

2. Food stamp benefit calculation: Food stamp benefits for households changing status will be calculated according to (f)2i through iii below.

i. NPA to PA status: For NPA households changing to PA status because all members apply and are found eligible for AFDC, food stamp benefits issued for the initial two payment months of AFDC eligibility shall be calculated using prospective budgeting and shall coincide with the prospective AFDC grant calculation, subject to the following:

(1) Prospective budgeting must be applied for the same payment months for both AFDC and food stamp benefits. For example, if all members of an NPA household apply for AFDC in January and are determined eligible for AFDC effective February 1, both the AFDC grants and food stamp benefits issued for the months of February and March must be computed using prospective budgeting.

(2) If food stamp benefits have already been issued to the household for the initial month of AFDC eligibility, the CWA shall not recompute that month's food stamp benefit using prospective budgeting. Also, the food stamp benefit need not be recomputed to reflect this initial month's AFDC grant. However, this initial month shall be considered as the first month of prospective budgeting of the food stamp benefit.

(3) If the food stamp benefits have not been already issued for initial month of AFDC eligibility, the allotment must be computed using prospective budgeting. If the initial month's AFDC grant has been determined prior to issuance of this allotment, the allotment must reflect this initial AFDC grant.

(4) Income received by the household in the month prior to application for AFDC that had not been used to calculate any allotment will not cause an overissuance for the month of receipt or the corresponding payment month, if the food stamps for those months were correct at time of issuance.

(5) Example: An NPA household of three received Unemployment Insurance Benefits (UIB) in the amount of \$400.00 per month, or \$200.00 biweekly. The last UIB check of \$200.00 was received on December 10. The household applied for AFDC on January 11, and already received January food stamp benefits. The family is determined eligible for AFDC grants of \$257.00 for January and \$385.00 for February. The allotment to be issued for the February Payment Month is calculated by prospectively budgeting the February AFDC grant and estimated zero income from UIB. The January allotment will not be recalculated to apply prospective budgeting or to reflect the January initial AFDC grant. The December Budget Month UIB income of

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\$200.00 will not be used to calculate February food stamp benefits. No overissuance will occur for December or February because of this \$200.00 income. Even though January food stamp benefits were budgeted retrospectively, January and February will be considered the two prospectively-budgeted months for food stamp benefits, to coincide with the two prospectively-budgeted months of AFDC benefits of January and February.

(6) Example: An NPA household applies for AFDC on January 15 but is determined ineligible. However, all members of the household will be eligible for AFDC effective February 1. The PA household's AFDC grant and food stamp benefits for February and March will be calculated using prospective budgeting.

ii. NPA to PA status: For NPA households changing to PA status because only some members apply or are found eligible for AFDC, food stamp benefits issued for the initial two payment months of AFDC eligibility shall be computed using retrospective budgeting, subject to the following.

(1) Income received in the budget month(s) from a terminated source shall be disregarded, provided that the household reported the termination of income either in the MSR for the budget month or some other manner which allows the CWA sufficient time to process the change and affect the allotment for the payment month. For purposes of this section, if income is received on a monthly or more frequent basis, it shall be considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month. If income is normally received less often than monthly, the income shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

(2) If food stamp benefits have already been issued to the household for the initial month of AFDC eligibility, before the AFDC grant amount has been determined, that month's allotment need not be recomputed when the AFDC grant amount is known.

(3) If the food stamp benefits have not been issued for the initial month of AFDC eligibility, and the CWA has determined the initial month's AFDC grant prior to the issuance of the allotment, the allotment must be recomputed to reflect this initial AFDC grant.

(4) Food stamp benefits issued for the second month of AFDC eligibility must reflect that month's AFDC grant.

(5) Example: An NPA household of four received its last RSDI benefit of \$300.00 on December 3. The household applies for AFDC on January 11 and has already received January food stamp benefits. Only two of the four household members are determined eligible for AFDC. AFDC grants of \$195.00 and \$292.00 will be issued to the two-member eligible unit for January and February, respectively. The food stamp allotment issued for the February Payment Month will be calculated by including the \$292.00 February AFDC grant, but disregarding the December Budget Month RSDI income of \$300.00, because this was income from a terminated source.

iii. PA to NPA status: For all PA households changing to NPA status because they are no longer eligible for or receiving AFDC benefits, food stamp benefits will continue to be calculated using retrospective budgeting, except for NPA households exempt from monthly reporting in (f)2iv(1) below.

(1) Example: In January, a PA household of three advises the CWA that a member began working in December earning \$150.00 per week, or \$600.00 per month. December's actual earnings were \$300.00 for two weeks of employment. The family is determined prospectively ineligible for AFDC for February; assistance is terminated effective February 1. The food stamp benefit for the February Payment Month will be calculated by

using as income the February grant of zero plus the December Budget Month earnings of \$300.00.

iv. PA to NPA status - NPA households exempt from monthly reporting: For PA households changing to NPA status who are exempt from monthly reporting as NPA households, food stamps will be calculated using retrospective budgeting for one additional month, the payment month for which AFDC benefits are terminated. For subsequent months, food stamp benefits for this NPA household will be calculated using prospective budgeting as long as the household is exempt from monthly reporting.

(1) Example: A PA household was determined ineligible for AFDC for June, but eligible for food stamps as an NPA household exempt from monthly reporting. The AFDC case was closed effective June 1. The household's food stamp allotment for June will be calculated using retrospective budgeting. Food stamp benefits for July and subsequent months will be calculated using prospective budgeting as long as this NPA household is exempt from monthly reporting.

3. Notice requirements: Issuance of timely and adequate notice of a change in food stamp benefits resulting from a change in AFDC eligibility will depend upon the method by which the change in circumstances was reported.

i. Change from NPA to PA status: If a household receiving food stamps applies for AFDC (by completing Form PA-1J), timely notice of any resulting food stamp benefit reduction is required. If the household's food stamp benefits have been terminated for any reason, including failure to file a complete MSR, and the household applies jointly for AFDC and food stamps, only adequate notice of a food stamp benefit reduction is required, in accordance with N.J.A.C. 10:87-2.36(a)4.

ii. Change from PA to NPA status: If the change in AFDC eligibility is reported by the MSR, only adequate notice of any food stamp benefit reduction is required. If the change is reported by means other than the MSR, both timely and adequate notice of any food stamp benefit reduction must be provided.

4. The change between PA and NPA status will be made for a payment month by following the method for calculating food stamp benefits in N.J.A.C. 10:90-4.3(c). The CWA will process any change in eligibility for and amount of food stamp benefits resulting from an AFDC negative action in accordance with existing food stamp program requirements.

(g) Reduction or loss of income: If the eligible unit/household experiences a reduction or loss of income in or after the budget month, the CWA shall not issue additional assistance payments or food stamp benefits for the corresponding processing month or payment month to supplement this change in income. However, an eligible unit may apply for AFDC supplemental payments, set forth in N.J.A.C. 10:82-5.11, if the family has suffered a substantial loss of income due to unanticipated circumstances and its regular AFDC grant does not reflect that loss because of retrospective budgeting.

(h) Administrative error: The CWA shall issue an additional assistance payment(s) supplementing any assistance payment incorrectly computed or not issued due to administrative error. Such supplemental payment(s) shall be considered as corrections to underpayments, in accordance with N.J.A.C. 10:90-4.8(d)1.

(i) Emergency assistance: The CWA shall supplement an assistance payment with any additional payment(s) authorized under the emergency assistance provisions of N.J.A.C. 10:82-5.10; see N.J.A.C. 10:82-2.20(b)2.

(j) Income from a terminated source - PA households: For ongoing PA households, income from a terminated source received in a budget month shall be disregarded in the computation of food stamp benefits for the corresponding payment month if all of the following conditions exist.

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1. The terminated income will not be received from the same source during the corresponding processing month or payment month. Source of income is defined in N.J.A.C. 10:90-4.3(b)2.

2. The terminated income will be used to compute the assistance payment for the corresponding payment month.

3. The PA household will receive an assistance payment for the corresponding payment month.

i. Example: A PA household of three receives its last UIB benefit of \$100.00 in the January Budget Month. The \$100.00 is income from a terminated source that will be used to compute the AFDC grant of \$285.00 for the March Payment Month. The \$100.00 UIB income will be disregarded when computing food stamps for March.

ii. Example: A PA household of three receives its last UIB benefit in the January Budget Month, consisting of three \$130.00 payments, or \$390.00 total income. This income renders the family ineligible for AFDC in January; assistance is suspended for the corresponding March Payment Month. The \$390.00 UIB will be counted when computing food stamps for March, because the family will not receive an AFDC grant for that payment month.

iii. Example: An individual in a five-member PA household receives his last UIB benefit of \$125.00 in the January Budget Month. However, this person is not a member of the three-person AFDC eligible unit. The terminated UIB income of \$125.00 will be counted when computing food stamps for the March Payment Month, because it was not used to compute the AFDC grant for March.

## 10:90-4.5 Suspension

(a) The CWA shall suspend, rather than terminate, assistance for a payment month when:

1. (No change.)

2. Ineligibility for that one payment month was caused by income or other circumstances in the corresponding budget month[.]; and

3. In the AFDC program, recovery of an overpayment caused by ineligibility for assistance in the budget month is being pursued (see N.J.A.C. 10:90-4.8(c)(4)).

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

(d) Medicaid coverage: The eligible unit will [lose entitlement to] remain eligible for Medicaid coverage [for] during the payment month of suspension, when the reason for suspension is recovery of an overpayment caused by ineligibility in the budget month (see (a)3 above). The adverse action notice suspending the case must advise the eligible unit of that fact.

1. Example: An employed client in an eligible unit of three (allowance standard of \$385.00) receives regular weekly income of \$100.00 which is paid on Fridays. Gross monthly earned income is \$400.00. Applying the \$75.00 work expense deduction (this case had no child care expenses nor is entitled to the \$30.00 and one-third disregard) yields countable earned income of \$325.00. The monthly grant is [\$35.00 (\$360.00 - \$325.00 equals \$35.00)] \$60.00 (\$385.00 minus \$325.00 equals \$60.00). In the April Budget Month (which contains five Friday pay dates instead of the usual four) the client's gross monthly earned income is \$500.00 instead of the usual \$400.00 (countable earned income is \$500.00 [-] minus \$75.00, or \$425.00). This extra paycheck [, when used in the retrospective assistance payment computation,] renders the case ineligible for assistance [and Medicaid coverage] in the corresponding June Payment Month [(\$360.00-\$425.00 equals \$65.00 excess income)] (\$385.00 minus \$425.00 equals \$40.00 excess income). The CWA shall suspend assistance for June, continue the family's

Medicaid eligibility during June, and issue the MSR to the family.

(e) Subsequent eligibility: The MSR issued to the family/household during the payment month of suspension shall be used to determine if eligibility will be restored for the subsequent payment month.

1. Eligibility restored: If the MSR issued during the suspension month reflects income or circumstances which restore eligibility, the family/household will be reinstated and benefits computed and issued based on the change in income or circumstances.

i. Example: Given the situation in (d)1 above, the eligible unit reports on the May Budget Month MSR issued in June four weeks of earnings at \$100.00 per week (\$400.00 total). The CWA will reinstate the eligible unit and issue assistance for the July Payment Month.

2. [If the MSR issued during the suspension month reflects continued ineligibility, the case shall be closed.] Prospective ineligibility: If the MSR issued during the suspension month reflects prospective ineligibility, assistance/food stamps shall be terminated. If ineligibility was caused by excess earned income from increased earnings or hours of employment, entitlement to extended Medicaid benefits shall begin with the payment month of termination.

i. Example: [Given the situation in (d)1 above, the eligible unit reports on MSR issued in June (May Budget Month) four weeks of earnings at \$100.00 per week (\$400.00 total). The CWA shall reinstate the eligible unit and issue a payment on July 1 (July Payment Month). If, however, the eligible unit reports on the MSR issued in June (May Budget Month) four weeks of earnings at \$120.00 per week (\$480.00 total), the CWA shall close the case effective July 1 (July Payment Month).] A family's AFDC grant is suspended for the March Payment Month due to receipt of excess income from five pays in the January Budget Month. The February Budget Month MSR, issued during March, shows an increased hourly wage that will cause prospective ineligibility for April and subsequent months. Assistance will be terminated effective April 1 and entitlement to extended Medicaid benefits will begin with April.

3. Ineligibility and suspension for two consecutive payment months: If the MSR issued during the suspension month reflects ineligibility for a second budget month, assistance/food stamps may be suspended for a second payment month, or a total of two consecutive payment months. A second month of suspension is permitted if the reasons for the suspension are different and circumstances of the eligible unit/household for the second budget month will meet both (a)1 and 2 above. A common situation would be the receipt of five pays in a budget month and the receipt of overtime pay in the following budget month.

i. Example: A family/household is determined prospectively eligible for the March Payment Month, but its AFDC/food stamps are suspended due to receipt of five pays in the January Budget Month. The CWA is reasonably sure that the extra paystub is a one-time occurrence. However, the February Budget Month MSR shows receipt of four paystubs at a higher amount due to overtime pay. The overtime pay renders the family/household ineligible in February, but the client reports that she does not expect to receive overtime pay in March. The CWA determines the family/household prospectively eligible for the April Payment Month, but suspends assistance/food stamps for April.

(f)-(g) (No change.)

(h) Ineligibility for AFDC supplemental payments: Individuals whose assistance is suspended for a payment month are not eligible for AFDC supplemental payments, defined in N.J.A.C. 10:82-5.11, for the month of suspension. Suspension renders the

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family ineligible for assistance and AFDC supplemental payments can be issued only if a family is otherwise eligible for AFDC (see N.J.A.C. 10:82-5.11(b)1).

## 10:90-4.6 Reinstatement

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

(c) The CWA may reinstate the family/household if the following conditions are met:

1.-2. (No change.)

3. The CWA determines, based on the MSR for the Budget Month in (c)2 above, that the family/household is eligible for assistance/food stamps in the Payment Month of termination. (The CWA shall calculate the assistance payment for the Payment Month of termination without application of earned income disregards to AFDC-C and -F segment cases [, since] if earnings were not reported timely. Earned income disregards shall be applied to earnings reported timely and completely in accordance with N.J.A.C. 10:90-2.3(a)6, even though the eligible unit did not submit a complete MSR by the Extension Deadline.)

i. Example: A client submits the January Budget Month MSR before the Extension Deadline in February. All earnings information is complete and verification is included, but the client failed to sign the MSR. The client signs the MSR after the Extension Deadline in February and requests reinstatement. If the family is determined prospectively eligible for the March Payment Month, the AFDC grant for March will be calculated with earned income disregards, because January Budget Month earnings were reported timely and completely.

(d)-(f) (No change.)

## 10:90-4.7 Other program eligibility requirements

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

(d) CWA action on incomplete verification: If an eligible unit/household does not provide required verification by the Extension Deadline, the CWA shall take the following actions:

1. (No change.)

2. [If the household does not verify utility expenses in excess of the standard, the CWA shall allow the utility standard if the household is entitled to it;] If the household is using its actual utility costs, rather than a utility allowance, to establish its shelter cost deduction in accordance with N.J.A.C. 10:87-2.21(a)3, and the household does not verify its actual utility expenses, the CWA shall not allow a deduction for such costs;

3.-5. (No change.)

(e)-(f) (No change.)

## 10:90-4.8 Overpayments and underpayments for all AFDC cases

(a) Prospective eligibility determination and changes in circumstances: The prospective eligibility determination is based on an estimate of a family's circumstances for a payment month. Whenever a change in circumstances occurs, and the actual circumstances existing in a month differ from the estimated circumstances used in the prospective eligibility decision, eligibility must be redetermined both prospectively and retrospectively. Therefore, for all changes, factors of eligibility (including the maximum income eligibility and needs tests) must be applied retrospectively to the month(s) in which the changed circumstance actually existed, to determine if the family was eligible for assistance. Overpayments and underpayments of assistance may result from this redetermination of eligibility.

1. Example: A family was determined prospectively eligible for AFDC for January, using a best estimate of \$200.00 income for January. The family's MSR submitted in February reports actual receipt of \$400.00 in the January Budget Month, and the

expectation that this income will continue. The CWA must determine the family's eligibility both prospectively for March (using a best estimate of \$400.00 income for March) and retrospectively for January (using \$400.00 income actually received in January).

2. Example: An eligible unit reported zero income from January through May. In June, the CWA discovers the family had unreported earnings of \$600.00 per month from January through May. After investigating the family's actual income and circumstances, the CWA must determine eligibility prospectively for July, and retrospectively for January through June.

3. Example: A family was determined prospectively ineligible for AFDC for March using a best estimate of \$1000 earned income for March (reported by the family in February). Assistance was terminated effective March 1. On March 5 the family reported and verified loss of employment and income on March 4. The CWA must redetermine the family's eligibility both prospectively for April and retrospectively for February and March based on the actual change in income and circumstances.

(b) Overpayment: An overpayment is defined as a financial assistance payment received by or for an eligible unit which exceeds the amount for which that unit was eligible, according to proper application of prospective/retrospective budgeting policy. It is not material when the CWA is made aware of the change causing the overpayment or whether the eligible unit or the CWA caused the overpayment.

1. Overpayment due to ineligibility: No assistance payment is payable for any month in which a family is not eligible for AFDC. If an assistance payment was issued based on a prospective eligibility determination, but circumstances changed, which when viewed retrospectively, rendered the family ineligible for assistance, the assistance payment issued for that month of ineligibility is an overpayment.

i. Example: A three-member eligible unit's MSR submitted in February reports receipt of \$400.00 earnings in the January Budget Month, and the expectation that these earnings will continue. The CWA determines eligibility for the March Payment Month, using the best estimate of \$400.00 earned income. In April, the CWA receives the March Budget Month MSR showing receipt of \$800.00 earnings, rendering the family ineligible for assistance in March. The AFDC grant issued for March is an overpayment.

ii. Example: On January 25 a client reports by means other than the MSR that the only child in the eligible unit has permanently moved out of the home. The CWA acts on this change by determining the family prospectively ineligible for the February Payment Month, but must issue the grant for February 1 because there is insufficient time to issue timely (10-day) notice terminating assistance. The CWA will terminate assistance effective March 1; however, the AFDC grant issued for February is an overpayment.

2. Overpayment due to grant calculation: If an assistance payment was issued to a family determined both prospectively and retrospectively eligible, but was computed using incorrect income or circumstances, the difference between the incorrect assistance payment issued and the correct amount of assistance for which the family was eligible is an overpayment due to grant calculation.

i. Example: A four-member eligible unit reported zero earnings for January, and received a full grant for the March Payment Month, computed using zero January Budget Month income. In April the CWA discovers the family's unreported January income of \$200.00, and recomputes the March grant using this income. The difference between the incorrect March grant issued to the family and the correct grant is an overpayment due to grant calculation.

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3. **Ineligibility in the retrospective budgeting cycle:** If a client reports in the processing month receipt of income in the budget month that made and continues to make the family ineligible for AFDC, the CWA will terminate assistance effective for the payment month. However, the grants issued for the two months of ineligibility (budget and processing months) are overpayments.

i. Example: A client in a three-member eligible unit (\$385.00 allowance standard) begins receiving a monthly Unemployment Insurance Benefit (UIB) of \$400.00 in the January Budget Month and reports this \$400.00 timely in the February Processing Month. The \$400.00 monthly UIB is expected to continue. The CWA terminates assistance for the March Payment Month due to prospective ineligibility because the eligible unit did not pass the needs test (\$400.00 estimated March income exceeded the \$385.00 allowance standard). However, the family was also retrospectively ineligible in January and February for failure to pass the needs test. The grants issued for January and February are overpayments.

(c) **Recovery of overpayments:** CWAs must recover all overpayments of assistance, including overpayments resulting from assistance paid pending hearing decisions, in accordance with N.J.A.C. 10:82-2.19(a). CWAs must take all reasonable steps necessary to promptly correct any overpayment.

1. Any overpayment to a current eligible unit must be recovered through repayment (in part or in full) by the individual responsible for the overpayment or by reducing the amount of any assistance payable to the eligible unit of which he or she is a member, or both.

2. If recovery is made from the assistance payment, such recovery shall be in an amount equal to 10 percent of the appropriate allowance standard for the family size, unless this amount would create undue hardship (see N.J.A.C. 10:82-2.19(a)3i).

3. The CWA shall recover an overpayment from:

- i. The eligible unit which was overpaid;
- ii. Any eligible unit of which a member of the overpaid eligible unit has subsequently become a member; or
- iii. Any individual member of the overpaid eligible unit whether or not currently a recipient.

4. **Overpayment recovery by suspending assistance:** The CWA shall deny (suspend) assistance for the corresponding payment month rather than terminate assistance to recover an overpayment if all conditions in (c)4i through iv below exist:

- i. The family was ineligible for a budget month;
- ii. The CWA becomes aware of the ineligibility when the monthly report is submitted;
- iii. The client accurately reported the budget month's income and other circumstances; and
- iv. The family will be eligible for the following payment month; see N.J.A.C. 10:90-4.5.

(1) Example: A three-member eligible unit's MSR submitted in February reports receipt of \$800.00 earnings in the January Budget Month, and the expectation that earnings will decrease to \$400.00 in February and subsequent months. Although retrospectively ineligible and overpaid for January (actual earnings exceeded the maximum income eligibility and needs tests) the family appears to be eligible for February, the following month. January's overpayment will be recovered by denying assistance for the March Payment Month, because ineligibility lasted for only one budget month. The CWA would suspend assistance for the March Payment Month and issue the family an MSR on March 1.

v. A change in income or circumstances which causes ineligibility for the payment month of suspension does not negate the suspension. Overpayment recovery is not required for the month in which the change occurred.

(1) Example: A client received an extra paycheck in May which caused ineligibility. The CWA suspended assistance for July, the corresponding payment month. On July 5 the client reported an hourly wage increase which caused ineligibility for July and subsequent months. Although the payment for July was not due the recipient and therefore could not have been suspended, the CWA need not initiate recovery action on the payment received for May.

5. If the CWA recovers from individuals who are no longer recipients, or from recipients who refuse to repay the overpayment from their income and resources, recovery shall be made by appropriate action under State law against the income or resources of those individuals.

6. If through recovery, the amount payable to the eligible unit is reduced to zero, members of the eligible unit are still considered recipients of AFDC.

7. **Prompt recovery of an overpayment:** The CWA must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified:

- i. Recover the overpayment;
- ii. Initiate action to locate and/or recover the overpayment from a former recipient; or
- iii. Execute a monthly recovery agreement from a current recipient's grant or income/resources.

8. Where a former recipient with an outstanding overpayment reapplies and is found to be eligible for assistance, the CWA must recover the overpayment.

9. **Waiver of overpayment recovery:** The CWA may waive recovery of an overpayment in accordance with N.J.A.C. 10:82-2.19(a)10.

(d) **Underpayment:** An underpayment is defined as a financial assistance payment received by or for an eligible unit for a payment month which is less than the amount for which the family was eligible, according to proper application of retrospective/prospective budgeting policy, or failure by the CWA to issue an assistance payment for the payment month to an eligible unit if such payment should have been issued.

1. CWAs must promptly correct any underpayments to current AFDC recipients and those who would have continued as AFDC recipients if the error causing the underpayment had not occurred. (However, no underpayments to other former recipients can be federally matched, because such former recipients are no longer in current need of assistance.) For purposes of determining continued eligibility and amount of assistance, such retroactive corrective payments shall not be considered as income, or as a resource in the month paid nor in the month following the month paid.

2. If a prospective ineligibility decision were made, and later, circumstances changed which, when viewed retrospectively, allowed the family to actually be eligible for that same period, the unit is eligible and assistance must be reinstated.

i. Example: An eligible unit of four reports on the January Budget Month MSR earnings of \$100.00 per week or \$400.00 per month, which are expected to increase in February to \$200.00 per week (\$800.00 per month) and continue into subsequent months. In the February Processing Month, the CWA determines the family prospectively ineligible for the March Payment Month, closes the case effective March 1, and grants extended Medicaid benefits. On March 15 the client reports to the CWA that the raise in pay was never received, shows current paystubs indicating earnings of \$100.00 per week, and requests assistance. The CWA determines the family prospectively eligible for March. An underpayment exists for March because the family did not receive assistance for which it was eligible. The CWA must correct the underpayment by reinstating the family and

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issuing the AFDC grant for March, calculated by retrospectively budgeting January's income and circumstances.

3. The CWA must make corrective payments to a former recipient who has an outstanding underpayment, who reappplies and is found to be eligible for assistance.

(e) Underpayment and overpayment for the same eligible unit: For eligible units which have both an underpayment and overpayment, the CWA may offset one against the other in correcting the payment.

(f) Correction of assistance payments computed using prospective budgeting: If actual income and circumstances existing in either of the initial two payment months of eligibility are different than the best estimate of income and circumstances used in the prospective assistance payment computations for either of the initial two months, the CWA shall correct the assistance payment(s).

1. Overpayment: If the eligible unit was overpaid in these payment months, the CWA shall move to recover the overpayment.

2. Underpayment: If the eligible unit was underpaid in these payment months, the CWA shall promptly correct the underpayments.

i. Example: An individual (family of four) stops working on December 10, and on January 16 applies for both AFDC and UIB. The applicant does not know the amount of the UIB or the date the UIB will be received. Therefore, the CWA's best estimate of income for January will be zero. As of January 21 (the last day timely notice of adverse action can be issued for February 1), the applicant has no further information about the UIB. The best estimate of income for February remains zero. The grants for January and February are calculated by prospectively budgeting this zero income. On February 5 the CWA receives the January Budget Month MSR showing receipt of one week of UIB (\$50.00 or \$200.00 monthly), which is expected to continue. The CWA uses the \$50.00 to compute the grant to be issued on March 1. However, the family was overpaid in the January and February payment months, because the UIB income actually received in these months had not been used to compute the assistance payments. The CWA must move to recover the overpayments.

ii. Example: An individual (family of four) applies for assistance on January 4. The applicant is employed full-time and receives \$100.00 per week (\$400.00) per month; employment is expected to continue. The CWA computes the January and February AFDC grants by prospectively budgeting this \$400.00 monthly income. On February 5 the CWA receives the January Budget Month MSR, showing receipt of three weeks of earnings (\$300.00), plus a layoff notice from the employer covering the fourth week. The recipient does not expect to return to work. The January earnings are considered income not of a continuous nature (see N.J.A.C. 10:90-4.3(b)) and so are not used to compute the March grant. However, the family was underpaid for January and February, because income never actually received in these months had been used to compute the respective assistance payments. The CWA must correct the underpayments.

(g) Calculation of an overpayment or underpayment: The CWA shall calculate an overpayment or underpayment according to (g)1 and 2 below. In general, the CWA shall apply prospective and retrospective budgeting policy as it would have been applied if the eligible unit had reported the change timely. However, for AFDC-C and -F segment cases, the penalty of loss of disregards (see N.J.A.C. 10:90-2.3(a)7) shall be applied to any budget month earnings not reported timely, by the relevant processing month's Extension Deadline.

1. Eligibility determination: Upon discovery of a change in circumstances, the CWA shall determine if the family was eligible, according to N.J.A.C. 10:90-4.1, for the payment months in which the changed circumstances existed.

i. For any payment month in which the family was ineligible, the entire amount of the assistance payment issued for that month is an overpayment.

ii. If a family was determined prospectively ineligible but was actually eligible for any payment month, the entire amount of the assistance payment that should have been issued for that month is an underpayment.

iii. For the payment months in which the family remained eligible, the CWA will recompute the assistance payment according to (g)2 below.

2. Assistance payment recomputation: After a family has been determined eligible for a payment month, the CWA shall recompute the correct assistance payment according to N.J.A.C. 10:90-4.2 and 4.3, applying the earnings penalty of N.J.A.C. 10:90-2.3(a)7 where required. Assistance payments grants for the two months following a period of ineligibility of at least one full payment month, determined in (g)1i above, shall be recomputed using prospective budgeting, in accordance with N.J.A.C. 10:90-4.2(c). The difference between the assistance payment issued for a month and the recomputed payment is the amount of the overpayment or underpayment.

3. Example: An eligible unit of three reports zero income for a seven-month period, November through May, and receives a monthly AFDC grant of \$385.00. In June the CWA discovers and verifies unreported earnings of \$900.00 in January, \$900.00 in February, and \$300.00 in March. In the eligibility determination, the CWA finds the family ineligible for January and February (\$900.00 exceeded the \$712.00 maximum income test) but eligible for March (\$300.00 was less than maximum income test and needs test). The overpayments for January and February are \$385.00 each. The AFDC grant that should have been issued for the March Payment Month is calculated using prospective budgeting, because March follows a two-month period of ineligibility (January and February). Applying no disregards because earnings were not reported timely, the correct grant for March is \$85.00 (\$385.00 minus \$300.00 earnings). The overpayment for March is \$300.00 (\$385.00 issued minus \$85.00 recomputed payment). The total overpayment to be recovered is \$1070.00 (\$385.00 January, \$385.00 February, \$300.00 March).

4. Example: Given the family in (g) 3 above, but applying the income in reverse order, the total overpayment is a different amount. In June the CWA discovers and verifies unreported earnings of \$300.00 in January, and \$900.00 in February and March. The CWA finds the family eligible for January, but ineligible for February and March Payment Months. The overpayments for February and March are \$385.00 each. The CWA recomputes the AFDC grant that should have been issued for the January Payment Month using retrospective budgeting because of prior continuous eligibility. The correct January grant using zero November Budget Month income remains \$385.00; there is no overpayment for January. The \$300.00 January earnings would have been used to calculate the March grant, but cannot be applied because the March grant has already been recovered due to ineligibility. The \$300.00 earnings therefore do not result in an overpayment. This example illustrates the normal two-month lag of retrospective budgeting. The total overpayment is \$770.00 (\$0.00 January, \$385.00 February, \$385.00 March).

5. Example: An eligible unit reported zero earnings from January through May. In May, the CWA discovers unreported earnings that caused ineligibility for these months, and moves to

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terminate assistance for June. The eligible unit advises that employment ceased in May, provides supporting documentation from the former employer, and requests assistance for June. The grants issued for January through May are overpayments. If the family is determined eligible, the grants issued for June and July shall be computed using prospective budgeting, because they follow a period of ineligibility of at least one full payment month. The overpayment shall be recovered through grant reduction.

(h) **Overpayments and irregular or nonrecurring (lump sum) income:** Overpayments due to ineligibility caused by receipt of lump sum income, defined in N.J.A.C. 10:82-4.15(a), shall be determined and recovered according to this section. AFDC grants issued in the budget and processing months to families ineligible because of receipt of lump sum in the budget month income are offset by the specific period of ineligibility assigned to this lump sum income. AFDC grants issued in these two months will not be considered overpayments subject to recovery if the lump sum income was reported timely by the eligible unit and acted upon timely by the CWA within the retrospective cycle. Exceptions to this rule are found in (h) 3 and 4 below.

1. **Lump sum reported in the processing month:** If receipt of lump sum income in a budget month is reported in the processing month by the MSR or other means, the period of ineligibility shall begin with the corresponding payment month. The grants issued for the budget and processing months are not overpayments.

i. **Example:** An eligible unit of three (\$385.00 allowance standard) receives \$1155 lump sum income in the January Budget Month and reports this income timely in the February Processing Month. A three-month period of eligibility covering March through May is assigned. The AFDC grants issued for January and February are not overpayments subject to recovery.

2. **Lump sum reported in the budget month of receipt:** If lump sum income is reported in the budget month of receipt by the MSR or other means, the period of ineligibility shall begin with the following month, subject to timely notice. In no event shall the period of ineligibility begin later than the corresponding payment month. The grants issued for the budget month (and processing month if there is insufficient time for timely notice) are not overpayments subject to recovery.

i. **Example:** On January 15 an eligible unit of three (\$385.00 allowance standard) reports receipt of \$1155 lump sum income on January 10. The CWA determines the family ineligible for three months, February through April, and issues timely notice of adverse action. The AFDC grant issued for January is not an overpayment subject to recovery.

ii. **Example:** On January 25 the eligible unit in (h)2i above reports receipt of lump sum income on January 19. The three-month period of ineligibility will begin on March 1, because there was insufficient time to issue timely (10-day) notice of ineligibility for February. The AFDC grants issued for January and February are not overpayments subject to recovery.

3. **Failure to report or act on lump sum income timely:** All AFDC grants issued erroneously because the eligible unit failed to timely report receipt of lump sum income or the CWA failed to act timely on a report of lump sum income are overpayments that must be recovered. The period of ineligibility shall be assigned to the same months it would have been if the change had been reported or acted upon timely.

i. **Example:** On February 25, an eligible unit of three reports receipt of \$1155 lump sum income on January 27. The three-month period of ineligibility will cover March through May. However, the CWA will terminate assistance effective April 1,

because there is insufficient time to issue timely notice of termination for March 1. The AFDC grant issued for March is an overpayment that must be recovered.

ii. **Example:** A three-member eligible unit (\$385.00 allowance standard) files its December Budget Month MSR on January 7, and on January 15 reports receipt of \$1155 lump sum income on January 12. However, the CWA does not act on this report of change until February for the March Payment Month. Even though the March Payment Month corresponds to the January Budget Month in which the lump sum income was received, the CWA must act on any reported change in income or circumstances by determining eligibility prospectively for the next payment month. Therefore, the CWA should have acted on the January 15 report of change by determining the family ineligible for the three-month period of February through April. There was sufficient time to issue timely notice terminating assistance for February 1. The ineligibility period remains February through April; the AFDC grant issued for February is an overpayment that must be recovered.

4. **Period of ineligibility is reduced:** If the lump sum period of ineligibility is reduced due to circumstances in N.J.A.C. 10:82-4.15(a)5, the CWA shall determine if the AFDC grants issued in the budget and processing months of ineligibility were fully offset by payment months of ineligibility. If not, any outstanding overpayments must be recovered.

i. **Example:** In February an eligible unit reports receipts of lump sum income in January causing ineligibility for four months, March through June. On March 15 the family reports and verifies theft of the remaining amount of the lump sum; assistance is reinstated for March and subsequent months. However, the AFDC grants issued for January and February when the family was ineligible due to excess (lump sum) income were not offset by corresponding payment months of ineligibility (March and April). These grants are overpayments that must be recovered.

(i) **Overpayments and cases closed for failure to file a complete MSR:** If assistance is terminated for a payment month because an eligible unit failed to file a complete MSR, the CWA shall determine if the family was eligible for assistance in the corresponding budget and processing months. If the family was ineligible for either of these months, the assistance paid for that month is an overpayment.

1. **Request for reinstatement in the payment month of termination:** If the family requests reinstatement in the payment month of termination by submitting a complete budget month MSR, CWA action on the MSR will be sufficient to determine eligibility for assistance in the budget month. The eligible unit must also file a complete MSR to determine processing month eligibility.

i. **Example:** A family's assistance is terminated for the March Payment Month for failure to file a complete January Budget Month MSR. On March 5 the family requests reinstatement by submitting the complete January Budget Month MSR. The CWA uses this MSR to determine eligibility for January. The family must also file an MSR covering February.

2. **Reapplication after payment month of termination:** If the family reapplies for assistance after the payment month of termination, the family must submit complete MSRs for the two months immediately preceding the payment month of termination. The CWA will determine eligibility for these two months, and amount of any overpayments. Assistance shall not be granted until the family submits complete MSRs for both of these months.

i. **Example:** A family's assistance is terminated for the March Payment Month for failure to file a complete January Budget

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**Month MSR.** On April 5 the family reapplies for AFDC. The family must submit complete MSRs covering January and February, the two months preceding March (Payment Month of termination) before assistance can be granted. The CWA will determine eligibility, and any overpayments, for January and February.

(j) **Overpayments and cases closed at request of recipient:** For every case closed for a payment month at the request of the recipient, the CWA shall determine if the family was eligible for assistance in the two months immediately preceding the payment month of termination. If a family was ineligible and therefore overpaid in either of these two months, the CWA must recover the overpayments.

1. **Family reapplies for assistance:** If the family who requested case closing subsequently reapplies for assistance, the family must complete MSRs covering the two months immediately preceding the payment month of termination. It is not material whether the family was subject to monthly reporting. Assistance shall not be granted until the family submits complete MSRs for both of these months. The CWA will determine the family's eligibility for these two months using the information reported on the MSRs. Failure of the family to submit completed MSRs for these months without good cause, as defined in N.J.A.C. 10:90-2.3(a)8, will result in denial of assistance. Reapplications denied for failure to submit complete MSRs shall be referred for investigation due to willful withholding of information for the two months in question.

2. **Family does not reapply for assistance:** If the family who requested case closing does not reapply for assistance, the CWA shall initiate action to determine eligibility for the two months immediately preceding the payment month of termination.

#### 10:90-4.9 Overissuances and underissuances of food stamp benefits

(a) **Scope:** This section sets forth methods that shall be used to determine overissuances and underissuances of food stamp benefits in retrospective budgeting. This section shall be used with N.J.A.C. 10:87-11.

(b) **Overissuance:** An overissuance of food stamp benefits occurs when a household receives more food stamp benefits than it is entitled to, according to proper application of prospective/retrospective budgeting policy.

1. **Overissuances and claim determinations:** An overissuance will not occur, and a claim shall not be established, for any payment month if the food stamp allotment issued for that month was correct at the time of issuance. Correct means that for the payment month:

i. The household reported current and changed income and circumstances completely and timely, in accordance with N.J.A.C. 10:90-2.3(a)6 for changes reported by the MSR, N.J.A.C. 10:90-2.3(b)2 for changes reported by means other than the MSR, and N.J.A.C. 10:87-9.7(a)1i for households not subject to monthly reporting; and

ii. The CWA acted upon the reported information timely and correctly in determining eligibility prospectively and computing the food stamp benefit for the payment month, subject to adequate notice for changes reported by the MSR, and timely and adequate notice for changes reported by means other than the MSR or by households not subject to monthly reporting.

2. **Overissuances and the prospective eligibility determination:** If food stamp benefits were issued based on a prospective eligibility determination, but circumstances changed, which when viewed retrospectively, rendered the household ineligible for participation, the food stamp benefits issued for that month of ineligibility are not an overissuance if the benefits were correct when

issued. Correct is defined in (b)1i and ii above. If the food stamp benefits were not correct when issued, an overissuance may have occurred.

i. **Example:** A four-member household reports on the January Budget Month MSR receipt of \$200.00 income, and the expectation that this income will continue. In February the CWA determines the household prospectively eligible for food stamps for the March Payment Month, using \$200.00 as the best estimate of income. In April, the CWA receives the household's MSR showing receipt of \$1000 income in the March Budget Month, which causes eligibility for March. Since the March food stamp benefits were correct when issued, there is no overissuance.

3. **Retrospective and prospective ineligibility:** If a household reports in the processing month receipt of income in the budget month that made and continues to make the household ineligible for food stamp benefits, the CWA will terminate food stamps effective for the payment month. The food stamp benefits for the two months of ineligibility (budget and processing months) are not overissuances if they were correct when issued.

i. **Example:** A four-member household reports receipt of \$200.00 monthly income on its January and February Budget Month MSRs, which the CWA uses to compute March and April food stamp benefits. The household's March Budget Month MSR reports receipt of \$1000 monthly income which is expected to continue. In April, the CWA terminates the household's food stamps for the May Payment Month. Food stamps for the two months of ineligibility, March and April, are not overissuances because they were correct when issued.

(c) **Claims against households:** The CWA shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive, subject to (b) above.

(d) **First month subject to a claim - PA households and those NPA households subject to monthly reporting:** For PA households and those NPA households subject to monthly reporting, for claims involving reportable changes other than increases in household size, the first month subject to a claim shall be the payment month corresponding to the first budget month in which the change occurred. For claims involving increases in household size, the first month subject to a claim shall be the first payment month following the month in which the change in household size was reported. This policy shall apply to intentional program violation claims, inadvertent household error claims, and administrative error claims.

(e) **First month subject to a claim - NPA households exempt from monthly reporting:** For NPA households exempt from monthly reporting, for claims involving reportable changes, the first month subject to a claim shall be the first payment month following the month in which the change occurred, subject to timely and adequate notice of any change in benefits.

(f) **Computing the amount of the claim:** The amount of a claim shall be computed according to (f)1 through 4 below.

1. **Step 1:** Determine the months in which the changed circumstance(s) existed.

2. **Step 2:** Determine the first month subject to a claim, in accordance with (d) and (e) above.

3. **Compute the correct food stamp benefits using retrospective budgeting for each payment month subject to a claim.** Include all income the household actually received in the budget month and the AFDC grant received for the payment month, whether or not the AFDC grant was issued in the correct amount. When computing the amount of the claim, food stamp benefits for the initial two payment months following a period of suspension (one month or two consecutive months) shall be recomputed using retrospective budgeting.

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i. Example: A PA household received food stamp benefits for the March Payment Month computed using the \$385.00 AFDC grant issued for March and zero January Budget Month income. In May the CWA discovers the household had \$200.00 unreported earnings in January, which will change both the AFDC grant and food stamp benefits issued for March. The correct March AFDC grant is \$185.00 recomputed using the \$200.00 January income. When recomputing the correct amount of March food stamp benefits and the overissuance, the CWA will use the \$200.00 January Budget Month earnings plus the \$385.00 March Payment Month AFDC grant actually received by the household. The \$185.00 correct AFDC grant shall not be used in determining the correct food stamp benefit and the overissuance. (Note that the Food Stamp energy disregard of \$25.00 would be applied to all computations).

ii. Example: In September the CWA discovers unreported earnings received by a three-member household in the following amounts: \$300.00 in January, \$1,000 in February and March, \$200.00 in April and May. For this intentional program violation, March is the first month subject to a claim and July is the last month. The correct food stamp benefits for March through July will be recomputed using retrospective budgeting. The income received in February and March will render the household ineligible for food stamps for the two-month period of April and May. The food stamp benefits for June and July will be recomputed by retrospectively budgeting April's and May's income, because these months follow a period of suspension of two consecutive months.

4. Step 4: Compare the actual food stamp benefit issued with the correct food stamp benefit for that payment month. The difference is the amount of the overissuance and claim.

#### 10:90-4.10 Change in employment circumstances of NPA households

(a) As non-public assistance (NPA) households lose or gain employment (earned income), and become exempt from or subject to monthly reporting and retrospective budgeting, the method used to calculate the amount of the food stamp benefit must change from retrospective to prospective budgeting or vice versa. The change in budgeting methodology will be made according to (a)1 or 2 below, subject to adequate notice if the change in employment circumstances was reported on the Monthly Status Report (MSR) form, and timely and adequate notice if the change was reported by means other than the MSR.

1. NPA household loses employment (earned income) and becomes exempt from monthly reporting - change from retrospective to prospective budgeting: If an NPA household loses employment (earned income) and becomes exempt from monthly reporting and retrospective budgeting, the change to prospective budgeting shall be made for the payment month corresponding to the first budget month in which earned income is no longer received, as reported and verified on the household's MSR. Food stamp benefits issued for subsequent months will be computed using prospective budgeting. The CWA must inform the household of the change in budgeting methodology and provide adequate notice of any reduction in the allotment caused by retrospective budgeting.

i. Example: On the January Budget Month MSR an NPA household reports two weeks of earnings and loss of employment. On the February Budget Month MSR the household reports zero earnings. The CWA will use prospective budgeting to compute the food stamp benefit issued for April, the payment month corresponding to the first budget month (February) in which earnings were no longer received.

ii. Example: If the household in (a)1i above reported anticipated receipt of unearned income, for example, unemployment insurance benefits, in April, and the date(s) of receipt and amount(s) were known, the income would be budgeted prospectively in the April food stamp benefit subject to proper notice to the household of any reduction in the allotment. Proper notice means adequate notice if the change was reported on the MSR, and timely and adequate notice if the change was reported by means other than the MSR.

2. NPA household gains employment (earned income) and becomes subject to monthly reporting—change from prospective and retrospective budgeting: When a member of an NPA household starts working (begins receiving earned income) and the household becomes subject to monthly reporting and retrospective budgeting, the change to retrospective budgeting will be made for the first payment month following the month in which the earned income is reported, subject to timely and adequate notice of any reduction in the food stamp benefit caused by retrospective budgeting. In no event will the change to retrospective budgeting be made later than the second month following the month in which earnings were first received.

i. Example: A member of an NPA household begins working on January 10, reports employment and estimated wages to the CWA on January 15. The household member first receives earnings on January 25. The CWA will first apply retrospective budgeting to the food stamp benefit issued for February, the month following the month in which the household reported the change. The food stamp benefit for the February Payment Month will be computed using income and circumstances existing in the corresponding budget month of December. By January 21 the CWA must issue timely and adequate notice of any reduction in income and circumstances. The food stamp benefit caused by December's income and circumstances. The food stamp benefit issued for the March Payment Month will be computed by retrospectively budgeting the earned income received in the January Budget Month.

ii. Example: A household member begins working on January 20, advises the CWA on January 26, and first receives earnings on January 29. The CWA will first apply retrospective budgeting to the food stamp benefit issued for March, the second month following the month in which earnings were first received, because there was insufficient time to issue timely and adequate notice of any benefit reduction for February caused by retrospective budgeting (income and circumstances existing in the corresponding budget month of December). The food stamp benefit for February will be computed using prospective budgeting. However, the household's best estimate of earnings would not be used to prospectively compute the benefit for February, because there would not be sufficient time to issue timely and adequate notice of the resulting reduction in the benefit.

#### 10:90-5.1 By the filing deadline

(a) MSR is received: If the MSR is received by the CWA by the Filing Deadline, the CWA must review the report to determine its accuracy and completeness.

1. MSR is complete: If the MSR is complete, as defined in N.J.A.C. 10:90-2.3(a)2, the CWA shall:

i-ii. (No change.)

iii. Process the assistance payment/food stamp benefits; [and]

iv. Notify the eligible unit/household (using [f] Form PA-15) of any changes from the prior payment and the basis for its determination. The PA-15, "Notification Form", serves to notify the client of his or her case status, benefit amounts, effective dates, intended action (favorable as well as adverse) by the

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county welfare agency and the manual citations justifying the authority for such action. This form contains a detailed section on the fair hearing process advising of rights and responsibilities, availability of free legal services and contains the Division's toll-free telephone number. Within this section, the client is also provided with a convenient "tear sheet" form to be used for initiating a fair hearing request if the client so desires. This notice must be:

(1) (No change.)

(2) Mailed to arrive no later than the resulting payment/benefit or in lieu of the payment/benefit. An eligible unit/household has 10 days from the date of this notice to request a hearing in order to receive reinstatement. The PA-15 shall advise the eligible unit/household of this fact [.] ; and

v. Provide specific information on how the CWA calculated the food stamp benefit level if it has changed since the preceding month, either with the food stamp benefit or in a separate notification. The CWA may use Form FSP-902, "Food Stamp Computation Sheet", or a printed copy of the F-CAL, "CODES food stamp benefit computation screen", for this purpose. Form FSP-902 is used by a CWA worker to manually calculate a household's food stamp benefit. It provides lines for entering a household's income and expenses, and shows the application of program deductions to a household's gross income to arrive at net food stamp income and the resulting food stamp benefit. The F-CAL is a printed copy of the computer terminal screen that a CWA worker uses to calculate the food stamp benefit by computer. It provides spaces for entering the household's income, deductions and expenses, and shows net food stamp household income used by the computer to calculate the food stamp benefit for a month.

2.-3. (No change.)

(b) (No change.)

#### 10:90-5.2 During the Extension Period

(a) MSR is received: If the MSR (or replacement form) is received by the CWA during the Extension Period, that is, after the Filing Deadline but by the Extension Deadline, the CWA must review the report to determine its accuracy and completeness.

1. MSR is complete: If the MSR (or replacement form) is complete, the CWA shall:

i.-ii. (No change.)

iii. Process the assistance payment/food stamp benefits; [and]

iv. Promptly notify (using [f] Form PA-15) the eligible unit/household of its right to a fair hearing and of its right to have assistance reinstated at the prior month's level, if the eligible unit/household is found ineligible or eligible for an amount less than the prior month's payment. The eligible unit/household has 10 days from the date of this notice to request a hearing in order to receive reinstatement. The PA-15 shall advise the eligible unit/household of that fact[.] ; and

v. Provide specific information on how the CWA calculated the food stamp benefit level if it has changed since the preceding month, either with the food stamp benefit or in a separate notification. The CWA may use Form FSP-902 or a printed copy of the F-CAL for this purpose.

2. (No change.)

(b) (No change.)

#### 10:90-5.6 Changes in circumstances during a period of ineligibility for AFDC or food stamps

(a) AFDC family terminated from assistance for a reason other than monthly reporting becomes eligible in payment month of termination: If an eligible unit is terminated from

AFDC for a payment month for failure to meet an eligibility factor other than filing a complete MSR, but during the payment month of termination becomes eligible and applies for assistance, the CWA shall proceed according to (a)1 [and 2] through 3 below.

1.-2. (No change.)

3. Effect on food stamp benefits: For PA households determined eligible for AFDC after a prospective determination of ineligibility, if the eligible unit's/household's food stamp benefits have already been issued for the payment month, the allotment need not be recomputed when the payment month's normal AFDC grant is known. If the eligible unit's/household's food stamp benefits have not been issued, however, the allotment must reflect the payment month's normal AFDC grant.

(b) Food stamp household terminated for a reason other than monthly reporting become eligible in payment month of termination: If a food stamp household is terminated for a payment month for failure to meet an eligibility factor other than filing a complete monthly report, but during the payment month of termination becomes eligible for participation, issuance of food stamp benefits for that month will depend upon the date the household reported the change in eligibility to the CWA.

1. If the CWA receives the household's report in time to issue benefits in the payment month, the food stamp allotment should be issued.

2. If the household's report is not received in time for the CWA to make the issuance in the payment month, the allotment should not be issued.

(c) Eligibility for AFDC while receiving Medicaid: If a family has been receiving Medicaid benefits (including Medicaid Special) and the family applies and is determined eligible for AFDC, the AFDC payments and Medicaid eligibility for the initial two payment months of AFDC eligibility shall be calculated using prospective budgeting. Prospective budgeting will be applied to the AFDC payment calculation even though the family's Medicaid eligibility before application for AFDC was determined using retrospective budgeting. After the initial two payment months retrospective budgeting will be used to determine Medicaid eligibility and AFDC eligibility and payment amount.

1. Example: In January, a pregnant woman applies for Medicaid on behalf of an unborn child. The woman receives \$100.00 income per month. Eligibility for Medicaid is determined using prospective budgeting for January and February, and retrospective budgeting for March and subsequent payment months. The client advises that the child was born May 15 and requests AFDC. The AFDC grants and Medicaid eligibility for May and June will be calculated using prospective budgeting, even though Medicaid eligibility for previous months was based on a retrospective cycle. For July and subsequent months, Medicaid eligibility and AFDC eligibility and payment amount will be determined using retrospective budgeting.

#### 10:90-6.1 [Redeterminations/Recertifications] Redeterminations, case reviews and recertifications

(a) The CWA shall redetermine/recertify the unit's household's eligibility using prospective budgeting and shall compute the assistance payment/food stamp benefit using retrospective budgeting. This shall be accomplished through the use of two forms: the PA-1J and the MSR. The Payment Month shall be the first month of the new redetermination/recertification period. The MSR from the corresponding Budget Month shall be used in the retrospective budgeting calculation. All processing time frames, etc., that apply to the MSR in the monthly reporting process shall apply to the MSR in the redetermination/recertification process.

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1. The PA-1J, "Application and Affidavit for AFDC, MA, CPP, RRP, CHEP and Food Stamps", is the form used to completely determine and redetermine a unit's/household's eligibility for public assistance and food stamp benefits. It asks detailed questions concerning family composition, deprivation and marital status, expenses, income, resources (bank accounts, automobiles, etc.) and work registration. The client must answer the relevant questions with the assistance of a CWA eligibility worker, if necessary, and provide written verification of income and circumstances from third party sources. The form contains statements, which the client(s) must read and sign, concerning the accuracy of the reported information, authorization for the CWA to contact third party sources for verification, assignment of support to the CWA, non-discrimination and fair hearings, and food stamp penalty warnings.

2. Example: A case is scheduled for its redetermination/recertification to be effective September 1. The CWA will use the MSR (and wage stubs) from the July Budget Month, received in the August Processing Month, to determine eligibility and compute the assistance payment/food stamp benefit for the September Payment Month.

(b) Special procedures for the recertification: The CWA and household shall follow special procedures for the food stamp recertification:

1. The CWA shall mail the notice of expiration of the certification period to the household either with the MSR or with the letter scheduling the recertification interview;

2. The CWA shall obtain the necessary information to complete the PA-1J at the recertification interview; and

3. The household shall complete the PA-1J no later than the time of the recertification interview.

(c) Recertification interview: The CWA shall conduct a complete interview with a household member or an authorized representative:

1. The CWA shall schedule the interview at any time during the last month of the old certification period; and

2. If the CWA schedules the interview for a date on or before the MSR's Filing Deadline, the CWA shall permit the household member and authorized representative to bring the MSR to the interview.

(d) Overdue redeterminations: If the redetermination is overdue, that is, the interview and obtaining required verification are completed after the scheduled effective redetermination date, the CWA shall redetermine the unit's eligibility for the next payment month. However, the CWA must be alert to any changes in circumstances that occurred in the intervening month(s) and must recover any overpayments of assistance made.

1. Example: A non-MR case is due for redetermination effective March 1. However, the CWA does not conduct the interview until March 5. During the interview, the three-member eligible unit reports one-time receipt of \$200.00 unearned income in January. This income is not expected in future months. The CWA redetermines eligibility for the April Payment Month, and calculates the grant to be issued on April 1 by retrospectively budgeting February's zero income and circumstances. However, the \$200.00 must be examined for overpayment purposes. This \$200.00 did not make the family ineligible for January, but should have been retrospectively budgeted in the March grant. The family received \$360.00 on March 1 but should have received only \$160.00. The CWA must recover the \$200.00 overpayment]

(a) AFDC redeterminations and case reviews: The CWA shall redetermine a unit's eligibility and conduct case reviews in accordance with (a)1 through 5 below.

1. Redeterminations: When an individual has been determined to be eligible for AFDC, eligibility will be reconsidered or redetermined:

i. When required on the basis of information the agency has obtained previously about anticipated changes in the individual's situation;

ii. Promptly, after a report is obtained which indicates changes in the individual's circumstances that may affect the amount of assistance to which he or she is entitled or may make him or her ineligible; and

iii. Periodically, within agency established time standards, but not less frequently than every six months on eligibility factors subject to change. Therefore, the CWA shall redetermine eligibility monthly for eligible units subject to monthly reporting, or every other month for units subject to bimonthly reporting.

2. Redetermination form: For AFDC cases subject to MR, the CWA will conduct a monthly or bimonthly redetermination of eligibility using the MSR form. For AFDC cases not subject to MR, the CWA will conduct a redetermination of eligibility using Form PA-1J.

i. Form PA-1J, "Application and Affidavit for AFDC, MA, CCP, RRP, CHEP and Food Stamps", is the form used to determine a unit's/household's eligibility for public assistance and food stamp benefits. It asks detailed questions, concerning family composition, deprivation and marital status, expenses, income, resources (bank accounts, automobiles, and so forth) and work registration. The client must answer the relevant questions with the assistance of a CWA eligibility worker, if necessary, and provide written verification of income and circumstances from third party sources. The form contains statements, which the client(s) must read and sign, concerning the accuracy of the reported information, authorization for the CWA to contact third party sources for verification, assignment of support to the CWA, non-discrimination and fair hearings, and food stamp penalty warnings.

3. Redetermination process: For cases subject to MR, the redetermination will be conducted within the time frames required for MSR processing. For cases not subject to MR, the unit's eligibility will be redetermined using prospective budgeting and assistance payment computed using retrospective budgeting. The payment month shall be the first month of the new redetermination period. Income and circumstances from the corresponding budget month shall be used in the retrospective budgeting calculation.

i. Example: An eligible unit not subject to MR is scheduled for its redetermination to be effective September 1. The CWA will redetermine the unit's eligibility prospectively for September, and will compute the assistance payment by retrospectively budgeting the income and circumstances existing in the July Budget Month.

4. Case review: For cases subject to MR, the CWA shall conduct a case review of the eligible unit's circumstances in addition to the monthly or bimonthly redetermination. The case review shall include an interview with a member of the eligible unit, and an in-depth verification and evaluation of the family's circumstances.

i. The case review shall be conducted periodically, but not less frequently than every 12 months.

ii. The CWA will use both the MSR and relevant sections of Form PA-1J in the case review.

iii. The determination of eligibility based on the case review shall be effective for a payment month. The MSR from the corresponding budget month shall be used to retrospectively compute the assistance payment for the payment month. All MSR

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processing time frames and notice requirements shall apply in the case review process.

iv. If the eligible unit also receives food stamp benefits, the CWA will assign the PA household a 12-month certification period to coincide with the case review.

v. Example: A case in MR is scheduled for its case review to be effective September 1. The CWA will use the MSR and verification from the July Budget Month MSR, received in the August Processing Month, to determine eligibility and compute the assistance payment for the September Payment Month. The PA household will be assigned a 12-month certification period from September through August.

5. Overdue redeterminations and case reviews: If the redetermination or case review is overdue, that is, the interview and obtaining required verifications are completed after the scheduled effective date of redetermination or case review, the CWA shall determine the unit's eligibility for the next payment month. However, the CWA must be alert to any changes in circumstances that occurred in the intervening month(s) and must recover any overpayments of assistance made.

i. Example: A non-MR case is due for redetermination effective March 1. However, the CWA does not conduct the interview until March 5. During the interview, the three-member eligible unit reports one-time receipt of \$200.00 unearned income in January. This income is not expected in future months. The CWA determines eligibility for the April Payment Month, and calculates the grant to be issued on April 1 by retrospectively budgeting February's zero income and circumstances. However, the \$200.00 must be examined for overpayment purposes. This \$200.00 did not make the family ineligible in January, but should have been retrospectively budgeted in the March grant. The family received \$385.00 on March 1 but should have received only \$185.00. The CWA must recover the \$200.00 overpayment.

(b) Food stamp recertifications - general: The following general procedures shall apply to all food stamp recertifications.

1. Timeliness: The CWA shall recertify an eligible household which timely reapplies and provide it with an opportunity to participate in the household's normal issuance cycle.

2. Retrospective recertification: The CWA shall recertify all households, except migrant farmworker households while in the job stream and NPA households exempt from monthly reporting, using information from the corresponding budget month to determine the household's benefit level for the first month of the new certification period. Migrant farmworker households, while in the job stream, and NPA households exempt from monthly reporting will be recertified using prospective budgeting, according to N.J.A.C. 10:90-2.2(a)1.

3. Notice of expiration: The CWA shall mail the notice of expiration of the certification period to the household either with the MSR or with the letter scheduling the recertification interview.

4. Recertification interview: The CWA shall conduct a complete interview with a household member or authorized representative. The CWA shall schedule the interview for any time during the last month of the old certification period.

5. Certification periods: The certification periods of households subject to monthly reporting and retrospective budgeting shall not be less than six months nor longer than 12 months. The certification periods of households subject to periodic reporting shall not be less than six months.

6. A household subject to MR shall not be recertified unless the MSR form is properly completed and submitted. No food stamp benefits will be issued for the new certification period without full verification and the recertification action being completed.

(c) Food stamp recertifications - PA households: The following shall apply to recertifications of PA households, in addition to (b) above.

1. Recertification form: PA households shall be recertified using Form PA-1J, if exempt from monthly reporting, or the MSR and relevant sections of Form PA-1J, if subject to monthly reporting.

2. If the CWA schedules the recertification interview for a date on or before the MSR's Filing Deadline, the CWA shall permit the household member and/or authorized representative to bring the MSR to the interview.

3. The CWA shall obtain the information necessary to complete Form PA-1J at the recertification interview.

4. The household shall complete Form PA-1J no later than the time of the recertification interview.

5. PA households whose AFDC eligible units are subject to monthly reporting shall be assigned 12-month certification periods to coincide with the AFDC case review.

(d) Food stamp recertifications—NPA households: The following shall apply to recertifications of NPA households, in addition to (b) above.

1. Recertification form: NPA households shall be recertified using Form FSP-901, if exempt from monthly reporting, or the MSR and relevant sections of Form FSP-901, if subject to monthly reporting. Form FSP-901, "Application and Recertification for Participation in the Food Stamp Program", is the form used to completely determine a household's eligibility for participation in the Food Stamp program. It asks detailed questions concerning household composition, expenses, deductions, income, resources (bank accounts, automobiles, and so forth) and work registration. The household member must answer the relevant questions with the assistance of a CWA eligibility worker, if necessary, and provide written verification of income and circumstances from third party sources. The form contains statements, which the household member(s) or authorized representative must sign, concerning the accuracy of the reported information, authorization for the CWA to contact third party sources for verification, non-discrimination and fair hearings, and food stamp penalty warnings.

2. Recertification process: NPA households subject to monthly reporting will be recertified according to either (d)2i or ii below. The CWA will select either recertification option 1 or 2 and apply the procedures to all NPA households in MR. NPA households exempt from monthly reporting will be recertified according to N.J.A.C. 10:87-9.

i. Option 1—Mail-out of MSR: The CWA shall mail the MSR to the household for receipt and completion before or at the time of the recertification interview.

(1) The CWA shall mail the notice of expiration and the MSR to the household, so the household receives the MSR by the first day of the processing month. The processing month is the last month of the old certification period.

(2) If the interview is scheduled for a date on or before the Filing Deadline, the CWA shall permit the household member and/or authorized representative to bring the MSR to the interview.

(3) The CWA shall obtain information necessary to complete relevant portions of Form FSP-901 at the recertification interview.

(4) If a household does not return the MSR by the Filing Deadline, either by mail or at a recertification interview, the CWA shall send an Extension Notice, according to N.J.A.C. 10:90-5.1(b).

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ii. **Option 2—Provide MSR at interview:** The CWA shall provide the MSR to the household at the recertification interview for completion at the interview.

(1) The CWA shall mail the notice of expiration for household receipt by the first day of the processing month. The processing month is the last month of the old certification period.

(2) The CWA shall provide the household with the MSR at the recertification interview.

(3) The household shall complete the MSR and the CWA shall obtain information necessary to complete relevant portions of Form FSP-901 at the recertification interview. If there is insufficient verification provided on the MSR, the CWA shall allow the household 10 days from the date the missing verification was initially requested by the CWA.

(4) If a household that is being recertified under this option does not complete the MSR by the Filing Deadline, the CWA shall not send the household an Extension Notice.

10:90-6.2 Fair hearings

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

(c) Continued assistance: If an eligible unit/household requests a fair hearing in accordance with (b) above, within 10 days of the date of the adverse action notice, and does not waive continued assistance, the CWA shall continue assistance until the resolution of the fair hearing. For hearing requests concerning food stamp-related information reported on the MSR, the CWA shall continue food stamp benefits until the end of the certification period or resolution of the fair hearing, whichever is first. If the CWA did not receive the MSR from the eligible unit/household by the Extension Deadline, and the eligible unit/household admits that it did not file the MSR, the eligible unit/household shall not have its assistance/food stamp benefits continued. If the fair hearing is with regard to termination for non-receipt of the MSR by the CWA, then a new, complete MSR for the month in question shall be submitted by the eligible unit/household before assistance/food stamp benefits are continued. Receipt of continued assistance is also subject to the following provisions:

1.-2. (No change.)

10:90-6.3 Transfers

(a) The following policy for cases transferred [into or out of] between counties [involved in monthly reporting] supplements CWA transfer responsibilities contained in N.J.A.C. 10:81-3.27 [and 10:87-9.8]:

[1. Transfer from a non-MR county to an MR county:

i. Responsibilities of the non-MR county of origin: No change in responsibilities from N.J.A.C. 10:81-3.27(b)3i and 10:87-9.9;

ii. Responsibilities of the receiving MR county: The CWA shall:

(1) Advise the eligible unit/household of monthly reporting requirements, and of prospective and retrospective budgeting; and

(2) Ensure that the eligible unit/household shall begin monthly reporting (filing the MSR) for the second payment/allotment in the receiving county. The eligible unit/household must receive the MSR form with the first payment/allotment issued by the receiving CWA.

(A) Example: A family/household transfer from a non-MR CWA to an MR county on June 9. The receiving MR CWA issues the first assistance payment/food stamp benefit and (June Budget Month) MSR to the eligible unit/household on July 1. The first payment/allotment computed using retrospective budgeting is for August 1.

(B) Example: A family/household transfers from a non-MR CWA to a MR CWA on June 26. The receiving MR CWA issues the first assistance payment/food stamp benefit and (July Budget Month) MSR to the eligible unit/household on August 1. The first payment/allotment computed using retrospective budgeting is for September 1.

2. Transfer from an MR county to a non-MR county:

i. Responsibilities of the MR county of origin: The MR CWA shall submit the eligible unit's household's most recent MSR along with other required documentation to the receiving non-MR CWA;

ii. Responsibilities of the receiving non-MR county: No change in responsibilities from N.J.A.C. 10:81-3.27(b)3ii and 10:87-9.10.

3. Transfer between MR counties:

i. Responsibilities of the MR county of origin: The CWA shall submit the eligible unit's/household's most recent MRS along with other required documentation to the receiving CWA;

ii. Responsibilities of the receiving MR county: The CWA shall continue to calculate the eligible unit's/household's assistance payment/food stamp benefit using retrospective budgeting.]

1. Responsibilities of the county of origin: The CWA shall submit the eligible unit's/household's most recent MSR along with other required documents to the receiving CWA.

2. Responsibilities of the receiving county: The CWA shall continue to calculate the eligible unit's/household's assistance payment/food stamp benefit using retrospective budgeting.

(b) The eligible unit/household must file MSRs for all months while responsibility for case management and payment is being transferred from one county to another. Failure of an eligible unit/household to file the MSR for any budget month shall result in denial of assistance/food stamp benefits for the corresponding payment month.

1. Example: On March 5 an eligible unit moves from county A to county B and applies for assistance in county B. The eligible unit must file the MSR for the February Budget Month before assistance may be granted for the April Payment Month.

2. Example: An eligible unit's assistance is terminated for the March Payment Month for failure to file an MSR for the January Budget Month. On March 5 the eligible unit moves from county A to county B and applies for assistance in county B. The eligible unit must file an MSR for the January Budget Month before assistance may be granted.

**LABOR**

**(a)**

**DIVISION OF WORKPLACE STANDARDS**

**Field Sanitation**

**Providing Drinking Water, Toilet, and Hand Washing Facilities for Seasonal Farm Workers**

**Proposed New Rules: N.J.A.C. 12:70**

Authorized By: Charles Serraino, Commissioner, Department of Labor

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Authority: N.J.S.A. 34:9A-39.  
Proposal Number: PRN 1985-409.

**CHAPTER 70**

**FIELD SANITATION**

Submit comments by September 4, 1985 to:  
William J. Clark, Director  
Division of Workplace Standards  
New Jersey Department of Labor  
CN 054  
Trenton, New Jersey 08625-0054

**SUBCHAPTER 1. GENERAL PROVISIONS**

12:70-1.1 Title and citation  
This chapter shall be known and may be cited as N.J.A.C. 12:70, Field Sanitation.

12:70-1.2 Authority  
These rules are promulgated pursuant to the authority of the Drinking Water and Toilet Facilities Act, N.J.S.A. 34:9A-37 et seq.

12:70-1.3 Purpose  
The purpose of this chapter is to provide reasonable standards for drinking water, toilet, and hand washing facilities for seasonal farm workers while working in a field.

12:70-1.4 Scope  
(a) This chapter shall apply to any farm subject to N.J.S.A. 34:9A-37 et seq. when seasonal farm workers are working in a field that is an unreasonable distance from central facilities with regard to drinking water, toilet, and hand washing facilities except as provided in (b) below.

- (b) This chapter shall not apply:
1. On a particular day in working areas where workers are engaged for a total daily time of two and one-half hours or less; or
  2. On a particular day in working areas where five workers or less are engaged; or
  3. To areas where machine operators working singly or in small groups are engaged; or
  4. To farms or owners who furnish transportation when required in order to reach available facilities for workers.

12:70-1.5 Validity  
Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decision shall not affect the remaining portion of this chapter.

**SUBCHAPTER 2. DEFINITIONS**

12:70-2.1 Definitions  
The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- “Approved” means acceptable to the commissioner.
- “Commissioner” means the Commissioner of Labor of the State of New Jersey or his authorized designee.
- “Farm operator” means any individual, corporation, partnership, joint venture, firm, company, or other legal entity, or any officers or agents thereof, in immediate possession of any farm as owner or lessee, and, as such, responsible for its management and condition.
- “N.J.A.C.” means New Jersey Administrative Code.
- “N.J.S.A.” means New Jersey Statutes Annotated.
- “Seasonal farm worker” means any person who is engaged in seasonal or temporary farm work and is a term that may be used interchangeably with the terms “migrant laborer” and “temporary farm worker.”

“Unreasonable distance from central facilities” means more than five minutes walking distance from the nearest central toilet facility.

“Working area” means the site where seasonal farm workers are assigned to work in the fields.

The agency proposal follows:

**Summary**

The State Department of Labor has been expecting the Occupational Safety and Health Administration of the U.S. Department of Labor to address the issue of field sanitation for seasonal farm workers under the Federal Occupational Safety and Health Act. However, the U.S. Department of Labor has announced and has stated in the Federal Register of Tuesday, April 16, 1985 that they do not intend to promulgate rules on the subject of field sanitation.

Since New Jersey seasonal farm workers will not have Federal coverage on the issue of field sanitation it is appropriate that the State Department of Labor address this issue. The Federal Occupational Safety and Health Act, while it preempts the States without State Plans, does permit the States to enforce those issues not covered in the Federal regulatory program. See Section 18(a) of the Federal Occupational Safety and Health Act of 1970.

Although the proposed new field sanitation rules have been used as a guidance document since 1971 in order to provide a criteria to be followed in implementing N.J.S.A. 34:9A-37 et seq., it is now necessary to propose these rules since OSHA has decided not to promulgate rules on the subject.

The new rules consist of five subchapters summarized as follows.

N.J.A.C. 12:70-1 covers general provisions which includes purpose, scope and authority.

N.J.A.C. 12:70-2 is a set of definitions of terms used in the text.

N.J.A.C. 12:70-3 covers drinking water facilities.

N.J.A.C. 12:70-4 addresses the issue of toilet facilities.

N.J.A.C. 12:70-5 is on the subject of handwashing facilities.

The proposed new rules will require the furnishing of drinking water, toilet and hand washing facilities by farm operators to seasonal farm workers working in the fields.

**Social Impact**

There will be no change in social impact on the farm operators or the seasonal farm workers, however, because these field sanitation criteria have been used since 1971 to enforce under N.J.S.A. 34:9A-37 et seq., the Drinking Water and Toilet Facilities Act.

**Economic Impact**

There will be no change in the economic impact on the farm operator or the seasonal farm worker since these proposed rules are the same as those used in the guidance document.

Full text of the proposed new rules follows:

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**SUBCHAPTER 3. DRINKING WATER FACILITIES**

**12:70-3.1 Drinking water**

- (a) A supply of cool, potable water shall be provided in readily accessible locations at all working areas.
- (b) Drinking water shall be running water or fresh water contained in clean and covered receptacles.
- (c) Individual drinking cups shall be provided at each drinking station.
- (d) Where running drinking water cannot be provided, a regular schedule for distributing fresh drinking water daily shall be arranged by the farm operator.
- (e) The use of a common drinking cup or dipper is prohibited.

**SUBCHAPTER 4. TOILET FACILITIES**

**12:70-4.1 Privies**

- (a) Privies or other toilet facilities shall be provided in number sufficient, suitable and separate for each sex. These facilities shall be properly screened, ventilated and kept clean. Where facilities are secured by locks, separate facilities are not required unless there are more than two females in the work area.
- (b) All toilet facilities shall be sheltered to provide privacy to the user.
- (c) No privy shall be closer than 100 feet to any lunch area.
- (d) Toilet facilities shall be distinctly marked "For Men" or "For Women" by signs printed in English and in the native language of the persons working in the work area, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.
- (e) An adequate supply of toilet paper shall be provided in each privy, water closet, or chemical toilet compartment.
- (f) Privies and toilet rooms shall be kept in a sanitary condition.
- (g) Privies constructed in accordance with N.J.A.C. 12:70-4.2 may be used for disposal of human excreta where their use will not contaminate ground or surface water because of privy location, type of soil, or ground-water table.
- (h) Chemical toilets constructed in accordance with N.J.A.C. 12:70-4.4 may be used in place of privies, or where a privy is not permitted due to possible contamination of ground and surface water.
- (i) Recirculating toilets constructed in accordance with N.J.A.C. 12:70-4.7 may be used in place of privies or chemical toilets.
- (j) Combustion toilets constructed in accordance with N.J.A.C. 12:70-4.6 may be used in place of privies, chemical toilets, or recirculating toilets.
- (k) Portable toilets constructed in accordance with N.J.A.C. 12:70-4.8 may be used. Such units may be:
  1. Chemical, recirculating, or combustion toilets designed for installation in or as an integral part of a skid mounted portable privy building, or in a separate toilet room, or
  2. Portable privies designed for installation over a manhole of a sanitary or a combined waste water sewer system.

**12:70-4.2 Specifications for privy pit**

- (a) A privy pit shall be separated by at least 100 feet from a well, spring, or other source of water supply for drinking, bathing, or culinary purposes.
- (b) At no time shall the pit bottom of a privy extend into ground water, nor shall it be constructed within 100 feet of the shoreline of any open body of water. Phreatic water, such as

may be found in surface soil at depths of 10 feet or less, shall not be interpreted as ground water unless there is evidence of positive directional flow through the pit.

- (c) The privy shall be so located and so constructed that no surface water may enter into the pit either as runoff or as flood water.
- (d) The pit shall be constructed of such material and in such a manner as to prevent rapid deterioration, provide adequate capacity, and facilitate maintenance in a satisfactory manner under ordinary conditions of usage.
- (e) The pit and seat area shall be vented by a flue or vent pipe having not less than seven square inches in cross-sectional area.
- (f) The pit shall provide a capacity of 50 cubic feet for each seat installed in the privy building. The vault within 16 inches of the surface grade shall not be counted as part of the 50-cubic-foot capacity.
- (g) Pit cribbing shall fit firmly and be in uniform contact with the earth walls on all sides, and shall rise at least six inches above the original ground line and descend to the full depth of the pit. However, pit cribbing below the soil line may be omitted in rock formations.
- (h) An earth plateau shall be constructed level with the top of the pit cribbing, and extend horizontally for a distance of at least 18 inches before sloping to the original ground level.

**12:70-4.3 Specification for privy building**

- (a) The privy building shall be firmly anchored, rigidly constructed, and free from hostile surface features, such as exposed nail points, sharp edges, rough or broken boards, etc., and shall provide privacy and protection from the elements. It shall be ventilated by leaving a four inch opening at the top of all the walls just beneath the roof.
- (b) The building shall be of fly-tight construction, doors shall be self-closing, and vent and building openings shall be screened with 16-mesh screen of durable material. The vent shall extend 12 inches above the roof.
- (c) The seat shall be so spaced as to provide a minimum clear space of 24 inches between each seat in multiple unit installations, and shall provide 12 inches clear space from the seat opening to the side wall in single and multiple units.
- (d) The seat riser shall have an inside clearance of not less than 21 inches from the front wall and not less than 24 inches from the rear wall of the privy building.
- (e) The seat top shall be not less than 12 inches nor more than 16 inches above the floor.
- (f) The seat opening shall be covered with an attached, movable toilet seat and lid, so constructed and installed that when closed it will limit access of insects, and which can be raised to allow sanitary use as a urinal.
- (g) The floor and riser shall be built of impervious material or tongue and groove lumber, and in a manner to deny access of insects.
- (h) Where electricity is available, lighting shall be provided with an intensity of not less than 10-foot candles 30 inches above the floor.
- (i) A conveniently located receptacle or dispenser containing an adequate supply of toilet paper shall be provided for each seat in each privy building.

**12:70-4.4 Specification for chemical toilet**

- (a) Rooms, buildings, or shelters housing chemical toilets shall be of sound construction and easy to clean, and shall provide shelter and privacy. The toilet rooms shall be ventilated to the outside and adequately lighted, and all openings into the toilet room shall be covered with 16-mesh screen.

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(b) Caustic receptacles shall be durable and corrosion proof, and provide a minimum capacity of 100 gallons per seat.

(c) The caustic receptacle charge per seat shall be a minimum of 25 pounds of caustic dissolved in 10 gallons of water.

(d) The chemical shall be drained and receptacle recharged every six months of continuous use, or at the beginning of each season of operation when in intermittent use, or when three-fourths full, whichever occurs first.

(e) Each seat in the building shall be provided with a conveniently located agitator.

(f) Receptacles shall be vented by a flue or vent pipe having not less than seven square inches in cross sectional area.

(g) The receptacle shall be equipped with a manhole external to the privy building for cleaning and caustic removal purposes. The manhole shall be covered so as to prevent the escape of gases and odors.

### 12:70-4.5 Construction of seepage pit

(a) Seepage pit construction shall be in accordance with N.J.A.C. 12:70-4.2(b), (c), (d), (g) and (h). The seepage pit may be filled with stone or rubble of not less than nominal one inch diameter.

(b) Seepage pits shall provide side wall area equal to at least 10 square feet per person served by the facility, or such greater area as may be required by the health agency having jurisdiction.

(c) Temporary piping connections from sinks or shower platforms may be discharged beneath the floor if they have traps in accordance with the plumbing provisions of N.J.A.C. 5:23, Uniform Construction Code.

(d) The platform covering the seepage pits shall be built of impervious material and in a manner to exclude insects.

(e) The platform shall be provided with an opening at least one foot in each dimension and have a rim at least one inch above the floor to prevent precipitation from accumulating on the platform floor.

(f) The platform opening shall be covered with a self-closing lid, so constructed that it can be easily opened by foot or hand, and so installed that when closed it will exclude insects and fit closely over the raised rim of the opening.

### 12:70-4.6 Combustion toilet

(a) Combustion toilets and combustion toilet buildings, rooms, or shelters shall be in accordance with N.J.A.C. 12:70-4.4.

(b) All external surfaces, including bowl and hopper, shall be easy to clean.

(c) The residue must be sterile and inert.

(d) The flue effluents must be free of bacteria.

(e) The combustion system and all fuel and electrical parts shall be in compliance with applicable standards of N.J.A.C. 5:23, Uniform Construction Code.

### 12:70-4.7 Specifications for recirculating toilet

(a) Recirculating toilet buildings, rooms, or shelters shall conform to the applicable provisions of N.J.A.C. 12:70-4.4.

(b) All materials, bowl, piping, and fittings shall be corrosion resistant.

(c) Waste passages shall have smooth surfaces and be free of obstructions, recesses, or chambers that would permit fouling.

(d) Flushing shall be accomplished by a single control so arranged as to be operated without special knowledge or effort.

(e) Recirculating toilets shall conform to the applicable standards of N.J.A.C. 5:23, Uniform Construction Code.

(f) The unit shall be maintained and cleaned; and water, filter, and odor-controlling chemical shall be replaced in accordance with the instructions of the manufacturer.

### 12:70-4.8 Construction of portable toilet

(a) A portable toilet may comprise the seat and its treatment unit to be installed in a structure, or it may comprise an entire prefabricated, skid mounted, or otherwise portable structure containing a seat or treatment units with seat.

(b) No pit, tank, or other subsurface structure shall be constructed as part of a portable toilet.

(c) Portable privies shall be installed over a pit conforming to N.J.A.C. 12:70-4.2, or a manhole that is part of a sanitary or combined waste water disposal system.

(d) No portable toilet shall discharge into a storm sewer.

(e) A portable building shall be rigidly constructed, ventilated by a screened opening or vent having a cross-sectional area of at least one square foot per seat, and equipped with a floor, riser, and seat meeting the requirements of N.J.A.C. 12:70-4.3 or an equivalent individual stool and seat in prefabricated metal, fiber glass, plastic, or ceramic material.

(f) The structure shall provide privacy and protection from the elements.

(g) An airtight seal shall be provided between the structure base and any pit, receptacle, or manhole over which it is placed.

(h) The pit, receptacle, or manhole shall be vented by a flue or vent pipe having not less than seven square inches in cross sectional area.

(i) A portable toilet shall be provided with facilities, requisite to its construction, for the removal of chemicals, ash, or residue. All surfaces subject to soiling shall be readily accessible and easily cleaned.

## SUBCHAPTER 5. HAND WASHING FACILITIES

### 12:70-5.1 Hand washing

(a) Washing facilities shall be made available for all employees at all working areas.

(b) Washing facilities shall consist of a supply of fresh, clean water and a container.

(c) A fresh, clean running water outlet shall be provided.

(d) A supply of soap and individual towels shall be provided.

## LAW AND PUBLIC SAFETY

### (a)

## DIVISION OF MOTOR VEHICLES

### Central Title and Registration Service Expiration of Temporary Initial Registration

### Proposed Amendment: N.J.A.C. 13:21-11.13

Authorized By: Robert S. Kline, Acting Director,  
Division of Motor Vehicles.

Authority: N.J.S.A. 39:10-4, 39:3-4 and 39:3-4c.  
Proposal Number: PRN 1985-416.

**LAW AND PUBLIC SAFETY**

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Submit comments by September 4, 1985 to:  
Robert S. Kline, Acting Director  
Division of Motor Vehicles  
25 So. Montgomery Street  
Trenton, New Jersey 08666

The agency proposal follows:

**Summary**

The proposed amendment provides that temporary initial registrations issued to residents shall expire at the end of 60 days. This provision therefore extends the validity of temporary initial registrations from 20 to 60 days. The proposed amendment also provides that temporary initial registrations issued to non-residents shall expire at the end of 20 days. This distinction is predicated on the fact that residents are required to obtain a permanent registration for their vehicles in New Jersey. In view of the tremendous number of sales of motor vehicles within the past year (and presently) the Division has experienced great difficulty in processing permanent registrations before the temporary ones expire. Non-residents, on the other hand, are not required to register vehicles in this State and can be expected to register their vehicles in their home states. Non-residents need a temporary New Jersey registration only for purposes of transporting the vehicle out of this State. This provision comports with N.J.S.A. 39:3-4b.

**Social Impact**

There is a beneficial social impact in that the extended validity of the initial temporary registration will provide the Division of Motor Vehicles with a more reasonable time frame in which to process the permanent registration. Service to the public will be enhanced.

**Economic Impact**

Since the proposed amendment simply extends the validity of temporary initial registrations to provide the Division with more time to process permanent registrations no economic impact on the State or its citizens is anticipated.

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

13:21-11.13 Expiration date of temporary initial registration

(a) All temporary initial registrations issued to residents of this State shall expire at the end of [20] **60** days or as soon as the permanent registration and plates have been received from the Division of Motor Vehicles, whichever occurs first. The temporary plates must be destroyed at the time of expiration.

(b) All temporary initial registrations issued to non-residents shall expire at the end of **20** days or as soon as the permanent registration and plates have been received from the Division of Motor Vehicles, whichever occurs first. The temporary plates must be destroyed at the time of expiration.

[(b)] (c) Under no circumstances may a dealer extend the expiration date or issue a new temporary initial registration and plates for the same vehicle.

**(a)**

**BOARD OF ARCHITECTS**  
**Certified Landscape Architects**  
**Title Blocks**

**Proposed Amendment: N.J.A.C. 13:27-8.11.**

Authorized By: New Jersey State Board of Architects,  
M. Lisbeth DeCotiis, President.  
Authority: N.J.S.A. 45:3A-13.  
Proposal Number: PRN 1985-403.

Submit comments by September 4, 1985 to:  
Barbara S. Hall, Executive Secretary  
State Board of Architects  
1100 Raymond Boulevard, Room 511  
Newark, New Jersey 07102

The agency proposal follows:

**Summary**

The proposed amendment will govern the contents of title blocks which must appear on contract drawings prepared by certified landscape architects.

**Social Impact**

The proposed amendment will have a positive social impact in assuring that certain standard information will appear on drawings prepared by certified landscape architects. The required information will ease the identification of the preparer for municipal officials and any individuals who may need to review such documents in the future.

**Economic Impact**

The proposed amendment should have a positive economic impact by easing the identification of the certified landscape architect if future reference to drawings is necessary.

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

13:27-8.11 Seal and signature; title block

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

(c) **A certified landscape architect shall provide the following information in a title block which shall be placed on all contract drawings prepared under his or her direction. The information shall appear legibly on the drawing and shall be clearly reproducible.**

**1. The full name of the certified landscape architect as it appears on the certificate issued by the Board;**

**2. The signature of the certified landscape architect;**

**3. The license number and title: New Jersey Certified Landscape Architect.**

**4. The date when signed.**

(d) The certified landscape architect shall impress his or her seal on all reproductions filed with any public agency or submitted to a client. Other information may appear with or within the title block provided that the required information is distinct and the name of the certified landscape architect is readily discernible from the other information on the document.

**(b)**

**BOARD OF DENTISTRY**

**Use of General Anesthesia; Notification of  
Change of Address; Service of Process**

**Proposed Amendment: N.J.A.C. 13:30-8.3**

## PROPOSALS

## LAW AND PUBLIC SAFETY

### Proposed New Rule: N.J.A.C. 13:30-8.14

Authorized By: Arthur A. Yeager, D.D.S., President,  
New Jersey State Board of Dentistry.

Authority: N.J.S.A. 45:6-1 et seq., 45:6-3.

Proposal Number: PRN 1985-401.

Submit comments by September 4, 1985 to:

Robert J. Siconolfi, Executive Secretary  
New Jersey State Board of Dentistry  
1100 Raymond Boulevard, Room 321  
Newark, New Jersey 07102

The agency proposal follows:

#### Summary

The proposed amendment to N.J.A.C. 13:30-8.3(e) is to correct a typographical error and clarify that a "physical" examination of a patient, rather than a "physician" examination, is necessary prior to the administration of an anesthetic agent by a dentist.

The proposed new rule, N.J.A.C. 13:30-8.14, would require a licensee to notify the Board, by certified mail, return receipt requested, of any change of address within 30 days following such change of address. Failure to notify the Board of a change of address may result in disciplinary action against a licensee and service of process at the licensee's current address on file with the Board will be deemed adequate notice for administrative action.

#### Social Impact

The proposed amendment to N.J.A.C. 13:30-8.3(e) should have no significant social impact, inasmuch as it is simply a clarification of the present rule.

Proposed rule N.J.A.C. 13:30-8.14 clarifies the responsibility of a Board licensee to notify the Board of any change of address. From time to time, it is necessary for the Board to contact its licensee. For example, it may be necessary to notify licensees of any significant change in the law. Although biennial renewal forms specify that any changes in address must be communicated to the Board, the proposed rule will place a clear affirmative duty on a licensee to provide such notice and failure to comply may result in disciplinary action pursuant to N.J.S.A. 45:1-21(h).

#### Economic Impact

The proposed amendment to N.J.A.C. 13:30-8.3(e) and proposed new rule N.J.A.C. 13:30-8.4 should have no significant economic impact on either the Board of Dentistry or its licensees.

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

13:30-8.3 Use of general anesthesia

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

(e) Prior to the administration of an anesthetic agent for the purpose of controlling pain, a [physician] **physical** evaluation shall be made by the permit holder and a complete medical history which shall include previous medications, allergies and sensitivities shall be obtained. Said history shall be maintained in the files of each dentist for a period of not less than three years succeeding the taking of same. Specific records on use of general anesthesia shall be kept and shall include type of agent, dosage and duration.

(f)-(h) (No change.)

13:30-8.14 Notification of change of address; service of process.

(a) A licensee of the Board of Dentistry shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued certificate. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 30 days following the change of address.

(b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h), including, but not limited to, a civil penalty of \$200.

(c) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

(a)

## BOARD OF MEDICAL EXAMINERS

### Termination of Pregnancy

#### Proposed Amendment: N.J.A.C. 13:35-4.2

Authorized By: Board of Medical Examiners, Edward  
W. Luka, M.D., President.

Authority: N.J.S.A. 45:9-2.

Proposal Number: PRN 1985-407.

Submit comments by September 4, 1985 to:

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

The agency proposal follows:

#### Summary

A petition for rulemaking was submitted by the Commissioner of the New Jersey State Department of Health asking the Board of Medical Examiners to amend N.J.A.C. 13:35-4.2 to impose a requirement for pathology analysis and reports, and to consider matters of appropriate disposal of fetal tissue. Notice of the petition was published by the Board at 16 N.J.R. 3223(a). A Medical Board committee was appointed to review this matter and the Board now proposes an amendment addressing the concerns of the Commissioner. The proposed amendment requires a physician to make suitable arrangements to insure that all tissues removed shall be disposed of by submission to a qualified physician for pathologic analysis or by incineration or delivery to a person/entity licensed to make biologic and/or tissue disposals in accordance with law. This amendment should insure that community standards are not offended by inappropriate or careless disposition.

#### Social Impact

Although this amendment applies to all physicians performing terminations of pregnancy in this State, procedures occurring within licensed hospitals or licensed clinics are already addressed by specific rules of the New Jersey Department of Health, and this proposed amendment will not interfere with those requirements. The proposed amendment is expected to

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address particularly procedures done within the first trimester of pregnancy and which can lawfully be performed within the private office of a physician.

### Economic Impact

No substantial economic impact is anticipated, as any physician performing a termination of pregnancy procedure is already expected to be conducting a sufficient analysis of the tissue to confirm the suspected pregnancy or to ascertain other pathological medical condition. There should be no substantial difficulty for a physician to make appropriate arrangements with a licensed mortuary or entity licensed for biologic disposals to comply with the proposed amendment. Any additional costs that may be incurred are substantially outweighed by the public interest in responsible and hygienic disposal of tissue.

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

13:35-4.2 Termination of pregnancy

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

**(e) The physician shall make suitable arrangements to insure that all tissues removed shall be properly disposed of by submission to a qualified physician for pathologic analysis or by incineration or by delivery to a person/entity licensed to make biologic and/or tissue disposals in accordance with law.**

[(e)] (f) These rules are intended to regulate the quality of medical care offered by licensed physicians for the protection of the public, and are not intended to affect rules of the Department of Health establishing institutional requirements.

**(a)**

## BOARD OF MEDICAL EXAMINERS

### Requirements for Issuing Prescriptions for All Medication Information Required on Label when Physician or Podiatrist Dispenses Medication

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

Authorized By: Board of Medical Examiners, Edward W. Luka, M.D., President.

Authority: N.J.S.A. 45:9-2.

Proposal Number: PRN 1985-402.

Submit comments by September 4, 1985 to:

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

### Summary

A resolution of the Medical Society of New Jersey was submitted to the Board of Medical Examiners asking the Board to amend the present rule, N.J.A.C. 13:35-6.6, to impose a requirement that all medications dispensed directly by a physician shall contain the expiration date of the prescribed medication on the label of the container. The Medical Board discussed this issue at a public meeting, and now proposes an amendment which requires all physicians or podiatrists who dispense medication to include the expiration date on the container of medication.

### Social Impact

The amendment is expected to have the effect of protecting patients who may not complete the total amount of prescribed medication for a particular illness or injury and may take the unused portion of the medication at a later time unaware that the expiration date may have passed rendering the medication ineffectual or even harmful to the patient.

### Economic Impact

No substantial economic impact is anticipated, as any physician dispensing medication is already required to label the medication with detailed information. There should be no substantial difficulty for the physician to add the expiration date to the label which is already required. Any minor additional costs that may be incurred are substantially outweighed by the public interest in assuring that medication is effectively and safely utilized by patients.

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

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

(a)-(g) (No change.)

(h) Every physician and podiatrist shall assure that each container of medication dispensed directly to a patient is labeled in a legible manner with at least the following information:

1. Physician's or podiatrist's full name;
2. Full name of patient;
3. Date medications is dispensed;

**4. Expiration date of medication;**

[4.] **5. Name, strength and quantity of medication dispensed;**

[5.] **6. Adequate instructions for the patient regarding the frequency of administration of the medication;**

[6.] **7. When a physician or podiatrist dispenses a pharmaceutical sample which has been packaged and labeled by the manufacturer and such sample package contains the information required by [4.] 5. and [5.] 6. above, the information listed in 1 through 3, inclusive, above need not be added;**

[7.] **8. When a physician or podiatrist dispenses a medication, other than a sample exempted pursuant to [6.] 7. above, in a container without sufficient space for the information required by this subsection, the container shall be placed in a large container or envelope, and the larger container or envelope shall be labeled as indicated in this subsection;**

[8.] **9. Each container of medication dispensed shall contain only one type of medication;**

i. (No change.)

## ENERGY

**(b)**

## DIVISION OF RECYCLING

### Used Oil Recycling

#### Proposed New Rule: N.J.A.C. 14A:3-11

Authorized By: Charles A. Richman, Assistant Commissioner, Department of Energy

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## ENERGY

Authority: N.J.S.A. 52:27F11(q)  
Proposal Number: PRN 1985 - 413

Submit comments by September 4, 1985 to:

Edward J. Linky, Chief  
Office of Regulatory Affairs  
Department of Energy  
101 Commerce Street  
Newark, New Jersey 07102

The agency proposal follows:

### Summary

The Used Oil Recycling Regulations govern the collection, disposal and recycling of used motor oils. The rules were originally adopted on June 25, 1980. Pursuant to Executive Order No. 66(1978) the rules expired June 27, 1985. The purpose of the regulations is to conserve non-renewable petroleum resources, to preserve and enhance the quality of the environment, and to protect the public health and welfare.

The regulations require individuals who change their own engine oil to bring the used oil for recycling to any motor vehicle re-inspection station, gasoline service stations, and retail stores that sell motor oil and have collection tanks on their premises. These used oil collection sites are required to accept without charge up to five gallons of used oil per day from any person. The regulation requires each collection site to post a sign informing the public that it is a collection site for the disposal and recycling of used motor oil. Each collection site must transfer used oil only to a used oil hauler, a used oil recycler, or a used oil storage facility who complies with the Department of Environmental Protection's special waste manifest system, N.J.A.C. 7:26-7.

All oil retailers who sell to consumers more than 500 gallons of lubricating or other oil annually in containers for use off the retailers' premises are required to post a sign informing the public of the importance of the proper collection and disposal of used oil, and how and where used oil may be properly disposed.

### Social Impact

The regulations will have a positive social impact by promoting the conservation of a valuable energy resource while preserving and enhancing the quality of the environment. The regulations further these ends by requiring individuals to bring used motor oil to designated collection sites and by requiring collection sites to accept the used oil, to post a sign informing the public that it is a collection site, and to transfer the used oil only to used oil haulers who comply with the Department of Environmental Protection's regulations. Retailers of virgin motor oil are also required to post a sign informing the public of the importance of proper collection of used motor oil.

### Economic Impact

The monitoring, administration and enforcement of the regulations will have a limited economic effect on the Department. The Department will not be required to spend any funds beyond those already being spent for personnel to administer the regulations. The Department may incur printing and mailing costs for the production of more permanent used oil signs and public education materials.

Oil retailers and service stations will not incur any additional costs in posting the required signs and the acceptance of used oil from the public. Increased quantities of used oil collected by oil retailers and service stations and subsequently sold to haulers, will result in increased revenues for station operators and oil retailers.

It is anticipated that energy dollar savings will result since used oil takes about one half as much energy as refining crude oil.

### Environmental Impact

The improper disposal of used oils have been identified by the New Jersey Department of Environmental Protection as a hazardous waste. Further, the United States Environmental Protection Agency has issued a Chemical Advisory regarding the potential risks to the environment from the exposure and improper disposal of used motor oil. On January 11, 1985, the Environmental Protection Agency issued proposed regulations to regulate used oil collected and burned for energy recovery in boilers and industrial furnaces. According to state and federal scientists used oil is harmful to the environment if it is not properly handled.

The regulation will have a positive environmental impact because it impresses upon the public the importance of properly disposing, collecting, and recycling used motor oil. The regulations will assist in keeping used oil from being mixed with refuse and taken to landfills where it leaches into surrounding areas. Also, the regulation will help the environment by fostering the recycling of used oil into clean oil for fuel and lubrication purposes.

Full text of the proposed new rule follows:

## SUBCHAPTER 11 USED OIL

### 14A:3-11.1 Short title

This subchapter shall be known and may be cited as the "Used Oil Recycling Regulations".

### 14A:3-11.2 Scope and purpose

(a) Unless otherwise provided by statute or rule, this subchapter shall govern the collection, storage, recycling, use and disposal of used oil.

(b) The purpose of this subchapter is to conserve nonrenewable petroleum resources, to preserve and enhance the quality of the environment, and to protect the public health and welfare.

### 14A:3-11.3 Definitions

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

"Department" means the New Jersey Department of Energy.

"Oil retailer" means any person who sells to consumers more than 500 gallons of lubricating or other oil annually in containers for use off the retailer's premises.

"Recycle" means to prepare used oil for reuse as a petroleum product or petroleum product substitute by refining, re-refining, reclaiming, reprocessing, or to use used oil in a manner that substitutes for a petroleum product made from new oil.

"Used oil" means a petroleum based on synthetic oil which is used in an internal combustion engine as an engine lubricant, or as a product used for lubricating transmissions, gears or axles, which through use, storage or handling has become unsuitable for its original purpose due to the presence of chemical or physical impurities or loss of original properties.

"Used oil collection site" means any Division of Motor Vehicles reinspection station, oil retailer, or retail service station, which has a used oil collection tank(s) existing on the premises, or any site which accepts used oil for recycling.

"Used oil collection tank" means any tank, whether above or below ground, into which used oil is drained.

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"Used oil hauler" means any person who collects and transports more than 500 gallons of used oil annually over public highways.

"Used oil recycler" means any person who recycles more than 5,000 gallons of used oil annually.

"Used oil storage facility" means any place that receives more than 10,000 gallons of used oil annually, but does not include a used oil collection site.

### 14A:3-11.4 Standard

(a) No person shall dispose of used oil except to a used oil collection site. However, no person shall dispose of more than five gallons of used oil per day to any used oil collection site.

(b) No person shall discharge water, antifreeze, industrial waste or any other contaminant into a used oil collection tank.

### 14A:3-11.5 Posting requirements

(a) All oil retailers shall post and maintain, at or near the point of sale, a durable and legible sign, not less than 11 inches X 15 inches in size, informing the public of the importance of the proper collection and disposal of used oil, and how and where used oil may be properly disposed of.

(b) All operators of used oil collection sites shall post and maintain a durable and legible sign not less than 11 inches X 15 inches in size, so that it is easily visible to the public, informing the public that it is a collection site for the disposal of used oil.

### 14A:3-11.6 Used oil collection sites

(a) All used oil collection sites shall accept without charge up to five gallons of used oil per day from any person. No used oil collection site shall accept more than five gallons of used oil per day from any person.

(b) The operator of a used oil collection site shall collect used oil in a manner which is safe for users of the site.

(c) The operator of a used oil collection site shall transfer used oil only to a used oil hauler, a used oil recycler, or the operator of a used oil storage facility who complies with the Department of Environmental Protection's special waste manifest system, N.J.A.C. 7:26-7.

### 14A:3-11.7 Used oil haulers

(a) All used oil haulers shall comply with the Department of Environmental Protection's special waste manifest system, N.J.A.C. 7:26-7. Compliance with N.J.A.C. 7:26-7 shall include the total amount collected, and an itemization of the amounts transferred to other used oil haulers, used oil storage facilities, used oil recyclers, including those facilities not located in the State of New Jersey.

(b) Used oil haulers shall transfer use oil only to other used oil haulers, used oil storage facilities or used oil recyclers who comply with N.J.A.C. 7:26-7.

### 14A:3-11.8 Used oil products

(a) Any product made in whole or in part from used oil may be represented as substantially equivalent to a product made from new oil for a particular use if substantial equivalency has been determined in accordance with rules prescribed by the Federal Trade Commission under Section 383(d)(1)(A) of the Energy Policy and Conservation Act (P.L. 94-163) or if the product conforms fully with specifications applicable to that product made from new oil. Otherwise the product shall be represented as made from used oil.

(b) To assure conformance with the minimum standards for recycled oil, the Department may require oil recyclers to conduct, or may cause to be conducted, appropriate laboratory analysis of samples of recycled oil.

## TRANSPORTATION

Proposals numbered PRN 1985-408 and 410 are authorized by Roger A. Bodman, Commissioner, Department of Transportation.

Submit comments by September 4, 1985 to:

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

(a)

### THE COMMISSIONER

#### Vehicles Exempted from the Table of Maximum Gross Weights Temporary Exemptions

#### Proposed Amendment: N.J.A.C. 16:32-2.3.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:3-84 and 39:3-84.1.

Proposal Number: PRN 1985-408.

The agency proposal follows:

#### Summary

On April 15, 1985, the Department of Transportation adopted regulations providing for temporary exemptions for specified classes of vehicles from the Table of Maximum Gross Weights or "bridge formula". The bridge formula is a mathematical formula, sometimes expressed as a table, which uses axle weights and distance between axles to compute an adjusted gross weight for a vehicle. Federal law requires states to enforce the bridge formula on the Interstate highway system.

The temporary exemptions adopted on April 15 at N.J.A.C. 16:32-2.3 were authorized by the Federal Highway Administration (FHWA) as phase-out periods for certain classes of vehicles where justified by economic hardship criteria. As authorized by FHWA, these exemptions were to be limited to vehicles registered in New Jersey. Since enforcement of the bridge formula has begun, it has become apparent that restricting the temporary exemptions to New Jersey registered vehicles has had two serious negative consequences. First, it has caused the appearance of unfair discrimination against out-of-state truck operators, who have been receiving summonses for violations of the bridge formula for operating vehicles that would be legal if they were registered in New Jersey. Second, it has caused disruption, uncertainty and financial hardship to individuals engaged in certain businesses which depend on interstate commerce.

The Department believes that it would be appropriate to grant relief to out-of-state vehicles which would have a temporary exemption from the bridge formula if they were registered in New Jersey. Accordingly, the proposed amendment would revise the temporary exemptions regulation to replace the limiting phrase "registered in the State of New Jersey" with the phrase "when operated in the State of New Jersey", to be retroactive to

## PROPOSALS

## TRANSPORTATION

April 15, 1985. FHWA has advised the Department that adoption of the proposed amendment would not bring New Jersey into a state of noncompliance with federal law.

### Social Impact

The proposed amendment would relieve a perceived inequity arising from the fact that out-of-state vehicle operators are now liable to receive a summons for violation of the bridge formula for operating a vehicle that would be legal if registered in New Jersey and to also know that this is retroactive to April 15, 1985.

### Economic Impact

The proposed amendment would relieve the present burden on interstate commerce caused by the "New Jersey only" rule.

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

#### 16:32-2.3 Temporary exemptions

(a) Under authority granted by N.J.S.A. 39:3-84.1; [(b)] (c) the following classes of vehicles [registered] **when operated** in the State of New Jersey are exempted from compliance with the Table of Maximum Gross Weights, N.J.S.A. 39:3-84b(5), known as the "federal bridge formula," until October 1, 1988.

1.-9. (No change.)

**(a)**

## AERONAUTICS

### Air Safety and Hazardous Zoning Development Permits; Nonconforming Uses; Implementation Deadlines

#### Proposed New Rules: N.J.A.C. 16:62-8, -9 and -10

#### Proposed Amendment N.J.A.C. 16:62-5.1

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-32 and "Hazardous Zoning Act of 1983," P.L. 1983, c.260.

Proposal Number: PRN 1985-410.

The agency proposal follows:

#### Summary

The new rules are proposed to implement the provisions and purposes of the Air Safety and Hazardous Zoning Act of 1983, P.L. 1983 Chapter 260, approved July 7, 1983. Additionally, the new rules provide guidelines to be followed by municipalities in the development of ordinances to conform with the provisions of the rules. They also outline the application process for permits, the provisions for land uses not conforming to the standards of the rule and establish deadlines for the implementation of ordinances.

The Act recognizes that special land use controls and restrictions on vertical development should be implemented for the areas adjacent to airports open to the public. The legislature has mandated that the further development of lands adjacent to these airports must be done in a manner to prevent the development of potential hazards and to encourage compatible adjoining land use and land use planning. Neither the Act nor the rules promulgated thereunder may interfere with the continuance of any nonconforming use.

The standards for land use adjoining affected Airports specifically permit a municipality to implement, at its discretion, a wide range of land use options. The regulatory program established by the Department is intended to provide guidance to local municipalities in implementing the provisions of the Act, while at the same time preserving the greatest possible degree of local municipal discretion and control in land use matters.

Zoning and land use schemes around airports vary widely across the State. The rules implementing the provisions of the Act will serve to reduce and correct, over time, these undesirable situations.

The proposed subchapters are summarized as follows:

N.J.A.C. 16:62-8, prescribes the provisions for developments immune to local ordinances.

N.J.A.C. 16:62-9, governs existing land uses not conforming to standards.

N.J.A.C. 16:62-10, establishes the time frame for implementation of the rules.

### Social Impact

The new rules will reduce the development of adjacent non-compatible land uses, outline the permit application process and establish deadlines for the implementation of ordinances. Since the local government unit is the primary level decision making authority, those individuals closest to the local situations will have significant control over the land use choices made, and allow for the implementation of uniform overall principles conditioned by specific local concerns.

### Economic Impact

The new rules will have an economic impact on the local municipalities by the adoption of ordinances redirecting the focus of land use around airports. By reducing land use conflicts, the new rules will enhance the economic vitality of lands adjacent to airports. The wide variety of options available to implementing municipalities should encourage the full economic development of affected lands.

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

## CHAPTER 62

### 16:62-5.1 Minimum land use standards

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

**(c) Municipalities shall, when developing land use ordinances to conform with the provisions of this chapter, adopt general land use provisions within the ordinance to minimize unwarranted concentrations of persons within Airport Hazard Areas, especially along the extended runway centerlines within RUNWAY AND SUBZONES.**

## SUBCHAPTER 8. PERMITS FOR DEVELOPMENTS IMMUNE TO LOCAL ORDINANCE

### 16:62-8.1 General provisions

(a) In the event of a proposed development within an Airport Hazard Area which is immune to local ordinance, the standards of this chapter still apply to such proposed development.

(b) Any persons proposing a development immune to local ordinance within an Airport Hazard Area shall make application to the Department in accordance with N.J.A.C. 16:62-6.1 and 16:62-6.3. The requirement for local approval under N.J.A.C. 16:62-6.2 and 6.3(a)2 is waived, and the permit application fee under N.J.A.C. 16:62-6.3(a)5 is waived.

TREASURY-TAXATION

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(c) The Department shall review application for permits for developments immune to local ordinance in a manner with other applicable provisions of this chapter.

SUBCHAPTER 9. EXISTING LAND USES NOT CONFORMING TO THE STANDARDS OF THIS CHAPTER

16:62-9.1 General provisions

(a) No ordinance adopted under this chapter shall require the removal or lowering of, or other change or alteration of any structure or tree not conforming to the rules when this chapter was adopted.

(b) Within the context of an ordinance adopted to conform with the standards of this chapter, a preexisting land use not in conformance with the rules may, at the discretion of the municipality, be classified within such an ordinance as either "nonconforming" or "conditional". For such preexisting land uses, a property owner may seek and a municipality may grant on a one time basis, up to a ten percent expansion of such a nonconforming or conditional use without having to obtain a permit from the Commissioner under the provisions of this chapter.

(c) The provision in (b) above allowing up to a ten percent one time expansion of preexisting land use not in conformance with the rules of this chapter applies to land use provisions of this chapter only.

Expansion of a vertical development not in conformance with the rules of this chapter may be done only after the granting of a permit from the Commissioner, under the provisions of this chapter.

SUBCHAPTER 10. IMPLEMENTATION DEADLINES

16:62-10.1 General provisions

(a) Municipalities affected by the provisions of this chapter shall adopt ordinances implementing the standards of this chapter within 12 months of the adoption of this chapter.

(b) Upon the adoption of this chapter, no municipal body may grant variances or subdivisions in an Airport Hazard Area under their existing ordinances whose purpose would be contrary to the standards of this chapter.

SUBCHAPTER [8.]11. LIABILITY  
(No change in text.)

TREASURY-TAXATION

(a)

TREASURY

DIVISION OF TAXATION

Local Property Tax  
Assessor Qualification Law  
Assessor Duties

Proposed New Rule: N.J.A.C. 18:17-4.1

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

Authority: N.J.S.A. 54:1-35.25 et seq., specifically 54:1-35.34.

Proposal Number: PRN 1985-406.

Submit comments by September 4, 1985 to:  
John C. Raney,  
Superintendent  
Local Property Tax Branch  
Division of Taxation  
CN 52  
Trenton, NJ 08646

The agency proposal follows:

Summary

This proposal amends the rules of the Division of Taxation regarding administrative and enforcement procedures in order to conform with the decisional mandate set forth in the case of *Susan Belles v. East Amwell Township*, 2 N.J. Tax (1980). Under this decision, a municipality failing to list any added or omitted assessments on a tax search is estopped from asserting a lien for the representative amounts against a property with respect to which a tax search has been requested. The proposed new rule will require the tax assessor to review his records and report any such pending or prospective liens to the officer making the municipal lien search. Under the law, such a searching officer is required to provide a complete search to the requesting party within 15 days.

Social Impact

The proposed new rule and the action required thereby will enhance the administration of existing laws in accordance with the court's mandate. A similar rule has been adopted by the Department of Community Affairs governing like responses to be performed by municipal building inspectors at the request of the municipal search officer.

Economic Impact

It was concluded at a meeting of the Assessors, Collectors and County Tax Board Administrators Liaison Committee that municipalities stand to lose thousands of dollars on added and omitted assessments if the information covered by the proposed new rule is not provided to requesters of searches on an orderly and timely basis.

Full text of the proposed new rule follows.

SUBCHAPTER 4. ASSESSOR DUTIES

18:17-4.1 Administrative and enforcement duties and procedures

Not later than five business days following a written request from the municipal search official for the same, the assessor shall, on a form prescribed by the Director, notify the said municipal tax search official of his intention to place, or the existence of, an added, omitted, rollback or other assessment respecting subject property, setting forth the nature of the assessment and the exact lot and block designations of the property to be affected by such additional assessment.

OTHER AGENCIES

HACKENSACK MEADOWLANDS  
DEVELOPMENT COMMISSION

**PROPOSALS**

**OTHER AGENCIES**

Proposals numbered PRN 1985-414 and 415 are authorized by the Hackensack Meadowlands Development Commission, Anthony Scardino, Jr., Executive Director.

A public hearing concerning these proposals will be held on September 4, 1985 at 9:30 A.M. at:

Hackensack Meadowlands Development  
Commission  
One DeKorte Park Plaza  
Lyndhurst, New Jersey 07071

Submit comments by September 4, 1985 to:

Perry E. Frenzel, Chief Engineer  
Hackensack Meadowlands Development  
Commission  
One DeKorte Park Plaza  
Lyndhurst, New Jersey 07071

**(a)**

**District Zoning Regulations  
Variances**

**Proposed Amendment: N.J.A.C. 19:4-4.142**

Authority: N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i) and N.J.A.C. 19:4-6.27.

Proposal Number: PRN 1985-414.

The agency proposal follows:

**Summary**

The proposed amendment to 19:4-4.142 of the Hackensack Meadowlands District Zoning Regulations will introduce a new criterion to the standards for granting zoning variances from those regulations. The proposed amendment would permit "special reasons" to be considered at the time a variance is being evaluated as an alternative to the present requirement that an applicant prove hardship and peculiar or unique property characteristics. "Special reasons" are those which promote the purposes of the zoning by promoting safety, desirable visual environment and an increase of benefits that substantially outweigh any detriment caused by the variances. The adoption of this proposed change would be in conformance with the established by the Municipal Land Use Law already implemented throughout the rest of the State.

**Social Impact**

The proposed amendment will permit the HMDC to approve variances from the strict bulk and use requirements of the regulations where such variances will promote the intent and purposes of the HMDC Master Plan and the District Zoning Regulations. The proposed change is expected to result in the enhancement and general upgrading of conditions at existing sites and areas, especially those resulting from non-conforming uses. Other existing areas which can benefit from the proposed change are those with less than desirable aesthetic value, safety features or other subgrade development conditions. The proposed change will also provide the administrative tool necessary to encourage and foster use changes in various zones that would provide for and serve the needs of those areas not otherwise provided for in the regulations.

**Economic Impact**

The proposed amendment will encourage the continued development and redevelopment of the Meadowlands District, generate additional construction and permanent employment opportunities, and generate additional tax revenues for the counties and municipalities. The changes will also promote a greater interest in and utilization of the Meadowlands District and its employment, housing and recreational opportunities. As a result, property values are expected to increase along with an interest in all types of development.

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

19:4-4.142 Variances

(a) The Executive Director may authorize such variances from the terms of these regulations as will not be contrary to the public interest in accordance with the standards set forth in [subsection (e) herein] **(e) below** upon a determination that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the applicant **or due to special reasons departure from the regulations is warranted in a particular case.**

(b) (No change.)

(c) An application for a variance, together with an application for a zoning certificate, shall be filed with the Office of the Chief Engineer. The application shall contain the following information as well as such additional information as may be prescribed by rule of the Office of the Chief Engineer:

1.-4. (No change.)

5. **The special reasons, if any, which warrant a departure from the regulations.**

(d) (No change.)

(e) A variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that:

1. [The] **Either the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone, and is not created by an action or actions of the property owner or the applicant; or special reasons exist in the particular case which warrant a departure from the regulations.**

2. (No change.)

3. [The] **Either the strict application of the provisions of these regulations from which a variance is requested will result in peculiar and exceptional practical difficulties to, or exceptional an undue hardship upon the property owner represented in the application; or special reasons exist in the particular case which warrant departure from the regulations.**

4.-6. (No change.)

(f) **A special reason is one which advances the purpose of the zoning and which includes promotion of safety and health, appropriate use of the property and promotion of desirable visual environment. A special reason is also one by which the purposes of the zoning would be advanced by a deviation from the requirements of these regulations and the benefits would substantially outweigh any detriment, which would result from the proposed deviation.**

[(f)](g) (No change in text.)

[(g)] (h) Within eight weeks of the close of the public informational hearing, the Chief Engineer shall submit a recommended form of decision to the Executive Director regarding the submitted variance application. The Executive Director shall review the findings, conclusions, and recommendations of the Chief Engineer and shall state his acceptance, rejection or

modification of the Chief Engineer's recommendation. In the event that the Executive Director's decision is a denial of the variance application or is a recommended approval with conditions, the Executive Director, in forwarding a copy of the decision to the applicant, shall advise the applicant if its right to a hearing before an administrative law judge pursuant to the regulations of the Office of Administrative Law.

1. Approvals of variance application not subject to conditions are not affected by [(h)] (i) and [(i)] (j) below and no hearing other than an informational hearing shall be required.

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

Redesignate existing (h) through (k) as (i) through (l) (No change in text.)

**(a)**

**District Zoning Regulations  
Official Zoning Map**

**Proposed Amendment: N.J.A.C. 19:4-6.28**

Authority: N.J.A.C. 13:17-1 et seq., specifically 13:17-6(i) and N.J.A.C. 19:4-6.27.

Proposal Number: PRN 1985-415.

The agency proposal follows:

**Summary**

The proposed amendment to the Hackensack Meadowlands District Official Zoning Map consists of a change in zoning designation of a portion of Block 180, Lot 1 and all of Lots 2 through 5 in Ridgefield, New Jersey (commonly known as the Meadowlark parcel) from Marshland Preservation to Light Industrial "B". The portion of the subject property to be rezoned is approximately 70 ± acres.

**Social Impact**

The proposed zoning change to the Meadowlark parcel of land in Ridgefield is necessary because the property in question is no longer subject to the State's Riparian Claim of Interest. Portions of the subject site consist of fill areas.

**Economic Impact**

The proposed zoning change will permit development of the Meadowlands property consistent and compatible with adjacent lands.

Full text of the proposal follows (additions indicated in bold-face thus).

19:4-6.28 Official zoning map

The Hackensack Meadowlands District official zoning map dated November 8, 1972, is hereby made a part of these rules and regulations of the Hackensack Meadowlands Development Commission.

OFFICE OF ADMINISTRATIVE LAW NOTE: A map showing the proposed change in zoning designation was submitted as part of the Commission's notice of proposed rule. The proposed change follows:

**The zoning designation of Block 180, portion of Lot 1 and Lots 2 through 5 in their entirety, in Ridgefield, New Jersey from Marshland Preservation to Light Industrial "B". The subject property consists of approximately 70 ± acres.**

**(b)**

**NEW JERSEY ECONOMIC  
DEVELOPMENT AUTHORITY**

**Targeting of Authority Assistance**

**Proposed Amendment: N.J.A.C. 19:30-4.4**

Authorized By: James J. Hughes, Jr., Executive Director, New Jersey Economic Development Authority.

Authority: N.J.S.A. 34:1B-1 et seq., specifically 34:1B-5(1).

Proposal Number: PRN 1985-400.

Submit comments by September 4, 1985 to:

Gary Nadler  
Manager of Administration  
New Jersey Economic Development Authority  
Capital Place One  
200 South Warren Street, CN 990  
Trenton, N.J. 08625

The agency proposal follows:

**Summary**

The New Jersey Economic Development Authority ("Authority") is proposing to amend its targeting regulations which have been in effect since July 1, 1979.

The primary purposes of the Authority's programs are to retain or expand job opportunities and enlarge the tax base of the State and its local governments. The targeting regulations set forth the requirements for eligibility for the Authority's financial assistance. N.J.A.C. 19:30-4.

The purpose of targeting is to encourage development in economically distressed municipalities. Several kinds of projects have been exempted from those requirements pursuant to N.J.A.C. 19:30-4.4. Basically, manufacturing and industrial projects, health care facilities, certain projects available to the general public, transportation, wholesale trade, agriculture and computer projects need not be located in targeted municipalities. These projects are deemed to be of considerable public benefit to the State as a whole.

The Authority recognizes that projects undertaken by non-profit organizations are unique and tend to be undertaken for the benefit of specific locations. The Authority has considered these projects to be of general benefit to the public. In practice, the Authority has determined that such projects are not subject to the targeting restrictions. The Authority has proposed this amendment to N.J.A.C. 19:30-4.4 to provide formal notice of its interpretation of the targeting regulations in this regard.

**Social Impact**

The impact of the Authority's targeting regulations is of an economic nature. However, the Authority's assisting business expansion and creating jobs in the State certainly enhances the social environment of those affected.

**Economic Impact**

Since the purpose of this amendment is to confirm that it has been the Authority's practice to interpret the targeting regulations so as to allow for the provision of Authority assistance to projects undertaken by tax-exempt entities irrespective of location, there may be no significant economic impact effected by

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the proposed amendment. However, it is possible that the number of non-profit entities seeking assistance from the Authority may increase as a result of the Authority's formal inclusion of projects undertaken by tax-exempt organizations among those projects deemed to be eligible for Authority assistance regardless of location.

Full text of the proposal follows (additions indicated in bold-face thus).

### 19:30-4.4 Projects exempted

(a) Notwithstanding the provisions of N.J.A.C. 19:30-4.1:

1. The following projects shall be eligible for Authority financial assistance regardless of location:

- i. Agriculture, forestry and fishing;
- ii. Construction industry;
- iii. Manufacturing;
- iv. Transportation, communication, electric, gas and sanitary sewers;
- v. Wholesale trade;
- vi. Motion picture production, distribution and allied services;

vii. Research, development, medical and commercial testing laboratories;

viii. Proprietary hospitals, nursing homes and outpatient care facilities;

ix. Data processing, business, secretarial and vocational schools, except vocational high schools;

x. Computer and data processing services;

xi. Facilities described in Section 103(c)(4) and (5) of the Internal Revenue Code (6 U.S.C. 103(c)(4) and (5)), which include:

(1) Airports, docks, wharves, mass commuting facilities, parking facilities, storage or training facilities; and

(2) Convention or trade show facilities; and

(3) Industrial pollution control projects.

xii. An office building in which a single user occupies a minimum of 20,000 square feet of total rental square feet;

**xiii. Projects undertaken by organizations which qualify for exemption from taxation pursuant to Section 501(c) of the Internal Revenue Code (26 U.S.C. 501(c)).**

(b) (No change.) \_\_\_\_\_

# RULE ADOPTIONS

## EDUCATION

### (a)

#### STATE BOARD OF EDUCATION

#### Standards for Determining Seniority

#### Adopted Amendments: N.J.A.C. 6:3-1.10

Proposed: May 6, 1985 at 17 N.J.R. 1033(b).

Adopted: July 3, 1985 by State Board of Education,  
Saul Cooperman, Secretary.

Filed: July 12, 1985 as R.1985 d.397, with technical changes not requiring additional public notice and comment (N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-10, 18A:4-15 and 18A:28-9 et seq.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): June 1, 1988.

#### Summary of Public Comments and Agency Responses:

The Department received one letter and heard public comments from two persons on the proposed rules:

1. Protest against elementary endorsed persons being "stripped" of secondary seniority by the rule change.
2. Protest against alleged prohibition of elementary endorsed individuals from teaching in departmentalized grades 7 and 8.
3. Argue that experience is the greatest teacher and therefore most senior teacher endorsed to teach a particular subject should be accorded the right to do so.
4. Departmentalized instruction is not defined.
5. Contend that seniority rights of teachers should not be dependent upon local decision of how the upper elementary grades are organized.
6. Seniority rights previously earned should not be "stripped away".
7. Seniority rules which previously prevailed did not have to be changed. Change merely computed seniority in a different but not better way.
8. Changes have resulted in increased legal challenges with concomitant increases in legal costs.
9. With enrollment about to increase, there was little need to revise seniority regulations.
10. Seniority should be related to certification and individuals should receive seniority anywhere within their certification.
11. Department's revision of seniority rules in 1983 was not based upon any evidence or research data.
12. Support declaratory judgment but suggest modification. Request that phrase "... may continue to serve..." be eliminated because such language implies that elementary endorsed persons can no longer serve in departmentally organized grades 7 and 8.
13. Recommend a technical change that language discussing secondary category not be broken down under separate sub-

categories because it is inconsistent with the format of the rest of the regulations, particularly the section dealing with the definition of the secondary category.

The Department's response is as follows:

1. The rule does not strip elementary endorsed individuals of secondary seniority earned prior to 1983 since the pre-1983 rules did not accord endorsed persons seniority in the secondary category.
2. The rule change proposed does not prohibit persons with elementary endorsement from teaching in departmentally organized grades 7 and 8; it merely defines the scope of the seniority earned in such an assignment.
3. The concept that overall experience should accord a teacher seniority in all areas and subjects endorsed to teach has been a fundamental principle rejected in the 1983 revision in favor of according seniority on the basis of experience in teaching the subject or level.
4. While "departmentally organized grades" has not been defined, the pre-1983 regulations used the same term which is a "term of art" widely used in education and quite well understood by practitioners.
5. The regulations are predicated on the premise that local districts should be free to organize instruction in a manner consistent with their educational philosophy and not be required to employ teachers in positions for which they had not been selected.
6. Seniority rights are not accrued until there is an actual reduction in force, therefore nobody has inherent seniority rights until such time as it is necessary to assert them.
7. The Commissioner and the State Board have determined that individuals should not earn seniority in subject areas and levels not taught and that such an outcome is preferable to persons earning seniority in subjects that they have never taught.
8. Legal challenges to seniority determinations have been on the increase ever since reductions in force became commonplace. These suits increased prior to the onset of the new regulations and will likely continue to increase as long as reductions in force are necessary.
9. While enrollment may be increasing in some grade levels and districts, reductions in force are still ongoing and therefore the seniority regulations do need to be revised in a manner consistent with the principles of what is educationally most sound.
10. The response to this concern is answered in number 7 above.
11. The revised seniority rules do not claim to be based upon specific research findings but are predicated upon the simple premise that experience in actually teaching a specific subject or level is preferable to the mere possession of a certificate which enables one to do so.
12. The recommendation to delete the phrase "... may continue to serve..." from the section on the elementary category was adopted (N.J.A.C. 6:3-1.10(1)16).
13. The technical comment upon the lack of uniformity in the format between the description of the elementary and secondary categories was dealt with by presenting the description of the secondary category in the same format as the elementary (N.J.A.C. 6:3-1.10(1)15).

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Full text of the adoption follows (additions shown in boldface with asterisks **\*thus\***; deletions shown in brackets with asterisks **\*[thus]\***).

6:3-1.10 Standards for determining seniority

(a)-(k) (No change.)

(l) The following shall be deemed to be specific categories but not necessarily numbered in order of precedence:

1.-14. (No change.)

15. Secondary. The word "secondary" shall include grades 9-12 in all high schools, grades 7-8 in junior high schools, and grades 7-8 in elementary schools having departmental instruction.

i. Any person holding an instructional certificate with subject area endorsements shall have seniority within the secondary category only in such subject area endorsement(s) under which he or she has actually served.

ii. Whenever a person shall be reassigned from one subject area endorsement to another, all periods of employment in his or her new assignment shall be credited toward his or her seniority in all subject area endorsements in which he or she previously held employment.

iii. Any person employed at the secondary level in a position requiring an educational services certificate or a special subject field endorsement shall acquire seniority only in the secondary category and only for the period of actual service under such educational services certificate or special subject field endorsement.

iv. Persons employed and providing services on a district-wide basis under a special subject field endorsement or an educational services certificate shall acquire seniority on a district-wide basis.

16. Elementary. The word "elementary" shall include Kindergarten, grades 1-6 and grades 7-8 without departmental instruction.

i. District boards of education who make a determination to reorganize instruction at grades seven and eight pursuant to these rules must do so by adoption of a formal resolution setting forth the reasons for such reorganization.

ii. Any person employed at the elementary level in a position requiring an educational services certificate or a special subject field endorsement shall acquire seniority only in the elementary category and only for the period of actual service under such educational services certificate or special subject field endorsement.

iii. Persons employed and providing services on a district-wide basis under a special field endorsement or an educational services certificate shall acquire seniority on a district-wide basis.

iv. Persons serving under elementary endorsements in departmentally organized grades **\*[seven] \*7\*** and **\*[eight] \*8\*** prior to September 1, 1983 shall continue to accrue seniority in the elementary category for all such service prior to and subsequent to September 1, 1983. In addition, such persons shall accrue seniority in the secondary category but limited to the district's departmentally organized grades **\*[seven] \*7\*** and **\*[eight] \*8\*** and the specific subject area actually taught in such departmentally organized grades, subsequent to September 1, 1983.

17. (No change.)

(m) (No change.)

**(a)**

**STATE BOARD OF EDUCATION**

**Pupil Transportation  
Standards for School Buses**

**Adopted Amendments: N.J.A.C. 6:21-5.1  
through 6:21-5.12**

**Adopted New Rules: N.J.A.C. 6:21-5.13  
through 6:21-5.24**

Proposed: May 6, 1985 at 17 N.J.R. 1035(a).

Adopted: July 3, 1985 by State Board of Education,  
Saul Cooperman, Secretary.

Filed: July 12, 1985 as R.1984 d.396, **without change.**

Authority: N.J.S.A. 18A:4-15 and 18A:39-21.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66  
(1978): June 1, 1988.

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

Full text of the adoption follows.

6:21-5.1 School bus standards

(a) The State Board of Education authorizes the use of Standards for School Buses and Operations, National Minimum Standards for School Buses, 1980 Revised Edition, which are issued as recommendations of the Ninth National Conference on School Transportation. These standards are divided into sections covering definitions, chassis standards and body standards. The purpose is to define school buses, minimum chassis and body standards and assign responsibility for providing the defined equipment. Only pages 1 through 34 of the 1980 revised edition of Standards for School Buses and Operations (future editions, subsequent amendments and supplements, covering definitions and school bus chassis and body standards), are incorporated by reference and hereby adopted as a rule.

1. This document is available for review at the Office of Pupil Transportation, Division of Finance, New Jersey Department of Education, 1676 North Olden Avenue, Trenton, New Jersey 08638, or at the Office of Administrative Law, CN 301, Trenton, New Jersey 08625.

2. This document may be purchased from the National Safety Council, 444 North Michigan Avenue, Chicago, Illinois 60611.

6:21-5.2 Parking brakes

(a) The section on parking brakes, found at page 6, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. The parking brake shall hold the vehicle stationary, or to a limit of traction of the braked wheels, on a 20 percent grade under any condition of legal loading and on a surface free from snow, ice and loose material.

2. When applied, the parking brake shall remain in an applied position with the capacity set forth in 1 above, despite exhaustion of the source of energy used for the application or leakage of any kind.

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3. A parking brake level shall be mounted to the right of the driver on Types C and D buses and in a position that is easily accessible. On Types A and B buses, the parking brake lever may be mounted to the left of the driver.

4. The parking brake shall be equipped with an on or off warning device.

**6:21-5.3 Exhaust system**

(a) The section on exhaust systems, found at page 9, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. An exhaust system shall not exit under any operating window of a bus.

**6:21-5.4 Instruments and instrument panel**

(a) The section on instruments and instrument panel, found at page 11, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. All gauges and instruments must be appropriately identified.

2. Telltale light, plainly visible to the driver, shall be installed to give a positive indication of the operation of the stop lights.

**6:21-5.5 Transmission**

(a) The section on transmissions, found at page 14, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. A shifting control pattern shall be affixed to a point convenient to the driver.

2. There shall be a detent on the automatic transmission shift level to insure that the transmission cannot accidentally move from neutral to a drive gear without driver effort.

3. School buses not equipped with park position on the shift control selector for automatic or semi-automatic transmissions shall be equipped with a heavy duty parking brake.

**6:21-5.6 Doors**

(a) The section on doors, found at page 17, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. When a bus is equipped with air doors or other air operated assemblies, excluding windshield wipers, an additional air tank is needed for the operation of those assemblies.

2. The emergency door shall be designed to be opened from the inside and outside of the bus and shall be equipped with a fastening device which may be quickly released, but is designed to offer protection against accidental release. Control of the fastening device from the driver's seat shall not be permitted.

3. The emergency door fastening device shall be equipped with a suitable electric plunger-type switch connected with a buzzer located in the driver's compartment. The switch shall be enclosed in a metal case, and wires leading from the switch shall be concealed in the bus body. The switch shall be installed so that the plunger contacts the farthest edge of the slide bar in such a manner so that any movement of the slide bar will immediately close the circuit on the switch and activate the buzzer.

4. The emergency door may be equipped with a locking system which incorporates an interlocking electrical circuit that prevents the bus from being started while the emergency door is locked.

**6:21-5.7 Identification**

(a) The section on identification, found at page 19, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. "Out of Service" signs, when installed, shall be placed front and rear, shall be of steel, aluminum or other durable

material, and shall be 25 inches in length and 12 inches in width. A center type fold sign shall be utilized and the hinge shall have a nonrusting pin.

2. The letters shall be arranged as follows:

OUT OF  
----- fold line  
SERVICE

3. The color of all lettering shall be green on a background of yellow.

4. The size of the letters shall be as set forth in the following table:

	HEIGHT	WIDTH	STROKE	SPACING
For the words OUT OF	three inches	two inches	1/2 inch	1/2 inch
For the word SERVICE	five inches	three inches	one inch	1/2 inch

5. The owning or operating organization shall be conspicuously identified in letters at least three inches high, located on each longitudinal side of the exterior of the bus. Such identification shall be completely horizontal and below the window line.

6. No advertisement of any kind shall be exhibited either on the interior or exterior of the schoolbus, with the exception that the manufacturer's and vendor's trade name(s) shall be permitted to be exhibited on the bus.

(b) For all school buses manufactured before June 20, 1983, the owner of said vehicles shall have a choice of conforming said vehicles to the specifications in (a) above or in the alternative shall be permitted to apply the following specifications:

1. School buses shall be identified with words "School Bus" printed in letters not less than eight inches high, located between the warning signal lamps, as high as possible without impairing visibility of the lettering on the front and rear of the vehicle. There shall be no other lettering on the front or rear of the vehicle, except that the words "Emergency Door" shall be applied on the emergency door.

2. The "Out-of-Service" signs shall meet the specifications described in (a)1 through 6 above.

**6:21-5.8 Lamps and signals**

(a) The section on lamps and signals, found at page 20, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. Types A and B buses shall install incandescent signal lamps.

2. Types C and D buses shall use either the incandescent or strobe lamps.

3. Interior lamps shall be provided which adequately illuminate the aisle and step-well.

4. All lamps and their installation shall be of a type approved by the Director of the Division of Motor Vehicles.

5. If strobe lamps are utilized, the front and rear signal lamps on each school bus shall be equipped with eight electronic strobe lamps, four red and four amber, working in an automatic integrated system. The warning lamps shall be of a type approved by the Director of the Division of Motor Vehicles, Department of Law and Public Safety.

6. Eight Par 46 sealed beam type strobe lamps shall be utilized.

7. The solid-state strobe power supply shall provide the electrical power to energize the sealed beam flash tubes. The power supply shall energize the lamps at a combined alternating flash rate of 120-128 flashes per minute. The power supply shall be

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fully enclosed in a metal environment container with a minimum metal wall thickness of 0.060 inch.

8. The power supply shall be fully enclosed within the bulkhead.

(b) Item number 5, found at page 21, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and the following is substituted:

1. All buses shall be equipped with a monitor which monitors the front and rear school bus warning lamps of the school bus. The monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

(c) Item number 6, found at page 21, in the document referenced in N.J.A.C. 6:21-5.1 is deleted.

(d) For all school buses manufactured before June 20, 1983, the owner of said vehicles shall have a choice of conforming said vehicles to the specifications in (a), (b) and (c) above or in the alternative shall be permitted to apply the following specifications:

1. Each school bus shall be equipped with eight electronic strobe warning lamps, four red and four amber, working in an automatic integrated system. The warning lamps shall be of a type approved by the Director of the Division of Motor Vehicles, Department of Law and Public Safety.

2. The strobe lamps shall be matching in size and the color shall be uniform for both the red and amber. Light emission shall be measured by a photometer.

3. The strobe lamps shall be installed and maintained to specifications promulgated by the Director of the Division of Motor Vehicles, Department of Law and Public Safety.

4. Two front and two rear red lamps shall be located approximately six inches below the top of the bus, as near the sides as is possible, and equidistant from the center.

5. The four amber lamps shall be actuated by the driver approximately 300 feet prior to each school bus stop. The lamps shall be controlled by a foot switch located in front of the clutch pedal on the floor board. In the case where automatic transmissions are used, the foot switch shall be located in front of where the clutch pedal normally would have been located. Opening the entrance door shall turn off the amber lamps and turn on the red lamps and recycle the system automatically for the next stop.

6. Each strobe warning lamp shall have a monitoring device which gives positive visual indication, to the driver, of lamp status at all times.

7. Eight Par 46 sealed beam type strobe lamps shall be utilized.

8. Two independent dual alternative capacitive discharge solid-state strobe power supplies, one front and one rear, shall provide the required electrical power to energize the sealed beam flash tubes. The front power supply shall energize the front lamps at a combined alternative flash rate of 120-128 flashes per minute. The rear power supply shall energize the rear lamps at a combined alternating flash rate of 120-128 flashes per minute. Each power supply shall be fully enclosed in a metal environment container with a minimum metal wall thickness of 0.060 inch.

9. The front power supply shall be fully enclosed within the front bulkhead. The rear power supply shall be fully enclosed within the rear bulkhead.

## 6:21-5.9 Mirrors

(a) The section on mirrors, found at page 22, in the document referenced in N.J.A.C. 6:21-5.1 is amended by 1 below and is supplemented by 2 through 7 below to include the following:

1. The second paragraph of the subsection entitled exterior mirrors is deleted.

2. Types B, C and D school buses shall have two exterior convex type mirrors mounted forward, one to the left side and one to the right of the driver. Each mirror shall be a minimum of six by six inches overall, rectangular in shape and shall have a minimum 21 inch to a maximum 30 inch radius of curvature on the convex. Each mirror shall be firmly supported and adjustable to give the driver a clear view of the left rear wheels and the immediate adjacent area, and the right rear wheels and the immediate adjacent area.

i. Type A school buses shall have two exterior clear view, rearview mirrors mounted forward, below eye level, one to the left and one to the right of the driver and each mirror shall be firmly supported and adjustable to give the driver a clear view past the left rear and right rear of the vehicle. Outside rearview mirrors, as a minimum, shall be four inches wide by six inches high.

3. Mounting brackets shall be affixed to the bus so as to be securely fastened to the structural frame members of the bus body, or shall be affixed to the existing exterior rearview mirror mounting brackets.

4. The convex type mirrors shall not be a part of or attached to the exterior rearview mirrors.

5. The convex type mirror head and the rearview mirror head shall be mounted so as to have a minimum of two inches distance between the two mirrors.

6. Cross over mirrors shall have a minimum measurement of six and one-half inches at the base.

7. The size of the interior mirror on Type A school buses shall be according to manufacturers' standard.

## 6:21-5.10 Tailpipe

(a) The section on tailpipes, found at page 26, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. The tailpipe shall terminate up to a maximum of two inches beyond the rear bumper.

## 6:21-5.11 Windows and Windshield

(a) The section on windows, found at page 27, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. Glass in all side and rear windows shall be of AS-2 or better grade. Equivalent plastic AS-4 or better, can only be used in side windows of the bus.

2. The windshield shall have a horizontal gradient band starting slightly above the line of a driver's vision and gradually decreasing in light transmission to 20 percent or less at the top of the windshield. Glass in windshield shall be of AS-1 grade.

(b) For all school buses manufactured before June 20, 1983, the owner shall have a choice of conforming said vehicle to the specifications in (a) above or in the alternative shall be permitted to apply the following specifications:

1. All glass in the windshield, windows and doors shall be of approved safety glass, so mounted that a permanent mark is visible, and of sufficient quality to prevent distortion of the view in any direction.

2. Glass in the windshield shall be heat-absorbent, laminated plate. The windshield shall be large enough to permit the driver to see the roadway clearly, shall be slanted to reduce glare, and shall be installed between the front corner posts that are so designed and placed as to afford minimum obstruction to the driver's view of the roadway. Glass in windshield shall be of AS-1 grade.

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3. The windshield shall have a horizontal gradient band starting slightly above the line of the driver's vision and gradually decreasing in light transmission to 20 percent or less at the top of the windshield.

4. Glass in all side and rear windows shall be of AS-2 or better grade, as specified in the American National Standards Institute Code Z26.1-1977, "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," which with all subsequent amendments and supplements is hereby adopted as a rule.

i. This document is available for review at the Office of Pupil Transportation, 1676 North Olden Avenue, Trenton, New Jersey 08638, or at the Office of Administrative Law, CN 301, Trenton, New Jersey 08625.

ii. This document may be purchased from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

5. Each full side window shall provide an unobstructed emergency opening at least nine inches high and 22 inches wide, obtained by lowering of the window.

6. Knockout-type, split-sash windows may be used.

7. All exposed edges of glass shall be banded.

8. The windows in the rear of the bus shall be stationary.

**6:21-5.12 Special education vehicle standards**

(a) The section on special education vehicle standards is found at page 29 in the document referenced in N.J.A.C. 6:21-5.1. Type A school buses, found at page 33, is supplemented to include the following:

1. If a ramp device is installed, it shall have a non-skid surface and be securely stored and protected from the elements when not in use.

2. The ramp must have at least three feet of length for each foot of incline.

3. Seat belts or other suitable restraints shall be installed for each passenger including those seated in wheelchairs.

(b) The section on special service entrance doors, found at page 31, item number 9, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Each door shall be equipped with a device that will actuate a visual or audible signal located in the driver's compartment when the door is not securely closed and the ignition is in the "on" position.

(c) The section on aisles, found at page 32, item 1, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Any aisle leading from a wheelchair position to the emergency or exit door shall be a minimum width of 30 inches.

(d) The section on Type A school buses used for special transportation, found at page 33, item number 1, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Special education vehicles of more than 10 persons capacity shall have a Gross Vehicle Weight (G.V.W.) of 10,000 pounds or less.

**6:21-5.13 Horns**

(a) The section on horn, found at page 11, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Buses shall be equipped with dual horns of standard make. Each horn shall be capable of producing a complex sound in a band of audio frequencies between approximately 250 and 2,000 cycles per second and each having a total sound level of 110 decibels within these frequency limits. Sound shall be measured

at a point on the axis of the horn, three feet from the exit of the horn.

**6:21-5.14 Color chassis**

(a) The section on color, found at page 7, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Chassis, including front bumper shall be black. Cowl and fenders shall be in National School Bus Yellow. Hood may be painted National School Bus Yellow, low luster yellow or flat black. Wheels may be black, gray, silver or white. Grille shall be chrome or National School Bus Yellow.

**6:21-5.15 Color body**

(a) The section on color, found at page 16, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. Bus identification applied to a black background shall be of a contrasting color.

2. The words "Emergency Door" shall be applied to the emergency door, both inside and outside and shall be in red letters at least two inches high.

**6:21-5.16 Emergency doors**

(a) The section on emergency doors, found at page 17, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. On Types B, C and D school buses, the lower portion of the emergency door shall be equipped with a minimum of 350 square inches of approved safety glazing vision panel.

**6:21-5.17 Tires and rims**

(a) The section on tires and rims, found at page 13, item number 3, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. All tires on a school bus shall be of the same size.

**6:21-5.18 Drive shaft**

(a) The section on drive shaft, found at page 7, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Drive shaft shall be protected by a metal guard or guards to reduce the possibility of the drive shaft whipping through the floor or dropping to the ground if broken.

**6:21-5.19 Fuel tank**

(a) The section on fuel tank, found at page 10, item number 1, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. Type A school bus fuel tank(s) shall be according to manufacturers' standard.

**6:21-5.20 Heaters**

(a) The section on heaters, found at page 19, item number 7, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Each hot water heater system shall include a shutoff valve installed in the pressure lines at the engine. There shall be a water flow regulating valve installed for convenient operation by the driver. The hot water heater system in a Type A school bus shall be according to manufacturers' standard.

**6:21-5.21 Insulation**

(a) The section on insulation, found at page 20, second paragraph, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Floor covering in Type A school buses shall be either one-half inch exterior plywood securely fastened to the floor of the

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school bus in the passenger compartment, tapered to the forward level, or 14 gauge smooth steel floor.

### 6:21-5.22 Rub rails

(a) The section on rub rails, found at page 23, item number 3, in the document referenced in N.J.A.C. 6:21-5.1 is deleted and substituted with the following:

1. Both rub rails shall be attached at each body post, sedan doors and all other upright structural members.

### 6:21-5.23 Seats and crash barriers

(a) The section on seats and crash barriers, found at page 24, in the document referenced in N.J.A.C. 6:21-5.1 is supplemented to include the following:

1. All seats shall be forward facing.

### 6:21-5.24 Wheelhousing

(a) Item number 2 in the section on wheelhousing, found at page 26, in the document referenced in N.J.A.C. 6:21-5.1 is amended to read as follows:

1. Wheelhousing shall be attached to floor sheets in such a manner to prevent any dust, water, or fumes from entering the body. Wheelhousing shall be constructed of 16-gauge steel.

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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

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

Proposed: January 7, 1985 at 17 N.J.R. 11(a).

Adopted: July 10, 1985 by Robert E. Hughey,  
Commissioner, Department of Environmental  
Protection.

Filed: July 15, 1985 as R.1985 d.402, **without change.**

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

Effective Date: August 5, 1985.

Operative Date: October 1, 1985.

Expiration Date pursuant to Executive Order No.

66(1978): June 6, 1988.

DEP Docket No.: 074-84-12.

#### Summary of Public Comment and Agency Responses:

The New Jersey Water Supply Authority ("Authority") has proposed an amendment to its "Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoirs System" N.J.A.C. 7:11-2, to raise additional revenue

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for the Authority's repayment of 1981 water supply bond funds from the Water Supply Bond Act of 1981, P.L. 1981 c. 261, in the January 7, 1985 New Jersey Register at 17 N.J.R. 11(a). 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 Project. A public hearing concerning the proposed amendments was conducted by the Authority on February 20, 1985 at 9:30 a.m. at the Rutgers University Labor Education Center Auditorium, Ryders Lane, New Brunswick, New Jersey.

Extensive rate adjustment amendments were adopted by the Authority as N.J.A.C. 7:11-2.11, effective April 2, 1984, to provide a detailed procedure to be followed in the event of a proposed change in the rate schedule. As the transcript of the February 20, 1985 public hearing indicates, the rate adjustment procedure received compliments at the public hearing from two of the Authority's water customers, the Department of the Public Advocate, Division of Rate Counsel and other interested parties. In fact, most of the concerns expressed were resolved prior to the public hearing, either in informal sessions with Authority staff or at the required pre-public hearing meeting with the water customers and the Department of the Public Advocate, Division of Rate Counsel held on January 31, 1985. No additional comments were received after the public hearing for inclusion in the record which officially closed on March 27, 1985.

To initiate its rate adjustment procedure, N.J.A.C. 7:11-2.11 required that the Authority give official notice and an explanation outlining the need for the proposed rate adjustment to all contractual water customers, the Department of the Public Advocate, Division of Rate Counsel and other interested parties at least six months prior to the proposed effective date (see N.J.A.C. 7:11-2.11(a) 1). The rate adjustment proposal was provided to these parties by Authority courier on December 19, 1984, and also appeared in the New Jersey Register as indicated above.

The initial presentation of the proposed amendments to the water customers and the Department of the Public Advocate, Division of Rate Counsel included an invitation to a pre-public hearing meeting, pursuant to N.J.A.C. 7:11-2.11(a) 4, which was conducted by the Authority's Executive Director on January 31, 1985. At that meeting the Authority invited formal questions to be included in the public hearing record. Only one piece of correspondence was received which was of a general nature and complimentary about the recently adopted rate adjustment procedures. The letter does not bear on the immediate issue of the \$41.98 per million gallons rate increase. The letter was an indicator that the prior pre-public hearing meeting held on January 31, 1985 had dealt with many of the issues that would ordinarily have been raised at the public hearing.

The first speaker at the February 20, 1985 public hearing was completely favorable to the Authority, and expressed his belief that "it is an increase which we fully support." Furthermore, the speaker supported the dredging project as a means for New Jersey to realize its total allotted water supply intake from the Delaware and Raritan Canal.

The next speaker, representing a Delaware and Raritan Canal water user, while in support of the rate adjustment expressed two concerns:

- (1) The dedication of the Delaware River out of basin allocation to the Delaware and Raritan Canal users; and
- (2) The establishment of provisions by the Authority for compensation to Delaware and Raritan Canal users for the

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reallocation or diversion of these supplies during outages or emergencies.

Similar comments concerning the allocation of costs were expressed by the next speaker, also a Delaware and Raritan Canal water user, as follows:

(1) There should be developed a method of payment to the Authority by the State and/or the potential users in a drought situation to compensate for this diversion of unallocated water, along with payments for any water actually used from these facilities;

(2) The cost of maintaining the historical aspects of the canal facilities and the adjacent sites, along with enhancing the recreational aspects of the park, while minimizing environmental impact in this sensitive area is an added cost which should not be placed on the water consumers of the State, but rather a cost to those that benefit, all of the citizens of the State; and

(3) The concern that the water quality be improved and protected, as well as the users not be assessed the cost of removing the sources of pollution, but that the polluters pay for these costs.

The Authority's Executive Director stated, in reply to the above comments that much of the water users concerns are beyond the control of the Authority. The Governor, when required, declares a drought emergency which puts into place the State's program for emergency diversion and other actions. However, once the Wanaque South Project is completed and in operation, the need to reduce the withdrawals from the Canal would be unlikely. The parties should realize that the safe yield of the Raritan Basin System is 65 million gallons daily (mgd) from the Canal plus the 160 mgd from the Spruce Run/Round Valley System because of the Authority's ability to move water from one system to the other.

A qualified intervenor asked a twofold question as follows:

(1) What program is contemplated to eliminate sources of sediment contribution to the Canal?; and

(2) What program is contemplated for waterway maintenance that will continue to remove sediment as it is deposited in the Canal in the future?

The Executive Director responded to the first question by remarking that a plan to totally stop the accumulation of sediment is not possible, but the best approach is to identify the major sources of sediment and eliminate them. A study conducted by Rutgers University several years ago identified many major sources of sediment. Money from the 1976 Bond Issue, which the Authority would not have to pay back to the State Treasurer, has been appropriated for purposes of engineering studies to determine what can be done to remove those sources of sediment from the Canal. There is a possibility that some of the 1976 Bond Fund monies will also be available for the actual construction. Additionally, as a part of the Authority's long term capital program, the Authority will take steps to attempt to reduce the amount of sediment transmitted directly to the Canal from the Delaware River at Bulls Island.

In response to the second question, the Executive Director brought to everyone's attention the continuing development over the past year of the Authority's maintenance dredging program to deal with accumulated sediment on an annual basis. The program is almost complete at this date, except for the identification of the most effective piece of equipment for removal of sediment material in inaccessible stretches from the banks. In the Authority's budget for Fiscal Year 1985 a \$200,000.00 dollar item was included and identified as a grade-all.

Lastly, a Route 1 Conduit study is just being completed by outside engineers. This is both a water quality and sedimentation problem. Money has been tentatively budgeted from the

1976 Bond appropriation for the actual construction and other costs of implementing the engineers recommendations.

The Department of the Public Advocate, Division of Rate Counsel was represented at the February 20, 1985 public hearing. The Public Advocate's comments were totally in support of the rate adjustment and approved of the new rate adjustment procedure followed.

In relation to the program for the continued cleaning of the Canal, information was requested on the development of a plan for the placing of the sediment once it is removed. The Executive Director remarked that part of the present construction project included in Contract III is the establishment of a disposal site north of Lambertville adjacent to Routes 202 and 29. The Contractor for that contract used the site for disposal of material which he removed. In addition to that, a part of the site was to be left in such a condition that the Authority can use it for the maintenance dredging program for the stretch from Trenton northward. The Authority has also identified a second site in its five year capital program to be developed near Kingston on property which the Authority owns. This second site will take care of sediment disposal in that area.

The Executive Director indicated that the Authority's taking steps which is hopes will ease the disposal requirements. The Authority will sample the sediment now being accumulated to find out whether the Department of Environmental Protection can relax the restriction that the sediment can only be spread on land to a depth of one or two inches. If the restriction were lifted, it would reduce the cost of removal and increase the options for ultimate disposal.

Full text of the adoption follows:

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 sales base of 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:

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

(c) 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.

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**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 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 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	Change per month
Each 1 mgd (700 gpm) or fraction thereof.	\$81.80 plus annual debt service assessment rate for 1981 Bonds.

2. For Standby Contracts within the Raritan River Basin:

Maximum withdrawal capacity	Charge per month
Each 1 mgd (700 gpm) or fraction thereof.	\$81.80 plus annual debt service assessment rates for 1958 Bonds, 1969 Bonds and 1981 Bonds.

**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 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 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 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)5vi below.

5. Public hearing: After meeting with the contractual customers and after giving sufficient opportunity for submission 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)5iv below, and any other party of interest;

iv. Requests for intervention for purposes of directing questions to the staff as delineated under (a)5v below;

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

v. Questions by contractual water customers and qualified intervenors; and

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

vi. Responses from staff.

(1) (No change.)

(2) Within 10 working days 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**

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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 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

## Notice of Correction: N.J.A.C. 7:14A-1.8

Take notice that errors appear in the June 17, 1985 issue of the New Jersey Register at 17 N.J.R. 1551(b) concerning Fee schedule for NJPDES Permittees and applicants. N.J.A.C. 7:14A-1.8 should have appeared as follows:

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

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

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

1.-2. (No change.)

3. The annual fee for a DSW shall be based on the following:

i. For domestic treatment works which have DSWs the average daily biochemical oxygen demand (BOD<sub>5</sub>);

ii.-iv. (No change.)

4. (No change.)

(d) Monitoring:

1.-7. (No change.)

8. Permittees with discharges 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. (No change.)

10. Only for the purposes of fee calculation, average daily discharge rate, BOD<sub>5</sub>, mass loading, the average daily mass loading of the other pollutants in (c)3ii and (c)4\*[i]\* above, and average daily heat loading shall be computed as follows:

i. \*[The reported average daily BOD<sub>5</sub> or the concentration of the discharge of the other pollutants 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<sub>a</sub> shall be

subtracted from the reported average daily discharge temperature T<sub>d</sub>, and the result shall be multiplied 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.]\*

\*With respect to the pollutant parameter average mass load, the loading, reported to the Department on MRFs or DMRs, shall be utilized. Otherwise, the pollutant's concentration, reported to the Department on MRFs or DMRs, shall be multiplied by the reported average flowrate to obtain a loading. Lacking this information, the Department will estimate the parameter loading from NJPDES permit limits and/or reported values. Appropriate conversion factors will be applied so that all loadings shall be in the same units of mass per unit time, typically kilograms per day.

With respect to the average thermal load, the loading, reported to the Department on MRFs or DMRs, shall be utilized. Otherwise, the discharger's temperature difference, reported to the Department on MRFs or DMRs, shall be multiplied by the reported average flowrate and the specific heat of water to obtain a thermal loading. If this information is not available then the discharger's effluent temperature, reported to the Department on MRFs or DMRs, shall be utilized with an assumed stream temperature to calculate an estimated temperature difference; this temperature difference shall be multiplied by the reported average flowrate and the specific heat of water to obtain a thermal loading. Lacking this information, the Department will estimate the thermal loading from NJPDES permit limits and/or reported values. Appropriate conversion factors will be applied so that all thermal loadings shall be in the same units of heat per unit time, typically million BTU (British Thermal Units) per hour.\*

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.-iv. (No change.)

11.-12. (No change.)

(e) General provisions for fee calculations:

1. (No change.)

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.

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

ii.-iii. (No change.)

3.-9. (No change.)

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 N.J.A.C. 7:26-12 and meeting the requirements of N.J.A.C. 7:14A-4.2(b)\*[(1)]\* shall be \$10,000.

(f) Fee calculations for DSWs

1. (No change.)

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**ENVIRONMENTAL PROTECTION**

**(a)**

2. For dischargers of industrial pollutants, the annual fee in U.S. dollars is given by the general formula in (e)\*[2]\* \*1\* above and computed according to the procedure described in (d)10 above; the minimum annual fee shall be \$350.00.

i.-ii. (No change.)

iii. D = pollutant risk factor of parameter i

iv.  $L_i$  = average load (kg/day) of parameter i discharged in pipe 1

v. (No change.)

3.-5. (No change.)

(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]\* \*1\* above where the environmental impact value (E) is determined by any one or a combination of the following to determine:

1.-4. (No change.)

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)  $E*[v]* = [1+(AQ/10)] [(K-BOD) (D)]^{1/3}$ ;

(2) (No change.)

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)  $E = [1+(AQ/10)] \Sigma [1(PARM) (D) (LF)]^{1/3}$ ;

(2) (No change.)

iii. (No change.)

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

(1)  $E = [1+(AQ/10)] (\Sigma [(PARM) (D) (LF)])^{1/3}$ ;

(2) (No change.)

(h) (No change.)

(i) Fees for discharges from sanitary landfills are calculated according to the general formula found in (e)\*[2]\* \*1\* above where the environmental impact value (E) is determined as follows:

1. (No change.)

2. E shall equal the product of the numerical ratings from each of the four categories listed below and calculated by  $E*[v]* = (s)(w)(l)(aq)$ :

i.-ii. (No change.)

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)-(2) (No change.)

(3) A liner is defined as either: 1) two feet of clay having an in situ permeability of one  $\times 10^{-7}$  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. (No change.)

(j)-(m) (No change.)

**DIVISION OF FISH, GAME AND WILDLIFE**

**Bureau of Shellfisheries  
Taking of Oysters and Mussels**

**Adopted New Rules: N.J.A.C. 7:25-7.10 and 7.11**

Proposed: December 17, 1984 at 16 NJR 3385(a).  
Adopted: July 12, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.  
Filed: July 15, 1985 as R.1985 d.401, **without change.**

Authority: N.J.S.A. 50:1-5.

Effective Date: August 5, 1985.  
Expiration Date pursuant to Executive Order No. 66 (1978): March 18, 1990.  
DEP Docket No. 071-84-11.

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

**Full text of the adoption follows.**

**7:25-7.10 Taking of oysters**

(a) No person shall catch, take or attempt to catch or take by tonging or by any hand-operated device any oysters in the waters of this State unless such person has in his or her possession a valid oyster license issued by the Bureau of Shellfisheries of the Division of Fish, Game and Wildlife.

1. The fee for an oyster license shall be \$10.00 and it shall expire at the end of the calendar year in which it was issued, except that no fee shall be charged for a recreational license issued to a resident of this State who is 62 or more years old.

**7:25-7.11 Mussels**

(a) No person shall take mussels (*Mytilus edulis*) by any means whatsoever upon any of the lands lying under the tidal waters of this State before sunrise or after sunset or at any time on Sunday.

(b) "Person," as used in this section, shall include, but not be limited to, the captain or other person responsible for the operation of any vessel.

**(b)**

**DIVISION OF FISH, GAME AND WILDLIFE**

**Marine Fisheries**

**ENVIRONMENTAL PROTECTION**

**ADOPTIONS**

**Readoption with Amendments: N.J.A.C. 7:25-18**

Proposed: May 20, 1985 at 17 N.J.R. 1188(a).  
Adopted: July 8, 1985 by Robert E. Hughey,  
Commissioner, Department of Environmental  
Protection.

Filed: July 8, 1985 as R.1985 d.386, **without change.**

Authority: N.J.S.A. 23:2B-6 and N.J.S.A. 23:2B-14.

Effective Dates: July 8, 1985 for Readoption; August  
5, 1985 for Amendments.

Expiration Date Pursuant to Executive Order No. 66  
(1978): July 8, 1990.

DEP Docket No.: 021-85-04.

**Summary of Relevant Public Comments and Agency Responses:**

Public hearings concerning the proposed readoptions were held on:

June 6, 1985 at 6:30 P.M.  
Cape May County Extension Office  
Dennisville Road, Route 657  
Cape May Court House, NJ

June 10, 1985 at 6:30 P.M.  
Brookdale College, Room COM 001  
765 Newman Springs Road  
Lincroft, NJ

Public Comment: What type of enforcement would there be for the elimination of the five percent tolerance on undersized fluke?

Agency Response: Enforcement personnel realize that commercial fishermen could not cull out every undersized fish, and they would use discretion on enforcement of this issue depending upon the volume of the catch. It was also pointed out that no infraction would occur with the majority of the species until such time as the fish were offered for sale.

Public Comment: Does the State have the ability to enforce the regulation?

Agency Response: Yes, the Marine Enforcement Unit of the Division of Fish, Game and Wildlife could enforce the regulation by means of spot checks.

Public Comment: Could the regulation be applied to filleted summer flounder?

Agency Response: The regulation does not, as written, apply to fillets, but if fillets became a problem it would be addressed in the future.

Public Comment: An individual stated that sport fishermen are generally not happy with the 14-inch size limit when fishing with their family because they want their children to be able to keep what they catch.

Agency Response: Enforcement personnel will generally use some discretion when dealing with children.

Public Comment: Individuals representing sport fishing clubs, a sportsman's federation, and the party boat industry supported the proposed regulation.

Agency Response: None.

Public Comment: One individual asked a number of questions relative to section N.J.A.C. 7:25-18.5 dealing with the harvesting of killifish, specifically whether this is the first year such a

license is required and whether a license is needed to harvest and sell killifish with a bait seine of less than 50 feet in length.

Agency Response: The harvesting of killifish by means of a miniature fyke has been licensed for a considerable time. The fee for such a license had been \$100.00 for an unlimited number of miniature fykes in Delaware Bay and its tributaries and \$1.00 per miniature fyke in the remaining marine waters of the State. A bait seine license would be required if an individual wanted to sell killifish taken by a bait seine, regardless of the length of the seine as long as it did not exceed 150 feet in length.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:25-18.

Full text of the adopted amendments to the readoption follows.

**7:25-18.1 Size limits**

(a) No person shall purchase, sell, offer for sale or expose for sale any sea sturgeon measuring less than 42 inches in length, summer flounder, commonly called fluke, measuring less than 14 inches in length, codfish measuring less than 12 inches in length, bluefish or weakfish measuring less than nine inches in length, sea bass or kingfish measuring less than eight inches in length, blackfish, mackerel, or porgy measuring less than seven inches in length or winter flounder measuring less than six inches in length.

(b) No person shall take from the marine waters of the State or have in his possession any summer flounder, commonly called fluke, under 12 inches in length from the effective date of this regulation through December 31, 1985, under 13 inches in length from January 1, 1986 through December 31, 1986 and under 14 inches in length after December 31, 1986.

(c) Any person violating the provisions of this section shall be liable to a penalty of \$20.00 for each fish taken or possessed for the first offense and \$40.00 for each fish taken or possessed for each subsequent offense.

(d) Pursuant to N.J.S.A. 23:10-21 and -21.1 any gear used in the violation of the provisions of this subchapter may be seized and forfeited to the Division of Fish, Game and Wildlife.

**7:25-18.2 Fishpound nets**  
(No change.)

**7:25-18.3 Net identification tags**  
(No change.)

**7:25-18.4 Spear fishing**  
(No change.)

**7:25-18.5 General net regulations**  
(No change.)

**(a)**

**DIVISION OF ENVIRONMENTAL QUALITY**

**Bureau of Radiation Protection  
Transportation of Radioactive Material**

**Readoption: N.J.A.C. 7:28-12**

## ADOPTIONS

Proposed: June 3, 1985 at 17 N.J.R. 1369(a).  
Adopted: July 9, 1985 by Max Weiss, Ph.D.,  
Chairman, Commission on Radiation Protection.  
Filed: July 9, 1985 as R.1985, d.387, **without change**.

Authority: N.J.S.A. 26:2D-1 et seq.

Effective Date: August 5, 1985.  
Expiration Date pursuant to Executive Order No. 66  
(1978): August 5, 1990.  
DEP Docket No.: 024-85-05.

**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. 7:28-12.

### (a)

## OFFICE OF GREEN ACRES

### Green Acres Program

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

Proposed: September 17, 1984 at 16 N.J.R. 2405(b).  
Adopted: July 12, 1985 by Robert E. Hughey,  
Commissioner Department of Environmental  
Protection.  
Filed: July 15, 1985 as R.1985 d.400, **with technical  
and substantive changes** not requiring additional  
public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: P.L. 1983, C.354, Section 6; N.J.S.A.  
13:8A-7, 13:8A-25 and 13:8A-41.

Effective Date: August 5, 1985.  
Expiration Date pursuant to Executive Order 66  
(1978): January 9, 1986.  
DEP Docket No.: 057-84-08.

#### **Summary of Public Comments and Agency Responses:**

Comments were received during the comment period, which ended October 17, 1984, from one New Jersey Environmental Association.

Comment: N.J.A.C. 7:36-1.4 and 7:36-3.1 are not clear and do not provide adequate information concerning the terms of loan payments.

Response: The regulations have been modified and additional information added to address these concerns.

Comment: At N.J.A.C. 7:36-1.6, the ranking procedure should be clarified. It should be explained that the lower ranked projects may not be considered at all for Green Acres review.

Response: The priority system which is explained in the procedural guide available from the Department will not necessarily result in a low priority project's exclusion from review.

Comment: N.J.A.C. 7:36-1.7 contains a typographical error.

Response: The error in this section has been corrected.

Comment: It was recommended that a local public hearing provision be added to N.J.A.C. 7:36-1.8(d) so that full public

## ENVIRONMENTAL PROTECTION

notice is given of any changes in use or development of a Green Acres area.

Response: The Department agrees. Additional language has been added to N.J.A.C. 7:36-1.8(d) requiring such a hearing in appropriate circumstances.

Comment: Public access to files (at N.J.A.C. 7:36-1.9(c)) should not be limited to the period when a project is pending but should be allowed when the project is completed as well.

Response: The reference to public access at N.J.A.C. 7:36-1.9(c) is intended to assure confidentiality of certain items so that the bidding process is conducted fairly and in accordance with law. As with any public record, public access is provided in accordance with the provisions of N.J.S.A. 47:1A-1 et seq.

Comment: With regard to N.J.A.C. 7:36-1.10(a), and 3.1 it was asked if legal fees incurred by a landowner associated with condemnation and declarations of taking would be eligible for funding.

Response: Legal fees and administrative costs associated with declarations of taking condemnation actions are not eligible for funding.

Comment: The phrase, "project approval" at N.J.A.C. 7:36-3.1(a) should be changed to "funding offering" in order to be consistent.

Response: The Department agrees and has made the appropriate change.

Comment: The stormwater runoff plan required by N.J.A.C. 7:36-4.4(a) should comply with the standards promulgated pursuant to P.L. 1981 C.32 (N.J.S.A. 40:55D 93 et seq.)

Response: The Department agrees with this recommendation and has modified the rule accordingly.

Comment: With regard to N.J.A.C. 7:36-5.5(a)3 and 4 and 7:36-6.4(d), it was submitted that the rules prevent the agency that established the fair market value of a property from testifying at a condemnation proceeding and may, therefore unduly inhibit the process by which all facts relating to the condemnation are made known.

Response: The Department concurs and has, therefore, deleted 7:36-6.4(d).

Comment: The language at N.J.A.C. 7:36-6.8 is not clear and does not provide adequate guidance to enable an applicant to determine eligibility for a grant.

Response: The Department has reviewed this section and has inserted additional language to clarify the meaning.

Comment: With regard to N.J.A.C. 7:36-7.1, it was recommended that the State House Commission conduct public hearings to review proposals to divert lands to uses other than public open space. It was suggested that failure to do so results, at times, in the Commissioners operating upon less than a complete record.

Response: The subject of this proposal is beyond the purview of the Department's jurisdiction.

In addition to the changes made in response to these comments, other minor changes have been made to clarify the meaning of certain provisions.

**Full text** of the adoption follows (additions to proposal indicated by boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***).

7:36-1.4 Green Acres loans and grants  
(a) (No change from proposal.)

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(b) All Green Trust loans shall bear an interest rate of two percent **\*and shall be repaid within a 20 year period\***, as provided by P.L. 1983, C.354.

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

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

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

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

ii. (No change from proposal.)

iii. Loans shall also be available for **\*but not limited to\*** the acquisition of small projects, inholdings, and neighborhood parks. Generally, no maximum dollar amount is set. However, available funds are based on yearly appropriations.

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

7:36-1.5 Procedures

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

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

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

(d) (No change from proposal.)

7:36-1.7 General program criteria

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

(c) Generally, no established minimum or maximum dollar grants are set except as provided in N.J.A.C. **\*[7:36-1.3]\* \*7:36-1.4\***

(d) (No change from proposal.)

7:36-1.8 General regulations

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

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

**\*1. Prior to the submission of a request for the Department's approval of a change in use, the local unit shall conduct a local public hearing so that all interested parties may present comments concerning the proposed change. The record of public hearing shall be submitted to the Department along with the request for approval.\***

(e)-(m) (No change from proposal.)

7:36-3.1 Terms of loan or grant

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

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

7:36-4.4 Storm water runoff

(a) Every project shall be designed to provide a system whereby all storm water runoff created by the development will be retained on site for a period of time equal to the natural site runoff and absorption time. **\*This plan shall comply with the provisions of N.J.S.A. 40:55D-93 et seq.\***

(b) (No change from proposal.)

7:36-5.3 Eligible acquisitions

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

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

1. (No change from proposal.)

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

3. (No change from proposal.)

(g) (No change from proposal.)

7:36-6.3 Relocation procedures

(a) Any relocation **\*procedures\***, if applicable, **\*[is]\* \*are\*** the administrative responsibility of the local unit.

(b) (No change from proposal.)

7:36-6.4 Eminent domain

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

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

**\*[(e)]\*\*[d]\*** (No change in text from proposal.)

7:36-6.8 Donations

(a) Pursuant to the 1983 Green Acres bond program donations of land received by a local unit may be used as a credit, **on a dollar for dollar basis,\*** towards a grant of up to 25 percent of a specific project cost.

(b) (No change from proposal.)

7:36-7.1 Retention and use

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

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

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

1. Substitution of other properties of at least equal fair market value and of reasonably equivalent **\*public recreation or conservation\*** usefulness, quality, and location.

2. (No change from proposal.)

SUBCHAPTER 1. PRIORITIES AND OBJECTIVES

7:36-1.1 Introduction

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

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

7:36-1.2 Definitions

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

"Acquisition project" means a single parcel of land or several parcels of land that form a contiguous public recreation or conservation open space area.

"Department" means the Department of Environmental Protection.

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"Development project" means a single recreation development on one site, several types of recreation development on one site or development of several sites for similar activities.

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

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

"Urban aid" area is an urban area as defined in P.L. 1971 c.64.

### 7:36-1.3 Eligible applicants

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

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

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

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

### 7:36-1.4 Green Acres loans and grants

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

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

1. Initial development project limits are set at the time of funding offering, and are based on a licensed professional engineer's, landscape architect's or architect's cost estimate.

2. Initial acquisition project limits are set at the time of funding offering, and are based on the estimated fair market value of the land to be acquired.

(c) Pursuant to the Green Acres bond issues passed in 1961, 1971, 1974 and 1978, a local unit may use as its matching share any other source of funding which may be available from a private agency, group or foundation or from a Federal program as well as local capital funds, bond revenues, surpluses or specific appropriations.

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

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

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

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

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

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

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

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

### 7:36-1.5 Procedures

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

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

2. Upon notification of funding offering, a formal application shall be submitted to the Department for review and a contractual agreement between the State and the local unit will be executed covering among other items, the following:

i. Loan and/or grant amount;

ii. Time period; and

iii. Project scope.

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

(b) Pursuant to the Green Acres bond issues of 1961, 1971, 1974 and 1978 State funds will be released to the local unit upon successful completion of the entire project, or, on an interim basis, when either a specific construction phase is completed or when a specific parcel has been acquired.

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

1. January: the Department shall request Green Acres preapplications from county and municipal governments.

2. March: Local units must submit preapplications no later than March 31 advising the Department of any Green Acres participation interest for the calendar year.

3. June: Priority lists and funding offerings will be made by the Department.

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

### 7:36-1.6 Priorities

When more than one request for funding is submitted by a local unit, a priority ranking for applications shall be established by that unit.

### 7:36-1.7 General program criteria

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

1. Serve multiple recreation and conservation purposes;

2. Serve recreation needs of a wide variety of citizens and provide for the special needs of groups such as handicapped,

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elderly, disadvantaged and/or low-income families and individuals;

3. Consider public access by economical and energy conserving means including public transit (existing or to be established), pedestrian or bicycle access;

4. Meet the most critical and under-supplied recreation needs as defined in the State Comprehensive Outdoor Recreation Plan;

5. Combine with other public facilities;

6. Represent a regional program of joint municipal or county/municipal efforts;

7. Include active public participation in the planning phase;

8. Evidence construction readiness;

9. Enhance, preserve or restore unique natural areas or land types;

10. Acquire development rights, life estates, remainder interests, conservation easements, or other less than fee simple interest.

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

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

(d) Each project must:

1. Be a logical recreation and/or conservation unit;

2. Be accomplished within a specific time;

3. Provide a net increase in outdoor recreation/conservation activity.

### 7:36-1.8 General regulations

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

(b) Prior to the payment of a loan or grant, the local unit must:

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

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

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

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

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

(e) Rules on fees are as follows:

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

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

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

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

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

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

ii. Individual, group, family;

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

iv. Handicapped, senior citizens, disadvantaged.

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

7. Fees collected must be used for the operation, maintenance and/or capital expenses related to the recreation facility or program as a whole.

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

(f) Facilities may be operated through a concession awarded through competitive bidding. Any payments, fees or rentals involved are to be charged and collected directly by the local unit and must be used to offset the operating cost of the recreation program as a whole.

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

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

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

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

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

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

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

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

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

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

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

(l) Rules concerning signs are as follows:

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

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

ii. The local unit shall be responsible for the erection, maintenance and replacement of all project signs.

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

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

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

(m) Reservoir/flood control project rules are as follows:

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

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

### 7:36-1.9 Public access to files

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

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

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

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

### 7:36-1.10 Compliance

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

1. Development: The local unit shall conform to the specific time limitations of the loan or grant contract by:

i. Completing a standard development project in 24 months;

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

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

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

ii. Completing an extraordinary acquisition project in accordance with a schedule agreed upon at the time of project approval.

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

i. Have plans and specifications certified by a licensed professional engineer, landscape architect or architect within 150 days after the date of funding offering;

ii. Advertise for bids within 180 days after the date of funding offering.

4. The Department will further require that for an acquisition project the local unit:

i. Enter into a purchase agreement or institute condemnation proceeding within 150 days after the receipt of FMVC;

ii. Establish a firm date of closing within 12 months after the receipt of FMVC.

5. In the event that the local unit fails to meet the established time limits, the Department may cancel the reservation of loan or grant funds established for a specific project. Any financial

obligations incurred by the local unit at the time of cancellation are the sole responsibility of the local unit.

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

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

(b) Contract compliance after a loan or grant has been made shall include:

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

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

3. The Department may conduct inspections of all other recreation/conservation lands in the open space inventory at the time of grant payment.

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

## SUBCHAPTER 2. FUNDING ALLOCATIONS IN COORDINATION WITH UNITED STATES DEPARTMENT OF INTERIOR

### 7:36-2.1 Eligibility

Within the limits of available resources, the Department may combine Green Acres Funds with available United States Department of the Interior, Land and Water Conservation Funds.

### 7:36-2.2 (Reserved)

### 7:36-2.3 (Reserved)

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

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

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

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

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

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### 7:36-3.2 Allowable costs

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

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

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

2. Equipment required to make a facility initially operational.

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

### 7:36-3.3 Control of land

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

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

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

### 7:36-3.4 Development project elements

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

### 7:36-3.5 Renovation or rehabilitation projects

(a) Renovation or redevelopment of an existing facility is eligible.

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

### 7:36-3.6 Park/school development

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

### 7:36-3.7 Non-eligible projects

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

## SUBCHAPTER 4. DESIGN CRITERIA

### 7:36-4.1 Structures

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

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

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

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

### 7:36-4.2 Vandalism

Design criteria must consider elements that will reduce vandalism.

### 7:36-4.3 Underground utility service

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

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

### 7:36-4.4 Storm water runoff

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

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

### 7:36-4.5 (Reserved)

### 7:36-4.6 Dredging of lakes and ponds

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

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

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

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7:36-4.7 (Reserved)

7:36-4.8 (Reserved)

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

7:36-5.1 Terms of grant

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

7:36-5.2 Eligible and ineligible acquisition costs

(a) The following costs are eligible:

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

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

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

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

(b) The following costs will not be eligible:

1. Usual local government expenses;

2. Administrative costs related to acquisition;

3. Real property taxes;

4. Increases in land costs in excess of the approved fair market value as a result of negotiations;

(c) Increases resulting from condemnation may be eligible for a supplemental grant. See N.J.A.C. 7:36-5.5.

7:36-5.3 Eligible acquisitions

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

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

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

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

(e) Acquisition of an open space area that includes, but is not substantially consumed by a library, an art gallery, or a museum is eligible. Such facility, if included, would be subject to all of the regulations governing a more standard recreational facility as described in N.J.A.C. 7:36-1.8 (General regulations).

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

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

2. It provides for pedestrian or vehicular use, or

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

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

7:36-5.4 Non-eligible acquisitions

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

7:36-5.5 Supplemental loan or grant payments

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

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

2. Land cost: The final price paid is the result of a condemnation action.

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

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

### SUBCHAPTER 6. ACQUISITION REGULATIONS

7:36-6.1 Appraisal procedures

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

7:36-6.2 Acquisition procedures

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

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

(c) All pertinent records documenting conformance to these provisions shall be accurately and permanently kept on file by the local unit as all records are subject to audit and review by the State.

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

7:36-6.3 Relocation procedures

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

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

7:36-6.4 Eminent domain

(a) Condemnation: Green Acres must be informed prior to the local unit initiating court action.

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

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

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

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

**7:36-6.5 Closings**

Closings are the sole responsibility of the local unit.

**7:36-6.6 (Reserved)**

**7:36-6.7 Purchase concessions**

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

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

**7:36-6.8 Donations**

(a) Pursuant to the 1983 Green Acres bond program donations of land received by a local unit may be used as a credit towards a grant of up to 25 percent of a specific project cost.

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

**7:36-6.9 Temporary use**

(a) Lands, buildings or structures that have been acquired as part of a local Green Acres acquisition may be used or leased for non-recreational uses on a temporary basis to a private individual or public agency when in conformance to a master plan for development of the site. Terms of lease will be negotiated at time of contract on a project by project basis.

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

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

**7:36-6.10 Acquisition of a developed recreational facility**

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

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

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

**7:36-6.11 (Reserved)**

**7:36-6.12 Waterfront acquisitions**

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

Note: Each local unit should contact the Department's Division of Coastal Resources directly before progressing with any acquisition involving riparian interest.

**7:36-6.13 Loan and grant payments**

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

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

**SUBCHAPTER 7. STATE HOUSE COMMISSION REVIEW: BASIS FOR REVIEW**

**7:36-7.1 Retention and use**

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

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

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

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

**7:36-7.2 (Reserved)**

**HEALTH**

**(a)**

**PARENTAL AND CHILD HEALTH SERVICES**

**Newborn Hearing Screening Program**

**Readoption with Amendments: N.J.A.C. 8:19**

Proposed: April 15, 1985 at 17 N.J.R. 869(a).

Adopted: June 27, 1985 by J. Richard Goldstein, Commissioner of Health.

Filed: June 28, 1985 as R.1985 d.380, with substantive changes not requiring additional public notice and comments (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 26:101 et seq.

Effective Date for Readoption: June 28, 1985.

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Effective Date for Amendments: August 5, 1985.  
 Expiration Date pursuant to Executive Order No. 66  
 (1978): June 28, 1990.

**Summary of Public Comments and Agency Responses:**

**Comment:**

No comments were received regarding the readoption with amendments of N.J.A.C. 8:19. However, one letter was received from the Christian Science Committee on Publications for the State of New Jersey regarding the 1980 Newborn Hearing Screening Program Manual. The Christian Science Committee on Publications for the State of New Jersey expressed the concern that the 1980 Newborn Hearing Screening Program Manual does not adequately address the provision of the law which guarantees the right of parents to object to the test based on their religious tenets or practices.

**Response:**

The Newborn Hearing Screening Program Manual for the Identification of Newborns "At Risk" for Hearing Impairments has been revised. The revised manual (July, 1985) includes a section on parental informed consent which specifies procedures for obtaining informed parental consent prior to the testing.

**Full text** of the readoption with amendments and changes upon adoption follows (additions shown in boldface with asterisks **\*thus\***, deletions show in brackets with asterisks **\*[thus]\***).

**SUBCHAPTER 1. GENERAL PROVISIONS**

**8:19-1.1 Hearing development literature supplied to parents**

Prior to the discharge of a live newborn from any hospital in the State of New Jersey, the hospital nursery or neonatal intensive care unit shall provide all parents or legal guardians of the newborn with literature provided by the Department describing the normal development of auditory function. Such literature will be designed to provide parents with an understanding of the implications of hearing loss on the development of speech-language and provide information regarding normal auditory behavior. All literature shall be furnished free of charge to hospitals by the Department of Health.

**8:19-1.2 Newborn hearing screening report form required**

(a) All hospital nurseries, including neonatal intensive care units, shall complete a Newborn Hearing Screening Report Form on all live newborns being discharged from their facility. This Newborn Hearing Screening Report contains high risk categories that are associated with possible hearing impairment. These high risk categories are defined in section 5 of this subchapter. The Newborn Hearing Screening Report Form is composed of three identical copies. Registered nurses in the hospital nursery or neonatal intensive care unit shall complete the Newborn Hearing Screening Report Form.

(b) The hospital nursery and neonatal intensive care unit where discharge of a live newborn occurs shall forward one copy of the Newborn Hearing Screening Report Form, for those infants identified as having a risk factor, to the Special Child Health Services Program, New Jersey State Department of Health, CN 364, Trenton, New Jersey 08625, within one week of the infant's discharge. The second copy of the Newborn Hearing Screening Report Form shall be placed in the newborn's permanent medical record. The third copy shall be given to the infant's parent(s) or legal guardian.

(c) Parents of newborns with one or more high risk factors shall be provided with literature describing the Newborn Hearing Screening Program prior to discharge of the live newborn

from the hospital nursery or a neonatal intensive care unit. Such literature shall be provided free of charge to the hospitals by the Department.

(d) For those children who have no risk factors, a completed Newborn Hearing Screening Report Form shall be placed in the newborns permanent medical record.

(e) The evaluation shall be documented in the Nursery Log Book for each live newborn being discharged from the hospital nursery or a neonatal intensive care unit.

(f) Special Child Health Services Program personnel shall have the authority to review, on site, the Nursery Log Book and medical records.

**8:19-1.3 High risk infant registry**

The Special Child Health Services Program shall maintain a registry of high risk infants for hearing impairment so as to remind parents of (high risk) infants for the need for six month auditory screening/assessment of the high risk infant by a licensed physician or licensed audiologist or person(s) under their direction.

**8:19-1.4 Six month auditory screening/assessment report**

Physician(s) or audiologist(s) or person(s) under their direction completing the six month auditory screening/assessment of infants at high risk for hearing impairment shall report their results to the Special Child Health Services Program, New Jersey State Department of Health, CN 364, Trenton, New Jersey 08625. Response forms shall be provided at no cost by Special Child Health Services Program to the parents of infants at high risk and to any other persons who may request such forms.

**8:19-1.5 High risk conditions**

(a) The literature required by section 2 of this subchapter shall describe the following high risk conditions:

1. Five minutes Apgar Score of 6 or less.
2. Meningitis.
3. Congenital or perinatal infections (such as rubella, herpes, toxoplasmosis, syphilis, cytomegalovirus, TORCH complex).
4. Defects of head or neck (such as cranio-facial syndromal abnormalities, overt or submucous cleft palate, morphologic abnormalities of the pinna) exclusive of isolated skin tags.
5. Elevated bilirubin exceeding indication for exchange transfusion.
6. Family history of childhood hearing impairment.
7. **\*[Birthweight less than 1500 grams]\* \*Birthweight of 1500 grams or less.\***
8. Ototoxic drugs (such as gentamicin or kanamycin) were administered to the infant for 14 or more days or multiple courses of therapy.
9. Evidence of intracranial hemorrhage.

**8:19-1.6 Confidentiality of reports**

Any forms and reports furnished to the Department as required by these regulations shall not be made public so as to disclose the identity of the person to whom they relate. Information obtained from forms and reports furnished to the Department will be confidentially shared with participating local health service agencies to provide follow-up for high risk infants. All parents shall have the option to deny release of any information to local health service agencies.

# HUMAN SERVICES

## (a)

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Medical Supplier Manual Recycling of Durable Medical Equipment

#### Adopted Amendments: N.J.A.C. 10:59-1.2, 1.4, 1.9, and 1.12

Proposed: August 6, 1984 at 16 N.J.R. 2048(a)

Adopted: June 26, 1985 by George J. Albanese,  
Commissioner, Department of Human Services.

Filed: June 26, 1985 as R.1985 d.376 with substantive  
changes not requiring additional public notice and  
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4D-6b(12), 7, 7a, 7b

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order  
66(1978): August 15, 1989.

#### Summary of Public Comments and Agency Responses:

There was one comment on the proposal which was submitted by the (New) Jersey Association of Medical Equipment Suppliers. The commentator generally supported the Division's recycling program. However, the commentator was concerned about the provider's liability for storing and issuing used equipment, and suggested the Department of Human Services purchase a blanket insurance policy. The agency's response is that it is the provider's responsibility to store, repair, and issue serviceable equipment, and to purchase whatever insurance may be necessary to cover this service.

The commentator also requested higher fees to pick up equipment that is heavy and requires two persons to lift it. The agency's response is to allow two months rental to pick up heavy equipment. The provider must obtain prior authorization from the Medicaid District Office.

#### Summary of Changes Between Proposal and Adoption:

There is one change being made upon adoption. N.J.A.C. 10:59-1.12(e) is being added to indicate that either two months rental or \$70.00 (whichever is greater) may be allowed for heavy and/or cumbersome equipment that requires two or more persons to pick up. The provider must obtain prior authorization from the Medicaid District Office. This change was made in response to the public comment noted above. N.J.A.C. 10:59-1.12(e) and (f) will be renumbered as (f) and (g) respectively, with no change from the proposed text.

Full text of the adoption follows (additions shown in boldface with asterisks **\*thus\***; deletions shown in brackets with asterisks **\*[thus]\***).

#### 10:59-1.2 Definitions

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

"Medical equipment" (No change.)

"Medical supplies" (No change.)

"Recycling" means an item, purchased by the New Jersey Medicaid Program, that is no longer medically needed by the client, that as a minimum, will be sanitized and refurbished and/or repaired, if needed, by the DME provider and supplied to another recipient.

#### 10:59-1.4 Provisions for participation

(a) (No change.)

(b) In order to participate in the recycling program, the provider must sign a separate Recycling Provider Agreement (FD-62R) and be approved by the New Jersey Medicaid Program.

#### 10:59-1.12 Recycling policy

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

**\*(e) Reimbursement for recycling (i.e. pickup, refurbishing and delivery) equipment that is heavy and/or cumbersome and requires two or more persons shall be based on one of the following standards, whichever is greater:**

1. Two months rental fee for a new item of that type; or
2. \$70.00.

**i. Prior authorization must be obtained from the Medicaid District Office in order to claim reimbursement under this subsection (e).\***

**\*(f)\*\*[(e)]\*** While the recycled equipment is in possession of the DME recycling provider, the DME recycling provider has the responsibility to store, safeguard and maintain the equipment.

**\*(g)\*\*[(f)]\*** State institutions will have first priority on recycled durable medical equipment when specifically requested.

**\*(b)]\*(c)** (No change in text.)

**\*(c)]\*(d)** (No change in text.)

#### 10:59-1.9 Purchase policy

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

(d) When durable medical equipment is authorized and purchased on behalf of a Medicaid recipient, ownership of such equipment will vest in the Division of Medical Assistance and Health Services. The recipient will be granted a possessory interest for as long as it is medically necessary (as approved by the Division) that the recipient requires use of the equipment.

(e) Whenever the Division of Medical Assistance and Health Services purchases durable medical equipment, actual notice of such purchase will be issued to both the Medicaid recipient and the Medicaid provider. When it is no longer medically necessary that the recipient needs such equipment, possession and control will revert to the Division. The recipient shall sign an agreement to this effect as part of the process of authorizing purchase of the equipment.

1. When the Division has been advised it is no longer medically necessary that the recipient requires the use of the durable medical equipment purchased by the New Jersey Medicaid Program, the equipment shall be recycled, if recycling is economically feasible. See N.J.A.C. 10:59-1.12, Recycling policy.

#### 10:59-1.12 Recycling policy

(a) The New Jersey Medicaid Program shall recycle returned durable medical equipment items when the Program has determined that the cost of pickup, refurbishing and/or repair and delivery is more economical than purchase of a new item.

(b) When the New Jersey Medicaid Program is advised that a durable medical equipment item is available for recycling, the Medicaid District Office shall contact an appropriate DME recycling provider who can service the item and who will recover, refurbish and store the item.

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1. When the DME provider examines the item and finds that more than minimal repairs are needed, he must obtain prior authorization from the Medicaid District Office before undertaking any repairs. See N.J.A.C. 10:59-1.11, Repair policy.

2. When, in the judgment of the New Jersey Medicaid Program, a durable medical equipment item cannot be repaired at reasonable cost, the item may be discarded after a representative of the Program has inspected the item.

(c) Reimbursement for repairs and recycling (i.e. pickup, refurbishing and delivery) shall be made following delivery of the item to the next recipient.

(d) Reimbursement for recycling (i.e. pickup, refurbishing and delivery) shall be based on one of the following standards, whichever is greater:

- 1. The monthly rental fee for a new item of that type; or
- 2. \$35.00.

**(a)**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Long Term Care Services Manual  
Changes in Level of Care**

**Adopted Amendment: N.J.A.C. 10:63-1.6**

Proposed: August 6, 1984 at 16 N.J.R. 2049(a).  
Adopted: July 8, 1985 by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.  
Filed: July 8, 1985 as R.1985 d.384, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4D-6a(4)(a), b(13) (14), 7, 7a, 7b, 42 CFR 456.260, 360.

Effective Date: August 5, 1985.  
Expiration Date pursuant to Executive Order No. 66 (1978): March 21, 1989.

**Summary of Public Comments and Agency Responses:**

There was one comment submitted by James E. Cunningham, President, New Jersey Association of Health Care Facilities, who recommended that an LTCF (Long Term Care Facility) be allowed to submit notification of a change in the patient's condition any time, but that any retroactive payment be limited to 30 days.

The Division's response was to amend the text of the rule to allow for those situations where an LTCF fails to notify the MDO (Medicaid District Office) within 30 days of a change in the patient's condition which also requires a change in the patient's level of care. If the LTCF does not submit the notification timely, then the time between the date of the change in the patient's condition and the date of the assessment may not be authorized for payment.

This additional language was also necessary to insure compliance with Section 1903(g) of the Social Security Act, which was recently amended by Section 2363 of the "Medicare and Medicaid Budget Reconciliation Act of 1984", commonly referred to as DEFRA (Deficit Reduction Act).

The cited law establishes specific time frames for the LTCF reviewing each patient's need for continuing care at either the skilled or intermediate nursing level.

**Summary of Changes Between Proposal and Adoption:**

N.J.A.C. 10:63-1.6(i)2i is being amended upon adoption in response to the comment that was submitted. The amended text explains what could happen if an LTCF failed to provide timely notification.

**Full text** of the adoption follows (additions to proposal shown in boldface with asterisks **\*thus\***).

10:63-1.6 Authorization process

(a)-(h) (No change.)

(i) It is recognized that certain level of care decisions made by the Medicaid District Office MET will occasion disagreement **\*[form]\* \*from\*** either the LTCF, the attending physician or the patient and/or patient sponsor. The disagreement may involve a challenge to a recent MET decision or a change in the patient's condition during a period of authorization. The procedures to be followed are as follows:

1. (No change.)

2. Change in a Medicaid patient's condition during a period of authorization.

i. A written statement signed by the attending physician which describes the medical reasons for a change in level of care must be submitted to the Medicaid District Office within thirty (30) days of the change of condition. **\*If a LTCF fails to notify the MDO within thirty (30) days of a change in condition, the time between the date of the change in condition and the date of assessment may not be authorized for payment.\*** If the status of the patient is acute, the facility should discharge the patient to the hospital.

ii. (No change.)

(j)-(k) (No change.)

10:63-1.6 Authorization process

(a)-(h) (No change.)

(i) It is recognized that certain level of care decisions made by the Medicaid District Office MET will occasion disagreement from the LTCF, the attending physician or the patient and/or patient sponsor. The disagreement may involve a challenge to a recent MET decision or a change in the patient's condition during a period of authorization. The procedures to be followed are as follows:

1. (No change.)

2. Change in a Medicaid patient's condition during a period of authorization.

i. A written statement signed by the attending physician which describes the medical reasons for a change in level of care must be submitted to the Medicaid District Office within thirty (30) days of the change in condition. If the status of the patient is acute, the facility should discharge the patient to the hospital.

ii. (No change.)

(j)-(k) (No change.)

**(b)**

**DIVISION OF PUBLIC WELFARE**

**Assistance Standards Handbook  
Income from Apartments or Housekeeping  
Units**

**LABOR**

**ADOPTIONS**

**Adopted Amendment: N.J.A.C. 10:82-4.11 and 4.12**

Proposed: May 6, 1985 at 17 N.J.R. 1045(a).  
Adopted: June 28, 1985 by George J. Albanese,  
Commissioner, Department of Human Services.  
Filed: July 8, 1985 as R.1985 d.385, **without change**.  
Authority: N.J.S.A. 44:7-6 and 44:10-3.

Effective Date: August 5, 1985.  
Expiration Date pursuant to Executive Order No. 66  
(1978): October 29, 1989.

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

Full text of the adoption follows.

10:82-4.11 Income from roomer-boarders and table boarders  
Roomer-boarders or table boarders are non-eligible household members. See N.J.A.C. 10:82-2.3 regarding payment received from such persons.

10:82-4.12 Income from apartments, rooms or housekeeping units

(a) When the eligible unit is receiving payment from rental of apartments, rooms or housekeeping units, the net income shall be determined by deducting the costs of operation and maintenance from the gross rental income received.

1. The costs of operation and maintenance are the greater of:

i. The actual costs of operation and maintenance, if known or subject to determination, or such reasonable allocation of actual or determined costs as may be indicated according to the space being rented out; or

ii. The number of rooms, excluding bathrooms, being rented out multiplied by the applicable monthly cost figure as follows:

- (1) With no utilities: \$23.00;
- (2) Including heat only: \$29.00;
- (3) Including all utilities: \$34.00.

2.-3. (No change.)

(b) When the functions of property management including the collection of rents are performed by a member(s) of the eligible unit, the net is earned income, otherwise it is unearned income.

Filed: July 15, 1985 as R.1985 d.404, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:8-114.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66  
(1978): August 5, 1990.

**Summary of Public Comments and Agency Responses:**

Comment: Department of the Public Advocate questioned the appropriateness of General Assistance Employability Program (GAEP) staff disqualifying an otherwise eligible individual from receiving all general assistance benefits because of the individual's failure to utilize skills and experience to benefit from GAEP activity.

Response: The Division of Employment Services does not disqualify a General Assistance (GA) recipient under these regulations, but is required to report non-cooperation based on the criteria established in proposed regulation 12:35-5.1. The final decision as to a GA disqualification rests with the municipal welfare department (MWD) providing public assistance. The MWD is empowered to discontinue GA subject to the provision of a 10-day notice of adverse action, upon a determination of the absence of good cause, under regulations developed and enforced by the New Jersey Division of Public Welfare.

Comment: The Public Advocate commented that the purpose of GAEP is to provide GA recipients with an opportunity to work and learn skills, the proposed rule would contradict and violate that purpose by terminating a GA recipient not only from his or her worksite assignment but also from any and all GA benefits.

Response: The public law which is the basis of the proposed regulation (N.J.S.A. 44:8-11) provides for the establishment of a public work program requiring employable persons receiving public assistance to perform public work in return for a public assistance grant. GAEP offers a participant the opportunity to develop basic work habits, acquire new job skills and demonstrate existing skills which may be transferrable to unsubsidized employment. The assignment of GA grant recipients to worksites are made only after their potential for employment has been appraised by GAEP staff, as described in 12:35-1.2(d). Before recipients are assigned to worksites, the worksites are evaluated to determine their suitability, as described in 12:35-1.5. Only when a GAEP participant violates his or her agreement to participate in the program in a way described in 12:35-5.1, and efforts between the participant, GAEP and worksite staff have failed to resolve the problems, is he or she subject to lose GA benefits.

Comment: The Public Advocate stated that proposed rule N.J.A.C. 12:35-5.1(a)5 is vague and without appropriate standards because it does not state who on the GAEP staff will make the determination that an individual "fails to benefit from his or her worksite activity;" and it does not specify objective standards or guidelines for the GAEP staff to apply in making their determinations.

Response: GAEP staff are composed of Employment Counselors and Employment Service Specialists with training and experience in performing their job duties. Because of this both or either staff are able to make informed judgements and determinations about worksite assignments. The standards applied by GAEP staff in determining that an individual fails to benefit from his or her worksite assignment are contained in N.J.A.C. 12:35-1.5(b). The merit of the above comment was considered

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**LABOR**

**(a)**

**DIVISION OF EMPLOYMENT SERVICES**

**Workfare Employment Service General Assistance Employability Program**

**Adopted New Rules: N.J.A.C. 12:35**

Proposed: May 6, 1985 at 17 N.J.R. 1048(a).  
Adopted: July 15, 1985 by Charles Serraino,  
Commissioner, Department of Labor.

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and 12:35-1.5(a)1 was expanded to reference the recipients documented experience and training and the consultation event which combine when worksite assignments are being considered. When the GA recipient does not perform worksite duties or meet reporting to work requirements as provided in the individual's "Worksite Agreement" developed in 12:35-1.4, GAEP staff have the basis for making a determination that the GA recipient fails to benefit from the worksite activity. N.J.A.C. 12:35-1.5(a)1, describes the criteria for developing an appropriate worksite agreement. Worksite agreements are developed during an assessment interview, provided by rule 12:35-1.2(d) when the GA recipient and GAEP staff develop agreement on job duties, hours of work and wages. The Agreement is then signed by the GA recipient and GAEP staff and become the standard against which performance is measured.

Comment: The Public Advocate suggests that rather than terminating the benefits of a GA recipient for encountering job difficulties that inquiries first should be made to determine why an individual's worksite assignment is not (or has become) unsatisfactory.

Response: GAEP has operating procedures which require worksite supervisors to contact GAEP staff if work related problems arise so that corrective action may be undertaken, including worksite reassignment when warranted. Monitoring of worksites performed under 12:35-1.6 also ensures that Employment Service GAEP staff, Municipal Welfare staff and worksite staff work together to resolve problems that arise at the GA recipient's worksite.

Comment: The Public Advocate recommended that the phrase "without good cause" be added to the end of the proposed regulations N.J.A.C. 12:35-5.1(a)7 and 8.

Response: The phrase "without good cause" has been added in the proposed regulations in 12:35-5.1(a)7 and 8.

**Full text** of the adopted new rules appears in the New Jersey Administrative Code at N.J.A.C. 12:35.

**Full text** of the adopted amendments to the new rules follows (additions to proposal shown in boldface with asterisks **\*thus\***; deletions from proposal shown in brackets with asterisks **\*[thus]\***).

#### 12:35-1.5 Worksite assignments; evaluations

(a) Worksite assignments will be **\*made and\*** evaluated by ES/GAEP staff based on the following criteria:

1. The individual assigned is capable of performing the duties involved at the worksite\*. **The documented employment and academic/vocational training history of the participant, developed in consultation with the participant, shall be the basis of worksite assignments\***;

2. (No change.)

3. (No change.)

(b) If any of the criteria in (a) above is not met, a worksite agreement will not be made **\*by either GAEP staff or a Municipal Welfare Director\***. **\*When a Municipal Welfare Director makes an inappropriate worksite assignment,\*** E.S. staff will inform the welfare director that the participant must be reassigned because the criteria in (a) above is not being met. Reassignment may include **\*[orientation,]\*** job search **\*orientation\***, active registrant pool, **\*[employability development services,]\*** training worksite, or another worksite assignment if such is available. Failure to comply with ES/GAEP recommendations for reassignment will lead to the municipality's assumption of responsibility for liability coverage on that worksite, as indicated in the GA Manual, N.J.A.C. 10:85-10.2(f).

12:35-1.6 (No change.)

#### 12:35-5.1 Patterns of behavior

(a) (No change.)

1. (No change.)

2. (No change.)

3. (No change.)

4. (No change.)

5. The record and employment history of the registrant shows that he or she has the required education, experience or aptitude to perform the assignment but fails to utilize these skills and experience to benefit from the activity. The determining factors would be the GAEP staff's reasonable judgment as to whether the individual intentionally is performing at or near his or her potential **\*as documented under N.J.A.C. 12:35-1.5(a)1\***.

6. (No change.)

7. A registrant voluntarily leaves a training or rehabilitation worksite before completion of said assignment **\*without good cause\***.

8. A registrant fails or refuses to respond to two call-in notices **\*without good cause\***.

### SUBCHAPTER 1. GENERAL PROVISIONS

12:35-1.1 (No change.)

#### 12:35-1.2 Registration and reporting requirement's forms

(a) All employable general assistance recipients not specifically exempted by the municipal welfare department will report to municipal worksites only after the Employment Service/General Assistance Employability Programs staff is in receipt of Form 511F and the Municipal Worksite Agreement, (MWSA) from the municipal welfare department (MWD). General assistance recipients may not be assigned to worksite activities until the ES/GAEP staff has received both form 511F and the signed MWSA (See the GA Manual at N.J.A.C. 10:85-3.2(g)).

(b) The MWD will submit the 511F to the appropriate office of the New Jersey Division of Employment Services (ES). Receipt of the 511F by ES shall fulfill registration requirement of recipients with ES.

(c) Once registered with ES, a recipient remains registered as long as he or she remains on an employable general assistance grant and is not exempt from work requirement.

(d) All recipients for whom a 511F is received shall be called into the ES for an appraisal of their employability potential and referral to an appropriate worksite, employability development service and/or job.

#### 12:35-1.3 Workers' Compensation coverage requirements

(a) To insure State Workers' compensation coverage for all worksite participants a Municipal worksite Agreement must be on file with the Employment Service. (See Attachment 1).

(b) The municipal welfare director, and the worksite agent (the worksite agent being a paid employee of the agency for whom the worksite activity is being performed and who has the authority from that agency for conducting onsite supervision of participants and maintaining time and attendance reports) and a representative of the ES must sign Municipal Worksite Agreements.

(c) The ES will monitor and evaluate all MWSA within 14 days after receipt of the agreement from the municipal welfare director. The worksite agreement will be evaluated by ES staff based on the following criteria:

1. Working conditions are such that they do not represent a substantial risk to the individual's health and safety;

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2. That such employable persons will not be used to replace any regular employees of any department or unit of any municipality, county and state agency or nonprofit agency or institution;

3. That the wage rate for the position covered by the MWSA is commensurate with beginning regular employees similarly employed.

(d) If any of the above criteria is not met, ES staff will inform the municipal welfare director that the MWSA is not acceptable and no participants may be assigned to the worksite.

(e) Failure to comply with ES recommendations will lead to the municipality's assumption of responsibility for liability coverage on that worksite, as indicated in the GA Manual N.J.A.C. 10:85-10.2(f).

### 12:35-1.4 Worksite assignments; notices

A notice in duplicate will be prepared for each worksite participant and will be signed by the participant. (See Attachment 2.) The notice will inform the participant of his or her worksite job title job description, schedule (hours per month) the wage rate used to determine this schedule, whom to report to on the worksite, the address of the worksite and the date to report. One copy will be retained by the participant, the other will be kept in the participants' welfare department case folder. Municipal welfare directors must forward an additional copy of the notice to the appropriate ES/GAEP office, for evaluation, for any worksite assignments they make.

### 12:35-1.5 Worksite assignments; evaluations

(a) Worksite assignments will be evaluated by ES/GAEP staff based on the following criteria:

1. The individual assigned is capable of performing the duties involved at the worksite;

2. Working conditions are such that they do not represent a substantial risk to the individual's health and safety;

3. The participant has a reasonable means of transportation to the worksite assignment. "Reasonable" shall in this case mean at no cost to the participant. See the GA Manual N.J.A.C. 10:85-10.2(e)3).

(b) If any of the criteria in (a) above is not met, a worksite assignment will not be made. E.S. staff will inform the welfare director that the participant must be reassigned because the criteria in (a) above is not being met. Reassignment may include orientation, job search, active registrant pool, employability development services, training worksite, or another worksite assignment if such is available. Failure to comply with ES/GAEP recommendations for reassignment will lead to the municipality's assumption of responsibility for liability coverage on that worksite, as indicated in the G.A. Manual, N.J.A.C. 10:85-10.2(f).

### 12:35-1.6 Attendance and worksite activity; monitoring

Attendance and worksite activity will be monitored by the agency (municipal welfare department or Employment Service) that develops the MWSA and makes the individual worksite assignments.

## SUBCHAPTER 2. LOCATION OF WORKSITE ACTIVITY

12:35-2.1 (No change.)

12:35-2.2 (No change.)

### 12:35-2.3 Establishment of training worksites

(a) Training worksites, in rehabilitative and educational agencies, may be established by ES/GAEP staff to allow registrants in need of these services to fulfill their worksite requirement by attending educational and vocational development classes or rehabilitative and therapeutic sessions.

(b) Training worksites may be established in municipal, county and State agencies as well as non-profit social service and/or community agencies and institutions.

(c) A Training Worksite Agreement must be on file with the E.S. and must be signed by the municipal welfare director, the training agent and a representative of the E.S. (See Attachment 3).

### 12:35-2.4 Establishment of Job Search Orientation worksite

(a) Job Search Orientation worksite may be established by ES/GAEP staff to allow registrants with marketable employment skills to fulfill their worksite requirement by attending sessions for work search techniques and a monitored job search.

(b) Individuals assigned to this worksite activity will be required to supply documented employer contacts to ES/GAEP staff during the period assigned to the monitored worksearch. No participant shall remain in this activity more than three consecutive months without reassignment to a municipal worksite activity.

(c) A Training Worksite Agreement will be used to establish this worksite activity.

### 12:35-2.5 Worksites in appropriate municipality

Efforts by either the Employment Service or municipal welfare director will be made to develop worksites in the municipality where the employable general assistance recipient receives his or her public assistance grant.

### 12:35-2.6 Unavailability of worksites in certain municipalities

If worksites are not available in the municipality where an employable general assistance recipient receives his or her public assistance grant, the municipal welfare director will immediately notify the appropriate Employment Service staff, and worksite development will become the responsibility of the Employment Service.

## SUBCHAPTER 3. SCHEDULING WORKSITE ASSIGNMENTS

### 12:35-3.1 Hours of work or training

(a) Persons assigned to a municipal worksite by either N.J. E.S. or the MWD shall work only the number of hours equal to the amount of their grant divided by an hourly wage rate commensurate with beginning regular employees similarly employed.

(b) Persons assigned to a training worksite shall participate in accordance with the scheduling procedures of the training agency itself. A notice in duplicate will be prepared for each training worksite participant and will be signed by the participant and the MWD/GAEP representative.

(c) Persons assigned to a job search orientation worksite shall participate the number of hours equal to the amount of their grant divided by an hourly wage rate equal to the minimum wage rate of the state.

### 12:35-3.2 Determination of prevailing wage rate

In such cases where there are no beginning regular employees similarly employed the N.J. E.S. will contact the local labor

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market analyst and determine the prevailing wage rate for that particular worksite assignment.

**SUBCHAPTER 4. TYPES OF WORK ALLOWABLE UNDER WORKSITE ACTIVITIES (No change.)**

**SUBCHAPTER 5. FAILURE TO COMPLY**

**12:35-5.1 Patterns of behavior**

(a) The following actions or patterns of behavior shall constitute a failure or refusal to participate in ES/GAEP activities and will result in the E.S. making a GA disqualification request to the municipal welfare department.

1. An oral or written statement by a GAEP registrant that he or she will not participate or continue to participate in GAEP or its activities;

2. A registrant refuses a suitable municipal worksite or orientation assignment without good cause;

3. A registrant refuses a suitable job referral or job offer without good cause;

4. A registrant seriously disrupts a GAEP activity or the orderly administration of the overall program or behaves in a manner that constitutes a threat or hazard to agency staff, project agents and their staff and/or other GAEP registrants;

5. The record and employment history of the registrant shows that he or she has the required education, experience or aptitude to perform the assignment but fails to utilize these skills and experience to benefit from the activity. The determining factors would be the GAEP staff's reasonable judgment as to whether the individual intentionally is performing at or near his or her potential.

6. A registrant fails to make a bona fide application for employment when asked to do so by GAEP or other E.S. staff.

7. A registrant voluntarily leaves a training or rehabilitation worksite before completion of said assignment.

8. A registrant fails or refuses to respond to two call-in notices.

**12:35-5.2 Notification of failure to comply**

(a) Notification of noncompliance is established through the use of the Interagency Report (NJES-1A).

(b) The municipal welfare director shall determine whether good cause existed for a failure or refusal to participate and shall notify the appropriate ES/GAEP staff of their decision through the use of the NJES-1A. (See the GA Manual at N.J.A.C. 10:85-3.2(g)7, 10:85-10.6-10.7 and 10:85-7.3-7.4).

(c) Participants determined in noncompliance by the municipal welfare director shall be denied all GA assistance according to regulations developed by the Division of Public Welfare.

**(a)**

**DIVISION OF WORKPLACE STANDARDS**

**Liquefied Petroleum Gases**

**Adopted New Rules: N.J.A.C. 12:200**

Proposed: June 3, 1985 at 17 N.J.R. 1379(a).

Adopted: July 15, 1985 by Charles Serraino,

Commissioner, Department of Labor.

Filed: July 15, 1985 as R.1985 d.403, **without change**.

Authority: N.J.S.A. 21:1B-2.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): August 5, 1990.

**Summary of Public Comments and Agency Responses:**

The Department of Labor held open until July 9, 1985 a comment period. One comment was received.

The following summarizes the comments received and the Departments responses to these comments. All comments are on file at the Offices of the Department of Labor.

1. Comment: The Department of Community Affairs contends that only they have the right to adopt construction regulations as stated in N.J.S.A. 52:27D-139.

Response: The Department of Labor contends that since the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq. does not specifically repeal N.J.S.A. 21:1B-1 et seq., the Liquefied Petroleum Gas Act, this act remains in effect and it is the responsibility of the Department of Labor to administer the provisions of this act.

Full text of the adoption appears in the New Jersey Administrative Code at N.J.A.C. 12:200.

**LAW AND PUBLIC SAFETY**

**(b)**

**DIVISION OF CRIMINAL JUSTICE**

**Police Training Commission  
Police Officer Certification, Curriculum,  
Responsibilities of Law Enforcement  
Agencies and Other Agencies**

**Adopted Amendments: N.J.A.C. 13:1-5.1, 6.1  
and 8.1**

Proposed: May 20, 1985 at 17 N.J.R. 1239(a).

Adopted: July 2, 1985 by Leo A. Culloo, Executive Secretary, Police Training Commission.

Filed: July 15, 1985 as R.1985 d.405, **without change**.

Authority: N.J.S.A. 52:17B-71h.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): July 19, 1988.

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

Full text of the adoption follows.

**13:1-5.1 Certification requirements; basic course**

(a) A trainee shall be eligible for certification when the School Director affirms that:

1. The trainee has achieved the minimum requirements set forth in the Basic Course for Police Officers and has demonstrated an acceptable degree of proficiency in the performance objectives contained therein.

**LAW AND PUBLIC SAFETY**

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2. The trainee has participated in no less than 90 percent of the total instructional time assigned to those performance objectives designated by the commission.

3. The trainee has successfully completed the employing law enforcement agency training required by the commission. This requirement shall not apply to campus police officers, sheriffs' officers, county prosecutors' detectives, or other personnel not covered by the Police Training Act.

**13:1-6.1 Commission to prescribe curriculum**

A curriculum promulgated by the commission shall be the required curriculum at a school holding commission certification. In addition to the required curriculum, a school may also offer, with commission approval, additional instruction.

**13:1-8.1 Investigation and training of police officers prior to acceptance into a basic course**

(a) Prior to the acceptance of a police officer into a basic course, the employing law enforcement agency shall:

1. Fingerprint the individual and forward copies of the fingerprints to the New Jersey State Police and Federal Bureau of Investigation in order to ascertain if the individual has an arrest record. The results obtained from the State Police and the Federal Bureau of Investigation shall be made known and available to the appropriate appointing authority.

2. Investigate the individual to ascertain if he or she is suitable for police service. The results of this investigation shall be made known and available to the appropriate appointing authority.

3. Provide training at the employing law enforcement agency in those performance objectives designated by the commission. This requirement shall not apply to campus police officers, sheriffs' officers, county prosecutors' detectives, or other personnel not covered by the Police Training Act.

(b) (No change.)

**(a)**

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

**Issuance of Identification Cards by County Clerks**

**Redoption without Change: N.J.A.C. 13:2-40.3 and 40.4**

**Redoption with Amendments: N.J.A.C. 13:2-40.1, 40.2, 40.5, 40.6, 40.7**

Proposed: June 3, 1985 at 17 N.J.R. 1380(a).

Adopted: July 9, 1985 by John F. Vassallo, Jr.,

Director, Division of Alcoholic Beverage Control.

Filed: July 11, 1985 as R.1985 d.395, **without change.**

Authority: N.J.S.A. 33:1-81.2 through 81.9.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): August 5, 1990.

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

**Full text of the adoption follows.**

**13:2-40.1 Form of application; contents**

Application for an identification card by residents of a county who shall have attained the legal age for purchase and consumption of alcoholic beverages may be filed with the county clerk in the county wherein said applicant resides and shall be in the following form:

State of New Jersey, County of \_\_\_\_\_

**IDENTIFICATION CARD APPLICATION**

TO: County Clerk of \_\_\_\_\_ County, New Jersey.  
The undersigned hereby applies for an identification card as proof of age, and submits the required fee of \$4.00.

1. Full name of applicant \_\_\_\_\_  
(First) (Middle) (Last)
2. Residence address \_\_\_\_\_
3. Height \_\_\_\_\_ Weight \_\_\_\_\_  
(Ft.) (In.)  
Color of Eyes \_\_\_\_\_ Color of Hair \_\_\_\_\_
4. Date of Birth \_\_\_\_\_
5. Place of Birth \_\_\_\_\_  
(Municipality) (County) (State)
6. Father's name \_\_\_\_\_  
(First) (Middle) (Last)
7. Mother's Maiden Name \_\_\_\_\_  
(First) (Middle) (Last)
8. The applicant presents one or more of the following certificates to establish his or her age (check appropriate line):  
 Birth Certificate  
 Naturalization Certificate  
 Voter Registration Certificate  
 Other ( )
9. The applicant submits two (2) recent color photographs, approximately 1½ inches by 1½ inches in size, of himself or herself, full face, without hat.
10. Has the applicant ever previously applied for an identification card?

If so, state the details thereof \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**WARNING:** Any person not entitled thereto who shall have unlawfully procured or have issued or transferred to him or her an identification card shall be guilty of a disorderly persons offense and shall be sentenced to pay a fine of not more than \$300.00, or imprisonment for not more than 60 days. N.J.S.A. 33:1-81.7.

The applicant hereby certifies that all of the foregoing information and statements are true in all respects.

11. Signature of applicant \_\_\_\_\_ (Date)

12. Signature witnessed by: \_\_\_\_\_ (Date)  
(County Clerk or Duly Authorized Deputy)

**DO NOT WRITE BELOW THIS LINE**

Identification Card Number \_\_\_\_\_

Date of Issuance \_\_\_\_\_

Photo Issued by \_\_\_\_\_  
1½" x 1½"

ADOPTIONS

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13:2-40.2 Establishment of age

The applicant shall to the satisfaction of the county clerk establish his or her age by presentation of a birth certificate, naturalization certificate or any other proof required by the county clerk, which after examination shall be returned to the applicant.

13:2-40.5 Identification card; form

The identification card shall be 3 1/2 inches wide by 2 1/2 inches high in size, of white index bristol time card stock or equal, with black print, in the following form:

FRONT SIDE

---

STATE OF NEW JERSEY, County of \_\_\_\_\_  
IDENTIFICATION CARD NO. \_\_\_\_\_

Photo  
1 1/2" x 1 1/2"

This is to certify that \_\_\_\_\_  
who resides at \_\_\_\_\_

\_\_\_\_\_ has furnished to the undersigned satisfactory  
evidence of having attained the age of 21 years

Height \_\_\_\_\_ Weight \_\_\_\_\_

Color of Hair \_\_\_\_\_ Color of Eyes \_\_\_\_\_

ATTEST: \_\_\_\_\_  
County Clerk or Duly Authorized  
Deputy

Date of Birth \_\_\_\_\_

Date of Issuance \_\_\_\_\_

Holder's Signature'  
(See Reverse Side)

REVERSE SIDE

**WARNING:**

It shall be unlawful for the owner of an identification card to transfer said card to any other person for the purpose of aiding such person to secure alcoholic beverages. Any person who shall transfer an identification card for the purpose of aiding the transferee to obtain alcoholic beverages and any person not entitled thereto who shall have unlawfully procured or have issued or transferred to him or her an identification card shall be guilty of a disorderly persons offense and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$300.00, or imprisonment for not more than 60 days. N.J.S.A. 33:1-81.7.

**ALCOHOLIC BEVERAGE LICENSEES NOTE:**  
The presentation of this identification card by any person in connection with the purchase or attempted purchase of any alcoholic beverage shall constitute a defense to a charge under N.J.S.A. 33:1-77, if the retail licensee makes the sale in good faith reliance on this card and the appearance of the purchaser was such that an ordinary prudent person would believe the card holder to be of legal age.

13:2-40.6 Issuance of card; procedure

One of the submitted photographs of the applicant shall be mounted on an identification card in the upper left portion of the

front side thereof. The card shall be signed by the applicant in the presence of the county clerk or his duly authorized deputy, who shall also sign the card. All cards are to be numbered consecutively. The official County seal shall be affixed so that it overlaps the photograph and a portion of the printed card. The card shall be laminated in plastic, 10 gauge on each side, and delivered to the applicant. The other photograph of the applicant shall be attached to the application, which shall indicate the date of issuance of the card, the number thereof and the name of the person who issued it. A permanent record thereof shall be retained in the county clerk's office.

13:2-40.7 Fees

A fee of \$4.00 shall be paid to the county clerk for the issuance of an original identification card. In the event the card is lost, stolen or destroyed, the holder thereof may apply for a replacement card with new numbers by filing a new application in the same manner as for an original, upon payment of an additional \$4.00 fee and upon making an affidavit as to the loss, theft or destruction of the original card. Every replacement card shall prominently have stamped, typed or otherwise imprinted on the card the word "Duplicate".

(a)

**DIVISION OF MOTOR VEHICLES**

**Enforcement Service  
Inspection of New Motor Vehicles**

**Readoption: N.J.A.C. 13:20-28**

Proposed: May 6, 1985 at 17 N.J.R. 1059(a).  
Adopted: June 17, 1985 by Robert S. Kline, Acting  
Director, Division of Motor Vehicles.  
Filed: June 27, 1985 as R.1985 d.379, **without change.**

Authority: N.J.S.A. 39:8-2.

Effective Date: June 27, 1985.  
Expiration Date pursuant to Executive Order No. 66  
(1978): June 27, 1990.

**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. 13:20-28.

(b)

**DIVISION OF CONSUMER AFFAIRS**

**Inspections of Kosher Meat Dealers and  
Kosher Poultry Dealers;  
Records Required to be Maintained by Kosher  
Meat Dealers and Kosher Poultry Dealers**

**Adopted New Rules: N.J.S.A. 13:45A-22**

Proposed: May 20, 1985 at 17 N.J.R. 1241(a).

Adopted: July 12, 1985 by Irwin I. Kimmelman,  
Attorney General of New Jersey.  
Filed: July 15, 1985 as R.1985 d.407, **without change.**

Authority: N.J.S.A. 56:8-4.

Effective Date: August 5, 1985.  
Expiration Date pursuant to Executive Order No. 66  
(1978): August 5, 1990.

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

Full text of the adoption follows.

SUBCHAPTER 22. INSPECTIONS OF KOSHER MEAT  
DEALERS AND KOSHER POULTRY  
DEALERS; RECORDS RE-  
QUIRED TO BE MAINTAINED BY  
KOSHER MEAT DEALERS AND  
KOSHER POULTRY DEALERS

13:45A-22.1 Definitions

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

"Kosher meat dealer" means any person who purchases, obtains or receives properly identified Kosher meat from slaughterhouses, wholesalers or other sources and who cuts, slices, carves, breaks down or divides such kosher meat into smaller quantities or portions intended for sale to a customer as kosher meat. Places of business carrying on the aforesaid actions include, but are not limited to: caterers, hotels, summer camps, butcher shops, delicatessens, supermarkets, grocery stores, freezer dealers and food plan companies. Such places of business may also purchase, sell, handle, package and process non-kosher meat and other kosher and non-kosher food products.

"Kosher poultry dealer" means any person who purchases, obtains or receives properly identified kosher poultry from slaughterhouses, wholesalers or other sources and who cuts, slices, carves, breaks down or divides such kosher poultry into smaller quantities or portions intended for sale to a customer as kosher poultry. Places of business carrying on the aforesaid actions include, but are not limited to: caterers, hotels, summer camps, butcher shops, delicatessens, supermarkets, grocery stores, freezer dealers and food plan companies. Such places of business may also purchase, sell, handle, package and process non-kosher poultry and other kosher and non-kosher food products.

"Non-kosher meat" means meat which is not obtained from animals which are approved, and slaughtered, in strict compliance with the laws and customs of the Orthodox Jewish religion and which does not have affixed thereto the kosher plumba, kosher tag and/or kosher brand placed on such kosher meat at the slaughterhouse where the animal was slaughtered. Non-kosher meat also means meat which is obtained from animals which are approved and slaughtered in strict compliance with the laws and customs of the Orthodox Jewish religion but which does not have affixed thereto the kosher plumba, kosher tag and/or kosher brand placed on such meat at the slaughterhouse where the animal was slaughtered.

"Non-kosher poultry" means poultry which is not approved, and slaughtered, in strict compliance with the laws and customs of the Orthodox Jewish religion and which does not have affixed thereto the kosher plumba, kosher tag and/or kosher brand placed on such poultry at the slaughterhouse where the poultry

was slaughtered. Non-kosher poultry also means poultry which is approved and slaughtered in strict compliance with the laws and customs of the Orthodox Jewish religion but which does not have affixed thereto the kosher plumba, kosher tag and/or kosher brand placed on such poultry at the slaughterhouse where the poultry was slaughtered.

"Properly identified kosher meat" means kosher meat which is obtained from animals which are approved, and slaughtered, in strict compliance with the laws and customs of the Orthodox Jewish religion and which has affixed thereto the kosher plumba, kosher tag and/or kosher brand placed on such kosher meat at the slaughterhouse where the animal was slaughtered.

"Properly identified kosher poultry" means kosher poultry which is approved, and slaughtered, in strict compliance with the laws and customs of the Orthodox Jewish religion and which has affixed thereto the kosher plumba, kosher tag and/or kosher brand placed on such kosher poultry at the slaughterhouse where the poultry was slaughtered.

13:45A-22.2 Records required to be maintained by kosher meat dealers and kosher poultry dealers

(a) Complete and accurate records of all purchases of properly identified kosher meat and properly identified kosher poultry from slaughterhouses, wholesalers or any other source shall be kept by every kosher meat dealer and by every kosher poultry dealer, including the name and address of the slaughterhouse, wholesaler or other source from which such purchases are made, the dates, quantities and identity or nature of meat or poultry included in all such purchases, and copies of all invoices and bills of sale relating to all such purchases. Kosher meat dealers and kosher poultry dealers shall retain all such records for a two year period following the purchase of properly identified kosher meat and properly identified kosher poultry.

(b) Kosher meat dealers and kosher poultry dealers shall not remove the attached plumbas or tags or any duly affixed identifications affixed thereto by the slaughterhouse on kosher meats, kosher poultry, or any other kosher products received therefrom until the time immediately preceding the point in time when said kosher meat, kosher poultry, or product whenever appropriate is ready to be cut, sliced, carved, broken down, or divided into smaller quantities or portions.

(c) Complete and accurate records of all purchases of non-kosher meat and non-kosher poultry from slaughterhouses, wholesalers or other sources shall be kept by any kosher meat dealer and by any kosher poultry dealer, who also purchases, sells, handles, packages or processes non-kosher meat, poultry or food products, including the name and address of the slaughterhouse, wholesaler or other source from which such purchases are made, the dates, quantities and identity or nature of meat or poultry included in all such purchases, and copies of all invoices and bills of sale relating to all such purchases. Such records shall be kept separate and apart from all records required to be kept for kosher meat and for kosher poultry. Kosher meat dealers and kosher poultry dealers shall retain all such records for a two year period following the purchase of non-kosher meat and non-kosher poultry.

(d) A failure to keep complete and accurate records in accordance with (a) and (c) above shall be punishable as an unlawful act under this subchapter.

13:45A-22.3 Inspections of kosher meat dealers and kosher poultry dealers

(a) The inspections provided for by this subsection shall only be conducted by authorized inspectors of the Director of the Division of Consumer Affairs of the Department of Law and Public Safety.

## ADOPTIONS

(b) In conducting an inspection as provided for by this subsection, the authorized inspectors shall utilize the inspection report form, approved by the Director of the Division of Consumer Affairs of the Department of Law and Public Safety, to report the date of the inspection, the nature and scope of the inspection and the findings of the inspection.

(c) For the purpose of making any inspection under this subsection, the authorized inspectors of the Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall have a right of entry to, upon, and through the business premises of all kosher meat dealers and kosher poultry dealers.

(d) Authorized inspectors of the Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall make inspections of kosher meat dealers and kosher poultry dealers for the purposes of:

1. Determining by examination of the meat, poultry, food product, tags, plumbas, or any other proper identification and by inspection of the records whether the establishment under inspection is in compliance with these regulations.

(e) The scope and manner of inspection shall be as follows:

1. At the commencement of all inspections provided for by this subsection, the authorized inspectors of the Director of the Division of Consumer Affairs of the Department of Law and Public Safety shall present appropriate identification to the kosher meat dealer and/or kosher poultry dealer, owner, manager or any sales person and shall advise the kosher meat dealer and/or kosher poultry dealer, owner, manager or any sales person of the purposes of the inspection to be conducted under the provisions of this subsection.

2. All inspections provided for by this subsection shall be limited to:

i. The meat and poultry and other food products located on the business premises of the kosher meat dealer and/or kosher poultry dealer. The business premises shall include all places of storage of meats and/or of poultry, all places where meat and/or poultry are cut, sliced, carved, broken down or divided into smaller quantities or portions and all places where meat and/or poultry are sold to customers; and

ii. The records required to be kept by kosher meat dealers and kosher poultry dealers under the provisions of this subchapter.

3. The inspections provided for by this subsection shall be made during the regular business hours of the kosher meat and/or kosher poultry dealer, and at any time including non-business hours when deliveries of meat and/or poultry are made to the kosher meat and/or kosher poultry dealer, at any time including non-regular business hours when the kosher meat dealer and/or kosher poultry dealer is engaged in the cutting, slicing, carving, breaking down, preparing, packaging, processing, or dividing of meat and/or poultry into smaller quantities or portions.

4. In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person.

5. All inspections of the meat and poultry located on the business premises of kosher meat dealers and kosher poultry dealers and all inspections of the records required to be kept by them under the provisions of this subchapter shall be conducted in such a manner as to not unduly interfere with the regular business operations of such kosher meat dealers and kosher poultry dealers.

(f) A failure to allow an authorized inspector a right of entry upon the business premises of a Kosher meat dealer or Kosher poultry dealer in accordance with the requirements of this section shall be punishable as an unlawful act under this subchapter.

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(g) At the completion of all inspections provided for by this subsection, the authorized inspectors of the Director of the Division of Consumer Affairs of the Department of Law and Public Safety shall make an inspection report, which shall show the date of the inspection, the nature and scope of the inspection and the findings of the inspection. A copy of the inspection report shall be filed with the records of the Director of the Division of Consumer Affairs.

## TRANSPORTATION

### (a)

#### ADMINISTRATION

##### Records Management

##### Adopted New Rules: N.J.A.C. 16:1

Proposed: March 4, 1985 at 17 N.J.R. 564(a).

Adopted: April 8, 1985 by Roger E. Nutt, Assistant Commissioner for Finance and Administration.

Filed: July 16, 1985 as R.1985 d.409, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-27, 47:1A-1 et seq.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): August 5, 1990.

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

Full text of the adopted new rules appears in the New Jersey Administrative Code at N.J.A.C. 16:1-1 and 16:1-2.

### (b)

#### TRANSPORTATION OPERATIONS

##### Restricted Parking and Stopping

##### Routes 4 in Bergen County, 45 and 47 in Gloucester County

##### Adopted Amendments: N.J.A.C. 16:28A-1.4, 1.31 and 1.33

Proposed: June 3, 1985 at 17 N.J.R. 1396(a).

Adopted: July 6, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: July 10, 1985 as R.1985 d.393, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): November 7, 1988.

**TRANSPORTATION**

**ADOPTIONS**

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

**Full text of the adoption follows.**

**16:28A-1.4 Route 4**

(a) The certain parts of State highway Route 4 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-199.

1.-3. (No change.)

(b) The certain parts of State highway Route 4 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 bus stops:

1.-14. (No change.)

15. Along the eastbound (southerly) side in the City of Hackensack, Bergen County:

i. Far side bus stop:

(1) Hackensack Avenue—Beginning at the easterly curb line of the exit ramp east of Hackensack Avenue and extending 100 feet easterly therefrom.

16. Along the westbound (northerly) side in the City of Hackensack; Bergen County:

i. Far side bus stop:

(1) Hackensack Avenue—Beginning at the westerly curb line of the exit ramp west of Hackensack Avenue and extending 100 feet westerly therefrom.

**16:28A-1.31 Route 45**

(a) (No change.)

(b) The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1.-4. (No change.)

5. Along the northbound (easterly) side in Deptford Township, Gloucester County:

i. Far side bus stop:

(1) College Boulevard—Beginning at the northerly curb line of College Boulevard and extending 120 feet northerly therefrom.

**16:28A-1.33 Route 47**

(a) (No change.)

(b) The certain parts of State highway Route 47 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 bus stops:

1.-2. (No change.)

3. Along the northbound (easterly) side in Deptford Township, Gloucester County:

i. Mid-block bus stops:

(1) Caufield Avenue—Beginning 880 feet north of the northerly curb line of Caufield Avenue and extending 135 feet northerly therefrom.

ii. Far side bus stop:

(1) Shetland Way—Beginning at the northerly curb line of Shetland Way and extending 110 feet northerly therefrom.

4. Along the southbound (westerly) side in Deptford Township, Gloucester County:

i. Mid-block bus stop:

(1) Taras Avenue—Beginning 45 feet from the prolongation of the southerly curb line of Taras Avenue and extending 155 feet southerly therefrom.

5. Along the northbound (easterly) side in Franklin Township, Gloucester County:

i. Mid-block bus stops:

(1) Pennsylvania Avenue—Beginning 350 feet south of the southerly curb line of Pennsylvania Avenue and extending 135 feet southerly therefrom.

(2) Marshall Mill Road—Beginning 420 feet south of the southerly curb line of Marshall Mill Road and extending 135 feet southerly therefrom.

**(a)**

**Restricted Parking and Stopping**

**Routes U.S. 9 in Ocean County and 94 in Sussex County**

**Turns**

**Route U.S. 206 in Somerset County**

**Adopted Amendments: N.J.A.C. 16:28A-1.7, 1.45 and 16:31-1.1**

Proposed: May 20, 1985 at 17 N.J.R. 1250(a).

Adopted: June 21, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: July 10, 1985 as R.1985 d.390, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139, 39:4-183.6 and 39:4-199.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): November 7, 1988.

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

**Full text of the adoption follows.**

**16:28A-1.7 Route 9**

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 described in this subsection 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 bus stops:

1.-16. (No change.)

17. Along the westerly (southbound) side in Dover Township, Ocean County:

i.-ii. (No change.)

18. Along the westerly (southbound) side in Ocean Township, Ocean County:

i. Near side bus stops:

(1) (No change.)

(2) Chapel Street—Beginning at the northerly curb line of Chapel Street and extending 105 feet northerly therefrom.

(3) Barnegat Beach Drive—Beginning at the prolongation of the northerly curb line of Barnegat Beach Drive and extending 105 feet northerly therefrom.

**ADOPTIONS**

**TRANSPORTATION**

(4) Seneca Boulevard—Beginning at the prolongation of the northerly curb line of Seneca Boulevard and extending 105 feet northerly therefrom.

ii. Far side bus stop:

(1) Bay Parkway—Beginning at the prolongation of the southerly curb line of Bay Parkway and extending 100 feet southerly therefrom.

iii. Mid-block bus stop:

(1) Lighthouse Drive—Beginning 655 feet from the prolongation of the northerly curb line of Lighthouse Drive and extending 135 feet northerly therefrom.

19. Along the easterly (northbound) side in Ocean Township, Ocean County:

i. Near side bus stops:

(1) (No change.)

(2) Bay Parkway—Beginning at the southerly curb line of Bay Parkway and extending 105 feet southerly therefrom.

ii. Mid-block bus stops:

(1) Seneca Boulevard—Beginning 143 feet north of the northerly curb line of Seneca Boulevard and extending 135 feet northerly therefrom.

(2) Lighthouse Drive—Beginning 655 feet north of the northerly curb line of Lighthouse Drive and extending 135 feet northerly therefrom.

iii. Far side bus stop:

(1) Barnegat Beach Drive—Beginning at the northerly curb line of Barnegat Beach Drive and extending 105 feet northerly therefrom.

Renumber 20.-35.

**16:28A-1.45 Route 94**

(a) The certain parts of State highway Route 94 described in this section shall be designated and established as “no parking” zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Vernon Township, Sussex County:

i. Along both sides.

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

(4) From County Road 515 (Stockholm Road) (South intersection) to a point 800 feet northerly therefrom.

2.-5. (No change.)

**16:31-1.1 Route U.S. 206**

(a) Turning movements of traffic on the certain parts of State highway Route U.S. 206 described in this section are regulated as follows:

1.-3. (No change.)

4. No left turn in Hillsborough Township, Somerset County.

i. Southbound into the entrance (2) of Nelson’s Corner Shopping Center.

ii. From the Exists (2) of the Shopping Center to Route U.S. 206, southbound.

**(a)**

**Restricted Parking and Stopping  
Routes U.S. 22 in Union County, 38 in  
Camden County and 44 in Gloucester  
County**

**Adopted Amendments: N.J.A.C. 16:28A-1.13,  
1.27 and 1.30**

Proposed: June 3, 1985 at 17 N.J.R. 1397(a).

Adopted: July 6, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: July 10, 1985 as R.1985 d.394, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): November 7, 1988.

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

**Full text of the adoption follows.**

**16:28A-1.13 Route U.S. 22**

(a) The certain parts of State highway Route U.S. 22 described in this section shall be designated and established as “no parking” zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-9. (No change.)

(b) The certain parts of State highway Route U.S. 22 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 bus stops:

1.-7. (No change.)

8. Along the eastbound (southerly) side in Kenilworth Borough, Union County:

i. Far side bus stop:

(1) Michigan Avenue—Beginning at the easterly curb line of Michigan Avenue and located within 225 feet easterly therefrom.

**16:28A-1.27 Route 38**

(a) (No change.)

(b) The certain parts of State highway Route 38 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 bus stops:

1. (No change.)

2. Along the westbound (northerly) side in Cherry Hill Township, Camden County:

i. Near side bus stop:

(1) Mall Drive—Beginning at the easterly curb line of Mall Drive and extending 179 feet easterly therefrom.

ii. Far side bus stop:

(1) Chestnut Street—Beginning at the westerly curb line of Chestnut Terrace and extending 135 feet westerly therefrom.

**16:28A-1.30 Route 44**

(a) (No change.)

(b) The certain parts of State highway Route 44, 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 bus stops:

1.-3. (No change.)

**TRANSPORTATION**

**ADOPTIONS**

- 4. Along the westbound (northerly) side in Paulsboro Borough, Gloucester County:
  - i. Near side bus stop:
    - (1) Delaware Street—Beginning at the easterly curb line of Delaware Street and extending 100 feet easterly therefrom.
  - ii. Mid-block bus stop:
    - (1) Cedar Avenue—Beginning 50 feet west of the prolongation of the westerly curb line of Cedar Avenue and extending 110 feet westerly therefrom.
- 5. Along the eastbound (southerly) side in Paulsboro Borough, Gloucester County:
  - i. Far side bus stop:
    - (1) Delaware Street—Beginning at the easterly curb line of Delaware Street and extending 90 feet easterly therefrom.

**(a)**

**Restricted Parking and Stopping  
Route 27 in Union County**

**Adopted Amendment: N.J.A.C. 16:28A-1.18**

Proposed: May 20, 1985 at 17 N.J.R. 1251(a).  
 Adopted: June 21, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.  
 Filed: July 10, 1985 as R.1985 d.391, **without change** and with 16:28A-1.36 **not adopted** but still **pending**.  
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.  
 Effective Date: August 5, 1985.  
 Expiration Date pursuant to Executive Order No. 66 (1978): November 7, 1988.

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

Full text of the adoption follows.

- 16:28A-1.18 Route 27
- (a) The certain parts of State highway Route 27 described in this subsection shall be designated and established as "no parking" zones where stopping and standing are 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 Elizabeth City, Union County;
      - i.-ii. (No change.)
      - iii. Along the westerly (southbound) side (Cherry Street):
        - (1) From the northerly curb line of (Rahway Avenue) to a point 90 feet northerly therefrom.
    - 7.-16. (No change.)
    - (b)-(d) (No change.)

**(b)**

**Restricted Parking and Stopping  
Routes 29 in Hunterdon County, 35 in Ocean  
County, 42 in Gloucester County, 41 in  
Camden County and 15 in Sussex County**

**Adopted Amendments: N.J.A.C. 16:28A-1.20,  
1.25, 1.29, 1.64 and 1.65**

Proposed: June 3, 1985 at 17 N.J.R. 1398(a).  
 Adopted: July 6, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.  
 Filed: July 10, 1985 as R.1985 d.392, **without change**.  
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.  
 Effective Date: August 5, 1985.  
 Expiration Date pursuant to Executive Order No. 66 (1978): November 7, 1988.

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

Full text of the adoption follows.

- 16:28A-1.20 Route 29
- (a) The certain parts of State highway Route 29 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.
    - 1.-3. (No change.)
    - 4. No stopping or standing in West Amwell Township, Hunterdon County:
      - i. Along the northbound side:
        - (1) (No change.)
        - (2) Beginning at the Mercer-Hunterdon Line and extending 775 feet north therefrom.
      - (b) (No change.)
      - (c) The certain parts of State Highway Route 29 described in this section shall be designated and established as "no parking" zones for designated curb loading zones.
        - 1. (No change.)
  - 16:28A-1.25 Route 35
    - (a) The certain parts of State Highway Route 35 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.-13. (No change.)
      - 14. No stopping or standing in Dover Township, Ocean County:
        - i. Along the easterly side of the northbound roadway:
          - (1) (No change.)
          - (2) From a point 95 feet south of the southerly curb line of Second Avenue to Second Avenue.
        - ii. (No change.)
        - iii. Along the westerly side of the northbound roadway:
          - (1) From a point 127 feet south of the southerly curb line of Second Avenue to Second Avenue.
      - 15.-21. (No change.)
      - (b) The certain parts of State highway Route 35 described in this section are 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 bus stops:
        - 1.-11. (No change.)
        - (c) The certain parts of State highway Route 35, described in this section shall be designated and established as "Restricted Parking" zone, for use by persons who have been issued special Vehicle Identification Cards by the Division of Motor Vehicles. No other person shall be permitted to park in these areas.

**ADOPTIONS**

**TREASURY-GENERAL**

- 1. (No change.)
- (d) (No change.)

**16:28A-1.29 Route 42**

- (a) (No change.)
- (b) The certain parts of State highway Route 42 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 bus stops:
  - 1. (No change.)
  - 2. Along the northbound (easterly) side in Washington Township, Gloucester County:
    - i. Mid-block bus stop:
      - (1) Greentree Road—Beginning 410 feet north of the prolongation of the northerly curb line of Greentree Road (County Road 651), and extending 130 feet northerly therefrom.

**16:28A-1.64 Route 41**

- (a) (No change.)
- (b) The certain parts of State highway Route 41 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 bus stops:
  - 1. (No change.)
  - 2. Along the westerly (southbound) side in Cherry Hill Township, Camden County:
    - i. Mid-block bus stops:
      - (1) Ryans Run—Beginning 120 feet south of the southerly curb line of Ryans Run and extending 100 feet southerly therefrom.
      - (2) Chelton Parkway—Beginning 730 feet south of the southerly curb line of Chelton Parkway and extending 150 feet southerly therefrom.
    - ii. Near side bus stop:
      - (1) Park Boulevard—Beginning at the northerly curb line of Park Boulevard and extending 105 feet northerly therefrom.

**16:28A-1.65 Route 15**

- (a) The certain parts of State highway Route 15 described in this section shall be designated and established as "no parking" zones where stopping and standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.
  - 1.-4. (No change.)
  - 5. No stopping or standing in Sparta Township, Sussex County:
    - i. Along the easterly (northbound) side:
      - (1) Beginning at a point 1000 feet south of the southerly curb line of White Lake Road and extending 400 feet southerly therefrom.
      - (2) Beginning at a point 500 feet north of the northerly curb line of Father John's Lane and extending 200 feet northerly therefrom.

**(a)**

**Weight Limit  
Route 45 in Gloucester County**

**Readopted New Rule: N.J.A.C. 16:30-6.4**

Proposed: May 20, 1985 at 17 N.J.R. 1337(a).

Adopted: July 2, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.  
Filed: July 10, 1985 as R.1985 d.389, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:3-84.1 and 39:4-197.3.

Effective Date: August 5, 1985.  
Expiration Date pursuant to Executive Order No. 66 (1978): November 7, 1988.

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

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

**16:30-6.4 Route 45**

For the improvement in maintenance, repair and extensive reconstruction of the South portion of Route 45 (beginning at Route U.S. 77 and Route 45 Intersection north to Route 45 and U.S. Route 322 Connector) in Harrison Township, Gloucester County, there is hereby established a weight limit of four tons gross weight for trucks, except for the pick up and delivery of materials.

**TREASURY-GENERAL**

**(b)**

**DIVISION OF PENSIONS**

**Supplemental Annuity Collective Trust**

**Readoption: N.J.A.C. 17:8**

Proposed: March 18, 1985, at 17 N.J.R. 682(a).  
Adopted: June 26, 1985, by the Supplemental Annuity Collective Trust Council, Douglas R. Forrester, Secretary.  
Filed: June 27, 1985 as R.1985 d.378, **without change.**

Authority: N.J.S.A. 52:18A-111.

Effective Date: June 27, 1985.  
Expiration Date pursuant to Executive Order No. 66 (1978): June 27, 1990.

**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. 17:8.**

**(c)**

**DIVISION OF INVESTMENT**

**Certificates of Deposit**

**Adopted New Rules: N.J.A.C. 17:16-27**

**TREASURY-GENERAL**

**ADOPTIONS**

Proposed: January 7, 1985 at 17 N.J.R. 60(b).  
 Adopted: July 8, 1985 by Roland M. Machold,  
 Director, Division of Investment and State  
 Investment Council.

Filed: April 5, 1985 as R.1985 d.201 **with substantive and technical changes** not requiring additional notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:18A-91.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): August 5, 1990.

**Summary of Public Comments and Agency Responses:**

17:16-27.1(a)

**Comment:**

Savings Banks suggested to have specific language included on the banks that are permitted to offer certificates of deposit for purchase by the Division of Investment.

**Response:**

“Commercial” was eliminated, leaving the word “banks” in place to clearly include all banks. Commercial and savings were eligible for certificates of deposit.

17:16-27.1(a)2

**Comment:**

Savings banks suggested specific inclusion of FSLIC or FDIC membership as an alternative to membership in the Federal Reserve Bank in order to expand the banks eligible to offer certificates of deposit for purchase by the Division of Investment.

**Response:**

Federal Savings and Loan Insurance Corporation and Federal Deposit Insurance Corporation were added to broaden the already included requirement of membership in the Federal Reserve System.

**Other changes:**

17:16-27.1(a)3

Minimum primary capital ratio has been set at 5.5% in line with new revised Federal regulations.

17:16-27.100(a)4

The limitation on the total investment in certificates of deposit of any one issuer, when combined with bankers acceptances, is reduced from 25% to 10% of a bank's net capital. However, this reduction is offset in large part by eliminating the requirement that certificates of deposit with state agencies and authorities be included in the calculation of eligible free board and the new standard applies only to uncollateralized certificates of deposit and is revised to exclude collateralized certificates in the calculation.

17:16-27.1(b)2 Inclusion of “bank or” corrects an oversight.

17:16-27.2 Subsection (a) deleted.

17:16-27.3 Cross reference to N.J.A.C. 17:16-27.1(a).

**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 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 certificates of deposit of **\*[commercial]\*** banks provided that:

1. The investment in the certificate 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

**\*iv. The Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;\***

3. The issuer, at the date of its last published balance sheet preceding the date of investment, had **\*[the following minimum ratio of] \*a\* primary capital \*ratio\* \*[to total assets]\*** (as defined by the Federal Reserve Board) **\*[:]\* \*of at least 5.5 percent; and\***

* Assets	Minimum Primary Capital Ratio	*
Over \$1 billion	5%	
less than \$1 billion	6%	

**\*4. The total investment in the certificates of deposit of any one issuer, combined with the total investment in the bankers acceptances of any one issuer, shall not exceed 10 percent of the issuer's primary capital.\***

(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 10% of the bank's net worth designated as capital, surplus and undivided profits.**]\***

## ADOPTIONS

## TREASURY-TAXATION

\*[(b)]\* \*(a)\* The issuer of a certificate of deposit shall deliver such certificate to a third party bank designated by the Division of Investment.

\*[(c)]\* \*(b)\* 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)]\* \*(c)\* 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]\* \*N.J.A.C. 17:16-27.1(a)\*, 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.

# TREASURY-TAXATION

## (a)

### DIVISION OF TAXATION

#### Corporation Business Tax Tax Clearance Certificate; Procedure

**Adopted New Rules: N.J.A.C. 18:7-14.17,  
14.18, 14.19 and 14.20**

**Adopted Amendment: N.J.A.C. 18:7-14.12**

Proposed: May 20, 1985 at 17 N.J.R. 1252(b).

Adopted: July 2, 1985 by John R. Baldwin, Director,  
Division of Taxation.

Filed: July 2, 1985 as R.1985 d.383, **without change**.

Authority: N.J.S.A. 54:10A-27.

Effective Date: August 5, 1985.

Expiration Date Pursuant to Executive Order No. 66  
(1978): April 2, 1989.

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

**Full text** of the adoption follows.

18:7-14.12 Personal liability of officers or directors, for unpaid taxes.

(a) Any officer or director of any corporation who shall be instrumental in the following shall be personally liable for payment of that corporation's unpaid taxes, fees, penalties and interest:

1. Violating N.J.S.A. 54:50-13 (which provides for the payment of all State taxes including the Corporation Business Tax, as well as fees, interest and penalties prior to merger, consolidation, dissolution or partial or complete liquidation), or

2. Filing any certification under N.J.S.A. 54:50-15c.(2) (which represents that the corporation making certain undertakings has a net worth ten times the amount of certain taxes paid by another corporation) which is materially false.

(b) The amount of such personal liability shall be recoverable by the State in any court of competent jurisdiction and the

Director shall have such additional remedies for the enforcement and collection of such personal liability as may be available under any law of this State.

### 18:7-14.17 Tax Clearance Certificate

(a) This section describes certain actions and certain transactions by corporations which require the prior issuance of a Tax Clearance Certificate by the Director of the Division of Taxation as evidence that all State taxes, penalties, interest and fees have been paid or provided for in order to avoid a transferee liability to certain officers and directors.

(b) The following words and terms, when used in this section, have the following meanings (unless the context clearly indicates otherwise):

"Authorized foreign corporation" means a corporation holding a general Certificate of Authority to do business in New Jersey issued by the Secretary of State to the exclusion of any other authority, license or right derived from any other source.

"Certification" means a writing on behalf of a corporation making an undertaking executed under oath of its president, vice president or treasurer which represents that the corporation making the undertaking has a net worth not less than ten times the amount of all taxes paid by a corporation applying for a Tax Clearance Certificate during the last complete year in which it filed tax returns with the State of New Jersey. Net worth, for this purpose, is net worth defined in the conventional accounting sense determined consistent with generally accepted accounting principles and not as defined at Section 4(d) of the Corporation Business Tax Act nor at N.J.A.C. 18:7-4.1.

"Director" means the Director of the Division of Taxation.

"Domestic corporation" means a corporation which received its charter under any law of the State of New Jersey.

"Foreign corporation" means any corporation other than a domestic corporation which is subject to taxes. The term includes entities which are taxable as such, as well as any entity obligated to withhold personal income taxes or to collect sales and use tax.

"Liquidation" means any distribution by a corporation to its shareholders with respect to its capital stock except dividend distributions out of retained earnings.

"Taxes" means all taxes, fees, penalties and interest owing under any tax law of the State of New Jersey which are payable to or collectible by the Director.

"Undertaking" means a writing by a domestic corporation or by an authorized foreign corporation executed under another on its behalf by its president, vice president or treasurer which undertakes, as surety and not as guarantor, to pay all taxes of a corporation applying for a Tax Clearance Certificate on or before the date such taxes are payable. Where more than one corporation undertakes to pay such taxes, it must be jointly and severally undertaken.

(c) A corporation may merge under the laws of New Jersey or any other jurisdiction without applying for a Tax Clearance Certificate only where the survivor is a domestic corporation or an authorized foreign corporation.

(d) No corporation may either distribute any of its assets in dissolution or in partial or complete liquidation; or merge or consolidate, under the laws of any jurisdiction, into a foreign corporation which is not an authorized foreign corporation; and no domestic corporation may dissolve, and no authorized foreign corporation may withdraw as an authorized corporation (except only where that withdrawal is affected by its merger or consolidation under the laws of another state into a domestic corporation or into another foreign corporation which, itself, is an authorized corporation), unless it shall have applied for and

## TREASURY-TAXATION

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received a Tax Clearance Certificate from the Director which is dated not earlier than 45 days prior to the effective date of the corporate action or transaction described.

(e) The Tax Clearance Certificate is issued by the Director upon application in good form which is accompanied by a statutory fee of \$10.00. The Certificate is dated and it voids and becomes a nullity 46 days after that date. The Certificate is evidence that a corporation's taxes have been paid or provided for only during the 45-day period succeeding its issue.

(f) A Tax Clearance Certificate may be issued under any one of three conditions:

1. Where an amount is deposited or paid on account which, in the judgement of the Director, is adequate to cover estimated taxes up to the date of the relevant corporate action. The amount which is deemed to be adequate is described in the instruction sheet accompanying the estimated summary tax return to be filed with the application; or

2. Where the application is accompanied by a written undertaking and a certification; or

3. Solely in the case where:

i. A domestic corporation intends to dissolve or where any corporation proposes to distribute any of its assets in dissolution or in partial or complete liquidation, and

ii. The application is accompanied by a written undertaking by the corporation or corporations which either own 50 percent or more of all classes of the applicant corporation's capital stock, or are a party together with the applicant corporation in the type of reorganization described at Section 368(a)(1)(C) of the Federal Internal Revenue Code, and the application is accompanied by a legal opinion signed by an attorney at law of the State of New Jersey who states that he is familiar with the facts of the transaction to the effect that all of the above requirements are met.

(g) Provided, however, the Director may require as a condition of issuing any Tax Clearance Certificate evidence by affidavit, or by any means that seems to him appropriate, that any foreign corporation which is not an authorized foreign corporation and which is a party to the transaction causing any corporation to seek a Tax Clearance Certificate has, itself, paid all taxes owing by it.

For example: A foreign corporation which is not subject to the corporation business tax or any property tax in New Jersey may be obligated to withhold personal income taxes or remit sales and use tax. Such taxes must be paid whether or not withheld from employees or charged to customers.

18:7-14.18 Actions not requiring the prior issuance of a Tax Clearance Certificate

A corporation may merge under the laws of New Jersey or any other jurisdiction without applying for a Tax Clearance Certificate only where the survivor is a domestic corporation or an authorized foreign corporation.

18:7-14.19 Actions and transactions requiring the prior issuance of a Tax Clearance Certificate in order to avoid a personal liability to certain officers and directors

No corporation may either distribute any of its assets in dissolution or in partial or complete liquidation, or consolidate with another corporation to form a new corporation or merge into a foreign corporation which is an unauthorized foreign corporation, and no domestic corporation may dissolve, and no authorized foreign corporation may withdraw its authority to do business in New Jersey, unless it shall have applied for and received a Tax Clearance Certificate from the Director.

18:7-14.20 Forms and instructions regarding procedure to obtain a Tax Clearance Certificate

(a) Application forms and instructions relating to Tax Clearance Certificates may be obtained by writing to:

New Jersey Division of Taxation  
Tax Clearance Group  
50 Barrack Street  
Trenton, NJ 08646-0269

or by making a telephone call to Taxpayer Information Service at (609) 292-6400.

(b) The consequences of failing to obtain the Tax Clearance Certificate pursuant to this section are described at N.J.A.C. 18:7-14.12.

(a)

## DIVISION OF TAXATION

### Local Property Tax Tax Maps

**Adopted Repeal: N.J.A.C. 18:23A-1.1 through 1.29**

**Adopted New Rules: N.J.A.C. 18:23A-1.1 through 1.31**

Proposed: May 6, 1985 at 17 N.J.R. 1068(b).

Adopted: July 1, 1985 by John R. Baldwin, Director,  
Division of Taxation.

Filed: July 2, 1985 as R.1985 d.381, **without change**.

Authority: N.J.S.A. 54:1-15 and 54:50-1.

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66  
(1978): August 5, 1990.

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

**Full text of the adoption follows.**

18:23A-1.1 General provisions

(a) In accordance with the provisions of Chapter 175, Laws of 1913 (N.J.S.A. 54:1-15), Chapter 167, Laws of 1939 (N.J.S.A. 54:1-15.1) and Chapter 92, Public Laws of 1948 (N.J.S.A. 52:18A-46), the Director, Division of Taxation, Department of the Treasury, has adopted these rules for the preparation of tax maps.

1. Modifications of these rules may be desirable in some cases to meet special conditions and will be authorized upon application in writing to the Director if adequate reason is shown.

2. These rules are intended to cover the preparation and revision of all types of tax maps (N.J.S.A. 54:1-15(6)).

3. Existing surveys, maps, and aerial photographs may be used in the preparation of tax maps, provided their accuracy is first tested and found to be within the limits herein specified.

4. Tax maps may show lots as shown on a filed plan of development indicating the development block and lot numbers as well as the tax map block and lot numbers.

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## TREASURY-TAXATION

5. Tax maps are made primarily for the use of the assessor and should contain the information necessary for his purposes. Other data desired by the local authorities, (such as house numbers shown on street area, opposite pertinent lot), may be added, provided this is done without obscuring the details of the maps and without interfering with its stated use.

6. The line work and lettering on all tax maps shall be done with black waterproof ink.

7. Freehand or mechanical lettering may be used, but the style or type of lettering shall be consistent throughout the map.

8. On each Key or Index Sheet the following statement shall be shown:

"To show Conditions as of (date)," indicate the date of the latest deed plotted on the map or the date of the latest revision.

9. On each Key or Index Sheet the following certification shall be made: "I hereby certify that this map and any required survey have been made under my immediate supervision, and comply with the laws of the State of New Jersey." The seal, signature, and license number of the New Jersey Licensed Land Surveyor preparing the tax map shall be affixed under the above statement (See: New Jersey Attorney General's Formal Opinion 1959—No. 6, dated April 14, 1959).

10. A previously approved tax map, currently revised and re-submitted for an approval shall have the following certification:

"I hereby certify that this map has been revised under my immediate supervision, and complies with the laws of the State of New Jersey." The seal, signature and license number of the New Jersey Licensed Land Surveyor revising the tax map shall be affixed under the above statement.

### 18:23A-1.2 Approval of tax maps

(a) The law provides that the Director, Division of Taxation, "shall have full control over the preparation, maintenance, and revision of all tax maps however prepared" (See: Chapter 175, Laws of 1913 and N.J.S.A. 54:1-15(6)).

(b) No new map or set of maps shall be used for purposes of taxation until approved by the Director, Division of Taxation (Chapter 167, Laws of 1939; N.J.S.A. 54:1-15.3).

1. After maps have been completed and thoroughly checked by the maker for compliance with these rules the maps shall be submitted to the Local Property and Public Utility Branch for examination. Any revisions or corrections found to be necessary shall be made by the maker of the tax map. The Branch reserves the right to reject any tax map for examination which, in its opinion, has not been adequately checked for compliance with these rules.

2. When the required revisions have been made, the tax map will be approved by the Director, Division of Taxation, and his official approval will be stamped on each tracing.

3. The Local Property and Public Utility Branch will make a set of prints of each approved tax map to be retained in its file. The tracings will then be made available to said municipality.

4. The tax maps to be approved for revaluation purposes in accordance with Chapter 424, P.L. 1971, shall conform to these rules as far as lot and block numbering system is concerned and all lot and block details. However, the original tax map tracings shall not be required to have the Director's official stamp.

### 18:23A-1.3 Aerial photographs and surveys

(a) If aerial photography of the municipality are to be used as an aid in the preparation of a tax map, they shall be taken by a bonded company experienced in and equipped for the production of such aerial photographs and approved by the Director

(b) Vertical aerial photography may be used to assist in the preparation of a tax map, if the basic map detail such as highways, roads, streets, railroads, streams, rivers, lakes, shore lines, and municipal boundary lines are plotted by a stereoscopic or radial line method to avoid the displacement or wrong location of such detail. The tracing of an individual photograph or enlargement of the basic map detail will not be considered sufficiently accurate.

(c) The aerial photography shall be taken with a precision certified mapping camera.

(d) Aerial prints shall not be from a flight flown more than three years prior to date of tax map compilation.

NOTE: Physical changes such as recent land developments, road alignments, etc., would not be shown on older prints or photographs.

(e) Aerial prints to be used as an aid in the preparation of a tax map should be from a flight flown when the trees are bare of foliage and the ground is bare of snow.

(f) Aerial prints shall be supplemented by sufficient control points to insure their accuracy. The control points shall be derived from the following sources:

1. United States Coast and Geodetic Survey monuments and points;
2. United States Geological Survey monuments and points;
3. New Jersey Geological Survey monuments and points;
4. Existing surveys of private and public property;
5. Existing highway and road surveys (State, County and Municipal);
6. Actual field surveys by a tax map maker, a New Jersey Licensed Land Surveyor, to ascertain the proper location of a lot.

### 18:23A-1.4 Size of tax map sheets

All completed tax map sheets shall be prepared on high-grade tracing cloth, film base material or polyester type plastic material, 36 inches long by 24 inches wide. Each sheet shall have a border with margins of one inch around the upper, lower and right sides, and a three inch margin on the left side (See Standards, Page 39).

### 18:23A-1.5 Scales

(a) Maps shall be drawn to the following scales, depending on the density and classification of the municipality:

1. City and urban districts—1 inch = 50 feet and 1 inch = 100 feet;
2. Rural districts—1 inch = 200 feet and 1 inch = 400 feet;
3. Large State and Federal tracts—Scales to be agreed upon by this Branch, the municipality and the tax map maker.

(b) The same scale shall be used on all detail sheets throughout the taxing district, but where special conditions make it desirable to use more than one scale, this may be done by first obtaining permission from the Local Property and Public Utility Branch.

(c) A supplemental sheet, or sheets, drawn to a larger scale may be used to show properties in a minor settlement or development, if this cannot be clearly shown on a smaller scale.

### 18:23A-1.6 Key map or sheet

(a) A Key Sheet shall be prepared for each map to a small scale which shall show the following data (See Standards, Page 40):

1. The boundary lines of the entire municipality, including bearings and distances when available;
2. The names and limits of all adjacent municipalities and counties;

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3. All streets, roads, highways, main streams, lakes, local settlements, major public utilities rights-of-way, airports, bodies of water and railroads with their proper names;
  4. The limits of special taxing districts within the municipality;
  5. The outline and number of each detail sheet;
  6. The outline and number of each block;
  7. The meridian, true and magnetic, including declination on key sheet only;
  8. Legend (See Standards, Page 40);
  9. Title block (See Standards, Page 39);
  10. Statement as follows: "To show conditions as of date";
  11. The certification and seal of the New Jersey Licensed Land Surveyor;
  12. A block or space for the Director's approval stamp;
  13. A statement similar to the following: "The areas, boundaries and dimensions shown on this tax map are derived from ground surveys, aerial surveys, and recorded plans, maps, deeds, wills, and are to be used for assessment purposes only";
  14. Revision block (See Standards, Page 39).
- (b) One or more Key Sheets may be used to properly show the required data.
- (c) The Key Sheet shall be drawn to a scale that shows the proper relationship of topographic features such as roads, railroads, streams, etc.
- (d) When a new tax map supersedes an existing tax map, a note shall be placed on the Key Sheet or Key Sheets as follows: "This tax map supersedes the tax map approved (date)." This information is obtainable from the Local Property and Public Utility Branch.

**18:23A-1.7 Detail sheets**

- (a) Detail sheets of a tax map shall be laid out as systematically as possible to make the tax map easy to understand. Streets, roads, highways, streams and railroads, etc. should be used as sheet limits unless it is impractical to do so. The grid system shall not be used to detail a tax map.
- (b) A true meridian shall be drawn on each detail sheet.

**18:23A-1.8 Sheet numbers**

- (a) The sheets of a tax map shall be numbered consecutively, and the sheet number shall be placed in the upper and lower right-hand corner, outside of the borderline. A supplemental tax map sheet shall bear the original sheet number with a number added as a subscript. For example: If an original sheet numbered "9" is subdivided or a supplemental sheet is needed they would become 9, 9.01, 9.02, etc. (See Standards, Page 42 and 43).
- (b) Along the inside of each borderline shall be marked the number of each adjoining detail sheet.

**18:23A-1.9 Block numbers**

- (a) All blocks in the municipality shall be assigned block numbers set forth in numerical sequence commencing with the number "1".
- (b) Care should be used in connection with the assignment of block numbers since "Electronic Data Processing" is being used on a county-wide basis to record reassessment information for each individual municipality.
1. The division of an old block number may be shown by using the decimal system in this manner—1.01, 1.02, etc.;
- Example (1):
- Old Block Number 100 is split by a freeway into four blocks, yet the identity of old Block 100 must be retained. Then the new Block Numbers must be designated as Block Number 100.01, 100.02, 100.03, and 100.04.

2. There is another system of block numbering which identifies the sheet number as well as the block number.

Example (2):

Sheet 1 being the first sheet, would have the blocks numbered 101, 102, etc. Sheet 2 would then be the second sheet, having blocks numbered 201, 202, etc. It would be then possible to have at least 99 block numbers allocated to each tax map sheet, a situation not often encountered.

(c) Each block shall be bounded by streets, highways, rivers and prominent streams, but it shall be permissible, under special conditions to use artificial block limits, provided they are clearly shown by heavy solid lines and marked "Block Limit" or "B.L."

1. Artificial block limits may be established along a property line or lines;
2. In no case shall any block be so extended that it will include lands on both sides of any street, highway, or prominent stream;
3. Where rights-of-way of public utilities or railroads are assigned a block number to apply to their entire length, no other block shall be so extended that it will include lands on both sides of said rights-of-way or railroads (See N.J.A.C. 18:23-16 and Standards, Pages 51, 52, 53 and 72).
- (d) Block numbers shall be made prominent and distinctive and placed near the center of each block.
- (e) There shall be no duplication of a block number within a municipality.
- (f) Block numbers used on filed maps which are located within the municipality may be shown but shall be distinct in appearance and less conspicuous than the block number to be used on the tax map. These filed map block numbers shall not be shown on the Key Sheet or Sheets (See Standards, Pages 48 and 49).

(g) If blocks as shown on an original tax map are later subdivided, each subdivision shall bear the original block number with a number added as a subscript. For instance: if an original block number 16 is later subdivided into three blocks, they would become block numbers 16.01, 16.02 and 16.03. Again, if the block 16.01 is further subdivided into several new blocks, they would become 16.01, 16.04, 16.05, etc. i.e., one area retaining a number of the area that was subdivided and other areas would take the next consecutive number of the block with prefix number 16 (See Standards, Page 44).

(g) If blocks as shown on an original tax map are later subdivided, each subdivision shall bear the original block number with a number added as a subscript. For instance: if an original block number 16 is later subdivided into three blocks, they would become block numbers 16.01, 16.02 and 16.03. Again, if the block 16.01 is further subdivided into several new blocks, they would become 16.01, 16.04, 16.05, etc. i.e., one area retaining a number of the area that was subdivided and other areas would take the next consecutive number of the block with prefix number 16 (See Standards, Page 44).

**18:23A-1.10 Lot numbers**

- (a) Lot numbers shall be assigned to every lot in the municipality including lots along the boundary lines, which may be assessed by an adjoining municipality, and "exempted" property, except areas occupied by roads, streets, highways, and tidal waters outside of riparian grants (N.J.S.A. 40:146-27; See Standards, Pages 50 and 51).
- (b) Lot numbers shall be consecutive in each block, commencing with the number "1". In those areas covered by a filed development the lot numbers from such filed maps may be adopted for use on the tax map, provided this method does not produce any duplication of lot numbers within any block.
- (c) Lot numbers shall be shown in smaller and lighter figures than those used for block numbers and easily distinguishable therefrom.
- (d) Lot numbers shall be placed on the lots in a systematic manner.
- (e) Filed map lot numbers may be shown on the tax map, but shall be distinct in appearance and less conspicuous than the lot numbers used on the tax map (See Standards, Page 48).
- (f) Where adjacent lots on a filed map are combined into one holding for the purpose of assessment, the lots may be shown on the tax map either as one lot or several lots, depending on the

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circumstances and preferences of the local officials. However, the method adopted should be used throughout the entire tax map (See Standards, Pages 48 and 49).

(g) If lots as shown on an original tax map are later subdivided, each subdivision shall generally bear the original lot number with a number added as a subscript. For example: if an original lot numbered 3 is subdivided into two lots, they would become lot numbers 3.01 and 3.02. Any later subdivision of former lot 3 would take the next consecutive numbers 3.03, 3.04, etc. (See Standards, Page 45).

(h) If a lot is completely detailed on one detail sheet, the lot shall not be detailed on any adjoining detail sheet or sheets.

(i) When applicable, lot numbers shall be assigned to areas on which mobile homes are situated, and the designated lot numbers should be part of the numbers previously assigned to the lot on which the individual mobile homes are located. For example: the mobile homes referred to as No. 1, No. 2, No. 3, etc., within the mobile home park area listed as Lot 1 on the tax map should be listed as being situated on Lots 1.01, 1.02, 1.03, etc. Detailing of the individual mobile home sites is permissible where the assessing practices of the tax districts require such delineation. The approximate location of the mobile home sites or lots should be indicated by a thin dashed line on the tax map (See Standards, Page 68).

### 18:23A-1.11 Block and property lines

(a) Property lines of lots on a tax map shall be shown by a solid line only, somewhat lighter and thinner than that used for streets, roads, and artificial block limits.

(b) Property lines along streets, rivers, lakes, bays, and any other bodies of water should be clearly shown with a solid line.

(c) Property lines of lots from filed maps, when they do not coincide with the property lines of the tax map lots, shall be shown by a thin dashed line (See Standards, Page 48).

### 18:23A-1.12 Boundary lines of municipalities

(a) Boundary lines of the municipality shall be determined either by running traverse lines in the field or from other reliable sources.

1. If traverses are run, they shall be closed and the computations may be requested by the Local Property and Public Utility Branch for review.

2. Reliable sources may be defined as recent tax maps of the adjoining municipalities, old maps and description of the municipality, known monuments and land marks in the boundary line itself, and agreement between local authorities as to the location of any disputed lines (See R.S. 40:43-67, 70 and 71, Chapter 37, Laws of 1953).

3. A description of the boundary lines of the municipality shall be furnished to this Branch when the tax map is submitted for review.

(b) Boundary lines of the municipality shall be shown by a very prominent, heavy dash and double dotted line.

(c) Along each portion of the boundary line of the municipality shall be shown the name and limit of each adjacent municipality, both on the Key Sheet or Sheets and on the Detail Sheets.

(d) Where required, by the municipality, tax maps may show a special assessment line for properties (lots) assessed on both sides of the municipal boundary (See Standards, Pages 37 and 51).

### 18:23A-1.13 Boundaries of special taxing districts

Boundaries of special districts for which a separate tax is assessed, such as hazardous waste sites, garbage, fire and lighting districts, etc., shall be shown on both the Key Sheet or Sheets and on those Detail Sheets affected, by conspicuous

dashed lines, with the name or other designation of such district prominently shown along said boundary line.

### 18:23A-1.14 Dimensions and area of lots

(a) The width and depth dimensions of rectangular lots and all dimensions of irregular lots shall be shown on properties assessed as lots.

(b) All dimensions of acreage lots are required.

(c) A scaled distance may be used where the exact distance is unknown and cannot be determined at a reasonable cost.

1. In the case where scaled distances are used, the indication (S) shall be used after the dimension. Thus 1500' (S).

2. Where the deed distance is in conflict with the surveyed or scaled distance, the indication (D) may be shown after the deed dimension. Thus 1666.26' (D).

3. All dimensions (not in conflict with surveyed or scaled distance) shall indicate deed dimensions. No abbreviation or rounding of deed dimensions is permitted. Dimensions shall be given in feet and hundredths of a foot, where possible. However, where deed dimensions indicate a distance to the center of a road the calculated distance to the side line of the road or both the centerline and the sideline distances will be shown on the tax map.

(d) The area of each lot over one acre shall be given in acres and hundredths of an acre (decimal form) where possible. Lots with areas of under one acre may show such acreage or square foot area if required.

(e) Deed areas may be used where substantially correct. Where the deed area is incorrect, the surveyed area should be shown, but the deed area may also be shown for comparative purposes. Example: 1600.60 Ac ± (S). 1490.10 Ac ± (D). It is necessary to deduct road areas from the deed area to obtain actual assessment areas.

(f) Even though several lots in different blocks are covered by one deed, the area of each lot shall be shown separately (See Standards, Page 46).

(g) Where a lot extends across a Detail Sheet border but does not go beyond the limit of the sheet, the entire lot shall be shown on that Detail Sheet. Remove borderline where lot extends beyond.

(h) Where a lot must be shown in part on two or more detail sheets, the word "Total" shall be added before the acreage to indicate that the acreage shown includes also that portion of the lot shown on other detail sheets (See Standards, Page 41).

(i) Overlapping lot lines and dimensions shall be shown in accordance with descriptions appearing in the last deed of record for each parcel (See Standards, Pages 69 and 70).

### 18:23A-1.15 Streets, roads, highways

(a) All dedicated streets, roads and highways shall be shown by a solid line, considerably heavier than the lines used to show lot lines (See Standards, Page 37).

(b) The proper and correct names of all streets, roads and highways shall be shown on Key Sheets and Detail Sheets.

(c) The widths of all streets, roads, alleys and highways when known or determinable shall be shown on the Detail Sheets.

(d) Private streets shall be shown with a separate lot number or shall be shown as dashed lines. Other private streets shall be part of the adjacent lot with the property lines as the division (See Standards, Pages 47, 62 and 71).

### 18:23A-1.16 Rights-of-way and easements

(a) The rights-of-way and easements of all public utilities shall be shown with their widths and types (that is, private, sewer utility, etc.) set forth on the affected Detail Sheets.

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(b) If the rights-of-way are owned in fee and are therefore assessable, they may be detailed in one of the following methods:

1. A right-of-way may be assigned a block number to apply to the entire length of such right-of-way in the municipality, assigning consecutive lot numbers to portions limited by roads, streets, etc., in which case the right-of-way shall be shown with a heavy solid block limit line (See Standards, Pages 51 and 52).

2. Each portion of a right-of-way limited by roads, streets, etc., may be assigned a lot number applicable to the block in which it is located, in which case the right-of-way shall be shown with the regular type lot lines (See Standards, Pages 51 and 52).

(c) If a right-of-way is not owned in fee, being an easement only, it shall be shown with a very short, thin-dashed line and shall not be assigned a lot number. The area included within the easement shall be included as part of the lot through which it runs.

(d) The name of the owner or user of all rights-of-way or easements shall be shown, such as Public Utility, Sewerage Authority, etc.

### 18:23A-1.17 Railroads

(a) Tax maps shall show all railroads with their correct names and locations.

(b) The railroad property as assessed by the State will be shown in its two categories: namely Class I (Main Stem) and Class II (Second Class) (See Standards, Page 53).

(c) Railroad property may be shown in the same manner as outlined under "Rights-of-way and Easements, Par. 2" (See N.J.A.C. 18:23A-1.16; See Standards, Pages 51 and 52). However, the method adopted shall be used throughout the entire tax map.

(d) Prints of the railroad lands as assessed by the State of New Jersey may be obtained, upon application, at a minimal cost from the Local Property and Public Utility Branch.

### 18:23A-1.18 Rivers, streams, riparian grants

(a) Tax maps shall show all rivers and streams with their proper names on the Key Sheet or Sheets and on the respective Detail Sheets.

(b) Dashed and triple dotted lines shall be used to show rivers, streams and similar bodies of water (See Standards, Page 54).

(c) A single solid line may be used to indicate a small stream when it is also a property line, provided it is marked "P/L" (See Standards, Pages 55 and 56).

(d) On navigable and tidal waters, dimensions shall indicate distances to the extent of ownership only (See Standards, Page 54).

(e) Riparian grants shall be indicated and assigned lot numbers.

Example: Where a property owner also has a riparian grant, the grant should be shown as a lot and assigned a subscript number to the present lot number (See Standards, Page 56). Parcels detailed from "Claims Maps" adopted by the Tidelands Resource Council shall indicate such information. A note shall be placed on the tax map sheet showing name, number and date of a claims map.

### 18:23A-1.19 Marshes, timberlands, mines, and other features having material influence on land values

(a) If required by the municipality, the tax map may show with a light dotted line the outlines of features that may have a material influence on land values, such as marshes, timberlands, active mines, quarries, clay pits and agricultural or farm lands.

1. If the above features tend to distort the format of the tax map in any way, they should not be used

2. Such indications may be added to the tax map tracings in pencil after its approval by this Branch, provided the local authorities so desire.

### 18:23A-1.20 Exempted lands

(a) All lots actually exempted from taxation shall be marked with the word "exempted" and numbered sequentially in accordance with the appropriate lot and block numbers.

(b) Every parcel designated "Exempted" shall conform with the following data:

1. Reason for exemption;
2. Name of exempt owner.

### 18:23A-1.21 Titles

(a) All tax map sheets shall contain in the lower right-hand corner and within the borderlines, a title giving the name of the municipality, name of county, date, scale of the individual sheet, and the name and address of the New Jersey Licensed Land Surveyor who made the tax map (See Standards, Page 39).

(b) Location of the title other than as described in (a) above will be permitted if a reasonable explanation is indicated and approval granted.

### 18:23A-1.22 Name of property owners

(a) The names of owners of acreage lots in rural townships may be shown on the tracings in pencil if the local authorities so desire.

(b) Where the transfer of property is active and changes in ownership are frequent, the names of owners should be omitted.

### 18:23A-1.23 Surveys

(a) Where required on surveyed tax maps in locating "control points" for aerial photographs, surveys can be made with any degree of accuracy desired by the local authorities, but errors shall not exceed the following limits:

1. Measuring in city and suburban areas, error not to exceed 0.1 feet in 1,000 feet;
2. Measuring in rural districts, flat country, error not to exceed 0.5 feet in 1,000 feet;
3. Measuring in rural districts, rough and hill country, error not to exceed 1.0 feet in 1,000 feet.

### 18:23A-1.24 Supplementary field surveys

Supplementary field surveys shall be made where property lines cannot be determined from deed descriptions or other available suitable information in order to insure the proper location and size of all lots shown on the tax map.

### 18:23A-1.25 Review procedures employed by Local Property and Public Utility Branch

(a) The Local Property and Public Utility Branch will review and note corrections to be made by the tax map maker.

(b) Corrections to be made on the tax map will be listed on a sheet or sheets so provided, and will be shown on prints of the map, if prints are provided by the tax map maker.

(c) The Branch reserves the right to ask for corrections in compliance with requirements of these rules during any period or periods of the reviewing procedure involved in the preparation of any tax map.

(d) After the map has been corrected, the tracings will be stamped as an approved tax map.

(e) For the purpose of this Branch's review procedure, the individual tax map sheets should not be fastened together, or bound in any manner or printed on both sides.

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**18:23A-1.26 Outline maps**

(a) "Outline maps" are ordinarily only a temporary expedient; their use is permitted only in townships, and only after permission is obtained from the Director, Division of Taxation (See N.J.S.A. 54:1-15(3)).

(b) The provisions of the rules for other types of tax maps are to apply to "outline maps".

**18:23A-1.27 Maintenance of tax maps**

(a) The Director, Division of Taxation, has full control over the preparation, maintenance, and revision of all tax maps however prepared (See N.J.S.A. 54:1-15(d)).

(b) An approved tax map should be maintained and revised as specified in this section to provide for its maximum and best use by the local assessor.

(c) Current maintenance of tax maps should be achieved by changing tracings whenever a land transfer occurs on a regular weekly or monthly basis. A revision block should be set forth on key map or detail sheets indicating the following:

1. Name and number of New Jersey Licensed Land Surveyor who made revisions;
2. Key maps will indicate dates when last revisions were made on the tax map;
3. Detail Sheets will indicate last revisions on that sheet only.

(d) The Formal Opinion 1959—No. 6 by the Attorney General of the State of New Jersey required New Jersey Licensed Land Surveyors to seal and to certify all tax maps made and filed in this State. Thus, the maintainer of a tax map shall also be a New Jersey Licensed Land Surveyor.

(e) If any tracing of a tax map has been completely revised due to new roads, land developments or other improvements it should be re-checked and re-stamped by this Branch. Similar procedure should follow with any new tax map sheets.

(f) Any tax map, previously approved and later revised and re-submitted for re-approval, shall conform to the latest tax map rules as far as lot, block and sheet numbering system is concerned and all lot and block required details.

(g) In cases of renumbering blocks and lots, a map size sheet may be attached to the tax map for a cross reference list.

(h) The municipal tax assessor of every taxing district shall, on or before January 10, of each year, file with the county board of taxation a duplicate copy of a municipal tax map which conforms to the block and lot designations reflected on the current year's tax list submitted by the assessor to the county board of taxation on or before January 10 of the tax year. Each municipality shall provide for the preparation of yearly revisions of the tax map. The municipal tax assessor shall be responsible for providing the municipality's New Jersey Licensed Land Surveyor with deeds and/or subdivision maps necessary for the revision. However, if any year in which no revisions were required to be made to a municipal tax map, the county board of taxation may, upon proper notification by the tax assessor of that municipality, waive the requirement of filing a duplicate copy of the tax map with the board for that year.

**18:23A-1.28 Condominiums**

(a) Lot numbers shall be assigned to all lots having condominiums. Separate condominium units shall be shown as indicated in the filed "Master Deed". Lot acreages shown on such lots will indicate area included or not included under condominium units.

1. Detailing condominium units shall be performed as follows:

- i. Assign lot numbers (unit numbers) to all individually assessed condominium units;

ii. Indicate total acreage of an area known as common elements (See (a) above and Standards, Pages 60 through 65);

iii. Dashed lines shall be used to show all private streets, courts, parking areas, swimming pools, etc.;

iv. The use of alphabetical designations shall be avoided in reference to numerical designations. However, types or models may be assigned alphabetical designations, i.e., a, b, c, d, etc., but shall be inset on a map in lighter print than used for lot numbers (See Standards, Pages 66 and 67);

v. Show legend on detail sheet which will contain every detail of the condominium models indicating size and dimensions (See Standards, Pages 66 and 67);

vi. Where unattached car garages are detailed and the condominium unit numbers are 30, 31, 32, the respective garage numbers shall be 30.01, 31.01 and 32.01 or assign next consecutive unit numbers (See Standards, Page 66 and 67).

**18:23A-1.29 Flood hazards**

(a) Where applicable, the tax map shall show boundaries of flood hazard areas with dashed lines.

(b) Additional information, such as acreage and or dimensions should indicate flood hazard limits.

**18:23A-1.30 Miscellaneous assessments**

Where applicable the tax map shall indicate areas of coastal wetlands, encroachments, solar rights, etc., in the same manner as indicated for flood hazard areas with dashed lines (See Standards, Pages 57 and 58).

**18:23A-1.31 Air rights**

(a) When subject to assessment and taxation, air rights must be shown on tax maps in accordance with the following:

1. The area included in the air rights should be circumscribed by dashed lines and inscribed with the words "Air Rights".
2. The lot number of the parcel subject to air rights shall also be the number assigned to the air rights with a decimal added commencing with "01".

Example: Lot 15 is subject to air rights in favor of an independently owned parking lot atop a building. The parking lot will appear as lot 15.01 (See Standards, Page 59).

3. The elevation above ground to be shown when available (See Standard, Page 59).

OFFICE OF ADMINISTRATIVE LAW NOTE: A copy of the Map Standards which are referred to throughout the text of the proposal is incorporated by reference and is available for review at the Office of Administrative Law and the Division of Taxation.

**(a)**

**DIVISION OF TAXATION**

**Spill Compensation and Control Tax**

**Adopted New Rule: N.J.A.C. 18:37**

Proposed: May 6, 1985 at 17 N.J.R. 1074(a).

Adopted: July 1, 1985 by John R. Baldwin, Director, Division of Taxation.

Filed: July 2, 1985 as R.1985 d.382, **without change.**

Authority: N.J.S.A. 58:10-23.11 et seq.

Effective Date: August 5, 1985.

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Expiration Date pursuant to Executive Order No. 66 (1978): August 5, 1990.

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. 18:37.

**OTHER AGENCIES**

**(a)**

**HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION**

**Waterfront Recreation Zone**

**Adopted Amendments: N.J.A.C. 19:4-4.33, 4.35, 4.36, 4.37, 4.39, 4.40, 4.42 and 6.28**

Proposed: December 17, 1984 at 16 N.J.R. 3423(b).  
Adopted: July 12, 1985 by Vincent P. Fox, Deputy Executive Director, Hackensack Meadowlands Development Commission.

Filed: July 15, 1985 as R.1985 d.408, **without change.**

Authority: N.J.S.A. 13:17-6(1).

Effective Date: August 5, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): November 7, 1988.

**Summary of Public Comments and Agency Responses:**

Several persons appeared at the hearing conducted on January 9, 1985 to support the proposal including the Mayor of Secaucus, New Jersey, representatives of affected property owners, and the Executive Director of the Hackensack Meadowlands Municipal Committee.

A letter of support was received by the Division of Coastal Resources within the New Jersey Department of Environmental Protection.

Objections to the proposal were received from spokespersons for the Hackensack River Coalition. Their position was to oppose any commercial development along the riverfront because it would threaten the pristine nature of the waterfront property and the public's right to gain access.

The H.M.D.C. feels that allowing for commercial development will actually ensure development of marina facilities which enhances the interest of waterfront recreation. The rules will promote, ensure and guarantee public access to waterfront property and the development of public marinas. The rules require that visual and recreational resources be maintained and developed which encourage public access and use.

Full text of the adoption follows.

19:4-4.33 Waterfront recreation zone; purpose

This zone is designated to accomodate marinas in combination with other water-oriented commercial and recreation facilities which provide and encourage public access to and visibility

of the Hackensack River or its tributaries. The Waterfront Recreation Zone is to be developed in such a way that views of the river are protected.

19:4-4.35 Waterfront recreation zone; required marina and other permitted uses

(a) All special exceptions and those permitted uses listed herein shall include a marina meeting the following minimum requirements:

1. Every marina shall be open to the public. A fee is optional and shall provide for a minimum of one docking berth for each 20 feet of water frontage.

2. Every marina shall provide for public boat launching, public boat mooring, and public parking.

(b) Permitted uses in the waterfront recreation zone include:

1. Marina for the docking, repair, sale, servicing, and/or storage of boats;

2. Other water recreation uses.

(c) When included with a marina meeting the minimum requirements set forth in (a) above, the following uses shall be permitted:

1. Restaurants;

2. Retail and specialty shops, and service uses, compatible with the purposes of this zone and which meet the needs of the users;

3. Outdoor recreational uses, such as archery, basketball, bike rental and tennis, which are compatible with the purposes of this zone and which meet the needs of its users;

4. Hotels.

19:4-4.36 Waterfront recreation zone; special exceptions

(a) When included with a marina meeting the minimum requirements set forth in N.J.A.C. 19:4-4.35(a), the following uses shall be special exceptions:

1. Museums and cultural facilities;

2. Theaters;

3. Indoor recreational facilities.

19:4-4.37 Waterfront recreation zone; use limitations

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

(c) The development of the zone shall be designed so as to permit public access to the edge of the river.

19:4-4.39 Waterfront recreation zone; bulk regulations

(a) The bulk regulations in the waterfront recreation zone are:

1. (No change.)

2. The minimum open space is 40 percent. Open space in this district may include landscaped gravel and sand areas, tidally-affected marsh, open water, boardwalks and walkways, in addition to landscaping. Portions of the open space area may be used for boat storage during the winter.

3. Yards:

i. Minimum front yard is 25 feet.

ii. Minimum side or rear yard is 25 feet. This setback requirement does not apply to side or rear yards adjacent to the Hackensack River.

4. Floor area ratio (F.A.R.): .75;

5. (No change.)

19:4-4.40 Waterfront recreation zone; buffer requirements

(a) (No change.)

19:4-4.42 Waterfront recreation zone; design of structures and other improvements

(a) (No change.)

## ADOPTIONS

(b) Uses shall be designed to focus on the river as a recreational and visual resource.

(c) Any structures built in this zone shall be designed and constructed to minimize visual obstruction to views of the Hackensack River from adjacent properties or roadways and from within the zone itself.

19:4-6.28 Official zoning map

The Hackensack Meadowlands District official zoning map dated November 8, 1972, is hereby made a part of these rules and regulations of the Hackensack Meadowlands Development Commission.

OFFICE OF ADMINISTRATIVE LAW NOTE: A map showing the change in zoning designation was submitted as part of the Commission's notice of proposed rule. The change follows:

The zoning designation of Block 169, Lot 1, in Ridgefield from Marshland Preservation to Light Industrial "B". The subject property consists of approximately 8 acres.

**(a)**

## ELECTION LAW ENFORCEMENT COMMISSION

### General Provisions; Use or Transmittal of Deposited Funds; Reporting of Contributions

**Readoption: N.J.A.C. 19:25-1; 19:25-7; 19:25-11**

Proposed: June 3, 1985 at 17 N.J.R. 1399(b).

Adopted: July 15, 1985 by the Election Law Enforcement Commission, Jeffrey M. Brindle, Deputy Director.

Filed: July 15, 1985 as R.1985 d.398, **without change.**

## OTHER AGENCIES

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

Expiration Date pursuant to Executive Order No. 66 (1978): July 15, 1990.

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. 19:25-1, 19:25-7 and 19:25-11.

**(b)**

## CASINO CONTROL COMMISSION

### Accounting and Internal Controls Patron Credit

**N.J.A.C. 19:45-1.25**

**Revised Operative Date: September 30, 1985.**

Take notice that the New Jersey Casino Control Commission, at its public meeting of July 10, 1985, decided to delay the operative date (see N.J.A.C. 1:30-1.2) of the amendments to N.J.A.C. 19:45-1.25(h)1, concerning patron credit, which were proposed in the August 6, 1984 New Jersey Register (see 16 N.J.R. 2076(a)), and adopted by notice published in the January 21, 1985 issue of the Register (see 17 N.J.R. 212). These amendments will become operative on September 30, 1985 rather than on July 20, 1985.

This revised operative date was adopted by the Casino Control Commission in order to provide casino licensees and the regulatory agencies with additional time to implement and approve the systems required to comply with the adopted amendments.

# EMERGENCY ADOPTIONS

## ENVIRONMENTAL PROTECTION

(a)

### PINELANDS COMMISSION

#### Pinelands Comprehensive Management Plan

#### Adopted Emergency Amendments and New Rules and Concurrent Proposal: N.J.A.C. 7:50

##### Recodification

Emergency Amendments and New Rules Adopted:  
July 15, 1985 by New Jersey Pinelands Commission,  
Terrence D. Moore, Executive Director.  
Gubernatorial Approval (N.J.S.A. 52:14B-4(c)):  
July 9, 1985.

Emergency Amendments and New Rules Filed:  
July 15, 1985 as R.1985 d.399.

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

Emergency Amendments and New Rules Effective  
Date: July 15, 1985.

Emergency Amendments and New Rules Expiration  
Date: September 13, 1985.

Concurrent Proposal Number: PRN 1985-429.

Submit comments by September 4, 1985 to:

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

These amendments and new rules were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency amendments and new rules are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rules become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The agency emergency adoption and concurrent proposal follows:

##### Summary

The New Jersey Pinelands Commission has amended the procedures under which certain applications for development, applications for waivers of strict compliance from the standards of the Comprehensive Management Plan, and applications for public development are reviewed. Additional public notice requirements for various applications are also being proposed. The adopted rules are in response to a Superior Court of New Jersey, Appellate Division, opinion in the matter of the application of

John Madin/Lordland Development International for Pinelands Development Approval and Planning Board of Hamilton Township, Atlantic County vs. New Jersey Pinelands Commission, et al. (Docket Numbers A-4343-83T6 and A-4347-83T6, consolidated). The decision finds that the procedures and public notification requirements which the Pinelands Commission currently follows in reviewing certain applications for development are deficient.

Absent rule adoption by emergency proceedings, the Commission could not respond to the decision for approximately 90 days. During this intervening period, many development applications cannot be processed by the Commission. This would result in a negative economic impact on developers who presently have development applications pending. This delay would occur during one of the most active building periods in the year. The delay would preclude some developers from commencing construction this year. Secondary impacts would also be felt throughout the local construction industry. Development activity that is consistent with the Pinelands Comprehensive Management Plan would be delayed contrary to the goal of encouraging compatible development in and adjacent to areas of existing development required by the Pinelands Protection Act.

These rules adopted on an emergency basis were previously proposed under normal rulemaking in the July 15, 1985 New Jersey Register at 17 N.J.R. 1719(a). Because of the decision in the *\*John Madin\** case cited above it became necessary to promulgate emergency rules.

The rules (N.J.A.C. 7:50-4.12 through 4.16) previously required that an applicant who seeks to develop property within any municipality which has not received Commission approval of its municipal master plan and land use ordinances (uncertified municipality) must first receive a Pinelands Development Approval from the Executive Director before any requisite municipal approvals are sought. The rules (7:50-4.17) also provided interested parties an opportunity to seek Pinelands Commission reconsideration of the Executive Director's decision on such a development application. In these cases, a hearing was held before the Commission takes final action on the Executive Director's decision.

The adopted rules (N.J.A.C. 7:50-4.12 through 4.27) change the procedures under which both the Pinelands Commission and uncertified municipalities review development applications. Following submission of a completed application to the Pinelands Commission staff, uncertified municipalities will be granted the authority to review development applications before the Pinelands Commission takes action on these development applications. Notice of municipal approvals of disapprovals of the development proposals must be given to the Pinelands Commission and the Executive Director may initiate Commission review of the municipal action if it is determined that the action may be contrary to the environmental or land use standards of the Comprehensive Management Plan. At that time, interested parties including the municipality which granted or denied the development application may request a hearing. The Pinelands Commission itself will decide whether the municipal action should be overturned, affirmed, or modified to meet Comprehensive Management Plan standards. The determination of the Commission will be binding upon the municipality.

An application for public development (that which is proposed by a public agency) is reviewed under current rules

## EMERGENCY ADOPTIONS

(N.J.A.C. 7:50-4.43 through 4.47) by the Pinelands Commission only if its Executive Director determines that the proposal raises a substantial issue regarding the proposed development's adherence to the environmental and land use standards of the Comprehensive Management Plan. No hearings are required and the action of the Executive Director, where a project does not raise an issue with respect to the standards of the Comprehensive Management Plan, and the action of the Commission itself, on applications referred to it by the Executive Director, represent final actions.

The adopted rules (N.J.A.C. 7:50-4.53 through 4.57) provide that the Commission itself act on all public development applications. Interested parties will also be afforded an opportunity for a hearing prior to the Commission's action on the application. Absent a request for a hearing from an interested party, the Commission may take final action on the application or refer the matter to a hearing to obtain additional facts before rendering a decision.

Under previous rules (N.J.A.C. 7:50-4.51 through 4.57), initial decisions on waivers of strict compliance were issued by the Executive Director and decided by the Pinelands Commission if an interested party requests reconsideration or if the Commission determines that the matter warrants its direct review. In both cases, the Commission's decision was made only after a hearing is held.

The adopted rules (N.J.A.C. 7:50-4.61 through 4.67) provide that the Commission issue a final decision on all waivers of strict compliance, even if the Executive Director's recommendation is not contested by an interested party. An opportunity for a hearing prior to the Commission's final action will still be afforded, upon request, to any interested party. Absent a request for a hearing from an interested party, the Commission may approve the Executive Director's recommendation or refer the matter to a hearing to obtain additional facts before making a decision on the waiver.

In addition to the changes summarized above, the adopted rules also establish additional requirements for applicants to notify persons who may have an interest in a pending application. The notification requirements will help to better inform the public of pending applications and better ensure that interested parties have an opportunity to participate in the decision-making process. The notice requirements generally parallel those of the Municipal Land Use Law (N.J.S.A. 40:550-12) and apply to all applications for waivers of strict compliance, applications for interpretations which involve specific parcels of land, applications for major development in uncertified municipalities, and major public development proposals. Major development is defined in N.J.A.C. 7:50-2.11.

### Social Impact

The adoption of these proposed regulations will ensure that persons who may have an interest in pending public and private development applications and waiver of strict compliance decisions, as well as site specific interpretation requests, are notified of the applications and have an opportunity to participate in the decision-making process. The proposed regulations will also make the development permitting procedures in uncertified municipalities comparable to those in place for certified municipalities. In so doing, uncertified municipalities will be afforded a greater role in the development permitting process than they now have; however, the Pinelands Commission will still retain the ultimate authority over such decisions to ensure that the environmental and land use standards of the Comprehensive Management Plan are not compromised.

## ENVIRONMENTAL PROTECTION

The regulations may also result in a lengthier permit review period than now exists for public development applications. Development applications in uncertified municipalities may receive necessary permit approvals more quickly than is now the case; however, the review period could be lengthened if the municipal permit approvals are reviewed by the Pinelands Commission because of possible conflicts with Comprehensive Management Plan environmental or land use standards.

### Economic Impact

Adoption of these regulations will result in additional costs to project applicants and the Pinelands Commission. The costs of providing additional public notices will be borne by project applicants and any increased time required for the processing of development applications may result in higher pre-construction costs.

Pinelands Commission operational costs are also expected to increase as a result of greater public participation in the decision-making process and an increase in the number of administrative hearings held on various applications.

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

#### 7:50-2.11 Definitions

"Certificate of Compliance" See N.J.A.C. 7:50-4.11 through 4.27 (Development in Areas without Certified Local Plans)

#### 7:50-4.12 Applicability

The provisions of this Part shall be applicable to all development in any portion of the Pinelands Area located in any jurisdiction where the master plan or land use ordinances have not been certified by the Commissioner, except for those activities specifically excepted in N.J.A.C. 7:50-4.1.

#### 7:50-4.13 Compliance with this part required for development in uncertified areas

Subject to the provisions of N.J.A.C. 7:50-4.12, no person shall carry out any development in any portion of the Pinelands Area located within the jurisdiction of a municipality with an uncertified master plan or land use ordinance without first complying with all applicable procedures set out in this Part. Any decision made pursuant to this Part shall supersede any local decision. All development shall adhere to the terms of any decision made pursuant to this Part. No local decision shall be made which imposes any requirements which in any way contravenes any standard contained in this Plan.

#### 7:50-4.14 Application for Development Approval in uncertified Municipalities

(a) An application for development in uncertified municipalities shall be submitted to the Commission in accordance with the requirements of N.J.A.C. 7:50-4.2(b) (Application requirements).

(b) In addition to the requirements of N.J.A.C. 7:50-4.2(b), an applicant for major development, as defined in N.J.A.C. 7:50-2.11 of the Plan, shall provide notice of the application for Pinelands Development Approval as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b); and

2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a).

(c) Said notice shall state:

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1. The nature of the application pending before the Pinelands Commission, including a description of the proposed development;

2. That action may be taken on the application after 10 days from the date the notice is published and mailed;

3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments will be considered in the review of the application;

4. That the application is available for inspection at the office of the Pinelands Commission;

5. The address and phone number of the Pinelands Commission; and

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion.

(d) If the applicant significantly modifies the proposed development from that described in the most recent notice given pursuant to (b) and (c) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development.

(e) No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.

(f) The Executive Director shall not issue a Certificate of Compliance for any application for which the above notice is required until five days after the 10 day comment period set forth herein has expired.

### 7:50-4.15 Action by Executive Director on application

Within 90 days following the receipt of a complete application for development, the Executive Director shall review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a Certificate of Compliance stating whether the application should be approved, approved with conditions or disapproved. The application may be approved or approved with conditions only if the development as proposed, or subject to any conditions which may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.16. The Executive Director may propose in said Certificate of Compliance any reasonable condition which he finds is necessary to achieve the objectives of this Plan. The Executive Director shall provide a copy of the Certificate of Compliance to the applicant, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision, and any persons, organization or agency which has registered under N.J.A.C. 7:40-4.3(b)2i(2) (Persons Entitled to Notice).

### 7:50-4.16 Standards for uncertified areas

(a) No local approval may be granted by an uncertified municipality and no approval may be granted pursuant to this Part unless the proposed development:

1. Satisfies all of the criteria and standards established in N.J.A.C. 7:50-5 (Minimum Standards For Land Uses And Intensities) and 6 (Management Programs And Standards) of this Plan, provided, however, that all optional elements of Article 6 shall be mandatory for any jurisdiction which is uncertified; and

2. Is otherwise consistent with the objectives of the Federal Act, the Pinelands Protection Act and this Plan.

### 7:50-4.17 Certificate of compliance required for determination of completeness and action

No local permitting agency shall determine that any application for development is complete or take any action of any

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application for development unless the application is accompanied by a Certificate of Compliance issued pursuant to N.J.A.C. 7:50-4.15.

### 7:50-4.18 Report requirements of local permitting agency with respect to applications for development

(1) General requirement: Every local permitting agency shall give notice to the Commission, as hereinafter specified, of the filing of, and changes to, any application for development and of hearings and meetings concerning the filing and disposition of every application for development filed with it. Failure to provide said notices shall void any local decision for which such notices were not provided.

(b) Notice of application: Within seven days following a determination of completeness of an application for development, or any change to any application for development which was previously filed, notice of such application shall be given by the local agency, by mail, to the Commission. The notice shall be in such form as the Executive Director shall from time to time specify; but each such notice shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposed to develop;
3. A brief description of the proposed development, including uses and intensity of uses proposed;
4. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued;
5. The date on which the application, or change thereto, was filed and any docket or other identifying number assigned to such application by the local permitting agency;
6. The local permitting agency with which the application or change thereto was filed;
7. The content of any change made to any such application since it was filed with the Commission; and
8. The nature of the local approval or approvals being sought.

(c) Notice of hearings and meetings: Notice of any hearing, public meeting or other formal proceeding at which an application for development is to be considered shall be given to the Commission by the local agency by mail or delivery of the same to the principal office of the Commission not less than five days prior to such meeting, hearing or proceeding and shall be in such form as the Executive Director shall from time to time specify. Each notice shall contain at least the following information:

1. The name and address of the applicant;
2. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued.
3. The date, time and location of the meeting, hearing, or other formal proceeding;
4. The name of the local permitting agency or representative thereof which will be conducting the meeting, hearing, or other formal proceeding;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and
6. The purpose for which the meeting, hearing or other formal proceeding is to be held.

(d) Notice of preliminary approval: Notice of any grant of preliminary site plan or subdivision approval or any other preliminary approval of any application for development provided for by the Municipal Land Use Law or any county or municipal ordinance shall be given to the Commission by the local agency,

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by certified mail, within five days following such grant or approval. Such notice shall be in such form as the Executive Director shall from time to time specify, but shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposes to develop;
3. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued;
4. The date on which the preliminary approval was granted;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission;
6. A copy of the resolution or other documentation of the preliminary approval which was granted and a copy of the plans which were approved; and
7. The names and addresses of all persons who actively participated in the local proceedings.

(e) Notice of final determination: Notice of any final determination with respect to any application for development shall be given to the Commission by the local agency by certified mail within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposes to develop;
3. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued; and
4. A copy of the resolution or other documentation of the local permitting agency approving or denying the applicant and, if the application was approved, a copy of any final site or subdivision plan or plat or similar plan which was submitted by the applicant.

### 7:50-4.19 Commission review following preliminary approval

(a) Decision to review local approval: Upon receipt of any notice of local approval given pursuant to N.J.A.C. 7:50-4.18(d), the Executive Director shall review the application for development and all other information in the file, the Certificate of Compliance and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development, as approved by the local agency, may not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16, he shall initiate the review procedures set forth in this section. If the Executive Director determines that the proposed development, as approved by the local agency, conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16 the preliminary approval will not be reviewed by the Commission.

(b) Notice of decision and hearing: Within 30 days following receipt of any notice of preliminary approval issued pursuant to N.J.A.C. 7:50-4.18(d) (Notice of preliminary approval), the Executive Director shall give notice of his determination by certified mail to the applicant, the local permitting agency which granted such preliminary approval, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision, and any persons, organization or agency which has registered under N.J.A.C. 7:50-

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4.3(b)2i(2) (Persons Entitled To Notice). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the notice shall indicate that the applicant, the local permitting agency or any interested person may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 (Reconsideration) for the purpose of reviewing such preliminary approval.

(c) Notices to interested persons: If the Executive Director determines that a preliminary approval shall be reviewed by the Commission and a hearing has been requested pursuant to (b) above, he shall notify all persons who actively participated in the proceedings before the local permitting agency and all persons who submitted information on the application to the Commission, that they may participate in any proceedings held pursuant to this Part.

(d) No action by applicant prior to receipt of notice: No person shall carry out any development pursuant to any preliminary approval granted by any local permitting agency until he has received notice provided for in (b) above (Notice of Decision And Hearing). If such notice indicates that the Commission intends to conduct a review of such preliminary approval pursuant to this section, no development shall be carried out until such review has been completed.

### 7:50-4.20 Decision on review

(a) If no hearing is requested by the applicant or by the local permitting agency pursuant to N.J.A.C. 7:50-4.19(b) (Notice of Decision and Hearing), the Executive Director shall within 60 days review the application, all other information in the file, the Certificate of Compliance and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions or disapprove the preliminary approval. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local approving agency, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice).

(b) Review by the commission: If a hearing is requested pursuant to N.J.A.C. 7:50-4.19(b) (Notice of Decision And Hearing), the Commission shall, upon receipt of the findings of fact and recommendations of the Administrative Law Judge, review such findings and recommendation, the application, and the record of the hearing, and approve, approve with conditions, or disapprove the preliminary approval. If no hearing is requested pursuant to N.J.A.C. 7:40-4.19(b), the Commission shall after receipt of the Executive Director's recommendation, review said recommendation, the application, other material in the file, the Certificate of Compliance and the local approval and approve, approve with conditions or disapprove the preliminary approval.

(c) Effect of the determination:

1. If the Commission disapproves any preliminary approval of an application for development, the local permitting agency shall within 30 days revoke such preliminary approval, and, thereafter, deny approval of such application.

2. If the Commission approves a preliminary approval subject to conditions, the local permitting agency shall, within 30 days, modify its preliminary approval to include all conditions imposed by the Commission, and shall grant final approval only

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if the application for final approval demonstrates that such conditions have been or will be met by the applicant.

### 7:50-4.21 Notice of changes made subsequent to local preliminary approval

(a) Each local permitting agency shall give notice to the Commission of any design, engineering or other changes made to any application for development by an applicant subsequent to any local preliminary approval reported to the Commission pursuant to N.J.A.C. 7:50-4.18(b) (Notice Of Preliminary Approval), including changes made in response to conditions imposed by the Commission pursuant to N.J.A.C. 7:50-4.20 (Decision On Review), to the Executive Director, within five days of receipt of such changes. Such notice shall be in such form as the Executive Director shall from time to time specify but shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposes to develop;
3. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued;
4. Copies of any amended application, site or subdivision plans, plats and other documents reflecting such changes; and
5. A brief description of the nature of such changes.

(b) Any such changes shall be subject to review by the Commission pursuant to N.J.A.C. 7:50-4.19 (Commission Review Following Preliminary Approval) and 7:50-4.20 (Decision On Review) in the same manner as the original preliminary approval.

### 7:50-4.22 Commission review following final local approval

(a) Decision to review local approval: Upon receipt of any notice of local approval given pursuant to N.J.A.C. 7:50-4.18(e), the Executive Director shall review the application for development, all other information in the file, the Certificate of Compliance and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development, as approved by the local agency, may not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16, he shall initiate the review procedures set forth in this section. If the Executive Director determines that the proposed development, as approved by the local agency, conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16 the final approval will not be reviewed by the Commission.

(b) Notice of decision and hearing: Within 15 days following receipt of any notice of final determination given pursuant to N.J.A.C. 7:50-4.18(e) (Notice Of Final Determination), the Executive Director shall give notice of his determination by certified mail to the applicant, the local permitting agency which granted such approval, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision, and any persons, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice). If applicable, such notice shall set a date, time and place for public hearing as required by N.J.A.C. 7:50-4.23 (Public Hearing).

(c) No person shall carry out any development pursuant to an approval of an application for development which has been granted by any local permitting agency until he has received the notice provided for in (b) above. If such notice provides that the Commission intends to review such approval pursuant to N.J.A.C. 7:50-4.23 (Public Hearing) and 4.24 (Decision On

Review), no development shall be carried out until such review has been completed.

### 7:50-4.23 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he shall, within 45 days following receipt of the notice of final determination given pursuant to N.J.A.C. 7:50-4.18(e), conduct a public hearing to be held pursuant to the procedures set out in N.J.A.C. 7:50-4.3 of this Plan. The applicant shall have the burden of going forward and the burden of proof at the public hearing. However, an applicant may, at his option, waive all time limits for review imposed by the Pinelands Protection Act or this Plan and request that the hearing be held by an Administrative Law Judge pursuant to the procedures established in N.J.A.C. 7:50-4.91 (Reconsideration). Within 45 days following receipt of the findings of fact, conclusions and recommendations of the Administrative Law Judge, the Commission shall issue a final order.

### 7:50-4.24 Decision on review

(1) Determination by Commission: If a hearing is held pursuant to N.J.A.C. 7:50-4.3 (Commission Hearing Provisions), the Commission shall, within 45 days following the notice given pursuant to N.J.A.C. 7:50-4.22(b) (Notice Of Decision And Hearing), review the application, the file and the record of the hearing and make a determination as to whether the proposed development should be approved, approved with conditions or disapproved. If a hearing is held before an Administrative Law Judge pursuant to N.J.A.C. 7:50-4.91 (Reconsideration), the Commission shall upon receipt of the proposed findings of fact and recommendation of the Administrative Law Judge, review such findings and recommendations, the record of the hearing, the application and approve, approve with conditions or disapprove the proposed development.

(b) Standards: The development shall be approved or approved with conditions only if the Commission determines that the development as proposed, or with any conditions which are imposed, conforms with the minimum standards established in N.J.A.C. 7:50-4.16 (Standards For Uncertified Areas).

(c) Effect on commission's decision:

1. If the Commission disapproves the final local approval of any such application, the local permitting agency shall within 30 days revoke such approval and, thereafter, deny final approval of such application.

2. If the Commission approves the local permitting agency's approval of any such application subject to conditions, the local permitting agency shall within 30 days modify its approval to include all conditions imposed.

### 7:50-4.25 Commission review following local denial

(a) Decision to review local denial: Upon receipt of any notice of a local denial given pursuant to N.J.A.C. 7:50-4.18(e), the Executive Director shall review the application for development, all other information in the file, the Certificate of Compliance and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16 and that the local denial is contrary to the standards of the Plan, he shall initiate the review procedures set forth in this section. If the Executive Director determines that the proposed development does not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16 or that the local denial is based on matters not regulated by the Plan and is not contrary to any such standards, the local denial will not be reviewed by the Commission.

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(b) Notice of decision and hearing: Within 30 days following receipt of any notice of a denial issued pursuant to N.J.A.C. 7:50-4.18(e) the Executive Director shall give notice of his determination by certified mail to the applicant, the local permitting agency which denied the applicant, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision, and any persons, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice). If the Executive Director determines that the denial should be reviewed by the Commission, the notice shall indicate that the applicant, the local permitting agency or any interested person may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedure established by N.J.A.C. 7:50-4.91 (Reconsideration Review) for the purpose of reviewing such preliminary approval.

(c) Notices to interested persons: If the Executive Director determines that a denial shall be reviewed by the Commission and a hearing has been requested pursuant to (b) above, he shall notify all persons who actively participated in the proceedings before the local permitting agency and all persons who submitted information on the application to the Commission, that they may participate in any proceedings held pursuant to this Part.

**7:50-4.26 Decision On Review**

(a) If no hearing is requested by the applicant or the local permitting agency pursuant to N.J.A.C. 7:50-4.25(b) (Notice Of Decision And Hearing), the Executive Director shall within 60 days review the application and all other information in the file and the Certificate of Compliance and the local action and determine whether the denial is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the application, approve the application with conditions or disapprove the application or allow the local denial to stand. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local approving agency, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice).

(b) Review of the Commission: If a hearing is requested pursuant to N.J.A.C. 7:50-4.25(b) (Notice of decision and hearing), the Commission shall, upon receipt of the findings of fact and recommendations of the Administrative Law Judge, review such findings and recommendation, the application, the file and other record of the hearing, and approve, approve with conditions, or disapprove the application or let the local denial stand. If no hearing is requested pursuant to N.J.A.C. 7:50-4.25(b), the Commission shall after receipt of the Executive Director's recommendation, review said recommendation, the application, the Certificate of Compliance, other material in the file and the local approval and approve, approve with conditions or disapprove the application or allow the local denial to stand.

(c) Effect of the determination:

1. If the Commission approves an application which received a local denial the local permitting agency shall revoke the denial, and, thereafter, approve of such application within 30 days.

2. If the Commission approves, subject to conditions an application which received a local denial the local permitting agency shall, within 30 days, revoke its denial and grant approval subject to the conditions imposed by the Commission.

**7:50-4.27 Effect of Pinelands Development Approval**

A Pinelands Development Approval issued pursuant to the provisions of this part previously in effect shall have the same effect as a Certificate of Compliance issued pursuant to N.J.A.C. 7:50-4.15 (Action by executive director on application) unless the applicant received a valid local approval prior to the adoption of the amendments which incorporated this section into the Plan. If such a valid local approval was granted, the Pinelands Development Approval shall continue to have the same force and effect as if this Part had not been amended.

7:50-4.28 through 7:50-4.30 (Reserved)

7:50-4.31 (No text change)

7:50-4.32 (No text change)

7:50-4.33 (No text change)

7:50-4.34 (No text change)

7:50-4.35 (No text change)

7:50-4.36 (No text change)

7:50-4.37 (No text change)

7:50-4.38 (No text change)

7:50-4.39 (No text change)

7:50-4.40 (No text change)

7:50-4.41 (No text change)

7:50-4.42 (No text change)

7:50-4.43 (No text change)

7:50-4.44 through 7:50-4.50 (Reserved)

7:50-4.51 (No text change)

7:50-4.52 (No text change)

**7:50-4.53 Pre-application conference and submission requirements**

(a) Request for pre-application conference: Prior to initiating any development within the Pinelands, a public agency shall submit a request for a pre-application conference to the Executive Director pursuant to N.J.A.C. 7:50-4.2(a).

(b) Submission requirement: Following the completion of the pre-application conference, the public agency shall submit such information which the Executive Director determines is necessary to enable the Commission to review the proposed development for conformity with the standards of this Plan.

(c) In addition to the requirements of (a) and (b) above, a public agency seeking approval for major development, as defined in N.J.A.C. 7:50-2.11 of the Plan, shall provide notice of the application for public development as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b); and

2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there be one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a); or

(d) In addition to the requirements in (b) above, a public agency seeking approval for major development, as defined in N.J.A.C. 7:50-2.11 of the Plan, for a proposed development not located on a specific parcel, including a proposed development

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located within a right-of-way or easement, shall provide notice of the application for public development as follows:

1. Notice shall be given by publication in any official newspaper of the Pinelands Commission having general circulation in any municipality in which the proposed development is located; and

2. Notice shall be given by publication in the official newspaper if any, of all municipalities in which the proposed development will be located or if there is no official newspaper in any such municipality then in a newspaper of general circulation in that municipality.

(e) The notice required by (c) and (d) above is as follows:

1. The nature of the application pending before the Pinelands Commission, including a description of the proposed development;

2. That action may be taken on the application after 10 days from the date the notice is published and mailed;

3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments will be considered in the review of the application;

4. That the application is available for inspection at the office of the Pinelands Commission;

5. The address and phone number of the Pinelands Commission; and

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by requesting a reconsideration of the determination.

(f) If the applicant significantly modifies the proposed development from that described in the most recent notice given pursuant to (b) and (c) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development.

(g) No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.

(h) The Executive Director's action on any application for which the above notice is required shall not be taken until five days after the 10 day comment period set forth herein has expired.

### 7:50-4.54 Review of submission by Executive Director

Within 30 days following receipt of, a completed application for public development, the Executive Director shall review the application and all information submitted to the applicant or any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions or disapproved. The application may be recommended for approval or approval with conditions only if the development as proposed, or subject to any conditions which may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.56. The Executive Director may attach to any determination to recommend approval of an application any reasonable condition which he finds is necessary to achieve the objectives of this Plan. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision and any persons, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice).

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### 7:50-4.55

#### Reconsideration Rights

(a) Any interested person who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days seek reconsideration of the Executive Director's determination by the full Commission as provided by N.J.A.C. 7:50-4.91 (Reconsideration).

(b) At the next regular Commission meeting after the time for reconsideration under N.J.A.C. 7:50-4.91 has expired and no interested person has requested a hearing, the Commission may approve the determination of the Executive Director or refer the determination of the Executive Director to the Office of Administrative Law. If the Pinelands Commission fails to take any action at said meeting, the determination of the Executive Director shall be referred to the Office of Administrative Law unless an extension of time for the Commission to act is approved pursuant to N.J.A.C. 7:50-4.4 (Waiver Of Time Limits). If the Executive Director's determination is referred to the Office of Administrative Law, the referral shall be treated as a petition for reconsideration in accordance with the provisions of N.J.A.C. 7:50-4.91 (Reconsideration).

### 7:50-4.56 (No text change)

### 7:50-4.57 Limits on public agency actions

No public agency shall carry out any development which has been disapproved by the Commission pursuant to this Part, nor shall any public agency initiate any proposed development which has been approved with conditions by the Commission pursuant to this Part unless the conditions imposed are incorporated into the proposed development.

### 7:50-4.61 (No text change)

### 7:50-4.62 Application

(a) An application for a waiver shall be submitted to the Commission in accordance with the requirements of N.J.A.C. 7:50-4.2(b). An application for waiver may be filed prior to filing an application for development. If during review of an application for development it appears necessary to obtain a waiver, the applicant may apply for a waiver; such application shall stay the time period for review set forth in Parts II or III of this subchapter as the case may be.

(b) In addition to the requirements in (a) above, an applicant requesting a Waiver of Strict Compliance shall provide notice of the application for a Waiver of Strict Compliance as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:44D-12(b).

2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a);

(c) The notice in (b) above shall state:

1. The nature of the application pending before the Pinelands Commission, including a description of the proposed development and a statement of all Waivers sought;

2. That action may be taken on the application after ten days from the date the notice is published and mailed;

3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments will be considered in the review of the application;

4. That the application is available for inspection at the office of the Pinelands Commission;

5. The address and phone number of the Pinelands Commission; and

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6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by requesting reconsideration of the determination.

(d) If the applicant significantly modifies either the proposed development or the requested Waivers from that described in the most recent notice given pursuant to (b) and (c) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development and the requested Waiver.

(e) No application for a Waiver of Strict Compliance shall be deemed complete until proof that the requisite notice has been given is received.

(f) The Executive Director's action on any application for which the above notice is required, shall not be taken until five days after the ten day comment period set forth herein has expired.

### 7:50-4.63 Action By Executive Director On Application

Within 90 days following the receipt of a complete application for waiver, the Executive Director shall review the application and all information submitted by the applicant and any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions or disapproved. The Executive Director shall give written notification of his findings and conclusion to the applicant, the Commission, interested persons, including all persons who have submitted information concerning the application as well as all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

### 7:50-4.64 Action By Commission

If at the next regular Commission meeting after notification of the Executive Director's determination, no request for reconsideration under N.J.A.C. 7:50-4.91 has been received and the time for reconsideration under N.J.A.C. 7:50-4.91 has expired, the Commission may approve the determination of the Executive Director or refer the determination of the Executive Director to the Office of Administrative Law. If at said Commission meeting, no request for reconsideration under N.J.A.C. 7:50-4.91 has been received but the time for reconsideration has not expired, the Commission may either refer the determination of the Executive Director to the Office of Administrative Law or approve the Executive Director's determination. However, such an approval of the Executive Director's determination shall only take effect after the time for reconsideration has expired and no request for reconsideration has been received. If the Commission fails to take any action at said meeting, the determination of the Executive Director shall be referred to the Office of Administrative Law unless an extension of time for the Commission to act is approved pursuant to N.J.A.C. 7:50-4.4 (Waiver of time limits). If the Executive Director's determination is referred to the Office of Administrative Law, the referral shall be treated as a petition for reconsideration in accordance with the provisions of Part VIII of this subchapter.

### 7:50-4.65 Standards

(a) An application for a waiver shall be approved only if an extraordinary hardship or compelling public need is determined to have been established under the following standards.

1. The particular physical surroundings, shape or topographical conditions of the specific property involved would result in

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an extraordinary hardship, as distinguished from a mere inconvenience, if the provisions of this Plan are literally enforced. The necessity of acquiring additional land to meet the minimum lot size requirements of this Plan shall not be considered an extraordinary hardship, unless the applicant can demonstrate that there is no adjacent land which is reasonably available. An applicant shall be deemed to have established the existence of extraordinary hardship only if he demonstrates, based on specific facts, one of the following:

i.-ii. (No change.)

2.-5. (No change.)

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

### 7:50-4.66 Effect of grant of waiver

Any waiver granted under the provisions of this Part shall only be considered a waiver of the particular standard which the Commission waived. It shall not constitute an approval of the entire development proposal.

### 7:50-4.67 Reconsideration rights

Any interested person who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days seek reconsideration by the Commission of the Executive Director's determination as provided by N.J.A.C. 7:50-4.91.

### 7:50-4.68 through 7:50-4.70 (Reserved)

### 7:50-4.71 (No text change.)

### 7:50-4.72 Authority (no text change.)

### 7:50-4.73 Request for interpretation

(a) A request for a letter of clarification or interpretation shall be initiated by requesting a pre-application conference pursuant to N.J.A.C. 7:50-4.2(a). This request shall set forth the clarification or interpretation requested and the facts or the circumstances which are the basis for the request for an interpretation, together with any proposed clarification or interpretation desired by the applicant. The applicant shall include all information determined to be necessary by the Executive Director after the pre-application conference. Within 30 days after receipt of a request for a letter of clarification or interpretation, the Executive Director shall inform the applicant of any additional information which is required in order to make a determination of the requested clarification or interpretation.

(b) An applicant for a letter of clarification or interpretation involving a specific parcel, except where the letter of interpretation involves solely the question of the number of Pinelands Development Credits which are attributed to a specific parcel, shall provide notice of the application as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b); and

2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there be one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a); or

(c) The notice in (b) above shall state:

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1. The nature of the application pending before the Pinelands Commission, including a statement of the requested interpretation or clarification and, if known, a description of the proposed development;

2. That action may be taken on the application after 10 days from the date the notice is published and mailed;

3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments will be considered in the review of the application;

4. That the application is available for inspection at the Office of the Pinelands Commission;

5. The address and phone number of the Pinelands Commission; and

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by requesting a reconsideration of the determination.

(d) If the applicant significantly modifies either the proposed development or the requested letter or interpretation or clarification from that described in the most recent notice given pursuant to (b) above, then the applicant shall again provide the notice mandated by said subsection so that the notice accurately describes the proposed development or requested letter of interpretation or clarification.

(e) No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.

(f) The Executive Director's action on any application for which the above notice is required shall not be taken until five days after the ten day comment period set forth herein has expired.

7:50-4.74 Interpretation by Executive Director

(a) Except as provided in N.J.A.C. 7:50-4. 75, the Executive Director shall, within forty-five days following the receipt of a completed request for clarification or interpretation, review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a letter of clarification or interpretation. Prior to the issuance of the letter, an analysis of all pending requests for letters of interpretations will be submitted to the Commission for its review at its regular monthly meeting. A copy of the letter shall be provided to the appropriate township or county clerk, planning board, the environmental commission, if any, interested persons, including all persons who have submitted information concerning the application as well as all persons who have requested a copy of said determination and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). The letter issued by the Executive Director shall specify the grounds, reasons and analysis upon which the clarification or interpretation is based. In the event the Executive Director fails to render a letter of clarification or interpretation within forty-five days or such longer period of time as may be agreed to by the applicant, the request for clarification or interpretation shall be deemed to have been denied. Nothing in this Section shall be construed to prevent any person from resubmitting a request for clarification or interpretation.

- 7:50-4.75 (No text change)
- 7:50-4.76 (No text change)
- 7:50-4.77 (No text change)
- 7:50-4.78 (No text change)
- 7:50-4.79 (No text change)
- 7:50-4.80 (Reserved)
- 7:50-4.81 (No text change)
- 7:50-4.82 (No text change)
- 7:50-4.83 (No text change)
- 7:50-4.84 (No text change)
- 7:50-4.85 (No text change)
- 7:50-4.86 through 7:50-4.90 (Reserved)
- 7:50-4.91 (No text change)
- 7:50-4.92 (No text change)

**HEALTH**

**(a)**

**PUBLIC HEALTH COUNCIL**

**Local Health Development Services  
Licensure of Persons for Public Health  
Positions**

**Adopted Emergency New Rule and Concurrent  
Proposal: N.J.A.C. 8:7-1**

Emergency New Rule Adopted: June 20, 1985 by  
Allen N. Koplin, M.D., Acting Commissioner and  
Evelyn Geddes, Chairperson, Public Health Council.  
Gubernatorial Approval (N.J.S.A. 52:14B-4(c)):  
July 8, 1985.

Emergency New Rule Filed: July 10, 1985 as R.1985  
d.388.

Authority: N.J.S.A. 26:1A-38 and 1A-39.

Emergency New Rule Effective Date: July 10, 1985.  
Emergency New Rule Expiration Date: September 9,  
1985.

Concurrent Proposal Number: PRN 1985-426.

Submit comments by September 4, 1985 to:  
Ronald S. Ulinsky  
Acting Chief  
Evaluation and Training Program  
CN 364  
Trenton, New Jersey 08625

The new rule was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by

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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 agency emergency adoption and concurrent proposal follows:

**Summary**

N.J.A.C. 8:7 was originally filed and became effective prior to September 1, 1969. Revisions to this Chapter were filed and became effective on March 3, 1977, as R.1977 d.102. See 8 N.J.R. 512(b), 9 N.J.R. 173(a) and on July 17, 1980. See: 12 N.J.R. 476(b).

Under the provisions of Executive Order No. 66 (1978) (which provides for the expiration of rules within five years), Subchapter 1, Licensure for Public Health Positions of Chapter 7 of the Public Laws of 1947 expired on April 17, 1985. The Department therefore has adopted the expired text as a new rule. These rules were recently published under normal rulemaking procedures in the June 17, 1985 New Jersey Register at 17 N.J.R. 1503(a).

N.J.S.A. 26:1A-38 requires the Public Health Council to prescribe the qualifications of various public health professionals.

A review of the adopted rules follows:

N.J.A.C. 8:7-1.1 lists those positions which require a license issued by the State Department of Health.

N.J.A.C. 8:7-1.2(a) establishes the Public Health Examining Board.

N.J.A.C. 8:7-1.2(b) requires the Board to conduct examinations for various public health positions.

N.J.A.C. 8:7-1.2(c)1 establishes the criteria for Board membership, appointment and meetings.

N.J.A.C. 8:7-1.3 establishes the protocol for the submission of an application or licensure examination.

N.J.A.C. 8:7-1.4 mandates the Department to collect a fee from each qualified candidate for licensure.

N.J.A.C. 8:7-1.5 establishes the procedure for the determination of qualified candidates for examination.

N.J.A.C. 8:7-1.6 establishes an appeal procedure for candidates denied admission to a licensure examination.

N.J.A.C. 8:7-1.7 establishes the procedure for scheduling and conducting licensure examinations. Subsection (c) details the protocol for those candidates who failed an examination and who wish to reapply to take the licensure examination again.

N.J.A.C. 8:7-1.8 requires minutes to be taken at the meetings of the Public Health Examining Board.

N.J.A.C. 8:7-1.9 establishes the qualifications for education and experience of candidates for licensure by the New Jersey State Department of Health.

**Social Impact**

The emergency adoption of N.J.A.C. 8:7-1 concerning the licensure of persons for public health positions shall continue to have a beneficial social impact.

The adoption of these rules shall continue to allow the Public Health Council to meet its legislative mandate of N.J.S.A. 26:1A-38, to prescribe the qualifications for the examining and licensing of public health officials in New Jersey. The adoption of these rules shall continue to ensure that persons employed in public health positions possess the proper training and experience necessary to protect the health of the public. Furthermore,

adoption of these rules shall continue to ensure that persons employed in public health positions will maintain a working knowledge of the latest public health research and technology needed to resolve current public health problems. Moreover, the adoption of these rules will establish the administrative procedure for the annual renewal or issuance of approximately 1,000 licenses for public health positions.

The deletions from the expired text at N.J.A.C.8:7-1.1(1), 1.9(a)3, and 1.9(b)1, concern dates and language which are outdated, and are made for purposes of clarification.

**Economic Impact**

Emergency adoption of these rules shall allow the Department of Health sufficient time to complete its study of the cost of administering the licensure program. Information from the study will be analyzed, at the study's conclusion, to determine what, if any action, is appropriate regarding licensure and examination fees. N.J.S.A. 26:1A-39 and 42 respectively set the fees for examination at \$25.00 and licensure at \$10.00.

Full text of the adopted emergency new rules follows:

**SUBCHAPTER 1. GENERAL PROVISIONS****8:7-1.1 Positions requiring a license**

(a) A license granted by the New Jersey State Department of Health is required for any person who is employed as a:

1. Health officer;
2. Sanitary inspector, first grade;
3. Sanitary inspector, second grade;
4. Food and drug inspector;
5. Milk inspector;
6. Meat inspector;
7. Veterinary meat inspector;
8. Plumbing inspector, first grade;
9. Plumbing inspector, second grade;
10. Public health laboratory technician.

**8:7-1.2 Board of examiners**

(a) There shall be established in the Health Department, a board of examiners to be known as the Public Health Examining Board.

(b) The Board shall conduct examinations for the licensing of:

1. Health officer;
2. Sanitary inspector, first grade;
3. Sanitary inspector, second grade;
4. Food and drug inspector;
5. Milk inspector;
6. Veterinary meat inspector;
7. Meat inspector;
8. Public health laboratory technician;
9. Plumbing inspector, first grade;
10. Plumbing inspector, second grade.

(c) The Board shall be composed of 12 members appointed by the Commissioner of Health whereby:

1. One of the members of the Board shall be either a deputy commissioner of health or an assistant commissioner of health, and such individual shall serve as chairperson of the Board.
2. With the exception of the chairperson, a Board member shall be:
  - i. Appointed for a term of two years; and
  - ii. Permitted to serve for no more than six years.

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3. Of the initial appointments to the Board, six members shall be appointed for a one-year term and, thereafter, all appointments shall be for terms of two years, except those appointments which shall be for the purpose of completing an unexpired term.

(d) The Board membership shall include:

1. Two health officers, whereby the initial appointments shall be for one one-year term and one two-year term;
2. One sanitary inspector of the first grade;
3. One veterinarian;
4. One laboratory representative;
5. One representative of the State Department of Civil Service;
6. One plumbing inspector of the first grade;
7. One comprehensive health planner;
8. Two consumers, whereby at least one shall be from a minority group;
9. One health professions educator; and
10. Either a deputy commissioner of health or an assistant commissioner of health.

(e) At least one member of the Board shall be a woman.

(f) For purposes of continuity, at least two of the members of the present board of examiners shall be appointed to the Public Health Examining Board and such individuals shall not be eligible for reappointment.

(g) As vacancies occur, when a Board member cannot complete his/her term, the Commissioner shall appoint a person representing a constituency similar to that of the person being replaced. The replacement appointment shall be for the completion of the unexpired term.

(h) For the purpose of conducting its business meetings, seven members of the Board shall be required for quorum and no actions shall be taken by the Board in the absence of a quorum.

(i) In the absence of the chairperson at a business meeting, the members of the Board shall elect a chairperson pro tem to direct the business of that meeting.

(j) Any action of the Board shall require a majority vote of the members present and no proxy votes shall be permitted.

(k) Members of the Board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

### 8:7-1.3 Submission of evidence of qualification

(a) The State Commissioner of Health in the name of the New Jersey State Department of Health shall grant licenses only to those candidates who submit evidence of the required training and experience, are accepted for testing by the Public Health Examining Board and/or the Commissioner of Health, and who subsequently pass examinations, indicating their fitness for the positions they seek.

(b) A person who desires to be admitted to an examination may obtain an application form from the New Jersey State Department of Health, P.O. Box 1540, Trenton, New Jersey 08625. The application shall be filed with the department and accompanied by documentary evidence satisfying the education, training, and experience requirements for the position. Such documentary evidence shall include an evaluation of the candidate's performance written by the supervisor(s) under whom the candidate obtained such working experience.

(c) In evaluating applications for admission to examinations, the New Jersey high school equivalency certificate will be recognized as the equivalent to graduation from an accredited high school.

### 8:7-1.4 Examination and initial license fee

The New Jersey State Department of Health shall collect a fee, as established by statute, from each qualified candidate for licensure prior to the examination. Such fee will be payable only after a candidate has been notified of eligibility for admission to the examination. Candidates who are successful in passing the examination will not be required to pay an additional fee for the issuance of their initial license.

### 8:7-1.5 Determination of qualified candidates

(a) Appropriate members of the Public Health Examining Board shall review each candidate's application for admission to the licensure examination. Based upon the qualifications of the candidate, the Board shall approve or deny such candidate entrance to the examination.

(b) The candidate and the Department of Health shall be notified within ten days of the Board's determination. In the case of a denial the candidate shall have the opportunity to appeal the decision of the Board.

### 8:7-1.6 Appeal procedure

(a) Any candidate who has been denied admission to a licensure examination by the Public Health Examining Board may appeal the Board's action according to the following procedure:

1. Within 30 days of notification of denial, the candidate may request, in writing, a reconsideration of his qualifications by the Board;

2. At a regular meeting of the Board, the candidate will have the opportunity to discuss his qualifications. At the conclusion of the discussion, the Board shall vote on the candidate's appeal;

3. In the event that the Board reaffirms its denial decision, the candidate may immediately request a formal hearing of his case in accordance with the Department's rules regarding hearings. The Office of the Commissioner shall arrange for such hearing to be conducted by the Public Health Council.

4. At the conclusion of the formal hearing, the Council will forward its findings and recommendations to the Commissioner of Health for a final decision.

### 8:7-1.7 Examinations

(a) The Department of Health shall schedule examinations for the licensure of persons for public health positions at least twice a year.

(b) Examinations shall be prepared, conducted and scored in accordance with the department's standard operating procedures with the advice of the Public Health Examining Board.

(c) If any qualified candidate fails an examination for a particular type of license two times, such candidate shall not be permitted entrance to the next examination for that type of license until, and unless, the candidate submits evidence, to the Board, of further formal training and supervised experience specifically in those areas in which the candidate was deficient. The board, in its discretion, may accept the additional evidence or require the candidate to postpone taking the licensure examination for a period of one year from the date of the last examination. During the one year waiting period, the candidate shall be required by the Board to either obtain further training and experience under the supervision of a person licensed for the position for which the candidate seeks licensure, or obtain further educational training and experience through formal courses at an accredited institution of higher education or through recognized professional or governmental bodies. At the conclusion of the one-year period, the candidate shall furnish the Board with a written report from his supervisor or from the educational institution, attesting to the completion of the additional training

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and experience and may then make application to gain admission to the licensure examination.

### 8:7-1.8 Record keeping requirements of the Board

The Public Health Examining Board shall keep minutes of its meetings and shall transmit the record of all its transactions and recommendations to the Commissioner of Health.

### 8:7-1.9 Qualifications of candidates for licensure

(a) Regarding the qualifications of health officer candidates, applicants shall meet one of the following qualifications:

1. Diplomate of the American Board of Preventive Medicine or complete eligibility therefor;

2. Degree of doctor or master from an accredited college or university program in a health-related field (recognized as such by the New Jersey Department of Higher Education and/or Education, as appropriate) such as medicine, osteopathy, veterinary medicine, public health, environmental science, health administration, social work, nursing or health education. The core course work for the degree shall include or be supplemented by at least three credits in each of the following: planning, administration, environmental science, social science and epidemiology; and

i. Unless otherwise exempted by statute, satisfactory completion of two years full-time employment in a position providing administrative experience in at least three of the five existing recognized public health activities as specified in N.J.A.C. 8:51.

3. What a candidate for health officer license should know:

i. The health officer is expected to provide leadership in the field of public health in his community. In addition to being the administrative officer of a local health department, he is responsible for evaluating the health problems of his community, planning appropriate activities to meet their health problems, developing necessary budget procedures to cover these activities, and directing the department's staff so as to carry out the activities efficiently and economically. These activities are covered in "Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey." Applicants are examined relative to these essential activities.

(b) Sanitary inspector, first grade, qualifications are as follows:

1. A baccalaureate degree from an accredited college or university recognized as such by the Department of Higher Education and/or Education, as appropriate, with a minimum of 32 credits in the biological sciences, physical sciences, environmental sciences and mathematics; and

2. Successful completion of a course in environmental health and law conducted by an accredited college or university recognized as such by the Departments of Higher Education and/or Education, as appropriate. This course must be equivalent to that offered by Rutgers—The State University; and

3. Successful completion of a field training course approved as such by the State Department of Health. Full-time employment for a minimum period of one year in a local health agency (under the supervision of either a licensed health officer or sanitary inspector, first grade), as defined in "Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey", will be accepted in lieu of the field training course only if an approved field training course is not available.

4. What a candidate for sanitary inspector, first grade license, should know:

i. The sanitary inspector is responsible for making inspections, compiling proper records of such inspections, informing

operators of establishments of violations, the sanitary basis thereof, methods of abating such violations, and securing evidence that may be necessary for legal action. Such inspections shall be in all environmental sanitation activities, particularly those indicated in the "Recognized Public Health Activities and Minimum Standards of Performance for Local Health Departments in New Jersey". Applicants are examined relative to these indicated activities.

(c) The qualifications for sanitary inspection, second grade, are as follows:

1. Satisfactory completion of a two-year associate degree course in a recognized college or university or two years of training in a recognized college or university, recognized as such by the Departments of Higher Education and/or Education, as appropriate, with satisfactory completion of 60 credit hours. The collegiate training shall include credits in the biological and/or physical sciences; and

2. Successful completion of a course in environmental health and law conducted by an accredited college or university recognized as such by the Departments of Higher Education and/or Education, as appropriate. This course must be equivalent to that offered by Rutgers—The State University. Equivalent training and/or experience may be accepted in lieu of completion of the environmental health and law course. The academic qualification is a basic requirement and no substitution is to be accepted.

3. What a candidate for sanitary inspector, second grade license, should know:

i. The sanitary inspector is responsible for making inspections, compiling proper records of such inspections, informing operators of establishments of violations, the sanitary basis thereof, methods of abating such violations, and securing evidence that may be necessary for legal action. Such inspections shall be in all environmental sanitation activities particularly those indicated in the "Recognized Public Health Activities and Minimum Standards of Performance for Local Health Departments in New Jersey". Applicants are examined relative to these indicated activities.

(d) The qualifications for food and drug inspector are as follows:

1. The applicant must hold a license for sanitary inspector, first grade; or

2. Have the qualifications equivalent to those required of a sanitary inspector, first grade, and show evidence at the licensure examination (food and drug inspector) to the satisfaction of the examining board of adequate knowledge of the basic sanitary sciences, such knowledge being equivalent to that possessed by a person having a license for sanitary inspector, first grade; and

i. The applicant must also indicate one year's full-time working experience in food and drug control under the supervision of a license health officer

3. What a candidate for food and drug inspector license should know:

i. The food and drug inspector is responsible for making inspections, compiling proper records of such inspections, informing operators of establishments of violations, the sanitary basis thereof, methods of abating such violations, and securing evidence that may be necessary for legal action. Applicants are examined relative to these activities.

(e) The qualifications for milk inspector are as follows:

1. The applicant must hold a license for sanitary inspector, first grade; or

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2. Have the qualifications equivalent to those required of a sanitary inspector, first grade, and show evidence at the licensure examination (milk inspector) to the satisfaction of the examining board of adequate knowledge of the basic sanitary science, such knowledge being equivalent to that possessed by a person having a license for sanitary inspector, first grade; and

i. The applicant must also indicate one year's full-time working experience in milk control under the supervision of a licensed health officer.

3. What a candidate for milk inspector license should know: The milk inspector is responsible for making inspections, compiling proper records of such inspections, informing operators of establishments of violations, the sanitary basis thereof, methods of abating such violations, and securing evidence that may be necessary to legal action. Applicants are examined relative to these indicated activities.

(f) The qualifications for veterinary meat inspector are:

1. Graduation from a generally recognized school of veterinary medicine, recognized as such by the Departments of Higher Education and/or Education, as appropriate; and

i. Knowledge and skill in the theory and practical application of sanitary sciences, specially in the field of food control.

2. What a candidate for veterinary meat inspector should know: The candidate should be prepared to answer questions covering the public health aspects of the slaughtering and processing of meat. This includes both red meat and poultry. Specifically included may be the following:

i. Basic principals of meat inspection and their application to public health;

ii. State and Federal laws regarding inspection of meat and its products;

iii. Methods of sanitation and types of compounds that may be used in the sanitizing of slaughter houses, meat markets and meat processing plants;

iv. Preservatives that are allowed and those not allowed in meat and its products;

v. Legal methods of sampling meat and its products;

vi. Diseases of animals where carcasses are used for meat or meat products, and whether such diseases are transmissible to humans. Proper disposition of infected or inedible carcasses in accordance with State Health Department regulations;

vii. Elements of a safe water supply and satisfactory method of sewage disposal;

viii. Each candidate may be asked to display his knowledge of inspection and processing techniques in an actual practical examination.

(g) The qualifications for meat inspector are:

1. Except for the substitution of education provided for in 2 below, applicants for meat inspector license must have had, since their 16th birthday, at least three years of experience in one or any combination of the following:

i. Experience with animals such as that gained in the capacity of an assistant to a veterinarian or in field disease control activities;

ii. Experience with livestock or poultry such as that gained in a public stockyard, in the manufacture or preparation of veterinary biological products, or on a ranch, farm or hatchery in the management or handling of livestock or poultry, or in some other comparable activity;

iii. Experience with livestock or poultry slaughtering or poultry or meat processing, an experience in marketing or handling meat or poultry at wholesale or retail outlets;

iv. Experience in dairy, poultry, meat or other food processing in plants or activities where sanitary measures and quality controls are applied;

v. Experience (such as laborer, guard, sales clerk, and so forth), in the activities described above, which does not provide an intimate knowledge of livestock or poultry, livestock slaughtering or meat, dairy or other food processing will not be qualifying. The total training and experience of an applicant must show that he possesses the ability to comprehend, interpret, explain and apply regulations and instruction pertaining to the duties of a meat or poultry inspector, and show that he can meet and deal satisfactorily with employees and officials of poultry eviscerating or processing plants, or meat packing establishments;

2. Educational substitution (maximum of three years of experience) rules are:

i. Satisfactory completion of a full four-year course of accredited high school study which has included at least two one-year courses in biology, general science, chemistry or appropriate agricultural subjects, or a time-equivalent combination of these subjects, may be substituted for one year of the experience required; or

(1) Satisfactory completion of the courses entitled "Inspection of meat and meat products" offered by Rutgers University Extension Division in cooperation with the New Jersey State Department of Health may be substituted for one year of the experience required; or

ii. Each successfully completed year of study in a residence school above the high school level may be substituted for nine months of required experience, provided that such study included an average of at least six semester hours (or equivalent) per year in one or in any combination of the subjects of zoology, biology, chemistry or appropriate agricultural subjects;

3. What a candidate for meat inspector license should know: The candidate should be prepared to answer questions covering the public health aspects of the slaughtering and processing of meat. This includes both red meat and poultry. Specifically included may be the following:

i. Basic principles of meat inspection and their application to public health, and why inspectors look at glands, tissues and organs;

ii. State and Federal laws requiring inspection of meat and its products;

iii. Methods of sanitation of slaughter houses, meat markets and meat processing plants;

iv. Preservatives that are allowed and those not allowed in meat and its products;

v. Legal methods of sampling meat and its products;

vi. Common disease of animals whose carcasses are used for meat and its products;

vii. Principles and procedures to be followed in conducting a postmortem examination under supervision of a veterinary meat inspector, and the normal from abnormal tissue appearance of all food animals;

viii. Each candidate may be asked to display his knowledge of inspection and processing techniques in an actual practical examination. Questions on the practical examination will be of the type to determine knowledge or location and function of the liver, kidney, spleen, heart, lungs, their surrounding and protective tissues, as well as lymph glands—all on actual carcasses under actual inspection procedures;

ix. In addition, each candidate should be able to demonstrate his ability to handle inspection equipment, such as knives, hooks and trays, and to sharpen a knife, if on his observation it needs sharpening to allow him to utilize same in his inspection procedures.

(h) The qualifications for plumbing inspector, first and second grade, are:

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1. Possess a New Jersey professional engineer's license, plus successful completion of the advanced course in plumbing regulation and inspection at Rutgers University, or its equivalent; or
2. Possess a license for sanitary inspector, first grade, at least five years full-time working experience in the plumbing trade, plus successful completion of the advanced course in plumbing regulation and inspection at Rutgers University, or its equivalent; or
3. Graduation from high school or equivalent with at least ten years of full-time working experience as a journeyman or master plumber following an apprenticeship<sup>1</sup> of four years, plus successful completion of the basic course in plumbing regulation and inspection at Rutgers University, or its equivalent; or
4. Fourteen years as a journeyman or master plumber, plus successful completion of the basic course in plumbing regulation and inspection at Rutgers University, or its equivalent;
5. What a candidate for plumbing inspector license should know:
  - i. The candidate for a plumbing inspector's license should have detailed knowledge of the proper methods and procedures for all types of plumbing installations used in private dwelling, industrial buildings, office buildings, and so forth, in order that the public health of citizenry be protected;
  - ii. A plumbing inspector should be able to administer a program which includes techniques of plumbing, methods of inspection, enforcement procedures and record keeping.
  - iii. The candidate should be prepared in the following areas:
    - (1) Engineering principles of water purification and sewage disposal;
    - (2) Interpretation and corrections of plans for plumbing and drainage systems;
    - (3) Methods of testing plumbing systems, locating defects, and improper cross-connections and correcting the same;
    - (4) Principles of physics and hygiene which deal with the proper methods of removing waste water and sewage from buildings;
    - (5) Knowledge of standards for materials used in the installation of plumbing and drainage systems;
    - (6) Ability to draw plans of plumbing systems showing soil waste and vent pipes, traps and fixtures;
    - (7) Devices used in connection with plumbing systems;
    - (8) Hot water heaters and storage tanks, condensing tanks and blowoff tanks;
    - (9) Plumbing aspects of air conditioning and ventilating system;
    - (10) Knowledge of laws and State rules and regulations for installation of cross-connections between safe and unsafe water supplies;
    - (11) Methods of construction, location and operation of cess-pools, septic tanks, small sewage disposal plants and private water supply systems;
    - (12) Principles of administration, record keeping and communications with public;
    - (13) Statutes relating to licensing, local board of health powers and State codes;
    - (14) Procedures for preparing cases for legal action.

- ii. Certification as "registered technician" by the American Society of Clinical Pathologists in cooperation with the American Society of Medical Technicians;
  - iii. Graduation from a high school; at least one year of full-time experience in a laboratory performing bacteriological, serological, chemical or related technical laboratory tests. Completion of one year's successful training in a recognized school for laboratory technicians will be accepted in lieu of one year of full-time experience required above;
2. What a candidate for public health laboratory technician license should know:
    - i. The laboratory technician candidate should have special information and training in the handling, laboratory preparation and examination of specimens for identification of communicable disease organisms. Training should be in the following categories:
      - (1) Bacteriology: Knowledge of care and use of microscope; preparation of specimens for bacteriological examination; media, their uses and preparation; stains, their application and preparation; methods of sterilization; bacteriological examination of milk and water; and knowledge of laboratory techniques in the handling of infectious material;
      - (2) Chemistry: General background in chemistry with knowledge of the chemical techniques in blood, food and drug, sanitation, milk and milk products, drinking waters, streams, trade wastes and sewage;
      - (3) Pathology: Knowledge of preparation, embedding and staining of pathological specimens for examination; use of microtome, preparation of stains, and proper recording of specimens of tissue;
      - (4) Serology: Knowledge of techniques and principles involved in standard blood tests for syphilis, blood counts, blood grouping and Rh factor determination, and serological tests for communicable diseases;
      - (5) Virology knowledge and techniques involved in examination or studies of virus infections;
    - ii. The candidate has the privilege of selecting one of three booklet titles on the day of examination: "Bacteriology", "Pathology", or "Serology". It must be emphasized that each booklet contains a certain number of general questions in addition to those related to title.

<sup>1</sup>For the purpose of these qualifications, an apprenticeship is regarded as the first four years of full-time working experience in the plumbing trade under the supervision of a master plumber.

## TREASURY-GENERAL

(a)

### STATE TREASURER

### Public Employee Charitable Fund-Raising Campaign

### Adopted Emergency New Rule and Concurrent Proposal: N.J.A.C. 17:28

Emergency New Rule Adopted: July 15, 1985 by  
Michael M. Horn, State Treasurer.

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Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)):  
 July 15, 1985.  
 Emergency New Rule Filed: July 15, 1985 as R.1985  
 d.406.

Authority: N.J.S.A. 52:14-15.9cl and N.J.S.A. 52:18A-  
 30.

Emergency New Rule Effective Date: July 15, 1985.  
 Emergency New Rule Expiration Date: September 13,  
 1985.

Concurrent Proposal Number: PRN 1985-430.

Submit comments by September 4, 1985 to:  
 Michael M. Horn  
 State Treasurer  
 State House CN 002  
 Trenton, New Jersey 08625  
 Telephone: (609) 292-1038

The new rule was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of the emergency new rule is 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 agency emergency adoption and concurrent proposal follows:

**Summary**

The Public Employee Charitable Fund-Raising Act, N.J.S.A. 52:14-15.9cl, was enacted earlier this year to provide for a greatly expanded Charitable Fund-Raising Campaign among public employees. The Act followed a successful court challenge to prior law which had afforded only the United Way access to public employees to conduct a payroll deduction campaign. Under the new law the State Treasurer is directed to develop regulations to implement the provisions of the Act.

The Act contemplates a fund-raising Campaign to be conducted annually among public employees. Ideally, the Campaign will be run in the fall and public employees can expect their annual contributions to be deducted starting with the first paycheck of the following year. In order for this to be possible, 11 months of planning are necessary. However, the Act was not signed into law until April 12, 1985, and this places the 1985-86 Campaign at a serious disadvantage. If a Campaign is to be conducted this fall, a modified procedure must be adopted for this year.

For over 30 years Public Employee Charitable Fund-Raising Campaigns have contributed millions of dollars to support vital health, welfare, and human care services throughout the State. These good works must be assured continued support this year. Therefore, despite the fact that the Public Employee Charitable Fund-Raising Act was enacted late, it is the policy of this State that a Charitable Fund-Raising Campaign among State employees be conducted this year, in accordance with the Act.

The following regulations, filed under an emergency procedure, will ensure that the Charitable Fund-Raising Campaign among public employees shall take place on schedule. Under the adopted emergency new rule and concurrent proposal procedure, these regulations will remain in effect for 60 days and will allow for a 30 day comment period to run concurrently.

**Social Impact**

The new rules provide access to the public workplace to a variety of charitable organizations and agencies in order that these groups may solicit and collect contributions and further their respective missions. The rules will afford State employees broader avenues of expression and more freedom in designating recipients of their charitable contributions. The rules will ensure a truly united and comprehensive fund drive.

The rules are intended to conform to the payroll deduction scheme set forth in N.J.S.A. 52:14-15.9cl and State and Federal guarantees of freedom of speech and equal protection under the law.

The procedures set forth in this rule will also provide an additional source of funds to agencies which are neither affiliated with nor are members of any fund-raising organization. This new source of funds may replace some Federal funds that are no longer provided due to budgetary cutbacks. Strengthening non-profit charitable organizations and agencies will also permit them to provide social services not provided by public agencies because of Federal budgetary cutbacks.

**Economic Impact**

The new rules will have no significant impact on State finances. However, because many charitable organizations and agencies will participate in the State Campaign, some minimal administrative costs will be incurred. The bulk of these costs will be deducted from contributions. It should be noted that the provision for increased organization and agency participation may well encourage greater total charitable giving by State employees through payroll deductions.

Full text of the adopted emergency new rule and concurrent proposal follows:

**CHAPTER 28**  
**PUBLIC EMPLOYEE CHARITABLE FUND-RAISING**  
**CAMPAIGN**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**17:28-1.1 Purpose**

- (a) The purpose of the regulations in this chapter is to:
1. Provide a convenient channel through which State employees may support the efforts of charitable fund-raising organizations and charitable agencies while minimizing disruption to the workplace and cost to the taxpayers that fund-raising may entail;
  2. Establish a system for the planning and conduct of charitable fund-raising campaigns among State employees in order to ensure that the funds will be collected and distributed in a reasonable manner; and
  3. Provide eligible charitable organizations and charitable agencies access to the public workplace for soliciting and collecting such contributions.

**17:28-1.2 Scope**

No deductions shall be made from compensation payable to State employees by the State Treasurer or his agents, or from compensation payable to employees of any instrumentality of the State, not payable by the State Treasurer, for the payment of contributions to any charitable fund-raising organization or charitable agency pursuant to N.J.S.A. 52:14-15.9cl, unless such organization or agency complies with the requirements of this chapter.

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### 17:28-1.3 Definitions

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

"Affiliated charitable agency" means a charitable agency which is affiliated with a charitable fund-raising organization participating in the Campaign for the purpose of directly sharing in funds raised by the organization.

"Campaign manager" means a charitable fund-raising organization which manages a charitable fund-raising campaign.

"Campaign volunteer" means a public employee who volunteers to assist the Campaign Manager in the administration of the Campaign.

"Charitable agency" means a volunteer, not-for-profit organization which provides health, welfare, or human care services to individuals.

"Charitable fund-raising campaign" (Campaign) means an annual payroll deduction campaign organized pursuant to the Public Employee Charitable Fund-Raising Act, N.J.S.A. 52:14-15.9cl, to receive and distribute the voluntary charitable contributions of public employees.

"Charitable fund-raising organization" means a volunteer, not-for-profit organization which receives and distributes voluntary charitable contributions.

"Compensation" means compensation payable by the State Treasurer to a State employee.

"Day" means a working day.

"Payroll deduction" means a contribution deducted from a State employee's compensation pursuant N.J.S.A. 52:14-15.9cl.

"State" means the State of New Jersey or any instrumentality thereof.

"State employee" means any person employed by, or holding a public office, or position of, the State or any board, body, agency or commission thereof, whose compensation is payable by the State Treasurer.

"State Treasurer" means the Treasurer of the State of New Jersey.

"Unaffiliated charitable agency" means a charitable agency which provides health, welfare, or human care services within New Jersey and which is not affiliated with a charitable fund-raising organization.

"Undesignated contributions" means funds contributed to a charitable fund-raising campaign with no designation by the contributor as to the recipient charitable fund-raising organization or charitable agency.

### 17:28-1.4 Forms

In order to carry out its functions, the Department of the Treasury shall use such forms as it shall deem appropriate. Such forms may be amended, supplemented and/or replaced at the discretion of the State Treasurer.

## SUBCHAPTER 2. CHARITABLE FUND-RAISING CAMPAIGN STEERING COMMITTEE

### 17:28-2.1 General provisions

(a) The Campaign Steering Committee is the operational unit of the State Campaign. Its actions on behalf of the member charitable fund-raising organizations shall be binding; it may assign functions, organize subgroups, and enlist others in its activities as it deems necessary in order to carry out its responsibilities.

(b) The underlying philosophy that shall govern the actions of the Campaign Steering Committee and the relationship among participating charitable fund-raising organizations is

that no one organization shall function in a manner that will be detrimental to other participating organizations or to agencies participating in the Campaign.

(c) The Campaign Steering Committee shall convene on or before August 6, 1985 at the call of the State Treasurer.

(d) Each member shall have one vote.

(e) No action can be taken if objected to by at least five members of the Campaign Steering Committee.

### 17:28-2.2 Membership

The Campaign Steering Committee shall consist of one representative of each of the charitable fund-raising organizations eligible to participate in the State Campaign pursuant to N.J.S.A. 52:14-15.9c7a-f, one representative of a State public employee labor union to be chosen by the presidents of the various labor unions which represent State employees and one representative of the executive branch of State Government to be appointed by the Governor.

### 17:28-2.3 Term of membership

The term of membership for each member of the Campaign Steering Committee shall run until March 1, 1986. The representative of a State employee labor union and the executive branch of State Government shall be eligible for reappointment by the presidents of the various labor unions representing State employees and the Governor, respectively. A charitable fund-raising organization shall be eligible to renew its membership, annually, contingent upon the successful completion of the application process.

### 17:28-2.4 Duties of Campaign Steering Committee

(a) The Campaign Steering Committee shall:

1. Elect a Chairman to conduct the meetings of the Campaign Steering Committee, who shall serve until March 1, 1986 and who shall be eligible for re-election;

2. Recommend an honorary campaign chairman to be appointed by the Governor;

3. Elect and oversee a Campaign Manager;

4. Review the applications of charitable agencies wishing to participate in the Campaign; and

5. Establish policies and procedures for the operation and administration of the Campaign.

### 17:28-2.5 Eligibility of fund-raising organizations

(a) The requirements for eligibility of a charitable fund-raising organization are set forth in N.J.S.A. 52:15-14.9c7.

(b) The burden of demonstrating eligibility shall rest with the applicant.

### 17:28-2.6 Membership procedure

(a) The State Treasurer published in the New Jersey Register a Public Notice of application for charitable fund-raising organizations wishing to participate on the Campaign Steering Committee. These applications are due in the Office of the State Treasurer by July 15, 1985.

(b) Within 10 days of the close of the application due date, the State Treasurer shall notify each applicant of its eligibility or ineligibility for the Campaign Steering Committee. In cases of ineligibility, the notice shall set forth reasons for such ineligibility.

### 17:28-2.7 Appeal procedure

(a) Any charitable fund-raising organization receiving notice of ineligibility shall have 10 days from receipt of such notice to submit to the State Treasurer any additional information addressing any deficiencies in the application.

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(b) Within 10 days of receipt of any additional information, the State Treasurer shall convene a special appeal panel consisting of the representative of the various labor unions representing State employees and of the representative of the executive branch of State government to review the charitable fund-raising organization's application and any additional documentation or information submitted by the charitable fund-raising organization to address any deficiency in the application as determined by the State Treasurer.

(c) The special appeal panel shall conduct its review within 10 days and in that time shall make its recommendation in writing to the State Treasurer.

(d) The State Treasurer shall have five days from receipt of the recommendation of the special appeal panel to review the recommendation and supplemental application materials, make his or her final determination regarding the eligibility of the charitable fund-raising organization to participate on the Campaign Steering Committee, and notify the organization of his or her decision. The decision of the State Treasurer shall be final.

### 17:28-2.8 Application form organization

(a) The State Treasurer shall prepare an application form for charitable fund-raising organizations wishing to participate on the Campaign Steering Committee.

(b) In addition to a completed application form, the applicant must submit:

1. With respect to the requirements set forth in N.J.S.A. 52:14-15.9a, b, and c, an Internal Revenue Service Letter of Determination or other proof from the Internal Revenue Service that the applicant:

- i. Is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;
- ii. Qualifies for tax deductible contributions under section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code; and
- iii. Is not a private foundation as defined in section 509(a) of the Internal Revenue Code; and

2. With respect to the requirements set forth in N.J.S.A. 52:14-15.9c7e, annual financial reports which demonstrate that the organization raised, in each of its fiscal years preceding its application to participate in a Campaign, at least \$35,000 from individual citizens of New Jersey; and

3. With respect to N.J.S.A. 52:14-15.9c7f, annual financial reports which demonstrate that the organization raised at least \$60,000 and distributed that sum among a minimum of 15 charitable agencies in each of its two fiscal years preceding its application to participate in a State Campaign.

(c) The application may also require any general background information of the applicant charitable fund-raising organization which may aid the State Treasurer in his or her determination of an organization's eligibility.

(d) Those wishing to receive an application can do so by making a request either orally or in writing to the State Treasurer, Office of the State Treasurer, State House, CN 002, Trenton, New Jersey, 08625, (609) 292-1038.

## SUBCHAPTER 3. CHARITABLE FUND-RAISING CAMPAIGN

### 17:28-3.1 Eligibility

(a) A charitable fund-raising organization eligible for membership on the Campaign Steering Committee shall be eligible to participate in the Campaign.

(b) A charitable agency shall be eligible to participate in the Campaign if it is affiliated with a charitable fund-raising organization which is participating in the Campaign or if the agency meets the requirements of N.J.S.A. 52:14-15.9c7a-e.

1. The burden of demonstrating eligibility shall rest with the applicant.

### 17:28-3.2 Application procedure

(a) See N.J.A.C. 17:28-2.6 for the application procedure of charitable fund-raising organizations.

(b) The application procedure for charitable agencies is as follows:

1. The State Treasurer published in the New Jersey Register a Public Notice of application for charitable agencies wishing to participate in the Campaign. These applications are due in the Office of the State Treasurer on or before August 1, 1985. The State Treasurer, in conjunction with the Campaign Steering Committee shall review the applications.

2. Within 10 days of the close of the application due date, the State Treasurer shall notify each agency of its eligibility or ineligibility to participate in the Campaign. In cases of ineligibility, the notice shall set forth the reasons for such ineligibility.

3. Any charitable agency receiving notice of ineligibility shall have 10 days from receipt of such notice to submit to the State Treasurer any additional information addressing any deficiencies in the application.

4. Within 10 days of receipt of any additional information, the State Treasurer shall convene a meeting of the representative of the various labor unions representing State employees and the representative of the executive branch of State government to review the charitable agency's application and any documentation or information submitted by the charitable agency to address any deficiency in the application as determined by the State Treasurer and the Campaign Steering Committee.

5. The special appeal panel shall conduct its review within five days and in that time shall make its recommendation in writing to the State Treasurer.

6. The State Treasurer shall have five days in which to review the recommendation of the special appeal panel and the supplemental application materials, make his or her final determination as to the eligibility of the charitable agency to participate in the Campaign and notify the agency of his or her decision. The decision of the State Treasurer shall be final.

### 17:28-3.3 Application form/affiliated charitable agency

Affiliated Charitable agencies wishing to participate in the Campaign shall be certified as affiliated by their charitable fund-raising organization.

### 17:28-3.4 Application form/unaffiliated charitable agency

(a) The State Treasurer shall prepare an application form for unaffiliated charitable agencies wishing to participate in the Campaign.

(b) In addition to a completed application form, the applicant must submit:

1. With respect to the requirements set forth in N.J.S.A. 52:14-15.9a, b, and c, an Internal Revenue Service Letter of Determination or other proof from the Internal Revenue Service that the applicant:

- i. Is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;
- ii. Qualifies for tax deductible contributions under section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code; and
- iii. Is not a private foundation as defined in section 509(a) of the Internal Revenue Code; and

2. With respect to the requirements set forth in N.J.S.A. 52:14-15.9c7e, annual financial reports which demonstrate that the agency raised, in each of its fiscal years preceding its application to participate in a Campaign, at least \$15,000 from individual citizens of New Jersey.

## EMERGENCY ADOPTIONS

## TREASURY-GENERAL

(c) The application may also require any general background information of the applicant charitable agency which may aid the State Treasurer in his or her determination of an agency's eligibility.

(d) Those wishing to receive an application can do so by making a request either orally or in writing to the State Treasurer, Office of the State Treasurer, State House, CN 002, Trenton, New Jersey, 08625, (609) 292-1038.

### SUBCHAPTER 4. CAMPAIGN ADMINISTRATION

#### 17:28-4.1 General provision

The provisions of this subchapter shall apply to State employees whose compensation is payable by the State Treasurer.

#### 17:28-4.2 Campaign period

(a) The campaign solicitation period will be scheduled for a continuous 10 week period during the months of September, October, November and December; but, in any event it shall not extend beyond December 10, 1985.

(b) Participating charitable fund-raising organizations and charitable agencies may not engage in educational activities among State employees at the work site of the State employees during the Campaign period.

(c) Participating charitable fund-raising organizations and charitable agencies may not engage in solicitation activities among State employees at the work site of the State employee during the non-Campaign period.

#### 17:28-4.3 Campaign literature

(a) The Campaign Steering Committee shall be responsible for the design, printing and distribution of Campaign pledge/designation cards and other Campaign literature.

(b) The State Treasurer shall approve, prior to distribution, the content of any Campaign pledge/designation card, Campaign literature and/or other materials to be distributed to State employees during the course of a Campaign to ensure that the information contained in these materials is accurate and fair. The State Treasurer shall also approve, prior to distribution, the form of any Campaign materials to ensure compliance with administrative requirements of the Campaign.

#### 17:28-4.4 Distribution of campaign literature

During working hours, Campaign volunteers shall distribute at the request of the Campaign Manager, only Campaign information or literature approved by the State Treasurer for distribution in the annual Campaign.

#### 17:28-4.5 Form of contribution

Employees may contribute to eligible charitable fund-raising organizations and/or charitable agencies either cash or a specified amount to be deducted from their compensation each pay period.

#### 17:28-4.6 Designated contribution

Employees may designate, on a Campaign pledge/designation card, their contribution to a specific charitable fund-raising organization and/or charitable agency, and/or may select the undesignated option. For contributions through the payroll deduction there shall be a minimum contribution of \$.50 per week (\$1.00 per pay period, \$26.00 per year) per organization or agency designated. The minimum contribution requirement shall be met for each additional organization or agency designated.

#### 17:28-4.7 Distribution of contributions

(a) Designated contributions shall be distributed in a manner established by the Campaign Steering Committee and in accordance with the wishes of the designating State employee.

(b) Undesignated contributions shall be distributed to participating campaign organizations in the same proportion that these organizations received designated funds.

#### 17:28-4.8 Selection and use of campaign volunteers

(a) The Campaign Manager shall designate at least one campaign volunteer to represent each payroll account.

(b) At the close of the Campaign, the campaign volunteers shall:

1. Collect from State employees the completed pledge/designation cards and any cash contributions; and

2. Return to Centralized Payroll the completed pledge portion of the pledge/designation cards; and

3. Return to the Campaign Manager the designation portion of the pledge/designation cards and all cash contributions received by the campaign volunteers.

### SUBCHAPTER 5. CAMPAIGN ACCOUNTS

#### 17:28-5.1 General provisions

The provisions of this subchapter shall apply to State employees whose compensation is handled through Centralized Payroll.

#### 17:28-5.2 Payroll deductions

(a) Upon receipt of the completed pledge cards, and for each pay period, Centralized Payroll shall deduct the total amount of contribution, as requested by each State employee, from the employee's payroll check.

(b) At the end of each pay period Centralized Payroll shall determine and the Office of Management and Budget shall certify the total amount deducted by State employees for charitable fund-raising.

(c) The State Treasurer shall issue a check for the total amount of contribution to the Campaign Manager.

(d) An employee may exercise his or her option of cancelling his or her deduction for charitable contributions by submitting a completed cancellation card to his or her payroll clerk.

#### 17:28-5.3 Campaign accounting

At the end of the each pay period Centralized Payroll shall provide to the Campaign Manager information containing the total amount contributed by each employee to charitable fund-raising organizations and charitable agencies participating in the Campaign.

#### 17:28-5.4 Costs

(a) The operation of the payroll deduction system will be provided by State Government as a service to its employees in the same manner that other authorized deductions are provided.

(b) Other Campaign costs including, but not limited to the design, printing or preparation, and distribution of Campaign materials and Campaign accounting and administration to be conducted by the Campaign Manager shall be payable by the Campaign Steering Committee from contributions. These costs shall not exceed ten percent of the total amount of contributions.

### SUBCHAPTER 6. BOARDS, COMMISSIONS AND AUTHORITIES

#### 17:28-6.1 General provision

For the purposes of this subchapter, boards, commissions and authorities shall mean State-level public boards, commissions and authorities in the State having paid staffs whose compensation is not payable by the State Treasurer.

## TREASURY-GENERAL

## EMERGENCY ADOPTIONS

### 17:28-6.2 Procedure for boards, commissions and authorities

(a) The State Treasurer shall provide to the Campaign Manager a listing of boards, commissions and authorities

(b) The State Treasurer shall notify each board, commission and authority on such list of the existence of a State Campaign. Such notification shall direct each board, commission, authority to allow its employees to participate in the Campaign.

(c) The provisions of Subchapter 4, except for N.J.A.C. 17:28-4.1 and 4.8, shall apply to employees of boards, commissions and authorities.

(d) In order to facilitate charitable fund-raising among employees of the boards, commissions and authorities, the Campaign Manager shall select Campaign volunteers in the manner described in Subchapter 4;

(e) At the close of the Campaign, the Campaign volunteers shall:

1. Collect from employees of the boards, commissions and authorities the completed pledge designation cards and any cash contributions.

2. Return to the appropriate payroll clerk or fiscal officer of each board, commission and authority the completed pledge portion of the pledge/designation cards; and

3. Return to the Campaign Manager the designation portion of the pledge/designation cards and all cash contributions received by the campaign volunteers.

(f) The payroll or fiscal officer of each board, commission and authority shall prepare a statement for the Campaign Manager exhibiting the total amount contributed by employees of the boards, commissions and authorities through the use of the payroll deduction.

(g) The payroll or fiscal officer of each board, commission and authority shall be responsible for deducting from compensation paid to its employees the amount requested and to remit that amount to the campaign manager.

(h) An employee may exercise his or her option of cancelling his or her deduction for charitable contributions by submitting a completed cancellation card to his or her payroll clerk.

### 17:28-6.3 Costs

(a) The operation of the payroll deduction system will be provided by each board, commission and authority as a service to its employees in the same manner that other authorized deductions are provided.

(b) Other Campaign costs including, but not limited to the design, printing or preparation, and distribution of campaign materials and Campaign accounting and administration to be conducted by the Campaign Manager shall be payable by the Campaign Steering Committee from contributions. These costs shall not exceed 10 percent of the total amount of contributions.

# MISCELLANEOUS NOTICES

## ENVIRONMENTAL PROTECTION

(a)

### DIVISION OF WATER RESOURCES

#### Amendment to the Monmouth County Water Quality Management Plan

##### Public Notice

The Aberdeen Township Municipal Utilities Authority, Aberdeen Township, Monmouth County, has requested an amendment to the Monmouth County Water Quality Management (WQM) Plan. This amendment provides for the rerating of the Strathmore Sewage Treatment Plant from a capacity of 0.8 million gallons per day (mgd) to 1.0 mgd to provide for additional sewer capacity for new development.

This notice is being given to inform the public that a plan amendment has been developed for the Monmouth County WQM Plan. All information dealing with the aforesaid WQM Plan, 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. 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 Mr. George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

#### Amendment to Monmouth County Water Quality Management Plan

##### Public Notice

The City of Asbury Park, Monmouth County, has requested an amendment to the Monmouth County Water Quality Management (WQM) Plan. This amendment provides for Asbury Park to be designated as a Wastewater Facilities Planning Agency in order to conduct wastewater facilities planning pursuant to Section 201 of the Clean Water (33 U.S.C. 1251 et seq.).

This notice is being given to inform the public that a plan amendment has been developed for the Monmouth County

WQM Plan. All information dealing with the aforesaid WQM Plan, 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. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(c)

#### Amendment to Tri-County Water Quality Management Plan

##### Public Notice

The Evesham Municipal Utilities Authority has requested an amendment to the Tri-County Water Quality Management (WQM) Plan. This amendment provides for the expansion of the Evesham Municipal Utility's Elmwood sewage treatment plant from a design capacity of 1.5 million gallons per day (mgd) to 2.3 mgd.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of 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 Mr. George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of the public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

ENVIRONMENTAL PROTECTION

MISCELLANEOUS NOTICES

(a)

**Amendment to the Upper Delaware Water Quality Management Plan**

**Public Notice**

The Warren County Board of Chosen Freeholders and the Borough of Washington, Warren County has requested an amendment to the Upper Delaware Water Quality Management (WQM) Plan. This amendment provides for the dissolution of the Warren County-Pohatcong Creek Sewerage Authority as a wastewater facilities planning area and management agency, and creates the Washington-Mansfield wastewater facilities planning area consisting of Washington Borough, Washington Township, and Mansfield Township, Warren County. In this planning area, each municipality will be responsible for conducting their own wastewater management planning, in coordination and consultation with the other two municipalities. Washington Borough, Washington Township, and Mansfield Township will each be designated as a management agency for the planning and management (to construct, manage, and maintain), of wastewater treatment conveyance works, collectors, and other systems as necessary.

The Washington Borough Sewerage Treatment Plant (STP) currently serves the centralized sewage treatment needs of the Borough and certain adjacent areas of Washington Township. This treatment facility is currently designed to treat .85 million gallons per day (mgd) for discharge to Shabbecong Creek with an anticipated future expansion to 1.2 mgd. All wastewater requiring centralized treatment in the areas of Washington Township draining to the Pohatcong Creek will be conveyed to the Washington Borough STP for treatment and discharge.

Areas of Washington Township outside the Pohatcong Creek watershed and service area of the Borough STP that may require centralized wastewater treatment and conveyance systems shall utilize regional wastewater facilities based upon planning to be conducted by Washington Township and subject to the approval of the Department. In addition, if centralized wastewater treatment facilities are required for portions of Mansfield Township in the future, then these facilities shall also be regional and be based upon planning conducted by Mansfield Township subject to the approval of the Department.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Delaware WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of 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 Mr. George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address

cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

**Amendment to Upper Raritan Water Quality Management Plan**

**Public Notice**

Take notice that on June 24, 1985 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), an amendment to the Upper Raritan Water Quality Management Plan for expansion of the Raritan Township Municipal Utilities Authority's sewage treatment plant and the ultimate abandonment of the Flemington sewage treatment plant, was adopted by the Department.

(c)

**Amendment to Upper Raritan Water Quality Management Plan**

**Public Notice**

The Township of Montgomery, Somerset County, has requested an amendment to the Upper Raritan Water Quality Management (WQM) Plan. This amendment provides for the construction of the Pike Brook Sewage Treatment Plant (STP), with a capacity of .45 million gallons per day, to service an area of the Township presently experiencing public health problems caused by malfunctioning septic systems, and an area zoned for development.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Raritan WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of 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 Mr. George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

MISCELLANEOUS NOTICES

LAW AND PUBLIC SAFETY

**INSURANCE**

**(a)**

**THE COMMISSIONER**

**Notice of Cancellation and Nonrenewal of  
Fire and Casualty Coverage**

**Public Notice**

Take notice that Hazel Frank Gluck, Commissioner of Insurance, pursuant to the provisions of N.J.S.A. 17:29C-3, has recertified to the Legislature the need for continuation of the notice of cancellation and nonrenewal requirement applicable to fire and casualty insurance policies, excluding accident and health policies for the fiscal year commencing July 1, 1985. The notice of cancellation and nonrenewal requirement is set forth at N.J.A.C. 11:1-5.2, which rule continues in full force and effect.

This notice is published as a matter of public information.

**LAW AND PUBLIC SAFETY**

**(b)**

**DIVISION OF MOTOR VEHICLES**

**Bulk Commodities Application**

**Public Notice**

Take notice that Robert S. Kline, Acting Director, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 39:5E.11, hereby list the name and address of an applicant who has filed an application for a Contract Carrier Permit.

T S M Trucking Inc.  
Hunters Glen Apts, Apt. D-3  
Delran, N.J. 08075

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication of an application.

**(c)**

**DIVISION OF BUILDING AND  
CONSTRUCTION**

**Architect-Engineer Selection  
Notice of Assignments: July 15, 1985**

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, prequalified New Jersey consulting firms. For information on DBC's prequalification and assignment procedures, call (609) 984-6979.

Last list dated June 17, 1985.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
P468	Parking Facility & Site Work Heislerville Wildlife Management Area Cumberland County, NJ	Pennoni Assoc., Inc.	\$150,000.
E141	Remodeling of N.J. State Library Trenton, NJ	Herbert S. Newman Associates, AIA	\$3,550,000.
E901 Reassign- ment	Various Energy Projects Marie H. Katzenbach School for the Deaf W. Trenton, NJ	M. Benton & Assoc.	\$94,500.
E144 Reassign- ment	Fire Suppression System Marie H. Katzenbach School for the Deaf W. Trenton, NJ	M. Benton & Assoc.	\$85,000.
M635	Electrical Renovations Cottage S Marlboro Psychiatric Hospital Marlboro, NJ	John C. Morris Associates, Inc.	\$43,000.
H805	Conversion of Finley Hall F207 to Biology Dept. Stockroom Montclair State College Upper Montclair, NJ	Mylan Architectural Group	\$50,000.
P467	Phase III-Rehabilitation Green Turtle Pond Dam West Milford Township, NJ	Ebasco Services, Inc.	\$32,200. Services
Competitive Proposals			
	Ebasco Services, Inc.	\$32,200. Lump Sum	
	Woodward-Clyde Consultants	\$39,000. Lump Sum	
	Storch Engineers	\$44,000. Lump Sum	
M629	Conversion to Cottages to Transitional Housing Units Marlboro Psychiatric Hospital Marlboro, NJ	Eugene F. O'Connor, AIA	\$645,000.
Competitive Proposals			
	Eugene F. O'Connor, AIA	8.43%	
	Paulsen Associates	9.90%	
	Scrimenti/Shive/Spinelli/ Perantoni, Architects	13.00%	

# REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

## A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule 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 change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

**At the bottom of the index listing for each Administrative Code Title is the 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 May 6, 1985 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 used in this Index:

**N.J.A.C. Citation.** The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

**Proposal Notice (N.J.R. Citation).** The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

**Document Number.** The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1985 d.300 means the three hundredth rule adopted in 1985.

**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.** An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find quickly the issue of publication of a rule proposal or adoption.

## 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. 1833 and 2026	July 16, 1984	17 N.J.R. 237 and 338	February 4, 1985
16 N.J.R. 2027 and 2184	August 6, 1984	17 N.J.R. 339 and 502	February 19, 1985
16 N.J.R. 2185 and 2318	August 20, 1984	17 N.J.R. 503 and 634	March 4, 1985
16 N.J.R. 2319 and 2390	September 4, 1984	17 N.J.R. 635 and 762	March 18, 1985
16 N.J.R. 2391 and 2474	September 17, 1984	17 N.J.R. 763 and 858	April 1, 1985
16 N.J.R. 2475 and 2708	October 1, 1984	17 N.J.R. 859 and 1006	April 15, 1985
16 N.J.R. 2709 and 2864	October 15, 1984	17 N.J.R. 1007 and 1158	May 6, 1985
16 N.J.R. 2865 and 3066	November 5, 1984	17 N.J.R. 1159 and 1358	May 20, 1985
16 N.J.R. 3067 and 3240	November 19, 1984	17 N.J.R. 1359 and 1460	June 3, 1985
16 N.J.R. 3241 and 3336	December 3, 1984	17 N.J.R. 1461 and 1608	June 17, 1985
16 N.J.R. 3337 and 3518	December 17, 1984	17 N.J.R. 1609 and 1700	July 1, 1985
17 N.J.R. 1 and 140	January 7, 1985	17 N.J.R. 1701 and 1818	July 15, 1985
17 N.J.R. 141 and 236	January 21, 1985	17 N.J.R. 1819 and 1954	August 5, 1985

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
<b>ADMINISTRATIVE LAW—TITLE 1</b>				
1:1, 1:2	Readopt General Hearing and Summary Proceedings rules	17 N.J.R. 2(a)	R.1985 d.292	17 N.J.R. 1403(a)
1:1-11.2, 11.3	Discovery and countervailing factors	17 N.J.R. 1008(a)	R.1985 d.368	17 N.J.R. 1754(a)
1:1-13.4, 15.7	Correction to Administrative Code			17 N.J.R. 1795(a)
1:6A-3.1	Correction to Administrative Code			17 N.J.R. 1795(b)
1:7	Emergency Water Supply Allocation Plan cases	Emergency	R.1985 d.347	17 N.J.R. 1674(a)
1:10A	Inmate discipline cases	17 N.J.R. 1610(a)		
1:21	Trade secret claims	17 N.J.R. 1009(a)	R.1985 d.367	17 N.J.R. 1754(b)

(TRANSMITTAL 11, dated March 18, 1985)

<b>AGRICULTURE—TITLE 2</b>				
2:1-2.3, 3.1, 3.2, 3.4, 3.7, 3.8	Department organization	17 N.J.R. 1614(a)		
2:6-1	Control of veterinary biologicals	17 N.J.R. 1617(a)		
2:16-2	Seed certification standards	17 N.J.R. 636(a)	R.1985 d.278	17 N.J.R. 1403(b)
2:16-4	Field corn standards (commercial hybrids)	17 N.J.R. 638(a)	R.1985 d. 277	17 N.J.R. 1404(a)
2:16-5	Sweetcorn standards (inbred lines)	17 N.J.R. 639(a)	R.1985 d.276	17 N.J.R. 1404(b)
2:16-6	Sweetcorn standards (single cross hybrids)	17 N.J.R. 639(b)	R.1985 d.275	17 N.J.R. 1404(c)
2:16-7	Small grain standards	17 N.J.R. 640(a)	R.1985 d.274	17 N.J.R. 1405(a)
2:16-9	Soybean standards	17 N.J.R. 641(a)	R.1985 d.273	17 N.J.R. 1405(b)
2:16-10	Vegetable standards	17 N.J.R. 641(b)	R.1985 d.272	17 N.J.R. 1405(c)
2:16-13	Turfgrass sod standards	17 N.J.R. 642(a)	R.1985 d.271	17 N.J.R. 1405(d)
2:16-15	Vegetatively propagated grass standards	17 N.J.R. 643(a)	R.1985 d.269	17 N.J.R. 1406(a)
2:16-16	Asparagus seed standards	17 N.J.R. 643(b)	R.1985 d.270	17 N.J.R. 1406(b)
2:16-17	Asparagus crown standards	17 N.J.R. 644(a)	R.1985 d.268	17 N.J.R. 1406(c)
2:16-19	Flatpea certification standards	17 N.J.R. 644(b)	R.1985 d.267	17 N.J.R. 1407(a)
2:24-1.1, 1.2	Disease of bees: repeal Acarine mite quarantine	17 N.J.R. 860(a)	R.1985 d.304	17 N.J.R. 1542(a)
2:24-1.3, 1.4, 1.5	Bee diseases: Tracheal mite quarantine	17 N.J.R. 985(a)	R.1985 d.301	17 N.J.R. 1542(b)
2:24-1.6	Honeybee tracheal mite quarantine	Emergency	R.1985 d.322	17 N.J.R. 1589(a)
2:52-2, 3, 4.1, 7	Readopt rules concerning milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:52-2.1, 3.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:53-4	Milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:53-4.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:69-1.11	Commercial values of fertilizers and soil conditioners	17 N.J.R. 764(a)	R.1985 d.266	17 N.J.R. 1407(b)
2:70-1	Liming materials: readopt fineness classification	17 N.J.R. 765(a)	R.1985 d.265	17 N.J.R. 1407(c)
2:71-2.2—2.7	Jersey Fresh Logo program	17 N.J.R. 765(b)	R.1985 d.282	17 N.J.R. 1407(d)
2:90-1	State Soil Conservation Committee: readopt General Provisions	17 N.J.R. 1160(a)	R.1985 d.370	17 N.J.R. 1756(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
2:90-2.24	Cost share rates for soil and water conservation projects	17 N.J.R. 861(a)	R.1985 d.303	17 N.J.R. 1542(c)
2:90-3.6	Soil and water conservation management problems	17 N.J.R. 861(b)	R.1985 d.302	17 N.J.R. 1543(a)

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**BANKING—TITLE 3**

3:7-3.3, 3.6, 3.7	Confirmation of loans and deposits	17 N.J.R. 1702(a)		
3:17-7.1, 7.3	Small loan licensees: mortgage bankers and brokers business	17 N.J.R. 1703(a)		
3:27-4.5, 4.6	Savings and loan associations: asset limitation; service corporations	17 N.J.R. 1619(a)		
3:41	Readoption of Cemetery Board rules	17 N.J.R. 1704(a)		

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**CIVIL SERVICE—TITLE 4**

4:1-6.8	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-12.15	Appointment of eligible certified	17 N.J.R. 10(a)	R.1985 d.227	17 N.J.R. 1257(a)
4:1-16.7	Suspension, fine and demotion for disciplinary purposes	17 N.J.R. 1360(a)		
4:1-21.3	Prohibition against political activity	17 N.J.R. 1013(a)		
4:2-6.1, 6.2	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:2-7.13	Ninth step salary maximum	17 N.J.R. 1014(a)	R.1985 d.345	17 N.J.R. 1645(c)
4:3-6.2, 6.3	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:3-14.1	Seasonal positions	17 N.J.R. 1015(a)		

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**COMMUNITY AFFAIRS—TITLE 5**

5:18-1.1, 1.3, 1.4, 1.5, 2.4, 2.5, 2.7, 2.8, 2.12, 3.1, 3.2	Uniform Fire Code	17 N.J.R. 1015(b)		
5:18-1.1, 1.4, 1.5, 1.6, 2.3, 4	Uniform Fire Code, Fire Safety Code	17 N.J.R. 1161(a)		
5:18A-2.1—2.4, 2.6, 3.2, 3.3, 4.1, 4.3, 4.4	Fire Code Enforcement	17 N.J.R. 1015(b)		
5:18B-3.2	High Level Alarms	17 N.J.R. 1015(b)		
5:23-1.4, 2.14, 4.18, 4.20	Uniform Construction Code: annual permits	17 N.J.R. 1029(a)	R.1985 d.351	17 N.J.R. 1756(b)
5:23-2.15	Uniform Construction Code: contractor seals	17 N.J.R. 1462(a)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 645(b)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 1033(a)		
5:23-2.15, 5.7	UCC: applying for construction permit; renewal of enforcement license	17 N.J.R. 1031(a)	R.1985 d.352	17 N.J.R. 1758(a)
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.14, 3.21	One and two-family dwelling construction subcode	17 N.J.R. 861(c)	R.1985 d.324	17 N.J.R. 1646(a)
5:23-4.5	UCC: duties of construction officials	17 N.J.R. 340(a)	R.1985 d.232	17 N.J.R. 1257(b)
5:23-4.21, 5.4	UCC: private enforcing agency fees; trainees	17 N.J.R. 1032(a)	R.1985 d.353	17 N.J.R. 1758(b)
5:23-5.4	UCC: private enforcing agencies and trainee positions	17 N.J.R. 341(a)	R.1985 d.231	17 N.J.R. 1258(a)
5:23-5.7, 5.11	UCC: license suspensions and revocations	17 N.J.R. 1705(a)		
5:23-8	Asbestos Hazard Abatement Subcode	Emergency	R.1985 d.362	17 N.J.R. 1782(a)
5:24	Condominium and cooperative conversion: readopt rules	17 N.J.R. 1706(a)		
5:27	Readopt rules on Rooming and Boarding Houses	17 N.J.R. 341(b)	R.1985 d.350	17 N.J.R. 1759(a)
5:27-1.6	Rooming and boarding houses: owner and operator training	17 N.J.R. 777(a)	R.1985 d.300	17 N.J.R. 1543(b)
5:28	Readopt State Housing Code	17 N.J.R. 1174(a)		
5:31-7.5	Local authorities: audit reports	17 N.J.R. 504(a)	R.1985 d.283	17 N.J.R. 1409(b)
5:51-1.4, 1.5	Local provision of recreational services for handicapped persons	17 N.J.R. 1463(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:80	Rules of the Housing and Mortgage Finance Agency	17 N.J.R. 505(a)	R.1985 d.241	17 N.J.R. 1258(b)
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)		
5:80-17, 18	Housing and Mortgage Finance: prevailing wages; debarment from contracting	17 N.J.R. 1174(b)		

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**DEFENSE—TITLE 5A**

5A:2	Leaves of absence for members of National Guard	17 N.J.R. 646(a)	R.1985 d.242	17 N.J.R. 1267(a)
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**EDUCATION—TITLE 6**

6:3-1.10	Standards for determining seniority	17 N.J.R. 1033(b)	R.1985 d.397	17 N.J.R. 1874(a)
6:3-1.17, 1.23	School facility planning services	17 N.J.R. 650(a)		
6:11-7	Standards for State approval of teacher preparation	17 N.J.R. 1708(a)		
6:20-2	Readopt Local Bookkeeping and Accounting rules	17 N.J.R. 1361(a)		
6:20-5.3, 5.4	State facility pupil assignments: district of residence	17 N.J.R. 344(a)	R.1985 d.208	17 N.J.R. 1076(a)
6:20-5.5	Asbestos removal and encapsulation reimbursement	17 N.J.R. 863(a)	R.1985 d.340	17 N.J.R. 1648(a)
6:21-1	Readopt Pupil Transportation Standards	17 N.J.R. 1365(a)		
6:21-5	Standards for school buses	17 N.J.R. 1035(a)	R.1985 d.396	17 N.J.R. 1875(a)
6:22	School facility planning services	17 N.J.R. 650(a)		
6:28-3.2, 3.6, 6.1, 6.3, 8.3	Special Education	17 N.J.R. 345(a)	R.1985 d.209	17 N.J.R. 1077(a)
6:29-6.4	Athletics procedures	17 N.J.R. 659(a)	R.1985 d.281	17 N.J.R. 1410(a)
6:30-1.4	Fees for GED test	17 N.J.R. 1367(a)		
6:68-2	Library assistance: readopt Incentive Grant Program rules	17 N.J.R. 346(a)	R.1985 d.207	17 N.J.R. 1078(a)

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**ENVIRONMENTAL PROTECTION—TITLE 7**

7:1-4	Fee schedule for Environmental Cleanup Responsibility Act	17 N.J.R. 1622(a)		
7:1C-1	90-day construction permits	16 N.J.R. 3243(a)	R.1985 d.316	17 N.J.R. 1544(a)
7:1E	Readopt rules on Discharges of Petroleum and Other Hazardous Substances	17 N.J.R. 865(a)	R.1985 d.377	17 N.J.R. 1759(b)
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)		
7:1F	Industrial Survey Project rules: new expiration date			17 N.J.R. 1139(b)
7:1G	Right to Know Act: Federal district court ruling			17 N.J.R. 1139(c)
7:1H	Readopt County Environmental Health administrative rules	17 N.J.R. 1463(b)		
7:2-2.14, 3.4, 3.5	Use of State Park lands	17 N.J.R. 778(a)		
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:4-2	Register of Historic Places: continuation of selection criteria			17 N.J.R. 1795(d)
7:6-1.37	Waiver of maximum tow line length for parasailing exhibitions			17 N.J.R. 1801(a)
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)		
7:7E	Readopt Coastal Resource and Development Policies	17 N.J.R. 1465(a)		
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)		
7:7E	Coastal Resource and Development revisions: extension of comment period	17 N.J.R. 1797(b)		
7:7E	Coastal Resource and Development Policies: correction to Code and proposed revisions	17 N.J.R. 1797(c)		
7:7E-7.2	Correction to Administrative Code: Coastal Resource and Development Policies			17 N.J.R. 1140(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:9-4, Index D	Surface water classifications: Hackensack and Hudson rivers	17 N.J.R. 1625(a)		
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1270(a)
7:9-5.4	Correction: Policy concerning disinfection of wastewater	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1759(c)
7:11-2.3, 2.5, 2.8—2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)	R.1985 d.402	17 N.J.R. 1879(a)
7:12-1.3, 1.4	Shellfish-growing water classifications	17 N.J.R. 661(a)	R.1985 d.290	17 N.J.R. 1412(a)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)	R.1985 d.218	17 N.J.R. 1080(a)
7:13-7.1(c)17	Redelineation of Delaware River in Harmony Township, Warren County	17 N.J.R. 151(a)	R.1985 d.319	17 N.J.R. 1550(a)
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)	R.1985 d.217	17 N.J.R. 1080(b)
7:13-7.1	Paulins Kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)	R.1985 d.320	17 N.J.R. 1551(a)
7:13-7.1(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)	R.1985 d.329	17 N.J.R. 1648(b)
7:13-7.1(h)	Floodway delineations in Hackensack Basin	17 N.J.R. 1175(a)		
7:13-7.1(i)	Floodway delineations in Central Passaic Basin (Projects G and R)	17 N.J.R. 1176(a)		
7:14A-1.8	Fee schedule for NJPDES permits and applicants	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1551(b)
7:14A-1.8	Correction: NJPDES fee schedule	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1882(a)
7:19-5.11	Correction: Acquisition costs	16 N.J.R. 3380(a)	R.1985 d.182	17 N.J.R. 1559(a)
7:20	Dam Safety Standards	16 N.J.R. 790(a)	R.1985 d.214	17 N.J.R. 1081(a)
7:25-4.2, 4.14, 4.17	Possession of endangered and nongame species	17 N.J.R. 516(a)	R.1985 d.251	17 N.J.R. 1289(a)
7:25-4.13, 4.17	Status of the osprey	17 N.J.R. 350(a)	R.1985 d.215	17 N.J.R. 1091(a)
7:25-5	1985-86 Game Code	17 N.J.R. 1177(a)		
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)	R.1985 d.401	17 N.J.R. 1883(a)
7:25-12.1	Close of sea clam season			17 N.J.R. 1142(a)
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-18	Readopt Marine Fisheries rules	17 N.J.R. 1188(a)	R.1985 d.386	17 N.J.R. 1883(b)
7:25-18.5	Marine fisheries: general net rules	Emergency	R.1985 d.240	17 N.J.R. 1334(a)
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)	Expired	
7:25-23	Permit to kill wild deer	17 N.J.R. 350(b)	R.1985 d.250	17 N.J.R. 1289(b)
7:25A	Oyster management	17 N.J.R. 352(a)	R.1985 d.216	17 N.J.R. 1092(a)
7:25A-1.9	Closure of certain Delaware Bay oyster beds			17 N.J.R. 1795(c)
7:26-1.4, 9.3	Above-ground tank storage of hazardous waste	17 N.J.R. 1501(a)		
7:26-1.7	Waste management: on-site disposal of construction debris	17 N.J.R. 1040(a)		
7:26-1.7	Solid waste disposal: exemption from registration	17 N.J.R. 1368(a)		
7:26-3	Waste management: readopt Collection and Haulage rules	17 N.J.R. 1041(a)		
7:26-6.5	Solid waste flow: Atlantic County	17 N.J.R. 517(b)	R.1985 d.317	17 N.J.R. 1560(a)
7:26-6.5	Solid waste flow: Hunterdon County	17 N.J.R. 517(a)		
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.8	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.13, 8.16	Hazardous waste from non-specific sources; hazardous constituents	17 N.J.R. 354(a)	R.1985 d.248	17 N.J.R. 1290(a)
7:26-8.15	Hazardous waste management: warfarin and zinc phosphide	17 N.J.R. 356(a)	R.1985 d.375	17 N.J.R. 1760(a)
7:26-9.10, 9.11, App. A.	Hazardous waste facilities: closure letters of credit	17 N.J.R. 241(a)	R.1985 d.247	17 N.J.R. 1291(a)
7:26-10.5	Tank storage containment requirements	17 N.J.R. 152(a)	R.1985 d.318	17 N.J.R. 1560(b)
7:26-14	Resource Recovery grants and loans	16 N.J.R. 3385(b)		
7:26-14	Resource Recovery grants and loans: extension of comment period	17 N.J.R. 242(a)		
7:26-16.4	Solid and hazardous waste: transporters and facilities	17 N.J.R. 518(a)		
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)	R.1985 d.252	17 N.J.R. 1292(a)
7:27-14.3	Diesel-powered motor vehicles: idle standard	16 N.J.R. 2887		
7:27-15.4	Air pollution and gas-fueled motor vehicles	17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889		
7:27B-4.6	Lead test paper procedure	17 N.J.R. 781(a)		
7:27B-4.6, 4.7	Air pollution and gas-fueled motor vehicles	17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)
7:28-1.4, 17	Industrial and nonmedical radiology	17 N.J.R.1626(a)		
7:28-12	Transportation of radioactive material	17 N.J.R. 1369(a)	R.1985 d.387	17 N.J.R. 1884(a)
7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10	Podiatric x-ray technology	17 N.J.R. 1632(a)		
7:29-1.1—1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:30	Pesticide Control Code	17 N.J.R. 242(b)		
7:36	Green Acres Program	16 N.J.R. 2405(b)	R.1985 d.400	17 N.J.R. 1885(a)
7:45	Delaware and Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)		
7:50-2.11, 4.12-4.92	Pinelands comprehensive management	Emergency	R.1985 d.399	17 N.J.R. 1918(a)

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**HEALTH—TITLE 8**

8:7-1	Licensure of persons for public health positions	Emergency	R.1985 d.388	17 N.J.R. 1926(a)
8:13-2.1, 2.4, 2.6—2.11, 2.13, 2.14	Depuration of soft shell clams	17 N.J.R. 1370(a)		
8:19	Readopt Newborn Hearing Screening rules	17 N.J.R. 869(a)	R.1985 d.380	17 N.J.R. 1892(a)
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)		
8:31-26.5	Health care facilities: licensure fees	17 N.J.R. 664(a)	R.1985 d.372	17 N.J.R. 1760(b)
8:31-26.5	Health care facilities licensure fee	17 N.J.R. 664(a)		
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
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-3.72	Hospital reimbursement: periodic rate adjustments	17 N.J.R. 872(a)	R.1985 d.349	17 N.J.R. 1652(a)
8:31B-3.79	Hospital reimbursement: post-acute care patients	17 N.J.R. 873(a)	R.1985 d.359	17 N.J.R. 1761(a)
8:33	Certificate of Need application and review process	17 N.J.R. 1190(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33B	Extracorporeal Shock Wave Lithotripsy (ESWL)	17 N.J.R. 1728(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-1.4	Renal disease services: acute hemodialysis standards	17 N.J.R. 874(a)	R.1985 d.360	17 N.J.R. 1762(a)
8:33G-1	Computerized tomography services	17 N.J.R. 1214(a)		
8:33H	Long-Term Care Facilities and Services: readopt Certificate of Need rules	17 N.J.R. 1216(a)		
8:43-3.22	Fire safety in residential health care facilities	17 N.J.R. 1731(a)		
8:43-4	Residential Health Care Facilities: readopt Administration rules	17 N.J.R. 1231(a)		
8:43-4.13	Residential health care: personal needs allowance	17 N.J.R. 1731(b)		
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)		
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-8.33—8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)		
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:45	Clinical laboratory services	17 N.J.R. 268(a)	R.1985 d.243	17 N.J.R. 1294(a)
8:51-1-6	Local boards: recognized public health activities and minimum standards	17 N.J.R. 1633(a)		
8:57-1	Readopt Reportable Diseases rules	17 N.J.R. 784(a)	R.1985 d.363	17 N.J.R. 1764(a)
8:57-4.15	Immunization of school children: mumps vaccine	17 N.J.R. 358(a)	R.1985 d.264	17 N.J.R. 1414(a)
8:60	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
8:60-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:65-1	Controlled Dangerous Substances: readopt Registration rules	17 N.J.R. 1508(a)		
8:65-5	Controlled dangerous substances: records and reports of registrants	17 N.J.R. 524(a)		
8:65-6	Controlled dangerous substances: Federally-required order forms	17 N.J.R. 528(a)		
8:65-7.3	Controlled dangerous substances: issuing of prescriptions	17 N.J.R. 876(a)		
8:65-10.1	Add 3-Methylfentanyl to Schedule I	17 N.J.R. 1511(a)		
8:65-10.5	Reschedule Buphenorphine to Schedule V	17 N.J.R. 1234(a)		
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Generic drug list additions (see 16 N.J.R. 2672(b), 17 N.J.R. 200(b), 957(b), 1296(a))	16 N.J.R. 1436(a)	R.1985 d.295	17 N.J.R. 1561(a)
8:71	Generic drug list additions (see 17 N.J.R. 201(a), 957(c), 1296(b))	16 N.J.R. 2483(a)	R.1985 d.297	17 N.J.R. 1562(b)
8:71	Additions to generic drug list (see 17 N.J.R. 1295(a))	17 N.J.R. 158(a)	R.1985 d.296	17 N.J.R. 1562(a)
8:71	Generic drug list additions	17 N.J.R. 1043(a)		
8:71	Generic drug list additions	17 N.J.R. 1733(a)		

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**HIGHER EDUCATION—TITLE 9**

9:2-1	Minority Faculty Advancement Loan Program	17 N.J.R. 1512(a)		
9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:2-4, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)	R.1985 d.309	17 N.J.R. 1563(a)
9:2-4.1	Eligibility for Alternate Benefit Program	17 N.J.R. 1635(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-12.1, 12.2	Teacher education: degree standards	17 N.J.R. 1515(a)		
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:6-1.2, 3.1, 3.4, 3.5, 3.6, 3.11, 4.4, 4.7, 5.2, 5.13	State Colleges: policies and standards	17 N.J.R. 160(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:7-2.4, 2.9	Student assistance programs: eligibility; award combinations	17 N.J.R. 787(a)	R.1985 d.338	17 N.J.R. 1653(a)
9:7-3.3, 5.9, 6.8	Student assistance program revisions	17 N.J.R. 1734(a)		
9:7-4.1, 4.7, 4.8	Distinguished Scholars Program	17 N.J.R. 787(b)	R.1985 d.339	17 N.J.R. 1654(a)
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:7-8	Vietnam Veterans Tuition Aid Program	17 N.J.R. 1735(a)		
9:8	Jobs, Science and Technology Bond Act: policies and procedures	17 N.J.R. 1516(a)		
9:9-1.2	Guaranteed Student Loan Program: second borrowing	17 N.J.R. 1518(a)		
9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)	R.1985 d.311	17 N.J.R. 1564(a)
9:14	Readopt Independent College and University Assistance rules	17 N.J.R. 25(a)	R.1985 d.245	17 N.J.R. 1303(a)

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**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)	R.1985 d.258	17 N.J.R. 1304(a)
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:48	Division of Mental Retardation: appeal procedures	17 N.J.R. 876(b)		
10:49-1	Administration Manual: readopt General Provisions	17 N.J.R. 532(a)	R.1985 d.246	17 N.J.R. 1307(a)
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:49-7	Reinstatement of Medicaid provider	17 N.J.R. 1519(a)		
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)		

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10:50-1.2, 1.5, 1.6	Invalid coach services: oxygen equipment; carrier charges	17 N.J.R. 1373(a)		
10:50-1.5, 1.6	Reimbursement for ambulance and invalid coach services	17 N.J.R. 1637(a)		
10:51-1.13, 1.14, 3.12, App. A	Pharmaceutical services: "vaccine" reimbursement	17 N.J.R. 1237(a)		
10:51-1.17, 3.15	Pharmaceutical services: dispensing fee and capitation rates	17 N.J.R. 1044(a)	R.1985 d.369	17 N.J.R. 1766(a)
10:51-5.1, 5.16	PAAD: diabetic testing material	17 N.J.R. 1521(a)		
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:52-1.21	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:53-2	Special Hospital Services: admission and billing	17 N.J.R. 544(a)	R.1985 d.257	17 N.J.R. 1317(a)
10:54	Physician's Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-3	Procedure Code Manual: immunizations	17 N.J.R. 546(a)	R.1985 d.211	17 N.J.R. 1094(a)
10:54-3	Procedure Code Manual: fees for laboratory services	17 N.J.R. 1376(a)		
10:55	Prosthetic-Orthotic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:55-3.1	Fee increases for shoe appliances	17 N.J.R. 1522(a)		
10:57	Podiatry Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:58	Nurse Midwifery Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59	Medical Supplier Manual: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)	R.1985 d.376	17 N.J.R. 1894(a)
10:59-1.7, 1.13, 1.14, 3.2	Fee increases for shoe appliances	17 N.J.R. 1522(a)		
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)		
10:60-4	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)	R.1985 d.263	17 N.J.R. 1415(a)
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)	R.1985 d.237	17 N.J.R. 1318(a)
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)	R.1985 d.384	17 N.J.R. 1895(a)
10:63-3.17	Long Term Care Services: adjustments to base period data	17 N.J.R. 1736(a)		
10:64	Hearing Aid Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66	Independent Clinic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:66-1.5	Independent Clinic Manual: mental health services	17 N.J.R. 1377(a)		
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:67	Psychological Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:69A-1.2, 2.1, 5.3, 5.6, 6.1, 6.4, 6.6, 6.10, 6.11	Pharmaceutical Assistance for Aged and Disabled	17 N.J.R. 367(a)	R.1985 d.259	17 N.J.R. 1318(b)
10:81-3.27	PAM: transmission of data to receiving county	17 N.J.R. 878(a)	R.1985 d.344	17 N.J.R. 1655(a)
10:81-3.34	PAM: temporary absence of children from home	17 N.J.R. 163(a)	R.1985 d.312	17 N.J.R. 1565(a)

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10:81-11.1, 11.4, 11.12	PAM: continuing IV-D services for families that lose AFDC	17 N.J.R. 164(a)	R.1985 d.210	17 N.J.R. 1094(b)
10:81-11.7, 11.9	PAM: child support and health benefits	17 N.J.R. 165(a)	R.1985 d.219	17 N.J.R. 1095(a)
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:81-11.9	Public Hearing: County reimbursement to State for Tax Setoff Program for child support enforcement	17 N.J.R. 1526(a)		
10:81-11.18	PAM: weekly second family adjustment	17 N.J.R. 879(a)	R.1985 d.343	17 N.J.R. 1655(b)
10:81-11.19	PAM: distribution of arrearage payments for child support	17 N.J.R. 1238(a)		
10:82-1.2, 2.13, 3.11, 5.11	ASH: AFDC payment standards	17 N.J.R. 880(a)	R.1985 d.341	17 N.J.R. 1656(a)
10:82-2.2	ASH: initial grant computation	17 N.J.R. 546(b)	R.1985 d.299	17 N.J.R. 1566(a)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		
10:82-2.19, 3.2	Correction to Administrative Code: Assistance Standards Handbook			17 N.J.R. 1143(b)
10:82-3.13	ASH: eligibility of sponsored alien and sponsor's income	17 N.J.R. 1523(a)		
10:82-4.11, 4.12	ASH: income from apartments, rooms, or housekeeping units	17 N.J.R. 1045(a)	R.1985 d.385	17 N.J.R. 1895(b)
10:82-5.3	ASH: correction to Administrative Code			17 N.J.R. 1801(c)
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)		
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3	General Assistance rate in residential health care facilities			17 N.J.R. 485(c)
10:85-3.4	GAM: suits and claims	17 N.J.R. 548(a)	R.1985 d.298	17 N.J.R. 1566(b)
10:85-4.1, 9.4	General Assistance payment levels	17 N.J.R. 882(a)	R.1985 d.342	17 N.J.R. 1658(a)
10:85-4.6	GAM: correction to Administrative Code			17 N.J.R. 1802(a)
10:85-5.2	Correction to Administrative Code: General Assistance Manual	17 N.J.R. 1339(b)		
10:87-1.14	Food Stamp Program: disclosure of information	17 N.J.R. 1377(b)		
10:87-2.21, 2.24, 2.28, 2.31, 2.35, 9.7, 11.29	Food Stamp Program revisions	17 N.J.R. 883(a)	R.1985 d.346	17 N.J.R. 1659(a)
10:87-5.7	Food Stamp Program: treatment of moneys used to repay overpayments	17 N.J.R. 986(a)	R.1985 d.313	17 N.J.R. 1567(a)
10:87-12.3, 12.4, 12.7	Food Stamp Program: Revised maximum eligibility limits	Emergency	R.1985 d.371	17 N.J.R. 1793(a)
10:89	Home Energy Assistance Handbook	17 N.J.R. 1737(a)		
10:89-2.3	Correction to Administrative Code: Home Energy Assistance Handbook			17 N.J.R. 1444(b)
10:90-4.8	Correction to Administrative Code: Monthly Reporting Policy Handbook			17 N.J.R. 1143(c)
10:94-3.16	Medicaid district offices	17 N.J.R. 38(a)	R.1985 d.291	17 N.J.R. 1416(a)
10:94-4.5, 4.6, 4.7	Medicaid Only: resource eligibility and limits	17 N.J.R. 1525(a)		
10:122-2.3, 2.6, 3.2, 3.3, 4.1, 4.3, 4.6, 6.8, 6.9	Child care centers	17 N.J.R. 548(b)	R.1985 d.314	17 N.J.R. 1568(a)
10:123-3	Residential health care and boarding homes: readopt Personal Needs Allowance rules	17 N.J.R. 1526(b)		
10:129-2	Confidentiality of child abuse records	17 N.J.R. 885(a)	R.1985 d.373	17 N.J.R. 1766(b)
<b>(TRANSMITTAL 28, dated April 15, 1985)</b>				
<b>CORRECTIONS—TITLE 10A</b>				
10A:71	State Parole Board rules	16 N.J.R. 3391(a)	R.1985 d.213	17 N.J.R. 1096(a)
<b>(TRANSMITTAL 10, dated March 18, 1985)</b>				
<b>INSURANCE—TITLE 11</b>				
11:1-2.52.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>	<b>DOCUMENT NUMBER</b>	<b>ADOPTION NOTICE (N.J.R. CITATION)</b>
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)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-16	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)		
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		
11:4-16, 17, 18	Readopt health insurance standards	17 N.J.R. 554(a)	R.1985 d.221	17 N.J.R. 1129(a)
11:4-21	Readopt Limited Death Benefit Forms	17 N.J.R. 891(a)	R.1985 d.325	17 N.J.R. 1660(a)
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:5-1.15, 1.25	Advertising of real estate; sale of interstate property	17 N.J.R. 666(a)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)	R.1985 d.374	17 N.J.R. 1768(a)
11:10-2	Employees' dental benefit plans	17 N.J.R. 45(a)	R.1985 d.220	17 N.J.R. 1129(b)
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)		
11:16	Provider verification of services	17 N.J.R. 47(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	17 N.J.R. 1045(b)		

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**LABOR—TITLE 12**

12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:15-1.1, 1.2	Unemployment and Temporary Disability benefits programs: purpose and scope	17 N.J.R. 1378(a)		
12:35	Workfare rules	17 N.J.R. 1048(a)	R.1985 d.404	17 N.J.R. 1896(a)
12:120	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
12:120-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)
12:200	Liquefied Petroleum Gas rules	17 N.J.R. 1379(a)	R.1985 d.403	17 N.J.R. 1899(a)

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**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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**LAW AND PUBLIC SAFETY—TITLE 13**

13:1-4.6	Police Training Commission: radar instructor certification	17 N.J.R. 377(a)	R.1985 d.226	17 N.J.R. 1130(a)
13:1-5.1, 6.1, 8.1	Police officer training and certification	17 N.J.R. 1239(a)	R.1985 d.405	17 N.J.R. 1899(b)
13:2-4	ABC: readopt rules on Issuance or Transfer of Municipal Retail Licenses	17 N.J.R. 1052(a)	R.1985 d.332	17 N.J.R. 1661(a)
13:2-20	ABC: readopt rules on Transportation by Licensees; Transit Insignia	17 N.J.R. 1054(a)	R.1985 d.333	17 N.J.R. 1662(a)
13:2-23.16, -24, -35	ABC preproposal: industry marketing and sales practices	16 N.J.R. 3292(a)		
13:2-33	ABC: readopt Brand Registration rules	17 N.J.R. 794(a)	R.1985 d.279	17 N.J.R. 1423(a)
13:2-40	ABC: readopt rules on Issuances of IDs by County Clerks	17 N.J.R. 1380(a)	R.1985 d.395	17 N.J.R. 1900(a)
13:3-3.5, 3.6, 7.9	Amusement games control	17 N.J.R. 1058(a)	R.1985 d.334	17 N.J.R. 1664(a)
13:13	Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1574(a)

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13:13-1.3, 2.2, 2.3	Correction: Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1773(a)
13:19-13.1, 13.2, 13.3	Motor vehicle insurance surcharges	17 N.J.R. 893(a)		
13:20-28	Readopt rules on Inspection of New Motor Vehicles	17 N.J.R. 1059(a)	R.1985 d.379	17 N.J.R. 1901(a)
13:20-32.16	Motor vehicle reinspection centers	17 N.J.R. 676(a)		
13:20-33.6	Glazing inspection standards for motor vehicles	17 N.J.R. 894(a)		
13:21-1.3, 1.4, 1.5	Driver licenses and social security numbers	16 N.J.R. 2746(a)	R.1985 d.307	17 N.J.R. 1579(a)
13:21-4	Readopt rules on Motor Vehicle Titles	17 N.J.R. 377(b)	R.1985 d.200	17 N.J.R. 1131(a)
13:21-14	Readopt rules on licensing of bus drivers	17 N.J.R. 556(a)	R.1985 d.205	17 N.J.R. 1131(b)
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		
13:28-4.1	Board of Beauty Culture Control fee schedule	17 N.J.R. 1638(a)		
13:29-1.1—1.6, 1.8—1.12	Board of Accountancy general rules	17 N.J.R. 557(a)	R.1985 d.287	17 N.J.R. 1424(a)
13:29-1.4	Change of address by licensed accountants	17 N.J.R. 1639(a)		
13:29-2.1, 2.2, 2.3	Registered municipal accountants	17 N.J.R. 559(a)	R.1985 d.286	17 N.J.R. 1426(a)
13:30-8.1	Board of Dentistry: fee schedule	17 N.J.R. 378(a)		
13:30-8.4, 8.6	Dentistry: specialty practice; professional advertising	17 N.J.R. 378(a)	R.1985 d.253	17 N.J.R. 1320(a)
13:30-8.4, 8.6	Correction: Specialties in dentistry	17 N.J.R. 378(a)	R.1985 d.253	17 N.J.R. 1665(a)
13:34-1.1	Marriage counseling: annual license fees and charges	17 N.J.R. 1527(a)		
13:35-2.15	Physician-nurse anesthetist standards	17 N.J.R. 796(a)		
13:35-3.13.4	Licensing of medical practitioners	17 N.J.R. 561(a)	R.1985 d.224	17 N.J.R. 1131(c)
13:35-6.4	Pre-proposal: professional conduct of Medical Board licensees	17 N.J.R. 894(b)		
13:35-6.13	Medical examiners board: fee schedule	17 N.J.R. 562(a)	R.1985 d.223	17 N.J.R. 1132(a)
13:36-2.10, 2.12, 4.4, 4.13, 5.1, 5.6, 5.9, 6.8, 7.1, 7.2	Mortuary science rules	17 N.J.R. 797(a)	R.1985 d.293	17 N.J.R. 1580(a)
13:37-1	Programs in nursing education	17 N.J.R. 51(a)	R.1985 d.285	17 N.J.R. 1426(b)
13:37-1.2, 1.21, 1.23-1.25	Programs in nursing education	17 N.J.R. 1528(a)		
13:37-2.1, 2.3, 3.5, 4.1, 4.3-4.6, 5.1, 5.5	Licensing of nurses	17 N.J.R. 1529(a)		
13:38-3.2	Board of Optometrists: reexamination	17 N.J.R. 677(a)		
13:38-3.2	Reexamination for optometry licensure	17 N.J.R. 1639(b)		
13:38-5.1	Board of Optometrists: fee schedule	17 N.J.R. 677(a)	R.1985 d.254	17 N.J.R. 1323(a)
13:40-3.2, 4.1, 5.1	Professional engineers and land surveyors: Board rules	17 N.J.R. 799(a)		
13:40-8	Engineers and land surveyors: release of project records	16 N.J.R. 1027(a)	R.1985 d.225	17 N.J.R. 1133(a)
13:40-9	Supervision of engineering and land surveying projects	16 N.J.R. 2067(b)	R.1985 d.222	17 N.J.R. 1134(a)
13:41-1	Board of Professional Planners: readopt Seal rules	17 N.J.R. 1060(a)		
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13:41-4	Board of Professional Planners: readopt preparation of site plan rules	17 N.J.R. 1240(a)		
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