

NEW JERSEY REGISTER



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 See the Register Index for Subsequent Rulemaking Activity.
 NEXT UPDATE WILL BE DATED FEBRUARY 18, 1986.

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **April 16, 1986**. 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.

AGRICULTURE

DIVISION OF RURAL RESOURCES

The following proposals are authorized by Arthur R. Brown, Jr., Chairman, State Agriculture Development Committee.

Submit comments by April 16, 1986 to:
Donald D. Applegate, Executive Secretary
State Agriculture Development Committee
CN 330
Trenton, New Jersey 08625

(a)

Creation of Farmland Preservation Programs Deed Restrictions

Proposed Amendment: N.J.A.C. 2:76-3.12

Authority: N.J.S.A. 4:1C-5f and 4:1C-7a.
Proposal Number: PRN 1986-60.

The agency proposal follows:

Summary

The creation of a farmland preservation program as provided for in the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. (P.L. 1983, c.32), is an effort to encourage the preservation of agricultural lands to protect

the State's diminishing farmland resources. Landowners that satisfy the eligibility requirements, as provided in N.J.A.C. 2:76-3, may voluntarily apply to a county agriculture development board to enter into a program in exchange for receiving certain regulatory and financial benefits.

Once a program has been created, a deed restriction is recorded which requires the landowner to retain his or her land in agricultural production for an eight-year period. The Agreement which contains the restrictions runs with the land and is binding upon every successor during the eight-year period.

N.J.A.C. 2:76-3.12 identifies the deed restrictions which will be placed on the lands once a program has been created. The amendments to N.J.A.C. 2:76-3.12 have been proposed to assure that the deed restrictions conform to plain language standards. These proposed changes help clarify the intent of each deed restriction which ultimately reduces the possibility of misinterpreting the restrictions.

In addition, the proposed amendments to N.J.A.C. 2:76-3.12(a)10 and 11 strengthen the intent of the restrictions by assuring that the premises will be kept in agricultural production for the eight-year period. N.J.A.C. 2:76-3.12(a)11 has been amended to permit the construction of a single family residential building on the land if at least one does not exist at the time of the creation of the program.

N.J.A.C. 2:76-3.12(a)13 strengthens the enforcement power of the Committee and the board to assure that the terms and conditions of the deed restrictions are not violated.

Proposed amendments to N.J.A.C. 2:76-3.12(a)16, 17 and 18 clarify the parties bound by the deed restrictions.

N.J.A.C. 2:76-3.12(b) provides the Committee and the landowner an opportunity to establish more stringent deed restrictions to address specific conditions.

NEW JERSEY REGISTER

The official publication containing notices of proposed rules and rules adopted by State agencies pursuant to the New Jersey Constitution, Art. V, Sec. IV, Para. 6 and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Issued monthly since September 1969, and twice-monthly since November 1981.

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N.J.A.C. 2:76-3.12(c) requires that the deed restrictions be liberally construed to effectuate the purposes of the Agriculture Retention and Development Act.

Social Impact

The proposed amendments assure the public that lands enrolled in a farmland preservation program will be retained in agricultural use for the term of the eight-year Agreement.

The deed restrictions currently in effect have been amended to allow the landowner to use, maintain and improve existing buildings on the premises for agricultural, residential and recreational uses provided the improvements are consistent with such uses. The proposed amendment also deletes the requirement that such activities can only occur if the landowner derives his or her primary source of income from the agricultural operation.

The Committee recognizes the significance of having a residential building on the premises in order to monitor certain agricultural operations. In response to the agricultural community's concern, the deed restrictions have been amended to permit the construction of a single family residential building on the land if at least one does not exist at the time the program is created.

New residential structures for housing agricultural labor employed on the premises and the ability to construct a single family residential building anywhere on the premises in order to replace any existing single family residential unit will require the approval of the board and Committee.

The landowner will retain the ability to subdivide the land without board and Committee approvals. The subdivided tracts will still be bound by the provisions of the deed restrictions.

The proposed amendments will have an overall positive social impact by encouraging landowner participation in the Agriculture Retention and Development Program.

Economic Impact

The proposed amendments will strengthen the agricultural industry in the State by encouraging the retention of lands for agricultural use and production. Although the lands will remain in private ownership, the premises will be deed restricted to prohibit the conversion of the land to a nonagricultural use for the eight-year period. At the end of the eight years, a landowner can either renew the Agreement for another eight years or terminate participation in the program.

Proposed amendment, N.J.A.C. 2:76-3.12(a)11, which permits the construction of a residential unit on the premises in situations where a unit does not currently exist will provide the landowner with an opportunity to reside on the premises in order to monitor the agricultural operation. If a development easement is purchased on the premises, there would be no expenditure of public funds on the parcel where the residential unit will be constructed. In addition, if any State funds are expended for soil and water conservation projects, the landowner would be required to maintain the project for an eight-year period. Any violation of maintaining the project would require a repayment of funds to the State on a pro rata basis.

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

2:76-3.12 Deed restrictions

(a) The following deed restrictions shall be agreed to by the board and the landowner(s) when [entering into] a farmland

preservation program **is adopted** and shall run with the land: [“Whereas the Grantors are the present owners of lands, hereinafter referred to as Premises, more particularly described in Schedule “A” which is attached hereto and made a part hereof;]

“[The Grantors covenant for themselves, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] **Grantor promises** that the Premises shall at all times for the term of the agreement be [held,] **owned**, used and conveyed subject to:

“1. The Premises shall be retained in agricultural use and production unless the land is withdrawn from the program in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, [C.32] **c.32**, and all other rules promulgated by the State Agriculture Development Committee, (**hereinafter Committee**). Agricultural use shall mean the use of land for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

“2. [The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns] **Grantor** shall comply with agricultural management practices **recommended by the Committee**, insofar as those practices are applicable to the land and the type of farming conducted [thereon] **on the Premises**. [Agricultural management practices means practices either formally set forth in current published New Jersey Agricultural Experiment Station recommendations or practices which represent the best collective professional judgement and opinion of the appropriate faculty of the New Jersey Agricultural Experiment Station and practices relating to soil and water conservation and management approved by the State Soil Conservation Committee.]

“3. The land and its buildings which are affected hereby may be sold collectively or individually for continued agricultural production and related uses as defined in Section 1. [hereof] **of this agreement**.

“4. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. [Grantors hereby retain and reserve unto themselves, their heirs, executors, administrators, personal or legal representative, successors and assigns.] **Grantor retains and reserves for himself** all oil, gas, and other mineral rights in the land underlying the Premises, provided [only] that any prospective drilling and/or mining will be done by slant from adjacent property or in any other manner which will not materially affect the agricultural operation.

“5. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly [permitted] **recommended by the Committee** as an agricultural management practice.

“6. No activity shall be permitted on the [land] **Premises** which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor **shall** any other activity **be permitted** which would be detrimental to the continued agricultural use of the land.

“7. [The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] **Grantor** may use [such lands] **the Premises** to derive income from recreational activities [which generally utilize the land

in its existing state], so long as such activities do not interfere with the actual use of the land for agricultural production.

"8. Nothing [herein] shall be construed to convey a right to the public of access to or use of the Premises except as [herein provided] **stated in this agreement** or as otherwise provided by law.

"9. Nothing [herein] shall impose upon the [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns] **Grantor** any duty to maintain [or require that the buildings and/or structures be maintained] **the Premises** in any particular state, or condition, **except as provided for in this agreement**. [notwithstanding the Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns' acceptance hereof. The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns may use, maintain, and improve the existing buildings and said lands for personal and family residential and recreation use subject to the following conditions: No new residential units or buildings or recreation buildings or improvements to existing buildings for purposes other than agricultural production shall be allowed except for such new residential structure or structures or improvements or converted residential structures as will provide housing for agricultural labor for the subject farm or such new residential unit or structures, or converted residential unit or structures as will serve as a farm house for a household which will derive its primary source of income from agricultural production. Such exceptions are subject to prior joint approval in writing by the board and the committee.]

"10. **Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:**

i. **Improvements to agricultural buildings shall be consistent with agricultural uses;**

ii. **Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and**

iii. **Improvements to recreational buildings shall be consistent with agricultural or recreational uses.**

"11. **Grantor may construct any new buildings for agricultural purposes. The construction of any new building which shall serve as a residential use, regardless of its purpose, shall be prohibited except as follows:**

i. **To provide structures for housing of agricultural labor employed on the Premises only with the approval of the Grantee and the Committee;**

ii. **To construct one new permanent single family residential unit only if the Premises does not contain at least one permanent residential building; and**

iii. **To construct a single family residential building anywhere on the Premises in order to replace any existing single family residential unit only with the approval of the Grantee and Committee.**

"10." "12. Nothing [herein contained] **in this agreement** shall be deemed to restrict the right of **Grantor** [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] to maintain all roads and trails existing upon the Premises [on] **as of the date of this agreement** [hereof]. [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] **Grantor** shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

"11." "13. In the event [a] **of any violation of [these restrictions or] the terms and conditions [thereof] of this agreement**, [is found to exist, the] Grantee[, or its heirs, executors, administrators, personal or legal representatives, successors and assigns, or any citizen of the State of New Jersey, acting by and through the State Agriculture Development Committee, may, after notice to the Grantors, their heirs, executors, administrators, personal or legal representatives, successors, and assigns, institute a suit to enjoin by ex parte, temporary and/or permanent injunction, such violation, to require the restoration of the Premises to its prior condition, or to recover damages.] **or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require the restoration of the Premises to its prior condition.** [The] Grantee[, or its heirs, executors, administrators, personal or legal representatives, successors and assigns.] **or the Committee** [does] **do not waive or forfeit the right to take any other legal action [as may be] necessary to insure compliance with the terms, conditions, and purposes of this [deed restriction] agreement by a prior failure to act.**

"12." "14. It is understood that this [instrument] **agreement** imposes no obligation [and restrictions] **or restriction** on the [Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns'] **Grantor's** use of the Premises except as specifically set forth [herein] **in this agreement**. [Nothing herein contained shall be construed to interfere with the right of the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns to utilize the Premises in such manner as they may deem desirable, subject to the terms and conditions hereof.]

"13." "15. This [instrument] **agreement** shall be binding upon the **Grantor** [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] and upon the Grantee[, its heirs, executors, administrators, personal or legal representatives, successors and assigns."]

"16. **Throughout this agreement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.**

"17. **The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to his heirs, executors, administrators, personal or legal representatives, successors and assigns.**

"18. **Wherever in this agreement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation."**

(b) **The Committee or landowner may require more stringent deed restrictions consistent with the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.**

(c) **The deed restrictions contained in (a) above shall be liberally construed to effectuate the purpose and intent of the Farmland Preservation Bond Act, P.L. 1981, c.276, and the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.**

(a)**Creation of Municipally-Approved Farmland Preservation Programs Deed Restrictions****Proposed Amendment: N.J.A.C. 2:76-4.11**

Authority: N.J.S.A. 4:1C-5f and 4:1C-7a.

Proposal Number: PRN 1986-59.

The agency proposal follows:

Summary

The creation of a municipally approved farmland preservation program as provided for in the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. (P.L. 1983, c.32), is an effort to encourage the preservation of agricultural lands to protect the State's diminishing farmland resources. Landowners that satisfy the eligibility requirements, as provided in N.J.A.C. 2:76-4, may voluntarily apply to a county agriculture development board to enter into a program in exchange for receiving certain regulatory and financial benefits.

Once a program has been created, a deed restriction is recorded which requires the landowner to retain his or her land in agricultural production for an eight-year period. The Agreement which contains the restrictions runs with the land and is binding upon every successor during the eight-year period.

N.J.A.C. 2:76-4.11 identifies the deed restrictions which will be placed on the lands once a program has been created. The amendments to N.J.A.C. 2:76-4.11 have been proposed to assure that the deed restrictions conform to plain language standards. These proposed changes help clarify the intent of each deed restriction which ultimately reduces the possibility of misinterpreting the restrictions.

In addition, the proposed amendments to N.J.A.C. 2:76-4.11(a)10 and 11 strengthen the intent of the restrictions by assuring that the premises will be kept in agricultural production for the eight-year period. N.J.A.C. 2:76-4.11(a)11 has been amended to permit the construction of a single family residential building on the land if at least one does not exist at the time of the creation of the program.

N.J.A.C. 2:76-4.11(a)13 strengthens the enforcement power of the Committee and the board to assure that the terms and conditions of the deed restrictions are not violated.

Proposed amendments to N.J.A.C. 2:76-4.11(a)16, 17 and 18 clarify the parties bound by the deed restrictions.

N.J.A.C. 2:76-4.11(b) provides the Committee and the landowner an opportunity to establish more stringent deed restrictions to address specific conditions.

N.J.A.C. 2:76-4.11(c) requires that the deed restrictions be liberally construed to effectuate the purposes of the Agriculture Retention and Development Act.

Social Impact

The proposed amendments assure the public that lands enrolled in a municipally approved farmland preservation program will be retained in agricultural use for the term of the eight-year Agreement.

The deed restrictions currently in effect have been amended to allow the landowner to use, maintain and improve existing buildings on the premises for agricultural, residential and rec-

reational uses provided the improvements are consistent with such uses. The proposed amendment also **deletes** the requirement that such activities can only occur if the landowner derives his or her primary source of income from the agricultural operation.

The Committee recognizes the significance of having a residential building on the premises in order to monitor certain agricultural operations. In response to the agricultural community's concern, the deed restrictions have been amended to permit the construction of a single family residential building on the land if at least one does not exist at the time the program is created.

New residential structures for housing agricultural labor employed on the premises and the ability to construct a single family residential building anywhere on the premises in order to replace any existing single family residential unit will require the approval of the board and Committee.

The landowner will retain the ability to subdivide the land without board and Committee approvals. The subdivided tracts will still be bound by the provisions of the deed restrictions.

The proposed amendments will have an overall positive social impact by encouraging landowner participation in the Agriculture Retention and Development Program.

Economic Impact

The proposed amendments will strengthen the agricultural industry in the State by encouraging the retention of lands for agricultural use and production. Although the lands will remain in private ownership, the premises will be deed restricted to prohibit the conversion of the land to a nonagricultural use for the eight-year period. At the end of the eight years, a landowner can either renew the Agreement for another eight years or terminate participation in the program.

Proposed amendment, N.J.A.C. 2:76-4.11(a)11, which permits the construction of a residential unit on the premises in situations where a unit does not currently exist will provide the landowner with an opportunity to reside on the premises in order to monitor the agricultural operation. If a development easement is purchased on the premises, there would be no expenditure of public funds on the parcel where the residential unit will be constructed. In addition, if any State funds are expended for soil and water conservation projects, the landowner would be required to maintain the project for an eight-year period. Any violation of maintaining the project would require a repayment of funds to the State on a pro rata basis.

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

2:76-4.11 Deed restrictions

(a) The following deed restrictions shall be agreed to by the board and the landowner(s) when [entering into] a farmland preservation program **is adopted** and shall run with the land:

["Whereas the Grantors are the present owners of lands, hereinafter referred to as Premises, more particularly described in Schedule "A" which is attached hereto and made a part hereof;]

"[The Grantors covenant for themselves, their heirs, executors, administrators, personal or legal representatives, successors and assigns,] **Grantor promises** that the Premises shall at all times for the term of the agreement be [held,] **owned, used and conveyed** subject to:

AGRICULTURE

PROPOSALS

"1. The Premises shall be retained in agricultural use and production unless the land is withdrawn from the program in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, [C.32] c.32, and all other rules promulgated by the State Agriculture Development Committee, (**hereinafter Committee**). Agricultural use shall mean the use of land for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

"2. [The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns] **Grantor** shall comply with agricultural management practices **recommended by the Committee**, insofar as those practices are applicable to the land and the type of farming conducted [thereon] **on the Premises**. [Agricultural management practices means practices either formally set forth in current published New Jersey Agricultural Experiment Station recommendations or practices which represent the best collective professional judgement and opinion of the appropriate faculty of the New Jersey Agricultural Experiment Station and practices relating to soil and water conservation and management approved by the State Soil Conservation Committee.]

"3. The land and its buildings which are affected hereby may be sold collectively or individually for continued agricultural production and related uses as defined in Section 1, [hereof] **of this agreement**.

"4. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. [Grantors hereby retain and reserve unto themselves, their heirs, executors, administrators, personal or legal representative, successors and assigns.] **Grantor retains and reserves for himself** all oil, gas, and other mineral rights in the land underlying the Premises, provided [only] that any prospective drilling and/or mining will be done by slant from adjacent property or in any other manner which will not materially affect the agricultural operation.

"5. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly [permitted] **recommended by the Committee** as an agricultural management practice.

"6. No activity shall be permitted on the [land] **Premises** which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor **shall any other activity be permitted** which would be detrimental to the continued agricultural use of the land.

"7. [The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] **Grantor** may use [such lands] **the Premises** to derive income from recreational activities [which generally utilize the land in its existing state], so long as such activities do not interfere with the actual use of the land for agricultural production.

"8. Nothing [herein] shall be construed to convey a right to the public of access to or use of the Premises except as [herein provided] **stated in this agreement** or as otherwise provided by law.

"9. Nothing [herein] shall impose upon the [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns] **Grantor** any duty to maintain [or require that the buildings and/or structures be maintained] **the Premises** in any particular state, or condition, **except as**

provided for in this agreement. [notwithstanding the Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns' acceptance hereof. The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns may use, maintain, and improve the existing buildings and said lands for personal and family residential and recreation use subject to the following conditions: No new residential units or buildings or recreation buildings or improvements to existing buildings for purposes other than agricultural production shall be allowed except for such new residential structure or structures or improvements or converted residential structures as will provide housing for agricultural labor for the subject farm or such new residential unit or structures, or converted residential unit or structures as will serve as a farm house for a household which will derive its primary source of income from agricultural production. Such exceptions are subject to prior joint approval in writing by the board and the committee.]

"10. **Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:**

i. **Improvements to agricultural buildings shall be consistent with agricultural uses;**

ii. **Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and**

iii. **Improvements to recreational buildings shall be consistent with agricultural or recreational uses.**

"11. **Grantor may construct any new buildings for agricultural purposes. The construction of any new building which shall serve as a residential use, regardless of its purpose, shall be prohibited except as follows:**

i. **To provide structures for housing of agricultural labor employed on the Premises only with the approval of the Grantee and the Committee;**

ii. **To construct one new permanent single family residential unit only if the Premises does not contain at least one permanent residential building; and**

iii. **To construct a single family residential building anywhere on the Premises in order to replace any existing single family residential unit only with the approval of the Grantee and Committee.**

["10.]"12. Nothing [herein contained] in this agreement shall be deemed to restrict the right of **Grantor** [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] to maintain all roads and trails existing upon the Premises [on] **as of the date of this agreement** [hereof]. [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] **Grantor** shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

["11.]"13. In the event [a] **of any violation of [these restrictions or] the terms and conditions [thereof] of this agreement**, [is found to exist, the] Grantee[, or its heirs, executors, administrators, personal or legal representatives, successors and assigns, or any citizen of the State of New Jersey, acting by and through the State Agriculture Development Committee, may, after notice to the Grantors, their heirs, executors, administrators, personal or legal representatives, successors, and assigns, institute a suit to enjoin by ex parte, temporary and/or permanent injunction, such violation, to require the restoration of the Premises to its prior condition, or to recover

damages.] or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require the restoration of the Premises to its prior condition. [The] Grantee[, or its heirs, executors, administrators, personal or legal representatives, successors and assigns,] or the Committee [does] do not waive or forfeit the right to take any other legal action [as may be] necessary to insure compliance with the terms, conditions, and purposes of this [deed restriction] agreement by a prior failure to act.

["12.]"14. It is understood that this [instrument] agreement imposes no obligation [and restrictions] or restriction on the [Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns'] Grantor's use of the Premises except as specifically set forth [herein] in this agreement. [Nothing herein contained shall be construed to interfere with the right of the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns to utilize the Premises in such manner as they may deem desirable, subject to the terms and conditions hereof.]

["13.]"15. This [instrument] agreement shall be binding upon the Grantor [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns,] and upon the Grantee[, its heirs, executors, administrators, personal or legal representatives, successors and assigns.""]

"16. Throughout this agreement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

"17. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to his heirs, executors, administrators, personal or legal representatives, successors and assigns.

"18. Wherever in this agreement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation."

(b) The Committee or landowner may require more stringent deed restrictions consistent with the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

(c) The deed restrictions contained in (a) above shall be liberally construed to effectuate the purpose and intent of the Farmland Preservation Bond Act, P.L. 1981, c.276, and the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

(a)

Acquisition of Development Easements Deed Restrictions

Proposed Amendment: N.J.A.C. 2:76-6.15

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

Proposal Number: PRN 1986-58.

The agency proposal follows:

Summary

The acquisition of development easements as provided for in the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. (P.L. 1983, c.32), is an effort to encourage the

preservation of agricultural lands to protect the State's diminishing farmland resources. Landowners that satisfy the eligibility requirements, as provided in N.J.A.C. 2:76-6, may voluntarily apply to a county agriculture development board to sell a development easement.

Once a development easement has been purchased, a deed restriction is recorded which permanently prohibits any non-agricultural development on those lands. The restrictions runs with the land and is binding upon every successor.

N.J.A.C. 2:76-6.15 identifies the deed restrictions which will be placed on the lands once a development easement has been purchased. The amendments to N.J.A.C. 2:76-6.15 have been proposed to assure that the deed restrictions conform to plain language standards. These proposed changes help clarify the intent of each deed restriction which ultimately reduces the possibility of misinterpreting the restrictions.

In addition, the proposed amendments to N.J.A.C. 2:76-6.15(a)11 and 12 strengthen the intent of the restrictions by assuring that the premises will not be developed for any nonagricultural purposes. N.J.A.C. 2:76-6.15(a)12 has been amended to permit the construction of a single family residential building on the land if at least one does not exist at the time the development easement is acquired.

N.J.A.C. 2:76-6.15(a)13 assures that the board and State Agriculture Development Committee have control over approving any future subdivision of the land to prevent any nonagricultural development on the subdivided tracts.

N.J.A.C. 2:76-6.15(a)14 strengthens the enforcement power of the Committee and the board to assure that the terms and conditions of the deed restrictions are not violated.

Proposed amendments to N.J.A.C. 2:76-6.15(a)17, 18 and 19 clarify the parties bound by the deed restrictions.

N.J.A.C. 2:76-6.15(b) provides the Committee and the landowner an opportunity to establish more stringent deed restrictions to address specific conditions.

N.J.A.C. 2:76-6.15(c) requires that the deed restrictions be liberally construed to effectuate the purposes of the Agriculture Retention and Development Act.

Social Impact

The proposed amendments assure the public that lands where development easements have been purchased will be preserved and protected against any future nonagricultural development.

The deed restrictions currently in effect have been amended to allow the landowner to use, maintain and improve existing buildings on the premises for agricultural, residential and recreational uses provided the improvements are consistent with such uses. The proposed amendment also deletes the requirement that such activities can only occur if the landowner derives his or her primary source of income from the agricultural operation.

The Committee recognizes the significance of having a residential building on the premises in order to monitor certain agricultural operations. In response to the agricultural community's concern, the deed restrictions have been amended to permit the construction of a single family residential building on the land if at least one does not exist at the time the development easement is acquired.

New residential structures for housing agricultural labor employed on the premises and the ability to construct a single family residential building anywhere on the premises in order to replace any existing single family residential unit will require the approval of the board and Committee.

The landowner will retain the ability to subdivide the land provided the subdivision is consistent with recommended agricultural management practices and is approved by the board and Committee.

The proposed amendments will have an overall positive social impact by encouraging landowner participation in the Agriculture Retention and Development Program.

Economic Impact

The proposed amendments will strengthen the agricultural industry in the State by encouraging the purchase of development easements on agricultural lands. Although the lands will remain in private ownership, the premises will be deed restricted to prohibit any future nonagricultural development.

Proposed amendment, N.J.A.C. 2:76-6.15(a)12, which permit the construction of a residential unit on the premises in situations where a unit does not currently exist will provide the landowner with an opportunity to reside on the premises in order to monitor the agricultural operation. In order to permit the construction of the residential unit, an adjustment in the purchase price of the development easement will be made during the appraisal process. This will assure that public funds used to acquire a development easement will not be expended on a parcel where a residential unit will be constructed.

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

2:76-6.15 Deed restrictions

(a) The following statement shall be attached to and recorded with the deed of the land and shall run with the land:

["Whereas the Grantors are the present owners of lands, hereinafter referred to as Premises, more particularly described in Schedule "A" which is attached hereto and made a part hereof;]

["The Grantors covenant for themselves, their heirs, executors, administrators, personal or legal representatives, successors and assigns,] **Grantor promises** that the Premises shall be [held,] **owned, used and conveyed** subject to:

"1. Any development of the Premises for non-agricultural purposes is expressly prohibited.

"2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, [C.32] **c.32**, and all other rules promulgated by the State Agriculture Development Committee, (**hereinafter Committee**) . Agricultural use shall mean the use of land for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, grazing and conservation.

"3. (Current text recodified as 13.)

["4.]"**3**. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. [The Grantors hereby retain and reserve unto themselves, their heirs, executors, administrators, personal or legal representatives, successors and assigns,] **Grantor retains and reserves for himself** all oil, gas, and other mineral rights in the land underlying the Premises, provided [only] that any prospective drilling and/or mining will be done

by slant from adjacent property or in any other manner which will not materially affect the agricultural operation.

["5.]"**4**. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly [permitted] **recommended by the Committee** as an agricultural management practice.

["6.]"**5**. No activity shall be permitted on the [land] **Premises** which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor **shall** any other activity **be permitted** which would be detrimental to the continued agricultural use of the land.

["7.]"**6**. Grantee [, its heirs, executors, administrators, personal or legal representatives, successors, assigns] and its agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions [herein contained] **of this easement**. Grantee [, its heirs, executors, administrators, personal or legal representatives, successors and assigns agree] **agrees** to give [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns] **Grantor at least 24 hours** advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week. The interior of buildings shall not be inspected.

["8.]"**7**. [The Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns,] **Grantor** may use [such lands] **the Premises** to derive income from recreational activities [which generally utilize the land in its existing state,] so long as such activities do not interfere with the actual use of the land for agricultural production.

["9.]"**8**. Nothing [herein] shall be construed to convey a right to the public of access to or use of the Premises except as [herein provided] **stated in this easement** or as otherwise provided by law.

["10.]"**9**. Nothing [herein] shall impose upon the [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns] **Grantor** any duty to maintain [or require that] the Premises [be maintained] in any particular state, or condition, **except as provided for in this easement**. [notwithstanding the Grantors', their heirs', executors', administrators', personal or legal representatives', successors' and assigns' acceptance hereof. Nothing herein shall be construed as diminishing the application of the other provisions of this statement.]

["11.]"**10**. Nothing [herein contained] **in this easement** shall be deemed to restrict the right of [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns,] **Grantor** to maintain all roads and trails existing upon the Premises [on] **as of the date of this easement** [hereof]. [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns,] **Grantor** shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

["12.]"**11**. [The Grantors, their heirs, executors, administrators, personal or legal representatives, successors, and assigns] **Grantor** may use, maintain, and improve [the] existing buildings [and said lands] **on the Premises** for [personal and family] **agricultural, residential and [recreation use] recreational uses** subject to the following conditions: [No new residential units or buildings or recreation buildings or improvements to existing buildings for purposes other than agricultural production shall be allowed except for such new resi-

dential structure or structures or improvements or converted residential structures as will provide housing for agricultural labor for the subject farm or such new residential unit or structures or converted residential unit or structures as will serve as a farm house for a household which will derive its primary source of income from agricultural production. Such exceptions are subject to prior joint approval in writing by the board and the committee.]

i. Improvements to agricultural buildings shall be consistent with agricultural uses;

ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and

iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses.

"12. Grantor may construct any new buildings for agricultural purposes. The construction of any new building which will serve as a residential use, regardless of its purpose, shall be prohibited except as follows:

i. To provide structures for housing of agricultural labor employed on the Premises only with the approval of the Grantee and the Committee;

ii. To construct one new permanent single family residential unit only if the Premises does not contain at least one permanent residential building; and

iii. To construct a single family residential building anywhere on the Premises in order to replace any existing single family residential unit only with the approval of the Grantee and Committee.

["3.]"13. The land and its buildings which are affected [hereby] by this easement may be sold collectively or individually for continued agricultural uses defined in Section 2 [hereof] of this easement. However, no subdivision of the land shall be permitted without the joint approval in writing of the [board] Grantee and the [committee] Committee. [Such approval is in addition to necessary local approvals.]

i. The subdivision shall be consistent with recommended agricultural management practices.

ii. If approval to subdivide is granted by the Grantee and the Committee, the Grantor shall agree to place an easement on the subdivided tracts which expressly prohibits any residential development on the Premises.

iii. If at least one permanent residential unit does not already exist on the Premises, the opportunity to construct one permanent single family residential unit shall be permitted on only one of the tracts designated by Grantor at time of subdivision.

["13.]"14. In the event [a] of any violation of [these restrictions or] the terms and conditions [thereof] of this easement, [is found to exist, the] Grantee[, or its heirs, executors, administrators, personal or legal representatives, successors and assigns, or any citizen of the State of New Jersey, acting by and through the State Agriculture Development Committee, may, after notice to the Grantors, their heirs, executors, administrators, personal or legal representatives, successors, and assigns, institute a suit to enjoin by ex parte, temporary and/or permanent injunction, such violation, to require the restoration of the Premises to its prior condition, or to recover damages.] or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require the restoration of the Premises to its prior condition. [The] Grantee[, or its heirs, executors, administrators, personal or legal representatives, successors and as-

signs,] or the Committee does not waive or forfeit the right to take any other legal action [as may be] necessary to insure compliance with the terms, conditions, and purposes of this [deed restriction] easement by a prior failure to act.

["14.]"15. [It is understood that this instrument] This easement imposes no obligation [and restrictions] or restriction on the [Grantors', their heirs', executors', administrators', personal or legal representatives', and assigns'] Grantor's use of the Premises except as specifically set forth [herein] in this easement. [Nothing herein contained shall be construed to interfere with the right of the Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns to utilize the Premises in such manner as they may deem desirable, subject to the terms and conditions hereof.]

["15.]"16. This [instrument] easement shall be binding upon the Grantor [Grantors, their heirs, executors, administrators, personal or legal representatives, successors and assigns.] and upon the Grantee. [, its heirs, executors, administrators, personal or legal representatives, successors and assigns."]

"17. Throughout this easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

"18. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to his heirs, executors, administrators, personal or legal representatives, successors and assigns.

"19. Wherever in this easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation."

(b) The Committee or landowner may require more stringent deed restrictions consistent with the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

(c) The deed restrictions contained in (a) above shall be liberally construed to effectuate the purpose and intent of the Farmland Preservation Bond Act, P.L. 1981, c.276, and the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

CIVIL SERVICE

(a)

OVERTIME COMMITTEE

Overtime Committee Rules

Proposed Repeal and New Rules: N.J.A.C. 4:6

Authorized By: Christine A. Danilo, Deputy Director,
Division of Classification and Compensation,
Department of Civil Service.

Authority: N.J.S.A. 52:14-17.13 and 52:14-17.14; 29
U.S.C. 201 et seq.

Proposal Number: PRN 1986-67.

The Overtime Committee will hold a public hearing on April 2, 1986 at 9:30 A.M. at the Department of Civil Service, 215 East State Street, Trenton, New Jersey.

Submit comments by April 16, 1986 to:
Christine A. Danilo, Deputy Director
Division of Classification
and Compensation
Department of Civil Service
CN 313
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Overtime Committee rules contained in N.J.A.C. 4:6 are being repealed in their entirety and new rules are being introduced to bring the State overtime policies in accord with the federal Fair Labor Standard Act (FLSA), which was mandated by the decision of the United States Supreme Court in *Garcia v. San Antonio Metro. Transit Authority*, U.S. , 105 S. Ct., 1005, 83 L.Ed. 2d 1016, 1985. Where possible, the existing policies and practices have been kept intact. Therefore, State appointing authorities continue to have the option of paying cash or compensatory time off for overtime work. However, basic to the FLSA application is the requirement of cash payment for all hours worked over 40 in a given workweek for non-exempt employees who have accrued 240 hours of compensatory time off, or in the case of employees engaged in a public safety activity, an emergency response activity, or a seasonal activity, 480 hours of compensatory time off. The new rules reflect this federal requirement, yet preserve the existing system for exempt employees and those non-exempt employees who work under 40 hours in a workweek. Following is a brief synopsis of the changes in each subchapter.

Subchapter 1, "Authority and Purpose," remains basically intact as it existed before. One additional reference to the federal Fair Labor Standards Act (FLSA) has been added.

Subchapter 2, "Definitions," is the same as it was before with a few notable additions. Exempt position and non-exempt position have been defined. Several other additional definitions were required as a result of FLSA such as "cash overtime compensation," "compensatory time off," "pay period" and "regular rate."

Subchapter 3, "State Overtime Regulations Applicable to 40 Hours or Less in a Workweek," preserves the essence of the previous overtime regulations to deal with overtime situations of 40 or less hours in a workweek. Although the format and arrangement have been changed to parallel that of the FLSA application, the essence remains the same.

Subchapter 4, "Federal Fair Labor Standards Applicable to More Than 40 Hours in a Workweek," deals with the major changes required by conversion to FLSA coverage. Primary to this subchapter is the division of all employees into two eligibility groups, those who are exempt from FLSA coverage on the basis of meeting specific outlined criteria as prescribed by FLSA and those who are non-exempt and thereby entitled to cash overtime compensation at the rate of one and one-half times their regular rate when they work in excess of 40 hours in a workweek and have accrued 240 hours of compensatory time off, or 480 hours for employees engaged in a public safety activity, an emergency response activity or a Seasonal Activity. Exceptions and allowable modifications are also noted in this subsection, such as alternate work period designations for law enforcement, fire and hospital or residential care facility employees. The concept of overtime compensation based on the weighted average of the different rates paid during a workweek is also introduced. Compensation

based on the indicated eligibility status (exempt or non-exempt) is outlined.

Subchapter 5, "Special Circumstances," is a reiteration of the previous subchapter on Special Circumstances with modifications to provide for exempt employees who are not covered by the Fair Labor Standards Act and non-exempt employees who are covered by the Fair Labor Standards Act. The subsection on overlap shift security time has been eliminated. A new sub-section on Occasional or Sporadic Employment has been added.

Subchapter 6, "Holiday Pay," remains the same as in the repealed rules with the exception of a proviso referencing the Fair Labor Standards Act section of the rules, and a provision for the payment of overtime compensation for casual employees pursuant to a negotiated labor contract.

Subchapter 7, "Appointing Authority Responsibilities," remains the same except for a few minor word changes and an expansion of the records section to bring it in accord with FLSA record-keeping requirements.

Subchapter 8, "Appeal Procedures," is a new subchapter which gives the employee the right to appeal the status of a particular position designation for exemption or non-exemption under the Fair Labor Standards Act, first to the appointing authority, and then to the Division of Classification and Compensation before bringing it to the Overtime Committee. Additionally, both employees and appointing authorities have the right to appeal title designations for exemption and non-exemption under the FLSA to the Division of Classification and Compensation before appealing to the Overtime Committee. Other issues relating to overtime payments may be reviewed through the grievance process.

Social Impact

While some groups of State workers may gain additional cash compensation as a result of the new FLSA based overtime rules, other State employees and employers will have their flexibility to use compensatory time off in lieu of cash overtime compensation somewhat limited, by the caps on the total amount of compensatory time off which can be banked before cash payment becomes mandatory. This may result in possible scheduling changes and greater costs in the delivery of some State goods and services. Additionally, employees in non-exempt positions no longer have the option of putting in extra time without some form of overtime compensation for hours worked in excess of 40.

Economic Impact

The proposal will have an economic impact to both the public and New Jersey State Government as a whole. Most State departments will be affected, although some will be more greatly impacted than others. Generally, the delivery of goods and services will be more expensive due to mandated cash compensation for employees who have banked 240 hours of accrued compensatory time off and have worked in excess of 40 hours, compared to the current option of unlimited amounts of compensatory time off during less peak work times. The flexibility of some State workers to use their own time to get the job done without additional compensation is also limited.

Although the final cost is impossible to project at this time, it is anticipated that the cost of the delivery of State goods and Services will increase.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:6.

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Interested Persons see Inside Front Cover

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Full text of the proposed new rules follows.

SUBCHAPTER 1. AUTHORITY AND PURPOSE

4:6-1.1 Authority

The Overtime Committee is composed of the State Treasurer, the President of the Civil Service Commission and the Director of the Division of Budget and Accounting in the Department of the Treasury. The Committee shall adopt rules regulating overtime compensation for State employees. See N.J.S.A. 52:14-17.13, 17.14; see also federal Fair Labor Standards Act (FLSA), 29 U.S.C. 201 et seq.

4:6-1.2 Purpose

The purpose of the Overtime Committee is to establish eligibility for overtime compensation and insure the equitable application of the statutory overtime provisions.

SUBCHAPTER 2. DEFINITIONS

4:6-2.1 Words and phrases defined

"Base salary" means the employee's rate of pay exclusive of any additional payments or allowances.

"Cash overtime compensation" means payment at a rate of one and one-half times the hourly proration of the employee's base salary, or one and one-half times the employee's regular rate, as specified.

"Casual employee" means an employee, including special services employees, appointed pursuant to a personnel action request for special projects, peak workloads or other operational necessities where the work period is intermittent, irregular or of short duration.

"Compensatory time off" means the granting of time off in lieu of cash payment where permitted for excess or unusual work time.

"Exempt position" means a position which is excluded from the provisions of the Fair Labor Standards Act (29 U.S.C. 201 et seq.). Such positions may be in titles designated as exempt 35 hour (3E), exempt 40 hour (4E), exempt non-limited (NL), and exempt non-limited which involve direct and continuous supervision of employees in 40 hour workweek titles (N4).

"Fixed workweek title" means a title specified in the State Compensation Plan as having a 35 hour (35, 3E) or 40 hour (40, 4E) workweek. Such titles have regular work hours.

"Holiday" means a legal holiday or a special holiday declared by the Governor.

"Non-exempt position" means a position which is subject to the provisions of the Fair Labor Standards Act. Such positions may be in titles designated as non-exempt 35 hour (35), non-exempt 40 hour (40), or non-exempt non-limited (NE).

"Non-limited title" means a title having irregular or variable work hours. Such titles may be designated as exempt non-limited (NL, N4), or non-exempt non-limited (NE).

"Overtime compensation" means cash overtime compensation or compensatory time off as permitted.

"Part-time employee" means an employee who works a portion of the time specified for a fixed workweek title and is paid at the hourly rate of the annual base salary for the title.

"Pay period" means the period beginning 12:01 A.M. Saturday and ending midnight the second Friday following. Note: A schedule of pay periods is published annually by the Department of the Treasury.

"Regular rate" means the hourly proration of the employee's annual base salary plus the fair market value of goods and facilities received as part of the wages. Employees in non-exempt non-limited titles (NE) shall be deemed to have a 40 hour workweek for determining the hourly proration. Employees who work at different pay rates in a single workweek shall have their hourly proration based on a weighted average of the different rates.

"Seven day coverage position" means a position assigned to an area where work coverage is required on a seven day basis throughout the year.

"Workweek" means the period beginning 12:01 A.M. Saturday and ending midnight the following Friday except in those instances where the Overtime Committee or its representative has approved an alternate workweek for overtime purposes for employees engaged in seven day operations.

SUBCHAPTER 3. STATE OVERTIME REGULATIONS APPLICABLE TO 40 HOURS OR LESS IN A WORKWEEK

4:6-3.1 Eligibility

(a) Employees in the following groups may qualify for overtime compensation under this subchapter for work performed beyond their regular work hours, but not more than 40 hours, as specified.

1. Employees in 35 hour fixed workweek titles (35, 3E) shall be eligible for overtime compensation for time worked in excess of the regular workweek as provided in N.J.A.C. 4:6-3.2(a).

2. Employees in non-limited titles (NL, NE) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated as provided in N.J.A.C. 4:6-3.2(b).

3. The Overtime Committee or its representative may, upon the request of the Office of Employee Relations, authorize overtime payments for State Police law enforcement officers.

4. Part-time employees shall be eligible for overtime compensation only when they work beyond the regular workweek established for full-time employees in their titles.

5. Casual employees shall not be eligible for such overtime compensation.

(b) An employee shall be eligible for overtime compensation under this subchapter only when:

1. She or he is in pay status for the full number of hours in his or her regular workweek; and

2. She or he works at least one hour beyond the regular workweek; and

3. The work is covered by the job specification for the employee's title except as provided in N.J.A.C. 4:6-5.4.

4:6-3.2 Compensation

(a) Employees in 35 hour fixed workweek titles (35, 3E) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the Overtime Committee or its representative for time worked in excess of the regular workweek but not more than 40 hours.

1. Cash compensation for overtime work shall be at the rate of one and one-half times the hourly proration of an employee's base salary. An overtime rate conversion table shall be published with the State Compensation Plan.

2. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

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(b) Employees in non-limited titles (NL, NE) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work patterns or a grant of comparable amounts of time off on an hour for hour basis. They shall have no claim or entitlement to cash overtime compensation.

(c) Once an employee is eligible for overtime compensation in a workweek, work credited toward overtime compensation must be in one-half hour units of continuous work beyond each regular workday.

14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

SUBCHAPTER 4. FEDERAL FAIR LABOR STANDARDS APPLICABLE TO MORE THAN 40 HOURS IN A WORKWEEK

4:6-4.1 Eligibility

(a) Non-exempt position eligibility requirements shall be as follows:

1. Employees in non-exempt fixed workweek titles (35, 40) and non-exempt non-limited titles (NE), whose positions do not meet the criteria for exemption in N.J.A.C. 4:6-4.3, shall be eligible for either cash payment or compensatory time off at the discretion of the department head with the approval of the Overtime Committee or its representative for time worked in excess of 40 hours per week. See N.J.A.C. 4:6-4.2(a).

(b) Exempt position eligibility requirements shall be as follows:

1. Employees in exempt fixed workweek titles (3E, 4E), whose positions meet the criteria for exemption in N.J.A.C. 4:6-4.3, shall be eligible for either cash payment or compensatory time off at the discretion of the department head with the approval of the Overtime Committee or its representative for time worked in excess of 40 hours per week. See N.J.A.C. 4:6-4.2(b).

2. Employees in exempt non-limited titles (NL, N4), whose positions meet the criteria for exemption in N.J.A.C. 4:6-4.3, shall not be eligible for cash overtime compensation. See N.J.A.C. 4:6-4.2(c).

(c) The Overtime Committee or its representative may approve an alternate work period and corresponding maximum hour designation for non-exempt law enforcement and fire protection employees as set forth below. Such employees shall receive overtime compensation for time worked in excess of maximum allowable hours.

Work Period (days)	Maximum Hours in Work Period	
	Firefighters	Law Enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92

(d) A hospital or residential care facility may, under a prior agreement with affected employees and as approved by the Overtime Committee or its representative, use a work period of 14 consecutive days for computing overtime compensation for non-exempt employees.

(e) Casual employees shall be entitled to overtime compensation where their work duties do not meet the criteria for exempt status. See N.J.A.C. 4:6-4.3

4:6-4.2 Compensation

(a) Non-exempt employees (35, 40, NE) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the Overtime Committee or its representative for time worked in excess of 40 hours per week. However, if an alternate work period is adopted pursuant to N.J.A.C. 4:6-4.1(c), overtime compensation shall be paid in accordance with that schedule.

1. Cash compensation for overtime work shall be at the rate of one and one-half times the regular rate. An overtime rate conversion table shall be published with the State Compensation Plan.

2. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

3. Employees engaged in a public safety activity, an emergency response activity, or a seasonal activity may accrue not more than 480 hours of compensatory time off. Employees engaged in any other work may accrue not more than 240 hours of compensatory time off.

4. Cash compensation for accrued compensatory time off shall be paid at the regular rate earned by the employee at the time such employee receives such payment. However, an employee who has accrued compensatory time off shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than the average regular rate received by such employee during the last three years of the employee's employment, or the final regular rate received by such employee, whichever is higher.

(b) Exempt employees in fixed workweek titles (3E, 4E) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the Overtime Committee or its representative for time worked in excess of the regular workweek.

1. Cash compensation for overtime work shall be at the rate of one and one-half times the hourly proration of an employee's base salary. An overtime rate conversion table shall be published with the State Compensation Plan.

2. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

(c) Exempt employees in non-limited workweek titles (NL, N4) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work time patterns or a grant of comparable amounts of time off on an hour for hour basis.

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(d) Overtime compensation for work in excess of 40 hours for non-exempt employees who work at different pay rates during the same workweek shall be paid as follows:

1. Cash overtime compensation shall be at the rate of one and one-half times the weighted average of the different rates paid during that workweek.

2. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

(e) If a 14 day work period is elected for hospital employees under N.J.A.C. 4:6-4.1(d), non-exempt employees shall receive overtime compensation for work in excess of 8 hours in a workday or 80 hours in a work period at a rate representing one and one-half times the regular rate of pay. The extra compensation at the premium rate paid for hours worked in excess of 8 in a workday may be credited toward any overtime compensation payable for hours worked in excess of 80 in the 14 day work period.

4:6-4.3 Criteria for exemption

(a) Elected officials shall be exempt as follows:

1. An individual is exempt who is not subject to the State's civil service laws and:

- i. Holds a public elective office of the State;
- ii. Is a member of the personal staff of an elected office holder;
- iii. Is appointed by such an office holder to serve on a policy making level; or
- iv. Is an immediate advisor to such an office holder with respect to the constitutional or legal powers of the office.

(b) Executives shall be exempt as follows:

1. An executive paid at least \$250.00 a week on a salary basis exclusive of board, lodging, and other facilities is exempt if the employee regularly directs the work of at least two or more other employees and the employee's primary duty is management of the enterprise or a recognized department or subdivision thereof.

2. An employee who is paid on a salary basis between \$155.00 and \$250.00 a week and meets all of the following tests will be exempt. The employee must:

- i. Have as his or her primary duty the management of the enterprise, or of a customarily recognized department or subdivision; and
- ii. Customarily and regularly direct the work of at least two or more other employees; and
- iii. Have the authority to hire and fire, or recommend hiring or firing; or his or her recommendation on these and other actions affecting employees is given particular weight; and
- iv. Customarily and regularly exercise discretionary powers; and
- v. Devote no more than 20 percent of his or her time to activities not directly and closely related to managerial duties.

(c) Administrative employees shall be exempt as follows:

1. An administrative employee, who is paid on a salary or fee basis of at least \$250.00 a week exclusive of board, lodging or other facilities, will be exempt if his or her primary duty is responsible office or non-manual work directly related to management policies or general business operations or responsible work in the administration of an educational institution and his or her work requires the exercise of discretion and independent judgment.

2. An employee who is paid on a salary basis between \$155.00 and \$250.00 a week and meets all of the following tests is exempt. The employee must:

i. Have as his or her primary duty responsible office or non-manual work directly related to the management policies or general business operations of his or her employer or employer's customers, or responsible work that is directly related to academic instruction or training carried on in the administration of a school system or education establishment; and

ii. Customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures, and have the authority to make important decisions; and

iii. Regularly assist a bona fide executive or administrative employee, or perform work under only general supervision along specialized or technical lines requiring special training, experience, or knowledge, or execute under only general supervision special assignments; and

iv. Spend no more than 20 percent of his or her time in the workweek on non-exempt work that is not directly and closely related to the employee's administrative duties.

(d) Professional employees shall be exempt as follows:

1. A professional employee, who is paid at least \$250.00 per week, is exempt if his or her primary duty requires advanced knowledge in a field of science or learning or involves work as a teacher, and requires the consistent exercise of discretion or judgment. Similarly, the employee is exempt as a professional if he or she is paid at least \$250.00 per week and his or her primary duty involves artistic work in a recognized field of artistic endeavor.

2. An employee who meets all of the following tests will be exempt. The employee must:

i. Have as his or her primary duty work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study, or work that is original and creative in character in a recognized field of artistic endeavor, the result of which depends primarily on the employee's invention, imagination or talent; and

ii. Consistently exercise discretion and judgment; and

iii. Do work that is predominantly intellectual and varied, as distinguished from routine and mechanical duties; and

iv. Spend no more than 20 percent of his or her time in the workweek on activities not essentially a part of, and necessarily incident to, his or her professional duties; and

v. Be paid on a salary or fee basis at the rate of not less than \$170.00 a week exclusive of board, lodging, or other facilities. However, no salary level is applied to doctors, lawyers and teachers.

(e) Other exemptions are as follows:

1. Employees engaged in law enforcement or fire protection activities, including security personnel in correctional institutions, who are employed by a public agency that employs less than five law enforcement or five fire protection workers in a workweek, are exempt.

SUBCHAPTER 5. SPECIAL CIRCUMSTANCES

4:6-5.1 On call

(a) Employees in non-exempt positions (35, 40, NE) who are required to remain on call and cannot use their own time effectively, shall be considered to be working and shall have such on call time included in the total hours worked. In those situations where employees are merely required to remain at home or leave word with appropriate officials where they may be reached, they are not considered to be working while on call unless their freedom to engage in personal activities during that period is severely restricted.

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1. Overtime compensation at the rate of one and one-half times the regular rate or one and one-half hours for each hour worked in excess of the regular workweek shall only be payable for that period after total hours worked exceed 40 hours in a workweek.

(b) Employees in exempt positions (3E, 4E, NL, N4) shall have no claim or entitlement to compensation for such time.

4:6-5.2 Training

(a) Employees in non-exempt positions (35, 40, NE) who are required by their employer to participate in job related training shall have such training time included in the total hours worked.

1. Overtime compensation at the rate of one and one-half times the regular rate or one and one-half hours for each hour worked in excess of the regular workweek shall only be payable for that period after total hours worked exceed 40 hours in a workweek.

2. For time worked in excess of a 35 hour fixed workweek but not over 40 hours, hour for hour compensation may be granted in the form of cash or time off, at the discretion of the appointing authority.

(b) Employees in exempt fixed workweek positions (3E, 4E) may be granted hour for hour compensation in the form of cash or time off, at the discretion of the appointing authority.

(c) Employees in exempt non-limited positions (NL, N4) shall have no claim or entitlement to compensation for such time.

4:6-5.3 Travel

(a) Employees in non-exempt positions (35, 40, NE) who are required to travel contiguous to the normal workday in excess of normal commutation time shall have such hours included in the total hours worked.

1. Overtime compensation at the rate of one and one-half times the regular rate or one and one-half hours for each hour worked in excess of the regular workweek shall only be payable for that period after total hours worked exceed 40 hours in a workweek.

2. For time worked in excess of a 35 hour fixed workweek but not over 40 hours, hour for hour compensation may be granted in the form of cash or time off, at the discretion of the appointing authority.

(b) Employees in exempt fixed workweek positions (3E, 4E) may be granted hour for hour compensation in the form of cash or time off, at the discretion of the appointing authority.

(c) Employees in exempt non-limited positions (NL, N4) shall have no claim or entitlement to compensation for such time.

4:6-5.4 Exceptional emergencies

(a) When an agency head declares that she or he is faced with an exceptional emergency involving a critical service disruption that poses a danger to health or safety, she or he may authorize:

1. Cash overtime compensation for non-limited employees in titles with established salary ranges below range 35 performing emergency related work. For these circumstances employees in non-limited titles shall be deemed to have a 40 hour workweek.

2. Exceptions to N.J.A.C. 4:6-3.1(b)3.

(b) An agency head shall file with the Overtime Committee (c/o President, Civil Service Commission) two reports concerning an exceptional emergency as follows:

1. A fully detailed justification for the declaration within seven calendar days of the declaration of the exceptional

emergency. The report shall describe the critical services which could have been or were disrupted and what dangers were posed to health or safety.

2. Within 30 calendar days of the conclusion of the exceptional emergency, a list of the names, titles and hours of work designations of employees who performed emergency related work on an overtime basis. The report shall include the number of hours of emergency related overtime work performed by each employee.

(c) These provisions shall not apply to work performed beyond the regular work hours on emergency maintenance, construction, snow removal or other related work in situations which constitute unreasonable safety hazards to the public, employees, other persons or property of the State. The Civil Service Commission shall establish special project rates for these circumstances.

4:6-5.5 Occasional or sporadic employment

If an employee works, on a part time occasional or sporadic basis, and solely at the employee's option, in a different capacity from which the employee is regularly employed, the hours employed in the different capacity shall be excluded from the calculation of the hours to which the employee is entitled to overtime compensation.

SUBCHAPTER 6. HOLIDAY PAY

4:6-6.1 Work on a holiday

Full-time and part-time employees in fixed workweek titles shall be entitled to overtime compensation in addition to their regular rate of compensation for all work performed on a holiday except as provided in N.J.A.C. 4:6-6.4, even if they are not in pay status for a full workweek.

4:6-6.2 Non-limited titles

Employees in non-limited titles are not entitled to overtime compensation for work performed on a holiday, except as provided in 4:6-4. However, those in titles below that of agency head may, at the discretion of the appointing authority, be granted comparable time off to a maximum of hour for hour for such work in addition to their regular rate of compensation.

4:6-6.3 Seven day coverage positions

(a) The following shall govern overtime compensation for full-time and part-time employees in fixed workweek titles who are employed in a seven day coverage operation:

1. If a holiday occurs on a regular workday of an employee and she or he works, the employee is entitled to overtime compensation for all work performed on the holiday in addition to the regular rate of compensation.

2. If a holiday occurs on a regular day off, an employee shall be given an additional day off in the same workweek. If, as the result of an emergency, the employee is required to work on the additional day, she or he shall be entitled to overtime compensation for all work performed on the additional day.

3. If a holiday occurs on a regular workday of an employee and the employee does not report for duty, she or he shall not be eligible for overtime compensation or an alternate day off.

4:6-6.4 Personal preference days

A part-time or full-time employee in a fixed workweek title in conjunction with his or her appointing authority, may agree that the employee shall work on a holiday in exchange for

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a specified day of personal preference off. If the employee is required to work on the specified personal preference day, she or he shall be entitled to overtime compensation for all hours worked on the personal preference day as if that day were the holiday.

4:6-6.5 Casual employees

(a) Unless permitted by a negotiated labor contract, casual employees shall not be entitled to overtime compensation for work performed on a holiday, except as provided in 4:6-4.

(b) Unless permitted by a negotiated labor contract, casual employees shall not be entitled to any form of compensation for a holiday not worked.

SUBCHAPTER 7. APPOINTING AUTHORITY RESPONSIBILITIES

4:6-7.1 Development of procedures

(a) The appointing authority shall develop procedures for administering overtime that are consistent with this chapter and at a minimum provide for:

1. Written authorization and approval by the appointing authority or his or her designee in advance of overtime to be worked. Whenever circumstances are such that prior authorization is not possible, the overtime must be authorized in writing immediately thereafter;

2. Records of approved overtime requests and work accomplished;

3. Systems for continuous and periodic review of overtime requirements with a view toward devising methods to accomplish the work during regular work time; and

4. Written procedures for departmental directors, bureau chiefs and supervisors to follow in the authorization of either compensatory time or cash payment for overtime.

(b) A copy of each department's procedures and written interpretations and any subsequent changes are to be filed with the Overtime Committee (c/o President, Civil Service Commission) and approved prior to promulgation.

4:6-7.2 Reporting requirements

For budget requests, the appointing authority shall provide an annual summary to include the extent and justification for overtime required during the past fiscal year, current fiscal year and the extent and justification of anticipated overtime during the next fiscal year. The latter shall be supported by a description of the work programs to be accomplished, the amount of hours and money involved, the circumstances dictating that it be overtime, and alternatives that would permit accomplishment of the overtime work on regular time. The instructions for the above shall be included in the "Manual for Preparation of Budget Request" which is published and distributed to all State Agencies by the Division of Budget and Accounting in the Department of the Treasury. The appointing authority shall file a copy of this summary with the Overtime Committee (c/o President, Civil Service Commission).

4:6-7.3 Records

(a) The following records shall be kept:

1. Name of employee in full;
2. Home address, including zip code;
3. Date of birth, if under 19;
4. Sex and occupation;
5. Time of day and day of week on which the employee's workweek begins;

6. Regular hourly rate of pay in any workweek in which overtime premium is due; basis of wage payment (such as "\$5.00 hr.," "\$40.00 day," "\$200.00 wk");

7. Daily and weekly hours of work;

8. Total daily or weekly straight time earnings;

9. Total overtime compensation for the workweek;

10. Total additions to or deductions from wages paid;

11. Total wages paid each pay period;

12. Date of payment and the pay period covered by payment; and

13. Approved overtime requests and work accomplished.

(b) Upon demand, the appointing authority shall make available to the Overtime Committee or its representative all records and accounts of overtime work at the time(s) and location(s) specified.

4:6-7.4 Payroll procedures

Procedures for payments of compensable overtime will be published as part of the payroll manual.

SUBCHAPTER 8. APPEAL PROCEDURES

4:6-8.1 Position designations

(a) An appeal by an employee of the status of a particular position for exemption or non-exemption under the Fair Labor Standards Act shall be submitted, in writing, to the appointing authority through the personnel office. The appeal must identify the specific duties at issue and must be accompanied by a Classification Questionnaire, CS-44, signed by the employee and the supervisor. If the appellant proposes a different status for the position, exempt or non-exempt, she or he must explain how the requested status more accurately reflects the duties of the position under the Fair Labor Standards Act. See N.J.A.C. 4:6-4.3.

1. The appointing authority shall review the appeal and notify the appellant of its decision within 20 days of receipt of the appeal. This decision letter must include the duties of the position, findings of fact, conclusions and the determination that:

i. The position is properly classified as exempt or non-exempt; or

ii. The position is improperly designated in which case the appointing authority shall provide appropriate duties or designate the appropriate status.

2. The decision letter shall state that the appellant has the right to appeal an adverse decision. Additionally, if the appellant does not receive a decision letter from the appointing authority within 20 days, she or he may file an appeal, in writing, within 10 days from the final day for the appointing authority's decision. All appeals shall be sent to the:

Department of Civil Service
Director, Division of Classification
and Compensation
CN 313
Trenton, New Jersey 08625

3. An employee submitting a second level appeal must include a copy of the initial appeal letter to the appointing authority, a copy of the completed Classification Questionnaire, CS-44, and the appointing authority's decision letter, if issued. The appeal must state what specific portions of that decision are contested and the reasons.

(b) The Director, Division of Classification and Compensation, shall review the appeal, order an audit where warranted,

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and issue a written decision. The decision letter shall be issued within 20 days of receipt of the appeal and shall include findings of fact, conclusions, a determination and a statement that the appellant has the right of appeal to the Overtime Committee.

(c) All appeals to the Overtime Committee must include copies of the determinations and decision letters from the lower levels and state which findings are being disputed and the reasons. Appeals shall be submitted, in writing, within 20 days of receipt of the decision letter to the:

Department of Civil Service
 Division of Appellate Practices
 and Labor Relations
 CN 312
 Trenton, New Jersey 08625

1. The Overtime Committee may render a decision based on the written record or such other procedure as it deems appropriate.

2. The decision of the Overtime Committee shall be the final administrative decision.

4:6-8.2 Title designations

(a) An appeal of the status of a title for exemption or non-exemption under the Fair Labor Standards Act may be filed either by the appointing authority or an affected employee and shall be in writing. The appeal must explain how the requested status more accurately reflects the duties of the title under the Fair Labor Standards Act. See N.J.A.C. 4:6-4.3. Such appeals shall be filed with the:

Department of Civil Service
 Director, Division of Classification
 and Compensation
 CN 313
 Trenton, New Jersey 08625

(b) The Director of Classification and Compensation shall review the appeal under N.J.A.C. 4:6-8.1(b).

(c) An appeal of the decision of the Director of Classification and Compensation may be filed under N.J.A.C. 4:6-8.1(c).

4:6-8.3 Grievances

Other issues relating to overtime payments may be reviewed through the grievance process. See N.J.A.C. 4:2-23.

APPENDIX: OVERTIME ELIGIBILITY AND COMPENSATION CHART

	ELIGIBILITY STATUS		COMPENSATION	
	Comp Plan Code	In excess of 35 but not more than 40 hours per workweek	In excess of 40 hours per workweek as prescribed by FLSA	
35 (non-exempt)	35	Cash compensation at 1½ times the hourly proration of the base salary or CTO at 1½ times the hours worked.	Cash compensation at 1½ times the regular rate or CTO at 1½ times the hours worked providing the employee has not accrued more than 240 hours of CTO.††	
35 (exempt)	3E	Cash compensation at 1½ times the hourly proration of the base salary or CTO at 1½ times the hours worked.	Cash compensation at 1½ times the hourly proration of the base salary or CTO at 1½ times the hours worked.	
40 (non-exempt)	40	Not applicable.	Cash compensation at 1½ times the regular rate† or CTO at 1½ times the hours worked providing the employee has not accrued more than 240 hours of CTO.††	
40 (exempt)	4E	Not applicable.	Cash compensation at 1½ times the hourly proration of the base salary or CTO at 1½ times the hours worked.	
NL (non-exempt)	NE	No cash compensation. CTO hour for hour (discretionary).	Cash compensation at 1½ times the regular rate or CTO at 1½ times the hours worked providing the employee has not accrued more than 240 hours of CTO.††	
NL (exempt)	NL	No cash compensation. CTO hour for hour (discretionary).	No cash compensation. CTO hour for hour (discretionary).	
NL4 (exempt)	N4	Not applicable.	No cash compensation.††† CTO hour for hour (discretionary).	

†Regular rate is the hourly proration of the employee's annual base salary plus the fair market value of goods and facilities received as part of the wages. Employees who work at different pay rates in a single workweek shall have their hourly proration based on a weighted average of the different rates.

††Note: Employees engaged in a public safety activity, an emergency response activity, or a seasonal activity may accrue not more than 480 hours of CTO.

†††Except as provided in N.J.A.C. 4:6-5.4 Exceptional Emergencies.

COMMUNITY AFFAIRS

(a)

New Jersey Housing and Mortgage Finance Agency

Certification and Recertification of Income

Proposed New Rules: N.J.A.C. 5:80-20

Authorized By: Feather O'Conner, Executive Director/Secretary of the New Jersey Housing and Mortgage Finance Agency.

Authority: N.J.S.A. 55:14K-5g and 55:14K-8b.

Proposal Number: PRN 1986-57.

Submit comments by April 16, 1986 to:
William F. Abele, Esq.
Director of Policy Development
New Jersey Housing and Mortgage
Finance Agency
3625 Quakerbridge Road, CN18550
Trenton, New Jersey 08650-2085

The agency proposal follows:

Summary

The New Jersey Housing and Mortgage Finance Agency proposed a new rule in the October 7, 1985 New Jersey Register at 17 N.J.R. 2321 regarding the certification of the income of applicants for New Jersey admission to housing projects financed by the Agency and for periodically recertifying income of tenants residing in such housing projects. Following publication and the comment period, the Agency made several substantive changes to the rule which necessitates its republication for public comment. All changes from the original publication are shown as amendments to the proposed text. The substantive changes are summarized as follows:

5:80-20.3(a)2 is amended to limit requests for tax returns to the first page of such returns.

5:80-20.4(c) was added to permit reasonable allowances from gross family income for dependents and medical expenses.

5:80-20.5 is revised to clarify when recertifications are due and included further information regarding the recertification procedure.

5:80-20.6(b) is amended to allow return of surcharges in certain instances with approval of Agency.

5:80-20.7(a) and (b) are amended to clarify the circumstances for which there will be an adjustment in tenancy.

5:80-20.8(b) is amended to provide that the Agency must approve surcharges or evictions of tenants who fail to recertify.

5:80-20.9(a) is amended to give 6 months time for tenant to cure failure to recertify.

5:80-20.10 revises the list of persons who have access to tenant recertification information. Also revised to provide for the return of documentation to the tenant if requested and when no longer needed.

Social Impact

The proposed rule is established to effectuate the general purpose of the Agency including: 1) to stimulate the construc-

tion, rehabilitation and improvement of adequate and affordable housing in the State so as to increase the number of housing opportunities for New Jersey residents particularly those of low and moderate income; 2) to enhance the production capacity of the private sector toward meeting the housing needs of residents of New Jersey; 3) to assist in the revitalization of the State's urban areas; and 4) to respond to changing housing demographic and economic circumstances for the development of innovative and flexible financing vehicles. The rule will have an impact on all tenants in Agency-financed projects and all Housing Sponsors of Agency-financed projects. In particular, the proposed rule will enable the Agency to verify that applicants for admission to housing projects meet prescribed income limitations. Additionally, the rule will ensure that tenants receiving the benefits of residing in Agency-financed projects continue to meet the income limitations for residing in such housing projects.

Economic Impact

Through its sale of tax exempt bonds, the Agency is able to make mortgage loans for new construction of multi-family housing projects or the rehabilitation of existing units upon application by qualified housing sponsors. Since the program's inception over \$1.2 billion in loans have been issued for such housing. This rule will enable the Agency to continue to meet its goals to provide low and moderate income housing to the residents of the State of New Jersey. In particular, the proposed rule will enable the Agency to assure itself that housing projects continue to be occupied by tenants of low and moderate income. Additionally, those tenants whose income has increased beyond prescribed limitations during occupancy and those who fail to recertify income pursuant to the proposed rule will be subject to a surcharge in their apartment rent.

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

SUBCHAPTER 20. CERTIFICATION AND RECERTIFICATION OF INCOME

5:80-20.1 Authority

This subchapter is promulgated pursuant to the authority of N.J.S.A. 55:14K-8b.

5:80-20.2 General applicability

(a) Regulations within this subchapter shall apply to all families occupying a unit within a housing project.

(b) In addition to (a) above, any family occupying a unit within a housing project which is assisted by subsidies provided by the United States Department of Housing and Urban Development, (HUD) such as Section 8 (Housing Assistance Payments) and Section 236 (Interest Reduction Payments) of the National Housing Act of 1937, or which is financed pursuant to Section 103(b)(4) of the Internal Revenue Code, or which is financed by a loan from the Agency which is insured or guaranteed by the United States or any agency thereof, may be required to comply with additional Federal regulations, if applicable, regarding certification and recertification of income. In such cases, the [Agency] Housing Sponsor shall notify families that they are residing in housing projects which are subject to such Federal regulation. In the event there are any inconsistencies between the regulations in this subchapter and said Federal regulations, the Federal regulations shall prevail.

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(c) **References to any statutes, State or Federal, within this subchapter include any amendments which have been or may be made to such statutes.**

5:80-20.3 Documentation

(a) Each family applying for admission to or occupying a unit within a housing project shall provide information and documentation which verifies, to the satisfaction of the Agency, the family's annual income. The documentation which the Agency shall require families to submit to housing sponsors may include but is not necessarily limited to:

1. A copy of the first page of their most recent Federal income tax return, or a signed certification stating that no tax return was filed;

2. Permission for the Agency and Housing Sponsor to contact the Internal Revenue Service for additional information and/or copies of **the first page** of a family's income tax returns;

3. Verification of employment;

4. Check stubs from employers, pensions, annuities, social security, unemployment, public assistance and workers' compensation;

5. A copy of court order for alimony and child support;

6. Confirmation of income from assets (for example, bank statements).

(b) In addition to documentation required pursuant to (a) above, any family occupying a unit within a housing project assisted by subsidies provided by HUD, such as Section 8 and 236, and/or financed pursuant to Section 103(b)(4) of the Internal Revenue Code, may be required to submit additional documentation as required by Federal regulations regarding certification and recertification of income.

5:80-20.4 Calculation of income

(a) For families occupying a unit which is assisted by HUD subsidies such as Section 8 and 236 or families occupying a unit within a housing project financed pursuant to Section 103(b)(4) of the Internal Revenue Code, where such unit is restricted to families of low and moderate income as defined in Section 103(b)(12)(c), gross aggregate family income shall be calculated in accordance with applicable Federal regulations.

(b) For all other families, gross aggregate family income shall be calculated by the total annual income of all family members, from whatever source derived, including but not limited to pension, annuity, retirement and social security benefits. However, the calculation for gross aggregate family income shall not include such income as the Agency determines may be excluded. Such excludable income shall include but is not limited to the following:

1. Income from a dependent minor under 18 years of age, who is not the head of household or spouse of the head of household;

2. Lump-sum additions to family assets such as inheritances, capital gains, insurance payments included under health, accident, hazard or worker's compensation policies, and settlements for personal or property losses;

3. For income from dependents who are secondary wage earners but who are not included within (b)1. above, an allowance for such wages up to a maximum of \$3,000.

(c) **The calculation of gross aggregate family income with regard to (b) above, may include reasonable allowances for dependents and medical expenses in such amounts as the Agency may determine.**

5:80-20.5 Recertification periods and procedures

(a) Family income shall be recertified on an annual basis for:

1. Families occupying a unit which is assisted by HUD subsidies, such as Section 8 and 236.

2. Families occupying a unit within a housing project financed under Section 103(b)(4) of the Internal Revenue Code where such unit is restricted to families of low and moderate income as defined in Section 103(B)(12)(c).

(b) Family income shall be recertified at least every three years but not more than once each year, for all other families not included within (a)1 or 2 above.

(c) Housing sponsors shall notify each family in writing, not more than [95] **100** days and not less than [85] **91** days prior to expiration of a family's lease, that they must recertify family income. Such notification shall include but is not necessarily limited to:

1. A statement that families must recertify within 30 days of the notice;

2. A list of the documentation required for recertification;

3. A statement that families who fail to recertify income are subject to [penalties] **provisions** set forth in N.J.A.C. 5:80-20.6, [along with a list of those penalties] **such statement including a description of such provisions.**

4. **A statement that after recertification, families whose income is in excess of the Federal or Agency maximum income limit may be subject to provisions set forth in N.J.A.C. 5:80-20.7, such statement including a description of such provisions.**

(d) **After recertification, Housing Sponsors shall calculate a family's gross aggregate family income. If there will be an adjustment in HUD subsidy or imposition of a surcharge as provided by N.J.A.C. 5:80-20.7, sponsors shall provide families with notice at least 30 days prior to the expiration of the lease.** Housing sponsors must submit **all family recertification calculations and supporting documents** to the Agency [not more than 50] **at least 30** days prior to the expiration of a family's lease.

(e) **The Agency shall review the recertification calculations and supporting documents and notify the Housing Sponsor of its approval or any adjustments to the calculations within 30 days of receipt. If the review results in an adjustment which will decrease or further decrease a family's HUD subsidy or impose or increase a surcharge, Housing Sponsors shall provide the family with an additional 30 days notice prior to implementing such adjustment.**

[(e)] (f) Failure of the housing sponsor to comply with the time requirements in (c) and (d) above shall not relieve families of their obligation to complete their recertification within 30 days of receiving notice to recertify.

5:80-20.6 Failure to recertify

(a) Any family which fails to recertify income after notification pursuant to this subchapter shall be subject to the following [penalties]:

1. For families occupying a unit which is assisted by HUD subsidies, such as Section 8 and 236, such subsidies shall be terminated **as needed to comply with applicable Federal regulations.** [requiring families to pay market rent].

2. For all other families, they shall be subject to imposition of surcharges pursuant to N.J.A.C. 5:80-20.8, [or] **and may also** be subject to eviction pursuant to N.J.A.C. 5:80-20.9.

(b) Families subject to [penalties imposed pursuant to (a) above.] **the provisions in (a) above,** upon satisfactory completion of recertification, may have subsidies restored, provided said subsidies are available, or may, with Agency approval,

have surcharges removed. **Surcharges paid to the Agency for failure to recertify, as required by N.J.A.C. 5:80-20.8(d) may be returned, with Agency approval, if satisfactory completion of recertification is made within six months of the notice to recertify.**

5:80-20.7 Adjustments in [rent; termination of] tenancy

(a) For families occupying a unit assisted by HUD subsidies such as Section 8 and 236, upon recertification, [of income, a family's HUD subsidy may be adjusted or terminated] **families whose income is in excess of the maximum income limit under applicable federal regulations are subject to adjustment or termination of HUD subsidies** as needed to comply with applicable [HUD] Federal regulations.

(b) For all other [projects,] families, **upon recertification, those whose income is in excess of the maximum income limit under N.J.A.C. 5:80-8.2** may be subject to surcharges pursuant to N.J.A.C. 5:80-20.8, [or] **and** may also be subject to eviction pursuant to N.J.A.C. 5:80-20.9.

(c) Upon recertification, Housing Sponsors must assure that the project contains the required number of low and moderate income families as required by N.J.A.C. 5:80-8.3.

5:80-20.8 Surcharges

(a) Upon recertification, if the gross aggregate family income exceeds the maximum income limit pursuant to N.J.A.C. 5:80-8.2 by 25 percent or less, the family shall continue to occupy the unit without the imposition of any surcharges. If the gross aggregate family income exceeds the maximum income limit by more than 25 percent, the family may continue to occupy the unit, subject to payment of a surcharge as outlined in (c) below. Such surcharges may only be imposed with approval of the Agency. When imposing surcharges, housing sponsors shall give families notice that they may be subject to eviction if their income continues to exceed the maximum income limit for six months **from the expiration of the family's lease.**

(b) Families subject to surcharges for failing to complete the recertification process (see N.J.A.C. 5:80-20.6) shall be surcharged at the maximum rate outlined in (c) below **and may also be subject to eviction in accordance with N.J.A.C. 5:80-20.9.** [Housing sponsors may impose surcharges for failure to recertify without Agency approval.] **Such surcharges or eviction actions require Agency approval.**

(c) Surcharges imposed shall be based upon a family's unit rent in accordance with the following schedule:

Percentage That Gross Aggregate Income Exceeds The Maximum Income Limit	Surcharge On Unit Rent
Up to and including 125%	None
In excess of 125% up to and including 130%	5%
In excess of 130% up to and including 135%	10%
In excess of 135% up to and including 140%	15%
In excess of 140% up to and including 145%	20%
In excess of 145% up to and including 150%	25%
In excess of 150%	30%

(d) Housing sponsors shall pay the surcharge to the municipality granting tax exemption to the project but only up to an amount that, together with payments made to the municipality in lieu of taxes and for any land taxes, equals 25 percent of the total rents or carrying charges of the project for the current and any prior years that the project has been in operation. For projects on which the Agency has made a loan, financed with the proceeds of bonds issued prior to January 1, 1973 any remainder of the surcharge or the total surcharge, if tax exemption has not been granted, shall be paid into the

Agency's housing finance fund securing the bonds issued to finance the project. For projects financed on or after January 1, 1973, any remainder of the surcharge or the total surcharge, if tax exemption has not been granted, shall be paid to the Agency. [Surcharges imposed for failure to recertify shall be paid to the Agency.]

(e) Surcharges shall be imposed upon expiration of the lease provided families have received 30 days notice pursuant to N.J.A.C. 5:80-20.5. Families which have not received 30 days notice prior to lease expiration shall not have surcharges imposed until the 30 day notice has expired.

5:80-20.9 Eviction

(a) Families who fail to recertify income following notification pursuant to N.J.A.C. 5:80-20.5 may, with Agency approval, be evicted by the housing sponsor **if such failure continues for at least six months from expiration of lease.**

(b) Upon recertification, families whose gross aggregate family income exceeds the maximum income limit pursuant to N.J.A.C. 5:80-8.2 by more than 25 percent and continues to do so for at least six months may, with Agency approval, be evicted by the housing sponsor.

(c) [Housing sponsors shall make a written demand and give notice for delivery of possession of the unit in accordance with N.J.S.A. 2A:18-61.1 et seq.] **Prior to eviction under this section, Housing Sponsors must provide families with written notice at the end of the six month period indicating that eviction procedures will begin unless they recertify within 10 days of the notice and show that family income has decreased below the maximum income limit. Families who fail to recertify within the 10 days or upon recertification are in excess of the maximum income limit may be evicted by following the provisions of N.J.S.A. 2A:18-61.1 et seq.**

5:80-20.10 Confidentiality

Housing Sponsors shall maintain files on the certification and recertification of family income at the project. Such files are to be kept as confidential and shall not be accessible to nor shall information contained therein be disclosed to any person except authorized representatives of the Housing Sponsor, Agency, HUD. [or a person with proper legal authority.] Housing Sponsors shall require identification from each person claiming authority to review such confidential files and maintain a list of individuals who have been provided access to same. If a Housing Sponsor is not satisfied that a person requesting review has proper authority, review shall be denied and the matter referred to the Agency for final determination. Any copies of family files sent to the Agency pursuant to the certification or recertification process shall be maintained in the same confidential manner. **If requested by a family at the time of submission, submitted material shall be returned to a family, when it is no longer needed.**

EDUCATION

(a)

STATE BOARD OF EDUCATION

School Facility Planning Services

General Provisions

Application of the Uniform Construction Code Substandard School Facilities

Proposed New Rule: N.J.A.C. 6:22-1.6

Proposed Amendments: N.J.A.C. 6:22-1.7, 2.4 and 3.1

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:4-16,
18A:18A-18, 18A:20-36, 18A:33-1 and 52:27D-130
Proposal Number: PRN 1986-69.

Submit comments by April 16, 1986 to:
Patricia Joseph
Administrative Code Analyst
Department of Education
225 West State Street
Trenton, New Jersey 08625

The agency proposal follows.

Summary

On September 4, 1985, the State Board of Education adopted new rules pertaining to School Facility Planning Services, N.J.A.C. 6:22-1.1 et seq. This action was necessary since the former rules under this chapter had been invalidated by the enactment of Chapter 496, Laws of 1983 (N.J.S.A. 52:27D-121 et seq.) "An act to amend and supplement the state Uniform Construction Code Act," effective April 17, 1984. As the State Board conducted its deliberations on the new rules, it became evident that three major changes would be necessary to make the rules more complete. By that time, however, the proposal already had been published in the New Jersey Register. Therefore, a decision was made to adopt the proposal as published, to develop a new proposal addressing those missing elements, and to introduce the proposal into the rulemaking process providing appropriate public notice and comment in accordance with the Administrative Procedure Act.

To this end, the State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, 18A:4-16, 18A:18A-18, 18A:20-36, 18A:33-1 and 52:27D-130, proposes amendments and new rules concerning School Facility Planning Services, N.J.A.C. 6:22.

More specifically, one of the three major changes proposes a new section, N.J.A.C. 6:22-1.6, Planning Standards for Educational Adequacy, that would require the use of specific facility planning standards by district boards of education and architects designing school facilities. These publications contain vital planning information and standards to ensure that instructional spaces are educationally adequate. The addition of this proposed new section requires the section titled, Appeals and Hearing Process, to be recodified from N.J.A.C. 6:22-1.6 to 1.7.

In the section titled, Educational Facility Planning Standards, N.J.A.C. 6:22-2.4, amendments are proposed detailing requirements for the approval of mobile units or trailers, and relocatable and pre-engineered classrooms. Also proposed amendments concerning the requirements for general pupil toilet rooms in instructional areas that also have self-contained individual facilities. These requirements were proposed as "enhancements" in the school facilities proposal of March, 1985; but at the time of adoption they were inadvertently deleted in the shift from "enhancements" to "facility planning standards."

The last major change is proposed in N.J.A.C. 6:22-3.1, Substandard School Facilities. The proposed amendments clarify the definitions and uses of on-site, off-site and privately-owned facilities. The proposed amendments also incorporate and clarify Department policy decisions related to the review and approval of substandard facilities that have been disseminated to chief school administrators. Included here is an appeal process for district boards of education seeking relief from the minimum space requirement. Additionally, the proposed amendments clarify the time requirements and the process for correcting deficiencies in substandard facilities commensurate with law (N.J.S.A. 18A:33-11. et seq.).

Social Impact

Improved local planning of educational spaces will result when the standards in the Educational Planning series are used by all district boards of education and architects. These standards meet health and safety needs of pupils. Similarly, the clarification regarding general toilet rooms will assure sufficient provisions to meet the comfort needs of pupils.

The uses and limitations of trailers meets not only the educational adequacy of mobile units, but health and safety factors, as well.

The proposed requirements for approving the use of relocatable and pre-engineered, or prefabricated, structures as instructional spaces require that such units meet the State Uniform Construction Code (N.J.A.C. 5:23-1.1 et seq.).

The proposed additions to the subchapter on Substandard School Facilities will ensure that alternative educational programs, most often housed in off-site facilities, will not be disrupted. The proposed additions will further ensure the continued use of healthy and safe facilities which do not wholly meet the square footage requirements. Finally, the proposed additions ensure that appropriate upgrading of substandard facilities will occur by establishing timelines for budgeting of funds.

Economic Impact

The required use of the facility planning standards for permanent construction will cause no significant economic impact on district boards of education since most district boards of education have voluntarily complied with the recommended standards in the past.

The proposed rules permit the use of trailers only if funds have been approved, through a local resolution or referendum, for the construction of permanent facilities.

The intent of the proposal is to discontinue the use of trailers since they do not meet code provisions and are inadequate educational facilities. The proposed requirement will force district boards of education to abandon such facilities and to construct or rent facilities which meet code, or restructure schedules to accommodate students in existing buildings.

The proposed amendments would permit approved relocatable or prefabricated facilities to be classified as per-

manent construction. This option would provide some economic relief for district boards of education since such facilities are less expensive to erect per square foot than traditional construction. This option could also prove acceptable in those districts unable to gain voter approval for a bond issue for conventional buildings. The local community will also benefit financially from the provision permitting the use of off-site facilities.

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

6:22-1.6 Planning standards for educational adequacy

(a) When planning for the educational adequacy of the various instructional spaces, district boards of education, and any consultant employed by them, shall apply the standards contained in the publications in the Educational Facility Series of the Bureau of Facility Planning Services in the Department of Education, including but not limited to the following:

1. "Educational Specifications";
 2. "Greenhouses for Schools";
 3. "Instructional Media Center";
 4. "School Capacity";
 5. "School Sites: Selection, Development and Utilization";
- and
6. "Science."

(b) The publications in (a)1. through 6. above are available from the Office of Central Services, New Jersey Department of Education, 225 West State Street, CN 500, Trenton, New Jersey 08625.

6:22-1.[6]7 Appeals and hearing process
(No change in text.)

SUBCHAPTER 2. APPLICATION OF THE UNIFORM CONSTRUCTION CODE

...

6:22-2.4 Educational facility planning standards

(a) The educational facility planning standards delineated below shall, in conjunction with the Uniform Construction Code, form the requirements for the design and construction of public schools.

1.-17. (No change.)

18. There shall be at least one general toilet room for each sex, containing at least two of each respective fixture, on each floor occupied by pupils, or all instructional rooms shall have individual toilet rooms. **Where classrooms, shops or physical education rooms are provided with self-contained individual facilities (water closet, lavatory, and drinking fountains), the pupil capacity of these rooms shall not be counted in computing the number of fixtures required in the general pupil toilet rooms.**

19.-32. (No change.)

33. Pre-manufactured educational units, vans and/or other mobile units:

i. Pre-manufactured units shall be reviewed and approved by the Bureau of Facility Planning Services and shall:

(1) Have a seal affixed by the manufacturer which indicates that it meets the educational construction standards for BOCA use group E in accordance with N.J.A.C. 5:23-4.25;

(2) Contain square footage appropriate to its use as specified in the School Capacity bulletin of the Bureau of Facility Planning Services, Department of Education;

(3) Meet code requirements for educational buildings as specified in the U.C.C. and in N.J.A.C. 6:22-2.3 and 6:22-2.4;

(4) Have two means of clear and unblocked egress, if the unit is a trailer in excess of 20 feet in length, which are remote from each other; otherwise it shall have a single means of egress;

(5) Sturdy steps provided with a handrail, except if the unit is to be used by a physically handicapped person it shall be barrier free;

(6) Have electric heat which provides a temperature of 68 degrees to 72 degrees Fahrenheit in the most extreme cold weather;

(7) Have a ceiling no lower than eight feet, except that if it is 150 square feet or less it may have a ceiling no lower than seven feet;

(8) Be furnished with provisions for the storage of students' clothing;

(9) Have a chalkboard and display board appropriate to the instructional program;

(10) Have floor covering of either carpet (which meets flame spread requirements as per the U.C.C.) or asbestos-free vinyl tile;

(11) Have interior ceiling and wall materials which are certified free of non-toxic materials;

(12) Be situated on an approved site; and,

(13) A maximum of 30 days shall be permitted to correct the code deficiencies listed in (1) through (12) above which are found during an evaluation of any pre-manufactured unit placed in service prior to the enactment of these regulations, or of a subsequent future inspection of a unit approved according to these regulations. Staff of the Bureau of Facility Planning Services or county offices of education may order a unit immediately abandoned if, as a result of an evaluation, it is concluded that a clear and present danger exists for students and staff. A clear and present danger shall be defined as deficiencies involving code requirements relating to construction materials, fire safety or exiting. Failure or inability to correct code deficiencies shall be cause to permanently abandon a pre-manufactured unit.

ii. Trailers (a pre-manufactured unit) being used as an emergency replacement for regular classroom facilities may be utilized for a maximum of two school years. Trailers required for the delivery of basic skills services under the federal Education Consolidation Improvement Act, Chapter I, N.J.S.A. 192 and N.J.S.A. 193 may be used as long as they meet the standards of this section and are evaluated and approved annually by the county superintendents of schools.

iii. A self-propelled van and/or other mobile unit used for instruction shall:

(1) Have mechanical ventilation and exhaust which provides 10 cfm air change per occupant per hour;

(2) Have interior ceiling and wall materials that are certified non-toxic and non-combustible;

(3) Contain a minimum of 100 square feet;

(4) Have electric heat which provides a temperature 68 degrees to 72 degrees Fahrenheit in the most extreme cold weather;

(5) Provide at least 50 foot candles of uniformly distributed artificial illumination;

(6) Have a ceiling height no lower than seven feet;

(7) Have two means of clear and unblocked egress which are remote from each other; if the exit is not at grade level, sturdy steps with a handrail shall be provided, except if the unit is to be used by a physically handicapped person it shall be barrier free;

(8) Be provided with door hardware which is lever-operated and which is fully operable from the interior and exterior at all times;

(9) Be provided with a single station smoke detection unit which has an annunciator that can clearly be heard within the unit;

(10) Be furnished with an electric hook-up cable which is copper, a maximum of 28 feet in length and contain a 220 volt four-prong receptacle which is plugged into an approved twist-type outlet;

(11) Be furnished with a 2A-10BC fire extinguisher which is maintained in operating order at all times;

(12) Be furnished with electrical fixtures which meet the National Electrical Code, Section 551;

(13) Have electrical wire of a minimum size to meet the National Electrical Code;

(14) Have floor covering of either carpet (which meets flame spread requirements of the U.C.C.) or asbestos-free vinyl tile;

(15) Be furnished with fixed, stabilized furniture and equipment;

(16) Pass an annual inspection by the New Jersey Division of Motor Vehicles;

(17) Be evaluated and approved annually by the county superintendents of schools;

(18) Be furnished with wheel chocks to assure that the unit will not move in any direction when parked.

(19) A maximum of 30 days shall be permitted to correct the code deficiencies listed in (1) through (18) above which are found during an evaluation of any van and/or other mobile unit placed in service prior to the enactment of these regulations, or of a subsequent future inspection of a van and/or other mobile unit approved according to these regulations. Staff of the Bureau of Facility Planning Services or county offices of education may order a van and/or other mobile unit immediately abandoned if, as a result of an evaluation, it is concluded that a clear and present danger exists for students and staff. A clear and present danger shall be defined as deficiencies involving code requirements relating to construction materials, fire safety and exiting. Failure or inability to correct code deficiencies shall be cause to order a permanent abandonment of a van and/or other mobile unit.

SUBCHAPTER 3. SUBSTANDARD SCHOOL FACILITIES

6:22-3.1 Emergency provisions for accommodation of school pupils in substandard school facilities

(a) Substandard facilities [are] shall be defined as:

1. [a]All on-site facilities which have never received:

i. [a]Approval of the State Board of Education as having met the requirements of this subchapter and the rules under N.J.A.C. 6:22 in effect at the time the facilities were constructed, or [the]

ii. [a]Approval of the local municipal construction official, and sub-code officials, as having met the State Uniform Construction Code which [were] was in effect at the time the facilities were constructed or altered[.];

2. All off-site facilities being provided by district boards of education for use by public school [students are also substandard.] pupils;

3. All facilities not planned and constructed as school buildings which are rented or leased from private owners by district boards of education for use as school buildings by public school pupils.

(b) Off-site facilities, as specified in (a)2. above, may be continued in use pursuant to annual evaluation and approval by the county superintendent of schools as having met the provisions of this subchapter and the receipt of a variance from the Division of Finance, Bureau of Facility Planning Services.

(c) Privately-owned facilities, as specified in (a)3. above, in use on or before September 1, 1985, may be continued in use pursuant to annual evaluation and approval by the county superintendent of schools as having met the provisions of this subchapter.

[(b)] (d) All [emergency provisions for the accommodation of school pupils] substandard educational facilities shall be initially approved by the county superintendent of schools in which the district board of education is situated, such approval to be given for [one year only, renewable for one year if, in the judgment of the county superintendent, effort is being made for the provision of adequate and proper school accommodations] a maximum period of two years except as prescribed in (b) above. No substandard educational facility, however, shall be approved for more than two consecutive years unless it is inspected by the Bureau of Facility Planning Services in the Division of Finance, Department of Education to insure that:

1. [t]The [accommodations] facilities meet health, safety and educational adequacy standards for temporary, substandard facilities, as specified in the "School Capacity" bulletin, [that]

2. [t]The utilization of the [accommodations] facilities is temporary, and [that]

3. [a]A plan has been developed by the district board of education, and approved by the county superintendent of schools, to upgrade the [accommodations] facilities to standard, fully-approved conditions.

(e) The Bureau of Facility Planning Services and the county superintendents of schools, when considering educational adequacy, shall apply the minimum standards of square feet per space and per pupil as contained in this subchapter and in the "School Capacity" bulletin. In cases where a district board of education feels it must have relief from the minimum square feet requirements, such relief shall be determined upon application to the county superintendent of schools. The county superintendent shall make recommendations to the assistant commissioners of the Divisions of Finance and of County and Regional Services who may grant relief upon consideration of educational, health and safety standards.

[(c)] (f) County superintendents of schools will annually monitor the plan of district boards of education to upgrade facilities to State approved temporary substandard and/or fully approved, standard status. [Also, they will insure that district board of education annual budgets include sufficient funding to implement the plan. As an alternative funding method, district boards of education may secure voter authorization for capital improvements to include implementation of the plan.]

(g) District boards of education must provide funds in the next immediate annual budget to correct deficiencies about which they are notified by the Bureau of Facility Planning Services on or before October 1 annually. Failure to budget for the correction of deficiencies, and to implement the corrections by the next September 1 date following the October 1 notice, except as specified in (h) below, shall result in the facility being abandoned.

(h) If a district board of education cannot afford to correct all identified deficiencies in one budget year because of the total costs associated with large numbers of substandard facilities, the

district board's long-range facility plan must include a sub-plan for the correction of the deficiencies. The sub-plan must be updated annually and identify funding sources such as an annual budget or a capital improvement authorization. Inclusion of a sub-plan to correct deficiencies in standard facilities does not relieve a district board of education from implementing the corrections in the shortest time possible.

[(d)](i) In making a determination upon any application for the use of emergency standard facilities, the following factors shall be taken into account.

1.-2. (No change.)

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WASTE MANAGEMENT

Standard Industrial Classification Code Exemptions from Environmental Cleanup Responsibility Act Program

Proposed Amendment: N.J.A.C. 7:1-3.20

Authorized By: Richard T. Dewling, Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 13:1K-8(f) and 10(a).

DEP Docket No. 008-86-02.

Proposal Number: PRN 1986-66.

Submit comments by April 16, 1986 to:

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

Summary

The Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq. ("ECRA"), imposes pre-conditions on the sale, transfer or closure of industrial establishments involved in the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of hazardous substances or wastes. The New Jersey Department of Environmental Protection ("NJDEP" or "Department") established the initial ECRA program requirements by promulgation of the Interim Environmental Cleanup Responsibility Act Regulations, N.J.A.C. 7:1-3. The Bureau of Site Evaluation ("BISE" or "Bureau") was created within the Hazardous Site Mitigation Administration of NJDEP's Division of Waste Management to implement NJDEP's statutory mandate pursuant to ECRA.

The application of ECRA focuses upon the vital definition of "industrial establishment" at N.J.S.A. 13:1K-3(f). Basically, an 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 or wastes on-site, above or below ground, and which has a Standard Industrial Classification ("SIC") number within the range of 22-39 inclusive, 46-49 inclusive, 51 or 76. The SIC Manual is a numerical system, developed by the United States Bureau of the Budget,

which classifies business operations by type of activity for the purposes of facilitating the collection and analysis of data relating to such businesses. The New Jersey Legislature incorporated the SIC manual by reference into ECRA by utilizing SIC numbers as a convenient method to specify which particular businesses would fall within ECRA jurisdiction.

The designated SIC numbers in ECRA cover several business operations not generally considered "industrial." However, N.J.S.A. 13:1K-3(f) and N.J.A.C. 7:1-3.20(e) provide NJDEP with the authority to exempt from the initially designated SIC codes certain sub-groups or classes of operations within those sub-groups upon a finding that the operation of those industrial establishments do not pose a risk to public health and safety. Any SIC exemptions for ECRA purposes must be promulgated pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. The Department always intended to exempt certain SIC numbers from ECRA jurisdiction. In fact, NJDEP expressly reserved a subsection at N.J.A.C. 7:1-3.20(e) for this purpose in the Interim ECRA Regulations, N.J.A.C. 7:1-3.

The Department conducted a comprehensive review on several levels of candidate SIC numbers for possible exemption from ECRA. NJDEP located relevant data from various enforcement, industrial survey and other available sources which provide information linking candidate SIC numbers for exemption with any potential risk to public health and safety. The Department investigated the following specific sources of information:

Office of Science and Research

The Office of Science and Research ("OSR") of the Department has developed a data system which links hazardous substances by SIC code. This information was collected by the OSR from the Department of Transportation lists and a Community Right to Know Survey (1984) required pursuant to the New Jersey Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq. The Community Right to Know Survey was sent to industrial establishments with major SIC group numbers 20-29, 30-39, 46-49, 51, 75, 76, 80, 82 and 84. The information submitted by the participating industrial establishments included a list of all the hazardous substances used in connection with their operations and stored on-site. The SIC groups considered for exemption were matched to the SIC groups surveyed for information regarding hazardous substances which would pose a risk to the public's health or safety and the environment.

Air Pollution Enforcement Data System ("APEDS")

A review of this data system developed by the Division of Environmental Quality of the Department yielded the following categories: (1) facilities with SIC numbers with air pollution permits; (2) facilities with SIC numbers without air pollution permits; and (3) SIC numbers not listed in APEDS. The air pollution files, permits and certificates were reviewed for those facilities which had SIC numbers corresponding to the proposed exemptions. From this review, a list of operations which use hazardous substances or wastes was developed by the Bureau.

Pollutant Discharge Survey of New York Department of Conservation ("NYDEC")

This NYDEC document links SIC numbers with point source pollutant discharges in the State of New York. A review of the document showed no priority pollutants being discharged from the industrial establishments proposed for exemption by NJDEP.

NJDEP Industrial Survey
 OSR conducted a survey of selected New Jersey industries between 1978 and 1981. This industrial survey provided information on the use of carcinogenic compounds by industries in New Jersey. The industries with SIC numbers proposed for exemptions were compared to this industrial survey to determine production or utilization of carcinogenic substances.

NJDEP Enforcement Offices
 The enforcement staff of the Divisions of Environmental Quality, Water Resources and Waste Management were contacted. A list of the SIC numbers proposed for exemptions was sent to each Division Director to solicit comments regarding any known use of hazardous substances or the generation of hazardous wastes at any of the facilities within the listed categories.

Industrial File Index System of United States Environmental Protection Agency ("USEPA")
 This USEPA data system lists the generic names of waste streams being generated by industry according to SIC numbers. The industries included in this system are regulated by the Clean Water Act, 33 U.S.C. 1251 et seq., which requires monitoring of 166 materials including solvents, contaminants, and by-products. Three of the SIC sub-groups being considered for exemption are being regulated by the USEPA under the Clean Water Act.

Bureau of Industrial Site Evaluation
 A list of industrial establishments either previously or currently under review by BISE was compiled from the ECRA tracking system developed by the Bureau. This list was compared with the SIC numbers proposed for exemption by NJDEP. Each case was reviewed for its use of hazardous substances and generation of hazardous wastes. In addition, any related problems found on-site, such as spills, dumping, or illegal discharges, were considered by the Bureau.

N.J. Department of Commerce ("NJDC")
 The estimated total number of industrial establishments operating under each SIC number in the State of New Jersey was provided by the NJDC from its 1984 fourth quarter report.

The Department, on its own initiative, pursuant to N.J.A.C. 7:1-3.20(c), proposes exemption of SIC sub-groups and classes set forth in this proposal based on the Bureau's experience and other appropriate research described above. Based upon NJDEP's research, the Department has determined that the proposed SIC exemptions listed below do not pose an environmental risk to the public health and safety of the citizens of New Jersey such that an ECRA review would be required by BISE. Past experience and investigation indicate that exemption of the proposed SIC numbers from the ECRA review process will not result in any detrimental effect on public health, safety or environment of New Jersey. The SIC numbers listed below are proposed for exemption from ECRA jurisdiction by the Department (Note: For more explanatory details, interested parties should consult the SIC Manual):

SIC Industry Number	Industry Number Description
4722	Arrangement of Passenger Transportation
4723	Arrangement of Transportation of Freight and Cargo
4821	Telegraph Communication (Wire or Radio)
4832	Radio Broadcasting

4833	Television Broadcasting
4899	Communication Services Not Elsewhere Classified
4971	Irrigation Systems
5111	Wholesale Distribution of Printing and Writing Paper
5112	Wholesale Distribution of Stationary Supplies
5113	Wholesale Distribution of Industrial and Personal Service Paper
5133	Wholesale Distribution of Woven Fabrics
5134	Wholesale Distribution of Notions and Other Dry Goods
5136	Wholesale Distribution of Men's and Boys' Clothing
5137	Wholesale Distribution of Women's, Childrens and Infants Clothing
5139	Wholesale Distribution of Footwear
5141	Wholesale Distribution of Groceries, General Line
5142	Wholesale Distribution of Frozen Food
5143	Wholesale Distribution of Dairy Products
5144	Wholesale Distribution of Poultry Products
5145	Wholesale Distribution of Confectionary
5146	Wholesale Distribution of Fish
5147	Wholesale Distribution of Meats
5148	Wholesale Distribution of Fresh Fruits and Vegetables
5149	Wholesale Distribution of Groceries and Related Products, Not Elsewhere Classified
5152	Wholesale Distribution of Cotton
5153	Wholesale Distribution of Grain
5154	Wholesale Distribution of Livestock
5159	Wholesale Distribution of Farm-Product, Raw Materials, Not Elsewhere Classified
5181	Wholesale Distribution of Beer and Ale
5182	Wholesale Distribution of Wine
5199	Wholesale Distribution of Nondurable Goods, Not Elsewhere Classified
7631	Watch, Clock, and Jewelry Repair
7699	Repair Shops and Related Services, Not Elsewhere Classified

(Only the list herein of repair services under 7699 are exempted from ECRA. All other repair services under 7699 not listed herein remain subject to ECRA)

- Awning Repair
- Bicycle Repair Shops
- Binoculars and Other Optical Goods Repair
- Caliper, Gauge and Other Machinists Precision Instrument Repair
- Camera Repair
- Fountain Pen Repair Shops
- Harness Repair Shops
- Horseshoeing
- Key Duplicating Shops
- Leather Goods Repair Shops
- Lock Parts Made to Individual Order
- Locksmith Shops
- Luggage Repair Shops
- Musical Instrument Repair Shops
- Organ Tuning and Repair
- Piano Tuning and Repair

- Picture Framing to Individual Order (Not Connected With Retail Stores)
- Pocketbook Repair Shops
- Precision Instrument Repair
- Reneedling Work
- Repair of Optical Instruments
- Repair of Photographic Equipment
- Repair of Speedometers
- Rug Repair Shops (Not Combined With Cleaning)
- Saddlery Repair Shops
- Scale Service Repair
- Sewing Machine Repair
- Tent Repair Shops
- Tuning of Pianos and Organs
- Typewriter Repair (Including Electric)
- Umbrella Repair Shops
- Venetian Blind Repair Shops
- Window Shade Repair Shops

In summary, the proposal would exempt 32 SIC sub-groups, including an additional 33 industries under SIC sub-group 7699, from the scope of ECRA jurisdiction. The table below illustrates the total number of "establishments" or "units" the Department estimates will be affected by the proposal. According to the SIC Manual, an establishment or unit is an economic unit, generally at a single physical location, where business is conducted or where services or industrial operations are performed. The proposal provides for a significant reduction of potential ECRA facilities with nonexistent or minimal environmental problems. The table below provides details of the decrease in the Bureau's potential workload:

SIC Group Number	Group Number Description	Number of Facilities
472	Arrangement of Transportation	1,070
482	Telegraph Communication	25
483	Radio and Television Broadcasting	75
489	Communication Services, (Not Elsewhere Classified)	162
497	Irrigation Systems	0
511	Paper and Paper Products	692
513	Apparel, Piece Goods, and Notions	940
514	Groceries and Related Products	1,881
515	Farm-Product Raw Materials	37
518	Beer, Wine and Distilled Beverages	171
519	Miscellaneous, Nondurable Goods (Not Elsewhere Classified)	1,254
763	Watch, Clock and Jewelry Repair	28
7699	Miscellaneous Repair Shops (Includes industries <i>not</i> exempted from ECRA by this proposal)	976
TOTAL		7,290

The Department believes that the reduction in the Bureau's workload intended by this proposal will greatly assist NJDEP's ECRA implementation efforts. The Department estimates the current total of approximately 24,000 potential ECRA cases in New Jersey. The proposed SIC exemptions, upon adoption, will allow the Bureau to focus its limited resources on more serious and complex environmental problems. Current time delays in administering the ECRA program should be reduced by the adoption of this proposal by the Department. Upon adoption of the proposed exemption of

SIC numbers any pending ECRA cases involving exempted SIC numbers shall be formally terminated by the Bureau for the purposes of ECRA responsibility and compliance. However, any environmental problems discovered through the ECRA process shall promptly be referred to other appropriate NJDEP enforcement offices for immediate action.

The promulgation of SIC exemptions is a dynamic, not static, process. The Department plans to adopt the proposed SIC exemptions for an initial three year period pursuant to Executive Order No. 66(1978). Prior to readoption, NJDEP will conduct another review for each SIC number exempted based upon ECRA program experience and other information available at that time. Only those industrial establishments with exempted SIC numbers which continue to not pose a risk to public health and safety will be readopted by NJDEP. Furthermore, the Department intends to adopt SIC exemptions for other appropriate industrial establishments.

N.J.A.C. 7:1-3.20 already allows for industrial establishments to apply to NJDEP as a class for an SIC exemption. The Department will consider all reasonable requests for SIC exemptions supported by all appropriate documentation, evidence and other proofs available which justify exemption from ECRA jurisdiction. The Department looks forward to written comments from interested parties on the proposal as well as other potential SIC exemptions. The completion of this SIC exemption process will allow NJDEP to direct valuable resources to the areas of major environmental concerns.

Social Impact

A positive social impact will result from the exemption of these SIC sub-groups and classes. Real estate transactions, other transfers and closures involving industrial establishments with SIC numbers proposed for exemption would be able to proceed without the inevitable time delay and cost of ECRA compliance. However, NJDEP has determined that this reduction in the Bureau's workload will not adversely affect the public health and safety of the citizens of New Jersey.

Economic Impact

The exemption of the proposed SIC sub-groups and classes will have a significant economic effect on those industrial establishments covered by the SIC exemptions. Transactions involving the proposed SIC sub-groups and classes will not be subject to ECRA's administrative or enforcement requirements. The expense of conducting an ECRA review, including legal, consulting and other compliance costs, will not have to be expended by such business operations. Furthermore, NJDEP will be able to direct more of its attention and resources to other types of industrial establishments, minimizing potential time delays and compliance costs for those business operations still subject to ECRA. The proposal allows the Department to maximize ECRA protection in a cost effective manner and concentrate on areas of major environmental concerns.

Environmental Impact

ECRA program experience reinforces the Department's initial belief that ECRA provides a major positive environmental impact for the citizens, property and natural resources of New Jersey. The ECRA program gives NJDEP an important remedial tool to significantly reduce the occurrence of future abandoned contaminated site problems throughout the State. Past experience and investigation have allowed the Department to determine that the exemption of the suggested SIC

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sub-groups and classes from the ECRA review process will not have any detrimental effect on the public health or New Jersey's environment. Nor will the exemption of these categories compromise the intent or purpose of the ECRA review process. Industrial establishments which pose a significant potential risk to public health and safety will continue to be covered by the remaining SIC numbers.

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

7:1-3.20 Procedure for exemptions of sub-groups within SIC codes from definition of industrial establishment

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

(e) The following sub-groups or classes of operations within those sub-groups described in (a) above shall not be considered industrial establishments for the purposes of the Act and this subchapter: [(Reserved)].

SIC

Industry Number	Industry Number Description
1. 4722	Arrangement of Passenger Transportation
2. 4723	Arrangement of Transportation of Freight and Cargo
3. 4821	Telegraph Communication (Wire or Radio)
4. 4832	Radio Broadcasting
5. 4833	Television Broadcasting
6. 4899	Communication Services Not Elsewhere Classified
7. 4971	Irrigation Systems
8. 5111	Wholesale Distribution of Printing and Writing Paper
9. 5112	Wholesale Distribution of Stationary Supplies
10. 5113	Wholesale Distribution of Industrial and Personal Service Paper
11. 5133	Wholesale Distribution of Woven Fabrics
12. 5134	Wholesale Distribution of Notions and Other Dry Goods
13. 5136	Wholesale Distribution of Men's and Boys' Clothing
14. 5137	Wholesale Distribution of Women's, Childrens and Infants Clothing
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19. 5144	Wholesale Distribution of Poultry Products
20. 5145	Wholesale Distribution of Confectionary
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22. 5147	Wholesale Distribution of Meats
23. 5148	Wholesale Distribution of Fresh Fruits and Vegetables
24. 5149	Wholesale Distribution of Groceries and Related Products, Not Elsewhere Classified
25. 5152	Wholesale Distribution of Cotton
26. 5153	Wholesale Distribution of Grain
27. 5154	Wholesale Distribution of Livestock
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30. 5182	Wholesale Distribution of Wine
31. 5199	Wholesale Distribution of Nondurable Goods, Not Elsewhere Classified
32. 7631	Watch, Clock, and Jewelry Repair
33. 7699	Repair Shops and Related Services, Not Elsewhere Classified

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- Locksmith Shops
- Luggage Repair Shops
- Musical Instrument Repair Shops
- Organ Tuning and Repair
- Piano Tuning and Repair
- Picture Framing to Individual Order (Not Connected With Retail Stores)
- Pocketbook Repair Shops
- Precision Instrument Repair
- Reneedling Work
- Repair of Optical Instruments
- Repair of Photographic Equipment
- Repair of Speedometers
- Rug Repair Shops (Not Combined With Cleaning)
- Saddlery Repair Shops
- Scale Service Repair
- Sewing Machine Repair
- Tent Repair Shops
- Tuning of Pianos and Organs
- Typewriter Repair (Including Electric)
- Umbrella Repair Shops
- Venetian Blind Repair Shops
- Window Shade Repair Shops

(a)

DIVISION OF PARKS AND FORESTRY

Natural Areas and the Natural Areas System Designated Natural Area

Proposed Amendment: N.J.A.C. 7:2-11.22

Public Hearing

Authority: N.J.S.A. 13:1B-12a1 et seq.
DEP Docket No. 068-85-12.

Take notice that the public hearing concerning the proposed inclusion of Bear Swamp East in the Natural Areas System, proposed on January 21, 1986 at 18 N.J.R. 139(a) and originally to be held on February 11, 1986 at 6:30 P.M. at the Belleplain State Forest Office, County Road 550, Belleplain and Woodbine Road, NJ 08270, has been postponed due to inclement weather. The public hearing has been rescheduled and will be held on:

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April 1, 1986 at 6:30 P.M.
Belleplaine State Forest Office
County Road 550
Belleplaine and Woodbine Road
Woodbine, NJ 08270

The public comment period will be reopened until **April 1, 1986** for submission, in writing, of information or arguments relevant to the proposal.

Submissions should be addressed to:

Howard Geduldig, Regulatory Officer
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, NJ 08625

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Possession, Propagation, Liberation, Sale, and Importation of Game Animals and Game Birds in New Jersey

Proposed New Rule: N.J.A.C. 7:25-10

Authorized By: Richard T. Dewling, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 23:3-28 through 39 and 13:1B-3.
DEP Docket No. 007-86-02.
Proposal Number: PRN 1986-65.

Submit comments by April 16, 1986 to:
Russell A. Cookingham
Division of Fish, Game and Wildlife
CN 400
Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposed new rule provides for the regulation of possession, propagation, liberation, sale, and importation of game animals and game birds.

The proposed rule enumerates those specific mammals and birds for which a permit for possession is required, establishes categories of permits, describes their expiration dates and fees, establishes requirements for sales receipts, records, and reports, and provides general possession criteria and a procedure to deal with emergency possession. The proposed rule also defines "potentially dangerous species" by scientific order and family and establishes criteria for the possession thereof.

Administrative procedures for the application for permits, notice of denials of permits, and permit suspensions and revocations are set forth.

Social Impact

The proposed new rule will serve to improve and clarify those statutes and programs which provide for the protection of public health and welfare associated with the possession of captive game animals and birds.

Economic Impact

The proposed new rule will serve to define and facilitate the licensing of fur farms and other commercial interests involved in game animal propagation and sales. Since the license fees are only \$5.00, no adverse effect upon these interests is anticipated. However, the necessary inspections of facilities for holding the animals may prove to be a costly, although essential, departmental function.

Environmental Impact

The proposed new rule will serve to reduce the potential for introduction of disease into the State's indigenous game animal and game bird populations through regulation of the importation, possession, and release of captive game animals and birds.

The proposed new rule will also serve to reduce the potential for removal of live game birds and game animals from the wild by those seeking personal or economic gain while providing for the enhancement of animal welfare by defining proper holding facilities, diets, and procedures for the reporting of injured, orphaned, or otherwise incapacitated wildlife.

Full text of the proposed new rule follows:

SUBCHAPTER 10. POSSESSION, PROPAGATION, LIBERATION, SALE AND IMPORTATION OF GAME ANIMALS AND GAME BIRDS

7:25-10.1 Scope

This subchapter shall constitute the rules governing the possession, propagation, liberation, sale and importation of game mammals and game birds pursuant to N.J.S.A. 23:3-28 through 39.

7:25-10.2 Construction

This subchapter shall be liberally construed to permit the department to discharge its statutory functions.

7:25-10.3 Purpose

This subchapter is promulgated to regulate the possession, propagation, liberation, sale, and importation of game mammals and game birds through a permit system, with conditions associated therewith, to be issued at the discretion of the division.

7:25-10.4 Definitions

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

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

"Division" means the Division of Fish, Game and Wildlife or its successor within the Department of Environmental Protection.

"Director" means the Director of Fish, Game and Wildlife or his successor within the Department of Environmental Protection.

"Game animal" means any mammal for which a legal hunting or trapping season has been established in New Jersey, identified in this subchapter, or designated a game animal by the Fish and Game Council in the annual game code.

"Game bird" means any bird for which a legal hunting season has been established in New Jersey, identified in this subchapter, or designated a game bird by the Fish and Game Council in the annual game code.

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"Person" shall include, but is not limited to, corporations, companies, associations, societies including nonprofit organizations, firms, partnerships, joint stock companies, individuals, and governmental entities.

"Qualified person" means a natural person presenting to the division the written testimonials from two well-known scientists certifying to the good character and fitness of the person to be entrusted with the privilege of holding the relevant permit.

7:25-10.5 Permit required

(a) Except as hereinafter provided, no person shall have in possession any game animal or game bird unless that person has first received a permit from the division. The permit form and permit application form shall be prescribed by and be obtainable from the division.

(b) No person shall liberate within this state any game animal or game bird unless that person has first received a permit therefor from the division.

(c) No person shall import into this state any game animal or game bird unless that person has first received a permit therefor from the division.

(d) The permit requirement pursuant to this section shall not apply to game animals and game birds legally taken or killed pursuant to the general hunting and fishing license statutes, N.J.S.A. 23:3-1 through 22, and during the season therefor.

7:25-10.6 Game animals and game birds for which a permit is required for possession

(a) A permit shall be required for possession of game animals including the following mammals:

1. Eastern cottontail rabbit (*Sylvilagus floridanus*);
2. Whitetail jackrabbit (*Lepus townsendi*);
3. Blacktail jackrabbit (*Lepus californicus*);
4. European hare (*Lepus europaeus*);
5. Eastern gray squirrel (*Sciurus carolinensis*);
6. Woodchuck (*Marmota monax*);
7. Beaver (*Castor canadensis*);
8. River otter (*Lutra canadensis*);
9. Muskrat (*Ondatra zibethicus*);
10. Nutria (*Myocaster coypus*);
11. Mink (*Mustela vison*);
12. Weasel (*Mustela* spp.);
13. Virginia opossum (*Didelphis virginiana*);
14. Striped skunk (*Mephitis mephitis*);
15. Raccoon (*Procyon lotor*);
16. Red fox (*Vulpes vulpes*);
17. Gray fox (*Urocyon cinereoargenteus*);
18. Coyote (*Canis latrans*);
19. Black bear (*Ursus americanus*);
20. Bobcat (*Felis rufus*);
21. Whitetail deer (*Odocoileus virginianus*);

(b) A permit shall be required for possession of the following game birds:

1. Family Anatidae:
 - i. Geese;
 - ii. Brant;
 - iii. Tundra swans; and
 - iv. Whistling, dabbling, diving, and sea ducks;
2. Family Rallidae:
 - i. Rails;
 - ii. Moorhens;
 - iii. Coots; and
 - iv. Mud hens;

3. Family Charadriidae:

- i. Plovers;
- ii. Surf birds; and
- iii. Shorebirds;

4. Family Scolopacidae:

- i. Sand pipers;
- ii. Woodcock;
- iii. Snipe;
- iv. Curlews; and
- v. Tattlers;

5. Family Meleagrididae:

- i. Wild turkeys;

6. Family Tetraonidae:

- i. Grouse; and
- ii. Prairie chickens;

7. Family Phasianidae:

- i. Pheasants;
- ii. Partridges; and
- iii. Quails;

8. Family Columbidae:

- i. Mourning dove; and

9. Family Corvidae:

- i. Common crow.

(c) The division may issue a permit for the possession of the mammals or birds listed in (a) and (b) above provided the applicant has satisfactorily met the criteria contained within N.J.A.C. 7:25-10.8.

7:25-10.7 Categories of permits, expiration, fees, sales receipt required, records and reports required

(a) The division, when it appears to be in the public interest, may issue the following permits:

1. "Individual Hobby" may be issued to persons holding game animals for hobby purposes or as pets;

2. "Scientific Holding" may be issued to qualified persons holding game animals or game birds for scientific observation, captive breeding attempts and other scientific or educational study;

3. "Zoological" may be issued to private and public institutions which exhibit game animals or game birds for possession, importation, exportation, and sale of species listed in the permit;

4. "Propagation and Sales" may be issued to persons engaged in the propagation and/or sale of game animals or game birds for importation, exportation, and sale of species listed in the permit;

5. "Animal Exhibitor" may be issued to exhibitors of game animals or game birds other than zoos, including traveling exhibits, small exhibitions not qualifying as zoos, and circuses;

6. "Animal Theatrical Agency" may be issued to persons owning game animals or game birds to be used for advertising, acting, or theatrical appearances, permitting importation, exportation, and sale of species listed in the permit;

7. "Fur Farming" may be issued to persons engaged in the business of fur farming the species listed at N.J.A.C. 7:25-10.6(a)7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 20; and

8. "Cooperator" may be issued to persons who are deemed qualified by the division under the criteria set forth in the most current edition of the "Cooperator's Manual" or, in the absence of such manual, based on the need as determined by the division to rear orphaned juvenile wildlife species and rehabilitate injured wildlife species listed under N.J.A.C. 7:25-10.6(a) and (b). Persons issued this permit must also maintain applicable federal permits where required.

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(b) All possession permits shall expire on December 31 of the year of issue.

(c) The license fee for each permit shall be \$5.00; provided however that there shall be no fee for the Cooperator permit.

(d) All permits must be displayed in a prominent place. The sale of game animals or game birds to any person must be accompanied by a "Game Animal or Game Bird Sales Receipt," the form of which shall be prescribed by and obtainable from the division, and which shall serve as a temporary possession permit for a period of 20 days after the date of sale.

(e) Propagation and sales dealers shall submit to the division an annual inventory of acquisitions, sales, and exchanges upon expiration or renewal of their permits.

(f) Zoological, Exhibitor, Theatrical, and Cooperator permit holders must submit quarterly reports of births, deaths, acquisitions, and disposals.

(g) Periodic inspections may be made by division-designated personnel and shall consist of examination of game animal or game bird, their food, facilities, holding pen and exhibit area, and a review of relevant records pertaining to these species.

(h) Animal exhibitors and animal theatrical agencies shall notify the division no less than two weeks prior to any scheduled activity in New Jersey covered by their permits in order to allow inspection of the activity by division personnel.

7:25-10.8 General possession criteria

(a) Prior to the issuance of any permit under this subchapter, the applicant shall, on forms provided by the division, demonstrate that:

1. The origin of the animal is not from the wild stock of this state or any other state except where authorized by the division for rehabilitation or scientific purposes;

2. The animal will be fed an adequate diet;

3. The animal is housed or caged in a manner that:

i. Allows the animal to perform the normal behavior patterns of its species; and

ii. Prevents disease, liberation, or accidental injury to the animal and the public;

4. The method of acquisition did not violate the laws and regulations of this state, any other state, or the federal government;

5. Competent and adequate licensed veterinary services for the care and treatment of the animal are readily available; and

6. The animal is free of infectious diseases and parasites which may be dangerous to the animal, livestock, or people of the State. The division may request certification from a licensed New Jersey veterinarian or a person recognized as qualified by the director to make such certification that the animal for which the permit is being sought is free from infectious diseases and parasites.

7:25-10.9 Emergency possession

(a) Persons may temporarily possess without permit a game animal or game bird, other than a potentially dangerous species defined at N.J.A.C. 7:25-10.10, which is orphaned, injured, or displaced provided that:

1. The division law enforcement office of jurisdiction, DEP Emergency Hotline, or the Wildlife Control Unit is notified of such emergency possession within 12 hours of acquisition;

2. The Division Wildlife Control Unit reviews the case for the purpose of prescribing a course of action that is in the best interest of the animal or bird so possessed; and

3. The emergency possession of the game animal or game bird does not violate any local ordinances or requirements.

4. Contact phone numbers for cases of emergency possession are as follows:

i. Northern Region Law Enforcement Office (201) 735-8240;

ii. Central Region Law Enforcement Office (201) 259-2120;

iii. Southern Region Law Enforcement Office (609) 629-0555;

iv. DEP Emergency Action Hotline (24 hours) (609) 292-7172; and

v. Wildlife Control Unit (201) 735-8793.

(b) The game animal or bird held without a permit therefor shall be surrendered upon demand by the division.

7:25-10.10 Potentially dangerous species

(a) "Potentially dangerous species" is defined as any game animal or game bird which, in the opinion of the division, is potentially capable of inflicting serious or fatal injuries, of being an agricultural pest, of being detrimental to existing or future wild populations, or of being a menace to public health, including, but not limited to, the following:

Order	Family
Carnivora	Canidae—Nondomestic dogs Ursidae—Bears Felidae—Nondomestic cats
Artiodactyla	Cervidae—Deer

(b) The division, in its discretion, may issue a permit for possession of a potentially dangerous game animal or game bird only after a clear showing that the criteria for the possession of such potentially dangerous game animal or game bird have been met.

7:25-10.11 Criteria for the possession of potentially dangerous species

(a) In addition to the general criteria enumerated in N.J.A.C. 7:25-10.8, every person applying for a permit to possess potentially dangerous species shall meet each of the following criteria to the satisfaction of the division:

1. Education and background: persons wishing to apply for a permit to possess a potentially dangerous species must have extensive experience in maintaining the species desired or related species;

2. Knowledge: persons wishing to apply for a permit to possess potentially dangerous species must demonstrate a working knowledge and expertise in handling and caring for each of the species desired;

3. Other licenses and permits: persons applying to possess potentially dangerous species must obtain, in addition to New Jersey Captive Game Animal or Game Bird Permit, all other applicable permits covering the possession of such species. Any permit issued for the possession of such animal by the division shall not exempt an applicant from compliance with any other law of the State, or subdivision of the State, any municipality, or the federal government, regarding construction necessary to house the animal, or other local requirements;

4. Purpose and intent: persons applying to possess potentially dangerous species must submit a written statement of the purpose and intent of keeping the species;

5. Housing and feeding: persons applying for a permit to possess a potentially dangerous species must supply a written description of the housing and caging facilities for the species required including a summary detailing a continuous source of food appropriate for the specific diet of the animals. Facilities must be constructed to prevent the possible escape of the

animal. Division personnel may inspect the completed facilities to determine if the facilities are suitable for the game animal or game birds; and

6. Protection of the public: the housing facilities must also be constructed to prevent public access to, and contact with, the animal. The potentially dangerous species may not be kept as a household pet except when compelled by the infancy of the animal. The public must not be allowed access to the animal, including animals used for exhibition purposes.

7:25-10.12 Denial, suspension, revocation, and hearings

(a) The department may suspend the permits described in N.J.A.C. 7:25-10.7 and 7:25-10.10 for periods of time up to their duration upon the violation of any permit condition or any regulation appearing in this subchapter. The department may revoke the permits described in N.J.A.C. 7:25-10.7 and 7:25-10.10 upon finding in any five-year period two or more violations of any permit condition(s) or any regulation appearing in this subchapter. After revocation, no permit shall be issued to the violator within two years from the date of the second violation, or within three years from the date of the third or subsequent violation.

(b) In the event the department determines the necessity for denial of a permit application for, suspension of, or revocation of, any permit described in N.J.A.C. 7:25-10.7 and 7:25-10.10, the department shall issue a notice of intent to deny, suspend, or revoke, setting forth the reasons for such action. Where appropriate, a compliance directive shall accompany the notice of intent.

(c) The recipient of the notice of intent may request a contested case hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1, by filing a written request to the department therefor within 20 days from the receipt of the notice of intent described above at (b).

1. A request for a contested case hearing shall clearly state:
 - i. The name of the recipient;
 - ii. The departmental decision from which the recipient seeks relief;
 - iii. The details of how the departmental decision aggrieves the recipient; and
 - iv. The findings of fact incorporated within the notice of intent that the recipient contests.

2. The department shall review each hearing request and, upon a determination that the matter constitutes a contested case, grant a hearing. The denial of a request for a contested case hearing shall be considered to be final agency action on the matter.

3. The granting of a request for a contested case hearing shall not automatically stay the suspension or revocation.

(d) In the case of a notice of suspension or revocation of a permit issued pursuant to N.J.A.C. 7:25-10.10(b), the recipient of such notice shall immediately comply with any departmental directive as to disposal of the captive potentially dangerous species.

(e) Notwithstanding the provision at (c)3 above, in the case of a notice of suspension or revocation of a permit issued pursuant to N.J.A.C. 7:25-10.7, the recipient of such notice shall comply with any departmental directive as to disposal of the captive species upon final suspension or revocation.

7:25-10.13 Miscellaneous provisions

(a) Any person who transfers possession, as distinguished from ownership, or location of any game animal or game bird for which a permit has been issued, shall, within 48 hours,

report in writing to the division exactly which animal(s) was transferred, the name and address of the person to whom the animal(s) was transferred and the location to which the animal(s) was transferred. No transfer shall be permitted without prior written approval of the division of a potentially dangerous species as defined at N.J.A.C. 7:25-10.10.

(b) Any person, issued a permit, who violates or fails to continually conform to the criteria established for the issuance of his permit, shall be considered to have violated an express condition of the permit and shall be deemed to be in possession of the animal or bird without a permit. Permit violators shall be subject to prosecution for possession of the animal or bird without a permit, and may be subject to the penalty prescribed by statute.

(c) No person shall acquire additional game animals or game birds under any one permit without prior written permission from the division. Progeny of permitted captive game animals or game birds are exempt from this requirement provided the permittee can biologically substantiate the increase in numbers from permitted captive game animals or game birds and reports the increase on the annual inventory report.

(d) As a condition of any permit issued under this subchapter the division may require the permitted game animal or game bird be quarantined for the period specified by the division.

(e) Any permittee shall allow division personnel, at any reasonable time, to inspect the housing facilities of the permitted species to determine compliance with the permit requirements and criteria.

(f) Nothing in this subchapter relative to the possession of Game Animals and Game Birds is intended to preempt any federal, state, or local requirement that is more stringent nor exempt any person from obtaining any permit required by these governmental entities.

HEALTH

(a)

NARCOTIC AND DRUG ABUSE CONTROL

Controlled Dangerous Substances Removal of Nalmefene From Schedule II

Proposed Amendment: N.J.A.C. 8:65-10.2

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

Authority: N.J.S.A. 24:21-3.

Proposal Number: PRN 1986-53.

Submit comments by April 16, 1986 to:

Lucius A. Bowser, RP, MPH
Chief, Drug Control Program
CN-362
Trenton, New Jersey 08625
609-984-1308

The agency proposal follows:

Summary

The Department of Health proposed to remove Nalmefene from all schedules of Controlled Dangerous Substances. Nalmefene is presently a Schedule II narcotic by virtue of its derivation from the Schedule II opoid Thebaine. Nalmefene does not have sufficient potential for abuse nor has an abuse liability to justify it being continued in any schedule.

Nalmefene was delisted by the Drug Enforcement Administration, U.S. Justice Department in a final notice published in the Federal Register cited as 50 F.R. 45815, November 4, 1985, to be effective November 4, 1985.

Dextrophan is also being added to the exclusion portion of N.J.A.C. 8:65-10.2(b)1i because when it was removed from all Controlled Dangerous Substances Control on July 17, 1980, cited as 12 N.J.R. 467(g), as an Alkaloid of Thebaine, its exclusion from control was inadvertently not listed in the New Jersey Register.

Social Impact

The removal of Nalmefene from the provisions of the Controlled Dangerous Substances Schedule would have no social impact in that it is a substance that has not been granted approval by the U.S. Food and Drug Administration as a drug nor has it been approved safe and effective. There will be no social impact on practitioners or pharmacies as the substance will not be available for manufacture or distribution as a drug or medicinal product.

Economic Impact

The removal of Nalmefene from the Controlled Dangerous Substances Schedule would not have any economic impact on the patient, physician or pharmacists since the substance has no medical use nor has it been approved for use by the U.S. Food and Drug Administration. Additionally there will be no impact on the availability of the substance as it is not commercially available.

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

8:65-10.2 Controlled dangerous substances: Schedule II

(a) (No change.)

(b) The following is Schedule II listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers.

1. Substances, vegetable origin or chemical synthesis: Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

i. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, **dextrophan**, nalbuphine, **nalmefene**, malaxone, and naltrexone, and their respective salts, but including the following (listed by generic or chemical name with CDS code).

(No change in list.)

ii.-v. (No change.)

2.-6. (No change.)

(a)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Proposed Amendments: N.J.A.C. 8:71

Authorized By: Drug Utilization Review Council,
James Perhach, Ph.D., Chairman.

Authority: N.J.S.A. 24:6E-6(b).

Proposal Number: PRN 1986-56.

A public hearing concerning this proposal will be held on April 6, 1986, at 2:00 P.M. at:

Conference Center, 4th Floor
Conference Room C
Richard J. Hughes Justice Complex
25 Market Street
Trenton, N.J. 08625

Submit comments by April 16, 1986 to:
Thomas T. Culkin, PharmD, MPH
Executive Director
Drug Utilization Review Council
New Jersey Department of Health
CN-364
Trenton, N.J. 08625
609-984-1304

The agency proposal follows:

Summary

The List of Interchangeable Drug Products is a generic formulary, or list of acceptable generic drugs which pharmacists must use in place of brand-name prescription medicines, passing on the resultant savings to consumers.

For example, the proposed lorazepam tablets could then be used as a less expensive substitute for Ativan, a branded prescription medicine. Similarly, the proposed trazodone tablets could be substituted for the more costly branded product, Desyrel.

The Drug Utilization Review Council is mandated by law to ascertain whether proposed medications can be expected to perform as well as the branded products for which they are to be substituted. Without such assurance of "therapeutic equivalency", any savings would accrue at a risk to the consumer's health. After receiving full information on these proposed generic products, including negative comments from the manufacturers of the branded products, the advice of the Council's own technical experts, and data from the generics' manufacturers, the Council will decide whether any of these proposed generics will work just as well as their branded counterparts.

Every proposed manufacturer must attest that they meet all Federal and State standards, as well as having been inspected and found to be in compliance with the U.S. Food and Drug Administration's regulations.

Social Impact

The social impact of this proposal would primarily affect pharmacists, who would need to either place in stock, or be prepared to order, those products ultimately found acceptable.

Many of the proposed items are simply additional manufacturers for products already listed in the List of Interchangeable

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Drug Products. These proposed additions would expand the pharmacist's supply options.

Physicians and patients are not adversely affected by this proposal because the statute (N.J.S.A. 24:6E-6 et seq.) allows either the prescriber or the patient to disallow substitution, thus refusing the generic substitute and paying full price for the branded product.

Economic Impact

The proposed amendment will expand the opportunity for consumers to save money on prescriptions by accepting generic substitutes in place of branded prescriptions. The full extent of the saving to consumers cannot be estimated because pharmacies vary in their prices for both brands and generics.

Some of the economies occasioned by this proposal accrue to the State through the Medicaid, Pharmaceutical Assistance to the Aged and Disabled Program, and prescription plan for employees. This saving also cannot be totalled accurately.

Full text of the proposal follows:

Acetazolamide tabs 250 mg	Danbury
Acetic acid 2%, hydrocort. 1% otic soln	Thames
Acetic acid otic solution 2%	Thames
Allopurinol tabs 10 mg, 300 mg	Barr
Aminophylline 105 mg/5 ml	NPC
Aminophylline oral soln 105 mg/5 ml	Roxane
Aminophylline tabs 100 mg, 200 mg	Roxane
Aspirin/Butalbital/caffeine caps	Superpharm
Aspirin/butalbital/caffeine tabs	Superpharm
B Complex vits. (Berocca substitute)	Amer. Ther.
B-complex plus vits (Berocca Plus sub.)	Copley
Betamethasone valerate cream 0.1%	Thames
Betamethasone valerate oint 0.1%	Lemmon
Butabartibal sodium tabs 15, 30 mg	West-ward
Carisoprodol 200/Aspirin 325 mg tabs	Bolar
Chloroquine phosphate tabs 250 mg	West-Ward
Chlorothiazide tabs 250 mg	West-Ward
Chlorzoxazone 250 mg/Acetaminophen 300 mg	Amer. Ther.
Clofibrate capsules, 500 mg	Chase
Clonidine HCl tabs 0.1, 0.2, 0.3 mg	Par
Diazepam tabs 2, 5, 10 mg	Mylan
Diethylpropion HCl tabs 25 mg	Lemmon
Diphenoxylate/atropine tabs 2.5/0.025 mg	West-ward
Doxepin caps, 10, 25, 50, 100 mg	Chelsea
Doxycycline hyclate caps 50 mg	West-Ward
Ergoloid mesylates oral tabs 1 mg	Barr
Erythromycin Topical soln 1.5%	NPC
Flurazepam HCl caps 15 mg, 30 mg	Mylan
Flurazepam HCl caps 15, 30 mg	West-Ward
Flurazepam HCl caps, 15 mg, 30 mg	Pharm.Basics
Folic acid tabs 1 mg	Pioneer
Folic acid tabs 1 mg	Barr
Furosemide tabs 20 mg	Barr
Furosemide tabs 20 mg, 40 mg	Watson Labs
Furosemide tabs 80 mg	Watson
Hydrochlorothiazide tabs 25 mg, 50 mg	PFI
Hydrocort/neoeycin/polymyxin ophth susp	Pharmafair
Hydrocortisone cream 2.5%	Thames
Hydrocortisone oint 1%	Thames
Ibuprofen tabs 400, 600 mg	Superpharm
Indomethacin caps 25, 50 mg	Watson
Indomethacin caps 25, 50 mg	Lemmon
Iodochlorhydroxyquin 3%/HC 0.5% & 1% crm	Thames
Isosorbide dinitrate oral tabs 20 mg	West-ward
Lithium carbonate caps and tabs, 300 mg	Roxane
Lithium citrate syrup, 8 mEq/5 ml	Roxane
Lorazepam tabs 0.5 mg, 1 mg, 2 mg	Barr
Lorazepam tabs 0.5 mg, 1.0 mg, 2.0 mg	Amer. Ther.

Methocarbamol tabs 500 mg, 750 mg	Pioneer
Methyclothiazide tabs 2.5, 5 mg	Par
Methylodopa tabs 125, 250, 500 mg	Par
Methylodopa tabs 250, 500 mg	Superpharm
Methylodopa/HCTZ 250/150, 250/250 mg	Par
Methylodopa/HCTZ 250/25, 500/30, 500/50 mg	Par
Metoclopramide HCl tabs 10 mg	Biocraft
Metoclopramide tabs 10 mg	Par
Multivitamins/Flouride/FE drops 0.5 mg	NPC
Multivits/F 0.25 mg drops	NPC
Nystatin 100000/triamcinolone 1 mg oint	Lemmon
Nystatin 100MU/Triamcinolone 1 mg/g oint	Clay-Park
Nystatin 100MU/triamcinolone 1 mg/g crm	Lemmon
Nystatin vaginal tabs 100,000 units	Sidmak
Oxazepam caps 10, 15, 30 mg	Chelsea
Potassium Chloride powder 25 mEq/packet	Upsher-Smith
Potassium chloride powder 20 mEq	Copley
Prednisone tabs 5, 20 mg	PFI
Quinidine S04 tabs, 200 mg, 300 mg	Roxane
SMZ/TMP Susp. 200 mg+40 mg/5 ml	Naska
Spironolactone/HCTZ 25mg/25mg	Purepac/Kali
Sulfasalazine tabs 500 mg	Superpharm
Sulfasalazine tabs 500 mg	VIP
Temazepam caps 15, 30 mg	Quantum
Thioridazine HCl tabs 10, 15, 25, 50 mg	Chelsea
Thioridazine HCl tabs 10, 25, 50, 100 mg	Mylan
Tolazamide tabs 250, 500 mg	Superpharm
Tolazamide tabs 250 mg	Mylan
Trazodone HCl tabs 50, 100 mg	Pharm.Basics
Trazodone tabs 50 mg, 100 mg	Chelsea
Triamcinolone acetionide oint. 0.1%	Thames
Valproic acid caps 250 mg	Chase
Verapamil tabs 80 mg, 120 mg	Chelsea

HUMAN SERVICES

The following proposals are authorized by:
 Geoffrey S. Perselay,
 Acting Commissioner,
 Department of Human Services.

**DIVISION OF MEDICAL ASSISTANCE
 AND HEALTH SERVICES**

Submit comments by April 16, 1986 to:
 Henry W. Hardy, Esq.
 Administrative Practice Officer
 Division of Medical Assistance
 and Health Services
 CN-712
 Trenton, NJ 08625

(a)

**Manual for Hospital Services
 Out-of-State Inpatient Hospital Services**

**Proposed Repeal: N.J.A.C. 10:52-1.5
 Proposed Amendment: N.J.A.C. 10:52-1.17**

Authority: N.J.S.A. 30:4D-6a(1), 7, 7a, 7b; 42 CFR 431.52.

Proposal Number: PRN 1986-46.

The agency proposal follows:

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Interested Persons see Inside Front Cover

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Summary

This proposal should be read in conjunction with the adoption of amendments to N.J.A.C. 10:52-1.17 that appears in this issue of the New Jersey Register.

The adoption indicates that out-of-state hospitals are reimbursed based on the rate established by the Title XIX (Medicaid) Agency in the state in which they are located. If an out-of-state hospital is non-approved, i.e., does not have a valid provider agreement with the Title XIX agency in the state in which it is located, the Division makes reimbursement for emergency services only.

The Division received a comment on the original proposal of the adoption from Children's Heart Hospital in Philadelphia. The commentator indicated that services provided at Children's Heart were not always emergent in nature. In addition, Children's Heart Hospital is not a participating provider in the Pennsylvania Title XIX (Medicaid) Program, but is an approved provider in the New Jersey Title XIX (Medicaid) Program.

As a result of this comment, the Division is submitting this proposal which would apply equally to non-approved out-of-state hospitals that provide inpatient hospital services to New Jersey Medicaid patients. Since the service is being provided in an out-of-state hospital, the provisions of N.J.A.C. 10:49-1.9 would apply. This rule generally requires prior authorization from the New Jersey Medicaid Program unless the care was provided in an emergency, there was a transfer because of potential risk to the Medicaid patient's health, or the care is provided to Medicaid patients residing out-of-state at the discretion of the New Jersey Department of Human Services.

Reimbursement for a non-approved hospital will be based on a negotiated rate, which will be established upon cost data submitted by the provider which will be reviewed by the Division. If the Division and the provider are not able to agree upon a negotiated rate, then the provider may invoke the appeal provisions already provided for in this section of the rule.

An out-of-state hospital that is approved by the Title XIX agency in the state in which it is located cannot apply for a negotiated rate.

There is another change being made in this proposal. The phrase "final audited" is being deleted from paragraphs (b)2 and (d)3 below. This means that final reimbursement to all out-of-state hospitals (that have an established Medicaid/Title XIX rate in their own state) will be based on 95 percent of the per diem rate, or the DRG (Diagnosis Related Group) rate whichever is appropriate. The Division's objective is to make a payment once to an out-of-state hospital that provides services to a New Jersey Medicaid patient.

The Division believes that it is not cost effective to maintain an administrative structure to process what is generally a slight variation in an out-of-state hospital rate. It should be noted that it may take several years to establish a "final audited rate."

The Division believes that it has made provision for those situations where final reimbursement would be contingent upon litigation in another state by allowing the out-of-state hospital to file an appeal within 20 days after the close of the rate year in the state in which the hospital is located. The Division would make an interim payment when the claim is properly submitted with final reimbursement dependent on the results of the litigation.

The Division has also proposed the repeal of N.J.A.C. 10:52-1.5 concerning benefits in a non-approved hospital, be-

cause it no longer represents current policy. New Jersey hospitals that provide inpatient services participate in the State's Title XIX program. Provisions governing out-of-state, non-approved hospitals are now contained in N.J.A.C. 10:52-1.17.

Social Impact

Federal regulations (42 CFR 431.52) require that Medicaid patients may receive services in another state. Since New Jersey Medicaid patients do require and receive services and treatment in hospitals outside New Jersey, including New Jersey, there must be a system of determining whether these services are "medically necessary" in an out-of-state facility. The Division has chosen the method of prior authorization to determine who would be covered in an out-of-state hospital. (The summary statement above mentions certain exceptions to the prior authorization requirement.)

The portion of the proposal concerning a "negotiated rate" applies only to those non-approved hospitals who are not Title XIX providers in their own state.

The requirement that an interim rate will be a final rate unless the out-of-state hospital has an appeal pending in their own state, and has provided proper notification to the Division, will apply generally to all out-of-state hospitals.

Economic Impact

There is no cost to the Medicaid patient for inpatient services provided in an out-of-state hospital.

The Division's reimbursement for Children's Heart Hospital in 1985 was approximately \$183,000 (federal-state share combined). It is not anticipated this figure will change greatly in 1986. This figure represents less than one-tenth of one percent of Medicaid expenditures for inpatient hospital services in 1985.

There is no change in the basic reimbursement methodology for out-of-state hospitals generally.

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

10:52-1.5 [Hospital benefits in a non-approved hospital]
(Reserved)

[(a) Hospitals which do not meet the definition of an approved hospital are not eligible for payment unless such services are made necessary by reason of accidental injury or sudden and serious illness requiring treatment on an emergency basis. Reimbursement for emergency care shall be limited to a maximum of 20 days.

(b) Claims filed by a non-approved hospital must be accompanied by a statement made by the attending physician, including a description of the nature of the emergency, pertinent clinical information concerning the condition of the patient, and a certification that the services rendered were necessary to prevent the death of the individual or the serious impairment of his health.]

10:52-1.17 Out-of-state inpatient hospital services

(a) Out-of-state approved hospitals are hospitals with a valid provider agreement with the Title XIX agency in the state in which they are located.

(b) Reimbursement of inpatient services in out-of-state approved hospitals will be based on the following criteria:

1. Interim reimbursement will be 95 percent of per diem rate approved by the State Medicaid Agency of the state in which the hospital is located, or 100 percent of the Diagnosis Related Group (DRG) rate approved by the state Medicaid agency of the state in which the hospital is located.

2. Final reimbursement will be 95 percent of the hospital's [final audited] per diem rate in its respective state, or the DRG rate, whichever is appropriate.

3. An interim rate will be considered a final rate unless a hearing is requested in the manner described in (e) below.

[3.]4. Reimbursement for out-of-state inpatient hospital services provided to an eligible Medicaid recipient, who has been determined to be in need of, and approved for, a liver, heart or bone marrow transplant, because of a life threatening situation, will be made at the rate approved by the state Medicaid agency of the state in which the hospital is located whether this is a DRG rate, a negotiated rate, or a per diem rate. The reimbursement for liver, heart and bone marrow transplants is not to exceed 100 percent of the state Medicaid agency rate of the state in which the hospital is located.

(c) Out-of-state non-approved hospitals are hospitals without valid provider agreements with the Title XIX agency in the state in which they are located.

(d) Reimbursement of inpatient services in out-of-state non-approved hospitals will be based on the following criteria:

1. Services will be limited to emergency services, or those provided in accordance with the provisions of N.J.A.C. 10:49-1.9.

2. Interim reimbursement will be 95 percent of per diem rate approved by the state Medicaid agency of the state in which the hospital is located, or 100 percent of the Diagnosis Related Group (DRG) rate approved by the state Medicaid agency of the state in which the hospital is located.

3. Final reimbursement will be 95 percent of the hospital's [final audited] per diem rate in its respective state, or the DRG rate, whichever is appropriate.

4. An interim rate will be considered a final rate unless the hospital has filed a hearing request in the manner described in (e) below.

5. In the event the non-approved hospital has not established a rate with the Title XIX (Medicaid) agency in the state in which they are located, the hospital may enter into a negotiated rate with the Division of Medical Assistance and Health Services at the time of enrollment in the New Jersey Medicaid Program in accordance with the following procedures:

i. The hospital will provide a written description of the medical treatment provided, services rendered, diagnosis and/or conditions commonly treated, etc;

ii. The hospital will provide a copy of billing statements, supported by cost studies or other relevant financial data, which substantiate the reimbursement requested;

iii. The medical and financial material will be reviewed by the Division of Medical Assistance and Health Services, who will either accept the reimbursement requested by the hospital, or offer an alternative figure accompanied by an explanation for the difference;

iv. The hospital and the Division will continue negotiations until an agreement is reached.

v. In the event no agreement can be reached, the hospital may file an appeal in accordance with the provisions for rate appeals set forth in (e) below. The provisions requiring the hospital to file an appeal with the Title XIX agency in the state in which they are located would not apply to a non-approved hospital.

(e) The following procedures must be followed when an appeal is filed by an out-of-state hospital;

1. If an out-of-state hospital, whether approved or non-approved, wishes to file an appeal concerning any complaint or issue arising out of the claims payment process, a written request must be submitted within 20 days from the date of

mailing of the notice of the agency action that gave rise to the complaint or issue.

2. If the appeal concerns issues relating to the rate of reimbursement, the appeal must be filed within 20 days after the close of the rate year in the state in which the hospital is located. The following limitations shall apply to matters involving hospital rates.

i. The hospital must demonstrate an appeal has been filed with the Title XIX agency in the state in which the hospital is located;

ii. If the hospital has not filed an appeal in their own state, then the interim payment made by the Division's fiscal agent will be considered as final.

3. All hearing requests should be addressed to:

Director
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625

4. The Division of Medical Assistance and Health Services has no jurisdiction to conduct hearings on issues related to the Medicaid rate, whether interim or final, as determined by a state other than New Jersey.

5. The conduct of all hearings shall conform to the requirements of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B et seq. State administrative hearings are conducted by the Office of Administrative Law, who has developed and published their own procedural rules (N.J.A.C. 1:1-1.1 et seq.).

6. An out-of-state provider who requests a hearing would have the same rights, duties and obligations as an in-state provider. Additional regulations governing hearings are set forth at N.J.A.C. 10:49-5.1 et seq.

(a)

Independent Laboratory Services General Provisions; Billing Procedures

**Proposed Readoption: N.J.A.C. 10:61-1, 2.2
through 2.4 and 2.6**

**Proposed Readoption with Amendments:
N.J.A.C. 10:61-2.1 and 2.5**

Authority: N.J.S.A. 30:4D-6a(3), 7, 7a, 7b; 42 CFR 440.30.

Proposal Number: PRN 1986-55.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:61-1, entitled General Provisions, expires May 8, 1986, and N.J.A.C. 10:61-2, entitled Billing Procedures, expires July 10, 1986. This proposal is designed to readopt both subchapters.

Independent laboratory services are a required service under Title XIX (Medicaid). The Independent Laboratory Services Manual sets forth policies for Medicaid patients who require diagnostic tests that can be done on an outpatient basis.

In order to participate in the New Jersey Medicaid Program, the provider must sign a Medicaid provider agreement, be

licensed by the New Jersey State Department of Health, and be certified as an independent laboratory by Medicare (Title XVIII).

Independent laboratory services must be ordered by a physician or other licensed practitioner within the scope of his/her practice. Reimbursement is determined by the Commissioner, Department of Human Services, subject to any federally imposed limits.

Subchapter 2, entitled billing procedures, describes the procedures that a provider must follow when submitting a claim for reimbursement. This subchapter also describes the procedures for those providers who use an automated data exchange method of billing. There is one change being made on readoption. N.J.A.C. 10:61-2.1 is being amended to refer the reader to N.J.A.C. 10:49-1.12, which describes the time frames for billing and follow-up inquiries for non-institutional providers. The 90 day time requirement for the initial claim submittal remains in effect, as does the 180 day time period for follow-up inquiries. N.J.A.C. 10:61-2.5 is being amended to change the number of the claim form.

The rule (subchapters one and two) should be continued because it is necessary, adequate, reasonable, efficient, understandable, and responsive for the purpose for which it was promulgated. Independent laboratory services are a required component of the Medicaid program. There are patients who need this service as part of the diagnostic process. Providers need to know the correct billing procedures in order to be reimbursed.

The rule has been amended to allow participation by State, county, and municipal laboratories located in New Jersey provided they meet the same criteria as privately operated independent laboratories (R.1985, d.237, effective May 20, 1985, at 17 N.J.R. 1318(a)).

Social Impact

The rule impacts on Medicaid patients who require laboratory testing that is ordered by a physician (or other licensed practitioner) for diagnostic purposes. The rule impacts on the independent laboratories who perform the services. There are approximately 200 providers of independent laboratory services that participate in the New Jersey Medicaid Program.

Both subchapters should be readopted because there are Medicaid patients who will require laboratory services and the providers need to be reimbursed for rendering them.

Economic Impact

There is no change being made in the fee schedule upon readoption. The Division of Medical Assistance and Health Services spent approximately 2.6 million dollars (federal-state share combined) in State Fiscal Year 1984 and again in State Fiscal Year 1985.

There is no cost to the Medicaid patient for this service.

Independent laboratories are reimbursed in accordance with the HCPCS procedures codes which are referenced at N.J.A.C. 10:61-3.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:61-1, 2.

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

10:61-2.1 General policy

[Billing should be done on a monthly basis. In all cases, claims should be submitted no later than 90 days after the last date services were rendered.]

Claims and follow-up inquiries must be submitted within the time frames for non-institutional providers as set forth at N.J.A.C. 10:49-1.12.

10:61-2.5 Report of services

(a) Rules on report of services are:

1. Enter date(s) of each procedure;

2. Enter procedure code and/or narrative;

3. Independent laboratories must identify procedures by use of codes which are described in the manual appendix furnished to those eligible to provide such services;

4. Enter charge for each procedure.

[Note 1:] (b) (No change in text.)

[Note 2:] (c) Where tests are referred to an approved laboratory by another laboratory, the actual charges by the reference laboratory must be indicated on the [MC-13-AC1.] **MC-13AC2.**

[Note 3:] (d) In the case where the reference laboratory performs billing, it should do so by submitting bills directly to the Prudential Insurance Company.

[(b)] (e) When the service laboratory elects to bill for procedures done by the reference laboratory, a note indicating "Performed by reference lab" (name of laboratory) must accompany the identifying tests or procedures in item [10C] 11c of the independent laboratory claim form [(MC-13-A-C1).] **MC-13AC2.**

(a)

Independent Clinic Services Manual Billing Procedures; Procedure Codes

Proposed Readoption: N.J.A.C. 10:66-2, 3

Proposed Readoption with Amendments: N.J.A.C. 10:66-2.2 and 2.3.

Authority: N.J.S.A. 30:4D-6b(3), 7, 7a, 7b; 42 CFR 440.90.

Proposal Number: PRN 1986-54.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:66-2, entitled Billing Procedures, expires on July 10, 1986. N.J.A.C. 10:66-3, entitled Procedure Codes, expires on May 8, 1986. This proposal is designed to readopt both subchapters.

An independent clinic is defined as a free-standing organization which is approved by the New Jersey Medicaid Program to provide specific health care services (see N.J.A.C. 10:66-1.2, Definitions). The type of services that could be provided by an independent clinic include family planning clinics, mental health services, dental services, medical day care, and ambulatory surgical centers. However, an independent clinic must be individually approved by the New Jersey Medicaid Program for each type of service that it provides to Medicaid patients.

Subchapter 2, entitled Billing Procedures, is designed to instruct independent clinic providers on the proper method of submitting a claim for reimbursement. The subchapter covers such topics as the time requirements for submitting a claim, prior authorization when appropriate, instructions for completing the claim form, and the use of automated billing. The rule was amended to allow providers to submit claims via an approved method of Automated Data Exchange (R. 1981, d.250, at 13 N.J.R. 418(a)).

Upon re-adoption, section 2.2 is being amended to refer the reader to N.J.A.C. 10:49-1.12, which contains the time requirements for timely claim submittal and follow-up inquiries. Claims for non-institutional providers must be submitted within 90 days from the date of service. Follow-up inquiries must be made within 180 days. There is no change in either time requirements, because they represent existing policy. Section 2.3 is amended to indicate that prior authorization for certain dental services must be sent to the Dental Claims Review Unit in Trenton.

Subchapter 3, entitled Procedure Codes, has undergone considerable revision. Section 3.3, entitled Procedure Code Listing, has been deleted and replaced with the reference to the HCPCS (Health Care Financing Administration Common Procedure Coding System) Procedure Codes. The four digit procedure codes with the corresponding narrative description were replaced when the New Jersey Medicaid Program converted to HCPCS. (See R. 1985 d.532 which was published December 2, 1985 at 17 N.J.R. 2894(b), 2900). The text of N.J.A.C. 10:66-3.1 and 3.2 were deleted when the rule governing the HCPCS codes was adopted. The reference to HCPCS is then recodified from section 3.3 to section 3.1.

An administrative review has been conducted, and a determination made that both subchapters should be continued because they are necessary, adequate, reasonable, efficient, understandable and responsive for the purpose for which they were promulgated. Providers of independent clinic services need to be informed of the proper and timely method of submitting a claim and the proper procedure codes that must be entered on the claim form.

Social Impact

The rule impacts on providers of independent clinic services by instructing them on the proper method of claim submittal and establishes the basis of reimbursement. The rule should be continued so that providers can be reimbursed for treating Medicaid patients.

The rule also impacts on Medicaid patients who require medical services on an outpatient basis. Some services, such as medical day care or mental health services, enable patients to be treated in a community setting rather than in an institutionalized environment. The rule should be continued because there are Medicaid patients who will continue to need clinic services.

Economic Impact

The Division of Medical Assistance and Health Services spent approximately 10 million dollars (federal-state share combined) in State Fiscal Year 1985 for clinic services.

Providers of independent clinic services are reimbursed on a fee-for-service basis using the HCPCS Procedure Coding System, which is referenced, but not reproduced, at N.J.A.C. 10:66-3.1.

There is no cost to the Medicaid patient for these services.

Full text of the proposed re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 10:66-2 and 3, and as amended in the New Jersey Register.

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

[10:66-2.2 General policy]

[(a) Billing should be done on a monthly basis and submitted for payment as soon as possible. EPSDT claims must be billed, as soon as possible, following completion of the screening examination.

(b) All claims must be received by the contractor no later than 90 days after the last day the services were rendered and no later than 12 months from any date of services on the claim form.]

10:66-2.2 Policy concerning claim submittal and follow-up inquiries

Providers of independent clinic services must submit all claims and follow-up inquiries within the time periods for non-institutional providers which appears at N.J.A.C. 10:49-1.12.

10:66-2.3 Prior authorization

(a) Items or services requiring prior authorization should not be provided until the authorization is received.

(b) Requests for prior authorization are to be made to the local Medicaid office serving the county wherein the recipient resides (see N.J.A.C. 10:66-1.22 for the office listing), except as follows:

[1. Dental services requests must be submitted to the appropriate dental field office serving the county wherein the service was performed (see Dental Services Manual, Exhibit B); and]

1. Dental service requests must be submitted to:

Dental Claims Review Unit

CN-713

Trenton, N.J. 08625

2.-3. (No change.)

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

(a)

DIVISION OF PUBLIC WELFARE

Medicaid Only Manual Liquidation of Resources

Proposed Amendment: N.J.A.C. 10:94-4.2

Proposed Repeal: N.J.A.C. 10:94-4.3

Authority: N.J.S.A. 44:7-87.

Proposal Number: PRN 1986-47.

Submit comments by April 16, 1986 to:

Audrey Harris, Director

Division of Public Welfare

CN 716

Trenton, New Jersey 08625

The agency proposal follows:

Summary

Current rules at N.J.A.C. 10:94-4.3 provide that aged, blind, and disabled applicants for Medicaid benefits may establish eligibility pending the liquidation of property, the value of which, together with other countable resources, exceeds the program resource limits of \$1700 for an individual and \$2550 for a couple. Those rules provide the individual with up to nine months to liquidate real property and three months to liquidate other property.

The existing rules are founded on a policy in the Supplemental Security Income (SSI) program known as conditional eligibility. That policy, in recognition that persons are often in immediate need of financial assistance while attempting to convert a nonliquid resource to cash, provides conditional payments while disposing of resources, the value of which exceed the SSI resource limits. The State rule similarly providing Medicaid eligibility in such circumstances is based on the same principle.

Since the onset of the need for medical assistance is often rapid, allowing little time for advance planning, this rule serves to provide a mechanism whereby persons who would otherwise be ineligible for Medicaid may avail themselves of medical services during the often time-consuming process of the sale of property. This provision is most crucial in circumstances of sudden need for nursing home care for an individual who owns a home. Upon entry into the nursing home, the individual's home becomes a countable resource. Without the policy providing for a liquidation period, the individual would be ineligible for Medicaid. Presumably, often admission to the nursing home would be contingent upon the individual's eligibility for Medicaid. The rule on eligibility pending liquidation of a resource prevents delays in admission to nursing homes for persons requiring that level of care.

The United States Department of Health and Human Services, Health Care Financing Administration (HCFA), the Federal agency responsible for the administration of the Medicaid program, has advised that they view the practice of extending eligibility pending liquidation of a resource to be a form of conditional eligibility. In Medicaid State Operations Letter #85-5, dated January 29, 1985, HCFA stated. "Individuals whose countable resources (whether liquid or nonliquid) exceed the resource limits are ineligible for Medicaid (unless the individual is actually receiving a conditional SSI benefit)." Further that Office wrote, "Although conditional eligibility exists under SSI and individuals receiving conditional SSI payments are Medicaid eligible in SSI States, conditional eligibility does not extend to the Medicaid only (MAO) population." In accordance with that directive and in order to comply with HCFA policy so as to preclude the possibility of fiscal sanctions, the Department proposes to repeal the policy of allowing the establishment of eligibility pending the liquidation of resources.

Social Impact

Repeal of this rule will adversely affect individuals in need of nursing home care who lack sufficient liquid resources to pay for such care, yet, because of the ownership of a nonliquid resource will be ineligible for Medicaid benefits. This will cause some persons to delay needed medical care or to find other sources of payment for that care.

Economic Impact

Repeal of this rule is expected to result in a small reduction in program expenditures due to the delay in attaining Medicaid eligibility for the affected population.

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

10:94-4.2 Countable resources

(a) (No change.)

[(b) Liquid resources: An accessible resource which can be liquidated or negotiated within 20 working days, such as, but not limited to, cash, demand deposits, time deposits, U.S. bonds, securities, and notes receivable, shall be counted as a liquid resource. Liquid resources other than cash are evaluated according to equity value.

1. Verification of liquid resources: If verification is required in accordance with the provisions of N.J.A.C. 10:94-4.1(d)3, the CWA shall definitively establish the existence or nonexistence of liquid resources with appropriate institutions, such as banks, credit unions, brokerage firms, savings and loan associations.

i. Appropriate institutions defined: Appropriate institutions, as cited in (b)1 above, shall be defined as those institutions which are in close proximity to the residence of the applicant or the applicant's relatives and/or which have, at any time, provided services to the applicant.

(c) Nonliquid resources: An accessible resource which cannot be liquidated or negotiated within 20 working days, such as, but not limited to, buildings, land, motor vehicles, boats, and aircraft, shall be considered a nonliquid resource.]

[1.] (b) Verification of [nonliquid] resources: If verification is required in accordance with the provisions of N.J.A.C. 10:94-4.1(d)3, the CWA shall proceed in the following manner:

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

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

3. The CWA shall verify the existence or nonexistence of any cash, savings or checking accounts, time or demand deposits, stocks, bonds, notes receivable, or any other financial instrument or interest. Verification shall be accomplished through contact with financial institutions, such as banks, credit unions, brokerage firms, and savings and loan associations. Minimally, the CWA shall contact those financial institutions in close proximity to the residence of the applicant or the applicant's relatives and those institutions which currently provide or previously provided services to the applicant.

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

10:94-4.3 [Liquidation of resources] (**Reserved**)

[(a) In the case of a nonliquid resource which causes the applicant's total countable resources to exceed the standards in N.J.A.C. 10:4-4.5 the CWA will assist the applicant in the development of a plan for liquidation. Medicaid Only benefits may be granted by the CWA prior to the liquidation of such resources, subject to the conditions of (b) through (f) below.

(b) Liquidation period: The applicant shall have six months in which to dispose of real property, and three months in which to dispose of any other property. If he/she can show good cause (see (b)2 below) for failure to liquidate, the CWA may extend the liquidation period for an additional three months. The liquidation period shall begin as of the date of application or, in the case of a disabled applicant, on the date that disability is determined.

1. Asking price for real property: Real property shall be offered for sale at any asking price named by the applicant but not less than the price set by an independent appraisal paid for by the CWA. Acceptance of any purchase offer at a lower price must be approved by the CWA.

2. Good cause defined: Good cause for failure to liquidate shall be defined as the inability to find a buyer after the

resource has been placed on the open market for the period of time prescribed in this section and a reasonable effort to sell has been made.

(c) Redetermination following liquidation: Immediately upon liquidation of a resource, the applicant's eligibility shall be redetermined based on the net proceeds of such sale. (Net proceeds are the monies remaining after encumbrances and costs of the sale have been deducted.)

(d) Excess resources after liquidation: If, after liquidation, the applicant's resources exceed the appropriate resource maximum, benefits shall be terminated until such time as the value of the applicant's resources fall within the applicable limits.

(e) Inability to liquidate: If a resource cannot be liquidated within the period cited in (b) above, the CWA shall consider the resource inaccessible, and therefore excludable under N.J.A.C. 10:94-4.4(b)6. The determination of inaccessibility because of the inability to liquidate shall be reassessed at each redetermination.

(f) Refusal to cooperate: If, at any time, the applicant refuses to cooperate with the development of a plan of liquidation, or with the liquidation proceedings, benefits shall be terminated.]

CORRECTIONS

(a)

THE COMMISSIONER

Inmate Discipline: N.J.A.C. 10A:4

Public Hearing

Take notice that a public hearing will be held April 8, 1986 at 10:00 A.M. in the Correction Officers Training Academy (COTA), Stuyvesant Avenue and Whittlesey Road, Trenton, New Jersey 08628, concerning N.J.A.C. 10A:4 "Inmate Discipline" as proposed in the January 6, 1986 New Jersey Register at 18 N.J.R. 27 through 44, which concerns rules intended to implement due process safeguards in the inmate disciplinary process.

The **public hearing** will be conducted in a quasi-legislative rather than in a quasi-judicial manner and is opened to interested individuals, representatives of government bodies, companies and associations. This is a hearing prescribed by law. See N.J.S.A. 52:14B-4(a)3.

Interested persons are invited to participate through written comments or oral presentations at the April 8, 1986 public hearing or written comments submitted on or before April 16, 1986 by notifying:

Elaine W. Ballai, Esq.
Special Assistant for Legal Affairs
Office of the Deputy Commissioner
Department of Corrections
Whittlesey Road, P.O. Box 7387
Trenton, New Jersey 08628

LABOR

(b)

THE COMMISSIONER

Appeals to Board of Review

Temporary Appointment to Board of Review

Proposed New Rule: N.J.A.C. 12:20-4.8

Authorized By: Charles Serraino, Commissioner,
Department of Labor.

Authority: N.J.S.A. 34:1A-3.

Proposal Number: PRN 1986-62.

Submit comments by April 16, 1986 to:
Audley Clarke, Director
Office of Legal Management
Department of Labor, Room 1000
John Fitch Plaza
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rule will allow for the meeting of the full Board of Review, that is, three members, when one of the members is temporarily absent or unavailable. While two members can represent the Board in any determination, a decision requires that they both agree. A failure to agree means no action can be taken until the third member returns.

Social Impact

The social impact is negligible except for the speedier results from Board of Review action affecting individuals or classes of individuals whose cases will be more quickly disposed of by the Board. To this extent the proposed new rule will have a favorable social impact.

Economic Impact

There is virtually no economic impact except that which will result from speedier dispositions of cases before the Board of Review which would otherwise have to be held in abeyance until the return of the third member.

Full text of the proposed new rule follows.

12:20-4.8 Temporary appointment to Board of Review

The Executive Secretary to the Board of Review shall serve in the place of any member of the Board who is temporarily absent or unavailable.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Special Concessionaire Permit

Proposed Amendments: N.J.A.C. 13:2-5.2

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

Authority: N.J.S.A. 33:1-39, 1-42, and 1-74.

Proposal Number: PRN 1986-63.

Submit comments by April 16, 1986 to:

John F. Vassallo, Jr., Director
Division of Alcoholic Beverage Control
Richard J. Hughes Justice Complex
CN-087
Trenton, New Jersey 08625-0087

The agency proposal follows:

Summary

N.J.S.A. 33:1-42 provides that no alcoholic beverages may be sold in any public building owned or under the control of the State or any political subdivision of the State, except pursuant to a permit issued by the Director and subject to rules and regulations. Pursuant to this statute, Division regulations provide for the issuance of a "special concessionaire permit" to authorize sales of alcoholic beverages in such public buildings. The current regulation is N.J.A.C. 13:2-5.2. That regulation, however, only authorizes a permit for the sale of alcoholic beverages for immediate consumption on such property owned by or under the control of the State of New Jersey or any political subdivision thereof. There is no provision in the regulation for the sale of alcoholic beverages in original containers for off-premises consumption (package goods). This has apparently never presented a problem.

With the acquisition of Penn Station in Newark by the New Jersey Transit Authority, which is a state agency, it becomes requisite for permits issued by the Director in furtherance of N.J.S.A. 33:1-42 to replace retail licenses heretofore issued by the municipality, when the station was privately held, for sale of alcoholic beverages in shops and facilities within the terminal. The same situation exists in several other municipalities as a result of the acquisition of other train stations, and other types of transportation facilities elsewhere in the State will also present a similar issue.

The nature of the operation of such facilities as Penn Station, or of a marina or other type of transit terminal, is such that package goods may be desirable to be made available to the commuting public. A package store has in fact existed for many years in Penn Station in Newark.

The amendment to N.J.A.C. 13:2-5.2 will permit the sales of alcoholic beverages in original containers (package goods) under the "special concessionaire permit" when specifically authorized by the Director upon a showing of good cause. Unless otherwise specifically authorized by the permit, the sale of alcoholic beverages under the "special concessionaire permit" will be limited to the sale of alcoholic beverages for

immediate consumption in the public building owned by or under the control of the governmental entity.

Social Impact

Inasmuch as the sale of alcoholic beverages in original containers for off-premises consumption will only be permitted in limited cases and upon a showing of a good cause, which will normally be the convenience of the commuting public, there will be no significant social impact caused by the proposed amendment to N.J.A.C. 13:2-5.2. It will allow greater service to the public, for example, in a marina situation where package goods could be made available to boaters for use on their boats while docked at the municipally owned marina.

Economic Impact

No significant economic impact is anticipated as a result of the amendment proposed to N.J.A.C. 13:2-5.2. The fee for the permit is set by the Director at \$500.00 and will remain at that figure, which is the maximum authorized for a special permit pursuant to N.J.S.A. 33:1-74.

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

13:2-5.2 Special concessionaire permit

(a) Application for a special concessionaire permit may be made to the director[,] by any individual, partnership, or corporation who has entered into a contract with the State of New Jersey, or any political subdivision thereof, whereby said **person or organization** is authorized to sell alcoholic beverages for immediate consumption [on property] **in any public building** owned by or under the control of[.] the State of New Jersey or any political subdivision thereof. **Such permit may also authorize the sale of alcoholic beverages in original containers for off-premises consumption, provided the applicant, with the consent of the governmental agency, establishes to the satisfaction of the director that there is good cause for such sales.**

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

(g) The holder of a special concessionaire permit shall be entitled to purchase alcoholic beverages only from the holders of New Jersey wholesale or [distributor's] **distributor's** license, for resale at the authorized premises. Said holder is expressly prohibited from purchasing alcoholic beverages from retail [liquor] licensees. **Said holder is also expressly prohibited [or] from selling or offering for sale alcoholic beverages for off-premises consumption, unless specifically authorized in the permit issued by the director upon a showing of good cause therefor.**

(h) (No change.)

(i) The holder of a special concessionaire permit must abide by all provisions of the New Jersey Alcoholic Beverage Control Law, division rules and regulations and municipal ordinances **as they pertain to retail licensees.** Failure to do so may result in disciplinary proceedings **against the permittee. Hours of sale shall not exceed those permitted in the municipality in which the public building is located.**

(j) (No change.)

(a)

NEW JERSEY RACING COMMISSION

Thoroughbred Rules

Claiming Races on the Flat; Restrictions

Proposed Amendments: N.J.A.C. 13:70-12.1, 12.2

Authorized By: New Jersey Racing Commission, Harold G. Handel, Executive Director. Authority: N.J.S.A. 5:5-30. Proposal Number: PRN 1986-64.

Submit comments by April 16, 1986 to: Bruce H. Garland, Deputy Director New Jersey Racing Commission CN-088 Justice Complex Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments tighten the restrictions on who may claim horses at a race meeting and results from a recommendation of the thoroughbred Board of Stewards. The amendment provides that in addition to starting a horse at the meeting where the claim is made, the owner must also have been assigned stalls or been stabled at an approved farm in the State of New Jersey. The rules still provide for an out-of-state owner to replace a horse claimed from him even though he does not meet the stabling requirements. The amendment will eliminate the situation which allowed an out-of-state owner to race a horse at a New Jersey track and then stay for the rest of the meeting solely to claim other horses.

Social Impact

The amendments' main social impact will be on out-of-state owners who do not stable horses in New Jersey. Their claiming privileges will be restricted. There will be no change on the owners who stable horses on the grounds of the association or at approved off-track stabling facilities.

Economic Impact

The economic impact of the proposed amendments is expected to be negligible. There will be no increased costs to the public, participants or the state, nor will there be increased revenues. To the extent the rule keeps some claimed horses within stables that race in New Jersey, the long term economic impact should be positive.

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

13:70-12.1 Claiming races on the flat

In claiming races on the flat, any horse is subject to claim for its entered price by any owner who has started a horse on the flat at the meeting at which the claim is made and who also has been assigned stalls on a permanent basis on the premises of a licensed New Jersey racetrack, or who has been assigned stabling at an approved farm in the State of New Jersey. [Any licensed owner who has an interest in any starter shall thereafter be eligible to claim individually.]

13:70-12.2 Restrictions: claiming privileges

The stewards at their discretion may permit an owner racing from out-of-state to replace a horse claimed from him even though the owner does not meet the stabling requirements of N.J.A.C. 13:70-12.1.

TRANSPORTATION

TRANSPORTATION OPERATIONS

The following proposals are authorized by Roger A. Bodman, Commissioner, Department of Transportation.

Submit comments by April 16, 1986 to: Charles L. Meyers Administrative Practice Officer Department of Transportation 1035 Parkway Avenue CN 600 Trenton, New Jersey 08625

(b)

Speed Limits

Route I-80 including Littleton Road and Cherry Hill Interchange, Parsippany-Troy Hills Frontage Road Number 2, Paterson, Landing Road Interchange, and Smith Road Interchange.

Proposed Amendment: N.J.A.C. 16:28-1.2

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 1:30-1.13 and 52:14B-4(c). Proposal Number: PRN 1986-48.

The agency proposal follows:

Summary

On February 8, 1979 the Department of Transportation adopted emergency amendments to be cited as N.J.A.C. 16:28-1.2(d), concerning speed zones on parts of Route I-80, which became effective on February 8, 1979 as R.1979 d.53 with an expiration date of June 8, 1979. This notice appeared at 11 N.J.R. 149(a) dated March 8, 1979.

The action taken was temporary in nature due to the surface condition pending construction completion in approximately four months, which required the reduction of the speed limit for eastbound traffic.

The construction has been completed and the rule as proposed is no longer required or necessary.

The Department therefore proposes to repeal N.J.A.C. 16:28-1.2(d). The proposal is to effect other administrative corrections.

Social Impact

The proposed repeal will delete a rule which is no longer required for the purpose of which it was promulgated. Additionally, it provides a positive image to the public in that the State takes action to delete absolute and or unnecessary rules.

Economic Impact

The proposed repeal will have no adverse economic impact, except the costs for administrative services.

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

16:28-1.2 Route I-80 including Littleton Road and Cherry Hill Interchange, Parsippany-Troy Hills Frontage Road Number 2, Paterson, Landing Road Interchange, and Smith Road Interchange

(a) The rate of speed designated for certain parts of Interstate Route [number] I-80 described in this section shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1. (No change.)

(b) The rate of speed designated for [the] certain parts of State Highway Route I-80, Littleton Road and Cherry Hill Road Interchange described in this section shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1.-4. (No change.)

(c) The rate of speed designated for the certain part of State highway [r] Route [number] I-80 (Frontage Road Number 2) described in this section shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1. (No change.)

(d) The speed limits under subsection (b) of this section are hereby revised to provide a 45 mph speed limit for east-bound traffic from White Meadow Road (Milepost 37.3) to Franklin Road (Milepost 39.0) to be effective for a period of four months or until the rough pavement has been corrected.]

Redesignate (e)-(f) as (d)-(e) (No change in text.)

(a)

Speed Limits

Route 23 in Sussex County

Proposed Amendment: N.J.A.C. 16:28-1.25

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-98, 39:4-138.1, 39:4-139, 39:4-199 and 39:4-201.1.

Proposal Number: PRN 1985-720.

The agency proposal follows:

Summary

The proposed amendment will establish a "school zone" speed limit along Route 23 in Wantage Township, Sussex County for the safety of children during recess and while going to or leaving school, the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of a "school zone" speed limit along Route 23 is warranted.

The Department therefore proposes to amend N.J.A.C. 16:28-1.25 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendment will establish a "school zone" speed limit along Route 23 in Wantage Township, Sussex County for the safety of children going to and from school and during periods of recess, the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28-1.25 Route 23

(a) The rate of speed designated for the certain parts of State highway Route 23 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1.-3. (No change.)

4. For both directions of traffic:

i.-ix. (No change.)

x. Zone eight: 50 mph to a point 1,350 feet north of the center line of the southerly intersection of County Road 519 (Milepost 45.2); thence

(1) In Wantage Township, Sussex County—35 mph School Speed Limit within the Wantage School Zone during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school during opening or closing hours.

xi.-xiv. (No change.)

(b)

Restricted Parking and Stopping

Routes U.S. 22 in Warren County; U.S. 30 in Atlantic County; Routes 33, 36 and 79 in Monmouth County

Proposed Amendments: N.J.A.C. 16:28A-1.13, 1.21, 1.23, 1.26 and 1.42.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139, 39:4-199.

Proposal Number: PRN 1986-44.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking bus stop" zones along Routes U.S. 22 in the Town of Phillipsburg, Warren County; U.S. 30 in Galloway Township, Atlantic County; 33 in Howell Township, Monmouth County; 36 in Hazlet Township, Monmouth County and "no parking" zones along Route 79 in Marlboro Township, Monmouth County for the safe and efficient flow of traffic, the safe on/off loading of passengers at established bus stops, the enhancement of safety and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking bus stop" zones along Routes U.S. 22, U.S. 30, 33, 36 and "no parking" zones along Route 79 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.13, 1.21, 1.23, 1.26 and 1.42 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking bus stop" zones along Route U.S. 22 in the Town of Phillipsburg, Warren County; U.S. 30 in Galloway Township, Atlantic County, 33 in Howell Township, Monmouth County; 36 in Hazlet Township, Monmouth County and "no parking" zones along Route 79 in Marlboro Township, Monmouth County for the safe and efficient flow of traffic, the safe on/off loading of passengers at established bus stops, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The local officials will bear the costs for the installation of "no parking bus stop" signs and the Department, the costs for "no parking" signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.3 Route U.S. 22

(a) (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.-8. (No change.)

9. Along the eastbound (southerly) side in the Town of Phillipsburg, Warren County:

i. Mid-block bus stop:

(1) Miller Street—Beginning 120 feet east of the easterly curb line of Miller Street and extending 135 feet easterly therefrom.

16:28A-1.21 Route U.S. 30

(a) (No change.)

(b) The certain parts of State highway Route U.S. 30 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.-16. (No change.)

17.-18. (See proposal at 18 N.J.R. 158(b).)

19. Along the eastbound (southerly) side in Galloway Township, Atlantic County:

1. Far side bus stop:

(1) Near Grube Avenue—Beginning at the prolongation of the easterly curb line of Grube Avenue and extending 100 feet easterly therefrom.

16:28A-1.23 Route 33

(a) (No change.)

(b) The certain parts of State highway Route 33 described in [(b) of] this section shall be [and hereby are] designated and established as "restricted parking" zones 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.

1. (No change.)

(c) The certain parts of State highway Route 33 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.-6. (No change.)

7. Along the eastbound (southerly) side in Howell Township, Monmouth County:

i. Near side bus stop:

(1) Howell Road—Five Points Road—Beginning at the westerly curb line of Howell Road—Five Points Road and extending 105 feet westerly therefrom.

8. Along the westbound (northerly) side in Howell Township, Monmouth County:

i. Far side bus stop:

(1) Howell Road—Beginning at the westerly curb line of Howell Road and extending 105 feet westerly therefrom.

16:28A-1.26 Route 36

(a) (No change.)

(b) The certain parts of State highway Route 36 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 bus stops:

1.-5. (No change.)

6. Along the westbound (northerly) side in Hazlet Township, Monmouth County:

i. Near side bus stop:

(1) Poole Avenue—Beginning at the easterly curb line of Poole Avenue and extending 105 feet easterly therefrom.

ii. Mid-block bus stop:

(1) Between Brown Avenue and Central Avenue beginning 153 feet east of the easterly curb line of Brown Avenue and extending 135 feet easterly therefrom.

16:28A-1.42 Route 79

(a) The certain parts of State highway Route 79 described in this subsection are 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.-3. (No change.)

4. No stopping or standing Marlboro Township, Monmouth County:

i. (No change.)

ii. Along both sides:

(1) Beginning at the northerly curb line of Girard Street (south intersection)—Newton Street, and extending northerly to a point 250 feet south of the southerly curb line of Conover Road.

(b) (No change.)

(a)

**Restricted Parking and Stopping
Routes 33 in Mercer County and 49 in Salem
County**

**Proposed Amendments: N.J.A.C. 16:28A-1.23
and 1.34**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.

Proposal Number: PRN 1986-51.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones along Routes 33 in Hightstown Borough, Mercer County and 49 in Pennsville Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" zones along Routes 33 and 49 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.23 and 1.34 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking" zones along Routes 33 in Hightstown Borough, Mercer County and 49 in Pennsville Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.23 Route 33

(a) The certain parts of State highway Route 33 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 the Borough of Hightstown, Mercer County:

i. (No change.)

ii. Along the eastbound side:

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

(3) **Beginning at the easterly curb line of Grape Run Road to a point 75 feet east of the easterly curb line of South Street including all ramps and connections under the jurisdiction of the Commissioner of Transportation.**

iii. (No change.)

2.-7. (No change.)

(b)-(c) (See proposal this Register.)

16:28A-1.34 Route 49

(a) The certain parts of State highway Route 49 described in this subsection are 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.-5. (No change.)

6. Within the Township of Pennsville[:], Salem County:

i.-iii. (No change.)

iv. **Along the northerly (westbound) side:**

(1) No stopping or standing:

(A) From the westerly curb line of East Pittsfield Street to a point 445 feet westerly therefrom.

7. (No change.)

(b) (No change.)

(b)

**Restricted Parking and Stopping
Route U.S. 130 in Salem County**

Proposed Amendment: N.J.A.C. 16:28A-1.46

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139.

Proposal Number: PRN 1986-49.

The agency proposal follows:

Summary

On August 19, 1985, the Department promulgated rules concerning "no parking" zones along Route U.S. 130 in Penns Grove Borough and Carneys Point Township, Salem County at 17 N.J.R. 2016(a) and adopted on November 4, 1985 at 17 N.J.R. 2673(a).

A review of the rules as promulgated and adopted by the Department's Bureau of Traffic Engineering and Safety Programs revealed that the street name was incorrect.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.46 to reflect the proper street name.

Social Impact

The proposed amendment will correct the rule to reflect the proper street name and provide the motoring public with accurate information. Additionally, it will enhance the image of the State in that appropriate corrective action was taken to preclude confusion.

Economic Impact

The proposed amendment will have no adverse economic impact, since it serves to correct an error not effecting any changes which would affect the intent of the rule as originally proposed.

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

16:28A-1.46 Route U.S. 130

(a) The certain parts of Route U.S. 130 **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. (No change.)
2. No stopping or standing in Carneys Point Township and Penns Grove Borough, Salem County:
 - i. Along the northbound side:
 - (1)-(3) (No change.)
 - (4) From the northerly curb line of Grant Street to the southerly curb line of [Grant Street.] **Regional Drive.**
 - ii. (No change.)
- 3.-8. (No change.)
- (b) (No change.)

(a)

No Passing Zones
Routes 181 in Sussex and Morris Counties; U.S. 30 in Camden County; 34 and 70 in Monmouth County; 57 in Warren County; 70 in Burlington and Ocean Counties; 36 in Monmouth County and 77 in Cumberland County

Proposed Amendments: N.J.A.C. 16:29-1.6 and 1.7

Proposed New Rules: N.J.A.C. 16:29-1.52, 1.53, 1.54, 1.55 and 1.56

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-201.1.
 Proposal Number: PRN 1986-45.

The agency proposal follows:

Summary

The proposed amendments will establish "no passing" zones along Routes 34 in Howell, Colts Neck, Holmdel, Marlboro and Aberdeen Townships and Matawan Borough, Monmouth County and 36 in West Long Branch, the Boroughs of Monmouth Beach and Sea Bright in Monmouth County and new rules "no passing" zones along Routes 181 in Jefferson Township, Morris County and Sparta Township, Sussex County; 70 in Wall Township, and Brielle Borough, Monmouth County; the Townships of Evesham, Medford, Southampton, Woodland and Pemberton, Burlington County, the Townships of Manchester, Dover, Lakewood, Brick and the Boroughs of Lakehurst and Point Pleasant, Ocean County; U.S. 30 in Haddon Heights, Audubon, Oaklyn and Collingswood Boroughs and Haddon Township, Camden County; 57 in Lopatcong, Greenwich, Franklin, Washington, Mansfield and Hackettstown Townships, and Washington Borough, Warren County and 77 in the City of Bridgeton and Upper Deerfield Township, Cumberland County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" zones along Routes 34, 36, 181, 70, U.S. 30, 57 and 77 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:29-1.6 and 1.7. New Rules are proposed at N.J.A.C. 16:29-1.52, 1.53, 1.54, 1.55 and 1.56 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no passing" zones along Routes 34 in Howell, Colts Neck, Holmdel, Marlboro and Aberdeen Townships and Matawan Borough, Monmouth County; 36 in the Borough of West Long Branch. The City of Long Branch, the Boroughs of Monmouth Beach and Sea Bright in Monmouth County and new rules will establish "no passing" zones along Routes 181 in Jefferson Township, Morris County and Sparta Township, Sussex County; 70 in Wall Township and Brielle Borough, Monmouth County, the Townships of Evesham, Medford, Southampton, Woodland and Pemberton, Burlington County, the Townships of Manchester, Dover, Lakewood, Brick and the Boroughs of Lakehurst and Point Pleasant, Ocean County; U.S. 30 in Haddon Heights, Audubon, Oaklyn, and Collingswood Boroughs and Haddon Township, Camden County; 57 in Lopatcong, Greenwich, Franklin, Washington, Mansfield and Hackettstown Townships and Washington Borough, Warren County and 77 in the City of Bridgeton and Upper Deerfield Township, Cumberland County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:29-1.6 Route 34

(a) The **following** certain parts of State highway Route 34 [within Old Bridge Township, Middlesex County and described in drawing number HNPZ-033 dated May 24, 1978,] shall be [and hereby are] designated and established as "No Passing" zones[.]:

1. That part within Old Bridge Township, Middlesex County and described in drawing number HNPZ-033 dated May 24, 1978.

2. That part within Howell, Colts Neck, Holmdel, Marlboro and Aberdeen Townships and Matawan Borough, Monmouth County and described in drawing number HNPZ-034 dated May 23, 1985.

16:29-1.7 Route 36

[The certain parts of State Highway Route 36—Ocean Avenue (except municipal jurisdiction from Ocean Avenue to Riverdale Avenue) in Sea Bright Borough and described in drawing number HNPZ-019 dated December 5, 1977 shall be and are hereby designated and established as "No Passing" zones.]

(a) **The certain following parts of State highway Route 36 shall be designated and established as "No Passing" zones.**

1. Within the Borough of West Long Branch, the City of Long Branch, the Boroughs of Monmouth Beach and Sea Bright in Monmouth County and described in drawing number HNPZ-086 dated May 14, 1985.

16:29-1.52 Route 181

(a) **The following certain parts of State highway Route 181 shall be designated and established as "No Passing" zones:**

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Interested Persons see Inside Front Cover

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1. That part within Jefferson Township, Morris County and described in drawing number HNPZ-084 dated February 26, 1985.

2. That part within Sparta Township, Sussex County and described in drawing number HNPZ-085 dated February 26, 1985.

16:29-1.53 Route 70

(a) The following certain parts of State highway Route 70 shall be designated and established as "No Passing" zones:

1. That part within Wall Township and Brielle Borough, Monmouth County and described in drawing number HNPZ-089 dated June 14, 1985.

2. That part within the Townships of Evesham, Medford, Southampton, Woodland and Pemberton, Burlington County and described in drawing number HNPZ-087 dated September 9, 1985.

3. That part within the Townships of Manchester, Dover, Lakewood, Brick and the Boroughs of Lakehurst and Point Pleasant, Ocean County and described in drawing number HNPZ-088 dated September 20, 1985.

16:29-1.54 Route U.S. 30

(a) The following certain parts of State highway Route U.S. 30 shall be designated and established as "No Passing" zones:

1. That part within Haddon Heights, Audubon, Oaklyn and Collingswood Boroughs and Haddon Township, Camden County and described in drawing number HNPZ-090 dated August 29, 1985.

16:29-1.55 Route 57

(a) The following certain parts of State highway Route 57 shall be designated and established as "No Passing" zones:

1. That part within Lopatcong, Greenwich, Franklin, Washington, Mansfield and Hackettstown Townships, and Washington Borough, Warren County and described in drawing number HNPZ-072 dated July 23, 1985.

16:29-1.56 Route 77

(a) The certain following parts of State highway Route 77 shall be designated and established as "No Passing" zones:

1. Within the City of Bridgeton and Upper Deerfield Township, Cumberland County and described in drawing number HNPZ-079 dated July 25, 1985.

(a)

Miscellaneous Traffic Rules

One Way Street

Route 35 in Monmouth County

Proposed Amendment: N.J.A.C. 16:30-1.6

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-85.1 and 39:4-197(h).

Proposal Number: PRN 1986-42.

The agency proposal follows:

Summary

The proposed amendment will establish "one way" traffic along Route 35 at the Shrewsbury Office Plaza in Shrewsbury Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon request from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "one way" for traffic entrance and exit at the Shrewsbury Office Plaza was warranted.

The Department therefore proposes to amend N.J.A.C. 16:30-1.6 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed amendment will establish "one way" designation for traffic entrance and exit along Route 35 at the Shrewsbury Office Plaza in Shrewsbury Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The local officials will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:30-1.6 Route 35

(a) The certain parts of State Highway Route 35 described [herein below] in this section shall be [and hereby are] designated for one-way traffic.

1.-3. (No change.)

(b) The certain roadways along State Highway Route 35 described in this section shall be designated as Entrances/Exits.

1. In Shrewsbury Borough, Monmouth County:

i. Shrewsbury Office Plaza:

(1) Entrance—The northernmost driveway of the Shrewsbury Office Plaza shall be for Entrance only.

(2) Exit—The southernmost driveway of the Shrewsbury Office Plaza shall be for Exit only.

(b)

Miscellaneous Traffic Rules

Through Streets, Stop and Yield Intersections

Columbia Street and Parkview Avenue,

Elmwood Park, Bergen County

Proposed New Rule: N.J.A.C. 16:30-2.10

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-140.

Proposal Number: PRN 1986-50.

The agency proposal follows:

Summary

The proposed new rule will establish a STOP Intersection at the intersection of Columbia Street and Parkview Avenue in Elmwood Park Borough, Bergen County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon a request from the local officials the Department's Bureau of Traffic Engineering and Safety Programs

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conducted a traffic investigation. The investigation proved that the establishment of a STOP Intersection was warranted.

The Department therefore proposes new rule N.J.A.C. 16:30-2.10 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed new rule will establish a STOP Intersection at the intersection of Columbia Street and Parkview Avenue in Elmwood Park Borough, Bergen County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

Full text of the proposed new rule follows.

16:30-2.10 Columbia Street and Parkview Avenue

(a) The intersection of Columbia Street and Parkview Avenue, these portions being under the jurisdiction of the New Jersey Department of Transportation in Elmwood Park Borough, Bergen County and described in this section, shall be designated a STOP Intersection:

- 1. Columbia Street and Parkview Avenue: STOP signs shall be installed on Parkview Avenue.

(a)

Miscellaneous Traffic Rules

Lane Usage

Route 35 in Monmouth County

Proposed Amendment: N.J.A.C. 16:30-3.1

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-183.6.
Proposal Number: PRN 1986-41.

The agency proposal follows:

Summary

The proposed amendment will establish a "center lane-left turn only" along Route 35 in Shrewsbury Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace.

Based upon request from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of a "center lane-left turn only" was warranted.

The Department therefore proposes to amend N.J.A.C. 16:30-3.1 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed amendment will establish a "center lane-left turn only" along Route 35 in Shrewsbury Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:30-3.1 Route 35

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

(d) **Turning movements of traffic on certain parts of Route 35 described in this section are regulated as follows:**

- 1. **Center Lane—Left turns only: Between 500 feet and 240 feet south of Avenue of the Commons in Shrewsbury Borough, Monmouth County.**

RULE ADOPTIONS

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Availability of Funds Disclosure

Adopted New Rule: N.J.A.C. 3:1-15

Proposed: January 6, 1986 at 18 N.J.R. 13(a).

Adopted: February 24, 1986 by Mary Little Parell,
Commissioner, Department of Banking.

Filed: February 24, 1986 as R.1986 d.73, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 17:16L-2 and 17:1-8.1.

Effective Date: March 17, 1986.

Expiration Date pursuant to Executive Order No.
66(1978): January 6, 1991.

Summary of Public Comments and Agency Responses:

Written comments were received from seven financial institutions and one trade association.

Five of those commenting suggested elimination of mailing notices on passbook savings accounts. In the Department's opinion, the authorizing statute does not permit this. Therefore, this suggestion was not incorporated in the final regulation.

Seven of those commenting suggested reducing the thirty day time frame in the definition of time accounts to seven days. This suggestion was considered valid and, therefore, was adopted. It is the Department's opinion, the authorizing statute permits this modification without negatively affecting the purpose of the statute.

Two of those commenting suggested that the initial written disclosure be allowed to be included with a financial institution's quarterly statements rather than within a 60 day period after the effective date of the regulation. In the Department's opinion, the authorizing statute does not permit this modification, therefore, it was not adopted.

One of those commenting suggested that the regulation be modified to allow one notification to be made to holders of multiple accounts. The Department agreed that this change was reasonable, cost effective and did not negatively impact on the purpose of the statute.

One financial institution suggested that the regulation be modified to clarify that the regulation did not impinge on the rights of a banking institution under the provisions of N.J.S.A. 12A:4-212. The Department considered the suggested modification reasonable and appropriate and, therefore, it was adopted.

Two financial institutions submitting comments suggested that only future changes in availability of funds policies which negatively impact upon financial institutions' customers be

subject to the notice requirements. In the Department's opinion, customers should be made aware of favorable changes in financial institutions availability of funds policies for competitive reasons, therefore, the Department did not adopt this suggestion.

One financial institution suggested that the minimum time period for notice of change in policy be reduced from 30 to 15 days. The Department agreed that the 15 days notice is ample time for a depositor to reconsider his deposit relationship with his financial institution and take action if necessary. The Department also notes that the 15 day minimum notice requirement is consistent with Federal Reserve System Regulation Z, section 226.9(c)2, Subsequent Disclosure Requirement.

One financial institution suggested that the word "obviate" at N.J.A.C. 3:1-15.7 be changed to "affect." The Department agreed and made this change.

One financial institution commenting suggested that "business day" be changed to "banking day." The Department did not make this recommended change since it believes "business day" is more descriptive of the "day" as used in the regulation.

One financial institution commenting suggested the word "special" found in N.J.A.C. 3:1-15.3(b)9 be changed to "specific." The Department agreed that the word "specific" was more appropriate, therefore it adopted this change.

In the Department's opinion none of the modifications discussed above concerning the availability of funds proposed regulation are so substantial or significant that they require republication. Therefore, the Department believes the regulation should be adopted with the modification shown.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks *[thus]*).

SUBCHAPTER 15. AVAILABILITY OF FUNDS

3:1-15.1 Definitions

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

"After hours deposits" means a deposit received after the banking institution's established close of business hour for any business day. Such hours may vary at different offices of an institution. After hours deposits shall also include deposits received on a Saturday, Sunday or legal holiday. All after hours deposits shall be deemed to have been deposited on the next business day of the banking institution.

"Banking institution" means any State or federally chartered commercial bank, savings bank or savings and loan association.

"Business day" means any day other than a Saturday, Sunday or legal holiday.

"Check" is deemed to include a negotiable order of withdrawal, share draft, traveler's check, money order or other negotiable instrument used for the purpose of making payments or transfers to third parties.

"Deposit account" means an account at a banking institution established by a natural person for personal or family purposes. A deposit account includes but is not necessarily limited to a demand deposit, negotiable order of withdrawal account, money market account, a transaction account, a

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share draft account and any other personal or family savings account other than a time deposit.

"Personal or family purposes" means purposes other than primarily for business or investment purposes. Any account opened by a corporation, a partnership, a limited partnership or joint venture shall not be for personal or family purposes. A banking institution may rely on the written representation of the deposit account holder as to the purpose of the account.

"Time deposit" means a deposit that the depositor does not have the right to withdraw for a period of ***[30]* *7*** days or more after the date of deposit.

3:1-15.2 Availability of funds

Every banking institution shall provide written disclosure to all holders of and applicants for deposit accounts which describe the banking institution's policy with respect to when a deposit account holder may draw against deposits made in a deposit account. ***Holders of multiple accounts need to be provided only one written disclosure.***

3:1-15.3 Content of written disclosure statement

(a) The written disclosure statement may be a narrative or a schedule and shall clearly state when funds deposited at a banking institution on a particular business day will be available for use by the deposit account holder. All statements contained in the disclosure shall be expressed in terms that a layman can readily understand. Terms shall be clearly defined so that a depositor can understand their meaning.

(b) If a banking institution's availability policy varies with regard to the type or amount of deposited check or on account of any special reason requiring differing treatment, such policy must be disclosed. Examples are as follows:

1. Cash;
2. On us checks;
3. Local banking institution checks;
4. Checks drawn on banking institutions in New Jersey;
5. Checks drawn on banking institutions in other states;
6. Checks drawn by the US Government, the State or other governmental entity;
7. Payroll checks;
8. Foreign checks;
9. Any ***[special]* *specific*** dollar amount limitation on checks;
10. Checks deposited through its own ATM's or through a shared ATM of another institution;
11. New accounts during the first 30 days after the account is opened;
12. Deposit accounts with a history of overdrafts or other problems;
13. Emergency conditions beyond the control of the banking institution that preclude the banking institution from complying with its program;
14. Checks concerning which banking institution has received notice or has reasonable knowledge are to be returned;

(c) The banking institution may require any person opening a deposit account to acknowledge receipt of the disclosures required pursuant to this subchapter, which receipt may be incorporated into the account contract.

(d) If there is more than one owner or holder of the deposit account, disclosure to any such owner or holder shall be sufficient to comply with these regulations.

(e) The banking institution may include, in the disclosures, statements that distinguish the availability of funds from the final crediting of funds to the deposit account so that the account holder will know that there may be instances when his account may be charged for a deposit that did not clear

even though the banking institution has permitted drawing against the uncleared item.

(f) Copies of the required disclosure must be available at all principal and branch offices except a communications terminal branch office of the banking institution.

3:1-15.4 Initial written disclosure

(a) Every banking institution shall mail, not later than 60 days after the effective date of these regulations, a written disclosure statement to each of its deposit account holders or other monthly notification, the written disclosure statement may be included with the periodic statement or other notification provided it falls within the 60 day period required in (a) above.

(b) For demand deposit account holders or for other deposit account holders who may receive a periodic statement or other monthly notification, the written disclosure statement may be included with the periodic statement or other notification provided it falls within the 60 day period required in (a) above.

(c) Every applicant for a deposit account shall be provided with a written copy of the banking institution's disclosure statement at the time of, or prior to, the actual opening of the account.

3:1-15.5 Change in policy

In the event there is any significant change in the general policy of a banking institution with respect to when a deposit account holder may withdraw funds deposited into his deposit account, the banking institution shall mail a written summary of the change in policy, or a revised written disclosure statement, to the deposit account holder at least ***[30]* *15*** days prior to the implementation of such change.

3:1-15.6 Filing of written disclosure statements

The Commissioner of Banking may periodically require the filing of copies of a banking institution's written disclosure statement with the Department of Banking. Such filings may be used to determine the banking institution's compliance with the law and these regulations.

3:1-15.7 Banking institutions' rights

(a) Nothing contained in these regulations is intended to ***[obviate]* *affect*** the right of a banking institution to:

1. Accept or reject a check for deposit; ***[or]***
2. Charge back to a depositor's account the amount of a check on which the banking institution had made provisional settlement with the depositor but which is subsequently dishonored and returned to the institution^[.] ***; or**
3. **Eliminate or modify the rights of a banking institution under the provisions of N.J.S.A. 12A:4-212.***

ADOPTIONS

HEALTH

(a)

Home Repair Financing

Adopted New Rules: N.J.A.C. 3:19-1

Proposed: January 6, 1986 at 18 N.J.R. 15(a).
Adopted: February 14, 1986 by Mary Little Parel, Commissioner, Department of Banking.
Filed: February 24, 1986 as R.1986 d.72, **without change**.
Authority: N.J.S.A. 17:16C-62 et seq. and 17:1-8.1.

Effective Date: March 17, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): March 17, 1991.

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

Full text of the expired rules adopted as new appears in the New Jersey Administrative Code at N.J.A.C. 3:19-1.

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Multiple Dwellings Handicapped Parking

Adopted New Rule: N.J.A.C. 5:10-24.4

Proposed: January 6, 1986 at 18 N.J.R. 16(a).
Adopted: February 11, 1986 by Gerome R. White, Jr., Acting Commissioner, Department of Community Affairs.
Filed: February 14, 1986 as R.1986, d.61, **without change**.

Authority: N.J.S.A. 55:13A-6(e) and -7.3.
Effective Date: March 17, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): December 1, 1988.

Summary of Public Comments and Agency Responses:
A letter was received from the Eastern Paralyzed Veterans Association supporting the proposal. The Department appreciates the Association's expression of support.

Full text of the adoption follows.

5:10-24.4 Parking for handicapped residents
(a) Any owner of a multiple dwelling with five or more dwelling units which provides parking to the occupants there-

of, and in which a handicapped person resides, shall provide parking spaces for occupants who are handicapped located at the closest possible proximity to the principal accesses of the multiple dwelling.

(b) A minimum of one percent of the total number of parking spaces provided for the occupants of the multiple dwelling, but not less than one parking space, shall be set aside as parking for the handicapped.

1. Each space or group of spaces shall be identified with a clearly visible sign displaying the International Symbol of Access along with the following words: "This space reserved for physically handicapped drivers."

2. Each reserved space shall be 12 feet wide to allow room for a person in a wheelchair or on braces or crutches to get in and out of either side of an automobile onto a level, paved surface suitable for wheeling and walking and shall be located so that a person in a wheelchair or using braces or crutches is not compelled to wheel or walk behind parked cars.

3. Where applicable, curb ramps shall be provided to permit a handicapped person access from the parking area to the sidewalk.

(c) For purposes of this section "handicapped" means a physical impairment which confines a person to a wheelchair; causes a person to walk with difficulty or insecurity; affects the sight or hearing to the extent that a person functioning in public areas is insecure or exposed to danger; causes faulty coordination; or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

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(c)

NARCOTIC AND DRUG ABUSE CONTROL

Controlled Dangerous Substances Miscellaneous Provisions

Adopted New Rules: N.J.A.C. 8:65-8

Proposed: November 18, 1985 at 17 N.J.R. 2721(a).
Adopted: February 14, 1986 by J. Richard Goldstein, M.D., Commissioner, Department of Health.
Filed: February 20, 1986 as R.1986, d.65, **without change**.

Authority: N.J.S.A. 24:21-3.

Effective Date: March 17, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): December 2, 1990.

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

Full text of the adoption follows.

HEALTH**ADOPTIONS****SUBCHAPTER 8. MISCELLANEOUS PROVISIONS****8:65-8.1 Definitions**

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

"Act" means the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801) and/or the Controlled Substances Import and Export Act (84 Stat.1285; 21 U.S.C. 951). Any term not defined in this Section shall have the definition set forth in Sections 102 and 1001 of the Act (21 U.S.C. 802 and 951) and in 301.02.

8:65-8.2 Application of State Law and Other Federal Law

Nothing in Parts 301 through 308, 311, 312, 316 of Federal Regulations shall be construed as authorizing or permitting any person to do any act which such person is not authorized or permitted to do under other Federal laws or obligations under international treaties, conventions or protocols, or under the law of the State in which he desires to do such act nor shall compliance with such Parts be construed as compliance with other Federal or State laws unless expressly provided in such other laws.

8:65-8.3 Exceptions to regulations

(a) Any person may apply for an exception to the application of any provision of Parts 301 through 308, 311, 312 of Federal Regulations by filing a written request stating the reasons for such exception.

(b) Requests shall be filed with the Administrator, Drug Enforcement Administration, U.S. Department of Justice, Washington, D.C. 20537.

(c) The Administrator may grant an exception in his discretion, but in no case shall he be required to grant an exception to any person which is not otherwise required by law or the regulations cited in this section.

8:65-8.4 Distribution by dispenser to another practitioner

(a) A practitioner who is registered to dispense controlled substances may distribute (without being registered to distribute) a quantity of such substance to another practitioner for the purpose of general dispensing by the practitioner to his or its patients; provided, that:

1. The practitioner to whom the controlled substance is to be distributed is registered under the Act and the State Act (N.J.S.A. 24:21-10) to dispense that controlled substance;

2. The distribution of such controlled substance is recorded by the distributing practitioner in accordance with N.J.A.C. 8:65-5.17(a)5 and by the receiving practitioner in accordance with N.J.A.C. 8:65-5.17(a)3;

3. If the substance is listed in schedule I or II, an order form is used as required in N.J.A.C. 8:65-6;

4. The total number of dosage units of all controlled substances distributed by the practitioner pursuant to this section during the 12-month period in which the practitioner is registered to dispense does not exceed five percent of the total number of dosage units of all controlled substances distributed and dispensed by the practitioner during the 12-month period.

(b) If, at any time during the 12-month period which the practitioner is registered to dispense, the practitioner has reason to believe that the total number of dosage units of all controlled substances which will be distributed by him pursuant to this section will exceed five percent of the total number of dosage units of all controlled substances distributed

and dispensed by him during the 12-month period, the practitioner shall obtain a registration to distribute controlled substances.

8:65-8.5 Manufacture and distribution of narcotic solutions and compounds by a pharmacist

As an incident to a distribution under N.J.A.C. 8:65-8.4 a pharmacist may manufacture (without being registered to manufacture) an aqueous or oleaginous solution or solid dosage form containing a narcotic controlled substance in a proportion not exceeding 20 percent of the completed solution, compound or mixture.

8:65-8.6 Distribution to supplier

(a) Any person lawfully in possession of a controlled substance listed in any schedule may distribute (without being registered to distribute) that substance to the person from whom he obtained it or to the manufacturer of the substance, provided that a written record is maintained which indicates the date of the transaction, the name, form and quantity of the substance, the name, address, and registration number, if any, of the person making the distribution, and the name, address, and registration number, if known, of the supplier or manufacturer.

(b) In the case of returning a controlled substance listed in schedule I or II, an order form shall be used in the manner prescribed in Part 305 of the Act and N.J.A.C. 8:65-6 and be maintained as the written record of the transaction. Any person not required to register pursuant to Section 302(c) or 1007(b)1 of the Act or N.J.A.C. 8:65-1.3 shall be exempt from maintaining the records required by this section.

8:65-8.7 Distribution upon discontinuance or transfer of business

(a) Any registrant desiring to discontinue or transfer business activities altogether or with respect to controlled substances shall return his Federal Certificate of Registration, and any unexecuted order forms in his possession to the Drug Control Program, New Jersey State Department of Health, CN 362, Trenton, NJ 08625 as well as the State Certificate of Registration for cancellation. Any controlled substances in his possession may be disposed of in accordance with Section 307.21 of the Act or N.J.A.C. 8:65-8.10 or by transfer to another registrant. If the registrant desires to transfer the substances to another registrant, he shall take an inventory, together with his name, address, and registration number, and the name, address, and registration number of the proposed transferee and send them to the Special Agent in Charge of the District Office of the Drug Enforcement Administration in the region in which he is doing business at least 15 days in advance of the date of the proposed transfer. If the Special Agent in Charge does not notify the registrant that the transfer should be postponed or cancelled, the registrant may transfer the substances to the named transferee without being registered as a distributor. All controlled substances listed in schedule I or II must be transferred pursuant to an order form in accordance with Part 305 of the Act or N.J.A.C. 8:65-6. Schedule III, IV and V substances will be transferred in accordance to the inventory prepared by the registrant and submitted to the Special Agent in Charge. If the Special Agent in Charge denies the registrant authority to make the proposed transfer, the registrant shall either dispose of the substances in accordance with N.J.A.C. 8:65-8.10 or transfer the substances to another registrant in accordance with this section and/or instructions of the Special Agent in Charge.

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(b) In the case of registrants required to make reports pursuant to Part 304 of the Act, a report marked "Final" will be prepared and submitted by the transferor registrant showing the disposition of all the controlled substances for which a report is required; no additional reports will be required from him, provided that no further transactions involving controlled substances are consummated by him. The initial report of the transferee registrant shall account for transactions beginning with the day next succeeding the date of discontinuance or transfer of business by the transferor registrant, and the substances transferred to him shall be reported as receipts in his initial report.

(c) A registrant shall notify the Drug Control Program, New Jersey State Department of Health, CN 362, Trenton, NJ in writing no less than 15 days prior to the discontinuance or transfer of business activities with respect to controlled substances as set forth in (a) above, unless the Program waives requirements in individual instances. Such notification shall include but not be limited to:

1. Name, address, State CDS and Federal DEA registration numbers of the registrant discontinuing or transferring his controlled substances activities;

2. Name, address, State CDS and Federal DEA registration numbers of the registrant, or proof of application for same, of registrant to whom the controlled substances are to be transferred;

3. Name, address, State CDS and Federal DEA registration numbers, or proof of application for same of the registrant receiving the records, which include prescription files, or patient orders of practitioners of the discontinued business;

4. Name, and address of the person or firm who will maintain records, such as invoices, purchase records and executed order forms of the discontinued or transferred business for a period of not less than two years; and

5. The date on which the discontinuance or transfer of the business activity will take place.

8:65-8.8 Distribution to ocean vessels or aircraft

(a) Any registrant lawfully in possession of a controlled substance listed in any schedule may distribute (without being registered to distribute) that substance to a medical officer, master or first officer, of any ocean vessel engaged in international trade or in trade between points of the United States and any merchant vessel belonging to the United States Government; or to any aircraft operated by a carrier under a certificate of permit issued pursuant to the Federal Aviation Act of 1958 (49 U.S.C. 1301) provided that:

- 1. The medical officer shall be:
 - i. Licensed in a state as a physician;
 - ii. Employed by the owner or operator of the vessel, aircraft or other entity; and
 - iii. Registered under the Act at either of the following locations:

(1) The principal office of the owner or operator of the vessel, aircraft or other entity; or

(2) At any other location provided that the name, address, registration number and expiration date as they appear on the Certificate of Registration for this location are maintained for inspection at said principal office in a readily retrievable manner.

2. A registered medical officer may serve as medical officer for more than one vessel, aircraft, or other entity under a single registration, unless he serves as medical officer for more than one owner or operator, in which case he shall either

maintain a separate registration at the location of the principal office of each such owner or operator or utilize one or more registrations pursuant to liii(2) above.

3. If no medical officer is employed by the owner or operator of a vessel or aircraft, or in the event the medical officer is not accessible and the acquisition of controlled substance is required, the master or first officer of the vessel, or aircraft, who shall not be registered, may purchase controlled substances from a registered manufacturer or distributor or from an authorized pharmacy through the following procedure:

i. The master or first officer of the vessel or aircraft must personally appear at the vendor's place of business, present proper identification, (for example, Seaman's photographic identification card) and a written requisition for the controlled substances;

ii. The written requisition must be on the vessel or aircraft's official stationary or purchase order and must include the name and address of the vendor, the name of the controlled substance (dosage form, strength and number or volume per container) number of containers ordered, the name of the vessel, the vessel's official number and country of registry, the owner or operator of the vessel, the port at which the vessel is located, the controlled substances and the date of the requisition;

iii. The vendor may, after verifying the identification of the vessel's officer requisitioning the controlled substances, deliver the controlled substances to that officer. The transaction shall be documented, in triplicate, on a record of sale in a format similar to that outlined in this subsection. The vessel's requisition shall be attached to copy 1 of the record of sale and filed with the controlled substances records of the vendor. Copy 2 of the record of sale shall be furnished to the officer of the vessel and retained aboard the vessel. Copy 3 of the record of sale shall be forwarded to the nearest DEA Division office within 15 days after the end of the month in which the sale is made;

iv. The vendor's record of sale should be similar to, and must contain all the information required in the following format:

Sale of Controlled Substances to Vessels

(Name of Registrant)_____

(Address of Registrant)_____

(DEA Registration Number)_____

Line No.	Number of Packages	Size of Packages	Name	Pkg Dist.	Date
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____

Line numbers may be continued according to the needs of the vendor.

Number of lines completed_____

Name of the vessel_____

Vessel's official number_____

Vessel's country of registry_____

Owner or operator of vessel_____

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Name and title of vessel's officer who presented requisition _____

Signature of vessel's officer who presented the requisition _____

4. Any registered pharmacy which wishes to distribute controlled substances pursuant to this section shall be authorized to do so, provided that:

i. The registered pharmacy notifies the nearest Division officer of the Drug Enforcement Administration of its intentions to distribute controlled substances prior to the initiation of such activity. This notification shall be by registered mail and shall contain the name, address and registration number of the pharmacy as well as the date upon which such activity will commence; and

ii. Such activity is authorized by state law; and

iii. The total number of dosage units of controlled substances meet the requirements of N.J.A.C. 8:65-8.4.

8:65-8.9 Incidental manufacture of controlled substances

Any registered manufacturer who, incidentally but necessarily, manufactures a controlled substance as a result of the manufacturer of a controlled substance or basic class of controlled substance for which he is registered and has been issued an individual manufacturing quota pursuant to Part 303 of the Act (if such substance or class is listed in schedule I or II) shall be exempt from the requirement of registration pursuant to Part 301 of the Act and, if such incidentally manufactured substance is listed in schedule I or II, shall be exempt from the requirement of an individual manufacturing quota pursuant to Part 303 of the Act, if such substances are disposed of in accordance with Part 307.21 of the Act.

8:65-8.10 Procedure for disposing of controlled substances

(a) Any person in possession of any controlled substance and desiring or required to dispose of such substance may request the Special Agent in Charge, U.S. Department of Justice, Drug Enforcement Administration, 970 Broad St., Newark, N.J. 07102 for authority and instructions to dispose of such substance. The person may also contact the Drug Control Program, New Jersey State Department of Health for such authority and instruction. The request shall be made in the following manner:

1. If the person is a registrant required to make reports pursuant to Part 304 of the Act, he shall list the controlled substances or substance which he desires to dispose of on the "b" subpart of the report normally filed by him, and submit three copies of that report to the Special Agent in Charge, U.S. Department of Justice, Drug Enforcement Administration, 970 Broad St., Suite 806, Newark, N.J. 07102.

2. If the person is a registrant not required to make reports pursuant to Part 304 of the Act, he shall list the controlled substance or substances which he wishes to dispose of on DEA-41 form or Form DDC-51 of the Drug Control Program, New Jersey State Department of Health, CN 362, Trenton, NJ 08625. If he elects to use the DEA-41 form, he must submit three copies of that form to the Special Agent in Charge, U.S. Department of Justice, Drug Enforcement Administration, 970 Broad St., Newark, N.J. 07102. If the person elects to use the DDC-51 form, he must submit three copies of that form to the Drug Control Program, New Jersey State Department of Health, CN 362, Trenton, N.J. 08625 or may telephone that agency.

3. If the person is not a registrant he shall submit to the Special Agent in Charge a letter stating:

i. The name and address of the person;

ii. The name and quantity of each controlled substance to be disposed of;

iii. How the applicant obtained the substance, if known; and

iv. The name, address and registration number, if known, of the person who possessed the controlled substance prior to the applicant, if known.

(b) The Special Agent in Charge or the Drug Control Program shall authorize and instruct the applicant to dispose of the controlled substances in one of the following manners:

1. By transfer to the District Office of the Special Agent in Charge;

2. By transfer to a person registered under the act and authorized to possess such substance or substances;

3. By destruction in the presence of an agent of the District Office of the Special Agent in Charge or an agent of the Drug Control Program; or

4. By such other means as the Special Agent in Charge or the Drug Control Program may determine to assure that the substance or substances does not become available to unauthorized persons.

(c) This section shall not be construed as affecting or altering in any way the disposal of controlled substances through procedures provided in laws and regulations adopted by any state.

8:65-8.11 Disposal of controlled substances by the District Office

(a) Any controlled substance delivered to the District Office of the Special Agent in Charge, U.S. Department of Justice, Drug Enforcement Administration under 307.21 or forfeited pursuant to section 511 of the Act (21 U.S.C. 881) may be delivered to any department, bureau, or other agency of the United States or of any State upon proper application addressed to the Administrator, U.S. Department of Justice, Drug Enforcement Administration, Washington, D.C. 20537.

(b) The application shall show the name, address, and official title of the person or agency to who the controlled drugs are to be delivered, including the name and quantity of the substances desired and the purpose for which intended.

(c) The delivery of such controlled drugs shall be ordered by the Special Agent in Charge, if in his opinion, there exists a medical or scientific need therefor.

8:65-8.12 Native American Church

The listing of peyote as a controlled substance in schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the American Native Church so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the Native American Church, however, is required to obtain registration annually and to comply with all other requirements of law.

(a)

**Controlled Dangerous Substances
Temporary Placement of Two Analogs of
Meperidine into Schedule I**

Adopted Amendment: N.J.A.C. 8:65-10.1

Proposed: December 16, 1985 at 17 N.J.R. 2950(a).
Adopted: February 14, 1986 by J. Richard Goldstein,
M.D., Commissioner, Department of Health.
Filed: February 20, 1986 as R.1986, d.66, **without
change.**

Authority: N.J.S.A. 24:21-3.

Effective Date: March 17, 1986.

Expiration Date pursuant to Executive Order No.
66(1978): Exempt pursuant to N.J.S.A. 24:21-3.

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

Full text of the adoption follows.

8:65-10.1 Controlled dangerous substance; Schedule I

(a) (No change.)

(b) The following is Schedule I listing of the controlled
dangerous substances by generic, established or chemical
name and the controlled dangerous substances code number.

1.-6. (No change.)

7. Temporary listing of substances subject to emergency
scheduling. Any material, compound, mixture, or preparation
which contains any quantity of the following substances:

i. (No change.)

ii. (No change.)

(See proposal at 17 N.J.R. 2214(a).)

iii. 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its
optical isomers, salts and salts of isomers . . . 9661

iv. 1-2(2-phenylethyl)-4-4phenyl-4-acetyloxypipidine
(PEPAP), its optical isomers, salts and salts of isomers . . .
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**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

(b)

**Administration Manual, Manual for Hospital
Services, Independent Clinic Services Manual
Narcotic and Drug Abuse Treatment Centers**

**Adopted Amendments and New Rules: N.J.A.C.
10:49-1.4; 10:52-1.21; 10:66-1.2, 1.6 and 3**

Proposed: May 20, 1985 at 17 N.J.R. 1235(a).
Adopted: February 13, 1986 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.

Filed: February 13, 1986 as R.1986 d.59 **with 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(16); 42 CFR 440.90 and
42 CFR 440.130

Effective Date: March 17, 1986.

Expiration Dates pursuant to Executive Order No.
66(1978): N.J.A.C. 10:49-1 (Administration Manual),
April 29, 1990; N.J.A.C. 10:52-1 (Manual for
Hospital Services), February 9, 1989; N.J.A.C.
10:66-1,3 (Independent Clinic Services Manual),
Subchapter 1—December 15, 1988, Subchapter
3—May 8, 1986.

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

Summary of Changes Between Proposal and Adoption:

There were some codification changes required by HCPCS
(Health Care Financing Administration Common Procedure
Coding System). The Division recently adopted the HCPCS
procedure code system for reimbursing fee-for-service
providers. The HCPCS system is referenced, but not repro-
duced at N.J.A.C. 10:66-3. Therefore the references to the old
procedure codes (which existed when the rule was proposed)
were deleted and replaced with the reference to the HCPCS
codes by the adoption of the HCPCS code appearing in the
March 3, 1986 issue of the New Jersey Register. However,
there was no change in the services covered or the fee sched-
ule(s).

**Full text of the adoption follows (additions indicated by
boldface and asterisks *thus;* deletions indicated by brackets
and asterisks *[thus]*):**

10:49-1.4 Authorized Services for Covered Persons

(a) The items and services provided to covered persons are
not normally limited in duration or amount. Any limitation
imposed will be consistent with the medical necessity of the
patient's condition, as determined by the attending physician

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or other practitioner, in accordance with standards generally recognized by health professionals and promulgated through the New Jersey Medicaid Program. The following items and services, more specifically defined in subsequent sections of the appropriate provider manual, are authorized under the program:

1. through 19. (No change.)

20. Narcotic and drug abuse services: Certain specified services (excluding room, board and other residential services) are covered in connection with the inpatient or outpatient treatment or care of drug abuse when the treatment is prescribed by a physician and provided in a licensed hospital or in a narcotic and drug abuse treatment center approved as a provider by the New Jersey Medicaid Program.

10:52-1.21 Narcotic and Drug Abuse Treatment Center

(a) A hospital affiliated narcotic and drug abuse treatment center may provide services in connection with the outpatient treatment or care of drug abuse when the treatment is prescribed by a physician, and provided in a licensed hospital with approval by the New Jersey State Department of Health pursuant to L.1970 c.334 (NJSA 26:2G-21 et seq.) and whose staff includes a medical director. The New Jersey Medicaid Program will cover only those services eligible for federal financial participation under Title XIX of the Social Security Act.

(b) Reimbursement for services provided in an outpatient narcotic and drug abuse treatment center is on a fee-for-service basis. The New Jersey Medicaid Program payment for drug treatment services must be accepted as payment in full. Additional charges cannot be requested as a bad debt or uncompensated care through the hospital rate setting process.

(c) Approved centers may bill only for those procedure codes which correspond to the allowable services included in their New Jersey Medicaid provider approval letter. Room, board and other residential services are not covered. Claims for reimbursement must be submitted to the Prudential Insurance Company on the claim form used by Independent Clinics (MC-14—"Independent Outpatient Health Facility.").

10:66-1.2 Definitions

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

...

"Narcotic and drug abuse treatment center" means a facility to provide services in connection with the inpatient or outpatient treatment or care of drug abuse when the treatment is prescribed by a physician and provided in a licensed hospital or in a narcotic and drug abuse treatment center approved by the Department of Health pursuant to L.1970 c.334 (NJSA 26:2G-21 et seq.) and whose staff includes a medical director, and limited to those services eligible for federal financial participation under Title XIX of the Federal Social Security Act.

...

10:66-1.6 Scope of service

(a) Licensed and approved independent clinics may to the extent of their specialty, license and/or approved New Jersey Medicaid Program Provider Agreement, provide the following services (see 1.6 (b) through *(o)* *[(n)]* when medically necessary. Procedure codes*[, descriptions,]* and maximum dollar allowances*[,]* which correspond to allowable services*[,]* are listed in N.J.A.C. 10:66-3.*[3.]*

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

(d) Drug abuse treatment services rules are as follows:

1. Services for inpatient or outpatient treatment do not require prior authorization. These services must be prescribed by a physician and provided in a licensed hospital or in a narcotic and drug abuse treatment center.

2. The New Jersey Medicaid Program will cover drug treatment costs only for those services eligible for federal financial participation under Title XIX of the Social Security Act. Room, board and other residential services are not covered services.

3. See N.J.A.C. 10:66-3*.[3 (a)]* for Examination and Treatment codes, *[(d)]* for Laboratory Services codes and *[(g)]* for Mental Health Services codes. Approved centers may bill only for those procedure codes which correspond to the allowable services included in their New Jersey Medicaid Provider approval letter.

Original (d)-(n) redesignated as (e)-(o) (No change in text.)

SUBCHAPTER 3. HCFA COMMON PROCEDURE CODING SYSTEM (HCPCS)

10:66-3.1 Procedure code listing (HCPCS)

EDITOR'S NOTE: The procedure code lists that formerly existed at 10:66-3.3 and which were referenced in the original proposal connected with this adoption, were deleted by the adoption of the HCPCS coding system in the March 3, 1986 New Jersey Register. The narrative that currently exists at this cite was adopted in the December 2, 1985 New Jersey Register at 17 N.J.R. 2900.

(a)

**Manual for Hospital Services
Out-of-State Inpatient Hospital Services**

Adopted Amendment: N.J.A.C. 10:52-1.17

Proposed: September 16, 1985 at 17 N.J.R. 2225(a).

Adopted: December 23, 1985 by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.

Filed: December 24, 1985 as R.1985, d.704, **with changes** not requiring further public comment or response (see: N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:40D-6a(1), 7, 7a, 7b; 42 CFR 431.52.

Effective Date: March 17, 1986.

Expiration Date pursuant to Executive Order No. 66(1978): February 9, 1989.

Summary of Public Comments and Agency Responses:

There were two comments on this proposal. One comment was submitted by a representative from Thomas Jefferson University Hospital. This commentator was concerned about costs relating to building capital, education, and to outlier payment for those patients whose medical condition required extended hospitalization. The commentator indicated that the state of Pennsylvania made allowances for these components. The Division's response is that these situations are covered by the rule as it was originally proposed. If these additional

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costs are allowed by the Title XIX Agency in the state where the hospital is located, the New Jersey Medicaid Program will also recognize these costs.

The other comment was submitted by Children's Heart Hospital of Philadelphia. The commentator expressed concern that it is not approved as a Title XIX (Medicaid) provider in Pennsylvania because it receives a state appropriation in lieu of Pennsylvania Medicaid payments. The commentator also indicated the care provided is not always done on an emergency basis. The Division's response is to prepare a separate proposed amendment which appears in this issue of the New Jersey Register.

Summary of Changes Between Proposal and Adoption:

The Division on its own initiative is amending subsection (e) concerning hearings and appeals. The existing text really applied to individual claims that might be denied in whole or in part by the fiscal agent. The additional language in paragraph (e)2 is more appropriate for issues relating to the rate of reimbursement, because claims may be paid before the rate year ends. The remaining paragraphs in subsection (e) have been renumbered accordingly.

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

10:52-1.17 Out-of-State Inpatient Hospital Services

(a) Out-of-state approved hospitals are hospitals with a valid provider agreement with the Title XIX agency in the state in which they are located.

(b) Reimbursement of inpatient services in out-of-state approved hospitals will be based on the following criteria:

1. Interim reimbursement will be 95 percent of per diem rate approved by the State Medicaid Agency of the state in which the hospital is located, or 100 percent of the Diagnosis Related Group (DRG) rate approved by the state Medicaid agency of the state in which the hospital is located.

2. Final reimbursement will be 95 percent of the hospital's final audited per diem in its respective state, or the DRG rate, whichever is appropriate.

3. Reimbursement for out-of-state inpatient hospital services provided to an eligible Medicaid recipient, who has been determined to be in need of, and approved for, a liver, heart or bone marrow transplant, because of a life threatening situation, will be made at the rate approved by the state Medicaid agency of the state in which the hospital is located whether this is a DRG rate, a negotiated rate, or a per diem rate. The reimbursement for liver, heart and bone marrow transplants is not to exceed 100 percent of the state Medicaid agency rate of the state in which the hospital is located.

(c) (No change.)

(d) Reimbursement of inpatient services in out-of-state non-approved hospitals will be based on the following criteria:

1. Service will be limited to emergency services.

2. Interim reimbursement will be 95 percent of per diem rate approved by the state Medicaid agency of the state in which the hospital is located, or 100 percent of the Diagnosis Related Group (DRG) rate approved by the state Medicaid agency of the state in which the hospital is located.

3. Final reimbursement will be 95 percent of the hospitals final audited per diem in its respective state, or the DRG rate, whichever is appropriate.

(e) The following procedures must be followed when an appeal is filed by an out-of-state hospital:

1. If an out-of-state hospital, whether approved or non-approved, wishes to file an appeal concerning any complaint or issue arising out of the claims payment process, a written request must be submitted within 20 days from the date of mailing of the notice of the agency action that gave rise to the complaint or issue. ***[The hearing request should be addressed to:**

Director
Division of Medical Assistance
and Health Services
CN 712
Trenton, New Jersey 08625]*

***2. If the appeal concerns issues relating to the rate of reimbursement, the appeal must be filed within 20 days after the close of the rate year in the state in which the hospital is located. The following limitations shall apply to matters involving hospital rates.**

i. **The hospital must demonstrate an appeal has been filed with the Title XIX agency in the state in which the hospital is located;**
ii. **If the hospital has not filed an appeal in their own state, then the interim payment made by the Division's fiscal agent will be considered as final.**

3. All hearing requests should be addressed to:

Director
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625*

[2.] *4 The Division of Medical Assistance and Health Services has no jurisdiction to conduct hearings on issues related to the Medicaid rate, whether interim or final, as determined by a state other than New Jersey.

[3.]* *5. The conduct of all hearings shall conform to the requirements of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B et seq. State administrative hearings are conducted by the Office of Administrative Law, who has developed and published their own procedural rules (N.J.A.C. 1:1-1.1 et seq.).

[4.]* *6. An out-of-state provider who requests a hearing would have the same rights, duties and obligations as an in-state provider. Additional regulations governing hearings are set forth at N.J.A.C. 10:49-5.1 et seq.

(a)

**Long Term Care Services Manual
CARE Guidelines: Adjustment to Base Period
Data**

Adopted Amendment: N.J.A.C. 10:63-3.17

Proposed: July 15, 1985 at 17 N.J.R. 1736(a).

Adopted: February 20, 1986 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.

Filed: February 21, 1986 as R.1986 d.69, **without change.**

Authority: N.J.S.A. 30:4D-6a(4)(a), b(14), 7, 7a, 7b.

Effective Date: March 17, 1986.

Expiration Date pursuant to Executive Order No.

66(1978): November 29, 1989.

HUMAN SERVICES

ADOPTIONS

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

Full text of the adoption follows.

10:63-3.17 Adjustments to base period data

(a) As described in previous sections of these guidelines, with the exception of capital items, rates will be based substantially upon reasonable actual base period costs. This section provides for adjustments to reasonable base period costs in establishing prospective rates.

1.-3. (No change.)

4. Where legal and management changes have been approved and the approved costs are not expended in the prospective rate period, the unspent amount will be recovered from the LTCF.

Re-number 4. as 5. (No change in text.)

DIVISION OF PUBLIC WELFARE

(a)

Public Assistance Manual Reimbursement by Counties to State for Administrative Expenses of Tax Setoffs and Other Collections

Adopted Amendment: N.J.A.C. 10:81-11.9

Proposed: February 19, 1985 at 17 N.J.R. 369(a).

Adopted: February 13, 1986 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.

Filed: February 14, 1986 as R.1986 d.62, **without change**.

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

Effective Date: March 17, 1986.

Expiration Date pursuant to Executive Order No.
66(1978): April 16, 1989.

Summary of Public Comments and Agency Responses:

Written comments were received from six county welfare agencies, the County Welfare Directors Association, a county counsel on behalf of a county executive and a board of chosen freeholders. In addition, a public hearing was held on the proposed amendments on July 12, 1985 in Trenton, New Jersey. Four individuals testified at the public hearing representing a county executive and three county welfare agencies.

The following summarizes the comments received in writing and during the hearing, and provides the agency's responses to those comments.

COMMENT: Six commenters indicated this proposal would transfer a State administrative cost to the counties retroactively, despite the counties not having budgeted this cost. Allegedly, this would be a punitive action in reaction to the court decision in *Shapiro v. Albanese*.

RESPONSE: The costs being transferred are direct program costs, not State administrative costs. The State had proposed to pay these costs by reducing incentives to the counties in lieu of billing the counties. When the referenced court decision

reversed that proposal, the billing of direct program costs was necessitated. At the same time as the retroactive incentives were forwarded to the counties, the retroactive direct program cost was calculated and deducted. All direct program costs subsequent to October 1, 1984 will be billed to the counties and funds were to be budgeted by the counties to cover these costs.

COMMENT: A clarification was requested on the definition of a direct program cost and how it is negotiated. Also, it was asserted that if the county is to pay these costs, then the county should participate in the negotiation process.

RESPONSE: Direct program costs are those costs billed by other agencies to the Division of Public Welfare. They include fees established by the Internal Revenue Service (currently \$3.20 per offset); fees established by New Jersey Division of Taxation (currently five percent of the offset); fees charged by the New Jersey Division of Unemployment and Disability Insurance (dedicated staff salaries and administrative costs plus actual computer use costs); fees to be established by the New Jersey Division of State Lottery (currently in planning phase—fee would be established to reflect actual costs).

The direct program costs for Unemployment and Lottery intercepts are reflective of actual costs for those agencies limited by negotiated cooperative agreements. The direct program costs for the Internal Revenue Tax intercept are negotiated between the Internal Revenue Service and the Federal Office for Child Support Enforcement. The direct program costs for the State Tax Intercept are established by the Division of Taxation to reflect their actual expenditures and are promulgated in N.J.A.C. 18:35-2.12. Accordingly, fees must be negotiated and established for the entire State, not by individual county.

COMMENT: One commenter indicated that this proposal shifts costs to the counties which should not even be charged since they were paid to the New Jersey Department of Treasury from the New Jersey Department of Treasury.

RESPONSE: Each agency within State government operates under an approved budget. Expenses incurred by one agency for processing work for other agencies are generally billed to the benefitting department(s). The State tax intercept is operated under this format.

COMMENT: Several commenters suggested that the direct program costs be allocated proportionately to the collections disbursement.

RESPONSE: The collections disbursement is dictated by actual contribution of each level of government to the public assistance payments; the counties contribute 12.5 percent, the State contributes 37.5 percent, and the Federal government contributes 50 percent. Accordingly, collections are disbursed as reimbursement for public assistance: 12.5 percent to the county, 37.5 percent to the State, and 50 percent to the Federal government. The Division of Public Welfare incurs expenses of staff assigned to the Intercept Projects, costs for temporary personnel for "Hotline" services, and automated systems costs. In addition, the Division has provided technical assistance to many of the counties in submittal of cases for offset. Those costs will continue to be borne by the State. The counties will not be expected to pay those costs.

Accordingly, the State is bearing a substantial expenditure for the Intercept Projects in return for its rightful share of public assistance recoveries. Each county, in addition to its rightful share of public assistance recoveries, receives an incentive payment. This incentive is currently 12 percent of the public assistance distributed collections. It is with this incentive income that counties would pay direct costs.

ADOPTIONS

HUMAN SERVICES

COMMENT: One commenter suggested that the proposed regulation be withdrawn until a review of the entire funding formula for all programs administered by county welfare agencies is conducted.

RESPONSE: This proposal does not purport to resolve or consider funding formulas for the numerous programs administered by county welfare agencies. Rather, it addresses specific offset programs and establishes payment responsibility for direct program costs only. Since these programs are currently in use, payment responsibility must be established. Specific issues relative to funding formulas should be addressed in writing with recommendations outlined as deemed appropriate.

Full text of the adoption follows.

10:81-11.9 Responsibilities of the CWA/CSP Unit

(a)-(g) (No change.)

(h) Collection of delinquent child support payments through offset of Federal income tax: Federal income tax refunds shall be offset when court ordered child support payments owed to county welfare agencies are delinquent.

1. (No change.)

2. CWA responsibilities: CWA/CSP Unit shall be responsible for submitting cases to the IRS Offset process where child support or a judgment has been ordered payable directly to the CWA by a court of competent jurisdiction via Form CSP-152 Tax Refund Offset Data Form. The CPDs will be responsible for submittal of those public assistance cases under their supervision which meet the eligibility requirements.

i.-iii. (No change.)

iv. Payment for submittal and collection costs: County welfare agencies shall pay the State IV-D agency for all direct costs incurred in submittals and collections for the Federal Tax Offset Program. Such payments are retroactive to the date of Offset Program implementation. Since the Division of Public Welfare prepays these fees, payment from the County Welfare Agency will be in the form of reimbursement to the Division of Public Welfare.

3.-9. (No change.)

(i) Collection of delinquent child support payments through the New Jersey State Income Tax/Homestead Rebate (SOIL) Project: Delinquent child support payments owed to the county welfare agency may be offset through the New Jersey State Income Tax/Homestead Rebate (SOIL) Project.

1.-9. (No change.)

10. County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Income Tax Refund/Homestead Rebate Program. Such payments are retroactive to the date of Rebate Program implementation. Since the Division of Public Welfare prepays such fees, payments from County Welfare Agencies will be in the form of reimbursement to the Division of Public Welfare.

(j) Payment of costs for unemployment garnishments: County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Unemployment Garnishment Agreement with the New Jersey Department of Labor. Such payments are retroactive to the date of garnishment program implementation. Since the Division of Public Welfare prepays such fees, payments from the County Welfare Agencies will be in the form of reimbursement to the Division of Public Welfare.

(k) Payment of costs for lottery intercept: County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Lottery Intercept Agreement with

the New Jersey Department of Treasury. Such payments are retroactive to the date of program implementation. Since the Division of Public Welfare prepays such fees, payment from the County Welfare Agencies will be in the form of reimbursement to the Division of Public Welfare.

(l) (No change in text.)

(a)

**General Assistance Manual
Alien's Sponsors**

Adopted Amendment: N.J.A.C. 10:85-3.4

Proposed: January 6, 1986 at 18 N.J.R. 21(a).

Adopted: February 24, 1986 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.

Filed: February 24, 1986 as R.1986 d.76, **without change.**

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

Effective Date: March 17, 1986.

Operative Date: April 1, 1986.

Expiration Date pursuant to Executive Order No.
66(1978): July 25, 1988.

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

Full text of the Adoption follows.

10:85-3.4 Resources

(a) (See adoptions at 18 N.J.R. 193(a) and 18 N.J.R. 274(a).)

(b) Identification: The person(s) applying for assistance shall identify all his or her resources, shall assist in their evaluation, and, where indicated, shall participate in planning and carrying out their liquidation. The failure of any individual to identify a resource and to participate in its evaluation and/or liquidation shall render that individual ineligible for assistance.

1. Each alien admitted for permanent residence is required to have a sponsor who has certified that he or she will provide support to prevent the alien from becoming a public charge. Therefore, an alien admitted for permanent residence shall supply the name and address of his or her sponsor to the MWD or, if unable to do so, must cooperate in the agency's efforts to obtain the information from the Immigration and Naturalization Service (INS). The alien shall also cooperate in the agency's efforts to obtain support from the sponsor.

i.-ii. (No change.)

iii. The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applicant or recipient for three years following the alien's entry into the United States. For purposes of this section, a sponsor is an individual (not an organization) who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's entry into the United States. No income or resources shall be deemed from a sponsor who is receiving public assistance.

iv.-viii. (No change.)

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

(g) (See adoption at 18 N.J.R. 193(a).)

(a)

(b)

**General Assistance Manual
Nursing Home Bed-Hold Payments**

**Medicaid Only Manual
Ineligible Individuals**

Adopted Amendment: N.J.A.C. 10:85-5.3

**Adopted Amendment: N.J.A.C. 10:94-1.6 and
3.14**

Proposed: December 16, 1985 at 17 N.J.R. 2953(a).
Adopted: February 20, 1986 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.
Filed: February 20, 1986 as R.1986, d.70, **without
change.**

Proposed: October 25, 1985 at 17 N.J.R. 2522(a).
Adopted: February 20, 1986 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.
Filed: February 24, 1986 as R.1986, d.71, **without
change.**

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

Authority: N.J.S.A. 44:7-87 and 42 CFR 435.1008(a)(1).

Effective Date: March 17, 1986.

Effective Date: March 17, 1986.

Operative Date: April 1, 1986.

Expiration Date pursuant to Executive Order No.

Expiration Date pursuant to Executive Order No.
66(1978): July 25, 1988.

66(1978): 10:94-1, None; 10:93-3, July 20, 1988.

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

Summary of Public Comments and Agency Responses:

Full text of the adoption follows.

COMMENT: The Department received one comment, from a county Freeholder-Director, opposing the amendment, which clarifies that inmates of correctional facilities are not eligible for Medicaid benefits under Title XIX. The Freeholder-Director observed that "most youth in county detention facilities are not 'inmates' under the Federal definition" and the facility in his county is a "temporary facility for youths who are awaiting trial or disposition to more appropriate facilities".

10:85-5.3 Other medical payments

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

(e) Care for the chronically ill: The director of welfare shall authorize payments for patient care and a personal incidental allowance in a skilled nursing home, intermediate care facility, or public medical institution when a physician certifies that a client has a defect, disease, or impairment (other than psychosis) which necessitates such care, the client is not eligible for Medicaid, and there is no person available who will provide such care without cost to the client.

RESPONSE: The Department points out that the amendment deals specifically with the Medicaid Only Program (N.J.A.C. 10:94) which is designed to serve primarily an adult population, namely, the aged, blind and disabled. Thus, these regulations are not generally relevant to the youth mentioned by the commentor.

1. (No change.)

2. Maximum fees: Payment to the facility shall not exceed the rates for such facility as established by Medicaid or, for non-Medicaid facilities by DPW/BMA. The MWD may contact the DPW/BMA to obtain the per diem rate for room, board and nursing care. A personal incidental allowance of \$25.00 per month shall be allowed to the patient.

As to the definition of the term "inmate", it is observed that the Federal Health Care Financing Administration (HCFA) interprets it to have the same meaning as the term "resident" applicable to individuals residing in publicly operated institutions. Therefore, eligibility is precluded for individuals who are residents (inmates) of publicly operated institutions. If those individuals are prisoners, have been arrested or detained in a jail, prison, reformatory, detention center or other correctional facility, pending disposition of charges, or are held under court order as material witnesses or juveniles, such individuals are ineligible for Medicaid and remain ineligible so long as the correctional or holding facility retains jurisdiction over them.

i. In determining the amount the MWD will be authorized to pay the facility for room, board and nursing care, the Medicaid rate times the number of days of care less the payment by or on behalf of client shall be used. Each month the MWD will obtain a current bill for all services rendered during the previous month and will submit it to the DPW/BMA for costing prior to payment.

Full text of the adoption follows.

(1) The MWD shall authorize per diem payments for periods of up to 10 days during which the client is temporarily absent from the facility for hospitalization or therapeutic visits.

10:94-1.6 Basic principles of administration

ii. (No change.)

(a) The following principles of administration shall apply to the Medicaid Only program.

(f)-(i) (No change.)

1.-2. (No change.)

3. No duplication of assistance: No recipient of Medicaid Only shall receive, during the same period, any other medical assistance from the State or any political subdivision thereof with respect to any maintenance requirements or other need for which allowance is made in the Medicaid Only program

ADOPTIONS

(see N.J.A.C. 10:94-3.14 regarding inmates of correctional institutions). The food stamp program is not considered a duplication of public assistance.

4.-7. (No change.)

10:94-3.14 Institutional eligibility

(a) Persons who are otherwise eligible for Medicaid Only receive medical coverage while receiving patient care in eligible medical institutions. Such coverage shall be provided through the appropriate payment mechanism of the Division of Medical Assistance and Health Services. The Medicaid "CAP" income standard is applied only to certain institutions.

(b) Individuals who are inmates of public institutions are not eligible for Medicaid coverage, unless they are receiving care in a Title XIX approved section of such facility.

(c) Individuals incarcerated in a Federal, State or local correctional facility (prison, jail, detention center, reformatory, etc.) are not eligible for Medicaid coverage. The needs of such individuals (inmates) are met through another agency of the Federal or State government or political subdivision thereof (see N.J.A.C. 10:94-1.6(a)3).

(d) (No change in text.)

(e) Application of Medicaid "CAP" rules are:

1. General or Class A special hospitals: When a person is confined to such a hospital, the Medicaid "CAP" standard does not apply; eligibility will be determined according to the applicable living arrangement in Table B (see N.J.A.C. 10:94-5.6(c)5).

2.-3. (No change.)

(f) (No change in text.)

(a)

**Medicaid Only Manual
New Eligibility Computation Amounts**

**Readopted Amendment: N.J.A.C. 10:94-5.4,
5.5, 5.6, and 5.7**

Proposed: January 21, 1986 at 18 N.J.R. 215(a).
Adopted: February 24, 1986 by Geoffrey S. Perselay,
Acting Commissioner, Department of Human
Services.
Filed: February 24, 1986 as R.1986 d.74, **without change.**

Authority: N.J.S.A. 44:7-87 and Section 1902(a) of the
Social Security Act.

Effective Date: February 24, 1986.
Expiration Date pursuant to Executive Order No.
66(1978): August 22, 1988.

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

Full text of the adoption follows:

10:94-5.4 Includable income

(a) Any income which is not specifically excluded under the provisions of N.J.A.C. 10:94-5.3 shall be includable in the determination of countable income. Such income shall include, but is not limited to, the following:

1.-11. (No change.)

HUMAN SERVICES

12. Support and maintenance furnished in-kind (community cases): Support and maintenance encompasses the provision to an individual of his or her needs for food, clothing, and shelter at no cost or at a reduced value. Persons determined to be "living in household of another" in accordance with N.J.A.C. 10:94-5.6 shall not be considered to be receiving in-kind support and maintenance as the income eligibility levels have been reduced in recognition of such receipt. Persons not determined to be "living in household of another" who receive in-kind support and maintenance shall be considered to have unearned income in the amount of:

\$132.00 for an individual

\$188.00 for a couple

i. (No change.)

13. (No change.)

(b) (No change.)

10:94-5.5 Deeming of income

(a)-(c) (See proposal at 17 N.J.R. 2732(a).)

(d) A table for deeming computation amounts follows:

TABLE A

Deeming Computation Amounts

1. Living allowance for each ineligible child		\$168.00
2. Remaining income Support amount	Head of Household	Receiving Support and Maintenance
	\$168.00	\$112.00
3. Spouse to Spouse Deeming—Eligibility Levels		
a. Residential Health Care Facility	\$654.05	
b. Eligible individual living alone with ineligible spouse	\$697.36	
c. Living alone or with others	\$535.25	
d. Living in household of another	\$380.31	
4. Parental Allowance—Deeming to Child(ren)		
Remaining income is:		Parent & Spouse of Parent
a. Earned only	1 Parent \$672.00	\$1,008.00
b. Unearned only	\$336.00	\$ 504.00
c. Both earned and unearned	\$336.00	\$ 504.00

10:94-5.6 Income eligibility standards

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

(c) Non-institutional living arrangements:

1.-4. (No change.)

5. Table B follows:

Table B

Variations in Living Arrangements Medicaid Eligibility Income Standards

	Individual	Couple
I. Residential Health Care Facility	\$ 486.05	\$953.36
II. Living Alone or with Others	\$ 367.25	\$529.36
III. Living Alone with Ineligible Spouse	\$ 529.36	
IV. Living in Household of Another	\$ 268.31	\$429.09
V. Title XIX Approved Facility:	\$1,008.00†	

Includes persons in acute general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and ICFMR) and licensed special hospitals (Class A, B, C) and Title XIX psychiatric hospitals (for persons under age 21 and age 65 and over) or a combination of such facilities for a full calendar month.

†Gross income (that is, income prior to any income exclusions) is applied to this Medicaid "Cap."

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

HUMAN SERVICES

ADOPTIONS

- 10:94-5.7 Deeming from sponsor to alien
 - (a)-(d) (No change.)
 - (e) To determine the amount of income to be deemed to an alien, the CWA shall proceed as follows:
 - 1. (No change.)
 - 2. Subtract \$336.00 for the sponsor, \$504.00 for the sponsor if living with his or her spouse, \$672.00 for the sponsor if his or her spouse is a co-sponsor.
 - 3. Subtract \$168.00 for any other dependent of the sponsor who is or could be claimed for Federal Income Tax purposes.
 - 4. (No change.)
 - 5. (No change.)

Residential Health Care Facilities and certain residential facilities for children and adults	\$486.05
Living Alone or with Others	\$367.25
Living with Ineligible Spouse (No other individuals in household)	\$529.36
Living in Household of Another, Receiving Support and Maintenance	\$268.31

†The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

(a)

INSURANCE

Service Programs for Aged, Blind, or Disabled Supplemental Security Income Payment Levels

(b)

Readopted Amendment: N.J.A.C. 10:100, Appendix A

REAL ESTATE COMMISSION

Proposed: January 21, 1986 at 18 N.J.R. 216(a).
 Adopted: February 24, 1986 by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.
 Filed: February 24, 1986 as R.1986 d.75, **without change.**

Approved Real Estate Schools; Requirements

Adopted Amendment: N.J.A.C. 11:5-1.28

Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.

Proposed: February 19, 1985 at 17 N.J.R. 376(a).
 Adopted: February 18, 1986 by Hazel Frank Gluck, Commissioner, Department of Insurance.
 Filed: February 18, 1986 as R.1986 d.63, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Effective Date: February 24, 1986.
 Expiration Date pursuant to Executive Order No. 66(1978): August 30, 1988.

Authority: N.J.S.A. 45:15-10.1 and 45:15-42.

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

Effective Date: March 17, 1986.
 Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

Full text of the adoption follows:

Summary of Public Comments and Agency Responses:

10:100, Appendix A

The New Jersey Supplemental Security Income Payment Levels

The Department received five written comments and, at a regularly scheduled public meeting held by the Real Estate Commission on May 21, 1985, eight verbal comments on the proposed amendments. All the comments were directed to one provision, contained in N.J.A.C. 11:5-1.28(j), which would reduce the maximum permissible student/teacher ratio in approved real estate schools from sixty to thirty-five students per teacher or instructor.

Living Arrangement Categories	Payment Level 1/1/86
Eligible Couple	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$50/504.00†
Residential Health Care Facilities and certain residential facilities for children and adults	\$953.36
Living Alone or with Others	\$529.36
Living in Household of Another, Receiving Support and Maintenance	\$429.09
Eligible Individual	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$25/336.00†

COMMENT: Opponents of the proposed amendment to reduce class size included several real estate school representatives as well as a representative of the New Jersey Association of Realtors. These individuals advised that statistics as well as personal experience reveal no correlation between smaller class size and greater success in the real estate examination. The quality of instruction rather than class size was seen as the primary factor in providing quality real estate education.

Qualified instructors are difficult to obtain at present. Concern was expressed that any decrease in class size would necessitate the hiring of additional and perhaps less qualified instructors thereby diminishing the current high standard of real estate education.

Other concerns that were expressed included the possibility that decreasing class size would produce tuition increases and limited enrollment opportunities.

ADOPTIONS

LAW AND PUBLIC SAFETY

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Licensing Service

Age Requirements; Proof of Identity and Date of Birth

Adopted Amendment: N.J.A.C. 13:21-8.2

Proposed: January 6, 1986 at 18 N.J.R. 49(a).
Adopted: February 11, 1986 by Robert S. Kline, Acting Director, Division of Motor Vehicles.
Filed: February 21, 1986 as R.1986, d.68, **without change.**

Authority: N.J.S.A. 39:3-10, 39:3-11.1, 39:3-13 and 39:3-13.1.

Effective Date: March 17, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): August 28, 1989.

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

Full text of the adoption follows.

13:21-8.2 Age requirements; proof of identity and date of birth

(a) All applicants must have reached the age of 17 years, except applicants making application under the provisions of N.J.S.A. 39:3-11.1 and 39:3-13.1.

(b) All applicants will be required to furnish proof of identity and date of birth. Proof of identity and date of birth may be established in the following manner:

1. Submission of the original or certified copy of a birth certificate showing the name and date of birth of the applicant and bearing the registrar's signature and seal of office, or a photo identification card issued by the New Jersey Casino Control Commission showing the name and date of birth of the applicant and bearing the seal of the Casino Control Commission.

2. Submission of one or more of the following documents when the original or certified copy of a birth certificate is unavailable, or when a photo identification card issued by the New Jersey Casino Control Commission is not presented, or when the applicant is not a citizen of the United States.

i.-viii. (No change.)

3.-4. (No change.)

Only one commenter, a representative of a real estate school, supported the proposal reduction in class size. He noted that smaller classes often allow for more stimulating interaction between students and teachers which he felt was more productive for learning real estate matters.

RESPONSE: Upon review, the Department concurs with the reasons presented by the majority of commenters. The current high pass rates among real estate education students attests to the success of the current class size rule as being conducive to the effective teaching of real estate subjects. It was determined that the goal of providing quality real estate education would be enhanced by retaining the current maximum student/teacher ratio of sixty students to one instructor.

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

11:5-1.28 Approved schools; requirements

(a)-(i) (No change.)

(j) The maximum teaching load per teacher or instructor shall not exceed the ratio of one teacher or instructor to ***[thirty-five]* *sixty*** students per class. Each course of instruction herein provided shall be under the supervision of an instructor qualified as provided for herein who shall be present in the classroom at all sessions. Additional instructors or guest speakers may be utilized for instruction with respect to given subjects provided that not more than twenty-five percent of the prescribed respective instruction is done by persons other than the instructor in whom overall responsibility is vested.

(k) (No change.)

(l) Every school approved by the Commission shall maintain a bona-fide office open to the public during normal business hours for the purpose of assisting former and current students, and maintain facilities meeting the following standards:

1.-3. (No change.)

(m)-(n) (No change.)

(o) Any person who has a permanent disability or physical handicap which precludes that person from attending regular scheduled classes at an approved school may request Commission approval to receive special instruction through an approved school provided this request is supported by sworn statements of doctors or other persons having knowledge of the facts and provided an approved school is willing to undertake such an agreement.

1. This regulation shall not apply to applicants who wish to qualify for licensure under N.J.S.A. 45:15-11 License Granted to Certain Disabled War Veterans unless prior approval is secured from State Department of Education and Career Preparation—Office of Veteran Education and Training.

(p) Provisions regarding records of students include the following:

1. Each school shall permanently establish and maintain for each student, a complete, accurate and detailed report, which shall include: the total number of hours of instruction undertaken; completed areas of study in real estate subjects prescribed by these regulations; students attendance; instructor(s) name and the name of guest speaker, if any. All schools shall keep permanent type records of all students for not less than three years after student matriculation.

2.-4. (No change.)

(q)-(v) (No change in text.)

LAW AND PUBLIC SAFETY

ADOPTIONS

(a)

BOARD OF MEDICAL EXAMINERS

**Standards for Licensure of Physicians
Graduated from Medical Schools Not
Approved by American National Accrediting
Agencies**

Adopted Amendment: N.J.A.C. 13:35-3.11

Proposed: January 6, 1986 at 18 N.J.R. 50(a).
Adopted: February 12, 1986 by New Jersey State Board
of Medical Examiners, Edward W. Luka, M.D.,
President.
Filed: February 21, 1986 as R.1986, d.67, **without
change.**

Authority: N.J.S.A. 45:9-2.

Effective Date: March 17, 1986.
Expiration Date pursuant to Executive Order No.
66(1978): August 1, 1988.

Summary of Public Comments and Agency Responses:
Comment was submitted by Dr. Stanley S. Bergen, President of the University of Medicine and Dentistry of New Jersey, in support of the proposal. No other comment was received. In determining to adopt the rule amendment as proposed, the Board did note two references in the Social and Economic Impact Statements which should be clarified. The proposal had indicated that most, but not all United States hospitals require applicants for post-graduate training positions to demonstrate successful passage of the ECFMG examination. In fact, it appears that all United States hospitals do require it, but not all hospitals have been observing that requirement. Thus, the rule amendment will have the salutary purpose of ensuring that the standards already recognized as appropriate have in fact been implemented with respect to applicants for licensure in this State.

Full text of the adoption follows.

13:35-3.11 Standards for licensure of physicians graduated
from medical schools not approved by American
national accrediting agencies
(a)-(e) (No change.)

(f) A graduate of a foreign medical school shall demonstrate a document indicating a passing score on the examination administered by the Educational Commission on Foreign Medical Graduates (FMGEMS or ECFMG, as applicable) followed by successful completion of three years of post-graduate training approved by the Board of Medical Examiners.

(g)-(j) (No change.) _____

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

**Homestead Rebate Act
Extension of Time to File Homestead Rebate
Claim**

Readoption: N.J.A.C. 18:12-7.12

Proposed: January 6, 1986 at 18 N.J.R. 107(a).
Adopted: February 18, 1986 by John R. Baldwin,
Director, Division of Taxation
Filed: February 20, 1986 as R.1986 c.64, **without change.**
Authority: N.J.S.A. 54:4-3.80 and 54:50-1.

Effective Date: March 17, 1986.
Expiration Date pursuant to Executive Order No.
66(1978): August 12, 1988.

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

Full text of the adoption follows:

18:12-7.12 Extension of filing date
(a)-(i) (No change.)
(j) The time for property owners to file their applications for a homestead rebate payable in 1986 pursuant to P.L. 1976, c.72, including applications by shareholders in cooperative associations and those residing in properties of certain mutual housing corporations, has been extended to March 1, 1986.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

DIVISION OF ENVIRONMENTAL QUALITY

(a)

Toxic Catastrophe Prevention Act Registration Forms

Take notice that pursuant to the "Toxic Catastrophe Prevention Act," P.L. 1985, c.403, effective January 8, 1986, the Department of Environmental Protection ("Department") has issued registration forms, as required by Section 4 of the act. The registration forms must be completed by affected facilities and submitted to the Department by **May 8, 1986**.

Any facility that uses, stores, manufactures, handles or generates any of the following eleven substances equal to, or in excess of the quantities indicated must comply with the registration requirements: hydrogen chloride (2,000 pounds); allyl chloride (2,000 pounds); hydrogen cyanide (500 pounds); hydrogen fluoride (500 pounds); chlorine (500 pounds); phosphorus trichloride (500 pounds); hydrogen sulfide (500 pounds); phosgene (100 pounds); bromine (100 pounds); methyl isocyanate (100 pounds) or toluene-2, 4-diisocyanate (100 pounds).

For copies of the registration forms or for additional information contact:

N.J. Department of Environmental Protection
Division of Environmental Quality
Release Prevention and Response
CN 027
Trenton, New Jersey 08625
Telephone: (609) 633-7289
Attn: TCPA—Registration Form

(b)

Noise Control Council Community Noise; Nuisance or Health Problems

Public Hearing

Take notice that pursuant to the "Noise Control Act of 1971," N.J.S.A. 13:1G-1 et seq., the Noise Control Council will hold a public hearing as follows:

Tuesday, April 8, 1986
1:00 P.M. to 4:30 P.M.
6:00 P.M. to 9:00 P.M.
Rutgers University
Cook College Campus Center
Biel Road
New Brunswick, New Jersey

Speakers are invited to provide testimony relevant to the issue of Community Noise—Nuisance or Health Problems and to address the following questions:

Is there a particular noise source in your community which bothers you?

Is it an annoyance or do you feel it affects your health?

Do you notice any stress reactions? Blood pressure changes? Difficulty sleeping? Can you document these health effects with statements from your doctor? Increases in medication needed?

Does the noise interfere with conversations? Can you hear on the telephone? Do you need to raise the volume of the TV?

Does your community have a noise ordinance? Do you know where to call to register a complaint? Is it the police department, health department or some other agency?

Invited speakers include representatives from public health practitioners, speech and hearing associations, the New Jersey League of Municipalities, health departments and police departments.

It is the responsibility of the New Jersey Noise Control Council to advise the Commissioner of the Department of Environmental Protection about issues relating to noise control. Written and oral comments received will assist the Council in the formulation of recommendations to the Commissioner. Programs can be improved based upon your evaluations and comments.

DIVISION OF WATER RESOURCES

(c)

Application Period for Water Supply Bond Rehabilitation and Interconnection Loan Program

Public Notice

Take notice that Richard T. Dewling, Commissioner of the Department of Environmental Protection, pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, and the Consolidated Water Supply Bond Loan Regulations, N.J.A.C. 7:1A-1, 2, 3, 4 and 5, announces that the Department will be accepting loan applications until **June 1, 1986** for local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating publicly-owned water supply transmission facilities and for the interconnection of unconnected or inadequately connected water supply systems. Any political subdivision of the State or agency thereof shall be eligible to apply for a water supply bond rehabilitation or interconnection loan. Note that N.J.A.C. 7:1A-2.3(a) requires every applicant to schedule an informal pre-application conference with the Division of Water Resources prior to making a formal application for a water supply bond rehabilitation or interconnection loan.

Applications may be obtained and pre-application conferences may be scheduled by contacting the Division of Water

ENVIRONMENTAL PROTECTION

Resources as listed below. Any questions concerning the water supply bond rehabilitation or interconnection loan programs should be addressed to:

Robert Oberthaler, Section Chief
Division of Water Resources
Water Supply and Watershed Management
Administration
1474 Prospect Street
CN-029
Trenton, New Jersey 08625
(609) 633-7486

Note that all applications for the water supply bond rehabilitation or interconnection loan programs must be received on or before **June 1, 1986.**

(a)

Amendment to the Upper Delaware Water Quality Management Plan

Public Notice

Take notice that on February 3, 1986 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 Delaware Water Quality Management (WQM) Plan was adopted by the Department concerning the dissolution of the Warren County-Pohatcong Creek Sewerage Authority and the creation of the Washington-Mansfield Wastewater facilities planning area. This amendment appeared as a proposed amendment in the August 9, 1985 issue of the New Jersey Register and was the subject of a public hearing on October 24, 1985 at Washington, New Jersey, notice of which appeared in the October 7, 1985 issue of the New Jersey Register. Based upon comments received at that public hearing the amendment was revised. The final amendment now reads as follows:

The Warren County-Pohatcong Creek Sewerage Authority has been dissolved as a wastewater facilities planning area and management agency. To replace the Pohatcong Creek Sewerage Authority the Washington-Mansfield wastewater facilities planning area consisting of Washington Borough, Washington Township, and Mansfield Township, Warren County has been created. 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 Sewage 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 to treat the Borough's future wastewater needs.

Areas of Washington Township outside the existing service area of the Borough STP that may require centralized wastewater treatment and conveyance systems shall utilize waste-

MISCELLANEOUS NOTICES

water 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.

(b)

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. The amendment provides for the expansion of the Burlington Township Central Avenue Sewage Treatment Plant's sewer service area to include the proposed 72 acre Bromley Tract, Phase I located in Burlington Township, Burlington County. The Bromley Tract, Phase I is located in the southern quadrant of Route 295 and American Legion Road interchange and bounded on the south by Elbo Lane. This amendment has been endorsed by the Delaware Valley Regional Planning Commission, the designated areawide WQM planning agency. It will also allow for an encroachment of wetlands caused by a roadway.

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 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 persons 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 thirty 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

ENVIRONMENTAL PROTECTION

(a)

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. The amendment provides for the Evesham Municipal Utilities Authority to accept and treat sewage from the proposed Elmwood Village development in Evesham Township, Burlington County. The Elmwood Village is bounded by Elmwood Road, Route 70, Troth Road, Marlton-Medford Pike, and Pine Grove Park. The amendment has been endorsed by the Delaware Valley Regional Planning Commission, the designated areawide WQM planning agency. The amendment will extend the sewer service area of Evesham MUA to include the Elmwood Village development. It will also allow for a minor encroachment in wetlands (less than one-quarter acre) caused by a roadway for this development.

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 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 persons** 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 thirty 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.

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 proposals in this issue will be entered in the Index of the next issue of the 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 Transmittal number and date of the latest looseleaf 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 February 3, 1986 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 adopt a proposed rule on a timely basis 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.1986 d.100 means the one hundredth rule adopted in 1986.

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 certifying 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 the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: JANUARY 21, 1986.

NEXT UPDATE WILL BE DATED FEBRUARY 18, 1986.

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

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
17 N.J.R. 503 and 634	March 4, 1985	17 N.J.R. 2171 and 2318	September 16, 1985
17 N.J.R. 635 and 762	March 18, 1985	17 N.J.R. 2319 and 2484	October 7, 1985
17 N.J.R. 763 and 858	April 1, 1985	17 N.J.R. 2485 and 2584	October 21, 1985
17 N.J.R. 859 and 1006	April 15, 1985	17 N.J.R. 2585 and 2710	November 4, 1985
17 N.J.R. 1007 and 1158	May 6, 1985	17 N.J.R. 2711 and 2814	November 18, 1985
17 N.J.R. 1159 and 1358	May 20, 1985	17 N.J.R. 2815 and 2934	December 2, 1985
17 N.J.R. 1359 and 1460	June 3, 1985	17 N.J.R. 2935 and 3032	December 16, 1985
17 N.J.R. 1461 and 1608	June 17, 1985	18 N.J.R. 1 and 128	January 6, 1986
17 N.J.R. 1609 and 1700	July 1, 1985	18 N.J.R. 129 and 234	January 21, 1986
17 N.J.R. 1701 and 1818	July 15, 1985	18 N.J.R. 235 and 376	February 3, 1986
17 N.J.R. 1819 and 1954	August 5, 1985	18 N.J.R. 377 and 446	February 18, 1986
17 N.J.R. 1955 and 2070	August 19, 1985	18 N.J.R. 447 and 506	March 3, 1986
17 N.J.R. 2071 and 2170	September 3, 1985	18 N.J.R. 507 and 582	March 17, 1986

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-3.8	Attorney disqualification from a case	18 N.J.R. 2(a)		
1:1-14.6	Consolidated cases involving exempt agencies	18 N.J.R. 130(a)		
1:2-2.1	Civil Service cases: pre-proposal concerning conference hearings	17 N.J.R. 2072(a)		
1:2-2.1, 2.4	Conference hearings and employee/employer disputes	17 N.J.R. 2712(a)	R.1986 d.33	18 N.J.R. 414(a)
1:6A-5.4	Special education hearings: placement of child pending an appeal	17 N.J.R. 2586(a)		
1:30	Agency rulemaking	18 N.J.R. 3(a)	R.1986 d.60	18 N.J.R. 469(a)

(TRANSMITTAL 17, dated January 21, 1986)

AGRICULTURE—TITLE 2				
2:5-3	Avian influenza	Emergency	R.1986 d.58	18 N.J.R. 488(a)
2:53-3	Milk sales below cost by stores	17 N.J.R. 3014(a)	R.1986 d.43	18 N.J.R. 476(a)
2:32-2	Sire Stakes Program	18 N.J.R. 236(a)		
2:32-2.36, 3	Sire Stakes Program: appeals	17 N.J.R. 2320(a)	R.1986 d.18	18 N.J.R. 266(a)
2:71-2.28, 2.29, 3.21	Fees for inspection and grading of fruit and vegetables	18 N.J.R. 448(a)		
2:90-1.5, 1.14	Soil conservation plan certifications; minor subdivisions	17 N.J.R. 2172(a)		
2:90-1.13	Soil conservation: extraction activity	17 N.J.R. 1957(a)		
2:90-2.15, 2.17, 2.18, 2.24	Soil and water conservation projects	18 N.J.R. 131(a)		
2:90-3.6, 3.9	Time extensions to complete conservation projects	18 N.J.R. 449(a)		

(TRANSMITTAL 36, dated January 21, 1986)

BANKING—TITLE 3				
3:1-2.24	Modification of Commissioner's Order restricting stock transfers	17 N.J.R. 2487(a)		
3:1-15	Availability of funds deposited in individual accounts: written disclosure	18 N.J.R. 13(a)	R.1986 d.73	18 N.J.R. 553(a)
3:6-10	Savings banks: unsecured days funds transactions	17 N.J.R. 2936(a)	R.1986 d.48	18 N.J.R. 477(a)
3:6-11	Short-term investments for trust cash	17 N.J.R. 2937(a)	R.1986 d.49	18 N.J.R. 477(b)
3:11-10	Savings banks: credit card services	18 N.J.R. 241(a)		
3:11-11	Leeway investments	18 N.J.R. 132(a)		
3:19-1	Home repair financing	18 N.J.R. 15(a)	R.1986 d.72	18 N.J.R. 555(a)
3:26-4.1	State savings and loan parity with Federal associations	17 N.J.R. 2713(a)	R.1985 d.720	18 N.J.R. 266(b)

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
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3:38-5.2	Return of borrower's commitment fee	17 N.J.R. 2488(b)	
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(TRANSMITTAL 30, dated January 21, 1986)

CIVIL SERVICE—TITLE 4

4:1-2.1, 5.2, 11.2, 16, 24	Separations, demotions, layoffs; review and appeals	18 N.J.R. 450(a)	
4:1-10.1, 10.2	Noncompetitive and labor appointments	17 N.J.R. 2937(b)	
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)	
4:1-23	Grievances and minor discipline	17 N.J.R. 2587(a)	
4:2-16	Separations and demotions	18 N.J.R. 450(a)	
4:2-23	Grievances and minor discipline	17 N.J.R. 2587(a)	
4:3-16	Separations and demotions	18 N.J.R. 450(a)	
4:3-23	Grievances and minor discipline	17 N.J.R. 2587(a)	

(TRANSMITTAL 28, dated January 21, 1986)

COMMUNITY AFFAIRS—TITLE 5

5:10-24.4	Parking for handicapped residents of multiple dwellings	18 N.J.R. 16(a)	R.1986 d.61	18 N.J.R. 555(b)
5:11-2.1	Uniform Fire Code enforcement and relocation assistance	17 N.J.R. 2938(a)		
5:12-2.4, 2.5	Homelessness Prevention Program: eligibility and priorities	17 N.J.R. 2939(a)		
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)		
5:23-2.14, 4.18, 4.20	UCC: annual construction permits	17 N.J.R. 2490(a)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 1033(a)		
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.15	UCC: Plumbing Subcode	17 N.J.R. 2714(a)	R.1986 d.12	18 N.J.R. 267(a)
5:23-5.11	Uniform Construction Code: revocation of licenses	18 N.J.R. 16(b)		
5:23-8	Asbestos hazard abatement subcode	18 N.J.R. 378(a)		
5:25	New Home Warranties and Builders' Registration	17 N.J.R. 2816(a)		
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 218(a)		
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 490(a)		
5:26	Planned real estate full disclosure	18 N.J.R. 392(a)		
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)		
5:80-20	HMFA housing projects: applicant and tenant income certification	17 N.J.R. 2321(b)		

(TRANSMITTAL 37, dated January 21, 1986)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:12	Governor's Teaching Scholars Program	18 N.J.R. 135(a)	
6:20-2.13	Local districts: overexpenditure of funds	17 N.J.R. 2939(b)	
6:20-5.5	State aid for asbestos removal and encapsulation	18 N.J.R. 392(b)	
6:20-5.6	Minimum salaries and State aid	18 N.J.R. 393(a)	
6:21-16.1	Pupil transportation contracts	18 N.J.R. 138(a)	
6:22	School facility planning services	17 N.J.R. 650(a)	
6:24	Controversies and disputes under school law	18 N.J.R. 404(b)	
6:43-1.3	Vocational and technical education: schools designated "other than full-time day"	17 N.J.R. 2940(a)	

(TRANSMITTAL 38, dated January 21, 1986)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1-3	Interim Environmental Cleanup Responsibility Act rules	18 N.J.R. 242(a)	
7:1-7	Hazardous substance discharges: reports and notices	17 N.J.R. 1826(a)	

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
7:1E-2.3	Discharge of hazardous substances: department response	18 N.J.R. 456(a)		
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)		
7:2-11.22	Bear Swamp East natural area	18 N.J.R. 139(a)		
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)		
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)	R.1985 d.715	18 N.J.R. 314(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)		
7:11-2.2, 2.3, 2.9	Sale of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoirs	18 N.J.R. 17(a)		
7:13-7.1	Flood hazard area along Long Brook and Manasquan River	17 N.J.R. 2324(a)	R.1986 d.50	18 N.J.R. 477(c)
7:13-7.1(c)29	Floodway delineations within Maurice River Basin	17 N.J.R. 2186(a)		
7:13-7.1(d)14	Flood hazard along Lamington River in Morris County	17 N.J.R. 2324(b)		
7:13-7.1(d)47	Redelineation of Pine Brook in Bergen County	17 N.J.R. 2074(a)		
7:13-7.1(d)49	Floodway delineations in Union County	17 N.J.R. 1965(a)		
7:13-7.1(d)53	Floodway delineations in Raritan Basin (Project H)	17 N.J.R. 2492(a)	R.1986 d.51	18 N.J.R. 477(d)
7:13-7.1(h)	Floodway delineations in Hackensack Basin	17 N.J.R. 1175(a)	R.1986 d.40	18 N.J.R. 414(b)
7:13-7.1(i)	Floodway delineations in Central Passaic Basin Projects G and R	17 N.J.R. 1176(a)		
7:17	Hard shell clam depuration: pilot plant program	18 N.J.R. 140(a)		
7:17	Hard shell clam depuration: pilot plant program	18 N.J.R. 141(a)		
7:22	Wastewater treatment facilities: construction grants and loans	18 N.J.R. 243(a)		
7:24	Dam restoration grants	18 N.J.R. 395(a)		
7:25-5.12	Use of steel-jaw leghold traps	17 N.J.R. 2714(b)	R.1986 d.24	18 N.J.R. 354(a)
7:25-8.1	Repeal clam dredging rule	18 N.J.R. 396(a)		
7:25-9	Minimum legal size for hard clams	18 N.J.R. 146(a)		
7:25-17	Disposal and possession of dead deer	17 N.J.R. 2715(a)	R.1986 d.41	18 N.J.R. 415(a)
7:25-19	Atlantic Coast harvest season	17 N.J.R. 2494(a)		
7:26-1.4, 1.6, 9.1, 12.1	Tolling agreements and reclamation of hazardous waste	17 N.J.R. 1968(a)		
7:26-1.4, 7.4, 9.1, 12.1, 12.8	Reuse of hazardous waste	17 N.J.R. 2716(a)		
7:26-1.7	Solid waste disposal: exemption from registration	17 N.J.R. 1368(a)		
7:26-1.8	Solid waste disposal: land application operations	17 N.J.R. 2945(a)		
7:26-2.6, 2.7	Disposal of asbestos waste	17 N.J.R. 2719(a)		
7:26-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 252(a)		
7:26-6.5	Solid waste flow: Ocean County	17 N.J.R. 2590(a)		
7:26-6.5	Solid waste flow: Camden County	17 N.J.R. 2591(a)		
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management	17 N.J.R. 2941(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management: extension of comment period	18 N.J.R. 254(a)		
7:26-16.4	Solid and hazardous waste: transporters and facilities	17 N.J.R. 518(a)		
7:27-16	Air pollution by volatile organic substances	17 N.J.R. 1969(a)		
7:27B-3	Determination of volatile organic substances from source operations	17 N.J.R. 2194(a)		
7:27B-4.6	Lead test paper procedure	17 N.J.R. 781(a)		
7:45	Delaware and Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)		
7:45-1, 2, 3	Delineation of Review Zone within Delaware and Raritan Canal State Park: reopening of comment period	18 N.J.R. 457(a)		

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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
HEALTH—TITLE 8				
8:9-1.11	State Sanitary Code: disposal of unclaimed cremains	17 N.J.R. 2325(a)	R.1986 d.39	18 N.J.R. 416(a)
8:9-1.11	Disposal of cremains: public hearing	17 N.J.R. 2835(a)		
8:21-10	Designated fluid milk products	18 N.J.R. 59(b)		
8:31-16.1	HOSPITAL long-range strategic plans	18 N.J.R. 148(a)		
8:31A-7.4, 7.5, 7.14	SHARE: Medicaid rates and transfer of ownership	18 N.J.R. 150(a)		
8:31B-3.5, 3.22, 3.54	Hospital reimbursement: "efficiency standard"	17 N.J.R. 2946(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	17 N.J.R. 2464(a)		
8:31B-3.31, 3.51	Hospital reimbursement: graduate medical education	17 N.J.R. 2947(a)		
8:31B-3.76-3.82	Hospital reimbursement: URO performance evaluation; post-billing denial of payments	18 N.J.R. 150(b)		
8:33F-1.2, 1.6, App. B	Renal disease: regional end-stage services	17 N.J.R. 2948(a)		
8:34-1.8	Nursing home administrators: limitations on responsibility	18 N.J.R. 74(a)		
8:34-1.9	Reexamination for Nursing Home Administrator's License	18 N.J.R. 75(a)		
8:34-1.31	Licensing of nursing home administrators	17 N.J.R. 2212(a)		
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-8.16	Obstetric and newborn services: use of oxytocic agents	17 N.J.R. 2213(a)		
8:43B-8.33—8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)	R.1986 d.1	18 N.J.R. 267(a)
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:44-2.10	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:53	Implementation of Local Health Services Act	17 N.J.R. 2836(a)		
8:57-1.19, 1.20, -6	Cancer registry	17 N.J.R. 2836(b)		
8:60-1.1, 4.2, 4.4, 4.8, 5.2, 5.4, 5.7, 6.1, 6.3, 6.11	Asbestos licenses and permits	18 N.J.R. 156(a)		
8:65-8	Controlled dangerous substances: manufacture, distribution, disposal and nondrug use	17 N.J.R. 2721(a)	R.1986 d.65	18 N.J.R. 555(c)
8:65-10.1	Temporary placement of Meperidine analogs MPPP and PEPAP into Schedule I	17 N.J.R. 2950(a)	R.1986 d.66	18 N.J.R. 559(a)
8:65-10.1	Controlled dangerous substances: analogs of fentanyl	18 N.J.R. 254(b)		
8:71	Generic drug list additions (see 17 N.J.R. 2042(b), 2556(b), 2769(a), 18 N.J.R. 182(a))	17 N.J.R. 1043(a)		
8:71	Generic drug list additions (see 17 N.J.R. 2557(a), 2769(b), 18 N.J.R. 183(a))	17 N.J.R. 1733(a)	R.1986 d.35	18 N.J.R. 418(a)
8:71	Generic drug list additions	17 N.J.R. 2842(a)	R.1986 d.34	18 N.J.R. 417(a)

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HIGHER EDUCATION—TITLE 9

9:2-2	Fund for Improvement of Collegiate Education: policies and procedures	17 N.J.R. 2724(a)		
9:2-11	Veterans Tuition Credit Program	17 N.J.R. 2844(a)		
9:7-2.3	Status of foreign nationals	18 N.J.R. 19(a)		
9:7-2.9	Student assistance programs: award combinations	17 N.J.R. 2725(a)		
9:7-3.1	Tuition Aid Grant Program: 1986-87 Award Table	18 N.J.R. 19(b)		
9:7-4.1, 4.2, 4.3, 4.5, 4.8	Garden State Scholarship Program	17 N.J.R. 2726(a)		
9:9-1.6	Guarantee Student Loans and payment of insurance fee	17 N.J.R. 2727(a)		
9:9-1.16	Interest liability on defaulted student loans	17 N.J.R. 2728(a)		
9:9-9.2	Direct PLUS program and co-signer requirement	17 N.J.R. 2728(b)		
9:11, 12	Educational Opportunity Fund Program rules	17 N.J.R. 2214(b)		

(TRANSMITTAL 30, dated January 21, 1986)

HUMAN SERVICES—TITLE 10

10:36-1	Patient supervision at State psychiatric hospitals	17 N.J.R. 2593(a)		
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
10:36-1	Patient supervision at State psychiatric hospitals: public hearing	18 N.J.R. 20(a)		
10:36-2	Clinical review procedures for special status psychiatric patients	17 N.J.R. 2951(a)		
10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:49-1.1	Administration Manual: retroactive Medicaid eligibility	17 N.J.R. 2729(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)	R.1986 d.59	18 N.J.R. 559(b)
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:51-1, App. B, D, E	Pharmaceutical Services Manual	18 N.J.R. 255(a)		
10:51-1.14, 5.16	Pharmaceutical services: ineligible prescription drugs	17 N.J.R. 2730(a)		
10:51-4	Consultant Pharmacist Services	17 N.J.R. 2731(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:52-1.17	Out-of-state inpatient hospital services	17 N.J.R. 2225(a)	R.1985 d.704	18 N.J.R. 560(a)
10:52-1.21	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)	R.1986 d.59	18 N.J.R. 559(b)
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54	Physician Services: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:55	Prosthetic-Orthotic Services: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:56-3	Dental Services: procedure codes and descriptions	18 N.J.R. 154(a)		
10:57	Podiatry Services: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:58	Nurse Midwifery Services: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:59	Medical Supplier Manual: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:62-3	Vision Care Manual: billing procedures	17 N.J.R. 2731(b)		
10:63-3.2, 3.4, 3.5, 3.6, 3.8, 3.10-3.15, 3.18, 3.19	Long-term care facilities: CARE Guidelines	18 N.J.R. 257(a)		
10:63-3.17	Long Term Care Services: adjustments to base period data	17 N.J.R. 1736 (a)	R.1986 d.69	18 N.J.R. 561(a)
10:64	Hearing Aid Services: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:66	Independent Clinic Services: Common Procedure Coding System	17 N.J.R. 1519(b)	R.1986 d.52	18 N.J.R. 478(a)
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)	R.1986 d.59	18 N.J.R. 559(b)
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)	R.1986 d.52	18 N.J.R. 478(a)
10:81-2.7, 3.18	PAM: continued absence; WIN registration	17 N.J.R. 2333(a)	R.1986 d.9	18 N.J.R. 272(a)
10:81-2.16, 3.18	PAM: photo IDs; ex-WIN children	17 N.J.R. 2335(a)	R.1986 d.6	18 N.J.R. 273(a)
10:81-10.7	PAM: eligibility for refugee and entrant programs	17 N.J.R. 2227(a)		
10:81-11.2, 11.7, 11.9, 11.20	PAM: child support paternity	17 N.J.R. 2845(a)	R.1986 d.55	18 N.J.R. 480(a)
10:81-11.3, 11.9	PAM: Social Security numbers: restriction of information	17 N.J.R. 2516(b)		
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)	R.1986 d.62	18 N.J.R. 562(a)
10:82-1.8, 1.9, 2.14, 2.20, 3.1, 3.2, 4.4, 4.6, 4.15, 4.17, 5.3, 5.10	ASH: conformity with Federal regulations	18 N.J.R. 260(a)		
10:82-2.19	ASH: recovery of overpayments	17 N.J.R. 2847(a)	R.1986 d.54	18 N.J.R. 481(a)
10:82-3.9, 3.11, 3.14, 4.13	ASH: evaluation of legally responsible relatives in AFDC	18 N.J.R. 20(b)		

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10:82-5.10	ASH: emergency assistance	17 N.J.R. 2336(a)		
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2337(a)		
10:85-3.2	GAM: nursing home patients from out-of-state	17 N.J.R. 2338(a)	R.1985 d.692	18 N.J.R. 192(b)
10:85-3.3	GAM: unearned income exclusion	17 N.J.R. 2849(a)	R.1986 d.57	18 N.J.R. 482(a)
10:85-3.3, 5.2	GAM: hospital notices and billings	17 N.J.R. 2519(a)	R.1986 d.47	18 N.J.R. 483(a)
10:85-3.4	GAM: eligibility in other programs	17 N.J.R. 2520(a)	R.1986 d.4	18 N.J.R. 274(a)
10:85-3.4	GAM: disposal of assets	17 N.J.R. 2952(a)		
10:85-3.4	GAM: parent-sponsored aliens	18 N.J.R. 21(a)	R.1986 d.76	18 N.J.R. 563(a)
10:85-5.2, 11.2	GAM: inpatient hospital care	17 N.J.R. 2521(a)	R.1986 d.7	18 N.J.R. 274(b)
10:85-5.3	GAM: nursing home bed-hold payments	17 N.J.R. 2953(a)	R.1986 d.70	18 N.J.R. 564(a)
10:85-10.1	GAM: "Workfare" defined	17 N.J.R. 2849(b)	R.1986 d.56	18 N.J.R. 483(b)
10:86	Repeal obsolete AFDC Work Incentive Program rules	17 N.J.R. 1838(b)		
10:90-2.2, 2.3, 2.4, 2.6, 3.3, 4.1—4.10, 5.1, 5.2, 5.6, 6.1, 6.2, 6.3	Monthly Reporting Policy Handbook	17 N.J.R. 1839(a)		
10:94-1.6, 3.14	Medicaid Only: ineligible individuals	17 N.J.R. 2522(a)	R.1986 d.71	18 N.J.R. 564(b)
10:94-3.6	Medicaid Only: change of county of residence	17 N.J.R. 2523(a)	R.1986 d.8	18 N.J.R. 275(a)
10:94-4.1	Medicaid Only: resource eligibility	17 N.J.R. 2524(a)		
10:94-4.1	Medicaid Only: availability of resources in third-party situations	17 N.J.R. 2954(a)		
10:94-5.4, 5.5, 5.6, 5.7	Medicaid Only: eligibility computation amounts	18 N.J.R. 215(a)	R.1986 d.74	18 N.J.R. 565(a)
10:94-5.5	Medicaid Only: deeming of income	17 N.J.R. 2732(a)	R.1986 d.53	18 N.J.R. 484(a)
10:94-7, 8, 9	Medicaid Only program for aged, blind and disabled	17 N.J.R. 2340(a)	R.1986 d.5	18 N.J.R. 276(a)
10:100-App. A	Supplemental Security Income payment levels	18 N.J.R. 216(a)	R.1986 d.75	18 N.J.R. 566(a)
10:109	Public Assistance Staff Development Program	18 N.J.R. 22(a)		
10:121-2	Adoption subsidy	18 N.J.R. 24(a)		
10:122-4.4	Child care centers: staff qualification	18 N.J.R. 155(a)		
10:123-3.2	Personal needs allowance: residential health care and boarding homes	17 N.J.R. 2955(a)	R.1986 d.42	18 N.J.R. 419(a)

(TRANSMITTAL 36, dated January 21, 1986)

CORRECTIONS—TITLE 10A

10A:4	Inmate discipline	18 N.J.R. 27(a)		
10A:31-3.12, 3.15	Adult county facilities: medical screening of new inmates	17 N.J.R. 2343(a)		
10A:31-3.12, 3.15	Medical screening of new inmates in county facilities: public hearing	17 N.J.R. 2955(b)		
10A:34	County correctional facilities	17 N.J.R. 2525(a)		

(TRANSMITTAL 12, dated December 16, 1985)

INSURANCE—TITLE 11

11:1-18	Approval of business names	17 N.J.R. 41(a)	R.1986 d.10	18 N.J.R. 278(a)
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)	R.1986 d.11	18 N.J.R. 280(a)
11:1-20, 22	Cancellation and nonrenewal of property and casualty/liability policies	17 N.J.R. 2956(a)		
11:1-20, 22	Commercial policies: cancellation and nonrenewal	18 N.J.R. 457(b)		
11:1-20.1	Property and casualty/liability coverage	17 N.J.R. 2915(a)	R.1986 d.27	18 N.J.R. 419(b)
11:2-19.2	Continuing education	18 N.J.R. 44(a)		
11:2-20	License renewal: continuing education requirement	17 N.J.R. 2962(a)		
11:3-20	Automobile insurers: financial disclosure and excess profit reporting	17 N.J.R. 2597(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 2344(a)		
11:4-20	Coverage of the handicapped	18 N.J.R. 44(b)		
11:4-27	Reporting of liquor law liability loss experience	18 N.J.R. 45(a)		
11:5-1.3	Licensing of real estate brokers and salespeople	17 N.J.R. 2350(a)		
11:5-1.15	Real estate advertising	17 N.J.R. 2351(a)		
11:5-1.15, 1.25	Advertising of real estate: sale of interstate property	17 N.J.R. 666(a)		

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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
11:5-1.20	Payment of fees prescribed by Real Estate License Act	17 N.J.R. 2353(a)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)	R.1986 d.63	18 N.J.R. 566(b)
11:16	Provider verification of services	17 N.J.R. 47(a)	R.1986 d.13	18 N.J.R. 281(a)
11:17-1	Surplus lines insurance guaranty fund surcharge	17 N.J.R. 1045(b)		

(TRANSMITTAL 34, dated January 21, 1986)

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12:16-4.8	Determining employee's 1986 taxable wage base	17 N.J.R. 2850(a)	R.1986 d.23	18 N.J.R. 284(a)
12:16-4.10	Temporary disability payments under private plans	17 N.J.R. 2850(b)	R.1986 d.21	18 N.J.R. 284(b)
12:16-5.2	Due dates of employer's combined Forms UC-27, WR-30	17 N.J.R. 2851(a)	R.1986 d.22	18 N.J.R. 285(a)
12:17-11	Unemployment compensation and pension offset	17 N.J.R. 2736(a)	R.1985 d.718	18 N.J.R. 285(b)
12:70	Field sanitation for seasonal farm workers	17 N.J.R. 1860(a)		
12:120-1.1, 4.2, 4.4, 4.8, 5.2, 5.4, 5.7, 6.1, 6.3, 6.11	Asbestos licenses and permits	18 N.J.R. 156(a)		
12:235	Practice and procedure before Division of Workers' Compensation	17 N.J.R. 2081(a)		

(TRANSMITTAL 27, dated January 21, 1986)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A	Departmental rules: small business set-aside contracts	16 N.J.R. 1955(a)	R.1985 d.421	17 N.J.R. 2683(a)
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LAW AND PUBLIC SAFETY—TITLE 13

13:1-4.6	Police training: certification of firearms instructors	18 N.J.R. 397(a)		
13:20-25	Approval of motor vehicle safety glazing materials and other equipment	18 N.J.R. 47(a)		
13:20-32.16	Motor vehicle reinspection centers	17 N.J.R. 676(a)		
13:20-33.1	Motor vehicle reinspection centers: fees for initial inspections	18 N.J.R. 158(a)		
13:20-33.6	Glazing inspection standards for motor vehicles	17 N.J.R. 894(a)		
13:21-5.11	Registration of vehicles subject to Federal Heavy Vehicle Use Tax	17 N.J.R. 2737(a)	R.1986 d.38	18 N.J.R. 421(a)
13:21-7	Student driver permits	18 N.J.R. 48(a)		
13:21-8.2	Photo IDs and driver license application procedure	18 N.J.R. 49(a)	R.1986 d.68	18 N.J.R. 567(a)
13:27	Rules of Board of Architects	17 N.J.R. 2851(b)		
13:29-1.14	Board of Accounting licenses: notification requirement concerning convictions	18 N.J.R. 264(a)		
13:30-2.2, 2.3, 2.18, 8.1	Board of Dentistry registration fees	18 N.J.R. 398(a)		
13:31-1.11	Fees for electrical contractor's license	18 N.J.R. 462(a)		
13:35-2.15	Physician-nurse anesthetist standards	17 N.J.R. 796(a)		
13:35-3.11	Licensure of foreign medical school graduates	18 N.J.R. 50(a)	R.1986 d.67	18 N.J.R. 568(a)
13:35-4.2	Termination of pregnancy	17 N.J.R. 2738(a)	R.1986 d.25	18 N.J.R. 286(a)
13:35-6.4	Pre-proposal: professional conduct of Medical Board licensees	17 N.J.R. 894(b)		
13:37-6.2	Delegation of nursing tasks by RPNs	17 N.J.R. 2354(a)		
13:37-6.3	Nursing procedures: administration of renal dialysis treatment	18 N.J.R. 398(b)		
13:38-3.2	Board of Optometrists: reexamination	17 N.J.R. 677(a)		
13:39A-1	Board of Physical Therapy: organization and administration	17 N.J.R. 2355(a)		
13:39A-2	Authorized practice by physical therapists	17 N.J.R. 2356(a)		
13:39A-3	Unlawful practices by physical therapists	17 N.J.R. 2358(a)		
13:39A-3.2	Pre-proposal: fee splitting and kickbacks by physical therapists	17 N.J.R. 2360(a)		
13:39A-4	Unlicensed practice of physical therapy	17 N.J.R. 2361(a)		
13:39A-5	Physical therapy applicants: required credentials	17 N.J.R. 2362(a)		
13:40-6.1	Professional engineers and land surveyors: application, examination, and licensing fees	17 N.J.R. 2860(a)	R.1986 d.37	18 N.J.R. 421(a)

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
13:41-4	Board of Professional Land Surveyors, receipt preparation of site plan rules	17 N.J.R. 120(a)	
13:44-2.3, 2.11	Advertising by licensed veterinarians	18 N.J.R. 399(a)	
13:44C-1.1	Audiology and Speech Language Pathology Advisory Committee: fees and charges	17 N.J.R. 1062(a)	
13:44D	Public moving and warehousing	17 N.J.R. 1382(a)	
13:45A-2	Motor vehicle advertising practices	17 N.J.R. 2861(a)	
13:45A-24	Sale of grey market merchandise	17 N.J.R. 2866(a)	
13:54	Regulation of firearms businesses	18 N.J.R. 51(a)	
13:70-3.47	Thoroughbred racing: Coggins test	18 N.J.R. 401(a)	
13:70-12.16	Thoroughbred racing: filing of claims	18 N.J.R. 402(a)	
13:71-6.24	Harness racing: Coggins test	18 N.J.R. 402(b)	

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PUBLIC UTILITIES—TITLE 14

14:3-4.7	Adjustment of utility bills	17 N.J.R. 2236(a)	
14:3-7.15	Discontinuance of residential service: notice to local fire officials	18 N.J.R. 463(a)	
14:6-1.1	Intrastate transportation of natural gas	17 N.J.R. 2740(a)	R.1986 d.46
14:10-5	Inter LATA telecommunications carriers	17 N.J.R. 2012(a)	
14:18-11	Pre-proposal: Renewal of CATV municipal consents and certificates of approval	17 N.J.R. 1394(a)	

(TRANSMITTAL 26, dated December 16, 1985)

ENERGY—TITLE 14A

14A:20	Energy conservation planning and evaluation	16 N.J.R. 3293(a)	R.1985 d.619
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(TRANSMITTAL 17, dated December 16, 1985)

STATE—TITLE 15

15:10	Election rules	17 N.J.R. 2381(a)	R.1986 d.32
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(TRANSMITTAL 15, dated August 19, 1985)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1, dated March 20, 1978)

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16:22	Urban revitalization, special demonstration and emergency project rules	17 N.J.R. 2385(a)	R.1986 d.3
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May 19 issue:
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June 2 issue:
 Proposals May 5
 Adoptions May 12