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THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 19 NUMBER 16

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(Includes adopted rules filed through July 27, 1987)

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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE, JUNE 15, 1987.

See the Register Index for Subsequent Rulemaking Activities

NEXT UPDATE WILL BE DATED JULY 20, 1987.

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Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **September 16, 1987**. 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. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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September 21 issue:	
Proposals	August 24
Adoptions	August 28
October 5 issue:	
Proposals	September 4
Adoptions	September 14
October 19 issue:	
Proposals	September 21
Adoptions	September 25
November 2 issue:	
Proposals	October 5
Adoptions	October 9

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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RULE PROPOSALS

ENVIRONMENTAL PROTECTION

The following proposals are authorized by Richard T. Dewling, Commissioner, Department of Environmental Protection.

(a)

DIVISION OF WATER RESOURCES

Underground Storage Tank Registration Requirements and Fee Rules

Proposed New Rules: N.J.A.C. 7:14B

Authority: N.J.S.A. 58:10A-21 et seq.

DEP Docket Number: 036-87-07.

Proposal Number: PRN 1987-325.

A public hearing concerning this proposal will be held on:

September 3, 1987 at 10 A.M.

Labor Education Center Auditorium

Cook College

Ryderson Lane

Rutgers University

New Brunswick, New Jersey

Submit written comments by September 16, 1987 to:

David Weinsoff, Esq.

Office of Regulatory Services

Department of Environmental Protection

CN 402

Trenton, New Jersey 08625

The agency proposal follows:

Summary

On September 3, 1986, P.L. 1986, c.102, codified at N.J.S.A. 58:10A-21 et seq. and commonly known as the New Jersey Underground Storage of Hazardous Substances Act, was signed into law. The New Jersey Department of Environmental Protection ("the Department"), pursuant to N.J.S.A. 58:10A-21 et seq. (the "State Act"), is authorized to adopt a regulatory program for the prevention and control of unauthorized discharges of hazardous substances due to releases from underground storage tanks. The State Act is patterned after the Federal "Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act" (42 U.S.C. § 6901 et seq.). Both the Federal and the State statutes require the registration of facilities, technical standards for new tanks, leak detection programs, remedial action for sites found to be contaminated, and financial responsibility. In addition, the State Act, unlike the Federal Act, provides for a permit program for new tank installations, for Department approval of tank closures, for the annual reregistration of all facilities and for a loan program to ease the economic burden for owners that replace their tanks. The Federal Act also provides for the delegation of the Federal program to the individual states.

There are approximately 150,000 underground storage tanks in New Jersey and it is estimated that approximately one-third of these are discharging hazardous substances into the environment. The Department conducted a study of the contamination caused by underground storage tanks subject to the Environmental Cleanup Responsibility Act (ECRA), N.J.S.A. 13:1K-6 et seq. The study indicated that 36 percent of the tank systems (at 46 percent of all sites under ECRA's jurisdiction) exhibited evidence of contamination from overfills, spillage, discharges from leaking tanks or piping, or generally poor management practices. Improperly installed, maintained, removed or abandoned tanks are generally the cause of these releases. These releases have the potential to cause severe harm to human health and the environment. Therefore, in order to accurately locate the catalogue all regulated tanks as to ownership, size, age, construction, location, type, monitoring method, contents and status, the Department is proposing new rules to establish registration requirements for any person who owns or operates an underground storage tank.

Pursuant to N.J.S.A. 58:10A-31, the Department is provided with the authority to establish fees for the Department's underground storage tank program based upon, and not to exceed, "the estimated yearly cost of implementing the provisions of" the State Act. The Department is proposing to assess an Initial Registration Fee and an Annual Certification Fee. The Initial Registration Fee will provide funds for review of New Jersey

Underground Storage Tank Registration Questionnaires (including processing, administering and enforcement). The Annual Certification Fee will provide funds for the Department's review of New Jersey Underground Storage Tank Annual Certification Forms, New Jersey Underground Storage Tank Standard Reporting Forms and for the general administrative costs of the Underground Storage Tank program.

N.J.A.C. 7:14B-1 sets forth general information, including the scope, construction, purpose and applicability of the regulations, and definitions.

N.J.A.C. 7:14B-2 sets forth the specific underground storage tank registration requirements and procedures, including provisions on who is required to register their facility, what the registration procedures are, signatory requirements, requirements for transferring or modifying a registration, public access to registration information and display of the Registration Certificate.

N.J.A.C. 7:14B-3 sets forth the fee schedule for the Initial Registration Fee and the Annual Certification Fee.

N.J.A.C. 7:14B-4 sets forth the basic penalty for violation of any requirement of the State Act or this chapter.

Social Impact

The proposed new rules will have a beneficial social impact. Releases from underground storage tanks have the potential to cause severe harm to human health and the environment. When a release occurs, potable wells in the vicinity can become contaminated by hazardous substances. The proposed new rules will provide the Department with the authority and the funds to compile a detailed and annually updated record of tank ownership, age, size, location, type, construction, monitoring method, contents, and status. Acquisition of this data will enable the Department to effectively monitor and abate environmental degradation.

Economic Impact

The economic impact of the proposed new rules on the owners and operators of underground storage tanks will vary, depending upon the extent of the record keeping and data collection maintained by the owners or operators. A facility that has a detailed record of tank ownership, age, size, type, location, construction, monitoring method, contents and status will find completion of the registration requirements to be less of an economic burden than one that has not maintained comprehensive records. The Department estimates that the cost of gathering all the information required to properly complete the registration material to range from minimal to \$2,500.00 depending on the quality of the information on file and how much research is necessary to acquire this information.

The Initial Registration fee is \$100.00 per facility. The Annual Certification fee is \$100.00 per facility for the first five regulated underground storage tanks located at a facility and \$15.00 per tank for each additional regulated tank at the facility. Approximately 15,000 facilities have registered with the Department pursuant to section 9002 of the "Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act" (42 U.S.C. § 6901 et seq.). These facilities will only be assessed an Annual Certification Fee. All new facilities that register with the Department after this first assessment of the Annual Certification Fee will be assessed an Initial Registration Fee, and an Annual Certification Fee for each subsequent year.

The Annual Certification Fee is expected to cost the regulated community approximately \$1.35 million for fiscal year 1988. The Annual Certification Fee, an anticipated Federal Environmental Protection Agency Underground Storage Tank grant of \$175,000.00 and the balance of the State Underground Storage Tank appropriation provided to the Department upon enactment of the State Act will provide the estimated \$1.525 million required to annually fund 33 positions within the Department and associated program cost as follows:

Underground Storage Tank Program Staff

- 1 Bureau Chief
- 1 Section Chief
- 1 Supervisor Environmental Specialist
- 5 Principal Environmental Specialist
- 1 Supervising Geologist
- 1 Senior Geologist
- 2 Principal Geologist
- 6 Senior Technicians MIS
- 2 Principal Technicians MIS

(CITE 19 N.J.R. 1478)

ENVIRONMENTAL PROTECTION

Interested Persons see Inside Front Cover

PROPOSALS

- 1 Financial Specialist
- 1 Senior Clerk Bookkeeper
- 2 Program Development Specialist I
- 1 Clerk Driver
- 1 Secretarial Assistant III
- 6 Principal Clerk Typist
- 1 Administrative Analyst II

Estimated Salaries	\$754,000.00
Employee Benefits	\$222,400.00
Indirect costs	\$174,100.00

Program Costs

Printing	\$30,000.00
Postage	\$100,000.00
Office Supplies	\$12,000.00
Travel	\$8,000.00
Training	\$5,000.00
Equipment Purchasing	
Data Processing	\$10,000.00
Office	\$2,500.00
Equipment Maintenance	\$2,000.00
Vehicle Purchase	\$30,000.00
Vehicle Maintenance/Repair	\$10,000.00
Contract Services	
Data Processing (keypunch)	\$60,000.00
Mail Inserter	\$5,000.00
Temporary Staff	\$100,000.00
	<u>\$374,500.00</u>

Estimated Totals	
Salaries (with employee benefits and indirect costs)	\$1,150,500.00
Program Costs	\$374,500.00
	<u>\$1,525,000.00</u>

Environmental Impact

The proposed new rules will have a positive environmental impact. Uncontrolled and undetected releases from underground storage tanks can severely degrade both ground and surface waters. As a direct result of an underground storage tank release, aquatic life is threatened and potable water sources can be contaminated. The proposed new rules will provide the Department with the authority and the funds to compile a detailed and annually updated record of tank ownership, age, size, location, type, construction, monitoring method, contents, and status. Acquisition of this data will enable the Department to more effectively monitor and abate environmental degradation.

Regulatory Flexibility Statement

These proposed new rules apply to all businesses that store hazardous substances in underground storage tanks governed under the State Act. The Department estimates that \$100,000 tank owners and operators are "small businesses" as defined in the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169) and will therefore be impacted by these proposed new rules.

To comply with these proposed new rules, a tank owner or operator is required to submit to the Department a New Jersey Underground Storage Tank Registration Questionnaire that accurately informs the Department of the ownership, age, size, location, construction, monitoring method, contents, and status of each underground storage tank regulated under the State Act. Proper completion and, when necessary, modification of the official New Jersey Underground Storage Tank Registration Questionnaire may not require that a small business employ additional professional services. A small business that has maintained detailed records will find that completion of the registration requirements imposes a small economic burden. Small businesses which to date have not been maintaining detailed tank information may therefore incur additional costs. The Department estimates that the costs of gathering all the information required to properly complete the registration material to range from minimal to \$2,500.00 depending on the quality of the information on file and how much research is necessary to acquire this information. In developing these proposed new rules, the Department has balanced the need to protect the environment against the economic impact of the proposed new rules and has determined that to minimize the impact of the proposed new rules would endanger the environment, public health and safety, and therefore no exempt from coverage by small businesses is provided.

However, to the extent that small businesses are likely to have a lesser number of tanks, the correspondingly lower fees reflect the Department's objective of assessing reasonable fees to business in a manner that will,

to the greatest extent possible, balance the Department's need to obtain funding for an environmentally protective program with its responsibility to minimize the financial impact on small businesses. The Department, in establishing the fee schedule, has considered the effect of these fees on small businesses and has determined that facilities with the greater number of tanks, generally large businesses (that is, chemical companies, oil refineries) will pay the higher fee. As a result, the impact of the higher fees will be lower on small businesses.

Full text of the proposed new rules follows:

CHAPTER 14B
UNDERGROUND STORAGE TANKS

SUBCHAPTER 1. GENERAL INFORMATION

7:14B-1.1 Scope

This chapter shall constitute the rules of the Department of Environmental Protection for all underground storage tank facilities regulated by N.J.S.A. 58:10A-21 et seq.

7:14B-1.2 Construction

This chapter shall be construed so as to permit the Department to implement its statutory functions and to effectuate the purposes of the law.

7:14B-1.3 Purpose

(a) This chapter is promulgated for the following purposes:

1. To establish the Department's underground storage tank program;
2. To implement the registration requirements of the State Act;
3. To establish Initial Registration and Annual Certification fees; and
4. To protect human health and the environment of the State by ensuring sound underground storage tank management, thereby preventing, controlling, remediating and/or abating actual or potential groundwater contamination.

7:14B-1.4 Applicability

(a) This chapter applies to all underground storage tanks containing hazardous substances except as provided in (b) below.

(b) The following types of underground storage tanks are exempt from the requirements of this chapter:

1. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. Tanks with a capacity of 2,000 gallons or less used to store heating oil for onsite consumption in a nonresidential building;
3. Tanks used to store heating oil for onsite consumption in a residential building, except that for the purposes of registration pursuant to this chapter, and inventory control and release detection under sections 7 and 8 of the State Act (N.J.S.A. 58:10A-27 and 58:10A-28), respectively, a tank with a capacity of more than 2,000 gallons used to store heating oil for onsite consumption in a residential building shall be considered an underground storage tank;
4. Septic tanks installed in compliance with rules adopted by the Department pursuant to The Realty Improvement Sewerage and Facilities Act (1954), Pub. L. 1954, c.199 (N.J.S.A. 58:11-23 et seq.);
5. Pipelines, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, Pub. L. 90-481 (49 U.S.C. §§1678 et seq.), the Hazardous Liquid Pipeline Safety Act of 1979, Pub. L. 96-129 (49 U.S.C. §§2001 et seq.), or intrastate pipelines regulated under State law as approved by the Department;
6. Surface impoundments, pits, ponds, lagoons, storm water or wastewater collection systems operated in compliance with N.J.A.C. 7:14A-1 et seq.;
7. Liquid traps or associated gathering lines directly related to oil and gas production and gathering operations;
8. Tanks situated in an underground area including, but not limited to, basements, cellars, mines, drift shafts, or tunnels, if the storage tank is situated upon or above the surface of the floor;
9. Tanks situated in an underground area including, but not limited to, basements, cellars, mines, drift shafts, or tunnels if the storage tank is located below the surface of the ground, is equipped with secondary containment, and is uncovered so as to allow visual inspection of the exterior of the tank;
10. Any pipes, lines, fixtures, or other equipment connected to any tank exempted from the provisions of the State Act as set forth in (b) 1 to 8 above;
11. Flow-through process tanks;
12. Wastewater treatment tanks; and
13. Electrical equipment.

7:14B-1.5 Severability

If any section, subsection, provision, clause or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

7:14B-1.6 Definitions

As used in this chapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Abandoned" or "abandonment" means a tank rendered permanently nonoperational and left in the ground.

"Annual certification" means the yearly reregistration of a tank with the Department pursuant to this chapter.

"Below the surface of the ground" means beneath the ground surface or otherwise covered so that physical or visual inspection of the exterior is precluded.

"Close" or "closure" means the permanent elimination from service of any underground storage tank by removal or abandonment.

"Commercial" means any activity involving a hazardous substance from an underground storage tank including, but not limited to, the resale, distribution, processing and transportation of any hazardous substance, as well as the use of any hazardous substance to perform or carry out these or other activities, that results in monetary gain.

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Department" means the Department of Environmental Protection.

"Discharge" means the intentional or unintentional release by any means of hazardous substances from an underground storage tank into the environment.

"Electrical equipment" means underground equipment which contains dielectric fluid which is necessary for the operation of equipment such as transformers and buried electrical cable.

"Existing facility" means an underground storage tank that holds or held any quantity of any hazardous substance and is not closed pursuant to this chapter.

"Extended out-of-service" means an underground storage tank not in use for a period between 90 days and two years.

"Facility" means one or more underground storage tanks owned by one person on a contiguous piece of property.

"Farm tank" means an underground storage tank which contains or contained hazardous substances located on a tract of land devoted to the production of crops or raising animals pursuant to the Farmland Assessment Act of 1964, (N.J.S.A. 54:4-23.1 et seq.), and including fish hatcheries, rangeland, and nurseries with growing operations.

"Flow-through process tank" means a tank that forms an integral part of an industrial or commercial process through which there is a steady or uninterrupted flow of materials during the operation of the process.

"Hazardous substances" means:

1. Motor fuel;
2. Elements and compounds, including petroleum products which are liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute);
3. The hazardous wastes designated pursuant to:
 - i. Section 3001 of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580 (42 U.S.C. § 6921); and
 - ii. N.J.A.C. 7:26-8;
4. The hazardous substances designated pursuant to:
 - i. Section 311 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (33 U.S.C. § 1321);
 - ii. Section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. 96-150 (42 U.S.C. §9601); and
 - iii. The Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.; and
5. The toxic pollutants designated pursuant to Section 307 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (33 U.S.C. § 1317).

"Heating oil" means any grade of petroleum product including, but not limited to, No. 1, 2, 4 (light and heavy), 5 (light and heavy) and 6 fuel oils, diesel and kerosene of any grade or type used to heat residential, industrial or commercial premises.

"Installation" means the emplacement of a new underground storage tank including the replacement of an existing underground storage tank.

"Leak" means the release of a hazardous substance from an underground storage tank into a space created by secondary containment wherein hazardous substances can be detected by visual inspection or a monitoring system before it enters the environment.

"Liquid" means any material which has a fluidity greater than that of 300 penetration asphalt when tested in accordance with the ASTM D-5-78 Test for Penetration for Bituminous Materials. If not specified, liquid shall mean both flammable and combustible liquids.

"Long term out-of-service" means an underground storage tank not in use for a period of more than two years.

"Modify" or "modification" means a revision, update, adjustment, correction or change in any information included in a facility's registration material.

"Motor fuel" means any petroleum product that includes, but is not limited to, all grades of gasoline, diesel fuel and kerosene used in the operation of any type of engine.

"Monitoring system" means a system capable of detecting leaks or discharges, or both, other than an inventory control system, used in conjunction with an underground storage tank, or a facility conforming to criteria established pursuant to Section 5 of the State Act (N.J.S.A. 58:10A-25).

"Nonoperational storage tank" means any underground storage tank in which hazardous substances are not contained or from which hazardous substances are not dispensed.

"Operational storage tank" means any underground storage tank in which hazardous substances are contained or from which hazardous substances are dispensed.

"Operator" means any person in control of, or having responsibility for, the daily operation of a facility.

"Owner" means any person who owns a facility, or in the case of a nonoperational storage tank, the person who owned the nonoperational storage tank immediately prior to the discontinuation of its use.

"Person" means any individual, partnership, company, corporation, consortium, joint venture, commercial or any other legal entity, the State of New Jersey, or the United States Government.

"Petroleum" or "petroleum products" means all hydrocarbons which are liquid at one atmosphere pressure (760 millimeters or 29.92 inches Hg) and temperatures between -20°F and 120°F (-29°C and 49°C), and all hydrocarbons which are discharged in a liquid state at or nearly at atmospheric pressure at temperatures in excess of 120°F (49°C) including, but not limited to, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oil, and purified hydrocarbons that have been refined, re-refined, or otherwise processed for the purpose of being burned as a fuel to produce heat or useable energy or which is suitable for use as a motor fuel or lubricant in the operation or maintenance of an engine.

"Release" means a leak or discharge.

"Removal" or "removed" means an underground storage tank(s) that has been taken out of the ground and been disposed of in accordance with applicable local, State and Federal laws.

"Residential building" means a single or multi-family dwelling, nursing home, trailer, condominium, boarding house, apartment house, or other structure designed and used primarily as a dwelling.

"Secondary containment" means an additional layer of impervious material creating a space wherein a leak of hazardous substances from an underground storage tank may be detected before it enters the environment.

"Standard Reporting Form" or "SRF" means the official form of the Department used to report a change in the status of a registered underground storage tank.

"State Act" means P.L. 1986, c.102 (codified at N.J.S.A. 58:10A-21 et seq.) and any amendments thereto.

"Substantial modification" means any construction at, or restoration, refurbishment or renovation of, an existing facility which increases or decreases the in-place storage capacity of the facility or alters the physical configuration or impairs or affects the physical integrity of the facility or its monitoring systems.

"Temporarily out-of-service" means an underground storage tank not in use for a period of 90 days or less.

"Test" means the testing of underground storage tanks in accordance with standards adopted by the Department.

"Transfer of ownership" means a change in the ownership of a facility.

"Underground storage tank" means any one or combination of stationary devices constructed primarily of non-earthen materials which provide structural support, as set forth in N.J.A.C. 7:14B-1.4, including appurtenant pipes, lines, fixtures, and other related equipment, used to contain an accumulation of hazardous substances, the volume of which, including the volume of the appurtenant pipes, lines, fixtures and other related equipment, is 10 percent or more below the ground.

“Underground storage tank program” means the regulatory requirements and activities conducted pursuant to the authority of N.J.S.A. 58:10A-21 et seq.

“Use” means the filling, dispensing or storing of any hazardous substance from or in an underground storage tank.

“Wastewater treatment tank” means a tank that is part of a wastewater treatment facility regulated under either section 402 or 307(b) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) and receives and treats or stores an influent wastewater which contains a hazardous substance, or is regulated as a treatment works pursuant to N.J.A.C. 7:14A-1 et seq.

SUBCHAPTER 2. REGISTRATION REQUIREMENTS AND PROCEDURES

7:14B-2.1 General registration requirements

(a) Any person that owns or operates an underground storage tank shall register each tank with the Department.

(b) Any person that owns or operates an underground storage tank who notified the Department pursuant to Section 9002 of the “Hazardous Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act,” 42 U.S.C. §§ 6901 et seq., shall comply with all requirements set forth in this chapter.

(c) Any person that owns or operates an underground storage tank shall, two years following the effective date of this chapter, only use such tank upon receipt of a valid Registration Certificate issued by the Department.

(d) Any person that owns or operates an underground storage tank that began use of the tank on or before the effective date of this chapter shall register the facility with the Department no later than 60 days following this date. Any person that owns or operates an underground storage tank that began operation after the effective date of this chapter shall register the facility with the Department 30 days prior to the use of that tank.

(e) Any person that owned or operated an underground storage tank which was removed from the ground on or after September 3, 1986 shall register that tank for the period between September 3, 1986 and the date that the tank was removed.

7:14B-2.2 Registration and certification procedures

(a) Any person that owns or operates a facility shall file registration and certification information on the official New Jersey Underground Storage Tank Registration Questionnaire (see Appendix A) and the official New Jersey Underground Storage Tank Annual Certification Form (see Appendix B), respectively.

(b) All registration and certification forms shall be obtained from and accurately completed, signed, dated and returned to:

Bureau of Underground Storage Tanks/Registration Unit
Division of Water Resources
Department of Environmental Protection
CN-029
Trenton, New Jersey 08625

(c) The owner or operator of a facility shall complete the New Jersey Underground Storage Tank Annual Certification Form prior to the annual anniversary date of the facility’s registration. The Department may issue the annual Registration Certificate to the registrant following submission of the complete Annual Certification Form.

7:14B-2.3 Signatories

(a) All registrants shall, upon submission, sign the following certification on the forms identified in (b) below:

1. “I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment.”

i. The certification required by (a)1 above shall be signed by the owner or operator of the facility as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president;

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal or other public agency, by either the principal executive officer or ranking elected official.

(b) The certification set forth in (a) above shall be signed on the following forms:

i. The New Jersey Underground Storage Tank Registration Questionnaire;

ii. The New Jersey Underground Storage Tank Annual Certification Form; and

iii. The New Jersey Underground Storage Tank Standard Reporting Form.

7:14B-2.4 Transfer of registration

(a) A Registration Certificate issued by the Department is not transferable.

(b) The owner or operator of an underground storage tank shall notify the Department of any change in the ownership of a facility within 30 days after the contract date or the date of closing on the Standard Reporting Form (see Appendix C) obtainable from the Department at the address provided in N.J.A.C. 7:14B-2.2(b) and in accordance with the procedures for reporting modifications set forth in N.J.A.C. 7:14B-2.5.

(c) The Department may issue to the new owner or operator a new Registration Certificate indicating all changes that appear on the Standard Reporting Form.

7:14B-2.5 Changes to registration

(a) The owner or operator of a facility shall amend a facility’s registration to reflect any modification to any information included in the New Jersey Underground Storage Tank Registration Questionnaire or New Jersey Underground Storage Tank Annual Certification Form. Each modification shall be reported to the Department on a separate Standard Reporting Form within 30 days after completion of the modification.

(b) Modifications include, but are not limited to, the following:

1. The sale or transfer of ownership of a facility;
2. The installation, abandonment, removal or substantial modification of a facility;
3. A change in the type of hazardous substances stored at a facility; and
4. An update of all maintenance, repairs or testing performed at a facility.

7:14C-2.6 Public access to registration information

(a) All completed New Jersey Underground Storage Tank Registration Questionnaires and New Jersey Underground Storage Tank Annual Certification Forms, as well as documented information pertaining to the registration, shall be considered public records pursuant to N.J.S.A. 47:1A-1 et seq.

(b) Interested persons shall request in writing an appointment to review the public records.

7:14B-2.7 Display of Registration Certificate

The owner or operator of an underground storage tank shall prominently display a valid Registration Certificate at the facility and shall make the Registration Certificate available for inspection by any authorized local, State or Federal representative.

SUBCHAPTER 3. FEES

7:14B-3.1 Initial Registration Fee

The owner or operator of an underground storage tank shall submit a \$100.00 Initial Registration fee for each facility upon registration of the facility with the Department. This subsection shall be operative one year following the effective date of these rules.

7:14B-3.2 Annual Certification Fee

(a) The owner or operator of an underground storage tank shall submit an Annual Certification Fee for each facility upon the yearly re-registration of the facility with the Department.

(b) The Annual Certification Fee is as follows:

1. \$100.00 per facility up to the first five underground storage tanks located on a contiguous piece of property; and
2. \$15.00 per tank for each additional underground storage tank located on a contiguous piece of property.

7:14C-3.3 Fee payment

(a) Payment of all fees shall be made by check or money order, payable to “Treasurer, State of New Jersey” and submitted to:

Bureau of Underground Storage Tanks/Billing Unit
Division of Water Resources
Department of Environmental Protection
CN 029
Trenton, New Jersey 08625

NEW JERSEY REGISTER, MONDAY, AUGUST 17, 1987

SUBCHAPTER 4. PENALTIES

7:14B-4.1 Penalties

Failure by an owner or operator of an underground storage tank to comply with any requirement of the State Act or this chapter may result in the penalties set forth in N.J.S.A. 58:10A-10.

AGENCY NOTE: Appendices A, B and C, the New Jersey Underground Storage Tank Registration Questionnaire, the New Jersey Underground Storage Tank Annual Certification Questionnaire and the Standard Reporting Form, respectively, were filed with the above proposal with the Office of Administrative Law and are available for inspection at the agency's offices and at Quakerbridge Plaza, Building 9, Trenton, New Jersey.

(a)

**DIVISION OF SOLID WASTE MANAGEMENT
BOARD OF PUBLIC UTILITIES**

**Interdistrict and Intradistrict Solid Waste Flow
Cumberland and Gloucester Counties**

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

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection, and Board of Public Utilities, Barbara A. Curran, President.

Authority: N.J.S.A. 13:1E-6, 13:1E-23, and 48:13A-1 et seq. DEP Docket No. 035-87-07.

Proposal Number: PRN 1987-326.

A **public hearing** concerning this proposal will be held on:

September 9, 1987 at 7:00 P.M.
Council Chambers
Newfield Borough Municipal Building
N.W. Blvd. and Salem Avenue
Newfield Borough, New Jersey 08344

Submit comments by September 16, 1987 to:

Michael Caro, Esq.
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The joint agency proposal follows:

Summary

The Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) are proposing to amend the Interdistrict and Intradistrict Solid Waste Flow Rules at N.J.A.C. 7:26-6.5 to redirect solid waste generated in Gloucester County and formerly disposed of at Kinsley Landfill, Inc. (facility number 0802B) or the Vineland City Sanitary Landfill (facility number 0614B) to the Gloucester County Sanitary Landfill (facility number 0816A) for all Gloucester County municipalities. This proposed amendment will replace the January 27, 1987 Gloucester County Emergency Waste Redirection Order issued jointly by the DEP and BPU (pursuant to N.J.A.C. 7:26-6.7) after the closure of the Kinsley Landfill, Inc., located in Deptford Township, Gloucester County, New Jersey. This redirection includes all solid waste types 10, 13, 23, 25 and 27 generated within the Gloucester County Municipalities of Clayton, Deptford, East Greenwich, Franklin, Glassboro, Harrison, Logan, Mantua, Monroe, National Park, Newfield Borough, Paulsboro, Pitman, South Harrison, Swedesboro, Washington, Wenonah, West Deptford, Westville, Woodbury, Woodbury Heights, and Woolwich, and all solid waste types 25 and 27 generated within Elk Township and Greenwich Township. Waste types 10, 13, and 23 generated with Elk Township and Greenwich Township shall continue to be disposed of in their respective municipal landfills. Upon the closure of these facilities, these waste types will be disposed of at the Gloucester County Sanitary Landfill.

Social Impact

Kinsley Landfill, Inc., in response to a January 16, 1987 Closure order entered by Judge Samuel G. DeSimone of the Superior Court of New Jersey, ceased operations on Friday, February 6, 1987. This necessitated the identification of alternative disposal areas for the municipalities that had been utilizing Kinsley Landfill, Inc. for their solid waste disposal activities. In planning for the long term solid waste disposal needs of their municipalities, Gloucester County has developed a new landfill facility

in South Harrison Township. This facility opened on February 9, 1987. This facility was developed in order to meet the disposal needs of Gloucester County municipalities. Hence, waste flows formerly directed to Kinsley Landfill, Inc. by Gloucester County municipalities will be handled by the newly constructed landfill in South Harrison Township. The social impact of this rule amendment is clearly positive, in that it provides the residents of Gloucester County with a continued solid waste disposal service location.

Economic Impact

The redirection of waste away from the Kinsley Landfill, Inc. to the Gloucester County Landfill has resulted in an adverse economic impact. Tipping fees at the Kinsley Landfill, Inc. were \$7.79/cubic yard when it ceased operation. By comparison, tipping fees at the Gloucester County Landfill range from \$47.04 to \$58.85/cubic yard depending on the type of waste. There is also an additional charge at the Gloucester County Landfill for the disposal of tires.

While these increased fees are considered a negative economic impact, they are unavoidable since the Kinsley Landfill, Inc. ceased operations. This negative economic impact is offset by the positive environmental impacts that result from the environmental controls paid for by these increased tipping fees. Since it is difficult to quantify the environmental benefits in dollar terms, a cost/benefit analysis cannot be accurately performed. However, these controls are expected to result in secondary economic benefits through enhanced long term environmental and public health protection, that is, increased tipping fees are being accompanied by increased public services. Finally, while transportation expenses will be increased for municipalities located further away from the disposal facility, the economic impact will be positive for those municipalities located closer to the new facility. Again, this impact is unavoidable due to the closure of Kinsley Landfill, Inc. The severity of the impact has been minimized by directing waste flows to in-county facilities rather than to out-of-county or out-of-state locations.

Environmental Impact

Since Kinsley Landfill, Inc. ceased operations on February 6, 1987, the redirection of waste flows to operate landfills clearly has a positive environmental impact. Solid waste from Gloucester County municipalities formerly using Kinsley Landfill, Inc., which would otherwise go uncollected, will now be deposited in an approved facility. In addition, newly constructed facilities such as the Gloucester County Landfill incorporate state-of-the-art environmental controls to minimize environmental impacts, such as surface and ground water contamination. This landfill will also develop an escrow account to provide for proper closure activities. Landfills operating prior to 1982 did not establish such accounts. These controls and financial resources will result in a positive environmental impact when compared to the environmental impacts that have occurred from older landfills that have not included such environmental safeguards into their design.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the DEP and the BPU have determined that this proposed amendment will not impose additional reporting, recordkeeping or other compliance requirements on small businesses. The existing waste flow rules already direct solid waste from these counties to specific disposal facilities and this proposed amendment merely changes the disposal site to a different in-county facility.

Inasmuch as collector/hauler tipping fees are regulated by the BPU to insure a reasonable rate of return, any potential increase or decrease in tipping fees, as a result of this amendment, may be alleviated by increases or decreases in collector/hauler tariffs.

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

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

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

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

(f) Waste flows within, into and out of the Cumberland County District:

1.-12. (No change.)

(CITE 19 N.J.R. 1482)

ENVIRONMENTAL PROTECTION

Interested Persons see Inside Front Cover

PROPOSALS

[13. According to Section D. 2(a) of the approved Cumberland County District Solid Waste Management Plan and Section D.1(d) of the approved Gloucester County District Solid Waste Management Plan, all waste types 10, 13, 23, 25, and 27 generated from within the Gloucester County municipality of Newfield Borough shall be disposed of at the Vineland City landfill, facility number 0614B, located in Vineland City, Cumberland County, New Jersey.]

[14.]13. (No change in text.)

(g) (No change.)

(h) Waste flows within, into and out of the Gloucester County District:

1. All waste types 10, 13, 23, 25 and 27 generated from within the Gloucester County municipalities of Clayton Borough, Deptford Township, East Greenwich, Franklin Township, Glassboro Township, Harrison Township, Logan Township, Mantua Township, Monroe Township, National Park, **Newfield Borough**, Paulsboro, Pitman, South Harrison Township, Swedesboro, Washington Township, Wenonah, Woodbury, West Deptford, Westville, Woodbury Heights [,] and Woolrich Township shall be disposed of at the [Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township.] **Gloucester County Sanitary Landfill, facility number 0816A, located in South Harrison Township, Gloucester County, New Jersey.**

[2. All waste types 10, 13, 23, 25 and 27 generated from within the Gloucester County municipality of Newfield Borough shall be disposed of at the Vineland City Sanitary Landfill, facility number 0614B, located in Vineland City, Cumberland County, New Jersey.]

[3.]2. All waste types 10, 13, and 23 generated from within the Gloucester County municipality of Elk Township shall be disposed of at the Elk Township Landfill, facility number 0804A, located in Elk Township, **Gloucester County, New Jersey.**

i. All waste types 25 and 27 generated from within the Gloucester County municipality of Elk Township shall be disposed of at the [Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township.] **Gloucester County Sanitary Landfill, facility number 0816A, located in South Harrison Township, Gloucester County, New Jersey.**

ii. Upon closure of the Elk Township landfill, all waste types generated within the Gloucester County municipality of Elk Township shall be disposed of at the [Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township.] **Gloucester County Sanitary Landfill, facility number 0816A, located in South Harrison Township, Gloucester County, New Jersey.**

[4.]3. All waste types 10, 13, 23 generated from within the Gloucester County Municipality of Greenwich Township shall be disposed of at the Greenwich Township Sanitary Landfill, facility number 0807B, located in Greenwich Township, Gloucester County, New Jersey.

i. All waste types 25 and 27 generated from within the Gloucester County municipality of Greenwich Township shall be disposed of at the [Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township] **Gloucester County Sanitary Landfill, facility number 0816A, located in South Harrison Township, Gloucester County, New Jersey.**

ii. Upon the closure of the Greenwich Township Sanitary Landfill, facility number 0807B, all waste types going to this facility shall be disposed of at the [Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township.] **Gloucester County Sanitary Landfill, facility number 0816A, located in South Harrison Township, Gloucester County, New Jersey.**

[5. Gloucester County is directed by Section D. 26 of the approved Gloucester County District Solid Waste Management Plan to develop and implement interdistrict agreements with out-of-state generators and/or collector haulers.]

[6.]4. When the Gloucester County resource recovery facility becomes operational, processable solid wastes generated in all of Gloucester County's municipalities[, with the exception of Newfield Borough,] shall be directed to the energy recovery facility. [Residue] **Residuals** and non-processable solid wastes shall be disposed of at a landfill(s) designated in the first two-year update of the District Plan.

[i. All solid waste types 10, 13, 23, 25, and 27 generated from within Newfield, shall continue to be disposed of at the Vineland City Sanitary Landfill, facility number 0614B, located in Vineland City, Cumberland County, New Jersey.]

(i)-(v) (No change.)

(a)

DIVISION OF HAZARDOUS WASTE MANAGEMENT Hazardous Waste Management; Surface Impoundments and Testing

Proposed Amendments: N.J.A.C. 7:26-8.19 and 10.6

Authority: N.J.S.A. 13:1E-6.

DEP Docket No. 033-87-07.

Proposal Number: PRN 1987-328.

Submit comments by September 16, 1987 to:

Marlen Dooley
New Jersey Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (Department) is proposing to amend N.J.A.C. 7:26-8.19 and 10.6 in order to achieve equivalence with the Federal Resource Conservation and Recovery Act (RCRA) program. New Jersey received final authorization from the Environmental Protection Agency (EPA) of its hazardous waste regulatory program on February 21, 1985. In order to retain that authorization, the Department must revise the State's rules as needed to maintain equivalence.

The proposed amendment to N.J.A.C. 7:26-8.19 would clarify that the Department may approve alternate test methods for wastes which are beyond the scope of the Federal RCRA program.

The proposed amendment to N.J.A.C. 7:26-10.6 would require that owners or operators of surface impoundments that contain ignitable or reactive waste must obtain a certification from a qualified chemist or engineer that the design or operating plans of the facility will prevent ignition or reaction. This certification and the basis for the finding must be maintained at the facility. This provision is required by 40 CFR 265.229(b)(2) and (3).

Social Impact

There will be a positive social impact from these proposed amendments. For those hazardous wastes which are regulated by the Department, but not by EPA, alternative test methods will be allowed upon approval of the Department. Additionally, there will be less likelihood of an accident resulting from ignitable or reactive wastes in surface impoundments since these hazardous wastes may only be placed there after a chemist or engineer has evaluated the safety of the practice at that specific facility.

Economic Impact

Owners or operators of surface impoundments that store ignitable or reactive wastes may experience a negative economic impact, since they may have to hire a qualified chemist or engineer to evaluate operating practices, the design of the facility and to certify that the wastes can be managed safely.

There is no economic impact anticipated from the proposed amendment to N.J.A.C. 7:26-8.19.

Environmental Impact

There will be a positive environmental impact from the proposed amendment to N.J.A.C. 7:26-10.6, since each surface impoundment will be evaluated by a qualified person before ignitable or reactive waste can be placed there. This will possibly prevent accidents from the unsafe management of these wastes.

No environmental impact is expected from the proposed amendment to N.J.A.C. 7:26-10.6. The Department currently approves test methods for State regulated wastes. The proposed amendment will merely clarify existing language.

Regulatory Flexibility Statement

The proposed amendments will primarily affect generators and hazardous waste treatment, storage and disposal facilities that manage ignitable or reactive wastes in surface impoundments. Many of the businesses that will be affected by these regulations have fewer than 100 full-time employees and therefore would qualify as "small businesses" under the Regulatory Flexibility Act. The Department has not set less stringent standards for these small businesses. To do so would not be protective of the environment, since hazardous waste from a small business would pose as much of a threat to the environment as the waste of a large business.

NEW JERSEY REGISTER, MONDAY, AUGUST 17, 1987

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

7:26-8.19 Incorporation by reference

(a) When testing is performed it shall be conducted in accordance with the procedures and methods contained herein and as set forth in 40 CFR Part 261 Appendices III and X [, or as otherwise required by the Department]. **The Department may approve alternate test methods for those wastes that are beyond the regulatory scope of the Federal program.**

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

7:26-10.6 Surface impoundments

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

(e) Operational and maintenance standards for surface impoundments include the following:

1.-4. (No change.)

5. Ignitable or reactive waste shall not be placed in a surface impoundment unless either:

i. (No change.)

ii. The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; [or] **and**

(1) The owner or operator obtains a certification from a qualified chemist or engineer that, to the best of his or her knowledge and opinion, the design features or operating plans of the facility will prevent ignition or reaction; and

(2) The certification and the basis for it are maintained at the facility;

or

iii. (No change.)

6.-11. (No change.)

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

(a)

**DIVISION OF ENVIRONMENTAL QUALITY
Determination of Noise from Stationary Sources
Proposed New Rules: N.J.A.C. 7:29B**

Authority: N.J.S.A. 13:1D-1 et seq. and 13:1G-4.

DEP Docket No. 034-87-07.

Proposal Number: PRN 1987-327.

Submit comments by September 16, 1987 to:

James A. Blocher, Esq.
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department proposes to adopt without change, as new rules, the expired rules concerning the Determination of Noise from Stationary Sources. Pursuant to Executive Order No. 66(1978), N.J.A.C. 7:29B expired on April 5, 1987. The rules, which were originally promulgated April 5, 1982, include definitions, test methods, measurement principles, operative conditions, equipment specifications, required data, calculations, and personnel qualifications. Compliance with these provisions allows investigators to perform noise tests and measurements acceptable to the Department.

The reenactment of N.J.A.C. 7:29 will enable the Department to regulate excessive noise generators who create a nuisance with unmuffled noises by codifying the procedures to measure noise levels while the source is operating at normal, routine conditions.

Social Impact

The proposed new rules will enable the Department to effectively and consistently measure noise levels from stationary sources. Adverse health affects from uncontrolled noise include insomnia and a variety of stress-related disorders. Children and elderly persons are especially sensitive to exposure to loud noises. Loud noises unreasonably interfere with the enjoyment of life and property, and unnecessarily degrade the quality of life.

Economic Impact

The Department anticipates no significant economic impact. These proposed new rules do not require expenditures, but rather set forth measurement standards. Excessively loud noises may be uneconomic by-

products of industrial or commercial operations. A variety of noise abatement equipment is widely available at minimal cost, to enable noise generators to meet noise control standards.

Environmental Impact

A positive environmental impact is anticipated, due to reduced environmental stress. The test procedures set forth in N.J.A.C. 7:29B are used in conjunction with the standards for noise as established in N.J.A.C. 7:29-1.1 et seq. N.J.A.C. 7:29-1.1 et seq. sets standards that control noise from industrial and commercial stationary sources. The enforcement of the noise standards, which utilizes test procedures described in N.J.A.C. 7:29B, has resulted in the abatement of noise from several hundred noise sources. This has had a positive impact on the neighboring communities of these noise sources. This has made the environment in these communities more livable.

Regulatory Flexibility Statement

These proposed new rules do not impose any reporting, recordkeeping or compliance requirements because they set forth the scientific and technical methods to measure noise rather than set regulatory standards. Therefore, the Regulatory Flexibility Act is not applicable.

Full text of the expired rules, proposed as new, appears at N.J.A.C. 7:29B.

HEALTH

(b)

**DIVISION OF MANAGEMENT AND
ADMINISTRATIVE SERVICES**

Birth Certificates

Creation of Birth Record

**Withdrawal of Proposed Repeal and New Rule:
N.J.A.C. 8:2-1**

Take notice that the Department of Health hereby withdraws the proposed repeal and new rule, N.J.A.C. 8:2-1 et seq. (proposal notice appeared at 18 N.J.R. 2278(a)) regarding the creation of a birth record. As the result of the receipt of a large number of comments on the proposed new rules, which the Department intends to seriously consider, it is quite likely that the proposal will be substantively altered, which would require reproposal.

In light of the issues raised in comments to the proposal, as well as the need to repropose the rules in any case, the Department has decided it would be prudent to withdraw the proposed repeal and new rule, published on November 17, 1986. Further, the withdrawal will permit the Department to repropose the rule in a simple, non-confusing manner (that is, it would be difficult to comprehend the rule, if adopted, since there will be numerous changes from the original proposal) and will eliminate the need to reach a decision on the comments to the rule by November 17, 1987, when the proposal will expire if not adopted.

(c)

THE COMMISSIONER

Certificate of Need

Home Health Agency Policy Manual

Proposed New Rules: N.J.A.C. 8:33L

Authorized By: Charlotte Kitler, Acting Commissioner,
Department of Health (with approval of the Health Care
Administration Board).

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Proposal Number: PRN 1987-322.

Submit comments by September 16, 1987 to:

John Calabria, Chief
Health Systems Review Program
New Jersey Department of Health
CN 360, Room 604
Trenton, N.J. 08625

The agency proposal follows:

Summary

Certificate of Need review for home health agencies has been required in New Jersey since 1971, when this type of health services was included under the Health Care Facilities Planning Act (N.J.S.A. 26:2H-1 et seq.). Up to the present time, determination about Certificate of Need approval for home health agencies have been made based on guidelines outlined in the State Health Plan Element for Home Health Care. During 1986, the Department of Health convened an Advisory Committee to review and make recommendations regarding certain aspects of the Home Health Care Plan Element which required revision. Issues addressed by the Advisory Committee included the formula used for computing the need for new home health agencies, "high-tech" service provision, indigent/uncompensated care, and agencies' service area delineation. As a consequence of the Committee's work, the Home Health Care Plan Element was amended and approved by the Statewide Health Coordinating Council in October, 1986.

The proposed new rules represent the Department of Health's incorporation of Certificate of Need review criteria in the existing Home Health Care Plan Element into the New Jersey Administrative Code. There are, however, several important differences between the Plan Element and the proposed new rules. Specifically, the latter do not include a numerical formula for the determination of home health service need. Rather, decisions about the approval of new or expanding home health agencies will be based upon the presence of certain documented access problems in the proposed home health agency's service area. Furthermore, the proposed new rules will enable the Commissioner of the Department of Health, at his or her discretion, to revoke the license of Certificate of Need approved agencies which fail to demonstrate a minimally acceptable volume of visits and/or to demonstrate good faith efforts to ameliorate the service area's access problems. Such licensure revocation procedures would be conducted in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.). Although license revocation would be an unfortunate action to have to take, it may be necessary to prevent the proliferation of "paper agencies."

The major provisions of the proposed new rules are as follows:

1. N.J.A.C. 8:33L-2.1 describes what constitutes a home health agency's service area.

2. N.J.A.C. 8:33L-2.2 specifies that new agencies must demonstrate the capability to provide a minimum of 5,000 skilled nursing visits per year. Exceptions to this requirement include agencies serving counties with a low population density, in which case a minimum of 4,000 nursing visits per year must be demonstrated, and existing agencies which propose to expand into a new service area, in which case a minimum of 2,000 nursing visits must be demonstrated.

3. N.J.A.C. 8:33L-2.3 addresses proposed agencies' need to achieve cost efficiency without compromising quality of care. This section includes a provision to encourage subcontracting of some services while precluding the full subcontracting of nursing services. Productivity guidelines for nursing vis-a-vis the average number of visits to be made per day are specified in N.J.A.C. 8:33L-2.3(c).

4. N.J.A.C. 8:33L-2.4 delineates the forms of documentation which must be submitted with the home health agency's Certificate of Need application. These include the proposed agency's referral sources, financial feasibility projections, strategies planned for targeting services to medically indigent patients and for covering the costs of this care, and access problems to be ameliorated by the agency.

5. The five access problems which constitute a basis for Certificate of Need approval are identified in N.J.A.C. 8:33L-2.4(a)4i through v. They include: the absence of seven-day-a-week, 24-hour-a-day home health coverage by existing agencies in the service area; the absence of agencies in the service area which provide speech pathology, occupational therapy, and social work services; the absence of home health agencies offering certain "high-tech" services; the lack of provision of a minimally acceptable level of no-pay care to medically indigent patients by existing home health agencies in the service area; and the absence of a Medicare-certified hospice program in the service area.

6. Five prioritization criteria for the review of batched Certificate of Need applications are specified in N.J.A.C. 8:33L-2.4(b).

7. N.J.A.C. 8:33L-2.4(c) states that the newly approved agencies shall be granted a period of two years subsequent to Certificate of Need issuance during which time they must establish their ability to ameliorate the service area's access problems. During that time period, no additional agencies will be granted Certificate of Need approval to address those same access problems in the service area.

8. To ensure consumer choice of home health providers, N.J.A.C. 8:33L-2.4(d) allows for the approval of a second home health agency in those service areas which are served by only one home health provider.

9. N.J.A.C. 8:33L-2.5 outlines special requirements for hospital-related home health agency applicants for a Certificate of Need, including a provision to maximize consumer choice for home health agencies for patients being discharged from the hospital.

10. N.J.A.C. 8:33-2.6 specifies requirements and conditions which must be met by home health agencies which are the subject of a transfer of ownership.

11. N.J.A.C. 8:33-2.7 describes the requirement that approved agencies shall provide a minimum of three percent of their total annual home health visits in the form of free visits to medically indigent patients. In addition, approved agencies shall maintain a sliding fee schedule.

Social Impact

Home health care has become an increasingly important element of the health care industry. In recent years, there have been numerous public policy initiatives as well as demographic and social changes which have contributed to a rapid expansion in home health services. Growth of the elderly population, reduced hospital stays due to changes in reimbursement for hospital care, and the development of Medicaid-funded, community/home-based long-term care demonstration projects throughout the nation are a few of the factors which have resulted in a rising demand for home health care.

Within the home health care industry, there are several types of provider agencies. For the present purposes, a distinction must be made between agencies which are licensed by the State Department of Health and certified by Medicare (that is, eligible to collect Medicare reimbursement) and those which are neither licensed nor certified. The latter group includes temporary and private duty nursing agencies and homemaker agencies. The proposed new rules do not apply to these home care providers. Only those providers which fit the definition of a home health agency per se and which propose to meet State licensing and Medicare-certification standards for home health care will be subject to the proposed new rules. According to the definition in N.J.A.C. 8:33L-1.2, a "home health agency" must offer "preventive, rehabilitative, and therapeutic services primarily to patients in their homes. All home health agencies shall provide nursing, homemaker-home health aide, and physical therapy services in the patient's home or place of residence."

As of 1986, there were roughly 6,000 Medicare-certified home health agencies throughout the United States. In New Jersey, there are approximately 65 existing or Certificate of Need-approved agencies at the present time. Recent Medicare utilization data (for 1984) appear to indicate that New Jersey's home health agencies and the Department of Health's planning policies have been successful in maximizing access to care while minimizing costs. These data show that a high number of patients per 1,000 Medicare beneficiaries has been served in New Jersey (60 per 1,000), compared to the nation as a whole (50 per 1,000). The average number of home health visits per Medicare patient served is also higher for New Jersey (28 visits) than for the nation (26 visits). At the same time, the average charge for visits in New Jersey (\$37.00) was substantially below the national average (\$46.00). As well, the overall charges per Medicare home health service recipient were below the national mean: \$1,042.00 for New Jersey compared to \$1,215.00 for all states.

It is the Department of Health's position that the proposed new rules will have a very beneficial social impact. They should foster the continued, orderly development and expansion of home health services where and when they are needed. The proposed new rules contain incentives for existing home health agencies in the State to offer a full array of accessible services. However, in those service areas where existing agencies are not adequately addressing certain access problems, the proposed new rules will allow for the approval of additional agencies.

Another socially beneficial aspect of the proposed new rules is that they include provisions to encourage consumer choice of home health providers. For example, they permit the Certificate of Need approval of a second agency in areas which are currently served by only one licensed agency, so that patients may select the provider offering the most appropriate mix of services. In addition, consumer choice will be promoted among patients discharged from hospitals which operate a home health agency. Hospital-related home health agencies receiving Certificate of Need approval will be required to maintain referral relationships with all existing, licensed home health agencies in the service area and to allow for the distribution of brochures from these agencies to the hospital's patients.

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Economic Impact

Medicare is the primary source of payment for home health agency services. In New Jersey, roughly two-thirds of all licensed agency visits are reimbursed by Medicare. Medicaid is the payer for an additional ten to 20 percent of home health services rendered in the State; approximately \$26 million were expended by Medicaid for home health care in fiscal year 1986. Out-of-pocket payments, private insurance, and other payers have traditionally covered the costs of care for only a small percentage of patients.

Both Medicare and Medicaid reimburse for home health services on the basis of reasonable costs or customary charges, whichever are lower. Generally, Medicare requires that agencies document uniformity of charges for all classes of patients. This prevents agencies from charging Medicare patients more or less than patients whose care is paid for by other sources; it also precludes the shifting of costs from one class of patients to another. One implication of this reimbursement framework is that home health agencies typically have limited options for covering the cost of uncompensated/medically indigent care.

During the last several years, the U.S. Health Care Financing Administration has scrutinized the home health care delivery system with an eye to containing rising Medicare expenditures. As a 1986 U.S. General Accounting Office (G.A.O.) report points out, Medicare is intended only to cover the cost of short-term home health services for beneficiaries who require skilled care, but the benefit has also inadvertently been used to meet the needs of the long-term chronically ill. In view of this concern about payment for services which are not supposed to be covered by Medicare, insurance intermediaries have become much more vigilant in denying home health agencies' visits claims. Furthermore, when a claim for Medicare reimbursement is denied, the agency is not permitted to seek out-of-pocket payment from patients for those services which were previously rendered. This and other related reimbursement policies for home health care have resulted in great fiscal uncertainty for agencies. The changing economic environment may have in part contributed to the fact that nearly 300 Medicare-certified agencies throughout the nation terminated their operations during 1986.

At the same time that the aforementioned G.A.O. report urges tighter controls on Medicare reimbursement for home health, its authors also indicate that large number of chronically ill elderly need home health care for which there is currently no adequate source of payment. Over one million elderly living at home are said to lack needed home care, primarily in the form of assistance with activities of daily living. In New Jersey, Medicaid pays for this care for patients who meet specific eligibility criteria. However, there remain many chronically ill persons in need of home health services who are not so indigent as to qualify for Medicaid, but who nonetheless cannot afford to pay out-of-pocket. For the purpose of the proposed new rules, such patients are referred to as "medically indigent." The key provisions addressing care for the medically indigent are in N.J.A.C. 8:33L-2.7 and 2.4(a)4iv.

The cost of uncompensated care poses a problem for many home health agencies. To avoid unduly burdening home health providers while promoting access to needed care for the medically indigent, the proposed new rules encourage all agencies to offer a reasonable amount of free care to patients who lack the resources to pay. After discussions with the Department's Home Health Advisory Committee, this amount was determined to be, at a minimum, three percent of each agency's total visits. This aspect of the proposed new rules is not deemed adequate to fully resolve the problem of medically indigent care coverage; the Department will continue to explore alternative mechanisms to pay for these costs. At such time as a superior solution is developed, the proposed new rules may be amended accordingly. In order to allow existing agencies sufficient opportunity to develop and implement strategies to target their services to the specified percentage of medically indigent patients as well as to cover their costs, N.J.A.C. 8:33L-2.4(a)4iv will not become effective as an access criterion until 1989.

The presence of large numbers of competing home health agencies can lead to expensive duplication of services and overhead costs, wage inflation as agencies vie for the limited supply of qualified personnel, and increased travel costs when staff have to cover an expanded territory to maintain the size of their client load. Under the proposed new rules, an expansion in the number of agencies will only be permitted on the basis of documented access problems, as they are defined at N.J.A.C. 8:33L-2.4(a)4i through v. For example, the absence of home health agencies offering "high-tech" care is considered an access problem. Because high-tech services can be very costly to provide, agencies may choose to offer them through contractual arrangements with specialized providers. Also in view of the great expense of these services, it would not be cost

efficient to expect every agency in a service area to duplicate these forms of therapy; consequently, the proposed new rules suggest only that at least one agency in each service area must make high-tech care available.

In summary, the proposed new rules should not have a negative economic impact on current home health agencies and will not impose any new economic burdens on the Department of Health or any other State agency. The criteria for approval of new or expanding agencies will facilitate the controlled growth of the home health industry while precluding a rapid, destabilizing proliferation of agencies.

Regulatory Flexibility Statement

The Department of Health has determined that compliance with the proposed new rules, as well as with all of N.J.A.C. 8:33, is required by all health care facilities which provide health care services as they are defined in N.J.A.C. 8:33-1.6, Definitions. The Department acknowledges that many applicants may propose to develop home health agencies which could conceivably have less than 100 full-time employees and therefore be categorized as small businesses defined in Section 2 of the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169). In order to promote the orderly development of health care services, the Department must assure that these proposed new rules will be equitably and uniformly applied regardless of the type or size of applicant organization. This action will assure that home health agency services of demonstrated need, efficiently provided, properly utilized, and at a reasonable cost, are established to promote the public health.

Full text of the proposed new rules follows.

CHAPTER 33L
CERTIFICATE OF NEED: HOME HEALTH
AGENCY POLICY MANUAL

SUBCHAPTER 1. GENERAL PROVISIONS**8:33L-1.1 Purpose and scope**

(a) The 1971 Health Care Facilities Planning Act, as amended in 1978 (N.J.S.A. 26:2H-1 et seq.), established as a policy of the State of New Jersey that health care services "of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health" (N.J.S.A. 26:2H-1, as amended). This Act has given the State Department of Health the "central comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services and health care facility cost containment and all public and private institutions, whether State, county, municipal, incorporated and not incorporated, serving principally as residential health care facilities, nursing or maternity homes or as facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity or physical condition" (N.J.S.A. 26:2H-1).

(b) The Department of Health is "designated as the sole agency in this State for comprehensive health planning" (N.J.S.A. 26:2H-1). The Statute goes on to stipulate that "no health care facility shall be constructed or expanded, and no new health care services shall be instituted . . . except upon application for and receipt of a certificate of need" (N.J.S.A. 26:2H-7). Consequently, the rules in this chapter specify the certificate of need requirements for all new or expanding home health agencies, or for home health agencies which are transferring ownership. These rules do not, however, apply to homemaker or temporary nursing agencies, which are not Medicare-certified and which do not propose to become Medicare-certified.

8:33L-1.2 Definitions

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

"Department" means the New Jersey State Department of Health.

"High-tech service" means treatment performed in the home requiring technologically complex equipment or highly specialized techniques.

"Home health agency" or "agency" means a facility which is licensed by the New Jersey State Department of Health to provide preventive, rehabilitative, and therapeutic services primarily to patients in their homes. All home health agencies shall provide nursing, homemaker-home health aide, and physical therapy services in the patient's home or place of residence.

"Hospice" means a comprehensive program of palliative/supportive services for dying persons and their families, utilizing an interdisciplinary team of professionals and volunteers. The program provides components of physical, psychological, social, and spiritual care, including bereavement counseling, institutional respite, inpatient care, and home care.

"Hospital-related home health agency" means a home health agency for which the license is held by a hospital, or by a subsidiary corporation of a hospital, or an agency which is a member of a corporate system which includes a licensed hospital in the service area proposed in the agency's certificate of need application.

"Licensure" means the temporary or permanent licensure of a home health agency by the New Jersey Department of Health.

"Medically indigent patient" means a person who requires skilled nursing care or other home health agency services but who lacks both sufficient financial resources to pay for the care (that is, income at or below the State Pharmaceutical Assistance for the Aged and Disabled (P.A.A.D.) guidelines) and third party payment coverage (that is, insurance) for the needed services.

"Seven-day-a-week, 24-hour-a-day service" means continuous nursing staff coverage which is available to the home health agency's new referrals and current patients during evenings, nights, weekends, and holidays.

"Skilled nursing visit" means a personal contact between an individual patient and a registered nurse or licensed practical nurse who is sent from a home health agency. The visit takes place in the patient's place of residence and is conducted for the purpose of providing preventive, rehabilitative, or therapeutic nursing care, including, but not limited to, health assessment, monitoring, and counseling, and "high-tech" treatments.

SUBCHAPTER 2. STANDARDS FOR CERTIFICATE OF NEED REVIEW

8:33L-2.1 Service areas

(a) The service area of a home health agency shall be the county within which the agency's office is located, or a specified sub-area of that county, or the sub-areas of two or more counties. Each office of an agency shall be staffed and equipped in accordance with the Department of Health's Standards for Licensure, as required by N.J.A.C. 8:42.

(b) Any proposed establishment of a new service area as described in (a) above, or any proposed expansion of or other change in an existing agency's service area, shall require Certificate of Need approval through a full review process, pursuant to N.J.A.C. 8:33.

8:33L-2.2 Home health service utilization rates

(a) An applicant for a Certificate of Need to provide home health services shall demonstrate the capability to provide a minimum of 5,000 skilled nursing visits per year in the proposed service area, as described in N.J.A.C. 8:33L-2.1(a). In addition, the agency shall provide all other services required to comply with applicable licensure regulations pursuant to N.J.A.C. 8:42. The volume of skilled nursing visits shall be achieved within two years after the date of the agency's Certificate of Need approval and shall be maintained annually.

(b) The following are exceptions to (a) above:

1. Agencies serving counties with a population density of less than 300 persons per square mile, according to the most recent available U.S. Census data. For the purpose of this rule, these counties are Cumberland, Hunterdon, Salem, Sussex, and Warren. In these low population density counties, a home health agency must demonstrate the capability to provide a minimum of 4,000 skilled nursing visits per year, in addition to all other services provided to comply with the requirements for licensure pursuant to N.J.A.C. 8:42. The volume of skilled nursing visits shall be achieved within two years after the date of the agency's Certificate of Need approval and shall be maintained annually.

2. Existing agencies which receive Certificate of Need approval to expand their service area, in which case the agency shall demonstrate the capability to provide a minimum of 2,000 skilled nursing visits per year in each newly approved service area, in addition to providing all other services necessary to comply with the requirements for licensure pursuant to N.J.A.C. 8:42. The volume of skilled nursing visits shall be achieved within two years after the date of the agency's Certificate of Need approval and shall be maintained annually.

(c) Certificate of Need approval for the expansion of an existing home health agency into a new service area shall only be granted if the existing agency is providing at least 5,000 skilled nursing visits per year, or at least 4,000 skilled nursing visits per year if the agency is located in a low population density county as described in (b)1 above. This minimum volume of visits shall be maintained annually in addition to the visits approved for the new service area, as described in (b)2 above.

(d) If an agency receives Certificate of Need approval to offer services in a specified service area and, after two years from the date of Certificate of Need approval, is unable to demonstrate to the satisfaction of the Department of Health, the applicable volume of skilled nursing visits

specified in (a) through (c) above, the Commissioner of Health may, at his or her discretion, revoke the agency's license or may institute other licensure penalties. Any licensure revocation procedure shall be conducted in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1-1 et seq.).

8:33L-2.3 Cost efficiency

(a) Applicants for Certificate of Need approval shall document that the least costly alternatives, either directly provided or subcontracted services, will be utilized, where the services meet applicable quality of care standards. However, because of the potential for problems with providing continuity of care, agencies proposing the full subcontracting of nursing services shall not receive Certificate of Need approval.

(b) Consistent with applicable licensure regulations (N.J.A.C. 8:42), agencies shall be precluded from fully subcontracting for all nursing services. Violation of this condition at any time shall constitute a sufficient basis for the Commissioner of the Department, within his or her discretion, to revoke the agency's license or institute other licensure penalties. Any revocation procedure shall be conducted in accordance with the Administrative Procedures Act (N.J.S.A. 52:14B-1 et seq.) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1-1 et seq.).

(c) To maximize productivity without compromising the quality of care, the average annualized number of visits made by nursing personnel should not be less than five visits per day and not more than seven visits per day by the second year of agency operation.

8:33L-2.4 Certificate of Need requirements

(a) In addition to all other applicable required items of documentation specified in this chapter, applicants proposing to expand an existing home health agency's service area or to institute a new agency shall submit all of the following with their application:

1. Documentation of proposed referral sources. Letters of support from community agencies and health care facilities shall be submitted indicating to the satisfaction of the Department of Health the number of referrals which can be expected annually and indicating a willingness to establish referral arrangements upon home health agency licensure.

2. Documentation of the financial feasibility of the project. Expense and revenue projections shall be submitted covering a period of at least two years beyond the point at which expenses are expected to no longer exceed revenues. Also required for submission is third party verification of the availability of sufficient capitalization to meet start-up costs for the period until revenues exceed expenses or for the first six months of operation, whichever is greater.

3. Documentation of specific strategies proposed for targeting services to medically indigent patients and for covering the costs of uncompensated care provided to these patients. As a condition of Certificate of Need approval, the applicant shall be required to continuously implement those strategies which are proposed in the application and required by the Department of Health.

4. Documentation of home health care access problems in the service area. Certificate of Need approval shall only be granted in those instances where there are one or more of the following documented access problems and where the applicant is able to provide compelling evidence, to the satisfaction of the Department of Health, that these specific problems will be substantially ameliorated by the new agency. Where data from annual surveys conducted by the Department of Health form the basis for identifying the service area's access problems enumerated below reports of these surveys will be made available by the Department of Health each year on or before October 1. These reports shall be used to make determinations on all applications submitted for home health review cycles during the subsequent year, as specified in N.J.A.C. 8:33-1.5(d). Access problems to be considered include the following:

i. Absence of an existing home health agency providing care in the proposed service area which offers skilled nursing services on a seven-day-a-week, 24-hour-a-day basis, as defined in N.J.A.C. 8:33L-1.2 and as indicated by results from an annual survey conducted and reported by the Department of Health and by annual licensure inspection reports. For the purpose of this rule, on-call staff are required to be responsive within one hour of attempted contact via an answering service or direct telephone contact. Tape answering machines are not considered sufficient for the provision of on-call coverage during evenings, nights, weekends, and holidays.

ii. Absence of existing home health agencies providing care in the proposed service area which, in addition to those forms of care required for agency licensure, offer speech pathology, occupational therapy, and social work services. These services may be made available either through

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direct provision or through sub-contracting by the home health agencies. Annual licensure inspection reports and results of an annual survey conducted and reported by the Department of Health shall be used to determine provision of the aforementioned services by home health agencies in service areas.

iii. Absence of existing home health agencies providing care in a proposed service area which offer "high-tech" services. For the purpose of this rule, "high-tech" services shall include mechanical ventilator care and intravenous and central arterial line fusion therapies. These services shall be available to patients in the service area who require them, either through direct provision by one or more of the service area's home health agencies or through sub-contracting by the home health agencies. Annual licensure inspection reports and results of an annual survey conducted and reported by the Department of Health shall be used to determine provision of the aforementioned services by home health agencies in service areas.

iv. Lack of provision of a minimally acceptable level of services to medically indigent patients. A reasonable minimum level of care to the medically indigent population shall be inferred from the provision of at least three percent free (that is, no pay) home health care visits of the total number of home health visits provided by each existing agency in a service area on an annual basis. Results of annual surveys conducted by the Department of Health, supplemented by agencies' audited cost reports from the most recent available year, shall be used for determining the level of indigent care provided by existing agencies. This access criterion shall not become effective as a basis for approving new or expanding home health agencies until 1989.

v. Absence of a Medicare-certified hospice program providing care for the terminally ill in the proposed service area. Agencies receiving Certificate of Need approval to correct this access problem shall be required to obtain Medicare certification as a hospice program and to maintain this certification continuously. Documentation of areas served by Medicare-certified hospice programs shall be reported by the Department of Health based on information supplied by the Department's Division of Health Facilities Evaluation, supplemented by information from the New Jersey Hospice Organization.

(b) Where there is more than one Certificate of Need application for a home health agency in a service area with documented access problems as identified in (a)4 above, priority shall be given to approving that application which proposes to correct all or the greatest number of identified access problems in the service area and which is in compliance with all other applicable criteria in this Chapter. Additional prioritization criteria include the following:

1. The broadest range of services including the provision of health promotion, chronic illness care, and illness prevention programs to the community;

2. The greatest amount of free (that is, no pay) care to medically indigent patients;

3. The expansion of an existing agency, provided that the agency has been operational for a minimum of three years, has a track record of quality care as determined by the Department of Health's Division of Health Facilities Evaluation, and has a record of compliance with previous conditions of Certificate of Need approval;

4. The expansion of an existing agency with a documented history of a greater than average amount of care provided on a no pay basis to medically indigent patients; and

5. The ability to implement the project quickly.

(c) When a home health agency receives Certificate of Need approval to ameliorate a service area's access problems as specified in (a)4 above, that approved agency shall be given a two year period to correct the identified access problems. No additional agencies shall be approved in the service area for the purpose of addressing those same access problems during the two year period subsequent to the date of Certificate of Need issuance. The approval of an agency shall be conditioned such that the Commissioner of Health may revoke the agency's license if the applicant fails to demonstrate good faith efforts to ameliorate the access problems as specified in the Certificate of Need application. Any licensure revocation procedure shall be conducted in accordance with the Administrative Procedures Act (N.J.S.A. 52:14B-1 et seq.) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1-1 et seq.).

(d) To insure consumer choice, every county or sub-area of a county shall be served by a minimum of two home health agencies. If an area is served by only one home health agency, and it exhibits none of the access problems identified in (a)4 above, an additional agency may still receive Certificate of Need approval to serve that area, provided that it complies with all other applicable requirements in this chapter.

(e) As a condition of Certificate of Need approval, agencies shall agree not to deny to care on the basis of diagnosis and shall agree to care for patients with Acquired Immune Deficiency Syndrome (AIDS) and AIDS-Related Complex.

(f) Agencies receiving Certificate of Need approval shall be required to complete and return the Department of Health's survey of home health agencies and to submit a complete cost report on an annual basis, or more frequently if requested by the Department. Unless otherwise specified by the Department, a separate survey shall be completed for each county served by the agency. This survey shall include but not be limited to questions regarding the number of clients served according to age groupings, types and numbers of visits provided (for example, high-tech care, occupational therapy, social work, etc.), number of visits according to reimbursement source (including no-pay visits to medically indigent patients), and agency charges for services rendered.

8:33L-2.5 Special requirements for hospital-related home health agency applicants

(a) In addition to the applicable documentation required by N.J.S.A. 8:33L-2.4, home health agencies which are hospital-related shall submit all of the following with their Certificate of Need applications:

1. Documentation describing the related hospital's existing discharge planning system, identifying improvements which will be effected as a result of establishment of the proposed agency, and explaining why these improvements could not be effected by making use of existing home health providers in the proposed service area; and

2. Documentation that consumer choice of home health service providers shall be promoted within the related hospital. Evidence that referral relationships with other licensed home health service providers in the service area will be established and maintained shall be provided in the application. Hospital-related home health agencies receiving Certificate of Need approval shall be required to allow for the distribution of brochures from all licensed home health agencies in the service area to all patients in the related hospital. Arrangements shall be required to insure that referrals will be made to home care intake coordinators from other home health agencies in the service area, if this is desired by the patient or the patient's family.

8:33L-2.6 Transfer of ownership for home health agencies

(a) The transfer of ownership of a home health agency shall require Certificate of Need approval.

(b) The service area of an existing home health agency may not be modified in the Certificate of Need application for transfer of ownership.

(c) If two or more agencies are merged through the transfer of ownership, the resulting service area shall be that of the combined, pre-existing agencies.

(d) Conditions placed on the approval of Certificate of Need applications of home health agencies which are the subject of transfer of ownership shall be assigned to the transfer of ownership approval, unless these conditions are amended or deleted by the Commissioner of the Department of Health.

(e) An application for transfer of ownership shall not be approved if the agency which is the subject of the transfer application has not initiated the delivery of home health services, nor if it has ceased to provide these services, nor if it has substantially reduced services.

(f) Applicants proposing the transfer of ownership to an entity that conforms with the definition of a "hospital-related home health agency" as defined in N.J.A.C. 8:33L-2.1 shall comply with all applicable requirements in N.J.A.C. 8:33L-2.5.

(g) As a condition of Certificate of Need approval of a transfer of ownership, the new agency shall provide a minimum of three percent of its total home health visits in the form of free (that is, no pay) visits to medically indigent patients on an annual basis. If the transferred agency was providing more than three percent of its visits in the form of free (that is, no pay) visits to medically indigent patients, the new agency shall, to the satisfaction of the Department of Health, be required to propose and implement a program to insure that a comparable number of free home health visits shall be provided in the service area on an ongoing basis subsequent to the transfer of ownership.

(h) No patient under treatment at the time of the transfer of ownership approval shall lose service or experience any increase in charges as a result of the change in ownership.

8:33L-2.7 Care for medically indigent patients

(a) As a condition of Certificate of Need approval, applicants proposing new agencies or expansions of existing agencies shall be required to provide a minimum of three percent of their total annual home health visits in the form of free (that is, no pay) visits to medically indigent

persons. Where agency expansions are approved, this minimum three percent requirement will apply to the agency's total annual visit provision. This percentage shall be achieved within one year of license issuance and maintained annually.

(b) As a condition of Certificate of Need approval, applicants shall be required to maintain a sliding fee scale to be used for all proposed home health services. The sliding scale shall incorporate provisions for patients to receive care free of charge, if they meet the definition of "medically indigent," as stated in N.J.A.C. 8:33L-1.2. The proposed fee schedule shall allow for partial payment by patients who have incomes above the P.A.A.D. guidelines (see definition of "medically indigent") but below three times the Hill-Burton poverty guidelines. The sliding scale shall be submitted with the Certificate of Need application. Any changes in the schedule are subject to approval by the Department.

(c) Pursuant to the prioritization criteria identified in N.J.A.C. 8:33L-2.4(b)2, Certificate of Need applicants proposing to provide more than the required three percent free (that is, no pay) visits shall accept as a condition of approval that failure to provide the proposed percentage of free home health visits annually shall, at the discretion of the Commissioner of the Department of Health, result in revocation of the agency's license or other licensure penalties. Any licensure revocation procedure shall be conducted in accordance with the Administrative Procedures Act (N.J.S.A. 52:14B-1 et seq.) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1-1 et seq.).

(a)

DRUG UTILIZATION REVIEW COUNCIL
Interchangeable Drug Products
Proposed Amendment: N.J.A.C. 8:71

Authorized By: Drug Utilization Review Council, Sanford Luger, Chairman.

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

Proposal Number: PRN 1987-311.

A public hearing concerning this proposal will be held on September 8, 1987, at 3:00 P.M. at:
Conference Room 103
First Floor
Department of Health
Health-Agriculture Bldg.
Trenton, N.J. 08625-0360

Submit comments by September 16, 1987 to:
Thomas T. Culkin, PharmD, MPH
Executive Director
Drug Utilization Review Council
New Jersey Department of Health
Room 801, CN 360
Trenton, N.J. 08625-0360
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 prescriptions, medicines, passing on the resultant savings to consumers.

For example, the proposed quinine sulfate tablets could then be used as a less expensive substitute for Quinamm, a branded prescription medicine. Similarly, the proposed erythromycin capsules could be substituted for the more costly branded product, Eryc.

The Drug Utilization Review Council is mandated by law to ascertain whether these 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 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.

Regulatory Flexibility Statement

The proposed amendment impacts many small businesses, specifically, over 1500 pharmacies and several small generic drug manufacturers which employ fewer than 100 employees.

However, there are no reporting or recordkeeping requirements for pharmacies, and small generic drug manufacturers have minimal initial reports, and no additional ongoing reporting or recordkeeping requirements. Further, these minimal requirements are offset by the increased economic benefits accruing to these same small generic businesses due to these proposed amendments.

Full text of the proposal follows:

Acetaminophen/codeine tabs 15, 30, 60 mg	Amer. Ther.
Acetohexamide tabs 250, 500 mg	Barr
Allopurinol tabs 100 mg	Interpharm
Amantadine HCl caps 100 mg	Pharmacaps
Amitriptyline/perphenazine 4/10, 4/25, 4/50	Mylan
Amitriptyline/perphenazine 2/10, 2/25	Mylan
Betamethasone diprop. crm, oint, lot 0.05%	Lemmon
Betamethasone diprop. cream 0.05%	Thames
Carbamazepine tabs 200 mg	Barr
Carbamazepine tabs 200 mg	Interpharm
Carbamazepine tabs 200 mg	Purepac
Carbinoxamine/pseudoephedrine syrup	Barre-National
Cephalexin caps 250, 500 mg	Barr
Cephalexin caps 250, 500 mg	M.J.
Cephalexin caps 250, 500 mg	Novopharm
Cephalexin caps 250, 500 mg	Purepac
Cephalexin for susp 125/5, 250/5 ml	Barr
Chlorzoxazone/APAP tabs 250/300	Interpharm
Clonidine tabs 0.1, 0.2, 0.3 mg	Barr
Clonidine tabs 0.1, 0.2, 0.3 mg	Mylan
Clonidine/chlorthal. tabs 0.1, 0.2, 0.3	Par
Clorazepate dipot. tabs 3.75, 7.5, 15 mg	Mylan
Clorazepate dipot. tabs 3.75, 7.5, 15 mg	Able
Clorazepate dipot. tabs 3.75, 7.5, 15 mg	Quantum
Clorazepate dipot. caps 3.75, 7.5, 15 mg	Mylan
Clorazepate dipot. caps 3.75, 7.5, 15 mg	Lederle
Cyproheptadine tabs 4 mg	Amer. Ther.
Cyproheptadine tabs 4 mg	Interpharm
Desipramine HCl tabs 25, 50 mg	Vitarine
Diazepam tabs 2, 5, 10 mg	Femdale
Disopyramide caps 100, 150 mg	Interpharm
Disopyramide caps 150 mg	Superpharm
Doxepin caps 10, 25, 50, 75, 100 mg	Danbury
Doxepin caps 10, 25, 50, 75, 100, 150 mg	Par
Dyphylline/guaifenesin syrup	Barre-National
Erythromycin caps 250 mg	Abbott
Erythromycin estolate susp 125/5, 250/5	Barr
Erythromycin ethylsuccinate 200/5 susp	Barre-National
Erythromycin/sulfisoxazole 200/600 for susp	Barr
Fluocinonide cream 0.05%	Thames
Flurazepam caps 15, 30 mg	Danbury
Flurazepam caps 30 mg	Purepac

NEW JERSEY REGISTER, MONDAY, AUGUST 17, 1987

Furosemide oral solution 10 mg/ml
Haloperidol tabs 0.5, 1, 2, 5 mg
Haloperidol tabs 2 mg
Hydrocodone 5 mg/APAP 500 mg tabs
Ibuprofen tabs 300, 400, 600 mg
Ibuprofen tabs 400, 600, 800 mg
Ibuprofen tabs 800 mg
Indomethacin caps 25, 50 mg
Indomethacin caps 25, 50 mg
Indomethacin caps 25, 50 mg
Indomethacin caps 50 mg
Iodinated glycerol drops 50 mg/ml
Iodinated glycerol/DM 30 mg/10 mg
Isosorbide dinitrate oral tabs 20 mg
Lactulose syrup 10 g/15 ml
Leucovorin calcium tabs 5, 25 mg
Levothyroxine tabs 150, 175, 200, 300 mcg
Levothyroxine tabs 25, 50, 75, 100, 125 mcg
Lorazepam tabs 0.5, 1, 2 mg
Lorazepam tabs 0.5, 1, 2 mg
Meclofenamate caps 50, 100 mg
Meprobamate/ aspirin tabs 200/325
Meprobamate/ aspirin tabs 200/325
Methocarbamol tabs 500, 750 mg
Methylidopa/HCTZ 250/25, 500/30, 500/50
Metoclopramide syrup 5 mg/5 ml
Metoclopramide tabs 10 mg
Minoxidil tabs 2.5, 10 mg
Natalins RX formula
Neomycin 3.5/polymyx 10MU/dexameth 0.1%
Neomycin, polymyxin, gramicidin oph sol
Nystatin 100 MU/Triamcinolone 1 mg cream
Nystatin oral susp 100,000 U/ml
Orphenadrine, ASA, caffeine SS & DS
Oxazepam tabs 15 mg
Oxazepam tabs 15 mg
Oxtriphylline/guaifenesin syrup
Phenylephrine ophth. soln 10%
Potassium Chloride E.R. caps 10 mEq
Potassium Cl E.R. tabs 8, 19 mEq
Potassium chloride for soln 15 mEq/pkt.
Prednisone tabs 5, 10, 20 mg
Prednisone tabs 5, 20 mg
Procainamide E.R. tabs 750 mg
Promethazine/DM syrup
Promethazine/phenylephrine syrup
Promethazine/phenylephrine/codeine syr
Propoxyphene naps/APAP 50/325, 100/650
Propranolol tabs 10, 20, 40, 60, 80, 90
Propranolol tabs 10, 20, 40, 80 mg
Propranolol/HCTZ tabs 80/25
Quinine gluconate E.R. tabs 324 mg
Quinine sulfate tabs 260 mg
Quinine sulfate tabs 260 mg
SMZ/TMP susp 200/40/5 ml
SMZ/TMP tabs 400/80, 800/160
SMZ/TMP tabs 400/80, 800/160
Temazepam caps 15, 30 mg
Thioridazine tabs 10, 15, 25, 50 mg
Thiothixene caps 2, 5, 10 mg
Thiothixene caps 1, 2, 5, 10 mg
Thiothixene caps 1, 2, 5, 10 mg
Thiothixene caps 20 mg
Thiothixene oral soln 5 mg/ml
Thiothixene oral solution 5 mg/ml
Tolazamide tabs 100 mg
Trazodone tabs 50, 100 mg
Trazodone tabs 50, 100 mg
Triple sulfa vaginal cream
Verapamil tabs 80, 120 mg

Barre-National
Danbury
Lemmon
Halsey
Halsey
Interpharm
Barr
Halsey
Interpharm
Sidmak
Watson
Barre-National
Barre
Cord
Cord
Barre-National
Barr
Daniels
Daniels
Halsey
Mylan
Danbury
Par
Vitarine
Amer. Ther.
Cord
My-K
Mylan
Par
Amer. Ther.
Steris
Steris
Thames
Lemmon
Par
Barr
Danbury
Barre-National
Steris
KV
Upsher-Smith
Alra
Amer. Ther.
Cord
Copley
Halsey
Halsey
Halsey
Bolar
Halsey
Interpharm
Mylan
Halsey
Amer. Ther.
Interpharm
TEVA
Interpharm
TEVA
Purepac
Cord
Chelsea
Mylan
Danbury
Cord
Lemmon
Barre-National
Cord
Mylan
Purepac
Lemmon
Mylan

HUMAN SERVICES

The following proposals are authorized by Drew Altman, Ph.D., Commissioner, Department of Human Services.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Home Care Services Manual

Independent Clinical Services Manual

Proposed Amendments: N.J.A.C. 10:60-2.2 and 10:66-3.2

Authority: N.J.S.A. 30:4D-5; 30:4D-6(b)(2), (17); 30:4D-6(c); 30:4D-7 and 30:4D-7(b); 42 C.F.R. 440.70; 440.170(f) and 440.180.

Proposal Number: PRN 1987-323.

Submit comments by September 16, 1987 to:

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

The agency proposal follows:

Summary

The proposed amendments amend the Home Care Services Manual and the Independent Clinic Services Manual to reflect increases in the current rate of reimbursement for personal care assistance services. These services are provided by home care agencies and independent clinics.

The home care agencies fee increases apply to both hourly and half-hourly rates for services provided to individuals and groups during the weekday, weekend and holiday periods. The independent clinics fee increases apply to both hourly and half-hourly rates for services provided to individuals and groups during the weekday. In addition, the fee for initial nursing assessment visits has also been increased.

The fees pertain to specific procedure codes within the HCFA Common Procedure Coding System, commonly known as HCPCS. (The full text of the amendments to the fee schedule appear in the proposal below.) HCPCS codes are referenced, but not reproduced, in the New Jersey Administrative Code. They may be obtained from the Administrative Practice Officer, Division of Medical Assistance and Health Services, CN-712, Trenton, N.J. 08625.

Social Impact

The proposed amendments generally impact on Medicaid patients who receive personal care assistance services. The increased fees should insure the continuity of services to these patients and may increase the availability of these services to the public.

The proposed amendments also impact on home care service agencies and independent clinics who will benefit from the increase in fees.

Economic Impact

It is estimated that the annual cost of these fee increases will be approximately \$580,000 Federal and State share combined.

The impact on providers will vary depending on the volume of Medicaid patients to whom they render services.

There will be no cost to the Medicaid patient for these services.

Regulatory Flexibility Statement

The regulatory flexibility analysis is not applicable to this proposal as the changes do not impose any additional reporting, recordkeeping or other compliance requirements on small businesses.

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

10:60-2.2 Personal care assistant service

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

(f) Reimbursement:

1. The following are all inclusive maximum rates for personal care assistant services, the initial nursing assessment visit and the personal care assistant nursing reassessment visit. No direct or indirect cost over and above these established rates will be considered for reimbursement. A provider may not charge the New Jersey Medicaid Program in excess of present charges for other payors. For reimbursement purposes a weekend

means a Saturday or Sunday; a holiday means an observed agency holiday which is also recognized as a Federal or State holiday.

i. Personal care assistant services are limited to a maximum of 25 hours per week at a reimbursement rate up to \$[8.30]9.00 per hour weekday for individual patient. Code No. Z1600; and

ii. Up to \$[4.15]4.50 per half-hour weekday for individual patient.[.] Code No. Z1611; and

iii. Up to \$[6.24]6.76 per hour weekday for a group rate (two or more patients, with a maximum of eight patients in the same residential setting at the same time). Code No. Z1605; and

iv. Up to \$[3.12]3.38 per half-hour weekday for a group rate (two or more patients, with a maximum of eight patients in the same residential setting at the same time). Code No. Z1612; and

v. Up to \$[9.30]10.00 per hour weekend, holiday for individual patient.[.] Code No. Z1614; and

vi. Up to \$[4.64]5.00 per half-hour weekend, holiday for individual patient. Code No. Z1615; and

vii. Up to \$[7.24]7.76 per hour weekend, holiday for a group rate (two or more patients, with a maximum of eight patients in the same residential setting, at the same time). Code No. Z1616; and

viii. Up to \$[3.62]3.88 per half-hour weekend, holiday for a group rate (two or more patients, with a maximum of eight patients in the same residential setting, at the same time). Code No. Z1617; and

ix. Up to \$[25.00]28.00 may be billed for an initial nursing assessment visit. Code No. Z1610; and

x. Up to \$20.00 may be billed for a nursing reassessment visit. Code No. Z1613.

10:66-3.2 HCPCS code numbers and maximum fee schedule for independent clinic services

IND	HCPCS CODE	DESCRIPTION	MAXIMUM FEE ALLOWANCE	
			S	NS
...	LN	Z1600	[7.70] 8.34	7.70 8.34
LN	Z1605		[6.24] 6.76	6.24 6.76
L	Z1610		[25.00] 28.00	25.00 28.00
LN	Z1611		[3.85] 4.17	3.85 4.17
LN	Z1612		[3.12] 3.38	3.12 3.38
L	Z1613		20.00	20.00
...	N	Z1600	[7.70] \$8.34	7.70 \$8.34
		Personal Care Assistant Service—Individual	Per Hour	
N	Z1605	Personal Care Assistant Service—Group—Care provided involves two or more patients, with a maximum of eight patients in the same residential setting at the same time.	[6.24] 6.76	6.24 6.76
			Per Hour	
		Z1610	[25.00] 28.00	25.00 28.00
		Personal Care Assistant Service—Initial Nursing Assessment Visit		
N	Z1611	Personal Care Assistant Service—Individual	[3.85] 4.17	3.85 4.17
			Per Half-Hour	
N	Z1612	Personal Care Assistant Service—Group—Care provided involves two or more patients, with a maximum of eight patients in the same residential setting at the same time.	[3.12] 3.38	3.12 3.38
			Per Half-Hour	
		Z1613	20.00	20.00
		Personal Care Assistant Service—Re-assessment Visit		

DIVISION OF PUBLIC WELFARE

For proposals numbered PRN1987-307, 314 and 324, submit comments by September 16, 1987 to:

Marion E. Reitz, Acting Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

(a)

**Public Assistance Manual
Payment Increase for Pregnancy Examination
Proposed Amendment: N.J.A.C. 10:81-8.23.**

Authority: N.J.S.A. 44:10-3.
Proposal Number: PRN 1987-307.

The agency proposal follows:

Summary

In order to determine eligibility for benefits under Medicaid Special, medical documentation of pregnancy is required. The proposed amendment at N.J.A.C. 10:81-8.23(d)2i(2) increases the rate of payment by county welfare agencies for pregnancy examination in order to maintain program alignment with the increase in the Medicaid fee from \$21.00 to \$22.00, payable to a specialist in obstetrics and gynecology.

Social Impact

Because it is unlikely that any physician is refusing service to any client because of the difference of only one dollar in the allowable examination fee, it is, similarly, unlikely that any assistance applicant will find any perceptible difference in the availability or level of service provided. Uniformity in fee structure will, however, contribute to agency administrative efficiency.

Economic Impact

There will be a small increase in payment amounts to certain physicians. Costs will be borne by county welfare agencies with 50 percent Federal participation. The overall fiscal payment will be insignificant.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act. P.L. 1986, c.169 effective December 4, 1986. This rulemaking imposes no compliance requirements on small businesses, as the Aid to Families with Dependent Children program is administered by county welfare agencies.

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

10:81-8.23 Medicaid Special

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

(d) Rules concerning pregnant women age 21 and over are:

1. (No change.)

2. Eligibility is determined for an eligible unit of two (woman and unborn child) based on her income and available resources only, or, if she is married and living with her spouse, on an eligible unit of three (woman, spouse and unborn child) including income and available resources of both spouses. Medicaid coverage does not include the spouse even though his income is included in the eligibility determination.

i. A pregnant women with other dependent children should be assisted in making immediate application for AFDC. If she is found ineligible for AFDC, the CWA shall determine eligibility for Medicaid Special on behalf of her unborn child. The eligible unit shall consist of the woman, her spouse if present, any dependent child(ren) and the unborn child. All income and resources shall be applied to the appropriate AFDC-C or -F standard but only the woman and the unborn child may be eligible for Medicaid coverage.

(1) Coverage under Medicaid Special begins with the [M] medical determination of pregnancy and ends, for the mother, with the delivery of the child (coverage includes the expenses of delivery). At birth, the child may remain eligible for Medicaid Special in accordance with subsection [(c)] (b) of this section; he/she will keep the same case number.

(2) Medical documentation of pregnancy will include the estimated date of conception and delivery date. Cost of examination to determine pregnancy may be made from the administrative account. The allowable rate of payment for the examination by a specialist in obstetrics and gynecology is \$[21.00] **\$22.00** plus \$3.00 for the pregnancy test.

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- (3) (No change.)
(e) (No change.)

(a)

**Public Assistance Manual
Realizing Economic Achievement Program
Proposed New Rules: N.J.A.C. 10:81-14**

Authority: N.J.S.A. 44:7-6 and 44:10-3; State Appropriations Act for Fiscal Year 1988: 45 CFR 224.20, 238, 239, and 240.

Proposal Number: PRN 1987-324.

The agency proposal follows:

Summary

The proposed new rules, in conjunction with the Preliminary REACH County Plan Guidelines published as an attachment to these rules, together implement a new public assistance program being required to help New Jersey's welfare recipients move from public assistance into the economic mainstream. These two documents comprise the instructions for carrying out welfare reform in New Jersey.

Designated REACH—Realizing Economic Achievement—New Jersey's welfare reform package addresses the deficiencies existing in the current Aid to Families with Dependent Children (AFDC) program by removing the barriers that make it difficult for welfare recipients to achieve economic independence and by adding mutual obligations of the State and the recipient in attaining self-sufficiency.

REACH will replace the current Work Incentive Demonstration (WIN Demo) program. REACH is specially designed to provide welfare recipients with the opportunity to gain the job skills, experience, and education they need, while making accessible to them the special support services required to permit them to take responsibility for their own future and achieve full-time employment and economic self-sufficiency for themselves and their families.

The REACH program is founded on the principle of mutual obligation, whereby both the government and the welfare recipient each have a responsibility to comply with their part of an agreement which spells out the programs and services offered under REACH that will lead to that individual's self-sufficiency.

Unlike the current AFDC program, REACH sets the achievement of economic independence as the goal of New Jersey's welfare recipients. With the assistance of specially trained case managers, welfare recipients will sign mutually agreed upon plans for self-sufficiency which will ensure them the opportunity to participate in and benefit from a wide range of training, education, and job search programs, as well as support services designed to meet their special needs. In addition, enhanced child support enforcement measures and extended child care and Medicaid benefits will help recipients and their families achieve economic independence and self-sufficiency, and retain it after they leave the welfare rolls.

The key aspects of the program are its comprehensive employment, training, and education options, its strategy of targeting young female headed families (those shown to be at greatest risk of long-term dependency), its professional case management component, its enhanced child support enforcement, Medicaid and child care extensions, and local planning and coordinating requirements. The cumulative effect of these REACH program components will be the removal of the barriers currently blocking AFDC recipients from gaining employment and achieving economic self-sufficiency.

Under the REACH program, all able-bodied AFDC recipients will be required to participate in the REACH activities which they and their case manager agree are best suited to their individual needs, for as long as they receive aid. Thus, REACH establishes a clear expectation that all able-bodied welfare recipients will take advantage of and benefit from program activities designed to help them achieve self-sufficiency.

In those instances in which recipients required to participate are unable to fulfill the requirements of their plan for self-sufficiency, the case manager will assess the situation and make every effort possible to resolve the cause of the recipient's nonparticipation. No sanctions will be imposed against those REACH participants who have a verifiable good cause for nonparticipation. Should it be determined that good cause for nonparticipation does not exist, the recipient will be provided with another opportunity to meet the requirements of their plan for self-sufficiency. If, after all barriers to participation in the agreed upon programs of the recipient's plan for self-sufficiency have been removed and another opportunity to meet program participation requirements has

been provided, the recipient still chooses not to take part in REACH activities, the recipient will be offered the option of avoiding the imposition of a sanction by participating in a community work experience program (CWEP). If the individual chooses not to participate in CWEP, an AFDC grant reduction may be imposed. For the first instance of nonparticipation without good cause, the recipient will be sanctioned for one payment month. For a second instance of nonparticipation, a three payment month sanction period will be imposed. For the third and subsequent instances of nonparticipation, the recipient will be sanctioned for six payment months.

These sanction procedures represent a positive departure from WIN and WIN Demo procedures in that they provide more flexibility, more protections to the recipient, more opportunity for the recipient to state their individual circumstances in a non-adversarial setting, and to voluntarily come into compliance with their plan for self-sufficiency, than is currently available under WIN and WIN Demo.

The foundation of the REACH program is the wide range of programs and services it makes accessible to participants. The distinctive purpose of all REACH activities is the achievement of the goal of employment which will provide economic self-sufficiency for the REACH participant and his or her family. The program and service options included in REACH are:

Job Search—for those REACH participants who are qualified by prior work experience to enter the job market, and those who successfully complete training and education programs, professional assistance and supervision in locating and obtaining jobs will be available.

Training—both classroom and on-the-job training will be available to REACH participants who need to acquire new or to improve existing job skills. Emphasis will be placed on training participants to fill positions in those occupations which market analyses have revealed are, or will be, in demand.

Work Supplementation Program—using of funds generated by program savings resulting from REACH participants moving off the AFDC rolls into jobs; additional employment and on-the-job training slots for remaining AFDC recipients will be subsidized statewide.

Educational Services—the opportunity to enroll in Adult Basic Education, General Educational Development, and English as a Second Language programs will be available to REACH participants. Such programs will enhance participants' abilities to participate in other REACH programs and to gain employment.

Community Work Experience Program—REACH will make available to those participants who, for a number of reasons including personal difficulties and lack of job experience, have been unable to find employment, the opportunity to be placed in jobs in the public and not-for-profit sectors. Such job placements will provide these REACH participants with the work experience they need to better prepare themselves for unsubsidized employment and economic independence.

Assessment and Counselling—to identify participants' present job skills, job preferences, and educational status, REACH will make available assessment and counselling services designed to help them discover which jobs, training, or education programs they should enroll in. Assessment and counselling services will be available to all AFDC recipients, including those exempt, excused, or deferred from participation in REACH.

The planning and coordination of REACH programs and services will be carried out by the counties with guidance and assistance from the State Department of Human Services. Three agencies are especially critical to the REACH planning and coordination process: the County Welfare Agencies, the Private Industry Councils, and the Human Services Advisory Councils. The product of the planning and coordinating process will be the REACH County Plan which will be written according to the Department of Human Services' REACH County Plan Guidelines and submitted to the Department for review and approval. The approval of REACH County Plans will be contingent upon, among other things, the coordination of all existing resources and the development of innovative ways of utilizing new resources.

The implementation of the REACH program and the regulations contained herein are contingent upon the approval of all requested waivers of Federal regulations and the passage of all required State legislation.

N.J.A.C. 10:81-14.1 sets forth general provisions governing the REACH program. It provides that REACH regulations shall be interpreted in conjunction with regulations of the AFDC program and the Food Stamp Program, and that REACH regulations supersede those regulations in case of conflict. However, REACH regulations will not supersede the proposed regulations for the Teen PROGRESS program in Subchapter 12, as published in the August 3, 1987 issue of the New

Jersey Register. It sets forth the general principles of the REACH program: the concept of mutual obligation, the intent of REACH to support participation in activities directed to employment and to consider the dignity and self-respect of the individual, with the goal of self-support and independence from public assistance.

N.J.A.C. 10:81-14.2 sets forth definitions to be used in the REACH program. It defines a mandatory participant as an individual required to participate in REACH to satisfy the employment and training requirements of the AFDC program, and who is not otherwise exempt due to age or incapacity. It defines REACH employment-directed activities as those designed to lead to unsubsidized employment, including but not limited to job search, community work experience, work supplementation, training, education, and vocational assessment and counselling. The definitions are explained in more detail further in the rule.

N.J.A.C. 10:81-14.3 sets forth in detail the REACH participation criteria and exemptions. AFDC applicants will be referred for REACH participation after a final determination of AFDC eligibility is made. Mandatory participants are to include all individuals who are not exempt or deferred from participation. Exempt from participation are individuals over age 65, under age 16 or between age 16 and 18 if attending school full-time, as well as those who are required to care for an ill family member, or who are incapacitated themselves. It sets forth criteria under which participation may be temporarily deferred—temporary illness, care of a child under age two, and the third trimester of pregnancy—and establishes that these temporary deferrals will be monitored for changes in circumstances that permit participation. It establishes that mandatory participants may be excused from REACH participation if a needed support service cannot be provided or if the component for which they are scheduled is not immediately available. For excused participants, the case manager has the responsibility to closely monitor the excuse and to take efforts to obtain the needed service as quickly as possible. The section also sets forth the details of REACH participation: minimum requirements, the period of participation in each activity, and measures of compliance.

The important function of case management in the administration of the REACH program is set forth at N.J.A.C. 10:81-14.4. Case management is the structured approach to coordination of income maintenance functions, social services, employment and training, to support an individual's participation in REACH, under the principles of REACH at N.J.A.C. 10:81-14.1. A list of case management functions is set forth, including participant orientation, evaluation of skills, determination of need for employment-related supports of child care and transportation, referral for social services and support services, mutual development of the REACH Agreement, correcting service discontinuities, and monitoring participation.

N.J.A.C. 10:81-14.5 establishes the REACH Agreement as evincing the mutual obligation that is the center of REACH. After evaluation of the participant's skills, the agreement is mutually developed by the case manager and REACH participant. The Agreement sets forth employment and those employment-directed activities that the individual will pursue, as well as the services needed to support participation, such as child care, transportation and post-assistance Medicaid coverage, that will be accessed through case management on behalf of the individual. It is through the Agreement that participation in REACH activities will be monitored; the Agreement can be amended and updated to reflect new skills and assignment to appropriate REACH components. The section sets forth details about the Agreement, its contents, and effective dates. It also provides for a conciliation procedure to resolve disagreements between the participant and the case manager about the activities and services in the Agreement.

N.J.A.C. 10:81-14.6 provides clarification of the responsibilities of the county welfare agency (CWA) income maintenance eligibility worker in the REACH program. The rule establishes that all procedures developed by the county shall ensure coordination between the income maintenance and case management functions, and that no participant's AFDC eligibility and grant shall be adversely affected due to lack of coordination between these functions.

N.J.A.C. 10:81-14.7 provides that notices of adverse action shall conform to the due process requirements of the AFDC program at N.J.A.C. 10:81-7, and that the hearings will be available and conducted according to established AFDC procedures at N.J.A.C. 10:81-6.

While the focus of REACH is individual participation in employment-directed activities, it is recognized that situations will occur in which AFDC clients will not comply with the REACH participation requirements. N.J.A.C. 10:81-14.8 sets forth procedures to be followed by the case manager where noncompliance is indicated. The procedures include

notification of the participant, an opportunity for a conference about participation, and a determination of whether good cause for non-compliance exists. When noncompliance is indicated, the case manager must send a notification letter to the participant, followed up by a second letter, and may also contact the participant by telephone. During a conference with the participant, the case manager explores the reasons for noncompliance, directing attention to possible personal problems, including substance abuse and behavioral problems, and discontinuities of needed support services. Referral for social services and arranging the needed support services takes place here. The case manager reviews the REACH Agreement with the participant, discusses participation requirements and the participant is given a final opportunity to comply. The participant is offered the option of participating in the community work experience program before a sanction is imposed. A final determination that good cause does not exist is made. If the participant still does not comply, a sanction is imposed, subject to timely and adequate notice. The new rule provides for sanctions of one, three and six payment months for the first, second and subsequent instances of noncompliance, but within the framework of flexibility of application. After imposition of a sanction, if an individual complies and participates in the REACH program as set forth in the Agreement, the remaining period of the sanction may be suspended. The sanctioning policy is flexible to reflect the REACH goal of program participation and not exclusion, and to take into account individuals who may not be familiar with the new REACH program and its participation requirements.

N.J.A.C. 10:81-14.9 states that unsubsidized employment is the goal of REACH, and reaffirms the principle of REACH of employment leading to self-sufficiency. All participants will be required to accept a reasonable offer of employment unless good cause exists.

N.J.A.C. 10:81-14.10 sets forth the employment-directed activity, or component, of REACH job search. The REACH job search participation requirements and exclusions conform to Federal requirements at 45 CFR 240 and 45 CFR 224.20. Participation in job search may be postponed for the duration an individual is participating in another REACH component, including training and education. Job search consists of three primary activities: early intervention individual job search (for AFDC applicants who are "job ready"), individual job search (for AFDC recipients) and group job search. Participation is met by an average of three employer contacts per week (individual job search) and attendance at all assigned classes or training sessions (group job search), with absences subject to a good cause determination. For the duration of participation in job search, related costs of child care and transportation are subject to Federal matching of 50 percent.

N.J.A.C. 10:81-14.11 sets forth a new component, the work supplementation program (WSP), in accordance with Federal rules at 45 CFR 239. Work supplementation had been successfully pilot tested in New Jersey in 13 counties as "grant diversion". Under WSP, which is often coupled with on-the-job training (OJT), a REACH participant voluntarily takes a position with an employer providing OJT. The employer pays the participant's wages, which are counted as income to the family (after application of AFDC earnings disregards) and reduce the AFDC grant. The savings in the welfare grant is then pooled with savings from other participants, and the resultant "wage pool" used to subsidize OJT positions with additional employers for additional REACH participants. Child care and transportation related to WSP participation are subject to Federal matching. The participation requirements reflect Federal policy that acceptance of the positions is voluntary and may not exceed nine months.

N.J.A.C. 10:81-14.12 establishes the community work experience program (CWEP). Under CWEP a REACH participant may be placed in a position with a public or private employer who provides carefully supervised work experience. The maximum number of hours per month a participant may work in a CWEP position is the total number of hours, which, when multiplied by the minimum wage, equals the AFDC grant. CWEP is useful for the long-term dependent away from the workplace for many years, who has lost employment skills, as well as the individual who needs low pressure activity in order to adjust to the workforce. The CWEP participation requirements, programs and activities conform to Federal rules at 45 CFR 238. Child care and transportation provided to CWEP participants is subject to Federal matching for the duration of participation in REACH CWEP.

N.J.A.C. 10:81-14.13 sets forth the vocational and assessment component, designed to assist individuals in exploring their employment options. It will primarily target individuals who do not have a recent work history or marketable skills. A special component to target young mothers with children under age two will include development of a plan for self-

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sufficiency and access to services, instruction and information on parenting skills, caring for very young children, and community resources for child development.

N.J.A.C. 10:81-14.14 lists the training components that are available through REACH, including but not limited to instructional skills training, on-the-job training, work experience and retraining. For the duration of participation in REACH training, an allowance of \$30.00 per week for training related expenses, including transportation to and from the training site, may be provided.

N.J.A.C. 10:81-14.15 sets forth the allowable educational components of REACH. These include preparatory educational services of General Educational Development (GED), English as a Second Language (ESL) and Adult Basic Education (ABE) services for individuals who need basic educational skills enabling entry into the job market. Educational services also include access to post-secondary opportunities, primarily one-year and some two-year programs, in specific skills, such as nursing, accounting, data processing, and so forth, leading to recognized careers for which there are or will be a demand and which have the added benefit of providing a certificate or associate's degree, thereby enhancing employability.

The provision of social services in REACH is described at N.J.A.C. 10:81-14.16. These services are intended to address problems such as substance abuse or behavioral problems that may prevent or seriously impair an individual's ability to participate in REACH. Referral for social services is made by the case manager. Acceptance of such services is voluntary, and an individual may not be sanctioned for not accepting the services or discontinuing participation in a treatment program. However, for the period during which an individual is participating in a social service program, he or she will be deemed to be complying with REACH program requirements.

N.J.A.C. 10:81-14.17 through 14.20 set forth the services that will be provided to support participation in the REACH program. N.J.A.C. 10:81-14.17 establishes the basic principles of services: that the State will supplement and not supplant services available through existing programs, and that the client will be the first source of support. It establishes the principle of REACH as payor of the last resort, under which services available from the client and from Federally-matched programs will be accessed to the extent possible, consistent with the participant's assessment and Agreement, before State-only REACH program funds are accessed.

N.J.A.C. 10:81-14.18 establishes that the individual and the case manager will mutually develop arrangements for care of the participant's child(ren) necessary to support participation in REACH, as set forth in the REACH Agreement. Where the individual cannot pay for child care, or where Federal matching funds do not provide for any or all of the cost of child care, REACH vouchers may be provided to pay for child care. REACH vouchers can be used for care of children of all ages, from infants to school-age children, for a variety of care arrangements, including full day care and after-school care. The vouchers are available for a total of 52 weeks per participant at amounts established by the Department of Human Services. For families that lose AFDC eligibility due to income from employment, post-assistance child care may be available for the number of weeks remaining in a participant's 52-week period. Need for post-assistance child care is determined by the case manager before the family becomes ineligible for AFDC.

N.J.A.C. 10:81-14.19 sets forth the requirements and provision of transportation and related expenses as REACH support services. As with other support services, the participant will be encouraged to use his or her available transportation resources to and from employment, training and education sites. Reimbursement for actual costs of transportation that are reasonably necessary for participation in REACH will be available through the job search, work supplementation and community work experience programs. An allowance of \$30.00 per week for expenses related to training, including transportation, uniforms, and similar necessities, will be available for the duration of training and education.

N.J.A.C. 10:81-14.20 establishes that the primary medical support service available from REACH, post-assistance health care coverage through the Medicaid program, will be provided for 12 months after an AFDC-C, -F, or -N segment family becomes ineligible for AFDC due to employment. The section lists additional criteria that must be met for this coverage: the family must have received assistance in three of the six months preceding termination, and that Medicaid coverage is available for the AFDC family and any child born during the 12-month period.

N.J.A.C. 10:81-14.21 sets forth criteria to be used in determining need and amount of assistance under REACH. For income earned by AFDC mothers serving as child care providers, one-half (50 percent) of such

earnings is to be disregarded in determining maximum income eligibility, prospective need, and computing the AFDC grant amount. This disregard replaces the earned income disregards in N.J.A.C. 10:82-2.8 (\$75.00 work expense deduction and \$30.00 and one-third disregards). The \$60.00 and one-third disregards at N.J.A.C. 10:82-4.5, established by N.J.S.A. 44:10-3(l) will continue to be applied to such earnings of AFDC-N families. Also, for all recipients under age 18, or age 19 if still attending school, income earned from participation in any training program may be disregarded for a six-month period in determination of maximum income eligibility, prospective need and grant computation. This expands the disregard set forth at N.J.A.C. 10:82-4.6 and is independent of the disregard of income earned by a full-time student set forth at N.J.A.C. 10:82-4.7(g).

N.J.A.C. 10:81-14.22 provides for expanded child support enforcement activities under the REACH program. It establishes that both the State and counties shall conduct the following on behalf of REACH program participants: prioritization of the child support enforcement workload in favor of REACH participants, upward modification of existing court orders for child support and, pending passage of State legislation, immediate income withholding of court-ordered child support payments from the income of absent parents. These rules reflect the REACH policy that regular income from child support, coupled with even part-time earnings of an AFDC family, can move the family into the economic mainstream more quickly than earnings alone.

N.J.A.C. 10:81-14.23 sets forth in regulations the county planning process that is mandated by the Department of Human Services in order for a county to operate the REACH program and receive REACH program funds. (See the Preliminary REACH County Plan Guidelines published as an attachment to these rules.) The section contains a general statement regarding the requirements of the planning process, including the establishment of a county REACH planning committee (with mandatory and optional membership) and designation of a county REACH Program Coordinator. The section mandates development and submittal of a county REACH program implementation plan that specifies the arrangement by which employment, training, education and support services will be provided to eligible REACH participants in that county, and ensures that local needs are addressed and local resources are accessed in delivery of REACH services. The Department of Human Services will establish performance standards for the REACH program to assure that REACH services are productive in terms of reducing welfare dependency and increasing employment and earnings of REACH participants.

Social Impact

The REACH program provides an opportunity for individual recipient families and for New Jersey taxpayers as well. For both, REACH has a positive social impact.

For the individual and the individual's family, REACH will provide an opportunity for economic self-support. The employment, training and education components and options represent a broad range of skill levels and interests and are sufficiently varied to address the diverse characteristics of the AFDC population. REACH is the first comprehensive program to remove barriers that have historically made it against the self-interest of a family to go to work, by making available to the welfare recipient the critical services needed to support participation in employment. Initially, child care and transportation are available through REACH to enable the family member to start participating in employment-directed activities. Eventually, post-assistance Medicaid for 12 months is available, as well as child care, if needed, to enable the family to remain off the assistance rolls and make the transition to self-support complete.

The program is designed to consider the dignity and self-respect of the individual. The individual has a considerable degree of choice in selecting the employment, training and educational components in which to participate. The individual is encouraged to maximize the use of existing resources available to him or her for child care and transportation to support participation. A case manager, whose sole responsibility is the REACH program, is assigned to evaluate the individual's skills and interests, work with the participant to guide choices, and to support and ensure participation and compliance. The REACH program has access to a comprehensive social service network to further support the individual and family in their movement toward independence from welfare.

For the State as a whole, REACH provides an opportunity to redirect the existing welfare system towards solutions to the system's inherent problems. It responds to criticisms of inadequate incentives for work by providing the services most needed to support employment—child care

and transportation. It extends these services for a transitional period (up to 12 months for medical coverage) after a family leaves the welfare rolls, thereby addressing the economic reality that employer benefit packages at jobs available to most welfare recipients cannot provide as much in-kind benefits as receipt of public assistance.

REACH also addresses the problem of generational dependency. Its participation requirements encompass a larger welfare population than the existing AFDC employment and training requirements, acknowledging that many otherwise able-bodied recipients have been exempt from any work requirement in AFDC, a partial cause of generational dependency. However, REACH also recognizes that many of these same recipients are handicapped by a severe lack of basic education and employment skills needed for the job market, which the average employed individual takes for granted. In response, REACH provides the preparatory educational services and basic work experience programs to remedy these skill deficiencies for eventual employment.

At full implementation, REACH will operate in all 21 counties, rather than only the 13 counties operating the WIN Demo program. This will provide for greater uniformity statewide in services and employment programs for AFDC families. The case management approach to program operation will give recipients the attention needed for participation in employment directed activities, which has often been overlooked by the AFDC income maintenance worker, who had to deal with so many changes in eligibility and assistance payments as well as the labor intensive tasks of AFDC program administration. The mandatory county planning process will ensure effective service delivery at the local level. The public-private partnership in planning at the county level, combining the private sector (employers serving on the Private Industry Council) with county government and CWAs will represent a broad-based approach to addressing the problem of welfare dependency.

Economic Impact

The REACH program provides additional financial incentives to individual families. By expanding the disregard of earnings to 50 percent of income earned by providing child care for REACH participants' children and participating in training programs, REACH encourages a portion of the AFDC population which experience has shown would not otherwise engage in employment-related activities, to take steps toward self-support. More importantly, provision of in-kind supports (rather than direct financial aid) of child care, transportation and post-assistance Medicaid, more accurately targets the needs of the entire REACH population.

A program of the scope of REACH is not without cost. It is the intent of the Department of Human Services to invest \$12.5 million in the REACH program in State fiscal year 1988, inclusive of administrative costs. This amount covers costs of child care, training-related expenses, supplementation of the Job Training Partnership Act for additional training programs for welfare recipients, expanded medical coverage, local planning and implementation of REACH, and the function of case management. The amount considers the phase-in schedule of REACH: Bergen, Middlesex and Union counties in October 1987, Mercer and Passaic counties in February 1988, and remaining counties thereafter; applicants and reapplicants for AFDC in the first six months of a county's operation of REACH, followed by recipients.

Over the first three years, during which all 21 counties and all AFDC recipients will become part of REACH, the State is expected to commit approximately \$100 million to the program. When fully implemented, REACH will cost about \$60 million a year in State funds. Federal funds are also expected to supplement State monies. However, REACH will pay for itself when the program moves 15 percent of participants off welfare and into jobs.

It is estimated that REACH will initially achieve \$110 million gross savings in the Medicaid and AFDC programs. It is expected that in future years Federal matching funds will be available for the REACH program. Given the 50 percent Federal match of these programs, the savings is approximated at \$55 million in Federal expenditures and \$55 million in State expenditures (including county government funds). Savings will also be achieved in a number of other programs which are funded by Federal, State and/or county funds.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. The proposal imposes no compliance requirements on small businesses, therefore, a regulatory flexibility analysis is not required.

Full text of the proposed new rules follows.

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. REALIZING ECONOMIC ACHIEVEMENT (REACH)

10:81-14.1 General provisions

(a) This subchapter is for use by the county welfare agencies (CWAs) in the Realizing Economic Achievement (REACH) program as an integral part of N.J.A.C. 10:81, N.J.A.C. 10:82, N.J.A.C. 10:87, and N.J.A.C. 10:90, and shall at all times be used and interpreted in conjunction with these documents as appropriate.

1. If any regulations herein contradict or conflict with existing regulations or policy established in N.J.A.C. 10:81, N.J.A.C. 10:82, N.J.A.C. 10:87, or N.J.A.C. 10:90, with the exception of N.J.A.C. 10:81-12, such material is superseded by this subchapter. The REACH regulations do not supersede the regulations for Teen PROGRESS.

2. Nothing in this subchapter is to be construed to be in conflict with the regulations on safeguarding information as stated in N.J.A.C. 10:81-7.32.

3. Nothing in these regulations shall be construed as conferring on AFDC applicants and recipients an entitlement to support, social, training or employment services.

(b) Principles of the REACH program: REACH is designed to lead to independence from public assistance through employment and activities leading to employment. At the core of REACH is the principle of mutual obligation, under which the agency will make available a variety of employment, training and education opportunities as well as support services, and the individual will participate in his or her future. The emphasis of REACH will be on participation, not penalties, with the program designed to be flexible to support each family's movement to economic self-sufficiency through employment and to consider the dignity and self-respect of the individual. These principles are to serve as a framework within which the regulations set forth in this subchapter are to be applied.

(c) The purpose of this subchapter is to:

1. Identify individuals eligible for the REACH program;
2. Establish policy for the REACH program;
3. Establish policy for determining eligibility and support services for the REACH program; and
4. Establish procedures for providing and accessing employment-directed educational and training services and support services for participants.

(d) The concept of reasonable certainty: While this material attempts to minimize discretionary action on the part of the agencies administering REACH, there will be situations which are only generally covered by existing policy guidelines. In cases of this nature, the agency shall be expected to make a judgement, based on experience and/or knowledge of REACH, which can be defended as both reasonable and prudent.

1. Situations not covered by the subchapter: In cases where treatment of a situation is neither specifically nor generally addressed in this subchapter, the matter shall be referred to designated staff of the Division of Public Welfare (DPW) for resolution.

(e) Distribution of subchapter: Copies of this subchapter shall be provided to administrative staff and to other appropriate staff working with applicants and recipients. Those individuals are expected to be thoroughly familiar with its contents in order that policy and procedures may be consistently applied.

(f) The REACH program will be phased into counties on a schedule developed by the Department of Human Services. REACH participation requirements will apply to AFDC applicants and recipients in accordance with that schedule.

10:81-14.2 Definitions

The following definitions shall apply to REACH:

"Agency" means the agency selected by the county to administer a particular REACH employment-directed activity, including a county welfare agency, a JTPA agency, or Employment Services.

"Case manager" means the individual in the county responsible for service coordination and participation by an individual in REACH.

"Compliance" means participation in employment or the REACH employment-directed activity as set forth and scheduled in the REACH Agreement.

"Excused participant" means a mandatory REACH participant whose participation is excused for the reasons at N.J.A.C. 10:81-14.3(d).

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"Mandatory participant" means an individual applying for or receiving AFDC who is required to participate in REACH, and whose participation is not exempt or temporarily deferred.

"REACH Agreement" means the agreement between the participant and agency that sets forth the obligations of each party.

"REACH employment-directed activities" means REACH employment-directed activities are designed to lead to economic self-sufficiency through employment of AFDC recipients, and include:

1. REACH Job Search (see N.J.A.C. 10:81-14.10);
2. REACH Work Supplementation Program (see N.J.A.C. 10:81-14.11);
3. REACH Community Work Experience Program (see N.J.A.C. 10:81-14.12);
4. REACH training programs (see N.J.A.C. 10:81-14.14);
5. REACH educational services (see N.J.A.C. 10:81-14.15); and
6. Vocational assessment and counseling (see N.J.A.C. 10:81-14.13).

"Voluntary participant" means an individual applying for or receiving AFDC who is not required to participate, but who chooses to participate on a voluntary basis.

10:81-14.3 REACH participation

(a) Participation: All individuals shall, as a condition of eligibility, participate in REACH. Individuals in immediate need shall be entitled to a presumptive eligibility determination in accordance with N.J.A.C. 10:81-3.3 prior to REACH participation. Referral for REACH participation will be made after a final determination of AFDC eligibility is made. However, individuals determined presumptively eligible for AFDC may participate in REACH on a voluntary basis before that final eligibility determination.

1. Stepparents who are essential persons: In AFDC-C cases where the stepparent is designated as an individual whose presence in the home is essential to the well-being of the spouse and thus included in the eligible family (see N.J.A.C. 10:82-2.9), the procedures below are to be followed with respect to REACH participation:

- i. Criteria identified in N.J.A.C. 10:81-3.18(k)10 shall be used to determine who is the principal earner in the household.
- ii. The eligible family member designated as the principal earner shall be required to participate in REACH.
- iii. If the principal earner refuses or fails to participate in REACH, the penalty specified in N.J.A.C. 10:81-14.8(c) shall be imposed.
- iv. Even if the principal earner is a mandatory REACH participant and has not refused to participate or accept employment without good cause, the other parent shall also be required to participate in REACH.

2. AFDC-N: Rules concerning participation in the REACH program under the AFDC-N segment are as follows:

- i. Requirements of the primary wage earner: In an AFDC-N case, the primary wage earner shall participate in the REACH program.
- ii. Participation by the other parent: In an AFDC-N case, the other parent may participate in REACH on a voluntary basis.
- iii. Requirements of AFDC-N children: AFDC-N children who are 16 to 18 years old who are not attending school and are not employed shall participate in the REACH program.

(b) Exemptions: Individuals classified as exempt are not required to participate in employment or REACH employment-directed activities. However, they may participate on a voluntary basis. The following categories of individuals are exempt from participation in REACH:

1. Children and students: Children under age 16; or between 16 and 18 enrolled or accepted for enrollment as full-time students for the next school term in an elementary, secondary, or vocational or technical school; or under age 19 and attending full-time, a secondary school or the equivalent level of a vocational or technical school, and expected to complete the program of the school before reaching age 19.

2. Parents who are:

- i. 65 years of age or older.
- ii. Incapacitated: When verified that a physical or mental impairment as determined by a physician or licensed or certified psychologist or by the Bureau of Medical Affairs, either by itself or in conjunction with age, prevents the individual from engaging in employment and/or training, and such incapacity is expected to exist for a continuing period of at least six months.

(1) Uncomplicated pregnancy of itself shall not be considered incapacitating; however, any claim to complications shall be verified in writing by a physician or licensed or certified psychologist by use of Form PA-5, Examining Physician's Report.

iii. Required in the home: When verification is obtained that a physical or mental impairment, as determined by a physician or licensed or certified psychologist, of another member of the household requires the

individual's presence in the home on a substantially continuous basis, and no other appropriate member of the household is available.

(c) Temporary deferrals: Participation in REACH may be temporarily deferred for circumstances likely to change that make current participation impossible or impracticable. Individuals classified as temporarily deferred will be subject to monitoring by the case manager for changes in circumstances that make them eligible to participate again. The following categories of individuals are temporarily deferred from participation in REACH:

1. Ill: When determined on the basis of medical evidence or on some other sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training. Reasons for exemption on a temporary basis include observation of a cast on a broken limb, or information of scheduled surgery, recuperation from surgery, or other instances where the condition will be of limited duration. This exemption will not exceed 90 days. Minor ailments and injuries, that is, colds, broken fingers, rashes, and so forth, do not normally defer the individual under this criterion. However, where the condition appears to be serious enough for deferral, such deferral shall be reviewed every 30 days.

i. Where an individual evidences symptoms of substance abuse or behavioral problems, referral for social services will be made before a temporary deferral is granted.

2. Caretaker of young child: The parent or other caretaker relative of a child under two years of age who personally provides care for the child with only brief and infrequent absences from the child. For purposes of deferral from REACH participation, absence means that the parent and child are apart, one from the other.

i. Absence shall be considered brief and infrequent if the child is routinely absent from the parent for normal activities related to child development or education, such as kindergarten, preschool classes, and so forth. Absence of the parent due to employment shall be considered brief and infrequent.

ii. Absence shall not be considered brief and infrequent if the parent is routinely absent from the child for 12 or more hours per week for activities not related to normal household, child rearing and/or family duties. Absences of the child for more than 12 hours per week due to care of the child by relatives or similar arrangements unrelated to employment or training shall not qualify as brief and infrequent.

3. Pregnancy: A woman who is in the sixth month or later of pregnancy.

4. Extreme hardship: Deferral from participation will not ordinarily be given for circumstances other than those in (c)1 through 3 above. However, if the individual can demonstrate that extreme hardship to the children would result if the individual were required to participate, despite the provision of support services, participation may be excused on a case by case basis, as negotiated in the REACH Agreement. Such situations should be monitored weekly by the case manager for changes in circumstances permitting participation again. The following circumstances are classified as extreme hardship or would result in extreme hardship if participation was not deferred:

i. Remote: When commuting time between home and the site of employment-directed activity by available public or private transportation is not reasonable. Commuting time of one hour each way, exclusive of the time necessary to transport children to and from a child care facility, is considered reasonable;

ii. Another adult relative participates: The parent or other caretaker of a child who is deprived of parental support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative in the home is a mandatory REACH participant and has not refused to participate in the REACH program or to accept employment without good cause;

iii. Another parent is not exempt (AFDC-F): In the AFDC-F segment, the parent (who is not the principal earner) of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner) is not exempt under one of the preceding clauses of this section; or

iv. Full-time employment: Applicants or recipients working not less than 30 hours per week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break expected to last no longer than 10 working days.

(d) Excused participation: REACH participants may be temporarily excused from participation if the component (including social services) for which they are scheduled as set forth in the REACH Agreement is not currently available or if a support service set forth in the REACH Agreement is not available.

1. During the excused period, the participant and the agency will be expected to comply with the other Agreement terms.

(e) Compliance with participation requirements: An individual must comply with general REACH program expectations and requirements specific to employment and each employment-directed activity, as set forth in the REACH Agreement. Instances of noncompliance with the REACH participation requirements will be reviewed to determine if there was good cause for noncompliance.

1. General expectations: The general expectations of an individual participating in employment or a REACH employment-directed activity are such instances as: attendance at the date(s) and time(s) mutually arranged in the REACH Agreement, satisfactory completion of all program requirements, and compliance with all employer and training facility rules and regulations that govern all similarly-situated employees and trainees. In addition, the individual is required to participate only in those activities set forth in his or her individual REACH Agreement.

2. Specific requirements: The following are minimum participation requirements for REACH employment and employment-directed activities:

i. Employment: Maintaining employment and not leaving such employment except for good cause;

ii. REACH job search:

(1) Early intervention job search and individual job search: An average of three employer contacts per week;

(2) Group job search activities: Attendance at all classes and sessions;

iii. REACH work supplementation: Attendance at all sessions and maintaining employment;

iv. REACH community work experience: Attendance at employment site for the number of hours designated in the REACH Agreement;

v. Training and educational activities: Attendance at all training sessions or all classes;

vi. Vocational assessment and counseling: Attendance at all sessions as required by the case manager or by the REACH Agreement.

(f) Period of participation: An individual is required to participate in employment and the various REACH employment-directed activities for the time periods specified in the REACH Agreement for each activity.

(g) Any individual who is required to participate in more than one of the REACH activities may not be denied AFDC on the grounds of "failure to participate" in one such program if there is a conflict in the implementation or scheduling of activities between programs, and the individual is satisfactorily participating in the other program.

10:81-14.4 REACH Case Management

(a) General: Case Management is a structured approach to the delivery of multiple and interrelated services to assure that the goals and objectives of REACH are met. Case management functions will ensure that the principles of REACH set forth at N.J.A.C. 10:81-14.1 are applied in the development of the REACH Agreement, evaluation and monitoring, and during an individual's participation in REACH. Staff included in the case management function are the REACH case manager, supervisory staff, and clerical support staff. Case management functions include but are not limited to:

1. Explaining the REACH program: concept of mutual obligation; participation requirements; commitment to removing barriers to employment; emphasis on self-sufficiency; options available for training, education, and employment opportunities; client's rights;

2. Identifying barriers to self-sufficiency, including education and training, health, child support, social, housing, transportation, child care;

3. Referring the participant to appropriate potential service providers (for example, health, social, education and training, housing, child care) for further assessment and evaluation;

4. Consulting with the participant and potential service providers to develop a plan of service for each REACH participant;

5. Developing with the participant a REACH Agreement which will outline steps toward self-sufficiency;

6. Maintaining an assigned caseload of participants and coordinating their program participation with all participating agencies and educational institutions and programs to facilitate movement through REACH;

7. Monitoring a participant's progress and re-evaluating needs and services as necessary;

8. Correcting possible discontinuities in service delivery and determining excused participation status;

9. Providing, either directly or indirectly, motivational, personal and family counseling as necessary;

10. Maintaining records of an individual's participation;

11. Taking necessary action in cases involving sanctioning, including timely referral to the income maintenance worker for client notification and change in eligibility and grant amount;

12. Re-evaluating a participant's needs post-AFDC; and

13. Monitoring continued eligibility and provision of services to post-AFDC participants who receive REACH services of child care and Medicaid.

(b) Case manager: A REACH case manager will be assigned to coordinate the functions of the REACH program participants. For a participant, the case manager is the integral link among the different service subsystems of income maintenance, employment, training, child support enforcement and support services.

(c) Participant rights: In addition to the rights set forth in this chapter (including the right to confidentiality, notice and hearings), the participant has the right to inform the case manager when services as set forth in the REACH Agreement are not being provided to ensure that the agency fulfills its part of the mutual obligation. The case manager shall explain to the participant that communicating such information as quickly as possible is in the best interest of the family, and that it will enable the case manager to remedy the situation so that continued participation will be ensured.

(d) Orientation: As part of REACH participation, all potential REACH participants will receive orientation to the REACH program. Orientation will include a general description of the REACH program, the employment, training and educational opportunities available, the support services to be arranged by the agency, and the participation required under the principle of mutual obligation.

(e) Individual evaluation: Individual evaluation involves an initial assessment of a REACH participant's existing employment-related skill levels, educational level, and similar characteristics related to employability and the job market and of support services needs.

(f) Development of the REACH Agreement: After the individual evaluation, the case manager shall interview the REACH participant and jointly develop an initial REACH Agreement (see N.J.A.C. 10:81-14.5).

(g) Client flow: Upon application or redetermination of eligibility, AFDC clients will proceed through the REACH program as follows.

1. AFDC eligibility determination: The income maintenance worker at intake or active case unit will determine eligibility for AFDC. The worker will provide an overview of the REACH program and determine whether the individuals are exempt from participation, in accordance with N.J.A.C. 10:81-14.3(b). Parents whose youngest child is age six months or under will be exempt from all REACH requirements, and may volunteer for case management. Parents whose youngest child is over age six months and who volunteers will be referred to the case manager.

2. REACH orientation: In orientation, usually conducted for small groups, the case manager will explain the REACH system, including the available services, the participant's obligations, and the Agreement. Small group employment counselling for parents of children under age two will also be conducted at this step. Parents of children under two years of age may continue deferral or may become REACH participants on a voluntary basis. Initial steps in development of the REACH Agreements will take place.

3. Individual evaluation: The case manager will meet individually with each participant and conduct an initial evaluation of barriers to job readiness and of the need for social services, such as mental health services, vocational rehabilitation, drug and alcohol treatment programs, and health care.

i. Initial REACH Agreement: An initial REACH Agreement will be completed, indicating whether the participant has been deferred or referred to social services, REACH job search or vocational/educational assessment. Steps necessary to secure support services are also initiated. This initial Agreement will become the final Agreement after assessment (see (g)5 below).

4. Assessment: Participants will be referred to the entity chosen by the county to assess the participant's educational and vocational aptitudes and interests or for social services assessment not done by the case manager. The entity will recommend to the case manager whether participants are job ready, in need of preparatory educational services, post-secondary educational services, job skills training, CWEP, or similar services, and will identify potential deliverers of these services where possible.

5. REACH Agreement: The case manager and participant will review the assessments and the initial REACH Agreement and jointly develop the final REACH Agreement (see N.J.A.C. 10:81-14.5).

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6. Participation in employment and employment-directed activities: The participant will pursue activities as scheduled in the REACH Agreement, and the case manager will monitor participation.

(h) Referral for social services: The case manager may recommend specific social services for participants who may be in need of such services, for example, where there is evidence of substance abuse or behavioral problems (see N.J.A.C. 10:81-14.16). Although acceptance of these services is optional, the case manager has the responsibility to explain the consequences of not participating in social services: that the individual will be required to participate in another employment-directed activity, that participation requirements for that activity will be set forth in the REACH Agreement, and that nonparticipation in that activity without good cause will result in application of sanctioning procedures.

(i) Unavailability of support services: The case manager shall take all steps reasonably necessary and feasible to ensure that services are provided to support an individual's participation in the REACH program, as set forth in the REACH Agreement. When any service required for participation in REACH is not available or when it is reasonably apparent that available services will not enable the individual to fully comply with the REACH Agreement, the case manager will recommend that the individual's participation in REACH be excused. This recommendation shall be reviewed by the supervisor, and the participant counselled on the ability to participate in the absence of such services. If the supervisor and case manager determine that the individual will be unable to participate, the individual will be temporarily excused from participation.

1. The case manager will record on the REACH Agreement or in the case record the circumstances surrounding the excused participation, the date of excuse, reason, and dates of expected resumption of service and participation.

2. The case manager will immediately make all reasonable efforts to arrange for the necessary support service(s) so that the individual can participate in REACH as quickly as possible.

10:81-14.5 REACH Agreement

(a) Purpose and scope: The REACH Agreement will set forth provisions for both the REACH participant and the agency to comply with under the principle of mutual obligation. Each REACH participant will sign a REACH Agreement with the case manager affirming participation, provision of support services (such as child care and transportation) and commitment to self-sufficiency. The REACH Agreement will be tailored to each participant's skills and necessary employment activities.

1. All mandatory REACH participants will be required to complete and sign a REACH Agreement as a condition of eligibility for the AFDC program.

2. Voluntary REACH participants should complete a REACH Agreement affirming participation in REACH and provision of necessary support services. Completion of the REACH Agreement by voluntary REACH participants is not a condition of AFDC eligibility.

(b) Contents of REACH Agreement: The REACH Agreement will set forth:

1. Participation required by the REACH participant in employment and REACH employment-directed activities;

2. Recommended participation in social service programs;

3. Support services to be provided or arranged by the agency, including child care, and training-related expenses, and post-assistance Medicaid coverage;

4. Objectives, starting dates, completion dates, measures of accomplishments, deliverers of employment-directed and support services;

5. Sanctions for failure or refusal of the participant to comply with employment and the REACH employment-directed activities set forth in the REACH Agreement;

6. That participation will be excused when support services set forth in the REACH Agreement are not available; and

7. Effective date, duration and expiration date of the REACH Agreement.

(c) Signing of the REACH Agreement: Both the participant and the case manager will be required to sign the REACH Agreement.

1. Failure or refusal of the participant to sign the Agreement without good cause will result in sanctions set forth in N.J.A.C. 10:81-14.8.

2. Inadvertent failure of the agency representative to sign the REACH Agreement will not relieve the participant or the CWA of compliance with the terms of the Agreement and sanctions for noncompliance. However, where it is determined that the case manager failed to sign the Agreement, the case manager shall sign the Agreement immediately after such a determination.

3. Conciliation and Agreement terms: If, after evaluation and assessment the participant is not satisfied with the terms of the Agreement, including the results of the assessment, the scheduled employment-directed activities or support services set forth in the Agreement, and after a three-day cooling-off period the case manager cannot resolve the disagreement, conciliation procedures shall be applied.

i. The participant shall be offered the opportunity to immediately voice his or her dissatisfaction to the supervisor of the case manager. The supervisor will review the assessment and proposed REACH Agreement, listen to the concerns of the participant and, within one working day, make a decision.

ii. If the participant is not satisfied with that decision, the Administrative Supervisor will review the issue with the participant and case manager, and, within one working day, make a decision which shall be final.

iii. In instances in which sanctions arise from noncompliance with the resulting Agreement, and a fair hearing is requested, agency records of all conciliation efforts surrounding the Agreement will be made available to the Administrative Law Judge.

(d) Specifications: the REACH Agreement shall conform to the following specifications:

1. Effective date: The REACH Agreement and amendments to the REACH Agreement shall be effective upon signing by the participant and the case manager, subject to (c)2 above.

2. Duration and expiration date: The REACH Agreement shall cover a minimum period of six months, or until employment makes the individual ineligible for AFDC, whichever is sooner. The expiration date shall not be earlier than the scheduled effective date of the next semiannual or annual redetermination of eligibility.

i. Example: The redetermination of eligibility for a participant is conducted annually, with the last redetermination effective for October 1, 1987. During November 1987 the participant and case manager complete a REACH Agreement. The expiration date of that Agreement may not be earlier than October 1, 1988, the scheduled effective date of the next redetermination of eligibility.

(e) Amendments: The REACH Agreement may be amended or updated at any time to reflect changes in skills, education levels of the participant and changes in assignment to employment-directed activities. Whenever the Agreement is amended or updated the case manager shall review the support services to ensure that they will continue to support REACH participation. Amendments shall be effective in accordance with (d) above.

(f) REACH Agreement review: A review of the REACH Agreement shall be completed at time of the redetermination of AFDC eligibility. At a minimum, the case manager and the participant shall review compliance with the existing Agreement, discuss changes that may be needed, and make the necessary amendments. The effective date, duration and expiration date of the new REACH Agreement shall conform to (d) above.

10:81-14.6 Income maintenance functions

(a) General: The functions and tasks of the income maintenance workers concerning the REACH program are set forth in this section. The functions include but are not limited to:

1. Determination of eligibility for AFDC and computing the AFDC grant amount;

2. Referral of AFDC applicants who do not meet the criteria for exempt participation of N.J.A.C. 10:81-14.3(b) to the case manager;

3. Explaining voluntary participation in REACH and referral of interested individuals to the case manager, for families determined presumptively eligible for AFDC;

4. Applying the sanction to the individual's AFDC eligibility and grant after notification from the case manager of sanctions for failure or refusal to comply with REACH participation requirements;

5. Issuing notices of adverse action (Form PA-15);

6. Informing the case manager of a determination of ineligibility for the AFDC program for reasons other than a sanction; and

7. Informing exempt REACH participants of their right to voluntarily register for the REACH program.

(b) Operating procedures: The REACH program will be operated in a county under standard procedures approved by the Department of Human Services. County procedures must ensure coordination of the income maintenance and case management functions and ensure that the AFDC eligibility and AFDC grant amount of REACH participants will not be adversely affected by lack of coordination between or among agencies involved in the REACH program.

(c) Voluntary participation: The income maintenance worker shall inform all exempt AFDC-C, -F, and -N segment applicants and recipients who could benefit from REACH program services of their right to voluntarily participate in REACH and of their right to withdraw such participation at any time without loss of assistance payments.

(d) Individuals who have been determined to be exempt from registration on the basis of incapacity shall be referred to the Division of Vocational Rehabilitation Services. Form PA-14, Referral for Services, shall be used for this purpose. Acceptance of referral for such services is optional with the individual and shall not affect a recipient's entitlement to benefits.

10:81-14.7 Hearings and notices

(a) Hearings: The provisions governing fair hearings at N.J.A.C. 10:81-6 shall apply to the REACH program. REACH participants who are dissatisfied with a determination of participation requirements, sanctions and adverse actions may request a hearing.

1. Elements of the Agreement: If appropriate, the Administrative Law Judge shall determine the reasonableness of the elements of the REACH Agreement as well as determine the participant's cooperation and non-cooperation with the Agreement in accordance with good cause provisions at N.J.A.C. 10:81-14.8(b).

(b) Notices: Notices of action taken by the CWA concerning REACH participants are subject to the provisions of N.J.A.C. 10:81-7 and N.J.A.C. 10:90-2.5, as appropriate.

10:81-14.8 Noncompliance; good cause; sanctions

(a) The REACH principles of self-sufficiency through employment, mutual agency/participant obligation, dignity and self-respect of the individual, and flexible program design, are all directed to encouraging individual participation in his or her future. However, it is recognized that situations will occur in which the individual will not comply with the REACH participation requirements. In instances where noncompliance by a mandatory participant is indicated, the case manager will begin a series of procedures preliminary to the decision to impose a sanction for noncompliance.

1. The procedures include notification of the participant, an opportunity for a conference about participation, and a determination of whether good cause for noncompliance exists. The case manager will consider the principles of REACH in application of both these preliminary procedures and the sanctioning procedures.

2. Indications of noncompliance: Indications of noncompliance may be reported to the case manager or may become apparent to the case manager while monitoring client participation. Indications of non-compliance with REACH program requirements include situations in which the participant:

- i. Did not attend a REACH orientation session after two notices have been mailed to the participant and have not been responded to;
- ii. Did not attend a REACH assessment session after two notices have been mailed to the participant and have not been responded to;
- iii. Did not cooperate in the development of the REACH Agreement;
- iv. Did not sign the REACH Agreement, for reasons other than those in N.J.A.C. 10:81-14.5(c);
- v. Did not make a bona fide application for employment;
- vi. Did not accept employment when working is part of the REACH Agreement;

vii. Voluntarily left employment without good cause;

viii. Was discharged from employment for cause, for example, gross misconduct connected with such employment, failing to meet job requirements, absenteeism, tardiness, untidiness, and so forth;

ix. Did not participate in any REACH employment-directed activities or accept necessary and appropriate support services that are set forth in the REACH Agreement; or

x. Disrupted a REACH activity or behaved in a manner that constituted a threat or hazard to agency staff or fellow participants.

3. Voluntary participants: If an individual classified as a voluntary participant discontinues participation in the REACH program, the individual and the individual's family are not subject to the procedures and sanctions set forth in this section. However, under the principles of the REACH program, the case manager may wish to discuss with the individual the circumstances surrounding the decision not to participate and the benefit of participation.

(b) Good cause for noncompliance: A participant shall not be deemed to be in noncompliance unless a specific referral for orientation, evaluation or assessment was made or a definite offer of training, education or employment was made. Good cause for noncompliance exists where:

1. The mandatory participant is physically or mentally unable to engage in such education, training or employment;

2. The mandatory participant is unable to get to and from the particular educational facility, training or employment by available transportation;

3. The conditions of education, training or employment are a risk to health and safety; or

4. Conditions violate the rights of the participant or applicable law.

(c) Notification of participant: When participant noncompliance is indicated prior to any sanction the case manager will proceed as follows.

1. The case manager will send a letter notifying the participant of noncompliance, the penalty for noncompliance, and asking the participant to come to the agency for a conference. Form PA-15, Important Notice, may be used for this purpose. In addition, the case manager may contact the participant by telephone.

2. If the participant does not contact the agency within 10 days of the date of this letter, the case manager will send a second notification letter. In addition, the case manager may contact the participant by telephone.

(d) Determination of good cause: Prior to any sanction, the case manager will review the REACH Agreement and confirm that good cause for noncompliance does not exist. This step may take place at the conference in (e) below. In determining the existence of good cause, the case manager will consider factors in (b) above and the totality of circumstances surrounding the individual's ability and willingness to comply with participation requirements.

(e) Conference: Prior to the first sanction, the case manager will conduct a conference with the REACH participant to discuss the participation requirements and circumstances surrounding nonparticipation. A conference may be conducted before the second and subsequent sanctions.

1. During the conference, the case manager will make an assessment of the circumstances surrounding the individual's noncompliance, including possible personal problems. Where personal problems, such as substance abuse or behavioral problems, are indicated, the case manager will refer the individual for social services (see N.J.A.C. 10:81-14.4(h) and 10:81-14.16).

2. The case manager will be alert to possible discontinuities in support services that have led to noncompliance, and will attempt to remedy the situation and arrange for the needed services. If a needed support service is not available and the participant indicates willingness otherwise to participate, the case manager may excuse the individual from participation in REACH (see N.J.A.C. 10:81-14.3(d) and 10:81-14.4(i)).

3. The case manager will review the REACH Agreement and participation requirements with the individual to clarify and reinforce REACH program expectations. The participant will be given a final opportunity to comply.

4. The case manager will also explain the REACH Community Work Experience program (CWEP) and the nature of its participation. The individual may wish to participate in CWEP as an alternative to the existing activities set forth in the REACH Agreement. If so, the case manager will amend the Agreement and begin referral to CWEP. In no event will a sanction be imposed before an offer of CWEP participation is made to the individual during this conference process.

(f) Imposition of the sanction: Sanctions will be imposed if a mandatory REACH participant has not complied with REACH program requirements or the REACH Agreement without good cause. If, after application of the above procedures, the individual still does not comply with REACH participation requirements, or if the participant has not contacted the agency within 20 days of the date of the first notification letter and the individual has not been reached by telephone, the case manager will impose the sanction. The case manager will notify the income maintenance worker to take action regarding AFDC eligibility and grant amount, subject to timely and adequate notice.

1. Any appeals resulting from sanctioning for noncompliance with REACH program requirements will be handled according to established procedures for fair hearings (see N.J.A.C. 10:81-6). Provisions at N.J.A.C. 10:81-14.5(c) and 14.7(a) will also apply.

(g) Sanctions: The following sanctions shall apply for failure or refusal to comply with REACH requirements:

1. AFDC-C: If the mandatory participant is a caretaker relative receiving benefits, including a stepparent designated as an essential person, his or her needs shall not be taken into account in determining the family's eligibility or amount of assistance. The AFDC grant shall be provided in the form of protective or vendor payments (see N.J.A.C. 10:81-4.5), except that, if after making all reasonable efforts, the CWA is unable to locate an appropriate individual to whom protective payments can be made, the CWA may continue to make payments on behalf of the remaining members of the eligible family to the sanctioned caretaker relative.

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2. AFDC-F: If the mandatory participant is the principal earner (see N.J.A.C. 10:81-3.18(k)10), the entire family will be rendered ineligible to receive AFDC-F. Under these circumstances the family will not be eligible for AFDC-N. If the mandatory participant is not the principal earner, then his or her needs shall not be taken into account in determining the family's eligibility or amount of assistance.

3. AFDC-N: Noncompliance of the primary wage earner with the mandatory participation requirements of REACH will result in both parents being deleted from the eligibility family.

4. If the mandatory participant is the only dependent child in the AFDC-C, -F, or -N segment, assistance for the family shall be terminated.

5. If the mandatory participant is one of several dependent children in the AFDC-C, -F, or -N segment, the child's needs shall not be taken into account in determining the AFDC grant of the eligible family.

6. If a sanctioned individual reapplies for AFDC but the sanction period has not expired, the individual will remain ineligible for AFDC for so long as he or she fails to meet the participation requirements of REACH. In determining entitlement of the remaining eligible family members to assistance, (g)1 through 4 above shall apply.

i. Example: A mandatory participant is sanctioned for six payment months effective January 1 through June 30. Effective February 1 the remaining AFDC family members become ineligible for assistance due to excess resources. The family spends the excess and on April 1 reapplies for AFDC. The sanctioned individual will remain ineligible for AFDC after June 30 for so long as he fails to meet the participation requirements. AFDC entitlement of the remaining family members for April 1 will be determined in accordance with (g)1 through 4 above.

(h) Sanctions for voluntary cessation of employment—AFDC-N: The following additional sanctions shall apply in AFDC-N segment cases. If financial eligibility is the result of voluntary cessation of employment within 90 days prior to the date of application or at any time during receipt of assistance, the following shall apply:

1. Applicants: If financial eligibility is the result of voluntary cessation of employment (including cessation of employment due to inappropriate work habits) by either of the applicant parents, regardless of reason, within 90 days prior to the date of application, neither of the parents shall be included in the eligible family unit. This penalty shall extend for a period of 90 days beginning with the date of the termination of employment. However, eligibility shall be considered for the children.

i. At the end of penalty period, the parents may be granted assistance so long as eligibility continues to exist.

2. Recipients: If an employed primary wage earner voluntarily ceases employment for whatever reason without good cause, both parents shall be deleted from the eligible family. Refusal of an unemployed primary wage earner to accept a job or training without good cause will likewise result in both parents being deleted from the eligible family.

3. Both parents will remain ineligible for a period of 90 days, or a lesser period if the primary wage earner returns to his or her former employment, accepts an equal or better job or enters a training program, approved by the CWA, for employment or better employment.

(i) Sanction periods: The following sanction periods shall apply for noncompliance with the REACH program requirements or the REACH Agreement without good cause:

1. For the first instance of noncompliance, the sanction period will be up to one payment month.

2. For the second instance of noncompliance, the sanction period will be three payment months.

3. For the third and subsequent instances of noncompliance, the sanction period will be six payment months.

4. Continued noncompliance with REACH program requirements or the REACH Agreement after expiration of the sanction period will result in continued sanction.

(j) Effective date of sanctions: The sanctions in (g) above shall become effective on the first day of the first payment month after the month the decision is made to impose the sanction, subject to timely and adequate notice.

(k) Compliance before or during the sanction period: If a mandatory participant complies with REACH program or Agreement requirements before the sanction is imposed or during the sanction period, the sanction may be suspended and the participant's AFDC grant restored for the first day of the month following the month in which the participant complied. Compliance is defined as participation in employment or the REACH employment-directed activity as set forth and scheduled in the REACH Agreement.

1. The recommendation to suspend the sanction and to restore the AFDC grant will be made by the case manager, in consideration of the

participant's circumstances, past history of compliance with the REACH program, and similar factors.

2. A decision to suspend a sanction requires notification to the income maintenance unit supervisor.

(l) Renewed participation after the sanction period: Individuals who are sanctioned may again participate in REACH upon application and an indication to the REACH case manager of a willingness to participate.

1. For the first occurrence, such individuals may again participate after one payment month has elapsed since the effective date of the sanction.

2. For the second occurrence, such individuals may again participate after three payment months have elapsed since the effective date of the sanction.

3. For the third and subsequent occurrences, such individuals shall be reaccepted into the REACH program when satisfactory evidence is given of willingness to participate and six payment months have elapsed since the effective date of the latest sanction.

(m) Change to exempt or deferred status: If an individual becomes exempt or temporarily deferred after refusing to participate in the REACH program, the sanctions specified in (g) above shall be discontinued and assistance shall be provided accordingly.

1. If the sanctioned individual's needs had been deleted from the AFDC grant, the individual's needs shall be immediately reinstated in the AFDC grant.

2. If the entire family had been rendered ineligible for AFDC, the entire family unit, upon reapplication, shall be considered eligible for AFDC provided no other changes in circumstances have occurred which would otherwise render the family ineligible for such assistance.

10:81-14.9 Employment

(a) General: The goal of the REACH program and employment-directed activities is unsubsidized employment. Unsubsidized employment, employment-directed activities, and the services that support an individual's employment, are intended to lead to self-support of the family and independence from public assistance.

(b) All mandatory REACH participants will be required to accept a reasonable offer of employment unless good cause exists.

10:81-14.10 REACH job search

(a) Purpose and scope: The purpose of REACH job search is to reduce welfare dependency by assisting individuals in obtaining regular unsubsidized full time employment of not less than 30 hours per week. The REACH job search program may include different job search activities or impose different participation requirements based on an individual's characteristics and local job availability conditions.

1. Allowable costs to operate REACH job search are matched by the Federal government at the AFDC administrative match level.

2. The Department of Human Services, Division of Public Welfare, the agency designated in the State Plan for Title IV-A to administer the AFDC program, shall administer the REACH job search program.

(b) Eligibility: Mandatory and voluntary REACH participants may participate in REACH job search. Participation in REACH job search may be postponed while an individual is participating in another REACH employment-directed activity, including a social services component (see N.J.A.C. 10:81-14.4(g)).

(c) REACH job search program: The REACH job search program may consist of one or more of the following:

1. Early intervention individual job search for applicants, which requires job search from the point of application for AFDC and may continue after the individual becomes a recipient;

2. Individual self-directed job search for AFDC recipients; and

3. Group job search and/or job club.

(d) Assignment to job search activities and the duration of the activities will be based on individual employability potential and geographic location. Minimum requirements for participation in REACH job search are an average of three employer contacts per week for early intervention job search and individual self-directed job search, and attendance at all classes and sessions for group job search.

(e) Additional job search requirements: The following additional requirements apply to participation in REACH job search activities.

1. Early intervention individual job search: Determining compliance with early intervention individual job search, including the requirement of an average of three employer contacts per week, must not delay processing of an application for AFDC.

2. Job contacts: For early intervention job search and individual self-directed job search, a job contact is defined as a contact with a prospective employer. The agency may assist the participant by providing a list of employers. The following apply to job contacts:

i. Referral: A referral to an employer shall be considered a job contact provided the participant presents himself or herself to the employer as available for employment.

ii. Initiated by participant: To be considered a job contact initiated by the participant, the participant must present himself or herself to the employer as available for work and the employer must ordinarily employ persons in the areas of work that the participant is reasonably qualified for by means of experience, training or ability.

iii. Depending upon the position sought, the job contact requirements may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the case manager to be a generally accepted practice.

iv. The participant cannot count the contact of the same employer more than once in a four-week period unless the employer indicated that vacancies in additional positions may soon exist.

v. Reporting job contacts: The participant will be required to report the result of all job contacts to the agency at a prescheduled time. The time may vary with the job search participation requirements set forth in the REACH Agreement, but must be at least once every four weeks.

(f) Job contacts shall be reported in writing in a manner prescribed by the agency at the time the REACH Agreement is signed. While such reporting will not require the employer's written confirmation of the job contact, the participant shall be required to sign written documentation to attest to its validity. The written report shall be submitted to the agency at the participant's follow-up interview. The participant shall be responsible for providing the agency with any additional information concerning job contacts.

vi. Agency review of job contacts: The agency shall review the participant's job contacts at least once every four weeks and determine if the participant has completed the assigned number of job contacts, as set forth in the REACH Agreement. If the participant missed any contacts or if any of the reported contacts are disallowed (for reasons such as suitability or manner of contact), the participant shall have one additional week for every four weeks of scheduled job search activity to complete any missed or disallowed contacts.

3. Group job search activities: REACH group job search activities may include the classroom group job search training and supervised job clubs.

4. Review of job search: At least once every four weeks, the agency shall review the individual's participation in Job Search and determine if participation in job search should continue or if assignment to another REACH employment-directed activity is appropriate.

(f) Child care and transportation: Federal financial participation is available as reimbursement or direct payment for expenditures for child care, transportation, and other costs reasonably incurred by participants in meeting the requirements of REACH job search.

10:81-14.11 REACH Work Supplementation Program

(a) Purpose and scope: Under the REACH Work Supplementation Program (WSP), AFDC funds are used to develop and subsidize employment for REACH participants in employment-directed activities, such as on-the-job-training (OJT), as an alternative to aid provided to AFDC recipients.

1. Under REACH WSP participants may choose, on a voluntary basis, to accept an offer of work to the extent such jobs are made available.

(b) Administration: The REACH WSP program shall be administered through the Department of Human Services, Division of Public Welfare, the agency designated to supervise the administration of the AFDC program in New Jersey.

(c) Eligibility: Mandatory and voluntary REACH participants are eligible to participate in the WSP if they are eligible for AFDC.

(d) Types of jobs: Any appropriate job may be provided or subsidized under the WSP, but acceptance of any such position by a REACH participant shall be voluntary. The job position which may be provided for AFDC recipients must be of the following general types:

1. A job position provided to an eligible individual by the Department of Human Services, Division of Public Welfare, CWAs, the Department of Labor or JPTA; or

2. A job position provided to an eligible individual by any other employer for which all or part of the wages are paid by the Division of Public Welfare or a CWA, or another entity selected to administer the WSP wage pool.

(e) Providing or subsidizing jobs: The agency may use whatever means are appropriate to provide or subsidize jobs for participants in WSP. The agency may make whatever arrangements it deems appropriate with regard to the type of work provided, the length of time the position is to be provided or subsidized, the amount of wages to be paid to the

recipient receiving the work supplemented job, the amount of subsidy to be provided by the Department of Human Services, Division of Public Welfare, or CWAs, and the conditions of participation.

(f) Conditions of employment: The following provisions apply to conditions of employment under REACH WSP:

1. The agency is not required to provide employee status to any eligible individual to whom it provides a job position under the WSP, or with respect to whom it provides all or part of the wages paid to such individual by another entity under this program.

2. The agency is not required to provide that eligible individuals filling job positions provided by other entities under WSP be provided employee status by such entity during the first 13 weeks during which they fill such position.

3. Wages: Participants in the REACH WSP will be paid wages which shall be considered to be earned income (see N.J.A.C. 10:82).

(g) Child care and transportation: Federal financial participation is available for child care and transportation costs incurred by participants in the REACH WSP. Payment may be made directly or through the earned income disregard mechanism (See N.J.A.C. 10:82).

10:81-14.12 REACH Community Work Experience Program

(a) Purpose and scope: The purpose of the REACH Community Work Experience Program (CWEP) is to provide work experience for AFDC recipients. The REACH CWEP will operate community work experience programs which serve a useful public purpose.

1. REACH CWEP must meet appropriate standards for health and safety and may not displace persons currently employed nor fill established unfilled vacancies.

2. Subject to the conditions at N.J.A.C. 10:81-14.17 through 14.18 the agency must provide necessary transportation, child care and other related services or reimburse REACH CWEP participants for costs directly related to participation in the program.

3. Allowable costs to operate REACH CWEP, are matched by the Federal government at the AFDC administrative match level.

(b) The following categories of AFDC recipients may not be required to participate in REACH CWEP, in accordance with Section 409(b) of the Social Security Act:

1. An individual who is exempt or temporarily deferred from participation in REACH in accordance with N.J.A.C. 10:81-14.3;

2. An individual who is both currently employed for at least 80 hours per month and earning not less than the legally established or defined minimum wage for such employment (for jobs which do not have an established minimum wage, recipients currently employed 80 hours must be exempted from REACH CWEP regardless of wage level);

3. An individual who was denied AFDC solely because the amount of his or her AFDC grant would have been less than \$10.00 per month;

4. An individual who would have been a mandatory participant due to care of a child at least two years old, but appropriate child care cannot be secured to enable participation in the Work Experience project; or

5. An applicant for AFDC.

(c) Participation services and reimbursement: The services of child care and transportation that are necessary to CWEP participation will be provided as part of the REACH Agreement. In cases where the agency is unable to provide these necessary services, the agency must provide reimbursement for necessary transportation and child care costs that are incurred by the recipient and directly related to participation in CWEP.

1. Transportation costs: Participants shall be reimbursed for transportation costs directly related to their participation in amounts equal to the cost of transportation by the most appropriate means (as determined by the CWA).

2. Child care costs: Participants shall be reimbursed for child care costs in such amounts as are determined by the CWA to be reasonable, necessary, and cost-effective. However, in no event shall the reimbursement using CWEP funds exceed \$160.00 per month per child for full-time participation or \$110.00 per month for part-time participation (see N.J.A.C. 10:82-2.8(a)2). REACH vouchers may be used to supplement this amount.

3. Other costs: The CWA must provide reimbursement for costs other than transportation and child care that the CWA determines are necessary and directly related to participation in CWEP incurred by the participant. For purposes of Federal Financial Participation, this amount shall not exceed \$10.00 per month per participant.

4. Participant's AFDC grant, income and resources: Participants may not be required to use their AFDC grant or their income or resources to pay CWEP participation costs which are within the limits specified as allowable in (c)1 through 3 above.

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(d) Participant protection: Workers' compensation or other comparable protection shall be provided for CWEP participants. Workers' compensation shall be provided to those participants performing work for Federal offices or agencies to the same extent as is provided to other CWEP participants in the State. The cost of this protection shall be considered an administrative expense and matched accordingly.

(e) Participation requirements: The following additional participation requirements shall apply to CWEP:

1. Part-time participation: Part-time participation in CWEP combined with other REACH employment-directed activities may be required and negotiated in the REACH Agreement. Part-time CWEP participation is defined as less than 30 hours per week.

2. Maximum monthly participation: No eligible family may be required to participate in CWEP more than the number of hours which would result from dividing the family's monthly grant amount by the greater of the Federal or the applicable State minimum wage.

3. Coordination of CWEP with other REACH activities: The county must have procedures under which there is coordination among CWEP, the job search program and other REACH employment-directed activities, to ensure that job placement will have top priority.

4. Nothing in this section shall be construed as authorizing the payment of AFDC as compensation for work performed.

5. CWEP participants who perform work in the public interest for a Federal office or agency shall not be considered for any purpose as Federal employees.

(f) Sponsor requirements: The agency will designate a sponsor to operate each project or, at the agency's option, more than one project. Only public agencies, which include but are not limited to Federal offices or agencies, and nonprofit organizations may be sponsors. For purposes of this provision Federal offices or agencies include agencies of the Executive branches of the Federal government, Congressional offices, and Federal courts.

(g) Project requirements: REACH CWEP projects must satisfy all of the following requirements:

1. Serve a useful purpose;

2. Do not result in the displacement of persons currently employed or the filling of established, unfilled position vacancies. This means that CWEP participants may not perform tasks which would have been undertaken by employees or which have the effect of reducing the work of employees. However, CWEP participants may perform the same type of tasks as performed by employees;

3. Are not in any way related to political, electoral or partisan activities;

4. Are not in violation of applicable Federal, State or local health and safety standards, and provide reasonable work conditions; and

5. Have not been developed in response to, or in any way associated with, the existence of a strike, lockout or other bona fide labor dispute, or violate any existing agreement between employees and employers.

(h) Project assignment criteria: Assignment of participants to REACH CWEP projects must conform to the following:

1. Assignments to REACH CWEP projects will take into consideration to the extent possible the prior training, proficiency, experience and skills of a participant; and

2. Participants will not be assigned without their consent to projects which require that they travel unreasonable distances from their homes or remain away from their homes overnight.

10:81-14.13 Vocational assessment and counselling

(a) Purpose: Vocational assessment and counselling is intended to assist individuals in exploring their employment options.

1. Vocational assessment and counselling services must be provided in the county's REACH plan.

2. Vocational assessment and counselling is available to all REACH participants. It will primarily be provided to REACH participants who do not have a recent work history or marketable job skills.

(b) Parent with a child under age two: A special vocational assessment and counselling component will be required for any parent whose full participation in REACH is temporarily deferred due to care of his or her child under age two.

1. Temporarily deferred REACH participants will be encouraged to participate in employment and/or employment-directed activities and to develop individual plans for economic self-sufficiency. REACH Agreements developed under this component will conform to N.J.A.C. 10:81-14.4.

2. Services available will include:

i. Basic instruction and counselling in parenting skills and caring for a child's physical and emotional well-being;

ii. Provision of information on the availability of community resources for protection and development of children; and

iii. The identification of future educational, training and employment goals of the parent.

10:81-14.14 REACH employment and training services

(a) Purpose and scope: REACH employment and training services are designed to provide job training and other preparatory services for REACH participants. Such services include, but are not limited to, instructional skills training, on-the-job training, work experience and re-training.

1. Training and employment programs allowable under P.L. 97-300 Job Training Partnership Act sections 204, 205, 251 and 303 are permissible programs for REACH participation.

2. All occupational training programs funded through REACH will be in accordance with guidelines established by the private industry councils established under the Job Training Partnership Act.

3. REACH employment and training programs are intended to supplement, not supplant, existing programs and resources available to the REACH participant.

4. REACH employment and training services will be provided as set forth in the REACH agreement.

(b) On-the-job-training: REACH on-the-job training (OJT) is an employment opportunity which includes training. Under this component, a REACH participant is hired by a private or public employer and provided training which is subsidized under agreement between the employer and the county-designated provider agency.

1. Employers will provide increased supervision and training through agreements with the provider agency, pursuant to which the provider agency will reimburse the employer for the extraordinary costs of such training and supervision.

2. For purposes of AFDC benefits, REACH OJT participants are considered to be employed. However, REACH OJT participants shall be required to complete the OJT agreement period and are considered mandatory REACH participants during the agreement period.

3. Eligibility for REACH OJT is dependent on the participant's previous knowledge and/or experience in the specific job position under consideration.

(c) Vocational training: Vocational training is a component involving institutional or other classroom training conducted by an instructor in either a worksite or non-worksite setting.

10:81-14.15 REACH educational services

(a) Purpose and scope: REACH educational services will be provided based on the need of the participant as determined during assessment.

(b) The following educational services are available under the REACH program:

1. Preparatory educational services: Preparatory educational services are those designed to remedy educational deficiencies and to provide a REACH participant with the basic skills for entry to the labor market. A high school diploma, ability to speak and understand the English language, literacy, and minimum competency in basic mathematics and writing skills are desirable for increasing employability potential. Preparatory educational services include the following:

i. Programs for completion of a high school education or the equivalent, such as a General Educational Development (G.E.D.) certificate, available to individuals who lack a high school education;

ii. English as a Second Language (ESL) programs for participants who are non-English speaking or who have limited competency in the English language and such competency is needed for the participant to obtain employment; and

iii. Adult Basic Education (ABE) programs for individuals who lack basic competency in reading, writing and mathematics necessary for obtaining employment.

2. Postsecondary education: Postsecondary educational opportunities are those programs at colleges, mostly community colleges, that lead to recognized careers for which there is or will be a demand in the job market. Such programs may be of longer duration than six months, including up to one year or longer in certain circumstances, and will often lead to a recognized college credential, such as a certificate or an associate degree.

i. Financial aid for postsecondary educational services will not be provided by REACH. However, any scholarships, grants or similar financial aid obtained by the participant in conjunction with REACH postsecondary educational services shall be treated in accordance with N.J.A.C. 10:82-1.7 through 1.9 in determining AFDC eligibility and grant amount.

10:81-14.16 Social services

(a) Social services as related to REACH participation are intended to address problems such as substance abuse (including alcohol and narcotic abuse) or behavioral problems that may prevent or seriously impair an individual's ability to participate in the REACH program. Examples include mental health services, vocational rehabilitation, drug and alcohol treatment programs, and health care.

(b) Participation: Acceptance of social services is optional. For the period the individual is receiving these services or participating in treatment programs, he or she will be deemed to be complying with REACH program requirements.

1. If an individual does not accept these services or stops participating in a treatment program, the individual will not be subject to sanctions at N.J.A.C. 10:81-14.8. In such instances, the individual will be required to participate in the next activity set forth in the REACH Agreement.

10:81-14.17 REACH support services; general provisions

(a) Purpose and scope: The services set forth at N.J.A.C. 10:81-14.18 through 14.20 are available to support REACH participation in employment and employment-directed activities, under the principle of mutual obligation. REACH support services are intended to supplement, not supplant, existing programs and resources available to the REACH participant.

(b) Need for services: In determining need for the services, the participant will be encouraged to use all sources already available to him or her. The case manager will determine the projected need for support services based on the participation requirements in employment and employment-directed activities set forth in the REACH Agreement. The services available through the participant's sources will be compared to the projected service needs. Services will be available for child care, transportation and related expenses, and post-assistance medical coverage where the participant's resources do not provide the support needed for participation in REACH.

(c) Payment for services: In determining source of payment for the support services, the principle of REACH as payor of last resort will apply.

(d) Unavailability of support service: If a support service needed for participation in REACH is not available, the case manager shall proceed according to N.J.A.C. 10:81-14.4(i).

10:81-14.18 REACH support services; child care

(a) The case manager and the participant will mutually arrange for child care for the REACH participants' child(ren) while the individual is employed or participating in an employment-directed activity, as set forth in the REACH Agreement.

1. Child care arrangements should be located within reasonable commuting distance from the participant's home, place of employment or site of employment-directed activity. The hours provided must be sufficient to accommodate the hours required by the employer or employment-directed activity.

(b) The case manager has the responsibility to arrange for child care that will obtain the maximum Federal financial participation for the particular employment-directed activity. In determining payment of the cost of child care, the following sequence will be applied:

1. The participant's own sources of child care;
2. Federally-matched child care costs while an individual is participating in REACH job search, work supplementation, and community work experience programs;
3. Federally-matched child care costs while an individual is participating in training for employment or in a program of vocational rehabilitation (see N.J.A.C. 10:82-5.3); and
4. REACH State-funded child care vouchers.

(c) REACH child care vouchers: REACH child vouchers may be used to fund child care when the participant's own sources or federally-matched child care are not available or not sufficient to pay for the entire cost of child care. Vouchers will be issued to the participant, who will then give the voucher to the child care provider as payment of the cost of child care. The provider redeems the voucher at the county welfare agency or Division of Youth and Family Services.

1. REACH vouchers are available for care of an infant, toddler, preschool child or school-aged child in various types of arrangements, including full day care and after-school care. The value of the vouchers is determined by the Department of Human Services.

2. A maximum of 52 weeks of child care per participant will be funded by REACH child care vouchers.

i. The 52-week period will start with the first week for which the participant uses a voucher to pay for child care.

ii. Any week for which the participant does not use the voucher will not be counted toward the 52-week period.

iii. If a participant becomes ineligible for AFDC for a reason other than employment and returns to the assistance rolls within one year of the effective date of termination of AFDC, payment of child care by REACH voucher will continue for the number of weeks remaining in the original 52-week period.

3. Post-assistance child care: Eligibility for the REACH voucher will continue after the participant becomes ineligible for AFDC due to income from employment. Payment for child care by REACH voucher will continue if needed for the number of weeks remaining in the 52-week period. Before AFDC is terminated, the case manager will evaluate the need for post-assistance child care.

10:81-14.19 REACH support services: transportation and related expenses

(a) In determining the need for transportation to and from the site of employment or employment-directed activity, the participant will be encouraged to make use of his or her available transportation resources.

(b) Transportation: Reimbursement for actual costs of transportation that are reasonably necessary for participation in REACH job search, work supplementation and community work experience programs is available for the duration of participation in such programs. See N.J.A.C. 10:81-14.10(f), 14.11(g) and 14.12(c) for limitations on reimbursement of such transportation costs.

(c) Training-related expenses: An allowance for expenses related to training and education shall be provided to REACH participants for the duration of their participation in REACH training programs or education services (see N.J.A.C. 10:81-14.14). Allowable expenses include transportation to and from the training or education site, cost of meals, uniforms, materials and similar expenses.

1. Up to \$30.00 per week may be provided for such expenses. If actual training-related expenses exceed \$30.00 in a week, a higher amount to cover actual costs may be provided, but only if expenses are required for training, for example, a uniform required by an employer as a condition of accepting an on-the-job-training position. Such amounts must be approved by the supervisor of the case manager.

2. Amounts paid to REACH participants for training-related expenses are excluded as income for purposes of the Food Stamp program.

10:81-14.20 REACH support services: medical assistance

(a) Post-assistance Medicaid coverage: When an AFDC-C, -F or -N family, residing in a county participating in the REACH program, becomes ineligible for AFDC and/or Medicaid (as "deemed recipients of AFDC") for any of the reasons listed in (b) below, the members of the family shall continue to receive Medicaid for a period of 12 months. The 12-month extension of Medicaid benefits replaces the four-month extension at N.J.A.C. 10:81-8.22(b)(1).

(b) Eligibility: To be eligible for the 12-month Medicaid extension, the family must lose AFDC eligibility for any one of the following reasons:

1. Earnings or increased earnings from employment, including earnings from new employment;
2. Loss of the \$30.00 or one-third disregards of earning income (See N.J.A.C. 10:82-4) because of the time-limited application of those disregards;
3. Increased hours of employment; or
4. Receipt of New Jersey state unemployment or temporary disability insurance benefits.

(c) Additional requirements: The following additional requirements apply to the 12-month Medicaid extension:

1. The family must have received AFDC and/or Medicaid (as "deemed recipients of AFDC") in any three or more months during the six-month period immediately preceding the month in which the family became ineligible for AFDC and/or Medicaid (as "deemed recipients of AFDC").

2. Eligibility for the 12-month Medicaid extension is not available for any month to any individual who, except for income, resources or hours of employment, is not otherwise eligible to receive AFDC.

3. With the exception of a child born to the family during the extension period, only those family members who received AFDC at the time the family became ineligible for AFDC may receive the twelve-month Medicaid extension.

(d) The 12 calendar-month period begins with the month AFDC is terminated, but no later than the payment month corresponding to the first budget month in which the family became ineligible due to the change in circumstances. If the family fails to report the change in circumstances causing ineligibility, the 12-month extension shall begin with the first month in which the family became ineligible for AFDC.

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1. Example: A client receives increased earnings in the January budget month and reports the increase timely in the February processing month. The increased earnings render the family ineligible for AFDC; assistance is terminated effective for the March payment month. Extension of Medicaid benefits shall begin with March, the payment month for which assistance was terminated.

2. Example: In January a family receives increased earnings that cause ineligibility for AFDC but fails to report the earnings to the CWA. In May the agency discovers the unreported earnings and terminates assistance for June. The 12-month Medicaid extension shall begin in January, the month in which the earnings causing ineligibility were first received.

10:81-14.21 Need and amount of assistance in REACH

(a) General: Determination of need and amount of assistance for REACH participants shall be made in accordance with established regulations and policy at N.J.A.C. 10:81, N.J.A.C. 10:82, and N.J.A.C. 10:90, with the exceptions set forth below.

(b) Income earned by AFDC parents serving as child care providers: Income earned by AFDC parents from providing child care for children of REACH participants shall be considered income from self-employment, and shall be treated in accordance with 1 through 4 below.

1. Maximum income eligibility: In determining gross earned income for purposes of the maximum income level at N.J.A.C. 10:82-1.2(d), an amount equal to one-half (50 percent) of the total income earned from providing child care shall be disregarded.

2. Prospective needs test and calculation of AFDC grant: In determining prospective need and computing the amount of the AFDC grant, an amount equal to one-half (50 percent) of the total income earned from providing child care shall be disregarded.

3. Determination of calculated earned income—AFDC-C and -F: In determining the calculated earned income for the AFDC-C and -F segments, from the total gross earnings from providing child care, deduct an amount equal to one-half (50 percent). The remaining income shall be counted in determining eligibility under the prospective needs test and computing the AFDC grant. No additional deductions shall be made for expenses of producing self-employment income set forth at N.J.A.C. 10:82-4.3, for the \$75.00 work expense deduction at N.J.A.C. 10:82-2.8(a)1, or for the first \$30.00 and one-third of the remainder of the earnings from providing child care for children of other REACH participants (see N.J.A.C. 10:82-2.8(a)3).

4. AFDC-N segment: Income earned by AFDC-N segment recipients serving as child care providers shall be disregarded in accordance with N.J.A.C. 10:82-4.5.

(c) Disregard of income earned in a training program (all segments): Earned income received through a training program, regardless of whether the program is through Job Training Partnership Act (JTPA), by an AFDC dependent child or by an AFDC parent who is under age 18 or age 19 if attending school, shall be disregarded in the determination of initial eligibility, maximum income eligibility, prospective needs test, and amount of the AFDC grant. However, the exemption of such income shall not exceed six months in any calendar year.

1. This disregard of income is independent of the earned income disregard at N.J.A.C. 10:82-4.7(g). If a full-time student secures employment unrelated to participation in a training program, a second six-month period shall be established in accordance with the provisions of that subsection.

10:81-14.22 Child support enforcement

(a) General: In addition to the activities set forth in N.J.A.C. 10:81-11, the following activities related to child support enforcement shall be conducted by the State and CWAs on behalf of REACH program participants:

1. Prioritization of the child support workload, such that enforcement efforts are directed first toward absent parents of children of REACH participants, followed by the remaining AFDC cases;

2. Upward modification of existing court orders for child support; and

3. Immediate income withholding, wherein as soon as a court order for payment of child support is established, the income of the absent parent will be immediately withheld, that is, the amount of the court-ordered child support payment will be deducted from the income and forwarded to the county probation department on behalf of the child.

(b) The activities in (a) above will be conducted in accordance with procedures established by the Division of Public Welfare, Department of Human Services, and the Administrative Office of the Courts.

10:81-14.23 County planning

(a) General: A county planning process, which integrates the local human services system and the local employment and training system, will be used for the REACH program. The purposes of the county planning process are to:

1. Coordinate and ensure the delivery of employment, training, education, case management and support services for REACH recipients;

2. Maximize the use of resources from various Federal, State, county and private funding sources for REACH services; and

3. Establish efficient and effective administration and decision making operations for REACH program management.

(b) Minimum requirements: Each county is required to establish a REACH Planning Committee and to submit a REACH County program implementation plan.

1. REACH Planning Committee: The purpose of the county REACH Planning Committee is to determine the most effective way to plan and organize services for REACH participants in that county.

i. Required membership: The planning committee shall, at a minimum, include the following as voting members: the Director of the County Welfare Agency, the Director of the Private Industry Council or Service Delivery Area established pursuant to the Job Training Partnership Act, the Chairperson or a designee of the County Human Services Advisory Council, a representative of the board of Chosen Freeholders or County Executive or a designee. In addition, the planning committee shall include as non-voting ex officio members representatives of the following agencies: the Division of Public Welfare in the Department of Human Services, the Division of Employment Services in the Department of Labor, the Bureau of Adult Education in the Department of Education, and the county representative of the Department of Human Services.

ii. Additional members: The planning committee may also include as voting members other individuals and/or organizations that the county believes would provide a valuable contribution to the REACH program planning and implementation process.

2. REACH County program implementation plan: The REACH County program implementation plan shall specify the arrangement and method by which employment, training, education and support services will be selected, integrated and provided to eligible applicants and participants of the REACH program in that county.

i. Each plan shall ensure that the program components reflect local needs and resources and that support services provided to REACH participants use existing local arrangements wherever possible.

ii. Each plan shall designate a county REACH Program Coordinator who will manage and coordinate the planning and implementation process.

iii. The content and submittal of such plans shall conform to requirements and procedures established by the Department of Human Services.

3. To assure REACH services are productive in terms of reducing welfare dependency and increasing the employment and earnings of the REACH participants, the Department of Human Services will establish performance standards for the REACH program. Such standards shall be stipulated in the contract between the Department of Human Services and the REACH counties.

PRELIMINARY REACH COUNTY PLAN GUIDELINES

Instructions for Preparing and Submitting
County Plans for the REACH Program

October 1, 1987 to June 30, 1988

Prepared by
New Jersey Department of Human Services
May 1987

Drew Altman, Ph.D.
Commissioner

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I. PREFACE

The following are preliminary guidelines developed by the New Jersey Department of Human Services to aid each of the first five counties selected for implementation in the preparation of its REACH (Realizing Economic Achievement) County Plan. This plan will cover the period October 1, 1987 to June 30, 1988 for Bergen, Middlesex and Union counties (and February 1, 1988 to June 30, 1988 for Passaic and Mercer Counties). Sections of these guidelines will be revised, amended and supplemented through the months of June and July in concert with the needs and suggestions of the counties and other involved parties. These guidelines also serve as a draft of the final guidelines to be used by all twenty-one counties throughout the phase-in of REACH during 1987, 1988 and 1989.

Over the past decade, the Department has moved consistently toward a decentralized system of service delivery relying on a community based process using contract and provider agencies. Significantly, this system has proven successful in integrating and coordinating the local service network as well as in fostering innovations and greater interagency cooperation. A distinctive feature of the REACH program is the important role given the counties in the planning and delivery of employment, training, education and social services for welfare recipients. These guidelines will build on the well established and strong professional planning currently being undertaken at the county level.

A principal goal of this document is to encourage a coordinated and integrated planning and service delivery effort between the County Human Services Advisory Council, the Private Industry Council/Service Delivery Area, the County Welfare Agency and other key planning bodies and providers of service at the county level. As well, its goal is to foster increased coordination among the Department's divisions and with the Departments of Labor, Education, Higher Education and Transportation.

Since these guidelines are preliminary, this planning process will be one in which we will work together to develop the best plan for each county—one which reflects your composition, your uniqueness, and your needs. The Department looks forward to using this planning process as an opportunity to provide technical assistance and deliver whatever resources are necessary to assist each county in completing this plan.

Your input on these guidelines is critical in helping us refine them for those counties who will join the REACH program in 1988. As such, we welcome and encourage your comments and suggestions at any point in the planning process.

II. INTRODUCTION

REACH, Realizing Economic Achievement, is New Jersey's program to replace welfare with work, dependence with self-sufficiency, and less than fully productive lives with opportunity.

Currently, New Jersey provides Aid to Families with Dependent Children (AFDC) to 120,000 families and 365,000 individuals. Ninety-six percent of these recipients are women and children.

Statistics show that teens on welfare have a 4 in 10 chance of staying on welfare 10 years or more. Assisting these women with young children, to help prevent them from becoming long-term recipients of welfare, is one of REACH's primary goals. These younger recipients have fewer job skills that would enable them to become self-sufficient. And, with the passage of time, these few skills deteriorate. If action is not taken to intervene early in the lives of these young mothers, the chances of them becoming dependent on welfare increase greatly.

For these reasons, the REACH program will target high-risk groups—particularly young mothers with young children. To reach this population, the program will initially require participation of all new welfare applicants, many of whom are young mothers.

REACH has been designed with substantial community and client input. Public hearings were held in every county to explore local attitudes and priorities for welfare reform. Additionally, "focus groups" were brought together to listen to the needs, and learn about the perspectives, of welfare recipients. Thus, REACH has been developed to reflect genuine feelings in the community, and among clients themselves, about the inadequacies of the current system, and what steps are needed to replace traditional welfare dependency with a more constructive, positive approach. REACH has several key features:

Single parents with children over two years must participate in education, employment, or training activities. The state will provide funding for needed opportunities and supports, including child care, continuation of Medicaid coverage after employment begins, transportation, education, vocational assessment and job placement.

Families with children under the age of two will be exempt from work requirements but not registration, counseling, vocational assessment, and the development of a plan for self sufficiency.

Services provided will vary according to the needs of individuals. Interventions, as well as support services, will be organized around a REACH participant's needs.

A "state-client contract," to develop and formalize a mutual agreement, will be used to detail what employment, education, and training related activities will be pursued by the participant and what services will be provided to support that process. The plan will outline the path the participant will take to reach economic independence.

A case management system will be required in each county. Case managers will provide the critical human link among the different systems of income maintenance, employment, education, training, child support

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enforcement, and support services. Case managers will also track an individual's progress to ensure that planned activities occur, to correct possible problems in the delivery of services, and to determine the participant's plan.

A county-based planning process, as outlined in these guidelines, will be used to structure the education, employment, training and supportive services components of the program. The local planning process will determine the most effective ways to organize and administer service to meet state set goals and parameters. All county-based programs will be required to offer a core package of services.

The program will use existing education, training, employment and supportive services offered by state and private agencies. In addition to the Department of Human Services, the Departments of Labor, Education, Higher Education and Transportation will all provide important supports for REACH to help maximize the effectiveness of the program and minimize duplication. Whenever possible, arrangements will also be made with the Department of Health and the Department of Community Affairs to use their services to assist REACH participants. In addition to the use of existing resources, upon receipt of legislative approval the Department will make available \$12.5 million for new or expanded services in fiscal year 1988.

There will be a multi-year, phased implementation of the new system. AFDC applicants (new and reopened cases) will be incorporated first followed by existing recipients. The program will begin in five counties—Bergen, Middlesex, Union, Passaic and Mercer—to start. Plans call for the REACH program to be fully operational in all twenty-one counties for the entire AFDC population within three years.

Child support enforcement and collection efforts will be a priority for REACH participants. Legislation is currently under consideration which would permit the Department to further strengthen its child support enforcement. Periodic review to determine whether the absent parent's income permits higher support levels, and immediate income withholding upon court action, are two of the areas under review.

REACH is a dynamic, evolving program; throughout the planning and implementation process it is expected that new features and components will be added in response to national developments and local community input.

III. OUTLINE OF THE REACH PLANNING PROCESS

A. PURPOSE AND GOALS

A local planning process, which integrates the county-based human services system and the local employment and training system, is being used for the REACH program. The purpose of this process is threefold:

- To coordinate and ensure the delivery of employment, training, education, case management and supportive services for REACH recipients.
- To maximize the use of resources from varied federal, state, county and private funding sources for REACH services.
- To establish efficient and effective administration and decision making operations for REACH program management.

The product of this process will be the development of a comprehensive REACH County Plan for the period October 1, 1987 to June 30, 1988 for Middlesex, Bergen and Union counties and for the period February 1, 1988 to June 30, 1988 for Mercer and Passaic counties. These plans will specify the arrangement and method by which employment, training, education and supportive social services will be selected, integrated and provided to eligible applicants and participants of the REACH program. As part of this planning process, each county will also be required to provide recommendations in a spending plan for newly designated state appropriated REACH dollars. The plan content requirements, including minimum program activities, are outlined in this guidelines document.

B. ORGANIZATIONAL ELEMENTS

1. STATE ROLES AND RESPONSIBILITIES

Department of Human Services (DHS)

The Department of Human Services is making available to REACH participants a broad program of services to encourage the individual's growth toward economic self-sufficiency. Contingent upon legislative approval, DHS will provide funding for education, training, case management and employment related services which are the heart of the REACH program. These activities are detailed elsewhere in this document. How-

ever, DHS also recognizes its obligation to do what it can to remove the major barriers to employment: lack of child care, lack of health insurance, and lack of transportation.

A brief description of the DHS program for each support is detailed below:

Child Care: Quality child care is at the core of every young mother's ability to work. Participants will be issued vouchers valued at \$75, \$50, or \$25 per child (depending on the age of the child) per week (limited to 52 weeks). REACH will assist participants to meet their need for child care when it has been determined that the participant has exhausted all available options for alternative child care arrangements.

Medicaid Extension: Substantial input from welfare recipients has established that the loss of Medicaid coverage upon entering employment is a major reason many welfare mothers do not seek, accept, and/or maintain employment. Health insurance coverage is especially important to the family with young children, whose frequent illnesses require equally frequent visits to the doctor. Under REACH, DHS will guarantee Medicaid benefits for one year after employment, an especially important benefit for those who find jobs which offer no health benefits. As under existing Medicaid rules, extended Medicaid benefits will be the insurer of last resort, secondary to any health benefits participants receive from employment.

Training-Related Expenses (TRE): Lack of available and affordable transportation limits the ability of welfare recipients to seek, accept, or stay in a job. Therefore, under REACH, each participant in training or education will receive \$30 per week—or \$7.50 more than the existing WIN payment to meet the costs of transportation and other training-related expenses.

These services directly support a participant's ability to find and keep a job. DHS, however, is working on an additional means of fostering economic independence:

Child Support: To complement movement toward self-sufficiency through employment and training, New Jersey's welfare system will escalate efforts to secure additional financial support to which welfare recipients are legally entitled, especially child support. Pending legislation will allow the Department to implement immediate income withholding to meet child support obligations and prioritize efforts to REACH participants. Upward modification of court orders of child support will be continued.

Generally, DHS's responsibilities under REACH include design of the program and establishment of its goals; negotiation with other state agencies to assure provision of educational, training, and employment services; allocation of REACH funding to counties and other state agencies; supervision and review of the county planning process; and monitoring and evaluation of program performance.

During the planning and initial implementation stage of REACH, the Department of Human Services will maintain primary contact with the counties through its **Economic Opportunity and Income Security Unit**. This unit, within the Office of the Associate Commissioner for Policy and Intergovernmental Affairs, is responsible for the broad planning, policy development and evaluation function of REACH and other welfare reform efforts. As such, the unit, in conjunction with the Department's Division of Public Welfare, serves as the focal point for this REACH planning process. Accordingly, questions regarding these REACH planning guidelines should be directed to Kathy Krepcio, REACH County Planning Liaison, at 609-292-6809.

The Department's Representatives in each county will also work closely with their respective county to assure smooth communications and information sharing throughout the period of REACH planning and implementation.

In addition to the lead role of the Economic Opportunity and Income Security Unit in REACH planning, REACH implementation functions will be shared by three of the Department's Divisions:

Division of Public Welfare (DPW)

DPW is responsible for administering the Aid to Families with Dependent Children (AFDC) program on the state level as well as other assistance programs such as General Assistance, Home Energy Assistance, and the Federal Food Stamp Program. DPW is also responsible for the design and management of FAMIS, which will serve as the systems support for REACH.

DPW will work in conjunction with the Economic Opportunity and Income Security Unit in the initial implementation of the REACH program. In addition to the division's ongoing communication and relationship with the County Welfare Agencies around its assistance programs, major REACH functions and tasks will include: child support

enforcement, county contracting and fiscal monitoring for newly designated state appropriated REACH dollars (with the exception of the county planning/program management funds), the administration of TREs, management of the REACH sanctioning and grievance process, case management training, coordination of the Food Stamp employment and training activities with REACH, leadership regarding the REACH management information systems, and development and management of a REACH client tracking system. When REACH becomes completely operational, DPW will have full responsibility for the management of the program.

Division of Medical Assistance and Health Services (DMAHS)

DMAHS is responsible for the administration of the Medicaid program offering comprehensive health care benefits for families receiving AFDC. DMAHS issues all regulations pertinent to the Medicaid program. Additionally, the division will monitor whether the county has taken the steps necessary to extend Medicaid coverage for twelve months to participants who enter employment.

Division of Youth and Family Services (DYFS)

DYFS provides adoption and foster care placement, protective services for abused, abandoned and neglected children, casework, counseling and other services to families, child care as well as residential and institutional care. Under REACH, the division will be the lead state agency to assist counties with the coordination, planning and development of the child care system. DYFS is a major funding source for the Community Child Care Resource and Referral System (CCR&R), which will assist families in obtaining child care. The DYFS Office of Policy and Planning/Community Services Unit will be responsible for assisting counties in the planning for child care and will contact each county to begin this activity. DYFS, through its Regional Offices, will also process and administer the planning/program management contracts.

In addition to the Department of Human Services, the following key State Departments will provide essential supports for REACH participants:

Department of Labor (DOL)

The Department of Labor is the major source of employment and training services in New Jersey. Its **Division of Employment Services** provides job search assistance, job placement services, and referrals to training. The **Division of Employment and Training** oversees the statewide training system established under the Job Training Partnership Act (JTPA) by staffing the New Jersey Job Training Council, carrying out liaison responsibilities with the local Private Industry Councils and Service Delivery Areas, and recommending changes in statewide JTPA administration and legislation.

For REACH, Job Training Partnership Act programs will be a major source of vocational assessment, occupational training, basic education and job placement services. REACH employment and training resources will be used to expand and supplement JTPA training activities.

Department of Education (DOE)

The Department of Education oversees primary and secondary education (grades K-12), Carl Perkins Vocational Education Act programs, and adult and continuing education programs (remedial education, literacy training, General Equivalency Diploma (GED) training, English as a second language, etc.). Through Department of Education services, REACH participants can receive a wide variety of educational and vocational services.

Department of Higher Education (DOHE)

The Department of Higher Education oversees post secondary educational activities and institutions in the state, including the community college, four-year colleges, and technical institutes. Under REACH, DOHE will be involved as a provider of certain forms of educational services, including specialized occupational training programs at the community colleges and associate-level college instruction.

The Department of Higher Education will assist REACH participants in taking advantage of tuition aid programs such as PELL Grants, Tuition Assistance Grants (TAG), and Economic Opportunity Funds (EOF) grants which can be used to offset tuition costs and child care expenses.

Department of Transportation (DOT)

New Jersey Transit, within the Department of Transportation, operates a range of public transportation services across New Jersey. Coordination of this transit network, with the needs of REACH participants, will be important to assuring that education, employment, and training opportunities are fully utilized.

To assist REACH participants in achieving access to services, the Department of Human Services has entered into negotiations with DOT/NJ Transit to obtain fare discounts for REACH participants. It is the aim of both Departments to develop a reduced fare structure that will facilitate REACH participants' training and employment efforts.

2. REACH PROGRAM FUNDS

It is the intent of the Department of Human Services to invest \$12.5 million in the REACH program in FY 1988, inclusive of state administrative costs. Of this amount, approximately \$10 million would be applied to the implementation of REACH in the initial five counties; the balance of the funds will be retained for phase-in of additional counties in FY 1988. This funding level is contingent on legislative approval of the Governor's \$12.5 million appropriations request, and on continuation of federal WIN funding (or some replacement of WIN).

Based on the current phase-in schedule and the probable growth of the REACH caseload, as estimated budget range for service components in each county is being developed. The preliminary budget ranges for service components are being completed to include **case management, job search and related employment services** (assessments, community work experience), and **supplementation of JTPA resources**. All of these resources will be disbursed through contracts to each county and will thus be largely under county direction. **County planning and program management** funds, outlined in Section III.3., will amount to \$40,000 per county per twelve month period.

Child care will be purchased by the Department via vouchers and thus will not be directly controlled by the counties. However, counties are encouraged to develop special arrangements with child care providers to optimize the service that can be purchased by REACH participants with their vouchers.

Limited county flexibility will be provided on **TRE** services; that is, a portion of the TRE funds may, with Department approval, be retained and disbursed by the county for transportation related activities, such as the development of alternative transportation arrangements for REACH participants.

Finally, funding for extended **Medicaid coverage** (contingent upon waiver approval), and **state administration** (e.g., **child care administration** and **management information systems**) will be retained and disbursed by the Department and thus are not factors for consideration in any county service delivery planning. More specific information about the various program activities (such as case management, child care and transportation) can be located in Section IV.

It is the Department's intent that performance standards for county program activities under REACH be developed and utilized in the disbursement of REACH funds and/or the provision of incentive payments to counties. These county specific standards will be set in consultation with each of the initial counties, and will include such measures as the percentage of all participants referred to case management who receive a REACH contract. A full list of possible standards may be found in Section IV.C.3. This list provides illustrations of possible categories of measurements and standards of performance for the program.

The Department plans to link payments to the county's achievement of these standards. Bonuses for exceeding standards and payment deferral for failure to meet mutually agreed upon goals will be proposed for county review and comment prior to adoption.

The performance goals initially negotiated by the county and the Department will be reviewed on the basis of actual experience under the REACH program and may be modified as appropriate for future program years. In the first year, the focus will be on bonus payments for exemplary performance.

3. COUNTY ROLES AND RESPONSIBILITIES

a. Development of a REACH Planning Committee

To meet the REACH planning requirements the county, through its chief elected official, shall establish a REACH Planning Committee. This committee should be designated by the county as a standing subcommittee of the County Human Services Advisory Council and shall serve as the primary vehicle for ensuring the planning, coordination and integration of services to the REACH target population. This committee must maintain a core membership, which shall include at a minimum:

1. The County Welfare Agency (CWA) Director as Co-Chair.
2. The Private Industry Council (PIC) or Service Delivery Area (SDA) Director as Co-Chair (as determined by the County's Chief Elected Official and PIC Director).

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3. The County Human Services Advisory Council (CHSAC) Chairperson or his/her designee.

4. The County Freeholder Director/County Executive or his/her designee (e.g., REACH Program Coordinator).

5. A Representative from the Department of Human Services' Division of Public Welfare (ex-officio, non-voting).

6. A Representative from the New Jersey Department of Labor's Division of Employment Services (ex-officio, non-voting).

7. A Representative from the New Jersey Department of Education's Division of Adult Education (ex-officio, non-voting).

8. The New Jersey Department of Human Services Representative for the county (ex-officio, non-voting).

The county is encouraged to seek the participation of the following as members of the REACH Planning Committee:

- The child care community.
- Community-based non-profit agencies and/or organizations serving minority REACH recipients.
- Key educational institutions (such as community colleges, adult education, the public school system, county vocational/technical schools, etc.).
- Other individuals and/or organizations that the county believes would provide a valuable contribution to the REACH program planning and implementation process such as: the municipal welfare sector, the Displaced Homemakers Network, major transportation providers (e.g., NJ Transit, etc.), vocational rehabilitation providers, consumers/consumer advocates/welfare rights organizations, the public or private non-profit employment and training sector, the business community (such as major employers in the county), the health care community (such as major providers of Medicaid to REACH participants), and labor unions.

b. REACH Planning and Program Management

The Department of Human Services will contract with the county governing body for REACH program planning and implementation activities. The amount of funding available is \$40,000 per county per twelve month period. No match is required.

Primarily, these funds must be applied toward support of a **full time REACH Program Coordinator** who will be responsible for centrally managing implementation of the program and coordinating the planning process to the extent possible. Demonstration that a REACH Program Coordinator has been designated will be required for plan approval. Additionally, funds may also be applied toward the costs of staff and services required by other planning agency personnel that may be assigned to work on the REACH county plan. Funds may not be used to supplant existing dollars being used to provide employment, training, education and/or human services planning at the local level.

In order to expedite the planning and program management contracting process, amendments will be made to the County Human Services Advisory Council (CHSAC) contracts for the planning funds. For the first five counties (Bergen, Middlesex, Union, Mercer, Passaic) a six (6) month amendment will be made to the CHSAC contract for the period July 1, 1987 through December 31, 1987. For the annual contract period—January 1, 1988 through December 31, 1988—the CHSAC contract ceiling will be increased by the annualized amount of \$40,000. As part of this process, Annex A and Annex B of the CHSAC contract will be expanded to include objectives, level of service, and budget information relative to REACH program planning and implementation. The contract period and funding amount of contract amendments for subsequent counties will depend on when they are phased into the REACH program but will be based on the same annualized allocation.

The Department Representative for each county will provide technical assistance in completing the contracting process and will be responsible for the monitoring of the planning contract. The planning contract will be processed and administered by the appropriate Division of Youth and Family Services (DYFS) Regional Contract Office.

c. Process for Plan Submission and Approval

Upon completion of the REACH County Plan by the REACH Planning Committee, the following submission process must be undertaken:

1. The Plan must be submitted to the Service Delivery Area/Private Industry Council for their review and endorsement to ensure consistency with the Job Training Plan(s). The signature of the PIC Director and/or SDA Director is required as evidence of endorsement.

2. The Plan must be submitted to the County Board of Social Services for their review and endorsement to ensure consistency with the goals and objectives of that service agency. The signature of the County Board of Social Services Director is required as evidence of endorsement.

3. The Plan must be submitted to the County Human Services Advisory Council for their review and endorsement to ensure consistency with the County Comprehensive Human Services Plan. The signature of the CHSAC Chairperson is required as evidence of endorsement.

4. After endorsement by the above mentioned bodies, the Plan must be submitted to the county governing body for their review and approval. The signature of the County Freeholder/County Executive, and a Freeholder resolution, is required as evidence of endorsement.

5. Each county must provide for public input on the REACH County Plan in accordance with existing county public input procedures. The plan should include confirmation of the input received.

6. Each REACH County Plan for Bergen, Middlesex and Union counties, with the required endorsements and approvals, must be submitted to the NJ Department of Human Services Representative for that county **no later than September 8, 1987** (December 1, 1987 for Passaic and Mercer counties). The county should provide a minimum of **20** copies of the Plan.

Counties are required to meet minimum standards for acceptance of their REACH County Plan into the review process:

- a. Demonstration of the establishment of a REACH Planning Committee (with minimum membership requirements achieved) and of the designation of a REACH Program Coordinator.
- b. Evidence of PIC/SDA, Board of Social Services, CHSAC and County Freeholder Director/County Executive endorsement and approval.
- c. Minimum required information as specified in Section IV of these guidelines.
- d. Evidence that the specified range of employment, training, education, case management and supportive social services is being offered to REACH participants.

The approval process will begin upon receipt of the REACH County Plan by the NJ Department of Human Services. This process will consist of the following steps:

1. An inter-departmental REACH Review Committee will be convened by the NJ Department of Human Services to review and make recommendations on the REACH County Plan.

2. Within 14 days, the REACH Review Committee may determine that the REACH County Plan is incomplete or does not contain adequate information for approval. In that case, the REACH Review Committee may either request additional information from the county, conditionally approve it, or formally return the plan to the county with specific instructions.

3. After a review of the complete REACH County Plan by the REACH Review Committee, a recommendation will be developed and forwarded to the Commissioner of the Department of Human Services on whether approval can be granted.

4. Formal notification of plan approval will be sent to the county by the Commissioner of the Department of Human Services on behalf of the REACH Review Committee.

d. Preliminary Planning Timetable—Bergen, Middlesex, Union

June 1987

County receives preliminary REACH County Plan Guidelines.

June 1987

REACH Planning Committee (eight core members at a minimum) should be convened.

June, July, August 1987

Development, completion and public input of REACH County Plan.

September 8, 1987

REACH County Plan submitted to the NJ Department of Human Services Representative.

September 1987

Inter-departmental REACH Review Committee reviews REACH County Plan.

October 1987

REACH Implementation

e. Preliminary Planning Timetable—Passaic, Mercer

June 1987

County receives preliminary REACH County Plan Guidelines.

June 1987

REACH Planning Committee (eight core members at a minimum) should be convened.

June-November 1987

Development, completion and public input of REACH County Plan.

December 1, 1987

REACH County Plan submitted to the NJ Department of Human Services Representative.

December 1987-January 1988

Inter-departmental REACH Review Committee reviews REACH County Plan.

February 1988

REACH Implementation

IV. PLAN CONTENT REQUIREMENTS

County based planning is an important feature of the REACH program as it provides the necessary groundwork for effective and efficient program operations at the local level. Although this process will operate within state set parameters, county planning will determine the most effective way to organize the local administrative and service delivery system in order to meet REACH program goals.

This section outlines the content, program information, and planning methods, for the REACH County Plan. Counties should follow this format in submitting their plan to the Department of Human Services. It is critical to the program's success that each County Plan reflect an integrated planning and service delivery effort among the County Human Services Advisory Council, the Private Industry Council/Service Delivery Areas, County Welfare Agencies, other key planning bodies and local service providers on behalf of REACH program participants.

A. INTRODUCTION

Since the County REACH Plan must serve locally as an overall statement of the REACH Program, this section should briefly discuss the goals of the Program, i.e., to replace welfare with work, dependency with self-sufficiency, and to provide needed supports and opportunities to recipients. It should also provide a statement on the County's goals, the purpose of the planning process and the development of the REACH Planning Committee. The statement on the development of the REACH Planning Committee should specify the committee's position with the CHSAC structure, how it will work to integrate essential REACH functions, and list its members by membership category. The development of the Planning Committee is a crucial step in ensuring the integration of the local employment, training, education, and supportive service system.

(Information on the elements of the introduction can be found in the following sections of this guidelines document. Section II **Introduction** outlines the overall goals of the REACH Program. Section III.A. **Outline of the Planning Process** delineates its purpose and goals. Section III.B. **Organizational Elements** provides a listing of the core membership requirements for the REACH Planning Committee. Meeting these core membership requirements is critical to the Plan approval process. Additional members should also be listed.)

B. NEEDS ASSESSMENT

Each Plan must include an assessment of the employment related characteristics and problems of the potential REACH participants. It is essential that the needs assessment focus on those elements necessary to the operational development of the REACH program structure. The County should present a Target Population Profile and a summary of other needs assessment documents. Please note the source and timeframe for the information used.

1. Target Population Profile

The Target Population Profile should be used to shape the operational aspects of REACH. As such, the profile developed should be compiled with the intent of directly aiding program implementation. It should provide the county with a clear understanding of the program's overall target population and the characteristics of the local caseload. Information such as the number of AFDC applicants per month or the number of non-English speaking recipients should be helpful in identifying needs and structuring the local service delivery system.

a. Definition

The Target Population Profile should begin with a definition of the population. Additionally, after reviewing the available population characteristics of its AFDC caseload, the county should identify the extent to which young mothers (women to age 22) constitute a subgroup. It is important to target services to this subgroup, as the prevention of long term dependency is a REACH program goal. The county may also identify other subgroups such as non-English speaking individuals, long term dependents, etc.

(The phase-in of the participant population has been defined by the Department of Human Services for the program period October 1, 1987 to June 30, 1988 for Bergen, Middlesex and Union counties (February 1, 1988 to June 30, 1988 for Passaic and Mercer counties) as follows: (1) AFDC applicants; (2) existing AFDC recipients who volunteer for REACH; and (3) beginning March 1988 (FY 1989 for Passaic and Mercer counties) AFDC recipients who are being re-certified for benefit eligibility.)

b. Population Characteristics

The Department of Human Services through the Division of Public Welfare's FAMIS Data Collection System will provide each county with a statistical profile of its AFDC caseload. The profile will include the following information:

1. AFDC caseload size
2. Number of applications per month
3. Number of adults and children
4. Age of adults and children
5. Number or percent of cases with children under two
6. Geographic distribution of the caseload
7. Ethnicity
8. Grade levels (including number under 19 and in school)
9. Primary language spoken in the household

(The Department of Human Services, through DPW's FAMIS Data Collection system, will provide each county with an annualized statistical profile of its AFDC caseload. Other sources of data which can be accessed during the planning timeframes may also be used.)

2. Target Problem Priorities

Many County level planning efforts have documented the target problems and barriers to employment experienced by the AFDC population. The Department wishes to build on these efforts, therefore this section should be developed by summarizing the Needs Assessment Sections of existing documents. At a minimum these should include the HSAC Comprehensive Human Services Plan and the County Job Training Plan. Tables or charts displaying this information may be directly excerpted from existing documents.

3. Labor Market Analysis

The Labor Market will be a critical resource for REACH participants to achieve economic self-sufficiency. This section of the County REACH Plan must contain an evaluation of the current and projected unsubsidized employment prospects for the county and its labor market area. The Private Industry Councils/Service Delivery Areas have analyzed labor market information and established training priorities based on the criteria that training be provided in areas where employment opportunities have been identified to exist. This information is contained within the Program Services Narrative of the JTPA Job Training Plans. The County should utilize this source as the basis for the labor market analysis. Table or charts displaying this information may be directly excerpted from existing documents.

C. REACH PROGRAM STRUCTURE

1. Client Flow

In this section counties should include a description of how the participants will be recruited, enrolled, served and obtain employment in accordance with the minimum client flow requirements contained in APPENDIX A. The description should start at the participant's initial application (or redetermination) for welfare and specify the location where the service would be rendered, when services would be provided, and should include the available service options and any variations of the flow that may occur because of client needs and available service options.

Counties should provide a narrative description as well as a detailed client flow chart.

(All participants who are eligible for REACH are required to be assigned to a case manager prior to receiving any other service under REACH—other than orientation. **APPENDIX A is a chart and narrative demonstrating minimum client flow system requirements under the REACH program.** In determining the detailed flow, counties should keep in mind that two participation rate standards will be established for REACH. The first will be the number of all participants that receive a contract as a ratio of all eligibles referred to case management orientation. The second is the rate of participants enrolled in an employment related activity (job search, training, education) as a ratio to all eligibles referred to case manage-

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ment/orientation. These rates will be established with input from the initial REACH phase-in counties during the planning period. The Department encourages counties to simplify and ease the participant's access flow through the REACH program by collocating services to the maximum extent possible. Such collocation should be identified in the client flow description.)

2. Resource Analysis

a. Introduction

As part of the planning process, each county is expected to identify and target as many existing resources to REACH participants as possible. The extent to which a county coordinates and utilizes existing resources for REACH participants will be a major area of consideration during plan review and approval by the inter-departmental REACH Review Committee.

Each county plan must, at a minimum, identify the following service delivery components and provide a resource analysis for each one on the Resource Analysis Form (APPENDIX B):

ASSESSMENT SERVICES (Vocational Support)
BASIC EDUCATION (Remedial and English as a Second Language)
OCCUPATIONAL INSTRUCTION
JOB SEARCH
TRANSPORTATION
CHILD CARE
OTHER SUPPORTIVE SERVICES

The purpose of the Resource Analysis Form is threefold:

1. To identify what resources are currently available for each component and how they will be targeted to REACH participants.
2. To identify how new funding will expand and supplement services for REACH participants.
3. To identify how total resources (existing and new) will be used to develop enrollment goals and meet needs identified in the county needs assessment.

b. Instructions for Completing Resource Analysis Forms

1. **Service Delivery Component**—Identify the program component to be analyzed. One form must be completed for each of the components listed in introduction to this section.

2. **Enrollment Goal**—From the analysis of needs of the caseload and overall REACH participation standard (to be determined by the Department of Human Services in consultation with the county), together with the analysis of existing and new resources for REACH participants, enter the number of participants to be served in each service delivery component for the period October 1, 1987 to June 30, 1988 (February 1, 1988 to June 30, 1988 for Passaic and Mercer).

3. **Existing Resources**—List the major funding sources/providers of identified service. Examples for the service delivery component "vocational assessment" are JTPA, employment services, vocational rehabilitation, community colleges, etc.

4. **Annual Participants/Clients (AFDC and non-AFDC) Served**—Enter the total number of participants/clients (unduplicated) served in each service delivery component in the past program/fiscal year.

5. **Capacity**—Enter the total number of clients that could be served for each existing resource (available slots).

6. **Number of AFDC Recipients Served**—If available, enter the number of AFDC recipients served in the past program/fiscal year.

7. **Expected Number of Participants/Clients (AFDC and non-AFDC) to be Served** (existing resources)—Enter the total number of participants/clients to be served during the REACH program period October 1, 1987 to June 30, 1988 (February 1, 1988 to June 30, 1988 for Passaic and Mercer). It may be necessary to pro-rate for the nine (9) month (or five month) REACH program year or to take 75% (41%) of the annual number of projected to be served.

8. **Expected Number of AFDC Recipients Only to be Served** (existing resources)—Enter the number of AFDC recipients to be served during the REACH program period October 1, 1987 to June 30, 1988 (February 1, 1988 to June 30, 1988 for Passaic and Mercer). It may be necessary to pro-rate as in #7 above.

9. **Expected REACH Funded Participants**—Enter the total number of AFDC recipients expected to be served through new REACH funding by an existing or new provider.

10. **Total REACH Participants**—Enter the total number of REACH participants to be served during the REACH program period October 1, 1987 to June 30, 1988 (February 1, 1988 to June 30, 1988 for Passaic and Mercer). The total of this column should equal the enrollment goal.

(Further technical assistance and guidance on completing the analysis will be provided by the Department during the planning period.)

3. Service Delivery System

a. REACH Program Activities

This section should contain a description of all activities and services which will be provided to REACH participants to prepare them for and place them in unsubsidized employment. Each REACH county is expected to provide each of the activities/services identified in this section (except for community work experience programs which are optional) through REACH and/or other community resources during FY 1988:

- Case Management
- Assessment
 - Vocational
 - Social Services
- Job Search
- Education
 - Basic (Remedial) Education
 - English as a Second Language (ESL)
 - Higher Education
- Vocational Training
 - Classroom Instruction
 - On-the-Job Training (Work Supplementation/Grant Diversion)
- Community Work Experience
- Job Development and Placement
- Other Employment and Training Activities
- Supportive Services
 - Transportation
 - Child Care
 - Other Social Services

(The Department, in consultation with the initial REACH phase-in counties will be developing performance standards in addition to the participation rates indicated in the client flow section of the plan. Standards may be based on factors such as: average wage at placement, percent of training related job placements, percent of placements in jobs that provide health care coverage paid for by the employer, amount of grant reductions (due to employment), retention rate, recidivism rate, number of cases closed due to employment, etc. In designing the program activities to be operated under REACH, counties should consider these factors. Further technical assistance and guidance in developing the REACH program activities section will be provided by the Department during the planning period.)

(i) Case Management

The case management activity of REACH is a new program activity. As noted in Section III, this activity will be funded by new REACH program funds provided by the Department of Human Services and disbursed in the form of a "block grant allocation". In this section, identify the provider and describe the operational structure of the case management activity. These activities should be structured to reflect the minimum client flow requirements (see Section IV.C.1). Specifically:

• Identify what entity would be responsible for the case management function and outline the organizational structure within which the case management activity will operate:

Identify which public agency/local non-profit organization will be charged with the responsibility for REACH case management. Describe the criteria used to make this choice. See APPENDIX C outlining agency eligibility criteria to be followed.

Identify the individual, by name and title, who will have overall responsibility for case management.

Provide an organizational chart of the designated agency recommended for this function. The chart should outline the unit responsible for case management; its location within the agency's organizational structure; the line of authority among clerical staff, case managers, supervisors, the individual with overall responsibility for the case management activity, agency director and the REACH Program Coordinator; and, the numbers of expected positions within each staffing category.

• Provide a detailed description of how the case management will be operationalized. The following must be included:

Outline the hiring procedures (advertising, recruitment and selection) of the agency that is being recommended for the case management function. See APPENDIX C outlining the minimum qualifications of a case manager and APPENDIX I regarding case management staff training—the Department will take the lead role in providing training to REACH case managers).

Describe how the hiring procedures will take into account REACH's phased-in implementation schedule and expected caseload ratios (see APPENDIX C).

If the case management agency will not be the CWA, describe how the unit will collocate with the CWA.

Submit a timetable delineating the above mentioned activities, including the actual number of case managers to be hired and when.

- Provide information on how the case managers will interact with all the key components of the service delivery system. These components include the CWA Income Maintenance Unit, Assessment Services, education, employment and training, work experience, supportive service (i.e., child care, transportation), and social services (e.g., health services, rehabilitation, etc.).

Describe the communication mechanisms that will ensure that REACH case managers have current information about the status of their participants.

Describe any mechanisms currently in place or being developed which may enhance participant access to services. (For example, joint intake processes, other service delivery components collocating or providing services at the case management site, etc.)

(The case management function is key to service coordination in REACH. The REACH case manager is a manager—a broker of services. APPENDIX C outlines in detail: (1) definitions and responsibilities of case management; (2) case management agency eligibility criteria; (3) the minimum qualifications of a case manager; and (4) the use of volunteer case managers.)

(ii) Assessment

Vocational Assessment

Describe activities, such as educational and vocational testing, counseling, work sampling, interest inventories and/or any other activities, which will assist the case manager and the REACH participant in determining the steps necessary to obtain employment. At a minimum, the following key issues must be addressed in the assessment procedure proposed:

REACH applicants who will receive vocational/educational assessment. The criteria to be used and identification of who makes the determination.

Determination of when these assessment services will be provided and for how long.

Where the assessment services will be provided.

Determination of whether different forms of vocational/educational assessments will be provided to different clients. If yes, the criteria to be used and who will make the determination.

Assurance that the special needs of the disabled or persons of limited English speaking ability will be addressed.

Determination of whether the deliverer of this service is different from the case manager and, if so, how the two functions will be coordinated.

If the deliverer of this service provides some REACH employment and training services but not all, assurance on how the county will assure that this service is not used as a screening device.

Integration of the vocational/educational assessment and supportive service assessments.

Sharing of the assessment results with the participant and incorporation into the participant contract.

(It is expected that most REACH participants will receive some form of vocational/educational assessment. At a minimum the assessment process should include assessment of a person's basic educational skills (i.e., reading, computation), vocational aptitudes and interests and, for those with limited English speaking ability, and assessment of their language proficiency. The only participants who would not receive this service would be those clients exempt or deferred because of health and/or social problems; those that are determined, through case management orientation and evaluation, to have marketable job skills and experience and could go to job search; or those who, in consultation with the case manager, choose job search or community work experience as their first activity. The Department, in consultation with the initial counties; may establish a standard for the percent of the mandatory participants who are enrolled in an education, employment or training service after receiving a vocational assessment (this will not apply to participants with children under two years of age). Counties should keep in mind that REACH is based on a mandatory requirement that all participants who are not exempt or deferred will participate in an employment related activity. **All clients with children between 6 months and two years of age must receive some form of vocational assessment**, unless they volunteer for

job search and have the skills and work experience necessary to obtain a job. Further guidelines for the vocational assessment services for this group will be issued at a later date.)

Social Services Referral and Assessment

Describe the following activities and processes by which a participant's social services (e.g., mental health, counseling, vocational rehabilitation, etc.) will be assessed. The following key issue statements should be used as a guide when developing this section:

Participants who will receive a social services assessment.

Determination of when this assessment will occur.

The provider of this service and whether the assessments are provided by someone other than the case manager. The criteria to be used in referring to outside sources. The sources to be utilized and how these services will be coordinated with the case management function.

Coordination of the social service assessment with the vocational education assessment.

Sharing of the results of the assessment with the participant and incorporation into the participant contract.

Length of time of the assessment.

(iii) Job Search

Job Search is an activity in which participants are provided with job seeking skills instruction, job development assistance and referrals and guidance in the participant's efforts in actively contacting employers to secure employment. The county must describe how job search activities will be provided. Job Search may be provided through REACH funds (see Section III.B.) or JTPA. The following key issue statements should be used as a guide when developing the section on this activity:

Criteria to be used when determining who will receive this service.

Points in the client flow when job search will be offered and to which participants.

Determination of who will provide job search and whether different forms of job search will have different deliverers.

The structure of job search (i.e., group job search workshops, individual job search assistance, or a combination). In combined job search, which participants receive which type of service at what point.

The duration of job search (individual, group).

Integration of job search and other employment and training services.

Monitoring of participant progress in job search. Assessment of job contact results, etc., and use in assisting a participant's attainment of a job.

(Job Search is a federally reimbursable activity. In order to qualify for federal reimbursement, **every county must provide job search**. New REACH funds are available for Job Search. Job Search may be provided in group setting or on an individualized basis. Job Search must be the primary activity for all participants who have job skills and experience applicable to the labor market. Counties may determine: how it will be offered, which participants would receive such service, and who will provide the service. In planning job search and other employment and training services, counties must ensure maintenance of an overall REACH employment and training participation standard—see "client flow" section—and should also consider the performance standards indicated in the program activities introduction. A technical assistance guide on Job Search will be forthcoming.)

(iv) Educational Services

Basic (Remedial) Education

In this section counties should describe activities which are targeted to raising the participant's reading, writing and computation skills or assisting the participant to obtain an equivalency diploma. The following key issue statements should be used as a guide when developing the section on this activity:

Criteria to be used in determining which participants will receive this service.

Use of this service to enhance a participant's employability.

Provision of this service (alone or in combination with other employment and training services). If in combination, identification of whether services will be offered sequentially or concurrently with other employment and training services.

Determination of whether occupational specific basic education services will be provided. Program approaches to be utilized.

Identification of who will deliver basic educational services. Integration of the various funding sources (and organizations). Application of selection criteria (determination of whether it will be different for various funding sources or organizations).

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Monitoring of participant's progress in this component.

The expected average duration of participation in this component. (The experience of other states' programs suggests that a large percentage of the caseload may fall below a 7th grade reading level which implies that a large number of the REACH caseload may need some basic educational services. In planning this component counties should consider this client need in relation to the overall REACH participation limitation of two years in an educational program, the overall REACH participation rate standard, as well as the individual service category limitations (i.e., child care) that would tend to prohibit a participant from participating for a long period of time in this component. Counties are encouraged to seek innovative or specialized basic education services (such as occupational specific education) which would shorten the duration a participant would need to participate in this activity.

The Department of Education, Division of Adult Education, has targeted a portion of Adult Education Funds for REACH participants. A description of how these funds can be used will be forthcoming.)

English as a Second Language (ESL)

This section should describe the activities which will raise the English language proficiency of REACH participants. The following key issue statements should be used as a guide when developing the section on this activity:

Criteria used in determining which participants obtain this service.

Funding sources (organizations) to be used to provide this service.

Integration of this service with other employment and training activities.

Implementation of special projects which address areas such as occupational specific ESL.

Higher Education

This section should describe any plans for enrolling participants in one year certificate programs or two year associate degree programs at institutions of higher education. The following key issue statements should be used as a guide when developing the section on this activity:

Criteria to be used to determine which participants receive this service and the number of participants expected to be served.

Determination of how the counties will ensure that PELL, Tuition Assistance Grants (TAGs), and Equal Opportunity Fund Grants (EOF) are to be used to fund these activities.

Determination of how the counties will ensure that these services are targeted toward occupations in demand in the labor market.

(While these activities are encouraged under REACH, two years programs are only to be used under special circumstances. Counties must be very specific in their description of this service component.

The department will work with the initial phase-in counties to determine standards for appropriate utilization for this component.)

(v) Vocational Training

Classroom Training

This section should describe the vocational training activities which will be provided in a classroom setting. Funding sources for this service may include JTPA, the NJ Job Training Program, the Vocational Education Act, and REACH Supplementation of JTPA funds. The following key issue statements should be used as a guide when developing the section on this activity:

Criteria to be used to determine which participants receive this service. Occupations to be targeted.

The average duration of a participant who will receive this service.

Determination of whether this service will be offered in combination with other employment and training services.

Integration of the various funding mechanisms to assure maximum availability for REACH participants.

Criteria to be used in the selection of service providers.

Identification of whether providers of this service will also provide other employment services (i.e., job placement).

Identification of whether performance based contracting will be used for these activities.

(Once counties select the schools which will provide this service, program descriptions summaries must be forwarded to the department. Program summary forms used by the Job Training Partnership Act may be used for this purpose—see APPENDIX D.)

On the Job Training (Work Supplementation/Grant Diversion)

On the Job Training is an activity whereby training is given in the private or public sector to an individual who has been hired by the employer and is engaged in productive work while learning the skills essential to their job performance. Up to fifty (50) percent of the participant's wages would be reimbursed during the training period. Describe the on the job training activities available to the REACH participants. The following key issue statements should be used as a guide when developing the section on this activity:

Criteria to be used to determine which participants receive this service. Occupations to be targeted.

Average duration a participant will receive this service.

Determination of who will develop the OJT positions.

Explain how the training contracts will be developed.

Explain how this service will be integrated with other educational, employment or training service.

(On the job training can be provided through existing funding sources such as JTPA and the NJ Job Training Program or through work supplementation/grant diversion. In accordance with federal guidelines **work supplementation must be provided in every county**. Further guidelines on work supplementation will be issued at a later date.)

(vi) Community Work Experience

Work experience is a short term or part-time work assignment with a public or private non-profit employing agency for the purpose of developing the participant's work habits and basic work skills. Describe the types of work experience to be offered in the work experience program. The following key issue statements should be used as a guide when developing the section on this activity:

Types of work experience to be provided and criteria to be used in determining which participants will receive each type of work experience.

Determination of how the work sites will be developed.

Determination of how the participant's progress will be monitored.

Determination of how the participants will be supervised.

Integration of this activity with other employment and training activities.

(A fully developed Community Work Experience Program (CWEP)—i.e., unpaid community work while the participant is receiving AFDC benefits—is not mandated for the first program year of REACH. However, counties are encouraged to implement a CWEP component as soon as possible. CWEP may be used as a training tool, a sheltered work environment, or for participants who refuse other employment and training services. Further guidelines on CWEP will be forthcoming.)

(vii) Job Development and Placement

Describe how jobs will be identified and matched to REACH participants' needs. The following key issues should be used as a guide when developing the section for this activity:

Integration of these services with other employment and training efforts.

Identification of who will provide these services and coordination with other providers, if there will be more than one.

(Under performance based contracts, the school usually would place the participants. However, since the schools will not place 100% of their trainees, other provisions must be made to continue to provide job placement services for REACH participants until they obtain employment. This service may be provided through job search or through the use of existing programs—i.e., DOL/Division of Employment Services or JTPA. Counties should keep in mind the performance standards that will be developed when planning these services.)

(viii) Other Employment and Training Activities

Describe other activities available to REACH participants which are designed to assist participants to prepare for, obtain and retain employment. Such activities may include but are not limited to, life skills instruction, training programs operated by the private sector, bilingual training, vocational exploration, pre-apprenticeship programs, and follow-up services.

(ix) Supportive Services**Transportation**

Describe public and private transportation systems and services/activities which will assist REACH participants in getting to and from training, education, employment, child care or other services as agreed upon in the program-client contract. The following key issue statements should be used in developing the section on this activity:

Demonstration of how existing transportation resources in the county can be utilized to help meet the transportation needs of REACH participants.

Identification of employers in the county who provide, or who are willing to provide transportation for their employees.

Identification of those community groups or agencies that provide transportation as a community service and are willing to target REACH participants.

(As noted in Section III, the Department of Human Services, based on its recognition that transportation often poses a barrier to employment for the welfare recipient, will provide a \$30 Training-Related Expense to those REACH participants enrolled in an educational or training-related activity. However, counties are being offered an opportunity in which TRE funds may be used for alternative transportation services for REACH participants.)

Child Care

The Department of Human Services recognizes that the provision of quality child care for participants is an integral part of the REACH program. Therefore, every effort must be made on the local level to coordinate and expand child care services and resources to meet the needs of future REACH participants. Child care refers to care for infants (0-2½ years), pre-schoolers (above 2½-5 years) and children (above 5 to 14 years) in settings such as licensed child care centers, state approved summer camps, and registered family day care homes.

The Division of Youth and Family Services will have responsibility for coordinating the child care delivery system for REACH. DYFS' efforts to develop a comprehensive child care system in New Jersey, resources have been, and will continue to be, devoted to the development of the Child Care Resource and Referral (CCR&R) System. REACH will build on this system as a means to effective child care coordination and expansion. A representative from the DYFS Community Services Unit will be contacting county planners for initial discussions and assistance in planning for the REACH county child care system. Further information on the CCR&R system can be found in APPENDIX E.

As part of this REACH planning process, provide the following information in developing this section:

The identification of the local and/or regional Child Care Resource & Referral System.

Outline the coordination among existing county resources with the local and/or regional Child Care Resource & Referral System.

The use of vouchers will be a major component of the REACH child care system. The following policy decisions should be considered in planning:

(1) Child care voucher benefits will begin in three counties in October 1987 for participants entering employment, job search, training, educational programs or other REACH activities. The case managers will be responsible for certifying the need for child care and issuing approval to receive voucher payment for such care.

(2) REACH child care vouchers will be set at a maximum of \$75 per week for infants, \$50 per week for pre-schoolers, and \$25 per week for children enrolled in school full time.

(3) Since REACH child care vouchers will be the payer of last resort, REACH participants will be required to certify, and the case managers will be required to verify, that no other family members or other resources for child care are available. The welfare of the children and the quality of their care should be considered.

(4) REACH child care vouchers will be limited to 52 weeks per participant.

While originally viewed as purely a retrospective payment system through vouchers, the Department will consider proposals from those counties that wish to develop a plan to use vouchers in some creative manner (such as providing a block of guaranteed vouchers to a child care center to enable the center to expand or become operational). Such an approach should not be viewed as an alternative to vouchers but rather as a way to use vouchers more effectively. If counties opt to undertake such a plan, it should be described in detail in this section and is subject to state approval.

Counties should also consider strategies to encourage the use of existing child care slots. It is suggested that child care providers be called together early in the planning stage so as to secure their participation in REACH. Consideration should be given to strategies designed to assist the REACH participant to obtain subsidized child care when the 52-week period is over.)

Other Social Services

Describe other social services which will be utilized by the case management unit for REACH participants. Such activities are designed to assist participants in preparing for self-sufficiency. These may include but are not limited to: mental health services, substance abuse services, family/individual counselling, etc.

b. Systems Administration**(i) Program Management**

Under this section, each county plan should provide a description of the local administrative structure specifically identifying the following:

- Placement of REACH Program Coordinator within the county governmental structure and his/her relationship to the REACH Planning Committee, CHSAC and lead agencies (such as the CWA, JTPA, Educational facilities, etc.), and supportive service providers. This information should be supplemented by an organizational chart. Describe the roles and responsibilities of the REACH Program Coordinator.

- Description of the ongoing roles and responsibilities of the REACH Planning Committee.

- Description of the roles and responsibilities of lead agencies. This should, at a minimum, include the CWA, JTPA, and educational programs.

(REACH is designed to be a county administered program with its organizational structure and service delivery system developed through the local planning process. Administrative and service delivery components may be assigned to various public, non-profit, or private organizations depending on their ability to meet the objectives and goals of the REACH program. However, the county administrative structure bears ultimate responsibility for the development of a REACH county plan and the implementation of that plan. As described in Section III, each county is required to hire or subcontract for a REACH Program Coordinator. This individual will have primary responsibility for program oversight and coordination. In addition, each county is to establish a REACH Planning Committee which will develop the initial REACH county plan, provide on-going review of plan implementation and make recommendations as to plan changes, modifications, etc.)

(ii) Services Delivery Management

Counties will have the primary responsibility for arranging the provision of services in the REACH program. The types and configuration of services will be prescribed by the REACH Planning Committee based on the results of its needs assessment, availability of resources and capability to expand service delivery. In this section, the county is required to address the following:

Provider Selection

Describe the process to be followed in selecting service providers. This process should be consistent with existing CHSAC conflict of interest policies and county bidding (and request for proposal) procedures under the New Jersey Public Contract Law as well as the rules and procedures of the various governmental funding sources for REACH services.

In selecting providers, the county should consider the following factors:

The effectiveness of the county-based public agency or not-for-profit agency or organization in delivering comparable or related services based on demonstrated performance, likelihood of meeting performance goals, cost, quality of training, and characteristics of participants.

Funds should not be used to duplicate facilities or services available in the county through other resources unless it is demonstrated that alternative services or facilities would be more effective or likely to achieve performance goals.

(The selection of provider agencies and/or organizations is an important element to the REACH planning process. Counties are being requested to recommend services providers for the program activities funded by newly designated FY 1988 state appropriated REACH dollars. Counties must complete spending plans for the appropriations noted in Section III: Case management, job search and related employment activities, and Supplementation of JTPA. The county appropriation amounts and spending plan forms will be forthcoming.)

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Contract Administration/Reporting

Briefly outline the county's contract administration and monitoring procedures as they will be applied to REACH activities provided via county based contracts for new State appropriated REACH funds. Counties are strongly encouraged to develop performance-based contracts that would enable measurable assessments of meeting enrollment/participation goals for specific program service components.

(New funding for REACH services—outlined in Section III and IV—will be allocated directly to the counties. The counties will be responsible for sub-contracting for these services. The REACH Program Coordinator should have primary responsibility for assuring compliance with the REACH funded contracts. In regard to other funding streams which provide services to REACH participants and which are not allocated directly to the counties (e.g., Adult Education funds), the REACH Program Coordinator should be encouraged to maintain a close working relationship with other appropriate administrative departments/agencies funding these programs to assure program and resource coordination. All available information on contract monitoring and service delivery should be shared with the REACH Planning Committee on a regular and timely basis to facilitate their assessment of the effectiveness of REACH services.)

c. Interagency Coordination Agreements

The REACH Program will depend heavily upon the existing education, training, employment and social services offered by State agencies and private providers. The Department recognizes that relationships between these services and REACH will become more defined as the program is implemented. Therefore, the Department will not require finalized Interagency Coordination Agreements as part of the initial planning document.

In this section, however, counties should identify:

Any existing interagency coordination agreements that will be expanded or tailored to meet the service needs of the REACH program.

Proposed interagency coordination agreements specifying the participating agencies and the basic elements of these agreements. These elements should include:

1. Recognition of a joint purpose.
2. Identification of service delivery and administrative responsibilities.
3. Procedures for sharing information about participants, resources, and service utilization.
4. Referral procedures.
5. Procedures for joint planning and joint problem solving.

V. APPENDICES

- A. Client Flow Chart and Narrative
- B. Resource Analysis Form
- C. Case Management
- D. JTPA Program Summary Form
- E. Child Care—Resource & Referral System
- F. County REACH Planning Approval Sign-Off Sheet
- G. REACH Planning Committee Membership Sheet
- H. Future Additional Information

APPENDIX A**CLIENT FLOW NARRATIVE****1. Intake**

The intake worker (income maintenance worker) determines eligibility for AFDC, as under the existing program. Parents with children aged six months or under are deferred from all REACH requirements. Those with children aged six months and over are referred to case management except those meeting exemption criteria. Parents with children under six months of age may volunteer for case management.

2. Case Management/REACH Orientation

Participants are introduced to REACH on a small group basis. Case managers explain the REACH system, the available services, participant's obligations, the contract, etc.

Small group employment counseling for parents of children under two years of age will also be conducted at this step. Parents of children under two years of age may be deferred, or on a voluntary basis, may become full participants in the REACH program. Contracts with participants are begun at this phase.

3. Case Management/Individual Evaluation

Participants meet individually with the case manager for initial evaluation of barriers to job readiness, need for social services, etc. Some participants may be determined ready for job search; others may be determined to need social services such as mental health, vocational rehabilitation, drug and alcohol treatment programs, health care, etc.

Parents of children under two years of age may be deferred, or on a voluntary basis, may become full participants in the REACH program.

An **initial participant contract** is completed at this stage indicating whether the participant has been deferred, referred to social services, referred to job search or referred to vocational assessment. Steps necessary to secure supportive services, i.e., child care, are also initiated at this stage.

4. Assessment

Participants are referred to the entity chosen by the county to assess the participant's educational and vocational interests and aptitudes, or for social services assessment not done by the case manager. The entity recommends to the case manager whether participants are job ready, in need of literacy training, G.E.D., higher education, job skills training, CWEP, etc., and identifies potential deliverers where possible.

5. Case Management/Participant Contract

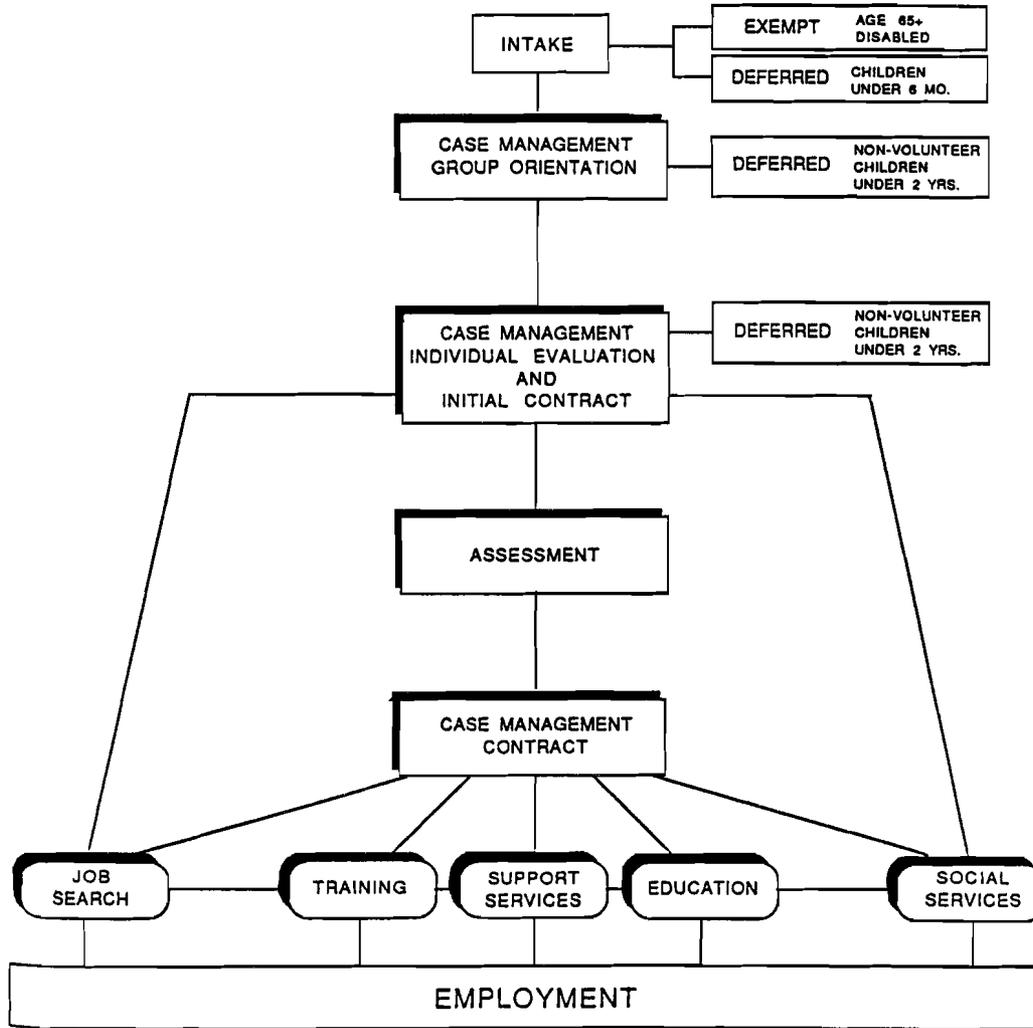
The case manager and the participant review the assessments (including recommendations made by the assessment entity) and write and sign the in-depth contract stipulating the participant's responsibilities, goals, activities and timetable for accomplishment within the REACH program as well as the program's responsibilities for the provision of education, training, employment related activities and supportive services, which may be provided sequentially or concurrently.

6. Employment/Education/Training/Supportive Services Activities

Participants will pursue scheduled activities, maintaining contact with the case manager. Upon completion of scheduled activities, the participant will renegotiate the contract with the case manager (i.e., entering employment, returning to assessment, entering job search, etc.) based on the individual's needs.

The case manager will monitor the participant's progress and periodically update or modify the contract as the case manager and participant determine necessary. After employment, the participant will receive follow-up, child care and medicaid extension services up to the fulfillment of the 52-week limitation.

MINIMUM REQUIREMENTS
FOR
REACH CLIENT FLOW



APPENDIX B

RESOURCE ANALYSIS FORM

SERVICE DELIVERY COMPONENT	ENROLLMENT GOAL	COUNTY
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EXISTING RESOURCES	ANNUAL PARTICIPANTS/ CLIENTS SERVED	CAPACITY	NUMBER OF AFDC RECIPIENTS SERVED	EXPECTED NUMBER OF PARTICIPANTS/ CLIENTS TO BE SERVED	EXPECTED NUMBER OF AFDC RECIPIENTS TO BE SERVED	EXPECTED REACH FUNDED PARTICIPANTS	TOTAL REACH PARTICIPANTS
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APPENDIX C
CASE MANAGEMENT
Definitions and Responsibilities

Case management is a structured approach to the delivery of multiple and interrelated services to assure that the goals and objectives of REACH are obtained. The responsibilities of REACH case management include assuring the following, which may take place in group or individual settings:

Explaining what REACH is all about: concept of mutual obligation; participation requirements; commitment to removing barriers to employment; emphasis on self-sufficiency; options available for training, education, and employment opportunities; client's rights.

Identifying broad based barriers to self-sufficiency (education and training, health, child support, social, housing, transportation, child care, etc.)

Referring participant to appropriate potential service providers (i.e., health, social, education and training, housing, child care, etc.) for further assessment and evaluation.

Consulting with participant and potential service providers to develop a plan of service for each REACH participant.

Development with the participant of a REACH contract which will outline steps toward self-sufficiency. Included will be a listing of participant and agency obligations to be fulfilled. Also included in the contract will be: objectives, starting dates, completion dates, measures of accomplishment, deliverers of services, etc.

Maintaining an assigned caseload of participants and coordinating their program participation with all participating agencies and educational institutions and programs to facilitate movement through REACH.

Monitoring a participant's progress and re-evaluating needs and services as necessary.

Providing, either directly or indirectly, motivational, personal and family counseling as necessary.

Maintaining records of a participant's participation.

Taking necessary action in cases involving sanctioning. Re-evaluating a participant's needs post-AFDC.

Monitoring continued eligibility and provision of services to post-AFDC participants who receive REACH services (child care, Medicaid).

Case Management Agency Eligibility Criteria

The following eligibility criteria must be considered when deciding which agency will be responsible for REACH case management:

a. Case management may be provided to REACH participants by a county-based public agency, by contract with a private non-profit agency [501 (c) (3) status] or by contract with a private for-profit agency.

b. For at least the pilot period, in order to have tracking and information systems that are computerized, the case managers must be collocated in the County Welfare Agency offices.

c. The designated agency will be required to display their capacity to operationalize all case management responsibilities by demonstrating the following:

1. A financial management system based upon generally acceptable accounting principles as determined by the submission of an agency-wide audit from an independent auditor.

2. A willingness to enter into performance-based contracting, and previous contractual experience with county or state agencies.

3. A previous experience operating social services for vulnerable populations.

4. An established Affirmative Action Policy.

5. The presence of qualified staff (or plans to acquire qualified staff) which reflect the demographics of the service population, i.e., minority, bilingual and/or bi-cultural staff.

6. The organizational ability to absorb the necessary quantities of staff.

d. The Department of Human Services has assumed that the maximum ratio of case managers to active REACH participants will be 80:1, and 160:1 for clients who have entered employment. Agencies must demonstrate their ability to work with this caseload.

e. The designated agency must have offices located within the county.

Minimum Qualifications of a Case Manager

Education:

Graduation from an accredited college or two (2) years of college or sixty (60) credits, or equivalent, with additional minimum of two (2) years relevant work experience.

Experience:

A minimum of one (1) years experience (beyond any experience toward the education requirement) in gathering social information from participants, determining programmatic eligibility and/or needs, and planning and carrying out service plans geared to the individual needs of participants.

Skills:

Worker should be able to articulate clearly the mutual responsibility of the participant and the case management agency.

Worker must have skills which will enable him/her to motivate a participant to obtain the goal of self-sufficiency.

Worker should be able to identify barriers which will impede clients from reaching their goals and also identify and broker appropriate services which will make these goals more accessible.

Worker should have knowledge of the county service delivery system.

Worker must have counseling skills which will enable him/her to give guidance to participants.

Worker should be able to assist participants in basic life skills.

VOLUNTEER CASE MANAGERS

While not mandated, counties are encouraged to use community volunteers to support and supplement the work of the REACH case managers, and to provide some non-traditional approaches to the provision of services.

Such volunteer services may include peer support and formation of participant self-help groups, use of role models, identifying community/neighborhood resources, etc.

APPENDIX D
PROGRAM DESCRIPTION

Name of Service Delivery Area: _____ Date: _____

I	II	III	IV	V	VI	VII	VIII	IX	X
Funding Source	Type Of Program	Name of Service Provider	Description of Program	Est. No. of Training Positions	Est. Cost of Program	Cost Per Training Position	Dates of Operation	Statement of Programs Objectives Expected Outcomes	CIP for CRT DOT for OJT

APPENDIX E
CHILD CARE

Child Care Resource and Referral System
(CCR&R)

In order to provide accessible and affordable quality child care services for its participants, the REACH program will utilize the CCR&R system already in operation in counties around the state. Funded through the Division of Youth and Family Services (DYFS), the CCR&R system provides parents with information regarding available child care, coordinates community resources, and provides technical assistance in the development of expanded resources to benefit parents and the child care providers. The system is founded on the belief that the most effective resources and referral services are provided by local agencies which are most familiar with child care resources in their area.

The child care provider network in each county must be based on the local or regional CCR&R system and be composed of all forms of child care, including licensed child care centers, approved summer camps, and registered family day care homes. The child care system must also include the following minimum requirements:

- assessment of child care needs
- determination of service availability
- recruitment and training of service providers
- inspection of child care facilities
- monitoring of services
- information and referral services
- child placement services
- parent education and orientation to child care services
- administration of child care payment vouchers

Many of these components are currently provided by local CCR&R systems. However, in areas where the CCR&R system is not fully developed, DYFS will assist the counties in planning for the development and expansion of existing child care services and resources through the CCR&R network. This will be done through the development of Family Day Care homes (FDC) which have been proven to be the most cost effective form of quality child care available. In efforts to achieve the maximum utilization of cost effective child care systems currently in place, a DYFS liaison will assist counties in the determination of existing resources and services and planning for expansion.

The DYFS Community Services Unity will contact county planners to schedule initial discussions on the planning of the child care component within each county.

APPENDIX F

COUNTY REACH PLANNING APPROVAL SIGN-OFF SHEET
SAMPLE

We are pleased to submit the _____ County REACH Plan as a statement of how the County's human services and employment-training systems have been integrated for the delivery of services to REACH participants. This plan has been developed by the REACH Planning Committee in compliance with the Department of Human Services' Preliminary County REACH Guidelines. Public input was solicited _____ and the comments are included in the plan appendix. County government has also reviewed and approved this document on (date) (Resolution attached).

_____ Signature	_____ Signature	_____ Signature
_____ Name, Title	_____ Name, Title	_____ Name, Title
_____ Private Industry County/Service Delivery Area	_____ County Human Services Advisory Council	_____ County Welfare Agency
_____ Date	_____ Date	_____ Date

APPENDIX G

REACH PLANNING COMMITTEE MEMBERSHIP

MEMBERSHIP CATEGORY	REPRESENTATIVE AND ORGANIZATION
1. CWA Director, Co-Chair	_____
2. PIC or SDA Director—Co-Chair	_____
3. County Freeholder Director/County Executive (or designee)	_____
4. County Human Services Advisory Council Chairperson (or designee)	_____
5. Division of Public Welfare, DHS	_____
6. Division of Employment Services, DOL	_____
7. Division of Adult Education, DOE	_____
8. Department of Human Services Representative	_____
9. Other Members (Name and Organization)	_____

APPENDIX H

FUTURE ADDITIONAL INFORMATION

During the REACH planning period, the following information, guidelines and policies will be issued by the New Jersey Department of Human Services:

1. **REACH FY 1988 County Appropriations and Spending Plan Forms**
2. **Case Management Staff Training and Guidelines**
The Department of Human Services will take the lead in the provision of training for REACH case managers. Staff training for case managers will include an orientation to the goals of the REACH program, as well as methods to help case managers identify the local resources for referrals; understand and carry out program procedures for screening participants; determining and carrying out program procedures for screening participants; determining appropriate service assignments and developing participant contracts; understanding and carrying out recording and reporting procedures; and perform all other aspects of the case management function.
3. **Performance Standards/Performance Based Contracting**
4. **Vocational Assessment Guidelines (for participants with children under age two)**
5. **Adult Education Program Funds and Service Guidelines**
6. **Job Search Guidelines**
7. **Work Supplementation/Grant Diversion Guidelines**
8. **Community Work Experience Guidelines**
9. **Sanctioning and Grievance Procedures under REACH**
10. **Data Collection Procedures**
11. **Client Tracking System and Procedures**
12. **Quality Assurance System Procedures**
13. **Health Insurance Guidelines and Third Party Reference**

NEW JERSEY REGISTER, MONDAY, AUGUST 17, 1987

(a)**Monthly Reporting Policy Handbook
General Provisions; Policy Required for Monthly
Reporting/Retrospective Budgeting;
Application/Certification Process; Determining
Eligibility and Computing the Assistance
Payment/Food Stamp Benefit; CWA Action on
Monthly Reports and Other Reported Changes;
Other Procedures****Proposed Readoption: N.J.A.C. 10:90****Proposed Amendments: N.J.A.C. 10:90-2.4, 4.3, 4.4
and 5.3**Authority: N.J.S.A. 44:7-87; 44:7-6; 44:10-3; 30:4B-2 and 45 CFR
233.31 through 233.37; 7 CFR 273.21.

Proposal Number: PRN 1987-314.

The agency proposal follows:

Summary

In accordance with the "sunset" provisions of Executive Order No. 66 (1978) N.J.A.C. 10:90 will expire on November 15, 1987. The proposed readoption is necessary for the continued operation of the Monthly Reporting System.

The Monthly Reporting provisions of N.J.A.C. 10:90 were adopted pursuant to the authority of N.J.S.A. 44:7-6 at 14 N.J.R. 958(a), and became effective on November 15, 1982.

N.J.A.C. 10:90, when adopted in 1982, set forth a new policy which established the Monthly Reporting System for recipients of public assistance benefits under the Aid to Families with Dependent Children Program (AFDC) and households participating in the Food Stamp Program. Initially the program began as a pilot project for certain AFDC cases in several counties. Subsequently, it was expanded to all the counties in New Jersey for AFDC and Food Stamp cases.

The Monthly Reporting (MR) System requires that, as a condition of continued eligibility and receipt of benefits, AFDC eligible units (cases) and food stamp households submit monthly, to county welfare agencies (CWAs), a form reporting their current income, family circumstances and any changes that have occurred or are expected to occur. N.J.A.C. 10:90 requires retrospective budgeting of benefits, whereby the AFDC grant amount and food stamp allotment is computed using actual verified income received in a previous month. Eligible units and/or households who fail to submit acceptable monthly reports will have their assistance terminated if good cause cannot be demonstrated. Late filing of a monthly report or failure to report income timely without good cause can incur a penalty of the loss of income disregard. This penalty does not apply to AFDC-N cases or food stamp households.

Some categories of AFDC and food stamp recipients may be exempted from the Monthly Reporting requirement with permission of the Federal government. This permission must be in writing. In certain situations it is time limited and may be subject to change. Cases that are exempt from Monthly Reporting are still required to report any changes in circumstances to the CWA.

The chapter has been subject to numerous amendments since it was promulgated in 1982. In August, 1983, an amendment to N.J.A.C. 10:90-2 removed penalties for failure to report timely the earnings of eligible unit members who are temporarily absent from the household because of military duty.

In October, 1983, amendments to N.J.A.C. 10:90-2 and 10:90-4 through 6 revised procedures dealing with the treatment of income, benefit computation, changes in household composition and changes in circumstances. Specifically, the amendments included in the following:

N.J.A.C. 10:90-2.2(a)8 permitted up to a 10 day delay in the issuance of AFDC or food stamp benefits if an eligible unit files a complete monthly report during the 10 calendar day period after the filing deadline, known as the Extension Period.

N.J.A.C. 10:90-2.4(f) and (h) provided a new procedure for the calculation of income which is received less often than monthly. The rule provided expanded instructions for the recognition of income from self-employment, scholarships, educational loans, grants and other income of this nature.

N.J.A.C. 10:90-4.1(b) enumerated which household members and what income should be counted when undertaking a maximum income eligibility test. Also outlined were new procedures for the eligibility test.

N.J.A.C. 10:90-4.3(c) and (d) provided rules for situations where household changes caused the loss of income due to the departure of a household member with income that was earned by or available to that member alone.

N.J.A.C. 10:90-4.6(a) provided a more detailed definition of the reinstatement process after assistance has been terminated because of prospective budgeting or for failure to complete a Monthly Status Report (MSR).

N.J.A.C. 10:90-4.6(d) provided an expanded explanation of the process of reinstatement of assistance after termination, including notice requirements, fair hearing rights and calculation of benefits.

N.J.A.C. 10:90-5.3(c) provided for the proration of food stamp benefits if such benefits are reinstated after the first day of the payment month.

N.J.A.C. 10:90-5.6 provided procedures for the recognition of changes in circumstances during a period of ineligibility which reestablish AFDC eligibility.

N.J.A.C. 10:90-6.1(d) provided procedures for situations where a redetermination of eligibility is overdue or not completed before the scheduled effective redetermination date.

In August, 1984, N.J.A.C. 10:90-4 was amended as follows:

N.J.A.C. 10:90-4.2(a) allowed for recognition of a significant change in circumstances, such as the loss of all earned or unearned income. The rule permitted the disregard of income in the prospective budgeting process when the source of such income is terminated.

N.J.A.C. 10:90-4.2(b) specified that when there are no significant changes in income following a month of suspension of assistance, retrospective budgeting shall be used to calculate eligibility.

Extensive revisions to N.J.A.C. 10:90 were proposed and adopted in August, 1986, as follows:

N.J.A.C. 10:90-2.2(a) provided rules defining a two-month retrospective system and three-month retrospective budgeting cycle.

N.J.A.C. 10:90-2.3(a) exempted certain food stamp households from monthly reporting requirements. Further amendments expanded rules for timely reporting of earnings and added a stipulation that households with members who have recently been employed must continue monthly reporting for six months.

N.J.A.C. 10:90-2.3(c) and (d) provided that the CWA shall assist handicapped adult household members in filing monthly reports, if necessary. N.J.A.C. 10:90-2.3(d) excluded migrant farmworkers, households without income, and the elderly and disabled from monthly reporting requirements in the Food Stamp Program.

N.J.A.C. 10:90-2.3(e) provided an expanded explanation of rules pertaining to exemptions from monthly reporting regulations and periodic reporting requirements.

N.J.A.C. 10:90-2.4(a) expanded to stipulate that monthly income in certain non-public assistance food stamp cases may be determined by applying factors of 4.333 and 2.167 to weekly and biweekly income. Further, rules for treatment of child support payments and AFDC supplemental payments were clarified.

N.J.A.C. 10:90-2.4(e) expanded on rules with respect to the determination of contract income.

N.J.A.C. 10:90-2.4(g) clarified the treatment of income from educational loans, grants and scholarships.

N.J.A.C. 10:90-2.4(i) provided for the counting of contributions from legally responsible relatives.

N.J.A.C. 10:90-2.6 identified which AFDC cases and food stamp households are subject to the retrospective budgeting process.

N.J.A.C. 10:90-3.3(a)3 provided rules for the recovery of previous overpayments at time of reapplication for assistance.

N.J.A.C. 10:90-4.1 expanded rules regarding income eligibility. New rules stipulated that, for purposes of AFDC eligibility, household income, with the exception of SSI benefits, is deemed available to all individuals in the AFDC unit. The new rule also clarified that the income eligibility needs test shall recognize disregards for work expenses, child care, and \$30.00 and one-third of the remainder if the income is earned. The rule also described the application of the \$30.00 and one-third earned income disregard to the budgeting process for four months, unless a monthly reporting penalty is incurred by the recipient. Procedures for recognition of the eight month \$30.00 earnings disregard after expiration of the four month one-third disregard is also described.

N.J.A.C. 10:90-4.1(f) and (g) clarified rules regarding budgeting procedures for determining overpayments and the four month extension of Medicaid benefits.

N.J.A.C. 10:90-4.2(c) provided that initial food stamp benefits following a month of ineligibility are to be prorated based upon the date of application.

N.J.A.C. 10:90-4.3(b) provided instructions for the first and second months of retrospective budgeting for income that is not continuous or has been terminated.

N.J.A.C. 10:90-4.3(c) provided procedural steps for the determination of AFDC and Food Stamp eligibility and benefits.

N.J.A.C. 10:90-4.4 provided instructions for budgeting food stamp benefits when changes in the AFDC eligible unit occur.

N.J.A.C. 10:90-4.5 expanded rules regarding situations where suspension of benefits occur. Rules concerning Medicaid coverage, subsequent eligibility, child support collection and eligibility for AFDC supplemental payments are described.

N.J.A.C. 10:90-4.6(c) permitted the use of earned income disregards in the budgeting process for reinstatement of assistance if income is reported timely.

N.J.A.C. 10:90-4.7(d) disallowed unverified utility payments in the determination of Food Stamp benefits.

N.J.A.C. 10:90-4.8 clarified the budgeting process for the determination of overpayments and underpayments in AFDC.

N.J.A.C. 10:90-4.9 clarified the budgeting process for the determination of Food Stamp overissuance and underissuance.

N.J.A.C. 10:90-4.10 provided rules for budgeting when changes in employment occur in non-public assistance Food Stamp households.

N.J.A.C. 10:90-5.1 and 5.2 mandated that food stamp households be provided with specific information regarding how their food stamp benefits were determined, if the benefits changed from the previous month.

N.J.A.C. 10:90-5.6 provided rules for dealing with changes in circumstances during a period of ineligibility. The changes concerned benefit levels for Food Stamps. Also included were procedures for determining eligibility for AFDC of newborns and their mothers who were previously receiving only Medicaid benefits.

N.J.A.C. 10:90-6.1 updated procedures for eligibility redeterminations and case reviews. The time frame for mandatory case reviews was increased from six to 12 months.

N.J.A.C. 10:90-6.2 made eligibility for continued assistance pending a fair hearing contingent upon the client's timely filing of Monthly Status Reports.

N.J.A.C. 10:90-6.3 removed obsolete language concerning the transfer of cases from counties participating in Monthly Reporting to non-participating counties.

The proposed amendments included in this re adoption are in accordance with policy recently received from the United States Department of Agriculture. N.J.A.C. 10:90-5.3 eliminates proration of food stamp benefits when a household is reinstated after the first of the month. N.J.A.C. 10:90-2.4 mandates recognition of AFDC additional, corrective or supplemental payments in the determination of food stamp benefits if such payments are issued and received in the month they were intended to cover. N.J.A.C. 10:90-4.3 corrects cross references. At 10:90-4.4(a)3, the example is corrected to indicate that the additional AFDC payment received was intended as a retroactive supplement for a prior month and therefore must be disregarded and treated as a nonrecurring lump-sum payment.

The Division of Public Welfare has conducted an internal review and evaluation of the rules contained in N.J.A.C. 10:90 prior to notice for re adoption. After such review of the rules, this agency determined the rules to be adequate, reasonable and responsive to the purposes for which they were promulgated.

Social Impact

N.J.A.C. 10:90 has made it easier for recipients of assistance and benefits under the AFDC and Food Stamp programs to report changes in circumstances to CWAs. The MR System has standardized procedures for reporting changes, which impacts favorably upon the recipients and the CWA's income maintenance workers. The retrospective budgeting provisions of the MR System have increased the probability that recipient benefit levels will be correctly calculated.

At present the MR system is in operation in all 21 counties. Approximately 37,000 AFDC and Food Stamp households are currently subject to the MR provisions. All AFDC recipients and most food stamp households have their benefits computed using retrospective budgeting.

The MR System has produced a sense of fairness and order in the administration of the AFDC and Food Stamp programs. This sense of order and fairness is important to continued public support of these programs. Accordingly, re adoption of N.J.A.C. 10:90 is essential to the administration of public assistance in New Jersey.

Economic Impact

Since the inception of the MR System in 1982, substantial savings in public assistance outlays have been realized. It is estimated that the MR System has saved \$7 to \$10 million dollars per year through prevention of erroneous benefit issuance.

N.J.A.C. 10:90 must be re adopted since failure to do so would result in a great increase in payment errors and fiscal sanctions for non-compliance with Federal guidelines.

Regulatory Flexibility Statement

These rules have been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This re adoption imposes no compliance requirements on small businesses, as the Aid to Families with Dependent Children and Food Stamp programs are administered by county welfare agencies.

Full text of the proposed re adoption appears in the New Jersey Administrative Code at 10:90.

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

10:90-2.4 Income, employment and deductions

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

1. (No change.)

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

i-iv. (No change.)

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

v. AFDC additional, corrective or supplemental payments: Payments issued for an additional member added to an AFDC eligible unit, payments issued to correct an underpayment of assistance, or non-federally funded AFDC supplemental payments issued in accordance with N.J.A.C. 10:82-5.11 shall be treated for purposes of the food stamp program as follows:

(1) Such payments received in the month they are intended to cover shall be considered income in the month of receipt and computed in the food stamp benefit retrospectively. For PA households, the unprorated amount of the Food Stamp Energy Disregard shall be used in determining countable income from such payments.

(A) Example: An individual is added to an eligible unit/food stamp household on January 10 and an additional AFDC payment is issued to cover the January needs of that individual on January 15. That additional payment shall be considered as income to the food stamp household in January and shall be retrospectively budgeted in the food stamp benefit for March.

(2) Such payments received in a month other than the month they are intended to cover shall be considered nonrecurring lump sum payments (defined in N.J.A.C. 10:87-5.9(a)10).

(A) Example: An eligible unit is underpaid assistance for the January Payment Month. The CWA discovers the underpayment in March and issues the corrective payment in April. That corrective payment shall be considered as a nonrecurring lump sum payment to the food stamp household, because although issued in April it was intended to cover the payment month of January.

3. (No change.)

(b)-(i) (No change.)

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

(a) (No change.)

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

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payment months for which retrospective budgeting is used. This section applies to the income of both eligible units/households and individuals added to eligible units/households.

1.-5. (No change.)

6. Example: Given the situation in [(b)3] (b)5 above, the individual fails to report receipt of the \$100.00 RSDI, but the CWA discovers the income in February. The household's food stamp benefits for the March Payment Month will be calculated by retrospectively budgeting January's \$100.00 RSDI. Although the \$100.00 was income from a terminated source, it had not been considered prospectively in the January food stamp benefits, and therefore must be counted retrospectively.

(c) Determining eligibility and computing benefits of AFDC eligible units and food stamp households: CWAs shall follow (c)1 through [5] 4 below to determine the eligibility and compute benefits for the AFDC and Food Stamp programs.

1. (No change.)

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

i. (No change.)

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

3.-4. (No change.)

10:90-4.4 Changes in circumstances

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

1.-2. (No change.)

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

i. Example: On January 16 an individual with no income is added to an eligible unit of three (with no income) that also receives food stamps as a PA household. The individual is eligible for an additional assistance payment of \$26.00, which is included in the AFDC payment issued for the February Payment Month. The amount of the payment received on February 1 is \$469.00, consisting of \$443.00 allowance for an eligible unit of four plus the \$26.00 additional payment for January. [This \$469 is counted as income in the food stamp benefit computation for February.] **Only \$443.00 of the February payment shall be counted as income in the Food Stamp benefit computation for February. The additional assistance payment of \$26.00 received in February for January shall be disregarded and treated as nonrecurring lump sum payment as defined in N.J.A.C. 10:87-5.9(a)10.**

(b)-(j) (No change.)

10:90-5.3 During the Reinstatement Period

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

(c) [Proration of] [f]Food [s]Stamp benefits: If a household requests reinstatement after the first day of the payment month of termination and is determined eligible for participation, the CWA shall calculate the food stamp benefit using retrospective budgeting [and] but shall not prorate the benefit to be issued according to N.J.A.C. 10:87-12.5[, from the date a complete MSR was received by the CWA].

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Manual of Standards for Adoption Agencies

Proposed Repeal and New Rules: N.J.A.C. 10:121A

Authority: N.J.S.A. 9:3-37 et seq.

Proposal Number: PRN 1987-330.

Submit comments in writing by September 16, 1987 to:

J. Patrick Byrne, Chief
Bureau of Licensing
Division of Youth and Family Services
1 S. Montgomery Street
CN 717
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed new rules replace the existing Chapter 121A of the New Jersey Administrative Code, which was adopted pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.) The existing rules will expire on August 6, 1987, in keeping with "sunset" provisions governing State rules pursuant to Executive Order No. 66. The current rules became effective August 6, 1981, operative on October 1, 1981, and were readopted without change effective July 14, 1986 to expire August 6, 1987, allowing the Division of Youth and Family Services (DYFS) additional time to complete a comprehensive review of the rules and to provide ample opportunity for affected constituencies to review and make recommendations on any proposed changes to the rules.

Chapter 121A regulates the child adoption programs operated by the Division of Youth and Family Services and the child adoption programs operated by private adoption agencies located within and outside the State of New Jersey. Since numerous technical and substantive changes are being proposed, the Division is following a repeal and proposal format for readability.

At present, the Division of Youth and Family Services' Bureau of Licensing certifies some 56 adoption agencies, located both within and outside of New Jersey. As part of the certification process, the Bureau conducts biennial inspections, which include reviews of programmatic areas, personnel records and interviews with staff. Agencies must achieve and maintain compliance with these rules in order to be certified to provide adoption services in this State. Agencies are certified for a period of two years, subject to renewal.

All New Jersey-based adoption agencies subject to this chapter have had opportunities to comment on the proposed new rules. In December, 1985, the Division convened an ad hoc committee consisting of directors and staff of certified agencies, representatives of advocacy groups and consumers to assist the Division in formulating these proposed new rules. In July, 1986, the Division asked all New Jersey-certified adoption agencies to comment on a draft of the proposed new rules, and in October, 1986 and February, 1987, in-state agencies were asked to comment on the revised drafts. In addition, Division staff presented an overview of the proposed Manual and secured feedback at the December, 1986 meeting of the Inter-Agency Adoption Council, which is a consortium of New Jersey adoption agencies. Finally, the Division solicited and received feedback from the Child Welfare League of America (CWLA), the Edna McConnell Clark Foundation, the Licensing Specialist in the Federal Department of Health and Human Services and from human services licensing agencies in five other states with reputable licensing programs.

In recent years, the adoption field has changed both in terms of the clientele served and the way some agencies provide service. With regard to changes in the clientele, healthy infants are generally not available for adoption, while the need for adoptive homes for older children who have emotional and/or learning disabilities has increased. In response to these changes, many agencies have modified the way they recruit, select and serve potential adoptive families as well as the way they serve children needing adoptive homes. Also, several agencies have recently been established to serve adoptive families whose child was placed without agency involvement. These newer agencies conduct court-ordered investigations and generally do not work with the birth parents as do the long-established adoption agencies. As such, the proposed new rules have been formulated to regulate these newer service modalities.

Subchapter 1 (N.J.A.C. 10:121A-1) adds definitions of terms commonly used in adoption practice (N.J.A.C. 10:121A-1.2) and clarifies that only non-profit organizations can apply for a certificate (N.J.A.C. 10:121A-1.4(a)).

Subchapter 2 (N.J.A.C. 10:121A-2) makes changes in reporting requirements. Perfunctory reporting requirements, such as submission of by-laws and employee time sheets, have been eliminated, and documentation required for reapplication for a certificate of approval has been reduced (N.J.A.C. 10:121A-2.1(d)). Moreover, the previous requirement for an annual certified audit has been modified, because the Division of Youth and Family Services has generally found that such audits did not result in any significant finding, and because this requirement has posed a financial burden to the small adoption agencies. For all practical purposes, an annual report of each agency's fee policies and collected revenues is more useful for monitoring agency fiscal practices; thus, the requirement for an annual report of fee policies and collected revenues has been retained. In addition, the proposed new rules allow DYFS to call for a financial audit if, in the Division's judgement, such review is deemed necessary before determining whether to issue a certificate of approval (N.J.A.C. 10:121A-2.1(c)9).

Subchapter 2 also clarifies the Division's responsibilities. For example, the proposed new rules clarify that the Division must give an adoption agency advance notice of any impending suspension or revocation of an agency's certificate of approval (N.J.A.C. 10:121A-2.3); that DYFS must give the adoption agency the reason(s) for denial of a certificate (N.J.A.C. 10:121A-2.4(b)1); that the Division may initiate court action under certain circumstances (N.J.A.C. 10:121A-2.5); that DYFS must respond to complaints alleging discriminatory practices on the part of agencies within specified time frames (N.J.A.C. 10:121A-2.6(a) and (b)); and that agencies must adhere to the State Public Records Act and the Administrative Procedure Act (N.J.A.C. 10:121A-2.7).

Subchapter 3 (N.J.A.C. 10:121A-3) adds a requirement that adoption agencies make written material available to birth parents and adoptive applicants explaining the agency's policies (N.J.A.C. 10:121A-3.4). This subchapter adds another requirement specifying how an agency planning to cease its adoption program must arrange for an orderly transfer of clients and records to a successor private agency (N.J.A.C. 10:121A-3.5(e)). Subchapter 3 also clarifies recordkeeping requirements (N.J.A.C. 10:121A-3.6).

Subchapter 4 (N.J.A.C. 10:121A-4) makes two changes in staffing requirements. For example, new requirements call for a specified staff-to-child ratio (N.J.A.C. 10:121A-4.1(a)), and a proposed new rule mandates that agencies provide a minimum of eight hours a year of adoption-related training to all professional staff (N.J.A.C. 10:121A-4.3(b)1). A proposed new rule also clarifies requirements for staff disclosure of criminal activity and conflict of interest (N.J.A.C. 10:121A-4.2).

Subchapter 5 (N.J.A.C. 10:121A-5) proposes major substantive changes in service requirements for birth parents, children and adoptive parents. With regard to birth parents, a proposed new rule specifies the steps agencies must take in order to safeguard birth parents' rights and requires agencies to cover specific issues before taking a surrender (N.J.A.C. 10:121A-5.4(a) through (d)). A proposed new rule also adds a requirement that agencies offer one counseling session to birth parents who have surrendered their child (N.J.A.C. 10:121A-5.4(f)).

With regard to service requirements for children, the proposed new rules add requirements mandating that agencies: utilize State and national resources when a child has been legally freed for adoption for 60 days and/or is handicapped (N.J.A.C. 10:121A-5.2(e) and N.J.A.C. 10:121A-3.4(c)); give priority to co-placement with siblings (N.J.A.C. 10:121A-5.5(a)6); reaffirms the Division policy against corporal punishment (N.J.A.C. 10:121A-5.6(f)10); use pre-adoptive foster homes that meet specified criteria (N.J.A.C. 10:121A-5.5(b)); increase the number of contacts during placement supervision when children are placed in non-foster homes (N.J.A.C. 10:121A-5.8(a)); address specific issues during these placement supervision contacts (N.J.A.C. 10:121A-5.8(a)); and provide escort service for intercountry and interstate adoptions (N.J.A.C. 10:121A-5.7(c)).

With regard to service requirements for adoptive parents, the proposed new rules increase the minimum level of service for selecting adoptive applicants. For example, a minimum number of three agency contacts is now required before making a decision to accept an applicant, and agencies are now required to obtain references from a neighbor and employer and to consider how working parents can provide adequate child care (N.J.A.C. 10:121A-5.6(f)18). Proposed new rules also require agencies to make a timely decision about accepting or rejecting an applicant in writing (N.J.A.C. 10:121A-5.6(g)2), and to offer at least one counseling session to rejected applicants (N.J.A.C. 10:121A-5.6(g)2).

Social Impact

The proposed new rules have the potential for improving the quality of adoption service, since increased levels of adoption service would be required.

Adoptive applicants will be assured of a minimum number of agency contacts during the home study and supervision periods, as well as timely notification of whether they will be accepted by the agency. In addition, adoptive applicants, along with birth parents, will receive a written explanation of agency policies, practices and fees and be offered at least one follow-up contact. Handicapped children and children awaiting placement for more than 60 days will have Statewide and national resources utilized on their behalf. Older children placed for adoption in non-foster homes will benefit from the requirement for increased supervisory visits, since research has demonstrated that these children are at high risk of being unable to adjust to new families, and increased social work contacts can reduce this risk.

The elimination of certain perfunctory reporting requirements will ease the administrative burden on both the DYFS Bureau of Licensing and the State-certified adoption agencies. Clarification of the Division's notification responsibilities for administrative hearings will ease agencies' pursuance of any legal remedies in the face of any proposed Division action on an agency's certification status.

Economic Impact

The proposed new rules will not increase the costs to the four regional Adoption Resource Centers directly operated by the Division because these publicly operated agencies are already operating at the service levels specified in these proposed new rules. Moreover, eliminating the requirement for routine audits will result in an indirect cost saving for Division auditors and will result in direct cost savings to private adoption agencies. Finally, the reduction of documentation required for reapplication will result in cost savings for the private agencies.

The new or increased service requirements called for in the proposal will have minimal economic impact on private agencies, since the changes in the proposed new rules generally do not involve new cost expenditures and since many private agencies are already complying with the proposed new rules. For example, many private agencies are already complying with the new requirement for a handbook for clients, and the proposed new rules specify that the use of mimeographed material is permitted for this purpose, minimizing the cost to agencies not already meeting this requirement. The new training requirements for professional staff can be met by sending staff to one-day training programs sponsored by the Division and voluntary organizations at low or no cost. The increased requirement for social work contacts with adoptive applicants and non-foster parents receiving an older child for an adoptive placement are generally being met by private adoption agencies, and compliance with the requirement for all adoptive family assessments and supervision contacts should be absorbed in existing budgets without necessitating additional staff or other significant expenditures.

Regulatory Flexibility Statement

These proposed new rules affect public and private adoption agencies. The public adoption agencies, which include the four regional Adoption Resource Centers of the Division of Youth and Family Services, do not fall under the provisions of P.L. 1986, c.169 (the Regulatory Flexibility Act or Act). With regard to private agencies, 33 of the total 52 private adoption agencies certified by the Division have their principal place of business located outside the State of New Jersey and thus are also not within the Act's governance. The remaining 19 private in-state adoption agencies certified by the Division all fall within the Act's definition of a "small business." There is, therefore, no differential impact on those 19 adoption agencies. Thus, there is no need for differential requirements geared to large and small businesses as called for under the Act.

The report, recordkeeping and the compliance requirement changes proposed will have a minimal fiscal impact on the 19 in-state private agencies, as set forth above in the Economic Impact Statement.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:121A.

Full text of the proposed new rules follows:

CHAPTER 121A
MANUAL OF STANDARDS FOR ADOPTION AGENCIES

SUBCHAPTER 1. GENERAL PROVISIONS

10:121A-1.1 Scope

This chapter constitutes comprehensive rules governing the certification of adoption agencies pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.).

10:121A-1.2 Purpose

(a) The purpose of this chapter is to prevent the exploitation and to protect the health and well-being of children being served by adoption agencies, as well as to protect the legal rights of children and birth and adoptive parents by establishing standards of agency organization and administration, professional training, experience, practices and requirements relating to the responsibility of agencies providing adoption services in New Jersey.

(b) This chapter constitutes minimum baseline requirements to ensure that the basic programmatic and administrative needs of adoption agencies and the social service needs of the families and children they serve are met. Compliance with this chapter is necessary if an adoption agency is to open or operate, and no adoption agency is permitted to operate below the level of requirements specified in this chapter. This chapter is in no way intended to prohibit or prevent adoption agencies from going beyond the minimum requirements contained in these rules. The decision whether to exceed these requirements rests with each agency.

10:121A-1.3 Implementation and enforcement responsibility;
information

The Bureau of Licensing of the New Jersey Division of Youth and Family Services (DYFS), Department of Human Services, shall be responsible for implementing and enforcing this chapter. For further information or technical assistance in understanding and/or complying with this chapter, please contact:

Bureau of Licensing
Division of Youth and Family Services
One South Montgomery Street
CN 717
Trenton, New Jersey 08625
(609) 292-8255

10:121A-1.4 Legal Authority

(a) This chapter is promulgated pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.), N.J.S.A. 30:1A-1 et seq. and 30:4C-4(b).

(b) Under the State Adoption Law, all private and public adoption agencies, both within New Jersey and outside the State that are involved in the placement of children for adoption in New Jersey, must be certified by the New Jersey Department of Human Services in order to open and operate.

(c) In order to be eligible for a certificate of approval, an adoption agency shall demonstrate to the satisfaction of the Department of Human Services or its duly authorized agent, the Bureau of Licensing of the Division of Youth and Family Services, compliance with the requirements of the State Adoption Law and with the rules contained in this chapter, which constitute minimum requirements only.

(d) These rules shall not be applicable to the adoption of adults.

10:121A-1.5 Definitions

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

"Adoptee" means a person who has been placed in an adoptive home and whose adoption has been legally finalized.

"Adoption agency" or "agency" means a Bureau-certified public or private non-profit corporation organized for all or part of its purpose to provide adoption services to children, adoptees, adoption applicants and birth and/or adoptive parents. Adoption services may include: pre-placement, home study, placement, post-placement or post-adoption services or other related activities, including those requested by courts and other adoption agencies and organizations, whether or not the agencies and organizations are certified in New Jersey.

"Adoption applicant" means a prospective adoptive parent who has applied to adopt a child but who has not yet received a child for adoption placement.

"Adoptive parent" means a person with whom a child has been placed for adoption or who has adopted a child.

"Branch office" means a Bureau-certified adoption program that is a geographically separate but administratively dependent part of an agency.

"Bureau" means the Bureau of Licensing of the Division of Youth and Family Services, New Jersey Department of Human Services.

"Chapter" means the rules contained in the Manual of Standards for Adoption Agencies, as specified in N.J.A.C. 10:121A-1.1 to 5.9.

"Child" means any person under 18 years of age.

"Custody" means the general right to exercise continuing control over the person of a child derived from court order or otherwise.

"Denial of a certificate" means the withholding by the Bureau of a certificate of approval for which an agency has applied, based on the agency's failure or inability to comply with requirements of the State Adoption Law and/or of this chapter.

"Department" means the New Jersey Department of Human Services.

"Division" means the Division of Youth and Family Services of the New Jersey Department of Human Services.

"Executive director" or "administrator" means the person in a certified agency responsible for the overall administration and direction of the agency and its staff.

"Finalization" means the entry of a legal order of adoption issued by a court of competent jurisdiction, pursuant to N.J.S.A. 9:3-38 et seq.

"Foster care" means the temporary placement in an agency-approved private home of a child who is in the care or custody of an agency.

"Governing board" means the public or private body which has final legal responsibility for or authority over a certified adoption agency.

"Guardianship" means the right to exercise continuing control over the person or property or both of a child, including any specific right of control over an aspect of the child's upbringing derived from court order.

"Home study" means the agency's formal assessment of the capacity and readiness of prospective adoptive parents to adopt a child, including the agency's written report and recommendation.

"Identified adoption" means an adoption where the agency becomes involved in offering services to an expectant birth or legal parent(s) and/or a prospective adoptive parent(s) who are considering a plan whereby the child will be placed for adoption in the prospective adoptive parent's home.

"Independent adoption" means an adoption where the child is received in the adoptive home from a source other than a Bureau-certified agency. Subsequent to the placement, the court orders a State-certified adoption agency to conduct an Adoption Complaint Investigation (ACI) in order to investigate circumstances of the placement and to assess the adoptive home.

"Manual of Standards for Adoption Agencies" or "Manual of Standards" means the rules promulgated in this chapter, which constitute minimum requirements for adoption agencies placing children for adoption in New Jersey.

"Parent" means a birth parent or birth parents, including the natural father of a child born out of wedlock who has acknowledged the child or to whom the court has ordered notice to be given, or a parent or parents by adoption.

"Placement services" means any and all services offered by a certified agency to prospective adoptive children and families ranging from selection of a particular family for a particular child through the physical arrival of the child in the adoptive home.

"Post-adoption services" means any and all services offered by or through the auspices of an agency to any party involved in an adoption after finalization of the adoption.

"Post-placement services" means any and all services offered by or through the auspices of an agency to any member of an adoptive family from the placement of the child to finalization of the adoption.

"Pre-placement services" means any and all services offered by or through the auspices of an agency to birth parent(s) and child(ren) to evaluate and prepare them for an adoptive placement.

"Referring agency" means an agency or organization with whom a New Jersey-certified agency has a written agreement regarding the provision of adoption-related services in New Jersey.

"Regular certificate of approval" or "regular certificate" means a certificate in writing issued by the Bureau, which indicated full compliance of an agency with the requirements of this chapter.

"Revocation of a certificate" means a rescinding of an agency's current regular or temporary certificate to operate because of the agency's failure or refusal to comply with requirements of the State Adoption Law and/or of this chapter.

"Shall" denotes a requirement of this chapter that an adoption agency must meet to qualify for a certificate.

"Social worker" means a professional staff member of an agency who possesses the required qualifications specified in this chapter and who works directly with children, adoptees, birth and/or adoptive parents and other relevant individuals.

"Social work supervisor" means a staff member of an agency who possesses the qualifications specified in this chapter and who supervises the professional staff who work directly with children, adoptees, birth and/or adoptive parents and other relevant individuals.

"Staff member" means any person employed by or working for or with an agency on a regularly scheduled basis, whether for compensation or not. This shall include full-time, part-time, voluntary, substitute, contract or consulting personnel.

"Subsidy" means the financial or other material support provided directly or made available to an adoptive family to assist in the adoptive placement, legal expenses of adoption, and/or continuing care of a child placed for adoption.

"Surrender" means a voluntary relinquishment of all parental rights, generally for purposes of allowing a child to be adopted by a birth parent, prior adoptive parent, or other person or agency authorized to exercise such rights by law, court order or otherwise.

"Suspension of a certificate" means a temporary rescinding of an agency's current regular or temporary certificate of approval to operate. The suspended certificate may be reinstated by the Bureau upon the agency's compliance with requirements of the State Adoption Law and of this chapter.

"Temporary certificate of approval" or "Temporary certificate" means a certificate in writing issued by the Bureau for a limited period of time, pending full compliance by the agency with all requirements of this chapter.

"Termination of parental rights" means the transfer by an order of a court of competent jurisdiction of all rights of control and authority over a child from its birth parent(s) or prior adoptive parent(s) to an agency or other person.

10:121A-1.6 Compliance with state laws

(a) Any adoption agency whose principal office is located outside of this State shall be licensed, certified, or otherwise approved to operate in the state where the agency's principal office is located as a condition of applying for, securing and maintaining a certificate of approval in New Jersey.

(b) No certified adoption agency shall discriminate with regard to the provision of any adoption-related services on the basis of age, sex, race, national origin, religion, marital status or employment status with regard to the selection of adoptive parents for any child. However, these factors may be considered, pursuant to N.J.S.A. 9:30-40, in determining whether the best interests of a child would be served by a particular placement for adoption or by finalization of an adoption.

10:121A-1.7 Eligibility for a certificate of approval

(a) Any public agency or private non-profit firm, partnership, corporation, association, or agency located within or outside the State of New Jersey that provides adoption services to families in New Jersey or to children from New Jersey, whether as part or all of its function, shall secure and maintain a certificate. Adoption services shall include any one or combination of the following:

1. Pre-placement services;
2. Home studies;
3. Placement services;
4. Post-placement services; and/or
5. Post-adoption services.

(b) The following are not subject to certification requirements under the law:

1. Foster care programs, unless operated as a support to, or as an integral part of the agency's adoption program, as specified in N.J.A.C. 10:121A-1.5;
2. Agencies or organizations that provide adoptive parent recruitment and/or information services only;
3. Self-help or support groups that operate independent of an agency and provide adoption-related information and/or supportive peer assistance to members;
4. Lawyers, law offices or legal services offices that provide only legal services as permitted under the law and court rules; and
5. Agencies, organizations or independent professionals that do not place children for adoption, but provide social work services, mental health, family services or similar services, to the general public, including adoptive families who may choose to use their services.

10:121A-1.8 Inter-country adoption

(a) An agency providing services with reference to inter-country adoption shall comply with requirements of the Federal Immigration and Naturalization Act (P.L. 95-417) and any successor or amending legislation regarding the classification of an alien orphan child as an immediate relative for purposes of an immigration visa.

(b) The Bureau shall maintain a list of certified private adoption agencies that conduct home studies for the adoption of children from foreign countries, and shall make such a list available to interested persons upon request.

(c) Agencies performing inter-country adoptions shall comply with the record keeping requirements of the Manual of Standards for Adoption Agencies, as specified in N.J.A.C. 10:121A-3.6(e).

SUBCHAPTER 2. CERTIFICATION PROCEDURES

10:121A-2.1 Application for a certificate of approval

(a) An organization interested in providing any kind of adoption service shall first secure a certificate of approval from the Bureau, pursuant to the requirements of the State Adoption Law and of this chapter. Operation of an adoption agency without a valid certificate, as required by law, constitutes a misdemeanor, pursuant to N.J.S.A. 9:3-39.

(b) The agency shall file a completed application for a new or renewed certificate with the Bureau at least 60 calendar days prior to the anticipated date of operation or the expiration of an agency's existing certificate.

(c) Applicants for a new certificate shall submit to the Bureau a written plan for the agency's operation that includes the following:

1. A statement of agency purpose, scope of adoption program and target groups to be served, program goals and objectives, description of services, and plans for coordination with other agencies and community resources;
2. A description of organizational structure, including the names of the board of directors and its committees, staff organization charts, number and qualifications of board members;
3. A list of all branch offices of the adoption agency, if any;
4. A list of personnel, including all present and expected staff members who have direct contact with clients, their qualifications and duties;
5. A budget and financial plan, including actual and/or projected statement of revenues and expenses, documentation of sufficient resources to support agency operations, general/comprehensive liability insurance coverage for agency operations, and a listing of fees for service;
6. A copy of the forms to be used by the agency, including applications, intake, case record, evaluation, financial and statistical report forms;
7. A copy of agency incorporation papers and proof of not-for-profit status;
8. A copy of the agency's non-discrimination policy, as specified in N.J.A.C. 10:121A-1.6(b), and approved by the agency's governing board; and
9. A copy of an audit or financial statement, if requested by the Bureau.

(d) An agency applying for a renewal of a certificate of approval shall submit those items listed in (c) 2, 3, 4, and 5 above. An agency shall submit the items listed in (c) 9 above upon request of the Bureau.

10:121A-2.2 Issuance of a certificate of approval

(a) The Bureau shall review the application for a certificate and shall conduct one or more field visits to in-state agencies to ensure that the agency is in compliance with all requirements of the State Adoption Law and of this chapter.

(b) The Bureau shall issue a regular certificate of approval to an agency that has achieved full compliance with requirements of the State Adoption Law and of this chapter.

(c) If the Bureau determines that the agency is in substantial compliance with, but does not meet all applicable requirements of the law and of this chapter, and provided that the extent of the agency's deviation from such requirements is not deemed by the Bureau to be detrimental to the families and children being served, the Bureau shall issue a temporary certificate.

1. When a temporary certificate is issued, the Bureau shall indicate in writing those requirements of this chapter that are currently not being met by the agency.

2. The Bureau shall issue a temporary certificate for a maximum period of six months.

3. The Bureau may renew the temporary certificate as often as it deems necessary, provided however, that the agency shall not operate pursuant to temporary certificates for more than a total of 12 months in any two-year certification period.

4. If the temporary certificate is in the appeal or enforcement process, the Bureau may extend the temporary certificate.

(d) Each certification period, which may include the issuance of one or more temporary certificates and/or one regular certificate, shall be two years.

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1. In determining the expiration date of the first regular certificate of approval, the Bureau shall compute the two-year certification period from the date of issuance of the first temporary or regular certificate.

2. In determining the expiration date of a renewed regular certificate, the Bureau shall compute the two-year certification period from the date on which the agency's previous regular certificate expired. If, however, the agency has ceased to operate for a period of six months following the expiration date of its previous regular certificate, the Bureau shall compute the date of expiration from the date of issuance of a new certificate.

(e) The certificate of approval shall be issued to a particular adoption agency at a particular location and shall not be transferable.

(f) The agency shall display the certificate at all times in a location of prominence within the agency.

(g) No adoption agency shall make claims either in advertising or in any written or verbal announcement or presentation contrary to its certification status.

10:121A-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval

(a) The Bureau may deny, suspend, revoke or refuse to renew an adoption agency's certificate for good cause, including but not limited to the following:

1. Failure to comply with requirements of the State Adoption Law and of this chapter;

2. Violation(s) of the terms and conditions of a certificate;

3. Fraud or misrepresentation in obtaining a certificate or in the subsequent operation of the agency;

4. Refusal to furnish the Bureau with files, reports, records, or other information as required by this chapter;

5. Refusal to permit an authorized representative of the Division to gain access to the agency during normal operating hours. An authorized representative includes:

i. A representative of the Bureau;

ii. A representative of the Department for purposes of investigating allegations of child abuse or neglect;

iii. The Director of the Division or his designee;

iv. The Commissioner of the Department or his designee; and

v. Any person specifically authorized by statute;

6. Any activity, policy or conduct that adversely affects or is deemed by the Bureau to be detrimental to the families and children being served, including but not limited to violations of the requirements of the State Adoption Law, the State Child Abuse Law and this chapter; and

7. Failure of an out-of-state agency to maintain a license, approval or certificate in its own state.

(b) If an agency's certificate is suspended, the Bureau shall issue or reinstate the agency's certificate once the agency achieves compliance with the requirements of the State Adoption Law and of this chapter. In such a case, the Bureau shall not require the agency to submit a new application for a certificate unless such reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(c) The Bureau shall provide written notice to the agency if the agency's application for a certificate is being denied, if the agency's certificate is suspended or being revoked or if the agency's certificate is not being renewed. This notice shall specify the Bureau's reasons for such action.

(d) If the Bureau denies application for revokes, or refuses to renew an agency's certificate of approval, and the reason(s) for the denial, revocation or refusal have been resolved, the agency may reapply to the Bureau for a certificate in order to secure a new certificate prior to resuming operations.

(e) The Bureau may impose conditions upon an agency's adoption services, and shall provide notice if an agency's certification will contain such conditions.

(f) Each certificate issued by the Bureau to an adoption agency remains the property of the State of New Jersey. If an agency's certificate is suspended or revoked, or upon the permanent closing of the agency, the agency shall return the certificate to the Bureau immediately.

10:121A-2.4 Administrative hearings

(a) The Bureau shall afford the agency an opportunity to request an administrative hearing on any issue within this chapter and transfer the matter to the Office of Administrative Law as a contested case.

(b) Where the Bureau proposes to deny, suspend or revoke a certificate, or refuses to renew a certificate, the Bureau shall afford the applicant or agency written notice of an opportunity for an administrative hearing by certified or registered mail or in-person delivery.

1. The notice shall specify the facts and legal authority which form the basis of the proposed action, and shall require an answer requesting a hearing, if desired, within 10 working days of receipt of the notice.

2. If the agency fails to request a hearing within 10 working days of receipt of the notice, the Bureau shall take the proposed action immediately.

(c) The hearing shall be conducted pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq and N.J.S.A. 52:14F-1 et seq.) and the Uniform Administrative Procedure Rules as specified in N.J.A.C. 1:1-1 et seq.

10:121A-2.5 Court action

(a) The Division may institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of an adoption agency for good cause, including but not limited to the following:

1. Any imminent dangers or hazards that threaten the health and safety of children and families served by the agency;

2. Repeated violations of the requirements of the State Adoption Law or of this chapter; or

3. Opening and operating an adoption agency without a certificate or without complying with the requirements of the State Adoption Law or of this chapter.

10:121A-2.6 Complaints

(a) Whenever the Bureau receives a report questioning the certification status or compliance of an adoption agency with requirements of the State Adoption Law or alleging violations of this chapter by the agency, the Bureau shall investigate the allegation within 10 working days to determine whether the complaint is substantiated.

(b) The Bureau shall notify the complainant and the agency in writing of the results of the complaint investigation within 15 working days after the report of the Bureau's investigation has been finalized. Such notification shall include the results of the investigation, pursuant to the State Public Records Act (N.J.S.A. 27:1A-1 et seq.), commonly known as the State Right to Know Law, except that any information not permitted to be disclosed under the Child Abuse and Neglect Law (N.J.S.A. 9:6-8 et seq.) or other law prohibiting such disclosure shall be withheld.

(c) Any individual filing a complaint may do so anonymously. If the complainant reveals his or her identity, the name of the complainant, together with a description of the complaint and its status, shall be included in the Bureau's records and shall be available for public review upon completion of the investigation by the Bureau, pursuant to the State Public Records Law, except that any information not permitted to be disclosed pursuant to the Child Abuse and Neglect Law shall be withheld.

(d) The Bureau shall consider complaints or other notifications regarding an agency's adoption practices in a state other than New Jersey in reviewing that agency's adoption practices, if such complaints have implications for the agency's service in New Jersey.

(e) No agency shall discriminate against a person because of the filing of a complaint under this section.

(f) The agency shall cooperate with the Division's investigations whenever such complaint investigations are conducted.

10:121A-2.7 Public access to Bureau records

(a) The Bureau shall make its adoption agency certification files available for examination during regular business hours by any person and shall supervise any person examining its files on the adoption agency.

(b) The Bureau shall make the following items in the files open to public review:

1. Applicants for certificates and related materials/documentation;

2. Copies of temporary and regular certificates;

3. Correspondence between the Bureau and the agency or other parties in matters pertaining to the Bureau's review, inspection, or certification of the agency;

4. Program evaluation and violation reports, where applicable, reflecting results of Bureau inspections and/or reinspections of the agency;

5. Forms and other standard documents used to collect routine data on the agency and its program as part of its record of compliance with the Manual of Standards;

6. Enforcement letters from the Bureau requiring abatement of violations of the Manual of Standards;

7. Correspondence from the Attorney General regarding enforcement actions against the agency;

8. Chronological lists of events about the agency on compliance and/or enforcement matters;

9. Completed complaint investigation reports, except for child abuse and/or neglect investigations or other information restricted by the requirements of the State Adoption Law or any other state laws; and

10. Any other documents, materials, reports and/or correspondence that would normally be included as part of the public record.

(c) The Bureau shall keep confidential and not part of the public record the following:

1. Records, reports, or correspondence that pertain to child abuse and/or neglect investigations involving children placed or supervised by the agency that are restricted from public access under the requirements of the Child Abuse and Neglect Law;

2. Records, reports, correspondence or forms containing names and/or any other identifying information pertaining to children, birth parent(s), or adoptive parent(s) that are restricted from public access under the sealed records requirements of the State Adoption Law;

3. Confidential information with regard to specific agency personnel;

4. Any items that deal with reports of complaint investigations that are still in progress; and

5. Other material required by law to be maintained as confidential.

(d) Bureau records shall be available for public inspection at the Bureau office during regular business hours. Copies of these records shall be available for purchase in accordance with the public records copy fee schedule set forth at N.J.S.A. 47:1A-2.

SUBCHAPTER 3. ADMINISTRATION

10:121A-3.1 Governing board requirements for private agencies

(a) Each private agency shall have a governing board which shall have the authority to:

1. Set overall policy for the agency; and
2. Ensure the financial viability of the agency.

(b) The governing board shall establish policies pertaining but not limited to:

1. Program and services to clients;
2. Personnel recruitment, selection, training and performance evaluation; and
3. Fiscal operations, including budget and resource development and fund raising;

(c) The governing board shall delegate responsibility for day-to-day operations to an executive director or administrator and shall clearly delineate in writing the respective duties of the governing board and of the executive director or administrator.

(d) The governing board shall have written provisions guiding its composition, including provisions for representation of a variety of community interests and for time-limited terms of office for board members.

(e) The governing board shall meet at least annually and make records of attendance and minutes of each meeting available for inspection by the Bureau.

(f) The governing board shall have a written policy covering conflict of interest, which shall include the following provisions:

1. Board members shall serve without compensation or other material benefit, except that board members may be reimbursed for actual expenses, as determined by the board.

2. The agency shall not use any business that is owned or operated by a board member or in which a board member has a financial interest and shall not use the services of a board member unless the board can document that the goods or services were obtained at a competitive price.

3. Board members seeking adoption services from the agency shall either take a leave of absence from the board or serve as a non-voting member during the period(s) when such services are received. This requirement shall also apply when a person from a Board member's immediate family seeks agency adoption services.

4. The agency shall not require clients to use the consultant services of a board member or of a board member's family.

5. A board member shall not use a board position for personal benefit or for the benefit of relatives, family or friends who are seeking adoption services from the board member's agency.

(g) The board shall oversee the transfer of clients and services and preserve records, as specified in N.J.A.C. 10:121A-3.5(e), whenever an agency terminates its adoption program.

10:121A-3.2 Advisory board requirements for public agencies

(a) Any public agency shall have an advisory board or advisory council that is representative of a variety of interests and points of view in the communities where the agency provides services. The advisory board shall:

1. Keep informed of and make recommendations regarding the operational policies and practices of the agency;

2. Provide advice to the agency on matters of policy, planning, program evaluation and practice;

3. Periodically review aspects of the agency's adoption operation;

4. Meet at least annually and make records of attendance and minutes of each meeting available for inspection by the Bureau; and

5. Adhere to the standards for private agency governing boards, as specified in N.J.A.C. 10:121A-3.1 (d) through (f).

10:121A-3.3 Legal responsibilities

(a) An agency shall be authorized to place children for adoption, accept relinquishment of parental rights, receive custody and/or guardianship of a child and have the right to consent to adoption. An agency that takes custody or guardianship of the child shall also be legally responsible for the child under care or guardianship until the adoption is finalized or until the child's custody and care or guardianship is transferred to another certified agency or person.

(b) When an agency transfers a child, the agency shall document the reasons for such action in the case record and shall verify that the second agency to which the child is being transferred is licensed, certified, or approved in the state where it is based.

(c) A New Jersey-certified agency may provide services for an out-of-state agency only if:

1. The New Jersey-certified agency verifies that the out-of-state agency is licensed, certified or approved in the state where the agency's principal office is located;

2. Both agencies execute a written cooperative agreement that has been approved by the Bureau; and

3. Both agencies develop a written plan that:

i. Defines financial and social work responsibilities before, during and after the placement of each child; and

ii. States that the out-of-state agency shall be financially responsible for any child placed in New Jersey until and unless the child's adoption has been finalized or the child has reached the age of majority or been removed from New Jersey. This requirement shall not affect an out-of-state agency's responsibility for providing subsidy payments to the child subsequent to finalization of the adoption or to the child's reaching the age of majority; or an out-of-state agency's voluntary agreement to assume financial responsibility after finalization of the adoption or until the child's reaching the age of majority.

10:121A-3.4 Information to parents and adoption applicants

(a) The agency shall provide the birth parents and adoptive applicants with a written statement or pamphlet indicating certain parental and agency rights and responsibilities, as specified in N.J.A.C. 10:121A-3.4(b).

(b) The written statement or pamphlet shall contain the following information:

1. That the agency is required to be certified by the Bureau of Licensing of the New Jersey Division of Youth and Family Services pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.);

2. That the agency is required by law to comply with all applicable requirements of this chapter.

3. That the agency shall make a current copy of the Manual of Standards for Adoption Agencies available for review by the parents of children served by the agency;

4. That any parents who believe or suspect that the agency is in violation of any requirements of the Manual of Standards for Adoption Agencies may report such alleged violations to the Bureau of Licensing;

5. That any parent may secure a copy of the Manual of Standards of Adoption Agencies by contacting the Bureau of Licensing, Division of Youth and Family Services and that the Bureau will charge a nominal fee for the manual, in keeping with Department policy;

6. That when so requested by parents of children served by the agency, the agency shall make available for review the Bureau's certification records and any Inspection or Violation Reports on the agency, except for those records prohibited from disclosure, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.10(a)) and to any other laws prohibiting such disclosure.

7. That any person who has reasonable cause to believe that a child being served by the agency has been and/or is subjected to any form of child abuse or neglect or exploitation by any person, whether working at the agency or not, shall report such allegations to the Division of Youth and Family Services Office of Child Abuse Control toll-free hotline (currently 1-800-792-8610 in New Jersey and (609) 292-8799 out-of-state), pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.1 et seq.). Such reports may be made anonymously;

8. That parents may secure information about child abuse and neglect by contacting the Office of Community Education, Division of Youth and Family Services; and

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9. That the agency shall cooperate with the adoptive parents and/or the attorney retained by the adoptive parents in providing all financial information needed for the finalization report, pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.).

(c) When a child has been identified by the agency as having a handicapping condition or suspected handicapping condition and services have not been arranged, the agency shall inform the parent(s) of their child's right to special educational and medical services and shall refer the parent(s) to:

1. The toll-free telephone number of the New Jersey Department of Education, Regional Curriculum Services Unit (currently 1-800-322-8174 in New Jersey and (201) 390-6030 out-of-state) for a possible comprehensive evaluation and individual service plan for the child; and

2. The New Jersey Department of Health, Division of Local and Community Health Services, Special Child Health Services Program (currently (609) 292-5676) for a possible comprehensive medical evaluation for the child.

10:121A-3.5 Reporting requirements

(a) The agency shall orally notify the Office of Child Abuse Control (currently 1-800-792-8610 in New Jersey and (609) 292-8799 out-of-state) immediately whenever there is any allegation received by the agency or other reasonable cause to believe that a child under the supervision or care of the agency has been or is being abused or neglected by any person, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14).

1. The agency shall notify the Bureau of these allegations as well as of any other allegations that were made by other parties and came to the agency's attention.

2. The Division shall make copies of the child abuse law and information about the law available, upon request, to the Community Education Office of the Division of Youth and Family Services.

(b) The agency shall notify the Bureau orally of any of the following changes or events within 24 hours after the agency learns of their occurrence and shall submit written notification to the Bureau within five working days:

1. Unanticipated permanent or temporary closing of the agency or any part thereof;

2. Any criminal convictions of any staff member involved in the agency's adoption program excluding minor traffic violations;

3. Legal action against the agency or a staff member which involves the operation of the agency or any child under the care of the agency, excluding any legal actions unrelated to agency business;

4. Damage to agency facilities which substantially disrupts the program or the agency's accessibility to clients; or

5. Knowledge of any child placement by any other party which the agency has reason to believe is not permitted by law or by this chapter.

(c) The agency shall notify the Bureau in writing at least 30 calendar days prior to any of the following proposed changes and events, if known:

1. Any plans to reorganize the adoption program that would involve changes in target populations, geographic area, services or eligibility, and the reasons for the changes;

2. Any change in the name, location, executive director or administrator of the agency; or

3. Any change in the majority of the membership of the governing board within a calendar year.

(d) The agency shall notify the Bureau in writing 90 calendar days prior to the date when the agency decided to suspend or cease operations of the agency's adoption program.

(e) The agency shall make the following arrangements once a decision to cease its adoption program has been made:

1. Transfer the care and custody of any children in the supervision of the agency to another Bureau-certified agency;

2. Transfer responsibility for any other clients, such as adoptive and/or birth parents in the adoption program to another Bureau-certified agency;

3. Notify the Bureau of the successor agency within 60 calendar days of closing;

4. Transfer all closed adoption records to a successor private agency certified by the Bureau. The closing agency shall ensure that such transfers of closed adoption records are implemented within five years after the agency's adoption program ceases to operate;

5. Send to all current adoption clients, including birth parents, adoptive applicants and adoptive parents as well as adult adoptees and relevant agencies with whom the agency is currently working, a letter explaining its decision to cease operation of its adoption program; and

6. Return its certificate to the Bureau.

10:121A-3.6 Agency records

(a) The agency shall ensure that the following general requirements are met:

1. The agency shall keep all records on file at the agency but may store files that are not currently active in a secure facility, with confidential files under lock and key, provided that the records can be accessed in a reasonable amount of time, if needed.

2. The agency shall make all records available for inspection by authorized representatives, as specified in N.J.A.C. 10:121A-2.3(a)5.

3. The agency shall ensure that all entries in the child, family and personnel records indicate the individual making the entry and the date of the entry.

4. The agency shall maintain the confidentiality of all information in all client case records, including those of the child, birth parents, foster parents, adoptive parents and adult adoptees, except by court order, or as specified in this chapter, or by written consent of the specific party.

i. Staff members or persons associated with or working in cooperation with the agency shall not disclose or knowingly permit the disclosure of any identifying information concerning the child, birth parents, foster parents, adoptive parents or adult adoptees to any unauthorized person(s). Authorized persons are:

(1) Division representatives involved in child abuse and/or neglect investigations, otherwise authorized by statute;

(2) Bureau representatives or designees engaged in review activities related to certification;

(3) Staff members of other agencies acting within the scope of their employment;

(4) Representatives of adoption agencies or the social welfare or law enforcement agencies exchanging information regarding individuals in the care or legal custody of one of the agencies; and

(5) Persons named in court orders for this purpose.

ii. The agency may disclose identifying information to bona fide researchers who have received permission from the Division Director, subject to any restrictions and/or limitations set by the Division Director, and who agree to maintain the confidentiality of the child, birth parents, foster parents, adoptive parents and/or adult adoptees.

iii. The agency shall disclose or permit the disclosure of non-identifying information to the child, adult adoptee, birth parents, foster parents and adoptive parents after verifying the identity of the person making the request.

iv. An agency shall supply full information as permitted by these rules to any party involved in an adoption upon request.

v. The agency shall not give the adoptive parents the names of the birth parents even though the adoptive parents may have learned of the identity of the birth parents before or while the plan for adoption was made.

(b) The agency shall develop, maintain and make available to clients and to the public, upon their request, a written description of its policies and procedures for the following:

1. Eligibility for and provision of services;

2. Contents and maintenance of case records, including confidentiality and access;

3. Client grievances;

4. Rights and responsibilities of the agency and of clients for providing information, access to records, providing services, and payment of fees;

5. Relationship(s) with the courts pertaining to termination of parental rights, custody and guardianship; and

6. Relationship(s) with referring agencies.

(c) The agency shall establish and maintain statistical information on adoption services and shall submit this statistical information to the Bureau on standardized forms provided by the Bureau within 45 calendar days following receipt of the request for such information.

(d) An agency shall maintain case records for each child served and for his or her birth family for 99 years. Certified agencies that work with referring agencies shall make efforts to obtain background information for birth family and child records. These records shall include:

1. Identifying information on the child, including: name according to birth certificate, aliases if any, birthdate, birthplace, sex, race, social security number, national origin, religion, height, weight, color of hair and eyes, identifying marks or any other significant physical characteristics;

2. The name, address, telephone number, birthdate, birthplace, social security number, marital status, race, national origin, religion, and any social, psychological, educational or vocational background information on the birth parent(s), including the putative father or legal guardian(s), if relevant;

3. Name, address, telephone number of a birth family number, or relative to contact in case of emergency;

4. Date of placement and finalization of the adoption;

5. The names, birthdates, and locations of the child's siblings, if any. If the child has siblings, the record shall also include the reason(s) that the sibling(s) were not placed in the same adoptive home;

6. Social, psychological, developmental, educational circumstances including school reports and medical history of the child and copies of any professional recommendations, evaluations, or treatment, including the Adoption Medical Information Form pursuant to N.J.S.A. 9:3-41.1(b), or any other required form issued by the Bureau, and a complete medical history of the birth family;

7. Legal documents pertinent to legal custody and guardianship, including birth records, court reports, proof of voluntary relinquishment or termination of parental rights or their equivalent, documentation of custody or guardianship transferred from one certified agency to another or from an official of the United States or any foreign country with authority to place such child for adoption;

8. All written agreements with parents, guardians, legal custodians, or cooperating agencies including but not limited to consent for foster placement and authorization for necessary medical or surgical care and service and financial agreements;

9. Summary reports of social services with the child and birth family, including possible alternatives to adoption, including pre-and/or post-natal care for the birth mother, temporary care for the birth mother and/or child, reasons for adoption as the plan of choice, and birth parent preferences, if any, regarding characteristics of the adoptive family;

10. Summary of how any child placed for adoption has been prepared for the adoption, including, for children 10 years of age or older, a full description of the child's involvement in the process of adoption planning, and preference regarding characteristics of the adoptive family or documentation of the reason(s) for not consulting the child; and

11. Record of the birth family's contact with the agency after adoptive placement, including updated addresses and telephone numbers.

(e) Foreign adoption records for birth family and child shall include:

1. A list of illnesses and diseases endemic to the child's country of origin and specific infectious diseases to which the child may have been exposed;

2. A description of the child's living arrangements prior to placement, and a record of the child's adjustment to such arrangements; and

3. The specific plan for transportation of the child to the adoptive home.

(f) The agency shall maintain records of home studies of adoptive applicants, who have had a child placed for adoption, for 99 years. These records shall include:

1. Information about the prospective adoptive parent(s) and family, including: name, address, sex, race, birthdate, religion, nationality and citizenship, social security number, educational background, occupation and income, marital status and year of marriage and divorce, if applicable;

2. Information on other members of the immediate family, their names, sex, birthdates, relationship, and addresses, if different from above;

3. Copies of signed service plans and financial agreements;

4. Characteristics of child desired: age range, sex, racial or ethnic background, social, psychological, physical, developmental, educational circumstances acceptable to the family, including any specific limits to the extent of special conditions acceptable to the adoptive family;

5. Summary documents of the adoption home study of the family, including any autobiographical or other self-assessment material provided by the family, the basis for the decision to accept or reject the family or to impose any qualifying conditions, an indication that the decision was made jointly by the social worker and social work supervisor, and a record that the family was informed in writing of the decision within 30 calendar days of the last contact with the family;

6. All references, medical reports, and any background checks, including police and fingerprinting checks, and any other verifications or correspondence used by the agency for the study and evaluation of the adoptive family; and

7. A record of each child being placed in the adoptive home, including the full name, date of placement, supervisory reports covering the child's and family's adjustment, summary report of placement and recommendation, date and place of finalization, record of any contact with the agency after finalization, including updated addresses and telephone numbers.

(g) The agency shall maintain on file records for each foster family used by the agency in support of the agency's adoption service.

1. These records shall be maintained for the following:

i. Placements that were made before termination of the legal parents' rights; and

ii. Temporary care between intended permanent adoptive placements.

2. Such records shall include documentation that the requirements specified in N.J.A.C. 10:121A-5.5(b) were met. Where a foster family is also the adoptive family, the adoptive family records shall include the content specified in (f) above.

(h) The agency shall maintain the following administrative records in its files:

1. Current copies of all written materials required for certification, as specified in N.J.A.C. 10:121A-2.1(c) and (d). When there are changes or modifications in the agency's policies and procedures, the written materials shall reflect such changes;

2. A current copy of the Manual of Standards for Adoption Agencies;

3. Copies of other licenses, certificates, accreditations or evaluations of agency operations, program, and facilities;

4. Copies of board meeting minutes; and

5. Copies of general and/or comprehensive insurance coverage.

(i) An agency shall maintain the following financial records:

1. An annual budget indicating projected revenues and expenses for its adoption program;

2. Policies and procedures governing fees for service, along with fee ranges, if any; and

3. Actual fees paid by clients to or through the agency in connection with adoption services.

(j) The agency shall maintain personnel records on all agency personnel, including paid staff members employed by the agency, paid consultants who provide contracted services and volunteers and students who have direct contact with clients.

1. The personnel record shall include the following information for each staff member:

i. Name, address, and telephone number;

ii. Resume, or application form, including qualifications, work experience and at least two references;

iii. A listing of any criminal convictions, excluding minor traffic violations;

iv. Annual evaluations of job performance;

v. A description of any adoption-related training/development received;

vi. Dates of employment and separation and reason(s) for leaving; and

vii. Description or statement of amount of time the employee works.

2. The agency shall maintain a personnel record for at least three years following the staff member's separation from the agency.

3. The agency may use a consultant contract that contains the information specified above as a personnel record.

10:121A-3.7 Office facilities

(a) The agency facilities shall provide privacy for interviewing and be located within easy access to the public.

(b) The agency shall provide storage space for equipment and furnishings needed to carry out the activities of the adoption program.

(c) The agency shall have a telephone whose number is listed in the public telephone directory.

SUBCHAPTER 4. PERSONNEL

10:121A-4.1 General requirements

(a) An agency shall have one social worker for every 35 children under its care or supervision.

(b) An agency shall have at least two full-time staff members or their equivalents in part-time staff members.

1. An agency shall have one executive director or administrator.

2. The executive director or administrator may also serve as the social work supervisor.

10:121A-4.2 Personnel policies

(a) The agency shall require all applicants for employment to disclose criminal convictions in writing. Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from working in the agency and shall not automatically result in the removal or termination of a director or staff member from his or her position or job. Such determinations shall be made on a case by case basis, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing

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authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought. The agency shall maintain all disclosures on file.

(b) The agency shall develop and maintain on file current written personnel policies and make them available to all staff members. The personnel policies shall be reviewed annually and updated every three years by the agency and include:

1. Criteria and procedures for the assignment, supervision, annual performance evaluation, promotion, suspension or dismissal of a staff member;

2. Job specifications outlining the qualifications, duties and accountability for every category of staff member;

3. Procedures for handling staff member complaints or grievances; and

4. Provisions for responding to any staff member misconduct that constitutes criminal or unethical and/or unprofessional behavior.

10:121A-4.3 Staff development

(a) The agency shall provide orientation for all new staff members regarding the general administrative, personnel, fiscal and program policies, procedures, and practices of the agency.

(b) The agency shall prepare and maintain on file a written staff development program plan. The plan shall specify major content areas to be covered and agency policy regarding requirements for staff development.

1. The agency shall provide at least eight hours of adoption-related training per year to each professional staff member.

2. The agency shall make staff members aware of specific requirements of the State Adoption Law and of this chapter that affect the performance of their duties.

3. The agency shall make staff members aware of the Child Abuse and Neglect Law and shall provide for the training of its staff members in reporting procedures under this law.

10:121A-4.4 Staff qualifications and duties

(a) The executive director or administrator shall have the qualifications and responsibilities as specified below.

1. The executive director or administrator of the agency shall:

i. Have a bachelor's degree from an accredited college or university and two years of professional experience in the human services field, one year of which shall have been in a supervisory or administrative position; or

ii. Have a master's or doctorate degree from an accredited graduate school in business or public administration or in one of the areas of study in the human services field and one year of professional experience in the human services field; or

iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title used for the function of executive director or administrator of the agency.

2. The executive director or administrator shall be responsible for:

i. Developing, implementing and maintaining policy and procedures for program and fiscal operation;

ii. Ensuring that the agency achieves and maintains compliance with the requirements of this chapter;

iii. Employing, evaluating and discharging staff members, in accordance with the agency's established personnel policies as specified in N.J.A.C. 10:121A-4.2;

iv. Establishing and supervising working relationships with other social service agencies within the community; and

v. Maintaining current social services records and statistics, as specified in N.J.A.C. 10:121A-3.6(c).

(b) The social work supervisor shall have the qualifications and responsibilities as specified below.

1. A social work supervisor shall:

i. Have a bachelor's degree from an accredited college or university and four years of professional experience in services to children and families, two years of which shall be in adoption services; or

ii. Have a master's degree in social work or other human services field from an accredited college or university and a minimum of two years of professional experience in services to children and families; or

iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title.

2. The social work supervisor shall be responsible for:

i. The supervision, management, training, and evaluation of all social work staff members, students, and consultants;

ii. The supervision of volunteers whose work involves direct contact with clients;

iii. The approval of all decisions regarding family and child eligibility for service, maternity and child care, transportation and placement arrangements, finalization, and any other changes in the child's legal status; and

iv. The implementation of the agency's adoption program(s) and services, and recommendations regarding changes to the program.

(c) A social worker shall have the qualifications and responsibilities as specified below.

1. A social worker shall:

i. Have a bachelor's degree from an accredited college or university and one year of professional experience in the human services field; or

ii. Have a master's degree in social work or in a related human services field from an accredited college or university; or

iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title.

2. A social worker shall be responsible for:

i. The maintenance of up-to-date case records;

ii. The preparation of home studies for adoptive applicants;

iii. The preparation of other case reports as required by the courts, cooperating agencies, or this chapter; and

iv. Direct service provision of any pre-placement, placement, post-placement, or post-adoption services, delivered to children, birth parents, foster parents, adult adoptees, or related parties within the scope of the agency's approved program.

(d) An agency shall arrange for staff members and/or consultants to provide medical, legal, psychiatric, psychological or other professional services to birth parents, children and adoptive parents whose home studies have been approved by the agency.

1. All staff members and/or consultants shall meet the licensing, certification, or practice requirements established for their respective professions in the states in which they practice.

2. The agency shall not require clients to use medical, legal, psychological, psychiatric or other consultants used by the agency. The agency may use consultants and/or persons selected by agency clients.

(e) The agency shall employ secretarial and other support staff to perform reception, clerical, recordkeeping, bookkeeping and related services necessary to comply with the requirements of this chapter.

(f) Agencies that utilize students for field placements shall have a written plan for using their services.

1. This plan shall describe what services the student is responsible for and what arrangement the agency has for supervising the students.

2. The agency shall give a copy of this plan to each student and his or her school and to the supervising staff members.

(g) An agency may utilize the services of volunteers provided that the agency:

1. Ensures that any volunteer who has direct contact with clients works under the supervision of a professional staff member and does not provide counseling services or make social work decisions unless the volunteer has the qualifications of a social worker, as specified in (c) above.

2. Prepares and maintains on file a written plan and job description for each category of volunteer who has direct contact with clients; and

3. Provides orientation and training to volunteers, as specified in N.J.A.C. 10:121A-4.3(a).

SUBCHAPTER 5. SERVICES

10:121A-5.1 Scope of service

(a) An agency shall provide any or all of the following phases of adoption service:

1. Pre-placement services;

2. Home study services;

3. Placement services;

4. Post-placement services; or

5. Post-adoption services.

(b) An agency that provides a limited range of adoption services shall arrange for other services upon request of the clients.

(c) An agency shall comply with those sections of this subchapter that apply to the phases of adoption service that the agency has chosen to provide.

10:121A-5.2 General requirements

(a) An agency shall maintain on file and make available to its clients information on known resources in the community which may be of use to adoptive parents, birth parents, children and adult adoptees.

(b) Before services are provided, an agency shall make available to its adult clients the following:

1. A written description of its current adoption program, including information on the agency's services, the adoption process, including the availability of subsidy for special needs children, and other major referring agencies with whom the agency works; and

2. A verbal explanation of and a written agreement with the agency, describing specific services to be provided, fees to be charged, and rights and responsibilities of both parties.

(c) An agency that plans to place a child with an out-of-state family or to receive a child from out of state for placement within the State of New Jersey shall notify the Interstate Services Units of the Division and shall comply with regulations governing child placement in the other state, where applicable.

(d) An agency shall comply with the requirements of the Federal Indian Child Welfare Act (P.L. 95-608) for placement of Native American children.

(e) An agency that is unable to locate an appropriate adoptive family within 60 calendar days of the date the child was legally freed for adoption shall:

1. Refer the child to the New Jersey Adoption Resource Exchange, or any successor Statewide exchange; and

2. Refer the child to an interstate or national adoption exchange.

(f) An agency may refer a child to any adoption exchange(s) earlier than is required under (e) above.

(g) An agency that has a special needs child in its care for whom the plan is adoption shall document in the child's record its efforts to develop an adoptive placement.

(h) An agency shall ensure access to its services by persons who are physically disabled or handicapped.

10:121A-5.3 Fees and fiscal practices

(a) The agency shall not consider the clients' willingness to donate money, goods or services or to participate in agency fund-raising efforts in determining their eligibility for services.

(b) The agency shall provide equal access to services to all eligible clients without regard to actual or potential donations of money, goods, time or efforts.

(c) The agency shall prepare and maintain on file a written schedule of all fees charged and provide a copy of the schedule to an agency client before service delivery begins.

(d) The agency shall prepare and maintain on file a written description of its policies and procedures for the setting, collecting, waiver, non-payment and refunding of fees, along with guidelines for exceptions to these policies and procedures.

1. No agency shall withhold finalization of a placement or adoption solely for non-payment of fees.

2. The agency shall make refunds to an eligible client no more than 30 calendar days after receipt of a written request for such refunds from an agency client.

10:121A-5.4 Services to birth parents

(a) An agency shall accept the surrender of a child only after determining that the birth parents or legal guardians are not acting under duress.

1. The agency shall not require the prospective birth mother to sign a statement committing her to any definite plan for the unborn child in order to obtain services.

2. The agency shall not require the birth parent to surrender a child for adoption in order to receive medical services, maternity or residential care, or any other agency service.

i. An adoption agency that directly provides residential facility care, foster home care and/or maternity services to clients shall ensure that such facilities and/or homes meet applicable state licensing, certification or approval requirements.

(b) The agency shall give the father the opportunity to sign a surrender, a denial of paternity or otherwise exercise parental rights to the child pursuant to N.J.S.A. 9:3-45. The agency shall not discourage the birth mother from identifying the father.

(c) Before taking a surrender, the agency shall document that the birth parents were:

1. Offered counseling that fully explores alternative plans for the child, including but not limited to temporary foster care, day care and care by relatives;

2. Informed that only legal parents or legal guardians have the right to custody and control of their child and to surrender their child for adoption;

3. Prepared, along with the child, for surrender and separation;

4. Referred to other community resources when the agency cannot provide needed services;

5. Informed that the agency may contact them in the future if the adult adoptee or adoptive family or emancipated minor requests information or wishes to meet the birth parents;

6. Advised that they may sign a written agreement at any time indicating their willingness to be contacted and/or to provide information if requested by the adoptee or adoptive family; and

7. Asked to update and submit to the agency their address(es) and/or any significant medical information required on the Medical Information Form, so that the medical information could be shared with the adoptive family and/or the adult adoptee.

(d) The agency shall ensure that the birth parents understand the terms of the surrender and realize that the agency will assume custody and will have the right to consent to adoption of the child, pursuant to N.J.S.A. 9:3-41 and N.J.S.A. 30:4c-23.

1. The agency shall ensure that the full terms of this understanding are delineated in writing, signed and dated by the birth parent(s) and agency and maintained on file.

2. The agency shall ensure that the surrendering parent(s) is given the opportunity to state any preferences that he and/or she may have affecting the selection of adoptive parent(s).

3. The agency shall not permit any such preferences to interfere with the agency's authority and responsibility to act in the best interests of the child in selecting adoptive parents or with the agency's obligation not to discriminate in the selection of adoptive parents, as specified in N.J.A.C. 10:121A-1.6 (b).

4. The agency shall not take a surrender before the child is 72 hours old.

5. The agency shall document that birth parents who cannot read English fully understood the meaning of surrender.

6. The agency shall not delay returning a child to a birth parent(s) who decided not to surrender solely because the parent(s) is unable to pay medical and/or other fees.

(e) The agency shall request the court to terminate parental rights where state law provides grounds for termination of parental rights and there is reason to believe that termination of parental rights is necessary for the protection of the child.

(f) The agency shall provide at least one in-person contact with birth parents who request counseling after the child is freed for adoption.

(g) An agency that becomes involved in handling an identified adoption shall ensure that:

1. The birth parents have been offered counseling and alternatives to adoption, as specified in (c) and (d) above.

2. The prospective adoptive parents have met the agency's requirements for other adoptive parents through the home study process, as specified in N.J.A.C. 10:121A-5.6;

3. Neither the birth parents nor the prospective adoptive parents are bound to a proposed placement until after the completion of (g) 1 and 2 above;

4. Both the birth parents and the adoptive parents have signed an agreement with the agency specifying the terms and conditions of the proposed placement and the rights and responsibilities of each party; and

5. The child and adoptive parents have received placement services, as specified in N.J.A.C. 10:121A-5.7, and post-placement services, as specified in N.J.A.C. 10:121A-5.8.

10:121A-5.5 Pre-placement services to the child

(a) The agency shall complete a comprehensive study for each child evaluated for adoption. The study shall include:

1. A medical examination of the child at birth or at the time when the agency assumed custody and again within 30 calendar days before placement in an adoptive home to determine the child's health and any factors that may interfere with normal development;

2. Information to the extent available about the child's birth family to determine hereditary factors or pathology that may affect the child's normal development and potentialities as required on forms developed by the Commissioner of the Department of Human Services, pursuant to N.J.S.A. 9:3-41.1(b);

3. Information on previous placements, if applicable;

4. Any specialized evaluations for a physically and/or mentally handicapped child to help better understand the child's strengths and limitations;

5. The child's involvement in the adoption or documentation of the reason(s) for not involving the child; and

6. A careful evaluation of the advisability, in terms of best interest, and feasibility of placing the child together with full or half-siblings whose permanency goal is also adoption or who may have been placed for

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adoption previously. The agency shall document, in the case record of the child for whom adoption is currently being planned, any contraindicators and/or barriers to the co-placement of siblings, regardless of when they became legally free for adoption.

(b) The agency shall provide foster care services, as necessary, to ensure the health and safety of children who are waiting for legal clearance and/or adoptive placement.

1. The agency shall establish written criteria by which foster parent applicants are eligible to apply to the agency to provide foster care for a child.

i. The agency shall ensure that the criteria apply equally to all applicants.

ii. The agency shall make the criteria available to the Bureau, to all prospective foster parent applicants and, upon request, to any person.

2. Before approving foster parents, the agency shall ensure that foster parents:

i. Submit written reports of medical examinations conducted within the past calendar year for all household members. These reports shall indicate that all household members are free of communicable diseases or other medical impediments to the placement of foster children in the home.

ii. Submit a physician's written statement attesting that the foster parents' health status is such that they are physically capable of providing foster care services;

iii. Submit three written references that shall be stored in the foster family's record; and

iv. Allow the agency to conduct a home visit so that the agency can prepare a written assessment before the home is used.

3. Before a child is placed in an approved foster home, the agency shall ensure that the foster parent(s) signed an agreement that specifies the terms and conditions of service and financial remuneration.

4. If a foster home has not been used for a year, the agency shall update the evaluation of the home before placing a child.

(c) The pre-placement services shall be recorded in the child's record, as specified in N.J.A.C. 10:121A-3.6(d).

10:121A-5.6 Home study services

(a) Throughout the home study, the agency shall provide social work services to help applicants decide if adoption is the best plan for them.

(b) The agency shall establish and maintain on file written criteria by which adoptive applicants are eligible to apply to the agency to adopt a child.

1. The agency shall ensure that the criteria apply equally to all applicants.

2. The agency shall make the criteria available to the Bureau, to all prospective adoptive applicants and, upon request, to any person.

(c) The agency shall ensure that the adoptive applicants:

1. Have attained the age of 18 years and be at least ten years older than the child being adopted. If the applicant is not 10 years older than the child to be adopted, the agency may petition the court to waive the requirement; and

2. Have the capacity to meet the child's physical and emotional needs.

(d) The agency shall also ask applicants to report any history of child abuse or neglect or any criminal record, excluding minor traffic violations. Agencies working with applicants who have a history of abuse, neglect or criminal conviction shall give careful consideration to whether their past conduct would pose a threat to the safety and/or security of a child placed for adoption, pursuant to N.J.S.A. 2A:16A et seq.

(e) The agency shall advise the applicants of the home study process, including the length of time involved. The home study process shall consist of at least three in-person contacts and include the following:

1. Joint and individual interviews with married applicants. Individual interviews with spouses may be counted as separate in-person contacts;

2. Interviews with all members of the applicants' household by individual or group interview process;

3. At least one visit to the residence of the applicant(s);

4. A review of the applicant's current job reference(s):

i. If the applicant states that a request for a current job reference will jeopardize the applicant's employment status, the agency shall obtain a reference from a previous employer.

ii. If a previous employer is not available, the agency shall obtain a reference from an appropriate alternative such as a former teacher or the applicant's supervisor of a volunteer activity; and

5. A review of three personal references from persons unrelated to the applicant(s):

i. The agency shall obtain at least one reference who has known the applicant for five years.

ii. The agency shall obtain at least one reference from a neighbor of the applicant(s).

(f) The agency shall obtain information on the applicants. Such information shall include but not be limited to:

1. Identifying information such as: name, address, age, occupation, citizenship, race and ethnic background, education, social security number, religion (if any), and children in the home;

2. A description of each adoptive applicant's awareness and sensitivity to special issues that adopted children need to resolve, including the child's identity, attitudes toward birth parents and circumstances of the child's availability for adoption;

3. The family's recognition of the importance of and the family's plans for helping the child accept being adopted. For parents planning to adopt a child whose racial or cultural background is different from theirs, the home study shall include an assessment of the parent's awareness of, sensitivity to, and plans for dealing with those differences within their own family and in the community;

4. Applicants' interests, hobbies, child caring skills, strengths and weaknesses and how they see themselves and each other;

5. Philosophies on child rearing, discipline, parental roles, experience with children;

6. Emotional stability and maturity of the applicant(s), including understanding of and ability to cope with problems, stress, frustration, crisis, separation and loss, capacity to give and receive affection, and ability to distinguish between their needs and those of the child;

7. State of their marital relationship, decision making, communication, roles in the family and how they handle differences of opinion, if relevant;

8. The attitudes of other members of the family and of significant other persons involved with the family towards the adoption, description of them as individuals and how they interact as a family, and adjustment of other children in the family;

9. Each parent's family life history that includes: childhood experiences, what their home life was like, their parents' method of discipline and handling problems, their family ties, current family relationships and relatives' attitudes towards adoption;

10. Each parent's agreement that corporal punishment, including hitting and shaking, as well as abusive language and ridicule are unacceptable means of discipline;

11. Written medical reports on each applicant that include health history, current state of health, results of laboratory tests or x-rays ordered by the physician, and the physician's recommendation on the applicant's health status as it relates to the applicant's capacity to be an adoptive parent;

12. Verifications of present or previous marriage(s) and divorces of each adoptive applicants, including deaths of former spouses when there was no divorce;

13. Disclosure of any history of child abuse or neglect or of any criminal conviction, excluding minor traffic offenses;

14. Location and description of physical environment of the residence and neighborhood;

15. Statement of income and financial resources, and a description of the applicant's capacity to manage finances;

16. A description of the type(s) of children the adoptive applicants can accept, including age range, racial or ethnic background, sex, sibling groups, and physical, social, emotional, or developmental disabilities in the child;

17. A description of any birth family background problems, such as medical or hereditary problems, incest, mental illness, or drug use; and

18. A description of the applicant's capacity to make viable child care arrangements while the applicant(s) is employed, if relevant.

(g) After the home study has been conducted, the social worker who conducted the study and the social work supervisor shall co-sign a letter to the adoptive parents or otherwise indicate in writing that the approval or rejection decision was made jointly.

1. The agency shall make the approval or rejection decision after carefully assessing all the information obtained during the home study.

2. The agency shall inform the applicant(s) of its decision in writing within 30 calendar days after the last contact with the applicant(s).

i. When an applicant is approved, the agency shall describe the type(s) of children who can best adjust to the family and to whom the family can best adjust. If the recommendation of the type(s) of child(ren) to be considered is different from the applicant's choice, the agency shall document in the adoptive family record the results of the discussion between the social worker and the applicant on this point.

ii. When an applicant is not accepted, the agency shall:

(1) Explain to the applicant the reason(s) that a child cannot be placed with the family;

(2) Offer the applicant at least one in-person contact to help the applicant adjust to the agency's decision; and

(3) Provide the applicant information, both verbally and in writing, of the agency's grievance procedure.

(h) Upon receipt of a written request from adoptive applicants who have undergone a home study for an intercountry adoption, the agency shall forward to the applicants the home study within 30 calendar days of the request.

(i) For applicants who have been studied, approved and placed on a waiting list for longer than one year from the time their home study was approved, the agency shall update the home study before a child is placed into the home. The updated home study shall include:

1. One or more interviews with all members of the applicants' household; and

2. Medical reports within the past year for all members of the applicant's household.

(j) For applicants who are being considered for adoption of one or more additional children, the agency shall:

1. Update the home study as specified in (i)1 and 2 above.
2. Evaluate the adjustment status of the previously placed child(ren) with the family.

10:121A-5.7 Placement services

(a) The agency shall have responsibility for the selection of adoptive parents for a child.

1. The agency shall not place a child for adoption before documenting in the child's record the reason(s) for placing the child with the adoptive family.

2. The agency shall document in the child's record efforts to place siblings together in the same adoptive home; if a child is not to be placed together with siblings who are also legally free or who were adopted previously, the agency shall document in the child's record at the time of placement the reasons that co-placement was not in the child's interest or the factors that made co-placement unfeasible.

3. The agency shall give the adoptive parent(s) a written explanation of their rights and responsibilities regarding the child during the supervision period. Such information shall include, but not be limited to, areas of medical care, financial responsibilities, travel outside the state and any areas where the law requires the consent of a parent or guardian.

4. In instances where an agency that is not certified by the Bureau is involved with a Bureau-certified agency, both agencies shall share information and reach a mutual decision on each adoptive placement.

5. The agency shall not disqualify any adoptive parent(s) rejected for a particular child from being considered for the adoption of another child, unless basic conflicts about adoption and/or parenting style are revealed, or the adoptive parent(s) are unable to accept the children who are available for adoption through the agency.

(b) The agency shall provide the following information to adoptive parent(s):

1. A telephone number to contact in case of emergency;

2. A written history of the child, including developmental and medical history and reason(s) for surrendering the child. If the child has special needs, the agency shall provide the applicant(s) with an assessment of the child's long-term needs, along with written information about the availability of subsidy and a list of community resources that provide services to address the child's needs;

3. An explanation that the adoptee may ultimately wish to seek information contained in the permanent record concerning his or her birth family and may in the future attempt to contact the birth family; and

4. An explanation that the agency may contact the adoptive parent in the future to convey updated information about the adoptee's birth family.

(c) The agency shall comply with the following escort and/or transportation requirements:

1. An agency engaged in transporting children for adoption shall ensure that adoptive parents or other escorts who accompany children from a referring agency to their adoptive families are informed of the child's medical needs;

2. An agency that provides or arranges for escort transportation service for children as part of its adoption program shall ensure that no child is left unattended during any portion of the trip to the adoptive family, unless the agency documents in the child's record that the child is physically and emotionally capable of traveling independently;

3. Persons providing children's escort services for an agency shall have a written statement from the agency describing their respective authority

and responsibilities and shall carry proper identification, including their name and the agency's name while performing their duties.

i. The agency shall provide escorts with emergency information, names, telephone numbers and appropriate medical supplies and shall arrange for the safe and expeditious transfer of children to their adoptive parent(s) upon arrival.

ii. The agency shall require proof of identification by any person accepting temporary or permanent responsibility for the child's arrival; and

4. The agency shall document the escort and/or transportation plan in the child's record.

10:121A-5.8 Post-placement services

(a) For non-foster parent agency placements, the agency shall:

1. Visit the home within 14 calendar days of the adoptive placement and document in the child's record that:

i. The child's background information was reviewed with the adoptive parent(s);

ii. The adoptive parent(s) and child were given reassurance that their feelings, worries and joys are natural and understandable;

iii. School age children have an educational plan, pursuant to N.J.S.A. 30:4c-26(c) and N.J.S.A. 18A:7B-12(a); and

iv. Working parent(s) have made child care arrangements.

2. For children under five years of age, the agency shall:

i. Conduct bi-monthly home visits after the first visit until the adoption is finalized;

ii. Document in the child's record that all members of the adoptive family's household were interviewed during the placement supervision period; and

iii. Document in the child's record that the following issues were discussed:

(1) How the presence of the child changed marital and/or sibling relationships and how the child and extended family view each other;

(2) What role each family member has assumed regarding child care and discipline; and

(3) How parents cope with demands of a crying infant and/or a child who "tests" the placement and how the family reacts to these episodes including any feelings of insecurity about doing the "right" thing.

3. For children age five or older, the agency shall:

i. Conduct monthly visits during the minimum supervisory six-month period and then bi-monthly visits until the adoption is finalized;

ii. Document in the child's record that the child was interviewed privately about his feelings about the adoption at each supervisory visit; and

iii. Document that the following issues were discussed:

(1) How the presence of the child changed marital and/or sibling relationships and how the child and extended family view each other;

(2) What role each family member has assumed regarding child care and discipline;

(3) How the child "tests" the placement and how the family reacts to these episodes, including any feelings of insecurity about doing the "right" thing;

(4) How the family perceives the child's sense of identity and the need to fill in gaps in the child's history; and

(5) How the child has adjusted to the school environment.

(b) For foster parent adoptions, the agency shall conduct home visits at least every two months from the time legal consent for adoption has been signed until the finalization of adoption.

1. The agency shall interview a child five years of age or older privately to discuss the child's feelings about the adoption before the consent is signed and during each supervisory visit. The agency shall document these interviews in the child's record.

2. The agency shall document in the child's record that all members of the adoptive family's household were interviewed before the consent was signed.

(c) An agency that provides services as part of an Adoption Complaint Investigation shall:

1. Conduct a home visit within two weeks of receiving notification from the court;

2. Conduct bi-monthly visits thereafter until the adoption is finalized;

3. Submit written reports as ordered by the court; and

4. Provide the adoptive parents with a copy of any report that contains material or recommendations adverse to the adoption.

(d) If a child is in an adoptive home for two or more years without the adoption being finalized, the agency shall document to the Bureau in writing the reason(s) that the adoption has not been finalized. Such information shall be provided no later than 30 calendar days after the two-year adoptive placement supervision period has ended.

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(e) The agency shall remove the child only if his or her security and well-being are impaired or his or her needs are no longer served by the adoptive placement.

(f) The adoptive parents may request the removal of the child if they decide that they no longer want to adopt the child.

(g) The Division may remove a child where there is reason to believe that the child has been abused or neglected and that the continued placement with the adoptive family poses a serious or irremediable risk to the child pursuant to N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14.

(h) When a child is removed from an adoptive placement, the agency shall:

1. Place the child in another adoptive home or make other suitable living arrangements for the child;

2. Document how the child was assisted with separation;

3. Offer counseling consisting of at least two in-person contacts with the former adoptive parents; and

4. Offer supervision and/or consultation to the social worker responsible for the child removed from the adoptive home.

(i) The agency shall cooperate with the adoptive parents and/or the attorney, if any, retained by the adoptive parents to finalize the adoption.

1. The agency shall provide all information and documents needed to finalize the adoption pursuant to State Adoption Law (N.J.S.A. 9:3-37 et seq.) and shall file a written report to the court at least five calendar days before the hearing. This information shall include:

i. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;

ii. The name, age and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parents;

iii. The certified agency or other source from which the adoptive parents received the child to be adopted;

iv. The circumstances surrounding the surrender of the child to the agency;

v. The results of the agency's evaluation of the child and of the adoptive parent(s), including a description of the care being received by the child and the adjustment of the child and parent(s) as members of a family, and a summary statement of the agency's recommendation to the court regarding finalization;

vi. A full description of all property belonging to the child to be adopted;

vii. The name by which the child to be adopted will be known; and

viii. An itemized statement of any and all fees and costs paid by the adoptive parents to an approved agency in connection with the adoption. Such costs shall include but not be limited to expenses related to any of the following:

(1) Birth of the child, including pre- and post-natal medical, hospital or foster care received by the mother or child;

(2) Application and home study costs;

(3) Pre-adoptive care of the child, whether in foster, group, residential or institutional care;

(4) Costs related to the child's placement, including transportation and escort costs;

(5) Costs related to post-placement supervision; and

(6) Finalization costs and other associated legal expenses.

2. If the agency's report to the court contains any material findings or recommendations adverse to the adoptive parent(s), the agency shall serve a copy of the report to the adoptive parent(s) at least five working days before the hearing.

3. The agency shall solicit and consider the child's wishes concerning adoption.

4. The agency shall ensure that any child who is age 10 or older is present at the finalization hearing unless the child's presence is waived by the court.

10:121A-5.9 Post-adoption services

(a) After the child has been legally adopted, the agency shall provide the opportunity for the clients to return voluntarily to the agency for services relating to adoption only after verifying the identity of the person making the request.

(b) An agency shall provide the following post-adoption services:

1. Storing updated information provided by the birth parent(s), adoptee or adoptive parent(s) with the medical information form, as specified in N.J.A.C. 10:121A-3.6(d)6;

2. Providing non-identifying information to clients upon request;

3. Information about and referral to community resources, such as other counseling services, support groups, adoption registries, or sources of personal information that may be useful to adoptees, birth parents, or adoptive parents, or their relatives.

(c) An agency may counsel members of the birth family, adoptive family, or minor and adult adoptees in the following situations:

1. When there is continued interest in background information about any other party involved in the adoption; or

2. When any party involved in the adoption is having difficulty in personal and/or social adjustment to the extent that it is related to the adoption.

CORRECTIONS

THE COMMISSIONER

The following proposals are authorized by William H. Fauver, Commissioner, Department of Corrections.

Submit comments by September 16, 1987 to:

Elaine W. Ballai, Esq.

Special Assistant for Legal Affairs

Department of Corrections

CN 863

Trenton, New Jersey 08625

(a)

Inmate Discipline

Introduction; scope

Proposed Amendment: N.J.A.C. 10A:4-1.2

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1987-320.

The agency proposal follows:

Summary

The proposed amendment modifies N.J.A.C. 10A:4-1.2(a) relating to expanding the scope of Chapter 4, Inmate Discipline, to make the disciplinary process outlined in subchapters 2 through 12 (N.J.A.C. 10A:4-2 through 12) applicable to the Girl's Unit of the Training School for Boys at Skillman.

Social Impact

The proposed amendment will enable the Department of Corrections to implement administrative due process safeguards in the disciplinary process that will be utilized in the Girl's Unit of the Training School for Boys at Skillman.

Economic Impact

The proposed amendment will have no significant economic impact because sufficient staff and financial resources are available to implement and maintain the proposed disciplinary process.

Regulatory Flexibility Statement

The proposed amendment impacts upon inmates and the Department of Corrections. Since small businesses are not affected by this proposed amendment, a regulatory flexibility analysis is not required.

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

10A:4-1.2 Scope

Subchapter 2 through subchapter 12 shall be applicable to the Division of Adult Institutions, the Training School for Juveniles at Jamesburg, **the Girl's Unit of the Training School for Boys at Skillman** and the Juvenile Medium Security Unit unless otherwise indicated.

(b) (No change.)

(b)

Inmate Orientation and Handbook

Proposed New Rules: N.J.A.C. 10A:8

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1987-321.

The agency proposal follows:

Summary

The proposed new rules provide guidelines for conducting orientation sessions and publishing the Inmate Handbook which provides information, to newly admitted inmates, on the rules, services and programs of a correctional facility.

Social Impact

The proposed new rules will have no new or additional social impact on the public or correctional facilities since they simply reflect a codification of existing standards into rules.

Economic Impact

The proposed new rules will have no new or additional economic impact because correctional facilities are already adhering to these standards and no additional costs are necessary to implement or maintain them.

Regulatory Flexibility Statement

The proposed new rules impact upon inmates and the Department of Corrections. Since small businesses are not affected by this proposal, a regulatory flexibility analysis is not required.

Full text of the proposed new rules follows:

CHAPTER 8 INMATE ORIENTATION AND HANDBOOK

SUBCHAPTER 1. INTRODUCTION

10A:8-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish policies and procedures for informing inmates about the rules, procedures, services and programs of the correctional facility; and
2. Establish the policies and procedures for publishing the correctional facility's Inmate Handbook.

10A:8-1.2 Scope

This chapter shall be applicable to all correctional facilities within the Department of Corrections unless the context clearly indicates otherwise.

10A:8-1.3 Definitions

"Inmate Handbook" means a booklet that is provided to inmates which contains correctional facility rules and procedures, and information about services and programs.

"Orientation" means one or more sessions provided at the Reception Center and other correctional facilities to familiarize inmates with rules, procedures, services and programs.

SUBCHAPTER 2. ORIENTATION

10A:8-2.1 Responsibility for the Orientation Program

The Superintendent of the correctional facility shall designate a staff person to be responsible for the Orientation Program.

10A:8-2.2 Staff participation

Staff members from various correctional facility administrative units (such as, Classification, Custody, Business Office, Education, Medical, Social Work, etc.) shall participate in orientation sessions and shall describe the programs, services and/or activities of their units.

10A:8-2.3 Scheduling orientation

(a) An inmate shall be given an orientation within three weeks of admission to the Reception Center.

(b) Upon assignment or transfer to another correctional facility, the inmate shall be given an orientation within three weeks following admission to the new correctional facility.

(c) Ongoing orientation sessions shall be conducted as needed to inform inmates of:

1. New or revised policies and rules;
2. New or revised procedures;
3. Programs;
4. Services; and
5. Activities.

10A:8-2.4 Content of orientation sessions

(a) The material contained in the correctional facility's Inmate Handbook shall be used as a guide for orientation sessions.

(b) Topics of orientation sessions shall include, but shall not be limited to:

1. Rights and privileges of inmates:
 - i. Correspondence;
 - ii. Visits;
 - iii. Telephone calls;
 - iv. Inmate savings accounts;
 - v. Inmate legal services;
 - vi. Inmate business activities; and
 - vii. Ombudsman.
2. Work opportunities;

3. Institutional services:

- i. Psychological;
 - ii. Psychiatric;
 - iii. Counseling (individual and group);
 - iv. Social work;
 - v. Educational;
 - vi. Religious activities;
 - vii. Medical and dental care; and
 - viii. Clothing.
4. Recreation and leisure time activities;
 5. Personal hygiene;
 6. Personal property;
 7. Housekeeping;
 8. Discipline;
 9. Time and sentences;
 10. Detainers;
 11. Community Release Programs; and
 12. Parole/expiration of sentence:
 - i. Financial aid.

SUBCHAPTER 3. INMATE HANDBOOK

10A:8-3.1 Responsibility for the Inmate Handbook

The Superintendent shall designate a staff person to be responsible for developing, reviewing, revising, printing and issuing the Inmate Handbook.

10A:8-3.2 Inmate Handbook distribution

Each inmate shall be given a copy of the Inmate Handbook within two days of admission to the correctional facility.

10A:8-3.3 Inmate Handbook revision

(a) The Inmate Handbook shall be updated at least every two years and bear the date of the most recent revision.

(b) The Inmate Handbook revision shall be based on an overall review of the correctional facility's written policies and procedures.

10A:8-3.4 Review by division office

(a) Prior to printing a revision of the Inmate Handbook, two copies of the draft with the proposed revisions shall be submitted to the appropriate Assistant Commissioner's Office for review and written approval.

(b) When the approved draft of the revised Inmate Handbook has been printed, a copy of the revised Inmate Handbook shall be submitted to the appropriate Assistant Commissioner's Office.

10A:8-3.5 Inmate Handbook content

(a) The Inmate Handbook shall contain an introduction which explains, in plain language, the philosophy of the facility.

(b) The Inmate Handbook shall also include, but shall not be limited to, an explanation and/or description of:

1. The reception process;
2. The classification process;
3. The rights and privileges of inmates:
 - i. Correspondence;
 - ii. Visits;
 - iii. Telephone calls;
 - iv. Inmate accounts;
 - v. Inmate legal services;
 - vi. Inmate business activities; and
 - vii. Ombudsman.
4. Work opportunities;
5. Institutional services:
 - i. Psychological;
 - ii. Psychiatric;
 - iii. Counseling (individual and group);
 - iv. Social work;
 - v. Educational;
 - vi. Religious activities;
 - vii. Medical and dental care; and/or
 - viii. Clothing.
6. Recreation and leisure time activities;
7. Personal hygiene;
8. Personal property;
9. Housekeeping;
10. Time and sentences:
 - i. Commutation and work time credits (earning, loss and restoration);
 - ii. Jail and street time calculation;
 - iii. Minimum and maximum sentences;
 - iv. Concurrent and consecutive sentences;

- v. Indeterminate sentences;
- vi. Aggregation of sentences;
- vii. Multiple offender sentences;
- viii. Life sentences;
- ix. Mandatory minimum sentences;
- x. Payment of fines; and
- xi. Detainers.
- 11. Community Release Programs;
- 12. Other programs and services; and
- 13. Parole/expiration of sentences:
- i. Financial aid.

LABOR (a)

DIVISION OF WORKPLACE STANDARDS

Safety and Health Standards for Public Employees Hazardous Waste Operations and Emergency Response

Proposed Amendments: N.J.A.C. 12:100-2.1, 4.2, 5.2 and 6.2

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

Authority: N.J.S.A. 34:6A-25 et seq., specifically 34:6A-30.

Proposal Number: PRN 1987-329.

Submit comments by September 16, 1987 to:

William J. Clark, Assistant Commissioner
Division of Workplace Standards
New Jersey Department of Labor
CN 054
Trenton, New Jersey 08625-0054

The agency proposal follows:

Summary

The Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq., requires the Department of Labor to establish health and safety standards for public employees.

On November 5, 1984, rules were promulgated by the Commissioner which adopted the Federal Occupational Safety and Health Administration (OSHA) standards by reference in N.J.A.C. 12:100, Safety and Health Standards for Public Employees.

On December 19, 1986, Federal OSHA issued an interim final rule, which became effective immediately. This was published in the Federal Register on December 19, 1986. This rule amends the Federal OSHA standards for hazardous materials by adding a new Section 1910.120 to Subpart H of 29 CFR Part 1910. This 29 CFR Part 1910.120, Hazardous Waste Operations and Emergency Response addresses operations involving hazardous substance response; clean-up; and hazardous waste storage, disposal and treatment. This section consists of sixteen paragraphs and four appendices as follows:

Paragraphs

- (a) Scope, application and definitions
- (b) General requirements
- (c) Site characterization and analysis
- (d) Site control
- (e) Training
- (f) Medical surveillance
- (g) Engineering controls, work practices, and personnel protective equipment
- (h) Monitoring
- (i) Informational programs
- (j) Handling drums and containers
- (k) Decontamination
- (l) Emergency response
- (m) Illumination
- (n) Sanitation for temporary worksites
- (o) Certain operations conducted under resource conservation and recovery act of 1976
- (p) Start-up dates

Appendices

- A. Personal protection equipment, test methods
- B. General description and discussion of the levels of protection and protective gear
- C. Compliance guidelines
- D. References to appendix

N.J.S.A. 34:6A-30 states, in part: ". . . the Commissioner shall provide, at the minimum, for the adoption of all applicable occupational health and safety standards, amendments or changes adopted or recognized by the Secretary under the authority of the Occupational Safety and Health Act of 1970." This interim final rule is an amendment as described above and is the rule which the Division of Workplace Standards of the Department of Labor proposes to adopt herein by reference. This new Federal rule, 29 CFR Part 1910.120, Hazardous Waste Operations and Emergency Response can be adopted by reference by amending the definition of "CFR" and amending N.J.A.C. 12:100-4.2(a), 5.2(a), and 6.2(a).

It should be noted that paragraph (p) of 29 CFR 1910.120 addresses start-up dates. These dates represent implementation dates set by the United States Department of Labor for the protection of employees in the private sector by private employers. These dates are not applicable to the State program and are not adopted by reference to apply to public employers and employees. This fact is recognized in the State rules by N.J.A.C. 12:100-4.2(b) which applies and reads:

"(b) Only standards relating to employee safety and health (that is, substantive rules) are adopted by any incorporation by reference as prescribed in (a) above."

Social Impact

This proposal will protect the health, safety and welfare of public employees engaged in hazardous waste and contaminant operations. There exists sufficient documented scientific information that exposure to these substances at concentrations above the permissible exposure limits is associated with occupational disease and ill-health symptoms.

Implementation of this proposal will reduce illness occurring among public employees. The proposal will improve working conditions, reduce the demoralization and disorganization caused by time lost because of hazardous waste exposures, and it will enhance the welfare and morale of public employees affected.

Economic Impact

Compliance with these rules will impose some increased costs on public employers. For example, under paragraph (c), site characterization, it is required that "frequent and regular inspections of the job site" be made. The creation and implementation of the described employee training program under paragraph (e) will involve outlays of additional funds.

The legislature was aware that there would be increased costs associated with providing public employees with the benefits of an occupational safety and health program, but decided that the safety and health of public employees in the workplace was an overriding public concern. Against this acknowledged increase in costs to implement this rule, there must be placed in perspective the savings in workers' compensation payments, and medical and social security payments.

State agencies will incur some additional costs as they comply with this proposed rule. Other governmental bodies, municipal and county agencies such as fire services and utility authorities, will bear additional expenses from this proposed rule.

Regulatory Flexibility Statements

This proposal does not impact upon small business. Only public employers in the State of New Jersey will be affected; therefore, a regulatory flexibility analysis is not required.

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

12:100-2.1 Definitions

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

...
"CFR" means Code of Federal Regulations [in effect on the date this chapter was last amended].
...

12:100-4.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1910, General Industry Standards in effect on December 19, 1986 are adopted as occupational safety and health standards for the protection of public employees engaged in general operations and shall include:

1.-18. (No change.)

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

12:100-5.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1296, Construction Industry Standards in effect on July 21, 1986 are adopted as occupational safety and health standards for the protection of public employees engaged in construction operations and shall include:

1.-22. (No change.)

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

12:100-6.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1928, Agriculture in effect on July 21, 1986 are adopted as occupational safety and health standards for the protection of public employees engaged in agricultural operations and shall include:

1.-4. (No change.)

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

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF MEDICAL EXAMINERS

Licensing Examinations and Endorsements, Fee Schedule, Limited Exemption from Licensure Requirement

Standards for Licensure of Physicians Graduated from Medical Schools Not Approved by American Accrediting Agencies

Proposed Amendment: N.J.A.C. 13:35-3.11

Authorized By: New Jersey State Board of Medical Examiners, Edward W. Luka, President.

Authority: N.J.S.A. 45:9-2.

Proposal Number: PRN 1987-312.

Submit comments by September 16, 1987 to:

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

The agency proposal follows:

Summary

This proposed amendment would reinstitute the limitation originally set forth in N.J.A.C. 13:35-3.11, which imposed a prerequisite of three years of postgraduate training on foreign medical graduates who had obtained their medical degrees after July 1, 1985. When the section was amended, effective March 17, 1986, an inadvertent omission of that proviso had the effect of requiring three years of postgraduate training of all graduates of foreign medical schools, regardless of the date on which the degree was obtained. Since it was not the Board's intention to apply this requirement in this manner, the Board now seeks to amend the rule to conform to its earlier ruling and its present practice.

Social Impact

The Board would anticipate that the proposed amendment would have no social impact since the Board has been applying the restriction contained in the rule to only those applicants who have graduated from foreign medical schools after July 1, 1985.

Economic Impact

Again, because the Board has not changed its prior practice to conform to a strict reading of the rule with the inadvertent omission, no economic impact is anticipated.

Regulatory Flexibility Statement

Since this proposed amendment rule does not impose reporting, recordkeeping or other compliance requirements on small businesses, the analysis mandated by P.L. 1986, c.169, is not required.

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

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.)

(k) Any applicant having received a medical degree on or after July 1, 1985 shall also demonstrate successful completion of a three year post-graduate training.

(b)

DIVISION OF LAW

Distribution of Forfeited Property

Proposed New Rule: N.J.A.C. 13:77

Authorized By: W. Cary Edwards, Attorney General of New Jersey.

Authority: N.J.S.A. 2C:64-6.

Proposal Number: PRN 1987-331.

Submit comments by September 16, 1987 to:

W. Cary Edwards
Attorney General
Richard J. Hughes Justice Complex
25 Market Street
CN 085
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to a recent modification of the State's forfeiture laws, forfeited property and proceeds must now be used solely for law enforcement purposes and must be designated exclusively for the use of any law enforcement agency which contributed to the surveillance, investigation, arrest or prosecution resulting in the forfeiture. Accordingly, the Attorney General is promulgating standards to implement and enforce the new law consistently and fairly.

The prosecuting authority shall determine the appropriate share of each participating law enforcement agency, including that of the prosecuting agency itself. The share will be distributed to the funding entity of the participating law enforcement agency and fully credited to the use of the law enforcement agency, except that the funding entity of the prosecuting authority may first deduct the reasonable expense of administering the Trust Fund. The law enforcement agency shall use forfeiture proceeds only for approved law enforcement purposes. Any law enforcement agency distributing, receiving or expending forfeited property, proceeds or money shall maintain full records documenting these distributions, receipts and expenditures and shall submit a quarterly report to the Attorney General and the appropriate county prosecutor. The Attorney General is responsible for conducting audits of the forfeiture records of any law enforcement agency.

Any law enforcement agency requesting distribution of forfeited property and any such agency that has distributed, received, or expended forfeited property, proceeds, or money shall satisfy the reporting requirements by use of forms approved by and available from the Attorney General.

Social Impact

The proposed new rules provide for effective monitoring of the distribution of forfeited property pursuant to the authority provided to the Attorney General in N.J.S.A. 2C:64-6. The purpose of this rule is to implement the provisions of N.J.S.A. 2C:64-1 et seq. by supplying distribution standards which will assure a fair result in the determination of the appropriate share of property for each participating law enforcement agency. Additionally, the proper use of forfeited property will be assured through application of these proposed new rules' provisions. Uniform standards will assure that the extraordinary efforts of law enforcement agencies are appropriately rewarded and will better effectuate the Legislature's intent.

Economic Impact

Adoption of these proposed new rules will have no impact on the general public. Pursuant to N.J.S.A. 2C:64-6 and 2C:64-7, proceeds from forfeiture proceedings will be channeled back into law enforcement, thus

enhancing law enforcement efforts on a statewide basis. Ultimately, a significant portion of the costs of law enforcement could be provided by the law enforcement agencies themselves through successful forfeiture actions. The costs of administering the Trust Fund of a prosecuting authority shall be paid to the funding entity of the prosecuting agency from forfeiture procedures. The county prosecutors shall bear the pro rata costs of conducting audits of their forfeiture accounts, to be paid from the proceeds of forfeited property.

Regulatory Flexibility Statement

This proposal does not require a regulatory flexibility analysis as it does not impose any requirements on small businesses.

Full text of the proposed new rules follows:

CHAPTER 77

ATTORNEY GENERAL'S STANDARDS FOR THE EQUITABLE DISTRIBUTION TO CONTRIBUTING LAW ENFORCEMENT AGENCIES OF FORFEITED PROPERTY

SUBCHAPTER 1. GENERAL PROVISIONS

13:77-1.1 Purpose

(a) The standards in this chapter govern the division and distribution of property forfeited pursuant to N.J.S.A. 2C:64-1 et seq. The standards are promulgated to provide guidance and prior notice regarding the procedures governing the use of forfeited property and to ensure the equitable distribution of such property in accordance with the statutory intent. When property is forfeited as a result of the combined efforts of more than one law enforcement agency, each law enforcement agency contributing to the forfeiture is to share proportionately in the forfeiture proceeds. Where property cannot be divided, the general policy is to sell the property and divide the proceeds among all participating law enforcement agencies. The forfeited property shall be used solely for law enforcement purposes and shall be divided in a manner which will enhance law enforcement efforts and cooperation. It is recognized that standards for division of the property among agencies must be promulgated in order to foster a consistency of result through a balanced approach. It is further recognized that a too rigid method of apportionment of forfeited property would often not provide the best use of the property and thus not fully serve the law enforcement interests of New Jersey as a whole. The standards in this chapter are intended to further these general purposes and shall be interpreted accordingly.

(b) The prosecuting agency shall determine the contributive share to be apportioned to each participating law enforcement agency, including that of the prosecuting agency itself. The prosecuting agency shall divide the forfeited property or its proceeds equitably and fairly, and in accordance with these standards, with any law enforcement agency through its funding entity where the law enforcement agency participated in the surveillance, investigation, arrest or prosecution which resulted in the forfeiture. The funding entity shall fully credit the participating law enforcement agency with its contributive share of the forfeited property, which share is to be dedicated solely for law enforcement purposes in accordance with these standards.

13:77-1.2 Legal authority

(a) Under N.J.S.A. 2C:64-6 and N.J.S.A. 2C:64-7, the Attorney General or the county prosecutor, whichever is the prosecuting agency, is to divide the forfeited property according to each law enforcement agency's contribution to the surveillance, investigation, arrest or prosecution which resulted in the forfeiture.

(b) These standards are promulgated pursuant to the authority of the Attorney General to establish rules and regulations governing the division and distribution of forfeited property under N.J.S.A. 2C:64-6.

13:77-1.3 Delegation of authority of Attorney General in apportionment

Where the Attorney General is the prosecuting agency, the Director of the Division of Criminal Justice is designated to act on behalf of the Attorney General in determining the relative contributions of participating law enforcement agencies so that an equitable division of forfeited property can be made. Accordingly, the Director of the Division of Criminal Justice is directly responsible for the administration and execution of the standards governing forfeiture.

13:77-1.4 Definitions

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

"Contributive share" means the proportionate share of forfeited property which is allocated by the prosecuting agency in the exercise of its discretion to any participating law enforcement agency based on the participating law enforcement agency's relative contribution to the surveillance, investigation, arrest or prosecution.

"Entity" means the funding entity or entity having budgetary control over a participating law enforcement agency. In the case of a State law enforcement agency, that entity shall be the State Treasury.

"Forfeited property" means property, proceeds and monies seized and subject to a confirming final judgment pursuant to N.J.S.A. 2C:64-3.

"Investigative unit" means a State law enforcement investigative agency, bureau, division, section or other unit that engages in criminal investigations, surveillances or arrests and which is under the control, direction or supervision of a department of the State.

"Law enforcement purpose" means a purpose which is calculated to enhance a law enforcement agency's ability to conduct criminal investigations, surveillances, arrests and prosecutions and to respond more fully to the effects of crime and, for purposes of these rules, shall be beyond that allocated by the law enforcement agency's annual budget. A law enforcement purpose shall include expenditures to defray the costs of protracted or complex investigations; to educate the public in crime prevention techniques; to provide additional technical assistance or expertise, which may, for example, include participation in funding the purchase of Statewide automated fingerprint identification equipment, an automated uniform offense and arrest report system, the purchase of surveillance and undercover transportation and investigation equipment, and computer hardware and software to enhance the coordination of intelligence information among the law enforcement agencies of a county and the State; to provide matching funds to obtain Federal law enforcement enhancement grants, or for such other purposes as the Attorney General may from time to time authorize.

"Participating law enforcement agency" means a law enforcement agency, including a State investigative unit or a county multi-agency strike force or task force, which substantially contributes to the surveillance, investigation, arrest or prosecution which results in a forfeiture.

"Prosecuting agency" means either the Attorney General or the county prosecutor, whichever in a particular case bears the responsibilities for prosecuting the defendant or filing the forfeiture action.

"State law enforcement agency" means any department of the State which by itself or through any subordinate investigative unit or other agency, which it controls, directs or supervises, engages in law enforcement activities. The Department of Law and Public Safety shall be the State law enforcement agency for all investigative activity conducted by its investigative units.

SUBCHAPTER 2. DISPOSITION OF AUTHORITY

13:77-2.1 Contraband

Property defined in N.J.S.A. 2C:64-1 which has been forfeited shall be destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety or welfare.

13:77-2.2 Law Enforcement Trust Fund for prosecuting agency

All forfeited property other than contraband, or any proceeds resulting from the forfeiture and all monies seized or forfeited, shall become the property of the entity funding the prosecuting agency effecting the forfeiture, and shall if feasible be placed in a dedicated Law Enforcement Trust Fund established by that entity. All interest or income earned on or with forfeited property in the Law Enforcement Trust Fund shall remain in the Trust Fund to be used for the payment of asset maintenance costs and to assure liquidity of the fund to pay other costs, such as security interests, and may not be used for any other purpose without prior approval by the Attorney General. Property or monies needed as evidence shall be maintained separately and, when approved by the prosecuting agency, shall be transferred to the Law Enforcement Trust Fund.

13:77-2.3 Disbursements from Law Enforcement Trust Fund

(a) The property, proceeds and monies shall be distributed from the dedicated Law Enforcement Trust Fund in the following order:

1. Security interests: When the prosecuting agency effecting the forfeiture has decided to retain the forfeited property, upon which there are recorded liens, for law enforcement use, and there are sufficient monies deposited in the Law Enforcement Trust Fund, payments shall first be made from the Fund to any innocent lessor or any other innocent person holding a perfected security interest in the forfeited property, up to the amount of his or her interest in that property. Payment for security interests shall be a ministerial function of the funding entity upon the request of the prosecuting agency.

2. Asset maintenance and forfeiture prosecution costs: Before shares are calculated based on each law enforcement agency's relative contribution, payment from the Law Enforcement Trust Fund will be made to the entity funding the prosecuting agency for certain direct, out-of-pocket costs. Where applicable, and upon the direction of the prosecuting agency, the funding entity shall compensate any other person, entity or agency for payment of these costs. The asset maintenance and forfeiture prosecution costs shall be paid by the funding entity upon demand by the prosecuting agency before distribution from the Law Enforcement Trust Fund of the remainder of the forfeited property. These reimbursable costs shall include expenses incurred for the care, custody and disposal of the seized and forfeited property, such as, for example, filing and recording fees, brokerage fees, advertising costs, insurance or bond premiums, appraisal or inspection fees, service, repair, restoration, maintenance or storage fees, and any necessary costs incurred to protect the value of an asset, including, for example, the costs of operating any business enterprise. The funding entity responsible for maintaining and administering the Law Enforcement Trust Fund may be reimbursed for the reasonable expense of administering the Trust Fund, upon the approval of the prosecuting agency.

3. Contributive share: After deductions are made for security interests and asset maintenance and forfeiture prosecution costs, payments shall be made from the Law Enforcement Trust Fund to the participating law enforcement agency—State, county, local or other—through its funding entity, where the law enforcement agency contributed to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, in proportion to that agency's relative contribution as determined by the prosecuting agency pursuant to N.J.A.C. 13:77-4.1 and 13:77-4.2. Payment shall be made to the Special Law Enforcement Fund established for the participating law enforcement agency by its funding entity.

13:77-2.4 Forfeiture fund for participating law enforcement agency

(a) The contributive share of a county or municipal participating law enforcement agency shall be placed in a Special Law Enforcement Fund established by the entity funding the law enforcement agency which receives the forfeited property. All interest or income earned on or with this forfeiture fund shall remain in the fund for the sole use of the law enforcement agency. Monies in a Special Law Enforcement Fund shall be used for law enforcement purposes only and may not be used for payment of regular salaries or to create new personnel positions. If approved by the Attorney General, forfeiture funds may be used to pay the salaries of temporary employees hired for a specific function, such as persons with a special expertise which is needed for a particular investigation. Funds may be expended from the forfeiture fund only upon the request of the participating law enforcement agency, accompanied by a written certification that the request complies with the provisions of this chapter, and only upon appropriation to the participating law enforcement agency in accordance with the accepted budgetary provisions of its funding entity.

(b) Forfeited property, proceeds or monies, and interest or income thereon, distributed to a State level law enforcement agency or which remains in the State Law Enforcement Trust Fund shall be placed in a dedicated fund or funds established in the Department of Treasury. This fund shall be administered by the department of the State responsible for the State law enforcement agency, and monies from the fund shall be apportioned by the head of the responsible State department, in his or her discretion, to the various participating investigative units and other law enforcement agencies which are under its control or direction. The department head of the responsible department of State may not use the forfeiture funds for payment of regular salaries or to create new personnel positions without the approval of the Department of Treasury and in conformity with applicable law, except that the Attorney General may authorize payment of the salary of a temporary employee.

13:77-2.5 Use of forfeiture funds

Funds derived from forfeited property may be expended only for law enforcement purposes as defined in N.J.A.C. 13:77-1.4. All expenditures are subject to certification of availability by the funding entity, which certification should not be unreasonably and untimely withheld. Forfeiture funds shall not be a source of revenue to meet normal operating needs of the law enforcement agency. No funding entity shall anticipate forfeitures or proceeds therefrom in the adoption and approval of the budget for its law enforcement agency.

SUBCHAPTER 3. DISPOSITION OF INDIVISIBLE FORFEITED PROPERTY

13:77-3.1 Policy for disposing indivisible forfeited property

Where forfeited property, including motor vehicles, cannot be divided as required by N.J.S.A. 2C:64-7, the general policy of this State shall be to sell the property and divide the proceeds as set forth in N.J.A.C. 13:77-4.1 and 13:77-4.2, rather than to retain the property for law enforcement use. Where, however, full value cannot be obtained for indivisible forfeited property and where the property is needed for law enforcement use, the prosecuting agency effecting the forfeiture may determine to retain the forfeited property for official use.

13:77-3.2 Procedures for disposing indivisible forfeited property

If the prosecuting agency decides to distribute indivisible forfeited property to a participating law enforcement agency, the participating law enforcement agency must reimburse the entity funding the prosecuting agency for any monies that were expended by that entity in furtherance of securing a perfected interest in or clear title to the forfeited property. If the participating law enforcement agency does not agree to such reimbursement, or if other agreement cannot be reached by all interested parties, the forfeited property shall be sold and the proceeds shall be distributed as set forth in N.J.A.C. 13:77-4.1 and 13:77-4.2.

SUBCHAPTER 4. APPORTIONMENT OF FORFEITED PROPERTY

13:77-4.1 Procedures for apportioning forfeited property

(a) Calculation of the contributive share of any participating law enforcement agency is to be determined in the discretion of the prosecuting agency. The distribution decision of the prosecuting agency shall generally reflect the relative contribution of any law enforcement agency participating in any of the acts which led to the seizure or forfeiture of the property.

(b) A participating law enforcement agency shall submit a written request for distribution on an approved form within 10 days of the seizure and file the request with the prosecuting agency. Where the prosecuting agency intends to seek a share of the forfeited property, it is to document its own prosecution costs on a written request form which shall be retained and made available for the review of any other participating law enforcement agency. The request by any law enforcement agency must include an identification of the property against which the claim is made; details regarding the law enforcement agency's participation, including the amount of money and manpower expended in pursuing the case; the intended use of the property; and an estimate of the relative percentage contribution of each participating law enforcement agency.

13:77-4.2 Criteria for apportioning forfeited property

(a) In determining the contributing share of any participating law enforcement agency, the prosecuting agency shall consider the following enumerated factors:

1. The amount of money directly expended in pursuing the case: These funds, while "out-of-pocket" costs of the case itself, generally are not directly tied to an asset seized for forfeiture. Thus, these expenditures are not to be included with the asset maintenance and forfeiture prosecution costs of N.J.A.C. 13:77-2.3(a)2 which are to be deducted prior to calculation of the law enforcement agency's contributive share. Payments for information or assistance relating to or in furtherance of a law enforcement investigation are costs associated with the underlying criminal investigation itself, independent of a forfeiture action. Nevertheless, because the expended money represents an identifiable out-of-pocket expense, the prosecuting agency shall generally reimburse such costs as fully as possible in determining a law enforcement agency's contributive share.

2. The agency which initiated the case: The initiating law enforcement agency may well have been able to proceed with a criminal investigation without the assistance of others. To the extent that agency collaborated with other law enforcement agencies to further an investigation and develop a more significant case, it should not "lose" the value of an asset which it may in the normal course, and without assistance from other law enforcement agencies, have obtained independently. In these circumstances, the contributive share of the initiating law enforcement agency may be calculated in a greater than pure percentage contribution fashion in order to encourage and foster future law enforcement cooperation. Furthermore, the agency which initiated the case may have made an insignificant manpower contribution to the forfeiture. For example, a stop by a State Trooper could result in a find of a large cache of drug money. The few moments expended by the trooper would be far less than expended in the prosecution of the case itself, which could, indeed,

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result in a major prosecution if the investigation could ascend the drug distribution hierarchy. Nevertheless, the "but for" nature of the trooper's act may warrant a greater contributive share for his agency than would be calculated solely by considering manpower or costs expended.

3. The agency which identified the asset: An asset may, for example, be identified as subject to forfeiture by using evidence contained in financial records, just as inconsistencies between one's net worth or purchases and legitimate known sources of income can reveal illegal income. Investigative accounting techniques may show that unlawfully acquired income was used to infiltrate or purchase a business or indirectly to acquire other apparently legitimate property. Thus, demonstration of a connection between the proceeds of crime and property would enable the forfeiture of that asset. Under these circumstances, the law enforcement agency's identification of the asset or business as an ultimate product of criminal activity could significantly expand the value of forfeiture in a particular case and may be appropriately rewarded.

4. The manpower expended in pursuing the case, including overtime costs: Manpower expenditures provide a reasonable indication of a law enforcement agency's efforts in pursuing a case, and thus its contribution to the overall law enforcement effort. It will undoubtedly be difficult or impossible to be completely accurate, however, in evaluating this cost, since officers will rarely work on only one case.

5. The relative needs of the law enforcement agencies involved: Generally, these needs are not to be a factor in calculating a contributive share. In an unusual case involving a particularly large forfeiture, however, this would become a consideration in order to assure that forfeited assets are in fact used to enhance law enforcement efforts. The Attorney General, as chief law enforcement officer of the State, or the prosecutor, as chief law enforcement officer of a county, should, in making a decision distributing forfeited property, take into account the needs of the law enforcement agencies within his jurisdiction. Thus, from a public policy perspective, the prosecuting agency may in its discretion determine that division of forfeited property be made other than in a purely mathematical allocation based on contribution.

6. Alternative availability of the asset to the agency in the near future from other seizures: If two participating law enforcement agencies are equally entitled to forfeited property or proceeds and one of the agencies, but not the other, regularly obtains forfeited funds, it is proper to consider that fact in calculating a contributive share. In general, of course, contributive shares are to be calculated on each participating law enforcement agency's relative contribution. Nevertheless, as discussed above, a factor to consider in dividing forfeitures is the overall effect on law enforcement within the State. Where tangible and indivisible property is to be distributed (see N.J.A.C. 13:77-3.2), the prosecuting agency, in deciding which participating law enforcement agency is to have the use of the property, should consider whether either agency may be able to obtain similar property alternatively in the near future.

SUBCHAPTER 5. FEDERAL EQUITABLE TRANSFER

13:77-5.1 Requests for Federal equitable transfers

Notice of all requests, by any law enforcement agency, State, county, local or other, for equitable transfer of forfeited property pursuant to 21 U.S.C.A. §881(e) and regulations promulgated pursuant to that section shall be given to the Office of the Attorney General and the appropriate county prosecutor. Such information shall be included in the Attorney General's Annual Report on Seized and Forfeited Property. Federally forfeited property shall be transmitted in accordance with N.J.A.C. 13:72-2.2 to the entity funding the prosecuting agency for distribution by the prosecuting agency pursuant to this chapter.

SUBCHAPTER 6. MONITORING, REPORTING AND AUDITING PROCEDURES

13:77-6.1 Monitoring, reporting and auditing procedures

(a) A law enforcement agency distributing, receiving or expending forfeited property, proceeds or money shall maintain the full records documenting these distributions, receipts and expenditures. Every law enforcement agency distributing, receiving or expending such property or funds shall submit a quarterly report documenting those distributions, receipts and expenditures to the Attorney General and the appropriate county prosecutor, on forms promulgated by the Attorney General. The quarterly report shall specify, for that period, the type, the approximate value, and disposition of the property received and the amount of any proceeds received or expended. In August of each year, every law enforcement agency distributing, receiving or expending forfeited property shall submit a report to the entity funding that agency documenting the distributions, receipts and expenditures of forfeited property or funds.

(b) All county prosecutors and the Attorney General shall maintain record documenting the type of offense, if any, upon which the forfeiture was premised; the amount forfeited; any monies received from the forfeited property which was sold and the proceeds derived from that sale; as well as any expenditures connected with obtaining a perfected security interest or clear title to the retained forfeited property (see N.J.A.C. 13:77-2.3(a)1) and with maintaining forfeited property and related costs (see N.J.A.C. 13:77-2.3(a)2). When forfeited property is retained for law enforcement use, the justification for not liquidating the asset shall be documented. The above information shall be submitted to the Office of the Attorney General on a quarterly basis and shall be included in the Attorney General's Annual Report on Seized and Forfeited Property.

(c) The Attorney General reserves the right to audit the forfeiture records of any law enforcement agency. This right shall not restrict or impede the Attorney General's supervisory power pursuant to the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq., or any other law, rule, regulation, directive, opinion or agreement. The Attorney General may assess the county prosecutors for the cost of conducting annual audits of forfeiture records. These administrative costs shall be within a maximum established by agreement from time to time between the Attorney General and a majority of the county prosecutors, with the costs to be assessed on a pro rata basis among all counties based on the amount of forfeiture funds received within the county.

SUBCHAPTER 7. PENDING FORFEITURE ACTIONS

13:77-7.1 Distribution of forfeited property

The standards in this chapter shall govern the distribution of all forfeited property for which a judgment of forfeiture is entered on or after December 1, 1986, the effective date of P.L. 1986, c.135 (N.J.S.A. 2C:64-6 and 2C:64-7).

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping

Routes U.S. 30 in Camden County; N.J. 45 in Salem County; and N.J. 93 in Bergen County

Proposed Amendments: N.J.A.C. 16:28A-1.21, 1.31 and 1.68

Authorized By: Hazel Frank Gluck, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Proposal Number: PRN 1987-317.

Submit comments by September 16, 1987 to:

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

The agency proposal follows:

Summary

The proposed amendments will establish "no parking bus stop" zones along Routes 30 in Waterford Township, Camden County; N.J. 45 in Mannington Township, Salem County; and N.J. 93 in Palisades Park Borough, Bergen County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on and off loading of passengers at established bus stops.

Based upon requests from 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. 30, N.J. 45 and N.J. 93 were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.21, 1.31 and 1.68 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking bus stop" zones along Routes U.S. 30 in Waterford Township, Camden County; N.J. 45 in Mannington Township, Salem County; and N.J. 93 in Palisades Park

Borough, Bergen County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on and off loading of passengers at established bus stops. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The local governments will bear the costs for "no parking bus stop" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

This proposal does not affect small businesses because it does not impose reporting, recordkeeping or other requirements on small businesses. The proposed amendments primarily affect the motoring public.

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

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.-20. (No change.)

21. Along the westbound (northerly) side in Waterford Township, Camden County:

i. Mid-block bus stop:

(1) Cedar Avenue—Beginning 396 feet west of the prolongation of the westerly curb line of Cedar Avenue and extending 135 feet westerly therefrom.

16:28A-1.31 Route 45

(a) (No change.)

(b) The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with 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 northbound (easterly) side in Mannington Township, Salem County:

i. Near side bus stop:

(1) Route 540—Beginning at the prolongation of the northerly curb line of Route 540 and extending 135 feet northerly therefrom.

16:28A-1.68 Route 93

(a) The certain parts of State highway Route 93 described in [(a) of] this section [are] **shall be** designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is [hereby] granted to erect appropriate signs at the following **established** bus stops:

1.-2. (No change.)

3. Along Route 93 (Grand Avenue) southbound on the westerly side [thereof] in the Borough of Palisades Park, Bergen County:

[i. West Edsall Boulevard (far side):

(1) Beginning at the southerly curb line of West Edsall Boulevard; extending 110 feet southerly therefrom.]

i. Far side bus stops:

(1) West Edsall Boulevard—Beginning at the southerly curb line of West Edsall Boulevard, extending 110 feet southerly therefrom.

(2) West Ruby Avenue—Beginning at the prolongation of the westerly curb line of West Ruby Avenue, extending 100 feet southerly therefrom.

[ii. West Central Boulevard (near side):

(1) Beginning at the northerly curb line of West Central Boulevard, extending 110 feet northerly therefrom.

iii. West Ruby Avenue (near side):

(1) Beginning at the northerly curb line of West Ruby Avenue, extending 110 feet northerly therefrom.]

ii. Near side bus stops:

(1) West Central Boulevard—Beginning at the northerly curb line of West Central Boulevard, extending 110 feet northerly therefrom.

(2) West Ruby Avenue—Beginning at the northerly curb line of West Ruby Avenue, extending 110 feet northerly therefrom.

4.-6. (No change.)

(b) (No change.)

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Local Property Tax

Farmland Assessment Act; Woodland

Proposed Amendments: N.J.A.C. 18:15-1.1

Proposed New Rules: N.J.A.C. 18:15-2.7, 2.8, 2.9, 2.10, 2.11, 2.12 and 2.13

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

Authority: N.J.S.A. 54:4-23.21.

Proposal Number: PRN 1987-318.

Submit comments by September 16, 1987 to:

John C. Raney
Superintendent
Local Property Tax Branch
Division of Taxation
CN 52
Trenton, NJ 08646

The agency proposal follows:

Summary

These proposed amendments and new rules are being made to carry out the purposes of P.L. 1986, c.201, which amends Section 3 of the Farmland Assessment Act of 1964 (N.J.S.A. 54:4-23.3). The amendment requires an owner of land which is devoted exclusively to the production for sale of trees and forest products other than Christmas trees and is not appurtenant woodland as defined in the amendatory legislation and these proposed rules, to fulfill certain additional conditions in order for the land to be deemed in agricultural use. The major requirement of the additional conditions requires an affected woodland owner to comply with a woodland management plan that must be filed with the tax assessor and the Department of Environmental Protection.

Social Impact

Actions required under the proposed new rules and amendments are intended to improve the administration of the Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq., as it pertains to determining "active devotion" of woodland. Whether or not woodland is "actively devoted" to an agricultural use is an issue that has been before the courts many times and has now been addressed by the Legislature, which has established separate additional requirements for determining eligibility of such land for farmland assessment. The major purpose of the amendatory legislation and these proposed amendments and new rules is to require an owner of certain woodland property to comply with forest management plan criteria established by the Department of Environmental Protection. The woodland owner is also required to annually seek certification from an approved forester that the land is in compliance with the filed management plan. Additionally, the land is subject to inspection at least once every three years by a forester from the Bureau of Forest Management, Department of Environmental Protection for the purpose of verifying whether the land is in compliance with the approved plan. It is expected that the expert assistance provided by foresters to assessors in reviewing woodland practices will resolve many of the problems that previously existed in determining qualification of woodland property. Therefore, it is anticipated that the number of cases brought before the courts concerning the qualification issue should be significantly reduced.

Economic Impact

The adoption of these proposed new rules and amendments will not require any expenditure by local governments, other than the cost of providing an additional form to be completed by affected applicants for farmland assessment. P.L. 1986, c.201 includes a provision to appropriate the sum of \$150,000 from the general fund to the Department of Environmental Protection to implement the additional conditions set forth in the law. A cost will be incurred by owners of woodland if a woodland management plan is prepared by an approved forester rather than by the landowner. Generally, a plan will be written for a period of time not less than 10 years. It is expected that the cost for developing most plans will range from \$200.00 to \$1,500.00, depending on the size of the woodland and the variety of tree species on the land. The costs to most landowners to annually obtain the services of an approved forester to certify whether the woodland is being managed in compliance with the filed management

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plan is expected to range from \$50.00 to \$500.00. It is anticipated that the benefits derived from complying with forestry objectives and practices of a plan will improve forest stands which will result in higher productivity, higher quality forest products and, consequently, an income yield that otherwise would not be realized by the owner.

Regulatory Flexibility Statement

It is anticipated that between 3,000 to 4,000 owners of woodland will be affected by the provisions established under P.L. 1986, c.201 and these proposed amendments and new rules. A landowner will be required to file a woodland management plan and a form detailing woodland activities with the assessor and the Department of Environmental Protection. Satisfactory compliance with these conditions will result in substantial tax savings to a landowner since local property taxes will be based on such value the land has in agricultural use rather than its highest and best use. Consulting forestry firms are anticipating considerable increases in requests for their services since affected woodland owners will be required to file a woodland management plan with their application for farmland assessment and annually obtain certification of compliance with the filed plan from the foresters approved by the Department of Environmental Protection. Although owners of woodland will incur a cost to obtain the services of an approved forester, the cost is minimal when compared with the local property tax savings resulting from an assessment placed on the woodland property in accordance with its agricultural use value rather than the property's true value. Typically, a plan will be developed for a period of time not less than 10 years. The cost for most plans will range from \$200.00 to \$1,500.00. Annual costs for review and an approved forester's certification of compliance are expected to range from \$50.00 to \$500.00 for most landowners. Generally, costs incurred by owners of woodland for professional forestry services will be more than offset by the increases that will accrue in the value and quality of woodland yields attributable to improved forestry practices. Such increases will enhance the general timber and wood product industries in this State.

Environmental Impact

Compliance by landowners with approved woodland management plans will improve the quality of trees on wooded property and eliminate excessive cutting and destruction of our State's natural forestry resource. A mix of benefits, including preservation of open space, promoting wildlife, improving soil capabilities, and maintenance of water quality are but a few of the amenities that are derived from properly managed and maintained woodlands.

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

18:15-1.1 Words and phrases defined

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

"Agricultural [U]se" means land which is devoted to the production for sale of plants and animals useful to man, including but not limited to:

- 1.-7. (No change.)
8. Trees and forest products (see N.J.A.C. 18:15-2.7 for additional conditions); and
9. (No change.)

"Approved forester" means a forester meeting standards and qualifications established by the New Jersey Department of Environmental Protection pursuant to N.J.S.A. 13:1L-1 et seq. and rules issued thereunder.

"Appurtenant woodland" means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

"Beneficial to a tract of land" means land which enhances the use of other land devoted to agricultural or horticultural production by providing benefits such as, but not limited to, windbreaks, watershed, buffers, soil erosion control, or other recognizable enhancements of the viability of the qualifying land.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection or his representative.

"Supportive and subordinate woodland" means a wooded piece of property which is beneficial to or reasonably required for the purpose of maintaining the agricultural or horticultural uses of a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than to the production for sale of trees and forest products, exclusive of Christmas trees.

"Woodland data form" means a supplemental form required to be filed with the assessor and the commissioner by an owner of woodland as set forth in N.J.A.C. 18:15-2.7.

"Woodland management plan" means a plan prepared in accordance with criteria set forth in N.J.A.C. 18:15-2.9 and which is required to be filed with the assessor and the commissioner by an owner of woodland as set forth in N.J.A.C. 18:15-2.7.

18:15-2.7 [(Reserved)] Additional conditions to be fulfilled by an owner of woodland which is devoted exclusively to the production for sale of trees and forest products other than Christmas trees or the owner of woodland which is not supportive and subordinate woodland

(a) The owner of land which is devoted exclusively to the production for sale of trees and forest products other than Christmas trees or the owner of woodland which is not supportive and subordinate woodland shall annually submit to the assessor, in addition to a completed and timely filed application for farmland assessment (Form FA-1), the following accompanying information:

1. A copy of a woodland management plan prepared in accordance with provisions noted under N.J.A.C. 18:15-2.10;
2. A scaled map of the land showing the location of woodland activity and the soil group classes of the land; and
3. A completed woodland data form (Form WD-1), as prescribed by the Director of the Division of Taxation. The information to be provided by the landowner on such form shall include the following:
 - i. A description of all woodland management actions taken in the pre-tax year;
 - ii. A statement as to the type and quantity of tree and forest products sold;
 - iii. An indication of the amount of income received or anticipated from the sale of trees and forest products; and
 - iv. A certification in lieu of an oath signed by both the landowner and an approved forester stating that the land is actively devoted to a woodland use which is in compliance with the filed woodland management plan.

(b) If the documents set forth in (a) above are not submitted annually to the assessor, such land shall be deemed not to be in agricultural use.

18:15-2.8 Supportive and subordinate woodland presumption

(a) A wooded piece of property as described in the definition of supportive and subordinate woodland in N.J.A.C. 18:15-1.1 shall be presumed to be supportive and subordinate woodland when its area is less than the area of the farmland property qualifying for agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees.

(b) An owner claiming farmland assessment for a wooded piece of property exceeding the amount set forth in (a) above as presumed to be supportive and subordinate woodland shall submit an explanation and additional proofs the assessor may require to support the claim that such woodland is supportive and subordinate.

18:15-2.9 Filing of copies with commissioner

A woodland owner subject to the additional conditions set forth in N.J.A.C. 18:15-2.7 shall, at the time of filing an application for farmland assessment with the assessor, also submit copies of the application and accompanying information to the commissioner.

18:15-2.10 Criteria of a woodland management plan

(a) An owner of land subject to the additional conditions as set forth in N.J.A.C. 18:15-2.7 shall submit a woodland management plan prepared in accordance with the following criteria:

1. A cover page for the plan shall be prepared delineating the following:
 - i. The owner's name and mailing address;
 - ii. The municipality and county where the subject woodland is located;
 - iii. The block(s) and lot(s) of the subject woodland;
 - iv. The amount of acreage of the subject woodland;
 - v. The name and address of the approved forester who prepared the plan, if not prepared by the owner; and
 - vi. The date the plan was prepared and the period of time the plan covers.
2. A clear and concise statement of the owner's objectives in managing the woodland.

3. A description of how the property boundaries are or will be marked and delineated.

4. A brief description of past activities that have had an effect on the woodland including, but not limited to, wildfire, insect and disease outbreaks, timber sales, plantings, thinnings and weedings.

5. A statement describing each defined forest stand in some combination of the following factors:

- i. The number of acres;
- ii. The species composition including overstory and understory;
- iii. The general condition and quality;
- iv. The structure including age classes, DBH classes, and crown classes;
- v. The overall site quality; and
- vi. The condition and species composition of advanced regeneration when applicable.

6. A description of the silvicultural prescriptions, management recommendations, activities and practices specified and planned for each forest stand, and an explanation of how these sequences of treatment are integrated into the overall coordinated plan and time frame to meet the stated management objectives. Such management recommendations and practices shall be prepared for a period of time not less than 10 years.

7. A statement of average overall productivity capabilities of the woodland.

8. A map of the property shall be prepared to include, but not necessarily be limited to the following:

- i. The owner's name, address, and the date the map was prepared;
- ii. An arrow designating the north direction;
- iii. A scale not smaller than 1:1320 nor larger than 1:400;
- iv. A legend defining the symbols appearing on the map;
- v. The location of property lines;
- vi. An identification of forest stands which are keyed to written prescriptions;
- vii. A delineation of physical features such as roads, streams, structures, etc.;
- viii. An identification of soil types (A separate map can be used for this purpose); and
- ix. A brief description or a map inset of the land for the purpose of identifying the location of the property in relation to the local area.

18:15-2.11 Acknowledgment of receipt

(a) The commissioner, upon receipt of the application and accompanying information, shall acknowledge such receipt to both the applicant and the assessor on or before September 15 of the pre-tax year.

(b) The acknowledgment by the commissioner shall also indicate whether the application is sufficient or whether additional information must be submitted by the applicant.

(c) If additional information is requested, the applicant shall submit such information to the commissioner and the assessor within 14 days of the commissioner's request.

18:15-2.12 Notice of compliance or noncompliance by the commissioner

(a) On or before October 31 of the pre-tax year, the commissioner shall notify the assessor in writing of the results of his review stating whether the reporting requirements of N.J.A.C. 18:15-2.7 have been satisfied by the applicant.

(b) If the commissioner determines the applicant has not satisfied such requirements, he shall indicate the reasons for his finding of noncompliance.

(c) The assessor shall disapprove the application determined to be in noncompliance and transmit a notice of disallowance of claim to the landowner as provided under N.J.A.C. 18:15-3.6.

(d) If the commissioner determines the applicant has satisfied such requirements, he shall indicate the date of the last inspection of the land as prescribed under N.J.A.C. 18:15-2.13.

(e) The assessor, after receipt of a notice of compliance, shall approve or disapprove the application in accordance with his determination as to whether the property is otherwise qualified for farmland assessment.

(f) In the event that the commissioner does not give timely notice to the assessor of his findings of compliance or noncompliance, the assessor may approve or disapprove the application as in the case of other applications not subject to the additional conditions as noted under N.J.A.C. 18:15-2.7.

18:15-2.13 On-site inspections required to be made by the commissioner

(a) The commissioner, in addition to reviewing each application, shall make an on-site inspection of the property to determine whether the land is in compliance with the filed woodland management plan.

(b) Such on-site inspection shall be made during one of the first three years following the initial application and submission of accompanying information required by an owner of woodland as set forth in N.J.A.C. 18:15-2.7, and thereafter at least once every three years.

(c) In the event the commissioner determines the woodland is not in compliance, he shall transmit a notice of noncompliance to the assessor within five days stating the reasons for noncompliance.

18:15-2.14 Land failing to meet conditions set forth in N.J.A.C. 18:15-2.7

Land which fails to meet the additional conditions set forth in N.J.A.C. 18:15-2.7 during the first year in which the conditions are imposed, shall not be subject to roll-back taxes for such failure, but shall be treated as land for which an annual application was not submitted.

OTHER AGENCIES

(a)

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

Revised Fee Schedules

Proposed Amendments: N.J.A.C. 19:3-1.1, 1.2, 1.4, and 1.6

Authorized By: Hackensack Meadowlands Development Commission, Anthony Scardino, Jr., Executive Director.

Authority: N.J.S.A. 13:17-6.

Proposal Number: PRN 1987-313.

Submit comments by September 16, 1987 to:

Thomas R. Marturano, Acting Chief Engineer
Hackensack Meadowlands Development Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

The agency proposal follows:

Summary

The proposed amendments are based upon the findings of a time study conducted by the Hackensack Meadowlands Development Commission (HMDC) to determine the actual time spent by the engineering staff on application reviews. The fee charges will more accurately reflect the costs of staff time for reviewing applications.

Social Impact

The proposed fee increases will have no ascertainable social impact. The fee increases are not expected to inhibit any applicant since these fees are a very small portion of the entire cost of a project, and a fee, or a portion of a fee, may be waived upon proving good cause pursuant to N.J.A.C. 19:3-1.6(a).

Economic Impact

The proposed fee schedule revision will allow the HMDC to recoup a more equitable portion of the costs for reviewing and processing development plans and permit applications. No adverse economic impact on owners/developers is projected since the cost of HMDC review represents a minute portion of the total cost of a project for a developer/owner.

Regulatory Flexibility Statement

The costs involved in complying with the proposed amendments will be borne by all applicants uniformly since the fees reflect the costs of actual staff time spent on application review. No exemption for small business applicants is feasible, although such an applicant could have the fee, or a portion of the fee, waived after showing good cause pursuant to N.J.A.C. 19:3-1.6(a).

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

19:3-1.1 Subdivision

[(a) A fee of \$100.00 per acre, with a minimum fee of \$100.00 is charged for a minor subdivision.]

(a) The following fees are charged for a minor subdivision:

1. **\$3.00 per 100 square feet of lot area up to and including one acre.**
2. **\$2,000.00 for lot area over one acre up to and including five acres.**
3. **\$4,000.00 for lot area over five acres up to and including 40 acres.**
4. **\$7,000.00 for lot area over 40 acres.**

(b) (No change.)

(c) Fee for preliminary plat review is charged for a major subdivision equal to:

1. **[\$100.00] \$600.00** per acre of subdivided property for the first 10 acres.

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2. [25.00] **\$300.00** per acre of subdivided property for the next 40 acres.

3. [5.00] **\$150.00** per acre of subdivided property in excess of 50 acres.

4. Plus, a fee of [one-quarter of] one percent of the value of public improvements as determined by a certified estimate prepared by a New Jersey professional engineer is charged to cover the cost of inspections.

(d) A fee of [100.00] **\$500.00** is charged for final plat approval of any major subdivisions.

(e) A fee of [100.00] **\$1,200.00** is charged for each specific waiver request.

19:3-1.2 Zoning

(a) Zoning fees are as follows:

1. A fee of [1.00] **\$5.00** per 100 square feet of [lot] floor area or a minimum fee of [50.00] **\$500.00** is charged for a zoning certificate for a new building[,] and [one-half of these fees] a **minimum fee of \$50.00** for additions;

2. A fee of \$50.00 plus **\$1.00 per square foot of sign area** is charged for sign [review,] reviews; [tanks, and parking:]

[3. A fee of \$500.00 is charged for appeals to the Commission, \$400.00 per special exception, \$600.00 for each use variance request, and \$500.00 for each other variance.]

3. A fee of **\$200.00** is charged for tank reviews;

4. A fee of **\$100.00** is charged for review of fences;

5. A fee of **\$200.00** is charged for retail/warehouse sales reviews;

6. A fee of **\$500.00** is charged for the review of site improvements;

7. A fee of **\$1,200.00** is charged per special exception, **\$1,500.00** for each use variance request, and **\$1,200.00** for each other variance;

8. A fee of **\$3,000.00** is charged for the review of rezoning requests.

(b) Specially planned areas fees are as follows:

1. Initial General plan: [25,000] **\$100,000**; each revised general plan: [15,000] **\$25,000**.

2. Initial Development plan: [10,000] **\$50,000**; each revised development plan: [5,000] **\$10,000**.

3. Initial Implementation plan: [10,000] **\$50,000**; each revised or individual implementation plan: [5,000] **\$10,000**.

4. [1,000] **\$5,000** per variation request.

5. (No change.)

19:3-1.4 Occupancy

(a) No fee is charged in cases where a building permit or Certificate of Compliance fee in excess of the minimum fee imposed for a Certificate of Occupancy or a Certificate of Completion has been paid.

(b) The fee for a Certificate of Occupancy or a Certificate of Completion is [200.00] **\$500.00**.

(c) **The fee for a Zoning Certificate or Occupancy Certificate for trailers and/or guardhouses is \$500.00.**

19:3-1.6 General provisions

(a) This fee schedule shall not be applicable to the Federal, State, county or municipal government, or any instrumentality or agency thereof. Any fee, or portion thereof, provided for herein, may be waived by the [office of the chief engineer] **Executive Director upon recommendation of the chief engineer** upon good cause shown.

(b) (No change.)

(c) A full refund of fees may be made by the [office of the Chief engineer] **Executive Director** provided that a written request to withdraw the application is received before the close of the second working day after receipt of the same.

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

(f) **This Fee Schedule shall not be applicable to applications for one and two family homes in the District. Such applications shall be reviewed in accordance with the Fee Schedule adopted January 25, 1983.**

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Personal Financial Disclosure Statement: Reporting of Earned Income

Proposed Amendment: N.J.A.C. 19:25-19.3

Authorized By: Election Law Enforcement Commission,

Frederick M. Herrmann, Ph.D., Executive Director.

Authority: N.J.S.A. 19:44B-7.

Proposal Number: PRN 1987-319.

A public hearing concerning this proposal will be held on September 15, 1987, 10:00 A.M.

State House Annex

Room 424

West State Street

Trenton, New Jersey

Submit comments by September 16, 1987 to:

Gregory E. Nagy, Staff Counsel

Election Law Enforcement Commission

National State Bank Building

28 West State Street

Suite 1215

Trenton, New Jersey 08608

The agency proposal follows:

Summary

The proposed amendment will clarify the extent to which the identity of sources of fees and commissions is required under the statute.

The statute requires that, as to a number of categories, the name and address of the source of earned income which totals more than \$1,000 for the preceding calendar year be disclosed. The categories in question are salaries, bonuses, royalties, fees, commissions and profit sharing. The statute leaves it unclear as to whether, with respect to fees and commissions, disclosure of the source means disclosure merely of the name of the professional or business entity with which the legislator or candidate for the legislature is affiliated, or whether the legislative intent to provide meaningful disclosure calls for disclosure of at least the substantial major sources of such fees and commissions.

This amendment to the rule is necessary because the issue, while it had been considered in general terms by the Commission at the time of the original enactment of the regulations in 1983, was specifically presented to the Commission by a recent request for advisory opinion which fairly raised the question and called for a determination of the issue by the Commission.

Social Impact

The proposed amendment will clarify the requirements for disclosure to the public and to the electorate of sources of earned income of candidates for State elective office (that is, gubernatorial and legislative) and their household members, and therefore promote the purposes of the personal financial disclosure statement statutes. It recognizes that candidates and their household members who receive fees or commissions by virtue of ownership, employment or other affiliation in a business enterprise should disclose the names and addresses of the sources of such fees or commissions where they may be an appearance that candidate positions on public issues might be influenced. The Commission anticipates that reporting of sources of substantial fees or commissions will increase the burden of reporting, but that the thresholds proposed in the amendment (that is, \$10,000 or five percent of total receipts) are high enough so that the burden is not overly cumbersome. The Commission further believes that the thresholds will alleviate concerns that disclosure will unduly compromise the privacy of individuals who are paying fees for medical, legal or other services.

Economic Impact

The proposed amendment will increase the burden of reporting by candidates. Accordingly, there may be some cases where accounting or other costs associated with the preparation of personal financial disclosure statements may be increased. However, the Commission believes any additional cost will not be substantial and is justified by the salutary purpose. No appreciable economic impact on the Commission is anticipated.

Regulatory Flexibility Statement

There are no reporting requirements on small businesses. However, a candidate or member of a candidate's household who owns or is employed by a business enterprise that receives fees or commissions will be required to disclose the source of those fees or commissions that meet or exceed the thresholds proposed in the amendment. The candidate or household member may need access to records of the business enterprise in order to report the names and addresses of sources of substantial fees or commissions received by that enterprise. The disclosure of the identity of clients, patients or other individuals or entities that are sources of commissions or fees may have some adverse impact on the candidate's business enterprise, but the Commission believes that this risk is speculative and is justified by the salutary purposes of disclosure.

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

19:25-19.3 Reporting of earned income

(a) The Personal Financial Disclosure Statement shall include the name and address of the corporation, professional association, partnership or sole proprietorship which is the source of each of the following categories of earned income totalling more than \$1,000 for the preceding calendar year: salaries, bonuses, royalties, fees, commissions, and profit sharing. A statement whether the total receipts from all sources within each category exceeds \$1,000 shall be included in the statement.

(b) Except as otherwise provided with respect to the categories of fees and commissions in (c) below, each source within any category which exceeds \$1,000 must be identified by name, except that identification and name and address shall not be required as to any source which totals \$100.00 or less for the year.

(b) Each source within any category which exceeds \$1,000 must be identified by name, except that identification of name and address shall not be required as to any source which totals \$100.00 or less for the year; and indication whether the total receipts from all sources within the categories exceeds \$1,000 shall be included in the statement.

Example: Candidate A receives commissions each year in the amount of \$990.00 from BCD Corporation, and also receives commissions each year in the amount of \$50.00 from EFG Corporation. The Personal Financial Disclosure Statement filed by Candidate A must include the name and address of BCD Corporation but not of EFG Corporation, as a source; the statement will also indicate receipts in excess of \$1,000 in commissions.]

(c) Each source within any category of fees or commissions which exceeds \$1,000 must be identified by name, except that identification of name and address shall not be required as to any source unless:

1. That source totals more than \$10,000 for the year; or
2. That source represents more than five percent of the total receipts from all sources within that category for the year.

[c] (d) Income received from a public body, other than from the State of New Jersey, must be included under the category of Earned Income.

(a)

CASINO CONTROL COMMISSION

Rules of the Games: Craps

Continuation of Shooter as Such: Selection of New Shooter

Proposed Amendment: N.J.A.C. 19:47-1.11

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

Authority: N.J.S.A. 5:12-63(c) and 5:12-100(e).
Proposal Number: PRN 1987-310.

Submit comments by September 16, 1987 to:

Deno R. Marino
Deputy Director, Operations
Casino Control Commission
Princeton Pike Office Park
Building No. 5, CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 19:47-1.11 would establish a clear and efficient procedure to be followed when in the course of a Craps game, after a "Come Out Point" has been made, the shooter or any remaining players elect not to make a Pass or Don't Pass Bet and Come or Don't Come Wagers remain on the table undecided. More specifically, this amendment would allow the shooter to continue to roll the dice without a Pass or Don't Pass Bet until the remaining wagers have been decided.

Social Impact

The proposal establishes precise procedures to be followed when the aforementioned requisite circumstances occur. In this light, it will improve the efficiency of the game thereby alleviating unnecessary delays to the patron when confronted with this situation.

Economic Impact

The economic impact is insignificant since this proposed amendment allows only for the decision of previously made wagers. It should be noted that the occurrence of these specified circumstances is very infrequent and is not usually observed in the normal course of gaming at Craps.

Regulatory Flexibility Statement

This proposal affects only the operations of casino licensees and, therefore, will not impact on any business protected under the Regulatory Flexibility Act.

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

19:47-1.11 Continuation of shooter as such: selection of new shooter

(a) (No change.)

(b) If a shooter, after making the Come Out Point elects not to place a Pass or Don't Pass Bet, and other wagers remain on the table with respect to Come and/or Don't Come numbers, the stickperson shall offer the dice to the player immediately to the left of the previous shooter, as provided for in (c) below. If there are no other players at the table, or if no other players at the table elect to make a Pass or Don't Pass Bet in order to shoot the dice and continue the game, the previous shooter shall be allowed to shoot the dice without a Pass or Don't Pass Bet only for the purpose of effecting a decision on the remaining Come and/or Don't Come Wagers. The On/Off marker shall be placed on the Don't Pass Line in the Off position in front of the shooter in order to indicate that the shooter is rolling the dice only to effectuate a decision for those wagers remaining on the layout. Once the remaining Come and/or Don't Come Wagers have been decided, the game shall proceed in accordance with N.J.A.C. 19:47-1.8.

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

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

RULE ADOPTIONS

ADMINISTRATIVE LAW

OFFICE OF ADMINISTRATIVE LAW

(a)

Additional Notice of Proposed Rulemaking

Adopted Amendment: N.J.A.C. 1:30-3.1

Proposed: May 4, 1987 at 19 N.J.R. 675(b).

Adopted: July 15, 1987 by Ronald I. Parker, Acting Director,
Office of Administrative Law.

Filed: July 28, 1987 as R.1987 d.345, with substantive and technical changes not requiring additional public notice and comment (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:14F-5(f), (h), (i).

Effective Date: August 17, 1987.

Expiration Date: February 14, 1991.

Summary of Public Comments and Agency Responses:

COMMENT: John Walzer, Acting Director, Office of Legal Liaison and Regulatory Affairs, Department of Human Services, requested clarification of the applicability of the Regulatory Flexibility Act with regard to nonprofit corporations and rulemaking which affects only small businesses as opposed to rulemaking which affects small businesses and other than small businesses with possible differential impact on the two groups.

RESPONSE: Mr. Walzer's comments raise several questions concerning application of the Regulatory Flexibility Act to various entities which may possibly be affected by an agency rulemaking. It is difficult, however, to answer these questions at this point given the relatively short time since passage of the Act and its implementation. The Office of Administrative Law does intend to amend the rule some time in the future to provide some guidance and/or standards for the agencies in preparing the Regulatory Flexibility Statements.

COMMENT: Susan Savoca, Assistant Director, Office of Regulatory Services, Department of Environmental Protection, requested that the language of N.J.A.C. 1:30-3.1(b)4 be clarified to afford State agencies more guidance concerning the requirements of providing additional notice. Ms. Savoca provided several suggestions to clarify the rule such as: codification changes; listing the types of additional publicity permitted; and adding a provision which states that the additional method of publicity shall provide at least 30 days notice.

RESPONSE: The Office of Administrative Law believes the changes suggested by Ms. Savoca would further clarify the requirements of the rule. The rule has therefore been amended as follows:

1. The proposed language of N.J.A.C. 1:30-3.1(b)4 has been reordered and recodified.

2. A new subparagraph ii. has been added which lists the types of additional methods which may be utilized by an agency. These suggested methods are found in the Administrative Procedure Act and are not a substantive departure from current acceptable methods.

3. A new subparagraph iii. has been added to clarify that the additional method of publicity must also provide 30 days notice as does the notice in the New Jersey Register.

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

1:30-3.1 Notice of proposed rule

(a) Where the law requires that an agency give notice of its rulemaking proceedings, the agency shall prepare a "notice of proposed rule" and submit the notice to the OAL. The notice of proposed rule shall include:

1. A proposed N.J.A.C. citation of the new rule, amendment, repeal or readoption.

2. The name of the adopting agency head and agency and the signature of the adopting agency head or other authorized signatory as provided in N.J.A.C. 1:30-2.4.

3. A citation to the specific statutory authority for the proposed rule. An agency may not cite its general statutory authority unless specific legal

authority is unavailable and the agency is relying on its general or residual powers, in which case a statement to that effect shall be made in the summary.

4. An announcement of the public's opportunity to be heard regarding the proposed rule, which shall include:

i. When, where, and how persons may present their views orally or in writing.

ii. When and where persons may attend any formal rule adoption proceeding.

5. A brief statement for the proposed rule, which shall include:

i. A summary statement of the proposed rulemaking with a clear and concise explanation of its purpose and effect. The summary shall describe, detail and identify:

(1) Who and what will be affected by the proposal;
(2) How, when and where the effect will occur; and
(3) What the proposal prescribes, proscribes or otherwise mandates; and

(4) What enforcement mechanisms and sanctions may be involved; and
(5) Any other relevant or pertinent information.

ii. A social impact statement which describes the expected social impact of the proposed rulemaking on the public, particularly on any segments of the public proposed to be regulated, and including any proposed or expected differential impact on different segments of the public, including the rulemaking action, and justification therefor.

iii. An economic impact statement which describes the expected costs, revenues, and other economic impact upon governmental bodies of the State, particularly any segment of the public proposed to be regulated.

iv. A regulatory flexibility statement in accordance with N.J.S.A. 52:14B-16 et seq.

6. The full text of the proposed new rule, amendment, repeal or readoption, specifically indicating additions and/or deletions of any rule being repealed or renumbered.

(b) Upon receipt of the proposed notice which conforms to these requirements:

1. The OAL shall submit the notice, other than a notice of a Federally required rule (see N.J.A.C. 1:30-3.7), to the Senate and the General Assembly;

2. The OAL shall publish the notice of proposed rule in the next available issue of the New Jersey Register. Pursuant to N.J.S.A. 52:14B-7(c), any proposal notice which would be cumbersome, or unduly expensive to publish shall not be printed in full. Instead, such proposals shall be summarized in the Register. The proposing agency shall make available the proposed rule and provide in the notice the manner in which, and from where, copies may be obtained.

3. The agency shall mail the notice of proposed rule, as filed to those persons who have made timely request of the agency for notice of its rulemaking actions; and

4. *[The agency shall undertake an additional method of publicity, other than publication in the Register, reasonably calculated to inform those persons most likely to be affected by or interested in the proposed rule. The additional method of publicity shall include: the full text of the proposed rule or a statement of the substance of the intended action or a description of the subjects and issues involved; and information on the time, place and manner in which interested persons may present comments.]* *The agency shall undertake an additional method of publicity other than publication in the Register, reasonably calculated to inform those persons most likely to be affected by or interested in the proposed rule:

i. The additional method of publicity shall include information on the time, place, and manner in which interested persons may present comments and either of the following:

(1) The full text of the proposed rule; or
(2) A statement of the substance of the proposed action; or
(3) A description of the subject and issues involved.

ii. The additional method of publicity may be by:

(1) Notice in a newspaper of general circulation;
(2) Trade, industry, government or professional publications;
(3) Distribution of a press release to the news media;
(4) Posting of a notice in an appropriate location(s);
(5) Mailing to a distribution list; or
(6) Any other manner reasonably calculated to inform those persons most likely to be affected by or interested in the intended action.

iii. The additional method of publicity shall provide at least 30 days notice of the intended action.*

(c) Any proposal notice which does not meet the requirements in (a) and (b)3 above or any additional notice which does not meet the requirements in (b)4 above may be subject to the provisions of N.J.A.C. 1:30-1.12.

(a)

Rules for Agency Rulemaking Emergency Rule Adoptions and Filing Adopted Rules

Adopted Amendments: N.J.A.C. 1:30-4.1 and 1:30-4.5

Proposed: May 4, 1987 at 19 N.J.R. 676(a).

Adopted: July 15, 1987 by Ronald I. Parker, Acting Director, Office of Administrative Law.

Filed: July 28, 1987 as R.1987 d.346, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:14B-1 et seq. and 52:14F-5(f), (h) and (i).

Effective Date: August 17, 1987.

Expiration Date: February 14, 1991.

Summary of Public Comments and Agency Responses:

COMMENT: Verice M. Mason, Assistant Commissioner, Legislative and Regulatory Affairs, Department of Insurance, requested a clarification concerning the extension of the provisions of an emergency rule beyond the statutory 60-day period. Specifically, the Department of Insurance questioned whether the proposed amendment would in any way affect the method found in the Administrative Procedure Act at N.J.S.A. 52:14B-4(c) which extends the provisions of an emergency rule beyond the 60-day statutory period if the Legislature passes a resolution providing for an additional 60 day life to the emergency rule.

RESPONSE: Ms. Mason was advised that the legislative extension of an emergency rule would not be affected by the proposed rule change.

COMMENT: John Walzer, Acting Director, Office of Legal Liaison and Regulatory Affairs, Department of Human Services, questioned whether the proposed amendment would affect the current practice of submitting one package to the Office of Administrative Law when adopting a rule on an emergency basis and concurrently proposing the emergency text for adoption beyond the emergency 60-day period. Mr. Walzer maintained that the wording of the proposal was unclear concerning whether submission of one package would still be permissible.

RESPONSE: Mr. Walzer was advised that under the proposed amendment the current practice of submitting one rulemaking package for an emergency adoption would not only be permissible under the proposed amendment but is actually the preferred method. In order to eliminate any possible confusion concerning the submission of an emergency adoption, N.J.A.C. 1:30-4.5(d) has been amended by deleting the word "separately" from the text of the rule.

Full text of the adoption follows (deletion indicated in brackets with asterisks *[thus]*).

1:30-4.1 Requirements for filing an adopted rule

(a) With each adopted rule submitted for filing the adopting agency shall include:

1. A Certificate of Proposal, Adoption and Promulgation (form OAL/ARP-1) signed by the adopting agency head, or other person authorized by statute to adopt rules, that the rule was duly adopted according to law and in compliance with the requirements of the Administrative Procedure Act, P.L. 1968, c.410, as amended by P.L. 1978, c.67 and P.L. 1981, c.21, and of this chapter;

2.-8. (No change.)

1:30-4.5 Emergency rule adoption and concurrent proposal

(a) Any agency adopting an emergency rule pursuant to N.J.S.A. 52:14B-4(c) shall comply with the requirements of the adoption procedure. The documents to be filed for an emergency rule adoption shall include:

1. A Certificate of Proposal, Adoption and Promulgation (form OAL/ARP-1) signed by the agency head adopting the emergency rule;
2. (No change.)

3. A signed statement from the Governor concurring as to the existence of an imminent peril which justifies the emergency rulemaking proceeding.

4. The text of the emergency rule.

(b) (No change.)

(c) Upon filing with the Office of Administrative Law, the OAL shall transmit the Certificate of Proposal, Adoption and Promulgation, the Governor's signed statement, and a copy of the emergency rule to the President of the Senate and the Speaker of the General Assembly.

(d) To continue the provisions of an emergency rule beyond the statutory 60-day period of emergency (see N.J.S.A. 52:14B-4(c)), the agency may *[separately]* propose the provisions of the emergency rule in a proposal which is filed with the OAL at the same time that the emergency adoption is filed. The notice of emergency adoption shall state that the rule is being proposed concurrently. The concurrent proposal shall comply with N.J.A.C. 1:30-3.1 and may be adopted after the comment period. The adoption of the concurrent proposal shall be effective upon timely filing of the notice of adoption with the OAL. Any changes to the readopted rule shall be effective upon publication of the notice of adoption. The provisions of an emergency rule may not be readopted as an emergency rule.

BANKING

(b)

DIVISION OF BANKING

Consumer Credit Bureau

Debt Adjustment and Credit Counseling Fees

Adopted New Rules: N.J.A.C. 3:25

Proposed: June 1, 1987 at 19 N.J.R. 901(b).

Adopted: July 16, 1987 by Robert M. Jaworski, Acting Commissioner, Department of Banking.

Filed: July 20, 1987 as R.1987 d.334, without change.

Authority: N.J.S.A. 17:16G-6.

Effective Date: August 17, 1987.

Expiration Date: August 17, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

CHAPTER 25

DEBT ADJUSTMENT AND CREDIT COUNSELING

SUBCHAPTER 1. DEBT ADJUSTMENT AND CREDIT COUNSELING FEES

3:25-1.1 Definitions

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

"Client" means an individual or a group of individuals comprising a single family unit.

"Credit counseling" means any guidance or educational program or advice offered by a nonprofit social service agency or nonprofit consumer credit counseling agency for the purpose of fostering the responsible use of credit and debt management.

"Debt adjustment" means either acting or offering to act for a consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or otherwise altering the terms of payment of any debts of the debtor, or, to that end, receiving money or other property from a debtor, or on behalf of the debtor, for payment to, or distribution among, the creditors of the debtor.

"Licensee" means an agency licensed to provide debt adjustment and/or credit counseling services pursuant to N.J.S.A. 17:16G-2.

"Month" means a calendar month.

3:25-1.2 Debt adjustment fees

The maximum fee that may be charged by a licensee to a client for debt adjustment services is \$25.00 per month.

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3:25-1.3 Credit counseling fees

The maximum fee that may be charged by a licensee to a client for credit counseling services is \$60.00 per month.

3:25-1.4 Prior notice

With respect to the fees that may be charged pursuant to this subchapter, it is the responsibility of the licensee to provide to the client in writing, prior to any debt adjustment or consumer credit counseling, a statement of the fees to be charged.

HEALTH**(a)****HOSPITAL REIMBURSEMENT****Procedural and Methodological Regulations
Financial Elements and Reporting****Adopted Amendments: N.J.A.C. 8:31B-3.38 and 4.62**

Proposed: May 18, 1987 at 19 N.J.R. 840(a).

Adopted: July 22, 1987 by Molly Joel Coye, M.D., M.P.H.,

Commissioner, Department of Health (with approval of the Health Care Administration Board).

Filed: July 24, 1987 as R.1987 d.338, **without change**.

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b and 26:2H-18d.

Effective Date: August 17, 1987.

Operative Date: September 1, 1987.

Expiration Date: October 15, 1990.

Summary of Public Comments and Agency Responses:**COMMENTORS:**

East Orange General Hospital
St. Joseph's Hospital and Medical Center
Our Lady of Lourdes Medical Center
New Jersey Hospital Association
UMDNJ—University Hospital
Jersey City Medical Center
Hackensack Medical Center
Helene Fuld Medical Center
Muhlenberg Regional Medical Center, Inc.
Newark Beth Israel Medical Center
Community Memorial Hospital

COMMENT: The proposed regulations do not assure continued access for patients who are uninsured or underinsured. The cost of providing this care should be a reimbursable element of inpatient rates.

The Omnibus Reconciliation Act of 1986 suggests that the pre-entitlement period for Medicare may be twelve months. Therefore, the usual three month pre-entitlement period may be longer than suggested by the DOH.

There appears to be a false impression that Medicare covers all patients. Not all patients are eligible or entitled to receive Medicare coverage immediately.

RESPONSE: Currently, the 1987 projected uncompensated care amounts are adequate to cover the cost of this service because dialysis was included in the hospitals' actual 1985 uncompensated care. Therefore, there should not be any adverse impact on cash flow from this charge.

It should be noted that as an outpatient service, dialysis is unique in that approximately 85% or more of the treatments are covered by Medicare. In this respect, Medicare is virtually the exclusive payer for End Stage Renal Disease (ESRD) outpatient services. Briefly outlined below are the requirements, as amended up to the latest Federal legislation, one of which must be met to qualify for Medicare average of ESRD.

1. The individual is meeting the qualifying requirement for insured status under social security (Medicare).

2. The individual is certified as disabled under Medicare definitions.

3. The individual qualifies as a dependent of an entitled person.

4. The individual is a patient diagnosed as having end stage renal disease. A waiting period must be served after diagnosis is confirmed as ESRD for qualifying individuals as follows:

a. No waiting period if the individual receives a kidney transplant or participates in a self dialysis program.

b. A three month waiting period.

c. A 12 month period for those individuals who have coverage in a group health plan; Medicare is the secondary payer during this period, which means Medicare would subsidize the other payers coverage up to the Medicare payment rate.

The only individuals who would be ineligible for ESRD services are illegal aliens. Based on these criteria, there appears few instances where Medicare does not cover outpatient dialysis treatments. In cases where individuals are *not* covered by a group health plan, Medicare would become the primary payer after a three month waiting period.

It should be noted that none of the commentors detailed the amount of uncompensated care they experience for outpatient dialysis services, and the actual amount related specifically to outpatient dialysis services could not be determined from historical data which is required to be reported to the Department each year. After additional study, the Department will come back to the Board with a separate proposal not later than October 1987 providing a mechanism, to be incorporated into the rates, for uncompensated care related to outpatient dialysis services.

COMMENT: Several comments were made regarding the identification and removal of direct and indirect costs from the hospital's Preliminary Cost Bases. They have been summarized as follows:

1. The costs to be excluded should be precisely defined to ensure that hospitals are not penalized by removal of an inappropriate amount of cost.

2. Only indirects that are *explicitly* attributable to the provision of renal dialysis services are appropriate to exclude from Chapter 83 costs.

3. There is no specific mention of the method to be used to define renal dialysis indirect costs. It is recommended that only direct costs from the Medicare Cost Report be excluded until an incremental cost study is performed to identify indirect costs specific to the provision of renal dialysis services.

4. It is requested that the Department use the latest HCFA 2552 in identifying outpatient dialysis costs.

5. A special appeal process should be established to address exceptions (for cost exclusions) which present an extreme hardship for a provider. It is believed that this appeal process is necessary due to the inconsistency in the allocation of indirect costs between the Chapter 83 and Medicare cost finding methodologies.

RESPONSE: The amendment proposed by the Department in section 8:31B-4.62(f) mentions the Medicare cost report HCFA 2552 as "sufficient accounting records . . . maintained to account for the cost of such operations" for outpatient renal dialysis services, but is not explicit in detailing how this information will be used. The Department's intention is to use the HCFA 2552 to identify indirect costs only, since Chapter 83 already segregates direct costs in the development of the outpatient rates per visit.

Chapter 83 Financial Elements do not match Medicare definitions in some cases. The Department has converted the Medicare (HCFA 2552) cost report so that items identified as indirect costs fit Chapter 83 definitions. Therefore, the Department has adopted Medicare's cost allocation method for only those items which are considered indirect using Chapter 83 definitions.

It should be noted that Medicare's cost finding methodology is generally accepted by the hospital industry as a fair method of discrete cost finding. Medicare also specifies the statistical bases used for allocation to the using cost centers which is consistently applied across all hospitals. Medicare's method of allocating indirect costs identifies less indirect outpatient dialysis costs than would have been allocated by using the Chapter 83 methodology. Therefore, the Department believes that this approach is sufficient.

The establishment of a special appeal process is not considered appropriate or necessary. This is true because due to deregulation, hospitals may charge whatever rate they consider appropriate. It should be noted that while Medicare limits payments for outpatient dialysis services, the composite rates theoretically include potential incentives for all providers. In cases where providers consider the composite rate insufficient, HCFA has provided an appeal process to seek relief.

The Department intends to use the most current available Medicare (HCFA 2552) cost report to identify those indirect costs which are to be excluded from Chapter 83. The 1985 Medicare cost reports are the most current available data. This data will be used to identify the amount of indirects which will be excluded from Chapter 83. The amounts using 1984 data statewide is \$8,264,477. The Department has just received the 1985 data and will provide the results of its analysis as soon as possible. However, the amount is not expected to be materially different.

COMMENT: In order to allow for a reasonable transition, the proposed regulation should be effective as of the first day of the month after final adoption.

RESPONSE: The Department agrees with this comment and recommended to the HCAB that the effective date be the first day of the month after final adoption. The HCAB approved the rules for final adoption at their July 9, 1987 meeting, for publication in the New Jersey Register on August 17, 1987. According to the above request, September 1, 1987 has been designated as the operative date for implementation of the rule.

This issue has been discussed with industry representatives for over one year. Accordingly, the industry has been aware of the Department's intention to deregulate dialysis. In addition, the Department does not believe that this change to the reimbursement regulation will disrupt this service. However, an additional month notice before implementation should provide for a more orderly transition.

COMMENT: It is relevant to address the issue of efficient patient management which is part of the essence and purpose of Chapter 83. This element is particularly true in the ability to provide Personnel services and to utilize supplies more efficiently. It should be pointed out here, however, that under Chapter 83 there is no portion of profit which is attributable to the decrease in price of a supply item. It must be remembered that unlike the Federal system, under Chapter 83 the economic factor received by hospitals is adjusted to actual for final reconciliation purposes. Therefore, if we have "profited" by a reduction in the purchase price of dialysis supplies, this element of "profitability" is in fact reduced in the final calculation of the economic factor which is market basket based.

RESPONSE: Economies can be achieved through volume increases, shifting to home and self dialysis where applicable, reductions in expenses, for example, excess staff, etc. It should be noted that as any other excluded service, all outpatient dialysis costs would be excluded from the Chapter 83 Preliminary Cost Base, and consequently from the costs applied to the various proxies in the economic factor calculation. Therefore, the hospital specific economic factor would not be impacted by decreases in outpatient dialysis supply costs. Conversely, outpatient dialysis costs and revenues would not be included at Final Reconciliation and therefore would not be impacted by the actual Chapter 83 economic factor.

COMMENT: The proposal does not address or explain the way in which costs (direct and indirect) would be removed from the hospital's reimbursement. This again is one of the primary reasons why other outpatient deregulations have not been proposed. We do not want to see, nor do we feel it appropriate that dialysis be the test "Health Care service" for deregulation purposes. The primary concern, however, is the loss of the protection in Chapter 83 and its financial elements (uncompensated care) for the Outpatient and Home Dialysis service. Because of this, St. Joseph's Hospital and Medical Center strongly urges that the proposed "deregulation" of outpatient dialysis and home dialysis services be withdrawn at this time. We feel that the issues relating to Dialysis Service must be reviewed concurrently with all outpatient services to provide the same protection to patients receiving these services.

RESPONSE: While it is true that the issue of proper cost identification has been discussed with regard to outpatient deregulation, it was discussed in the context of using Chapter 83 principles which tend to allocate more indirect costs to outpatients than the Medicare discrete cost finding method. The hospital industry has not, over the course of the last few years, proposed an alternative methodology. All indications are that the alternative use of Medicare's methodology would be sufficient.

The Department is not using dialysis as a test case for deregulation. In fact, the Department believes that Medicare has far more experience in setting reasonable rates for this particular service. As expressed before the Board previously, the proliferation of outpatient dialysis providers nationally would suggest that Medicare, the predominant payer, has established rates which are more than adequate.

Deregulation of this service is intended to allow the incentives provided by Medicare to encourage the continued provision of this service by efficient, effective and necessary providers. In essence, the Department believes that deregulation of most, if not all, outpatient services is desirable and that dialysis happens to be the first service which lends itself to deregulation.

COMMENT: There is concern that deregulation of outpatient dialysis services as proposed may deny full recognition of capital requirements. Further, the recently proposed regulation changes which relate to accounting for indirect and capital costs may be affected by the deregulation of outpatient dialysis services.

RESPONSE: As with any other excluded health care service the protection of any related costs, such as capital requirements, would no longer be extended to a deregulated service. It should be pointed out that capital and indirect costs related to outpatient dialysis services constitute a relatively small amount of money (that is, capital is less than two percent of total dialysis costs, and indirect costs net of capital is approximately 12 percent of total dialysis costs).

COMMENT: The removal of outpatient dialysis services from the Chapter 83 regulations does not preempt the Hospital Regulations which require Certificates of Need for additions or changes to these services.

RESPONSE: The proposed regulation changes address only the reimbursement of outpatient dialysis services. Currently there are no proposed regulation amendments relating to the planning and Certificate of Need process for these services. However, the Department will take under advisement the suggestion to review the planning and Certificate of Need Legislation for these services.

COMMENT: Community Memorial Hospital disagrees with the Department's assertion that the proposed amendments will "facilitate a competition based reimbursement structure". The hospital cites as justification the 85 percent Medicare utilization rate for which a fixed prospective rate is paid.

RESPONSE: Competition in an essentially price taking environment suggests that the provider must be a necessary and efficiently managed provider in order to generate sufficient economies of scale and other cost savings in order to survive in an environment where the provider cannot dictate price. There is not reason to believe that the predominance of one payer, that is, Medicare, would adversely impact this institution or any other institution.

COMMENT: Community Memorial Hospital contends that in order to afford equitable treatment to regional providers of dialysis services, the inpatient component should also be excluded and treated as a rebundled service.

RESPONSE: The Department is currently reviewing a five hospital, generic appeal which includes this hospital. The issue is the inclusion of regionalized hospital services in the calculation of inpatient DRG rates. This issue will be resolved as separate from this outpatient issue.

Full text of the adoption follows.

8:31B-3.38 Derivation from Preliminary Cost Base

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

(c) Basic rate order:

1. Each hospital shall receive from the Commission a rate order detailing the Schedule of Rates as follows:

SCHEDULE OF RATES	
ITEM	RATE PER CASE
DIRECT COSTS RELATED TO PATIENT CARE	
DRG 1	\$ _____
DRG 2	\$ _____
DRG 3	\$ _____
CLINIC PATIENTS	\$ _____ ***
HOME HEALTH PATIENTS	\$ _____ ***
EMERGENCY SERVICE OUTPATIENTS	\$ _____ ***
OUTPATIENT DIALYSIS TREATMENT	\$ _____ ****
AMBULATORY SURGERY	\$ _____ ***
SAME-DAY PSYCHIATRY	\$ _____ ***
HOME DIALYSIS	\$ _____ ****
OTHER AMBULATORY	\$ _____
INDIRECT FINANCIAL ELEMENTS	
INDIRECT COSTS RELATED TO PATIENT CARE	\$ _____
NET INCOME FROM OTHER SOURCES	\$ () _____
CAPITAL FACILITIES ALLOWANCE	\$ _____
COMMISSION APPROVED WORKING CASH INFUSION	\$ _____
GRANTS ON BEHALF OF THE MEDICALLY INDIGENT	\$ () _____
ESTIMATED UNCOMPENSATED CARE	_____ %
ESTIMATED PERSONNEL HEALTH PROGRAM	_____ %

NOTE: The Schedule of Rates shall be adjusted to reflect five percent working capital increases and _____ percent for payor differentials as specified by the Commission. Payor Class A shall pay _____ percent of this Schedule of Rates. Payor Class B shall pay _____ percent of this Schedule of Rates and all other Payor Classes shall pay 100 percent of this Schedule of Rates.

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*** Patients receiving these services will be billed at controlled charges; however, this rate per visit will be used for purposes of reconciliation.

**** Effective (date of final adoption) outpatient and home dialysis services will not have rates set pursuant to N.J.A.C. 8:31B-4.62(f).

2.-3. (No change.)

(d) (No change.)

8:31B-4.62 Excluded Health Care Services

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

(f) Excluded Ambulatory Services: Outpatient Renal and Home Dialysis. The cost and revenue related to these services are to be treated as Case C, revenues and expenses are netted, and neither gains nor losses are added to the Preliminary Cost Base. Sufficient accounting records should be maintained to account for the costs of such operations (that is, Medicare cost report HCFA-2552) and such direct and indirect cost shall be excluded from Costs Related to Patient Care.

DIVISION OF HEALTH FACILITIES EVALUATION

(a)

Home Health Agencies Standards For Licensure

Adopted Repeal: N.J.A.C. 8:42-1

Adopted New Rule: N.J.A.C. 8:42

Proposed: November 17, 1986 at 18 N.J.R. 2287(a).

Adopted: July 17, 1987 by Charlotte Kitler, Acting

Commissioner, Department of Health (with approval of the Health Care Administration Board).

Filed: July 17, 1987 as R.1987 d.333, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Effective Date: August 17, 1987.

Operative Date: October 17, 1987.

Expiration Date: August 17, 1992.

Summary of Public Comments and Agency Responses:

The proposed standards for licensure of home health agencies elicited comments from representatives of the New Jersey State Nurses Association, the Home Health Agency Assembly of New Jersey, Inc., the New Jersey State Board of Nursing, the New Jersey State Board of Physical Therapy, the Division of Medical Assistance and Health Services of the New Jersey State Department of Human Services, the New Jersey Business Group on Health, Inc., Community Nursing Service of Montclair, Home Health Associates, and the Environmental Services Unit of the Department.

The Department has compiled the comments and recommendations which it received, responded to them individually, and sent a copy of the compilation to each respondent. This listing of the comments submitted to the Department and the corresponding Departmental responses is on file at the Office of Administrative Law and at the Standards Program of the Department. Consideration of comments and recommendations received and further review of the proposed rules have led the Department to change the proposed rules both substantively and technically. Where changes have been made, they are intended to clarify the intent of the rules, to render the rules technically precise and accurate, to enhance the utility of the rules, and to promote the safety of patients. The following is a description of the comments submitted and the Departmental responses.

COMMENT: The relation of physical orders to treatment planning and provision is the subject of general and specific comments which were submitted. It was noted that Medicaid, for example, specifies physician orders as a precondition for reimbursement but that the proposed rules do not specify such orders as a precondition for providing services. Several commentors stated that the definitions of "care plan" and "patient treatment plan" should specifically address physician orders or physician certification and recertification.

RESPONSE: On the basis of these comments, a rule was added which requires that the facility have policies and procedures for physician's orders for physical therapy, occupational therapy, speech-language pathology, audiology, social work services, and dietary counseling (see

N.J.A.C. 8:42-6.2(a)19). This change, in conjunction with the adopted rules at N.J.A.C. 8:42-6.2(a)3 and N.J.A.C. 8:42-6.2(a)6, compels the facility to acknowledge and determine the role of physician orders in the planning and provision of treatment. There is no need for N.J.A.C. 8:42 to include policies and terminology of third-party payors. Facilities and third-party payors, however, may establish requirements which exceed the minimal licensure standards of N.J.A.C. 8:42.

COMMENT: With regard to several of the proposed rules, commentors recommended that each signature include indication of the title of the person who signed the document.

RESPONSE: No revision was needed because the definition of "signature" in N.J.A.C. 8:42-1.1 includes the person's title.

COMMENT: The definitions of "administrator," "public health nurse director," and "public health nurse supervisor" in N.J.A.C. 8:42-1.1 elicited comments regarding qualifications and responsibilities. One respondent suggested that the qualifications required of the administrator are not sufficiently specific to home health care, while another requested that nonsupervisory experience also be required. Home Health Associates commented on the systematic aspects of these three levels of personnel. The comments consist primarily of assertions that (1) two of the levels require a Master's degree and the definitions are "not internally consistent"; (2) the rules allow both excessive and inadequate levels of administrative and supervisory personnel; (3) the rules ignore variables such as agency size; (4) the provisions concerning alternate administrative and supervisory personnel are too general; (5) the dependence of the requirement for a public health nurse supervisor on the existence of a branch office is illogical; and (6) the proposed qualifications and responsibilities of the administrator and of the public health nurse director "have significant overlap." These comments are accompanied by the recommendation that the requirements for the three levels of personnel be replaced by a requirement for an administrator who performs the functions proposed for the administrator and the public health nurse director. The administrator then would have to determine the quantity of "each type of caregiving and supervisory staff" needed to ensure that the facility complies with the rules. It was further recommended that the duties of the public health nurse supervisor be specified if the rules continue to address such a position. Finally, the State of California rules were suggested as a model for the designation of an alternate administrator and for the establishment of a formula for determining the number of supervisory personnel, if the Department does not accept the recommendation to allow the administrator to determine supervisory staff levels.

RESPONSE: The proposed definition of "administrator" in N.J.A.C. 8:42-1.1, which is similar to the definition which has served well in the past, was not revised. Although the Department maintains that the rule represents an acceptable minimum standard, a facility may establish more stringent qualifications. In response to the comments of Home Health Associates, the Department notes that only the public health nurse director is required by N.J.A.C. 8:42-1.1 to have a Master's degree. The Department further contends that the definitions of administrative and supervisory staff, which are essentially the same as those which have been in effect since 1976, are consistent. Also, the qualifications and responsibilities of the administrator and the public health nurse director differ substantially—the latter being a registered professional nurse with experience in public health nursing. The administrator and the public health nurse director approach their respective responsibilities from different perspectives. N.J.A.C. 8:42-5.3 was rewritten in the interest of clarity.

The proposed rules establish minimum requirements for home health agencies while allowing the agencies to establish the organizational and management structures best suited to their needs. Since the circumstances which necessitate the temporary replacement of the administrator or public health nurse director by an alternate vary, the Department maintains that the flexibility inherent in N.J.A.C. 8:42-5.1(b) and N.J.A.C. 8:42-7.2(a) is appropriate, and the rules were not rewritten. The adopted rule, N.J.A.C. 8:42-7.3(b), was not rewritten because it was proposed specifically to redress past problems concerning the supervision of personnel providing services from a branch office. The requirement should not be considered solely from the standpoint of volume and caseload.

In regard to the specific recommendations of Home Health Associates, it should be noted that any home health agency has the prerogative of combining the positions of administrator and public health nurse director (see N.J.A.C. 8:42-5.1(a)). The Department maintains that minimum requirements for supervisory personnel are appropriate and that the commentor's suggestion of "a provision mandating that the home health agency employ such other administrative and supervisory personnel with appropriate qualifications and in appropriate numbers so as to ensure

the agency's compliance with . . . the regulations" would be nonfunctional as a rule. The rules allow the facility to determine the scope of the public health nurse supervisor's responsibility because such responsibilities should depend on variables such as facility resources and qualifications of staff.

The Department contends that a fixed ratio of supervisory personnel to staff would not ensure quality of care, and no such ratio was added.

A technical change was made in the proposed definition of "public health nurse director" in N.J.A.C. 8:42-1.1. The change clarifies the intent of the proposed definition.

COMMENT: One commentator raised questions regarding the definition of "branch office" in the proposed rule, N.J.A.C. 8:42-1.1. The provision requiring that a branch office meet "all requirements for licensure" was questioned, as was the procedure for obtaining approval for the establishment of a branch office. If a branch office meets all requirements, then, it was claimed, the branch office would have to appoint an administrator and a public health nurse director. It was recommended that the repealed definition of "branch office" be retained.

RESPONSE: In response to a comment that the sharing of some services is essential to the concept of a branch, the definition was rewritten so as to require the sharing of administrative services and public health nurse direction. The rules do not require a branch office to appoint an administrator and a public health nurse director. N.J.A.C. 8:42-5.1(a) and N.J.A.C. 8:42-7.2(a) require the governing authority to appoint these persons, who must be available in the facility. A branch office does not have a separate governing authority. Branch offices are established in accordance with the requirements concerning Certificates of Need (see N.J.A.C. 8:42-2.1(a) and (b)), and these requirements need not be reproduced in N.J.A.C. 8:42. The repealed definition of "branch office" has not been retained. The Department contends that the adopted definition, as rewritten, is more precise.

COMMENT: The Department was informed by the New Jersey State Board of Physical Therapy that most of the proposed definition of "physical therapist" in N.J.A.C. 8:42-1.1 is unnecessary.

RESPONSE: The definition was revised so as to eliminate the superfluous specifications.

COMMENT: One commentator recommended that the definitions regarding supervision be deleted.

RESPONSE: Since the term "direct supervision" is not used in N.J.A.C. 8:42, that definition was deleted.

A technical change in the manner of referring to N.J.S.A. 26:2H-1 et seq. was made in N.J.A.C. 8:42-2.1(a), 8:42-2.1(c), 8:42-2.3(b)1, 8:42-2.4(a), 8:42-2.6(a), 8:42-3.1(e), and 8:42-15.1(a).

COMMENT: One respondent requested that written consent of the patient be obtained prior to Departmental survey visits to the patient's home.

RESPONSE: Although all survey visits are unannounced, the patient has the right to refuse entrance by Departmental staff. Thus, N.J.A.C. 8:42-2.3(d) was not changed.

COMMENT: The meaning of the proposed rule, N.J.A.C. 8:42-3.1(a), was questioned. One commentator stated that a requirement for nurses to be available to make visits 24 hours per day would have an "adverse economic impact on small agencies."

RESPONSE: The intent of the rule is that a registered professional nurse must be available 24 hours per day, seven days per week. The action taken by the nurses as a result of telephone calls received from patients or families would depend upon the nature of each individual call. A home visit by a facility nurse may or may not be needed to resolve the problem.

With regard to the policy and procedure manual required by N.J.A.C. 8:42-3.5(a), comments received concern the omission from the proposed rules of certain personnel issues, such as part-time employment and severance pay policy.

The rules were not revised so as to address these issues but do not preclude the facility from establishing personnel policies and procedures—the content of which is determined by the facility. Similarly, in response to a question, the Department maintains that N.J.A.C. 8:42-3.7 does not prevent the facility from specifying, in any written agreement, who is responsible for maintaining insurance coverage, and the rule was not rewritten so as to specify this responsibility.

A technical correction was made to N.J.A.C. 8:42-3.10(a).

COMMENT: One respondent expressed concern that coordination of care is the subject of one subchapter, N.J.A.C. 8:42-6, rather than an area treated by the various subchapters on specific services. Subchapter 7, Nursing Services, for example, does not explicitly refer to the "case management" role of the nurse.

RESPONSE: The Department agrees that coordination of care is an important aspect of patient care and maintains that the organization of the rules emphasizes the importance of coordination and continuity of the various patient care services. Note that the definition of "patient treatment plan" in N.J.A.C. 8:42-1.1 states that the plan is coordinated and maintained by the nursing service.

COMMENT: Another commentator stated that the advisory group required by N.J.A.C. 8:42-6.1(a) should include more nursing representation and that the proposed rule, N.J.A.C. 8:42-6.1(b), should specify a minimum frequency of meetings.

RESPONSE: N.J.A.C. 8:42-6.1(a), which is based upon 405.1222 of the Medicare Conditions of Participation for home health agencies, was not changed. The facility may increase nursing representation as the rule does not limit the advisory group to those persons described. N.J.A.C. 8:42-6.1(b) was changed to require the advisory group to meet at least annually. The rule originally at N.J.A.C. 8:42-6.1(b) was renumbered as N.J.A.C. 8:42-6.1(c).

An editorial change was made to the proposed rule, N.J.A.C. 8:42-6.2(a)17, and N.J.A.C. 8:42-6.2(a)19 was added as mentioned above.

COMMENT: One respondent submitted a copy of the Federal regulation which permits a speech-language pathologist to establish a plan of treatment. It was also noted that audiologists do not provide services on a continuing basis. It is, therefore, unnecessary for physician orders to specify the frequency and duration of treatment in these two cases.

RESPONSE: N.J.A.C. 8:42-6.2(b) was revised accordingly. The recommended change was supported by the Audiology and Speech-Language Pathology Advisory Committee of the Division of Consumer Affairs of the New Jersey State Department of Law and Public Safety.

Editorial changes were made in N.J.A.C. 8:42-7.5(a) and 8:42-7.5(a)5.

In the interest of quality of care, the Department accepted a recommendation to revise the proposed rule, N.J.A.C. 8:42-7.5(a)3, so as to require that the initial nursing assessment of a patient be performed by a registered professional nurse.

COMMENT: With regard to homemaker-home health aide services, it was suggested that professional staff in addition to the registered professional nurse be able to supervise the activities of the aides and that supervisory visits be made to the patient's residence at least every two weeks. It was also recommended that the nurse be able to "delegate the supervision of rehabilitation activities to therapists." A question was raised regarding the documentation of the nurse's evaluation which results in the delegation of tasks to the homemaker-home health aide.

RESPONSE: In response to these comments, the Department contends that a registered professional nurse must provide supervision in all cases because the duties of the homemaker-home health aide are never limited to providing therapy-specific services. Consequently, N.J.A.C. 8:42-7.8(a)2 was not rewritten. N.J.A.C. 8:42-7.8(a)2iii was not revised so as to specify a minimum frequency of supervisory visits because, in this case, the frequency of supervisory visits is not a reliable indicator of the quality of care provided. The frequency depends upon the judgement of the registered professional nurse. The question referred to above regarding documentation of the nurse's evaluation actually concerns supervisory practices which are properly determined by the facility and which should not, and are not, addressed by N.J.A.C. 8:42-7.8(a)2ii. Also, N.J.A.C. 8:42-7.8(a)2ii concerns the delegation of tasks to homemaker-home health aides and is not intended to provide for the delegation of supervisory tasks to health care practitioners other than nurses.

COMMENT: One commentator interpreted the proposed rule, N.J.A.C. 8:42-7.8(a)2i, to mean that the patient's medical/health record must be kept in the patient's home.

RESPONSE: The "documentation of services" to which the rule refers is not necessarily the patient's medical/health record.

COMMENT: Another respondent stated that the proposed rule, N.J.A.C. 8:42-7.8(a)3, requires every aide to perform each of the specified activities.

RESPONSE: The rule lists the activities for which the homemaker-home health aide is responsible. This is not to imply that each activity is actually performed by each aide.

COMMENT: It was recommended that "child care" and "patient escort services" be clearly defined.

RESPONSE: "Patient escort" was deleted from N.J.A.C. 8:42-7.8(a)3. The other activities are not defined because homemaker-home health aides are certified by the Department and, therefore, should be familiar with these personal care and homemaking services, which are based upon the training curriculum approved by the Department.

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Two provisions of N.J.A.C. 8:42-9, Social Work Services, were deleted on the basis of comments submitted. N.J.A.C. 8:42-9.2(a)1 was rewritten because "psychological factors" are not exclusively within the domain of the social worker. N.J.A.C. 8:42-9.3(b) was deleted in the interest of coordination and continuity of care. Deletion of the rule will not subject the medical/health record to unauthorized use (see N.J.A.C. 8:42-11.3(a)1).

COMMENT: With regard to the proposed rules, N.J.A.C. 8:42-9.3(a)1, N.J.A.C. 8:42-10.3(a)1, and N.J.A.C. 8:42-11.2(a)3, one commentator expressed the view that an integrated treatment plan is superior to separate care plans for each service.

RESPONSE: The Department maintains that the rules have been misinterpreted. The separate care plans to which the rules refer may be portions of the integrated patient treatment plan. The patient treatment plan is not dispersed. Rather, it is coordinated and maintained by the nursing service as part of the medical/health record (see the definition of "patient treatment plan" in N.J.A.C. 8:42-1.1). Also, the patient treatment plan must be available to all personnel providing patient care.

COMMENT: Other comments regarding N.J.A.C. 8:42-11 include recommendations to require "possible side-effects of medications" to be listed as part of the record of medications administered (see N.J.A.C. 8:42-11.2(a)6) and to increase the time interval in N.J.A.C. 8:42-11.4(a) to 60 days.

RESPONSE: Neither rule was revised. The Department agrees that knowledge of side effects is an important aspect of drug administration. Facility policy, however, should determine if and where side effects must be written. Documentation of possible side effects would not ensure that patients are monitored. N.J.A.C. 8:42-11.4(a) appears in manuals of standards for licensure of other types of health care facilities and provides for timely notification of the location and methods of retrieval of medical/health records.

Two additions were made to N.J.A.C. 8:42-12, Infection Prevention and Control, on the basis of recommendations of the Environmental Services Unit of the Department. The phrase "processed, transported, and stored" was added to the proposed rule, N.J.A.C. 8:42-12.2(a)6iii, and complements the intent of the proposed rule. A new rule, N.J.A.C. 8:42-12.2(a)7, was added to ensure that each facility complies with the State law regarding the disposition of needles and syringes.

COMMENT: Two respondents opposed the proposed rule, N.J.A.C. 8:42-12.2(a)6ii, on the grounds that some types of disposable items are "reused for the same patient . . . for short periods of time" and that the term "disposable" is "too difficult to define."

RESPONSE: The rule was not rewritten. The rule allows the facility to develop policies and procedures regarding which items shall be considered to be disposable items, in accordance with manufacturers' recommendations and the demands of patient safety. Some items, therefore, may be reused under circumstances delineated by the facility in its policies and procedures. An explicit definition of "disposable" is not needed.

COMMENT: The lack of reference to the responsibility of the patient in cooperating with those providing care was noted by two commentators.

RESPONSE: N.J.A.C. 8:42-13, Patient Rights, was not rewritten. The State law which underlies the adopted rules does not authorize the Department to regulate the behavior of patients. The rules, however, do not prevent the facility from clarifying the responsibilities of patients at any time.

Technical corrections were made in the titles of the proposed rules, N.J.A.C. 8:42-14.1 and N.J.A.C. 8:42-14.2, and in the proposed rules, N.J.A.C. 8:42-14.2(a)1 and 2, on the basis of comments received. Also, editorial changes were made in N.J.A.C. 8:42-14.2(a)3 and 4. No other changes were made in N.J.A.C. 8:42-14.

COMMENT: Other comments include (1) a remark that N.J.A.C. 8:42-14.2(a)3 seems redundant; (2) a recommendation that N.J.A.C. 8:42-14.2(a)5 be revised so as to "specify a minimum frequency" for the audit of medical/health records; (3) a recommendation that "written findings and correction of problems in a reasonable and timely manner" be required; and (4) a recommendation that the quality assurance plan be required to provide for monitoring of the quality assurance program.

RESPONSE: The Department maintains that N.J.A.C. 8:42-14.2(a)3 is unique since N.J.A.C. 8:42-14.2(a)4 requires evaluation by patients and their families rather than by facility personnel. N.J.A.C. 8:42-14.2(a)5 calls for audit of medical/health records on an "ongoing basis." A required minimum frequency of record audit would be inappropriate because the frequency should depend upon the size of the agency and the volume of records. N.J.A.C. 8:42-1.42(c) requires that the results of the quality assurance program be submitted to the governing authority at least annually. The rule also provides for the implementation of corrective

measures. Problems which jeopardize patient safety should be corrected immediately. The suggested phrase "reasonable and timely manner" is not sufficiently specific. Finally, the purpose of a quality assurance program is to evaluate and improve patient care. Quality assurance activities which the facility may perform are not limited to those specified in N.J.A.C. 8:42-14.2(a). Evaluation of the quality assurance program is consistent with the intent of N.J.A.C. 8:42-14.

COMMENT: One commentator asked whether or not N.J.A.C. 8:42-15.1(b) should be more specific "pending the creation of the uniform cost reporting system."

RESPONSE: The uniform cost reporting system has not yet been developed. The data to be reported will be specified when the system is formally proposed to the Health Care Administration Board.

Full text of the adoption follows (additions to the proposal shown in boldface with asterisks *thus*; deletions from the proposal shown in brackets with asterisks *[thus]*).

CHAPTER 42 MANUAL OF STANDARDS FOR LICENSURE OF HOME HEALTH AGENCIES

SUBCHAPTER 1. DEFINITIONS

8:42-1.1 Definitions

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

"Administrator" means a person who:

1. Has a master's degree in nursing, public health, public administration, or health services administration, and at least two years of supervisory or administrative experience in home health care or in a health care setting; or

2. Has a baccalaureate degree in administration or business administration and four years of supervisory or administrative experience in home health care or in a health care setting.

"Audiologist" means a person who is so licensed by the Audiology and Speech-Language Pathology Advisory Committee of the Division of Consumer Affairs of the New Jersey State Department of Law and Public Safety.

"Available" means ready for immediate use (pertaining to equipment); capable of being reached (pertaining to personnel).

"Branch office" means a facility site from which services are provided to patients in their homes or place of residence; which is physically separate from the home health agency but *[may share]* *shares* administrative services and public health nurse direction; which meets all requirements for licensure; and which has a public health nurse supervisor on the premises during its hours of operation.

"Bylaws" means a set of rules adopted by the facility for governing its operation. (A charter, articles of incorporation, and/or a statement of policies and objectives is an acceptable equivalent.)

"Care plan" (nursing, rehabilitation, social work, dietary counseling) means a written plan based on an assessment of the patient and the care and treatment to be provided. Each service that the patient receives shall initiate the development and implementation of its own care plan at the time of the patient's admission to that service. If the patient does not need a specific service, a care plan is not needed for that service.

"Cleaning" means the removal by scrubbing and washing, as with hot water, soap or detergent, and vacuuming, of infectious agents and/or organic matter from surfaces on which and in which infectious agents may find conditions for surviving or multiplying.

"Clinical note" means a signed and dated notation made at each patient visit by each health care professional who renders a service to the patient, and which includes a description of signs and symptoms, treatment and/or medication(s) administered, the patient's response, and any changes in physical or emotional condition; and which is written or dictated on the day service is rendered and incorporated into the patient's medical/health record according to the facility's policies and procedures.

"Commissioner" means the New Jersey State Commissioner of Health.

"Communicable disease" means an illness due to a specific infectious agent or its toxic products, which occurs through transmission of that agent or its products from a reservoir to a susceptible host.

"Conspicuously posted" means placed at a location within the facility accessible to and seen by patients and the public.

"Contamination" means the presence of an infectious or toxic agent in the air, on a body surface, or on or in clothes, bedding, instruments, dressings, or other inanimate articles or substances, including water, milk, and food.

"Current" means up-to-date, extending to the present time.

"Department" means the New Jersey State Department of Health.

"Dietitian or dietary consultant" means a person who:

1. Is registered or eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association; or

2. Has a bachelor's degree from a college or university with a major in foods, nutrition, food service or institution management, or the equivalent course work for a major in the subject area; and has completed a dietetic internship accredited by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association or has one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting; or

3. Has a master's degree plus six months of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting.

"Disinfection" means the killing of infectious agents outside the body, or organisms transmitting such agents, by chemical and physical means, directly applied.

1. "Concurrent disinfection" means the application of measures of disinfection as soon as possible after the discharge of infectious material from the body of an infected person, or after the soiling of articles with such infectious discharges, all personal contact with such discharges or articles being minimized prior to such disinfection.

2. "Terminal disinfection" means the application of measures of disinfection after the patient has ceased to be a source of infection, or after the facility's isolation practices have been discontinued. (Terminal disinfection is rarely practiced; terminal cleaning generally suffices (see definition of "cleaning"), along with airing and sunning of rooms, furniture, and bedding. Terminal disinfection is necessary only for diseases spread by indirect contact.)

"Documented" means written, signed, and dated.

"Drug administration" means a procedure in which a prescribed drug or biological is given to a patient by an authorized person in accordance with all laws and rule governing such procedures. The complete procedure of administration includes removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying it with the prescriber's orders, giving the individual dose to the patient, seeing that the patient takes it (if oral), and recording the required information, including the method of administration.

"Full-time" means a time period established by the facility as a full working week, as defined and specified in the facility's policies and procedures.

"Governing authority" means the organization, person, or persons designated to assume legal responsibility for the determination and implementation of policy and for the management, operation, and financial viability of the facility.

"Home health agency" means a facility which is licensed by the New Jersey State Department of Health to provide preventive, rehabilitative, and therapeutic services to patients. All home health agencies shall provide nursing, homemaker-home health aide, and physical therapy services in the patient's home or place of residence.

"Homemaker-home health aide" means a person who has completed a training program approved by the Department and who is so certified by the Department.

"Job description" means written specifications, developed for each position in the facility, containing the qualifications, duties, competencies, responsibilities, and accountability required of employees in that position.

"Licensed nursing personnel" (licensed nurse) means registered professional nurses and practical (vocational) nurses licensed by the New Jersey State Board of Nursing.

"Licensed practical nurse" means a person who is so licensed by the New Jersey State Board of Nursing.

"Medication" means a drug or medicine as defined by the New Jersey State Board of Pharmacy.

"Monitor" means to observe, watch, or check.

"Occupational therapist" means a person who is certified, or eligible for certification, as an occupational therapist, registered (OTR) by the American Occupational Therapy Association, and has at least one year of experience as an occupational therapist.

"Patient treatment plan" means a written plan, based on a patient assessment, initiated and implemented upon the patient's admission, and coordinated and maintained by the nursing service. The plan shall include, but not be limited to, the patient's diagnosis, patient goals, means of achieving goals, and care and treatment to be provided. The patient treatment plan shall be kept current and available to all personnel providing patient care, and shall be included in the patient's medical/health record.

"Physical therapist" means a person who is *so* licensed by the New Jersey State Board of Physical Therapy, *[and who:

1. Has graduated from a physical therapy curriculum approved by the Committee on Allied Health Education and Council on Accreditation of the American Medical Association in collaboration with the American Physical Therapy Association; or

2. Prior to January, 1966:

i. Was admitted to membership by the American Physical Therapy Association; or

ii. Was admitted to registration by the American Registry of Physical Therapists; or

iii. Graduated from a physical therapy curriculum in a four-year college or university approved by a state department of education, is licensed or registered as a physical therapist, and where appropriate, has passed a state examination for licensure as a physical therapist; or

iv. Had two years of full-time, or full-time equivalent, experience as a physical therapist and has achieved a satisfactory grade through the examination conducted by or under the sponsorship of the United States Public Health Services; or

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

3. If trained outside the United States prior to December 31, 1977:

i. Graduated after 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy; and

ii. Meets the requirements for membership in a member organization of the World Confederation for Physical Therapy; and

iii. Has acquired one year of full-time, or full-time equivalent, experience under the supervision of an active member of the American Physical Therapy Association; and

iv. Has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.]*

"Physician" means a person who is licensed or authorized by the New Jersey State Board of Medical Examiners to practice medicine in the State of New Jersey.

"Progress note" means a written, signed, and dated notation by the practitioner providing care, summarizing information about the care provided and the patient's response to it.

"Public health nurse" means a person licensed as a registered professional nurse, who has completed a baccalaureate degree program accredited by the National League for Nursing for public health nursing preparation, or post-baccalaureate study which includes content accredited by the National League for Nursing for public health nursing preparation.

"Public health nurse director" means a registered professional nurse who has completed:

1. A master's degree program accredited by the National League for Nursing with a nursing major in supervision, teaching, consultation, *[or]* administration, *[and advanced study in]* *or* a clinical specialty; or a master's program in public health in an institution accredited by the American Public Health Association; and

2. Five years of experience in public health nursing, one year of which shall have been in a supervisory capacity. (See N.J.A.C. 8:42-7.4.)

"Public health nurse supervisor" means a public health nurse who has completed three years of experience in public health nursing under public health nursing supervision. (See N.J.A.C. 8:42-7.4.)

"Registered professional nurse" means a person who is so licensed by the New Jersey State Board of Nursing.

"Restraint" means a physical device or chemical (medication) used to limit, restrict, or control patient movements.

"Signature" means at least the first initial and full surname and title (for example, R.N., L.P.N., D.D.S., M.D.) of a person, legibly written with his or her own hand.

"Social worker" means a person who has a master's degree in social work from a graduate school of social work accredited by the Council on Social Work Education, and at least one year of post-master's social work experience in a health care setting.

"Speech-language pathologist" means a person who is so licensed by the Audiology and Speech-Language Pathology Advisory Committee of the Division of Consumer Affairs of the New Jersey State Department of Law and Public Safety.

"Staff education plan" means a written plan developed at least annually and implemented throughout the year which describes a coordinated

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program for staff education and for each service, including in-service programs and on-the-job training.

"Staff orientation plan" means a written plan for the orientation of each new employee to the duties and responsibilities of the service to which he or she has been assigned, as well as to the personnel policies of the facility.

"Sterilization" means a process of destroying all microorganisms, including those bearing spores, in, on, and around an object.

"Supervision" means authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his or her sphere of competence, with initial direction and periodic on-site inspection of the actual act of accomplishing the function or activity.

[1. "Direct supervision" means supervision on the premises within view of the supervisor.]

SUBCHAPTER 2. LICENSURE PROCEDURE

8:42-2.1 Certificate of Need

(a) According to *[Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act,]* N.J.S.A. 26:2H-1 et seq., and amendments thereto, a health care facility shall not be instituted, constructed, expanded, licensed to operate, or closed except upon application for and receipt of a Certificate of Need issued by the Commissioner.

(b) Application forms for a Certificate of Need and instructions for completion may be obtained from:

Certificate of Need Program
Division of Health Planning and Resources
Development
New Jersey State Department of Health
CN 360
Trenton, NJ 08625

(c) The facility shall implement all conditions imposed by the Commissioner as specified in the Certificate of Need approval letter. Failure to implement the conditions may result in the imposition of sanctions in accordance with *[Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act,]* N.J.S.A. 26:2H-1 et seq., and amendments thereto.

8:42-2.2 Application for licensure

(a) Following acquisition of a Certificate of Need, any person, organization, or corporation desiring to operate a facility shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

Director
Licensing, Certification and Standards
Division of Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, NJ 08625

(b) The Department shall charge a nonrefundable fee of \$500.00 for the filing of an application for licensure of a home health agency and \$500.00 for the annual renewal of the license. An additional \$150.00 shall be charged for the filing of an application for each branch office of the facility, and \$150.00 for its annual renewal.

(c) Any person, organization, or corporation considering application for license to operate a facility shall make an appointment for a preliminary conference at the Department with the Licensing, Certification and Standards Program.

8:42-2.3 Surveys and temporary license

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Health Facilities Inspection Program of the Department shall be conducted to determine if the facility adheres to the rules in this Chapter.

1. The facility shall be notified in writing of the findings of the survey, including any deficiencies found.

2. The facility shall notify the Health Facilities Inspection Program of the Department when the deficiencies, if any, have been corrected, and the Health Facilities Inspection Program will schedule one or more re-surveys of the facility prior to occupancy.

(b) A temporary license may be issued to a facility when the following conditions are met:

1. An office conference for review of the conditions for licensure and operation has taken place between the Licensing, Certification and Standards Program and representatives of the facility, who will be advised that the purpose of the temporary license is to allow the Department to determine the facility's compliance with *[Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act,]* N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules pursuant thereto;

2. Written approvals are on file with the Department from the local zoning, fire, health, and building authorities;

3. Survey(s) by representatives of the Department indicate that the facility adheres to these rules; and

4. Professional personnel are employed in accordance with the staffing requirements in these rules.

(c) No health care facility shall accept patients until the facility has the written approval and/or license issued by the Licensing, Certification and Standards Program of the Department.

(d) Survey visits may be made to a facility at any time, or to a patient's home, by authorized staff of the Department. Such visits may include, but not be limited to, a review of all facility documents and patient records, and conferences with patients and/or their families.

(e) A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department.

(f) The temporary license shall be conspicuously posted in the facility.

(g) The temporary license is not assignable or transferable and shall be immediately void if the facility ceases to operate or if its ownership changes.

8:42-2.4 Full license

(a) A full license shall be issued on expiration of the temporary license, if surveys by the Department have determined that the health care facility is being operated as required by Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, and by the rules in this chapter.

(b) A license shall be granted for a period of one year or less as determined by the Department. (See *[N.J.A.C. 26:2H-1.]* *N.J.S.A. 26:2H-12.*)

(c) The license shall be conspicuously posted in the facility.

(d) The license is not assignable or transferable and it shall be immediately void if the facility ceases to operate or if its ownership changes.

(e) The license, unless sooner suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the original licensure date. The facility will receive a request for renewal fee 30 days prior to the expiration of the license. A renewal license shall not be issued unless the licensure fee is received by the Department.

(f) The license may not be renewed if local rules, regulations, and/or requirements are not met.

8:42-2.5 Surrender of license

The facility shall directly notify each patient, the patient's physician, and any guarantors of payment concerned at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the Licensing, Certification and Standards Program of the Department within seven working days after the revocation, non-renewal, or suspension of license.

8:42-2.6 Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of *[Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act,]* N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules in this chapter, waive sections of the rules if, in his or her opinion, such waiver would not endanger the life, safety, or health of patients or the public.

(b) A facility seeking a waiver of these rules shall apply in writing to the Director of the Licensing, Certification and Standards Program of the Department.

(c) A written request for waiver shall include the following:

1. The specific rule(s) or part(s) of the rule(s) for which waiver is requested;

2. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon full compliance;

3. An alternative proposal which would ensure patient safety; and

4. Documentation to support the application for waiver.

(d) The Department reserves the right to request additional information before processing a request for waiver.

8:42-2.7 Action against a licensee

(a) If the Department determines that operational or safety deficiencies exist, it may require that all new admissions to the facility cease. This may be done simultaneously with, or in lieu of, action to revoke licensure and/or impose a fine. The Commissioner or his or her designee shall notify the facility in writing of such determination.

(b) The Commissioner may order the immediate cessation of services by a facility whenever he or she determines imminent danger to any person's health or safety.

(c) The provisions of (a) and (b) above shall apply to facilities with a temporary license and facilities with a full license.

8:42-2.8 Hearings

(a) If the Department proposes to suspend, revoke, deny or refuse to renew a license, the licensee or applicant may request a hearing which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

(b) Prior to transmittal of any hearing request to the Office of Administrative Law, the Department may schedule a conference to attempt to settle the matter.

SUBCHAPTER 3. GENERAL REQUIREMENTS

8:42-3.1 Compliance with rules and laws

(a) The facility shall provide preventive, rehabilitative, and therapeutic services to patients. This shall include, but not be limited to, nursing, homemaker-home health aide, and physical therapy services. Nursing services shall be available 24 hours a day, seven days a week.

(b) The facility shall provide nursing services directly, and other services directly or through written agreement. Occupational therapy, speech-language pathology, audiology, dietary counseling, and social work services may be provided.

(c) If a facility licensed by the Department provides home health services in addition to other health care services, it shall adhere to these rules and to the rules for licensure of facilities providing the other health care services.

(d) The facility shall adhere to applicable Federal, State, and local rules, regulations, and requirements.

(e) The facility shall adhere to all applicable provisions of *[Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act,]* N.J.S.A. 26:2H-1 et seq., and amendments thereto.

8:42-3.2 Ownership

(a) The ownership of the facility and the property on which it is located shall be disclosed to the Department. Proof of this ownership shall be available in the facility. Any proposed change in ownership shall be reported to the Director of the Licensing, Certification and Standards Program of the Department in writing at least 30 days prior to the change and in conformance with the requirements for Certificate of Need applications.

(b) No health care facility shall be owned or operated by any person convicted of a crime relating adversely to the person's capability of owning or operating the facility.

8:42-3.3 Submission of documents

The facility shall, upon request, submit any documents which are required by these rules to the Director of the Licensing, Certification and Standards Program of the Department.

8:42-3.4 Personnel

(a) The facility shall ensure that the duties and responsibilities of all personnel are described in job descriptions and in the policy and procedure manual for each service.

(b) All personnel who require licensure, certification, or authorization to provide patient care shall be licensed, certified, or authorized under the appropriate laws or rules of the State of New Jersey.

8:42-3.5 Policy and procedure manual

(a) A policy and procedure manual(s) for the organization and operation of the facility shall be established, implemented, and reviewed at intervals specified in the manual(s). Each review of the manual(s) shall be documented, and the manual(s) shall be available in the facility to representatives of the Department at all times. The manual(s) shall include at least the following:

1. A written narrative of the program describing its philosophy and objectives, and the services provided by the facility;

2. An organizational chart delineating the lines of authority, responsibility, and accountability, so as to ensure continuity of care to patients;

3. A description of the quality assurance program for patient care and staff performance;

4. Definition and specification of full-time;

5. Policies and procedures for reporting all diagnosed and/or suspected cases of child abuse and/or neglect in compliance with N.J.S.A. 9:6-1 et seq., including, but not limited to, the following:

i. The designation of a staff member(s) to be responsible for coordinating the reporting of diagnosed and/or suspected cases of child abuse and/or neglect, recording notification of the Division of Youth and Family Services on the medical/health record, and serving as a liaison between the facility and the Division of Youth and Family Services;

ii. The development of written protocols for the identification and treatment of abused and/or neglected children; and

iii. The provision of education and/or training programs to appropriate persons regarding the identification and reporting of diagnosed and/or suspected cases of child abuse and/or neglect and regarding the facility's policies and procedures, on at least an annual basis;

6. Policies and procedure for the maintenance of confidential personnel records for each employee, including at least his or her name, previous employment, educational background, license number with effective date and date of expiration (if applicable), certification (if applicable), verification of credentials, health evaluation records, job description, and evaluations of job performance; and

7. Policies and procedures for physical examinations (health evaluations) upon employment and subsequently, for employees and for persons providing direct patient care services through contractual arrangements or written agreement. Such policies and procedures shall ensure that:

i. Each employee who provides direct patient care services and who cannot document the result of a previous rubella screening test shall be given a rubella screening test using the rubella hemagglutination inhibition test or other rubella screening test approved by the Department. Each new employee who cannot document the result of a previous rubella screening test shall be given the rubella screening test upon employment. An employee who can document seropositivity from a previous rubella screening test or who can document inoculation with rubella vaccine shall not be required to have a rubella screening test;

ii. Each employee tested shall be informed in writing by the facility of the result of his or her rubella screening test;

iii. Each employee's personnel record shall contain documentation of all tests performed and the results; and

iv. A list shall be maintained of all employees who are seronegative and unvaccinated, to be used in the event that an employee is exposed to rubella and a determination is needed as to whether or not the employee may continue to work.

(b) The policy and procedure manual(s) shall be available and accessible to all patients, staff, and the public.

'Copies of the law may be obtained from the local district office of the Division of Youth and Family Services (DYFS) or from the Office of Program Support, Division of Youth and Family Services, New Jersey State Department of Human Services, CN 717, Trenton, NJ 08625.

8:42-3.6 Staffing

(a) Provision shall be made for staff with equivalent qualifications to provide services for absent staff members. Staffing schedules shall be implemented to facilitate continuity of care to patients. The facility shall maintain staff attendance records.

(b) The facility shall develop and implement a staff orientation and a staff education plan, including plans for each service and designation of the person(s) responsible for training.

8:42-3.7 Written agreements

(a) The facility shall have a written agreement, or its equivalent, for services not provided directly by the facility. The written agreement or its equivalent shall:

1. Be dated and signed by a representative of the facility and by the person or agency providing the service;

2. Specify each party's responsibilities, functions, and objectives, the time during which services are to be provided, the financial arrangements and charges, and the duration of the written agreement or its equivalent;

3. Specify that the facility retain administrative responsibility for services rendered;

4. Require that services are provided in accordance with these rules and that personnel providing services meet training and experience requirements and are supervised in accordance with these rules; and

5. Require the provision of written documentation to the facility, including, but not limited to, documentation of services rendered by the person or agency providing the service.

8:42-3.8 Reportable events

(a) The facility shall notify the Department immediately by telephone (609-292-4304), followed within 72 hours by written confirmation, of the following:

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1. Termination of employment of the administrator and/or the public health nurse director, and the name and qualifications of his or her replacement;

2. Expected or actual interruption or cessation of operations and services listed in these rules; and

3. Any deaths resulting from accidents or incidents related to the facility's services.

(b) The facility shall provide statistical data as required by the Department.

8:42-3.9 Notices

(a) The facility shall conspicuously post a notice that the following information is available in the facility to patients and the public:

1. All waivers granted by the Department;

2. All documents required by these rules;

3. A list of deficiencies from the last annual licensure inspection and certification survey report (if applicable), and the list of deficiencies from any valid complaint investigation during the past 12 months;

4. A list of the facility's committees, or their equivalents, and the membership and reports of each;

5. The names and addresses of the governing authority;

6. Any changes of membership of the governing authority, within 30 days after the change; and

7. Policies and procedures regarding patient rights.

8:42-3.10 Reporting information to the State Board of Medical Examiners

(a) In compliance with N.J.S.A. 26:2H-12.2, the facility shall establish and implement written policies and procedures for reporting information to the New Jersey State Board of Medical Examiners in writing on forms provided by the Department, within 30 days of the proceeding or action, request, settlement, judgment, or award. (Submit forms to the New Jersey State Board of Medical Examiners, 28 West State Street, Trenton, NJ 08608. Questions may be directed to the Board Office at (609) 292-4843.) *[(See N.J.A.C. 8:31-26.6).]* The information reported shall include, but not be limited to, the following:

1. A disciplinary proceeding or action taken by the governing body against any physician or surgeon licensed by the Board when the proceeding or action results in a physician's or surgeon's reduction or suspension of privileges or removal or resignation from the medical staff, including:

i. Name, professional degree, license number, and residence and/or office address of each physician or surgeon who was the subject of governing body action which resulted in the reduction or suspension of privileges, or the removal or resignation of the physician or surgeon from the medical staff;

ii. Nature and grounds of proceedings;

iii. Date(s) of precipitating event(s) and of official action taken;

iv. Name, title, and telephone number of facility official(s) having knowledge of the existence and location of pertinent records or persons familiar with the matter;

v. Pendency of any appeal; and

vi. Other information relating to the proceeding or action as may be requested by the Board;

2. A medical malpractice liability insurance claim settlement, judgment, or arbitration award in which the facility is involved, including:

i. Name, professional degree, license number, and residence and/or office address of each physician or surgeon who was involved in the medical malpractice liability insurance claim settlement, judgment, or arbitration award;

ii. Nature and grounds of proceedings;

iii. Date(s) of precipitating event(s), and of official action taken;

iv. Name, title, and telephone number of facility official(s) having knowledge of the existence and location of pertinent records or persons familiar with the matter;

v. A copy of the complaint, response, and settlement order, judgment, or award; and

vi. Other information relating to the settlement, judgment, or arbitration award as may be required by the Board.

SUBCHAPTER 4. GOVERNING AUTHORITY

8:42-4.1 Responsibility

(a) The governing authority shall assume legal responsibility for the management, operation, and financial viability of the facility. The governing authority shall be responsible for, but not limited to, the following:

1. Services provided and the quality of care rendered to patients;

2. Adoption and documented review of written bylaws or their equivalent, according to timeframes established by the governing authority;

3. Development and documented review of all policies and procedures;

4. Establishment and implementation of a system whereby patient and staff grievances and/or recommendations, including those relating to patient rights, can be identified. This system shall include a feedback mechanism through management to the governing authority, indicating what action was taken;

5. Determination of the frequency of meetings of the governing authority, holding such meetings, and documenting them through minutes, including the record of attendance;

6. Delineation of the powers and duties of the officers and committees, or their equivalent, of the governing authority; and

7. Establishment of the qualifications of members and officers of the governing authority, the procedures for electing, appointing, or employing officers, and the terms of services for members, officers, and committee chairpersons or their equivalents.

SUBCHAPTER 5. ADMINISTRATION

8:42-5.1 Administrator

(a) The governing authority shall appoint a full-time administrator who shall be available in the facility. The public health nurse director may be the administrator.

(b) An alternate or alternates shall be designated in writing to act in the absence of the administrator.

8:42-5.2 Administrator's responsibilities

(a) The administrator shall be responsible for, but not limited to, the following:

1. Ensuring the development, implementation, and enforcement of all policies and procedures, including patient rights;

2. Planning for and administering the managerial, operational, fiscal, and reporting components of the facility;

3. Participating in the quality assurance program for patient care;

4. Ensuring that all personnel are assigned duties based upon their education, training, competencies, and job descriptions;

5. Ensuring the provision of staff orientation and staff education; and

6. Establishing and maintaining liaison relationships, communication, and integration with facility staff and services and with patients and their families, in accordance with the philosophy and objectives of the facility.

8:42-5.3 Public health nurse director's responsibilities

The public health nurse director shall be responsible for the direction*[, provision, and quality]* of *[home health]* *patient care* services provided to patients.

SUBCHAPTER 6. CONTINUITY AND COORDINATION OF PATIENT CARE *[POLICIES]* *SERVICES*

8:42-6.1 Advisory group

(a) The governing authority shall appoint an advisory group composed of at least the following:

1. Three physicians;

2. A public health nurse director and/or supervisor;

3. A representative of each home health service offered by the facility, including physical therapy, and, if offered, occupational therapy, speech-language pathology, audiology, social work services, and dietary counseling; and

4. A lay person or persons knowledgeable in health affairs.

5. At least one member of the advisory group shall be neither an owner nor an employee of the facility.

(b) The advisory group shall meet at least annually.

[(b)] *(c)* The advisory group shall review all patient care policies and procedures and shall document the review. The review shall be done at intervals specified in the policy and procedure manual.

8:42-6.2 Policies and procedures

(a) The facility shall establish and implement written patient care policies and procedures governing the services provided to facilitate continuity of care to patients. Policies and procedures shall include, but not be limited to, the following:

1. Admission of patients, including any limitations on admission;

2. Discharge or termination, retention, and readmission of patients;

3. Initiation, implementation, review, and revision of care plans and of the patient treatment plan;

4. Reassessment of patients, in accordance with timeframes documented by each health care practitioner in the care plan;

5. A system whereby, whenever possible, the patient is cared for by the same health care practitioner;
6. Provision of care in accordance with the patient treatment plan;
7. Requirements for a discharge plan for each patient developed prior to the patient's discharge, and methods for including the patient and/or the patient's family in planning and implementing the discharge plan;
8. A system for referral of patients to other sources of care;
9. Provision of written information to patients concerning services provided by the facility, and the facility's telephone number;
10. Requirements for entries documented in the patient's medical/health record by health care practitioners, including frequency, comprehensiveness, and accuracy;
11. Timeframes and other requirements for physicians' orders for home health services, including verbal orders and renewal of orders;
12. Provision for emergency care of patients;
13. Provision for emergency supplies, including the contents, locations, and frequency of checking (including checking of expiration dates) of emergency supplies;
14. Requirements for the purchase, storage, safeguarding, accountability, use, and disposition of any medications kept in the facility, in accordance with the New Jersey State Board of Pharmacy Rules (N.J.A.C. 13:39-1 et seq.), the Controlled Dangerous Substances Act of 1970 (Title II, Public Law 91-513), and the New Jersey Controlled Dangerous Substances Act of 1970 (N.J.S.A. 24:21-1 et seq.) and amendments thereto;
15. Requirements for the destruction of any needles and syringes in accordance with N.J.S.A. 2A:170-25.17 and amendments thereto;
16. Financial arrangements, to ensure that the facility:
 - i. Makes known to patients the fees for services (where a fee is charged);
 - ii. Maintains a written record of all financial arrangements with the patient, with copies furnished to the patient;
 - iii. Notifies the patient of any additional charges, expenses, or other financial liabilities in excess of the predetermined fee; and
 - iv. Describes for the patient agreements with third-party payors and/or other payors and referral systems for patients' financial assistance;
17. Interpretation services, if the patient population is non-English speaking ***[or] *and*** for patients who are blind or deaf; ***[and] ***
18. Immunization schedules when an immunization program is provided ***[.]**; and***
- *19. Physicians orders for physical therapy, occupational therapy, speech-language pathology, audiology, social work services, and dietary counseling.***
- (b) Physician's orders for physical therapy ***[.]* *and*** occupational therapy ***[.]**, speech-language pathology, and audiology ***[.]** shall include the modality, frequency, and duration of treatment.
- (c) The facility shall provide current pharmaceutical reference materials and sources of information to staff.

SUBCHAPTER 7. NURSING SERVICES

8:42-7.1 Services

The facility shall provide nursing services to patients who need these services.

8:42-7.2 Responsibilities of public health nurse director

- (a) The governing authority shall appoint a full-time public health nurse director who shall be available in the facility. An alternate or alternates shall be designated in writing to act in the absence of the public health nurse director.
- (b) The public health nurse director shall be responsible for the direction, provision, and quality of nursing services. He or she shall be responsible for, but not limited to, the following:
 1. Developing and maintaining written objectives, philosophy, policies, a procedure manual, an organizational plan, and a quality assurance program for the nursing service;
 2. Monitoring the performance of nursing personnel;
 3. Participating in planning and budgeting for the nursing service;
 4. Coordinating and integrating the nursing service with other home health services to provide a continuum of care for the patient;
 5. Assisting in developing and maintaining written job description for nursing personnel, and assigning duties based upon education, training, competencies, and job descriptions;
 6. Ensuring that nursing services are provided to the patient as specified in the nursing care plan; and
 7. Ensuring public health nursing supervision to nursing personnel.

8:42-7.3 Public health nurse supervisor

- (a) If the facility employs a public health nurse supervisor, he or she shall meet the requirements specified in the definition of "public health nurse supervisor."
- (b) A full-time public health nurse supervisor shall be available on the premises of each facility branch office.

8:42-7.4 Waiver of qualifications for existing personnel

Any existing home health agency which has on its staff a public health nurse director and/or supervisor prior to May 26, 1976, who does not meet the qualifications for the position as stated in the licensure rules, shall be permitted to retain that staff member for the duration of his or her employment with the agency. Upon termination of his or her employment, the agency shall be required to hire a director and/or supervisor who meets the requirements stated in the definitions of public health nurse director and public health nurse supervisor. If the supervisor was acting as the director, the agency shall hire a public health nurse director upon the supervisor's termination of employment.

8:42-7.5 Responsibilities of ***licensed*** nursing personnel

(a) In accordance with the State of New Jersey Nursing Practice Act, N.J.S.A. 45:11-23 et seq., ***[The Standards of Practice for the Registered Nurse in the State of New Jersey and The Standards of Practice for the Licensed Practical Nurse in the State of New Jersey of*] *as interpreted by*** the New Jersey State Board of Nursing, and written job descriptions, ***licensed*** nursing personnel shall be responsible for providing nursing care including, but not limited to, the following:

1. Care of patients through health promotion, maintenance, and restoration;
2. Care toward prevention of infection, accident, and injury;
3. Assessing and reassessing the patient's nursing care needs and providing nursing care services ***[;]* ***. **The initial assessment shall be performed by a registered professional nurse;***
4. Monitoring the patient's response to nursing care; and
5. Teaching, supervising, and counseling the patient, family members, and staff regarding nursing care and the patient's needs, including other related problems of the patient at home. ***[(*]Only a registered professional nurse shall initiate these functions, which may be reinforced by licensed nursing personnel.*[)]***

8:42-7.6 Nursing entries in the medical/health record

- (a) In accordance with written job descriptions and with these rules, nursing personnel shall document in the patient's medical/health record:
 1. The nursing care plan, which may be the nursing portion of the patient treatment plan, in accordance with the facility's policies and procedures;
 2. Clinical notes and progress notes; and
 3. A record of medications administered. After each administration of medication, the following shall be documented by the nurse who administered the drug: name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the licensed nurse who administered the drug.

8:42-7.7 Administration of medication

- (a) Medications shall be administered in accordance with all Federal and State laws and rules by the following licensed or authorized nursing personnel:
 1. Registered professional nurses;
 2. Licensed practical nurses who are trained in drug administration in programs approved by the New Jersey State Board of Nursing;
 3. Nurses with a valid temporary work permit issued by the New Jersey State Board of Nursing; and
 4. Student nurses in a school of nursing approved by the New Jersey State Board of Nursing, under the supervision of a nurse faculty member.

8:42-7.8 Homemaker-home health aide services

- (a) The facility shall provide homemaker-home health aide services in accordance with the following:
 1. The homemaker-home health aide shall have completed a training program approved by the Department, shall be certified by the Department, and while providing direct patient services shall have with him or her an identification card issued annually by the Department;
 2. The homemaker-home health aide shall provide personal care and/or homemaking services under the direction and supervision of a registered professional nurse;
 - i. The registered professional nurse shall assign the homemaker-home health aide to a patient and shall give written instructions to the homemaker-home health aide regarding the home health services to be provided. The homemaker-home health aide shall document the home

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health services provided. Copies of the written instructions and of the documentation of services provided shall be kept in the patient's home and in the patient's medical/health record;

ii. If the registered professional nurse delegates selected tasks to the homemaker-home health aide, the registered professional nurse shall determine the degree of supervision to provide, based upon an evaluation of the patient's condition, the education, skill, and training of the homemaker-home health aide to whom the tasks are delegated, and the nature of the tasks and activities being delegated. The registered professional nurse shall delegate a task only to a homemaker-home health aide who meets the requirements specified in 1. above and who has demonstrated the knowledge, skill, and competency to perform the delegated tasks; and

iii. The registered professional nurse shall make supervisory visits to the patient's home, in accordance with the facility's policies and procedures; and

3. The homemaker-home health aide shall be responsible for, but not limited to, providing personal care and homemaking services essential to the patient's health care and comfort at home, including shopping, errands, laundry, meal planning and preparation (including therapeutic diets), serving of meals, child care, *[patient escort,]* assisting the patient with activities of daily living, and assisting with prescribed exercises and the use of special equipment.

i. Activities of daily living (ADL) means the functions or tasks for self-care which are performed either independently or with supervision or assistance. Activities of daily living include at least mobility, transferring, walking, grooming, bathing, dressing and undressing, eating, and toileting.

SUBCHAPTER 8. REHABILITATION SERVICES (PHYSICAL THERAPY, OCCUPATIONAL THERAPY, SPEECH-LANGUAGE PATHOLOGY, AND AUDIOLOGY)

8:42-8.1 Services

(a) The facility shall provide physical therapy and may provide occupational therapy, speech-language pathology, and audiology services, directly or through written agreement, to patients who need these services.

(b) Written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for rehabilitation services shall be *[determined]* ***developed*** and implemented.

8:42-8.2 Responsibilities of rehabilitation personnel

(a) In accordance with written job descriptions (and for physical therapy personnel, in accordance also with the State of New Jersey Physical Therapy Practice Act, N.J.S.A. 45:9-37.11 et seq.; and for speech-language pathology and audiology personnel, in accordance also with the State of New Jersey Audiology and Speech-Language Pathology Practice Act, N.J.S.A. 45:3B-1 et seq.), each physical therapist, occupational therapist, speech-language pathologist, and audiologist shall be responsible for, but not limited to, the following:

1. Assessing the physical therapy, occupational therapy, speech-language pathology, or audiology needs of the patient, preparing the rehabilitation care plan based on the assessment, providing rehabilitation services to the patient as specified in the rehabilitation care plan, reassessing the patient's response to services provided, and revising the rehabilitation care plan. Each of these activities shall be documented in the patient's medical/health record;

2. Participating in the quality assurance program for rehabilitation services and patient care; and

3. Participating in staff education activities and providing consultation to facility personnel.

8:42-8.3 Rehabilitation entries in the medical/health record

(a) Each physical therapist, occupational therapist, speech-language pathologist, or audiologist shall document in the patient's medical/health record:

1. The rehabilitation care plan, which may be the rehabilitation portion of the patient treatment plan. The care plan shall be reviewed and revised by the therapist, speech-language pathologist, or audiologist; and

2. Clinical notes and progress notes.

SUBCHAPTER 9. SOCIAL WORK SERVICES

8:42-9.1 Services

(a) Social work services may be provided directly or through written agreement to patients who need these services.

(b) Written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for social work services shall be developed and implemented.

8:42-9.2 Social worker's responsibilities

(a) Each social worker shall be responsible for, but not limited to, the following:

1. Assessing the social work needs or problems of the patient*[, including social and psychological factors relating to the health problems of the patient*]; preparing the social work care plan based on the assessment; providing social work services to the patient as specified in the social work care plan; reassessing the patient's response to services provided; and revising the social work care plan. Each of these activities shall be documented in the patient's medical/health record;

2. Contacting social service and other community resources for information, referrals, and services;

3. Providing social work counseling to the patient and his or her family;

4. Participating in the quality assurance program for social work services and patient care; and

5. Participating in staff education activities and providing consultation to facility personnel.

8:42-9.3 Social work entries in the medical/health record

(a) The social worker shall document in the patient's medical/health record:

1. The social work care plan, which may be the social work portion of the patient treatment plan. The care plan shall be reviewed and revised by the social worker; and

2. Clinical notes and progress notes.

[(b) The social worker may file information relating to the patient apart from the patient's medical/health record, with an entry in the patient's medical/health record indicating the availability of the additional information, upon the social worker's approval.]

SUBCHAPTER 10. DIETARY COUNSELING SERVICES

8:42-10.1 Services

(a) Dietary counseling services may be provided directly or through written agreement to patients who need these services.

(b) Written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for dietary counseling services shall be developed and implemented.

8:42-10.2 Responsibilities of dietitian or dietary consultant

(a) Each dietitian or dietary consultant shall be responsible for, but not limited to, the following:

1. Assessing the dietary needs of the patient, preparing the dietary care plan based on the assessment, providing dietary counseling services to the patient as specified in the dietary care plan, reassessing the patient's response to services provided, and revising the dietary care plan. Each of these activities shall be documented in the patient's medical/health record;

2. Participating in the quality assurance program for dietary counseling services and patient care; and

3. Participating in staff education activities and providing consultation to facility personnel.

8:42-10.3 Dietary entries in the medical/health record

(a) The dietitian or dietary consultant shall document in the patient's medical/health record:

1. The dietary care plan, which may be the dietary counseling portion of the patient treatment plan. The care plan shall be reviewed and revised by the dietitian or dietary consultant; and

2. Clinical notes and progress notes.

SUBCHAPTER 11. MEDICAL/HEALTH RECORDS

8:42-11.1 Services

(a) The facility shall maintain a medical/health record for each patient.

(b) Written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for medical/health records services shall be developed and implemented.

8:42-11.2 Contents and maintenance of medical/health records

(a) The patient's medical/health record shall include at least the following:

1. Patient identification data, including name, date of admission, address, date of birth, race and religion (optional), and sex;

2. A patient treatment plan;

3. A care plan, which may be part of the patient treatment plan, for each service providing care to the patient;

4. Clinical notes;

5. Progress notes;

6. A record of medications if administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the person who administered the drug;

7. Documentation of allergies in the medical/health record and on its outside front cover;

8. An immunization record, in accordance with the facility's policies and procedures;

9. Copies of written instructions given to the patient and/or the patient's family; and

10. A record of any treatment, medication, or service offered by a staff member of the facility and refused by the patient.

(b) All completed medical/health records shall include a discharge summary, in accordance with N.J.S.A. 26:8-5 et seq.

(c) All entries in the patient's medical/health record shall be type-written or written in ink, legible, and signed and dated by the person entering them.

(d) The patient's medical/health record shall be available to the facility's health care practitioners involved in the patient's care.

8:42-11.3 Policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding medical/health records, including, but not limited to, the following:

1. Protection of medical/health record information against loss, tampering, alteration, destruction, or unauthorized use;

2. Transfer of patient information when the patient is transferred to another health care facility, to ensure continuity of care; and

3. Release and/or provision of copies of the patient's medical/health record to the patient and/or the patient's authorized representative. Such policies and procedures shall include, but not be limited to, the following:

i. Establishment of a fee schedule for obtaining copies of the patient's medical/health records;

ii. Availability of the patient's medical/health record to the patient's authorized representative if it is medically contraindicated (as documented by a physician in the patient's medical/health record) for the patient to have access to or obtain copies of the record; and

iii. Procedures to ensure that a copy of the patient's medical/health record is provided within 30 calendar days of a written request.

8:42-11.4 Storage and retrieval of medical/health records

(a) If the facility plans to cease operations, it shall notify the Department in writing, at least 14 days before cessation of operation, of the location where medical/health records shall be stored and of methods for their retrieval.

(b) The patient's medical/health record shall be maintained by the facility for a period of at least five years following the date of discharge, unless otherwise specified by law.

SUBCHAPTER 12. INFECTION PREVENTION AND CONTROL

8:42-12.1 Infection prevention and control program

The facility shall establish and implement an infection prevention and control program. The administrator shall ensure its development and implementation.

8:42-12.2 Policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding infection prevention and control, including, but not limited to, the following:

1. In accordance with the New Jersey State Sanitary Code, a system for investigating, reporting, and evaluating the occurrence of all infections or diseases which are reportable or conditions which may be related to activities and procedures of the facility, and maintaining records for all patients or personnel having these infections, diseases, or conditions;

2. Reporting of reportable and other diseases in accordance with N.J.A.C. 8:57-1 et seq. of the New Jersey State Sanitary Code, and amendments thereto;

3. Care of patients with communicable diseases;

4. Exclusion from work, and authorization to return to work, for personnel with communicable diseases;

5. Techniques to be used during each patient contact, including hand-washing before and after caring for a patient; and

6. Sterilization, disinfection, and cleaning practices and techniques including, but not limited to, the following:

i. Care of utensils, instruments, solutions, dressings, articles, and surfaces;

ii. Selection, storage, use, and disposition of disposable and non-disposable patient care items. Disposable items shall not be reused;

iii. Methods to ensure that sterilized materials are packaged *[and]* *,* labeled*, processed, transported and stored* to maintain sterility and to permit identification of expiration dates; *[and]**

iv. Procedures for care of equipment and other devices that provide a portal of entry for pathogenic microorganisms*[*]* *; and*

7. Disposition of needles and syringes in accordance with N.J.S.A. 2A:170-25.17.

8:42-12.3 Orientation and in-service education

All personnel shall receive orientation at the time of employment and continuing in-service education regarding the infection prevention and control program.

SUBCHAPTER 13. PATIENT RIGHTS

8:42-13.1 Policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding the rights of patients. These policies and procedures shall be available to patients upon registration and to the public and shall be conspicuously posted in the facility.

(b) Patient rights shall ensure that, at a minimum, each patient;

1. Is informed of these rights, and receives an explanation and a copy of the patient rights;

2. Is informed of services available from the facility, of the names and professional status of personnel providing and/or responsible for his or her care, and of fees and charges, including any fees and charges for services not covered by sources of third-party payment;

3. Is assured of care as ordered;

4. Has the right to participate in the planning of his or her home health care and treatment; has the right to refuse services, including medication and treatment, provided by the facility; is informed of available home health treatment options, including the option of no treatment, and of the possible benefits and risks of each option;

5. Has the right to refuse to participate in experimental research. If he or she chooses to participate, his or her written informed consent shall be obtained;

6. Has the right to express grievances regarding care and services to the facility's staff and governing authority, and to be informed of the action taken;

7. Is free from mental and physical abuse, free from exploitation, and free from the use of restraints by representatives of the facility;

8. Is assured confidential treatment of his or her medical/health record, and shall approve or refuse in writing its release to any individual outside the facility, except as required by law or third-party payment contract;

9. Is treated with courtesy, consideration, respect, and recognition of his or her dignity, individuality, and right to privacy, including, but not limited to, auditory and visual privacy and confidentiality concerning patient treatment and disclosures;

10. May join with other patients or individuals to work for improvements in patient care;

11. Is assured of exercising civil and religious liberties, including the right to independent personal decisions;

12. Is not the object of discrimination because of age, race, religion, sex, nationality, or ability to pay;

13. Is not deprived of any constitutional, civil, and/or legal rights solely because of receiving services from the facility; and

14. Is allowed to discharge himself or herself from the facility upon presentation of a written release.

8:42-13.2 Notice regarding filing of complaints

The administrator shall ensure that a notice is conspicuously posted in the facility and that patients are given written notification regarding the filing of complaints with:

Division of Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, NJ 08625
Telephone: (800) 792-9770

SUBCHAPTER 14. QUALITY ASSURANCE

8:42-14.1 *[Evaluation]* *Quality assurance* plan

The facility shall establish and implement a written plan for a quality assurance program for patient care. The plan shall specify a timetable and the staff responsible for the quality assurance program, and shall provide for ongoing monitoring of staff and patient services.

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8:42-14.2 *[Evaluation]* *Quality assurance* activities

- (a) Quality assurance activities shall include but not be limited to:
 1. *[Annual]* *At least annual* review of staff qualifications and credentials;
 2. *[Annual]* *At least annual* review of staff orientation and staff education;
 3. Evaluation of *[the delivery of]* patient care services, staffing, patient care statistics, and infection prevention and control;
 4. Evaluation by patients and their families of *[the delivery of]* care and services *provided* by the facility*[, by such means as home visits, patient and family interviews, and questionnaires]*; and
 5. Audit of patient medical/health records (including those of both active and discharged patients) on a ongoing basis to determine if care provided conforms to criteria established by each patient care service for the maintenance of quality of care.

(b) Reports of the activities of all facility committees or their equivalents shall be made available to the advisory group specified in N.J.A.C. 8:42-6.1(a).

(c) The results of the quality assurance program shall be submitted to the governing authority at least annually, and shall include at least deficiencies found and recommendations for corrections or improvements. The administrator shall, with the approval of the governing authority, implement measures to ensure that corrections or improvements are made.

SUBCHAPTER 15. FINANCIAL DATA

8:42-15.1 Financial reports

(a) Upon development of a uniform cost reporting system approved by the Health Care Administration Board, the facility shall adopt and maintain the uniform system of cost reporting from which reports will be prepared to meet the requirements of the Commissioner as stated in *[Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act,]* N.J.S.A. 26:2H-1 et seq., and amendments thereto.

(b) An annual financial report shall be submitted to the Department and shall include a statement of income and expenditure by unit of service.

NARCOTIC AND DRUG ABUSE CONTROL

(a)

**Controlled Dangerous Substances
Placement of Nabilone in Schedule II**

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

Proposed: June 15, 1987 at 19 N.J.R. 1050(a).
Adopted: July 22, 1987 by Molly Joel Coye, M.D., M.P.H.,
Commissioner, Department of Health.
Filed: July 24, 1987 as R.1987 d.339, **without change**.
Authority: N.J.S.A. 24:21-3.

Effective Date: August 17, 1987.

Expiration Date: Pursuant to Executive Order 66(1978), this rule is exempt pursuant to N.J.S.A. 24:21-3(d).

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

Full text of the adoption follows.

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 substance code numbers.
 - 1.-6. (No change.)
 7. Hallucinogenic substances:
 - i.-ii. (No change.)
 - iii. Nabilone 7379 (another name for Nabilone: (+)-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo(b, d)pyran-9-one).

(b)

**Controlled Dangerous Substances: Preparations
Containing Both Tiletamine and Zolazepam**

Adopted Amendment: N.J.A.C. 8:65-10.3

Proposed: April 6, 1987 at 19 N.J.R. 497(a).
Adopted: July 22, 1987 by Molly Joel Coye, M.D., M.P.H.,
Commissioner, Department of Health.
Filed: July 24, 1987 as R.1987 d.337, **without change**.
Authority: N.J.S.A. 24:21-3.

Effective Date: August 17, 1987.

Expiration Date: Pursuant to Executive Order 66(1978), this section is exempt pursuant to N.J.S.A. 24:21-3(d).

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

Full text of the adoption follows.

8:65-10.3 Controlled dangerous substances; Schedule III

- (a) (No change.)
- (b) The following is Schedule III listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers:
 1. (No change.)
 2. Depressants: Unless specifically excepted or unless listed in another Schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system.
 - i.-iv. (No change.)
 - v. Tiletamine and zolazepam or any salt thereof 7295
 - (1) Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-(2-fluorophenyl)- 6, 8-dihydro-1, 3, 8-trimethylpyrazolo-[3,4,3] [1,4] diazepin-(1H)-one. Flupyrazapon.
 3. (No change.)

(c)

**Controlled Dangerous Substances
Reassignment of CDS Codes**

Adopted Amendments: N.J.A.C. 8:65-10.3 and 10.4

Proposed: June 1, 1987 at 19 N.J.R. 911(a).
Adopted: July 22, 1987 by Molly Joel Coye, M.D., M.P.H.,
Commissioner, Department of Health.
Filed: July 24, 1987 as R.1987 d.340, **without change**.
Authority: N.J.S.A. 24:21-3.

Effective Date: August 17, 1987.

Expiration Date: Pursuant to Executive Order 66(1978), this amendment is exempt pursuant to N.J.S.A. 24:21-3(d).

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

Full text of the adoption follows.

8:65-10.3 Controlled dangerous substances; Schedule III

- (a) (No change.)
- (b) The following is Schedule III listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substance code numbers:
 - (1) (No change.)
 - (2) Depressants: Unless specifically excepted or unless listed in another Schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system.
 - i. Any compound, mixture or preparations containing (listed by generic/established or chemical name with CDS code):

Amobarbital	2126
Secobarbital	2316
Pentobarbital	2271

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or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

ii. Any suppository dosage form containing (listed by generic/established or chemical name with CDS code):

Amobarbital	2126
Secobarbital	2316
Pentobarbital	2271

iii.-iv. (No change.)

(3) (No change.)

8:65-10.4 Controlled dangerous substances; Schedule IV

(a) (No change.)

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

1.-3. (No change.)

4. Narcotic Drugs: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

i. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, CDS Code 9167.

ii. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane), CDS Code 9278.

HIGHER EDUCATION**BOARD OF HIGHER EDUCATION****(a)****Early Retirement Program
Participant Rehiring as Adjunct Faculty****Adopted New Rule: N.J.A.C. 9:2-3**

Proposed: June 1, 1987 at 19 N.J.R. 912(a).

Adopted: July 24, 1987 by the Board of Higher Education,

T. Edward Hollander, Chancellor and Secretary.

Filed: July 27, 1987 as R.1987 d.344, **without change**.

Authority: P.L. 1987, c.88.

Effective Date: August 17, 1987.

Expiration Date: June 17, 1990.

Summary of Public Comments and Agency Responses:

COMMENT: There was one comment received in response to the rule as proposed. The Council of New Jersey State College Locals (AFT) suggested that there should not be any distinction made between retirees from public and independent institutions and that there should not be any restriction on the reemployment of such persons as adjuncts at the public colleges and universities. In addition, the AFT suggested that the proposed definition on "emergent circumstances" requiring a diligent search before a participant in the early retirement incentive program from a public institution can be hired as an adjunct, is overly restrictive and highly impractical.

RESPONSE: In response to the AFT's first point, the statute requires the Board to develop rules regarding the reemployment of early retirees from the public institutions, presumably since the State pays the pensions of those from the public institutions. The early retirement legislation clearly prohibits the hiring of early retirees from public institutions at such institutions except under emergent circumstances as defined by regulation of the Board of Higher Education. As adopted, the noticed rules fulfill that requirement. Secondly, the agency does not agree that the proposed definition of an "emergent circumstance" is overly restrictive. An institution knows sufficiently in advance of a need to hire adjunct faculty which will enable them to have sufficient time to permit a broad search. The proportion of adjuncts hired in response to eleventh hour resignations is relatively small. A diligent search would still have to be taken by the institution, but it would, of necessity, have different dimensions due to the late circumstance. Therefore, these rules as adopted permit the sort of flexibility that the AFT seeks, and that is necessary, in order to fill last minute resignations.

Full text of the adoption follows:

**SUBCHAPTER 3. EARLY RETIREMENT PROGRAM FOR
TENURED FACULTY; PARTICIPANT
REHIRING AS ADJUNCT FACULTY****9:2-3.1 Definitions**

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

"Adjunct faculty" means a temporary, non-tenured, non-tenure track teaching staff member whose teaching responsibilities do not exceed half of the normal teaching load for full-time, regularly appointed faculty members at the particular institution of higher education.

"Early retirement program" means an early retirement incentive program established by an institution of higher education and approved by the Board of Higher Education pursuant to P.L. 1987, c.88.

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license, is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

"Program participant" means a tenured faculty member at an institution of higher education who retires under an early retirement program.

"Public institution of higher education" means Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the State colleges and the county colleges.

9:2-3.2 Employment of program participants as adjunct faculty

(a) An independent institution of higher education may employ any program participant from an independent or public institution of higher education as an adjunct faculty member.

(b) A public institution of higher education may employ any program participant from an independent institution of higher education as an adjunct faculty member.

(c) A public institution of higher education may employ a program participant from any public institution of higher education as an adjunct faculty member if the institution is not able to offer sufficient courses to meet programmatic need or student demand in a particular field of study, and the following conditions are met:

1. It is not in the best interest of the institution, as determined by the president, to hire a full-time faculty member to teach those courses; or

2. After a diligent search, the institution is not able to hire sufficient numbers of full-time faculty who possess the required academic specialization within a field of study; and

3. After a diligent search, the institution is unable to hire a qualified adjunct faculty member from outside the group of program participants from any public institution of higher education.

HUMAN SERVICES**(b)****Public Assistance Manual
Liquidation of Non-exempt Real Property, Suits and
Claims and Transfer of Resources****Adopted Amendment: N.J.A.C. 10:81-3.38**

Proposed: April 20, 1987 at 19 N.J.R. 618(b).

Adopted: July 27, 1987 by Drew Altman, Commissioner,
Department of Human Services.

Filed: July 28, 1987 as R.1987 d.348, **without change**.

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

Effective Date: August 17, 1987.

Operative Date: September 1, 1987.

Expiration Date: October 15, 1989.

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Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows:

10:81-3.38 Liquidation of non-exempt real property, suits and claims and transfer of resources

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

(c) Assignment or transfer of property: Applicants for AFDC must not have made a voluntary assignment or transfer of property within 24 months prior to the time of initial application for the purpose of qualifying for assistance.

1.-5. (No change.)

6. Child support payments: Applicants for AFDC must not forego legal right to child support for purposes of qualifying for assistance without good cause (see N.J.A.C. 10:81-11.5 for the definition of good cause).

DIVISION OF PUBLIC WELFARE

(a)

**Public Assistance Manual
Eligibility Factors Other than Need, Age
Requirements**

Adopted Amendments: N.J.A.C. 10:81-2.6 and 3.13

Proposed: April 20, 1987 at 19 N.J.R. 618(a).

Adopted: July 27, 1987 by Drew Altman, Commissioner,
Department of Human Services.

Filed: July 28, 1987 as R.1987 d.349, **without change.**

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

Effective Date: August 17, 1987.

Operative Date: September 1, 1987.

Expiration Date: October 15, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows:

10:81-2.6 Eligibility factors other than need

(a) (No change.)

(b) Age: The IM worker shall explain to the applicant that children up to the age of 18 and children up to the age of 19 if they are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19, are eligible for AFDC. Program completion is defined as the day of ceremonial graduation.

(c) (No change.)

10:81-3.13 Age requirements

(a) To be considered of eligible age, a child in AFDC must be under age 18, or under age 19 and a full-time student in a secondary school, or in the equivalent level of vocational or technical training and is reasonably expected to complete the program before reaching age 19. Program completion is defined as the day of ceremonial graduation. See: N.J.A.C. 10:82-1.9 for definitions regarding school attendance.

1. When any school or course of training involves attendance during an academic year, a child shall be considered eligible during the summer months when he or she has been accepted for admission in the fall. He or she shall be considered eligible during regular vacation periods unless the educational program has been completed or unless there is verification that the child does not attend or is not acceptable to reenter the program.

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

(b)

**Public Assistance Manual
Social Security Numbers**

Adopted Amendment: N.J.A.C. 10:81-11.3

Proposed: April 20, 1987 at 19 N.J.R. 619(a).

Adopted: July 27, 1987 by Drew Altman, Commissioner,
Department of Human Services.

Filed: July 28, 1987 as R.1987 d.350, **without change.**

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

Effective Date: August 17, 1987.

Operative Date: September 1, 1987.

Expiration Date: October 15, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows:

10:81-11.3 Social Security numbers

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

(c) Obtaining a Social Security number: The CWA shall obtain a supply of Social Security Form SS-5, sufficient to accommodate all AFDC applicants and eligible individuals who do not already have Social Security numbers. Upon application the applicant shall be required to sign as many SS-5 forms as needed for the eligible unit. The IM worker shall complete Form SS-5 on the basis of information provided by the applicant. Completed forms shall be forwarded to the Social Security Administration, Enumeration Branch, 38 Courtwright Street, Wilkes-Barre, Pennsylvania 18705. A copy of the SS-5 form shall be retained in the case record, and a copy given to the client if so requested.

1. (No change.)

2. Failure to obtain Social Security number: If any applicant refuses to provide or apply for the appropriate Social Security number(s), the CWA shall declare such person ineligible. The needs of that individual shall be deleted in accordance with N.J.A.C. 10:82-2.4.

i. For a "newborn" child, whose birth certificate may not be readily available, the completion time for the SS-5 is extended to the first day of the second month after the birth of the child.

ii. (No change.)

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

(c)

**Assistance Standards Handbook
Financial Aid for Education**

Adopted Amendment: N.J.A.C. 10:82-1.7, 1.8 and 3.2

Proposed: May 4, 1987 at 19 N.J.R. 709(a).

Adopted: July 13, 1987 by Drew Altman, Commissioner,
Department of Human Services.

Filed: July 15, 1987 as R.1987 d.330, **without change.**

Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 20(a)(3)(vii) and 233.20(a)(4)(ii)(d).

Effective Date: August 17, 1987.

Expiration Date: October 29, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows:

10:82-1.7 Eligible AFDC child regularly attending school

(a) (No change.)

(b) Any grant, scholarship, student loan or other financial aid received by such child shall be fully disregarded in determining eligibility and amount of assistance payment so long as the child continues to attend school as stated in (a) above and meets the conditions under which such moneys are granted.

1. (No change.)

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

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- 10:82-1.8 Parent regularly attending school (all segments)
 (a) When a parent of an eligible child is a student regularly attending school as defined in N.J.A.C. 10:82-1.9, the provisions of N.J.A.C. 10:82-1.7(b) and (c) shall apply (see N.J.A.C. 10:81-3.18(b)2ii(6)).
 1. Payment for child care shall be provided where necessary to enable a parent to attend school so long as the parent can demonstrate that his or her scholarship(s), grant(s), student loan or other financial aid does not provide moneys which can be utilized for such care, and child care is not provided through any other source.
- 10:82-3.2 Exempt resources
 (a) (No change.)
 (b) The exempt resources are as follows:
 1.-5. (No change.)
 6. Resources designated for special purposes are as follows:
 i.-iv. (No change.)
 v. Supplemental aid by other agencies or organizations, whether public or private, provided that:
 (1) (No change.)
 (2) Such aid is for a special purpose not within the function of the public assistance agency (for example, vocational rehabilitation); or
 (3) Such aid is to any undergraduate student for educational purposes.
 vi.-vii. (No change.)
 7. (No change.)
 8. Loans:
 i. Loans for specific purposes:
 (1) (No change.)
 ii. (No change.)
 9.-11. (No change.)

(a)

**Assistance Standards Handbook
Disregarded Child Support (DCS) Payments
Adopted Amendment: N.J.A.C. 10:82-5.12**

Proposed: April 6, 1987 at 19 N.J.R. 501(a).
Adopted: July 27, 1987 by Drew Altman, Ph.D., Commissioner,
Department of Human Services.
Filed: July 28, 1987 as R.1987 d.351, **without change**.
Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 302.51(b)(1).
Effective Date: August 17, 1987.
Expiration Date: October 29, 1989.

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

Full text of the adoption follows:

10:82-5.12 Disregarded child support (DCS) payments
For any month in which an eligible unit receives AFDC and a child support collection which represents a support obligation for that month has been received through the CSP process in that month, the eligible unit is entitled to a disregarded child support (DCS) payment. The amount of DCS payment shall be the total amount of current child support collection received on behalf of the entire eligible unit, not to exceed \$50.00. Current AFDC eligibility is not a prerequisite for DCS payments based on a previous month's collection.

CORRECTIONS

(b)

**THE COMMISSIONER
Classification Process
Work Credits for Inmates Housed in County
Facilities**

Adopted Amendment: N.J.A.C. 10A:9-5.6
Proposed: May 18, 1987 at 19 N.J.R. 843(a).
Adopted: July 10, 1987 by William H. Fauver, Commissioner,
Department of Corrections.
Filed: July 17, 1987 as R.1987 d.332, **without change**.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.
Effective Date: August 17, 1987.
Expiration Date: January 20, 1987.

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

Full text of the adoption follows.

- 10A:9-5.6 Work credits for inmates housed in county facilities
 (a) (No change.)
 (b) Inmates that are parole violators without additional charges who are held in a county facility on a parole warrant will receive work credits after they have been in custody for 15 days.
 (c) (No change.)
 (d) Parolees serving county jail sentences in conjunction with parole violations may receive wages and work credits beginning on the date of parole revocation.
 (e) (No change.)

(c)

**International Transfer of Inmates
Adopted New Rules: N.J.A.C. 10A:10-6**

Proposed: June 1, 1987 at 19 N.J.R. 916(a).
Adopted: July 15, 1987 by William H. Fauver, Commissioner,
Department of Corrections.
Filed: July 17, 1987 as R.1987 d.331, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
Authority: N.J.S.A. 30:1B-6, 30:1B-10, and P.L. 1986, c.141.
Effective Date: August 17, 1987.
Expiration Date: August 17, 1992.

Summary of Public Comments and Agency Responses:

The Department received five comments from interested persons and agency representatives that were generally favorable. Specific recommendations are addressed.

COMMENT: A commenter suggested that N.J.A.C. 10A:10-6 be expanded to include foreign born inmates with dual citizenship.

RESPONSE: Inmates with dual citizenship are not necessarily excluded. Their eligibility depends on the treaty between the United States and the foreign country in which the inmates have citizenship. Applications for transfer to a foreign country must be handled on a case by case basis depending on the requirements imposed by each country.

COMMENT: A commenter suggested that the Office of Interstate Services should provide the list of persons and agencies to be notified in N.J.A.C. 10A:10-6.6(a)5 of the opportunity to submit objections or other comments on the request for transfer within a specific time period.

RESPONSE: The Department agrees that the persons and agencies listed in N.J.A.C. 10A:10-6.6(a)5 should have the opportunity to comment on requests for transfer. The rules on the notification of the persons and agencies will be adopted as initially proposed, but they will be amended and published shortly as a proposal in an upcoming issue of the New Jersey Register.

COMMENT: A commenter suggested that N.J.A.C. 10A:10-6.6(a)5 include the victim or nearest relative of the victim in the list of persons to be notified. This is the present practice in parole matters, and with the New Jersey State Parole Board.

RESPONSE: The Department of Corrections rejects this suggestion. There is no statutory basis for notifying the victim in this procedure. In addition, the Department of Corrections does not have sufficient information in its files to effect such notice.

COMMENT: A commenter objected to the 18 month time period specified in N.J.A.C. 10A:10-6.3(a)4 as being contrary to the spirit of the treaty between Canada and the United States on the Execution of Penal Sentences. Six months was suggested instead.

RESPONSE: The Department disagrees that the Treaty mandates a six month period. The Treaty only requires that a prisoner have at least six months remaining on his or her sentence in order to qualify for transfer. A longer time period will ensure that upon completion of the application process, the inmate will not be released but rather, will still have time left to serve in his or her sentence. The rule requiring an offender to have no less than 18 months remaining on his or her sentence

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will be adopted as proposed. However, in order to encourage expeditious handling of the application, the time period will be shortened from 18 months to 12 months when this rule is amended and published shortly as a proposal in an upcoming issue of the New Jersey Register.

COMMENT: A commenter suggested that the inmate be notified when objections to the transfer are received, and the inmate should be given an opportunity to rebut the objections.

RESPONSE: The Department of Corrections rejects this suggestion because it is quite likely that objections to transfer received from the prosecutor and others will contain confidential information which cannot be shared with the inmate. However, in connection with the Commissioner's review of the application and materials pursuant to N.J.A.C. 10A:10-6.7(a), the Commissioner may initiate such investigation as is deemed needed before rendering his or her final decision. This investigation may include a supplemental statement from the inmate if the Commissioner believes that an additional statement will prove helpful to the decision making process.

In addition to the specific modifications suggested above, there are a number of minor, non-substantive changes in language and grammar and N.J.A.C. 10A:10-6.6(c) has been reworded for clarification.

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

CHAPTER 10

INTER*-JURISDICTIONAL AGREEMENTS AND STATUTES

SUBCHAPTER 1 THROUGH SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. INTERNATIONAL TRANSFER

10A:10-6.1 Definitions

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

"Assurance" means a special condition concerning the confinement and/or release of an offender which must be met prior to the release of the offender.

"Offender" means juveniles adjudicated delinquent or adults convicted of criminal offenses pursuant to the laws of New Jersey.

"Receiving state" means the jurisdiction to which the offender is to be transferred.

"Sending state" means the jurisdiction from which the offender is to be transferred.

10A:10-6.2 Commissioner's authority

N.J.S.A. 30:7D-1 authorizes the Commissioner, Department of Corrections, to transfer offenders having foreign citizenship status to countries of citizenship, provided that a treaty exists between the United States and the foreign country.

10A:10-6.3 Eligibility criteria for international transfer

(a) Offenders must meet all of the following criteria before they *[shall]* ***may*** be considered for an international transfer.

1. The offender must be a citizen of the receiving state;
2. The offender must consent to transfer to his or her country of citizenship;
3. The offense of the offender must constitute a criminal offense under the laws of the receiving state;
4. The offender shall not have, at the time of the application, less than 18 months remaining on the sentence;
5. The offender shall not be under a sentence of death;
6. The offender shall not have collateral attacks or appeals on the sentence and/or conviction pending;
7. All other provisions of the imposed sentence such as fines, restitution and penalties shall be paid in full;
8. The offender shall not have detainers, wanted notices based on criminal convictions, indictments, informations, complaints and/or parole or probation violation allegations pending; and
9. The offender must meet all of the eligibility requirements of the treaty with his or her country.

10A:10-6.4 Role of the Classification Officer

(a) The Classification Officer of each institution shall be provided with the eligibility requirements of each Prisoner Transfer Treaty.

(b) The Classification Officer shall forward Form I—TRANSFER INQUIRY, to all offenders identified as having national or citizenship status in a party nation.

(c) When the offender receives Form I—TRANSFER INQUIRY, he or she may:

1. Indicate that he or she is interested in pursuing a transfer by signing Form I and returning it to the Classification Officer along with proof of citizenship; or

2. Indicate that he or she is not interested in pursuing a transfer by returning Form I to the Classification Officer without proof of citizenship.

(d) If the offender indicates on Form I—TRANSFER INQUIRY, that he or she is interested in pursuing a transfer, the Institution Classification Officer shall complete Form II—INMATE INFORMATION PROVIDED TO TREATY NATION and Form III—NOTICE REGARDING INTERNATIONAL PRISONER TRANSFER.

(e) The following material shall be forwarded, in triplicate, by the Classification Officer to the Superintendent of the institution:

1. Form I—TRANSFER INQUIRY;
2. Form II—INMATE INFORMATION PROVIDED TO TREATY NATION;
3. Form III—NOTICE REGARDING INTERNATIONAL PRISONER TRANSFER;
4. Proof of citizenship;
5. Statement of offender's eligibility;
6. Presentence report;
7. Classification materials;
8. Current psychological and medical reports;
9. Signed release of confidential information forms;
10. Criminal history sheet; and
11. Judgments of conviction or adjudication of delinquency.

10A:10-6.5 Role of institution Superintendent

The Superintendent shall sign Form III—NOTICE REGARDING INTERNATIONAL PRISONER TRANSFER, and forward the application and the material required in N.J.A.C. 10A:10-6.4(e), in triplicate, to the Department of Corrections' Office of Interstate Services.

10A:10-6.6 Role of Office of Interstate Services

(a) The Office of Interstate Services shall:

1. Investigate the request to ensure that all eligibility requirements are met;
2. Request a records check to verify records listed in N.J.A.C. 10A:10-6.3(a)8;
3. Review application and materials for completeness and compliance with treaty terms;
4. Develop and recommend assurances, where indicated; and
5. Provide written notification of the transfer request to the:
 - i. Attorney General's Office;
 - ii. State Police;
 - iii. Prosecutor; and
 - iv. Sentencing court.

(b) If the Office of Interstate Services' investigation determines that the application and materials are incomplete, or do not comply with the terms of the treaty, the application shall be rejected and returned to the institution in which the inmate is housed.

(c) If the investigation of the Office of Interstate Services determines that the application and materials are complete and are in compliance with the terms of the treaty, ***[a recommendation to accept]*** the application and materials shall be forwarded to the Commissioner, New Jersey Department of Corrections, through the appropriate Assistant Commissioner.

10A:10-6.*[6]**7* Role of Commissioner, New Jersey Department of Corrections

(a) The Commissioner, Department of Corrections, shall review the application and materials and if he or she approves, the application and materials shall be forwarded to the Office of the Governor for authorization to transfer.

(b) Applications which are not approved by the Commissioner will be returned to the sending institution and the inmate shall be notified.

10A:10-6.*[7]**8* Referral to the United States Department of Justice, Office of International Affairs

(a) Upon receipt of the Governor's authorization for international transfer, the application and materials shall be forwarded to the United States Department of Justice, Office of International Affairs, by the Office of Interstate Services.

(b) The Office of Interstate Services shall notify the inmate and the sending Superintendent of the decision on the application for international transfer.

(c) All arrangements relative to the treaty process and proposed assurances shall be negotiated between the Office of Interstate Services and the United States Department of Justice, Office of International Affairs.
10A:10-6.*[8]**9* Transfer of offender

(a) If the inmate is accepted for international transfer by the United States Department of Justice, Office of International Affairs, the offender shall be transported by the Department of Corrections to the Federal District Court for purposes of a verification hearing to ensure that the offender consents to the international transfer.

(b) Jurisdiction over the offender shall thereafter be relinquished to the United States Department of Justice.

LAW AND PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

(a)

Driver Control Service

Designation of State Official

Adopted New Rule: N.J.A.C. 13:19-9

Proposed: April 20, 1987 at 19 N.J.R. 621(a).

Adopted: July 24, 1987 by Glenn R. Paulsen, Director, Division of Motor Vehicles.

Filed: July 27, 1987 as R.1987 d.342, **without change**.

Authority: N.J.S.A. 39:2-3, 39:3-10, 39:5-30 and Pub. L. 99-570.

Effective Date: August 17, 1987.

Expiration Date: August 23, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

SUBCHAPTER 9. DESIGNATION OF STATE OFFICIAL TO BE NOTIFIED BY DRIVERS OF COMMERCIAL MOTOR VEHICLES CONCERNING OUT-OF-STATE MOTOR VEHICLE CONVICTIONS

13:19-9.1 Designation of State official; notification

(a) The Chief, Bureau of Violation Records, is designated as the State official to be notified, pursuant to the Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570, concerning out-of-state motor vehicle convictions.

(b) A driver of a commercial motor vehicle, as defined in the Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570, shall submit within 30 days of conviction a notice concerning an out-of-state conviction(s) for a violation(s) of any law relating to motor vehicle traffic control to the following address:

Chief, Bureau of Violation Records
Division of Motor Vehicles
137 East State Street
Trenton, New Jersey 08666

DIVISION OF MOTOR VEHICLES

(b)

Licensing Service

Suspension Until Restoration

Adopted New Rule: N.J.A.C. 13:21-9.4

Proposed: April 20, 1987 at 19 N.J.R. 621(b).

Adopted: July 24, 1987 by Glenn R. Paulsen, Director, Division of Motor Vehicles.

Filed: July 27, 1987 as R.1987 d.343, **without change**.

Authority: N.J.S.A. 39:3-10, 39:3-10a, 39:5-30 and 39:5-32.

Effective Date: August 17, 1987.

Expiration Date: December 16, 1990.

Summary of Public Comments and Agency Responses:

No comment received.

Full text of the adoption follows:

13:21-9.4 Suspension continues until restoration; application for restoration

(a) Every suspension of driving privileges in this State pursuant to Title 39 of the Revised Statutes, as amended or supplemented, or any other law of this State providing for the suspension of driving privileges in this State, shall continue and remain in force and effect until those driving privileges are granted or restored by the Director.

(b) In the case of suspensions of driving privileges in this State for a fixed period, the person so suspended shall, as a condition precedent to restoration, make application to the Director in such form as the Director may prescribe and pay any restoration fee required by law or regulation. The Director may, upon due notice and opportunity for a hearing, deny any application for restoration on any reasonable grounds, including but not limited to grounds relating to physical fitness or driving record of the applicant or failure of the applicant to provide proof of satisfaction of other statutory requirements.

(c) For purposes of this section the term "suspension of driving privilege" includes every suspension, revocation, prohibition or refusal of any privilege to operate a motor vehicle in this State.

(d) Nothing in this section shall be construed as requiring the Director to restore driving privileges prior to the expiration of a fixed period of suspension or to restore driving privileges otherwise suspended or to restore driving privileges contrary to any provision of law.

DIVISION OF CONSUMER AFFAIRS

(c)

Motor Vehicle Advertising Practices

Adopted Repeal and New Rules: N.J.A.C. 13:45A-2

Reproposed: June 15, 1987 at 19 N.J.R. 1056(a).

Adopted: July 22, 1987 by James J. Barry, Director, Division of Consumer Affairs.

Filed: July 27, 1987 as R.1987 d.341, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 56:8-4.

Effective Date: August 17, 1987.

Expiration Date: December 16, 1990.

Summary of Public Comments and Agency Responses:

The Division received a phone comment from Thomas Lawler, Division of Consumer Affairs, concerning the inaccuracy of the number of licensed dealers in New Jersey as set forth in the Regulatory Flexibility Statement. This number has been changed, from 780 to 4,254, to more accurately reflect the number of licensed dealers in New Jersey.

A written comment was also received from James J. DeLuca, Esq., New Jersey counsel for the National Vehicle Leasing Association (NVLA) on several provisions of N.J.A.C. 13:45A-2.9, the section governing leases.

First, NVLA suggested that the lease section is excessively detailed and overburdensome. The Division's response is that the mandated minimal disclosures are necessary for the consumer to accurately assess the type of lease, the total cost and his or her obligations. No changes will be made to reduce the essential disclosures.

Second, NVLA stated that "general availability advertisements" is not defined with sufficient clarity. The Division's response is that general availability advertisements as defined at N.J.A.C. 13:45A-2.3, are those other than advertisements offering motor vehicles at a specific price in stock, on the premises.

Third, NVLA praised the provision of N.J.A.C. 13:45A-2.9(a)1, 2 which prohibits as an unlawful practice the failure to state the advertiser's true name and business address and to clearly and conspicuously identify the advertised transaction with the term "lease" in any advertisement offering or making available for lease a new or used motor vehicle, other than an advertisement indicating the general availability of a make, model or series of new motor vehicles.

Fourth, NVLA recommended that the disclosure requirements of N.J.A.C. 13:45A-2.9(a)5 and (a)6, dealing with the lessee's option to purchase the motor vehicle and under what conditions, be made consistent with the language of § 213.4(c)4. of Regulation M, promulgated by the Federal Reserve Board. The Division has changed the language of N.J.A.C. 13:45A-2.9(a)5 and (a)6 to comport with NVLA's request, except that in lieu of the term "property", the Division has inserted the term "motor vehicle".

Fifth, NVLA suggested that the advertiser should not be required to disclose the Manufacturer's Suggested Retail Price (MSRP) as required by N.J.A.C. 13:45A-2.9(a)11, as lessees are primarily concerned with the monthly payment of a vehicle and not its sale price. The Division rejected this suggestion. The lessee may want to compare the cost of financing the purchase of a motor vehicle or purchasing outright with the cost of leasing. Consequently, no changes have been made in this section.

Finally, it is NVLA's position that N.J.A.C. 13:45A-2.9(a)16 and (a)17, requiring a motor vehicle to be on the premises on the date the advertisement runs, for advertisements contracted to run once, or on the first date the advertisement runs, for advertisements contracted to run without change more than once, "does not take into consideration the lead time required to place advertisements in the media". NVLA also stated that the lessor should not be at risk for violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., if in between the day the advertisement is placed and the day it actually appears, the vehicle is leased, sold or otherwise unavailable. The Division has not made any changes to this provision which is intended to decrease "bait and switch" advertising practices.

The Division also received a written comment from Lawrence H. Berger, Esq., an attorney who represents an automobile dealer. Mr. Berger made several suggestions concerning many provisions of the rules.

First, Mr. Berger questioned the applicability of the regulations to radio and television advertisements. The Division's response is that radio and television are expressly included in the definition of "advertisement," N.J.A.C. 13:45A-2.3. In response to Mr. Berger's inquiry, type size requirements must be complied with in all print advertising.

Second, Mr. Berger suggested that the requirement to set forth a statement concerning freight and dealer preparation charges in N.J.A.C. 13:45A-2.5(a)3 should only apply to new motor vehicles because "freight and dealer preparation charges are not normally associated with used vehicles. The Division believes that whether the vehicle is new or used, all costs to be borne by a consumer, except for licensing costs, registration fees, and taxes must be disclosed. No changes have been made to this section.

Third, Mr. Berger stated that N.J.A.C. 13:45A-2.5(a)6 concerning disclaimers and qualifiers in connection with an advertised price is unclear as drafted. The required disclosures in this provision are those related to any "special offer, price, discount, annual percentage rate or savings." No changes have been made to this section.

Fourth, Mr. Berger suggests that as an alternative to disclosing the vehicle identification number, the dealer should only be required to list the stock number. In response to this suggestion, the Division states that the vehicle identification number must be disclosed as this is the number affixed by the manufacturer and, consistent with motor vehicle practices, is the number used to trace title. Consequently, N.J.A.C. 13:45A-2.5(a)18 has not been changed.

Fifth, Mr. Berger is opposed to N.J.A.C. 13:45A-2.5(a)20 which requires advertisements for the sale of a motor vehicle that are contracted to run once to have the advertised motor vehicle on premises on the date the advertisement runs; and N.J.A.C. 13:45A-2.5(a)21 which requires advertisement contracted to run without change more than once to have the advertised motor vehicle on the premises on the first day the advertisement runs. As did NVLA, Mr. Berger suggested that the rule be modified so as to require the dealer to have the vehicle on the premises on the date the advertisement is placed. In response for the reasons above stated (that is, the provision is necessary to avoid bait-and-switch sales tactics), these sections will remain the same.

Sixth, Mr. Berger questions the necessity of N.J.A.C. 13:45A-2.6 governing credit and installment sales advertisements in light of 12 C.F.R. § 226.24. Although federal regulations only require disclosure of the annual percentage rate, there is nothing which prohibits the states from implementing more stringent requirements. The Division responds that nothing in this provision is inconsistent with federal law and no changes have been made. Additionally, in response to Mr. Berger's question concerning down payment, any figure which will affect the total cost of the installment sale must be disclosed.

Finally, Mr. Berger raises the same concerns as did NVLA over the inconsistency of certain provisions of N.J.A.C. 13:45A-2.9 with Federal law. In response thereto, the Division has changed N.J.A.C. 13:45A-2.9(a)5, and (a)6 to mirror federal law, with the exception of the term "property" which was changed to "motor vehicle."

A written comment was also received from Michael J. Motto Advertising, Inc. after the expiration date of the comment period. Since two of Mr. Motto's comments have already been addressed in response to other written comments received, they will not be repeated. Mr. Motto also states, however, that N.J.A.C. 13:45A-2.9(a)9, which concerns disclosure requirements for advertisements of a leased motor vehicle whose price has been calculated by deducting a down payment, or other dollar figure not representing a reduction in the amount lessor will accept, is not clear. In response, for clarification purposes, if the price of a leased motor vehicle is calculated with a down payment, this figure must be disclosed.

The above enumerated changes in the proposed rule, along with typographical changes, are minor substantive changes which do not significantly curtail or expand the content or scope of the rule and does not burden, curtail or expand who or what would be affected by the rule or change what is being prescribed or mandated by the rule.

Full text of the adoption follows:

SUBCHAPTER 2. MOTOR VEHICLE ADVERTISING PRACTICES

13:45A-2.1 Scope

Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., the rules contained in this subchapter set forth motor vehicle advertising practices which are prohibited as unlawful under the Consumer Fraud Act.

13:45A-2.2 Application

(a) These rules shall apply to the following advertisements:

1. Any advertisement, including radio and television broadcasts, uttered, issued, printed, disseminated, published, circulated or distributed within this State concerning motor vehicles advertised as available at locations exclusively within this State; and

2. Any advertisement, including radio and television broadcasts, uttered, issued, printed, disseminated, published, circulated or distributed to any substantial extent within this State concerning motor vehicles advertised as available at locations within this State and outside this State, or at locations exclusively outside the State.

13:45A-2.3 Definitions

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

"Advertised motor vehicle" means any new or used motor vehicle offered for sale or lease in an advertisement in which the motor vehicle is specifically identified by either:

1. Stating the advertised selling price or the manufacturer's suggested retail price; or

2. Stating the amount of any payment or the deferred payment price; or

3. Listing information relating to essential elements or components of a particular motor vehicle, such as transmission type, brakes, steering or extra cost options so as to make clear to a consumer that a specific motor vehicle is being offered for sale.

With respect to an advertisement which offers a group of new motor vehicles for sale covering a specified price range (for example, "1988 Escorts for sale—\$8,000 to \$10,000"), the least expensive and most expensive motor vehicles are considered to be advertised motor vehicles.

"Advertised selling price" means a single specific dollar figure indicating the amount of money the advertiser expects to receive or will accept for the sale or lease of an advertised motor vehicle.

"Advertisement" means any advertisement as defined by N.J.S.A. 56:8-1(a) of any motor vehicle including any statement appearing in a newspaper, periodical, pamphlet, circular, or other publication, paper, sign or radio or television broadcast which offers or in any way indicates the availability of a motor vehicle for sale or lease at retail.

"Advertiser" means any person as defined by N.J.S.A. 56:8-1(d) who in the ordinary course of business is engaged in the sale, leasing or financing of motor vehicles at retail or who in the course of any 12 month period offers more than three motor vehicles for sale or lease or who is engaged in the brokerage of motor vehicles whether for sale or lease and who directly or indirectly initiates, requests or causes an "[advertisements]* *advertisement to be made for the retail sale or lease of motor vehicles*." An advertising agency and the owner or publisher of a newspaper, magazine, periodical, circular, billboard or radio or television

station acting on behalf of an advertiser shall be deemed an advertiser within the meaning of this rule, when such entity prepares and places an advertisement for publication. No such entity shall be liable for a violation of this rule when the entity reasonably relies upon data, information or material supplied by an advertiser for whom the advertisement is prepared or placed or when the violation is caused by an act, error or omission beyond the entity's control, including but not limited to, the post-publication performance of the advertiser on whose behalf such advertisement was placed. Notwithstanding that an advertisement has been prepared or placed for publication by one of the aforementioned entities, the advertiser on whose behalf such advertisement was placed may be liable for any violation of this rule.

"Dealer" means any person who in the ordinary course of business is engaged in the sale or leasing of motor vehicles at retail or who in the course of any 12-month period offers more than three motor vehicles for sale or lease at retail.

"Extra cost option" means optional equipment, regardless of its place of installation, on the motor vehicle, the price of which would not be included in the manufacturer's suggested retail price for the basic vehicle.

"General availability advertisement" means any advertisement as defined by N.J.S.A. 56:8-1(a) of any motor vehicle including any statement appearing in a newspaper periodical, pamphlet, circular, or other publication, paper, sign or radio or television broadcast which offers or in any way indicates the availability of a general class of vehicles for sale or lease, such as a make, model or series for a new year, or statement involving the general qualities or virtues of a vehicle series or lines.

"Lease" means a contract for the use of a motor vehicle for a period of time exceeding four months whether or not the lessee has the option to purchase or otherwise become the owner of the motor vehicle at the expiration of the lease.

"Lessee" means a person as defined in the Consumer Fraud Act, N.J.S.A. 56:8-1(d), who leases a motor vehicle.

"Lessor" means a person as defined in the Consumer Fraud Act, N.J.S.A. 56:8-1(d), who in the ordinary course of business leases, offers to lease, or arranges for the leasing of motor vehicles.

"Monroney sticker" is the label required by Section 3 of the Automobile Information Disclosure Act, 15 U.S.C. §1232.

"Motor vehicle" means any vehicle driven otherwise than by muscular power, excepting such vehicles as those which run only upon rails or tracks.

"Price reduction advertisement" means any advertisement which in any way states or suggests directly or indirectly that the advertised motor vehicle is being offered or made available for sale at a lower price than that at which it has been usually sold or offered for sale.

"Rebate" means the payment of money by the manufacturer to a consumer or payment to a dealer or third party on behalf of a consumer on the condition that the consumer purchase or lease a motor vehicle.

"Sale" means a sale as defined by N.J.S.A. 56:8-1(e) of any motor vehicle.

"Taxes, licensing costs and registration fees" means those usual taxes, charges and fees payable to or collected on behalf of governmental agencies and necessary for the transfer of any interest in a motor vehicle or for the use of a motor vehicle.

"Used motor vehicle" means any motor vehicle possessing an odometer reading of greater than 1,000 miles.

"Warranty advertisement" means any advertisement in which any warranty or guaranty for any motor vehicle or part thereof is offered in connection with the sale of such motor vehicle.

13:45A-2.4 Bait and switch

(a) The following motor vehicle advertising "bait and switch" practices shall be unlawful:

1. The use of an advertisement as part of a plan or scheme not to sell the motor vehicle advertised or not to sell the same at the advertised selling price;

2. Without limiting other means of proof, the following shall be prima facie evidence of a plan or scheme not to sell a motor vehicle as advertised or not to sell the same at the advertised selling price;

i. Refusal to show, display or sell the motor vehicle advertised in accordance with the terms of the advertisement, except that an advertiser shall not be required to provide a road test of a motor vehicle unless so stated in the advertisement;

ii. The disparagement by act or word, either before or after the sale of the advertised motor vehicle, of the guaranty, warranty, credit terms, availability of service, repairs or parts or of anything in any other respect a material fact connected with the advertised motor vehicle. However,

disparagement shall not include an accurate factual description of the difference or differences between the advertised motor vehicle and other motor vehicles when and where the customer requests such information;

iii. The refusal to take orders for advertised motor vehicles or the taking of orders at a price greater than the advertised selling price;

iv. The failure to submit orders to the manufacturer or other source used in the ordinary course of business for the advertised motor vehicles;

v. The showing, demonstrating or delivery of any advertised motor vehicle which is known to be or should have been known to be defective, unusable or unsuitable for the purpose represented or implied in the advertisement;

vi. Accepting a deposit for an advertised motor vehicle, then switching the purchaser to a higher-priced motor vehicle, except when the purchaser has initiated the switch as evidenced by a writing to that effect signed by the purchaser;

vii. The failure to make a delivery of the advertised motor vehicle within the promised delivery period, unless such failure is caused by reasons beyond the control of the advertiser;

viii. The use of a sales plan or method of compensating or penalizing salesmen, designed to prevent or discourage them from selling the advertised motor vehicle or from selling the same at the advertised selling price. However, this provision shall not apply to a sales plan or method of compensation whereby a salesman realizes a fixed percentage rate of the gross amount of his sales made within a specified time period nor to salesman bonus plans designed primarily to encourage or reward salesmen for selling motor vehicles other than the advertised motor vehicle.

13:45A-2.5 Advertisements; general requirements for disclosure

(a) With respect to any advertisements offering or making available for sale a new or used motor vehicle other than an advertisement indicating the general availability of a make, model or series of new motor vehicles, the following motor vehicle advertising practices shall be unlawful:

1. The failure to state the advertiser's true name and business address or the word "dealer";

2. The failure to state a single specific dollar amount indicating the advertised selling price in type size at least twice the size of any other dollar figure pertaining to the advertised motor vehicle;

3. The failure to set forth a statement, located immediately adjacent to or contained in the description of the advertised motor vehicle, that "price(s) include(s) freight, transportation, shipping, dealer preparation and any other costs to be borne by a consumer, except for licensing costs, registration fees, and taxes." If this statement appears as a footnote, it must be set forth in at least 10 point type;

4. The setting forth of an advertised selling price which has been calculated by deducting a down payment, trade-in allowance, rebate or any other dollar figure which does not represent a reduction in the amount of money the dealer will accept for the advertised motor vehicle;

5. The setting forth of an advertised selling price which is effective only if another thing of value is purchased;

6. The failure to list all disclaimers, qualifiers or other such related information immediately adjacent to any stated special offer, price, discount, annual percentage rate or savings. If the disclaimers, qualifiers or other such related information appear as a footnote, they must be set forth in at least 10 point type;

7. The offering of equipment free or at a discount and failing to state its retail value or show it as a dollar deduction with regard to the specific advertised motor vehicles to which such offering applies;

8. The setting forth of a dollar figure representing a discount which is applicable to only a limited group of consumers and incorporating it in the advertised selling price;

9. The failure to state the manufacturer's suggested retail price, if any, as it appears on the Monroney label clearly denominated as such;

10. The failure to state the manufacturer's suggested retail price clearly denominated as such and without qualifying adjectives and terms in any advertisement relating to a new vehicle which is not required to have a Monroney label but for which the manufacturer does suggest a retail price. The motor vehicle dealer shall retain such records as may be necessary to establish the above noted manufacturer's suggested retail price;

11. In any advertisement relating to a new motor vehicle, the statement of a price as the manufacturer's suggested retail price when the manufacturer does not provide a suggested retail price;

12. In any advertisement relating to a new motor vehicle, the failure to set forth the original manufacturer's suggested retail price for any basic

vehicle which has been converted at additional cost by someone other than the original manufacturer;

13. The failure to clearly indicate that the manufacturer's suggested retail price is identical, when applicable, to the advertised selling price;

14. In any advertisement relating to a new motor vehicle, the failure to list each extra cost option installed by the dealer or any one other than the original manufacturer clearly denominated as such together with the retail price of each as determined by the dealer whether or not that price is included on the Monroney label.

15. The failure to state the following information:

- i. The number of engine cylinders;
- ii. Whether the transmission is automatic or manual;
- iii. Whether the brakes and steering mechanism are power or manual;
- iv. Whether the vehicle has air conditioning;

16. With respect to an advertisement offering a used motor vehicle for sale, the failure to state the actual odometer reading as of the date of placing the advertisement for publication;

17. The failure to state the year, make, model and the series where the advertised motor vehicle has a designated series or model;

18. The failure to set forth the last six digits of the vehicle identification number of an advertised motor vehicle. In any advertisement which offers two or more motor vehicles with the same manufacturer's suggested retail price, the last six digits of the vehicle identification number for at least two of these must be stated. The six digit number shall be preceded by the letters "VIN." This provision shall not apply to radio and television broadcasts;

19. The failure to state the exact number of models of advertised motor vehicles with the same manufacturer's suggested retail price on premises on the date the advertisement runs;

20. With respect to advertisements that are contracted to run once, the failure to have an advertised motor vehicle on premises on the date the advertisement runs;

21. With respect to advertisements offering advertised motor vehicles for sale *[or]* that are contracted to run without change more than once:

- i. The failure to have an advertised motor vehicle on the premises on the first day the advertisement runs;
- ii. In the event an advertised motor vehicle is sold before the contracted advertising schedule has been completed, the dealer must notify any consumer who inquires by telephone of the sale and maintain a copy of the sales agreement for a period of 90 days following the date of sale which shall be made available for inspection by the Division of Consumer Affairs;
- iii. For the purpose of (a)21ii above, such contracted advertising schedule shall be limited to the four days immediately following the initial publication. In the event the advertisement appears after the four day limit, it shall be subject to the provisions of (a)21i or ii above, whichever is applicable;

22. For any advertised motor vehicle having an odometer reading in excess of 1,000 miles, the failure to state the nature of prior use unless previously owned by individuals for their personal use.

13:45A-2.6 Certain credit and installment sale advertisements

(a) The following motor vehicle advertising practices concerning credit and installment sale advertisement shall be unlawful:

1. The advertising of credit, including but not limited to such terms as easy credit or one-day credit, other than that actually transacted by the advertiser on a regular basis in the ordinary course of business;

2. The failure to state the following information in any advertisement offering to sell a motor vehicle on an installment basis:

- i. The total cost of the installment sale indicated by a single specific dollar amount (including the down payment, or trade-in, if any, plus the total deferred payment price) in type size no smaller than the size of the monthly payment figure pertaining to the advertised motor vehicle;
- ii. The annual percentage rate;
- iii. The monthly payment figure (calculated on the basis of the total cost of the installment sale) and the number of required payments;
- iv. The amount of any down payment or trade-in required or a statement that none is required;

v. The disclosures in (a)2i through iv above shall be placed adjacent to the description of the advertised motor vehicle and shall not be contained in a footnote, unless the disclosures are the same for all motor vehicles advertised.

3. The use or statement of an installment payment on any basis other than a monthly basis.

13:45A-2.7 Price reduction advertisements

(a) In any advertisement wherein a reduction from the usual selling price is stated or indicated either directly or by implication, the following motor vehicle advertising practices shall be unlawful:

1. The use or statement of any price from which a reduction is indicated either directly or by implication where such price is not the usual selling price;

2. The placement of a price reduction advertisement where the price reduction is less than five percent of the usual selling price.

(b) For the purpose of this section, a usual selling price is the price at which the advertiser has sold or offered for sale the advertised motor vehicle or a substitute equivalent on not less than three occasions during the 90-day period immediately preceding the date of publication of the advertisement. The use of the terms "sale," "discount," "savings," "price cut," "bargain," "reduction," "special savings," "prices slashed," "clearance," "buys" and other terms of similar import shall be deemed to indicate a price reduction advertisement.

(c) In the event that an advertiser places a price reduction advertisement, the motor vehicle dealer in whose name the advertisement is placed shall retain such records as may be necessary to establish the usual selling price. Such records shall be maintained for a period of 90 days following the date of publication of the advertisement and shall be made available for inspection by the Division of Consumer Affairs.

13:45A-2.8 Warranty advertisements

(a) Unless the warranty advertised states that it is a manufacturer's or factory warranty or guaranty, or complies with the requirements of (b) below, advertising a warranty or guaranty shall be an unlawful motor vehicle advertising practice if the actual warranty does not at a minimum include the following provisions:

1. Duration: The warranty must start on the vehicle's purchase date and extend at least 30 days thereafter or 1,000 miles beyond the odometer reading at the time of purchase, whichever occurs first;

2. Coverage: The following parts of the vehicle must be covered thereunder:

- i. Engine: The following internal lubricated parts: pistons, piston rings, piston pins, crankshaft and main bearings, connecting rods and rod bearings, camshaft and camshaft bearings, timing chain and timing gears, intake and exhaust valves, intake manifold, valve springs, guides, oil pump, push rods, rocker arms, hydraulic lifters, rocker arm shaft and cylinder heads. The engine block is covered if damaged by a defect or malfunction of one or more of the above listed internal lubricated parts;
- ii. Transmission: All internal lubricated parts contained within the transmission case and torque converter case. The transmission case and torque converter case are covered if damaged by a defect or malfunction of one or more of these internal lubricated parts;
- iii. Drive axle assembly: The following parts: drive shaft and universal joints and all internal lubricated parts contained within the drive axle housing. The drive axle housing is covered if damaged by a defect or malfunction of one or more of these internal lubricated parts; and
- iv. Water pump impeller, shaft bearings and bushings.

3. Purchaser's obligation to contribute toward *[warrant]* *warranty* repairs or replacement costs shall be no greater than 50 percent of the selling dealer's regular retail charges for all parts and labor furnished in the repairs or replacements performed under the warranty.

(b) Where the warranty or guaranty being offered in an advertisement does not conform to the minimum standards of (a) above, failure to include the following disclosures in the actual advertisement shall be an unlawful motor vehicle advertising practice:

1. Limitation of warranty or guaranty as to duration, inclusion or exclusion of service or labor charges, and characteristics or properties of the motor vehicle or part thereof included or excluded by the warranty or guaranty;

2. Whether the warranty or guaranty will be performed by repair, replacement, refund or any other means and whether such manner of performance is at the option of the advertiser.

13:45A-2.9 Lease

(a) With respect to any advertisement offering or making available for lease a new or used motor vehicle other than an advertisement indicating the general availability of a make, model or series of new motor vehicles, the following motor vehicle advertising practices shall be unlawful:

1. The failure to state the advertiser's true name and business address;

2. The failure to clearly and conspicuously identify the advertised transaction with the term "lease";

3. The failure to state the amount of the monthly payment in type size at least twice the size of any other dollar figure pertaining to the advertised motor vehicle, and the number of required payments;

4. The failure to state the total amount of any payment, including all non-refundable payments such as security deposit, down payment or capitalized cost reduction required at the beginning of the lease, or a statement that no such payment is required;

5. *[A statement of whether the lessee has the option to purchase the motor vehicle and, if at the end of the lease term at what price, and, if paid to the end of the lease term, at what time, and the price or method of determining the price;]* ***The failure to include a statement of whether or not the lessee has the option to purchase the leased motor vehicle and at what price and time. The method of determining the price may be substituted for disclosure of the price;***

6. ***[The failure to state the amount of any liabilities the lease imposes upon the consumer at the end of the term; and, if the consumer shall be liable for any difference between the estimated value of the leased motor vehicle and its realized value at the end of the lease term;]* *The failure to include a statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased motor vehicle and its realized value at the end of the lease term, if the lessee has such liability;***

7. The use or statement of any lease payment on any basis other than a monthly basis;

8. The failure to set forth in any advertised lease price a statement that "Price(s) include(s) freight, transportation, shipping, dealer preparation; and any other additional costs to be borne by a consumer except for licensing costs, registration fees and taxes", immediately adjacent to or contained in the description of the advertised motor vehicle. If this statement appears as a footnote it must be set forth in at least 10 point type;

9. The setting forth of an advertised leased price which has been calculated by deducting a down payment, trade-in allowance, rebate or any other dollar figure which does not represent a reduction in the amount of money the lessor will accept for the advertised motor vehicle;

10. The failure to list all disclaimers, qualifiers or other such related information immediately adjacent to any stated special offer, price, discount, or savings. If the disclaimers, qualifiers or other such related information appear as a footnote they must be set forth in at least 10 point type;

11. The failure to state the manufacturer's suggested retail price, if any, as it appears on the Monroney label clearly denominated as such and without qualifying adjectives and terms in any advertisement relating to a new motor vehicle;

12. The failure to state the following information;

- i. The number of engine cylinders;
- ii. Whether the transmission is automatic or manual;
- iii. Whether the brakes and steering mechanism are power or manual;
- iv. Whether the vehicle has air conditioning;

13. The failure to state the year, make, model and the series where the advertised motor vehicle has a designated series or model;

14. The failure to set forth the last six digits of the vehicle identification number of an advertised vehicle. In any advertisement which offers two or more motor vehicles with the same manufacturer's suggested retail price the last six digits of the vehicle identification number for at least two of these must be stated. The six digit number shall be preceded by the letters "VIN." This provision shall not apply to radio and television broadcasts;

15. The failure to state ***[that]* *the*** exact number of models of advertised motor vehicles with the same manufacturer's suggested retail price on premises on the date the advertisement runs;

16. With respect to advertisements that are contracted to run once, the failure to have an advertised motor vehicle on premises on the date the advertisement runs;

17. With respect to advertisements that are contracted to run without change more than once:

- i. The failure to have an advertised motor vehicle on premises on the first day the advertisement runs;
- ii. In the event an advertised motor vehicle is leased before the contracted advertising schedule has been completed, the dealer must notify any consumer who inquires by telephone of the lease and maintain a copy of the leasing agreement for a period of 90 days following the date of the lease which shall be made available for inspection by the Division of Consumer Affairs;
- iii. For the purpose of this paragraph such contracted advertising schedule shall be limited to the four days immediately following the initial publication. In the event the advertisement appears after the four day

limit it shall be subject to the provisions of (a)17i or ii. above, whichever is applicable;

18. For any advertised motor vehicle having an odometer reading in excess of 1,000 miles, the failure to state the nature of prior use unless previously owned by individuals for their personal use;

19. With respect to an advertisement offering a used motor vehicle for lease, the failure to state the actual odometer reading as of the date of placing the advertisement for publication;

20. The setting forth of any annual percentage rate with respect to any offer of a motor vehicle for lease.

13:45A-2.10 Guaranteed satisfaction, discount and quality claims

(a) The following motor vehicle advertising practices concerning guaranteed satisfaction, discount and quality claims shall be unlawful:

1. The use of the terms "guaranteed discount", "guaranteed lowest prices", or any other similar term unless the advertiser clearly and conspicuously discloses the manner in which such guaranty will be performed and any conditions or limitations controlling such performance;

2. The use of any guaranty, warranty or any other representation regarding the quality of a motor vehicle or part thereof which creates a false impression of the quality, durability, maintenance needs or any other material fact concerning any motor vehicle or part thereof (for example, failure to disclose the fact that substantial repair or body work has been performed on a motor vehicle when such prior repair is known or should have been known by the advertiser or the person for whom he acts).

13:45A-2.11 General prohibitions

(a) The following motor vehicle advertising practices shall be unlawful;

1. The use of any type, size, location, lighting, illustration, graphic depiction or color so as to obscure or make misleading any material fact in any advertisement;

2. In any advertisement, the use of deception, fraud, false pretense, false promise or misrepresentation as to the size, inventory or nature of the advertiser's business; as to the expertise of the advertiser, his agents or employees; or as to the ability or capacity of the advertiser to offer price reductions or price savings;

3. In an advertisement, the use of the term "low prices," "lowest prices," "lower than anyone else" or of any other term suggesting that the prices offered are lower than those usually offered in the business area of the advertiser when in fact the prices are not reasonably below those usually offered in the business area of the advertiser or any other term which is ***in*** any respect misleading;

4. The use in any advertisement, directly or indirectly, of a comparison to the dealer's cost, inventory price, factory invoice, wholesale, at no profit, floor plan balance, dealer ***[issue]* *tissue*** or terms of similar import;

5. The use of the terms "Public Notice," "Public Sale" or words or terms of similar meaning in any advertisement offering motor vehicles for sale, where such sale is not required by court order or by operation of law; or terms such as "Authorized Distribution Center," "Factory Outlet," "Factory Authorized Sale" or other term(s) which imply that the advertiser has an exclusive or unique relationship with the manufacturer;

6. The failure to conspicuously post notice of advertised motor vehicles on the premises to which the advertisement applies in proximity to the advertised motor vehicles or at the main entrance(s) to the business premises ordinarily used by prospective buyers. Such notice may consist of a copy of the advertisement or may take the form of a tag attached to the motor vehicles stating the advertised selling price as well as any other substantive disclosures required herein;

7. The use in any advertisement of the term rebate, or any other terms indicative of cash payment or something of value (for example, savings bond, gift certificate or vacation trip), to describe anything other than the giving of such consideration to the purchaser or lessee of a motor vehicle by the manufacturer at the time of purchase, ***lease*** or shortly thereafter. The term rebate (or other consideration as specified above) shall not be used to describe ***[d]*** a bonus, give back or credit offered to the dealer by the manufacturer which may or may not be passed on to the purchaser ***or lessee***.

8. The setting forth of any special offering involving price, discount, annual percentage rate*, savings, bonus or terms of similar import and failing to specifically and clearly explain any conditions, exclusions, qualifiers or other such related information immediately adjacent to the offering. If the explanation appears as a footnote it must be set forth in at least 10 point type;

9. The failure to display the Monroney label, as required by the Automobile Information Disclosure Act, 15 U.S.C. §§1231-1233 and the failure

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to display the fuel economy label, as required by the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. §2006, on every new motor vehicle offered for sale;

10. The failure to display the Used Car Buyers Guide, as required by the Federal Trade Commission's Used Car Rule, 16 C.F.R. Part 455.2, on every used motor vehicle offered for sale.

(b) The rules in this subchapter shall apply to any advertisement published or circulated within the State of New Jersey where an advertiser intends to sell or lease or actually sells or leases motor vehicles on a regular basis to New Jersey residents.

TRANSPORTATION

TRANSPORTATION OPERATIONS

(a)

Restricted Parking and Stopping Route 45 in Gloucester County

Adopted Amendment: N.J.A.C. 16:28A-1.31

Proposed: June 1, 1987 at 19 N.J.R. 920(a).

Adopted: July 2, 1987 by John F. Dunn, Jr., Assistant Chief
Engineer, Traffic and Local Road Design.

Filed: July 14, 1987 as R.1987 d.329, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-199.

Effective Date: August 17, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28A-1.31 Route 45

(a) (No change.)

(b) The certain parts of State Highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-2. (No change.)

3. Along the northbound (easterly) side in the City of Woodbury, Gloucester County:

i. Near side bus stops:

(1) (No change.)

(2) Newton Avenue—Beginning at the southerly curb line of Newton Avenue and extending 125 feet southerly therefrom.

(3) Watkins Avenue—Beginning at the southerly curb line of the prolongation of Watkins Avenue and extending 120 feet southerly therefrom.

(4) Walnut Street—Beginning at the prolongation of the southerly curb line of Walnut Street and extending 105 feet southerly therefrom.

(5) Aberdeen Place—Beginning at the southerly curb line of Aberdeen Place and extending 105 feet southerly therefrom.

(6) Stuart Street—Beginning at the southerly curb line of Stuart Street and extending 100 feet southerly therefrom.

ii. Mid-Block bus stop:

(1) Barber Avenue—Beginning 50 feet south of the southerly curb line of Barber Avenue and extending 135 southerly therefrom.

iii. Far side bus stops:

(1) Dare Street—Beginning at the northerly curb line of Dare Street and extending 100 feet northerly therefrom.

(2) Red Bank Avenue—Beginning at the northerly curb line of Red Bank Avenue and extending 200 feet northerly therefrom.

(3) Hunter Street—Beginning at the northerly curb line of Hunter Street and extending 100 feet northerly therefrom.

(4) Courtland Street—Beginning at the northerly curb line of Courtland Street and extending 100 feet northerly therefrom.

(5) Railroad Avenue—Beginning at the northerly curb line of Railroad Avenue and extending 100 feet northerly therefrom.

4. Along the southbound on the westerly side in the City of Woodbury, Gloucester County:

i. Far side bus stops:

(1) (No change.)

(2) Hunter Street—Beginning at the prolongation of the southerly curb line of Hunter Street and extending 105 feet southerly therefrom.

(3) W. Centre Street—Beginning at the southerly curb line of W. Centre Street and extending 100 feet southerly therefrom.

(4) Barber Avenue—Beginning at the southerly curb line of Barber Avenue and extending 100 feet southerly therefrom.

(5) Stuart Street—Beginning at the prolongation of the southerly curb line of Stuart Street and extending 100 feet southerly therefrom.

ii. Near side bus stops:

(1) Delaware Street—Beginning at the northerly curb line of Delaware Street and extending 200 feet northerly therefrom.

(2) Edith Avenue—Beginning at the prolongation of the northerly curb line of Edith Avenue and extending 105 feet northerly therefrom.

(3) Chestnut Street—Beginning at the northerly curb line of Chestnut Street and extending 105 feet northerly therefrom.

(4) Walnut Avenue—Beginning at the northerly curb line of Walnut Avenue and extending 105 feet northerly therefrom.

(5) West Street—Beginning at the northerly curb line of West Street and extending 125 feet northerly therefrom.

(6) Railroad Avenue—Beginning at the prolongation of the northerly curb line of Railroad Avenue and extending 105 feet northerly therefrom.

iii. Mid-Block bus stop:

(1) Red Bank Avenue—Beginning 100 feet south of the southerly curb line of Red Bank Avenue and extending 135 feet southerly therefrom.

5.-8. (No change.)

(b)

Miscellaneous Traffic Rules

Mid-Block Crosswalk

Route 33 in Monmouth County

Adopted New Rule: N.J.A.C. 16:30-10.4

Proposed: May 18, 1987 at 19 N.J.R. 857(a).

Adopted: June 29, 1987 by John F. Dunn, Jr., Assistant Chief
Engineer, Traffic and Local Road Design.

Filed: July 14, 1987 a R.1987 d.328, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-34.

Effective Date: August 17, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:30-10.4 Route 33

(a) Under the provisions of N.J.S.A. 39:4-34, the certain parts of State highway Route 33 described in this section shall be designated as a mid-block crosswalk.

1. Along Route 33 in the Borough of Freehold, Monmouth County from a point 390 feet east of the easterly curb line of Phyllis Road to a point 10 feet easterly therefrom.

(c)

AERONAUTICS

Airport Safety Improvement Aid

Audit and Recordkeeping Requirements

Adopted Amendment: N.J.A.C. 16:56-14.1

Proposed: June 1, 1987 at 19 N.J.R. 921(a).

Adopted: July 2, 1987 by James A. Crawford, Assistant
Commissioner for Transportation Services and Planning.

Filed: July 14, 1987 as R.1987 d.327, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-44 and

"Airport Safety Act of 1983," P.L. 1983 c.264, July 11, 1983.

Effective Date: August 17, 1987.

Expiration Date: June 4, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:56-14.1 Audit and recordkeeping requirements for State funded projects

(a) Provisions for audit of grants to privately-owned public use airports, counties or municipalities are as follows:

1. The county/municipality or privately owned public use airport entity shall comply with the State of New Jersey Single Audit Policy defined by the Department of Treasury, Office of Management and Budget and the Single Audit Act of 1984 (Federal OMB Circular A-128).

2. A Single Audit of the county/municipality or privately-owned public use airport entity shall be performed annually beginning with the fiscal year ended December 31, 1986 by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with State audit policy.

3. Department of Transportation agreements governed by this chapter shall be subjected to audit compliance tests in accordance with requirements delineated in the Department of Treasury, OMB publication entitled "New Jersey Grants Management Information System Manual".

4. Expenditures prior to January 1, 1986 made under the terms of the county/municipality or privately-owned public use airport grant agreement(s) with the Department of Transportation and not previously audited by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards may be audited in context of the Single Audit performed for the fiscal year ended December 31, 1986.

5. Audit costs incurred by the county/municipality or privately-owned public use airport to comply with this subchapter are not reimbursable.

(b) General provisions for audit and recordkeeping requirements are as follows:

1.-6. (No change.)

(c) Retention of records shall be as follows:

1.-3. (No change.)

TREASURY-TAXATION

(a)

Cigarette Tax

Purchase of Tax Stamps on a Credit Basis

Adopted Amendments: N.J.A.C. 18:5-3.6, 3.7 and 3.8

Proposed: April 6, 1987 at 19 N.J.R. 511(a).

Adopted: July 14, 1987 by John R. Baldwin, Director, Division of Taxation.

Filed: July 14, 1987 as R.1987 d.326, **without change.**

Authority: N.J.S.A. 54:40A-1 et seq., particularly 54:40A-20.

Effective Date: August 17, 1987.

Expiration Date: April 16, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

18:5-3.6 Purchase of stamps on a credit basis

(a) Licensed distributors, both resident and nonresident, upon the discretionary approval of the Director, may make purchases of cigarette revenue tax stamps on a credit basis, provided that Cigarette Tax Form CD-4, Distributors Tax Stamp Credit Bond, or an Irrevocable Letter of Credit issued by a State or federally chartered bank, that is satisfactory to the Director, has been filed with the Director in an amount not less than the gross sales price of such stamps which the distributor intends to purchase.

1. The Stamp Credit Bond or Irrevocable Letter of Credit must remain in effect for a period of 90 days after the expiration of the license period.

18:5-3.7 Decalomania tax stamps purchased on credit

Licensed distributors, so authorized, acting in compliance with N.J.A.C. 18:5-3.6, may make credit purchases of cigarette decalomania tax stamps at the Division of Taxation, Trenton, New Jersey, by presenting, in person, or by forwarding, a properly completed Distributors Stamp Order Form.

18:5-3.8 Meter impression tax stamps purchased on credit

(a) Licensed distributors, acting in compliance with N.J.A.C. 18:5-3.6, may make credit purchases of meter impression tax stamps at the Division of Taxation, Trenton, New Jersey, by presenting, in person or by duly

authorized representative, or by forwarding by mail or express, the metering machine, together with a properly completed Distributors Stamp Order Form.

(b) Licensed distributors so authorized, acting in compliance with N.J.A.C.18:5-3.6, may make credit purchases of meter impression tax stamps at an agent bank designated in N.J.A.C. 18:5-3.3(b), by forwarding the completed Distributors Stamp Order Form to the Division of Taxation, Trenton, New Jersey, where it is ascertained whether the credit position of the distributor is secure, and not exceeded by the order.

(c) (No change.)

(b)

DIVISION OF TAXATION

Corporation Business Tax

Financial Business Corporation and Interest on Indebtedness to Financial Business Corporation; Money Market Fund Distribution

Adopted New Rule: N.J.A.C. 18:7-1.16

Adopted Amendment: N.J.A.C. 18:7-5.2

Proposed: May 4, 1987 at 19 N.J.R. 712(a).

Adopted: July 20, 1987 by John R. Baldwin, Director, Division of Taxation.

Filed: July 22, 1987 at R.1987 d.335, **without change.**

Authority: N.J.S.A. 54:10A-27.

Effective Date: August 17, 1987.

Expiration Date: April 2, 1989.

Summary of Public Comments and Agency Responses

The Division received one letter of comment from a professional organization which was responded to. The comment consisted of three matters. The first mentioned that the Corporation Business Tax Act precludes a financial business corporation from electing to be an investment company, and that the Division's rule, N.J.A.C. 18:7-1.15(b), also precludes a stock brokerage firm, merchant bank or banking corporation from electing to be an investment company notwithstanding qualifying assets. The Division's response was that by definition a financial business corporation may not qualify as an investment company as defined in N.J.A.C. 18:7-1.15. The Division acknowledged that there was an overlap in the reference to allowing a financial business corporation to invest and reinvest in marketable securities, including bonds, notes or debentures, commonly known as investment securities. Such assets would be qualified assets for purposes of a New Jersey investment company.

The second matter concerned the fact that a corporation would have to qualify for any return year as a financial business corporation and the commenter wanted to combine years to satisfy the test for financial business corporation qualification. The Division's response was that a corporation would have to qualify for any return year that it would claim a tax benefit if for no other reason than to construe otherwise would permit a corporation to change the nature of its business and still claim a benefit not appropriate to that business.

The third matter related to N.J.A.C. 18:7-5.2(b) and a question was asked whether dividends received by a corporation from a regulated investment company could be applied to the gross income tax statute to permit individuals investing in regulated investment companies which invest in Federal obligations to exclude such interest from their New Jersey gross income. The Division's response stated that the Director had already taken the position, in a letter to Commerce Clearing House, that dividends paid from a regulated investment company are to be classified as dividends for purposes of the Gross Income Tax Act. N.J.A.C. 18:7-5.2(b) would not appear to alter that circumstance.

Full text of the adoption follows:

18:7-1.16 Financial business corporation; definition

(a) "Financial business corporation" means a corporation that is, in fact, in substantial competition with the business of national banks, and which also employs moneyed capital with the object of making profit by its use as money through any of the following:

1. Discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt;

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2. Buying and selling exchange;
3. Making of or dealing in secured or unsecured loans and discounts;
4. Dealing in securities or shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers;

5. Investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or

6. Dealing in or underwriting obligations of the United States, any state or any political subdivision thereof or of a corporate instrumentality of any of them.

7. Certain leasing transactions which approximate secured loans by meeting each of the following requirements:

i. Lessor must look primarily to the creditworthiness of the lessee in order to recover its investment.

ii. Lessor may not rely on repetitious leasing of the same property.

iii. The lease must be a net lease.

iv. The lessor must recover its full investment plus its cost of financing through the rental payments, tax benefits, and the residual value of the property.

(b) For purposes of this section:

1. "Tax benefits" means those benefits derived from depreciation and any investment tax credit related to the financed property.

2. "Residual value of the property" means the estimated value of the leased property at the end of the original lease as determined at the time the lease is executed. Such value may not exceed 20 percent of the lessor's full investment.

3. "Net lease" means a lease under which the lessor will not, directly, or indirectly, provide or be obligated to provide for:

i. The servicing, repair or maintenance of the leased property during the lease term.

ii. The purchasing of parts and accessories for the leased property; however, the improvements and additions to the leased property may be leased to the lessee upon its request.

iii. The loan of replacement or substitute property while the leased property is being serviced.

iv. The purchasing of insurance for the lessee, except where the lessee has failed in its contractual obligation to purchase or maintain the required insurance.

v. The renewal of any license or registration for the property unless such action by the taxpayer is clearly necessary to protect its interest as an owner or financier of the property.

(c) A financial business corporation shall not include:

1. Any enterprise that is not a corporation;

2. National banks;

3. Production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub. L. 91-181 (12 U.S.C. §2091 et seq.);

4. Stock or mutual insurance companies authorized to transact business in this State;

5. Securities brokers or dealers, investment companies, or investment bankers not employing moneyed capital with the object of making profit by its use as money or in substantial competition with the business of national banks;

6. Real estate investment trusts;

7. Credit unions organized under the laws of this State;

8. Savings banks organized under the laws of this State;

9. Savings and loan or building and loan associations organized under the laws of this State;

10. Pawn brokers organized under the laws of this State; and

11. State banks and trust companies organized under the laws of this State.

(d) A financial business corporation may not qualify as an investment company as that term is used in N.J.A.C. 18:7-1.15.

(e) The business of national bank is defined, and may be redefined from time to time, by the Congress of the United States at 12 U.S.C.A. 21, et seq. (The National Banking Act).

1. "The business of national banks" as used in N.J.S.A. 54:10A-4(m) and this section means the business of the bank itself and does not include bank subsidiaries, holding companies or affiliates.

(f) A corporation may qualify as a financial business corporation provided that 75 percent of its gross income is derived from the activities enumerated in (a)1 through (a)7 above. For purposes of making this computation, gross income shall be the sum of the amounts reported on line 1 and lines 4 through 10 of Schedule A on Form CBT-100, adjusted as follows:

1. "Gross income" for purposes of this subsection and N.J.A.C. 18:7-5.2(a)7iii means the result of adding the income amounts for gross receipts, or sales, dividends, interest, gross rents, gross royalties, capital gain, net income, net gain or loss from line 14(a), Part II, Federal Form 4797 and other income as adjusted for interest on Federal, state, municipal and other obligations not included in line 5 above and the dividend exclusion.

2. Gross income arrived at (f)1 above is the denominator;

3. The gross income included in (f)2 above resulting from the activities set forth in (a)1 through (a)7 above is the numerator; and

4. If the resulting percentage of (f)2 and 3 above is 75 percent or more, such corporation is a financial business corporation.

(g) A corporation that qualifies as a financial business corporation must file a Corporation Business Tax Return for Banking and Financial Corporation, Form BFC-1 and complete Schedule L apportioning the financial business conducted in New Jersey consistent with N.J.S.A. 54:10A-38 (Section 38 of the Corporation Business Tax Act).

18:7-5.2 Entire net income; how computed

"Taxable income before net operating loss deduction and special deductions," hereinafter referred to as Federal taxable income, is the starting point in the computation of the entire net income. After determining Federal taxable income, it must be adjusted as follows:

(a) Add to Federal taxable income:

1.-6. (No change.)

7. The amount deducted, in computing Federal taxable income, for interest on indebtedness (whether or not evidenced by a written instrument) directly or indirectly owed to an individual stockholder or members of his immediate family who, in the aggregate, own beneficially ten percent or more of the taxpayer's outstanding shares of capital stock or to a corporate stockholder, including its subsidiaries, which owns beneficially, directly or indirectly, ten percent or more of the taxpayer's outstanding shares of capital stock minus ten percent of the amount so deducted or \$1,000.00, whichever is larger. Thus, if the amount of such interest is \$1,000.00 or less, then none of said amount need be added back. However, there shall be allowed as a deduction:

i.-ii. (No change.)

iii. Any deduction for interest that relates to debt of a "financial business corporation" owed to an affiliate corporation but only where the interest rate does not exceed two percentage points over a prime rate to be determined by the Commissioner of Banking. Interest paid or accrued to such an affiliate is an unrestricted deduction only when a corporation is a financial business corporation as determined at N.J.A.C. 18:7-1.16. A debt is owed to an "affiliate" corporation when it is owing directly or indirectly to holders of ten percent or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes as defined in N.J.A.C. 18:7-4.5. The deduction may not be claimed on the Corporation Business Tax Return, Form CBT-100. Any corporation which is a financial business corporation must file the Corporation Business Tax Return for Banking and Financial Corporations, Form BFC-1, and complete Schedule L apportioning the financial business conducted in New Jersey consistent with N.J.S.A. 54:10A-38; and

iv. Any part of a deduction for interest that related to debt of a banking corporation owing directly to a bank holding company as defined in 12 U.S.C. 1841 of which the banking corporation is a subsidiary. The allowable deduction for interest is limited to interest paid or accrued directly by the subsidiary to its bank holding company parent notwithstanding that related indebtedness may be excluded from net worth where it is indirectly owing to such bank holding company.

8.-12. (No change.)

(d) Deduct from federal taxable income:

1. (No change.)

2. Fifty percent of all other dividends included in Federal taxable income or added to Federal taxable income in accordance with (a) above. Dividends received from a regulated investment company which are treated as interest for purposes of the Internal Revenue Code and/or which are not considered qualifying dividends for Internal Revenue purposes are not eligible for deduction or exclusion from entire net income under this subsection.

3.-7. (No change.)

(a)

**Sales and Use Tax
Definitions**

Adopted New Rules: N.J.A.C. 18:24-1.2 and 1.3

Proposed: May 18, 1987 at 19 N.J.R. 858(a).

Adopted: July 14, 1987 by John R. Baldwin, Director, Division of Taxation.

Filed: July 14, 1987 as R.1987 d.325, **without change.**

Authority: N.J.S.A. 54:32B-24.

Effective Date: August 17, 1987.

Expiration Date: August 12, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

SUBCHAPTER 1. FORMS AND DEFINITIONS

18:24-1.1 (No change.)

18:24-1.2 Newspaper defined

(a) A "newspaper" means a publication which generally conforms to all the following indicia:

1. A newspaper is published in printed or written form at stated short intervals at least 50 times a year;
2. A newspaper is available for circulation among the public, whether or not through paid subscriptions;
3. A newspaper contains information of general interest or reports of current events and contains original or reprinted articles on a variety of topics, photographs, illustrations, advertising matter, legal notices, comic strips, cartoons, editorial comment or other such subject matter;
4. A newspaper does not contain as advertising matter more than 90 percent of its printed area;
5. A newspaper has continuity as to title and the general nature of its content from issue to issue; and
6. A newspaper does not constitute a book, either singly or when successive issues are put together.

(b) Except as inconsistent with (a) above, whether a publication has been or would be classified as one which is entitled to second class mailing privileges by the United States Postal Service will be taken into consideration in the determination of whether or not the publication is a newspaper.

18:24-1.3 Magazine and periodical defined

(a) A "magazine" means a periodical publication which generally conforms to all the following indicia:

1. A periodical is published in printed or written form at stated intervals, at least as frequently as four times a year;
2. A periodical is available for circulation among the public, whether or not through paid subscriptions;
3. A periodical contains a variety of articles by different authors devoted to literature, the sciences or the arts, news, some special industry, profession, sport or other field of endeavor;
4. A periodical does not contain as advertising matter more than 90 percent of its printed area;
5. A periodical has continuity as to title and the general nature of content from issue to issue; and
6. A periodical does not constitute a book, either singly or when successive issues are put together.

(b) Except as inconsistent with (a) above, whether a publication has been or would be classified as one which is entitled to second class mailing privileges by the United States Postal Service will be taken into consideration in the determination of whether or not the publication is a magazine.

OTHER AGENCIES

CASINO CONTROL COMMISSION

(b)

Gaming Equipment

Evidence of Cheating or Tampering

Adopted Amendments: N.J.A.C. 19:46-1.16, 1.18 and 1.20

Proposed: October 20, 1986 at 18 N.J.R. 2121(a).

Adopted: July 22, 1987 by the Casino Control Commission, Walter N. Read, Chairman.

Filed: July 23, 1987 as R.1987 d.336, **with technical changes** not requiring additional notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:12-63(c) and 5:12-70(f).

Effective Date: August 17, 1987.

Expiration Date: May 4, 1988.

Summary of Public Comments and Agency Responses

COMMENT: The Division of Gaming Enforcement supports the adoption of the proposed amendments, with one reservation. The Division believes that the rules should specifically indicate that the Commission may not independently investigate incidents of tampering, cheating or unfair play since this would conflict with the authority delegated only to the Division.

RESPONSE: The Division's requested change is rejected. Since the Casino Control Act clearly gives this responsibility to the Division and the proposed amendment requires only notification to the Commission, no change to the language is required.

Upon adoption, the Commission has amended N.J.A.C. 19:46-1.20 to include a cross reference to N.J.A.C. 19:46-1.16 and 1.18.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*).

19:46-1.16 Dice; receipt, storage, inspections and removal from use

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

(g) At the end of each shift or day, a craps supervisor other than the one who originally inspected the dice, shall reinspect each dice for evidence of tampering. Such evidence discovered at this time or at any other time shall be immediately reported to an agent of the Commission and Division by the completion and delivery of an approved three-part Dice Discrepancy Report.

1.-2. (No change.)

19:46-1.18 Cards; receipt, storage, inspections and removal from use

(a)-(k) (No change.)

(l) When envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, they shall be inspected for tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play.

1.-5. (No change.)

6. Evidence of tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play discovered at this time, or at any other time, shall be immediately reported to an agent of the Commission and Division by the completion and delivery of an approved three-part Card Discrepancy Report.

i.-iii. (No change.)

(m)-(n) (No change.)

19:46-1.20 Approval of gaming equipment; retention by commission and division; evidence of tampering

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

(c) Any evidence that gaming equipment or other devices used in a casino including, without limitation, gaming tables, layouts, roulette wheels, roulette balls, drop boxes, big six wheels, gaming chips, plaques, chip holders, racks and containers, scales, counting devices, trolleys, slip dispensers, dealing shoes, locking devices, data processing equipment, tokens and slot machines have been tampered with or altered in any way which would affect the integrity, fairness, honesty or suitability of the gaming equipment or other device for use in a casino shall be immediately reported to an agent of the Commission and the Division. A member

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of the casino licensee's security department shall be required to insure that the gaming equipment or other device and any evidence required to be reported pursuant to this subsection is maintained in a secure

manner until the arrival of an agent of the Division. *Rules concerning evidence of tampering with dice and cards may be found at N.J.A.C. 19:46-1.16(g) and 19:46-1.18(l), respectively.*

MISCELLANEOUS NOTICES

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Authorized Sources of Population Data under N.J.A.C. 3:1-2.16

Administrative Correction

Take notice that the names of the authoritative sources for population data found in N.J.A.C. 3:1-2.16 have been changed to reflect their current and correct names. The former New Jersey Department of Labor and Industry, Office of Business Economics is now the New Jersey Department of Labor, Office of Demographic and Economic Analysis. No substantive changes have been made. The rule is corrected to appear as follows, pursuant to N.J.A.C. 1:30-2.7(a)3:

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

3:1-2.16 Population

In determining the population of a municipality for the purpose of the branching requirements contained in N.J.S.A. 17:9A-19B(3) and N.J.S.A. 17:12B-26, Census of Population of Housing, United States Bureau of the Census, and Population Estimates for New Jersey, prepared by the New Jersey Department of Labor [and Industry], Division of Planning and Research, Office of [Business Economics] **Demographic and Economic Analysis**, shall be the sole authorities accepted by the Department of Banking. For the years 1980, 1990 and 2000 the official United States Bureau of Census figures will be the only source accepted.

(b)

THE COMMISSIONER

Decision and Determination of Effective Date and Reciprocal States for Nationwide Reciprocity Pursuant to Public Law 1986, Chapter 5

Public Notice

Take notice that Mary Little Parell, Commissioner of Banking, on June 22, 1987 issued the following Decision and Determination.

New Jersey Public Law 1986, Chapter 5 (hereinafter "the Statute"), which became generally effective on April 28, 1986, established a two-phase process for the introduction of reciprocal interstate bank holding company acquisitions in New Jersey.

The first phase was the recognition of a Central Atlantic Region with the reciprocal states of Kentucky, Ohio and Pennsylvania. That phase became effective on August 24, 1986 pursuant to a Decision and Determination of Reciprocity issued by the New Jersey Commissioner of Banking on August 8, 1986.

The second phase provided in the Statute is the recognition of nationwide reciprocal privileges under the following formula:

"Eligible state" means any state which meets either or both of the following conditions:

(1) * * * (Regional phase); and

(2) Any state or territory of the United States, when at least 13 states in addition to this state (for this purpose the District of Columbia is included as a state, but all other territories are excluded), at least four (other than this state) of which are among the 10 states (other than this state) with the largest amount of commercial bank deposits, have reciprocal legislation in effect.

P.L. 1986, Ch.5, Sec. 1.f.,
N.J.S.A. 17:9A-370, f.

The term "reciprocal legislation" is defined in the Statute as follows: . . . statutory law of a state of the United States (including the District of Columbia) which authorizes or permits a bank holding company located in this State to acquire banks or bank holding companies located in that state on terms and conditions substantially the same as the terms and conditions pursuant to which a bank holding company located in that state may acquire banks or bank holding companies located in that state. The fact that the law of that other state imposes

limitations or restrictions on the acquisition of banks or bank holding companies located in that state by a bank or bank holding company located in this State shall not necessarily mean that the law of that state is not reciprocal legislation; provided, however, that if the law of the other state limits acquisitions by a bank or bank holding company located in this State to banks or bank holding companies which are not in competition with banks or bank holding companies located in or chartered by that state or to banks or bank holding companies which do not have customary banking deposit and commercial loan powers, the law of that other state shall not be reciprocal legislation. If the reciprocal legislation of that other state imposes limitations or restrictions on the acquisition or ownership of a bank or bank holding company located in that state by a bank holding company located in this State, substantially the same limitations and restrictions shall be applicable to the eligible bank holding company located in that other state with respect to its acquisition of banks or bank holding companies located in this State.

P.L. 1987, Ch.5, Sec. 1.i.,
N.J.S.A. 17:9A-370, i.

This definition of reciprocal legislation implicitly recognizes the broad diversity of interstate banking laws among the states and territories, and expresses the legislative intent of New Jersey to harmonize its law with those of the other jurisdictions to the maximum degree reasonably feasible. Accordingly, the New Jersey definition of reciprocal legislation by its terms establishes two levels of analysis that must be considered for each potential acquisition in New Jersey. Those analytical steps may be referred to as follows:

a. **Threshold Reciprocity**—Does the other jurisdiction permit a New Jersey bank holding company to make acquisitions there on "terms and conditions substantially the same" as the terms and conditions applicable to its own bank holding companies making acquisitions there?

b. **Particular Limitations or Restrictions**—Once threshold reciprocity is recognized, does the interstate law of the other jurisdiction impose "limitations or restrictions" on the acquisition or ownership of a banking institution there by a New Jersey bank holding company? If so, then substantially the same limitations and restrictions shall be applicable when bank holding companies from that jurisdiction seek to make acquisitions in New Jersey.

The question of the effective date for nationwide reciprocity under the New Jersey statute depends on a finding of threshold reciprocity with a sufficient number of states.

I hereby find that threshold reciprocity pursuant to the New Jersey statute exists between New Jersey and the following states, based upon the following data and my review of the statutes cited:

State/ Territory	Statute	Reciprocal Effective Date	Whether Among Top Ten Deposit States (Based on 12-31-86 FDIC Figures)
Alaska	Stat. Sec. 06.05.235 (Michie 1985)	Current	—
Arizona	Rev. Stat. Ann. Sec. 6-321 to 327 (West 1974; Supp. 1986)	Current	—
California	Fin. Code Sec. 3750 to 3761 (West Supp. 1987)	1-1-91	—
Delaware	Code Ann. Title 5, Sec. 841 (Michie Supp. 1987-1988)	1-1-88	—
Kentucky	Rev. Stat. Ann. Sec. 287.900 to 910 (Michie Supp. 1986)	Current	—
Maine	Rev. Stat. Ann. Title 9B, Sec. 1011 to 1019 (Michie 1964; Supp. 1986)	Current	—

Michigan	Stat. Ann. Sec. 23.710(130b) (Callaghan 1983 Supp. 1987)	10-10-88	—
New York	Banking Law Sec. 141 to 143b. (McKinney 1971; Supp. 1987)	Current	Yes
Ohio	Rev. Code Ann. Sec. 1101.01 to 1103.14 (Anderson 1968; Supp. 1986)	Current	Yes
Oklahoma	Stat. Ann. Title 6 Sec. 502 to 506 (West 1984; Supp. 1987)	7-1-87	—
Pennsylvania	Stat. Ann. Title 7 Sec. 115 to 116 (Purdon Supp. 1987)	Current	Yes
Rhode Island	Gen. Laws. Sec. 19-30-2 (Michie Supp. 1986)	7-1-88	—
Texas	Rev. Civ. Stat. Ann. Sec. 342-912 to 914 (Vernon Supp. 1987)	Current	Yes
Utah	Code Ann. Sec. 7-1-102 (Allen Smith Co. 1982; Michie Supp. 1987)	12-31-87	—
Washington	Rev. Code Ann. Sec. 30.04.230 (West 1986)	7-1-87	—
W. Virginia	Code Sec. 31A-8A-1 to 7 (Michie Supp. 1986)	1-1-88	—
Wyoming	Stat. Sec. 13-9-301 to 305 (Michie 1987) as amended	Current	—

It remains to be determined what particular "limitations or restrictions" may be applicable to acquisitions of New Jersey banking institutions by eligible out-of-state bank holding companies under the New Jersey definition of reciprocal legislation. This and other types of specific determinations required under New Jersey statute and regulations can be made more fairly and effectively in the context of a specific acquisition application, and I therefore do not reach any findings on such particular "limitations or restrictions" in this decision.

Now, therefore, based upon the foregoing interpretations and findings, it is, on this 22nd day of June, 1987, **decided and determined** as follows under P.L. 1986, Chapter 5, Section 1:

- As of January 1, 1988, any state or territory of the United States will be an "eligible state";
- As of January 1, 1988, eligible states which have reciprocal legislation in effect are:

Alaska	New York	Utah
Arizona	Ohio	Washington
Delaware	Oklahoma	West Virginia
Kentucky	Pennsylvania	Wyoming
Maine	Texas	

- As of the following stated dates,¹ eligible states which have reciprocal legislation in effect are:

State	Reciprocal Date
California	1-1-91
Michigan	10-10-88
Rhode Island	7-1-88

- This determination will be supplemented and revised from time to time in response to legislative enactments in the eligible states.

All interested persons are hereby advised that all persons making transactions and thereafter controlling banks located in New Jersey pursuant to P.L. 1986, Chapter 5 are reminded that they are required to comply with all applicable provisions of the New Jersey Banking Act, as sup-

plemented and revised (N.J.S. 17:9A-1 et seq.), and with all regulations issued thereunder, in addition to complying with applicable provisions of federal law and the laws of other affected states.

¹Based on currently existing legislation in the named states and assuming no material change in such legislation in the interim.

CORRECTIONS

(a)

THE COMMISSIONER

Inmate Discipline

Inmate Rights and Responsibilities

Administrative Correction: N.J.A.C. 10A:4-3.1

Take notice that the rule found at N.J.A.C. 10A:4-3.1 which appeared as an adoption in the July 21, 1986 New Jersey Register at 18 N.J.R. 1465(a) describes the rights and responsibilities of inmates.

When this rule appeared in the New Jersey Register, the rights were listed on the left side of the page and the corresponding responsibilities were listed on the right side of the page.

When this rule was published in the Title 10A New Jersey Administrative Code all of the responsibilities were listed following all of the rights, which makes the interpretation of some of the responsibilities unclear.

This administrative correction, pursuant to N.J.A.C. 1:30-2.7(a)3, deletes and adds some phrases to some of the responsibilities to facilitate easy interpretation.

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

10A:4-3.1 Notification of inmates of their rights and responsibilities

The following rights and responsibilities are found in the inmate handbook which is provided to each inmate as a part of the admission-orientation program of each facility.

Rights (No change.)

Responsibilities

You have the responsibility to treat others, both employees and inmates, [in the same manner] **respectfully, impartially and fairly.**

You have the responsibility to know and abide by [them] **the rules, procedures and schedules concerning the operation of the institution.**

You have the responsibility to recognize and respect the rights of others [in this regard] **to freedom of religious affiliation and voluntary religious worship within the institution.**

It is your responsibility [not to waste food,] to follow the laundry and shower schedules, to maintain neat and clean living quarters, [and] to seek medical and dental care as you may need it, **and not to waste food.**

It is your responsibility to conduct yourself properly during visits, to refuse to accept or pass contraband, and to comply with Department rules and State or [f]Federal laws through your correspondence.

You have the responsibility to present honestly and fairly your petitions, questions and problems to the court.

It is your responsibility to use the services of an attorney honestly and fairly.

It is your responsibility to use [these] **the law library** resources in keeping with the **institutional** procedures and schedule prescribed and to respect the rights of other inmates in the use of this **legal** material.

It is your responsibility to seek and utilize [such] **reading** material for your personal benefit, without depriving others of their right to use same.

You have the responsibility to take advantage of activities (**such as counseling, education, vocational training and employment**) which may help you live a successful and law abiding life within the facility and in the community. You will be expected to abide by the regulations governing the use of such activities.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Bureau of Marine Fisheries

Proposed Artificial Reef Plan

Take notice that the Commissioner of the Department of Environmental Protection, pursuant to the provisions of N.J.S.A. 23:2B-6, has developed a proposed New Jersey Artificial Reef Plan to establish a network of artificial reefs off the New Jersey coast. An important purpose of this plan will be to design reef structures and to evaluate them to determine the most suitable artificial reef configuration.

The purpose of the reefs are to create new habitats for marine fish and crustaceans, establish new fishing grounds for sport and commercial fishing and create additional underwater structures for recreational divers. Artificial reefs can be constructed out of a variety of materials, including concrete and steel building rubble, land-assembled reef structures or units, and unused ships and vessels. Used automobile and truck tires imbedded in concrete are currently being studied to determine their viability as a major source of artificial reef material.

Many of the materials that are suitable for reef construction, such as tires and concrete debris, now pose serious solid waste problems, taking up limited space in the State's landfills. Also, it should provide a place for some of the debris dumped on New Jersey's public lands.

The underwater structures of artificial reefs provide a surface for the attachment of a wide variety of marine organisms which provide food for harvestable fish and crustaceans. The structures also act as shelters for fish and crustaceans, protecting them from predators.

Artificial reefs will be used extensively for recreation by sport anglers and scuba divers. They will provide the commercial fishing industry new fishing grounds for harvesting marine fish and crustaceans and will benefit the State's consumers by providing seafood products.

All interested parties are invited to submit comments on the plan prior to September 17, 1987.

Copies of the New Jersey Artificial Reef Plan may be obtained from and comments must be submitted to:

William Figley
Bureau of Marine Fisheries
Division of Fish, Game and Wildlife
CN 400
Trenton, New Jersey 08625

OAL NOTE: A copy of the Artificial Reef Plan has been filed with and may be reviewed at the Office of Administrative Law, Quakerbridge Road, Quakerbridge Plaza, Mercerville, New Jersey.

DIVISION OF WATER RESOURCES

(b)

Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that on June 5, 1987 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 Northeast Water Quality Management Plan was adopted by the Department. This amendment will allow the filling of 2.85 acres of wetlands for a road located in Bernards Township, Somerset County for The Cedars development. The road is to connect two existing road endpoints in which there is no other alternative alignment available. The applicant will provide mitigation by creating 2.85 acres of wetlands on site and be preserving approximately 100 acres of wetland and upland areas.

(c)

Amendment to the Upper Raritan Water Quality Management Plan

Public Notice

Take notice that an amendment to the Upper Raritan Water Quality Management (WQM) Plan has been submitted for approval. This amendment would adopt a Wastewater Management Plan for Princeton Township and Princeton Borough. Among the actions addressed by the Wastewater Management Plan are a change in the sewer service area for the Montgomery Stage II Sewage Treatment Plant and the delineation of wastewater conveyance facilities.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Raritan WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 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 Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(d)

Amendment to the Mercer County Water Quality Management Plan

Public Notice

Take notice that Princeton Township and Princeton Borough have petitioned Mercer County to amend the Mercer County Water Quality Management (WQM) Plan. This amendment would adopt a Wastewater Management Plan for Princeton Township and Princeton Borough. Among the actions addressed by the Wastewater Management Plan are a change in the sewer service area, the delineation of wastewater conveyance facilities, and the abandonment of the existing Balcort Drive Pumping Station.

This notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Mercer County Planning Division, Room 412, 640 South Broad Street, P.O. Box 8068, Trenton, New Jersey 08650, and the NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 3rd Floor, 401 East State Street, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

The Mercer County Planning Board will hold a **public hearing** on the proposed WQM Plan amendment. The public hearing will be on Wednesday, September 9, 1987 at 8:30 A.M. in Room 211 of the Mercer County Administration Building, 640 South Broad Street, Trenton, New Jersey.

Interested persons may submit written comments on the amendment to the Secretary, Mercer County Planning Board at the address cited above; and to George Horzepa, Bureau of Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted within 30 days following the public notice publication date or until 15 days following the public hearing, whichever is later. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the County Planning Board and the County Executive with respect to this amendment request. In addition, if the amendment is adopted by Mercer County, the NJDEP must review the amendment prior to final adoption. The comments received in reply to this notice and to the public hearing will also be considered by the NJDEP during its review. Mercer County and the NJDEP thereafter may approve and adopt this amendment without further notice.

(a)

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that on June 17, 1987 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 Tri-County Water Quality Management Plan was adopted by the Department. This amendment will allow a new industrial treatment facility known as Chatsworth Receiving Station (Ocean Spray Cranberries) located in Woodland Township, Burlington County. This facility is part of a fruit processing plant. Wastewater generated by fruit processing operations will be pre-processed, stored, and released for land application by spray irrigation. This project will avoid any encroachment in wetlands.

(b)

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that on June 5, 1987 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 Tri-County Water Quality Management Plan was adopted by the Department. This amendment will incorporate the New Hanover Wastewater Management Plan into the Tri-County Water Quality Management Plan. In addition, the amendment will allow for a new on-site subsurface disposal system to serve the new Best Western Hotel and will also allow for a new off-site subsurface disposal system to serve 37 existing homes. New Hanover Township will act as co-permittee for this facility.

(c)

**DIVISION OF ENVIRONMENTAL QUALITY
New Jersey Radiological Emergency Response Plan**

Public Hearing

Take notice that pursuant to the "Radiation Accident Response Act of 1981", N.J.S.A. 26:2D-43 et seq., the Department of Environmental Protection in cooperation with the Division of State Police will hold a public hearing on:

Thursday, August 27, 1987
7:00 P.M.-9:30 P.M.
Greenwich Fire Department
2nd Floor Meeting Room
Ye Great St.
Greenwich, NJ

The purpose of the hearing will be to receive public comment on the adequacy and effectiveness of the NJ Radiological Emergency Response Plan (RERP).

Invited speakers include the Director of the Office of Emergency Management, Division of State Police, and the Bureau Chief from the Department of Environmental Protection, Bureau of Nuclear Engineering.

Copies of the Plan are available at the Office of Emergency Management, State Police Headquarters, West Trenton, NJ and the Cumberland County Office of Emergency Management, Bridgeton Ave., Bridgeton, NJ.

For additional information contact:

New Jersey Department of Environmental Protection
Jennifer Moon, Radiation Physicist
Bureau of Nuclear Engineering
CN 411
Trenton, NJ 08625
Telephone: (609) 530-4022

HIGHER EDUCATION

(d)

**Chancellor's Report
Availability of Grants**

Take notice that in compliance with P.L. 1987, c.7, the Department of Higher Education hereby publishes notice of grant availability in the *Chancellor's Report* distributed by the Office of the Chancellor, 225 West State Street, Trenton, New Jersey 08625.

HUMAN SERVICES

(e)

**Availability of Funds
Day Care Expansion; Head Start-like Services;
Social Services Block Grant; Short-term Respite Care**

Take notice that, in compliance with P.L. 1987, c.7, which supplements Title 52 of the Revised Statutes, the Department of Human Services announces the following availability of funds.

A. Two million dollars in day care expansion funds toward the increase of day care services, both center based and family day care. In those centers where the maximum reimbursement rate has not been achieved, counties may use a portion of these funds to increase the salary levels of direct care personnel.

B. One million dollars for the development of Head Start-like services such as education, health, medical and dental, nutrition, mental health, parent involvement and social services in order to bring about a greater degree of social competence and the development of school readiness skills in children of low income families.

C. One million dollars in general social services dollars to be distributed in accordance with the Federal and State policies and procedures governing the Social Services Block Grant. These funds shall be distributed in accordance with priorities established in each county's Comprehensive Plan for 1984-1987.

D. One million dollars less 10 percent for administrative expenses on the State level to establish community-based, short-term respite care for families with an elderly or disabled member cared for in the home where there is an unpaid caregiver.

The above-mentioned funds shall be awarded to each of the 21 counties through established county Human Services Advisory Council request for proposal procedures. These funds shall be distributed through the 21 county Human Services Advisory Councils as indicated.

County	Day Care Expansion	Head Start-like	General Social Services	Respite Care
Atlantic	\$ 68,544	\$ 34,272	\$ 34,188	\$30,369
Bergen	\$119,691	\$ 59,846	\$ 80,686	\$88,617
Burlington	\$ 66,607	\$ 33,304	\$ 41,506	\$37,090
Camden	\$175,101	\$ 87,551	\$ 70,040	\$55,012
Cape May	\$ 28,398	\$ 14,199	\$ 19,806	\$18,000
Cumberland	\$ 58,062	\$ 29,031	\$ 36,625	\$18,420
Essex	\$399,408	\$199,704	\$159,763	\$99,570
Gloucester	\$ 46,863	\$ 23,432	\$ 33,142	\$22,279
Hudson	\$245,468	\$122,734	\$164,448	\$66,961
Hunterdon	\$ 11,552	\$ 5,776	\$ 4,621	\$18,000
Mercer	\$ 89,842	\$ 44,921	\$ 35,937	\$36,094
Middlesex	\$104,404	\$ 52,202	\$ 42,501	\$58,870
Monmouth	\$108,804	\$ 54,402	\$ 43,521	\$63,227
Morris	\$ 43,718	\$ 21,859	\$ 17,487	\$36,592
Ocean	\$ 90,179	\$ 45,089	\$ 67,103	\$68,952
Passaic	\$142,579	\$ 71,289	\$ 57,031	\$50,905
Salem	\$ 21,449	\$ 10,724	\$ 13,220	\$18,000
Somerset	\$ 26,218	\$ 13,109	\$ 10,487	\$19,292
Sussex	\$ 16,467	\$ 8,233	\$ 8,498	\$18,000
Union	\$117,641	\$ 58,820	\$ 47,056	\$57,750
Warren	\$ 19,005	\$ 9,503	\$ 12,334	\$18,000

(CITE 19 N.J.R. 1576)
HUMAN SERVICES

MISCELLANEOUS NOTICES

Agencies interested in applying for these funds should contact the county Human Services Advisory Councils as soon as possible as county and State deadlines may vary.

Atlantic: Steve F. Katzen, Project Adm.
Atlantic County Health Dept.
Case Management Unit
Stillwater Building
201 South Shore Road
Northfield, NJ 08225

Bergen: Tom McKenna, Director
Bergen County Division of Social Services
355 Main Street
Hackensack, NJ 07601

Burlington: Gary Miller, Director
Burlington County Medical
Health & Human Services
Woodlane Road
Mount Holly, NJ 08060

Camden: Catherine DeCheser, Director
Community Planning & Advocacy Council
Human Services Coalition of Camden County
Northgate 1
7th and Linden Streets
Camden, NJ 08102

Cape May: Patricia Devaney
Cape May County HSAC
DN 907
Central Mail Room
Cape May Court House, NJ 08242

Cumberland: Eva Moffat, Staff
Cumberland County HSAC
790 East Commerce Street
Cumberland Drive
Bridgeton, NJ 08302

Essex: Annette O'Flaherty
Essex County Department of Citizen Services
15 South Munn Avenue
East Orange, NJ 07018

Gloucester: Carmen C. Woods, Staff
Gloucester County
Office of Government Services
251 North Delsea Drive
Deptford, NJ 08096

Hudson: Leon Socha, Staff
Hudson County Department of
Health & Social Services
595 County Avenue
Secaucus, NJ 07094

Hunterdon: Angelo DiOrio, Staff
Hunterdon Department of Human Services
Administration Building
Main Street
Flemington, NJ 08822

Mercer: Ann Miner, Staff
Mercer Department of Human Services
Administration Building
CN 850, PO Box 8068
Trenton, NJ 08650

Middlesex: Wayne Wirta, Acting Exec. Director
Middlesex Department of Human Services
96 Bayard Street
PO Box 273
New Brunswick, NJ

Monmouth: Gabrielle Lehne, Staff
Monmouth County
Board of Social Services
Hall of Records Annex
Rm. 207, Main Street
Freehold, NJ 07728

Morris: Gary Barrett, Planner
Morris County Department of
Human Services Planning
Court House
Morristown, NJ 07960

Ocean: Marcella DeRosa, Planner
Ocean County Department of Human Services
Ocean County Admin. Building
101 Hooper Avenue
Toms River, NJ 08753

Passaic: Pamela Goar, Planner/Coord.
Passaic County Department of Human Services
County Administration Building
317 Pennsylvania Avenue
Paterson, NJ 07503

Salem: Raymond Bolden, Exec. Dir.
Salem Interagency Council of Human Services
92 Market Street
Salem, NJ 08079

Somerset: Kathie O'Brien, Planner
Somerset County
Richard Hall Community Mental Health Center
500 North Bridge Street
Bridgewater, NJ 08807

Sussex: Kathleen Wood, Community Planner
Sussex County Human Services Council
175 High Street
Newton, NJ 07860

Union: Charles Gillon, Staff
Union County Department of Human Services
Administration Building
Elizabethtown Plaza
Rahway Avenue
Elizabeth, NJ 07207

Warren: Karen Rosanoff, Director
Warren County Department of Human Services
Court House Annex
PO Box 15
Belvidere, NJ 07823

(a)

Available Grant Funds Teen PROGRESS

Take notice that, in compliance with P.L. 1987, c.7, which supplements Title 52 of the Revised Statutes, the Department of Human Services announces the following availability of funds.

- A. Name of the grant program: Teen PROGRESS (Teen Parent Program for Economic Self Sufficiency)
- B. Purpose for which the grant program funds shall be used: To purchase six infant (three months and older) day care slots for one year, from October 1, 1987 until September 30, 1988, in Newark.
- C. Amount of money in the grant program: \$36,000 is the maximum amount available (two contracts may be awarded).
- D. Groups or entities (citizens, counties, municipalities of a certain class, etc.) which may apply for the grant program: Day care centers located in Newark with infant (three months and older) slots existing.
- E. Qualifications needed by an applicant to be considered for the grant program: An applicant must be licensed by the State of New Jersey, be located in Newark, possess a stable staff and have a pre-existing infant program.
- F. Procedure for eligible entities to apply for grant funds: A request for proposal (RFP) will be mailed by the Department upon receipt of a letter of inquiry sent to the address listed below. The completed RFP is to be returned to the Department for consideration.
- G. Address of division, office or official receiving application:
Lydia Davis-Barrett
Teen PROGRESS, Department of Human Services
222 South Warren Street,
Trenton, New Jersey 08625
- H. Deadline by which applications must be submitted to that division, office or official: September 1, 1987
- I. Date by which applicants shall be notified whether they will receive funds under the grant program: September 15, 1987.

NEW JERSEY REGISTER, MONDAY, AUGUST 17, 1987

(a)

**Available Grant Funds
Teen PROGRESS**

Take notice that, in compliance with P.L. 1987, c.7, which supplements Title 52 of the Revised Statutes, the Department of Human Services announces the following availability of funds.

- A. Name of the grant program: Teen PROGRESS (Teen Parent Program for Economic Self Sufficiency)
- B. Purpose for which the grant program funds shall be used: To provide family life education, including health education and human development, to 400 teens for one year, from October 1, 1987 until September 30, 1988.
- C. Amount of money in the grant program: Up to \$30,000 for 12 months of classes (two contracts may be awarded).
- D. Groups or entities (citizens, counties, municipalities of a certain class, etc.) which may apply for the grant program: Organizations with experience in training and education in health education, human development, and family life with ability to operate in Newark.
- E. Qualifications needed by an applicant to be considered for the grant program: Ten years experience designing and conducting education and training programs for teens.
- F. Procedure for eligible entities to apply for grant funds: A request for proposal (RFP) will be mailed by the Department upon receipt of a letter of inquiry sent to the address listed below. The completed RFP is to be returned to the Department for consideration.
- G. Address of division, office or official receiving application:
Lydia Davis-Barrett
Teen PROGRESS, N.J. Department of Human Services,
222 South Warren Street,
Trenton, New Jersey 08625
- H. Deadline by which applications must be submitted to that division, office or official: September 1, 1987
- I. Date by which applicants shall be notified whether they will receive funds under the grant program: September 15, 1987.

(b)

**Available Grant Funds
School-Based Youth Services Program**

Take notice that, in compliance with P.L. 1987, c.7, which supplements Title 52 of the Revised Statutes, the Department of Human Services announces the following availability of funds.

- A. Name of the grant program: School-Based Youth Services Program
- B. Purpose for which the grant program funds shall be used: To provide comprehensive employment, health and human services for adolescents at sites in or near secondary schools.
- C. Amount of money in the grant program: \$6 million will be available. The maximum grant per site will be \$250,000. Funds may not be used to duplicate or supplant currently existing services.
- D. Groups or entities (citizens, counties, municipalities of a certain class, etc.) which may apply for the grant program: The grant proposal must be jointly submitted by the superintendent of schools and the board of education, and the director of one or more public or non-profit agencies.
- E. Qualifications needed by an applicant to be considered for the grant program: Applicants must demonstrate the need for these services in the school district; close coordination among the school district and public and nonprofit agencies; the development of an advisory board representing the schools, community agencies, the Private Industry Council, parents and others specified in the request for proposal (RFP).
- F. Procedure for eligible entities to apply for grant funds: A formal request for proposal will be published and distributed to interested parties. The RFP can be obtained by writing to the office below.
- G. Address of division, office or official receiving application:
Edward Tetelman, Assistant Commissioner
N.J. Department of Human Services—CN 700
222 South Warren Street
Trenton, New Jersey 08625

- H. Deadline by which applications must be submitted to that division, office or official: September 28, 1987
- I. Date by which applicants shall be notified whether they will receive funds under the grant program: January, 1988.

LAW AND PUBLIC SAFETY

(c)

**DIVISION OF STATE POLICE
Implementation of Superfund Amendments and
Reauthorization Act (SARA) Title III Subtitle A
Requirements**

Public Notice

Take notice that pursuant to the provisions of Executive Order Number 161 dated February 13, 1987 and the Civil Defense and Disaster Control Act, N.J.S.App. A:9-1 et seq., the New Jersey Office of Emergency Management has taken the following measures to fulfill the requirements of the Emergency Planning and Community Right-To-Know Act of 1986, PL 99-499:

- 1. The requirement to establish emergency planning districts has been met by designating every municipality and county as a planning district. This is consistent with the Civil Defense and Disaster Control Act which requires that each political subdivision prepare an emergency operations plan.
- 2. The requirement to establish local emergency planning committees has been met by designating the existing local defense councils required by the Civil Defense and Disaster Control Act as the municipal committees. It is the responsibility of the existing county emergency management organizations to establish county level emergency planning committees as specified in New Jersey Office of Emergency Management Directive Number 103.
- 3. The required emergency plan shall be completed as the Hazardous Materials Annex to the municipal and county Emergency Operations Plans in the approved format as specified by the New Jersey Office of Emergency Management. This format guidance is in place at every municipal and county Office of Emergency Management.
- 4. Review of emergency plans will be accomplished by the New Jersey Office of Emergency Management.
- 5. The statewide notification point for the State Emergency Response Commission has been designated as the New Jersey Department of Environmental Protection 24 hour Environmental Action Line (609) 292-7172. Follow-up written emergency notice shall be provided to the following address:

Department of Environmental Protection
Division of Environmental Quality
Bureau of Communications and Support Services
CN 411
Trenton, New Jersey 08625

- 6. Any facility that produces, uses, or stores any of the extremely hazardous substances in a quantity greater than its threshold planning requirements as stated in the Federal Register, 40 CFR Parts 300 and 355, April 22, 1987, is subject to the emergency planning requirements under Title III, Section 302. Such facilities should have notified the Department of Environmental Protection by May 22, 1987. Those facilities that have not yet notified the New Jersey Department of Environmental Protection must do so immediately. Covered facilities which do not notify the Department will be in violation of the Federal Law.

Notification should be sent to the following address:

Department of Environmental Protection
Division of Environmental Quality
Bureau of Hazardous Substances Information
Title III
CN 027
Trenton, New Jersey 08625

Interested persons may obtain additional information by contacting:

New Jersey State Police
Emergency Management Section
P.O. Box 7068
West Trenton, New Jersey 08628-0068
Attn: SFC Thomas Davies
Telephone: (609) 882-2000 extension 2226

(a)

DIVISION OF MOTOR VEHICLES

Notice of Application for Contract Carrier Permit

Take notice that Glenn R. Paulsen, Director, Division of Motor Vehicles, pursuant to the authority of N.J.S.A. 39:5E.11, hereby lists the name and address of an applicant who has filed an application for a Contract Carrier Permit.

CONTRACT CARRIER (NON-GRANDFATHER)

D.J. Bobula, Inc.
RD #4 Box 507
Blairstown, NJ 07825

Protests in writing and verified under oath may be presented by interested parties to the Director, Division of Motor Vehicles, 25 South Montgomery St., Trenton, New Jersey 08666, within 20 days following the publication date of an application.

tion with the bureau chief, regional engineer or higher level having custody of such records, that the citizen has a legitimate beneficial interest in such record or the protection of his property rights or the protection of any interest the citizen may have in any matter affecting the citizen to which the said record is relevant. Availability may be limited to that part of the record which is particularly relevant to the citizen. Such records include all those which are made, maintained or kept on file by the NJDOT relating to:

1.-8. (No change.)

9. All records which are part of any workpapers, memoranda, or reports which are made, maintained or kept by the Office of [Internal Auditing] **Inspector General** in the Department of Transportation.

10.-14. (No change.)

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

OTHER AGENCIES

(c)

TRANSPORTATION

(b)

TRANSPORTATION OPERATIONS

Issuance and Sale of NJDOT Public Records Requirements

Administrative Correction: N.J.A.C. 16:1-2.2

Take notice that an administrative correction will be made in the New Jersey Administrative Code at N.J.A.C. 16:1-2.2(c)9. Because of organizational changes within the Department of Transportation, the Office of Inspector General will replace the Office of Internal Auditing. The Office of Inspector General was organized by the Commissioner of Transportation under the powers granted by N.J.S.A. 27 and specifically N.J.S.A. 27:1A-6. The text of N.J.A.C. 16:1-2.2 is corrected to reflect the current organizational structure.

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

16:1-2.2 Requirements

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

(c) The records listed below shall not be deemed NJDOT public records but may be made available for inspection, examination, and copying only by an individual who demonstrates to the satisfaction of the Custodian of Records, Director, Division of Central Services, in conjunc-

CASINO CONTROL COMMISSION

Petition for Rulemaking

Complimentary Reporting Requirements for Coupon Redemption and Other Complimentary Distribution Programs

N.J.A.C. 19:45-1.46

Petitioner: Division of Gaming Enforcement.

Authority: N.J.S.A. 5:12-69c and 52:14B-4(f).

Take notice that on July 2, 1987 the Division of Gaming Enforcement ("Division") filed a rulemaking petition with the Casino Control Commission proposing amendments to N.J.A.C. 19:46-1.46. These amendments will provide limitations on the extent of complimentary reporting required for promotional prizes and awards.

Specifically, the casino licensees will be required to include in the monthly complimentary coupon reports filed with the Commission and Division pursuant to N.J.A.C. 19:45-1.46(l) all promotional prizes, awards and other complimentary services and items governed by N.J.A.C. 19:45-1.46(b). The casino hotels will also be required to include the number of recipients and the total dollar amount of all promotional prizes, awards and other complimentary services and items governed by subsection (b) in the quarterly complimentary report required by N.J.A.C. 19:45-1.9.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69(c).

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 July 6, 1987 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.1987 d.1 means the first rule adopted in 1987.

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: JUNE 15, 1987.

NEXT UPDATE WILL BE DATED JULY 20, 1987.

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
18 N.J.R. 1641 and 1726	August 18, 1986	19 N.J.R. 393 and 430	March 2, 1987
18 N.J.R. 1727 and 1862	September 8, 1986	19 N.J.R. 431 and 476	March 16, 1987
18 N.J.R. 1863 and 1978	September 22, 1986	19 N.J.R. 477 and 586	April 6, 1987
18 N.J.R. 1979 and 2078	October 6, 1986	19 N.J.R. 587 and 672	April 20, 1987
18 N.J.R. 2069 and 2148	October 20, 1986	19 N.J.R. 673 and 794	May 4, 1987
18 N.J.R. 2149 and 2234	November 3, 1986	19 N.J.R. 795 and 898	May 18, 1987
18 N.J.R. 2235 and 2344	November 17, 1986	19 N.J.R. 899 and 1006	June 1, 1987
18 N.J.R. 2345 and 2408	December 1, 1986	19 N.J.R. 1007 and 1120	June 15, 1987
18 N.J.R. 2409 and 2472	December 15, 1986	19 N.J.R. 1121 and 1258	July 6, 1987
19 N.J.R. 1 and 164	January 5, 1987	19 N.J.R. 1259 and 1352	July 20, 1987
19 N.J.R. 165 and 260	January 20, 1987	19 N.J.R. 1353 and 1474	August 3, 1987
19 N.J.R. 261 and 324	February 2, 1987	19 N.J.R. 1475 and 1588	August 17, 1987
19 N.J.R. 325 and 392	February 17, 1987		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-18.4	Filing of exceptions to factual findings: submittal of transcripts	19 N.J.R. 1123(a)		
1:30-1.2, 2.8	Use of appendices	19 N.J.R. 675(a)		
1:30-3.1	Additional notice of proposed rulemaking	19 N.J.R. 675(b)	R.1987 d.345	19 N.J.R. 1543(a)
1:30-4.1, 4.5	Filing of adopted rules; emergency rule adoptions	19 N.J.R. 676(a)	R.1987 d.346	19 N.J.R. 1544(a)
1:31-1	Organization of Office of Administrative Law	Exempt	R.1987 d.286	19 N.J.R. 1291(a)
1:31-1.2-2.1	Petition for a rule	19 N.J.R. 677(a)	R.1987 d.287	19 N.J.R. 1291(b)

(TRANSMITTAL 1987-1, dated May 18, 1987)

AGRICULTURE—TITLE 2				
2:22	Control of dangerously injurious insects	19 N.J.R. 479(a)	R.1987 d.274	19 N.J.R. 1184(a)
2:69-1.11	Commercial values of fertilizers	19 N.J.R. 484(a)	R.1987 d.275	19 N.J.R. 1184(b)
2:71-2.28	Fees for grading of fruits and vegetables	19 N.J.R. 901(a)		
2:76-5.3, 5.8	Cost-share funding of soil and water conservation projects	19 N.J.R. 1123(b)		
2:76-7	Review of nonagricultural development projects in agricultural areas	19 N.J.R. 1009(a)		

(TRANSMITTAL 1987-4, dated June 15, 1987)

BANKING—TITLE 3				
3:1-2.16	Population: administrative correction to text			19 N.J.R. 1572(a)
3:2-1.1, 1.2, 1.3, 1.4	Advertising by financial institutions	19 N.J.R. 1355(a)		
3:6-16	Qualified bank acquisitions of underwritten securities	19 N.J.R. 677(b)	R.1987 d.271	19 N.J.R. 1184(c)
3:10-8, 9	Banks and savings banks: mortgage loan practices	19 N.J.R. 1356(a)		
3:11-7.10	Borrowing limitation of director of executive officer	19 N.J.R. 1124(a)		
3:23	License fees	19 N.J.R. 485(a)	R.1987 d.254	19 N.J.R. 1185(a)
3:25-1	Debt adjustment and credit counseling fees	19 N.J.R. 901(b)	R.1987 d.334	19 N.J.R. 1544(b)
3:27-6, 7	Savings and loan associations: mortgage loan practices	19 N.J.R. 1358(a)		
3:38	Mortgage bankers and brokers	19 N.J.R. 1261(a)		
3:38-4, 5, 7	Mortgage bankers and brokers: loan practices	19 N.J.R. 1360(a)		
3:41	Cemeteries: disinterment and reinterment of human remains	18 N.J.R. 1642(a)		

(TRANSMITTAL 1987-2, dated April 20, 1987)

PERSONNEL (CIVIL SERVICE)—TITLE 4				
4:1-1, 2, 3, 4	Repeal (see 4A:1)	19 N.J.R. 1011(a)		
4:1-5, 13.6, 13.7, 16.7-16.12, 16.14, 23	Repeal (see 4A:2)	19 N.J.R. 1013(a)		
4:1-10.3	Repeal (see 4A:5)	19 N.J.R. 1018(a)		
4:1-16.1-16.6, 24.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:1-19, 21.1, 21.3-21.5	Repeal (see 4A:10)	19 N.J.R. 1366(a)		

NEW JERSEY REGISTER, MONDAY, AUGUST 17, 1987

(CITE 19 N.J.R. 1581)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4:1-21.2, 21.6	Repeal (see 4A:7)	19 N.J.R. 1020(a)		
4:1-27.1	Overtime rules	19 N.J.R. 327(b)	R.1987 d.259	19 N.J.R. 1185(b)
4:2-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:2-16.4, 16.5, 23	Repeal (see 4A:2)	19 N.J.R. 1013(a)		
4:2-21.1-21.6	Repeal (see 4A:7)	19 N.J.R. 1020(a)		
4:2-27	Overtime rules	19 N.J.R. 327(b)	R.1987 d.259	19 N.J.R. 1185(b)
4:3-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:3-16.3, 16.4	Repeal (see 4A:2)	19 N.J.R. 1013(a)		
4:3-19	Repeal (see 4A:10)	19 N.J.R. 1366(a)		
4:3-21.1, 21.2	Repeal (see 4A:7)	19 N.J.R. 1020(a)		
4:6	Overtime Committee Rules	19 N.J.R. 327(b)	R.1987 d.259	19 N.J.R. 1185(b)
4A:1	General rules and department organization	19 N.J.R. 1011(a)		
4A:2	Appeals, discipline and separations	19 N.J.R. 1013(a)		
4A:5	Veterans and disabled veterans preference	19 N.J.R. 1018(a)		
4A:7	Equal employment opportunity and affirmative action	19 N.J.R. 1020(a)		
4A:8	Layoffs	19 N.J.R. 1363(a)		
4A:9-1	Political subdivisions	19 N.J.R. 1022(a)		
4A:10	Violations and penalties	19 N.J.R. 1366(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

COMMUNITY AFFAIRS—TITLE 5

5:4-2	Debarment and suspension from contracting	19 N.J.R. 1261(b)		
5:14-1.1-1.4, 2.1-2.3, 3.1-3.23, 4.1-4.6	Neighborhood Preservation Balanced Housing Programs	19 N.J.R. 589(a)		
5:18-2.7	Permits required: correction	18 N.J.R. 1225(a)	R.1987 d.247	19 N.J.R. 1341(a)
5:18-4	Fire Safety Code: correction	18 N.J.R. 1225(a)	R.1987 d.247	19 N.J.R. 1190(a)
5:18-4.1	Fire Safety Code: exemption of one and two family residences	19 N.J.R. 1263(b)		
5:18-4.7, 4.9	Fire safety in boarding homes, day nurseries, hotels and motels	19 N.J.R. 1023(a)		
5:19	Continuing care retirement communities: disclosure requirements	19 N.J.R. 597(a)		
5:23-1.1, 3.10, 4.40, 5.2, 5.4, 5.18, 5.20, 5.21-5.26	UCC: local agency classification; appeal boards; licensing	19 N.J.R. 1264(a)		
5:23-2.38, 3.11, 7.2, 7.3, 7.100-7.116	Barrier free subcode: recreation standards	19 N.J.R. 1270(a)		
5:23-3.2, 3.4, 3.8A, 3.14, 3.15, 3.16, 3.17, 3.20, 3.21, 4.16	Uniform Construction Code: subcodes	19 N.J.R. 1024(a)		
5:23-3.18, 6.1-6.3	Energy subcode: solar energy property tax exemptions	19 N.J.R. 433(b)		
5:23-4.5	UCC enforcement: conflict of interest—withdrawal of proposal	19 N.J.R. 1033(a)		
5:23-8	Asbestos Hazard Abatement Subcode	19 N.J.R. 902(a)		
5:24-1.12	Condominium and cooperative conversion	19 N.J.R. 797(a)	R.1987 d.292	19 N.J.R. 1291(c)
5:26-8.2	Duties of community associations in planned real estate developments	19 N.J.R. 797(b)	R.1987 d.291	19 N.J.R. 1291(d)
5:70	Congregate Housing Services Program	19 N.J.R. 678(a)	R.1987 d.315	19 N.J.R. 1430(a)
5:80-3	Housing and Mortgage Finance: return on equity for housing sponsors	19 N.J.R. 1125(a)		
5:80-21	Housing and Mortgage Finance: single family loans	18 N.J.R. 2238(a)		
5:80-22	Affirmative Fair Housing Marketing Plan	19 N.J.R. 798(a)		
5:80-26	Housing resale and rental affordability control	19 N.J.R. 802(a)		
5:92-7.1	Council on Affordable Housing: drastic alteration of development	19 N.J.R. 806(a)	R.1987 d.314	19 N.J.R. 1431(a)

(TRANSMITTAL 1987-4, dated June 15, 1987)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:8-7.1	High school proficiency standards and handicapped pupils	19 N.J.R. 1033(b)		
6:28-3.6, 4.4	High school proficiency standards and handicapped pupils	19 N.J.R. 1033(b)		
6:31-1	Bilingual education	19 N.J.R. 1126(a)		
6:39-1.5	High school proficiency standards and handicapped pupils	19 N.J.R. 1033(b)		
6:46	Area Vocational Technical and Private Schools: waiver of Executive Order No. 66 (1978) sunset provision	18 N.J.R. 1996(b)		
6:46	Local area vocational school districts and private vocational schools	19 N.J.R. 1368(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
6:46-1	Area vocational technical schools	18 N.J.R. 1511(a)	Expired	
6:53	Vocational education safety standards	19 N.J.R. 485(b)	R.1987 d.313	19 N.J.R. 1432(a)
6:68-1.4	State library aid to municipalities	19 N.J.R. 1128(a)		

(TRANSMITTAL 1987-6, dated June 15, 1987)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1-3, 4	Environmental Cleanup Responsibility Act rules	19 N.J.R. 681(a)		
7:1A	Water Supply Bond Loan Program	19 N.J.R. 437(b)	R.1987 d.264	19 N.J.R. 1190(b)
7:1A	Water Supply Bond Loan Program: extension of comment period	19 N.J.R. 806(b)		
7:1G-2.1, 2.2, 4.1, 4.2, 5.4	Worker and Community Right to Know: hazardous substances and materials	19 N.J.R. 438(a)		
7:1G-3.2, 5.2, 7	Worker and Community Right to Know: assessment of civil administrative penalties for nondisclosure of information	19 N.J.R. 703(a)		
7:2-11	Natural Areas System	18 N.J.R. 2349(b)		
7:2-2.1, 2.3	Coastal Permit Program: CAFRA exemptions; waterfront development	19 N.J.R. 807(a)		
7:2-2.2	Monmouth County wetlands maps	18 N.J.R. 2162(a)		
7:7E-7.4, 8.11	Coastal resources and development: high rise structures; public access to Hudson River waterfront	19 N.J.R. 1034(a)		
7:8-1.3, 1.7, 2.1, 2.2, 2.6, 3.4, 3.6	Stormwater management	19 N.J.R. 488(a)		
7:9-4.14	Water quality criteria for Mainstem Delaware River Zones	18 N.J.R. 1435(a)	R.1987 d.320	19 N.J.R. 1433(a)
7:9-13	Sewer connection bans	18 N.J.R. 2163(a)		
7:9-13	Sewer connection ban: extension of comment period	19 N.J.R. 263(b)		
7:9-15.6	Phase II lake restoration projects: State funding level	19 N.J.R. 909(a)		
7:10-10.2, 11.2, 15	Safe Drinking Water Program fees	19 N.J.R. 1381(a)		
7:11-1	Use of Water Supply Authority property	19 N.J.R. 1274(a)		
7:12	Classification of shellfish growing waters	19 N.J.R. 1129(a)		
7:13-7.1(d)	Redelineation of Raritan River and Peters Brook: repropoed	19 N.J.R. 167(b)		
7:13-7.1(d)	Redelineation of Wolf Creek in Hackensack Basin	18 N.J.R. 2355(a)	R.1987 d.279	19 N.J.R. 1190(c)
7:13-7.1(d)	Flood plain delineations in Passaic-Hackensack and Raritan basins	19 N.J.R. 489(a)		
7:13-7.1(d)	Flood hazard redelineation of Raritan River	19 N.J.R. 1277(a)		
7:13-7.1(d)	Redelineations along Green Brook, Union County	19 N.J.R. 1384(a)		
7:13-7.1(g)	Flood hazard areas along the Saddle, Ramapo and Mahwah rivers, and Masonicus Brook	19 N.J.R. 169(a)	R.1987 d.310	19 N.J.R. 1292(a)
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System	18 N.J.R. 2085(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System: comment period extended	18 N.J.R. 2411(a)		
7:14A-1.8	NJPDES fee schedule	19 N.J.R. 706(a)	R.1987 d.281	19 N.J.R. 1191(a)
7:14A-1.9, 12	Sewer connection bans	18 N.J.R. 2163(a)		
7:14A-1.9, 12	Sewer connection bans: extension of comment period	19 N.J.R. 263(b)		
7:25-4.13, 4.17	Endangered and nongame species lists	19 N.J.R. 491(a)	R.1987 d.308	19 N.J.R. 1293(a)
7:25-5	1987-1988 Game Code	19 N.J.R. 808(a)	R.1987 d.321	19 N.J.R. 1434(a)
7:25-6	1988-99 Fish Code	19 N.J.R. 1385(a)		
7:26-1.1, 1.4, 1.6, 2.1, 7.5, 8.1, 8.2, 8.13, 8.15, 9.1, 10.7, 11.5, 11.6, 12.1, 12.3	Solid waste defined; hazardous waste recycling	19 N.J.R. 1035(a)		
7:26-1.7	Temporary certification of solid waste transfer stations	19 N.J.R. 886(a)	R.1987 d.311	19 N.J.R. 1452(a)
7:26-1.10	Master performance permits for transfer station facilities	Emergency (expires 8-22-87)	R.1987 d.301	19 N.J.R. 1242(a)
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(a)		
7:26-2A.9	Escrow account requirements: correction	18 N.J.R. 883(a)	R.1987 d.235	19 N.J.R. 1341(b)
7:26-6.5	Interdistrict and intradistrict solid waste flow: Hunterdon, Morris, Ocean and Warren counties	19 N.J.R. 1142(a)		
7:26-7.2, 9.1, 9.3, 10.8, 11.4	Hazardous waste management: containers, landfills, existing facilities	19 N.J.R. 441(a)	R.1987 d.307	19 N.J.R. 1293(b)
7:26-8.2	Waste oil exclusions: correction	18 N.J.R. 878(a)	R.1987 d.234	19 N.J.R. 1196(a)
7:26-8.13, 8.15, 8.16	Hazardous waste criteria	19 N.J.R. 1278(a)		
7:26-8.14	Hazardous waste listing: ethylene dibromide wastes	19 N.J.R. 443(a)	R.1987 d.280	19 N.J.R. 1196(b)
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management	18 N.J.R. 2356(a)		
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management: extension of comment period	19 N.J.R. 263(c)		
7:26-12.2	Hazardous waste facilities: application signatories	19 N.J.R. 11(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-14.1, 14A	Resource Recovery and Solid Waste Disposal Facility Loans	19 N.J.R. 828(a)		
7:26-15	Recycling Grants and Loans Program	18 N.J.R. 2358(a)		
7:26B	Environmental Cleanup Responsibility Act rules	19 N.J.R. 681(a)		
7:27-16.1, 16.3	Air pollution control: Stage II vapor recovery	18 N.J.R. 1867(a)		
7:28-3	Registration of ionizing radiation-producing machines and radioactive materials	19 N.J.R. 836(a)		
7:28-4	Naturally-occurring and accelerator-produced radioactive materials: handling and use	19 N.J.R. 1041(a)		
7:28-5	Designation of controlled areas for use of radiation and radioactive materials	19 N.J.R. 839(a)		
7:28-14	Therapeutic radiation installations	18 N.J.R. 1157(a)	R.1987 d.258	19 N.J.R. 1196(c)
7:30-2.3	Restricted-use pesticides	19 N.J.R. 492(a)	R.1987 d.309	19 N.J.R. 1295(a)
7:50	Pinelands Comprehensive Management Plan	18 N.J.R. 2239(a)		
7:50	Pinelands Comprehensive Management Plan: public hearings	18 N.J.R. 2411(b)		

(TRANSMITTAL 1987-6, dated June 15, 1987)

HEALTH—TITLE 8

8:2-1	Birth certificates	18 N.J.R. 2278(a)		
8:2-1	Birth certificates: extension of comment period	19 N.J.R. 264(a)		
8:13	Processing and handling of shellfish; depuration of soft shell clams	19 N.J.R. 1143(a)		
8:20-1.2	Reportable birth defects	19 N.J.R. 909(b)		
8:21-4.5	New drug applications: correction			19 N.J.R. 1342(b)
8:26-5.7	Lifeguard training at ocean and tidal bathing beaches	19 N.J.R. 494(a)	R.1987 d.288	19 N.J.R. 1296(a)
8:31-26.3, 26.4	Home health agencies: employee physicals; child abuse and neglect	18 N.J.R. 2283(a)		
8:31B-3.7, 3.17, 3.27, 3.51, 3.55, 3.73, 4.42	Hospital reimbursement for existing capital indebtedness	19 N.J.R. 1145(a)		
8:31B-3.22, 3.31, 3.51	Hospital reimbursement: graduate medical education	19 N.J.R. 605(a)		
8:31B-3.24, 3.51, 3.71, 3.73	Hospital reimbursement: indirect costs	19 N.J.R. 1147(a)		
8:31B-3.38	Apportionment of full financial elements	19 N.J.R. 1279(a)		
8:31B-3.38, 4.62	Hospital reimbursement: outpatient dialysis	19 N.J.R. 840(a)	R.1987 d.338	19 N.J.R. 1545(a)
8:31B-3.41, 4.15, 4.38, 4.39	Hospital reimbursement: uncompensated care	18 N.J.R. 2283(b)		
8:31B-3.73, App. IX	Hospital reimbursement: cost/volume methodology	18 N.J.R. 2284(a)		
8:31B-3.73, App. IX	Hospital reimbursement: correction to cost/volume methodology	19 N.J.R. 264(b)		
8:31B-7	Uncompensated Care Trust Fund	19 N.J.R. 495(a)	R.1987 d.298	19 N.J.R. 1297(a)
8:33-1.5, 2.7, 2.8, 4.15	Certificate of Need review process: batching	19 N.J.R. 1280(a)		
8:33E-1	Cardiac diagnostic facilities and services	19 N.J.R. 606(a)	R.1987 d.294	19 N.J.R. 1304(a)
8:33E-1.1, 1.2, 1.3	Certificate of Need: cardiac diagnostic facilities	19 N.J.R. 1282(a)		
8:33E-2	Cardiac surgical centers	19 N.J.R. 610(a)	R.1987 d.296	19 N.J.R. 1307(a)
8:33E-2.2, 2.3, 2.4	Certificate of Need: cardiac surgery centers	19 N.J.R. 1283(a)		
8:33G-3.11	Long-term care beds for former psychiatric hospital patients	19 N.J.R. 614(a)		
8:33H-2.1, 3.1, 3.3, 3.5	"Specialized" long-term care; licensure track records; location of residential health care facilities	19 N.J.R. 1149(a)		
8:33H-3.11	Certificate of Need: Long-Term Care Facilities	19 N.J.R. 614(a)	R.1987 d.295	19 N.J.R. 1312(a)
8:42	Licensure of home health agencies	18 N.J.R. 2287(a)	R.1987 d.333	19 N.J.R. 1547(a)
8:65-10.1, 10.2	Controlled substances: reschedule Alfentanil from Schedule I to Schedule II	19 N.J.R. 841(a)	R.1987 d.324	19 N.J.R. 1454(a)
8:65-10.2	Controlled substances: addition of Nabilone to Schedule II	19 N.J.R. 1050(a)	R.1987 d.339	19 N.J.R. 1557(a)
8:65-10.3	Controlled substances: Tiletamine-Zolazepam preparations	19 N.J.R. 497(a)	R.1987 d.337	19 N.J.R. 1557(b)
8:65-10.3, 10.4	Reassignment of CDS Codes in Schedules III and IV	19 N.J.R. 911(a)	R.1987 d.340	19 N.J.R. 1557(c)
8:71	Generic drug additions (see 19 N.J.R. 116(c), 217(a), 640(b), 881(a))	18 N.J.R. 1775(a)	R.1987 d.300	19 N.J.R. 1315(a)
8:71	Interchangeable drug products (see 19 N.J.R. 215(a))	18 N.J.R. 2100(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 216(a))	18 N.J.R. 2101(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 641(a), 880(a))	19 N.J.R. 13(a)	R.1987 d.299	19 N.J.R. 1314(a)
8:71	Interchangeable drug products	19 N.J.R. 615(a)	R.1987 d.297	19 N.J.R. 1312(b)

(TRANSMITTAL 1987-5, dated May 18, 1987)

(CITE 19 N.J.R. 1584)

NEW JERSEY REGISTER, MONDAY, AUGUST 17, 1987

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
HIGHER EDUCATION—TITLE 9				
9:1-7	Fraudulent academic degrees	19 N.J.R. 1284(a)		
9:2-3	Early retirement program for tenured faculty: rehiring as adjunct faculty	19 N.J.R. 912(a)	R.1987 d.344	19 N.J.R. 1558(a)
9:2-8	Petitions for rulemaking	19 N.J.R. 913(a)		
9:7-2.10, 2.11	Tuition Aid Grant benefits	19 N.J.R. 1153(a)		
9:7-4.1	Distinguished Scholars Program: academic criteria	19 N.J.R. 498(a)	R.1987 d.278	19 N.J.R. 1207(a)
9:7-9.9, 9.11, 9.12, 9.15	Congressional Teacher Scholarship Program	19 N.J.R. 1154(a)		
9:9-3.5	Capitalization of PLUS loan interest	19 N.J.R. 498(b)		
9:11-1.4	Educational Opportunity Fund: student dependency status defined	19 N.J.R. 266(a)		
9:11-1.5	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 15(a)	R.1987 d.289	19 N.J.R. 1316(a)
9:11-1.5	EOF: financial eligibility for undergraduate grants	19 N.J.R. 499(a)		
9:11-1.7	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 399(a)		

(TRANSMITTAL 1987-5, dated June 15, 1987)

HUMAN SERVICES—TITLE 10				
10:8	Personal needs allowance for indigent persons in State and county institutions	19 N.J.R. 617(a)		
10:49-1.1 and 1.2	Administration Manual: Optional Categorically Needy program	Emergency (expires 8-28-87)	R.1987 d.312	19 N.J.R. 1324(a)
10:49-1.4	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:49-1.12	Medicaid reimbursement: timely submission of claims by service providers	19 N.J.R. 1155(a)		
10:50-2 through 10:68-2	Medicaid reimbursement: timely submission of claims by service providers	19 N.J.R. 1155(a)		
10:52-1.6, 1.8	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:53-1.5, 1.7	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:65-1.5, 1.8	Medical day care centers: recordkeeping	19 N.J.R. 30(a)		
10:72	Optional Categorically Needy Eligibility Manual	Emergency (expires 8-28-87)	R.1987 d.312	19 N.J.R. 1324(a)
10:81-2.6, 3.13	AFDC eligibility and full-time students	19 N.J.R. 618(a)	R.1987 d.349	19 N.J.R. 1559(a)
10:81-3.12	PAM: parent-minor and AFDC	19 N.J.R. 31(a)		
10:81-3.38	AFDC qualification and child support orders	19 N.J.R. 618(b)	R.1987 d.348	19 N.J.R. 1558(b)
10:81-4.9, 5.2, 7.1	PAM: administration of AFDC program	19 N.J.R. 341(a)	R.1987 d.284	19 N.J.R. 1316(b)
10:81-7.46	PAM: reporting criminal offenses	19 N.J.R. 1389(a)		
10:81-11.3	AFDC: newborn child and application for Social Security number	19 N.J.R. 619(a)	R.1987 d.350	19 N.J.R. 1559(b)
10:81-11.4	PAM: recovery of child support overpayments	19 N.J.R. 1171(a)		
10:81-11.18	PAM: child support guidelines	18 N.J.R. 2178(a)		
10:81-12	PAM: Newark/Camden Teen PROGRESS Demonstration	19 N.J.R. 1390(a)		
10:82-1.3, 4.16	ASH: household defined; court-ordered support	19 N.J.R. 31(b)		
10:82-1.7, 1.8, 3.2	AFDC benefits and educational financial aid	19 N.J.R. 709(a)	R.1987 d.330	19 N.J.R. 1559(c)
10:82-3.2, 4.13, 4.14, 4.15	ASH: resources and income in AFDC	19 N.J.R. 344(a)	R.1987 d.285	19 N.J.R. 1317(a)
10:82-5.10	Emergency Assistance in AFDC program	19 N.J.R. 1171(b)		
10:82-5.12	ASH: disregarded child support payments	19 N.J.R. 501(a)	R.1987 d.351	19 N.J.R. 1560(a)
10:85-2.7	GAM: reporting criminal offenses	19 N.J.R. 1393(a)		
10:85-3.2	GAM: exemption from work requirement and unemployability	18 N.J.R. 2183(a)		
10:85-3.3	GAM: Medically Needy eligibility	18 N.J.R. 1781(a)		
10:85-5.3	Personal needs allowance for GA recipients in nursing homes and intermediate care facilities	19 N.J.R. 619(b)	R.1987 d.322	19 N.J.R. 1454(b)
10:87-2.3, 2.6, 2.19, 3.13-3.21	Food Stamp Program: employment and training requirements	19 N.J.R. 649(a)	R.1987 d.261	19 N.J.R. 1207(b)
10:87-12.3, 12.4 and 12.7	Food Stamp Program: maximum income eligibility limits	Emergency (expires 8-24-87)	R.1987 d.304	19 N.J.R. 1331(a)
10:124	Children's shelter facilities and homes	19 N.J.R. 1394(a)		
10:100-3.6	Submission of cemetery petition by funeral directors	19 N.J.R. 345(a)	R.1987 d.283	19 N.J.R. 1318(a)
10:131	Adoption Assistance and Child Welfare Act of 1980	19 N.J.R. 1285(a)		

(TRANSMITTAL 1987-5, dated June 15, 1987)

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10A:1-1	Department operation and procedures	19 N.J.R. 620(a)	R.1987 d.282	19 N.J.R. 1214(a)
10A:3-5.8, 5.11	Random searches of correctional facilities by canine teams	19 N.J.R. 1175(a)		
10A:4-3.1	Inmates' rights and responsibilities: administrative correction to text	_____	_____	19 N.J.R. 1573(a)
10A:4-9.12	Representation of inmate in disciplinary case	19 N.J.R. 913(b)		
10A:5-5.2	Involuntary placement into protective custody	19 N.J.R. 842(a)	R.1987 d.319	19 N.J.R. 1454(c)
10A:6	Inmate access to courts	19 N.J.R. 914(a)		

NEW JERSEY REGISTER, MONDAY, AUGUST 17, 1987

(CITE 19 N.J.R. 1585)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10A:9-2.1	Inmate reception classification process	19 N.J.R. 1395(a)		
10A:9-5.6	Earning work credits in county facilities	19 N.J.R. 843(a)	R.1987 d.332	19 N.J.R. 1560(b)
10A:10-6	International transfer of inmates	19 N.J.R. 916(a)	R.1987 d.331	19 N.J.R. 1560(c)
10A:16-2.11	Pregnancy testing of new inmates	19 N.J.R. 1396(a)		
10A:16-6	Pregnant inmates	19 N.J.R. 503(a)	R.1987 d.305	19 N.J.R. 1318(b)
10A:18	Mail, visits, and use of telephone	19 N.J.R. 33(b)	R.1987 d.263	19 N.J.R. 1214(b)
10A:71-3.2, 3.4, 3.18-3.23, 3.25-3.28, 3.30, 3.43, 6.9	Parole Board rules	19 N.J.R. 1396(b)		

(TRANSMITTAL 1987-2, dated April 20, 1987)

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11:1-5.2	Notice of cancellation and nonrenewal of fire and casualty coverage: recertification to Legislature			19 N.J.R. 1343(b)
11:1-24	Credit cards and payment of insurance premiums	18 N.J.R. 1999(a)		
11:1-25	Official department mailing list: address information	19 N.J.R. 1050(b)		
11:4-2	Replacement of life insurance policy	19 N.J.R. 1286(a)		
11:4-21	Limited death benefit policy forms	19 N.J.R. 843(b)	R.1987 d.306	19 N.J.R. 1320(a)
11:4-22.2, 22.4, App.	1980 CSO and 1980 CET Smoker and Nonsmoker Mortality Tables	19 N.J.R. 1399(a)		
11:4-28	Group coordination of health care benefits	19 N.J.R. 845(a)		
11:5-1.16	Real estate contracts and leases subject to attorney review	19 N.J.R. 503(b)		
11:5-1.16, 1.23	Public hearing: Obligations of real estate licensees	18 N.J.R. 2113(a)		
11:5-1.23	Obligations of real estate licensees	18 N.J.R. 1680(a)		
11:5-1.27	Real estate brokers pre-licensure course	19 N.J.R. 1051(a)		
11:5-1.28	Certification as approved real estate education instructor	18 N.J.R. 1681(a)		
11:7-1.2, 1.3	Municipal bond insurance	19 N.J.R. 1409(a)		
11:12	Pre-proposal: Legal services insurance	18 N.J.R. 1783(a)		

(TRANSMITTAL 1987-5, dated June 15, 1987)

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12:60	Prevailing wages for public works	19 N.J.R. 345(b)		
12:100-4.2, 5.2, 6.2, 7	Public employees and exposure to toxic and hazardous substances	19 N.J.R. 267(a)		

(TRANSMITTAL 1987-2, dated June 15, 1987)

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12A:12-1	Grants to local government for development of small, minority and women-owned businesses	19 N.J.R. 1286(a)		

(TRANSMITTAL 1987-1, dated March 16, 1987)

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13:2-40.1, 40.5, 40.6, 40.7	Uniform ABC identification cards	19 N.J.R. 1410(a)		
13:19-9	Designated State official for notification of out-of-state motor vehicle convictions	19 N.J.R. 621(a)	R.1987 d.342	19 N.J.R. 1562(a)
13:21-9.4	Restoration of driving privilege	19 N.J.R. 621(b)	R.1987 d.343	19 N.J.R. 1562(b)
13:27-8.14	Advertising by persons not certified as landscape architects	19 N.J.R. 400(a)		
13:29-1.7	Conditional credit on Uniform CPA examination	19 N.J.R. 48(b)	R.1987 d.262	19 N.J.R. 1227(a)
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13:32-1.9	Master plumber ID	19 N.J.R. 352(b)	R.1987 d.257	19 N.J.R. 1227(b)
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13:35-1.5	Practice by medical school graduates in hospital residency programs	18 N.J.R. 2184(a)		
13:35-3.6	Licensure of physicians as bioanalytical laboratory directors	19 N.J.R. 1179(a)		
13:35-6.13	Board of Medical Examiners: fee schedule; acupuncturist registration	19 N.J.R. 1054(a)		
13:35-8.25	Biennial registration fee for hearing aid dispensers	19 N.J.R. 1055(a)		
13:39A-2.2	Authorized practice by physical therapist	18 N.J.R. 1177(b)	R.1987 d.256	19 N.J.R. 1227(c)
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13:39A-3.3	Physical therapy: unlawful practices	18 N.J.R. 1178(a)	R.1987 d.255	19 N.J.R. 1228(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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13:44B-1	Compensation of professional and occupational licensing board members	19 N.J.R. 444(a)		
13:44C	Practice of audiology and speech-language pathology	19 N.J.R. 1412(a)		
13:45A-2	Motor vehicle advertising practices	19 N.J.R. 1056(a)	R.1987 d.341	19 N.J.R. 1562(c)
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13:45A-21, 22	Sale of Kosher food and food products	19 N.J.R. 1060(a)		
13:45A-24	Sale of gray market merchandise	19 N.J.R. 179(a)		
13:46-12.12	Compensation for physicians at boxing and wrestling shows	19 N.J.R. 1179(b)		
13:47A-1—8, 11	Bureau of Securities rules	19 N.J.R. 1417(a)		
13:70-1.30	Thoroughbred racing: horsemen associations	19 N.J.R. 1418(a)		
13:70-12.1, 12.37	Thoroughbred racing: open claiming	19 N.J.R. 1419(a)		
13:70-20.11	Thoroughbred racing: entering or starting nerved horses	19 N.J.R. 918(a)		
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(TRANSMITTAL 1987-6, dated June 15, 1987)

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(TRANSMITTAL 1987-3, dated April 20, 1987)

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14A:4-1.1-3.1	Solar energy property tax exemptions	19 N.J.R. 433(b)		

(TRANSMITTAL 1987-2, dated April 20, 1987)

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(TRANSMITTAL 1987-1, dated February 17, 1987)

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(TRANSMITTAL 1987-1, dated April 20, 1987)

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16:20B-1.2, 3.1, 3.2, 5.1	1984 Transportation Trust Fund aid: audits by local government	19 N.J.R. 623(a)	R.1987 d.266	19 N.J.R. 1229(b)
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16:28A-1.9	No parking zones along Route 17 in Rutherford and Lyndhurst	19 N.J.R. 1420(a)		
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16:30	Pre-proposal: Exclusive bus lane on Routes 3 and 495	19 N.J.R. 1421(b)		
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16:30-10.5	Midblock crosswalk on Route 29 in Stockton	19 N.J.R. 1421(a)		
16:41	Permits for use of or work upon highway rights-of-way	19 N.J.R. 1074(b)		
16:54-1.6	Heliports/helistops: correction to Administrative Code			19 N.J.R. 1240(a)
16:56-14.1	Publicly funded airports and State audit policy	19 N.J.R. 921(a)	R.1987 d.327	19 N.J.R. 1567(c)
16:73-1.1, 2.1-2.4, 3.2	NJ TRANSIT: Reduced fare program for the elderly and handicapped	19 N.J.R. 1289(a)		
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(TRANSMITTAL 1987-5, dated May 18, 1987)

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(TRANSMITTAL 1987-6, dated June 15, 1987)

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18:5-3.6, 3.7, 3.8	Purchase of cigarette tax stamps	19 N.J.R. 511(a)	R.1987 d.326	19 N.J.R. 1568(a)
18:7-1.16, 5.2	"Financial business corporation" defined: computation of entire net income	19 N.J.R. 712(a)	R.1987 d.335	19 N.J.R. 1568(b)
18:24-1.2, 1.3	Newspaper, periodical, and magazine defined	19 N.J.R. 858(a)	R.1987 d.325	19 N.J.R. 1570(a)
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(TRANSMITTAL 1987-3, dated June 15, 1987)

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(TRANSMITTAL 1987-3, dated June 15, 1987)

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19:45-1.1, 1.37, 1.40, 1.40A	Slot machine jackpot payouts	18 N.J.R. 2005(a)	R.1987 d.302	19 N.J.R. 1321(a)
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19:47-8.2	Big Six minimum wagers	19 N.J.R. 858(b)		
19:49-3.1	Junket prearrival reports	19 N.J.R. 860(a)	R.1987 d.303	19 N.J.R. 1323(a)
19:50-1.6	Security of alcoholic beverages	18 N.J.R. 2323(a)		
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(TRANSMITTAL 1987-3, dated May 18, 1987)

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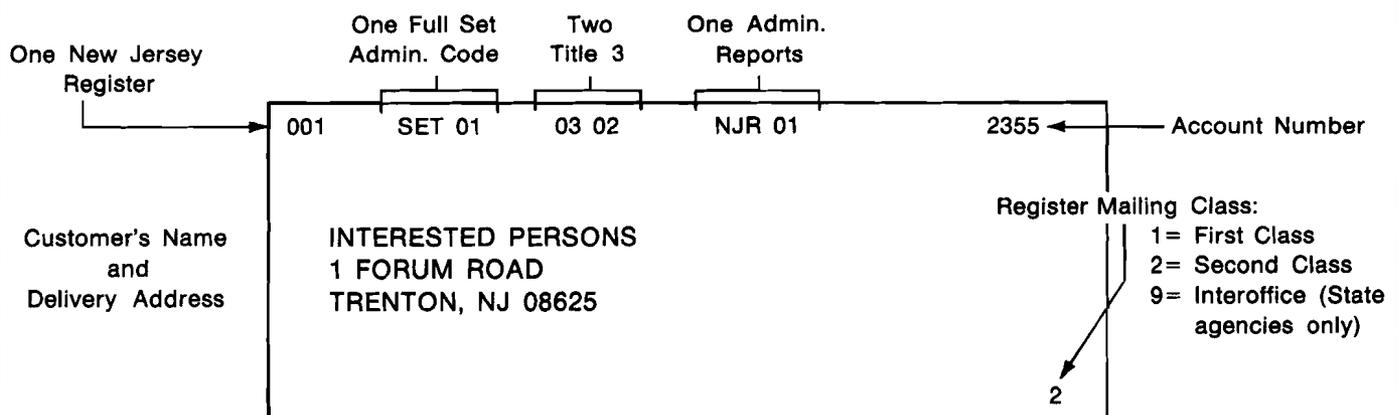
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