

NEW JERSEY REGISTER



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THE JOURNAL OF STATE AGENCY RULEMAKING

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(Includes adopted rules filed through August 17, 1987)

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

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE WILL BE DATED JULY 20, 1987.

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INTERESTED PERSONS

Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **October 8, 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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NEW JERSEY REGISTER

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RULE PROPOSALS

ADMINISTRATIVE LAW

OFFICE OF ADMINISTRATIVE LAW

The following proposals are authorized by Ronald I. Parker, Acting Director, Office of Administrative Law.

Submit comments by October 8, 1987 to:
Steven L. Lefelt, Deputy Director
Office of Administrative Law
Quakerbridge Plaza, Building 9
Quakerbridge Road
CN 049
Trenton, New Jersey 08625

(a)

Uniform Administrative Procedure Rules of Practice Scheduling of Proceedings; Prehearing Conferences

Proposed Amendment: N.J.A.C. 1:1-9.1

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

Proposal Number: PRN 1987-353.

The agency proposal follows:

Summary

N.J.A.C. 1:1-9.1(d) currently permits scheduling of a prehearing conference whenever necessary to foster an efficient and expeditious hearing and where the issues are unusually complex, numerous or novel, the case is expected to require two or more hearing days or where requested by a party. The proposed amendment deletes the additional requirements concerning complex issues, two or more hearing days or a party request. These specifications have been found to be superfluous.

Social Impact

Prehearing conferences are generally conducted by telephone and therefore are not inconvenient to the parties or their representatives. The proposed amendment would not alter the Office of Administrative Law's current practice of scheduling prehearing conferences when necessary either on its own motion or on the request of any party.

Economic Impact

Since the proposed amendment will not change the actual practice of scheduling prehearing conferences, no economic impact is foreseen.

Regulatory Flexibility Statement

The proposed amendment does not affect small businesses because it does not impose reporting, recordkeeping or other requirements on small businesses.

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

1:1-9.1 Scheduling of proceedings

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

(d) A prehearing conference may be scheduled in any case, other than one requiring a conference hearing, whenever necessary to foster an efficient and expeditious proceeding. [and where:

1. The issues are unusually complex, numerous or novel; or
2. The case is expected to require two or more hearing days; or
3. Any party to the case requests a prehearing.]

(e)-(g) (No change.)

(b)

Uniform Administrative Procedure Rules of Practice Sanctions: Failure to Appear; Failure to Comply with Orders or Chapter Requirements

Proposed Amendment: N.J.A.C. 1:1-14.4

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

Proposal Number: PRN 1987-339.

The agency proposal follows:

Summary

The proposed amendment clarifies the judge's authority in cases where a party fails to appear at a proceeding. Where a party fails to appear and the judge does not receive an explanation for the non-appearance within 10 days, the judge may dismiss the matter or grant the requested relief. The judge may also require proofs, through affidavits or otherwise, concerning the merits of the claim or the amount of damages alleged.

The proposed amendment is not intended to change the practice in some cases of taking proofs where parties fail to appear. Where appropriate, R. 4:43-2 can continue to be used for guidance on this issue. In those cases where a hearing is required only if a party requests one, however, it is not anticipated that proofs will usually be required. The proposed amendment merely clarifies that the judge may order proofs when the case or circumstances so warrant.

Social Impact

The proposed amendment should eliminate confusion concerning the judge's authority to order submission of proofs where a party fails to appear.

Economic Impact

The proposed amendment will have no economic impact since it merely clarifies existing procedure.

Regulatory Flexibility Statement

The proposed amendment does not affect small businesses because it does not impose reporting, recordkeeping or other requirements on small businesses.

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

1:1-14.4 Sanctions: [F]ailure to appear; failure to comply with orders or requirements of this chapter

(a) If a party or representative fails to appear at any proceeding scheduled by the Clerk or judge, the judge shall hold the matter for 10 days before taking any action. If the judge does not receive an explanation for the nonappearance within 10 days, the judge [shall] **may** dismiss the matter or grant the requested relief. **The judge may, in his or her discretion, require proofs in support of the proposed action prior to dismissing the matter or granting the requested relief.** The initial decision shall note that the dismissal or relief is granted because the party failed to appear. If the nonappearing party submits an explanation in writing, a copy must be served on all other parties and the other parties shall be given an opportunity to respond.

1.-2. (No change.)

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

(c)

Uniform Administrative Procedure Rules of Practice Interlocutory Review; Decision by Agency Head

Proposed Amendment: N.J.A.C. 1:1-14.10

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

Proposal Number: PRN 1987-352.

Summary

Under the current rule, N.J.A.C. 1:1-14.10(c), an agency head must decide whether it will grant a request for interlocutory review within 10 days. Where the agency head is a board or commission consisting of more than one person and meeting only periodically, it is often difficult for

the board to make this decision within 10 days. The proposed amendment would allow multi-person agency heads to designate an individual to decide whether or not to review an order or ruling interlocutory where a decision by the entire body could not be obtained within the 10 days. The decision on the merits of the interlocutory appeal would remain with the agency head.

Social Impact

The proposed amendment will make it more feasible to obtain a prompt determination on whether a request for interlocutory review will be granted where a multi-person agency head is involved.

Economic Impact

The proposed amendment may eliminate some delay and in some cases may reduce the hearing time and cost by permitting agency review to be conducted in a timely manner.

Regulatory Flexibility Statement

The proposed amendment does not affect small businesses because it does not impose reporting, recordkeeping or other requirements on small businesses.

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

1:1-14.10 Interlocutory review

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

(c) Within 10 days of the request for interlocutory review, the agency head shall notify the parties and the Clerk whether the order or ruling will be reviewed. **If the agency head is a body consisting of more than one person, the agency head may authorize the chairperson or other designee to decide whether to review the order or ruling whenever a decision by the entire body cannot be obtained within the 10-day time limit.** If the agency head or designee does not so act within 10 days, the request for review shall be considered denied. Informal communication by telephone or in person to the parties or their representatives and to the Clerk within the 10 day period will satisfy this notice requirement, provided that a written communication or order promptly follows.

(d) (No change.)

(e) Where the agency head or designee determines to conduct an interlocutory review, the agency head shall issue a decision, order or other disposition of the review at the earliest opportunity but no later than 20 days from receiving the request for review. Where the interests of justice require, the agency head shall conduct an interlocutory review on an expedited basis. Where the agency head does not issue an order within 20 days, the judge's ruling shall be considered conditionally affirmed. The time period for disposition may be extended for good cause for an additional 20 days if both the agency head and the Director of the Office of Administrative Law concur.

(f) (No change.)

(g) Within five working days of the agency head's or designee's notice that an interlocutory review will be conducted, the judge, in his or her discretion, may provide the agency head and the parties with a written memorandum stating the basis for the order or ruling.

(h) (No change.)

(i) [An agency head's determination] **A determination by an agency head or designee to review interlocutorily an order or ruling shall not delay the scheduling or conduct of hearings, unless the presiding judge determines that a postponement is necessary due to special requirements of the case, because of probable prejudice, or for other good cause.** Pending review by the agency head, a judge may conditionally proceed on an order or ruling in order to complete the evidential record in a case or to avoid disruption or delay in any ongoing or scheduled hearing.

(j)-(l) (No change.)

(a)

Uniform Administrative Procedure Rules of Practice Interlocutory Review; Initial Decision in Contested Cases; Exceptions and Replies

Proposed Amendments: N.J.A.C. 1:1-14.10, 1:1-18.1 and 1:1-18.4.

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

Proposal Number: PRN 1987-340.

The agency proposal follows:

Summary

The Director of the Office of Administrative Law (OAL) is the agency head for purposes of review of those portions of an initial decision which involve the administration of the OAL as a State agency, that is, disqualification of a judge, appearances of non-lawyer representatives, imposition of conditions on appearances by non-lawyer representatives, monetary sanctions and disqualification of attorneys. (See N.J.A.C. 1:1-3.2(c); *In re: Onorevole*, 103 N.J. 548 (1986).) The rules therefore provide, at N.J.A.C. 1:1-14.10(l), that requests for interlocutory review of those matters must be addressed to the Director.

Ordinarily, any order or ruling may be reviewed interlocutorily or after issuance of the initial decision, whether or not a request for interlocutory review was made, pursuant to N.J.A.C. 1:1-14.10(j). However, four of the issues mentioned in N.J.A.C. 1:1-3.2(c) concerning disqualification of a judge, appearances by non-lawyer representatives and disqualification of attorneys impact directly on the conduct of the hearing. Review of these issues at the conclusion of the hearing could, if the order or ruling were reversed, require the proceeding to be voided and a new hearing conducted. To avoid this result, the proposed amendments require that appeals concerning these issues be taken interlocutorily. A party who fails to seek interlocutory review of these issues may not seek review after issuance of the initial decision.

The imposition of monetary sanctions, specified in N.J.A.C. 1:1-3.2(c), does not impact directly on the conduct of the hearing and therefore if reversed after the hearing need not result in a duplicative hearing. Therefore, the proposed amendments permit this issue to be reviewed interlocutorily or after issuance of the initial decision. The proposed amendments clarify that exceptions to such orders must be filed with the Director of the OAL.

Social Impact

The proposed amendments clarify when and how to appeal orders or rulings which are reviewable by the OAL Director. This adoption should eliminate the possibility of confusion by clarifying the appeal route for parties who wish to appeal these orders or rulings.

Economic Impact

The proposed amendments will avoid the possibility of additional hearing costs by requiring a timely appeal of issues which impact upon the hearing itself.

Regulatory Flexibility Statement

The proposed amendments do not affect small businesses because they do not impose reporting, recordkeeping or other requirements on small businesses.

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

1:1-14.10 Interlocutory review

(a)-(i) (No change.)

(j) **Except as limited by (m) below and N.J.A.C. 1:1-18.4(a),** [Any] order or ruling reviewable interlocutorily is subject to review by the agency head after the judge renders the initial decision in the contested case, even if an application for interlocutory review:

1.-3. (No change.)

(k)-(l) (No change.)

(m) Orders or rulings issued under (k)1, 2, 3 and 5 above may only be appealed interlocutorily; a party may not seek review of such orders or rulings after the judge renders the initial decision in the contested case.

1:1-18.1 Initial decision in contested cases

(a)-(g) (No change.)

(h) Upon filing of an initial decision with the transmitting agency, the Office of Administration Law relinquishes jurisdiction over the case[.], **except for matters referred to in N.J.A.C. 1:1-3.2(c)1 through 5.**

1:1-18.4 Exceptions; replies

(a) [Any party may file written exceptions within] **Within 10 days from the receipt of the judge's initial decision, any party may file written exceptions with the agency head and with the Clerk.** A copy of the exceptions shall be served on all other parties. **Exceptions to orders issued under N.J.A.C. 1:1-3.2(c)4 shall be filed with the Director of the Office of Administrative Law.**

(a)

Uniform Administrative Procedure Rules of Practice Settlements; Initial Decision

Proposed Amendment: N.J.A.C. 1:1-19.1

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

Proposal Number: PRN 1987-341.

The agency proposal follows:

Summary

The Uniform Administrative Procedure Rules currently provide at N.J.A.C. 1:1-19.1(b) that in settled cases, the judge shall issue an initial decision incorporating the settlement terms and approving the settlement. All initial decisions must contain a statement, pursuant to N.J.A.C. 1:1-18.3(c)12, that the decision may be "adopted, modified or rejected" by the agency head.

In some settled cases, particularly where the agency is a party, the agency head has already reviewed the settlement terms and agreed to them. Private parties in such cases have expressed concerns that the above quoted language offers the agency an unintended opportunity to modify or reverse the agreement. The proposed amendment thus seeks to establish a settlement process which more accurately implements the parties' intent. The proposed amendment, therefore, clarifies that in those cases where the agency head, either in person or through counsel, has consented to the settlement terms, subsequent review is unnecessary.

Prior to the adoption of the new Office of Administrative Law rules which became operative on July 1, 1987, judges issued an "order concluding the contested case" when the agency head consented to the terms of a settlement. This order was deemed to be the final decision. The amendment now being proposed will restore part of the prior practice by providing that a settlement decision in a case where the agency head has already consented to the settlement terms should not be subject to modification or reversal. Accordingly, such decisions will not include the language regarding agency review that is required by N.J.A.C. 1:1-18.3(c)12.

Social Impact

The proposed amendment should facilitate settlement in some cases, particularly where the agency is a party, by eliminating confusion and concern among the parties about whether the agency head has an additional opportunity to reject a settlement.

Economic Impact

By facilitating settlement, the proposed amendment may eliminate unnecessary hearing costs.

Regulatory Flexibility Statement

The proposed amendment does not affect small businesses because it does not impose reporting, recordkeeping or other requirements on small businesses.

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

1:1-19.1 Settlements

(a) (No change.)

(b) If the judge determines from the written order/stipulation or from the parties' testimony under oath that the settlement is voluntary, consistent with the law and fully dispositive of all issues and controversy, the judge shall issue [an initial] a decision incorporating the full settlement terms and approving the settlement.

1. Where the agency head has not consented to the settlement terms, the decision shall be an initial decision.

2. Where the agency head has consented to the settlement terms, the decision approving settlement shall not contain the statement required by N.J.A.C. 1:1-18.3(c)12 and shall be deemed the final decision.

(b)

Uniform Administrative Procedure Rules of Practice Uncontested Cases in the Office of Administrative Law

Proposed Repeal: N.J.A.C. 1:1-21.6

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

Proposal Number: PRN 1987-332.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14F-5(o), at the request of an agency head an administrative law judge may be assigned to conduct "proceedings other than those related to contested cases or administrative adjudications." On May 4, 1987, the Office of Administrative Law adopted rules setting forth the procedures for such uncontested cases, N.J.A.C. 1:1-21.1 et seq.

N.J.A.C. 1:1-21.6 provides that in uncontested cases exceptions to the administrative law judge's decision would be permitted; replies and cross-exceptions are not permitted. Upon reflection, the Office of Administrative Law believes that the decision to permit or prohibit comments after the administrative law judge issues a report lies with the transmitting agency head. Therefore, the exception process rule is proposed for repeal.

Social Impact

The proposed repeal would permit agency heads to determine whether exceptions should be permitted in an uncontested case.

Economic Impact

The proposed repeal should have no economic impact since it merely deletes the provisions concerning exceptions, replies and cross-exceptions in uncontested cases.

Regulatory Flexibility Statement

The proposed repeal does not affect small businesses because it does not impose reporting, recordkeeping or other requirements on small businesses.

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

[1:1-21.6 Exceptions and cross-exceptions]

[In uncontested cases exceptions may be filed but replies and cross-exceptions shall not be permitted.]

1:1-21.[7]6 Extensions

(No change in text.)

AGRICULTURE

(c)

DIVISION OF REGULATORY SERVICES

Jersey Fresh Quality Grading Program Products and Manner of Use

Proposed Amendments: N.J.A.C. 2:71-2.4, 2.5 and 2.6

Authorized By: State Board of Agriculture and Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Authority: N.J.S.A. 4:10-3, 4:10-13 and 4:10-20.

Proposal Number: PRN 1987-345.

Submit comments by October 8, 1987 to:

Robert C. Fringer, Director
Division of Regulatory Services
New Jersey Department of Agriculture
CN 330
Trenton, New Jersey 08625
Telephone: 609-292-5575

The agency proposal follows:

Summary

The rules in N.J.A.C. 2:71-2 describe the configuration of the "Jersey Fresh Logo", the application for license and licensing procedure, the license period, charges for the "Jersey Fresh Logo", labels and all imprinted containers to the program, the commodities to be marketed under

the "Jersey Fresh Logo" program, commodity grades, packing requirements, packer identification of terms and penalties for improper use.

The proposed amendments to the rules for the voluntary "Jersey Fresh Logo" quality grading program were developed to aid packers of raspberries to allow them to participate in the Jersey Fresh program. Uniform high grade products have greater acceptance by the consumer and ultimately increase the demands for the superior quality of these New Jersey grown products.

Social Impact

The people affected by these rules will be the packers using the logo and consumers. Products packed under the logo will enhance the promotion of uniformly packed high quality New Jersey farm products to the benefit of the packers and consumers. Packers will gain new markets for their products, while consumers will have more quality products and an identifiable larger supply of quality products available.

Economic Impact

The economic impact on voluntary logo raspberry packers will be very minimal. Packers' costs will be \$.01 per label, per container or \$1.00 for 1,000 imprinted containers. This cost should be more than offset by increases in the price received by the packers through the sale of high quality produce.

Regulatory Flexibility Statement

The proposed amendments primarily affect farmers, most of which are small businesses; however, the proposal does not impose any reporting, recordkeeping, or other compliance requirements on farmers, unless they voluntarily elect to participate in the Jersey Fresh Quality Grading Program. Should a farmer choose to participate, the costs of participating should be offset by prices received for the produce.

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

2:71-2.4 Agricultural commodities intended to be marketed under the Jersey Fresh Quality Grading Program

(a) Only blueberries, cabbage, green corn, cucumbers, eggplants, iceberg lettuce, common green onions, peaches, sweet peppers, sweet potatoes, white potatoes, raspberries, summer squash, fall and winter type squash, and tomatoes (fresh market), may be identified by the "logo."
(b) (No change.)

2:71-2.5 Commodity grades, packing requirements, packer identification and containers

(a)-(l) (No change.)
(m) **Raspberries shall be U.S. No. 1 grade. Berries shall be well colored. Individual cups shall be well filled. All containers shall be new.**
Redesignate existing (m)-(o) as (n)-(p) (No change in text.)

2:71-2.6 Definitions

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

"Vacuum["] cooled" means using a process which, through a vacuum, reduces air pressure in a large chamber, thus promoting cooling by rapid evaporation of moisture.

"Well colored" means, in the case of raspberries, that the whole surface of the berry shows a color characteristic of a mature berry.

"Well-filled" means, in the case of raspberries, that the berries are one-quarter to one-half inch above the rim of the cup.

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Revolving Credit Equity Loans

Proposed Amendments: N.J.A.C. 3:1-14

Authorized By: Mary Little Parell, Commissioner, Department of Banking.

Authority: N.J.S.A. 17:9A-24(a), 17:9A-24(b), 17:9A-25.2, 17:12B-1551, 17:12B-48(21) and P.L. 1987, c.230, §25 (Assembly Bill No. 2857).

Proposal Number: PRN 1987-348.

Submit comments by October 8, 1987 to:

Robert M. Jaworski
Deputy Commissioner
Department of Banking
CN 040
Trenton, NJ 08625

The agency proposal follows:

Summary

The Department of Banking proposes to amend the revolving credit equity rules found at N.J.A.C. 3:1-14.1 et. seq. The general purpose of these proposed amendments is to revise the conditions which may attach to revolving credit equity loan agreements between borrowers and the financial institutions which are authorized to offer such loan products. These institutions include banks, savings banks, savings and loan associations and, pursuant to a recent amendment to the Secondary Mortgage Loan Act, secondary mortgage loan licensees.

During the public debate on Assembly Bill No. 2857, which represents the legislative effort to revise the Secondary Mortgage Loan Act, various consumer groups expressed concerns that secondary mortgage loan licensees not be permitted to make home equity loans under the same rules as are applicable to banks, savings banks and savings and loan associations. Certain aspects of those rules, they contended, if permitted to licensees, could place borrowers in serious danger of losing their homes. Among the aspects of the rules which received the most concern were their implicit authorization of the use of credit cards as a permissible means to access home equity loan advances, the express authorization provided for due but unpaid interest to be thereafter included as part of principal thereby resulting in interest being charged on interest, the allowance for crediting of borrowers' payments "no later than the next business day after receipt" and the permission given lenders to change the interest rate at any time and without limitation.

The Department shares these concerns, particularly in view of the burgeoning popularity of these types of loans in today's lending environment. The recent Federal tax reform initiative should make these types of loans even more popular. At the same time, the Department believes that consumers are best served through increased competition among lenders offering comparable products. That is why the Department supported Assembly Bill No. 2857 and that is also why the Department now proposes to amend these rules.

The proposed amendments would prohibit the use of a credit card as a means by which borrowers can obtain advances against their home equity credit lines. This prohibition is intended to discourage the casual use of this form of credit, which, it is noted, and borrowers should always be aware, results in a second mortgage being taken by the lender on the borrower's home and therefore places that home at risk.

The proposed amendments would also prohibit lenders from changing the interest rate applicable to such loan agreements except as dictated by the movement of a market interest rate index specified in the agreement, which index shall be readily verifiable by the borrower and beyond the control of the lender.

The proposed amendments would also require lenders to disclose in the agreement, clearly and conspicuously, whether interest rate increases will be permitted to apply to any then-outstanding unpaid indebtedness in the borrower's account.

Finally, the proposed amendments would prohibit interest which is due but unpaid to be added to principal, which results in interest accruing on interest, and would require same-day crediting of payments.

These proposed amendments are intended to apply only to agreements entered into following adoption of the amendments.

Social Impact

The proposed amendments apply to all lenders authorized to offer revolving credit equity loans. The proposed amendments will have the beneficial impact of protecting borrowers who utilize this form of credit.

Economic Impact

The proposed amendments are generally expected not to have a substantial economic impact upon lending institutions which offer this form of credit, since the amendments merely restrict terms and conditions which may be contained in future loan agreements.

Program changes necessitated by the amendments may produce some economic impact upon lenders. Consumers are expected to receive the economic benefit of many of the changes, including the requirement for same-day crediting of payments and the prohibition against charging interest on interest. There will be no economic impact upon the Department.

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Regulatory Flexibility Statement

Banks, savings banks, savings and loan associations and secondary mortgage loan licensees are predominantly small businesses and these proposed amendments impose compliance requirements in the area of business conduct and disclosure. It is not expected that these institutions will need professional services to meet these requirements or that there will be initial capital or other costs to the institution. The objective of adding limited consumer protections to revolving credit equity loan agreements can only be met by imposing the compliance requirements upon all institutions.

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

SUBCHAPTER 14. REVOLVING CREDIT EQUITY LOANS**3:1-14.1 Authorization**

A bank, savings bank [or], savings and loan association or **secondary mortgage loan licensee, hereinafter collectively referred to as the "lender"**, shall have authority to make loans secured by a lien or real estate which shall be known as a "Revolving Credit Equity Loan" and may charge and receive for and receive thereon interest at a rate or rates agreed to by the [bank, savings bank or savings and loan association] **lender** and the borrower.

3:1-14.2 Revolving credit equity loan agreement

(a) A revolving credit equity loan shall be made pursuant to an agreement between the [bank, savings bank or savings and loan association] **lender** and the borrower whereby:

1. The [bank, savings bank, or savings and loan association] **lender** may permit the borrower to obtain advances of money from the [bank, savings bank, or savings and loan association] **lender** from time to time or the [bank, savings bank, or savings and loan association] **lender** may advance money on behalf of the borrower from time to time as directed by the borrower, **except that advances of money by use of a credit card are not authorized.**

2.-4. (No change.)

3:1-14.3 Terms of agreement

(a) If an agreement governing a revolving credit equity loan so provides:

1. The [bank, savings bank or savings and loan association] **lender** may at any time or from time to time change the terms of the agreement, including the terms governing the periodic interest rate, the calculation of interest, or the method of computing the required amount of periodic installment payments, provided, however, that:

i. **The [the] periodic interest rate shall not be changed more than once in each billing cycle; [nor shall the]**

ii. **The minimum installment payment shall not be less than 1/240 of the outstanding principal balance due plus interest accrued at the end of the billing cycle; [.]**

iii. **Any change in the periodic interest rate shall correspond to the movement of the market interest rate index specified in the agreement, which index shall be readily verifiable by the borrower and beyond the control of the lender. The borrower's written consent shall be required to change the index so specified to a different index and such consent shall not be effective unless the lender has plainly disclosed to the borrower in writing the reasons for the change and the effects such a change will have upon the borrower's account; and**

iv. **A change in the periodic interest rate may be permitted to apply to any then-outstanding unpaid indebtedness in the borrower's account including any indebtedness which shall have arisen from advances obtained prior to the effective date of the change, provided that fact is clearly and conspicuously disclosed in the agreement;**

[2. The bank, savings bank or savings and loan association may apply any changes made pursuant to (a) 1 above to all then outstanding indebtedness in the borrower's account including any indebtedness which shall have arisen from advances obtained prior to the effective date of the change of the periodic interest rates or required minimum periodic installment.]

3:1-14.4 Notification of changes

[(a)] The [bank, savings bank or savings and loan association] **lender** shall notify each affected borrower or any change in the manner set forth in the agreement governing the plan and in compliance with the requirements of the Truth in Lending Act and regulations promulgated thereunder, as in effect from time to time, if applicable. [; provided, however, that if such change has the effect of increasing the interest rate or other charges to be paid by the borrower, the bank, savings bank or savings and loan association shall mail or deliver to the borrower at least 15 days

before the effective date of the change a clear and conspicuous written notice which shall describe the change and the existing term or terms of the agreement affected by the change and shall also set forth the effective date and an explanation, if necessary, of the change.

(b) No notice of a change is required under (a) above if a change in interest rate is made under a properly disclosed variable rate plan that ties the interest rate change to an index or formula.]

3:1-14.5 Interest

No interest shall be paid, deducted or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances[, except that interest due but unpaid may be considered part of the unpaid principal balance]. For purposes of computing interest all installment payments shall be applied [no later than the next business day after] on the date of receipt at the designated office or offices of the [bank, savings bank, savings bank or savings and loan association] **lender** as set forth in the agreement, and interest shall be charged for the actual number of days elapsed at a daily rate of 1/365th of the yearly rate.

3:1-14.6 Methods of computing interest

(a) Interest may be computed in each billing cycle by any of the following methods, in accordance with the agreement between the [bank, savings bank or savings and loan association] **lender** and the borrower.

1.-3. (No change.)

(b) For all the methods of computation in (a)[1-3] **1 through 3** above, the billing cycle shall be monthly (except that a month may vary from 27 to 35 days) and the unpaid principal balance on any day shall be determined by addition to any balance paid as of the beginning of that day all advances[, past due interest, and other permissible amounts charged] to the borrower and deducting all payments and other credits made or received that day.

(a)**DIVISION OF BANKING****Action Upon Detection or Discovery of Crime****Proposed Amendments: N.J.A.C. 3:6-4**

Authorized By: Mary Little Parell, Commissioner of Banking.

Authority: N.J.S.A. 17:1-8.1.

Proposal Number: PRN 1987-362.

Submit comments in writing by October 8, 1987 to:

Roger F. Wagner
Deputy Commissioner
Division of Banking
CN040

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department proposes to amend N.J.A.C. 3:6-4, rules adopted on September 20, 1961, which require banks and savings banks to notify the Commissioner of Banking upon the detection or discovery of any apparent criminal act involving or affecting the funds of such institutions, whether by insiders or those outside the institution.

N.J.A.C. 3:6-4.1, recodified as 3:6-4.2, is proposed to be amended to extend the requirements for the prompt notification to the Commissioner of instances where the apparent crime against the bank or savings bank involves a director or attorney of the institution. In view of the threat of increasing bank losses, particularly through crime involving "insiders", this proposed amendment enhances the ability of the Department to monitor, and to act to reduce losses to banks through criminal activity.

The proposal also modifies the minimum dollar amount for triggering the filing of a notice. In instances involving crimes against the bank or savings bank on the part of any employee or agent of the institution, those acts involving an actual or probable loss of \$1,500 or less are exempt from the notification requirements (see proposed new rule N.J.A.C. 3:6-4.3). In instances involving crimes against the bank or savings bank by those outside of the institution (that is, other than an officer, director, attorney, agent or employee) the present potential loss threshold of \$500.00 or more for triggering the filing of a notice is amended to an amount which is in excess of \$2,500 (see proposed amendment of N.J.A.C. 3:6-4.5).

Proposed new rule N.J.A.C. 3:6-4.1 sets out the intended scope and purpose of this subchapter.

These amendments to the potential loss threshold for the required filing of a notice makes the State's notice requirements much the same as those requirements imposed by Federal regulations. Moreover, the Department's internal review indicates that notification of crimes involving lesser amounts can be eliminated with no appreciable detractors in the value of the collected data. As such, the implementation of the revised potential loss thresholds for triggering the filing of a notice will not limit the ability of the Department of Banking, in the course of exercising its supervisory responsibilities and in the interest of safety and soundness, to monitor and to act to reduce losses to banks and savings banks through criminal activity.

Social Impact

Inasmuch as these amendments will in large part benefit the State's banking institutions by deleting certain reporting requirements, the adoption of the amendments will not affect the public at large.

Economic Impact

The proposed amendments will not have a significant negative impact upon the State's banks or savings banks. Inasmuch as the amendments would require each bank and savings bank to report crimes committed by a director or attorney of the institution, the additional burden will not be of any economic significance as the institutions concerned are presently required by Federal regulations to report all such criminal acts, regardless of amount, to the Federal Deposit Insurance Corporation and other appropriate authorities. To the extent that these amendments will have any effect, they will reduce the time and paperwork required of both the institutions and the Department of Banking as it relates to the smaller crimes previously reported. This savings of time can be more effectively allocated to other duties and responsibilities required of the Department and the banks and savings banks concerned.

Regulatory Flexibility Statement

Although the proposed rules may affect small businesses as defined in the Regulatory Flexibility Act, P.L. 1986, c.169, the rules will not result in any major change in reporting, recordkeeping or other compliance requirements on any small businesses affected by these rules. The Department believes that the benefits resulting from the amended rules should apply to both small and large businesses alike and will no doubt substantially reduce reporting and recordkeeping requirements.

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

SUBCHAPTER 4. ACTION UPON DETECTION OR DISCOVERY OF CRIME

3:6-4.1 Scope and purpose

The purpose of this subchapter is to reduce losses to banks, capital stock savings banks and mutual savings banks resulting from apparent criminal acts involving or affecting the funds of such institutions through the requirement of prompt reporting of such crimes or attempted crimes. The subchapter also sets the minimum dollar amount for triggering the filing of a notice in instances involving agents, employees and other perpetrators and extends the notice requirements to include any apparent crime against the institution involving a director or attorney of the institution. The fact that a notice is or is not required by this subchapter should not in any case deter the institution from first informing the appropriate authorities by telephone, or other expeditious means, of an apparent crime against the bank, when such action is deemed fitting.

3:6-4.[1]2 Notice of crime by an officer, **director, attorney**, agent or employee

Every bank, **capital stock savings bank** or mutual savings bank of this State shall promptly notify the Commissioner of Banking upon the detection or discovery of any **fraud**, embezzlement, defalcation, misapplication or misuse of the institution's funds on the part of any officer, **director, attorney**, agent or employee of the institution.

3:6-4.3 Exemption from notification requirements

Any **fraud, embezzlement, defalcation, misapplication or misuse of the institution's funds committed by an agent or employee of the bank, capital stock savings bank or mutual savings bank which involves amounts of \$1,500 or less are exempt from the requirements of this subchapter.**

3:6-4.[2]4 Board action on crime

In the event of such **fraud**, embezzlement, defalcation, misapplication or misuse of the institution's funds [on the part of any officer, agent or employee of the institution], the board of directors of the bank or **capital stock savings bank** or the board of managers of the **mutual** savings bank,

shall, [in addition to filing] **promptly file** notice of claim with its insurer [, take whatever action it deems necessary for the best interests of the bank or savings bank].

3:6-4.[3]5 Notice of crime by other perpetrators

In the event of a crime against the bank, **capital stock savings bank** or **mutual** savings bank by one other than an officer, **director, attorney**, or agent or employee of the institution, including crimes in which no immediate loss or any loss is incurred by the bank, **capital stock savings bank** or **mutual** savings bank, the board of directors or managers shall promptly [notify] **report the apparent criminal violation** to the Commissioner of Banking [when the crime involves accounts of \$500.00 or more] **if the suspected criminal activity involves an actual or probable loss in excess of \$2,500.** Appropriate local criminal authorities must be notified in all cases, irrespective of amount.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Relocation Assistance

Lawful Occupancy and Eligibility

Proposed Amendments: N.J.A.C. 5:11-1.2 and 2.1

Authorized By: Leonard S. Coleman, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 20:4-10 and 52:31B-10.

Proposal Number: PRN 1987-358.

Submit comments by October 8, 1987 to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, NJ 08625

The agency proposal follows:

Summary

In its decision in the case of *Haddock et al. v. Department of Community Development, City of Passaic*, A-1908-85T1, decided May 15, 1987 and approved for publication June 5, 1987, the Appellate Division clarified the definition of "lawful occupant" as used in the relocation statutes and also made clear the relationship of occupant culpability for violations to relocation assistance. The court held that whether an occupancy is "lawful" or not depends only upon whether it is recognized by the owner of the property and that an occupancy may therefore be "lawful" even if it involves a code violation, such as violation of a property maintenance code limitation on the number of people allowed to live in a unit. The court further held that tenants are not entitled to relocation benefits if the violation necessitating their eviction is primarily their own fault. The proposed amendments incorporate this holding into the relocation assistance rules. Also deleted is a reference to zoning code enforcement which was inadvertently not deleted along with other such references when zoning code displaces were declared ineligible for assistance in the unreported Appellate Division decision in the 1983 case of *Moran v. Township of Randolph*, A-649-80T2. (The *Haddock* court stated that it expressed no view on whether relocation benefits may be paid when displacement occurs as a result of zoning ordinance enforcement since the issue was not before it.)

Social Impact

The incorporation of this most recent appellate court holding into the rules should reduce the likelihood of relocation assistance being denied when the occupants are "lawful occupants" as defined by the court and thus entitled to assistance. The proposed definition of "lawful occupant" will increase the number of people entitled to relocation assistance while the proposed amendment at N.J.A.C. 5:11-2.1(d) will decrease the number of eligible recipients. The latter amendment clarifies that relocation assistance should be denied to those tenants who are displaced as a result of code violations caused by their own conduct.

Economic Impact

Public entities displacing tenants through code enforcement will be required to compensate "lawful occupants" who have not been the primary causes of the code violations that result in displacement but will

be able to apply a cause standard to deny assistance to those to whom violations are, in fact, primarily attributable. It is unclear at this time if these proposed amendments will increase or decrease the number of tenants compensated for displacement.

Regulatory Flexibility Analysis

This proposal primarily concerns public entities and residential tenants. However, it is possible that a small business that is a commercial tenant may be displaced by code enforcement and, in such case, the principles concerning lawful occupancy and the causing of violations will apply. There is no need for any special provision for small businesses since the principles enunciated by the court must be applied to them.

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

5:11-1.2 Definitions

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

...
"Lawful occupant" means a person whose occupancy of a dwelling unit or property is recognized by the owner and is not the result of a trespass or unauthorized sublease or assignment.
 ...

5:11-2.1 Building, housing and health code enforcement

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

(c) An [owner/occupant] **owner-occupant** who is displaced by health, building[,] or housing [or zoning] code enforcement shall be entitled to the benefits applicable to tenants only.

(d) **No person displaced by code enforcement shall be eligible for benefits if the code violation which resulted in displacement was primarily caused by that person's own conduct.**

(a)

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Rental Surcharge; Low and Moderate Income Split and Income Split of Sale and Rental Housing

**Proposed Repeal and New Rule: N.J.A.C. 5:92-5.14
 Proposed New Rule: N.J.A.C. 5:92-12.11**

Authorized By: Council on Affordable Housing,

Arthur R. Kondrup, Chairman.

Authority: N.J.S.A. 52:27D-301 et seq.

Proposal Number: PRN 1987-347.

Submit comments by October 8, 1987 to:

Douglas V. Opalski, Executive Director
 New Jersey Council on Affordable Housing
 707 Alexander Road
 CN 813
 Trenton, NJ 08625-0813

The agency proposal follows:

Summary

The Council on Affordable Housing, in response to municipal inquiries, has decided to propose new rule N.J.A.C. 5:92-12.11 allowing, but not requiring, municipalities and owners to impose a surcharge on the rents of low and moderate income units when the tenant's income exceeds the income guidelines defining low and moderate income. This new rule is proposed for the limited purpose of retaining low and moderate income units for low and moderate income households. It is not intended to generate a significant flow of dollars for other purposes, nor is it intended to be levied against households minimally above the income guidelines.

The Council is also proposing a new rule designed to clarify the original intent of its rules. Specifically, the Council has decided to repeal the current N.J.A.C. 5:92-5.14 and propose a new rule to recognize that it may not be possible to guarantee an equal split on the rehabilitation of occupied low and moderate income units. In addition, this will clarify that half of the units in each bedroom category of an inclusionary development should be available for low income households.

Economic Impact

The economic impact of proposed new rule N.J.A.C. 5:92-12.11 will be to preserve low and moderate income units for the households for which they were originally intended. The new rule will result in higher rents for households that no longer qualify for housing units due to excessive income. The proposal will be beneficial to municipalities and landlords who will be able to share the increased rents. Proposed new rule N.J.A.C. 5:92-5.14 will have no economic impact since it clarifies the Council's original intent and reflects current policy.

Social Impact

The social impact of N.J.A.C. 5:92-12.11 will be to preserve affordable rental units for low and moderate income households. Proposed new rule N.J.A.C. 5:92-5.14 will have no social impact since it is a clarification of the Council's original intent and will simply reflect the Council's current practice.

Regulatory Flexibility Statement

The proposed rule N.J.A.C. 5:92-12.11, will have a positive impact on small businesses in that owners of rental property may collect increased rents as a household's income exceeds the Council on Affordable Housing guidelines. Due to this positive economic impact, small businesses should not be exempted from the rule. Proposed new rule N.J.A.C. 5:92-5.14 will have no impact on small businesses.

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

5:92-5.14 Low and moderate income split

[Municipal pre-credited final need obligation shall be divided equally between low and moderate income households. Example:

Johnsonville's total obligation includes 299 low income units and 300 moderate income units.]

At least half of all units devoted to low and moderate income households within inclusionary developments shall be affordable to low income households. At least half of all units in each bedroom distribution and half of all rental units shall be available for low income households. To the best extent feasible, at least half of all rehabilitated units shall be for low income households.

5:92-12.11 Rental surcharge

(a) No municipality or owner of a low or moderate income rental unit shall impose a rental surcharge on the tenant of such unit during the initial five years of the tenant's occupancy. Following this five year period, the municipality or owner may, but shall not be required to, monitor income in a manner consistent with the income verification procedures adhered to by the agency administering controls on affordability and/or initial occupancy. If, upon monitoring, the tenant's income exceeds the maximum allowable income for a unit of that bedroom size by more than 40 percent, a rental surcharge may be imposed upon the tenant consistent with the following schedule:

Tenants Income/Maximum Income for Housing Unit	Rental Surcharge (percent)
1.41 through 1.50	10
1.51 through 1.60	20
1.61 or greater	30

(b) Proceeds collected from a rental surcharge shall be shared equally by the municipality and the owner of the low or moderate income rental unit. However, if the municipality has granted tax abatement on the unit, it shall receive 100 percent of the rental surcharge.

(c) Tenants shall be notified by the agency administering controls that their income has increased to the point that a surcharge will be imposed. Such notice shall instruct the tenant that they may appeal the surcharge in writing, based on errors in the monitoring of the tenant's income, to the agency administering controls on affordability within 15 days of such notice.

1. If the tenant registers an appeal in writing, the agency administering controls on affordability shall schedule a hearing to determine if the tenant's income warrants the imposition of a rental surcharge. The agency administering controls on affordability shall notify the tenant and the owner of the rental low or moderate income unit of the date of such hearing at least 14 days prior to such hearing. The tenant shall be required to produce documentation in support of the appeal at the time of the hearing.

2. If the agency administering controls on affordability determines that the rental surcharge may be imposed, the tenant and the owner shall be notified in writing within 15 days of the hearing. The owner may increase

the tenant's rent by the specified amount after providing notice to the tenant as required by either applicable State or municipal law.

3. If the tenant does not appeal the surcharge, the owner may increase the tenant's rent after providing notice to the tenant as required by either applicable State or municipal law.

(d) Following the imposition of a surcharge, the agency administering controls on agency affordability may, but shall not be required to, monitor income annually for the purpose of adjusting rent according to the schedule in (a) above. The adjustment of rent shall occur following procedures consistent with those outlined in (c) above.

(e) Following the imposition of a surcharge, nothing shall preclude a tenant from seeking an annual adjustment in rent based on a decrease in income consistent with the schedule in (a) above and the procedures outlined in (c) above.

EDUCATION

STATE BOARD OF EDUCATION

The following proposals are authorized by the State Board of Education, Saul Cooperman, Secretary.

Submit comments by October 8, 1987 to:
Patricia Joseph, Rules Analyst
Department of Education
225 West State Street
Trenton, New Jersey 08625

(a)

Tuition Public Schools Determining Tuition Rates

Proposed Amendment: N.J.A.C. 6:20-3.1

Authority: N.J.S.A. 18A:1-1, 4-15 and 38-19.

Proposal Number: PRN 1987-363.

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 6:20-3.1 concerning the method of determining tuition rates will eliminate the following inequities in the current rule: the exclusion of attendance officer salary and expenses from the tuition rate; the inclusion of the principal component of the rental payment on a lease purchase agreement for a site or school building in the tuition rate; the calculation of the building use charge on a district-wide basis; the possibility that a district board of education can change yearly from an "actual cost per pupil" basis to a pro rata basis calculation; and the non-existence of a special building use charge for a receiving district boards of education with more than 50 percent of its average daily enrollment from sending district boards of education. The proposed amendments were developed by a tuition study committee which included representatives of both sending and receiving district boards of education.

The proposed amendments permit attendance officer salary and expenses to be included in tuition rates; permit only the interest component of the rental payment on a lease purchase agreement for a site or school building to be included in the tuition rate; require the building use charge to be calculated on debt for the building in which a tuition program is located; prohibit a receiving district board of education from changing from an "actual cost per pupil" calculation to a pro rata basis calculation for tuition rates without the Commissioner's approval; and establish a special building use charge when a receiving district board of education has more than 50 percent of its average daily enrollment from sending district boards of education.

The proposed amendments will improve the method of determining tuition rates by establishing a more equitable calculation process for both sending and receiving district boards of education by eliminating the current inequities.

Social Impact

The proposed amendments will impact nearly all district boards of education in the State, since almost every school district sends or receives some pupils. Except for the consultation process required by the special building use charge amendment, the amendments will not have any significant social impact since the amendments only make improvements to the current tuition rate calculation process for public school districts. The consultation process required by the special building use charge amend-

ment will enable sending and receiving district boards of education for which this amendment is applicable to jointly plan for major repairs and major renewals of furniture, equipment and apparatus in school buildings.

Economic Impact

The proposed amendments will have an overall positive fiscal impact on district boards of education since the amendments improve the tuition rate calculation process. The amendment concerning attendance officer salary and expenses will increase a tuition rate; the amendment concerning rental payments on lease purchase agreements will decrease a tuition rate; the amendment of the method for determining the building use charge will decrease some tuition rates and increase others; prohibiting a district board of education from changing from one method of calculation to another will decrease tuition rates and establishing a special building use charge will increase tuition rates for a few districts. By removing inequities in the current rule, the amendments ensure that sending district boards of education pay a more equitable tuition rate and that receiving district boards of education recover a fair amount for the educational services provided.

Regulatory Flexibility Statement

The proposed amendments impose no reporting, recording or compliance requirements for small businesses. All requirements of the amendments impact upon New Jersey public school districts.

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

6:20-3.1 Method of determining tuition rates

(a) (No change.)

(b) Whenever practicable, the actual amounts expended for each applicable item in the program for which the tuition rate is required, according to the prescribed bookkeeping and accounting system, shall be recorded and used in determining the "actual cost per pupil[.]". **Once having determined to use the actual amount expended for any applicable line item in the program to determine the "actual cost per pupil", a district board of education must request the approval of the Commissioner to change to the pro rata basis described in (c) below. The Commissioner may approve such requests for a change in method if it is apparent from documentation submitted that accounting or recordkeeping problems are the basis of the request.**

(c) Whenever it shall be impracticable to charge the actual amount expended for a particular item in the program for which the tuition rate is being determined, [then] the share of such expenditure for each program shall be determined on a pro rata basis in accordance with the following ratios:

1. Administration: Ratio of number of teachers in each program to total number of teachers of the system.

2. Instruction:

i. Principals' salaries: Ratio of number of teachers in each program to total number of teachers of the system;

ii. Supervisors of instruction: Ratio of number of teachers in each program to total number of teachers of the system;

iii. Teachers' salaries shall be on an actual basis;

iv. Other instructional staff, secretarial and clerical assistants, and other salaries for instruction: Ratio of average daily enrollment in each program;

v. Textbooks, school library and audio-visual materials, teaching supplies, and other expenses: Ratio of average daily enrollment in each program.

3. Attendance and health services: Ratio of average daily enrollment in each program. [Attendance officer salary and expenses shall be excluded.]

4. Transportation curricular activities: Ratio of average daily enrollment in each program. Transportation salaries and other expenses shall be excluded.

5. Operation; salaries and all other costs: Ratio of square feet of floor space used by each program. Such floor space shall not include[.] offices, boiler rooms, corridors[, or] other rooms not used by pupils. Whenever a room shall be used for two or more programs, such square footage shall be prorated as to time devoted to each program.

6. Maintenance; salaries and all other costs: Ratio of square feet of floor space used by each program.

7. Fixed charges: Ratio of average daily enrollment in each program.

Rental on a site or school building acquired by a lease purchase agreement pursuant to N.J.S.A. 18A:20-4.2, except for the portion of the rental which is interest, shall be excluded.

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8. Tuition shall be excluded.
9. Food services; salaries and expenses: Ratio of average daily enrollment in each program.
10. Student body activities; salaries and expenses shall be on an actual basis.
11. Community services shall be excluded.
12. Building use charge: Ratio of square feet of floor space used by each program multiplied by the amount which remains after the following calculation:
- Divide the amount of debt service State support received by the debt service paid for the school year to determine the ratio of State support;
 - Multiply the debt service interest charges paid on debt for the building in which the program is located by the ratio of State support obtained in (c)12i above;
 - Subtract the amount obtained in (c)12ii above from the debt service interest charges paid on debt for the building in which the program is located.
13. Special building use charge:
- Whenever a receiving district receives more than 50 percent of the average daily enrollment in a program for which a tuition rate is being determined, except for special education programs, the receiving district may include the actual amount expended for principal and interest on major repairs and major renewals of furniture, equipment and apparatus for the building in which the program is located, provided that:
 - Such major repairs or major renewals were funded by the issuance of bonds as provided in N.J.S.A. 18A:21-1;
 - The receiving district consulted with each sending district having more than 10 percent of the average daily enrollment in the program for which the tuition rate is being determined prior to taking any action in accordance with N.J.S.A. 18A:24-10 to authorize the issuance of such bonds; and
 - The majority of districts with more than 10 percent of the enrollment in the program has passed a resolution in support of the receiving district's determination to issue such bonds or the Commissioner, after a conference, has approved the proposal for the issuance of such bonds.
 - Receiving districts for which this section is applicable may include the entire rental on a site or school building acquired by a lease purchase agreement pursuant to N.J.S.A. 18A:20-4.2 provided that:
 - The receiving district consulted with each sending district having more than 10 percent of the average daily enrollment in the program for which the tuition rate is being determined prior to entering into the lease purchase agreement; and
 - Each sending district with more than 10 percent of the enrollment in the program has passed a resolution in support of the receiving district's determination to enter into a lease purchase agreement or the Commissioner, after a conference, has approved the proposal to enter into a lease purchase agreement.
- (d)-(f) (No change.)

(a)

STATE BOARD OF EDUCATION
Bureau of Child Nutrition Programs
Policies for Free or Reduced-Price Meals and/or
Free Milk
Proposed Readoption with Amendments: N.J.A.C.
6:79-1.1 through 1.11

Authority: N.J.S.A. 18A:1-1, 4-15, 33-4 and 58-7.1.

Proposal Number: PRN 1987-364.

The agency proposal follows:

Summary

N.J.A.C. 6:79-1, concerning policies for free and reduced price meals and/or free milk expires on February 1, 1988 pursuant to Executive Order No. 66(1978). This proposed amendment and readoption of N.J.A.C. 6:79 will expand and clarify the existing code and is intended to maintain the nutritional and fiscal integrity of school nutrition programs. Federal regulations permit states to further regulate (7 CFR 210.19).

The subchapter contains the following rules which are being readopted:

- 6:79-1.1 Contains applicable definitions.
- 6:79-1.2 Establishes the policy for providing a free and reduced price for meals and milk.
- 6:79-1.3 Establishes statewide eligibility standards.
- 6:79-1.4 Outlines survey requirements.

- 6:79-1.5 Outlines application requirements.
- 6:79-1.6 States participation requirements.
- 6:79-1.7 Establishes nutritional standards.
- 6:79-1.8 Outlines review and evaluation criteria.
- 6:79-1.9 Establishes the maximum per meal charge.
- 6:79-1.10 States the policy for food of minimal nutritional value.

Federal regulations define and prohibit the sale of foods of minimal nutritional value ("junk food") during the lunch periods. Proposed N.J.A.C. 6:79-1.10(a) expands the period of time when these food items are prohibited on the school property to include any time before the end of the last lunch period. Food items considered to be "junk food" are: soda water, water ices, chewing gum and certain candies (hard candy, jellies and gums, marshmallow candies, fondant, licorice, spun candy and candy coated popcorn).

This proposal to readopt the current rules and provide changes will encourage school districts to improve the nutritional value of foods offered outside the food service area and the lunch periods. In addition, the readoption will reinforce nutrition education programs and promote healthful food habits.

The proposed amendments to N.J.A.C. 6:79-1.6 concerning participation in the National School Lunch Program are intended to make district boards of education aware of two of the more important requirements for participation in the National School Lunch Program. The proposed language is taken from the federal regulations concerning this program. The amendments reiterate the federal requirements to maintain a non-profit school food service and to limit net cash resources.

Federal regulations require that accurate counts of meals served to children be reported to the New Jersey State Department of Education for reimbursement. Recent federal audits have found that some school districts have submitted claims for reimbursement using inaccurate meal counts. Specifically, these districts used meal counts taken during the morning homeroom period. These counts did not accurately reflect meals actually served to children. Proposed N.J.A.C. 6:79-1.11 which requires meal counts at the point of service, will assist schools in meeting accountability requirements.

Social Impact

The proposed readoption will assure that all participating district boards of education maintain nutritional integrity and financial accountability of school nutrition programs. Adoption of the proposed amendments will restrict the sale of foods of minimum nutritional value on school property before the end of the last lunch period. Such foods, as defined by the United States Department of Agriculture, for the administration of child nutrition programs, will only be sold after the end of the last lunch period.

Economic Impact

Adoption of the proposed amendments and readoption of existing rules will not increase State or local expenditures. Income derived from the sale of junk food to students during the morning is insignificant and is, for the most part, not a part of normal part of cafeteria revenue. Revenue from such sales is more commonly used to support extra-curricular or other school activities. The requirement to count numbers of meals or milk served at the point of service will ensure that local district boards of education receive accurate federal and state aid for each category of service provided.

Regulatory Flexibility Statement

The proposal imposes no additional reporting or recordkeeping requirements beyond those currently required by federal regulations. School districts will be required to comply with the rules that ban the sale of junk food until the end of the last lunch period. The amendments are not major revisions to existing program rules and will not affect the companies that provide contracted cafeteria services.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 6:79.

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

CHAPTER 79. BUREAU OF CHILD NUTRITION PROGRAMS
SUBCHAPTER 1. [REVISED] POLICIES FOR FREE AND
REDUCED-PRICE MEALS AND/OR FREE
MILK

6:79-1.1 Definitions

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

"Agreement for School Nutrition Programs" [School feeding agreement] means the agreement entered into between the Department and each sponsor pursuant to [7 CFR 210.8.] **regulations promulgated by the federal government.**

"Application" means the notifying letter and application form issued to all parents of students enrolled in school to determine eligibility for child nutrition programs.

"Bureau" means the Bureau of Child Nutrition Programs, which [supervises the national school lunch, school breakfast, special milk, nonfood assistance and special food services] **administers the federal child nutrition program[s]** in the State of New Jersey.

"Department" means the State Department of Education.

"Foods of minimal nutritional value" means those foods contained in the following categories as specified in 7 CFR 210 Appendix B: **soda water, water ices, chewing gum, certain candies: hard candy, jellies and gums, marshmallow candies, fondant, licorice, spun candy and candy coated popcorn.**

"Hours of operation" means from the beginning of the first scheduled meal period until the end of the last scheduled meal period.

"Policy" means the free and reduced-price policy required by [7CFR 245.] **applicable regulations of the United States Department of Agriculture.**

"School" means a school operating under the supervision of a sponsor as defined herein.

"Sponsor" means the school district.

"Survey" means the procedure required of every school and sponsor to determine eligibility of every enrolled student for free and reduced-price meals.

6:79-1.2 Policy

The Bureau shall develop a free and reduced-price policy pursuant to Federal regulations which shall be adopted by all sponsors. This policy shall be signed and returned to the Bureau no later than the end of the second calendar month for which any reimbursement can be claimed for meals served under the child nutrition programs. However, for sponsors starting programs in September, the deadline for submission of the policy shall be September 30. This policy shall become a part of the sponsor's **Agreement for School Nutrition Programs** [school feeding agreement] with the Department [of Education].

6:79-1.3 Eligibility

The Bureau shall [establish] **administer** Statewide eligibility standards for free and reduced-price meals and/or free milk. Such standards shall be used by all sponsors participating in the child nutrition programs.

6:79-1.4 Survey

(a) By [no later than] September 30 of each school year, each school, under the supervision of its sponsor, shall survey the families of the students it has enrolled to determine which [such] students are eligible to receive free or reduced-price meals and/or free milk.

(b) This survey shall be conducted according to procedures required by the Bureau[,] **which shall include,** [including] but not be limited to, the distribution of an application to the family of every student enrolled in the school.

(c) The results of this survey shall be filed with the Bureau [no later than] by October 15 of the school year in which the survey is made.

6:79-1.5 Application

(a) The Bureau shall prepare an application which shall be used by all sponsors participating in the child nutrition programs. A copy of the application used by each sponsor must be filed with the Bureau together with the policy described in N.J.A.C. 6:79-1.2.

(b) Parents shall be given at least two weeks from the date of receipt of the application to complete and submit [such] **the** application to the sponsor[,] who must provide adequate assistance to parents in completing these applications.

(c) Applications in languages other than English must be provided where non-English speaking parents are possible applicants. (An application in Spanish is available upon request from the Bureau.)

(d) Upon receipt of the completed application, the sponsor must determine each student's eligibility for a free or reduced-price meal and/or free milk from the information submitted. Each student shall be offered free or reduced-price meals and/or free milk as soon as eligibility has been determined. If the school has reason to question the information provided, the student affected must continue to receive the free or reduced-price meal and/or free milk until [said information is found to be incorrect by] **completion of** the appeal procedures set forth in the sponsor's policy.

(e) Any school may authorize free or reduced-price meals and/or free milk on the recommendation of a teacher, nurse or other school official,

based on known economic need, in cases where parents will not or cannot apply for free or reduced-price meals **and/or free milk** for their children. The school must complete applications for these students.

6:79-1.6 Participation

(a) Any school in which five percent or more of the school enrollment is found to be eligible for free or reduced-price meals shall offer lunch to all students enrolled in that school.

(b) Any school may participate in the lunch program.

(c) **School food authorities shall maintain a non-profit school food service. All revenues are to be used only for the operation or improvement of the food service.**

(d) **The school food authority shall limit its net cash resources to an amount that does not exceed three months' average expenditures for its non-profit school food service.**

6:79-1.10 Competitive food policy

(a) The sale of extra food items during serving periods shall be restricted to those items recognized as making a significant contribution to the nutritional needs of children.]

(a) **The sale of extra food items of minimal nutritional value on the school property at any time before the end of the last lunch period shall not include those items prohibited by regulations promulgated by the United States Department of Agriculture for the administration of child nutrition programs.**

(b) All income derived from the sale of food and beverage items within a school during the hours when child nutrition programs are in operation must accrue to the accounts of said programs.

6:79-1.11 [Reserved] Meal accountability

Sponsors shall count and record daily, at the point of service, the number of meals or milks served by category (free, reduced price and paid).

ENVIRONMENTAL PROTECTION

The following proposals are authorized by Richard T. Dewling, Commissioner, Department of Environmental Protection and Robert H. Mulreany, Chairman, New Jersey Wastewater Treatment Trust.

(a)

DIVISION OF WATER RESOURCES

Construction Grants and Loans for Wastewater Treatment Facilities

Wastewater Treatment Fund Procedures and Requirements

Wastewater Treatment Trust Procedures and Requirements

Determination of Allowable Costs

Proposed Amendments: N.J.A.C. 7:22-3.4, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.13, 3.32, 4.4, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.13, 4.17, 4.32 and 5.11

Authority: N.J.S.A. 58:11B-1 et seq., the Wastewater Treatment Bond Act of 1985 (P.L. 1985, c.329), and Section 601 of the Water Quality Act of 1987, 33 U.S.C. 1381.

Proposal Number: PRN 1987-367.

DEP Docket Number: 041-87-08.

Submit comments by October 8, 1987 to:

Rachel Lehr, Esq.
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, NJ 08625

The Trust and Department proposals follow:

Summary

The New Jersey Department of Environmental Protection (the "Department") and the New Jersey Wastewater Treatment Trust (the "Trust") are proposing amendments to N.J.A.C. 7:22-3, Wastewater Treatment Fund Procedures and Requirements, N.J.A.C. 7:22-4, Wastewater Treatment Trust Procedures and Requirements and N.J.A.C. 7:22-5, Determination of Allowable Costs.

On February 4, 1987, Congress amended the Clean Water Act, 33 U.S.C. 1251 et seq., by enacting the Water Quality Act of 1987, P.L. 100-4. Section 601 of the Water Quality Act of 1987, 33 U.S.C. 1381,

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provides capitalization grants to the states to be used in state revolving loan funds such as New Jersey's Wastewater Treatment Fund and Wastewater Treatment Trust.

Since N.J.A.C. 7:22-3, 4 and 5 were proposed and adopted prior to the enactment of the Water Quality Act of 1987, they reflect a State funding program separate and distinct from the federal funding program. Section 607(b) of the Water Quality Act of 1987, 33 U.S.C. 1387, gives New Jersey the option of using up to 75 percent of its Federal Fiscal Year 1988 allotment and 100 percent of future fiscal years' allotments in its own wastewater treatment revolving loan fund. As a result of using the federal capitalization grants in the New Jersey Wastewater Treatment Financing Program the need for separate project priority lists, one for the Federal Construction Grants Program and one for the New Jersey Wastewater Treatment Financing Program, is eliminated. Therefore, these amendments to N.J.A.C. 7:22-3, 4 and 5 are required to reflect the fact that only one project priority list will be developed for funding purposes beginning in State Fiscal Year 1989 and future years. The process by which separate federal and State project priority lists were developed in the past is no longer needed and will be eliminated.

The Notice of Project Eligibility ("notice") is being eliminated for the same reasons. The notice was the connection between the State priority list and the Federal priority list and is, therefore, no longer needed. The notice informed a local government unit that it had reached the fundable range on the State list, for example, because the municipalities ahead of them had chosen to wait for a Federal grant. A project might have been number 60 on the Federal list, but number 2 on the State list. Now there will be only one list and fundable projects for a specific year will be identified upon the adoption of a single priority list.

The United States Environmental Protection Agency ("USEPA") requires extensive public participation in the development of a project priority list. Thus the single list will comply with USEPA's extensive requirements and the methodology by which projects are ranked on the project priority list will not be changed. The Department is planning to hold three public hearings on the proposed list throughout the State to provide public notice and the opportunity for public comment on the provisions of the combined federal and State program.

N.J.A.C. 7:22-3.6(b) and 4.6(b) reflect the Department's original intention to disburse money to the local government unit on a grid loan approach whereby interest on the Trust loan would accrue from the date of loan disbursements. Upon further analysis, it became clear that this approach would be very difficult for the local units to administer and would cause programmatic problems for the Trust. The proposed amendment requires the local government unit's total Trust loan amount to be disbursed to a specific project construction subaccount. The interest will begin to accrue as soon as the money is deposited in that subaccount. However, the interest that this account will earn prior to being released to the local government unit pursuant to a payment request will be credited against that local government unit's Trust loan repayments.

N.J.A.C. 7:22-4.6(b) which currently states that "Interest shall accrue from the date of the Trust loan disbursement", is being revised to state that "Interest on the Trust loan shall accrue as stated in the financial plan, submitted pursuant to Section 21 of the Trust Act, N.J.A.C. 58:11B-21." The financial plan is designed to implement the financing of the projects designated on the project priority list approved by the Legislature each year. By citing the financial plan, the Trust retains the flexibility to determine the most appropriate mechanism to transfer loan money from the Trust to the Trust loan recipients. Since a zero percent interest rate is being applied to the Fund loan, no change to N.J.A.C. 7:22-3.6(b) needs to be made. For consistency purposes, however, the Department is proposing that N.J.A.C. 7:22-3.6(b) be amended as well.

N.J.A.C. 7:22-3.8 and N.J.A.C. 7:22-4.8, N.J.A.C. 7:22-3.9 and N.J.A.C. 7:22-4.9 are being changed to reflect a new procedure whereby the local government unit will notify the Department that they will be ready to accept a loan and are prepared to submit all necessary documents on time. This was included in the Notice of Project Eligibility for the State priority list and was built into the Federal priority system. The elimination of the Notice of Project Eligibility and separate priority lists make these amendments necessary.

N.J.A.C. 7:22-3.11(d)20 and 4.11(d)20 are being amended by deleting the old provision which is made unnecessary by the elimination of separate priority lists. A new provision is being added to the application procedures that requires the applicant to inform the Department and the Trust whether or not the local government unit is currently in default on any State loan. This provision already appears at N.J.A.C. 7:22-3.17(a)12 and 4.17(a)12 but the Department wants to make it part of the application process as well.

N.J.A.C. 7:22-3.17(d) is a new provision that was inadvertently left out of the loan conditions when these rules were originally promulgated. This provision states that neither the State of New Jersey nor the New Jersey Wastewater Treatment Trust is a party to any contract funded by this program and requires such a statement to be written into every contract. The identical provision is being added to the Trust rules at N.J.A.C. 7:22-4.17(d).

N.J.A.C. 7:22-5.11 is being amended to make it clear that the bonding costs of the local government unit only are unallowable costs. The intention has always been for the Trust to be able to fund capitalized interest during the construction period. The addition of the words "of the local government unit" in relation to issuance costs as unallowable miscellaneous costs will clarify this point.

Social Impact

The New Jersey Wastewater Treatment Financing Program will continue to assist local government units in achieving water quality standards, thus allowing growth in their communities. The proposed amendments will have no detrimental effect on assisting these communities to achieve their objectives.

Economic Impact

The proposed amendments will have a positive economic impact on the local government units receiving a loan under the New Jersey Wastewater Treatment Financing Program. The program has been established to provide low interest loans to local government units for the construction of wastewater treatment facilities and as a vehicle for using federal funds made available for the same purposes. The infusion of federal funds into the New Jersey Wastewater Treatment Financing Program will provide a stable funding source through State Fiscal Year 1995. Therefore, the program will continue to provide substantial financial assistance to local government units for constructing wastewater treatment facilities.

Environmental Impact

The program will continue to promote an environmentally sound strategy for the treatment and disposal of wastewater necessary for the protection of the public health and safety and the preservation of the State's natural resources.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that these rules will not impose reporting, recordkeeping, or other compliance requirements on small businesses because the regulations only apply to local government units seeking to obtain loans from the New Jersey Wastewater Treatment Trust to finance the construction of wastewater treatment facilities.

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

SUBCHAPTER 3. WASTEWATER TREATMENT FUND PROCEDURES AND REQUIREMENTS

7:22-3.4 Definitions

...
["State Funding List" means the list of projects developed by the Department from the Project Priority List, for approval by the Legislature, which identifies the local government units to receive Fund loans.]
...

7:22-3.6 Terms of the loans from the Wastewater Treatment Fund

(a) (No change.)

(b) The total term of the loans shall be generally 20 years. Repayments shall begin no later than one month after the date of the initiation of operation or final inspection of the wastewater treatment facilities, or four years from date of loan award, whichever occurs first or as indicated in the Fund loan agreement. Thereafter, loan repayments shall be made in accordance with the repayment schedule indicated in the Fund loan agreement. Principal and accrued interest with respect to a particular Fund loan may, however, be prepaid in accordance with the provisions of the relevant Fund loan agreement. [Interest shall accrue from the date of the Fund loan disbursement]. **Interest on the Fund loan shall accrue as indicated in the Fund Loan Agreement.**

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

7:22-3.7 Criteria for project loan priority

(a) Each year, the Division shall develop a Priority System and Project Priority List under the federal grant program for the forthcoming federal Fiscal Year. The Priority System evaluates wastewater treatment projects individually for their anticipated impacts on existing and potential water uses in combination with present water quality conditions. Each year,

the Priority System and Project Priority List shall be the subject of public hearings, including a public comment period. Local government units desiring to be placed on the Project Priority List shall make their request for placement before or during this time. Concurrently, all local government units listed or eligible for listing on the Project Priority List shall be required to advise the Division **in writing** whether they will [continue to pursue federal funding only, or exercise their option to become eligible for a Fund Loan. Those local government units opting for a Fund loan will be ranked in accordance with the Priority System and placed on the State Funding List in accordance with N.J.A.C. 7:22-3.8] **commit to the project document submittal schedule identified in the annual Priority System and Project Priority List proposal.** The following shall be submitted by the authorized representative of the local government unit when requesting placement on the Project Priority List:

1.-3. (No change.)

7:22-3.8 State and federal funding

(a) (No change.)

(b) [Each year local government units shall be required to advise the Division whether they intend to become eligible for a Fund loan or to continue being considered for a federal grant only.] Those local government units exercising their option for a Fund loan shall have their project ranked in accordance with the Priority System [and placed on the State Funding List upon the submittal of their decision]. As part of their decision, local government units shall waive and lose their discretion to accept a federal grant for the two forthcoming federal fiscal years for their project [ranked on the State Funding List] contingent upon the passage of the legislative appropriations act containing the specific project of concern. [Failure of the local government unit to advise the Division of Their decision by the close of the comment period for the proposed Priority System and Project Priority List shall be interpreted as a decision by the local government unit to continue being considered for a federal grant only.]

(c) [Each year those local government units whose project is ranked within the fundable range of the State Funding List shall receive a Notice of Project Eligibility in accordance with N.J.A.C. 7:22-3.9. The Department reserves the right to send a Notice of Project Eligibility to the next highest ranked local government unit(s) as a contingency project(s) in the event the project(s) within the fundable range not proceed as planned.] The decision, whereby local government units waive and lose their discretion to accept a federal grant for the projects for which they exercise their option for a Fund loan, shall become effective only upon receiving legislative approval in the form of an appropriations act. A local government unit whose project is on the project priority [State Funding] list, but is not part of a legislative appropriations act, remains eligible to receive a federal grant for the project.

7:22-3.9 [Notice of project eligibility] **Project bypassing**

[(a) The Department shall send a Notice of Project Eligibility to those local government units whose projects rank high enough on the State Fund List to receive funds. The Department reserves the right to send a Notice of Project Eligibility to the next highest ranked project(s) outside the fundable range to act as a contingency project(s) should the project(s) within the fundable range not proceed as planned. This notice shall not constitute an obligation to provide State funding for the project. However, it shall bind the Department to support the passage of the appropriations legislation including funds for the project. The Notice of Project Eligibility may be sent to any local government unit who is in current default on any State loan. However, unless the Department determines that repayment of the defaulted loan will be received, a Fund loan agreement will not be executed between the Department and the local government unit.]

(a) **Failure of the local government unit to advise the Division, in writing, of their commitment to meet the project document submittal schedule by the close of the comment period for the proposed Priority System and Project Priority List shall result in the bypassing of the project.**

(b) [Local government units receiving a Notice of Project Eligibility shall notify the Department within 45 days of receipt as to their intent to proceed with the project and shall submit to the Department a complete Fund loan application in conformance with N.J.A.C. 7:22-3.11 within the time period specified in the Notice of Project Eligibility. Failure of the local government unit to respond to the Notice of Project Eligibility within 45 days shall be interpreted as a decision by the local government unit to not apply for a Fund loan and shall result in that project being bypassed on the State Funding List.] Failure to submit the complete application within the time period specified [in the Notice of Project

Eligibility] shall result in the Department's [disapproval] **bypass** of the local government unit's Fund loan application unless the Department, at its discretion approves, for good cause, an extension to this period.

(c) Written notice of a bypass [or disapproval] action shall be forwarded to the local government unit by certified mail. As a result of such an action, the project [shall be bypassed] on the [State Funding List] **Project Priority List shall become ineligible to receive a Fund loan in that particular loan funding cycle** which may allow the next highest ranked contingency project to be within the fundable range on the [State Funding List] **Project Priority List.**

7:22-3.10 Pre-application procedures

(a) Local government units are urged to be familiar with the requirements of this subchapter and to contact the Department early in the planning process so that their projects are in a position to proceed (that is, planning and design completed) [at time of Notice of Project Eligibility.] **in a timely manner.** Local government units should be aware that Department approvable plans and specifications are required as part of the application for a Fund loan.

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

7:22-3.11 Application procedures

(a) Each application for a Fund loan shall be submitted to the Department in conformance with the time period specified in the [Notice of Project Eligibility] **Proposed Priority System and Project Priority List** or as otherwise extended by the Department and shall include full and complete documentation and any supplementary materials that an application is required to furnish.

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

(d) The following shall be submitted when applying for a Fund loan:
 1.-19. (No change.)

[20. A statement by the applicant waiving its discretion to accept a federal grant for two consecutive federal fiscal years (pursuant to N.J.A.C. 7:22-3.8);

20. A statement by the applicant indicating whether the local government unit is currently in default on any State loan. A Fund loan agreement will not be executed between the Department and the local government unit unless the Department determines that repayment of the defaulted loan will be received.

21.-22. (No change.)

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

7:22-3.13 Evaluation of application

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

(d) The Division shall promptly notify applicants in writing of any disapproval. A disapproval of an application shall not preclude its reconsideration if resubmitted by the applicant. However, reconsideration of a revised Fund loan application and/or processing of a Fund loan agreement for the project within the current fiscal year may be bypassed, precluding funding of the project until a future fiscal year. Affected applicants shall be notified in writing of such action. As a result of a disapproval and project bypass action, the next highest ranked contingency project on the [State Funding] **Project Priority List** may fall within the fundable range.

7:22-3.17 Loan conditions

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

(d) **Neither the State of New Jersey nor the New Jersey Wastewater Treatment Trust will be a party to any contracts and subcontracts awarded pursuant to this Chapter. All such contracts and subcontracts shall include the following statement:**

"This contract or subcontract is expected to be funded in part with funds from the New Jersey Department of Environmental Protection and the New Jersey Wastewater Treatment Trust. Neither the State of New Jersey, the New Jersey Wastewater Treatment Trust nor any of their departments, agencies or employees is, or will be, a party to this contract or subcontract or any lower tier contract or subcontract. This contract or subcontract is subject to regulations contained in N.J.A.C. 7:22-3.1 et seq., 4.1 et seq., 5.1 et seq., and 9.1 et seq."

7:22-3.32 Preaward costs

(a) The Department shall not award loan assistance for costs incurred for building performed prior to the award of the loan for the project, except:

1. Where the local government unit's project is ranked within and including projects one through 70 on the most currently approved Project Priority List [or has received a Notice of Project Eligibility] **or on an**

appropriations bill providing Fund money for that project and has met the following conditions:

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

SUBCHAPTER 4. WASTEWATER TREATMENT TRUST PROCEDURES AND REQUIREMENTS

7:22-4.4 Definitions

...
 ["State Funding List" means the list of projects developed by the Department from the Project Priority List for approval by the Legislature, which identifies the local government units to receive Trust loans.]
 ...

7:22-4.6 Terms of the loans from the New Jersey Wastewater Treatment Trust

- (a) (No change.)
- (b) The total term of the Trust loans shall not exceed 20 years. Repayments shall begin no later than one month after the date of the initiation of operation or final inspection of the wastewater treatment facilities, or four years from the date of loan award, whichever occurs first or as indicated in the Trust loan agreement. Thereafter, Trust loan repayments shall be made in accordance with the repayment schedule indicated in the Trust loan agreement. Principal and accrued interest with respect to a particular Trust loan may, however, be prepaid in accordance with the provisions of the relevant Trust loan agreement. [Interest shall accrue from the date of the Trust loan disbursement]. **Interest on the Trust loan shall accrue as indicated in the financial plan submitted pursuant to Section 21 of the Trust Act.**
- (c)-(e) (No change.)

7:22-4.7 Criteria for project loan priority

(a) Each year, a Priority System and Project Priority List is developed under the federal grant program for the forthcoming federal Fiscal Year. The Priority System evaluates wastewater treatment projects individually for their anticipated impacts on existing and potential water uses in combination with present water quality conditions. Each year, the Priority System and Project Priority List shall be the subject of public hearings, including a public comment period. Local government units desiring to be placed on the Project Priority List shall make their request for placement in accordance with N.J.A.C. 7:22-3.7 before or during this time. Concurrently, all local government units listed or eligible for listing on the Project Priority List shall be required to advise the Trust **in writing** whether they will [continue to pursue federal funding only, or exercise their option to become eligible for a Trust Loan. Those local government units opting for a Trust loan will be ranked in accordance with the Priority System and placed on the State Funding List in accordance with the N.J.A.C. 7:22-4.8] **commit to the project document submittal schedule identified in the annual Priority System and Project Priority List proposal.**

7:22-4.8 State and federal funding

- (a) (No change.)
- (b) [Each year local government units shall be required to advise the Trust whether they intend to become eligible for a Trust loan or to continue being considered for a federal grant only.] Those local government units exercising their option for a Trust loan shall have their project ranked in accordance with the Priority System [and placed on the State Funding List upon the submittal of their decision]. As part of their decision, local government units shall waive and lose their discretion to accept a federal grant for the two forthcoming federal fiscal years for their project [ranked on the State Funding List] contingent upon the passage of the legislative appropriations act containing the specific project of concern. [Failure of the local government unit to advise the Division of their decision by the close of the comment period for the proposed Priority System and Project Priority List shall be interpreted as a decision by the local government unit to continue being considered for a federal grant only.]
- (c) [Each year those local government units whose project is ranked within the fundable range of the State Funding List shall receive a Notice of Project Eligibility in accordance with N.J.A.C. 7:22-4.9. The Trust reserves the right to send a Notice of Project Eligibility to the next highest ranked local government unit(s) as a contingency project(s) in the event the project(s) within the fundable range not proceed as planned.] The decision, whereby local government units waive and lose their discretion to accept a federal grant for the projects for which they exercise their option for a Trust loan, shall become effective only upon receiving legislative approval in the form of an appropriations act. A local government

unit whose project is on the project priority [State Funding] list, but is not part of a legislative appropriations act, remains eligible to receive a federal grant for that project.

7:22-4.9 [Notice of project eligibility] Project bypassing

[(a) The Trust shall send a Notice of Project Eligibility to those local government units whose projects rank high enough on the State Funding List to receive funds. The Trust reserves the right to send a Notice of Project Eligibility to the next highest ranked project(s) outside the fundable range to act as a contingency project(s) should the project(s) within the fundable range not proceed as planned. This notice shall not constitute an obligation to provide State funding for the project. However, it shall bind the Trust to support the passage of the appropriations legislation including funds for the project. The Notice of Project Eligibility shall not be sent to any local government unit who is in current default on any State loan. However, unless the Trust determines that repayment of the defaulted loan will be received, a Trust loan agreement will not be executed between the Trust and the local government unit.]

(a) **Failure of the local government unit to advise the Division, in writing, of their commitment to meet the project document submittal schedule by the close of the comment period for the proposed Priority System and Project Priority List shall result in the bypassing of the project.**

(b) [Local government units receiving a Notice of Project Eligibility shall notify the Trust within 45 days of receipt as to their intent to proceed with the project and shall submit to the Trust a complete Trust loan application in conformance with N.J.A.C. 7:22-4.11 within the time period specified in the Notice of Project Eligibility. Failure of the local government unit to respond to the Notice of Project Eligibility within 45 days shall be interpreted as a decision by the local government unit to not apply for a Trust loan and shall result in that project being bypassed on the State Funding List.] Failure to submit the complete application within the time period specified [in the Notice of Project Eligibility] shall result in the Trust's [disapproval] **bypass** of the local government unit's Trust loan application unless the Trust, at its discretion approves, for good cause, an extension to this period.

(c) Written notice of a bypass [or disapproval] action shall be forwarded to the local government unit by certified mail. As a result of such an action, the project [shall be bypassed] on the [State Funding List] **Project Priority List shall become ineligible to receive a Trust loan in that particular loan funding cycle** which may allow the next highest ranked contingency project to be within the fundable range on the [State Funding List] **Project Priority List.**

7:22-4.10 Pre-application procedures

(a) Local government units are urged to be familiar with the requirements of this subchapter and to contact the Trust early in the planning process so that their projects are in a position to proceed (that is, planning and design completed) [at time of Notice of Project Eligibility.] **in a timely manner.** Local government units should be aware that Department [approval] **approvable** plans and specifications are required as part of the application for a Trust loan.

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

7:22-4.11 Application procedures

(a) Each application for a Trust loan shall be submitted to the Trust in conformance with the time period specified in the [Notice of Project Eligibility] Proposed Priority System and Project Priority List or as otherwise extended by the Trust and shall include full and complete documentation and any supplementary materials that an applicant is required to furnish.

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

(d) The following shall be submitted when applying for a Trust loan:
 1.-19. (No change.)

[20. A statement by the applicant waiving its discretion to accept a federal grant for two consecutive federal fiscal years (pursuant to N.J.A.C. 7:22-4.8);]

20. A statement by the applicant indicating whether the local government unit is currently in default on any State loan. A trust loan agreement will not be executed between the Trust and the local government unit unless the Trust determines that repayment of the defaulted loan will be received.

21.-22. (No change.)

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

7:22-4.13 Evaluation of application

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

(d) The Trust shall promptly notify applicants in writing of any disapproval. A disapproval of an application shall not preclude its reconsideration if resubmitted by the applicant. However, reconsideration of a revised Trust loan application and/or processing of a Trust loan agreement

for the project within the current fiscal year may be bypassed, precluding funding of the project until a future fiscal year. Affected applicants shall be notified in writing of such action. As a result of a disapproval and project bypass action, the next highest ranked contingency project on the [State Funding] Project Priority List may fall within the fundable range.

7:22-4.17 Loan conditions

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

(d) **Neither the State of New Jersey nor the New Jersey Wastewater Treatment Trust will be a party to any contracts and subcontracts awarded pursuant to this Chapter. All such contracts and subcontracts shall include the following statement:**

"This contract or subcontract is expected to be funded in part with funds from the New Jersey Department of Environmental Protection and the New Jersey Wastewater Treatment Trust. Neither the State of New Jersey, the New Jersey Wastewater Treatment Trust nor any of their departments, agencies or employees is, or will be, a party to this contract or subcontract or any lower tier contract or subcontract. This contract or subcontract is subject to regulations contained in N.J.A.C. 7:22-3.1 et seq., 4.1 et seq., 5.1 et seq., and 9.1 et seq."

7:22-4.32 Preaward costs

(a) The Department shall not award loan assistance for costs incurred for building performed prior to the award of the loan for the project, except:

1. Where the local government unit's project is ranked within and including projects one through 70 on the most currently approved Project Priority List [or has received a Notice of Project Eligibility] or on an appropriations bill providing Trust moneys for the project and has met the following conditions:

i.-iv. (No change.)

2. (No change.)

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

SUBCHAPTER 5. DETERMINATION OF ALLOWABLE COSTS

7:22-5.11 Miscellaneous costs

(a) Allowable miscellaneous costs include:

1. (No change.)

2. The costs of additions to a wastewater treatment facility[ies] that was [were] assisted under the federal Water Pollution Control Act of 1956 (Pub. L. 84-660) or its amendments, or the Wastewater Treatment Bond Act of 1985 (P.L. 1985, c.329) or its amendments, or the New Jersey Wastewater Treatment Trust Act (N.J.S.A. 58:11B-1 et seq.) or its amendments, or the Pinelands Infrastructure Trust Bond Act of 1985. (P.L. 1985, c.302) or its amendments, and that fails to meet its performance standards as specified in the Fund or Trust loan agreement, provided:

i. The project is identified on the [State Funding] Project Priority List as a project for additions to wastewater treatment facilities that has received previous State or federal funds;

ii.-iv. (No change.)

3.-4. (No change.)

(b) Unallowable miscellaneous costs include:

1.-3. (No change.)

4. **Issuance costs and other expenses incidental to the [A]pproval, preparation [, issuance] and sale of bonds, notes or [other forms of indebtedness] obligations of the local government unit** required to finance the project and the interest on them.

5.-12. (No change.)

(a)**Construction Grants and Loans for Wastewater Treatment Facilities****Awarding Contracts for State Assisted Projects to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals****Proposed New Rules: N.J.A.C. 7:22-9**

Authority: N.J.S.A. 58:11B-1 et seq., N.J.S.A. 40:11A-41 et seq., and N.J.S.A. 52:32-17 et seq.

DEP Docket Number: 039-87-08.

Proposal Number: PRN 1987-368.

A public hearing concerning this proposal will be held on:

October 16, 1987 at 10:00 A.M.

Labor Education Center

Rutgers, The State University

Ryderson Lane

New Brunswick, New Jersey

Submit comments by October 19, 1987 to:

Rachel Lehr, Esq.

Office of Regulatory Services

Department of Environmental Protection

401 East State Street

CN-402

Trenton, New Jersey 08625

The Department of Environmental Protection and the New Jersey Wastewater Treatment Trust proposal follows:

Summary

It has long been the policy of the State of New Jersey to promote equal employment opportunity by prohibiting discrimination in employment and by requiring affirmative action in the performance of contracts funded by the State. That policy has been expanded recently by legislation such as the Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses, N.J.S.A. 52:32-17 et seq., Local Public Contract Law, N.J.S.A. 40A:11-41 et seq., and the New Jersey Wastewater Treatment Trust Act, N.J.S.A. 58:11B-1 et seq.

N.J.S.A. 40A:11-41 et seq. permits local government units to establish programs that require that a certain percentage of the contracts awarded by counties and municipalities be set aside and awarded only to small, minority, or women business enterprises. N.J.S.A. 52:32-17 et seq. requires State contracting agencies to establish goals for setting aside a certain percentage of their contracts for minority, female and small businesses. The New Jersey Wastewater Treatment Trust Act, N.J.S.A. 58:11B-26, requires that at least ten percent of all contracts for construction, materials and services be awarded to small business enterprises owned and controlled by socially and economically disadvantaged individuals as defined in section 8(a) and 8(d) of the Small Business Act, 15 U.S.C. 637(a) and (d). The Federal Government has encouraged the participation of minority and women businesses on federally assisted projects since 1971 through the Office of Management and Budget ("OMB") Circulars, Executive Orders, and since 1982 through promulgated regulations in 40 CFR Part 33.

The proposed new rules in this subchapter are jointly promulgated by the New Jersey Wastewater Treatment Trust (the "Trust") and the Department of Environmental Protection (the "Department") to implement this policy and shall apply to wastewater treatment projects receiving State financial assistance pursuant to N.J.A.C. 7:22-3.1 et seq., 7:22-4.1 et seq. and 7:22-6.1 et seq.

When rules were initially promulgated for the construction of wastewater treatment facilities using funds from the New Jersey Wastewater Treatment Fund ("the Fund"), N.J.A.C. 7:22-3.1 et seq., and from the Trust, N.J.A.C. 7:22-4.1 et seq., on January 5, 1987 and when rules for using funds from the Pinelands Infrastructure Trust Fund, N.J.A.C. 7:22-6.1 et seq., were promulgated in May 1987, provisions were adopted that require that not less than 10 percent of the total amount of all contracts for building, materials or services for a project be awarded to small business concerns owned and controlled by socially and economically disadvantaged individuals ("SEDs"). See N.J.A.C. 7:22-3.17(a)24, 4.17(a)24, and 6.17(a)24. Rules requiring the designation of a public agency compliance officer by the local government unit and the submission of a procurement plan for implementation of the ten percent SED participation requirement with the loan application were adopted at N.J.A.C. 7:22-3.17(a)22 and 23, 4.17(a)22 and 23, and at 6.17(a)22 and 23. The purpose of this proposed new subchapter is to provide a procedure that not only encourages, but also requires, the local government unit to begin to plan its strategy for fulfilling the SED participation requirement at the earliest possible stage in the process, not when it is no longer possible to fulfill because construction of the facility is almost completed. The proposed new rules establish a step by step procedure which will make fulfilling the SED participation requirement as simple as possible. The penalties for noncompliance with this loan condition have already been adopted. They are the same actions that will be taken for failure to comply with any of the other loan conditions and can be found at N.J.A.C. 7:22-3.39 through 3.44, 7:22-4.39 through 4.44 and 6.39 through 6.44.

The Department of Commerce and Economic Development ("Commerce") will certify women and minority businesses pursuant to the New Jersey Uniform Certification Act, P.L. 1986, c.195, after July 1, 1988. Until that program is set up, Commerce will approve and register, rather than certify, these business concerns. The Department's own Office of Equal Employment Opportunity and Public Contract Assistance ("Office") shall determine the eligibility of a business concern to be designated a SED according to the definitions of small, and socially and economically disadvantaged as defined in the Small Business Act, 15 U.S.C. 637(a) and (d).

The local government unit may set aside ten percent of the contracts for the construction of its wastewater treatment project right at the start to be bid upon only by SEDs, or it may invite bids from all interested contractors with the understanding that the contractor will be responsible for subcontracting ten percent of the project to SEDs and thereby fulfilling this requirement.

Socially and economically disadvantaged individuals shall include women, Black Americans, Hispanic Americans, Native Americans, Asian Americans, and members of other groups, or other individuals, found to be socially and economically disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended, 15 USC 637(a)).

N.J.A.C. 7:22-9.3 requires the ten percent SED utilization requirement to be accomplished either by restricting bids on certain contracts by setting them aside and inviting and accepting bids only from SEDs or by soliciting bids on an unrestricted basis but including a statement in the bid documents to the effect that the successful bidder must fulfill the SED utilization requirement by subcontracting portions of the work to SEDs.

N.J.A.C. 7:22-9.4 requires each local government unit to develop a plan for achieving its SED utilization requirements. No loan application will be approved unless this plan is submitted for approval at the same time as the loan application. All contractors, including SED contractors, will in turn have to submit their own SED utilization plan for the aspects of the project covered by the contract, to the local government unit and to the Office within thirty days of the awarding of a contract.

N.J.A.C. 7:22-9.5 describes bidding on a contract that has been designated a set aside contract. Such designation shall be made prior to any notice and advertisement for bids. Once designated, the notices and advertisements for bids shall indicate that the contract is a set aside.

N.J.A.C. 7:22-9.6 requires all local government units, 30 days prior to public advertisement for bids, to notify the specific offices in contact with SEDs of the availability of opportunities for SEDs to bid on a project.

N.J.A.C. 7:22-9.7 establishes the requirements for advertising for SED participation. All advertisements, or invitations to bid, must include a statement to the effect that the project or contract is funded in part by New Jersey wastewater treatment financing programs and that the bidder must comply with the provisions of N.J.A.C. 7:22-9.1 et seq. Advertisements must indicate whether the bidding will be on a set aside or on an unrestricted basis whereby the successful bidder must fulfill the SED utilization requirements, and it must describe how and when registration or certification as a minority or female business may be accomplished, if it has not been already. The local government unit must provide copies of SED responses received by the offices specified to all contractors bidding on unrestricted contracts. If there are no responses from SEDs, the successful bidder must advertise and continue the search for SED participants for a minimum of 30 days after the contract is awarded.

N.J.A.C. 7:22-9.8 allows the cancellation of the set aside designation for a contract when it has been determined that two bids from an appropriate business enterprise cannot be obtained.

N.J.A.C. 7:22-9.9 specifies that when a contract has been designated a set aside contract acceptance of bids will be confined to those business concerns that meet the qualifications for SEDs.

N.J.A.C. 7:22-9.10 states that when it is determined that acceptance of the lowest responsible bid on a set-aside contract will result in either the payment of an unreasonable price or in some violation of law, all bids will be rejected and describes the necessary steps to be taken.

N.J.A.C. 7:22-9.11 establishes the responsibilities of the public agency compliance officer, which include coordinating SED utilization efforts on a project, monitoring and enforcing compliance and attending construction progress meetings.

N.J.A.C. 7:22-9.12 requires periodic reports to be submitted to the Office by the public agency compliance officer on behalf of the local government unit and lists the information that must be included in the reports.

N.J.A.C. 7:22-9.13 establishes the procedures for a review by the Office of the reasons for noncompliance when a local government unit is failing to meet its SED utilization requirement and of the efforts made by the local government unit to fulfill the provisions of its plan.

N.J.A.C. 7:22-9.14 states that the penalties for noncompliance with this loan condition are the same as for any of the other conditions of the loan found in N.J.A.C. 7:22-3.40 through 3.44, 7:22-4.40 through 4.44 and 7:22-6.40 through 6.44.

N.J.A.C. 7:22-9.15 provides for administrative hearings when an issue is raised by the local government unit and all efforts at settlement have failed.

Social Impact

The State must insure that a fair share of the contracts funded by State loans are awarded to small, female, and minority owned businesses. The proposed new rules will provide the guidelines for a fair and broad distribution of contracts among many small, female and minority business concerns rather than all of the contracts and all of the profits going to the same few large companies all of the time. The social impact of these rules can only be positive.

Economic Impact

The Department of Commerce and Economic Development will incur additional expenses as a result of its statutory responsibility to certify minority and women businesses.

There will be an additional but minimal expense incurred by the Department of Environmental Protection (the "Department"), by the local government units and by the contractors as a result of the reporting requirements. The Department will incur additional expenses by providing the reporting forms, by providing guidance in general and in monitoring for compliance. The local government unit may incur additional expenses through the necessity of appointing a public agency compliance officer, and developing a SED utilization plan as well as by complying with the reporting requirements.

The price of constructing a wastewater treatment facility may possibly be slightly higher if the SEDs cannot perform for as low a price as a contractor whose business concern is so large that it is dominant in its field. This negative impact, if it occurs, will be offset by the positive impact that will be the result of an increase in the number of successful small businesses owned and controlled by socially and economically disadvantaged individuals. Eventually, as there are more and more prospering business concerns submitting contract bids, lower overall cost for constructing a wastewater treatment facility may be realized through increased competition.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that these rules impose on eligible small businesses only the necessity of being registered and certified by the Department of Commerce and Economic Development as minority or female businesses pursuant to N.J.S.A. 52:32-17 et seq. and the New Jersey Uniform Certification Act, N.J.S.A. 52:27H-21.17. This slight imposition is more than offset by the opportunity for small business concerns owned and controlled by socially and economically disadvantaged individuals to be awarded ten percent of the total amount of all contracts for building, materials and equipment, or services for the construction of a wastewater treatment project receiving financial assistance from the Department or the Trust.

Full text of the proposed new rules follows:

SUBCHAPTER 9. AWARDING CONTRACTS FOR STATE ASSISTED PROJECTS TO SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS

7:22-9.1 Scope and purpose

(a) This subchapter establishes procedures for providing opportunities for socially and economically disadvantaged ("SED") contractors and vendors to supply materials and services under State financed construction contracts for wastewater treatment facilities. To implement the policies established in N.J.S.A. 58:11B-26, N.J.S.A. 40:11A-41 et seq., and N.J.S.A. 52:32-17 et seq., this subchapter applies to wastewater treatment projects receiving financial assistance from the New Jersey Department of Environmental Protection and the New Jersey Wastewater Treatment Trust pursuant to N.J.A.C. 7:22-3.1 et seq., 7:22-4.1 et seq. and 7:22-6.1 et seq. Under the provisions of N.J.A.C. 7:22-3.1 et seq., 7:22-4.1 et seq.

and 7:22-6.1 et seq., the Department and the Trust require recipients of Trust and Fund loans to establish such programs for socially and economically disadvantaged small business concerns, to designate a public agency compliance officer, and to submit to the Department and Trust procurement plans for implementing the SED program. In addition, N.J.A.C. 7:22-3.17(a)24, 7:22-4.17(a)24 and 7:22-6.17(a)24 provide that not less than ten percent of the total amount of all contracts for building, materials and equipment, or services for a construction project shall be awarded to small business concerns owned and controlled by socially and economically disadvantaged individuals. Where a local government unit has a SED participation goal which exceeds ten percent of the total amount of all contracts, the local government unit's goal shall take precedence.

(b) This subchapter also establishes the standards and procedures that will apply to the contracting agencies of grant or loan recipients in the awarding and making of contracts under their SED programs.

7:22-9.2 Definitions

"Building" means the erection, alteration, remodeling, improvement or extension of a wastewater treatment facility.

"Construction" includes, but is not limited to:

1. The preliminary planning to determine the economic and engineering feasibility of wastewater treatment facilities, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, design, plans, working drawings, specifications, procedures, and other action necessary for the construction of wastewater treatment facilities;

2. The purchase of land that shall be an integral part of the treatment process or used for the ultimate disposal of residues resulting from such treatment; the erection, building, alteration, remodeling, improvement, or extension of wastewater treatment facilities; and

3. The inspection and supervision of the building of wastewater treatment facilities.

"Contract" means any written agreement with a professional service or construction contractor related to the construction of a wastewater treatment project.

"Contracting agency" means the governing body of a local government unit or any department, branch, board, commission, committee, authority, agency or officer of such local government unit possessing the authority to award and make contracts.

"Contractor" means any party entering into a contract to provide or offering to provide building, materials and equipment, or services to a local government unit for the construction of wastewater treatment facilities. This includes but is not limited to planning and design, as well as building related services such as engineering, inspection and accounting.

"Contractor's plan" means the SED utilization plan submitted by the contractor to the local government unit and to the Department establishing subcontracting opportunities that will fulfill the requirements of this subchapter.

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

"Financial agreement" means the legal instrument, including a grant agreement or loan agreement, executed between either the State of New Jersey or the New Jersey Wastewater Treatment Trust and the local government unit for the construction of wastewater treatment facilities.

"Local government unit" means a county, municipality, municipal or county sewerage or utility authority, municipal sewerage district, joint meeting or other political subdivision of the State authorized to construct and/or operate wastewater treatment facilities.

"New Jersey wastewater treatment financing program" means the New Jersey Wastewater Treatment Trust, the New Jersey Wastewater Treatment Fund and/or the Pinelands Infrastructure Trust Fund providing loans or grants for the construction of a wastewater treatment facility pursuant to the Wastewater Treatment Bond Act of 1985, P.L. 1985, c.329, the New Jersey Wastewater Trust Act, N.J.S.A. 58:11B-1 et seq., the Pinelands Infrastructure Trust Act, P.L. 1985, c.302, and the rules promulgated pursuant thereto, N.J.A.C. 7:22-3.1 et seq., 7:22-4.1 et seq., and 7:22-6.1 et seq.

"Office" means the Office of Equal Opportunity and Public Contract Assistance of the Department of Environmental Protection.

"Project" means the defined services for the construction of specified operable wastewater treatment facilities as approved by the Department in the local government unit's financial agreement.

"Project plan" means the proposal submitted at the time of application by the local government unit to the Department establishing the SED utilization plan and its requirements.

"Public agency compliance officer" means an officer or employee of the local government unit, who may be an existing officer or employee, who is designated by the local government unit to monitor and enforce compliance with the affirmative action and SED requirements of N.J.A.C. 7:22-3.1 et seq., 7:22-4.1 et seq. and 7:22-6.1 et seq. and this subchapter.

"SED utilization plan" means a written document outlining the entire project work, the estimated length of time it will take to complete the project, each significant segment of the project on which SEDs will or may participate, and a description of how SEDs will be contacted.

"Set-aside contract" means:

1. A contract for building, materials and equipment, or services, which is designated as a contract for which bids are solicited on a restricted basis such that responses will be accepted only from qualified small business enterprises owned and controlled by socially and economically disadvantaged individuals; or

2. A portion of a contract when that portion has been so designated; or

3. Any other purchase or procurement so designated.

"Socially and economically disadvantaged small business concern" or "SED" means any small business concern:

1. Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; or, in the case of a joint venture, at least 51 percent of the beneficial ownership interests are legitimately held by SEDs; and

2. Whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals; and

3. Which, prior to July 1, 1988, has been approved by and registered with the New Jersey Department of Commerce and Economic Development pursuant to the Set-Aside Act for Small Businesses, Female Businesses and Minority Businesses (N.J.S.A. 52:32-17 et seq.) and, on or after July 1, 1988, has been certified by the New Jersey Department of Commerce and Economic Development pursuant to the New Jersey Uniform Certification Act (P.L. 1986 c.195), as an eligible minority business or female business.

i. "Socially disadvantaged individuals" means those individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

ii. "Economically disadvantaged individuals" means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

iii. "Socially and economically disadvantaged individuals" shall include women, Black Americans, Hispanic Americans, Native Americans, Asian Americans, and members of other groups, or other individuals, found to be socially and economically disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 USC 637(a)). Black Americans, Hispanic Americans, Native Americans and Asian Americans shall be defined as follows:

(1) "Black American" means a person having origins in any of the black racial groups in Africa;

(2) "Hispanic American" means a person of Spanish or Portuguese culture, with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;

(3) "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, Indian Subcontinent, Hawaii, or the Pacific Islands;

(4) "Native American" means a person having origins in any of the original peoples of North America.

"Small business concern" means a business which is independently owned and operated and which is not dominant in its field of operation. A business if independently owned and operated if the management which controls the business is responsible for both its daily and long term operations.

"Subcontract" means an agreement to perform a portion of a contract.

"Subcontractor" means a third party that is engaged by the contractor to perform part of the work under a subcontract.

"Trust" means the New Jersey Wastewater Treatment Trust established pursuant to the New Jersey Wastewater Treatment Trust Act, N.J.S.A. 58:11B-1 et seq.

"Wastewater treatment facilities" means, but is not limited to any equipment, plants, structures, machinery, apparatus, land that shall be an integral part of the treatment process or used for the ultimate disposal of residues resulting from such treatment, or any combination thereof, acquired, used, constructed or operated by or on behalf of a local government unit for the storage, collection, reduction, recycling, reclamation, disposal, separation or other treatment of wastewater, wastewater sludges and septage or industrial wastes, including but not limited to, pumping and ventilating stations, treatment systems, plants and works, connections, extensions, outfall sewers, combined sewer overflows, intercepting sewers, trunk lines, sewage collection systems, storm water run-offs collection systems and other equipment, personal property and appurtenances necessary thereto.

7:22-9.3 SED utilization requirements for projects

(a) Not less than ten percent of the total amount of all contracts for building, materials and equipment, or services for a project funded by a New Jersey wastewater treatment financing program shall be awarded to SEDs.

(b) The ten percent SED utilization requirement shall be accomplished by the following:

1. Bids may be solicited on a restricted basis by setting aside a contract or subcontract for building, materials and equipment, or services. Once so designated, bids on a set aside contract shall be invited and accepted only from SEDs; or

2. Bids may be solicited on an unrestricted basis and not designated a set-aside contract. The bid documents, however, shall include a statement to the effect that the successful bidder must fulfill the SED utilization requirements by subcontracting portions or the work to SEDs; or

3. Contractors also have the option of establishing set-aside or unrestricted bidding procedures, or both, to fulfill the ten percent SED utilization requirement for the project.

7:22-9.4 Requirement to develop SED Utilization Plan

(a) Each local government unit shall develop, in consultation with the Office, a plan for achieving its SED utilization requirements. Development of a plan shall be completed before the Department and, when relevant, the Trust may approve an application pursuant to N.J.A.C. 7:22-3.13, 7:22-4.13 and 7:22-6.13.

(b) The project plan shall identify those contracts proposed to be bid on a restricted (that is, a set aside contract) or on an unrestricted basis, or both. For each unrestricted contract the plan shall also identify the SED utilization requirements that the successful bidder shall meet.

(c) All contractors, including SED contractors, shall submit their own SED utilization plan ("contractor's plan"), for the aspects of the project covered by the contract, to the local government unit and to the Office within 30 days of the awarding of a contract. The Contractor's Plan shall contain provisions to meet the specific SED utilization requirements imposed upon the contractor by the local government unit as well as to meet the general SED utilization requirements for the project pursuant to N.J.A.C. 7:22-9.1 et seq.

(d) If the contractor does not comply with N.J.A.C. 7:22-9.3(a), the Department and, in the case of a Trust loan, the Trust, may take any of the actions or combinations thereof specified in N.J.A.C. 7:22-3.40 through 3.44, 7:22-4.40 through 4.44 and 7:22-6.40 through 6.44.

(e) Local government units, contractors, and the Office shall consider factors similar to those set forth in N.J.A.C. 17:12-6.11 implementing the State Set-Aside Act when developing SED utilization plans.

7:22-9.5 Bidding for contracts or subcontracts through set-asides

(a) The ten percent SED utilization requirement established by N.J.A.C. 7:22-9.3(a) may be attained by requiring that a contract or a subcontract shall be set aside for bidding only by qualified small businesses owned or controlled by socially or economically disadvantaged individuals ("SEDs") whenever there is a reasonable expectation that at least two bids will be obtained from such enterprises at a fair and reasonable price. A fair and reasonable price will be determined by comparison to other estimates received for the same work.

(b) Designation of set aside contracts shall be made prior to any notice and advertisement for bids. Once designated, the notices and advertisements for bids shall indicate that the contract or subcontract to be awarded is a set aside for qualified small businesses owned or controlled by socially and economically disadvantaged individuals ("SEDs").

(c) The provisions of (a) above and 7:22-9.8(a) requiring at least two bids to be obtained from qualified SEDs shall not apply to set-aside contracts for professional services and extraordinary unspecifiable services pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and (ii), in which case a contract may be awarded to a qualified SED pursuant to N.J.S.A. 40A:11-5(1)(a)(i) or (ii).

7:22-9.6 Notice of SED utilization opportunities

(a) All local government units, 30 days prior to public advertisement for bids, shall notify the agencies specified in N.J.A.C. 7:22-9.13(b)(8), of the availability of opportunities for SEDs to provide services, to bid on set aside construction contracts or subcontracts, to bid on unrestricted contracts or subcontracts, or to provide any other necessary purchase or procurement. The notice shall include a description of the type and scope of the services involved.

(b) All notices shall include a statement to the effect that the project or contract is funded in part by New Jersey wastewater treatment financing programs and the successful bidder must comply with all the provisions of N.J.A.C. 7:22-9.1 et seq. for the participation of small business enterprises owned and controlled by socially and economically disadvantaged individuals.

7:22-9.7 Advertisements for SED utilization

(a) All advertisements for bids shall include a statement to the effect that the project or contract is funded in part by New Jersey wastewater treatment financing programs and the successful bidder must comply with all the provisions of N.J.A.C. 7:22-9.1 et seq. for the participation of small business enterprises owned and controlled by socially and economically disadvantaged individuals.

(b) The advertisement for bids shall indicate that the invitation to bid is on:

1. A set-aside contract or subcontract and that awards will be made, prior to July 1, 1988, only to small business concerns that are approved by and registered with the New Jersey Department of Commerce and Economic Development pursuant to the Set-Aside Act for Small Businesses, Female Businesses and Minority Businesses, N.J.S.A. 52:32-17 et seq. and, on or after July 1, 1988, only to small business concerns that are certified by the New Jersey Department of Commerce and Economic Development pursuant to the New Jersey Uniform Certification Act, P.L. 1986, c.195, as eligible minority businesses or female businesses; or

2. An unrestricted basis whereby the successful bidder must fulfill the SED utilization requirements.

(c) The advertisement for bids shall be in such newspaper or newspapers and other periodicals identified by the agencies specified in N.J.A.C. 7:22-9.13 as will best give notice thereof to appropriate bidders and shall be sufficiently in advance of the purchase or contract to promote competitive bidding. In no case shall the advertisement for bids be published less than 30 days prior to the date fixed for receiving bids on the purchase or contract.

(d) In the case of a set aside contract, the newspaper or newspapers in which the advertisement for bids appears shall be selected by the contracting agency in consultation with the Office.

(e) The advertisement for bids shall also state that a business which is not already registered or certified by the Department of Commerce and Economic Development as a minority or female business, may submit a bid but then must apply to the Department of Commerce and Economic Development in accordance with N.J.A.C. 12A:11-1 for registration or certification as a minority or female business as appropriate, no later than the bid opening date, and in order to be eligible for an award must be registered or certified no later than five working days after the bid opening date. The advertisement for bids shall state that if, for whatever reason, the contracting agency does not receive approval of that bidder from the Department of Commerce within five working days after the bid opening date, the contracting Agency shall reject that bid without any obligation or recourse to the bidder. Pursuant to N.J.A.C. 12A:11-1, firms are required to apply to the Department of Commerce and Economic Development 30 working days prior to receipt of certification.

(f) All local government units shall, during the advertisement phase, provide copies of SED responses received by those agencies specified in N.J.A.C. 7:22-9.13(b)(8), and as outlined in N.J.A.C. 7:22-9.5 to all contractors bidding on unrestricted contracts.

(g) If there are no responses to the bid solicitation from SEDs or if the successful bidder's proposal does not meet the SED utilization requirements, the successful bidder shall advertise and continue the search for SED participants for a minimum of 30 days after the contract is awarded. The contract shall include a provision to this effect.

7:22-9.8 Cancellation of set-aside designation

If, in consultation with the Office, the contracting agency determines that two bids from the appropriate qualified business enterprises cannot be obtained, the contracting agency may withdraw the designation of the set-aside contracts and resolicit bids on an unrestricted basis. The cancelled designation shall not be considered in determining the percentage of the total amount of contracts for a project awarded to SEDs. The project plan shall be modified accordingly.

7:22-9.9 Acceptance of set-aside bids

When a contract or portion thereof has been designated as a set-aside, or when the contractor is required to subcontract a portion of a contract to qualified SEDs, acceptance of set-aside bids shall be confined, prior to July 1, 1988, to small businesses that are approved and registered as minority or female businesses pursuant to the Set-Aside Act for Small Businesses, Female Businesses and Minority Businesses, N.J.S.A. 52:32-17 et seq. by the New Jersey Department of Commerce and Economic Development and on or after July 1, 1988 to small business concerns that are certified as minority or female businesses by the New Jersey Department of Commerce and Economic Development pursuant to the New Jersey Uniform Certification Act, N.J.S.A. 52:27H-21.17.

7:22-9.10 Lowest bid resulting in payment of unreasonable price

(a) If the contracting agency determines that the acceptance of the lowest responsible bid on a set-aside contract will result either in the payment of an unreasonable price or in a contract otherwise unacceptable pursuant to the statutes and rules governing public contracts, the contracting agency shall reject all bids.

(b) Bidders shall be notified of the rejection of all bids, the reasons for the rejection, and the contracting agency's intent to solicit bids for a second time on a set-aside contract.

(c) If the contracting agency determines a second time that the acceptance of the lowest responsible bid on a set-aside contract will result either in the payment of an unreasonable price or in a contract otherwise unacceptable pursuant to the statutes and rules governing public contracts, the contracting agency shall reject all bids and withdraw the designation of the set-aside contract, and shall amend the project plan accordingly.

(d) Bidders shall be notified of the set-aside cancellation, the reasons for the cancellation and the contracting agency's intent to resolicit bids on an unrestricted basis. SEDs may participate in the bidding on an unrestricted basis.

(e) The cancelled solicitation shall not be counted as a set aside for the purpose of obtaining the required ten percent participation by small businesses owned or controlled by socially or economically disadvantaged individuals ("SEDs").

(f) Except in cases of emergency, prior to the final award of the contract the local government unit shall provide an opportunity for an informal hearing on the reasons for the cancellation of the set-aside designation.

7:22-9.11 Public agency compliance officer

(a) Each local government unit shall designate an officer or employee to serve as its public agency compliance officer.

(b) The public agency compliance officer shall be responsible for coordinating SED utilization efforts on the project and for monitoring and enforcing compliance with the affirmative action and SED requirements of N.J.A.C. 7:22-3.1 et seq., 7:22-4.1 et seq. and 7:22-6.1 et seq.

(c) SED utilization requirements shall be an agenda item at all contract award meetings and, wherever applicable, at preconstruction conference meetings regardless of whether a loan agreement has been executed or not. Each local government unit shall be responsible for notifying the Office of the time and place of such meetings.

(d) The public agency compliance officer shall attend all monthly construction progress meetings.

7:22-9.12 Reports

(a) The contracting agency shall submit its planning and design SED utilization report to the Office at the time of filing of its grant/loan application.

(b) Each public agency compliance officer shall submit a periodic report on behalf of the local government unit to the Office according to a schedule announced by the Office. At a minimum, this construction report shall be submitted quarterly; that is, January, April, July and October. This report shall include the following information:

1. The value of each contract and subcontract awarded to SEDs and the total dollar value and number of contracts and subcontracts awarded to SEDs;

2. The percentage of SED utilization in comparison to the cost of each contract, as well as the total percentage of SED utilization (including set aside contracts) in comparison to overall project costs;

3. The types and sizes of the participating SEDs and the nature of the goods and services being provided; and

4. The efforts made to publicize and promote the local government unit's SED utilization plan.

(c) Each public agency compliance officer shall submit the contracting agency's monthly progress reports to the Office.

(d) Contractors shall submit a quarterly construction report to the local government unit and to the Office. The public agency compliance officer may be contacted for assistance if needed.

(e) The report forms required by (a) through (d) above shall be obtained from the Office.

(f) The public agency compliance officer shall submit reports or information in addition to what is required by (a) through (c) above when requested to do so by the Office.

(g) Failure to comply with the reporting requirements of (a) through (d) and (f) above may subject the local government unit to the remedies for noncompliance with State and Trust loan conditions specified in N.J.A.C. 7:22-3.40 through 3.44, 7:22-4.40 through 4.44, and 7:22-6.40 through 6.44.

7:22-9.13 Noncompliance

(a) Where the Office determines that a local government unit has failed or is failing to meet the ten percent SED utilization requirement, the local government unit shall, upon the written request of the Office, submit the following:

1. Advertisements;
2. Signed contracts and subcontracts;
3. Documentation of solicitations of bids from SEDs;
4. Copies of Requests for Proposals;
5. Records of telephone quotations;
6. Established set-aside contracts;
7. Adequate and timely notice for encouraging SED participation; and
8. Proof that the assistance of State Agencies was solicited, including:

Office of Equal Opportunity and
Public Contract Assistance
New Jersey Department of Environmental Protection
440 East State Street
Trenton, New Jersey 08625

Division for the Development of Small Businesses and
Women Businesses and Minority Businesses
New Jersey Department of Commerce and Economic
Development
CN-835
1 West State Street
Trenton, New Jersey 08625

(b) Where the local government unit determines that a contractor has failed or is failing to meet the ten percent SED utilization requirement, the contractor shall, upon the written request of the local government unit submit the documents specified in (a) above.

(c) The Office shall summarize in writing its evaluation of the reasons given for noncompliance and the efforts made by the local government unit or contractor to comply with its plan for achieving the ten percent SED utilization requirement. These findings shall be submitted to the Department and, in the case of a recipient of a Trust loan, to the Trust, who, in conjunction with the Office, shall determine the nature and extent of the local government unit's or contractor's noncompliance.

7:22-9.14 Penalties

Whenever a local government unit or a contractor has failed to comply with the requirements of this chapter, including the ten percent requirement for SED utilization, the Department, or the Department and the Trust, in the case of a Trust loan recipient, may withhold all of the loan money, or a portion thereof, and may take any of the other actions or combinations thereof specified in N.J.A.C. 7:22-3.40 through 3.44, 7:22-4.40 through 4.44 and 7:22-6.40 through 6.44 which are remedies for noncompliance with any of the conditions of a loan.

7:22-9.15 Administrative hearings

(a) The Department and, in the case of a Trust loan, the Trust, shall make a determination regarding all disputes arising under this subchapter. The local government unit shall specifically detail in writing the basis for its appeal. When a local government unit so requests, the Department and/or the Trust shall produce a decision in writing and mail or otherwise furnish a copy thereof to the local government unit.

(b) A local government unit may request an administrative hearing within 15 days of a decision by the Department and/or the Trust. The request for an administrative hearing shall specify in detail the basis for the appeal. Administrative hearings shall be conducted in accordance with the requirements of 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.

(c) Following receipt of a request for a hearing pursuant to (b) above, the Department and/or the Trust may attempt to settle the dispute by

conducting such proceedings, meetings and conferences as deemed appropriate.

7:22-9.16 Severability

If any of the provisions of this subchapter are found to be invalid, the remainder of the provisions of this subchapter shall not be affected thereby.

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

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Fisheries

Proposed Amendment: N.J.A.C. 7:25-18.5

Authority: N.J.S.A. 13:1D-9, 23:2B-6, 23:2B-14; 23:5-24.2; 23:9-115.

DEP Docket Number: 037-87-08.

Proposal Number: PRN 1987-371.

Submit comments by October 8, 1987, to:

Michael P. Marotta, Esq.
New Jersey Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, N.J. 08625

Summary

The proposed amendment changes the starting date of the drifting gill net and anchored gill net seasons from February 1 to February 12 and provides for the use of 2.75 inch stretched mesh netting in the staked gill net fishery as of February 1 rather than March 1. The amendment also corrects a mistake in the original adoption of this rule to change the length of individual drifting gill nets from 20 to 200 fathoms.

Two new provisions proposed at N.J.A.C. 7:25-18.5(g)6vii and viii, provide separate standards for anchored gill nets, including size of net, mesh size and season for use.

A new paragraph is being proposed, at N.J.A.C. 7:25-18.5(g)12ii, which establishes requirements for shad nets in the Hudson River. The season and fees for shad fishing in the Hudson River are set by statute (N.J.S.A. 23:9-115).

Social Impact

It is anticipated that the proposed amendment will result in a positive social impact. That portion of the amendment which changes the drifting gill net and anchored gill net seasons is expected to have little or no effect because this part of the season was specifically intended for shad fishing which traditionally does not begin until the third or fourth week of February. The proposed rule change which will allow the use of small mesh netting in the staked gill net fishery will provide for a new and beneficial winter white perch fishery.

Economic Impact

The adoption of this amendment will have a positive economic impact. The proposed change affects a small gear commercial fishery in the way described in the social impact statement. The set back of the drifting gill net and anchored gill net season will have little or no economic impact. The provision to allow a small mesh fishery in the staked gill net fishery could, however, have a significant, positive, economic impact. It is also anticipated that this proposal will reduce the cost of enforcement during the shad net season.

Environmental Impact

The adoption of this rule is anticipated to have a positive environmental impact by reducing the number of striped bass caught and killed as a by-catch to the shad net fishery prior to the time the shad actually occur on the fishing grounds. The provision to provide for a winter white perch fishery is not anticipated to have any adverse impact upon the status of the white perch population.

Regulatory Flexibility Statement

The Department has determined, pursuant to the Regulatory Flexibility Act (P.L. 1986, c. 169) that the proposed amendments impose no additional reporting, recordkeeping or other requirements upon small businesses. Although the fishermen affected by these amendments may be considered small businesses under the Act, it would serve no useful purpose to exempt small versus large business. Setting uniform shad fish season dates will void confusion in the fishing industry.

Because the shad fishery season does not begin significantly until mid-February the set back of the beginning of the drifting gill net season will have little or no effect upon the industry.

As indicated above, the proposed change which would allow the use of smaller mesh netting for the staked gill net fishery is anticipated to significantly benefit a portion of the industry.

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

7:26-18.5 General net regulations

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

(g) Persons intending to take fish with a net in the marine waters of this State pursuant to N.J.S.A. 23:5-24.2 shall, as required, apply to the [commissioner] **Commissioner** for a license. Upon receipt of the application and the prescribed license fee, the [commissioner] **Commissioner** may, in his or her discretion, issue single season licenses as specified for each net type for the taking of fish with nets only as follows:

1.-4. (No change.)

5. Drifting gill nets shall be used only in the Atlantic Ocean, Delaware Bay, and the tributaries of Delaware Bay. The smallest mesh of any drifting gill net shall be not less than five inches stretched beginning February [1] **12** through February 29 and not less than 2.75 inches stretched beginning March 1 through December 15. These nets shall not individually exceed [20] **200** fathoms in length. Individual drifting gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length beginning February [1] **12** through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15. Drifting gill nets may be used for all species except those specifically protected.

i.-ii. (No change.)

iii. Drifting gill nets shall be used in the Atlantic Ocean only from February [1] **12** through December 15. Drifting gill nets shall not be used in the Atlantic Ocean within 100 fathoms of the marked channel of any inlet;

iv. Drifting gill nets shall be used in the tributaries of [the] Delaware Bay only for the season extending from February [1] **12** through May 15 and July 15 through December 15;

v. Drifting gill nets shall be used in [the] Delaware Bay only from February [1] **12** through December 15. For the purpose of this section, that portion of [the] Delaware Bay defined by the New Jersey-Delaware boundary on the west, Loran C27180 on the east, and Loran C42830 on the north, during the period from May 15th through June 15th, shall be known as the Brandywine Shoal Restricted Area.

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

vi. (No change.)

6. Staked and anchored gill nets shall be used in the Atlantic Ocean, Raritan Bay, Sandy Hook Bay, and [the] Delaware Bay and its tributaries. Staked or anchored gill nets shall not be fastened together to form a series of nets exceeding 400 fathoms in length [beginning February 1] **from the beginning of the season** through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15.

i.-ii. (No change.)

iii. Staked and anchored gill nets may be used in the Atlantic Ocean for any species except those specifically protected only beginning February [1] **12** through December 15, where individual gill net length shall not exceed 50 fathoms. The smallest mesh of any such net used in the Atlantic Ocean shall not be less than five inches stretched beginning February [1] **12** through February 29 and not less than 2.75 inches stretched beginning March 1 through December 15. Staked or anchored gill nets shall not be used in the Atlantic Ocean within 100 fathoms of the marked channel of any inlet;

iv. (No change.)

v. Staked [and anchored] gill nets may be used in the tributaries of Delaware Bay for any species except those specifically protected only beginning February 1 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The [smallest] mesh of any such net used in the tributaries of Delaware Bay shall [not] be [less than five inches stretched beginning February 1 through February 29 and not less than] 2.75 inches stretched beginning [March 1] **February 1 through February 29 and shall not be less than 2.75 inches from March 1 through** May 15 and July 15 through December 15. No net shall be set across any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

vi. Staked [and anchored] gill nets may be used in [the] Delaware Bay for any species except those specifically protected only beginning February 1 through December 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in [the]

Delaware Bay shall [not] be [less than five inches stretched beginning February 1 through February 29 and not less than] 2.75 inches stretched beginning [March 1] February 1 through February 29 and shall not be less than 2.75 inches beginning March 1 through December 15. [Stakes] Staked [and anchored] gill nets shall not be used in that portion of [the] Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v. above;

vii. The use of anchored gill nets is permitted in the tributaries of Delaware Bay for any species, except those specifically protected, only beginning February 12 through May 15 and July 15 through December 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in the tributaries of Delaware Bay shall not be less than five inches stretched beginning February 12 through February 29 and not be less than 2.75 inches from March 1 through May 15 and July 15 through December 15. No net shall be set across any tributary or mouth of any tributary, nor shall any net be set in a manner that impedes navigation;

viii. The use of anchored gill nets is permitted in the Delaware Bay for any species except those specifically protected only beginning February 12 through December 15, where individual gill net length shall not exceed 30 fathoms. The smallest mesh of any such net used in the Delaware Bay shall not be less than five inches stretched beginning February 12 through February 29 and not less than 2.75 inches from March 1 through December 15. Anchored gill nets shall not be used in that portion of the Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v. above;

[vii.]ix. The staked and anchored gill net resident fee shall be \$3.00 per net.

7.-11. (No change.)

12. Shad nets for the Hudson River shall be held in place by either stakes or anchors and shall not exceed 200 fathoms in length. The smallest mesh of any shad net shall not be less than five inches stretched.

i. Shad nets shall be marked at each end with a fluorescent orange float at least 12 inches in diameter or a fluorescent orange flag at least 12 inches square and suspended at least two feet above the mean high waterline.

ii. Shad nets shall be used in the Hudson River for the taking of shad only.

(h) (No change.)

(a)

DIVISION OF SOLID WASTE MANAGEMENT Collector/Hauler Registration and Operating Requirements; Designated Truck Routes Proposed Amendments: N.J.A.C. 7:26-3.2 and 3.4

Authority: N.J.S.A. 13:1D-9 and 13:1E-6.

DEP Docket No. 040-87-08.

Proposal Number: PRN 1987-369.

Submit comments on or before October 8, 1987 to:

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

The agency proposal follows:

Summary

The proposed amendments to the Department's solid waste regulations concerning collector/hauler registration and operating requirements will require that all such registrants and their operators comply with the truck routes specified either in the district's solid waste management plan or in the permit for the particular solid waste facility to which they seek access. This amendment is necessary in order to assure that collector/hauler registrants will utilize truck route designations which are designed to minimize a facility's impact on the area in which it is situated and either have been or will be relied upon in reviewing the environmental impact statement for the facility. Although N.J.S.A. 13:1E-21(b)4 required that all district solid waste management plans contain truck traffic routes some district plans fail to provide such routes for new facilities. This amendment will allow the Department, the counties and the local municipalities to enforce compliance with traffic routes designed to mitigate local traffic impacts while counties correct their plan deficiencies.

Social Impact

The proposed amendment will have a positive social impact on the level of service of various roads in areas in which solid waste facilities are constructed and operated. Truck routes to and from such facilities will be designated and failure by the collector/haulers to follow the designated routes will be a violation of these amendments. The truck routes are generally geared towards avoiding residential and high traffic areas where the presence of additional solid waste truck traffic would have its most negative impact and directing them through the county's major highway network. At the present time these preferred truck routes have been designated and serve as the basis for evaluating the traffic impact of any new facility, however, the Department is not able to require that such routes be utilized.

Economic Impact

The proposed amendment will likely result in net increase in operation and truck maintenance costs for collection/hauling businesses where the use of designated truck routes requires these businesses to take a less direct longer route to and from the solid waste facilities. These additional costs can be mitigated by petitioning the Board of Public Utilities for increased tariffs. Notwithstanding such cost mitigation, the costs are offset by the savings that will result from fewer accidents in residential neighborhoods and less deterioration to many public roads in the area of solid waste facilities. Therefore, this proposed amendment will result in a positive net economic impact.

Environmental Impact

The proposed amendment will help ensure that the acceptability of the impacts of a proposed solid waste facility will be maintained during the operation of the facility. The traffic impact generated by a proposed facility is evaluated in terms of the specific truck route utilized by collector/haulers accessing and exiting the proposed facility. In order to ensure that the evaluated truck routes are followed by the collector/haulers these routes will be specified in the appropriate district solid waste management plan or in the permit of such facilities.

The proposed rule will therefore result in a positive environmental impact by restricting the traffic impacts of a proposed facility to those routes that were reviewed as part of the environmental impact statement process.

Regulatory Flexibility Statement

This proposed amendment would apply to all solid waste collector/haulers registered with the Department who use a solid waste facility for which a truck traffic route has been designated in either the facility's district solid waste management plan or facility permit. It is estimated that of the total number of collector/haulers impacted by this proposal, 85 percent would be small businesses as defined in the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169) and will be impacted. In order to comply with this proposal, the small businesses will have to utilize the truck routes for the facilities they access as specified in the facility's permit, the district solid waste management plan, or both. In doing so, it is unlikely that the affected small businesses will require any new professional services. It is expected that initial capital costs for each small business will be minimal, with annual costs of compliance ranging between no net cost and \$500.00 per vehicle (for the purchase of additional fuel, tires and maintenance).

In developing this proposed amendment, the Department has balanced the need to protect the environment against the economic impact of the proposed rule and has determined that minimizing the impact of the proposed amendment would endanger the public health and safety, and therefore, no exemption from coverage is provided.

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

7:26-3.2 Registration

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

(d) No person shall engage in the collection or haulage of solid waste in this State if such an operation does not meet the collector/hauler requirements listed in this subchapter. In addition, the [operator] **registrant and its operators [must] shall** comply with any other conditions or limitations which may be specified on the approved registration.

(e)-(h) (No change.)

7:26-3.4 Collector-hauler requirements (General)

(a)-(i) (No change.)

(j) All vehicles used for collection or haulage of solid waste shall, except for operations of their collection service routes, access and exit solid waste facilities in accordance with designated truck routes as specified in either the appropriate district solid waste management plan or the permit for the particular solid waste facility.

(a)**DIVISION OF ENVIRONMENTAL QUALITY****Pesticide Control Code****Proposed Readoption: N.J.A.C. 7:30**

Authority: N.J.S.A. 13:1B-3 et seq. and 13:1F-1 et seq., specifically 13:1F-4.

DEP Docket Number: 038-87-08.

Proposal Number: PRN 1987-370.

A public hearing concerning the proposed readoption will be held at 10:00 A.M. on October 8, 1987 at:

Main Conference Room
Bureau of Pesticide Control
380 Scotch Road
West Trenton, N.J. 08628

Submit written comments by October 15, 1987 to:

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

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 7:30-1 et seq. expires on December 5, 1987. The Department has reviewed these rules and has determined that they are necessary, reasonable, and proper for the purposes for which they were originally promulgated.

The Department of Environmental Protection proposes to readopt, without change, the Pesticide Control Code (N.J.A.C. 7:30-1 et seq.) ("Regulations"). The Department finds that the Regulations, which cover the registration of pesticides, the licensing of dealers and applicators and the regulation of pesticide use, continue to be necessary to protect the economy and environment of the State.

The Regulations were based on the U.S. Environmental Protection Agency (EPA) regulations under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. Enforcement was delegated to New Jersey over a period of years (1975-1980) and currently there are no Federal pesticide inspectors in New Jersey. The Department is required to enforce the requirements of FIFRA and is permitted to be more stringent than the FIFRA regulations. The restricted use list and the applicators licensing regulations in particular are examples of more stringent regulations than that required by EPA.

The regulations proposed for readoption consist of the following 10 subchapters:

N.J.A.C. 7:30-1, "Pesticide Product Registration and General Requirements", requires registration of all pesticide products held, used, distributed, sold or offered for sale in the State. This requirement is in addition to registration with the EPA. The subchapter enables the Department to better control and monitor the pesticides currently being used in New Jersey. Copies of product labels are submitted in the registration process and are often used to aid in inspections and investigations.

N.J.A.C. 7:30-2, "Prohibited and Restricted Use Pesticide List", lists the pesticides or pesticide uses which are currently classified as restricted use in New Jersey. This list is in addition to the pesticides which are restricted by the EPA. These pesticides can only be used or purchased by certified and registered pesticide applicators or persons under their direct supervision. Restricted use pesticides can thus be kept out of the hands of untrained persons.

N.J.A.C. 7:30-3, "Pesticide Dealers", requires the certification and registration of persons who sell restricted use pesticides. The subchapter insures that the sale of restricted use pesticides is performed only by trained and certified dealers.

N.J.A.C. 7:30-4, "Pesticide Dealer Businesses", requires businesses that sell restricted use pesticides to register each outlet with the Department and to have a responsible Pesticide Dealer at each outlet. The subchapter requires record keeping and restricts the sale of restricted use pesticides to only registered pesticides applicators.

N.J.A.C. 7:30-5, "Pesticide Operators", requires the registration of persons who apply pesticides under the supervision of a certified, registered applicator. The subchapter requires that these pesticide operators receive training which will enable them to apply pesticides safely and properly.

N.J.A.C. 7:30-6, "Commercial Pesticide Applicators", requires the certification and registration of persons who use or supervise the use of pesticides commercially. The subchapter requires that applicants take both general and specialized examinations in order to become certified, and thus insures that pesticides are applied only by properly trained and certified personnel.

N.J.A.C. 7:30-7, "Pesticide Applicator Businesses", requires that pesticide applicator businesses register each location and each name under which they operate. The subchapter also requires that businesses employ registered commercial pesticide applicators who are certified in each category in which the business conducts applications. Proper record keeping requirements are mandated. These requirements are vital in regulating the pesticide control industry and in maintaining high standards of service and safety.

N.J.A.C. 7:30-8, "Private Pesticide Applicators", requires the certification and registration of persons who use or supervise the use of restricted use pesticides on agricultural land in order to produce an agricultural commodity. Generalized and specialized certification exams are required. Record keeping requirements are mandated. Requiring that persons who apply pesticides, for the purpose of producing an agricultural commodity, receive training in such areas as pesticide handling and safety, regulations, labeling information, harvest intervals and other related topics insures that pesticides are applied to agricultural crops safely and properly.

N.J.A.C. 7:30-9, "Pesticide Exposure Management", deals with topics such as community or areawide applications, pesticide storage, container labeling, pesticide disposal, application and safety equipment, notification, farm worker safety and reporting of pesticide spills. This subchapter is extremely important in that it regulates pesticide use, storage and disposal and emphasizes safety in pesticide handling in order to minimize the exposure of pesticides to the public.

N.J.A.C. 7:30-10, "Pesticide Use", contains information on pesticide use and application, pesticide contamination clean-up and other related topics. The subchapter also serves as a guideline for aerial and termite control applications and is more restrictive than the labels on products used for these purposes. These restrictions have helped to insure the safe and proper use of pesticides in these areas.

The Pesticide Control Council was consulted about the upcoming expiration of the pesticide rules. At their May 14, 1987 meeting, the Council, after discussion, voted five to zero to recommend that the Department readopt the regulations without changes. The Council felt that the rules are essential to protect worker and public health. This vote is reflected in the minutes of that meeting.

Social Impact

The positive social impacts of the pesticides rules have been significant. Public health has been protected from exposure to toxic substances, including carcinogens. Prior to Federal and State regulation, numerous instances of inadvertent harm due to misapplication were documented. These incidents lead to the passage of FIFRA and the New Jersey Pesticide Control Act of 1971, N.J.S.A. 13:1F-1 et seq. Recent changes to the regulations in 1983, 1985, and early 1987, have further defined the correct use of termiticides and other pesticides, and have brought the restricted use list into conformance with current scientific data.

The entire population of New Jersey has been positively benefited by protection of their health. Residues on food, drift from aerial application, contamination of water supplies and dumping of pesticides have all been reduced in New Jersey. Use by homeowners of many pesticides was prohibited for their own protection. Approximately 6,000 licensed commercial applicators, 3,000 operators and 3,000 private applicators have successfully completed the State training program, which is recognized as a national model.

The training program and Department press releases on these rules have helped make the public more safety conscious.

The interested public's reaction to the rules has generally been favorable. Chemical manufacturers, applicators, environmentalists and consumers have differed on specific substances and provisions in the existing rules but there is a general acknowledgement that there is a need for pesticide regulation.

If the rules were not readopted, New Jersey would immediately be out-of-compliance with Federal regulations under FIFRA. Also, public health would needlessly be exposed to risk from improper pesticide use.

Economic Impact

The rules have had a positive economic impact by reducing the number of health problems associated with improper pesticide use. There has also been a decrease in the number of contamination cases requiring expensive clean-up. Proper use of pesticides enables farmers to protect their crops from damage due to agricultural pests. The residents of the State have also been protected from harmful and destructive pests through the proper use of pesticides. All of these positive impacts would be threatened if the rules were not readopted.

Some funding is available from the EPA for enforcing the FIFRA regulations and also from the general treasury through State appropriations. However, the largest portion of the pesticide budget is generated through the rules by registration fees for pesticide products, applicators and applicator businesses which make the pesticide program almost self-sufficient. The economic impact of these registration fees is minimal on the individual registrants.

Environmental Impact

The proposed readoption of the rules will have the positive environmental impact of continuing the regulatory framework necessary to implement the benefits of the New Jersey Pesticide Control Act. In the past, the rules have significantly reduced the threat to public health and the environment from the misapplication and misuse of these inherently dangerous substances.

For example, since implementation of the rules on termiticide use, effective November 4, 1985, there has been a significant reduction in the number of homes contaminated by pesticides, and in the number of cleanup subsequently required (in 1985 approximately 40 cleanups; in 1986, 20 cleanups).

Training and licensing under the continuing registration program have been successful in reducing environmental hazards by making the applicator industry more efficient and aware of potential harm to the environment. There has likewise been an increased public awareness of the need to use pesticides more carefully.

The rules have reassured the public that pesticide applications will be performed properly and only by trained applicators, and that cleanups, where necessary, will be conducted promptly and effectively.

The rules have resulted in the Department of Environmental Protection acquiring better knowledge of the applicators who are operating, and what pesticides are being used. Applicators appear to be more knowledgeable as to procedures, records and storage, based on inspections conducted by the Department since 1976. Environmental monitoring also takes place. For example, random collections of fruits and vegetables from New Jersey farms in 1986, indicated no violative pesticide residues in the samples which were collected. This gives New Jersey consumers confidence in Garden State products.

Regulatory Flexibility Statement

At the present time there are 1,700 applicator businesses, 200 restricted use dealers, 6,000 commercial applicators, 3,000 private applicators and 3,000 operators that are regulated by the Department. Virtually all of the regulated businesses come under the definition of a small business with less than 100 employees. As the Department is seeking to readopt the existing rules no additional compliance, reporting or recordkeeping requirements are being imposed. However, exemption from coverage of the rules would not be feasible because it would endanger public health and the environment through the increased possibility of improper pesticide handling or use.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:30.

HEALTH**(a)****NARCOTIC AND DRUG ABUSE CONTROL****Refilling of Prescriptions for Substances in Schedule III and IV****Proposed Amendment: N.J.A.C. 8:65-7.14**

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner,
Department of Health.

Authority: N.J.S.A. 24:21-9.

Proposal Number: PRN 1987-380.

Submit comments by October 8, 1987 to:

Lucius A. Bowser, R.P., M.P.H.
Chief, Office of Drug Control
CN 362
Trenton, NJ 08625-0362
(609) 984-1308

The agency proposal follows:

Summary

The Department of Health proposes to amend N.J.A.C. 8:65-7.14 to allow additional refills on an original prescription of a practitioner without having to generate a new prescription provided the quantity is the same or less than the original and that the five times, six month limitations on an original prescription is not exceeded from the date of the issuance of the original prescription. This amendment would bring the New Jersey controlled dangerous substances rule into conformity with the Federal regulations as published in the Federal Register at 52 F.R. 3604, effective March 9, 1987.

Presently if a Schedule III or IV prescription does not have authorized refills, the pharmacist may contact the practitioner for additional refills but must treat the authorization as a new prescription. The proposed amendment would allow the new authorized refills to be entered on the original prescription.

Social Impact

The amendment to change the way Schedule III or IV prescriptions may be refilled will have an effect upon the patient because he or she would not have to wait for the pharmacist to prepare a new prescription. The amendment would not seriously affect the manner in which a practitioner prescribes medication as he or she must be contacted any way. The amendment would have an impact upon the pharmacist in that he or she would have a single source document to work with and file.

Economic Impact

The proposed amendment to change the way a prescription for a Schedule III or IV substance may be refilled would have only a slight economic impact upon the patient, physician or pharmacist because of the reduced time it would take to refill a prescription or for the pharmacist to file it. The proposal to amend the controlled dangerous substances rule would not have any negative impact on patient, physician or pharmacist, but it may afford better control over diversion of these substances.

Regulatory Flexibility Statement

Although the proposed amendment to allow for additional refills on an original prescription for medications in Schedule III and IV would affect about 1,700 pharmacies in this State, which could be considered small businesses, the proposal would add no additional paperwork or recordkeeping but would make the refilling of controlled drug prescriptions easier. Since this proposal will assist in the dispensing of medications, no exemption for small businesses would be practical or necessary.

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

8:65-7.14 Refilling of prescriptions; Schedules III and IV

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

[(d) Additional quantities of controlled substances listed in schedule III or IV may only be authorized by a prescribing practitioner through the issuance of a new prescription as provided in section 13 of this subchapter which shall be a new and separate prescription.]

(d) A prescribing practitioner may authorize additional refills of Schedule III and IV controlled substances on an original prescription through an orally transmitted authorization to a pharmacist provided:

1. The total quantity authorized including the original prescription does not exceed five refills or extend beyond six months from the date of the original prescription.

2. The pharmacist obtaining the oral authorization records on the back of the original prescription the date, quantity of refill, number of additional authorized refills and the initials of the pharmacist receiving the authorization.

3. The quantity of each refill authorization is equal to or less than the quantity authorized on the original authorization.

4. Additional quantities of controlled substances listed in Schedule III or IV beyond the five times, six months limitations of the original prescription, may only be authorized by a prescribing practitioner through issuance of a new prescription as provided in N.J.A.C. which shall be a new and separate prescription.

(e)-(h) (No change.)

NEW JERSEY REGISTER, TUESDAY, SEPTEMBER 8, 1987

HIGHER EDUCATION**(a)****BOARD OF HIGHER EDUCATION****State College Personnel System****Proposed New Rules: N.J.A.C. 9:6A**

Authorized By: Board of Higher Education,

T. Edward Hollander, Chancellor and Secretary.

Authority: N.J.S.A. 18A:3-14(h), 18A:64-6(h).

Proposal Number: PRN 1987-357.

Submit comments by October 8, 1987 to:

Grey J. Dimenna, Esq.

Administrative Practice Officer

Department of Higher Education

225 West State Street

CN 542

Trenton, New Jersey 08625

The agency proposal follows:

Summary

P.L. 1986, c.42, (N.J.S.A. 18A:3-14 et seq.), the State College Autonomy Law, provides in part, for the removal of professional members of the academic, administrative and teaching staffs of New Jersey State colleges from the jurisdiction of the Department of Civil Service through Title 11 of the Revised Statutes (now the Department of Personnel and Title 11A of the Revised Statutes). The legislation directs the Board of Higher Education to establish salary ranges, policies and other guidelines with regard to such employees at the State colleges. This proposal sets forth policies with regard to personnel matters for professional employees at the State colleges outside the jurisdiction of Title 11A of the Revised Statutes. The proposed new rules include such areas as: classification, reclassification and reevaluation of titles, appeal procedures, compensation, salary adjustments, sick leave, vacation leave, sick leave injury benefits and equal employment opportunity and affirmative action procedures.

Social Impact

The proposal in many respects maintains the status quo of affected employees with regard to classification, compensation and leave issues. Generally, authority in these areas has merely been shifted, to the Board of Higher Education. Further, much greater flexibility has been granted to the individual State colleges to administer many aspects of these areas on each individual campus.

Economic Impact

The proposal concerns personnel policies and procedures at New Jersey State colleges and does not therefore have any direct economic impact.

Regulatory Flexibility Statement

The proposed new rules do not impose any requirements on small businesses. The proposal only establishes a personnel system for State colleges in New Jersey.

Full text of the proposed new rules follows.

SUBCHAPTER 1. GENERAL PROVISIONS**9:6A-1.1 Purpose**

The purpose of this chapter is to prescribe rules and procedures to provide an effective and efficient personnel system and to ensure that employees are treated fairly and impartially.

9:6A-1.2 Compliance

All state colleges and their employees including but not limited to all faculty, librarians, non-teaching professional staff, managerial employees, part-time employees, and student employees shall comply with these rules; provided, however, that career service employees covered by the provisions of Title 11A, Civil Service, New Jersey Statutes, shall not be subject to these rules.

9:6A-1.3 Severability

If a rule or part of a rule is declared invalid for any reason, the validity of the remainder of the rules in this chapter shall not be affected by such determination.

SUBCHAPTER 2. DEFINITIONS**9:6A-2.1 Definitions**

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

"Academic year" means the period of time commencing as set forth in the official academic calendar adopted by each state college and concluding June 30 of the succeeding calendar year.

"Anniversary date" means the date in each fiscal year on which the individual employee is eligible for consideration for an annual increase to his or her salary based upon length of service and an assessment of performance.

"Classification of position" means the assignment by the college of a position to a title in the State College Classification Plan.

"Classification of title" means the determination of the specification of an individual title.

"Class" or "class of positions" means a position or group of positions sufficiently alike in duties, authority and responsibilities to require similar qualifications and have the same title.

"Class title" means a descriptive name that identifies a class or class of positions.

"Employee" means all employees at a state college not covered by the provisions of Title 11A, Civil Service, New Jersey Statutes, except for student employees.

"Faculty" means any full-time member of the teaching staff appointed with academic rank including faculty at the A. Harry Moore School.

"Fiscal year" means the period of time commencing July 1 of each calendar year and concluding June 30 of the succeeding calendar year.

"Full time employee" means an employee assigned to a title under the State College Classification Plan who meets the standards for exempt status as defined under the Fair Labor Standards Act, 29, U.S.C. 201 et seq.

"Immediate family" means father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, stepchild, foster child, sister or brother of the employee. "Immediate family" shall also include other relatives of the employees residing in the employee's household.

"Librarian" means employees serving in the titles Librarian I, II, and III, which carry concurrent academic rank.

"Managerial employees" means all employees who are not entitled to representation by a negotiations agent under the provisions of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. including confidential employees, as set forth in N.J.A.C. 9:6A-3.7.

"Non-teaching professional" means an employee at a state college, other than a faculty member or Librarian I, II, or III, who is entitled to representation by the recognized majority representative for professional staff and faculty at the state colleges.

"Part-time employee" means an employee who is employed on less than a full-time basis.

"Position" means an employment assignment with an authorized set of specific duties and responsibilities requiring the full or part-time employment of an individual(s).

"Reclassification" means the change by the college of an individual position from one title to a different title within the State College Classification Plan.

"Reevaluation" means the adjustment of the salary range assigned to a specific title.

"Regular title" means a title within the State College Classification Plan which has a corresponding salary range established by the Board of Higher Education and carries eligibility for holiday and other leave benefits.

"Salary range" means a schedule of compensation with a minimum and maximum salary and intermediate steps.

"Special title" means a title included in the State College Classification Plan which does not have a salary range established by the Board of Higher Education, does not carry eligibility for holidays and other leave benefits, and is of a temporary nature in that it may not be more than six months in duration on a full-time basis nor half-time or more on a continuing basis.

"Specification" means the written compilation of all the elements of a particular title including but not limited to the salary range, scope, duties and responsibilities, unit designation, examples of work and minimum qualifications.

"State College Classification Plan" means the comprehensive system of titles, title series, and specifications for positions at the state colleges not bound by the provisions of Title 11A, Civil Service, New Jersey Statutes.

"Student employee" means an employee in a special title whose employment at the college is primarily for the purpose of financing his or her collegiate education and/or to further his or her education objectives at the college.

"Title" means a descriptive name that identifies a class or class of positions.

"Title series" means a related set of titles involving the same kind of work and ranked according to level of difficulty and responsibility.

SUBCHAPTER 3. STATE COLLEGE CLASSIFICATION PLAN

9:6A-3.1 Classification of titles

(a) The Board of Higher Education shall establish and maintain a State College Classification Plan for all employees, as defined in N.J.A.C. 9:6A-2.1, at the state colleges which shall consist of:

1. A system of titles and title series; and
2. Specifications for each title which shall include:
 - i. A definition of the class of positions indicating the scope of work performed and the organizational relationships involved;
 - ii. A statement of duties and responsibilities;
 - iii. Examples of work which illustrate the nature and extent of the duties and responsibilities, which examples shall be considered descriptive and not restrictive;
 - iv. Minimum requirements and qualifications essential to the performance of the work of the class;
 - v. Assignment to a bargaining unit;
 - vi. Assignment to a salary range;
 - vii. Such other information as may be necessary.

(b) The college shall assign each position to an appropriate title based on an analysis of the work to be performed and consistent with the specification for that title.

1. No person shall be appointed or employed under a title not appropriate to the duties to be performed nor be required to routinely perform duties unrelated to the assigned title.

2. Should the employee disagree with the classification of a position, an appeal may be made in accordance with N.J.A.C. 9:6A-3.5.

(c) The scope of work, duties, and responsibilities of any full-time employee assigned to a regular title under the State College Classification Plan shall as a whole meet the standards for exempt status as defined under the Fair Labor Standards Act, 29 U.S.C. 201 et seq.

9:6A-3.2 Administration of State College Classification Plan

(a) The Chancellor shall enforce and administer the State College Classification Plan approved by the Board of Higher Education and shall:

1. Require that approved class titles be used in all official records and communications relating to personnel, including payrolls and budget provided, however, the colleges shall not be precluded from utilizing functional local titles;
2. With the consent of the Board of Higher Education approve:
 - i. New titles to be added within the State College Classification Plan;
 - ii. Specifications for new titles and modification of specifications for existing titles to ensure their accuracy;
 - iii. Deletion of existing titles;
 - iv. Changes in the wording of existing titles; and
 - v. Assignment and reassignment of salary ranges to titles.

3. Notify the state colleges of changes in the State College Classification Plan; and

4. Recommend to the Board of Higher Education any other changes deemed necessary to accurately reflect current conditions.

(b) The president of each college shall be responsible for the administration of the State College Classification Plan on his or her campus.

9:6A-3.3 Requests for changes within the State College Classification Plan

(a) State colleges proposing changes within the State College Classification Plan shall initiate requests by letter from the president of the college, or his or her designee, addressed to the Chancellor of Higher Education, setting forth the nature of the requested change and appropriate justification.

(b) There shall be established a State College Classification Advisory Board which shall consist of one representative from each state college as designated by the president of each state college.

1. The chairperson of the State College Classification Advisory Board shall serve for a period of one year.

2. The State College Classification Advisory Board shall be convened whenever necessary to review requests for substantive changes within the State College Classification Plan.

(c) Upon receipt of a letter requesting a substantive change within the State College Classification Plan, the Chancellor shall submit all pertinent information to the State College Classification Advisory Board.

(d) The State College Classification Advisory Board shall, within 60 calendar days, make a written recommendation to the Chancellor.

(e) At either of the succeeding two meetings of the Board of Higher Education after receipt of the recommendation from the State College Classification Advisory Board, the Chancellor shall present a recommendation to the Board of Higher Education.

(f) Nothing in this section shall preclude the Chancellor from utilizing the services of an outside consultant(s) to assist in evaluating such requests.

1. If a consultant is utilized the Chancellor shall refer any such matters to the consultant(s) within 30 days of the recommendation from the State College Classification Advisory Board.

2. The time limit set forth in (e) above shall run from the time the Chancellor receives the report from the consultant.

9:6A-3.4 Classification and reclassification of positions

(a) The college shall, after review of the duties and responsibilities assigned to a position, classify the position to a title within the State College Classification Plan, pursuant to N.J.A.C. 9:6A-3.1(b).

(b) When the college, an affected employee, or the recognized negotiations agent claims, in writing, that the assigned duties and responsibilities of a position have changed to the extent that they are no longer similar to the duties and responsibilities of other positions in the same title, and that the title is no longer appropriate, the college shall after review of the claim:

1. Reclassify the position to a more appropriate existing title; or
2. Recommend to the Chancellor of Higher Education that a new title be established to which the position shall be reclassified; or
3. Remove all out-of-title duties and responsibilities; or
4. Determine that the position is properly classified.

(c) The effective date of a reclassification is the date of written notification by the college to any affected employee.

(d) An employee whose position is affected by a reclassification decision may appeal in accordance with N.J.A.C. 9:6A-3.5.

9:6A-3.5 Reclassification appeal procedures

(a) An appeal of a reclassification decision is a request for review of a managerial determination as to whether the duties of a specific position conform to the specification for the title assigned to that position.

(b) An appeal from an employee, or the recognized negotiations agent, shall be submitted in writing to the appropriate college office.

1. The appeal must identify the specific duties that do not conform to the specification for the title and be signed by the employee.

2. If the appellant proposes a different title for the position, he or she must explain how the different title more accurately describes the duties of the position than the current or proposed title.

(c) The president of the college or his or her designee shall appoint a hearing officer to conduct a review of the appeal. The parties shall present their arguments before the hearing officer.

1. All parties shall be advised of the review date.

2. An employee is entitled to self-representation, representation by counsel or by the recognized negotiations agent. Reasonable prior notice shall be given to the hearing officer as to the form of representation.

(d) The hearing officer shall submit a written report to the president of the college or the president's designee within 15 working days of the review.

1. The report shall include an analysis of the duties of the position as they relate to the specification, findings, conclusions, and a recommendation.

2. A copy of the report shall be sent to all parties.

(e) The president or his or her designee shall review the report and notify the appellant of his or her decision within 20 working days of receipt of the report of the hearing officer. This decision letter must include the duties of the position, findings of fact, appeal rights and procedures, conclusions, and the determination that:

1. The position is properly classified; or
2. The position is properly classified, but that out-of-title duties are being performed, in which case the college shall order, in writing, the removal of inappropriate duties; or
3. The position should be reclassified; in which case, normal reclassification procedures shall be initiated.

(f) The final decision of the college may be appealed to the Chancellor of Higher Education pursuant to N.J.S.A. 18A:6-27.

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(g) No decision by the Chancellor in a reclassification appeal shall preclude the college from removing the appellant's out-of-title duties as an alternative resolution to implementing the reclassification of the appellant's position.

9:6A-3.6 Title reevaluation requests

(a) A request for a title reevaluation must identify and explain the areas of substantive change in the scope of work and the duties and responsibilities of the position.

1. The request shall be set forth through a written narrative and include a revised title specification and evidence that all employees in the title are performing specific tasks at a higher level than defined in the current specification.

2. Increased volume of work is not evidence of substantive change.

(b) The college, an affected employee, or the recognized negotiations agent may request a reevaluation, which shall be submitted in writing to the Chancellor.

1. At least two weeks prior to the submission of such a request to the Chancellor, notice of the request shall be provided to the president of the college.

(c) The Chancellor shall refer a request to the State College Classification Advisory Board for a recommendation. The recommendation shall be issued to the Chancellor within 60 calendar days of receipt of the request by the State College Classification Advisory Board.

(d) The Chancellor may render a decision based on the written record or appoint an independent compensation consultant which appointment shall be made within 30 days.

1. If the Chancellor appoints a consultant to conduct a review of the request, all parties shall be advised of the review date and shall present their arguments before the consultant. An employee requesting a reevaluation may be heard personally or be represented by counsel or the employee's recognized negotiations agent.

2. The consultant shall submit a report and recommendation to the Chancellor within 30 calendar days after the review.

3. The report and recommendation shall be sent to all parties. Exceptions may be filed with the Chancellor within 15 calendar days of receipt of the report and recommendation. If exceptions are filed, cross-exceptions may be filed within five days of receipt of the exceptions. Exceptions and cross-exceptions shall be served on all parties.

(f) If the Chancellor determines that the title should be reevaluated, he or she shall bring a recommendation to the Board of Higher Education at one of its next two succeeding meetings following the receipt of the recommendation from the State College Classification Advisory Board or any consultant(s) if utilized.

(g) The effective date of any reevaluation shall be the first pay period following the board of Higher Education decision.

9:6A-3.7 Assignment of confidential positions to a board of trustees

(a) Each state college is entitled to assign no more than two employees, at any one time, to confidential board positions.

(b) The following requirements must be met for any assignment to a confidential board position:

1. The employee must serve at the pleasure of the president of the college and shall perform duties directly related to board of trustee activities;

2. The employee shall be assigned to a position not entitled to representation by any negotiations agent; and

3. The employee's job duties and responsibilities shall comply with the requirements of N.J.A.C. 9:6A-3.1(c).

(c) Confidential positions shall be a regular title but shall not be assigned to any specific salary range.

9:6A-3.8 Student employees

(a) Student employees' salaries shall be determined by each college.

(b) Eligibility for student employee status shall require continuous enrollment during the academic year as a student at the employing state college.

(c) Student employees shall not be entitled to sick or vacation leave, holidays, or other leaves set forth in N.J.A.C. 9:6A-5.

SUBCHAPTER 4. COMPENSATION

9:6A-4.1 State College Compensation Plan

(a) The Board of Higher Education shall establish with the concurrence of the Governor and publish the State College Compensation Plan which shall be the official plan for compensating all employees in regular titles at the state colleges.

(b) The State College Compensation Plan shall establish a series of pay ranges containing minimum, maximum, and intermediate salary steps.

9:6A-4.2 Administration of the State College Compensation Plan

(a) Employees shall begin at the minimum rate of the pay range assigned to their title unless in the academic and institutional judgment of the president a higher rate in the range is warranted.

(b) Periodic increases to a managerial employee's salary based upon length of service and performance shall be paid by the college on the employee's anniversary date, when appropriate, in accordance with the provisions of the State College Compensation Plan. Time spent by managerial employees in non-pay status will not be included in total time of employment when calculating eligibility for such periodic salary increases.

(c) No employee shall be paid below the minimum or above the maximum of the range for his or her class, except with the approval of the Chancellor for any employee who is demoted during the term of a contract or while under tenure.

(d) The salary range for all titles shall be established on the basis of a 12 month work obligation. Ten month titles shall be three ranges lower than the corresponding 12 month titles.

(e) Part-time employees in regular titles at the state colleges shall be compensated in direct proportion to the percent of full-time assignment at the assigned step of the salary range for the title held.

(f) Employees in special titles at the state colleges shall be compensated at a rate determined by the employing institution in conformance with applicable state and federal laws.

(g) Any action taken by a state college which violates the provisions of the State College Compensation Plan shall be void and of no legal effect.

9:6A-4.3 Annual salary increases for managerial employees

(a) The anniversary date of all managerial employees shall be July 1 of each fiscal year commencing on July 1, 1988 except as provided in (b) below.

(b) Any managerial employee who is not at the maximum of his or her salary range as of the effective date of this section shall retain his or her current anniversary date until he or she reaches the maximum of the salary range or until he or she moves to a new salary range.

(c) A managerial employee under (b) above who reaches the maximum of his or her salary range or moves to a new salary range shall have his or her anniversary date adjusted to the next succeeding July 1.

(d) All managerial employees hired subsequent to the effective date of this section shall be assigned an anniversary date of July 1. The college may adjust the starting salary to reflect the difference in the period of time before the next salary increase.

(e) A managerial employee shall not be eligible for an annual salary increase unless he or she has been in active pay status in his or her current salary range for more than six months within the preceding fiscal year. Exceptions to this requirement may be made by the president of the college.

(f) Annual salary increases for managerial employees based upon length of service and performance shall not exceed one step in the salary range for the title except when there is a determination by the president of outstanding performance.

9:6A-4.4 Pay adjustments for managerial employees appointed to titles with higher salary ranges

(a) When a managerial employee is appointed to an acting position, successfully competes with internal and/or external candidates for a new appointment, or as a result of a reorganization is appointed to a position at the college with a higher salary range than his or her current position, the employee may be treated for salary purposes as a new hire.

(b) When a managerial employee is appointed to a position with a higher salary range than his or her current position other than pursuant to (a) above, the employee shall receive one increment in his or her former salary range and be moved to the closest higher step in the new range.

(c) When a managerial employee is appointed in accordance with (b) above and has been employed at the maximum of his or her salary range for one year or more, he or she may receive one additional increment in the salary range for the new position.

9:6A-4.5 Pay adjustments for managerial employees in a title reevaluated to a new salary range

(a) Any managerial employee who is assigned to a new salary range as a result of a title reevaluation which does not exceed one salary range shall maintain his or her current step in the new range.

(b) When any managerial employee is assigned to a new salary range as a result of a title reevaluation which exceeds one salary range, the determination of which step on the new salary range an affected employee will receive shall be at the discretion of the college.

9:6A-4.6 Pay adjustments for managerial employees who are demoted

(a) A managerial employee who is demoted to a position with a lower salary range than his or her current position shall receive a salary no greater than the maximum of the new range.

(b) A managerial employee serving less than six months in a new position as a result of a demotion shall not be eligible to receive an annual salary increase based upon length of service and assessment of performance.

(c) Determination of salaries for demoted managerial employees shall be in compliance with tenure rights.

(d) A managerial employee who is demoted to a position with a lower salary range than his or her current position but who, because of tenure rights, is entitled to a salary greater than the maximum of the range to which he or she has been demoted, shall not receive any further salary increases until the maximum of the salary range exceeds the salary at the time of demotion.

SUBCHAPTER 5. LEAVES

9:6A-5.1 Records

(a) The state colleges shall maintain for each employee records of all uses of leave time, including use of sick and vacation leave.

(b) When an employee leaving the service of a state college shall have unused sick leave, the college shall certify the amount of such unused sick leave.

(c) Any managerial individual employed by a state college who had previous employment at another state college; Rutgers University, University of Medicine and Dentistry of New Jersey; New Jersey Institute of Technology; or a position within state service shall be credited with the unused sick leave accumulated at his or her prior position, as certified by the prior employer. No transfer of unused sick leave shall be permitted if there is a break in service of greater than 30 calendar days between the two positions.

9:6A-5.2 Sick leave: Authorized use and verification

(a) Sick leave may be used by managerial employees in the following instances:

1. By managerial employees who are unable to work because of personal illness, accident or exposure to contagious disease.

2. For short periods of time due to a death in the immediate family of a managerial employee, or to care for a seriously ill member of such employee's immediate family.

3. By a managerial employee who is handicapped, for absences related to the acquisition or use of an aid for the handicapped provided that the aid is necessary to function on the job.

(b) The college may require proof of illness from an employee for any of the following reasons:

1. There is reason to believe that an employee may be abusing sick leave;

2. The employee has been absent on sick leave for five or more consecutive work days;

3. The employee has been absent on sick leave for an aggregate of more than 15 days in a 12 month period.

(c) A college may require an employee to be examined by a physician designated and compensated by the college as a condition of the employee's return to work, continued use of sick leave, or for other valid reasons.

1. The examination shall establish whether the employee is capable of performing his or her work duties and that the return to employment will not jeopardize the health of the employee or that of other employees.

2. The college shall set the date of the examination to assure that it does not cause undue delay in the employee's return to work.

(d) When an illness is of a chronic or recurring nature causing occasional absences, one proof of illness may be required by the college for every six month period. The proof of illness must specify the nature of the illness and whether or not it is likely to cause periodic absences from employment.

(e) In case of sick leave due to exposure to contagious disease, a certificate from the New Jersey Department of Health may be required by the college.

9:6A-5.3 Sick leave; Entitlements

(a) All 12-month full-time managerial employees of the state colleges shall be entitled to 15 working days of sick leave during each fiscal year. All 10-month full-time managerial employees of the state colleges shall be entitled to 12.5 working days of sick leave during each fiscal year.

(b) Any managerial employee of a state college commencing employment after July 1 of any fiscal year shall be entitled to sick leave during that year at a rate of 1¼ days for each full calendar month of employment.

(c) Sick leave credits shall not accrue after an employee has resigned or retired although his or her name is being retained on the payroll until exhaustion of vacation leave.

(d) Part-time employees in regular titles shall be entitled to a proportionate amount of paid sick leave.

(e) Employees in special titles shall not be entitled to paid sick leave.

(f) Sick leave shall not accrue to managerial employees during a leave of absence without pay.

(g) A managerial employee who exhausts all accumulated paid sick leave in any one year shall not be credited with additional paid sick leave until the beginning of the next fiscal year, except that:

1. The president of the college may, at his or her discretion, advance paid sick leave to a managerial employee. The employee shall be required to pay back any such sick leave advancement by a reduction of subsequent accumulated sick leave or by other arrangement approved by the college.

(h) Unused sick leave shall accumulate from year to year.

9:6A-5.4 Sick leave: Reporting

(a) A managerial employee of a state college shall, by the scheduled reporting time, notify his or her supervisor of any absence due to illness.

(b) Failure by any employee to supply notification to the designated contact person may result in a denial of sick leave for the specific absence, be considered an abuse of sick leave and constitute a cause for disciplinary action.

9:6A-5.5 Sick leave: Pregnancy

(a) A managerial employee who requests leave with or without pay for reason of inability to perform duties and responsibilities due to her pregnancy shall be granted leave under the same terms and conditions as sick leave, vacation leave or leave without pay.

1. The college may request acceptable medical evidence that the employee is unable to perform her work due to pregnancy.

(b) A managerial employee may use accrued leave time but shall not be required to exhaust accrued leave before taking a leave without pay.

(c) In order to qualify for New Jersey Temporary Disability Insurance, an employee at a state college must exhaust all accrued sick leave.

9:6A-5.6 Vacation leave: Entitlements

(a) Vacation leave shall accrue for managerial employees according to the following:

1. All 12 month full-time managerial employees of the state colleges shall be entitled to 22 working days of vacation leave during each fiscal year.

2. All 10 month full-time managerial employees of the state colleges shall be entitled to 18 working days of vacation leave during each fiscal year.

3. Any managerial employee of a state college commencing employment after July 1 of any fiscal year shall be entitled to vacation leave during that year at a rate of 22/12 days per month for 12-month employees and 18/10 days per month for ten-month employees for each full calendar month of employment.

4. Vacation leave shall not accrue for managerial employees during a leave of absence without pay.

(b) Employees in special titles shall not be entitled to paid vacation leave.

(c) Part-time employees in regular titles shall be entitled to a proportionate amount of paid vacation leave.

(d) Vacation leave credits shall not accrue after an employee has resigned or retired although his or her name is being retained on the payroll until exhaustion of vacation leave.

(e) A managerial employee leaving the service of a state college shall, at the discretion of the college, either fully use his or her vacation leave prior to leaving the employment of the college or be paid for such unused vacation leave.

(f) Managerial employees may carry over to the next fiscal year up to a maximum of one year of unused vacation leave with the approval of the president of the college or his or her designee.

(g) A managerial employee who exhausts all paid vacation leave in any one year shall not be credited with additional paid vacation leave until the beginning of the next fiscal year.

(h) Upon the death of a managerial employee, earned unused vacation leave shall be paid to the employee's estate.

9:6A-5.7 Vacation and sick leave: Liability

(a) A managerial employee is liable for vacation and sick leave days taken in excess of his or her entitlement.

(b) A managerial employee who leaves the college or goes on a leave of absence without pay before the end of the fiscal or calendar year, as applicable, shall have his or her leave prorated according to time earned.

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(c) A managerial employee shall reimburse the college for paid working days used in excess of his or her prorated and accumulated entitlements.

1. A managerial employee who returns to work from a leave of absence shall not be credited with paid vacation or sick leave until the amount of leave used in excess of the prorated entitlement has been reimbursed.

(d) For managerial employees, intermittent days off without pay shall be aggregated and considered as a continuous leave without pay for calculation of reduced vacation and sick leave credits.

1. When intermittent days off without pay equal 11 working days, the managerial employee's vacation and sick leave credits shall be reduced by one-half of the one month's entitlement.

(e) An employee shall not be paid for accumulated sick leave when leaving the college except as provided in N.J.A.C. 4:5.

9:6A-5.8 Leave without pay for managerial employees

The college may grant leaves of absence without pay to full-time managerial employees for a period not to exceed one year. The one-year leave may be extended for exceptional circumstances upon request of the employee and approval of the college.

9:6A-5.9 Leave without pay for managerial employees: Child care

Child care leave may be granted to managerial employees under the same terms and conditions as all other leaves without pay.

9:6A-5.10 Special leave for managerial employees: Jury duty

(a) Managerial employees shall be granted leave with pay for the time required to attend jury duty that is scheduled during work hours.

1. Time required for jury duty includes actual time spent in commuting.

(b) The managerial employee shall be responsible for immediate notification to the college of impending jury duty.

(c) Managerial employees shall submit to the college written verification of attendance signed by a representative of the court.

9:6A-5.11 Special leave for managerial employees: Court appearance

(a) Managerial employees shall remain in pay status when appearing as a witness or a party before a judicial or quasi-judicial body or legislative committee when such appearance is part of the job function.

(b) Managerial employees shall be granted time off with pay when summoned as a witness before a judicial or quasi-judicial proceeding to which he or she is not a named party, other than in (a) above.

(c) Managerial employees may be granted time off without pay to appear at a judicial or quasi-judicial proceeding to which he or she is a party, other than in (a) above.

9:6A-5.12 Holidays

(a) Managerial employees at the state colleges shall be entitled to days off with pay on such state holidays as are authorized by the Governor.

(b) Any managerial employee who is required by the college to work on a state holiday shall be entitled to comparable time off on another work day approved by the employee's supervisor.

(c) Managerial employees must be in pay status the working day immediately preceding and subsequent to a holiday in order to receive credit for the holiday.

(d) Part-time employees in regular titles other than faculty shall receive credit for the holiday on a proportionate basis provided the employee's work schedule would have included work time on that holiday.

9:6A-5.13 Unauthorized absence

Any employee who is absent from duty for five consecutive business days without notice to and approval of his or her supervisor or who fails to report for duty within five business days after the expiration of any authorized leave may be subject to dismissal by the college.

9:6A-5.14 Sick leave injury (SLI) for managerial employees: General

(a) A managerial employee at a state college who is disabled from a work-related injury or illness shall be granted a leave of absence with pay.

(b) An employee at a state college who is disabled from a work-related injury or illness, who can return to work on a basis less than his or her normal work schedule shall be compensated for the hours actually worked and receive sick leave injury (SLI) benefits for the hours missed due to the disability.

(c) SLI benefits shall be reduced by the amount of any workers' compensation award to such an employee.

(d) Benefits are limited to a one-year period from the initial date of the injury or illness.

(e) Special title employees at the state colleges shall not be eligible to receive sick leave injury (SLI) benefits.

9:6A-5.15 Sick leave injury (SLI) for managerial employees: Standards

(a) To receive sick leave injury (SLI) benefits, the disability must be an injury or illness resulting from the employment.

1. Injuries or illnesses which would clearly not have occurred but for a specific work-related accident or condition of employment are compensable.

2. Preexisting illnesses, diseases and defects aggravated by a work-related accident or condition of employment are not compensable where such aggravation was reasonably foreseeable.

3. Illnesses, such as a heart disorder and arthritis, which are generally not caused by a specific work-related accident or condition of employment, are not compensable except where the claim is supported by medical documentation that clearly establishes the injury or illness is work related.

4. Psychological or psychiatric illness shall not be compensable, except where such illness may be traced to a specific work-related accident or occurrence which traumatized the managerial employee thereby creating the illness, and the claim is supported by medical documentation.

5. An injury or illness occurring where the state college has established that the managerial employee has been grossly negligent, including alcohol or drug abuse at the time of the accident, shall not be compensable.

(b) Any accident resulting in injury for which the managerial employee seeks compensation must occur on the work premises except as set forth in (b)2 below.

1. For the purpose of this subsection, work premises shall be defined as the physical area of operation of the state college, including buildings, grounds and parking facilities provided by the college for the use of its employees.

2. An injury occurring off the work premises is compensable only when the managerial employee is engaged in authorized work activity or travel between assignments.

(c) Injuries which occur during normal commutation between home and the college or home and a field assignment are not compensable.

1. Injuries which occur during lunch or break periods are not compensable. However, managerial employees who are required by the college to be on duty during lunch and/or work-break shall not be precluded from receiving SLI benefits.

(d) The burden is on the managerial employee to establish by a preponderance of the evidence that he or she is entitled to SLI benefits.

9:6A-5.16 Sick leave injury (SLI) for managerial employees: Procedures

(a) The managerial employee shall report to his or her supervisor any accident or work condition claimed to have caused disability upon occurrence or discovery and shall complete a written report, on a form provided by the college, on the matter within five work days or as soon as possible thereafter. The report shall include a statement of when, where, and how the injury or illness occurred, statements of witnesses and copies of all medical reports concerning the injury or illness.

(b) The state college shall review the request for sick leave injury (SLI) benefits based on the standards in N.J.A.C. 9:6A-5.15 and within 20 work days of receipt of the request shall:

1. Grant the request and notify the managerial employee in writing that benefits have been approved; or

2. In writing, deny the request, inform the managerial employee of the reasons for the denial and advise the employee of the right to appeal within 20 work days of receipt of the determination and to whom the appeal must be addressed.

(c) The state college may require the managerial employee to be examined by a physician designated and compensated by the college to determine the nature, cause and extent of the injury or illness.

9:6A-5.17 Sick leave injury (SLI) for managerial employees: Appeal procedures

(a) An appeal of a denial of sick leave injury (SLI) benefits from a managerial employee shall be submitted, in writing, to the appropriate college office. The appeal must include the original request for SLI benefits filed pursuant to N.J.A.C. 9:6A-5.16(a) and the determination setting forth the denial of SLI benefits made pursuant to N.J.A.C. 9:6A-5.16(b).

(b) The president of the college or the president's designee shall appoint a hearing officer to conduct a review of the appeal. The parties shall present their arguments before the hearing officer.

1. All parties shall be advised of the review date.

2. A managerial employee is entitled to self-representation or representation by counsel. Reasonable prior notice shall be given to the hearing officer as to the form of representation.

(c) The hearing officer shall submit a written report to the president of the college or the president's designee within 15 working days of the review. The report shall include findings, conclusions, and a recommendation. A copy of the report shall be sent to all parties.

(d) The president or the president's designee shall review the report of the hearing officer and notify the appellant in writing of the decision within 20 working days of receipt of the report of the hearing officer. This decision letter must include findings of fact, conclusions, and a determination of eligibility.

(e) The final decision of the college may be appealed to the Chancellor of Higher Education pursuant to N.J.S.A. 18A:6-27.

9:6A-5.18 Paid professional leave for managerial employees

(a) Each state college may establish a program for paid professional leaves for managerial employees to enhance professional development.

(b) Each program shall include, but not be limited to, the following elements:

1. Purpose
2. Eligibility requirements;
3. Duration of leave;
4. Compensation level;
5. Conditions regarding subsequent service at the college.

SUBCHAPTER 6. STANDARDS OF CONDUCT

9:6A-6.1 Prohibition against political activity

(a) An employee shall not directly or indirectly use or seek to use his or her authority or influence of his or her position to control or modify the political action of another person.

(b) An employee shall not engage in political activity during the hours of duty.

9:6A-6.2 Falsification of application materials

The falsification of any materials or documents submitted by an individual in connection with an application for employment at a state college may be grounds for dismissal.

SUBCHAPTER 7. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

9:6A-7.1 Equal Employment Opportunity and Affirmative Action Program

(a) There shall be equal employment opportunity for all employees and all applicants seeking employment in all state colleges, regardless of race, creed, color, national origin, ancestry, religion, sex, age, political affiliation, or physical handicap.

(b) Each state college shall ensure equality of opportunity for all employees and applicants in the areas of recruitment, selection, hiring, retention, training, tenure, promotion, transfer, layoff, return from layoff, compensation, fringe benefits, and all other terms and conditions of employment.

(c) Affirmative action shall be undertaken to provide efforts to recruit, employ, and promote qualified members of the protected classes, as defined by the United States Equal Employment Opportunity Commission (EEOC).

(d) The state colleges shall utilize the standard race/ethnic categories established by the United States Equal Employment Opportunity Commission.

(e) Each state college shall appoint an affirmative action officer who shall be directly responsible to the president of the college. Affirmative action officers shall serve in a full-time capacity except under exceptional circumstances as determined by the Chancellor.

(f) The affirmative action officer of the college shall:

1. Be responsible to the president of the college for the administration of the college's affirmative action program;
2. Develop, for the president's approval, a written policy statement on equal opportunity and affirmative action.
3. Review the college's personnel policies and procedures including, but not limited to, recruitment, selection, and promotion procedures, to identify and facilitate the elimination of artificial barriers to equal employment opportunity;
4. Ensure that the college develops appropriate annual written affirmative action hiring goals for protected class persons;
5. Ensure that the college complies with all laws and regulations relating to equal employment opportunity and affirmative action;
6. Seek correction of discriminatory practices and procedures that might exist;
7. Act as liaison with federal, state, and local enforcement agencies;

8. Prepare, analyze, and transmit to the president of the college regular progress reports on affirmative action at the college;

9. Make available to the employees at the college, and the public, upon request, information on the college equal opportunity and affirmative action program including, but not limited to, the policy statement, the annual affirmative action plan, affirmative action goals for hiring, statistics relating to progress for the target groups for affirmative action.

10. Receive and review all discrimination complaints at the college.
(g) Each college shall submit to the Chancellor, by a date established by the Chancellor, an annual written affirmative action plan complete with:

1. Policy statement on equal opportunity and affirmative action;
2. Status of the current employment profile of the college by sex and ethnicity;
3. Progress on meeting goals for the last reporting period;
4. Affirmative action hiring goals and time tables for the plan period;
5. Identification of problem areas in hiring;
6. Specific remedies for problem areas along with the time frame for accomplishing remedial action;
7. Mechanisms for the investigation and handling of discrimination complaints.

9:6A-7.2 Non-discriminatory employment practices

Each state college shall provide equal employment opportunities, administer its personnel system in a non-discriminatory manner and ensure that its employment practices do not express overtly or covertly any limitation, specification, preference, or discrimination based on race, creed, religion, color, national origin, ancestry, age, marital status, physical handicaps, sex, or political affiliation.

9:6A-7.3 Policies regarding prohibition of sexual harassment

(a) Each state college shall adopt a policy providing for the prohibition of sexual harassment on its campus.

(b) The policy on sexual harassment shall include, but not be limited to, the following:

1. Definition of forms of sexual harassment;
2. Statement prohibiting sexual harassment of both employees and student employees;
3. Mechanisms for the investigation and handling of sexual harassment complaints;
4. Sanctions and corrective actions to be taken under circumstances of proven sexual harassment.

(c) The policy on sexual harassment, upon adoption by the board of trustees of the college, shall be incorporated into the affirmative action plan of the college.

(d) The college shall ensure that the policy on sexual harassment is made available to all employees at the college.

(e) The policy on sexual harassment and any future changes thereto, shall, subsequent to adoption by the board of trustees of the college, be forwarded to the Chancellor.

9:6A-7.4 Discrimination complaints

(a) Employees at the state colleges may file a complaint alleging discrimination or sexual harassment with the college's affirmative action officer pursuant to existing procedures at the college.

(b) Any employee not satisfied with the final outcome of the state college's investigation and determination of his or her complaint filed under (a) above shall be informed of his or her right to file a complaint with the New Jersey Division on Civil Rights or the United States Equal Employment Opportunity Commission.

NEW JERSEY REGISTER, TUESDAY, SEPTEMBER 8, 1987

(a)

HIGHER EDUCATION ASSISTANCE AUTHORITY
Student Loan Program
Repayment of Student Loans
Proposed Amendments: N.J.A.C. 9:9-1.12, 1.13,
and 1.16

Authorized By: Higher Education Assistance Authority,
 Jerome Lieberman, Chairman.
 Authority: N.J.S.A. 18A:72-10.
 Proposal Number: PRN 1987-336.

Submit comments by October 8, 1987 to:

Grey J. Dimenna, Esq.
 Administrative Practice Officer
 Department of Higher Education
 225 West State Street
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Higher Education Assistance Authority is statutorily charged with the administration of the Guaranteed Student Loan Program (GSL), a federally insured educational loan program within the State of New Jersey. Since the inception of the Guaranteed Student Loan Program, borrowers have been required to sign two promissory notes. The first, known as the interim note, is incorporated in the GSL application and is signed by the borrower each time a new request is made for a new guaranteed student loan. The second is signed upon graduation or withdrawal from school, and it sets forth the terms and conditions regarding repayment.

The latter promissory note is intended to give the borrower an awareness of indebtedness and the lender an update of the borrower's personal data. However, if the borrower does not sign this promissory note, the borrower's student loans enter default even if he or she meets the monthly payments. These amendments will enable a borrower, who does not execute a second installment note, to remain in good standing with the Higher Education Assistance Authority and the lenders by not being considered in default as long as monthly payments are met.

Social Impact

The proposed amendments will enable borrowers to avoid being technically in default on their student loans if they fail to sign a second promissory note. This will allow such borrowers to maintain good credit standings so long as they are paying monthly installments on their loans.

Economic Impact

Elimination of this requirement that all borrowers sign a promissory note upon graduation or withdrawal from school will reduce the number of defaulted claims and will benefit borrowers who are willing to make their monthly payments, but who did not execute an installment note. These amendments will also eliminate additional work for lenders by not requiring them to pursue a borrower for his or her signature on the second promissory note, and it will allow the lenders to retain the asset for a longer period.

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 proposal follows (deletions indicated in brackets [thus]).

9:9-1.12 Repayment of loan: installment arrangements

When a student ceases to be enrolled at least half time at an eligible school, the student must contact the lender within four months for the purpose of making arrangements toward repayment of the loan. [At this time, the student must sign the installment note.]

9:9-1.13 Delinquent payments; responsibility of lender

When an account becomes delinquent as a result of [failure to convert when due.] nonpayment of interest on a nonsubsidized loan when due or nonpayment of installment when due or the failure to return funds due to non-enrollment in school, the Authority must be notified to such an event either through a carbon copy of a statement or other correspondence at the time of occurrence.

9:9-1.16 Procedure for filing claim

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

(c) Separate claims must be submitted on each loan accruing interest at different rates. It is permissible to combine more than one loan on one claim form as long as the interest rate is the same. Two sets of claim forms will be sent with both copies expected to be returned in completed form. The lender will be reimbursed for the total unpaid principal and interest due for a period not to exceed 90 days beyond the date of default [on both non-converted and installment accounts]. A photostatic copy of the note must be forwarded with the claims. By law, the Authority may not reimburse the lender for late charges.

HUMAN SERVICES

(b)

DIVISION OF PUBLIC WELFARE
General Assistance Manual
Funeral and Burial Expenses

Proposed Amendment: N.J.A.C. 10:85-4.8

Authorized By: Drew Altman, Commissioner, Department of
 Human Services.

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

Proposal Number: PRN 1987-337.

Submit comments by October 8, 1987 to:

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

The agency proposal follows:

Summary

Since municipal directors encounter situations where burials must be provided at public expenses for deceased individuals who, although considered indigent, cannot be classified for payments under the General Assistance Program, information on statutes governing such burials is included in the General Assistance Manual. The proposed amendments to N.J.A.C. 10:85-4.8(b)1 and 2 relocate existing language concerning burials for such deceased indigents and present information about P.L. 1987, c.67. Under the provisions of that statute, when an indigent person dies leaving no surviving spouse, parent or emancipated child and in a municipality other than the resident municipality, responsibility for burial expenses lies with the county of residence. "Indigent person" is defined as one who dies without leaving an ascertainable estate sufficient to pay part or all of the burial expenses.

Social Impact

The only social impact expected is that which may arise from improved availability of information to municipal welfare agencies. There may be some social impact arising from the statute itself but individual members of the public will not be involved except to the extent that they may be caught up in local jurisdictional disputes about chargeability. Any such problems will, however, occur regardless of whether or not this revision is adopted, and are not, therefore, impacts of the revision.

Economic Impact

The proposed amendment will not, of itself, change the amounts of money due or payable to any person or agency. There is an economic impact from the statute itself in that certain payments will be chargeable to the counties rather than to the municipalities. That impact is occurring and will occur aside from this regulatory change, and would occur regardless of the adoption of this addition to the General Assistance Manual.

Regulatory Flexibility Statement

The proposed amendment imposes no compliance requirements on small businesses, as the General Assistance Program is administered by municipal welfare agencies; therefore, a regulatory flexibility analysis pursuant to P.L. 1986, c.169 is not required.

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

10:85-4.8 Funeral and burial expenses

(a) (No change.)

(b) **Cases ineligible for purposes of State aid:** It is recognized that municipal directors, who are also exercising the functions previously charged to the overseer of the poor, encounter situations where burials must be provided at public expenses for persons who do not come within the classifications specified in (a)[2]1 above. Such burials are governed by [N.J.S.A. 44:1-157, which states: "When a person shall be in a municipality without leaving money or other means sufficient to defray his funeral expenses, the overseer of the poor of the municipality shall employ some person to provide for the superintend . . . the burial of the deceased person, and the necessary and reasonable expenses as fixed by the governing body chargeable therewith shall be paid by it upon the order of the overseer . . ."] **statutes unrelated to the General Assistance Program. Payments for them are not eligible for State aid. The statutes include:**

[1. Under chapter 156 of the laws of 1947, expenditures for such burials are not eligible for State aid.]

1. N.J.S.A. 44:1-157, which states: "When a person shall die in a municipality without leaving money or other means sufficient to defray his funeral expenses, the overseer of the poor of the municipality . . . shall employ some person to provide for and superintend the burial of the deceased person, and the necessary and reasonable expenses as fixed by the governing body chargeable therewith shall be paid by it upon the order of the overseer. . ."

2. N.J.S.A. 40A:9-49.1, which states: "Notwithstanding any provision of law, rule or regulation to the contrary, when an indigent person dies without a surviving spouse, parent or emancipated child and in a municipality other than his resident municipality, the resident county of the indigent decedent is responsible for the necessary and reasonable expenses for the burial. For the purposes of this act, "indigent decedent" means a person who dies without leaving an ascertainable estate sufficient to pay part or all of the person's burial expenses and whose burial expenses are not payable by the State pursuant to P.L. 1959, c.86 (N.J.S.A. 44:10-1 et seq.), P.L. 1947, c.156 (N.J.S.A. 44:8-107 et seq.) or P.L. 1973, c.256 (N.J.S.A. 44:7-85 et seq.), or by the county pursuant to N.J.S.A. 40A:9-49."

CORRECTIONS

(a)

THE COMMISSIONER

Inter-Jurisdictional Agreements and Statutes International Transfer

Proposed Amendments: N.J.A.C. 10A:10-6.3 and 6.6.

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6, 30:1B-10 and P.L. 1986 c.141.

Proposal Number: PRN 1987-351.

Submit comments by October 8, 1987 to:
Elaine W. Ballai, Esq.
Special Assistant for Legal Affairs
Department of Corrections
CN 863
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 10A:10-6.3(a)4 modifies an eligibility criterion for international transfer. The proposed amendment reduces the time an offender must have remaining on his or her sentence, at the time of application for transfer, from 18 months to 12 months. The proposed amendment at N.J.A.C. 10A:10-6.6(a)6 requires the Office of Interstate Services to receive objections or other comments from persons and agencies in the Criminal Justice System for a period of 15 days after the persons or agencies have been notified of the requests of inmates for international transfers.

This proposal amends recently adopted rules, N.J.A.C. 10A:10-6, which were published in the August 17, 1987 New Jersey Register.

Social Impact

The proposed amendment to N.J.A.C. 10A:10-6.3(a)4 will expedite the processing of the applications of inmates who are eligible to be considered for international transfers. The proposed amendment at N.J.A.C.

10A:10-6.6(a)6 will provide persons and agencies of the criminal justice system with the opportunity to submit objections or other comments for consideration when decisions are made on inmates' requests for international transfers.

Economic Impact

The proposed amendments will not have an economic impact because no additional costs are necessary to implement and maintain the proposed amendments.

Regulatory Flexibility Statement

The proposed amendments impact on inmates and the Department of Corrections. Since small businesses are not affected by these proposed amendments, a regulatory flexibility analysis is not required.

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

10A:10-6.3 Eligibility criteria for international transfer

(a) Offenders must meet all of the following criteria before they may be considered for international transfer.

1.-3. (No change.)

4. The offender shall not have, at the time of the application, less than [18] 12 months remaining on the sentence;

5.-9. (No change.)

10A:10-6.6 Role of Office of Interstate Services

(a) The Office of Interstate Services shall:

1.-5. (No change.)

6. **Receive objections or other comments on the transfer request from persons and agencies listed in (a)5 above for 15 days following notification.**

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

INSURANCE

(b)

DIVISION OF ACTUARIAL SERVICES

Individual Health Insurance Rate Filings

Proposed Amendments: N.J.A.C. 11:4-18.3, 18.5 and 18.10

Authorized By: Kenneth D. Merin, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:8-1; 17:1C-6(e); 17B:26-1 et seq.; specifically 17B:26-44.6 and 17B:26-45.

Proposal Number: PRN 1987-356.

Submit comments by October 8, 1987 to:
Verice M. Mason
Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
201 East State Street
CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The loss ratio standards for individual health insurance policies, which are found at N.J.A.C. 11:4-18.5, were developed prior to 1980. These standards were proposed in 1980, made effective in 1981, and are scheduled to expire in 1990, pursuant to Executive Order No. 66(1978).

At the present time, certain types of recently developed policies are being filed with the Department. These policies were not in existence at the time the loss ratio standards were originally developed. In 1980 many policies aimed at the Medicare market were restricted to persons aged 65 or older. If these policies were sold to individuals under 65, for many of these policies there was a premium change when the individual reached 65.

As a result of product development, new policy forms have been designed that offer extended care, nursing home and home care benefits which were not offered at the time the loss ratio standards in the current rule were developed. These new policies are now being offered to individuals below the age of 65.

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Applying the current loss ratio rules to these new policies results in an inequity, since a 65 percent loss ratio is required for policies issued at age 65 or over, but an identical policy issued to someone under age 65 is subject to a loss ratio of 55 or 60 percent, depending upon the renewability. Most of these policies are sold to persons between the ages 60 and 70, and the higher loss ratio is applied only to those over 65. The amendments to N.J.A.C. 11:4-18.5 represent the Department's effort to correct this inequity by changing the loss ratio standards so that the same loss ratio standards will be applied to all individuals who purchase the same type of policy, once the individual reaches the age of 65.

The amendment to N.J.A.C. 11:4-18.3(a)2ii changes the definition of anticipated loss ratio, and the amendment to 3(a)2iii alters the definition of aggregate loss ratio. These amendments were designed to correct technical errors in the current rule.

The language in sections N.J.A.C. 11:4-18.3(a)3 and 11:4-18.5 has been rewritten to effect the changes in the loss ratio standards to ensure that the same standard will be applied to all individuals, once they reach the age of 65. N.J.A.C. 11:4-18.10 has been amended to include a compliance paragraph.

Social Impact

The proposed amendments require that insurers use the same loss ratio for identical policies at the same attained age, regardless of the issue age of the insured. This will insure that there is no discrimination in the loss ratio determination for "over 65" coverage, and is consistent with the public policy intent for the loss ratio on policies sold to older individuals.

Economic Impact

The proposed amendments will benefit consumers by providing all purchasers of "over 65" coverage with the same loss ratio value. Insurers will experience a decrease in unit premiums since they will have to decrease the expense margin for those policies issued to persons under 65. The Department does not expect to be affected economically by the amendments.

Regulatory Flexibility Statement

Some insurers affected by these proposed amendments are small businesses as that term is defined in the Regulatory Flexibility Act, P.L. 1986, c.169. To provide for uniform and consistent applicability of these rules, and to avoid the granting of a prescribed business advantage to insurers who are small businesses by reducing or eliminating the loss ratio requirements, no differential treatment is accorded small businesses by these proposed amendments.

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

AGENCY NOTE: The amendments to this subchapter shall become operative 60 days after publication of the notice of adoption in the New Jersey Register.

11:4-18.3 Definitions

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

1. (No change.)
2. Terms related to loss ratios are:
 - i. (No change.)
 - ii. "Anticipated loss ratio" means the ratio of the present value of the expected benefits, not including dividends, to the present value of the expected premiums, not reduced by dividends, over the entire period for which rates are computed to provide coverage. For purposes of this ratio, the [word "benefits" includes increases in statutorily required reserves, if any, and present values must incorporate interest at a rate at least as large as that used in calculating statutory reserves, if reserve increases are included in benefits or if incurred/earned loss ratios are expected to vary significantly by duration] **present values must incorporate realistic rates of interest which are determined before federal taxes but after investment expenses.**
 - iii. "Aggregate loss ratio" means the ratio of item (1) to (2) below, where:
 - (1) Is the [sum of the] accumulated **value of past** benefits, from the original effective date of a form to the date as of which the ratio is determined, and the present value of future benefits; and
 - (2) Is the [sum of the] accumulated **value of past** premiums from the original effective date of that form to the date as of which the ratio is determined, and the present value of future premiums.

iii. "Aggregate loss ratio" means the ratio of item (1) to (2) below, where:

- (1) Is the [sum of the] accumulated **value of past** benefits, from the original effective date of a form to the date as of which the ratio is determined, and the present value of future benefits; and
- (2) Is the [sum of the] accumulated **value of past** premiums from the original effective date of that form to the date as of which the ratio is determined, and the present value of future premiums.

NOTE: For purposes of the "aggregate loss ratio," benefits shall not be increased nor premiums reduced by actual or anticipated dividends, and interest [and statutory reserves] shall be included [on the same] in the **accumulated values and present values** on the same basis as in the **present values** for the "anticipated loss ratio."

3. Other terms are:

- i. "Accident only coverage" means all individual insurance which covers only losses due to accident.
- ii. "Over 65 coverage" means all individual insurance where premiums are rated by age and the [issue] **attained** age is 65 years or more or [where] **when** the insurance is issued only to persons age 65 or [over] **more**.
- iii. "Policy" means any policy, certificate, rider, endorsement or amendment which is required to be filed pursuant to N.J.S.A. 17B:26-1 and N.J.S.A. 17:44A-21.

11:4-18.5 Loss ratio standards

(a) For new forms, the benefits provided are presumed reasonable in relation to the premiums charged if the anticipated loss ratio meets the following standards:

1. For over 65 coverage, the ratio is at least 65 percent;
2. For accident only coverage, the ratio is at least 50 percent;
3. For short term nonrenewable trip policies which do not cover loss due to sickness, the ratio is at least 40 percent;
4. For [policies which provide] coverage other than as listed in 1, 2, and 3 above and which are:
 - i. Collectively renewable insurance, the ratio is at least 60 percent;
 - ii. Guaranteed renewable insurance or nonrenewable for stated reasons only insurance, the ratio is at least 55 percent;
 - iii. Noncancellable insurance or noncancellable and guaranteed renewable insurance, the ratio is at least 50 percent.
5. For any insurance not listed in 1 through 4 above, the ratio is at least 55 percent.

(b) (No change.)

11:4-18.10 Effective date; compliance

(a) This regulation shall be effective after it has been accepted by the Legislature. Acceptance by the Legislature will occur 60 days after the regulation has been submitted to the Legislature, unless the Legislature passes a concurrent resolution stating in substance that the Legislature does not favor this regulation.

(b) **All policies of insurance previously filed with the Commissioner which are not in compliance with this subchapter as of the operative date shall be deemed to be withdrawn from filing and disapproved. No new policy of insurance shall be delivered or issued for delivery in this State until the policy has been filed with the Commissioner.**

(a)

DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION

Obligations of Licensees to the Public and to Each Other

Proposed Amendment: N.J.A.C. 11:5-1.23

Authorized By: The New Jersey Real Estate Commission,

Daryl G. Bell, Executive Director.

Authority: N.J.S.A. 45:15-6.

Proposal Number: PRN 1987-378.

Submit comments by October 8, 1987 to:

Robert J. Melillo, Special Assistant to the Director
New Jersey Real Estate Commission
201 East State Street, CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

This proposal amends N.J.A.C. 11:5-1.23(c) which currently requires each New Jersey real estate licensee to cooperate fully with all other New Jersey licensees unless expressly relieved of that obligation through a written directive signed by their client or principal. This proposal provides clarification to licensees by defining what is meant by full cooperation. The proposal also establishes a procedure which must be followed in situations where licensees are retained on an "office exclusive" basis and instructed by their principal not to cooperate in any way with any other licensee. The proposal also establishes a requirement that upon request,

the licensee who is working on an "office exclusive" basis must make available for inspection by another broker the executed "Waiver of Broker Cooperation" form which evidences the principal's direction that his or her property be marketed in that manner. This proposed amendment supersedes the proposal to amend N.J.A.C. 11:5-1.23(c) published in the New Jersey Register on August 18, 1986 at 18 N.J.R. 1680(a).

Social Impact

The proposed amendment will have a favorable impact upon the real estate selling public.

The mandated use of the Waiver of Broker Cooperation form will standardize the procedure whereby principals forego the benefits of inter-broker cooperation.

Full cooperation amongst brokers, as defined by the proposed amendment, is in most cases in the best interest of the selling public. The use of the required waiver form will ensure that the principal has been properly and fully advised of the potential adverse impact which their waiving of broker cooperation may have upon the marketing of the property at the time they are considering whether or not to have their property marketed in a restrictive manner.

The required form also advises the principal that any waiver of broker cooperation must be voluntary and not the result of pressure or undue influence exerted upon the principal by the listing licensee. The proposed amendment also addresses the concerns of other licensees that the listing broker may have pressured the principal(s) to waive cooperation or may be misrepresenting the wishes of the principal(s) as to whether in fact they do not desire the listing broker to cooperate with other licensees.

Economic Impact

The proposed amendment will have a favorable economic impact upon the public. By insuring that principals are fully informed of the benefits of broker cooperation and that any decision to forego those benefits is an informed and voluntary one, it is anticipated that more properties will be marketed in a manner which may result in an economic benefit to selling property owners. It is also anticipated that the instances of alleged or actual abuses involving office exclusive listings will be reduced.

The warning contained in this proposed amendment will give notice to the public of the practical implications of granting a waiver of broker cooperation. By reducing the number of instances wherein principals waive broker cooperation as a result of uninformed or non-voluntary decisions, the proposal will also have a favorable economic impact upon the majority of real estate licensees. Such licensees will have an increased opportunity to offer their services as cooperating brokers or salespersons, thereby creating the potential for increased earnings.

Regulatory Flexibility Statement

The proposed amendment will apply to all licensed New Jersey real estate brokers and salespersons, the total number of which is approximately 84,000.

In order to comply with the requirements of this proposal, broker-licensees will have to either reprint some of their form listing agreements or formulate riders to them containing the text of the required waiver form.

The initial capital costs and annual cost of compliance with this proposal are not susceptible to estimation since they would necessarily vary depending upon the volume of "office exclusive" listings obtained by each licensee. However, it is estimated that such costs will be minimal, regardless of the volume.

The proposed amendment is designed to minimize any adverse economic impact on small businesses, in that it involves no substantial economic impact on any licensees, regardless of the volume of their "office exclusive" business.

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

11:5-1.23 Obligations of licensees to the public and each other

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

(c) Every licensee shall fully cooperate with [any] all other New Jersey [licensee, utilizing his customary cooperation arrangements which shall protect and promote the interest of the licensee's client or principal and which shall not constitute unreasonable practices within the real estate brokerage business.] licensees on an equal basis. Full cooperation requires a listing broker to transmit to their principal(s) all written offers submitted through the offices of other licensees on properties listed with the listing broker. Full cooperation also requires listing brokers not to place restrictions upon the showing of properties listed with them to prospective purchasers who are working through cooperating brokers. This obligation

shall be a continuing one unless the client or principal, with full knowledge of all relevant facts, expressly relieves his agent from this responsibility. Should the client or principal direct the licensee not cooperate with all other licensees, evidence of this intent shall be in writing in the form of a WAIVER OF BROKER COOPERATION as set forth below and signed by the client or principal. Copies of this WAIVER OF BROKER COOPERATION and of the listing agreement to which it relates shall be provided to the client or principal and to their authorized representative by the Broker. This waiver shall become a part of the listing agreement at the time it is signed, and shall be made available for inspection by other Brokers upon request. However, no direction or inducement from the client or principal shall relieve the licensee of his responsibility of dealing fairly and exercising integrity [in his business relations.] with all other licensees.

WAIVER OF BROKER COOPERATION

NOTE: SALES POTENTIAL MAY BE LIMITED BY THE USE OF THIS WAIVER

This property is to be marketed only through the efforts of the Listing Broker. This listing is not to be published in any multiple listing service. I will only consider offers on this property which are obtained by, and I will only allow showings of this property to be conducted by the Listing Broker or his or her duly authorized representatives. THE LISTING BROKER IS HEREBY DIRECTED NOT TO COOPERATE WITH ANY OTHER BROKER.

By signing below, the parties hereto confirm that no pressure or undue influence has been exerted upon the owners as to how this property is to be marketed by the Listing Broker.

The owner(s) further confirm receipt of a fully executed copy of the listing agreement on this property, and of this Waiver of Broker Cooperation form.

DATED: Owner _____

Owner _____

Listing Broker _____

By: Authorized Licensee or Broker _____

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

LABOR

THE COMMISSIONER

The following proposals are authorized by Charles Serraino, Commissioner, Department of Labor.

For proposals numbered PRN 1987-372, 373, 375, 376 and 377, submit comments by October 8, 1987 to:

Arthur J. O'Neal, Jr., Director
Division of Planning and Research
CN 056
Department of Labor
Trenton, New Jersey 08625

(a)

1988 Maximum Weekly Benefit Rates for Unemployment Compensation and State Plan Temporary Disability

Proposed Amendment: N.J.A.C. 12:15-1.3

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-3(c), 43:21-40.

Proposal Number: PRN 1987-372.

The agency proposal follows:

Summary

The proposed amendment establishes the 1988 maximum weekly benefit rate for benefits under the Unemployment Compensation Law and for State Plan benefits under the Temporary Disability Benefits Law.

Social Impact

The proposed amendment will ensure that payments to unemployment and disability insurance recipients entitled to maximum benefits will increase in line with the upward trend of wages in the State's economy, thus preserving the real purchasing power of their benefits.

Economic Impact

The proposed amendment will increase the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate under the Unemployment Compensation Law and under the Temporary Disability

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Benefits Law beginning January 1, 1988, in compliance with statutory provisions which automatically adjust these benefit rates each year in accordance with changes in the Statewide average weekly wage. The maximum weekly benefit for Unemployment Compensation is computed as 56½ percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 1988, the maximum weekly benefit will increase from \$228.00 to \$241.00.

The maximum weekly benefit for State Plan Temporary Disability is computed as 53 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 1988, the maximum weekly benefit will increase from \$213.00 to \$226.00.

Regulatory Flexibility Statement

While employees of small businesses will benefit from the increase in maximum weekly benefit rates, the formula for determining the rates for workers' compensation is spelled out in statute and the Department has no discretion in the application of the statute to small businesses. This rule imposes no change in workers' compensation reporting, recordkeeping or compliance requirements on any business establishment.

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

12:15-1.3 Maximum weekly benefit rates

(a) In accordance with the provisions of the Unemployment Compensation Law, the maximum weekly benefit rate for benefits under the Unemployment Compensation Law is hereby promulgated as being [\$228.00] **\$241.00** per week.

(b) The maximum weekly benefit rate for State Plan benefits under the Temporary Disability Benefits Law is hereby promulgated as being [\$213.00] **\$226.00** per week.

(c) These maximum benefits shall be effective for the calendar year [1987] **1988** on benefit years and periods of disability commencing on or after January 1, [1987] **1988**.

(a)

1988 Taxable Wage Base Under the Unemployment Compensation Law

Proposed Amendment: N.J.A.C. 12:15-1.4

Authority: N.J.S.A. 34:1-5, 34:1-20 and 43:21-7(b)(3).

Proposal Number: PRN 1987-373.

The agency proposal follows:

Summary

The proposed amendment establishes the 1988 taxable wage base for the purpose of contributions under the Unemployment Compensation Law in accordance with N.J.S.A. 43:21-7(b)(3).

Social Impact

The amendment will generate increased revenues for the Unemployment Insurance and Disability Insurance Trust Funds needed to offset the increased levels of benefits for these programs which are statutorily indexed to the upward trend of wages in the State's economy.

Economic Impact

The proposed amendment will increase from \$11,300 to \$12,000 the wages of an individual employee of an employer that are subject to employer and worker contributions under the Unemployment Compensation Law, beginning January 1, 1988. The taxable wage base is computed as 28 times the Statewide average weekly wage in the second preceding calendar year.

Regulatory Flexibility Statement

While this adjustment of the taxable wage base for unemployment compensation and State plan disability insurance will affect small businesses, the formula for determining the taxable wage base is spelled out in the statute and the Department has no discretion in the application of the statute to small businesses. Aside from the requirement that contributions be paid on a higher wage base, this rule imposes no change in workers' compensation reporting, recordkeeping or compliance requirements on any business establishment.

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

12:15-1.4 Taxable wage base under the Unemployment Compensation Law

In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first [\$11,300] **\$12,000** during the calendar year [1987] **1988**.

(b)

Base Week for Unemployment Compensation and State Plan Temporary Disability

Proposed Amendment: N.J.A.C. 12:15-1.6

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-19(t), 43:21-27.

Proposal Number: PRN 1987-375.

The agency proposal follows:

Summary

The proposed amendment raises the amount of earnings required in 1988 to establish a base week for an individual's claim for unemployment compensation and State Plan temporary disability benefits.

Social Impact

The amendment provides for the base week amount to be indexed to wage increases, as benefit payments have been indexed since 1969. Some claimants who work temporarily or intermittently may not qualify for benefits under these tightened eligibility standards.

Economic Impact

The proposed amendment will increase the amount an individual must earn to establish a base week under the Unemployment Compensation and Temporary Disability Benefits Laws. The amount is computed as 20 percent of the Statewide average weekly wage in the second preceding calendar year and will increase from \$81.00 to \$86.00 for benefit years and periods of disability commencing January 1, 1988.

Regulatory Flexibility Statement

This rule relates only to eligibility requirements for workers seeking unemployment compensation or State plan disability benefits. Since the rule establishes a base week for a workers claim and imposes no change in unemployment and disability insurance reporting, recordkeeping or compliance requirements on any business establishment, a regulatory flexibility analysis is not required.

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

12:15-1.6 Base Week

In accordance with the provisions of N.J.S.A. 43:21-19(t), the base week amount is hereby promulgated as being [\$81.00] **\$86.00** per week for benefit years and periods of disability commencing on or after January 1, [1987] **1988**.

(c)

Alternative Earnings Test for Unemployment Compensation and State Plan Temporary Disability

Proposed Amendment: N.J.A.C. 12:15-1.7

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-4(e), 43:21-41.

Proposal Number: PRN 1987-376.

The agency proposal follows:

Summary

The proposed amendment raises the amount of base year earnings required to establish an individual's eligibility for unemployment compensation and State Plan temporary disability benefits.

Social Impact

The amendment provides for the amount of earnings to establish eligibility to be indexed to wage increases, as benefit payments have been indexed since 1969. Some claimants who work only temporarily or intermittently may not qualify for benefits under the tightened standards.

Economic Impact

The proposed amendment increases the alternative earnings eligibility standard under the law in those situations where the individual has not established 20 base weeks in the base year period. The amount will increase from \$4,900 in 1987 to \$5,200 in 1988. The alternative earnings test is indexed each year at 12 times the Statewide average weekly wage in the second preceding calendar year.

Regulatory Flexibility Statement

This relates only to eligibility requirements for workers seeking unemployment compensation or State plan disability benefits. Since the rule establishes the required amount of base year earnings and imposes no change in unemployment and disability insurance reporting, recordkeeping or compliance requirements on any business establishments, a regulatory flexibility analysis is not required.

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

12:15-1.7 Alternative earnings test

In accordance with the provisions of N.J.S.A. 43:21-4(e) and 43:21-41 in those instances in which the individual has not established 20 base weeks, the alternative earnings amount for establishing eligibility is hereby promulgated as being [\$4,900] **\$5,200** for benefit years and periods of disability commencing on or after January 1, [1987] **1988**.

(a)

1988 Maximum Weekly Benefit Rate for Workers' Compensation

Proposed Amendment: N.J.A.C. 12:235-1.6

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:15-12(a).

Proposal Number: PRN 1987-377.

The agency proposal follows:

Summary

The proposed amendment establishes the 1988 maximum workers' compensation rates for temporary disability, permanent total disability, permanent partial disability, and dependency.

Social Impact

The amendment will ensure that payments to Workers' Compensation recipients entitled to maximum benefits will increase in line with the upward trend of wages in the State's economy, thus preserving the real purchasing power of their benefits.

Economic Impact

The proposed amendment will increase from \$302.00 to \$320.00 the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency under the Workers' Compensation Law.

The effect of this change, other things being equal, will be to raise the employers' workers' compensation insurance costs.

Regulatory Flexibility Statement

By raising the weekly benefit rate for workers' compensation benefits, this rule will impact small businesses in the same manner as any other business through its effect on workers' compensation premiums. The formula for determining the maximum weekly benefit rate for workers' compensation is spelled out in the statute and the Department has no discretion in the application of the statute to small businesses. This rule imposes no change in workers' compensation reporting, recordkeeping or compliance requirements on any business establishment.

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

12:235-1.6 Maximum workers' compensation benefit rates

(a) In accordance with the provisions of N.J.S.A. 34:15-12(a), the maximum workers' compensation benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being [\$302.00] **\$320.00** per week.

(b) This maximum compensation shall be effective as to injuries occurring in the calendar year [1987] **1988**.

(b)

Unemployment Compensation Contribution Rate of Governmental Entities for 1988

Proposed Amendment: N.J.A.C. 12:15-1.5

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-7.3(e).

Proposal Number: PRN 1987-374.

Submit comments by October 8, 1987 to:

George M. Krause, Deputy Commissioner-Controller
Department of Labor
CN 078
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment establishes the 1988 contribution rate for governmental entities that elect to pay contributions under the Unemployment Compensation Law.

Social Impact

The lowering of the contribution rate for governmental entities to 1.2 percent of taxable wages for 1988 from 1.3 percent in 1987 will, other things being equal, result in lower costs to State and local government units that choose this financing option.

Economic Impact

The proposed amendment will lower the contribution rate for governmental entities to 1.2 percent of taxable wages for 1988 from 1.3 percent in 1987.

Regulatory Flexibility Statement

This rule applies only to government entities that elect to pay contributions under the Unemployment Compensation Law. Since the rule imposes no reporting, recordkeeping or compliance requirements on small businesses, a regulatory flexibility analysis is not required.

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

12:15-1.5 Contribution rate of governmental entities and instrumentalities

(a) In accordance with the provisions of N.J.S.A. 43:21-7.3(e), the contribution rate for all governmental entities and instrumentalities electing to pay contributions under the Unemployment Compensation Law is hereby promulgated as being [one and three-tenths percent (1.3 percent)] **one and two-tenths percent (1.2 percent)** for the entire calendar year.

(b) This contribution rate shall be effective on taxable wages paid in the calendar year [1987] **1988**.

LAW AND PUBLIC SAFETY

(c)

DIVISION OF MOTOR VEHICLES

Licensing and Regulation of Auto Body Repair Facilities

Proposed New Rules: N.J.A.C. 13:21-21

Authorized By: Glenn R. Paulsen, Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:13-7.

Proposal Number: PRN 1987-361.

Submit comments by October 8, 1987 to:

Glenn R. Paulsen, Director
Division of Motor Vehicles
Department of Law and Public Safety
25 South Montgomery Street
Trenton, NJ 08666

The agency proposal follows:

Summary

On April 24, 1985, Governor Thomas H. Kean signed Assembly Bill No. 1846, L. 1985, c.148, which transferred the responsibility for licensing and regulating auto body repair facilities from the Department of Insurance to the Division of Motor Vehicles in the Department of Law

and Public Safety. The proposed new rules implement the inter-departmental transfer of regulatory authority. The proposed new rules are similar to the rules promulgated and adopted by the Department of Insurance (N.J.A.C. 11:14-1.1 et seq.).

Social Impact

These proposed new rules seek to protect the public from dishonest, fraudulent or deceptive practices in the repair of automobiles damaged by collision by investigating violations of the Act and/or these rules and by imposing certain recordkeeping and notice requirements upon the auto body repair facility. Adoption of these proposed rules should curtail insurance fraud, such as compensating the insured for the cost of his deductible, and may foster and improve relationships between the consumer and the auto body repair facility.

Economic Impact

Auto body repair facilities will incur costs in obtaining a license and implementing the recordkeeping and notice requirements required by the Act and/or these rules. These costs are expected to be outweighed by the benefit provided to the public through the prevention, reduction and/or elimination of dishonest, fraudulent or deceptive practices in the repair of automobiles damaged by collision. It is expected that these benefits will help contain insurance costs by reducing the amount spent by insurance carriers in settling their claims.

The Division will incur substantial costs in connection with the licensing and regulation of auto body repair facilities. It is, however, expected that the application and license fees collected pursuant to N.J.A.C. 13:21-21.5 will provide sufficient revenues for the proper administration of these functions.

Regulatory Flexibility Statement

The Division estimates that most of the auto body repair facilities subject to these rules are small businesses as defined in the Regulatory Flexibility Act, L. 1986, c.169.

In proposing these rules, the Division retained substantially the same recordkeeping and notice requirements imposed by the regulations which were promulgated by the Department of Insurance (N.J.A.C. 11:14-1.1 et seq.). By keeping the recordkeeping and notice requirements substantially the same, the auto body facilities can continue their present recordkeeping and notice practices without additional capital investment.

These proposed new rules, however, impose additional notice requirements upon the auto body repair facilities. Under these new rules, auto body repair facilities will be required to disclose their license number in any advertisement inducing the general public to seek their services. The disclosure of the license number in any advertisement will insure the general public that they are dealing with a licensed auto body repair facility and will assist the Division in identifying those auto body repair facilities which are unlicensed. No additional capital investment or special kind of professional service is required to implement this notice requirement. The cost of compliance with this rule is minimized by only requiring those auto body repair facilities who choose to advertise to add one line to their advertisement.

The proposed new rules also require the auto body repair facilities to disclose to customers any fees charged for storing their motor vehicle, disposing hazardous waste materials and/or preparing an estimate. No additional capital investment or special kind of professional service is required to implement these notice requirements. The cost of compliance with these rules is minimized by allowing the auto body repair facilities to include these statements on their estimates.

Full text of the proposed new rules follows.

SUBCHAPTER 21. AUTO BODY REPAIR FACILITIES

13:21-21.1 Purpose

(a) The Auto Body Repair Facility Act, N.J.S.A. 39:13-1 et seq., as amended by L. 1985, c.148, provides for the licensure and regulation of auto body repair facilities by the Director of the Division of Motor Vehicles. The purposes of this subchapter are to:

1. Establish a system for the licensure of auto body repair facilities; and
2. Establish standards and procedures necessary to protect the public from dishonest, deceptive and fraudulent practices in the repair of automobiles damaged by collision and to eliminate or exclude from licensing those persons who engage in such practices or who otherwise demonstrate unfitness.

13:21-21.2 Scope

(a) This subchapter shall apply to every person engaged in the business of an auto body repair facility.

(b) No person shall, on or after the operative date of this subchapter, engage in the business of an auto body repair facility unless licensed by the Director in accordance with the provisions of this subchapter.

13:21-21.3 Definitions

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

"Advertising" means any printed or published materials, including but not limited to direct mail, circulars, leaflets, pamphlets, newspapers, magazines, billboards, yellow pages of any telephone directory, radio and/or television broadcasts, and any other advertising medium of communication used to induce the public to seek the services of the auto body repair facility. The term "advertising" shall not include printed or published materials appearing in the white pages of any telephone directory.

"Applicant" means any person applying under the provisions of this subchapter for an initial license to engage in the business of an auto body repair facility or to renew an existing license. In the case of a partnership or corporation applying for a license, the term "applicant" shall respectively include all partners and/or officers and directors.

"Auto body repair facility" means any person who for compensation engages in the business of repairing, removing or installing integral component parts of an engine, power train, chassis or body of an automobile damaged as a result of a collision. For the purpose of this subchapter, the following are not deemed to be an auto body repair facility and are not required to be licensed:

1. Any employee of an auto body repair facility who engages in the business of repairing automobiles solely by reason of his employment;
2. Any person who is solely engaged in the business of repairing automobiles owned or leased by a single commercial or industrial establishment;
3. Any person whose activities consist solely of fueling, changing oil, water, batteries or tires, replacing fan belts, air filters or oil filters, installing windshield wiper blades, light bulbs, communication equipment, or such other minor repair and servicing functions; or
4. Any person who solely examines automobiles to determine the cause and/or location of malfunctions. No such person shall prepare an estimate and/or repair any automobile damaged as a result of a collision.

"Collision" means any damage caused to a motor vehicle as a direct result of a motor vehicle accident, or any damage caused by missiles, falling objects, fire, theft, larceny, windstorm, hail, earthquake, explosion, riot or civil commotion, malicious mischief, vandalism, water, flood, lightning, external discharge or leakage of water, smoke or colliding with a bird, animal or stationary object.

"Controlling interest" means possession of the power to direct or cause the direction of the management and policies of an auto body repair facility, whether through the ownership of voting securities or otherwise. The Director will presume that control in fact exists if any person or entity directly or indirectly owns, controls, holds the power to vote, or holds proxies representing 10 percent or more of the voting securities of any auto body repair facility. This presumption may be rebutted by showing that control does not in fact exist. The director may determine control in fact exists, notwithstanding the presence or absence of a presumption to that effect.

"Customer" means the owner of record with the Division of the automobile or any family member, employee or any other person whose use of the automobile is authorized by such owner of record.

"Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Division" means the Division of Motor Vehicles in the Department of Law and Public Safety.

"Engaged in the business" means:

1. Any person who for compensation repairs, removes or installs integral component parts on more than four automobiles damaged as a result of a collision during any calendar year;
2. Any person who for compensation subcontracts, or has any type of business arrangement, with an auto body repair facility or other person to repair more than four automobiles damaged as a result of a collision during any calendar year;
3. Any person who for compensation prepares estimates to be used by an auto body repair facility or other person to repair more than four automobiles damaged as a result of a collision during any calendar year; or
4. Any person who for compensation negotiates, in any manner, claims with any insurer or customer to repair more than four automobiles damaged as a result of collision during any calendar year.

"Estimate" means any written determination prepared by an auto body repair facility of the approximate cost of the parts and labor needed to perform the requested repair services.

"Integral component part" means those major motor vehicle component parts as defined in N.J.S.A. 39:10B-1(b) and also includes the hood and trunk.

"Person" means any natural person, business, company, firm, partnership, association, corporation or any other entity.

"Place of business" means the address or location where the services of the auto body repair facility are offered or ordinarily performed.

"Suspension, revocation or refusal to grant or renew" means administrative action by the director, in accordance with the provisions of this subchapter, to refuse to grant or renew an auto body repair facility to an applicant or to suspend or revoke an existing license.

13:21-21.4 Initial application for a license

(a) Any person seeking to engage in the business of an auto body repair facility shall apply, in accordance with the provisions of this subchapter, to the Director for a license authorizing him to engage in such business. An application for an auto body repair facility license may be obtained from the Auto Body Licensing Unit of the Division. The address of the Auto Body Licensing Unit is:

Division of Motor Vehicles
Bureau of Registrations and Titles
Auto Body Licensing Unit
135 East State Street
CN 017
Trenton, New Jersey 08666-0017

(b) Each applicant for an auto body repair facility license shall file with the director, in such form and detail as may be required by the director, an application setting forth the following:

1. The name, place of business and telephone number of the auto body repair facility;
2. The name, business and residence address(es) and telephone number(s) of:
 - i. The owner and/or possessor of a controlling interest of the facility, in the case of a sole proprietorship;
 - ii. Each partner, in the case of a partnership; or
 - iii. Each officer, director and possessor of a controlling interest, in the case of a corporation.
3. The business in which the applicant has been engaged for the five years preceding the date of application, and if employed, the names and addresses of the employers;
4. Whether the applicant has ever been convicted of a crime, disorderly persons or petty disorderly persons offense;
5. Whether the applicant has ever been denied, or had suspended or revoked, a license to engage in any business, profession or occupation licensed under the laws of any state; and
6. Whether the applicant has any interest in any other auto body repair facility.

(c) Each initial application for an auto body repair facility license shall be accompanied by proof of the following:

1. Certificate of occupancy or the municipality's equivalent thereof issued by the municipality for the place of business set forth in (b)2 above, provided that such certificate of occupancy or equivalent has been issued. In the event that no certificate of occupancy or equivalent has been issued for such place of business, then the initial application for a license must be signed by the municipal clerk, zoning officer or other appropriate municipal official indicating that the Zoning Board or other appropriate municipal board or council has approved the location, establishment and maintenance of an auto body repair facility at the place of business set forth in (b)2 above.
2. New Jersey Sales Tax Identification Number.
3. New Jersey Unemployment Registration Number.
4. Federal Employer Identification Number.

(d) Each initial application for an auto body repair facility license shall be accompanied by a color photograph and a complete set of fingerprints for each natural person required to be listed on the application by this section.

1. The applicable nonrefundable fee payable to the Division of State Police—S.B.I. shall be submitted for each natural person required to be fingerprinted. The payment of this fee shall be in the form of a cashier check, certified check or money order as required by N.J.A.C. 13:59-1.5.

2. Fingerprints required by this section shall be submitted on the standard fingerprint cards as required by N.J.A.C. 13:59-1.4 and taken by a member of the State Police or municipal law enforcement agency.

(e) Each initial application for an auto body repair facility license shall be accompanied by the applicable fees as specified in N.J.A.C. 13:21-21.6.

(f) If there are multiple locations for an auto body repair facility, then a separate application, accompanying documents, and application fee as specified in N.J.A.C. 13:21-21.6 shall be submitted for each such place of business.

(g) Upon preliminary approval of each initial license application, a license shall be issued to the auto body repair facility. Each initial license issued to an auto body repair facility on or after October 1, 1984 shall continue in force and effect until September 30 of every other year, unless such license is suspended or revoked by the Director. If there are multiple places of business for an auto body repair facility, then a separate license shall be issued for each such place of business.

13:21-21.5 Applicant Qualifications

(a) Each applicant shall in the discretion of the Director, be a proper person to hold an auto body repair facility license.

1. In assessing whether an applicant is a proper person, the director may consider the character, responsibility and criminal record of the individual applicant, if the applicant is a natural person; of the individual partners if the applicant is a partnership; or of the officers, directors and/or persons possessing a controlling interest, if the applicant is a corporation; or anyone else employed by, or otherwise associated in business with, the applicant.

(b) Each applicant must have legal capacity to contract, to be sued and to be liable for all debts.

(c) No applicant shall be entitled to licensure who is under 18 years of age.

13:21-21.6 Application and license fees

(a) Every application for an auto body repair facility license shall be accompanied by a nonrefundable application fee of \$20.00 payable to the Division.

(b) Every application for an auto body repair facility license shall be accompanied by a license fee of \$350.00 payable to the Division. Such license fee shall only be returned to the applicant in the event that the Director refuses to grant or renew an auto body repair facility license to the applicant. Such license fee, or any portion thereof, shall not be refunded to the licensee in the event that the auto body repair facility license is suspended or revoked pursuant to N.J.S.A. 39:13-1 et seq. of this subchapter.

13:21-21.7 License renewals

(a) Every licensee, no later than 30 days before the expiration of the current auto body repair facility license, shall submit to the Director an application to renew its auto body repair facility license provided that such licensee is not prohibited from applying for an auto body repair facility license as specified in N.J.A.C. 13:21-21.21. An application to renew an auto body repair facility license may be obtained from the Auto Body Licensing Unit of the Division at the address specified in N.J.A.C. 13:21-21.4(a).

(b) Each application to renew an auto body repair facility license shall be accompanied by the applicable fees specified in N.J.A.C. 13:21-21.6.

(c) Upon approval of each renewal application, a license shall be issued to the auto body repair facility. Every license issued to an auto body repair facility pursuant to this paragraph on or after October 1, 1984 shall continue in force and effect until September 30 of every other year, unless such license is suspended or revoked by the Director.

13:21-21.8 Surrender of license

(a) Every auto body repair facility license document, although issued and delivered to a licensee, shall at all times be the property of the State of New Jersey.

(b) Upon any suspension, revocation, refusal to renew or other termination of an auto body repair facility license, the license shall no longer be in force and effect and the license document shall, within one business day, be surrendered to the Auto Body Licensing Unit of the Division. The licensee or other person having possession or custody of the license document shall surrender such license document, either by personal delivery or by certified mail, to the Auto Body Licensing Unit of the Division at the address specified in N.J.A.C. 13:21-21.4(a). Failure to surrender such license document within one business day shall result in administrative action pursuant to this subchapter.

13:21-21.9 Responsibility of licensees

(a) In the case of a sole proprietorship, the owner and/or possessor of a controlling interest in the auto body repair facility shall be responsible to the Director for the conduct of the business of the facility and

for all actions performed by its employees in connection with the business of the facility concerning violations of the Auto Body Repair Facilities Act and this subchapter.

(b) In the case of a partnership or corporation, each partner, or corporate officer and/or Director, or any person or entity possessing a controlling interest, as the case may be, shall be held individually responsible to the Director for the conduct of the business of the facility and for all actions performed by its employees in connection with the business of the facility concerning violations of the Auto Body Repair Facilities Act and this subchapter.

13:21-21.10 Estimates and repairs

(a) Every licensed auto body repair facility shall provide a written estimate to any customer seeking their services, provided that the auto body repair facility is willing and able to perform the requested repair services.

(b) Each written estimate shall bear the name of the auto body repair facility and its license number.

(c) Each written estimate shall be signed by the person preparing such estimate.

(d) Each written estimate shall contain the following information:

1. The customer's name;
2. The date of the estimate;
3. A list of parts necessary for each repair, together with the costs for those parts, indicating any parts which are not new parts;
4. The labor charge for each repair, together with the total labor charge; or the total number of hours estimated to perform all the requested repairs, together with the hourly labor rate charged by the auto body repair facility;
5. A description of the vehicle;
6. An approximate or estimated date of delivery, if any such date is given;
7. The terms and limit of any guarantee for the repair work performed; and
8. The odometer reading at the time of the requested repair.

(e) Each written estimate shall include a statement or statements informing the customer of his right to receive replaced parts, and stating that the customer's signature or initials on the following line shall mean that the customer waives his right to receive such replaced parts and that no signature on this line shall mean that the customer exercises his right to receive these replaced parts. A signature line shall be provided immediately below this statement.

1. The customer's signature or initials on this line shall mean that the customer waives his right to receive such replaced parts. No signature or initials on this line shall be deemed to mean that the customer exercises the right to receive such replaced parts.

2. The auto body repair facility may charge a reasonable storage and removal fee to any customer who requests the replaced parts and subsequently fails to take these replaced parts, after paying for the repair work or picks up his repaired automobile, whichever occurs first.

3. If a storage and removal fee is charged by the auto body repair facility, then such fee must be disclosed, in writing, to the customer at the time the customer exercises his right to receive the replaced parts.

4. The auto body repair facility shall not be liable to the customer in those cases where the customer fails to take the replaced parts after paying for the repair work or picks up his repaired automobile.

(f) Each written estimate shall include a statement informing the customer or insurer of their right to inspect the repaired automobile before paying for the repair work.

(g) Any estimate and/or repair work prepared or performed by a subcontractor shall be deemed to be work performed under the direction of the licensee. The licensee shall be accountable to the Director for all such work subcontracted to others.

(h) An auto body repair facility may charge a reasonable fee for making a written estimate. If a fee is charged for making a written estimate, then the auto body repair facility must disclose, in writing, the amount of the fee to the customer before the written estimate is prepared.

(i) An auto body repair facility may charge a hazardous waste disposal fee. If such a fee is charged, then the auto body repair facility must disclose such fee on the estimate.

13:21-21.11 Authorization for repairs

(a) No auto body repair facility shall commence any repair work, including the ordering of parts, on a customer's automobile unless the facility has obtained:

1. Specific written authorization from the customer to proceed with the requested repair services; or

2. Oral authorization from the customer to proceed with the requested repair services when such written authorization is otherwise impractical. In the case of an oral authorization, the estimate shall contain a notation of the date, time, telephone number, if any, and name of the customer granting such authorization. A copy of the estimate which contains these notations shall be given to the customer.

(b) No auto body repair facility shall commence any additional repair work, including the ordering of additional parts, on a customer's automobile which exceeds any estimate given, including the price, list of parts and labor charge, unless the facility obtains the authorization of the customer to proceed with the additional repair services.

(c) In the case of an oral authorization, the original estimate or any additional estimate prepared shall contain a notation of the date, time, telephone number, if any, and name of the customer granting such authorization. A copy of the estimate which contains these notations shall be given to the customer.

(d) Customers or insurers may test drive the repaired automobile before paying for the repair work, provided that the repairs made by the auto body repair facility are directly related to the operation of the automobile and further provided that such repaired automobile may be safely operated on the highways of this State.

13:21-21.12 Notice and recordkeeping requirements

(a) Each licensee shall display an outdoor sign which shall read: "Registered: State of New Jersey—Licensed Auto Body Repair Facility" and display the license number of the auto body repair facility. The sign must contain letters at least two inches high with a stroke of approximately one-half inch and visible from the road and located in a conspicuous location for the general public to see. In the event zoning ordinances prohibit the posting of this sign or such posting is otherwise impractical, the licensee shall place such sign on the exterior of the auto body repair facility.

(b) Every license document issued in accordance with this subchapter shall be prominently displayed in the office, waiting area or other conspicuous location at the auto body repair facility which is accessible to the public.

(c) Every licensed auto body repair facility shall post in a conspicuous location accessible to the public a "Notice to Consumers" concerning violations of the Auto Body Repair Facility Act and the fact that customers or insurers have a right to inspect the repaired automobile before paying for the repair work. The Notice shall be prescribed and furnished by the Division.

(d) Every licensed auto body repair facility shall maintain copies of all estimates, work orders, invoices, parts purchase orders, appraisals and/or other documents prepared by that facility on repair work performed by that facility or by subcontractors.

1. Such copies shall be kept for two years and shall be available for inspection by the Director, or any person designated by him, during normal business hours.

2. Failure to permit such inspection shall subject the licensee to administrative action pursuant to this subchapter.

(e) Every auto body repair facility shall, upon request of the Director or any person designated by him, provide the Director or his designee with a list of its employees in such form and detail as may be required by the Director or his designee. Failure to provide such list when requested shall subject the licensee to administrative action pursuant to this subchapter.

(f) The licensee shall notify the Director, in writing, within 10 days of any change in address of the auto body repair facility or of any change in address of persons or entities required to be listed on the application by N.J.A.C. 13:21-21.4.

(g) The licensee shall notify the Director, in writing, within 10 days whenever any person or entity required to be listed on the application by N.J.A.C. 13:21-21.4 is no longer associated with the auto body repair facility.

(h) All written notifications required by this subchapter shall be made by either personal delivery or sent by certified mail to the Auto Body Licensing Unit of the Division at the address specified in N.J.A.C. 13:21-21.4(a).

(i) An amended application shall be filed by the licensee with the Director when there is a substitution and/or addition of persons or entities required to be listed on the application by N.J.A.C. 13:21-21.4, and shall meet the requirements of N.J.A.C. 13:21-21.6(a) and N.J.A.C. 13:21-21.4(d).

(j) Any process issued to a licensee pursuant to the statutory authority of the Director, including but not limited to subpoenas, orders, and orders to show cause, may be served upon a licensee or counsel of record, by

sending said process by certified mail, or ordinary mail, to the business address of the auto body repair facility or to counsel's address on record with the Division.

13:21-21.13 Advertising

(a) Any advertising used by the auto body repair facility in any printed or published material shall contain and prominently display the license number of the facility.

(b) Any advertising used by the auto body repair facility in any radio broadcast shall disclose that the facility is licensed by the State of New Jersey.

(c) Any advertising used by the auto body repair facility in any television broadcast shall disclose and prominently display the license number of the facility at the end of such broadcast.

13:21-21.14 Storage rates

Every auto body repair facility which charges a fee to store a motor vehicle on its premise shall disclose in writing, as soon as practicable, the amount of such storage charge to the customer on a per diem basis.

13:21-21.15 Additional violations

(a) In addition to any violation of N.J.S.A. 39:13-1 et seq., the Director may impose a civil penalty, refuse to issue a license or a renewal thereof, or suspend or revoke the existing license of any auto body repair facility if he determines that the applicant or licensee:

1. Has made a false statement or concealed a fact in connection with the application for a license or a renewal thereof;

2. Is not the owner of, or possessor of a controlling interest in, the auto body repair facility;

3. Has been found to have violated or conducted fraudulent or deceptive practices concerning the repair of motor vehicles in violation of N.J.S.A. 56:8-1 et seq. or N.J.A.C. 13:45A-7.1 et seq.;

4. Has a criminal record which is disqualifying. A disqualifying criminal record shall include, but is not limited to, bond forfeitures, pleas of nolo contendere or convictions of crimes, disorderly persons or petty disorderly persons offenses as defined in the "New Jersey Code of Criminal Justice" and any other offenses as defined by the laws of New Jersey, such as:

i. Any crime or offense involving the manufacture, transportation, possession, sale or use of a controlled dangerous substance as defined in the "New Jersey Controlled Substance Act", N.J.S.A. 24:21-1 et seq.;

ii. Any crime or offense involving the use of force or the threat of force to or upon a person or property, such as armed robbery, assault, battery or arson;

iii. Any crime or offense involving the taking or misappropriation of property of another person, such as theft, burglary, fraud, larceny or embezzlement;

iv. Any crime or offense indicative of bad moral character or not being a proper person for the purposes of being licensed in accordance with this subchapter; or

v. Any crime or offense which, in the discretion of the director, would relate adversely to the operation of the business of an auto body repair facility.

5. Demonstrates a pattern of conduct whereby repairs made by the auto body repair facility were not made in a workmanship like manner;

6. Issues a check in payment of any fees required by this subchapter which is subsequently dishonored;

7. Has failed to comply with any of the provisions of this subchapter; or

8. Fails to maintain an approved place of business in accordance with N.J.A.C. 13:21-21.4(c)1; or for other good cause.

13:21-21.16 Additional penalties

(a) Where, pursuant to N.J.S.A. 39:13-1 et seq., or any regulation adopted thereunder, the Director has the authority to suspend, revoke or refuse to grant or renew the license of an auto body repair facility, the Director shall also have the authority to impose, as an alternative or in addition to such suspension, revocation or refusal to grant or renew, an official warning and/or a civil penalty of not more than \$2,000 for the first offense and not more than \$5,000 for each subsequent offense.

(b) A civil penalty in the amount of \$5,000 per day shall be imposed on any person or auto body repair facility who continues to operate as an auto body repair facility after its license has been suspended or revoked or whose application for an auto body repair facility license has been refused by the Director pursuant to N.J.S.A. 39:13-1 et seq. or any regulation adopted thereunder.

13:21-21.17 Investigations

(a) The Director shall, on his own initiative or in response to complaints, investigate on a continuous basis and gather evidence of violations of N.J.S.A. 39:13-1 et seq., or of any regulation adopted thereunder, by an auto body repair facility.

(b) The Director, or any person designated by him, shall have the power to conduct investigations, administer oaths, interrogate licensees, issue subpoenas, summonses and/or complaints and compel witnesses to appear at any hearing.

(c) Except as set forth in N.J.A.C. 13:21-21.12(j), subpoenas shall be served in the same manner, and the witnesses shall be entitled to the same fees, as in the case of subpoenas issued out of the Superior Court of New Jersey.

(d) In case of a failure of any person to comply with any subpoena issued under these rules or to testify with respect to any matter concerning which he may be lawfully interrogated, the Superior Court, on application of the Director, may issue an order requiring the attendance of such person and the giving of testimony or production of evidence. Any person failing to obey the order of the court may be punished by the court for contempt.

13:21-21.18 Written notice of a suspension, or revocation or refusal to grant or renew a license

(a) The Director shall notify the applicant, in writing by certified mail, of any refusal to grant or renew an auto body repair facility license to the applicant and the grounds thereof. Written notice shall be mailed to the applicant at the address listed on the application or to the place of business on record with the Division.

(b) The Director shall notify the licensee, in writing by certified mail, of any proposed suspension or revocation of the auto body repair facility license and the grounds thereof. Written notice shall be mailed to the place of business on record with the Division. Unless the licensee files with the Director a written request for a hearing in accordance with N.J.A.C. 13:21-21.19, the auto body repair facility license shall be suspended or revoked as of 12:01 A.M. on the 61st day from the date such notice was sent in accordance with this section.

13:21-21.19 Request for a hearing

(a) If an applicant has been notified in accordance with N.J.A.C. 13:21-21.18(a) that the Director refuses to grant or renew an auto body repair facility to him, then the applicant shall be entitled to an administrative hearing concerning such refusal provided that the applicant has filed and the Director has received a written request for a hearing within 60 days. The 60 day period shall commence on the date such notice was mailed to the applicant by the Division in accordance with N.J.A.C. 13:21-21.18(a).

(b) If a licensee has been notified in accordance with N.J.A.C. 13:21-21.18(b) of a proposed suspension or revocation of his auto body repair facility license, then the licensee shall be entitled to an administrative hearing concerning such proposed suspension or revocation provided that the licensee has filed and the Director has received a written request for a hearing within 60 days. The 60 day period shall commence on the date such notice was mailed to the licensee by the Division in accordance with N.J.A.C. 13:21-21.18(b).

(c) Any written request for a hearing by an applicant or licensee shall be sent to the Auto Body Licensing Unit of the Division at the address specified in N.J.A.C. 13:21-21.4(a). The hearing request shall contain the following information:

1. The name, place of business and telephone number of the auto body repair facility;

2. A concise statement of facts constituting each ground of defense;

3. A specific admission, denial or explanation of each fact alleged by the Division in its notice or order to show cause, or if without knowledge thereof, a statement to that effect; any allegation in the Division's notice or order to show cause which is not answered in accordance with this paragraph shall be deemed to have been admitted; and

4. A statement requesting a hearing.

(d) If the applicant or licensee does not file a written request for a hearing in accordance with (a), (b) or (c) above, then the suspension, revocation or refusal to grant or renew the auto body repair facility license shall be effective 12:01 A.M. on the 61st day from the date such notice was mailed in accordance with 13:21-21.18. The auto body repair facility shall cease all engagements and activities of the business of an auto body repair facility effective 12:01 A.M. on the 61st day from the date such notice was mailed in accordance with N.J.A.C. 13:21-21.18.

NEW JERSEY REGISTER, TUESDAY, SEPTEMBER 8, 1987

13:21-21.20 Hearing procedures

Any hearing concerning the suspension, revocation or refusal to grant or renew an auto body repair facility license 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.

13:21-21.21 Limitations on issuance of a license after a suspension, revocation or refusal to grant or renew

(a) No person whose application for an auto body repair facility license is refused shall be entitled to apply for a license under this subchapter for a period of at least one year from the effective date of such refusal.

(b) No person whose license is suspended or revoked shall be entitled to apply for a license under this subchapter during the period of suspension or revocation.

13:21-21.22 License restoration

(a) A fee of \$30.00 shall be payable to the Division for the restoration of an auto body repair facility license which is suspended or revoked pursuant to N.J.S.A. 39:13-1 et seq. or this subchapter. Such license restoration fee shall be paid to the Division before the license may be restored.

(b) Every suspension or revocation of any auto body repair facility license, pursuant to N.J.S.A. 39:13-1 et seq. or any regulation adopted thereunder, shall continue in force and effect until such license is restored by the Director.

(c) In the case of every suspension or revocation of an auto body repair facility license for a fixed period of time, the licensee, as a condition precedent to restoration, shall make application to the Director, in such form as the Director may prescribe, and pay the license restoration fee specified in (a) above. The Director may, upon due notice and opportunity for a hearing, deny any application for restoration of an auto body repair facility license for good cause.

(a)

STATE BOARD OF DENTISTRY

Dentist of Record

Proposed New Rule: N.J.A.C. 13:30-8.17

Authorized By: Joseph A. Galletta, D.D.S., President, New Jersey State Board of Dentistry.

Authority: N.J.S.A. 45:6-1 and 45:1-22.

Proposal Number: PRN 1987-335.

Submit comments by October 8, 1987 to:

William Gutman, Administrator
New Jersey State Board of Dentistry
1100 Raymond Boulevard, Room 321
Newark, New Jersey 07102

The agency proposal follows:

Summary

The State Board of Dentistry is proposing a new rule, N.J.A.C. 13:30-8.17, concerning the designation of a "dentist of record" to be primarily responsible for the treatment plan of a patient in a multi-dentist facility. The dentist of record would have to be so identified on the patient record. Any other primary dental care provider would have to sign or initial those entries on the record pertaining to his or her treatment.

If no dentist of record is designated, the owner of the dental facility where treatment is rendered would be presumed to be the dentist of record. Any change in the dentist of record would have to be noted on the patient record, and it would be presumed that the new dentist of record has reviewed the patient records, examined the patient and has either developed a new treatment plan or concurs with the existing treatment plan.

Finally, the proposed rule would provide that either the licensee found to have rendered deficient treatment, or the owner of the facility to whom the fees for service are paid may be held jointly and severally responsible for reimbursement of any fees as might be directed by the Board.

The latter provision addresses a difficulty often encountered by the Board when it directs restitution of fees for services provided at multi-dentist facilities. Many dentists at large, multi-dentist facilities are salaried employees or receive only a small percentage of the fees for services. When the Board directs repayment of fees in accordance with N.J.S.A. 45:1-22(d), it is not feasible for the Board to trace the apportionment of fees received in such a large facility. Nevertheless, some licensees have

maintained that they should not be obligated to pay restitution because they did not directly receive the fees paid by the patient or insurance carrier. Inasmuch as the immediate treating dentist and owner may all, in effect, benefit from the patient's patronage, the Board's position is that both should be jointly and severally responsible for making the patient financially whole after deficient treatment. It is, further, the Board's position that it should be the responsibility of the facility to apportion the restitution between or among the responsible parties.

Social Impact

It is anticipated that this proposed new rule will have a positive social impact by designating a single dentist in a multi-dentist facility who will be primarily responsible for patient care. Such designation on the patient chart should enable other persons reviewing the records to identify the professional who rendered specific treatment. This should benefit the patient seeking to understand or make use of his or her records, as well as any subsequent treating dentist who may need a consultation concerning the treatment previously rendered.

Economic Impact

Compliance with the new rule may only require a small modification in record-keeping practices which should have no economic impact. The Board has found that many multi-dentist practices already keep records in a manner similar to what the proposed rule would require.

The aspect of the rule that may have a notable economic impact is subsection (f), providing that the owner of the dental facility or licensee who rendered deficient treatment may be held jointly and severally responsible for the repayment of any fees as directed by the Board. The Board has found that various forms of employer/employee, independent contractor, or principal/agent relationships exist in multi-dentist practices. In most instances, it is not feasible for the Board to trace the apportionment of fees paid for a given procedure. Where the return of fees for improper or deficient treatment is directed, it is the Board's position that either the licensee who rendered deficient treatment, as the professional directly responsible for the patient's care, or the owner of the facility, as a beneficiary of the fees should be responsible therefor. If any indemnification or contribution is warranted between or among the professionals, it is the Board's position that it should not impede the return of fees to the patient.

Regulatory Flexibility Statement

The proposed new rule will impose no significantly greater record-keeping requirements than currently exist under N.J.A.C. 13:30-8.8. Pursuant to the latter rule, patient records containing certain information must currently be kept. The new rule merely requires an additional entry. The rule will affect only direct dental care providers, that is, dentists and registered dental hygienists. Of the latter two professional classifications, only dentists might be deemed to be engaged in a small business, inasmuch as registered dental hygienists are prohibited by N.J.S.A. 45:6-64 from establishing independent offices. There are approximately 9000 licensed dentists in the State, all or virtually all of whom practice within settings with less than 100 employees, thus, small businesses must comply to effectuate the purpose of the proposed new rule.

Small businesses may also be affected by N.J.A.C. 13:40-8.17(f) which states that owners of dental treatment facilities will be jointly and severally liable with the treating dentist for any deficient treatment a patient receives at the facility. Although owners will be exposed to greater liability, this requirement must apply to small business owners of dental treatment facilities to insure that patients will be reimbursed for deficient treatment.

Full text of proposed new rule follows.

13:30-8.17 Dentist of record; fee reimbursement

(a) Each patient shall have a dentist of record who shall remain primarily responsible for assuring the proper implementation of the dental treatment plan on such patient regardless of whether the treatment is rendered by the dentist of record, by another dentist or by a dental hygienist rendering such treatment in conjunction with, in the employ of, at the direction or request of, or under the supervision of such dentist of record.

(b) The name of the dentist of record shall be conspicuously identified on the patient record. If the dentist of record is not identified on the patient record, it shall be presumed that the dentist of record is the owner(s) of the practice in which the patient was treated.

(c) Each dentist or dental hygienist shall sign or initial each entry on the patient record pertaining to the treatment he or she rendered. If no such entry appears on the patient record, it shall be presumed that such

treatment was rendered by the dentist of record, unless the latter shall establish, to the satisfaction of the Board, the identity of the individual who rendered such treatment.

(d) In a multi-dentist practice, the dentist of record shall not change unless the subsequent treating dentist acknowledges in writing in the patient record that he or she is currently the dentist of record for the patient. The dentist of record shall be changed when such individual leaves the practice where treatment was provided and the patient elects to continue treatment in the facility in which treatment began.

(e) A new dentist of record shall be presumed to have obtained or reviewed the patient's medical history and dental records, examined the patient, and either developed a new treatment plan or concurred with the continuance of the pre-existing treatment plan.

(f) Any licensee found to have rendered deficient treatment and the owner of the facility in which the licensee rendered the deficient treatment shall be jointly and severally responsible for the reimbursement to the patient of any fees as may be directed by the Board.

(a)

STATE BOARD OF EXAMINERS OF MASTER PLUMBERS

General Rules and Regulations

Proposed Readoption with Amendments: N.J.A.C. 13:32-1.2 and 1.3

Proposed Readoption: N.J.A.C. 13:32-1.4, 1.5, 1.6, 1.8 and 1.9

Proposed Repeal and New Rule: N.J.A.C. 13:32-1.1 and 1.7

Authorized By: Joseph F. Kavanaugh, Jr., Chairman, State Board of Examiners of Master Plumbers.

Authority: N.J.S.A. 45:14C-7.

Proposal Number: PRN 1987-360.

Submit comments by October 8, 1987 to:

Christine T. DeGregorio, Executive Director
State Board of Examiners of Master Plumbers
1100 Raymond Boulevard, Room 503
Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board of Examiners of Master Plumbers has undertaken a review of its regulations in accord with the "sunset" provisions of Executive Order No. 66(1978) to ensure that its administrative rules are necessary, adequate, reasonable, efficient, understandable and responsive. Pursuant to the Executive Order these rules will expire, if not readopted, on November 1, 1987. As a result of this review the Board is proposing to readopt five of its rules without change and to readopt four with amendments.

N.J.A.C. 13:32-1.1: The present text of this rule describing Board meetings is outdated and is proposed to be deleted in its entirety. The proposed new text provides that Board meetings will be held according to a schedule published yearly and that special meetings called at the request of a Board member may be held upon appropriate notice, all in conformity with the Open Public Meetings Act of 1975. The rule further provides that, consistent with N.J.S.A. 45:1-2.2, a majority of the appointed members of the Board constitutes a quorum of the Board, and that no Board action may be taken except of the affirmative vote of a majority of the members. Old subsection (c), providing that Board members are to receive minutes promptly after each meeting, is retained at subsection (e).

N.J.A.C. 13:32-1.2: This section is proposed for readoption with only technical amendments. The section provides that applicants for examination may apply to the Board's executive director and that applicants presenting completed and satisfactory applications will be notified at least two weeks in advance of any scheduled examination date.

N.J.A.C. 13:32-1.3: This section describing Board Examinations is proposed for readoption with only minor changes. Subsection (e) is amended to provide for examination review upon written request. The term "review" rather than "inspect" is used to make it clear that applicants will not be permitted access to the examination questions, because these questions may be used again in subsequent Board examinations.

N.J.A.C. 13:32-1.4, 1.5, 1.6, 1.8 and 1.9: These sections are proposed for readoption without change. Section 1.4 describes the \$3000 bond that licensees enter into in favor of the State of New Jersey pursuant to N.J.S.A. 45:14C-26 and lists those persons who may maintain an action on the Bond. Section 1.5 describes the responsibilities of the licensee who serves as a bona fide representative for a business engaging in the practice of master plumbing. The Board has found that the present text as adopted in 1983 adequately describes these responsibilities. Section 1.6 is a necessary rule requiring notice of a change in address from licensees within ten days after such change. Section 1.8 describes the pressure seal issued to licensees to be used as identification when obtaining permits. Section 1.9 is a recently promulgated rule providing that licensees shall also be issued an identification card at the time of license renewal for the purpose of verifying current licensing status.

N.J.A.C. 13:32-1.7: The text of this section is being repealed since the newly established system of providing wallet sized identification cards upon renewal eliminates the necessity of attaching renewal certificates to the original license. A new rule is proposed to replace this section. The new rule will serve the purpose of informing licensees that N.J.S.A. 45:1-9 requires that license numbers be used on contract forms and in advertising. The rule also requires that commercial vehicles used by master plumbers have the license number displayed and visible.

Social Impact

The proposed revisions of Section 1.1 simply serve to update this provision to conform to the Board's present practices concerning meetings in accordance with the Open Public Meetings Act and N.J.S.A. 45:1-2.2(d). Similarly the proposed change in section 1.2 simply reflects the fact that the "Executive secretaries" of the professional boards are now designated by the title of "executive director," and section 1.3 is to be revised for clarification of the nature of the examination review permitted for applicants who fail the Board examination.

The sections to be readopted without amendment include 1.8 and 1.9 which explain the issuance and use of pressure seals and wallet sized identification cards for licensees. These sections provide a means for a master plumber to establish his status as a current licensee thus benefitting him and the customers he deals with.

The Board is permitted by N.J.S.A. 45:14C-26 to establish who shall be eligible for the protection afforded by the plumber's bond required by that section. Section 1.4 of the Board rules defines that class of eligible people broadly to include any person, business entity or government entity, thus benefitting any person aggrieved by violations of the licensing laws committed by licensees.

The master plumbers licensing act requires that business entities engaged in the practice of master plumbing have a bona fide representative who is a licensed master plumber owning at least 10 percent of the business. Section 1.5 of the Board rules provides necessary clarification and definition of the clear intent of this statutory provision, which is to ensure that plumbing work be supervised by a licensee and that the licensee or someone authorized by him shall obtain necessary permits and otherwise ensure that all work performed complies with building codes and good plumbing practice. The readoption of this section will continue to serve the beneficial purpose of defining licensees' responsibilities for the protection of the health and safety of the public.

The proposed readoption of Section 1.6 ensures that the Board will have current addresses at which licensees can be contacted.

New Section 1.7, requiring that license numbers be included on commercial vehicles and in business correspondence and advertising, benefits consumers by enabling them to determine the licensing status of persons engaged in the plumbing business.

Economic Impact

The proposed readoptions and readoptions with amendments will have little or no economic impact on licensees, the Board or the public. The proposed new text of Section 1.7 incorporates the statutory requirement for including license numbers on documents and advertising and adds the minimally burdensome requirement that the number also be displayed on commercial vehicles by these rules is the one-time charge for the cost of the pressure seal issued to new licensees.

Regulatory Flexibility Statement

The Board of Master Plumbers has over 6000 active licensees. The Board believes that the large majority of these work for or own small businesses. The Board has found, however, that there is no need for considering alternative approaches for these small businesses in proposing to readopt and amend its rules, since the rules in general involve no costs or reporting requirements or other adverse impact on small businesses,

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other than the minimally burdensome and necessary requirements of reporting changes of address and information about bona fide representatives, and the minimally burdensome cost of the pressure seal and including the license number on commercial vehicles.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:32-1.

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

13:32-1.1 Board meetings

(a) The Board shall hold an annual meeting on the fourth Friday in February of each year, or at such other time as the chairman may direct, at which annual meeting a chairman, a vice chairman and a secretary shall be elected for the ensuing year.

(b) Members shall be given five days' notice of any meeting, where practicable, except that in matters of urgency, the chairman may call meetings upon 24 hours' notice. In the event of the unavailability of the chairman due to illness or otherwise, four members of the Board may call a special meeting in matters of urgency.

(c) Copies of the minutes of meetings shall be mailed to all members as soon as practicable after each meeting.]

(a) **Regular Board meetings shall be held in accordance with a schedule that is published yearly and filed with the Secretary of State.**

(b) **Special meetings may be held at the request of a Board member or called by the chairman with publication of appropriate notice pursuant to the requirements of the Open Public Meetings Act.**

(c) **A majority of the voting members of the Board shall constitute a quorum thereof and no action of the Board shall be taken except on the affirmative vote of a majority of the members of the entire Board.**

(d) **In the absence of the chairman, members shall select one of the members attending the meeting to serve as chairman for that meeting.**

(e) **Copies of the minutes of meetings shall be mailed to all members as soon as practicable after each meeting.**

13:32-1.2 Application for examination; notice

(a) Upon request applicants shall be furnished **with** an application form by the executive [secretary] director.

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

13:32-1.3 Examinations

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

(c) Examinations may consist of two parts:

1. Written examination based on the [current plumbing code of the State of New Jersey (Part E of the Standard Building Code);] **National Standard Plumbing Code as adopted by the State of New Jersey pursuant to the Uniform Construction Act.**

2. (No change.)

(d) (No change.)

(e) An applicant who has failed the examination may **review** [inspect] his or her examination upon written request to the Board made within 30 days after notification of his or her failure.

[13:32-1.7 Renewal certificates

Upon the renewal of a license a "renewal certificate" will be issued to be attached to the State master plumber license.]

13:32-1.7 Identification of licensees

(a) **All commercial vehicles used in the practice of state-licensed master plumbing shall be visibly marked with the license number of the owner or qualified bona fide representative.**

(b) **All business correspondence and stationery and all advertising shall display the license number.**

(a)

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Land Surveyors; Preparation of Land Surveys

Proposed Amendment: N.J.A.C. 13:40-5.1

Authorized By: Robert Kirkpatrick, P.E., L.S., President, Board of Professional Engineers and Land Surveyors

Authority: N.J.S.A. 45:8-27 et seq., specifically 45:8-28(e).

Proposal Number: PRN 1987-338.

Submit comments by October 8, 1987 to:

Cathleen A. McCoy, B.S., M.A.,
Executive Director
Board of Professional Engineers
& Land Surveyors
1100 Raymond Boulevard, Room 317
Newark, New Jersey 07102

The agency proposal follows:

Summary

On March 15, 1984 the Board of Professional Engineers and Land Surveyors adopted amendments to N.J.A.C. 13:40-5.1(d) including a requirement that, when written contractual arrangements are made to omit corner markers, a notation stating that such omissions have been made shall be included on the plat or plan of survey. At that time, the Board was concerned that many professional land surveyors did not clearly understand to whom they owed their professional responsibility, for example, to the attorney general, the home purchaser, the title company or to some other individual or entity. In the years since this rule amendment was adopted, the Board has found a number of instances where a home purchaser expected to have corners set, but they were not set due to an agreement between the surveyor and another interested party. Accordingly, the Board in this proposed amendment seeks to aid the "ultimate user" of a survey, the home purchaser. The Board stresses that its licensees must be more diligent in establishing the identity of clients and in providing them with responsible and professional service.

Social Impact

The proposed amendment to N.J.A.C. 13:40-5.1(d) may affect licensees insofar as those who did not have any direct contact with the home purchaser in the past will have to determine in each and every instance whether or not the "ultimate user" desires to have the property corners set. The amendment will benefit consumers, by requiring the licensees to clarify with them what will be shown on the completed survey.

Economic Impact

It is not anticipated that the amendment to N.J.A.C. 13:40-5.1(d) will have any economic impact unless the purchaser of property requests that property corners be set, which otherwise would have been waived by third parties.

Regulatory Flexibility Statement

The amended rule as proposed will apply to all licensed land surveyors and thus, indirectly, will apply to all land surveying businesses, both large and small. There are no new reporting or record keeping practices imposed, nor are any professional services needed to comply with the new rule. The only difference regarding compliance will be that the licensee will have to contact the "ultimate user" of the survey being produced. There is no need for this rule to be designed to minimize any adverse economic impact on small businesses because the benefits to the ultimate user of the property outweigh any cost to the licensee.

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

13:40-5.1 Land surveyors; preparation of land surveys

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

(d) **Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and so forth, shall be set either by the licensed land surveyor or under the supervision of the licensed land surveyor. Such markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible, or unless written contractual arrangements with the ultimate user specify otherwise. For the purpose of this section "ultimate user" shall mean, in the case of a transfer of title, the purchaser of the property or the attorney representing that purchaser and not a representative agent such as a title company, real estate agent, real estate broker, mortgage company or other individual or entity. When written contractual arrangements are made to omit corner markers, a specific notation stating that such omissions have been made by written contractual agreement with the ultimate user shall be [included] clearly displayed on the plat or plan of survey. This notation must relate specifically to that plat or plan of survey and may not be included as a preprinted title block, standard form, or other reproducible medium.**

1.-5. (No change.)

(e)-(n) (No change.)

(a)

BOARD OF PSYCHOLOGICAL EXAMINERS

Fees

Proposed Amendment: N.J.A.C. 13:42-1.2

Authorized By: Annette R. Shteir, Ed.D., President, Board of Psychological Examiners.

Authority: N.J.S.A. 45:1-3.2, 45:14B-13.

Proposal Number: PRN 1987-359.

Submit comments by October 8, 1987 to:

Jeannette V. Balber
Executive Director
Board of Psychological Examiners
1100 Raymond Boulevard, Room 512
Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board of Psychological Examiners is proposing to amend N.J.A.C. 13:42-1.2 to raise the fees charged by the Board for application, oral and written examination and reexamination, initial license, biennial renewal of license, reinstatement of license, reciprocity, temporary permit, verification of licensure and notice of licensure. Additionally, the Board is proposing one new fee, N.J.A.C. 13:42-1.2(a)12, which would establish a fee for a duplicate renewal certificate. These fee increases are calculated to provide the Board with adequate funding to discharge its statutory obligations, which include the evaluation of applicants for licensure and the regulation of the practice of psychology (including investigation of complaints and appropriate disciplinary and enforcement actions).

In addition to the longstanding statutory obligations, a recent legislative enactment has placed new obligations on the Board. Pursuant to N.J.S.A. 45:14B-44 and 45:14B-45, the Board was charged with the responsibility of promulgating regulations dealing with disclosure of confidential patient information by psychologists to third party payors and with the establishment of an independent peer review committee. The statute and regulations created a mechanism by which third party payors could obtain information on which to base their decisions of whether to continue or terminate benefits paid to patients receiving psychological services. In attempting to fulfill its statutory mandate, the Board has hired an independent peer review committee Administrator who will make assignments in each case and who will be responsible for the processing of review requests. Additionally, it is anticipated that a substantial amount of Board time will be spent on addressing questions and issues arising out of the operation of the review process.

The sums provided by this fee increase will allow the Board to adequately and appropriately address all issues that come before it.

Social Impact

The proposed amendments do not change the tenor and thrust of the existing rule; rather they affect only the amounts to be paid to the Board by licensees and prospective licensees for services rendered by the Board. The funding generated by this fee increase would be used to address the Board's present needs, as outlined above, as well as to enable it to meet the responsibilities imposed on it by the Legislature in the creation of the review process.

Economic Impact

The proposed amended fees should yield revenues sufficient to cover the rising expenses generated by the Board's many statutory obligations: administration of examinations; issuance of licenses; investigation of complaints; initiation and prosecution of disciplinary actions; processing of review requests and addressing issues relevant to the independent professional review committee process.

Obviously, the increase in fees will have an economic impact on psychologists. However, these fees are less than that of neighboring states and are a reflection of the cost of regulating the profession in New Jersey. To the extent that such fees may be passed along to the client as a cost of doing business, the costs of professional services to the consumer may be increased.

The revenues to be generated through this increase have been calculated to be the amount necessary to defray all proper expenses incurred by the Board in accomplishing the goals described herein. In accordance with N.J.S.A. 45:1-3.2, the sums raised are estimated to not exceed the amount required.

Regulatory Flexibility Statement

The proposed higher fees will impact all psychologists in the State, most of whom practice within a small business setting. Since the fees are calculated to cover the expenses arising from the Board's statutory obligations, exemptions from the fees are not possible.

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

13:42-1.2 Fees

(a) Charges for examinations, licensure and other services are:

1. Application fee: [\$50.00] **\$75.00**.
 2. Examination fee: [\$125.00] **\$150.00** written, [\$25.00] **\$75.00** oral.
 - i. Re-examination fee: [\$125.00] **\$150.00** written, [\$25.00] **\$75.00** oral.
 3. Initial license fee: [annually prorated to end of biennial period: \$100.00 (biennially)] **\$75.00**.
 4. License renewal fee, biennial: [\$100.00] **\$140.00**.
 5. (No change.)
 6. Reinstatement fee in addition to biennial renewal fee: [\$75.00] **\$100.00**.
 7. Reciprocity: [\$75.00] **\$100.00**.
 8. Temporary permit: [\$25.00] **\$50.00**.
 9. (No change.)
 10. Verification of licensure: [\$15.00] **\$25.00**.
 11. Notice of licensure: [\$10.00] **\$15.00**.
 12. **Duplicate renewal certificate: \$15.00.**
- (b) (No change.)

TRANSPORTATION

The following proposals are authorized by Hazel Frank Gluck, Commissioner, Department of Transportation.

Submit comments by October 8, 1987 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

(b)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Routes 5 in Bergen County, 57 in Morris County, 71
in Monmouth County, and 94 in Warren County
Proposed Amendments: N.J.A.C. 16:28A-1.5, 1.36,
1.38 and 1.45**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139,
39:4-199.

Proposal Number: PRN 1987-350.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking bus stop" zones along Route 5 in Fort Lee Borough, Bergen County; "no parking" zones along Route 71 in Deal Borough, Monmouth County, and Route 94 in Blairstown Township, Warren County; and "no parking certain hours" zones along Route 57 in Washington Borough, Morris County, for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/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", "no parking" and "no parking certain hours" zones were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.5, 1.36, 1.38 and 1.45 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking bus stop" zones along Route 5 in Fort Lee Borough, Bergen County; "no parking" zones along Route 71 in Deal Borough, Monmouth County, and Route 94 in

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Blairstown Township, Warren County; and "no parking certain hours" zones along Route 57 in Washington Borough, Morris County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/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 Department will bear the costs for the installation of "no parking" zones signs and the local governments will bear the costs for "no parking bus stop" and "no parking certain hours" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

The proposed amendments do not affect small businesses because they do 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-1.5 Route 5

(a) The certain parts of State highway Route 5 described in [(a) of] this subsection, shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-4. (No change.)

(b) The certain parts of State [H]highway Route 5 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. **Along Palisade Avenue, northbound on the easterly side in Fort Lee Borough, Bergen County:**

i. **Far side bus stop:**

(1) **Bluff Road—Beginning at the northerly curb line of Bluff Road and extending 155 feet northerly therefrom.**

3. **Along Palisade Avenue, southbound on the westerly side in Fort Lee Borough, Bergen County:**

i. **Far side bus stop:**

(1) **Bluff Road—Beginning at the southerly curb line of Bluff Road and extending 155 feet southerly therefrom.**

16:28A-1.36 Route 57

(a) The certain parts of State highway Route 75 described in [(a) of] this subsection are designated and established as "no parking" zones where stopping and standing [is] are prohibited at all times except as provided in N.J.S.A. 39:4-139.

(b) (No change.)

(c) **The certain parts of State highway Route 57 described in this subsection are designated and established as "no parking during certain hours" zones where parking is prohibited as specified. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs.**

1. **No parking during certain hours in Washington Borough, Morris County:**

i. **Along the north side:**

(1) **From the easterly curb line of Route 31 to the westerly curb line of the Boulevard between 7:00 A.M. to 10:00 A.M. and 3:00 P.M. to 6:00 P.M.**

16:28A-1.38 Route 71

(a) The certain parts of State highway Route 71 described in this subsection are designated and established as "no parking" zones where stopping and standing are prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-6. (No change.)

7. **No stopping or standing in Deal Borough, Monmouth County:**

i. **Along the easterly (northbound) side:**

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

(3) **From Phillips Avenue southerly curblin to a point 75 feet to the south.**

ii. **Along the westerly (southbound) side:**

(1) (No change.)

(2) **From Phillips Avenue northerly curblin to a point 75 feet to the north.**

iii. (No change.)

8.-10. (No change.)

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

16:28A-1.45 Route 94

(a) The certain parts of State highway Route 94 described in this subsection shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-5. (No change.)

6. **No stopping or standing in Blairstown Township, Warren County:**

i. **Along both sides:**

(1) **From the southerly curblin of Mingle Road (approximately milepost 10) to the northerly curblin of Lambert Road (approximately milepost 7).**

(b) (No change.)

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping

Routes U.S. 9 in Monmouth County, 23 in Passaic County, 27 in Middlesex County, 31 in Warren County, and U.S. 46 in Passaic County

Proposed Amendments: N.J.A.C. 16:28A-1.7, 1.15, 1.18, 1.22 and 1.32

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139, 39:4-197.5, 39:4-199.

Proposal Number: PRN 1987-354.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking bus stop" zones along Route U.S. 9 in Howell Township, Monmouth County; "no parking" zones along Route 23 in Wayne Township, Passaic County, Route 31 in Washington Township, Warren County, and Route U.S. 46 in Wayne Township, Passaic County; and "Restricted Parking Space" along Route 27 in Highland Park Borough, Middlesex County, for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace, the safe on/off loading of passengers at established bus stops, and the special parking for handicapped persons.

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, "no parking" zones and the "restricted parking space" for the handicapped in the areas designated were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.7, 1.15, 1.18, 1.22 and 1.32 based upon the requests from local officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no parking bus stop" zones along Route U.S. 9 in Howell Township, Monmouth County; "no parking" zones along Route 23 in Wayne Township, Passaic County, Route 31 in Washington Township, Warren County, and U.S. 46 in Wayne Township, Passaic County; and "Restricted Parking Space" along Route 27 in Highland Park Borough, Middlesex County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace, the safe on/off loading of passengers at established bus stops, and the special parking for handicapped persons. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for their work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking" zones signs and the local governments will bear the costs for "no parking bus stops" and "handicapped parking" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

The proposed amendments do not affect small businesses because they do 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-1.7 Route U.S. 9

(a) (No change.)
 (b) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

- 1.-37. (No change.)
 38. Along the northbound (easterly) side in Howell Township, Monmouth County:
 i. (No change.)
 ii. Mid-block bus stops:
 (1)-(2) (No change.)
 (3) **Northwoods Place—Stanley Boulevard—Beginning 125 feet south of the southerly curb line of Northwoods Place and extending 135 feet southerly therefrom.**
 iii. (No change.)
 39.-41. (No change.)

16:28A-1.15 Route 23 (Temporary)

(a) The certain parts of State highway Route described in this subsection shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

- 1.-4. (No change.)
5. No stopping or standing in Wayne Township, Passaic County:
 i. **Along both sides for the entire length in the Township of Wayne, including all ramps and connections under the jurisdiction of the Commissioner of Transportation.**

(b) The certain parts of State highway Route 23 (Temporary) described in [(b) of] this subsection shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

- 1.-6. (No change.)
 [7. No stopping or standing in Wayne Township, Passaic County:
 i. Along both sides of Route 23 (Temporary) northbound detour road.
 (1) **Between Boonton Road and Alps Roads.**

NOTE: Restriction effective during period of road construction along Route 23.]

- (c) (No change.)
 16:28A-1.8 Route 27
 (a)-(b) (No change.)

(c) The certain parts of State highway Route 27 described in this subsection are designated and established as "restricted parking" zones, for use by persons who have been assigned special Vehicle Identification Cards by the Division of Motor Vehicles. No other persons shall be permitted to park in these areas. **In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established handicapped parking spaces:**

1. (No change.)
2. Restricted parking (Handicapped Parking) in Highland Park Borough, Middlesex County:
 i. **Along Raritan Avenue beginning at a point on the south side thereof 194 feet east of South Third Avenue and extending to a point 22 feet east thereof, Monday through Saturday, 8:00 A.M. to 8:00 P.M.**

(d)-(e) (No change.)
 16:28A-1.22 Route 31
 (a) The certain parts of State highway Route 31 described in [(a) of] this subsection shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

- 1.-2. (No change.)
 3. No stopping or standing [:] in Washington Township, Warren County:
 i. Along both sides: [in Washington Township, Warren County:]
 (1)-(2) (No change.)
 (3) **Between South Lincoln Avenue and Springtown Road.**
 ii.-iii. (No change.)
 4.-6. (No change.)
 (b) (No change.)

16:28A-1.32 Route U.S. 46

(a) The certain parts of State highway Route U.S. 46 described in this subsection shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-16. (No change.)

17. No stopping or standing in Wayne Township, Passaic County:

i. Along both sides:

- (1) **For the entire length in Wayne Township including all ramps and connections under the jurisdiction of the Commissioner of Transportation.**
 (b) (No change.)

(a)

CONTRACT ADMINISTRATION**Classification of Contractors****Definition: Pre-Qualification Committee****Proposed Amendment: N.J.A.C. 16:44-1.1**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1, 14A:1-1 et seq. and 14:15-2.

Proposal Number: PRN 1987-346.

The agency proposal follows:

Summary

The proposed amendment will establish the new composition of the Pre-qualification Committee and effect title changes within the committee to conform with organizational changes within the Department and adds the title of Director, Office of Contract Compliance, Civil Rights. These changes are authorized in compliance with the powers granted the Commissioner by N.J.S.A. 27 and specifically N.J.S.A. 27:1A-6.

The Department therefore proposes to amend N.J.A.C. 16:44-1.1 to reflect the organizational changes.

Social Impact

The proposed amendment will effect the new structure of the Department's Pre-qualification Committee in view of the organizational changes within the Department.

Economic Impact

The proposed amendment will not have any economic impact since it simply reflects an organizational change.

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 amendment primarily effects a Departmental organizational change.

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

16:44-1.1 Definitions

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

...
 "Pre-qualification committee" means a committee appointed by the Commissioner of Transportation to perform the duties indicated in this subtitle and composed of:

- [Director of] **Assistant Commissioner** for Engineering and Operations, [chairman] (State Highway Engineer), **Chairman**;
- Deputy Attorney General, **non-voting member**;
- [Director of Financial Management] **Assistant Commissioner for Finance and Administration**;
- Chief Engineer, Construction and Maintenance;
- Chief, Bureau of Contract Administration; **and**
- Director, Office of Contract Compliance, Civil Rights.**

(b)

AIRPORT SAFETY IMPROVEMENT AID**Classification of State Aid Project Grants****Proposed Amendment: N.J.A.C. 16:56-4.1****Proposed New Rule: N.J.A.C. 16:56-11.2.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-92, 6:1-96 and "Airport Safety Act of 1983" P.L. 1983, c.264, July 11, 1983.

Proposal Number: PRN 1987-355.

The agency proposal follows:

NEW JERSEY REGISTER, TUESDAY, SEPTEMBER 8, 1987

Summary

Rules for airport safety improvement aid were originally implemented by the Department of Transportation on June 4, 1984. In the initial rules the annual limit for Airport Safety Improvement Grants was \$7,500. Subsequent amendments to the rules in July of 1985 and July of 1986 increased the annual grant limit to \$15,000 and then again to \$50,000. Experience of the Department with this program indicates that there would be further benefit in modifying this limit from \$50,000 annually (12 months) to \$100,000 biennially (24 months). Although such a change does not alter the long term grant limits of the program, it would permit certain aid projects exceeding \$50,000 to be administered within the context of a single grant action instead of two. This would allow these projects to proceed without the administrative constraint of 2-step project and construction phasing. The Department is herein proposing to change the grant limit from \$50,000 annually to \$100,000 biennially. The Department is also proposing to allow grants in excess of \$100,000. These grants would be determined on a case-by-case basis and would require a local match of not less than 10 percent of the total project costs.

Other changes are also proposed. N.J.S.A. 6:1-94 provides that projects shall have a specified useful life. Language from the loan portion of the rule pertaining to project useful life has been added into grant portions of the rule. N.J.S.A. 6:1-92 provides that monies in the fund shall be used for aviation purposes empowered under Titles 6 and 27. This proposal implements the authority of the Department to allocate resources under this chapter for aviation planning purposes. This proposal further provides that general construction and safety projects have priority over aviation planning studies unless determined otherwise by the Commissioner.

Technical changes are also made in which the term "disburse" is replaced in various locations with the term "authorize". This change is made to clarify the ability of the Department to carry over aid authorized in one fiscal year for disbursement in a following fiscal year.

Proposed new rule N.J.A.C. 16:56-11.2 specifies that aviation planning studies may also be financed from the Airport Safety Fund. The new rule specifies general requirements for funding planning studies.

Social Impact

The proposed amendments will enable the Department to better respond to the project needs of local sponsors. Betterments in service by the Department to local sponsors will enhance industry support and utilization of this program. Improvements in planning will result in better coordination of social, economic and environmental issues of concern to the public.

Economic Impact

Changing the \$50,000 annual limit for grants to \$100,000 biennially should have a favorable economic impact. It will help eliminate administrative barriers which may cause the uneconomic multi-year phasing of certain construction and safety projects. This should result in savings for both the Department and local sponsors by reducing the administrative costs of projects exceeding \$50,000. It is believed that improved planning capabilities in conjunction with reduced administrative costs will have a very favorable economic impact.

Regulatory Flexibility Statement

The proposed amendment will affect small businesses, that is, those privately-owned public use airports with less than 100 employees. Although the amendment does not spell out the need for recordkeeping per se, N.J.A.C. 16:56-4.1 imposes reporting, recordkeeping and compliance on such small businesses which require annual audit reports of all grant recipients. These small businesses are not being exempted from the rules because in order for them to receive State aid they must be in compliance with the applicable rules. Small airports should be treated the same as large airports to promote uniform application of the rules.

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

16:56-4.1 Classification of State Aid

(a) (No change.)

(b) The classification of aid established in (a) above are [the] three forms by which the State may [disburse] **authorize** aid in the funding of improvements to the air transportation infrastructure and for the purposes of improvement of air and flight safety. Projects specifically eligible for consideration for funding under certain provisions of this chapter are identified in N.J.A.C. 16:56-3.1 of this chapter. [Additionally, aid] **Aid** given or offered under N.J.A.C. 16:56-8.1 of this chapter shall

also be [disbursed] **authorized** in the form of one of the three classifications established in this section. **Additionally, aid for aviation planning purposes may be authorized under N.J.A.C. 16:56-11.2.**

(c) (No change.)

(d) State airport safety improvement loans are two percent annual interest loans given or offered to an eligible local sponsor for the purpose of assisting local sponsors in funding the improvement of the air transportation infrastructure. Loans for this purpose may be given or offered subject to the following parameters:

1. (No change.)

2. Airport safety improvement loans are limited to \$90,000 maximum [disbursement] **authorization** to any eligible local sponsor (airport).

3.-6. (No change.)

(e) All airport safety improvement grants are grants given or offered to an eligible recipient or local sponsor for the purpose of assisting in the funding of the improvement of the air transportation infrastructure or for the purpose of promoting air or flight safety. Grants for this purpose may be given or offered subject to the following parameters:

[1. Airport improvement grants are given or offered only when no other form of aid rendered within the provisions of this chapter reasonably accommodates the requirements or conditions generally surrounding the applications for aid, or its magnitude, scope, or general purpose.]

1. Airport safety improvement grants may be authorized for projects and sponsors eligible under N.J.A.C. 16:56-3.1.

[2. Airport safety improvement grants are limited to an annual \$50,000 maximum disbursement to any eligible recipient.]

2. Grants for routine airport safety improvement projects are generally limited to a \$100,000 maximum authorization biennially (24 month period) to any eligible sponsor. Project grants in excess of \$100,000 may be authorized by the Commissioner on a case-by-case basis when such aviation development is in the best interests of the State and will benefit the flying public as a whole. The State's participation in grants exceeding \$100,000 shall not exceed 90 percent of the total project cost and the sponsor's participation shall not be less than 10 percent of the total project cost.

3. (No change.)

4. The improvements made using airport safety improvement grants shall be given a useful life of 10 years unless the plans and specifications for the improvement indicate to the satisfaction of the Commissioner that the time period should be greater or lesser than 10 years.

(f) The Commissioner, [under disbursement of] **when authorizing** aid from the Airport Safety Fund, retains absolute discretion within the limits of the applicable statutes to determine thresholds of State participation in any project funded under the provisions of this chapter. Maximum thresholds and percent of State participation determinations in State funded projects may be made by the Commissioner on either a categorical or case by case basis. The Commissioner [is further authorized to] **may** promulgate Departmental Policies, Procedures, and orders to aid in the implementation of the provisions of this chapter.

(g) These shall be absolute upper limits to the aid [disbursed] **authorized** under this chapter. The purpose of these limits is to help ensure that there are sufficient resources available for state aid to the greatest number of eligible airports and that State resources for any one year are not expended on a limited few airport projects. The absolute upper limit [to] of aid [disbursed in any one calendar year to an airport are] **as authorized to an eligible sponsor shall be as follows:**

1. The **biennial** limit [of] on State Airport Safety Improvement grants is [\$50,000] **\$100,000, except when specifically exempted by the Commissioner under N.J.A.C. 16:56-4.1(e)2.**

2. (No change.)

3. The limit on State Grants for Matching Federal Funds is 10 percent of [the] any total project cost.

4. The limit on aid for aviation planning purposes shall be determined by the Commissioner under the provisions of N.J.A.C. 16:56-11.2.

16:56-11.2 Funding of aviation planning studies

(a) **In addition to the eligibility criterion for sponsors and projects outlined in N.J.A.C. 16:56-3, the Commissioner may fund from the Airport Safety Fund aviation planning studies including, but not limited to, feasibility studies, system plan studies, master plan studies, facility siting studies and aviation economic studies. The Department, county governments and municipal governments shall be eligible to sponsor aviation planning studies.**

(b) **The funding of construction and safety projects may have general priority over aviation planning studies, unless determined otherwise by the Commissioner.**

(c) **The Commissioner shall have discretion in the selection of sponsors, project funding levels, project phasing, scope and specification of work programs and local sponsor performance criteria.**

(d) Unless otherwise specified in any planning project agreement, a local sponsor shall generally be deemed to have fulfilled his obligations to the Department upon the final acceptance by the Commissioner of all planning study reports and the finding by the Commissioner of satisfactory completion of the project work program. This does not, however, relieve a sponsor of audit and recordkeeping requirements specified under N.J.A.C. 16:56-14.1 of this chapter or any other specified performance, recordkeeping or audit requirements.

(e) Application, approval and payment or transfer of funds for aviation planning studies shall be done on the forms and in the manner which may be prescribed by the Commissioner, or when applicable, by the Treasurer of the State of New Jersey.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Public Employees' Retirement System Contributory Insurance Rate

Proposed Amendment: N.J.A.C. 17:2-3.3.

Authorized By: Janice Nelson, Secretary, Public Employment Retirement System,

Authority: N.J.S.A. 43:15A-17.

Proposal Number: PRN 1987-343.

Submit comments by October 8, 1987 to:

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

The agency proposal follows:

Summary

The proposed amendment will lower the contribution rate that a member of the Public Employees' Retirement System (PERS) pays for contributory life insurance from six tenths of one percent (.006) to fifty-five one hundredths of one percent (.0055) of the member's base or contractual salary.

Social Impact

The proposed amendment will reduce the cost of the contributory life insurance contribution rate for present and future members of the PERS.

Economic Impact

The proposed amendment will result in savings to the PERS members participating in the contributory life insurance program. Since it is intended that excess reserves will be utilized to fund the reduced costs, there should be no significant, adverse economic effects to the public or to the PERS.

Regulatory Flexibility Statement

Since the rules of the Division of Pensions only impact upon public employers and/or employees, this proposed amendment will not have any adverse effect upon small businesses or private industry in general; therefore a regulatory flexibility analysis is not required.

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

17:2-3.3 Contributory insurance rate

All participating members' contribution rate for contributory group insurance shall be (six tenths) **fifty-five one-hundredths** of one percent (.0055) of the member's base or contractual salary, effective as of [April 1, 1984] **January 1, 1988**.

(b)

STATE HEALTH BENEFITS COMMISSION

State Health Benefits Program Retired Employee Defined

Proposed Amendment: N.J.A.C. 17:9-6.1

Authorized By: State Health Benefits Commission, Gaius Mount,
Acting Secretary.

Authority: N.J.S.A. 52:14-17.27.

Proposal Number: PRN 1987-344.

Submit comments by October 8, 1987 to:

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

The agency proposal follows.

Summary

The proposed amendment will do basically three things. First, it will redefine the basic definition of "retired employee" for the purpose of continuation of coverage under the State Health Benefits Program into retirement. At present, the term is defined as an employee covered under the program who immediately upon terminating employment retires from a State or locally administered retirement system and receives a periodic retirement allowance from the system. Employees whose coverage as employees terminated before retirement, even though they may have continued in the program as a dependent of another covered employee or under the new Federal requirements for continuation of employee coverage after termination of employment, are not eligible for continuation in the program after retirement. Under the proposed amendment, any person who is covered under the program immediately preceding retirement, regardless of whether the basis for the coverage is as an active employee, a former employee or a dependent of a covered employee, will be eligible to continue coverage in retirement if he or she retires from a State or locally administered retirement system and receives a periodic retirement allowance from the system.

The second thing the proposed amendment will do is permit a person who terminated coverage in the program at the time of retirement, because the person was covered as a dependent under another covered employee or as an active employee in another position, to obtain retired coverage after termination of coverage as a dependent or active employee. Frequently husbands and wives both work for public employers who participate in the program, and they are eligible for coverage under the program in their own right and as dependents of their spouses. If spouses in this situation terminate their own coverage upon retirement for any reason, for example, to avoid paying premiums for the coverage, they currently cannot resume the coverage in their own right if they lose eligibility for coverage as a dependent. The same situation arises where a retiree is covered as an active employee based upon public employment after retirement. As long as the position is not covered by the retirement system from which he or she retired, the retiree may take the position without affecting his or her retirement. If the person is eligible to participate in the State Health Benefits Program, he or she would still have to continue the retired coverage to insure that the coverage would continue after the active coverage ended. The proposed amendment will provide one opportunity for persons in these situations to obtain retired coverage when they first lose coverage as dependents or active employees.

The third thing the proposed amendment will do is make a technical amendment to N.J.A.C. 17:19-6.1(b) to eliminate a provision that a spouse must be the beneficiary of a retired employee to be eligible for coverage as a dependent. The requirement that a dependent be receiving a benefit from a State-administered retirement system to be eligible for continuation of coverage after the death of a retired employee was eliminated in 1986. The proposed technical amendment will bring this subsection in line with the earlier amendment. The spouse of an employee who died in active service would still have to receive a periodic pension or survivorship benefit from a State or locally administered retirement system to be eligible for retired coverage.

Social Impact

The proposed amendment will affect a relatively small percentage of the employees participating in the State Health Benefits Program. Those who are affected will receive the benefit of either continuing in the program after retirement, or of continuing in the program after retirement at no cost as long as they are eligible for coverage as a dependent of another covered employee or as an active employee, and the right to resume coverage in their own right when they first lose eligibility for coverage as a dependent or active employee.

Economic Impact

No significant economic impact on the program is anticipated from the proposed amendment. The number of people affected by the proposed amendment is expected to be small. The only benefit they will receive will be the right to continue coverage after retirement, or to continue coverage at no cost while they are eligible for coverage as a dependent or active employee and to obtain retired coverage on a paid basis when their eligibility for dependent or active coverage ends. At present, they would either not be eligible to continue coverage, or have to continue coverage on a paid basis at retirement to remain in the system.

Regulatory Flexibility Statement

The proposed amendment is applicable only to public employers and employees participating in the State Health Benefits Program. The amendment will not have any adverse affect on small businesses or private industry in general.

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

17:9-6.1 Retired employee defined

(a) "Retired employee" [shall be defined as a covered employee, who immediately following the cessation of employment, applies for and receives a periodic retirement allowance for life or duration of disability to which he or she is entitled by reason of age, years of service or disability provided such allowance is being paid by a State or locally administered retirement system or plan by which he or she was covered immediately prior to his or her retirement] **means a person who is covered under the program immediately preceding retirement and receives a periodic retirement allowance from a State or locally administered retirement system or plan upon retirement.** This "retired employee" status, once established, will continue in effect even though the employer is subsequently disbanded and no successor agency is created upon the dissolution of such employer. An employee who continued his or her coverage while on an official leave of absence for illness without pay but whose coverage was terminated when his or her leave exceeded the period established by the statute for the continuation of coverage for such leave, will be permitted to elect to continue Health Benefits coverage into retirement provided such leave was in effect immediately preceding the date of his or her retirement.

(b) The definition of "retired employee" shall include the spouse of the employee, provided he or she was covered as a dependent under the Health Benefits Program immediately preceding the retirement or the death of the active or retired employee, and further provided that [he or she was the employee's beneficiary] **in the case of death of an active employee, the spouse is receiving a periodic pension or survivorship benefit from a State or locally administered retirement system or plan.**

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

(f) The definition of "retired employee" shall include an employee who is eligible for continuation of coverage in the program at the time of retirement who terminates coverage at that time because he or she is covered as a dependent of another covered employee or as an active employee and who applies for continuation of coverage within a reasonable time after termination of coverage as a dependent or active employee.

Redesignate existing (f)-(g) as (g)-(h) (No change in text.)

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Homestead Rebate Act Residents of Continuing Care Retirement Community

Proposed Amendment: N.J.A.C. 18:12-7.4

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54:4-3.83 and 54:50-1.

Proposal Number: PRN 1987-342.

Submit comments by October 8, 1987 to:

John C. Raney
Superintendent
Local Property Tax Branch
Division of Taxation
CN 52
Trenton, NJ 08646

The agency proposal follows:

Summary

Chapter 66, P.L. 1987 was recently enacted to extend the homestead rebate to include qualified residents of a continuing care retirement center. The existing rules providing guidance and instructions to local officials require amending in order to include this new measure.

Social Impact

To the extent the newly enacted standard opens the door to a greater number of homeowners in the retired age class, this rule as proposed to be amended conforms with current social trends toward improving the quality of life for senior citizens in this State.

Economic Impact

Expanding the provisions of the Homestead Rebate Act and N.J.A.C. 18:12-7.4 to permit residents of continuing care communities to qualify for the rebate will require additional funds. However, because the number of persons in this class is small in relation to the overall number of recipients, the economic impact is minimal and absent of adversity.

Regulatory Flexibility Statement

Application of this proposed amendment is confined to officials charged with administering the Homestead Rebate Act and has no effect on small businesses.

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

18:12-7.4 General guidelines

(a) General guidelines include the following:

1.-4. (No charge).

5. **Residency in a continuing care retirement community: A life resident in a continuing care retirement community unit contractually obligated to pay the proportionate share of property taxes for said unit is deemed to be an owner for purposes of the rebate.**

Re-number existing 5.-7. as 6.-8. (No change in text.)

OTHER AGENCIES

(b)

NEW JERSEY TURNPIKE AUTHORITY Parking, Standing, or Stopping on Turnpike Prohibited Except in Case of Emergency

Proposed Amendment: N.J.A.C. 19:9-1.6

Authorized By: New Jersey Turnpike Authority, William J.

Flanagan, Executive Director.

Authority: N.J.S.A. 27:23-1.

Proposal Number: PRN 1987-334.

Submit comments by October 8, 1987 to:

William J. Flanagan, Executive Director
New Jersey Turnpike Authority
New Brunswick, New Jersey 08903

The agency proposal follows:

Summary

The proposed amendment is required to comply with an agreement reached between the Township of East Brunswick and the Turnpike Authority. Under that agreement, the Turnpike Authority has agreed to prohibit bus and truck drivers from sleeping in vehicles at the Joyce Kilmer Service Area, to enforce laws restricting vehicle idling and to limit parking to two hours. N.J.S.A. 19:9-1.6(f) specifically limits parking to a two-hour period, and the Turnpike Authority can enforce existing State Department of Environmental Protection idling rules without promulgating a new rule. However, there is no prohibition in the Turnpike Authority's regulations against sleeping in motor vehicles on the Turnpike. This proposed amendment will amend the Authority's rule which already prohibits parking for more than two hours at one time, to also prohibit sleeping in any parked vehicle on the Turnpike.

Social Impact

The proposed amendment is designed to accommodate concerns of the neighboring community of the Township of East Brunswick regarding noise impact from the Turnpike Authority's 1985-1990 Widening Program.

Economic Impact

No economic impact on citizens of the State of New Jersey is expected since the proposed amendment simply constitutes an amendment to an existing parking rule.

Regulatory Flexibility Statement

The proposed amendment imposes no recordkeeping, bookkeeping or other compliance requirements on small businesses. Therefore, a regulatory flexibility analysis pursuant to P.L. 1986, c.169 is not required.

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

- 19:9-1.6 Parking, standing or stopping on turnpike prohibited, except in case of emergency
 - (a)-(e) (No change.)
 - (f) No vehicle shall be permitted to stop or stand on any portion of the turnpike for more than two continuous hours. **Under no circumstances other than emergencies shall any operator, passenger or other person be permitted to sleep in any vehicle parked on any portion of the turnpike at any time.**
 - (g)-(k) (No change.)

CASINO CONTROL COMMISSION

(a)

Rules of the Games

Roulette; Rotation of Wheel and Ball

Proposed Amendment: N.J.A.C. 19:47-5.3

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 1987-365.

Submit comments by October 8, 1987 to:

Deno R. Marino
Deputy Director, Operations
Casino Control Commission
Princeton Pike Office Park
Building No. 5, CN-208
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendment would add a higher degree of games protection to the game of Roulette and serve to alleviate patron disputes involving the late placement of wagers by establishing a procedure that would require the dealers, in addition to making a verbal announcement "no more bets," to simultaneously pass their hand over the layout in a sweeping motion from the wheel to the bottom of the layout.

Social Impact

The proposal would enable the public, including those who are unable to hear or understand the English language, to more clearly be advised

not to place any more wagers regardless of the noise level in the casino and thereby alleviate patron disputes. The proposal would also assist casino personnel and regulatory personnel in monitoring the game.

It is difficult to calculate the number of patron disputes that have evolved over the past nine years since most disputes are settled prior to being brought to the attention of the Commission. However, fewer complaints have been noted since nine of the twelve operating casinos have instituted the aforementioned physical hand movement by the dealer.

Economic Impact

The only economic impact to the game should be to deter the placement of late (illegal) wagers. The impact, if any, should then be positive by allowing the game to proceed without being interfered with by disputes.

Regulatory Flexibility Statement

The proposal will only affect the operations of the casino licensees and, therefore, will not impact on any business protected under the Regulatory Flexibility Act.

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

- 19:47-5.3 Rotation of wheel and ball
 - (a) (No change.)
 - (b) While the ball is still rotating in the track around the wheel, the dealer shall call "No More Bets" **and shall simultaneously pass his hand over the layout in a sweeping motion from the wheel to the bottom of the layout. If the roulette wheel is a right-handed wheel, the dealer shall use his left hand; if it is a left-handed wheel, the dealer shall use his right hand.**
 - (c)-(d) (No change.)

(b)

Equal Employment Opportunity Designation, Authority and Responsibility of Equal Employment Officer

Proposed Repeal and New Rule: N.J.A.C. 19:53-1.13 Proposed Amendment: N.J.A.C. 19:53-1.3

Authorized By: Casino Control Commission, Theron G.

Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 5:12-69 and 5:12-135(f).

Proposal Number: PRN 1987-366.

Submit comments by October 8, 1987 to:

Luis A. Fuentes, Director
Division of Affirmative Action and Planning
Casino Control Commission
1300 Atlantic Avenue
Citi Center Building, 4th Floor
Atlantic City, New Jersey

The agency proposal follows:

Summary

The proposed new rule, N.J.A.C. 19:53-1.13, codifies specific requirements concerning the structure, function and authority of the equal employment opportunity/affirmative action (EEO/AA) office within the organization of an applicant for or holder of a casino license. Subsections (a) and (b) of the proposed new rule applies to an applicant for or holder of a casino service industry license. The purpose of the new rule is to elevate the role and authority of the EEO/AA office and equal employment officer within a casino licensee's organization. By so doing, it is expected that casino licensees will more effectively meet the EEO/AA obligations imposed by the Casino Control Act, during both the construction and operational phases of the casino hotel. Although subsections (a) and (b) of the proposed new rule are also applicable to an applicant for or holder of a casino service industry license, it will not alter the manner in which casino service industries are currently regulated under the EEO/AA requirements of the Casino Control Act and Commission rules. The articulation of the scope of the equal employment officer's authority and specific responsibilities, as contained in subsection (b), however, is new for all applicants and licensees.

Some key provisions of the proposed new rule applicable to an applicant for or holder of a casino license as contained in subsections (c) and (d) include:

- 1. Required minimum qualifications for the position of equal employment officer;

2. A requirement that the equal employment officer's sole responsibility consist of monitoring EEO/AA compliance;

3. A requirement that the equal employment officer's title, rank and salary be commensurate with those of a manager of a major department within the casino hotel;

4. A requirement that the equal employment officer report directly to the chief executive officer;

5. The establishment of mandatory full-time professional and clerical staff support for the equal employment officer; and

6. The establishment of the equal employment officer's authority to monitor and review all personnel and construction workforce practices and, where appropriate, to suspend such practices when they fail to comply with the EEO/AA requirements of the Act and Commission's rules.

The proposed amendment to N.J.A.C. 19:53-1.3 simply cross-references the EEO/AA requirements being codified in 19:53-1.13.

Social Impact

The proposed new rule, N.J.A.C. 19:53-1.13, concerning the designation, authority and responsibilities of the equal employment officer are designed to improve the effectiveness of the casino licensee's EEO/AA office, thus enabling casino licensees to better satisfy the EEO/AA requirements imposed by the Casino Control Act. Concomitant to that increased effectiveness, social benefits should redound to persons who are protected by section 134 of the Casino Control Act, N.J.S.A. 5:12-134, and by the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., particularly those persons who are applicants for employment or employees of the casino industry.

Economic Impact

The primary economic impact of the proposal will be on applicants for and holders of casino licenses. Given the current status and size of many casino licensee EEO/AA offices, the proposed rule's requirements concerning support staff for the equal employment officer, the elimination of multiple roles for the equal employment officer, and the requirement that the equal employment officer be compensated at a level equivalent to a manager of a major department, will impose some financial costs on most members of the casino industry.

Secondly, given the regulatory intent to elevate the stature of the EEO/AA office and equal employment officer within the casino licensee's organization, it should be noted that paragraph 1 of subsection (d) of the proposed rule imposes a minimum qualification requirement for equal employment officers. More specifically, a minimum of five years of experience in EEO/AA program implementation and enforcement is required to qualify for the position. This proposed requirement has the potential to adversely affect five of the 12 equal employment officers currently employed in the casino industry since these individuals have less than the minimum number of years of required experience. It is anticipated, however, that casino licensees will retain those persons adversely affected by the proposed rule in newly required staff positions within their EEO/AA offices.

With respect to applicants for or holders of casino service industry licenses, the two subsections of the proposed rule applicable to them do not impose any significant additional obligations and therefore should not result in any increase in economic cost to the firms. Similarly, it is not anticipated that the proposed rule will have any significant economic impact on the Commission or the Division of Gaming Enforcement.

Regulatory Flexibility Statement

The regulatory obligations imposed by the proposed rule will primarily affect casino licensees, businesses which are not protected by the Regulatory Flexibility Act. While some applicants for or holders of casino service industry licenses are small businesses within the meaning of the Regulatory Flexibility Act, as noted above, the proposed rule does not impose any significant new obligations on casino service industries and it is not anticipated that they will incur any additional expense as a result of the proposal. Although the proposed amendment to N.J.A.C. 19:53-1.13(b) clarifies the Commission's authority to impose reporting requirements on casino service industries, the amendment does not impose any specific requirements. Such requirements either already exist in other rules or will be addressed in specific regulatory proposals as necessary reporting obligations are identified.

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

[19:53-1.13 Designation of Equal Employment Officer

Each applicant and licensee who is an employer or who intends to contract for the construction of any structure or facility to be used as an approved hotel or casino shall designate a principal member of the applicant's or licensee's organization to serve as an equal employment officer. Said designee may be an existing employee. The equal employment officer will be directly responsible for implementing any affirmative action program required of the applicant or licensee. The equal employment officer will, among other duties, provide liaison and assistance to the commission and the division. Such officer will continue to perform these duties after the applicant receives a license from the commission.]

19:53-1.13 Designation, authority and responsibility of equal employment officer; responsibility of applicant or licensee and chief executive officer

(a) Each applicant for or holder of a casino license or casino service industry license shall designate a principal member of the applicant's or licensee's organization to serve as an equal employment officer. An applicant for a casino license shall designate its equal employment officer prior to the earlier of the start of actual construction by the applicant or any affiliated entity of any structure or facility to be used as an approved hotel or casino or the recruitment and employment of personnel necessary to undertake the business of the casino or the hotel. The chief executive officer shall be ultimately responsible for insuring that equal employment opportunity is afforded to all prospective and actual employees and for implementation of any affirmative action program required of the applicant or licensee. The equal employment officer shall be directly responsible for the organization and effective and continuing implementation of any affirmative action program established pursuant to the Act and this chapter.

(b) The equal employment officer required pursuant to (a) above shall, without limitation, have the following authority and responsibilities:

1. The authority to monitor and review all aspects of the applicant's or licensee's personnel procedures and decisions;

2. The authority to suspend, pending review by the chief executive officer or other officer or committee approved by the Commission, any personnel procedure or decision which is not consonant with an affirmative action program approved by the Commission or with any federal or state law regarding equal employment opportunity and affirmative action; and

3. The responsibility to act as a liaison and to provide assistance to the Commission and the Division in the enforcement of the requirements imposed by section 134 of the Act and this chapter, which responsibility shall include, but not be limited to, the obligation to prepare and submit such reports, documentation and statistical information as the Commission shall require concerning the applicant's or licensee's:

- i. Workforce composition;
- ii. Good faith efforts to meet the affirmative action employment goals established by the Act and this chapter;
- iii. Employment, upgrading, demotion or transfer decisions;
- iv. Recruitment and recruitment advertising efforts;
- v. Layoff, recall or termination decisions;
- vi. Rates of pay or other forms of compensation;
- vii. Training programs and selection procedures; and
- viii. Grievance procedures for, and disposition of, equal employment opportunity related complaints.

(c) In addition to the authority and responsibilities required pursuant to (b) above, the equal employment officer of a casino license applicant or licensee shall have the following authority and responsibilities:

1. The authority to monitor and review the employment and recruitment practices of all contractors and subcontractors used in connection with the actual construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino or related facility;

2. The authority to suspend, pending review by the chief executive officer or other officer or committee approved by the Commission, the execution or payment of any contract or subcontract where the contractor or subcontractor is engaging in any employment or recruitment practice which is not consonant with an applicable affirmative action program approved by the Commission or with any federal or state law regarding equal employment opportunity or affirmative action;

3. The responsibility to accompany the Commission and the Division during on site inspections authorized pursuant to N.J.A.C. 19:53-1.4; and

4. The responsibility to prepare and submit to the Commission and Division such reports, documentation and statistical information as the Commission shall require concerning any contractor or subcontractor used by the applicant or licensee in connection with the construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino or related facility including, but not limited to, information concerning:

- i. Workforce composition;
- ii. Good faith efforts to meet the affirmative action employment goals established by the Act and this chapter;
- iii. Employment, upgrading, demotion or transfer of skilled construction workers;
- iv. Recruitment or recruitment advertising;
- v. Layoff, recall or termination of construction workers;
- vi. Rates of pay or other forms of compensation;
- vii. Selection for training programs; and
- viii. Grievance procedures for, and disposition of, equal employment opportunity related complaints.

(d) In addition to any other requirements imposed by this section, a casino license applicant or licensee shall comply with the following requirements:

- 1. The equal employment officer designated by the applicant or licensee shall have at least five years of experience in the implementation and enforcement of equal employment opportunity and affirmative action programs;
- 2. The sole responsibility of the equal employment officer shall be the monitoring and enforcement of the equal employment opportunity and affirmative action requirements established by the Act and this chapter;
- 3. The equal employment officer's title, rank and level of compensation shall comport with those of a manager of a major department within the applicant's or licensee's organization;
- 4. The equal employment officer shall be provided with a full time professional and clerical staff sufficient to achieve full and timely implementation and enforcement of the affirmative action program approved by the Commission and the monitoring of construction workforce compliance with the affirmative action program established by the Act and this chapter; and
- 5. The equal employment officer shall report directly to the applicant's or licensee's chief executive officer or, in his or her absence, to the applicant's or licensee's chief legal officer.

19:53-1.3 Affirmative action requirement

(a) Rules concerning construction contracts and written guaranty are as follows:

1.-3. (No change.)

4. An applicant for a casino license shall be required to designate an equal employment officer in accordance with the provisions of N.J.A.C. 19:53-1.13 prior to the start of actual construction by the applicant or any affiliated entity of any structure or facility to be used as an approved hotel or casino.

(b) (No change.)

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Local Property Tax

Farmland Assessment Act; Woodland

Notice of Correction to Proposed Amendment to N.J.A.C. 18:15-1.1

Take notice that the proposed amendment to N.J.A.C. 18:15-1.1 of the new definition of "woodland management plan" published in the August 17, 1987 issue of the New Jersey Register at 19 N.J.R. 1538(a) erroneously contained a citation to N.J.A.C. 18:15-2.9. The correct citation is to N.J.A.C. 18:15-2.10.

(b)

Local Property Tax

Farmland Assessment Act; Woodland

Notice of Intended Operative Date for Proposed Amendment to N.J.A.C. 18:15-1.1 and Proposed New Rules N.J.A.C. 18:15-2.7 through 2.14

Take notice that the Division of Taxation intends to provide an operative date of January 1, 1988 upon adoption of the proposed amendment to N.J.A.C. 18:15-1.1 and proposed new rules N.J.A.C. 18:15-2.7 through 2.14 published in the August 17, 1987 issue of the New Jersey Register at 19 N.J.R. 1538(a). Under this operative date, the amended and new rules will **not** be effective for applications filed in 1987 for valuation, assessment and taxation of land under the Farmland Assessment Act of 1964 during the 1988 tax year. The proposed rules shall take effect with applications filed for farmland assessment during 1988 for the 1989 tax year.

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF REGULATORY SERVICES

Fruit and Vegetable Fees and Charges

Adopted Amendment: N.J.A.C. 2:71-2.28

Proposed: June 1, 1987 at 19 N.J.R. 901(a).

Adopted: July 29, 1987 by Arthur R. Brown, Jr., Secretary,
Department of Agriculture.

Filed: July 31, 1987 as R.1987 d.354, **without change**.

Authority: N.J.S.A. 4:10-6 and 13.

Effective Date: September 8, 1987.

Expiration Date: September 1, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

2:71-2.28 Charges for inspection or grading and certification services;
written agreements

(a) Charges for inspection or grading and certification services of five or more consecutive days duration, performed pursuant to a written agreement between the New Jersey Department of Agriculture and the requestor of the services, shall be made according to the following schedule:

1. Basic schedule for all products:
 - i. A charge of \$360.00 per five day week (Monday through Friday) or 40 hours or less for each inspector;
 - ii. A charge of \$13.50 per hour, or portion thereof, for all hours worked over 40 in the five day week (Monday through Friday), or for all hours over eight hours per day;
 - iii. An additional charge of \$13.50 per hour, or portion thereof, for the actual hours worked by each inspector on legal State holidays occurring Monday through Friday;
 - iv. A charge of \$13.50 per hour, or portion thereof, for each inspector working on Saturday and/or Sunday. There will be a four hour minimum charge for each inspector working on Saturday and/or Sunday;
 - v. (No change.)
2. Charges for inspection or grading and certification of fruit and vegetables other than potatoes for fresh market:
 - i. A charge of \$0.02 will be made for all packages inspected or graded and certified in excess of 4,000 packages during the seven day week (Saturday through Friday).
3. Charges for inspection or grading and certification of potatoes for the fresh market:
 - i. A charge of \$0.03 per hundredweight for all hundredweights inspected or graded and certified in excess of 3,600 hundredweights during the seven day week (Saturday through Friday).

BANKING

(b)

DIVISION OF BANKING

Borrowing Limitation of a Director and/or Executive Officer

Adopted New Rule: N.J.A.C. 3:11-7.10

Proposed: July 6, 1987 at 19 N.J.R. 1124(a).

Adopted: August 14, 1987 by Mary Little Parell, Commissioner,
Department of Banking.

Filed: August 17, 1987 as R.1987 d.369, **without change**.

Authority: N.J.S.A. 17:9A-71 and 17:9A-72.

Effective Date: September 8, 1987.

Expiration Date: March 18, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

3:11-7.10 Borrowing limitation of a director, executive officer and/or related interests

(a) The 10 percent liability limitation prescribed in N.J.S.A. 17:9A-72B(4) is increased so that a bank may extend credit to a director or to a corporation in which such director or an executive officer has a controlling interest, or in which such director or executive officer together with one or more other directors or executive officers has a controlling interest, or to a partnership in which such director or executive officer is a partner, if the proposed liability will not cause the total of the liabilities of the director or executive officer, and the liabilities of each corporation in which such director has a controlling interest, or in which such director or executive officer together with one or more other directors or executive officers has a controlling interest, and the liabilities of each partnership in which such director or executive officer is a partner, to exceed 25 percent of the amount of capital funds of the bank, as defined in Section 60 of P.L. 1948, c.67 (N.J.S.A. 17:9A-60) and the rules adopted pursuant thereto; provided, however, that all amounts in excess of 15 percent of the capital funds of the bank shall be fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of funds outstanding in excess of said 15 percent.

(b) The maximum liability of an executive officer, exclusive of the corporate and partnership liabilities set out in (a) above are as limited in N.J.A.C. 3:6-3.2.

EDUCATION

(c)

STATE BOARD OF EDUCATION

Thorough and Efficient System of Free Public Schools; Promotion and High School Graduation Special Education Research, Planning and Evaluation

Adopted Amendments: N.J.A.C. 6:8-7.1, 6:28-3.6 and 4.4, and 6:39-1.5

Proposed: June 15, 1987 at 19 N.J.R. 1033(b).

Adopted: August 10, 1987 by Saul Cooperman, Commissioner,
Department of Education; Secretary, State Board of Education.

Filed: August 10, 1987 as R.1987 d.358, **without change**.

Authority: 29 U.S.C. 794, 20 U.S.C. 1400 et seq., N.J.S.A.

18A:1-1, 4-15, 4-24, 7A-1 et seq., 7B-1 et seq., 7C-1 et seq., 40-4, 46-1 et seq. and 46A-1 et seq.

Effective Date: September 8, 1987.

Expiration Date: N.J.A.C. 6:8, January 5, 1992; N.J.A.C. 6:28, June 1, 1989; N.J.A.C. 6:39, October 18, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

6:8-7.1 Promotion, remediation and graduation procedures

(a) District boards of education shall adopt policies and procedures for:

1.-3. (No change.)

4. The exemption of handicapped pupils from the high school graduation requirements, pursuant to N.J.A.C. 6:28-3.6 and 4.4, 6:39-1.5, and (b)6 below.

Renumber existing 4.-9. as 5.-10. (No change from proposal.)

(b) District boards of education shall adopt policies and procedures for high school graduation of all pupils pursuant to law and rule which shall include, but not be limited to, performing at or above the State minimum levels of pupil proficiency on the State mandated High School Proficiency Test in reading, writing and mathematics skills.

1.-5. (No change.)

6. A handicapped pupil must meet all State and local high school graduation requirements in order to receive a State endorsed high school diploma unless exempted in his or her Individualized Education Program and with the written approval of the chief school administrator. An exemption from the High School Proficiency Test shall be granted if a pupil would be adversely affected by taking the test. An exemption from the proficiencies and High School Proficiency Test shall be granted if the pupil's Individualized Education Program does not include the proficiencies measured by the test:

i. A handicapped pupil who has not been exempted from the proficiencies or has performed below the State minimum levels of pupil proficiency on one or more areas of the State mandated High School Proficiency Test shall participate in the Special Review Assessment.

7. (No change.)

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

(e) Successful completion of the requirements set forth in (b), (c) and (d) above and any local requirements shall be required as conditions for awarding a State endorsed diploma, except as provided for seniors entering military or naval service pursuant to N.J.S.A. 18A:36-17 and handicapped pupils exempted from the requirements. No district board of education may issue a high school diploma without State endorsement.

(f) (No change.)

6:28-3.6 Individualized education program

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

(e) The basic plan of the individualized education program shall include, but not be limited to:

1.-4. (No change.)

5. A description of the pupil's educational program which includes:
i.-iii. (No change.)

iv. A description of exemptions from regular education program options or State and local graduation requirements which includes a rationale for the exemptions;

v. Reasons why the individualized education program goals and objectives do not include the proficiencies measured by the High School Proficiency Test and the requirement to demonstrate mastery of curriculum proficiencies for pupils exempted from these requirements;

vi. A statement of the alternate proficiencies as replacements for the high school proficiencies for pupils exempted from the High School Proficiency Test and curriculum proficiencies. The individualized education program shall identify which alternate proficiencies must be achieved by the educationally handicapped pupil to qualify for the State endorsed diploma issued by the school district;

Renumber existing v.-ix. as vii.-xi. (No change in text.)

(f)-(m) (No change.)

6:28-4.4 Diplomas and graduation

(a) (No change.)

(b) An educationally handicapped pupil who entered a high school program in September 1981 or thereafter shall meet the high school graduation requirements according to N.J.A.C. 6:8-7, unless exempted in his or her individualized education program. The individualized education program must specifically address these graduation requirements. A handicapped pupil shall be exempted from the High School Proficiency Test and demonstration of mastery of the curriculum proficiencies if it can be demonstrated that his or her individualized education program is characterized by goals and objectives which do not include the range of High School Proficiency Test skills and curriculum proficiencies or if the pupil would be adversely affected by taking the High School Proficiency Test. The individualized education program shall specify which requirements would qualify the educationally handicapped pupil for a State endorsed diploma issued by the school district responsible for his or her education.

6:39-1.5 Exclusion of pupils

(a) Any pupil who has been classified as handicapped, pursuant to N.J.S.A. 18A:46-1 et seq., shall participate in the testing program unless specific exemption from participating in this program is provided within that pupil's Individualized Education Program (N.J.A.C. 6:28). A handicapped pupil shall be exempted if:

1. The pupil would be adversely affected by taking the test; or

2. The pupil's Individualized Education Program does not include the proficiencies measured by the High School Proficiency Test.

HEALTH

(a)

COMMUNITY HEALTH SERVICES

Shellfish

Readoption: N.J.A.C. 8:13

Proposed: July 6, 1987 at 19 N.J.R. 1143(a).

Adopted: August 10, 1987 by Molly Joel Coye, M.D., M.P.H.,
Commissioner, Department of Health.

Filed: August 10, 1987 as R.1987 d.362 **without change.**

Authority: N.J.S.A. 24:2-1.

Effective Date: September 8, 1987.

Expiration Date: September 8, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:13.

PARENTAL AND CHILD HEALTH SERVICES

(b)

Birth Defects Registry

Live Births

Adopted Amendment: N.J.A.C. 8:20-1.2

Proposed: June 1, 1987 at 19 N.J.R. 909(b).

Adopted: August 7, 1987 by Molly Joel Coye, M.D., M.P.H.,
Commissioner, Department of Health.

Filed: August 10, 1987 as R.1987 d.361, **without change.**

Authority: N.J.S.A. 26:8-40.26.

Effective Date: September 8, 1987.

Expiration Date: March 4, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

8:20-1.2 Reporting requirements

(a) Any infant who is born to a resident of the State of New Jersey, or who becomes a resident of the State before one year of age, and who shows evidence of a birth defect either at birth or any time during the first year of life shall be reported to the State Department of Health, Special Child Health Services Program.

1. For reporting purposes, the conditions listed as Congenital Anomalies (Diagnostic Codes 740.00 through 759.90) in the most recent revision of the International Classification of Diseases, Clinical Modification, shall constitute reportable defects. In addition, there are several other conditions considered to be defects that are not listed under Diagnostic Codes 740.00 through 759.90 which describe Congenital Anomalies. The following birth defects are also required to be reported to the Special Child Health Services Program.

i. Congenital Anomalies, including:

(1) Anencephalus and similar anomalies, such as craniorachischis and inencephaly.

(2) Spina Bifida with and without mention of hydrocephalus.

(3) Other congenital anomalies of the nervous system, such as: encephalocele; microcephalus; reduction deformities of the brain; congenital hydrocephalus; congenital cerebral palsies, congenital muscular dystrophies; and other anomalies, congenital diseases, lesions and any other deformities of the brain, nervous system or spinal cord.

(4) Congenital anomalies of the eye, such as: anophthalmos; microphthalmos; buphthalmos; congenital cataract and lens anomalies; coloboma and other anomalies of the anterior or posterior segment; congenital anomalies of eyelids, lacrimal system and orbit; and any other anomalies of the eye.

(5) Congenital anomalies of the ear, face and neck, such as: anomalies of the ear causing impairment of hearing; accessory auricle and any other anomalies of the ear; branchial cleft cyst or fistula; preauricular sinus; webbing of the neck; and any other anomalies of face and neck.

(6) Bulbus cordis anomalies and anomalies of cardiac septal closure such as: common truncus; transposition of great vessels; Tetralogy of Fallot; Common ventricle; ventricular septal defect; ostium secundum type atrial septal defect; endocardial cushion defects; cor biloculare; and any other defects of septal closure.

(7) Other congenital anomalies of the heart, such as: anomalies of pulmonary valve; congenital tricuspid atresia and stenosis; Ebstein's anomaly; congenital stenosis of aortic valve; congenital mitral stenosis of aortic valve; congenital mitral stenosis or insufficiency; hypoplastic left heart syndrome; and any other structural anomalies of the heart.

(8) Other congenital anomalies of circulatory system, such as: patent ductus arteriosus; coarctation of aorta and other anomalies of the aorta, aortic arch or atresia and stenosis of the aorta; anomalies of pulmonary artery; anomalies of great veins, absence or hypoplasia of umbilical artery; other anomalies of peripheral vascular system; or other unspecified anomalies of circulatory system.

(9) Congenital anomalies of respiratory system, such as: choanal atresia; other anomalies of nose; webbing of larynx; other anomalies of larynx, trachea and bronchus; congenital cystic lung; agenesis, hypoplasia and dysplasia of lung; other anomalies of the lung; and other unspecified anomalies of respiratory system.

(10) Cleft palate and cleft lip.

(11) Other congenital anomalies of upper alimentary tract, such as: tongue tie and other anomalies of the tongue; anomalies of mouth and pharynx; tracheoesophageal fistula, esophageal atresia, and stenosis and other anomalies of esophagus; congenital hypertrophic pyloric stenosis, congenital hiatus hernia; other anomalies of stomach; and other unspecified anomalies of upper alimentary tract.

(12) Other congenital anomalies of digestive system, such as: Meckel's diverticulum; atresia and stenosis of small intestine, large intestine, rectum and anal canal; Hirschsprung's disease and other congenital functional disorders of colon; anomalies of intestinal fixation; other anomalies of intestine, gall bladder, bile ducts, liver and pancreas; disorders of tooth formation, development and eruption, dentofacial anomalies, and other unspecified anomalies of the digestive system.

(13) Congenital anomalies of genital organs, such as: anomalies of ovaries, fallopian tubes and broad ligaments; doubling of uterus and other anomalies of uterus; anomalies of cervix, vagina and external female genitalia; undescended testicle; hypospadias and congenital chordee; indeterminate sex and pseudohermaphroditism; and other unspecified anomalies of the genital system.

(14) Congenital anomalies of urinary system, such as: renal agenesis and dysgenesis; cystic kidney disease; obstructive defects of renal pelvis and ureter; other anomalies of kidney and ureter; exstrophy of urinary bladder; atresia and stenosis of urethra and bladder neck; anomalies of urachus; other anomalies of bladder and urethra; and other unspecified anomalies of the urinary system.

(15) Certain congenital musculoskeletal deformities, such as: of skull, face and jaw; of sternocleidomastoid muscle; of spine: congenital dislocation of hip; congenital genu recurvatum and bowing of long bones of leg; varus and valgus deformities of feet; other congenital deformities of feet such as talipes cavus, calcaneus or equinus; and other specified nonteratogenic anomalies such as pectus excavatum, pectus carinatum; club hand; congenital deformity of chest wall; dislocation of elbow; generalized flexion contractures of lower limbs; spade-like hand.

(16) Other congenital anomalies of limbs, such as: polydactyly; syndactyly; reduction deformities of upper limb; reduction deformities of lower limb; other anomalies of upper limb, including shoulder girdle; and other anomalies of lower limb, including pelvic girdle.

(17) Other congenital musculoskeletal anomalies, such as: anomalies of skull and facial bones; anomalies of spine; cervical rib; other anomalies of ribs and sternum; chondrodystrophy; osteodystrophies; anomalies of diaphragm; anomalies of abdominal wall such as prune belly syndrome; other specified anomalies of muscle, tendon, fascia and connective tissue; and other unspecified anomalies of musculoskeletal system.

(18) Congenital anomalies of the integument, significant anomalies of skin, subcutaneous tissue, hair, nails and breast, such as birthmarks or nevi measuring four inches or greater in size, multiple skin tags (more than five in number).

(19) Chromosomal anomalies, such as: Down's syndrome; Patau's syndrome; Edwards' syndrome; autosomal deletion syndromes and other conditions due to autosomal anomalies; gonadal dysgenesis; Klinefelter's syndrome; and other conditions due to sex chromosome anomalies or anomalies of unspecified chromosome.

(20) Other and unspecified congenital anomalies, such as: anomalies of spleen, situs inversus; conjoined twins; tuberous sclerosis; other hamartomas; multiple congenital anomalies; and other congenital

anomalies including congenital malformation syndromes affecting multiple organ systems including Laurence-Moon-Biedl syndrome, Marfan's syndrome and Prader-Willi syndrome.

ii. Other conditions, including:

(1) Certain endocrine, nutritional and metabolic diseases and immunity disorders, includes congenital hypothyroidism; idiopathic hypoglycemia; congenital hypoparathyroidism; hypopituitarism; diencephalic syndrome; adrenogenital syndrome; testicular feminization syndrome; phenylketonuria; albinism; maple syrup urine disease; argininosuccinic aciduria; hyperglycbinemia; glycogen storage diseases; cystic fibrosis; alpha-1 antitrypsin deficiency; and DiGeorge's syndrome; congenital deficiencies of humoral immunity; cell-mediated immunity; combined immunity deficiencies; and other specified and unspecified disorders of the immune mechanisms.

(2) Certain diseases of the blood and blood forming organs, includes hemolytic diseases of the newborn; G-6PD deficiency; hemophilia (all types); and Von Willebrand's disease.

(3) Certain diseases of the nervous system and sense organs, includes hereditary and degenerative diseases of the central nervous system such as Tay Sachs disease and familial degenerative CNS diseases; Werdnig-Hoffmann disease; cerebral palsy; Moebius syndrome; hereditary retinal dystrophies, and chorioretinitis.

(4) Certain diseases of the circulatory system, includes endocardial fibroelastosis; congenital Wolfe-Parkinson-White syndrome; cardiac arrhythmias, NEC; and Budd-Chiari syndrome.

(5) Certain diseases of the digestive system, includes abnormalities of jaw size, micrognathia and macrogathia; inguinal hernia with gangrene, inguinal hernia with obstruction with no mention of gangrene, inguinal hernia without obstruction with no mention of gangrene, umbilical hernia, epigastric hernia.

(6) Certain complications of pregnancy childbirth, and the puerperium, includes amniotic bands, amniotic cyst.

(7) Certain diseases of the skin and subcutaneous tissue, includes pilonidal sinus or dimple (sacrodermal).

(8) Certain conditions originating in the perinatal period, includes fetal alcohol syndrome, probable fetal alcohol syndrome (includes facies), fetal hydantoin (dilatant) syndrome, hyaline membrane disease, bronchopulmonary dysplasia, neonatal hepatitis, meconium ileus, meconium peritonitis, congenital ascites, congenital hydrocele, and certain congenital infections including congenital syphilis, congenital rubella, unspecified TORCH infection, cytomegalovirus, toxoplasmosis, herpes simplex including encephalitis, meningoencephalitis.

(9) Neoplasms, includes lipomas of skin and subcutaneous tissue of face and other skin and subcutaneous tissue, intrathoracic and intra-abdominal organs, spermatic cord, other specified sites, lumbar, sacral, paraspinal, and other unspecified sites; benign neoplasms of skin includes blue nevus, pigmented nevus, papilloma, dermatofibroma, syringoadenoma, dermoid cyst, hydrocystoma, syringoma; other benign neoplasms of lip, eyelid, ear and external auditory canal, skin and other and unspecified parts of face, scalp and skin of neck, skin of trunk, skin of upper limb, lower limb, other specified and unspecified sites including hairy naevus; hemangioma (include if greater than 4 inches diameter, if multiple hemangiomas or if cavernous hemangioma) of skin and subcutaneous tissue, intracranial intra-abdominal cystic hygroma and lymphangioma of any site, hemangioma of other and unspecified site; certain malignant neoplasms including Wilm's tumor, retinoblastoma, other congenital neoplasms including neuroblastoma, medulloblastoma, teratoma, fibrosarcoma, histiocytosis (malignant), neurofibromatosis.

(b)-(j) (No change.)

DRUG UTILIZATION REVIEW COUNCIL

(a)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: April 20, 1987 at 19 N.J.R. 615(a).
Adopted: August 12, 1987 by Robert Kowalski, Secretary, Drug Utilization Review Council.
Filed: August 14, 1987 as R.1987 d.364, with portions of the proposal **not adopted** and portions **not adopted but still pending**.
Authority: N.J.S.A. 24:6E-6(b).
Effective Date: September 8, 1987.
Expiration Date: April 2, 1989.

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

The following products and their manufacturers were **adopted**:

Acetohexamide tabs 250, 500 mg	PharmBasics
Meclofenamate sod. caps 50, 100 mg	Quantum
Perphenazine/amitriptyline tabs 4/50	Bolar
Thiothixene caps 1, 2, 5, 10 mg	Cord
Trazodone HCl tabs 50, 100 mg	PharmBasics

The following products and their manufacturers were **not adopted**:

Clorazepate dipot. caps 3.75, 7.5, 15 mg	Duramed
Clorazepate dipot. caps 3.75, 7.5, 15 mg	Amer. Ther.
Clorazepate dipot. caps 3.75, 7.5, 15 mg	Par
Clorazepate dipot. caps 3.75, 7.5, 15 mg	PharmBasics
Clorazepate dipot. caps 3.75, 7.5, 15 mg	Chelsea
Quinidine gluconate E.R. tabs 324 mg	Mutual

The following products were **not adopted but are still pending**:

Amitriptyline tabs 10, 25, 50, 75, 100, 150 mg	Mutual
Amitriptyline/perphenazine 2/10, 2/25, 4/25	Cord
Butalbital, APAP, caffeine tabs	Graham
Cephalexin caps 250, 500 mg	Nuovo
Chlorothiazide tabs 500 mg	Mylan
Disopyramide caps 100 mg	Superpharm
Doxepin caps 75, 150 mg	Chelsea
Flurazepam caps 15, 30 mg	Duramed
Glutethimide tabs 250, 500 mg	Halsey
Haloperidol tabs 0.5, 1, 2, 5, 10, 20 mg	Chelsea
Haloperidol tabs 10, 20 mg	Cord
Ibuprofen tabs 300, 400, 600 mg	PFI
Ibuprofen tabs 800 mg	Chelsea
Isosorbide dinitrate S.L. tabs 2.5, 5 mg	West-Ward
Isosorbide dinitrate oral tabs 20, 30 mg	Par
Isosorbide dinitrate oral tabs 5, 10, 20 mg	West-Ward
Lithium carbonate caps & tabs 300 mg	Roxane
Lithium carbonate tabs 300 mg	Bolar
Lithium citrate syrup 8 mEq/5ml	My-K
Lorazepam tabs 0.5, 1, 2 mg	Bolar
Lorazepam tabs 0.5, 1, 2 mg	Cord
Medroxyprogesterone tabs 2.5, 5, 10 mg	Duramed
Methylidopa/HCTZ tabs 250/15, 250/25	Chelsea
Nitrofurantoin macrocrys. caps 50, 100 mg	Bolar
Nitroglycerin E.R. caps 2.5, 6.5, 9 mg	Vitarine
Nitroglycerin transdermal patch 5, 10, 15 mg	Hercon
Norethindrone 0.5 mg/ethinyl estr. 35 mcg	Corona
Norethindrone 1 mg/ethinyl estr. 35 mcg	Corona
Ortho-Novum formula 1/35, 1/50	Syntex
Oxazepam tabs 15 mg	W-C
Perphenazine tabs 8 mg	Chelsea
Praxoxine 1%/HC 1% rectal foam	Copley
Prazosin caps 1, 2, 5 mg	Zenith
Prednisone tabs 5, 10, 20 mg	Amer. Ther.
Procainamide E.R. tabs 1000 mg	Bolar
Propranolol/HCTZ tabs 40/25, 80/25	Cord
Pyrimamine/Chlorpheniramine/PE tannates susp	Copley
Pyrimamine/Chlorpheniramine/PE tannates tabs	Copley
SMZ/TMP Susp. 200 mg + 40 mg/5ml	Naska
Salsalate tabs 500, 750 mg	Copley

Temazepam caps 15, 30 mg	Cord
Temazepam caps 15, 30 mg	Duramed
Trifluoperazine tabs 5 mg	Bolar
Verapamil tabs 80, 120 mg	Bolar
Verapamil tabs 80, 120 mg	Cord

OFFICE OF ADMINISTRATIVE LAW NOTE: Related Notice of Adoption may be found at 19 N.J.R. 1312(b).

(b)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: January 5, 1987 at 19 N.J.R. 13(a).
Adopted: August 12, 1987 by Robert Kowalski, Secretary, Drug Utilization Review Council.
Filed: August 13, 1987 as R.1987 d.365, with portions of the proposal **not adopted** and portions **not adopted but still pending**.
Authority: N.J.S.A. 24:6E-6(b).
Effective Date: September 8, 1987.
Expiration Date: April 2, 1989.

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

The following products and their manufacturers were **adopted**:

Haloperidol tabs 10, 20 mg	Par
Propranolol tabs 10, 20, 40, 60, 80 mg	Par
Propranolol tabs 90 mg	Par

The following product and its manufacturer was **not adopted**:

Thioridazine tabs 10, 25, 50 mg	Mutual
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The following products were **not adopted but are still pending**:

Allopurinol tabs 100, 300 mg	Superpharm
Amiloride/HCTZ tabs 5/50	Barr
Cefradroxil for susp 125, 250, 500/5 ml	Biocraft
Cefadroxil caps 500 mg	Biocraft
Clonidine tabs 0.1, 0.2, 0.3 mg	Mylan
Clonidine tabs 0.3 mg	Cord
Codeine/phenyleph/chlorphen/KI ("Pediocof")	Life
Decongestant caps (Entex cap. formula)	Amide
Doxepin caps 10, 25, 50, 75, 100 mg	Quantum
Ergoloid mesylates SL tabs 0.5, 1 mg	Superpharm
Flurazepam caps 15, 30 mg	Barr
Methyldopa tabs 125, 250, 500 mg	Roxane
Promethazine/cod, VC PL, VC/cod syrups	Cenci
Quinidine gluconate E.R. tabs 234 mg	Superpharm
Temazepam caps 15, 30 mg	Sandoz
Tetracycline HCl caps 250, 500 mg	Superpharm
Tolazamide tabs 250, 500 mg	Superpharm

OFFICE OF ADMINISTRATIVE LAW NOTE: Related Notice of Adoption may be found at 19 N.J.R. 641(a) and 880(a).

(c)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: September 8, 1986 at 18 N.J.R. 1775(a).
Adopted: August 12, 1987, by Robert Kowalski, Secretary, Drug Utilization Review Council.
Filed: August 14, 1987 as R.1987 d.366, with portions of the proposal **not adopted** and portions **not adopted but still pending**.
Authority: N.J.S.A. 24:6E-6(b).
Effective Date: September 8, 1987.
Expiration Date: April 2, 1989.

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

The following products and their respective manufacturers were **adopted**:

Cephadrine caps 250, 500 mg Zenith
Prochlorperazine maleate tabs 5, 10, 25 mg Duramed

The following product and its manufacturer was **not adopted**:

Procainamide HCl ER tabs 250, 500, 750 mg Cord

The following products were **not adopted but are still pending**:

Acetaminophen/codeine elix 120/12	Naska
Allopurinol tabs 100, 300 mg	Cord
Amiloride/HCTZ 5 mg/50 mg tabs	Chelsea
Aminophylline tabs 100, 200 mg	West-Ward
Amitriptyline tabs 10, 25, 50, 75, 100 mg	Zenith
Cephadroxil caps 500 mg	Zenith
Cephadroxil tabs 1 g	Zenith
Chlorpheniramine 12/PPA 75 mg ER caps	Chelsea
Clofibrate caps 0.5 g	Chelsea
Clonidine HCl tabs 0.1, 0.2, 0.3 mg	Watson
Clonidine HCl tabs 0.1, 0.2 mg	Cord
Clonidine tabs 0.1, 0.2, 0.3 mg	Chelsea
Clonidine tabs 0.1, 0.2, 0.3 mg	Zenith
Cyproheptadine syrup 2 mg/5 ml	Naska
Disopyramide phosphate caps 100, 150 mg	Chelsea
Ergoloid mesylates oral tabs 1 mg	Sandoz
Erythromycin ethylsuccinate susp 400/5 ml	Naska
Erythromycin ethylsuccinate 200 mg/5 ml	Naska
Flurazepam caps 15, 30 mg	Zenith
Furosemide tabs 80 mg	Zenith
Haloperidol tabs 0.5, 1, 2, 5, 10 mg	Zenith
Haloperidol tabs 0.5, 1, 2, 5, 10, 20 mg	Duramed
Hydrocodone/homatropine 5/1.5 mg/5 ml	Naska
Hydroxyzine HCl syrup 10 mg/5 ml	Naska
Ibuprofen tabs 200, 300, 400, 600 mg	Zenith
Indomethacin sustained rel caps 75 mg	Zenith
Isosorbide dinitrate tabs 20, 30 mg	Chelsea
Lidocaine viscous liquid 2%	Naska
Lithium carbonate caps 300 mg	Reid-Rowell
Lorazepam tabs 0.5, 1.0, 2.0 mg	Watson
Lorazepam tabs 0.5, 1.0, 2.0 mg	Zenith
Meclofenamate caps 50, 100 mg	Chelsea
Methyldopa/HCTZ 250/15, 250/25	Zenith
Methyldopa/HCTZ 500/30, 500/50 tabs	Zenith
Metoclopramide tabs 10 mg	Chelsea
Oxazepam caps 10, 15, 30 mg	Zenith
Perphenazine tabs 2, 4, 8, 16 mg	Zenith
Potassium Cl mod rel 8 mEq and 10 mEq	Upsher-Smith
Prednisolone tabs 5 mg	PFI
Prednisone tabs 5, 10, 20, 50 mg	Chelsea
Procainamide caps 250, 375, 500 mg	Cord
Promethazine VC syrup 6.25/5 per 5 ml	Naska
Promethazine VC/cod syrup 6.25/5/10/5 ml	Naska
Promethazine syrups 6.25mg/25mg/5ml	Naska
Promethazine/DM syrup 6.25/15 per 5 ml	Naska
Promethazine/codeine syrup 6.25/10/5 ml	Naska
Propranolol tabs 10, 20, 40, 80 mg	Zenith
Propranolol/HCTZ tabs 40/25	Zenith
Theophylline elixir 80 mg/15 ml	Naska
Thioridazine 10, 15, 25, 50, 100, 150, 200 mg	Sandoz
Thioridazine conc. 30 mg/ml, 100 mg/ml	Sandoz
Thiothixene caps 2, 5, 10 mg	Chelsea
Tolbutamide tabs 500 mg	Danbury
Triamtereme/HCTZ caps 50/25	Zenith
Triamtereme/HCTZ tabs 75/50	Zenith
Valproic acid caps 250 mg	Chelsea
Verapamil tabs 80, 120 mg	BASF
Verapamil tabs 80, 120 mg	Zenith

OFFICE OF ADMINISTRATIVE LAW NOTE: Related Notices of Adoption may be found at 19 N.J.R. 881(a), 640(b), 217(a), and 116(c).

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Medical Day Care Centers Records

Adopted Amendments: N.J.A.C. 10:65-1.5 and 1.8

Proposed: January 5, 1987 at 19 N.J.R. 30(a).

Adopted: August 10, 1987 by Drew Altman, Commissioner, Department of Human Services.

Filed: August 12, 1987 as R.1987 d.363, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:4D-6b(16), 4D-12, 7, a, b, c.

Effective Date: September 8, 1987.

Expiration Date: November 5, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

The Division is adding additional language at N.J.A.C. 10:65-1.8(a)4i to indicate that nursing notes may be made more frequently than 90 days if the patient's condition changes. This standard is currently contained in the existing text of the rule at N.J.A.C. 10:65-1.5(a)4. The standard was proposed for deletion but the concept is being retained by the language added upon adoption.

Full text of the adoption follows (additions to the proposal shown in boldface with asterisks *thus*).

10:65-1.5 Staff

(a) (No change.)

1.-2. (No change.)

3. **Social Worker:** The Social Worker shall possess a Master's degree in Social Work from an accredited graduate school of Social Work plus one year of full-time or full-time equivalent social work experience in a health care setting. If a designate is utilized, the designate shall possess a Bachelor's degree in the social sciences plus one year of social work experience in a health care setting. A designate must have available on-site consultation from a qualified social worker, a person with a Master's degree in Social Work from an accredited School of Social Work in accordance with the New Jersey State Department of Health's standards (see N.J.A.C. 8:39-12.2).

10:65-1.8 Records

(a) As a minimum, the participants' chart shall contain the following information:

1. (No change.)

2. Individualized plan of care; performed after the first five days of attendance or within a period of one month (whichever is less) and updated every 90 days, with input from each discipline;

3. Medical history, record of physical examination, and medication record, as recorded initially by the attending physician and updated every 90 days thereafter, citing general medical condition, disabilities and limitations. Also included shall be any consultations and laboratory reports performed;

4. Nursing assessment to be completed after the first five days of attendance or within a period of a month (whichever is less); daily nursing observations for the first five days of attendance and nursing progress notes; care plan, and short-term goals at least every 90 days thereafter; long-term goals to be revised annually;

*i. **This does not preclude the completion, by the nurse, of event-triggered documentation as often as necessary to assure consistent follow-up to care needs.***

5. Social history to be completed after the first five days of attendance or within a period of one month (whichever is less); social services progress notes every 90 days;

6. Activity assessment and plan to be completed after the first five days of attendance or within a period of a month (whichever is less); activity progress notes every 90 days;

7.-8. (No change.)

(b) An Individualized Plan of Care shall be written for each participant, with input from the participant, family and interested community agencies. The plan shall state medical needs of the participant as evaluated

by the attending physician, and nursing, social service, activity and other service needs as determined by the Center Staff, with in-put from community agencies. Overall goals and services to be provided by the Center to fulfill the needs expressed should be indicated.

1.-3. (No change.)

INSURANCE

(a)

DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION

Contracts of Sale, Leases and Listing Agreements Adopted Amendment: N.J.A.C. 11:5-1.16

Proposed: April 6, 1987 at 19 N.J.R. 503(b).

Adopted: July 21, 1987 by Daryl G. Bell, Director, New Jersey Real Estate Commission.

Filed: August 10, 1987 as R.1987 d.359, 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. 45:15-6.

Effective Date: September 8, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

Over 50 persons submitted comments to the New Jersey Real Estate Commission regarding the proposed amendment. A large number of these comments favored adoption and some favored adoption with the addition of some clarifying language. The Commission received a small number of comments which urged the abolition of the entire Attorney Review Procedure and several comments which urged the rejection of the proposed amendment. Due to the number of comments received and the similarity in the content of many of them, general summaries of the comments and of the Commission's responses thereto are set forth below. The comment-response summaries fall into the following categories: those supporting adoption of the proposed amendment; those supporting its adoption with clarification; those urging that the entire Attorney Review Procedure be abolished; those urging that the proposed amendment not require that the real estate remain off the market during the three day Attorney Review period; and those which urged that the Commission not adopt the proposal.

COMMENT: Those persons submitting comments supporting adoption cited a variety of factors as influencing their decision. One common theme voiced by several commentators was that the proposed amendment would end some of the confusion and uncertainty which exists amongst the public and licensees with regard to the status of a property which is the subject of a contract pending attorney review. Several persons urging adoption of the proposed amendment believed that it would resolve such ambiguities and encourage fair dealing and good faith among licensees. One person commented that the proposed amendment would end the three day limbo that he or she felt existed under the current law. Two local Boards of Realtors advised the Commission that they have achieved excellent results from the voluntary use by their members of a contract rider with language similar to that contained in the "Agreement to Honor" provision established by this rule.

RESPONSE: The Commission considered the comments made above and the logic which underlies them in arriving at its decision to adopt the proposed amendment with only non-substantive clarifying changes not requiring republication.

COMMENT: Several persons who submitted comments urged adoption of the proposed amendment with additional clarifying language which would more explicitly convey the intent of the proposed amendment. They noted that as published it was unclear whether the proposed amendment mandated that the text of Agreement to Honor provision as set forth in the rule be included in the final version of a contract or lease ultimately signed by the parties, or only required that that text be made a part of the initial version of a licensee-prepared contract or lease. It was suggested that language be added stating that this rule does not in anyway dictate to the parties what language must be included in any final contract or lease signed by them. One person who submitted comments also suggested that a provision imposing stiff fines and/or other sanctions be added to the proposed amendment.

RESPONSE: The Commission recognized the validity of the suggestions regarding clarification summarized above. Accordingly, the Commission determined that clarifying language should be added to the rule to emphasize that the parties are free to negotiate upon the status of their property during the attorney review period, and that the proposed amendment does not mandate that any specific language appear in the final version of any contract or lease signed by the parties. This language clarifies the original intent of this proposed amendment, which was to ensure that members of the public and licensees are aware that the parties can negotiate this point and that when the final version of a contract or lease is signed by the parties all of the participants in the transaction, including the licensees, will know whether or not the seller and listing broker are free to continue efforts to market the property and whether the buyers or lessees are free to place offers upon similar properties. The comment suggesting that sanctions be added to the proposed amendment was noted by the Commission. However, the Commission determined that the penalty provisions contained in N.J.S.A. 45:15-17 make adequate provision for the enforcement of this rule.

COMMENT: The Commission received a small number of comments from people who urged that the attorney review procedure in general be abolished. Persons subscribing to this view gave a variety of reasons for their opinions. The Commission received three copies of the same letter, albeit under different letterheads, that proclaimed the attorney review clause is unconstitutional. Other comments received by the Commission averred that the attorney review procedure as it is currently being implemented is inconsistent with the intent of those who originally formulated it.

RESPONSE: The Commission has considered these comments regarding the abolition of the attorney review procedure. However, the Commission has no legal authority to make such changes in the laws of New Jersey. Attorney review is a process mandated by a ruling of the New Jersey Supreme Court. The Commission cannot alter, amend or repeal the dictates of a Supreme Court decision by the adoption of an administrative rule, or by any other action. The implementation of the Supreme Court's attorney review decision is performed by the lower courts in the course of adjudicating contract disputes between buyers and sellers. The Commission's licensees are bound by these decisions as are parties to the contracts.

COMMENT: The Commission received several comments urging that properties which are under contract but pending attorney review should be required to be considered as still on the market during the attorney review period. These comments either urged the Commission not to adopt the proposed amendment, or urged the Commission to change the proposed amendment so as to prevent parties from negotiating this point.

RESPONSE: The Commission has considered the suggestions made in these comments. However, the Commission lacks the legal authority to dictate to non-licensees what provisions must be included in a final contract or lease executed by them. The proposed amendment does not require either that a property must remain on or be taken off the market for the three day period. By providing to the parties the opportunity to negotiate this point, this amended rule will cause the parties to enter into transactions with a full awareness of what may or may not happen during the attorney review period, particularly with regard to the consideration of other offers by the owner, and thereby reduce misunderstandings and the disputes which have frequently ensued from such misunderstandings.

COMMENT: The Commission received a comment from persons who oppose adoption of the proposed amendment because it was believed that the problems caused by the attorney review clause would be better addressed through legislation, rather than administrative action. In addition, one commentator submitted that the public would be better protected by enactment of the amendment on this subject proposed by the Commission in August of 1986 (see 18 N.J.R. 1677(a)), which would have prohibited licensees from communicating certain information to their principals during the attorney review period. This person stated that enactment of the present proposed amendment would facilitate bad faith dealing by licensees, induce a lottery effect, and increase the amount of litigation engendered by the attorney review clause.

RESPONSE: The Commission has determined that it is appropriate to adopt this amendment pending legislative action. At this time it is unknown whether and when the Legislature may act on this issue. The Commission also determined that the present proposed amendment is superior to that made in August 1986 because the present proposed amendment encourages negotiation between the parties whereas the prior proposed amendment was of questionable legality, possibly would have rendered licensees susceptible to allegations that they had violated their

fiduciary obligations to their principals, and would not have prevented non-licensees from communicating to owners the same information which that proposed amendment would have precluded licensees from conveying to them. The Commission noted that the concerns of this commenter with regard to bad faith dealing, inducing a lottery for properties, and encouraging litigation had been shown to be unfounded by the information received from the two local Boards of Realtors who advised that they have been using similar contract language amongst their members with very favorable results.

COMMENT: One person expressed concern that the funds payable to principals upon the cancellation of a contract during the attorney review period should only be paid over "forthwith" if the deposit was made in cash; any deposit paid by check should not be returned until that check had cleared the licensee's bank.

RESPONSE: The Commission recognized the concern raised by this comment, but determined that the addition of language to the proposed amendment was not necessary. In all circumstances where a licensee must disburse funds from their escrow account which were deposited in the form of a personal check they must wait until that check has cleared their account. By failing to do so, they run the risk of disbursing funds being held in escrow on unrelated transactions. Thus the Commission construes the reference to the "immediate" return of deposit monies upon the issuance of a Notice of Disapproval as immediately upon the funds clearing the escrow account of the licensee if the deposit to be refunded was paid in the form of a personal check and deposited into that account prior to the issuance of the Notice of Disapproval.

Full text of the adoption follows (additions shown in bold face with asterisks *thus*; deletions shown in brackets with asterisks *[thus]*).

11:5-1.16 Contracts of sale, leases and listing agreements

(a)-(g) (No change.)

(h) All licensee-prepared contracts and leases which, pursuant to (g) above are required to contain an Attorney Review provision as set forth therein, shall contain in the paragraph which numerically next follows the paragraph containing the Attorney Review provision, ***or in a Rider to which reference is made in the paragraph which immediately follows the Attorney Review provision,*** the following language, which shall be modified for leases in accordance with (h) below:

AGREEMENT TO HONOR

It is hereby agreed and understood by both buyer and seller that:

1. *The seller agrees not to permit showings of the property and not to consider any other offers to purchase this property during the three day attorney review period, and any extension of the time for attorney review ***that is* agreed to by the parties or their attorneys.***

*If during the attorney review period either party's attorney disapproves this agreement by filing a Notice of Disapproval as described in the contract, the property will again be offered for sale and any deposit monies previously paid will be returned to the buyer ***[forthwith]* ***immediately*****.*

2. *The seller directs their broker and all sub-agents not to show this property to other prospective purchasers and not to present additional offers to purchase the subject property to the seller or their attorney during the attorney review period of this contract and any extension of the time for attorney review ***that is* agreed to by the parties or their attorneys.***

The seller further directs their broker to disclose these provisions of this contract to other brokers or their representatives.

3. *The buyer agrees that during the three day attorney review period and any agreed upon extension to it, ***[he/she/they]* ***the buyer* shall ***[refrain from submitting any offers on any similar properties.]* ***not make any offers on other properties if their intended use by the buyer is identical to the buyer's intended use for this property*.*********

4. *Both parties affirm and agree that if at the end of the attorney review period neither attorney has disapproved this contract, this contract will become final, subject only to the contingencies, if any, specified elsewhere in the contract.*

5. An Administrative rule of the New Jersey Real Estate Commission requires the initial version of contracts such as this to contain this "Agreement to Honor" provision. HOWEVER, THE BUYER AND SELLER ARE FREE TO NEGOTIATE ON WHETHER OR NOT THIS PROVISION OR ANY REVISED VERSION OF IT WILL BE CONTAINED IN THE FINAL VERSION OF ANY CONTRACT WHICH THEY MAY ENTER INTO.

1. In all leases which are required to contain an Attorney Review provision the words "Landlord", "Tenant", "Rent" and "Lease" shall be inserted in place of the words "Seller", "Buyer", "Sale", "Purchase" and "Contract" as applicable, in the paragraph therein containing the above language.

OAL NOTE: The above Agreement to Honor text is italicized to distinguish its paragraph number sequence from the codification of (h) and (h)1. Italicized contract or lease language is not required by the proposal.

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

(a)

BOARD OF MEDICAL EXAMINERS

Bioanalytic Laboratory Director License, Plenary or Specialty, Granted to Physician

Adopted Amendment: N.J.A.C. 13:35-3.6

Proposed: July 6, 1987 at 19 N.J.R. 1179(a).

Adopted: August 12, 1987 by New Jersey Board of Medical Examiners, Frank W. Malta, M.D., President.

Filed: August 17, 1987 as R.1987 d.368, **without change.**

Authority: N.J.S.A. 45:9-2 and 9-42.2.

Effective Date: September 8, 1987.

Expiration Date: November 19, 1989.

Summary of Public Comments and Agency Responses:

A comment was received from Dr. Molly Joel Coye, the N.J. State Commissioner of Health. Dr. Coye expressed concern that the amendment would foreclose individuals possessing Ph.D.'s from obtaining a specialty license without examination, although there is statutory authorization to license Ph.D.'s without examination.

The Board responded that it has consistently interpreted the statute to permit specialty license without examination to properly prepared Ph.D.'s and it will continue to license such individuals. The rule (N.J.A.C. 13:35-3.6) as previously worded addressed laboratory licenses granted to Ph.D.'s. The amendment similarly only affects physicians who seek a Laboratory Director's License.

The Board also received a comment from Jeffrey Garrod, Esq. requesting that radioimmunoassay be recognized and added as a field for the issuance of a specialty license. Mr. Garrod describes radioimmunoassay as a specialty of clinical chemistry which he defines as chemical analysis of body fluids relating to patient care. He further describes radioimmunoassay as a technology that enables measurement of extremely small amounts of chemical substances in blood, urine and tissues.

The Board responded by indicating that it would be inappropriate to separately license radioimmunoassay as a specialty. It is simply one of many testing technologies that make up clinical chemistry and is not broad enough to qualify as a separate specialty. If clinical chemistry is fragmented into its components, there would be hundreds of narrow laboratory specialties licensed.

Full text of the adoption follows.

13:35-3.6 Bioanalytical laboratory director license, plenary or specialty, granted to physicians

(a) The Board shall grant to any person licensed in this State to practice medicine and surgery a plenary license to direct and supervise a registered bioanalytical laboratory, without examination, provided that:

1. Such person is certified in clinical pathology by a specialty board approved by the A.M.A. or the A.O.A.; or

2. Such person, is certified in anatomical pathology or is Board-eligible, and can demonstrate to the satisfaction of the Board, following a personal appearance, appropriate training, and not less than three full years of post graduate general bioanalytical laboratory experience in a laboratory or laboratories acceptable to the Board.

(b) The Board shall grant to any person licensed in this State to practice medicine and surgery, a specialty license in one or more of the following fields: toxicological chemistry, microbiology, cytogenetics, biochemical genetics, and clinical chemistry, without examination, provided that such person is certified by a national accrediting board in one of the above specialties, which board requires a doctorate degree plus experience, such as the American Board of Pathology, the American Osteopathic Board of Pathology, the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bioanalysis or the American Society of Cytopathology and the American Society of Cytogenetics, or any other national accrediting board

recognized by the Board of Medical Examiners. The specialty license shall authorize the licensee to perform and supervise only those tests which are within the scope of the specific specialty license issued by the Board.

(c) Nothing herein shall be construed to waive registration and fees required by the Bioanalytical Laboratory Director Licensing Act, as amended.

(a)

**Acupuncture Examining Board
Fee Schedule**

Adopted Amendment: N.J.A.C. 13:35-6.13

Proposed: June 15, 1987 at 19 N.J.R. 1054(a).

Adopted: August 14, 1987 by Frank J. Malta, M.D., President,

New Jersey State Board of Medical Examiners.

Filed: August 18, 1987 as R.1987 d.371, **without change.**

Authority: N.J.S.A. 45:1-3.2, 45:9-2, 45:2C-3.

Effective Date: September 8, 1987.

Expiration Date: November 19, 1989.

Summary of Public Comments and Agency Responses:

Written comments were received from four individuals regarding this rule proposal.

COMMENT: One doctor suggested that the Board's extension of the validity of current licenses to allow for the adoption of this regulation amounted to malfeasance.

RESPONSE: The Board believes that no public harm could reasonably have been expected to result from its extension. Indeed, were the Board to have allowed its current fee structure to remain in place over the next two years, it would not be in a position to properly discharge its statutory responsibilities. The brief extension of the validity of current licenses will enable the Board to reach its long-term goals.

COMMENT: Another doctor suggested that given the freeze on increases in Medicare and Medicaid reimbursements an increase in licensure fees seemed unfair.

RESPONSE: While the Board recognizes that physicians have been affected by decisions of other regulatory agencies concerning reimbursements, it cannot ignore its statutory responsibilities to regulate the practice of medicine. The fees proposed, in the Board's view, are still reasonable and are calculated in such a manner as to recoup the expenditures anticipated.

COMMENT: The third physician objected to one of the reasons proffered in support of the proposal. In the summary appearing with the proposal, the Board had suggested that administrative burdens created by N.J.S.A. 17:30D-17 and N.J.S.A. 26:2H-12.2, the statutes requiring the reporting of judgments and settlements and hospital disciplinary actions, had in part created the need for additional monies. The doctor suggested that the burden should be relieved by seeking a repeal of that legislation.

RESPONSE: The Board believes that valid legislative purposes caused the Legislature to enact those statutes. It hopes now to be in a better position to effectuate those goals.

COMMENT: The fourth written comment was received from Richard Malacrea, a member of the Athletic Trainers Advisory Committee. He argued that the doubling of the fee for athletic trainers was unjust since unlike many of the other licensee categories represented in the fee schedule, athletic trainers do not charge on a "fee for service" basis.

RESPONSE: While the impact of the adopted fee schedule may have a greater impact upon licensees with a more limited income producing capacity, such concerns have been taken into account, at least to some degree, by virtue of the fact that the present fee is substantially less than that charged to plenary licensees.

Full text of the adoption follows.

13:35-6.13 Fee schedule

(a) The following fees shall be charged by the Board of Medical Examiners:

1. Medicine and Surgery (M.D. or D.O. license)	
i. Examination—	
Both Components	\$425.00
ii. Re-examination	
Component I	\$250.00
Component II	\$300.00

iii. License (M.D. or D.O.)	225.00
iv. N.J.S.A. 45:9-21(n) —exemption	225.00
v. N.J.S.A. 45:9-21(b)—temporary license	50.00
vi. Endorsement	225.00
vii. Biennial registration	160.00
2. Chiropractic (license)	
i. Examination	150.00
ii. Re-examination	50.00
iii. Endorsement	150.00
iv. Biennial registration	120.00
3. Podiatry (license)	
i. Examination	150.00
ii. Re-examination	100.00
iii. Endorsement	150.00
iv. Biennial registration	120.00
4. Bio-analytical laboratory directorship, plenary license	
i. Examination (plenary license)	150.00
ii. Re-examination	150.00
iii. Exemption (plenary license)	150.00
5. Bio-analytical laboratory directorship, specialty license	
i. Examination (specialty license)	150.00
ii. Re-examination (specialty license)	150.00
iii. Exemption (specialty license)	150.00
iv. Biennial registration	120.00
6. Midwifery (license)	
i. Examination (lay midwife license)	50.00
ii. Re-examination	50.00
iii. Endorsement (lay midwife license)	50.00
iv. Biennial registration	120.00
7. Certified Nurse Midwifery (registration)	
i. Examination, C.N.M.	50.00
ii. Re-Examination C.N.M.	50.00
iii. Endorsement, C.N.M.	50.00
iv. Biennial registration, C.N.M.	120.00
8. Athletic Trainer (registration)	
i. Temporary registration or authorized registration without examination	60.00
ii. Examination	(reserved)
iii. Re-examination	(reserved)
iv. Registration fee after examination	60.00
v. Biennial registration	120.00
vi. Reinstatement fee	25.00
vii. Endorsement	(reserved)
9. Orthoptist (registration)	
i. Registration by credentialing	25.00
ii. Biennial registration	120.00
10. Acupuncturist (registration)	
i. Examination	325.00
ii. Re-examination	325.00
iii. Endorsement	175.00
iv. Biennial registration	120.00
v. Reinstatement	25.00
vi. Non-refundable administrative processing fee	25.00
11. General	
i. Recording of name change and issuance of replacement license	25.00
ii. Duplicate copy of license	25.00

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- iii. Preparation of certification papers for applicants to other states 25.00

(a)**Hearing Aid Dispensers Examining Committee Fee Schedule****Adopted Amendment: N.J.A.C. 13:35-8.25**

Proposed: June 15, 1987 at 10 N.J.R. 1055(a).

Adopted: August 14, 1987 by Frank J. Malta, M.D., President, New Jersey State Board of Medical Examiners.

Filed: August 18, 1987 as R.1987 d.370, **without change**.

Authority: N.J.S.A. 45:1-3.2, 45:9A-7.

Effective Date: September 8, 1987.

Expiration Date: November 19, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

13:35-8.25 Fee schedule

(a) The fee schedule for the Hearing Aid Dispensers Examining Committee of the State Board of Medical Examiners, in the Division of Consumer Affairs of the Department of Law and Public Safety, shall be as follows:

1. Temporary licenses: \$50.00;
2. Examination: \$50.00;
3. License after passing the examination: \$50.00;
4. Endorsement fee: \$100.00;
5. Biennial registration: \$80.00;
6. Temporary License Renewal: \$20.00;
7. Reinstatement: \$25.00.

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**(b)****Application Requirements; Misconduct; Fees****Adopted New Rules: N.J.A.C. 13:40-2.1 through 2.10****Adopted Amendments: N.J.A.C. 13:40-3.1 and 6.1**

Proposed: May 18, 1987 at 19 N.J.R. 851(a).

Adopted: June 2, 1987 by Board of Professional Engineers and Land Surveyors, Robert Kirkpatrick, President.

Filed: August 4, 1987 as R.1987 d.355, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3(c)).

Authority: N.J.S.A. 45:8-27 et seq.

Effective Date: September 8, 1987.

Expiration Date: September 3, 1990.

Summary of Public Comments and Agency Responses:

The New Jersey Society of Professional Engineers among others objected to proposed rule changes set out in N.J.A.C. 13:40-3.1(a)8, 9, and 10 which address aspects of a licensee's business. The comments expressed a belief that business practice should not be addressed in a rule describing misconduct. The Board responds that guidelines setting forth "professional" conduct (or indicating what will be considered misconduct) is not inconsistent with the business practice of licensees. The Board frequently finds that licensees do not adequately address the needs of their clients as a result of their business practices. The addition of these provisions is intended to remedy problems of this nature.

A number of the comments reflected confusion in the use of the term "real client in interest" as set out in N.J.A.C. 13:40-3.1(a)8. Accordingly, the Board has changed the language to read as follows: "[f]ailure to determine and document the identity of the client. . . ." The Board believes this clarifies its intent that licensees properly address the needs of the consumer.

An additional comment suggested that N.J.A.C. 13:40-3.1(a)8, 9 and 10, inasmuch as they appear to be directed to land surveyors, be included in Subchapter 5. The Board disagreed, stating that although many of the problems addressed do relate to land surveyors, the requirements are likewise applicable to engineers, who must be equally responsive to the needs of their clients as are surveyors.

Other comments presented anticipated situations wherein compliance with N.J.A.C. 13:40-3.1(a)8 might be difficult, if not impossible. The Board did not find the requirements to be overly burdensome. In the event a problem with complying with these rules arises, the Board suggests that it be consulted for direction by submitting the fact scenario to it.

Additional comments were received regarding N.J.A.C. 13:40-2.9 and 2.10. The comments reflected disagreement with the Board's requirements that an applicant's application be cancelled in certain instances, and that applicants may not appeal or request re-evaluation of their exams. With regard to application cancellations, the Board notes in its experience that those individuals who repeatedly take and fail the examination have not obtained the necessary education and experience to enable them to pass. It is the Board's belief that a two-year hiatus from the exam will force an applicant to reassess his or her qualifications and seek the additional education or experience to strengthen their inadequacies.

Insofar as the denial of appeals or re-evaluations is concerned, the Board wishes it to be known that it takes approximately 16 months to obtain the results of a reevaluation. In that time, an applicant could have sat for three additional exams. Likewise, the Board notes that to date, no exam grades have been changed as a result of reevaluation.

Finally, the Board has decided to amend N.J.A.C. 13:40-2.4 regarding language comprehension to include the following sentence: "[a]n applicant who has received a B.S. from a country wherein the primary language is English will be excepted from this requirement."

Full text of the adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

SUBCHAPTER 2. APPLICATION REQUIREMENTS

13:40-2.1 Form

All applications must be typewritten and notarized.

13:40-2.2 Deadlines

(a) All applications and supplemental documents must be submitted to the Board office within the prescribed deadlines to be considered for admission to the next regularly scheduled examination. It is the applicant's responsibility to verify the receipt of all documents by the Board office.

(b) Failure to meet prescribed deadlines shall result in the denial of the application and rescheduling for a following examination.

13:40-2.3 Education

(a) Each applicant shall provide the Board with an official transcript reflecting the degree(s) earned by the applicant. Said transcript must be sent directly from the institution to the Board and must include the Board assigned application number of the applicant.

(b) An applicant with a non-United States degree who has documented that due to political or economic sanctions he is unable to have the transcript sent directly to the Board must submit his original transcript to the Board office. The applicant must also provide a literal, verbatim English translation, certified to be accurate by a competent authority. In addition, the applicant must list all courses and their description on the Reconstruction Form which is provided by the Board.

(c) Any applicant who has attended an institution not located in the United States shall have his or her degree evaluated by a review service selected and approved by the Board. Reviews by other services will not be accepted.

13:40-2.4 Language comprehension requirement

An applicant for licensure as a professional engineer or land surveyor who is from a non-English speaking country or a country wherein the primary language is other than English, prior to taking the examination shall submit to the Board a TOEFL (Test of English) certificate with a minimum score of 575 and a TSE (Test of Spoken English) with a minimum score of 200. This test shall have been taken within two years of application. ***An applicant who has received a B.S. from a country wherein the primary language is English will be exempted from this requirement.***

13:40-2.5 Experience

(a) An applicant who has received an engineering degree from a college or university not located in the United States must have gained two years of professional engineering experience acceptable to the Board which has

been gained in the United States to be eligible to sit for the fundamentals of engineering exam.

(b) Pursuant to N.J.S.A. 45:8-35, an applicant who is applying to sit for the principles and practices exam must have four years of professional engineering experience acceptable to the Board, two years of which must have been gained in the United States.

13:40-2.6 References

(a) The following rules shall apply to all applicants:

1. Reference will not be accepted from relatives of the applicant.
2. No current Board member shall be used as a reference.
3. All reference forms must contain the applicant's Board assigned number.
4. No references over one year old will be accepted.

(b) References shall be provided as follows:

1. Engineer-in-training applicants: Of the three references required, one shall be a licensed professional engineer in the United States and have personal knowledge of the applicant's experience or training.
2. Professional engineer applicants: Of the five references required, three must be licensed professional engineers in the United States and have personal knowledge of the applicant's experience or training.
3. Professional land surveyor applicants: Of the five references required, three must be licensed land surveyors in the United States and have personal knowledge of the applicant's experience or training.

(c) The Board shall accept a National Council of Engineering Examiners record book for transcript and reference documents only.

1. This booklet must be labeled with the application number.
2. References over six months old will not be accepted.
3. Transcripts that are illegible or do not contain a visible official registrar's seal will not be accepted.
4. All professional experience, listing of documents and education received must be typed according to the format provided in the application.

13:40-2.7 Comity

(a) Comity licensure pursuant to N.J.S.A. 8-35(1)(d) or (e) shall be granted provided that education, experience, and examination requirements for licensure by the issuing agency are comparable to current requirements of the State of New Jersey.

(b) All prior State licenses must be current, active and in good standing in order for licensure pursuant to N.J.S.A. 45:8-35(1)(d) or (e) to be granted. The Board's enabling legislation does not contain an eminence or grandfather clause, nor reciprocity with any state, territory or country.

13:40-2.8 Waiver

(a) The Board may waive the fundamentals of engineering portion of the exam provided that, in addition to the education requirements at N.J.A.C. 13:40-2.3, the applicant has a specific record of an additional 15 years or more of experience at the time of application in engineering work of a character satisfactory to the Board. Eight of the 15 years of experience must have been gained in the United States or must have been acquired while working for a United States based firm.

(b) The specialized training section of the exam shall not be waived.

13:40-2.9 Cancellation of applications

(a) Any applicant for any eight hour section of the examinations given for professional engineering or land surveying who fails any part, with a score of 65 percent or below on three consecutive occasions, shall have said application cancelled.

(b) Any applicant who has had an application cancelled as in (a) above, may only reapply for examination after a two year period and must reapply under the same application number originally assigned.

(c) Any applicant who fails to sit for two consecutive exams for which said individual was eligible or scheduled to take, shall have said application cancelled.

(d) Any applicant who has had an application cancelled for failure to sit as in (c) above may only reapply after a six month period and must reapply under the same application number originally assigned.

(e) Applications will be cancelled at a public meeting after notice to the applicant.

(f) An applicant who has had an application cancelled will be required to submit a new application, pay appropriate fees, meet Board deadlines, and again submit all required documents, including references.

13:40-2.10 Review of examination

(a) An applicant who has taken the fundamentals of engineering exam, fundamentals of land surveying exam, or principles and practices of land surveying and the New Jersey L.S. exam, may request a hand score and score tabulations of each exam taken. The applicant may not personally review the exams.

(b) An applicant who has taken the principles and practices exam may request to review his or her solution pamphlet and the correct solution answers.

(c) All requests for scoring or review must be made in writing within 30 days of the mailing of score to the applicant.

(d) An applicant may not appeal, or request re-evaluation of the exam.

Full text of the adopted amendments follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

SUBCHAPTER 3. MISCONDUCT

13:40-3.1 Enumeration of prohibited acts

(a) Misconduct in the practice of professional engineering and land surveying shall include without limitation:

1.-7. (No change.)

8. Failure to determine ***[the true and actual identity of the real client in interest]* **and document the identity of the client***** prior to commencing any work. All correspondence, contracts, bills shall be addressed to that client, unless expressly directed otherwise, in writing, by the client.

9. Failure to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

10. Failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions.

SUBCHAPTER 6. FEES

13:40-6.1 Fee schedule

(a) The following fees shall be charged by the Board:

1.-8. (No change.)

9. Any applicant who is required under N.J.A.C. 13:40-2 to have his or her degree evaluated must pay via certified check or money order the actual cost of the evaluation.

10. Any applicant who requests an exam review or score tabulation must pay via certified check or money order the actual cost of the review or tabulation.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Conferences

Adopted Repeal and New Rules: N.J.A.C. 14:1-11.1 through 14:1-11.4

Proposed: June 1, 1987 at 19 N.J.R. 919(b).

Adopted: August 6, 1987 by Barbara A. Curran, President, Board of Public Utilities.

Filed: August 10, 1987 as R.1987 d.360, **without change.**

Authority: N.J.S.A. 48:2-12.

Effective Date: September 8, 1987.

BPU Docket Number: AX8502214.

Expiration Date: December 16, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

SUBCHAPTER 11. CONFERENCES

14:1-11.1 Purposes

(a) The purpose of this subchapter is to foster early settlement of cases pending before the Board prior to the case being transmitted to the Office of Administrative Law and to provide a vehicle for the parties to file pre-transmittal motions with the Board for retention and disposition of certain issues. Pre-transmittal settlement conferences of parties or their attorneys may be held to provide opportunity for a settlement, subject to approval of the Board, of a proceeding or any of the issues therein, and for the submission and consideration of facts, argument, offers of settlement or proposals of adjustments, as time, the nature of the proceeding and the public interest may permit.

(b) Pre-transmittal conferences of parties or their attorneys may be held to expedite the disposition of any hearing. At such conference there may be considered, in addition to the matters set forth in (a) above, the following:

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1. Identification and simplification of the issues;
2. Admissions or stipulations of facts;
3. Identification of those matters or issues which should either be retained for disposition by the Board or be transmitted to the Office of Administrative Law;
4. Such other matters as may be properly dealt with to aid in expediting the proceeding.

14:1-11.2 Initiation of conferences

(a) The Board or a Board-designated officer, with or without motion, may direct that a conference be held at any stage prior to transmittal to the Office of Administrative Law or at any time when the Board certifies a case unto itself pursuant to N.J.S.A. 52:14F-8(b).

(b) On motion of a party, the Board-designated officer may direct the parties or their attorneys to appear for a conference to consider the matters set forth in N.J.A.C. 14:1-11.1(b).

14:1-11.3 Stipulation of conference results

(a) Upon conclusion of the pre-transmittal conference the parties or their attorneys shall reduce the results thereof to the form of a written stipulation reciting the matters agreed upon, and three copies thereof shall be filed with the Board within 10 days of the date of the conference. If no stipulations are reached, the matter shall be immediately transmitted to the Office of Administrative Law.

(b) Such stipulations shall be signed by the parties or their attorneys, may be received in evidence as part of the record and when so received shall be binding on the parties with respect to the matters therein stipulated.

(c) Such stipulations are subject to review by the Board at a regularly scheduled agenda meeting.

14:1-11.4 Authority of Board designated officers

(a) Any Board designated officer shall have the authority to conduct and preside over pre-transmittal conferences in the interest of fostering resolution of issues.

(b) When appropriate, a Board designated officer may submit a pre-transmittal order which shall be reviewed by the Board at an agenda meeting and, if acceptable, shall be adopted as its own order.

(a)**OFFICE OF CABLE TELEVISION****Rules of Practice and Procedure****Notice of Rate Change****Notice of Alteration in Channel Allocation****Adopted New Rules: N.J.A.C. 14:18-14.5 and 14:18-14.6**

Proposed: April 6, 1987 as 19 N.J.R. 505(a).

Adopted: August 14, 1987 by Bernard R. Morris, Director, Office of Cable Television (with approval of the Board of Public Utilities).

Filed: August 17, 1987 as R.1987 d.367, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:5A-10.

Effective Date: September 8, 1987.

Expiration Date: July 29, 1990.

Summary of Public Comments and Agency Responses:

Oral and/or written comments concerning the proposal were provided by the New Jersey Cable Television Association (NJCTA), UA-Columbia Cablevision of New Jersey and Service Electric Cable TV of New Jersey, Inc.

Francis R. Perkins, Esq., appeared and submitted comments on behalf of the New Jersey Cable Television Association (NJCTA). The following points were submitted with respect to the proposal for the notice of rate change:

1. The notice of proposed rulemaking sets out no clear statement of the regulatory purpose to be served by the enactment of the proposed regulation. The "Social Impact" statement provides that "these rules will serve the public interest since affected parties will be given reasonable notice of any rate changes or alterations and channel allocation and may respond thereto." However, given the Federal preemption of the regulation of rates by states and local franchising authorities, it is unclear what regulatory response the OCTV or any municipal government may make.

2. The OCTV has not sufficiently justified the reasons for requiring that it be notified of a rate change prior to the time individual subscribers and municipalities must be notified. Contemporaneous notice of a rate change to the OCTV at the time of notice to individual subscribers will accommodate the staff's concern in effectively dealing with complaints from subscribers concerning changes in cable television rates.

3. The requirements that subscribers be notified individually in writing would impose unnecessary financial burdens upon cable television operators in some cases. A cable operator should have a choice of notifying its subscribers of any increase in rates either by bill insert or by publication in newspapers published and circulated in the cable television companies' service areas. Nothing indicates that such a procedure would be inappropriate, particularly where, as is the case with most cable television companies, billing is done respectively and the subscriber is left with the option of discontinuing service and thus avoiding the increase.

4. A requirement for the posting of rates by cable television operators where there is no rate regulation by a franchising authority or state entity may violate Federal antitrust law.

5. The legal effect of not providing the OCTV, municipalities, and subscribers notice of a rate change as required by the proposed regulations is unclear. If there is to be no legal consequence, a less stringent approach is appropriate. For example, it is suggested that the proposed regulation be amended to provide for contemporaneous notice to the OCTV at the time of notice to subscribers in advance of the effective date of the alteration of rates.

The NJCTA offered the following comments with respect to the provision for the notice of alterations in channel allocation:

1. The regulatory purpose for the proposed provision is not set forth.

2. There is no assertion by the OCTV that it has the authority to regulate the channel assignment on a cable television system.

3. As with the notification of changes in rates, it would appear that the ability of the OCTV to respond to complaints and inquiries (the only discernible purpose such a requirement would serve) is adequately provided for with contemporaneous notices of change.

4. The proposed regulation does not set out a form upon which it would be required to report. Any forms, for whatever purpose, must be adopted by way of rulemaking under both the Administrative Procedure Act and the New Jersey Cable Television Act. Therefore, if forms are to be adopted, they should be set out as part of the rulemaking proposal.

Emil S. Cuccio, Esq., submitted written comments on behalf of UA-Columbia Cablevision of New Jersey. He offered the following regarding the provision for the notice of rate change:

1. The "Social Impact" statement suggests that the public interest would be served by requiring "reasonable notice of any rate changes" so that affected parties could respond thereto. This position implies a regulatory scheme under which rate increases may be challenged by the general public or their municipal representative.

2. The concept of the revisitation of rate regulation mentioned in the Cable Communications Policy Act of 1984 requires the FCC in six years to submit a report to the Congress based upon the effect of competition in the marketplace as it relates to the regulation of rates for cable service. However, there is no requirement that cable operators must afford prior notice of rate changes after the effective date of deregulation (December 28, 1986).

3. Recognizing the needs of the OCTV to monitor the activities of the various cable operators in this State, UA-Columbia supports an informational notice of rate change filed by an operator not as a condition precedent, but merely as a vehicle to assimilate information which the Board may later be called upon to provide to the FCC. Such a notice may reasonably be provided to the Office not later than 30 days after the effective date of the change.

4. The type of notice a cable operator uses to notify its subscribers of a rate change should be left to the discretion of the cable operator. The requirement that subscribers be noticed individually in writing would be burdensome and costly to cable companies.

UA-Columbia offered the following comments regarding the proposed provision for the notice of alteration in channel allocation:

1. The proposed rule establishes prior written notification as a prerequisite to a cable operator's alteration in channel allocation. This condition creates practical problems. For example, if a contract for satellite service is about to expire and the cable operator is negotiating with another programmer, a change could not be implemented if the transaction falls within the 45 day window proposed under the rule.

2. There are a number of means available to the industry to provide adequate notice of alteration in channel allocation to its subscribers (for example, cable guide, data channel, etc). There is no compelling reason to require direct mailings as proposed.

3. Recognizing the Board's interest in assimilating information and maintaining adequate records of the activities of cable operators doing business in this State, it is suggested that an informational form can be provided after the implementation of the change.

Clifford M. Paul, General Manager of Service Electric Cable Television of New Jersey, Inc., offered comments regarding the proposed requirements that a written notice of rate change and/or a notice of alteration in channel allocation be sent to each subscriber. He, like UA-Columbia and NJCTA believe that there are other effective and less costly ways to notify subscribers.

AGENCY RESPONSE

The primary concern raised in the comments appears to be that the OCTV does not have a clear "regulatory purpose" in requiring notice to the OCTV, subscribers and affected municipalities of changes in rates and changes in the allocation of channels on a cable television system. It is suggested that since the regulation of cable television rates and channel allocations is preempted by Federal law the OCTV does not possess a significant interest in requiring reasonable prior notification of any such changes. OCTV does not agree. It is important for subscribers to be given prior notification of these changes so that they may sufficiently understand the services which they receive and any changes in those services and/or its rate structure. The OCTV requires this information so that it may respond to consumer complaints and inquiries and to possess reasonable information to monitor the status of the cable television industry in New Jersey.

The issue of the burden on cable television operators of complying with the notice requirements was also raised. In particular, the requirement of individual written notice to subscribers was described as unnecessarily burdensome. It was suggested that cable operators be afforded the option of notifying subscribers by bill inserts or by publication in newspapers circulated in the operator's service area. This is the notice required if the operator were to file a petition for a change in rates pursuant to N.J.A.C. 14:17-6.17. OCTV believes a rate change pursuant to N.J.A.C. 14:17-6.17 and a rate change which is not regulated by the Board are sufficiently distinct to justify different treatment for notification requirements. In the context of regulated rates, the requested rate structure is implemented after a hearing and the opportunity for public comment. This protection is unavailable in those instances where rates are unregulated and, therefore it is appropriate that all subscribers receive individual notice of changes in the rate structure. This will ensure that subscribers as individuals have a reasonable opportunity to evaluate rate changes and decide if they should alter their cable television services.

The comments concerning individual notice to subscribers for changes in channel allocation are more persuasive. It is foreseeable that this requirement could be unnecessarily burdensome to operators in some cases. This is especially true since a cable operator may be forced to realign its programming content as a result of changes in available services which are beyond its control. The adopted rule has been changed to not require individual notice to subscribers of changes in channel allocation, but will require the notice be reasonably calculated to reach and inform subscribers of the change. However, the Board strongly recommends individual notices when feasible.

The necessity for the OCTV to receive notification of changes in rates and channel allocation prior to the time subscribers and municipalities received notification was also questioned. Commenters assertions that such requirements are a condition precedent are totally unfounded. Advanced notification to the OCTV is reasonable so that the staff of the Office will have adequate information to handle subscriber complaints and inquiries on the subject matter of the changes when these queries are received. However, the needs of the individual staff members to have this information available can be adequately met with a less stringent advance notification requirement than originally proposed. The adopted rule has been changed to require 35 days prior notice to the OCTV of changes in rates or channel allocation rather than 45 days as originally proposed.

The NJCTA also raised a concern that the proposed rule may inadvertently force cable television operators to violate Federal antitrust law. The NJCTA cites the United States Supreme Court decision of *California Retail Liquor Dealers Association v. Midcal Aluminum, Inc.*, 445 U.S. 94, 100 S. Ct. 937, 63 L. Ed 2d 233 (1980), in support of the proposition that a requirement for the posting of rates by cable television operators where there is no rate regulation by a franchising authority or state entity may violate Federal antitrust law. Upon a close examination of this case and related authority OCTV is satisfied that the adopted rule would not require cable television operators to engage in conduct which would violate Federal antitrust law.

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

14:18-14.5 Notice of rate change

(a) If the rates and charges of a cable operator are not subject to prior approval by the Board:

1. A cable TV company implementing a change in its rates shall file with the Office revised tariff sheets reflecting any rate changes at least *[45]* ***35*** days prior to the effective date.

2. Each cable TV company shall individually notify, in writing, its subscribers and affected municipalities of a rate change at least 30 days prior to the effective date, with a copy of the notice to the Office.

14:18-14.6 Notice of alteration in channel allocation

(a) Each cable TV company shall file with the Office written notice of an alteration in channel allocation, on a form prescribed by the Director, at least *[45]* ***35*** days prior to the effective date.

(b) Each cable TV company shall individually notify in writing its subscribers and affected municipalities of an alteration in channel allocation at least 30 days prior to the effective date ***in a manner reasonably calculated to provide such information***.

(c) When timely notice pursuant to this section cannot be met because of factors beyond the cable operator's control, the operator shall provide the earliest possible notice.

Recodify existing 14:18-14.5 (Authority) and 14:18-14.6 (Prior regulations) as 14:18-14.7 and 14:18-14.8, respectively. (No change in text.)

TRANSPORTATION

TRANSPORTATION OPERATIONS

(a)

Restricted Parking and Stopping Route 20 in Bergen County

Adopted Amendment: N.J.A.C. 16:28A-1.10

Proposed: June 15, 1987 at 19 N.J.R. 1074(a).

Adopted: July 16, 1987 by John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.

Filed: August 6, 1987 as R.1987 d.356, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-199.

Effective Date: September 8, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28A-1.10 Route 20

(a) (No change.)

(b) The certain parts of State highway Route 20 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. Along (Paterson Plank Road) the eastbound (southerly) side in the Borough of East Rutherford, Bergen County.

i. Mid-block bus stop:

(1) Between Murray Hill Parkway and William Street—Beginning 215 feet west of the westerly curb line of Murray Hill Parkway and extending 135 feet westerly therefrom.

NEW JERSEY REGISTER, TUESDAY, SEPTEMBER 8, 1987

(a)**Restricted Parking and Stopping
Route U.S. 46 in Morris County****Adopted Amendment: N.J.A.C. 16:28A-1.32**

Proposed: July 6, 1987 at 19 N.J.R. 1180(a).

Adopted: August 6, 1987 by John F. Dunn, Jr., Assistant Chief
Engineer, Traffic and Local Road Design.Filed: August 10, 1987 as R.1987 d.357, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-199.

Effective Date: September 8, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:**No comments received.****Full text** of the adoption follows.

16:28A-1.32 Route U.S. 46

(a) (No change.)

(b) The certain parts of State highway Route U.S. 46 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1.-12. (No change.)

13. Along the eastbound (southerly) side in Denville Township, Morris County:

i. Far side bus stop:

(1) Franklin Road—Beginning at the easterly curb line of Franklin Road and extending 220 feet easterly therefrom.

14. Along the westbound (northerly) side in Denville Township, Morris County:

i. Near side bus stop:

(1) Franklin Road—Beginning at the easterly curb line of Franklin Road and extending 150 feet easterly therefrom.

CONSTRUCTION AND MAINTENANCE**(b)****Permits****Readoption: N.J.A.C. 16:41****Readoption with Amendments: N.J.A.C. 16:41-2.4**

Proposed: June 15, 1987 at 19 N.J.R. 1074(b).

Adopted: July 16, 1987 by Jack Freidenrich, Assistant

Commissioner for Engineering and Operations (State Highway
Engineer).Filed: July 28, 1987 as R.1987 d.347, **without change.**Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-44, 27:7A-11,
27:7A-17.

Effective Date: July 28, 1987.

Expiration Date: July 28, 1992.

Summary of Public Comments and Agency Responses:**No comments received.****Full text** of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:41.**Full text** of the adopted amendments to the readoption follows:

16:41-2.4 Permit provisions

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

(d) Plans to support application should be collated and folded, and shall include:

1. Applications for private access driveway permit must be supported by six copies of a detailed sketch or a to scale plan no greater than 50 feet to one inch, preferably 30 feet to one inch, using an Engineer's scale. The plan or sketch should show location and type of proposed driveway in relation to the gutter and/or curblin. While all application plans for private access should be on State Standard 22 inch by 36 inch or Industry Standard 24 inch by 36 inch sheets, an 8½ inch by 11 inch sheet may be accepted.

2. Applications for combined residence and business, automobile service station and commercial minor driveways must be supported by eight copies of a detail plan to a scale no greater than 50 feet to one inch, preferably 30 feet to one inch, using an Engineer's scale. Topographic features must be shown on both sides of undivided roads, and one side of divided roads, for 250 to 500 feet in each direction. Additionally, any features affecting sight distance must be noted. All application plans for combined residence and business, automobile service station and commercial minor driveways must be on State Standard 22 inch by 36 inch or Industry Standard 24 inch by 36 inch sheets. Also included shall be the information requested in (d)3 below.

3. Applications for commercial major driveway(s) must be supported by eight copies of a detailed plan to a scale no greater than 30 feet to one inch using an Engineer's scale. Topographic features must be shown on both sides of undivided roads, and one side of divided roads, for 1,000 feet in each direction. Additionally, any features affecting sight distance must be noted. All application plans for commercial major driveways must be on State Standard 22 inch by 36 inch or Industry Standard 24 inch by 36 inch sheets. Also included shall be the following information:

i. Site location map. Tax maps are unacceptable. Site location maps should show at least two cross streets, on each side of the property, milepost, north arrow and scale;

ii.-v. (No change.)

vi. Drainage. Must show complete existing and proposed drainage systems; calculations for existing and proposed development flows must be included.

vii.-xviii. (No change.)

xix. Where applicable:

- (1) Driveway grades;
- (2) Corner clearance;
- (3) Radius of curvature;
- (4) Parking facilities;
- (5) Estimated traffic count for access;
- (6) Speed-change lanes (acceleration, deceleration or left turn slots);
- (7) Typical section, which shall be included in all access plans showing existing and proposed lane and shoulder cross slopes, widths and pavement make up.

xx. Traffic planning and traffic management data substantiating the property owner's plans to control the amount of development related vehicular traffic. Traffic studies shall include calculations of peak hour traffic (A.M. and P.M.) for full buildout of the development and directional distribution plus counts on the highway at peak hour.

xxi.-xxiv. (No change.)

(e) (No change.)

(f) Applications for concept review must be supported by eight copies of a plan to a scale no greater than 100 feet to one inch, preferably 50 feet to one inch, using an Engineer's scale. This application should provide information sufficient to enable the Department of Transportation to determine the feasibility of the proposed project but is not required to include extensive construction details. Traffic studies should include calculations of peak hour traffic (A.M. and P.M.) for full buildout of the development and directional distribution plus counts on the highway at peak hour. The following information should generally be included in the application:

1.-14. (No change.)

(g)-(q) (No change.)

TREASURY-TAXATION**(a)****DIVISION OF TAXATION****Tax Amnesty****Adopted New Rules: N.J.A.C. 18:39-1**

Proposed: June 15, 1987 at 19 N.J.R. 1075(a).

Adopted: July 29, 1987 by John R. Baldwin, Director, Division of Taxation.

Filed: July 30, 1987 as R.1987 d.353, **with substantive and technical changes** not requiring additional public notice (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 54:50-1.

Effective Date: September 8, 1987.

Expiration Date: September 8, 1992.

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

N.J.A.C. 18:39-1.1(a) has been changed upon adoption to provide the beginning and ending dates of the amnesty program. These dates had not been ascertained at the time of proposal but are now being included to further the purposes of amnesty. Insertion of the dates does not require a reproposal because the selection was totally and absolutely within the discretion of the Division of Taxation. Thus, public comment would not have had any bearing on date selection.

N.J.A.C. 18:39-1.1(c) has been amended to exclude the motor fuels use tax from eligibility for amnesty. The motor fuels use tax is not payable to the Division of Taxation and therefore is not eligible for amnesty under P.L. 1987, c.76. This change is not so substantial as to require reproposal because it merely reflects an additional example of a tax which does not qualify for amnesty.

N.J.A.C. 18:39-1.4(g) has been added to deny amnesty for acts evidencing that a taxpayer is not in compliance with the rules. This addition to the rule as proposed is deemed necessary for public information purposes even though it states the obvious. It is not considered a change so substantial as to require reproposal because it does not significantly enlarge or curtail the scope or effect of the rule. It is basically an extension of subsections (b) and (f) of the rule as proposed. Subsection (b) indicates that a taxpayer will be denied tax amnesty if the tax amnesty application is incomplete, and subsection (f) provides that a taxpayer may be denied tax amnesty for an inadequate payment of tax, payment with a dishonored check, or failure to submit deferred payments on time.

N.J.A.C. 18:39-1.7(d) has been amended to reflect the logical extension of amnesty to persons who have appealed a case to either the Appellate Division or the Supreme Court of New Jersey. The rule as originally proposed provided amnesty only with respect to complaints filed with the Tax Court. One additional change substituted "taxpayer" for "Tax Court" with respect to the dismissal of the complaint with prejudice. Neither change is so substantial as to require reproposal. In the first case the change clarifies the original intent of this agency, and in the second case designating the Tax Court as the entity which must agree to a dismissal with prejudice is incorrect. The Tax Court or any court in which a complaint has been filed is a party to such a dismissal, but the taxpayer as the party in interest must agree.

Full text of the adoption follows (additions shown in boldface with asterisks *thus*; deletions shown in brackets with asterisks *[thus]*).

CHAPTER 39
STATE TAX AMNESTY

SUBCHAPTER 1. NINETY-DAY TAX AMNESTY**18:39-1.1 Eligibility for tax amnesty**

(a) All eligible taxpayers with any outstanding New Jersey State tax liability for a taxable period or transaction or use occurring prior to January 1, 1987 are eligible for tax amnesty during the 90-day period (the "tax amnesty period") designated by the Director of the Division of Taxation ***beginning Thursday, September 10, 1987 and ending Tuesday, December 8, 1987***.

(b) Tax amnesty will be granted only with respect to tax liabilities which arose prior to January 1, 1987.

Example 1: A taxpayer was issued a notice of deficiency in June of 1984 for underpayment of corporation business tax for the calendar year 1983. The eligible taxpayer could receive tax amnesty for that liability by submitting the application, paying the liability and paying interest at the rate of nine percent per annum until the date of payment.

Example 2: A taxpayer on a January 31 fiscal year fails to report the gain on the sale of a capital asset that occurred in March of 1986. The result of this failure is the underpayment of the taxpayer's corporation business tax liability and interest charges for the insufficiency of corporation business tax installment payments. Even though the return was not due until after January 1, 1987, the taxable event occurred prior to that date and the taxpayer is eligible to receive tax amnesty on both the tax liability and the interest charges for the insufficient installment payment that would be due on the gain from the sale of the capital asset.

Example 3: A vendor sold an automobile in January 1987. He fails to remit the sales tax in February 1987. He is not eligible for tax amnesty as the transaction occurred after December 31, 1986. If the sale were made in December 1986 even though the return was not due until January 1987, the failure to remit the tax from the 1986 transaction is eligible for tax amnesty.

(c) A taxpayer may apply for and be granted tax amnesty for any tax which is payable to the Division of Taxation. Taxes not payable to the Division of Taxation such as unemployment and disability taxes (payable to the Department of Labor), boxing taxes (payable to the State Athletic Commission) *[or]* *,* local property tax (payable to municipal tax collectors) *or the motor fuels use tax (payable to the Division of Motor Vehicles)* are not eligible for tax amnesty.

(d) All taxpayers owing eligible State taxes for an eligible period may receive tax amnesty unless they are under criminal investigation for a State tax matter and that fact has been certified to the Division of Taxation by a county prosecutor or the Attorney General.

(e) Tax amnesty will not be granted with respect to taxes, penalties or interest otherwise eligible for tax amnesty which are or have been paid prior to the commencement of the tax amnesty period.

(f) If a taxpayer has paid a tax but still owes penalty and interest on that tax, outstanding liability for penalty and interest is eligible for tax amnesty. The taxpayer must complete and file an amnesty application. Tax amnesty is not automatically granted to taxpayers whose only liability to the Division is penalty, or interest, or both.

(g) Tax amnesty will be granted for penalty and interest only if the penalty and interest were assessed with respect to an eligible tax.

18:39-1.2 Scope of tax amnesty

(a) When tax amnesty is granted, all civil and criminal penalties and all interest in excess of nine percent per annum attributable to the tax and period for which tax amnesty has been granted will be waived.

(b) Once tax amnesty is granted, all penalties as defined by the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., or any other State tax law and any civil, administrative or criminal proceedings other than interest at the rate of nine percent per annum are barred relating to the designated tax only.

(c) If tax amnesty is granted, the taxpayer's obligation to pay the full amount of the tax due and nine percent simple interest from the date the tax was due to the date of payment will not be forgiven.

(d) The waivers of penalties and prohibition against prosecution apply only to those amounts of tax and interest for which tax amnesty is granted. Penalties will be imposed and proceedings will not be barred relating to any amount of tax later found to be due in excess of the tax amnesty payment.

18:39-1.3 Application for tax amnesty

(a) To obtain tax amnesty, a taxpayer must submit a completed official tax amnesty application by midnight of the 90th day of the amnesty period, along with full payment of tax and interest at nine percent per annum from the due date of the tax to the date of payment.

1. The official form available from the Division of Taxation must be used. Required attachments (such as a New Jersey Form 1040 where appropriate) are considered a part of the tax amnesty application. An application without the required attachments will be considered incomplete.

2. The official Tax Amnesty Application is available by writing to:

Amnesty Headquarters
New Jersey Division of Taxation
CN 277
Trenton, NJ 08646

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3. The filing must be postmarked by midnight of the 90th day of the tax amnesty period or delivered to the Division of Taxation by midnight of the 90th day of the tax amnesty period.

4. If the taxpayer applying for tax amnesty is unable to obtain or complete an official tax amnesty form by the 90th day of the tax amnesty period, he may submit a letter which will, for purposes of the filing date, be considered timely filed. That letter must include the following information:

- i. The taxpayer's name;
- ii. The taxpayer's address;
- iii. The taxpayer's ID number, if known, or Social Security number;
- iv. The tax for which tax amnesty is being requested;
- v. The period for which tax amnesty is being requested; and
- vi. Payment of the tax plus nine percent simple interest to the date of payment.

5. The letter, in lieu of an official application, must be received by midnight of the 90th day of the tax amnesty period, or postmarked by that date. The tax amnesty application will not be considered complete until an official form has been signed and filed. Thus, the letter application is to be used only in such emergencies where an official tax amnesty application cannot be obtained or completed prior to the final day of tax amnesty. Taxpayers should keep copies of the letter application and proof of mailing or delivery in order to avoid rejection of the subsequent filing of the official application on the grounds that such official filings are not timely.

(b) The taxpayer, in order to be eligible for any tax amnesty, must pay the tax plus nine percent interest within the 90-day period of tax amnesty.

1. If the taxpayer cannot calculate the interest due, he may pay all of the tax and approximate the amount of interest due and submit that to the Division of Taxation by the 90th day of the tax amnesty period. The Division will make a calculation of the correct amount of interest due and send the taxpayer either a bill or a refund. In order to continue to be eligible for tax amnesty, any bills submitted to the taxpayer must be paid within 30 days of the date of the bill.

2. If the taxpayer does not know or cannot calculate the tax due, he may approximate the amount of his tax liability plus interest at nine percent per annum and send payment for that approximation to the Division within the 90-day tax amnesty period. Any subsequent bill to the taxpayer for additional tax or interest due will bear full penalty and interest charges. It will not, however, affect the amount on which tax amnesty had previously been granted. Any bill must be paid within 30 days of the date of the bill for the taxpayer to maintain eligibility for tax amnesty.

18:39-1.4 Granting or denial of tax amnesty

(a) Tax amnesty will be specifically granted or denied by the Division.

(b) A taxpayer will be denied tax amnesty if the tax amnesty application is not complete enough for the Division to understand the period and tax for which amnesty is applied.

(c) Tax amnesty will be denied with respect to taxes not eligible for tax amnesty (for example, local property tax).

(d) A taxpayer will be denied tax amnesty for tax liabilities arising outside of the tax amnesty period in accordance with N.J.A.C. 18:39-1.1.

(e) A taxpayer will be denied tax amnesty if he is certified to be under criminal investigation by the Attorney General or a county prosecutor.

(f) A taxpayer may be denied tax amnesty for inadequate payment of tax, payment with a dishonored check, or failure to submit deferred payments on a timely basis.

(g) A taxpayer may be denied tax amnesty for any other acts or failures to act which evidence that the taxpayer is not in compliance with these rules or the enabling legislation.

18:39-1.5 Consequences of denial of tax amnesty

(a) A taxpayer denied tax amnesty for a reason other than having been certified as under criminal investigation will have his payments applied to other open tax accounts.

(b) If amnesty is denied due to the fact that the taxpayer is under criminal investigation as certified by the Attorney General or a county prosecutor, the application and amounts remitted will be returned to the taxpayer and the record of the application will be deleted from the Division of Taxation's files.

18:39-1.6 Inability to make payment within 90-day period

(a) If the taxpayer is unable to compute the tax for which he wishes to be granted tax amnesty, the taxpayer must, in writing, contact the Division. A Division representative will contact the taxpayer and assist

him, but he still must pay the tax determination and interest within the tax amnesty period. (See N.J.A.C. 18:39-1.3(b) relating to timely payment of billed amounts.)

(b) If the taxpayer is unable to compute the interest due, the tax should be paid in full with a completed application and the Division will compute the interest and send a bill. The interest must be paid within 30 days of the date of the bill.

(c) A taxpayer who can substantiate a severe financial hardship may receive tax amnesty providing he pays 50 percent of the tax and interest due within the 90-day tax amnesty period and pays the balance of tax due with interest within 60 days of the end of the tax amnesty period.

18:39-1.7 Special rules

(a) A taxpayer who is subject to wage garnishment, attachment, or seizure of property by the Division of Taxation may apply and receive tax amnesty ***[providing]* *provided*** he complies with the terms of tax amnesty. Upon full payment of all taxes due and interest at nine percent per annum and the granting of tax amnesty, the Division will satisfy the applicable judgments and release any levies against real or personal property.

(b) A corporation that has had its corporate charter voided may be granted tax amnesty providing it complies with the terms of tax amnesty. A corporate charter can only be reinstated upon full payment of all taxes due and interest at nine percent per annum, the payment of the fee to the Secretary of State, and approval of the Attorney General. Upon meeting these conditions, tax amnesty will be granted and the corporate charter reinstated.

(c) A taxpayer who has requested a conference with the Division of Taxation may apply for tax amnesty. This can be done ***[providing]* *provided*** the taxpayer sets forth the areas of the assessment with which he agrees and withdraws them from the conference process. The portion, if any, on which tax amnesty is not requested or granted will continue to be the subject of the conference.

(d) A taxpayer who has filed a complaint with the Tax Court ***or appealed his case to the Appellate Division or the Supreme Court*** may apply for tax amnesty, provided that the ***[Tax Court]* *taxpayer*** agrees to the dismissal of the complaint with prejudice for the affected portions of the complaint.

(e) A taxpayer may receive partial tax amnesty on any part of tax paid with the proper amount of interest due. The balance of the liability remains subject to penalty and interest at the rates applicable to the pre- and post-amnesty periods. Note that on the date that tax amnesty ends, interest on delinquent taxes will begin to compound daily on the tax, penalties and interest then due at a rate of interest equal to the prime rate plus five percent per annum.

(f) A taxpayer currently under audit may be granted tax amnesty for any eligible tax and period on any part of an assessment he has agreed to. The taxpayer must, however, apply for tax amnesty on that part of the agreed upon deficiency, be eligible to receive it, and have it granted.

(g) A taxpayer seeking amnesty for gross income tax liabilities must pay the liability and interest at nine percent per annum, and, in addition to the amnesty application, must submit a return on the NJ-1040 or any other form acceptable by the Director of the Division of Taxation.

18:39-1.8 Rights of taxpayer denied tax amnesty

(a) A taxpayer denied tax amnesty for other than being certified as under criminal investigation can appeal the decision by sending a letter of disagreement within 30 days of the date of the notice denying tax amnesty stating the basis of his disagreement. If he is later found to be eligible for tax amnesty, he can pay the applicable tax and interest at nine percent per annum within 30 days from the date of a favorable decision.

(b) The letter of disagreement should be addressed to:

Amnesty Headquarters
New Jersey Division of Taxation
CN 280
Trenton, NJ 08646

18:39-1.9 Overpayment of tax

(a) Amounts submitted in excess of any amounts due are to be credited against open tax accounts for the subject taxpayer when tax amnesty is applied for. A taxpayer can, however, apply for a refund of any penalty and interest paid in excess of the amount required by tax amnesty provided he meets the following conditions:

1. The tax liability, penalty, and/or interest was paid during the tax amnesty period;

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OTHER AGENCIES

ADOPTIONS

2. The taxpayer subsequently applies for tax amnesty and is determined to be eligible for tax amnesty.

(b) Refunds will not be granted with respect to any liabilities for which tax amnesty has been sought.

1. Consideration will be given to correcting errors made in a tax amnesty application during the 90-day amnesty period and appropriate transfers to other tax accounts or refunds may be made.

2. After the tax amnesty period, no such corrections, transfers, or refunds will be made. An application for tax amnesty by a taxpayer is an admission by the taxpayer that he owes the amount of tax for which amnesty is being requested.

3. Refund procedures available for taxes paid under other than tax amnesty conditions are not available for tax amnesty payments.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls Slot Count Procedures

Deferral of Operative Date: Adopted Amendments to N.J.A.C. 19:45-1.32 and 1.43

Take notice that on August 19, 1987 the Casino Control Commission

approved a deferral of the September 1, 1987 operative date for adopted amendments to N.J.A.C. 19:45-1.32 and 1.43 which were promulgated on July 6, 1987 at 19 N.J.R. 1237(a).

The adopted amendments require casinos to use either a hand-held or fixed door type metal detector in the hard count room and place upon the security department the responsibility to assure that all persons are checked with the detector prior to leaving the hard count room. Also, the adopted amendments formalize the existing casino practice of taping and retaining the hard count tapes for a period of five days.

The deferral of the operative date was requested by the Commission staff in order to address certain procedural issues before implementation of the amended regulations. Specifically, issues such as testing standards, egress and maintenance must be resolved prior to approval of any internal control procedures.

Accordingly, this deferral allows for the resolution of these issues and establishes the new operative date for said amendments to be November 1, 1987.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Amendment to the Atlantic County Water Quality Management Plan

Public Notice

The Atlantic County Planning Board has proposed an amendment to the Atlantic County Water Quality Management (WQM) Plan by adopting a Wastewater Management Plan developed for the Township of Weymouth. The proposed Wastewater Management Plan provides a comprehensive long term strategy for managing the Township's sewerage needs by identification of suitable sewage disposal alternatives throughout the Township. The selection of these alternative was based on current zoning regulations, environmental constraints and the availability of regional sewage service.

This notice is being given to inform the public that a plan amendment has been proposed for the Atlantic County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the Department of Regional Planning and Development, County Office Building, 1333 Atlantic Avenue, Atlantic City, New Jersey 08401, and the New Jersey Department of Environmental Protection (NJDEP), Division of Water Resources, Bureau of Water Resources Management Planning, CN-029, 401 East State Street, Third Floor, Trenton, New Jersey 08625. These documents are 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 James M. Rutala, the Director of County Planning at the County Office Building address cited above; and 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. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered. The Atlantic County Planning Advisory Board shall issue a recommendation on the WQM Plan Amendment to the County Executive and the Chairman of the Board of Chosen Freeholders within 45 days from the date of the notice. Adoption of the amendment shall be by ordinance by the Atlantic County Board of Chosen Freeholders. The NJDEP thereafter may approve and adopt this amendment without further notice.

(b)

Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Public Notice

Middlesex County has submitted for consideration an amendment to the Lower Raritan/Middlesex County Water Quality Management (WQM) Plan. This amendment would allow the proposed Jefflands II residential development in Plainsboro Township to be served by the Linpro Utilities Company. Presently, the development is partially outside of the sewer service area of that agency. There will be wetlands encroachment to allow the installation of a stormwater outfall structure and a sanitary sewer pipeline.

This notice is being given to inform the public that a plan amendment has been proposed for the Lower Raritan/Middlesex County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the Middlesex County Planning Board, 40 Livingston Avenue, New Brunswick, New Jersey 08901, and the NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 401 East State Street, Third 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 during its review. The NJDEP thereafter may approve and adopt this amendment without further notice.

Any **interested person** may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(c)

Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that an amendment to the Northeast Water Quality Management (WQM) Plan has been submitted for approval. This amendment would include the Wastewater Management Plan (WMP) for Hanover Township, Morris County. The WMP delineates the sewer service area for the Hanover Sewerage Authority. The Plan sets the maximum design capacity for the sewage treatment plant from 3.1 to 4.61 million gallons per day.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast 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, Third 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 Ocean County Water Quality Management Plan

Public Notice

The proposed amendment would revise the Ocean County Utilities Authority's existing regional service boundaries between the Central, Southern and Northern service regions. As a result of these revisions regional sewer service will be affected within the municipalities of Manchester, Jackson and Barnegat. Because of the change in regional service the Ocean County Planning Board has prepared Wastewater Management Plans (WMP) for each of the affected municipalities which delineate both existing and future sewer service areas.

This notice is being given to inform the public that a plan amendment has been proposed for the Ocean County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the Ocean County Planning Board, Court House Square, CN 2191, Toms River, New Jersey 08754; and the NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, Third 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 Ocean County Planning Board will hold a public hearing on the proposed WQM Plan amendment. The public hearing will be on Wednesday, September 30, 1987 at 3:00 P.M. in Room 119 of the Ocean County Administration Building at 101 Hooper Avenue, Toms River, New Jersey.

Interested persons may submit written comments on the amendment to Alan Avery, Assistant Planning Director, Ocean 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 with respect to this amendment request. In addition, if the amendment is adopted by Ocean 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. Ocean 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 an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would expand the sewer service area of Cinnaminson Township to include the Smethwycke Subdivision (Blocks 3402 and 3403, Lots 1, 2.02, and 5). Construction and development of the project site will avoid encroachment in wetlands.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 401 East State Street, Third 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.

HUMAN SERVICES

(b)

**DIVISION OF PUBLIC WELFARE
Assistance Standards Handbook
General Assistance Manual
Increase in Aid to Families with Dependent Children
Standards and General Assistance Standards
Adopted Amendments: N.J.A.C. 10:82-1.2, 2.13, 5.11
and 10:85-4.1 and 9.4
Notice of Public Hearing**

Take notice that the Department of Human Services will conduct a public hearing concerning amended regulations at N.J.A.C. 10:82-1.2, 2.13, 5.11 and 10:85-4.1 and 9.4 which were adopted on May 22, 1987 and became operative on July 1, 1987 subsequent to the enactment of the State's Appropriations Act for Fiscal Year 1988. Those amended regulations, which appeared at 19 N.J.R. 1094(a) and 1095(a) (June 15, 1987), increase the Aid to Families with Dependent Children (AFDC) payment standards and the General Assistance (GA) payment standards by five percent.

The Department of the Public Advocate has requested a public hearing to include testimony on issues governing the adequacy of the increase in the amended regulations in light of the current cost of living in New

Jersey and the relationship of that increase to an adequate standard of need for AFDC and GA recipients.

A public hearing concerning the amended regulations at N.J.A.C. 10:82-1.2, 2.13, 5.11 and 10:85-4.1 and 9.4 will be held on Wednesday, September 23, 1987 at the following location and times:

State Museum Auditorium
205 West State Street
Trenton, New Jersey 08625
12:00 noon—4:30 P.M.
6:00 P.M.—8:00 P.M.

Individuals interested in testifying at the hearing must advise the Division of Public Welfare, Mercerville, New Jersey by telephone at (609) 588-2296 no later than noon September 22, 1987, and provide their name(s), organization represented, and telephone number. Interested speakers will be limited to 10 minutes of oral testimony.

Interested parties may submit written testimony at the hearing or by mail until October 8, 1987. Those comments should be addressed to:

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

CORRECTIONS

(c)

**THE COMMISSIONER
Inmate Prohibited Acts
Notice of Correction: N.J.A.C. 10A:4-4.1**

Take notice that an error appears in the New Jersey Administrative Code at N.J.A.C. 10A:4-4.1 concerning Prohibited acts. The adoption of this rule appeared in the July 21, 1986 issue of the New Jersey Register at 18 N.J.R. 1465(a). The corrected text of N.J.A.C. 10A:4-4.1 appears below:

10A:4-4.1 Prohibited acts

(a) An inmate who commits one or more of the following numbered prohibited acts shall be subject to disciplinary action and a sanction that is imposed by a Disciplinary Hearing Officer or Adjustment Committee. Prohibited Acts preceded by an asterisk are considered the most serious and result in the most severe sanctions (See N.J.A.C. 10A:4-5, Schedule Of Sanctions For Prohibited Acts).

...
...351 counterfeiting, forging or unauthorized reproduction or use of any document not enumerated in prohibited act .352

*.352 counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document.

...
(b) (No change in text.)

INSURANCE

(d)

**THE COMMISSIONER
Listing of New Jersey Municipalities that have
Adopted Ordinances Pursuant to P.L. 1978, c.184,
as amended by P.L. 1979, c.369.
Public Notice**

Take notice that Kenneth D. Merin, Commissioner of Insurance, in accordance with the provisions of N.J.S.A. 17:36-9, announces the publication of New Jersey municipalities that have adopted ordinances pursuant to the aforementioned statute. Those municipalities, if any, which have adopted said ordinances since the previous date of publication shall be designated by asterisk.

**LIST OF MUNICIPALITIES REQUIRING PAYMENT
OF LIENS BY COMPANIES WRITING FIRE INSURANCE**

The following is a list of municipalities that have passed an ordinance requiring companies writing fire insurance on risks located in that municipality to pay unpaid liens out of any claimed payments in excess of \$2,500.

NEW JERSEY REGISTER, TUESDAY, SEPTEMBER 8, 1987

	Date Filed with the Department of Insurance		
Aberdeen, Township of 07747 (Monmouth County)	September 8, 1980	Neptune City, Borough of 07712 (Monmouth County)	December 2, 1982
Absecon, City of 08201 (Atlantic County)	July 5, 1983	Newark, City of 07102 (Essex County)	March 16, 1979
Alloway, Township of 08079 (Salem County)	December 20, 1984	New Brunswick, City of 08903 (Middlesex County)	January 30, 1986
Asbury Park, City of 07712 (Monmouth County)	May 25, 1979	North Plainfield, Borough of 07060 (Somerset County)	July 1, 1985
Atlantic City, City of 08401 (Atlantic County)	March 19, 1979	North Wildwood, City of 08260 (Cape May County)	August 24, 1979
Barrington, Borough of 08007 (Camden County)	September 17, 1982	Ocean, Township of 07755 (Monmouth County)	November 27, 1979
Bayonne, City of 07002 (Hudson County)	March 12, 1979	Ocean, Township of 08758 (Ocean County)	May 29, 1985
Belmar, Borough of 07719 (Monmouth County)	March 5, 1982	Orange, City of 07050 (Essex County)	July 2, 1979
Berkeley, Township of 08712 (Ocean County)	May 22, 1979	Passaic, City of 07055 (Passaic County)	September 4, 1980
Berlin, Borough of 08009 (Camden County)	October 18, 1979	Paterson, City of 07050 (Passaic County)	February 16, 1979
Berlin, Township of 08091 (Camden County)	March 20, 1980	Paulsboro, Borough of 08066 (Gloucester County)	May 7, 1981
Bloomfield, Town of 07003 (Essex County)	March 26, 1979	Penns Grove, Borough of 08069 (Salem County)	July 9, 1979
Brick, Township of 08723 (Ocean County)	May 2, 1980	Phillipsburg, Town of 08865 (Warren County)	July 13, 1979
Bridgeton, City of 08302 (Cumberland County)	April 30, 1979	Pine Hill, Borough of 08021 (Camden County)	March 2, 1982
Brigantine, City of 08203 (Atlantic County)	October 14, 1982	Piscataway, Township of 08854 (Middlesex County)	March 20, 1981
Buena, Borough of 08341 (Atlantic County)	November 1, 1982	Plainfield, City of 07061 (Union County)	April 5, 1979
Burlington, City of 08016 (Burlington County)	December 9, 1986	Pleasantville, City of 08232 (Atlantic County)	December 27, 1979
Butler, Borough of 07405 (Morris County)	November 14, 1980	Pohatcong, Township of 08865 (Warren County)	July 20, 1979
Byram, Township of 07860 (Sussex County)	October 9, 1980	Princeton, Borough of 08540 (Mercer County)	July 16, 1980
Camden, City of 08101 (Camden County)	May 4, 1979	Princeton, Township of 08540 (Mercer County)	September 25, 1980
Cape May, City of 08204 (Cape May County)	May 22, 1979	Rahway, City of 07065 (Union County)	December 18, 1979
Carneys Point, Township of 08069 (Salem County)	July 2, 1979	Randolph, Township of 07801 (Morris County)	May 10, 1979
Cedar Grove, Township of 07009 (Essex County)	August 10, 1979	Readington, Township of 08889 (Hunterdon County)	June 23, 1980
Chatham, Township of 07928 (Morris County)	June 4, 1986	Red Bank, Borough of 07701 (Monmouth County)	September 9, 1980
Cinnaminson, Township of 08077 (Burlington County)	August 30, 1979	Riverside, Township of 08075 (Burlington County)	May 10, 1979
Clinton, Township of 08801 (Hunterdon County)	December 10, 1981	Roselle, Borough of 07203 (Union County)	August 8, 1979
Delran, Township of 08075 (Burlington County)	August 30, 1979	Roselle Park, Borough of 07204 (Union County)	March 5, 1981
Dover, Town of 07801 (Morris County)	April 16, 1980	Runnemede, Borough of 08078 (Camden County)	May 6, 1982
Dover, Township of 08753 (Ocean County)	September 26, 1979	Salem, City of 08079 (Salem County)	June 20, 1979
East Orange, City of 07019 (Essex County)	February 20, 1979	Sayreville, Borough of 08872 (Middlesex County)	September 19, 1979
Eatontown, Borough of 07724 (Monmouth County)	March 23, 1979	Scotch Plains, Township of 07076 (Union County)	August 22, 1979
Edgewater Park, Township of 08010 (Burlington County)	July 24, 1979	Sea Bright, Borough of 07760 (Monmouth County)	April 10, 1979
Egg Harbor, Township of 08221 (Atlantic County)	September 24, 1979	Secaucus, Town of 07094 (Hudson County)	March 5, 1980
Egg Harbor, City of 08215 (Atlantic County)	May 21, 1981	Somerdale, Borough of 08083 (Camden County)	July 28, 1982
Elizabeth, City of 07201 (Union County)	April 30, 1979	Somerville, Borough of 08876 (Somerset County)	March 23, 1979
Ewing, Township of 08618 (Mercer County)	November 10, 1981	South Amboy, City of 08879 (Middlesex County)	July 12, 1984
Fairfield, Township of 07006 (Essex County)	August 21, 1980	South Orange Village, Township of 07079 (Essex County)	August 19, 1980
Fair View, Borough of 07022 (Bergen County)	September 5, 1979	South Plainfield, Borough of 07080 (Middlesex County)	September 26, 1980
Fanwood, Borough of 07023 (Union County)	June 29, 1979	South River, Borough of 08882 (Middlesex County)	March 16, 1979
Farmingdale, Borough of 07727 (Union County)	May 18, 1981	Spotswood, Borough of 08884 (Middlesex County)	June 19, 1981
Florham Park, Borough of 07932 (Morris County)	April 25, 1979	Stafford, Township of 08050 (Ocean County)	May 2, 1985
Fort Lee, Borough of 07024 (Bergen County)	August 27, 1979	Sussex, Borough of 07461 (Sussex County)	October 24, 1979
Franklin, Township of 07826 (Somerset County)	June 20, 1980	Tenafly, Borough of 07670 (Bergen County)	June 17, 1980
Fredon, Township of 07860 (Sussex County)	October 28, 1980	Tinton Falls, Township of 07724 (Monmouth County)	June 20, 1980
Green, Township of 07821 (Sussex County)	July 20, 1982	Trenton, City of 08608 (Mercer County)	June 12, 1980
Hackensack, City of 07602 (Bergen County)	April 22, 1980	Union City, City of 07087 (Hudson County)	April 23, 1979
Hamilton, Township of 08330 (Atlantic County)	November 18, 1982	Upper Pittsgrove, Township of 08318 (Salem County)	October 15, 1979
Hammoncton, Town of 08037 (Atlantic County)	August 3, 1979	Ventnor City, City of 08401 (Atlantic County)	March 30, 1982
Hanover, Township of 07981 (Morris County)	January 7, 1986	Verona, Borough of, Township of 07044 (Essex County)	February 23, 1984
Hightstown, Borough of 08520 (Mercer County)	September 3, 1980	Victory Gardens, Borough of 07801 (Morris County)	August 15, 1979
Hillside, Township of 07205 (Union County)	June 4, 1979	Vineland, City of 08360 (Cumberland County)	July 6, 1979
Hoboken, City of 07030 (Hudson County)	October 15, 1979	Washington, Borough of 07882 (Warren County)	June 24, 1986
Hopewell, Township of 08302 (Cumberland County)	September 26, 1979	Washington, Township of 08214 (Burlington County)	March 12, 1979
Howell, Township of 07731 (Monmouth County)	March 23, 1979	Washington, Township of 07853 (Morris County)	May 30, 1979
Irvington, Town of 07111 (Essex County)	March 20, 1979	Waterford, Township of 08004 (Camden County)	July 9, 1984
Irvington, Township of 07111 (Essex County)	July 1, 1985	Wayne, Township of 07470 (Passaic County)	October 6, 1986
Jackson, Township of 08257 (Ocean County)	March 7, 1979	Weehawken, Township of 07087 (Hudson County)	August 14, 1986
Jamesburg, Borough of 08831 (Middlesex County)	March 2, 1983	Wenonah, Borough of 08090 (Gloucester County)	July 1, 1985
Jefferson, Township of 07981 (Morris County)	April 19, 1983	Westhampton, Township of 08060 (Burlington County)	June 4, 1979
Jersey City, City of 07302 (Hudson County)	February 23, 1979	West Orange, Town of 07052 (Essex County)	March 16, 1979
Keansburg, Township of 07734 (Monmouth County)	April 5, 1984	Wildwood, City of 08260 (Cape May County)	February 26, 1979
Kearny, Town of 07032 (Hudson County)	August 26, 1980	Willingboro, Township of 08046 (Burlington County)	December 5, 1984
Keypoint, Borough of 07735 (Monmouth County)	August 15, 1979	Winslow, Township of 08037 (Camden County)	April 17, 1980
Kinnelon, Borough of 07405 (Morris County)	June 4, 1986	Woodbury, City of 08086 (Gloucester County)	November 13, 1980
Lacey, Township of 08731 (Ocean County)	August 18, 1981	Woodlynne, Borough of 08107 (Camden County)	January 7, 1986
Lavallette, Borough of 08735 (Ocean County)	December 11, 1979	Woodridge, Borough of 07075 (Bergen County)	June 7, 1982
Lawrence, Township of 08648 (Mercer County)	April 24, 1979	Woodstown, Borough of 08079 (Salem County)	July 9, 1984
Little Silver, Borough of 07739 (Monmouth County)	April 5, 1984		September 8, 1983
Loptacong, Township of 08865 (Warren County)	August 30, 1979		
Lower, Township of 08024 (Cape May County)	June 5, 1979		
Manchester, Township of 08733 (Ocean County)	September 21, 1982		
Mannington, Township of 08079 (Salem County)	May 17, 1979		
Maple Shade, Township of 08052 (Burlington County)	July 18, 1980		
Maplewood, Township of 07040 (Essex County)	April 4, 1979		
Matawan, Borough of 07747 (Monmouth County)	June 19, 1981		
Maurice River, Township of 08332 (Cumberland County)	September 26, 1980		
Mendham, Township of 07949 (Morris County)	January 16, 1985		
Millburn, Township of 07041 (Essex County)	May 19, 1981		
Millville, City of 08332 (Cumberland County)	April 10, 1979		
Montclair, Town of 07042 (Essex County)	April 5, 1979		
Mount Holly, Township of 08060 (Burlington County)	January 29, 1980		
Mount Laurel, Township of 08054 (Burlington County)	May 27, 1980		
Neptune, Township of 07753 (Monmouth County)	January 4, 1982		

TREASURY-GENERAL

(a)

DIVISION OF BUILDING AND CONSTRUCTION

Architect-Engineer Selection

Notice of Assignments—Month of July 1987

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, pre-qualified New Jersey consulting firms. For information on DBC's pre-qualification and assignment procedures, call (609) 984-6979.

Last list dated July 7, 1987.

The following assignments have been made:

DBC NO.	PROJECT	A/E	CCE
C312-01	Testing/Inspection Services Housing Relocation to ADTC Adult Diagnostic Treatment Plant Avenel, NJ	U. S. Testing Co., Inc.	\$2,000 Unit Prices
M733	Repair/Replacement of Roofs Cafeteria & Vroom Buildings Trenton Psychiatric Hospital Trenton, NJ	Herbert J. Cannon Associates, PA	\$250,000
A530-01	Testing/Inspection Services Parking Lot #6 Entrance Trenton, NJ	Certified Testing Laboratories, Inc.	\$1,200 Unit Prices
T193	Dome Type Salt Storage Building DOT Maintenance Facility Rockaway, NJ	Thomas E. Torricelli, AIA	\$95,000
C301-02	Water Management Plan and Permits Wastewater Treatment Plant Leesburg State Prison Leesburg, NJ	Kupper Associates	\$162,160 Services
A801	Testing/Inspection Services Rehabilitation of Parking Areas John Fitch & Justice Complexes Trenton, NJ	United States Testing Co., Inc.	\$10,000 Unit Prices
A536	Study-Worker Housing N.J. Dept. of Agriculture Trenton, NJ	Loverek Assoc., PC	\$2,000 Services
P541	Restoration of Three Historic Houses D & R Canal	David V. Abramson & Associates	\$225,000
H898	New Passenger Elevator Vodra Hall Jersey City State College Jersey City, NJ	Kruger Kruger Albenberg	\$140,000
I001	Repair Corbel Brick-Phase II Irwin Library Jersey City State College Jersey City, NJ	Thomas E. Torricelli, AIA	\$165,000
H899	Replace Flashings & Repair Slate Roof Hepburn Hall Jersey City State College Jersey City, NJ	ARMM Design, Inc.	\$100,000
H893	Handicapped Modifications of Advising Center & Morehead Hall Montclair State College Upper Montclair, NJ	Mylan Valk Partnership	\$80,000
I009	Asbestos Removal Mechanical Room William Paterson College Wayne, NJ	Gaudet Assoc., Inc.	\$80,000
M743	Roof Replacement Smalley Hall & Renner Center No. Princeton Development Center Skillman, NJ	Herbert J. Cannon Associates, PA	\$115,000
Y014	Facility Consultant-FY 88 Dept. of Transportation	Colm Engineering, PA	\$20,000 Services
J018	Facility Consultant-FY 88 Dept. of Property & Facilities Management	Kraeger/Storb Associates	\$10,000 Services
J019	Facility Consultant-FY 88 Dept. of Property & Facilities Management	Franklyn B. Spiezie, AIA	\$25,000 Services

J020	Facility Consultant-FY 88 Dept. of Property & Facilities Management	Jeffrey & Kallaur, Inc.	\$10,000 Services
R014	Facility Consultant-FY 88 Dept. of Human Services	Kolbe & Poponi	\$10,000 Services
X017	Facility Consultant-FY 88 Division of Motor Vehicles	Vaughn Organization	\$50,000 Services
E173-01	Asbestos Removal Dept. of Education Building Trenton, NJ	Gaudet Assoc., Inc.	\$1,900,000

COMPETITIVE PROPOSALS

	Gaudet Associates, Inc.	\$162,740 Lump Sum
	BCM Eastern, Inc.	*\$ 99,870 Lump Sum
	O'Brien-Kreitzberg	\$211,000 Lump Sum
	*Non-responsive	
1008	Asbestos Removal/Seven Buildings Montclair State College Upper Montclair, NJ	O'Brien & Gere Engrs., Inc. \$287,500

COMPETITIVE PROPOSALS

	O'Brien & Gere Engineers, Inc.	\$65,000 Lump Sum
	Gaudet Associates	\$89,100 Lump Sum
	BCM Eastern, Inc.	No Proposal Received

(b)

**CHARITABLE ORGANIZATION
Application for Public Employee Charitable
Fund-Raising Campaign and Campaign
Steering Committee
Public Notice**

Take notice that Feather O'Connor, Treasurer, State of New Jersey, pursuant to the Public Employee Charitable Fund-Raising Act, P.L. 1985, c.140 (N.J.A.C. 17:28-3.2(b)(1)), announces that the Department of the Treasury will be accepting applications until December 1, 1987 from charitable fund-raising organizations wishing to participate in the State Employees' Charitable Fund-Raising Campaign for 1988-1989 and the Campaign Steering Committee.

For the purposes of this notice, "Charitable Fund-Raising Organization" shall mean a voluntary not-for-profit organization which receives and distributes voluntary charitable contributions. A charitable fund-raising organization shall be eligible to participate on the Steering Committee and in the 1988-1989 Campaign if it meets the following requirements:

- The organization is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code;
- The organization qualifies for tax deductible contributions under Section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code;
- The organization is not a private foundation as described in Section 509 of the Internal Revenue Code;
- The organization is incorporated under or subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Fund-Raising Act of 1971," P.L. 1971, c.469 (C. 45:17A-1 et seq.);
- The organization demonstrates to the satisfaction of the State Treasurer that a significant portion of funds raised in each of its two fiscal years preceding its application to participate in a campaign consist of individual contributions from citizens of the State;
- The organization shall have raised at least \$60,000 and distributed that sum among at least 15 charitable agencies in each of its two fiscal years preceding its application to participate in a State campaign.

Copies of the following application may be obtained from the Department of the Treasury, or the information requested therein may be submitted along with a cover letter. Completed applications or requests for application forms should be addressed to:
Robert G. Kaufman
Assistant State Treasurer
Department of the Treasury
State House—CN002
Trenton, New Jersey 08625

NEW JERSEY REGISTER, TUESDAY, SEPTEMBER 8, 1987

Applications can also be requested by calling (609) 292-8951.
The application form follows:

APPLICATIONS*

1. Name of organization and name under which it intends to conduct charitable fund-raising campaigns among public employees.
2. Address for organization and addresses of any organization offices within state.
3. Names and addresses of officers, directors, trustees and executive personnel of the organization.
4. Place and date organization was formed.
5. Has organization received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code? Yes ___ No ___
Please attach a copy of your IRS letter of determination.
6. Is the organization a private foundation as defined in Section 509(a) of the Internal Revenue Code? Yes ___ No ___
7. Date on which fiscal year of organization ends.
8. Has organization registered as a charitable fund-raising organization pursuant to N.J.S.A. 45:17A-1 et seq? Yes ___ No ___ Section qualified under _____. Explanation:
9. Does the organization qualify for tax deductible contributions pursuant to Section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code? Yes ___ No ___ Section qualified under _____. Please attach a copy of your IRS letter of determination.
10. Provide the names and addresses of charitable agencies affiliated with your organization for the purpose of directly sharing in funds raised by the organization from charitable fund-raising campaigns among public employees.
11. Please attach a copy of the organization's charter and all amendments thereto.
12. Please submit and certify the following financial data for each of the two fiscal years preceding this application:
 - (a) Amount of funds raised;
 - (b) What percentage of those funds consisted of individual contributions from citizens of New Jersey;
 - (c) Names and addresses of charitable agencies to which those funds were distributed and how much to each.

*Please note: Charitable fund-raising organizations which were found eligible by the State Treasurer to participate on the Campaign Steering Committee for the 1987-88 Campaign, shall be required only to submit to the State Treasurer their most recent financial information specified in question 12 above. (N.J.A.C. 17:28-2.8(e)).

(a)

**CHARITABLE AGENCY
Application for the Public Employee Charitable
Fund-Raising Campaign
Public Notice**

Take notice that Feather O'Connor, Treasurer, State of New Jersey, pursuant to the Public Employees' Charitable Fund-Raising Act, P.L. 1985, c.140 (N.J.A.C. 17:28-3.2(b)(1)), announces that the Department of the Treasury will be accepting applications until December 1, 1987 from charitable fund-raising agencies wishing to participate in the State Employees' Charitable Fund-Raising Campaign for 1988-1989.

For the purposes of this notice, "Charitable Fund-Raising Agency" shall mean a voluntary not-for-profit organization that provides health, welfare, or human care services to individuals. A charitable fund-raising agency shall be eligible to participate in the 1988-1989 Campaign if it meets the following requirements:

If it is an affiliated charitable agency (for this purpose, affiliated charitable agency shall mean a charitable agency which is affiliated with a charitable fund-raising organization for the purpose of directly sharing in funds raised by the organization).

OR

- (a) The agency is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code;
- (b) The agency qualifies for tax deductible contributions under Section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code;
- (c) The agency is not a private foundation as described in Section 509 of the Internal Revenue Code;

- (d) The agency is incorporated under or subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Fund-Raising Act of 1971," P.L. 1971, c.469 (C. 45:17A-1 et seq.);
- (e) The agency demonstrates to the satisfaction of the State Treasurer that a significant portion of funds raised in each of its two fiscal years preceding its application to participate in a campaign consist of individual contributions from citizens of the State;
- (f) The agency shall have raised at least \$15,000 from individual citizens of New Jersey in each of its two fiscal years preceding its application to participate in a State campaign.

Copies of the following applications may be obtained from the Department of the Treasury, or the information requested therein may be submitted along with a cover letter. Completed applications or requests for application forms should be addressed to:

Robert G. Kaufman
Assistant State Treasurer
Department of the Treasury
State House—CN002
Trenton, New Jersey 08625

Applications can also be requested by calling (609) 292-8951.

The application form for **affiliated** charitable fund-raising agencies follows:

APPLICATION—AFFILIATED AGENCIES

1. Name of **AGENCY** and name under which it intends to conduct charitable fund-raising campaigns among public employees.
2. Name and address of the charitable fund-raising organization with which agency is affiliated.

The application form for **non-affiliated** charitable fund-raising agencies follows:

APPLICATION—NON-AFFILIATED*

1. Name of agency and name under which it intends to conduct charitable fund-raising campaigns among public employees.
2. Address for agency and addresses of any agency offices within the state.
3. Names and addresses of officers, directors, trustees and executive personnel of agency.
4. Place and date agency was formed.
5. Has agency received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code? Yes ___ No ___
Please attach a copy of your IRS letter of determination.
6. Is agency a private foundation as defined in Section 509(a) of the Internal Revenue Code? Yes ___ No ___
7. Date on which fiscal year of agency ends.
8. Has agency registered as a charitable fund-raising organization pursuant to N.J.S.A. 45:17A-1 et seq.? Yes ___ No ___ If no, is agency exempt from registration requirement? Yes ___ No ___ Explanation:
9. Does the agency qualify for tax deductible contributions pursuant to Section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code? Yes ___ No ___ Section qualified under _____.
Please attach a copy of your IRS letter of determination.
10. Please attach a copy of the agency charter and all amendments thereto.
11. Please submit and certify the following financial data for each of the two fiscal years preceding this application:
 - (a) Amount of funds raised;
 - (b) What percentage of those funds consisted of individual contributions from citizens of New Jersey.

*Please note: Unaffiliated charitable agencies, which were found eligible by the State Treasurer to participate in the 1987-88 Campaign, shall be required only to submit to the State Treasurer their most recent financial information specified in question 11 above. (N.J.A.C. 17:28-3.4(e)).

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter**. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	5/4/92
1:5	10/20/91
1:6	5/4/92
1:6A	5/4/92
1:7	5/4/92
1:10	5/4/92
1:10A	5/4/92
1:10B	10/6/91
1:11	5/4/92
1:13	5/4/92
1:20	5/4/92
1:21	5/4/92
1:30	2/14/91
1:31	6/17/92

N.J.A.C.	Expiration Date
(Except for 3:6-8 which expired 4/9/85)	
3:7	9/16/90
3:11	3/19/89
(Except for 3:11-2 which expired 6/3/85)	
3:13	11/17/91
3:17	6/18/91
3:19	3/17/91
3:21	2/2/92
3:22	5/21/89
3:23	7/6/92
3:24	8/20/89
3:25	8/17/92
3:26	12/31/90
3:27	9/16/90
3:28	12/17/89
3:30	10/17/88
3:38	9/7/87
3:41	10/16/90

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	10/3/88
(Except for 2:2-9 which expired 6/11/84)	
2:3	6/18/89
(Except for 2:3-4 which expired 1/8/86)	
2:5	6/18/89
2:6	9/3/90
2:7	9/29/88
2:9	7/7/91
2:16	5/7/90
2:22	7/6/92
2:23	6/6/88
2:24	2/11/90
2:32	6/1/92
2:48	11/27/90
2:50	5/1/92
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	8/1/88
2:69	10/3/88
2:70	5/7/90
2:71	9/1/88
2:72	9/1/88
2:73	7/18/88
2:74	9/1/88
2:76	8/29/89
2:90	6/24/90

CIVIL SERVICE—TITLE 4

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/4/89
4:4	12/5/91
4:6	5/5/91

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:3	9/1/88
5:10	12/1/88
5:11	3/1/89
5:12	1/1/90
5:13	1/1/88
5:14	12/1/90
5:17	6/1/89
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:22	12/1/90
5:23	4/1/88
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	6/18/91
5:30	6/1/88
5:31	12/1/89
5:37	11/18/90
5:38	11/7/88
5:51	9/1/88
5:70	7/9/92
5:71	3/1/90
5:80	5/20/90

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91

N.J.A.C.	Expiration Date
5:91	6/16/91
5:92	6/16/91
5:100	5/7/89

DEPARTMENT OF DEFENSE—TITLE 5A

N.J.A.C.	Expiration Date
5A:2	5/20/90

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:2	3/1/89
6:3	8/18/88
6:8	1/5/92
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	8/9/90
6:22	9/3/90
6:24	4/2/91
6:26	1/24/90
6:27	1/24/90
6:28	6/1/89
6:29	3/25/90
6:30	8/31/88
6:31	1/24/90
6:39	10/18/89
6:43	4/7/91
6:46	12/1/87
6:53	7/7/92
6:64	5/1/88
6:68	4/12/90
6:69	6/4/91
6:70	1/25/90
6:79	2/1/88

ENVIRONMENTAL PROTECTION—TITLE 7

N.J.A.C.	Expiration Date
7:1	9/16/90
7:1A	6/5/92
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	4/20/92
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:4	Expired 8/16/84
7:6	12/19/88
7:7	5/7/89
7:7E	7/24/90
7:7F	12/6/87
7:8	2/7/88
7:9	1/21/91
(Except for 7:9-1 which expired 4/25/85)	
7:10	9/4/89
7:11	6/6/88
7:12	6/6/88
7:13	5/4/89
7:14	4/27/89
7:14A	6/4/89
7:15	4/2/89
7:17	4/7/91
7:18	8/6/91
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90

N.J.A.C.	Expiration Date
7:20A	12/19/88
7:22	1/5/92
7:23	6/18/89
7:24	5/19/91
7:25	2/18/91
(Except for 7:25-1 which expired 9/17/85)	
7:25A	5/6/90
7:26	11/4/90
(Except for 7:26-5 which expired 10/7/85)	
7:27	Exempt
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	4/5/87
7:30	12/6/87
7:36-1	8/5/90
7:36-2	Expired 1/9/86
7:36-3	Expired 1/9/86
7:36-4	8/5/90
7:36-5	Expired 1/9/86
7:36-6	Expired 1/9/86
7:36-7	8/5/90
7:37	Exempt
7:38	9/18/90
7:45	Expired 1/11/85

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	9/8/92
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
(Except for 8:21-1 which expired 5/15/85)	
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	4/4/88
8:25	5/20/88
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	6/23/92
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	9/15/91
8:33J	5/17/89
8:33K	4/16/89
8:34	11/18/88
8:39	6/20/88
8:40	4/15/90
8:41	2/17/92
8:42	8/17/92
8:42A	6/12/91
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	1/17/88
8:43F	3/18/90
8:43G	9/8/91

N.J.A.C.	Expiration Date
8:44	11/7/88
8:45	5/20/90
8:48	8/20/89
8:51	9/16/90
8:52	12/15/91
8:53	8/4/91
8:57	6/18/90
8:59	10/1/89
8:60	5/3/90
8:61	10/6/91
8:65	12/2/90
8:70	9/17/88
8:71	4/2/89

N.J.A.C.	Expiration Date
10:69A	4/26/88
10:69B	11/21/88
10:70	6/16/91
10:71	1/6/91
10:80	8/23/89
10:81	10/15/89
10:82	10/29/89
10:85	1/30/90
10:87	3/1/89
10:89	9/11/90
10:90	11/15/87
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	8/6/87
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	7/19/87
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	9/20/87
10:132	1/5/92
10:140	12/31/86
10:141	2/21/89

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88
9:4	10/30/91
9:5	1/21/91
9:6	5/20/90
9:7	4/13/88
9:8	11/4/90
9:9	10/3/88
9:11	1/17/89
9:12	1/17/89
9:14	5/20/90
9:15	10/25/88

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	5/6/88
10:2	1/5/92
10:3	9/19/88
10:4	1/3/88
10:5	12/19/88
10:6	2/21/89
10:12	1/5/92
10:36	8/18/91
10:37	11/4/90
10:38	5/28/91
10:40	3/15/89
10:42	8/18/91
10:43	9/1/88
10:44	10/3/88
10:44A	2/7/88
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	8/26/91
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91
10:62	3/3/91
10:63	11/29/89
10:64	3/3/91
10:65	11/5/89
10:66	12/15/88
10:67	3/3/91
10:68	7/7/91

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:1	7/6/92
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:9	1/20/92
10A:10-6	8/17/92
10A:16	4/6/92
10A:17	12/15/91
10A:18	7/6/92
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:34	4/6/92
10A:70	Exempt
10A:71	4/15/90

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	7/7/88
11:1-22	7/7/88
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	11/7/88
11:10	7/15/90
11:12	10/27/91
11:13	12/6/87
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:20	11/5/89
12:35	8/5/90
12:45	5/2/88
12:46	5/2/88
12:47	5/2/88
12:48	5/2/88
12:49	5/2/88
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91
12:120	5/3/90
12:175	12/9/88
12:190	9/5/87
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12:10-1	8/15/89
12A:100-1	9/8/91

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/19/88
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	8/1/88
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:27A	11/1/87
13:28	9/3/90
13:29	6/3/90
13:30	4/15/90
13:31	12/12/91
13:32	11/1/87
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44B	5/3/87

N.J.A.C.	Expiration Date
13:44C	6/2/91
13:45A	12/16/90
13:46	6/3/90
13:47	2/2/92
13:47A	9/7/87
13:47B	1/4/89
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	4/27/92
13:54	10/5/91
13:58	9/7/89
13:59	9/16/90
13:60	1/20/92
13:70	2/25/90
13:71	2/25/90
13:75	8/20/89
13:76	9/6/88

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	1/27/92
14:10	9/8/91
14:17	5/7/89
14:18	7/29/90

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
(Except for 14A:3-10 which expired 9/1/85)	
14A:4	10/19/88
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:9	Expired 4/27/84
14A:11	9/20/89
14A:12	2/7/88
14A:13	2/2/92
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	3/7/88
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89

N.J.A.C.	Expiration Date
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:25-12	Expired 2/5/84
16:25-13	Expired 2/5/84
16:26	8/6/89
16:27	9/8/91
16:28	11/7/88
16:28A	11/7/88
16:29	11/7/88
16:30	11/7/88
16:31	11/7/88
16:31A	10/20/88
16:32	4/15/90
16:33	9/3/90
16:41	7/28/92
16:41A	2/19/90
16:41B	3/4/90
16:43	9/3/90
16:44	10/3/88
16:49	3/18/90
16:51	4/6/92
16:53	3/19/89
16:53A	4/15/90
16:53C	9/19/88
16:53D	5/7/89
16:54	4/7/91
16:55	11/7/88
16:56	6/4/89
16:60	11/7/88
16:61	11/7/88
16:62	4/15/90
16:72	3/31/91
16:73	1/30/92
16:75	6/6/88
16:76	12/19/88
16:77	1/21/90
16:78	10/7/90
16:79	10/20/91

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
17:1	6/6/88
17:2	12/17/89
17:3	6/6/88
17:4	7/1/90
17:5	12/2/90
17:6	2/19/89
17:7	6/6/88
17:8	6/27/90
17:9	6/6/88
17:10	6/6/88
17:12	8/15/89
17:16	12/2/90
17:19	3/18/90
(Except for 17:19-10 which expired 3/3/85)	
17:20	11/7/88
17:25	6/18/89
17:27	11/7/88
17:28	9/13/90

N.J.A.C.	Expiration Date
17:29	10/18/90
17:30	5/4/92

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:3	4/23/89
18:5	4/16/89
18:6	4/2/89
18:7	4/2/89
18:8	4/2/89
18:9	8/12/88
18:12	8/12/88
18:12A	8/12/88
18:14	8/12/88
18:15	8/12/88
18:16	8/12/88
18:17	8/12/88
18:18	4/2/89
18:19	4/6/89
18:22	4/2/89
18:23	4/2/89
18:23A	8/5/90
18:24	8/12/88
18:25	1/6/91
18:26	8/12/88
18:30	4/2/89
18:35	8/12/88
18:36	2/4/90
18:37	8/5/90
18:39	9/8/92

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	6/19/88
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	11/7/88
19:4A	5/2/88
19:8	6/1/88
19:9	7/13/88
19:12	8/7/91
19:16	8/7/91
19:17	7/15/88
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/17/88
19:42	5/17/88
19:43	4/27/89
19:44	10/13/88
19:45	4/7/88
19:46	5/4/88
19:47	5/4/88
19:48	10/13/88
19:49	3/29/88
19:50	5/23/88
19:51	8/14/91
19:52	9/25/91
19:53	5/4/88
19:54	4/15/88
19:61	7/7/91
19:65	7/7/91
19:75	1/17/89

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. 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	19 N.J.R. 1589 and 1676	September 8, 1987
19 N.J.R. 393 and 430	March 2, 1987		

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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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)	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)	19 N.J.R. 1544(a)
1:31-1	Organization of Office of Administrative Law	Exempt	19 N.J.R. 1291(a)
1:31-1.2-2.1	Petition for a rule	19 N.J.R. 677(a)	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)	19 N.J.R. 1184(a)
2:69-1.11	Commercial values of fertilizers	19 N.J.R. 484(a)	19 N.J.R. 1184(b)
2:71-2.28	Fees for grading of fruits and vegetables	19 N.J.R. 901(a)	19 N.J.R. 1641(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)	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 or executive officer	19 N.J.R. 1124(a)	19 N.J.R. 1641(b)
3:23	License fees	19 N.J.R. 485(a)	19 N.J.R. 1185(a)
3:25-1	Debt adjustment and credit counseling fees	19 N.J.R. 901(b)	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)	Expired

(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)	

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)	R.1987 d.358	19 N.J.R. 1641(c)
6:28-3.6, 4.4	High school proficiency standards and handicapped pupils	19 N.J.R. 1033(b)	R.1987 d.358	19 N.J.R. 1641(c)
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)	R.1987 d.358	19 N.J.R. 1641(c)
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)
6:53	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)		
7:7-2.1, 2.3	Coastal Permit Program: CAFRA exemptions; waterfront development	19 N.J.R. 807(a)		
7:7-2.2	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)		
7:14B	Underground storage tanks	19 N.J.R. 1477(a)		
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)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Cumberland and Gloucester counties	19 N.J.R. 1481(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)
7:26-8.19, 10.6	Hazardous waste management: approval of alternate test methods; surface impoundments	19 N.J.R. 1482(a)		
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)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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)		
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)
7:29B	Determination of noise from stationary sources	19 N.J.R. 1483(a)		
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)		
8:2-1	Birth certificates: proposal withdrawn	19 N.J.R. 1483(b)		
8:13	Processing and handling of shellfish; depuration of soft shell clams	19 N.J.R. 1143(a)	R.1987 d.362	19 N.J.R. 1642(a)
8:20-1.2	Reportable birth defects	19 N.J.R. 909(b)	R.1987 d.361	19 N.J.R. 1642(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)
8:33L	Home Health Agency Policy Manual: Certificate of Need review	19 N.J.R. 1483(c)		
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), 1315(a))	18 N.J.R. 1775(a)	R.1987 d.366	19 N.J.R. 1644(c)
8:71	Interchangeable drug products (see 19 N.J.R. 215(a))	18 N.J.R. 2100(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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), 1314(a))	19 N.J.R. 13(a)	R.1987 d.365	19 N.J.R. 1644(b)
8:71	Interchangeable drug products (see 19 N.J.R. 1312(b))	19 N.J.R. 615(a)	R.1987 d.364	19 N.J.R. 1644(a)
8:71	Interchangeable drug products: public hearing	19 N.J.R. 1488(a)		

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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)		

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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)		
10:60-2.2	Personal care assistance services	19 N.J.R. 1489(a)		
10:65-1.5, 1.8	Medical day care centers: recordkeeping	19 N.J.R. 30(a)	R.1987 d.363	19 N.J.R. 1645(a)
10:66-3.2	Personal care assistance services	19 N.J.R. 1489(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)		
10:81-8.23	Medicaid Special: pregnancy examinations	19 N.J.R. 1490(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)		
10:81-14	REACH (Realizing Economic Achievement Program)	19 N.J.R. 1491(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)
10:90	Monthly Reporting Policy Handbook	19 N.J.R. 1517(a)		
10:121A	Adoption Agencies: Manual of Standards	19 N.J.R. 1519(a)		
10:124	Children's shelter facilities and homes	19 N.J.R. 1394(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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)		

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CORRECTIONS—TITLE 10A

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:4-1.2	Girl's Unit at Skillman: disciplinary process	19 N.J.R. 1531(a)		
10A:4-3.1	Inmates' rights and responsibilities: administrative correction to text			19 N.J.R. 1573(a)
10A:4-4.1	Inmate prohibited acts: correction to text			19 N.J.R. 1658(c)
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)		
10A:8	Inmate orientation and handbook	19 N.J.R. 1531(b)		
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)

INSURANCE—TITLE 11

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)	R.1987 d.359	19 N.J.R. 1646(a)
11:5-1.23	Obligations of real estate licensees	18 N.J.R. 1680(a)	Expired	
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)	Expired	
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)

LABOR—TITLE 12

12:60	Prevailing wages for public works	19 N.J.R. 345(b)		
12:100-2.1, 4.2, 5.2, 6.2	Public employees and hazardous waste operations	19 N.J.R. 1533(a)		
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)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A:11-1	Certification of women and minority-owned business	19 N.J.R. 1176(a)		
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)

LAW AND PUBLIC SAFETY—TITLE 13

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)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:30-2.1, 2.2, 2.7, 2.8, 2.9, 2.13, 2.14, 6.2, 6.5, 6.6, 6.9, 8.2	Licensure of dental hygienists; duties of dental assistants; approval of schools of oral hygiene	19 N.J.R. 849(a)		
13:30-8.6	Professional advertising by dentists	19 N.J.R. 1053(a)		
13:32-1.9	Master plumber ID	19 N.J.R. 352(b)	R.1987 d.257	19 N.J.R. 1227(b)
13:33-1.11, 1.13	Licensure as ophthalmic dispenser: temporary permit; apprenticeship	19 N.J.R. 917(a)	R.1987 d.323	19 N.J.R. 1455(a)
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)	R.1987 d.368	19 N.J.R. 1647(a)
13:35-3.11	Post-graduate training of graduates of foreign medical schools	19 N.J.R. 1534(a)		
13:35-6.13	Board of Medical Examiners: fee schedule; acupuncturist registration	19 N.J.R. 1054(a)	R.1987 d.371	19 N.J.R. 1648(a)
13:35-8.25	Biennial registration fee for hearing aid dispensers	19 N.J.R. 1055(a)	R.1987 d.370	19 N.J.R. 1649(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)
13:39A-2.2, 3.3	Electromyographic testing by licensed physical therapist: public hearing	18 N.J.R. 1684(b)	Expired	
13:39A-3.3	Physical therapy: unlawful practices	18 N.J.R. 1178(a)	R.1987 d.255	19 N.J.R. 1228(a)
13:40-2, 3.1, 6.1	Professional engineers and land surveyors: requirements for licensure: client relationships; applicant fees	19 N.J.R. 851(a)	R.1987 d.355	19 N.J.R. 1649(b)
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)
13:45A-6.2	Unlawful automobile sales practices	18 N.J.R. 2115(a)		
13:45A-12	Sale of dogs and cats	19 N.J.R. 853(a)		
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)		
13:71-1.25	Harness racing: horsemen associations	19 N.J.R. 856(a)		
13:71-14.1, 14.36	Harness racing: open claiming	19 N.J.R. 1419(b)		
13:71-20.23	Harness racing: registration of nerved horses	19 N.J.R. 919(a)		
13:77	Equitable distribution of forfeited property to law enforcement agencies	19 N.J.R. 1534(a)		

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PUBLIC UTILITIES—TITLE 14

14:1	Change of address: Board of Public Utilities			19 N.J.R. 890(a)
14:1-11	Board of Public Utilities: settlement conferences	19 N.J.R. 919(b)	R.1987 d.360	19 N.J.R. 1650(a)
14:3-7.12A	Residential electric and gas service during heating season	18 N.J.R. 2315(a)		
14:17	Change of address: Office of Cable Television			19 N.J.R. 890(a)
14:17-6.21	Cable TV: petition to set aside county refusal	19 N.J.R. 504(a)	R.1987 d.316	19 N.J.R. 1455(b)
14:18-14.5, 14.6	Cable TV: notices of rate and channel line-up changes	19 N.J.R. 505(a)	R.1987 d.367	19 N.J.R. 1651(a)

(TRANSMITTAL 1987-3, dated April 20, 1987)

ENERGY—TITLE 14A

14A:3-4.1-4.6	Energy subcode	19 N.J.R. 433(b)		
14A:4-1.1-3.1	Solar energy property tax exemptions	19 N.J.R. 433(b)		

(TRANSMITTAL 1987-2, dated April 20, 1987)

STATE—TITLE 15

(TRANSMITTAL 1987-1, dated February 17, 1987)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1987-1, dated April 20, 1987)

TRANSPORTATION—TITLE 16

16:1-2.2	NJDOT organizational structure: administrative correction to text			19 N.J.R. 1578(b)
16:20A-2.4, 4.1, 4.2, 5.1	Federal Aid Urban System Substitution Program: audits by local government	19 N.J.R. 622(a)	R.1987 d.265	19 N.J.R. 1229(a)
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)

J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
6:21-3.2, 5.1	State aid to counties and municipalities: audits by recipients	19 N.J.R. 624(a)	R.1987 d.267	19 N.J.R. 1230(a)
6:21A-3.2, 5.1	Bridge rehabilitation and improvement funds: audits by local government	19 N.J.R. 624(b)	R.1987 d.268	19 N.J.R. 1230(b)
6:22-3.2, 5.1	Urban revitalization, special demonstration and emergency projects aid: audits by local government	19 N.J.R. 625(a)	R.1987 d.269	19 N.J.R. 1231(a)
6:25	Utility accommodation on highway rights-of-way	19 N.J.R. 1064(a)		
6:28-1.79	School zone on Route 94 in Frelinghuysen Township	19 N.J.R. 1288(a)		
6:28A-1.4, 1.7, 1.11, 1.21, 1.28, 1.32, 1.33, 1.44, 1.46, 1.51, 1.69, 1.85, 1.104	No parking zones and bus stops on various State routes	19 N.J.R. 710(a)	R.1987 d.270	19 N.J.R. 1231(b)
6:28A-1.9	No parking zones along Route 17 in Rutherford and Lyndhurst	19 N.J.R. 1420(a)		
6:28A-1.10	Bus stop zones along Route 20 in East Rutherford	19 N.J.R. 1074(a)	R.1987 d.356	19 N.J.R. 1652(a)
6:28A-1.21, 1.31, 1.68	Bus stop zones along U.S. 30 in Waterford, N.J. 45 in Mannington, and N.J. 93 in Palisades Park	19 N.J.R. 1537(a)		
6:28A-1.31	Bus stop zones on Route 45 in Woodbury	19 N.J.R. 920(a)	R.1987 d.329	19 N.J.R. 1567(a)
6:28A-1.32	Bus stop zones along U.S. 46 in Denville	19 N.J.R. 1180(a)	R.1987 d.357	19 N.J.R. 1653(a)
6:29-1.67	No passing zones along U.S. 130 in Salem and Gloucester counties	19 N.J.R. 1420(b)		
16:30	Pre-proposal: Exclusive bus lane on Routes 3 and 495	19 N.J.R. 1421(b)		
16:30-3.1	Lane usage on Route 35 in Ocean County	Emergency (expires 8-21-87)	R.1987 d.290	19 N.J.R. 1332(a)
16:30-10.4	Midblock crosswalk on Route 33 in Freehold	19 N.J.R. 857(a)	R.1987 d.328	19 N.J.R. 1567(b)
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)	R.1987 d.347	19 N.J.R. 1653(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)		
16:75	NJ TRANSIT: bus allocation to private carriers	19 N.J.R. 506(a)	R.1987 d.260	19 N.J.R. 1233(a)

(TRANSMITTAL 1987-5, dated May 18, 1987)

TREASURY-GENERAL—TITLE 17

17:1-1.10	Balances in withdrawn pension accounts	19 N.J.R. 446(a)	R.1987 d.317	19 N.J.R. 1456(a)
17:1-1.10	Positive and negative balances in pension accounts	19 N.J.R. 447(a)	R.1987 d.317	19 N.J.R. 1456(a)
17:1-2.37	Alternate Benefit Program: transmittal of employee contributions	18 N.J.R. 1256(a)	R.1987 d.276	19 N.J.R. 1235(a)
17:1-12.8	State retirement systems: delinquent enrollment and employer liability	19 N.J.R. 626(a)	R.1987 d.293	19 N.J.R. 1320(b)
17:2-4.4	Public Employees' Retirement System: accrual of loan interest	19 N.J.R. 194(a)		
17:30	Urban Enterprise Zone Authority: comment period reopened	19 N.J.R. 354(a)		
17:32	Municipal and county cross-acceptance of State Development and Redevelopment Plan	19 N.J.R. 509(a)		

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TREASURY-TAXATION—TITLE 18

18:3-2.1	Tax rate on wine produced from New Jersey grapes	19 N.J.R. 1181(a)		
18:5-3.6	Purchase of cigarette revenue stamps	18 N.J.R. 2378(b)		
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)
18:15-1.1	Woodland management plan: correction to proposal	19 N.J.R. 1640(a)		
18:15-1.1, 2.7-2.14	Farmland assessment: woodland in agricultural use	19 N.J.R. 1538(a)		
18:15-1.1, 2.7-2.14	Woodland in agricultural use: operative date	19 N.J.R. 1640(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)
18:24-7.8	Sales of motor vehicles to military personnel stationed in State	19 N.J.R. 1181(b)		
18:35-1.13	Sale of principal residence	19 N.J.R. 1182(a)		
18:38	Litter control tax	19 N.J.R. 400(b)		
18:39-1	Tax amnesty	19 N.J.R. 1075(a)	R.1987 d.353	19 N.J.R. 1654(a)

(TRANSMITTAL 1987-3, dated June 15, 1987)

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