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THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 19 NUMBER 23

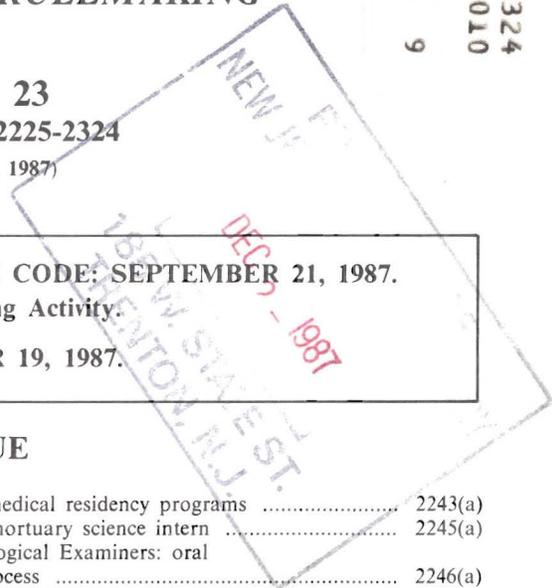
December 7, 1987 Indexed 19 N.J.R. 2225-2324

(Includes adopted rules filed through November 12, 1987)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: SEPTEMBER 21, 1987.

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE WILL BE DATED OCTOBER 19, 1987.



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Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **January 6, 1988**. 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

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

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The New Jersey Register (ISSN 0300-6069) is published the first and third Monday (Tuesday, if Monday is a holiday) of each month by OAL Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 588-6606. Subscriptions, payable in advance, are one year, \$75 (\$150 by First Class Mail); back issues when available, \$8 each. Make checks payable to OAL Publications.

POSTMASTER: Send address changes to: New Jersey Register, CN 301, Trenton, New Jersey 08625. Second Class Postage paid in Trenton, New Jersey and additional mailing offices.

The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by OAL Publications of the Office of Administrative Law. Subscription rates for this 39-volume, regularly updated set of State administrative rules are available on request. The Code is sold either in the full set or in one to four volumes depending on the Department coverage desired.

RULE PROPOSALS

ENVIRONMENTAL PROTECTION

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

DIVISION OF WATER RESOURCES

(a)

Storm Water Management

Proposed Readoption: N.J.A.C. 7:8

Authority: New Jersey Storm Water Management Act, P.L. 1981, c.32, which amends and supplements the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

DEP Docket Number: 058-87-11.

Proposal Number: PRN 1987-505.

Submit written comments by January 6, 1988 to:

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

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 7:8 as amended by R.1987 d.513 (See adoption in this issue of the New Jersey Register) will expire on February 7, 1988. The Department of Environmental Protection (the Department) proposes to readopt this chapter without change. 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.

N.J.A.C. 7:8 prescribes the rules governing the development of all storm water management plans and ordinances in the State of New Jersey pursuant to the New Jersey Storm Water Management Act, P.L. 1981, c.32, which amends and supplements the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. These results were adopted to provide that municipalities prepare storm water management plans and ordinances. When a grant for 90 percent of the costs for the preparation of the plan has been made available by the Department pursuant to section 6 of the Municipal Land Use Law, N.J.S.A. 40:55D-98, the storm water management plan shall be completed by the municipality by the next reexamination of the municipality's master plan required pursuant to N.J.S.A. 40:55D-89.

Planning for storm water management is divided into two phases. Phase I provides for such general planning as is necessary to prepare a storm water management control ordinance, and Phase II provides for long term comprehensive planning of alternative preventive and remedial storm water management measures and programs. Each municipality is required to prepare a storm water management control ordinance which implements Phase I. Both storm water management plans and ordinances must be submitted to the designated county planning agency or county water resources association, as appropriate, for approval. The implementing ordinance does not take effect without county approval, although the county's failure to approve or disapprove the ordinance within 60 days is deemed to be an approval.

Social Impact

The Department anticipates that a positive social impact will result from the readoption of these rules. Readoption will have a positive effect upon those persons living in areas under an adopted storm water management plan and approved implementing ordinance, particularly in non-rural areas. Where development occurs, flooding and excess storm water runoff may pose a threat to public health, life and property. These standards have been designed to: offset potential flooding and non-point pollution problems; encourage water recharge; protect the integrity of stream channels for their biological functions as well as for drainage; reduce soil erosion from any new area of construction; and to protect the adequacy of bridges and culverts. Additionally, these rules will ensure the adequacy of flood plain management protections under conditions of increased development in the future.

Economic Impact

The Department anticipates that a positive economic impact will result from the readoption of these rules. Readoption will have only a minor economic impact on municipalities since the development of storm water management plans and ordinances are contingent upon a 90 percent State grant for their preparation. Municipalities will only have to contribute 10 percent of the total cost of preparation of the plan and ordinance.

Compliance with approved storm water management ordinances may result indirectly in slightly higher costs for future development. The end result, however, is expected to be a reduction in losses from flood damages that will far exceed this cost.

Environmental Impact

The Department anticipates that a positive environmental impact will result from the readoption of these rules. The most feasible programs of stormwater management developed so far are preventative in nature and must be applied during the site plan review process necessary to obtain a permit for development. The Storm Water Management rules provide requirements and controls designed to reflect these policy objectives.

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 rules only apply to municipalities preparing storm water management plans in accordance with the New Jersey Storm Water Management Act, P.L. 1981, c.32, which amends and supplements the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:8, as amended by R.1987 d.513 in this issue of the Register.

(b)

Sewer Systems and Wastewater Treatment Plants

Proposed New Rules: N.J.A.C. 7:9-1.

Authority: N.J.S.A. 13:1D-9k, 58:10A-6(b) and 58:11A-5c(2).

DEP Docket Number: 057-87-11.

Proposal Number: PRN 1987-506.

Submit comments by January 6, 1988 to:

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

The agency proposal follows:

Summary

The Department proposes to adopt without change, as new rules, the expired rules concerning standards for the design and construction of sewer systems and wastewater treatment plants. Pursuant to Executive Order No. 66 (1978), N.J.A.C. 7:9-1 expired on April 25, 1985. The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, which is to provide the minimum acceptable standards for the engineering design of sewer systems and wastewater treatment plants.

The rules for the New Jersey Pollutant Discharge Elimination System ("NJPDDES"), N.J.A.C. 7:14A-1 et seq., implement the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. N.J.A.C. 7:14A-1 et seq. requires all dischargers of pollutants to the waters of the State, either ground or surface, to obtain a permit with discharge conditions and, if necessary, compliance schedules. Discharge limitations are developed in accordance with either the State's Ground Water Quality Standards, N.J.A.C. 7:9-6, or Surface Water Quality Standards, N.J.A.C. 7:9-4. Compliance schedules are then developed consistent with the effort required to attain compliance with the discharge limitations, applicable State statutes and the Federal Clean Water Act, 33 U.S.C. 1251 et seq.

Construction of any treatment works not meeting the exemptions found at N.J.S.A. 7:14A-12.4 requires the approval of the Department. Construction of or modifications to sewage treatment plants as regulated above are thus subject to the requirements of N.J.A.C. 7:14A-1 et seq., as is the construction of a sewer extension, collection system or interceptor or other sewage conveyance system.

N.J.A.C. 7:14A-12, Additional requirements for a treatment works approval, then relies upon N.J.A.C. 7:9-1, Sewer Systems and Wastewater Treatment Plants, to provide the requisite minimum engineering requirements and submissions. Those rules are intended to apply to the usual, not the exceptional, conditions. The Department has further reserved the right to specify more or less stringent requirements as may be judged to be in the best interest of the environment. The provisions in the rules granting discretion to the Department allows the flexibility for situations or conditions not expressly covered by the rules.

N.J.A.C. 7:9-1 contains 107 subsections dealing with such topics as the preparation of sewer maps and plans (N.J.A.C. 7:9-1.13), requirements for profiles (N.J.A.C. 7:9-1.18), materials and minimum grades and velocity of flow (N.J.A.C. 7:9-1.20), inverted syphons, joints, manholes, outfalls, general provisions for pumping stations and pumps (N.J.A.C. 7:9-1.21 through 1.26), design objectives (N.J.A.C. 7:9-1.48 through 1.51), provisions for screening (N.J.A.C. 7:9-1.52 through 1.54), settling tanks (N.J.A.C. 7:9-1.58 through 1.61), sludge (N.J.A.C. 1.62 through 1.89), provisions for filters and other sewage treatment processes (N.J.A.C. 7:9-1.90 through 1.101), provisions for package treatment plants (N.J.A.C. 7:9-1.102 through 1.105), design flow for small plants for various establishments (N.J.A.C. 7:9-1.106), and provisions for laboratory equipment (N.J.A.C. 7:9-1.107).

Social Impact

Uniform standards for the design and construction of sewer systems and wastewater treatment plants have a positive social impact by ensuring that the sewers and plants are constructed in a manner which protects the public health and safety and the environment.

Economic Impact

The continuation of these expired rules will not increase or decrease the cost of regulatory compliance because they have been in existence since 1970. As in the past, the cost of compliance with these rules is expected to be passed on to the recipients of sewage collection and treatment services. The expense is most typically passed down to residents of a service area in the form of user charges. The expense is borne by residential, commercial and industrial users according to the amount and type of sewage generated. The expense for the construction or improvement of treatment is applied to all users and is necessary to support the sewer system and keep it operating efficiently so that the public health and the environment will not be adversely affected. In some cases a developer may decide to provide funding for the expansion or upgrade of a treatment facility in communities with limited funds. In this way, the developer obtains the necessary sewer capacity for a project while at the same time helping to improve the system and the quality of the receiving water.

The maintenance of high quality water resources is important to all, particularly to the many communities that are supported by such industries as water supply, recreation and tourism, fishing and shellfishing. Inadequately treated water could have a severe impact on these industries and thus the economy of the communities as well as endanger the public health.

Environmental Impact

The adequate design of sewage collection and treatment systems is essential to their short and long term protection of the public health and the environment of the State. By providing standards of design, the possibility of the construction of inadequate facilities is thereby greatly reduced. At the same time, justifiable alternative technologies with demonstrated abilities to comply are not eliminated from consideration.

Regulatory Flexibility Statement

The overwhelming majority of sewage systems and wastewater treatment plants are owned and operated by municipalities or municipal utility authorities. In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that these rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses beyond those imposed under the rules formerly in effect. To prescribe a separate set of design and construction standards for sewer systems and wastewater treatment plants based upon the nature

of the owning entity would defeat the standardization purpose of these rules, a purpose whose objective is to protect both the public health and the environment.

Full text of the expired rules proposed as new appears in the New Jersey Administrative Code at N.J.A.C. 7:9-1.

(a)

Safe Drinking Water Act Maximum Contaminant Levels for Hazardous Contaminants

Proposed New Rules: N.J.A.C. 7:10-16

Authority: N.J.S.A. 58:12A-1 et seq., as amended by P.L. 1983, c.443.

DEP Docket Number: 056-87-11.

Proposal Number: PRN 1987-507.

Three public hearings concerning these proposed new rules will be held on the following days at the indicated time and place:

January 5, 1988 at 10:00 A.M.

Camden County Complex

Egg Harbor Road

Lindenwold, New Jersey

January 6, 1988 at 10:00 A.M.

Labor Education Center Auditorium

Cook College

Ryderson Lane

Rutgers University

New Brunswick, New Jersey

January 12, 1988 at 7:30 P.M.

Morris County Courthouse

Ann Street

Morristown, New Jersey

Submit written comments by January 18, 1988 to:

Ann Zeloof, Esq.

Office of Regulatory Services

Department of Environmental Protection

CN 402

Trenton, New Jersey 08625

The agency proposal follows:

Summary

On January 9, 1984, P.L. 1983, c.443, codified at N.J.S.A. 58:12A-12 et seq. and commonly known as "the A-280 amendments", amending the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. (the "State Act"), was signed into law. The A-280 amendments establish a testing program for 22 hazardous contaminants in the water provided to customers by the owner or operator of New Jersey public community water systems (public water systems serving at least 15 service connections used by year-round residents or regulatory serving at least 25 year-round residents). Monitoring is currently required for 16 of the 22 contaminants for which standard analytical methodology is currently available pursuant to N.J.A.C. 7:10-14. The Department of Environmental Protection ("the Department"), on the basis of recommendations by the Drinking Water Quality Institute ("the Institute"), is authorized to adopt a regulatory program that sets forth maximum contaminant levels ("MCLs") for these 16 contaminants. The proposed new rules will replace the "Interim Action Levels for Hazardous Contaminants in Drinking Water", the Department's document setting forth guidelines to assess drinking water contamination prior to the adoption of MCLs.

The owner or operator of any public community water system which has been tested and found to contain one or more of the 16 hazardous contaminants at a level exceeding the MCL shall, within a year after receipt of the test results, ensure that the system's water is below the MCL for all 16 of the hazardous contaminants. Once a single result indicates an exceedance of the MCL, the Department will require that the owner or operator conduct three additional tests within 30 calendar days of receipt of the initial test results. The MCL will be determined by calculating the average of all four sampling analyses. The Department may, in its discretion, require prompt remediation to abate an immediate public health threat, or may extend the period of compliance (after public hearing and where such action will pose no imminent threat to public health) if new construction is required. The Department, upon a failure

by the owner or operator of a public community water system to bring the water into compliance may, in addition to seeking civil administrative penalties, enjoin the water purveyor from continuing to supply water to the public, establish a program to bring the water supply into compliance, or provide an alternate potable water supply for the customers of the system.

The A-280 amendments establish within the Department the Drinking Water Quality Institute. The Institute members are representatives from academia, the public, water purveyors and State agencies. On March 26, 1987, the Institute submitted to the Department a document entitled "Maximum Contaminant Level Recommendations for Hazardous Contaminants in Drinking Water" ("MCL Recommendations Document" or "the Document"). The MCL Recommendations Document details the operation of the Institute in providing the Department with its recommendations for the MCLs. Appendix B of the Document summarizes the risk assessments used to derive the health-based levels and contains a request for public response on specific scientific issues. The MCL Recommendations Document is available from the Department upon request and/or may be reviewed at any State depository library and at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey.

The Institute, in determining the recommended MCLs, complied with the requirement of the State Act to consider "... medical, scientific and technological feasibility ..." when setting recommended MCLs for carcinogenic substances to "... permit cancer in no more than one in one million persons ingesting that chemical for a lifetime ...". N.J.S.A. 58:12A-13(b). For non-carcinogenic substances, MCLs are required to "... eliminate within the limits of practicability and feasibility all adverse physiological effects which may result from ingestion ...". N.J.S.A. 58:12A-13(b). The Institute interprets this statutory language to mean that analytical limitations can apply in determining an MCL for carcinogens, and both analytical and cost considerations can apply in determining an MCL for non-carcinogens.

The Institute-recommended MCLs, set forth in N.J.A.C. 7:10-16.7, were selected on the principle that the health-based level should be the MCL unless the health-based level is below the practical quantitation level ("PQL") (the level for any given contaminant at which methods can measure or quantitate). In these cases, the MCL should be set at the PQL. The Institute also recommends, to ensure that the MCLs are set as reasonably close to the health-based levels as possible, that the Department regularly review the current toxicological literature and assess current laboratory capability.

The Department, in setting the MCLs, will establish no standard less stringent than that established by the United States Environmental Protection Agency (USEPA) for that contaminant. N.J.S.A. 58:12A-13(b). Following the Institute's deliberations on the MCLs and its preparation of the MCL Recommendations Document, the USEPA promulgated final MCLs for eight of the A-280 contaminants (see 52 Fed. Reg. 25,690 (July 8, 1987) (to be codified at 40 C.F.R. 141 and 142)). All of the USEPA standards are above the Institute-recommended MCLs with the exception of vinyl chloride, for which the USEPA set a level of 2 parts per billion (ppb) and the Institute recommended a level of 5 ppb. The Department is therefore proposing an MCL of 2 ppb for vinyl chloride.

The Institute, to thoroughly evaluate the factors affecting the establishment of the MCLs, established three subcommittees: Lists and Levels, Testing, and Program. The Lists and Levels Subcommittee determined the health-based levels for all of the 22 chemicals listed in the A-280 amendments. The Testing Subcommittee evaluated the applicability of available analytical methods and determined the levels at which quantitation could be reliably achieved in potable water. The Program Subcommittee evaluated the available treatment technologies for removing the hazardous contaminants from drinking water. A summary of the activities of each subcommittee follows:

Lists and Levels Subcommittee:

The Lists and Levels Subcommittee evaluated and recommended health-based levels for all the hazardous contaminants listed in the A-280 amendments. The development of health-based MCLs followed a thorough review of available scientific literature regarding each contaminant, with an emphasis on data focusing upon the prediction of chronic human health effects. The risk assessments were performed on the basis of USEPA guidelines and generally recognized scientific methodology (incorporating the weight of the evidence for the carcinogenicity of the contaminant). The most sensitive toxic endpoints, as well as conservation assumptions, were utilized in the evaluation to ensure that exposure-

related health effects would not be expected to occur in the most sensitive individuals. In addition, the Subcommittee obtained the assistance of risk assessment professionals to contribute information that was important in the development of the MCLs and to review each risk assessment for accuracy and consistency.

A comprehensive presentation of the risk assessments performed for each contaminant is provided in the Document's Supplemental Appendix B, which contains a complete set of all the health-based MCL support documents.

Testing Subcommittee:

The Testing Subcommittee determined whether analytical methods existed that could accurately identify and quantify the hazardous contaminants listed in the A-280 amendments. As part of this process, the Subcommittee reviewed the methods recommended or proposed by the USEPA, and also determined that research should be conducted to evaluate the practical limitations of these methods. The Department, in cooperation with laboratories certified to conduct A-280 testing, performed a research study to establish the method limitations.

When the review process began, only 16 of the 22 A-280 hazardous contaminants had validated methods available. Neither the Department nor the USEPA has standardized analytical methods for Kerosene, Ethylene Glycol, Methyl Ethyl Ketone, n-Hexane, Formaldehyde, or cis-1,2-Dichloroethylene. New methodologies have since been developed by the USEPA (commonly referred to as the 500 series method, see "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water", USEPA (1985)) that include cis-1,2-Dichloroethylene. No analytical method is being proposed for Kerosene upon the recommendation of the Lists and Levels Subcommittee that it be removed from the A-280 list. For the remaining four hazardous contaminants, the Department is conducting a research study to develop and validate standardized analytical methods for their detection in potable water.

For those hazardous contaminants with approved analytical methods, it was necessary to determine the lowest concentrations at which these contaminants can be detected and at what levels these substances can be measured within acceptable uncertainties. The level at which the methods can measure or quantitate is the PQL. An analytical study conducted by the Department and the New Jersey certified laboratory community was utilized in determining the PQLs. The design and results of this study are included in the MCL Recommendations Document. In addition to this study, the Testing Subcommittee reviewed all other known sources of data to determine the PQLs. A complete description of the derivation of the PQLs is also included in the MCL Recommendations Document.

Program Subcommittee:

The Program Subcommittee focused on the capability of available treatment methods to remove the hazardous contaminants listed in the A-280 amendments from drinking water. The Subcommittee concluded that either packed tower aeration and/or granular activated carbon adsorption are capable of removing the 16 monitored hazardous contaminants. These treatment technologies can remove contaminants to a level beneath the PQL. In addition, the Subcommittee focused on costs to the regulated community. These costs are discussed in the Economic Impact Statement below.

Social Impact

The proposed new rules will have a positive social impact by providing standards for the protection of drinking water for the citizens of New Jersey. The proposed maximum contaminant levels will reduce exposure to 16 hazardous contaminants determined by the Legislature to be harmful to public health. The proposed MCLs are among the lowest of any state standard in the nation and will ensure that the citizens of New Jersey have the highest quality drinking water.

Economic Impact

The proposed new rules will impact between five and 20 percent of the State's public community water systems, the percentage of public community water systems whose potable water the Department anticipates may exceed the MCLs. Statewide cost estimates, based on the assumption that up to 100 additional water treatment (aeration) facilities will have to be constructed, suggest that 50 to 70 million dollars will be necessary to provide treatment to these water systems. The Department expects that the cost of treatment will be passed on to the consumer and estimates rate increases of between five and 96 cents per 1,000 gallons of treated water, depending on the size and site-specific requirements of the water utility.

A large potential economic impact that is difficult to assess and anticipate is the impact on non-public water systems, especially private wells. The Department estimates that five to 10 percent of the estimated 500,000 private wells may exceed the proposed MCLs. If the MCLs are used as a benchmark in determining the quality of drinking water in private individual wells, the cost to address the problem of contamination will be 100 to 150 million dollars. The Department estimates that this would be the cost of extending or creating new public community water systems or providing individual treatment units.

Environmental Impact

The proposed new rules, establishing MCLs for 16 specified contaminants and requiring that the owner or operator of each public community water system, upon receipt of test results that confirm that an MCL has been exceeded, take action necessary to bring the water quality into compliance, will have a positive environmental impact on the quality of the State's drinking water. The Department, in proposing these rules, is taking action consistent with the declaration of the Legislature that the maintenance of high-quality potable water is essential in order to safeguard the health and welfare of the citizens of New Jersey. N.J.S.A. 58:12A-2.

Regulatory Flexibility Statement

These proposed new rules would apply to public community water systems, defined as a public water system serving at least 15 service connections used by year-round residents or regularly serving at least 25 year-round residents. It is estimated that of the 600 public community water systems impacted by this proposal, approximately 300 are "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 these proposed new rules, the small businesses will have to comply with the testing and reporting requirements for 16 of the hazardous contaminants set forth in the A-280 amendments. In doing so, public community water systems will have to employ technical staff to conduct sampling and a New Jersey certified laboratory to conduct analysis. The annual costs of sampling and testing analysis will range from \$400.00 to \$2,000. Upon a determination that remediation is necessary, the cost could range from \$500.00 to \$300,000.

In developing these proposed new rules, the Department has balanced the need to protect the environment against the economic impact of the rules on small businesses. Clearly, the substantial threat to public health from potable water that fails to meet the standards set forth in these proposed new rules militates against relaxation of any of the requirements set forth therein. As a result, no exemption from coverage is provided to small businesses.

Full text of the proposed new rules follows:

**SUBCHAPTER 16. SAFE DRINKING WATER ACT
MAXIMUM CONTAMINANT LEVELS
FOR HAZARDOUS CONTAMINANTS**

7:10-16.1 Scope and authority

This subchapter shall constitute the rules of the Department of Environmental Protection governing the establishment of Maximum Contaminant Levels as authorized by the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., as amended by P.L. 1983, c.443, commonly known as "the A-280 amendments".

7:10-16.2 Construction

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

7:10-16.3 Applicability

This subchapter shall be applicable to all owners or operators of public community water systems as defined in N.J.A.C. 7:10-1.3.

7:10-16.4 Definitions

As used in this subchapter, the following words and terms shall, in addition to those provided in N.J.A.C. 7:10-1.3 and 7:10-14.3, have the following meanings unless the context clearly indicates otherwise:

"Average" means the sum of the results of the sampling analyses divided by the number of analyses. For the purpose of calculating the average of the test results, whenever the result is non-detectable or below the analytical MDL, the MDL shall be used to represent the sample analysis result for the purpose of calculating the average of the test results.

"Check samples" means additional tests performed in response to a compliance sample that exceeds an MCL.

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

"Maximum contaminant level" or "MCL" means the maximum permissible level of a contaminant in water which is delivered to the free-flowing outlet of the ultimate user of a public water system or other water system to which State primary drinking water rules apply, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition.

"Method detection limit" or "MDL" means the minimum concentration of a contaminant, determined pursuant to 40 C.F.R. 136 (Appendix B) or N.J.A.C. 7:18-1 et seq., that can be measured and reported with 99 percent confidence to have an analytical concentration greater than zero.

"Polychlorinated biphenyls (PCBs) total" means the sum of all the individual polychlorinated biphenyls as set forth by the appropriate analytical method as provided in N.J.A.C. 7:18-1 et seq.

"State Act" means the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., as amended by P.L. 1983, c.443.

7:10-16.5 Severability

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

7:10-16.6 Penalties

Failure by the owner or operator of a public community water system to comply with any requirement of the State Act or this subchapter may result in the penalties set forth in N.J.S.A. 58:12A-10 and N.J.A.C. 7:10-14.15.

7:10-16.7 Maximum contaminant levels (MCLs) for hazardous contaminants

(a) The maximum contaminant levels for hazardous contaminants applicable to all public community water systems shall be as follows:

Hazardous Contaminant	MCL (in parts per billion)
Benzene	1
Carbon tetrachloride	2
Chlordane	0.5
Chlorobenzene	4
Dichlorobenzene(s)†	
o-	600
m-	600
p-	6
1,2-Dichloroethane	2
1,1-Dichloroethylene	2
1,2-Dichloroethylene (cis & trans)	10
Ethylene Glycol	‡
Formaldehyde	‡
n-Hexane	‡
Kerosene	‡
Methyl ethyl ketone	‡
Methylene chloride	2
Polychlorinated biphenyls (PCBs) (Total)	0.5
Tetrachloroethylene	1
Trichlorobenzene(s) (1,2,4-Trichlorobenzene)	8
1,1,1-Trichloroethane	26
Trichloroethylene	1
Vinyl chloride	2
Xylene(s)	44

† The separation of isomers will only be required if the presence of dichlorobenzene above six parts per billion is confirmed. Upon confirmation, the isomer(s), whether ortho, meta or para, will be addressed on a case-by-case basis.

‡ No MCL for these contaminants is established.

7:10-16.8 Compliance requirements and procedures

(a) In accordance with the testing procedures provided in N.J.A.C. 7:10-14 and 7:10-16.10, the owner or operator of a public community water system shall analyze for each contaminant listed in N.J.A.C. 7:10-16.7 for which there is an MCL.

(b) The owner or operator of a public community water system shall, upon receipt of an analysis that reports an exceedance of the maximum contaminant levels for one or more of the hazardous contaminants set forth in N.J.A.C. 7:10-16.7, take the following actions:

1. Notify the Department in writing of the test result within seven days of receipt of the analysis at the following address:

Bureau of Safe Drinking Water
 Division of Water Resources
 Department of Environmental Protection
 CN 029
 Trenton, New Jersey 08625
 (609) 292-5550

2. Obtain three additional samples and have them analyzed within 30 calendar days of receipt of the initial analysis in accordance with the testing procedures required under (a) above;

3. If the average of the four tests is above the MCL, report to the Department by telephone (609-292-5550) within 48 hours and in writing within seven days of the receipt of the analysis required pursuant to (b)2 above at the address provided in (b)1 above; and

4. Comply with the public notification requirements of N.J.A.C. 7:10-16.10.

(c) The owner or operator of a public community water system may, where the additional three samples and analyses required pursuant to (b)2 above provide evidence that no hazardous contaminant listed in N.J.A.C. 7:10-16.7 exceeds the method detection limit, request that the Department consider the initial test to be inaccurate and invalid. The Department shall, in considering such requests, base its determination upon the following factors:

1. Previous analytical results;
2. Vulnerability of the water supply to a source of contamination; and
3. The identity and concentration of the contamination initially reported.

(d) The Department may, upon being notified of the exceedance of any MCL, take one or more of the following actions:

1. Require the owner or operator of the public community water system to conduct additional testing and/or sampling to determine the nature and extent of the contamination; and/or

2. Require the owner or operator of the public community water system to investigate alternative sources of water.

7:10-16.9 Laboratory testing

(a) The analysis required by this subchapter shall be conducted at a New Jersey laboratory, certified in accordance with N.J.A.C. 7:18-1 et seq., and the laboratory shall be certified for the specific method for which the test is conducted.

(b) All analysis shall be conducted by methods and laboratories capable of achieving MDLs below the respective MCL of the contaminant being tested.

(c) The owner or operator of a public community water system shall, when submitting sample analyses to the Department, provide the following:

1. The analysis of all the contaminants that are listed in the analytical testing method that is used;
2. The values of all analyses above the MDL; and
3. The quality control parameters submitted on the Department's QC Data for Hazardous Contaminant Analysis Form.

7:10-16.10 Public notification

The owner or operator of a public community water system shall provide public notification of any MCL violation in accordance with the most current version of the Federal National Primary Drinking Water regulations (40 CFR 141.32, as amended).

7:10-16.11 Remediation requirements and procedures

(a) Except as provided in (b) below, the owner or operator of a public community water system that exceeds the MCL for any haz-

ardous contaminant listed in N.J.A.C. 7:10-16.7 shall, within one year of receipt of the results of the tests conducted pursuant to N.J.A.C. 7:10-16.8, take any action necessary to bring the water into compliance with the MCL.

(b) The Department may require that the owner or operator take prompt action to remediate upon a determination that such action is necessary to abate an immediate public health threat or may extend the period of compliance (after a public hearing and a determination that the extension will not pose an imminent threat to public health) if new construction is required.

(c) The Department may, upon a failure by the owner or operator to remediate in accordance with the requirements of this section, take one or more of the following actions:

1. Enjoin the water purveyor from continuing to supply water to the public;
2. Establish a program to bring the public community water system into compliance;
3. Provide the customers of the public community water system with an alternate potable water supply; and/or
4. Seek penalties in accordance with N.J.A.C. 7:10-16.6.

7:10-16.12 Recordkeeping

(a) The owner or operator of a public community water system shall retain on its premises all initial and periodic analyses and other relevant documents and information required pursuant to N.J.A.C. 7:10-14.14(a) for a period of not less than 10 years.

(b) In accordance with this section, analyses may be kept or data may be transferred to tabular summaries provided that the following information is included:

1. The date, location (municipality, lot and block number), time of sampling, and the name of the person who conducted the sampling;
2. Identification of the sample, specifically whether the sample was a routine distribution sample, check sample (by number or description), raw sample, process water sample or other special purpose sample;
3. Date of analysis;
4. Laboratory name, including certification number and name of the person responsible for performing the analysis;
5. The analytical technique/method used;
6. Chain of custody information concerning the handling of sample; and
7. The concentration of the hazardous contaminant made known by the analysis.

(a)

**Safe Drinking Water Act
 Pre-Proposal Issues**

Rule Pre-Proposal: N.J.A.C. 7:10-16.13, 16.14 and 16.15

Authority: N.J.S.A. 58:12A-1 et seq., as amended by P.L. 1983, c.443.

DEP Docket Number: 059-87-11.

Pre-Proposal Number: PPR 1987-6.

Take notice that the Department of Environmental Protection ("the Department"), pursuant to P.L. 1983, c.443, amending the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., codified at N.J.S.A. 58:12A-12 et seq. and commonly known as "the A-280 amendments", is assessing the benefit to public health and the environment of rules which would establish criteria, in addition to those proposed in this issue of the Register concerning Maximum Contaminant Levels for hazardous contaminants, for the purpose of evaluating the quality of potable water delivered by New Jersey public community water systems. This notice of pre-proposal is being published in order to obtain the response of interested persons prior to the preparation and publication of a rule proposal.

Interested persons may submit, in writing, data, views or comments or proposed regulatory language by January 18, 1988 to:

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

Public hearings will be held for the receipt of oral comment concurrent with those to be held for the proposal of the Safe Drinking Water Act Maximum Contaminant Levels for Hazardous Contaminants. Three public hearings concerning this pre-proposal will be held on the following days at the indicated time and place.

January 5, 1988 at 10:00 A.M.
Camden County Complex
Egg Harbor Road
Lindenwold, New Jersey

January 6, 1988 at 10:00 A.M.
Labor Education Center Auditorium
Cook College

Ryders Lane
Rutgers University
New Brunswick, New Jersey

January 12, 1988 at 7:30 P.M.
Morris County Court House
Ann Street
Morristown, New Jersey

N.J.S.A. 58:12A-12 et seq. establishes a testing program for 22 hazardous contaminants in the water provided to customers by the owner or operator of New Jersey public community water systems (public water systems serving at least 15 service connections used by year-round residents or regularly serving at least 25 year-round residents). Monitoring is currently required for 16 of the 22 contaminants for which standard analytical methodology is currently available pursuant to N.J.A.C. 7:10-14. The Department, on the basis of recommendations by the Drinking Water Quality Institute ("the Institute"), is authorized to adopt a regulatory program that sets forth maximum contaminant levels ("MCLs") for these 16 contaminants. The Department's proposed MCLs also appear in this issue of the New Jersey Register.

The Department is considering a rule that would require the owner or operator of a New Jersey public community water system to act where the testing for the 16 A-280 contaminants provides evidence that a contaminant is at or above a short-term action level ("STALs") or at or above a sampling response level ("SRLs"). In addition, the Department is considering recommended MCLs for unregulated and total volatile organics in order to reduce exposure to chemicals whose health effects are not yet completely understood. This notice of pre-proposal is being published to elicit the experience and expertise of interested parties so that the Department can better determine whether to propose rules concerning a more diverse set of response levels.

Specifically, the Department is seeking the comment of interested persons with regard to the following issues addressed in the contemplated regulatory language below:

1. Short term action levels ("STALs"), N.J.A.C. 7:10-16.13, have been developed by the Department's Office of Science and Research and set forth in a document titled "Derivation of Short-Term Action Levels for A-280 Contaminants". This document is available for inspection at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey. STALs may be proposed to provide the Department with a set of contaminant levels in addition to the MCLs. When a public community water system discovers, following required testing, that the water to be delivered contains hazardous contaminants at or above the STAL, the Department may require that it act to remediate in a time frame that is shorter than the one year period generally permitted for compliance with the MCL.

STALs are derived on the basis of maximum exposure for a period of one year. The MCLs are derived on the basis of maximum exposure for a lifetime. Therefore, while a one year compliance schedule would be considered acceptable for concentrations approximating the MCL, the concentration of contaminants substantially above the MCL may require a more immediate reduction in exposure levels. STALs would provide the Department with rules governing this more immediate action.

2. Sampling response levels ("SRLs"), N.J.A.C. 7:10-16.14, have been established to assist the Department in locating which individual source or sources of supply may have some level of hazardous contaminant(s).

3. Recommended MCLs for unregulated and total volatile organics (N.J.A.C. 7:10-16.15) are being considered in order to reduce exposure

to chemicals whose health effects are not yet completely understood. The Department and local health agencies have received many test results indicating the presence of contaminants which are not presently regulated. Despite extensive toxicological investigation, great uncertainty remains as to acceptable health-based levels for these substances. In addition, the synergistic effects of these chemicals are not yet sufficiently quantifiable to form the basis for regulation of specific contaminants. Finally, past experience has shown that many chemicals once considered safe or non-carcinogenic are now classified as probable carcinogens. Because of these factors, the Department is considering recommended MCLs for unregulated and total volatile organics so as to minimize exposure to these chemicals until their health effects are better understood.

This contemplated section would set recommended maximum concentration levels for unregulated and total volatile organics in drinking water, thus reducing exposure to unregulated chemicals whenever possible. The recommended MCLs would be guided by available information regarding the carcinogenicity of the chemicals. In addition, since most drinking water eventually returns to the State's groundwater or surface water, the recommended MCLs will prevent the degradation of State waters.

The Department is considering the following regulatory language:

7:10-16.13 Short term action levels (STALs) for hazardous contaminants

(a) The short term action levels for hazardous contaminants applicable to all public community water systems shall be as follows:

Hazardous Contaminant	STALs (in parts per billion)
Benzene	11
Carbon Tetrachloride	27
Chlordane	0.9
Chlorobenzene	13
o-Dichlorobenzene	860
m-Dichlorobenzene	860
p-Dichlorobenzene	430
1,2-Dichloroethane	20
1,1-Dichloroethylene	20
1,2-Dichloroethylene (cis and trans)	200
Methylene chloride	175
Polychlorinated biphenyls (PCBs) (Total)	1.7
Tetrachloroethylene	31
Trichlorobenzene(s) (1,2,4-Trichlorobenzene)	25
1,1,1-Trichloroethane	74
Trichloroethylene	84
Vinyl chloride	5
Xylene(s)	44

(b) The owner or operator of a public community water system shall analyze for each contaminant listed in (a) above for which there is a STAL in accordance with the testing procedures provided in N.J.A.C. 7:10-14 and 7:10-16.9.

AGENCY NOTE: N.J.A.C. 7:10-16.9 is proposed in this issue of the New Jersey Register.

(c) The owner or operator of a public community water system shall, upon receipt of a test result that reports a level of contamination at or above the STAL, notify the Department by telephone within 24 hours at (609) 292-5550 during working hours or the Department of Environmental Protection Hotline (609) 292-7172 during non-business hours.

(d) The Department, upon telephone notification of an exceedance of a STAL, will evaluate the threat to public health and the environment on the basis of the following:

1. Duration of past exposure;
2. Concentration of other contaminant(s) present in the water supply;
3. Potential for adverse palatability and odor;
4. Sensitivity of the exposed population;
5. Total dose of contaminants from all routes of exposure other than ingestion (for example, inhalation); and
6. The severity of the STAL exceedance.

(e) The Department shall, following evaluation of the factors set forth in (d) above, set forth recommended or required actions to be conducted by the impacted public community water system.

PROPOSALS

Interested Persons see Inside Front Cover

ENVIRONMENTAL PROTECTION

7:10-16.14 Sampling response levels (SRLs) for hazardous contaminants

(a) The SRLs for hazardous contaminants applicable to all public community water systems shall be as follows:

Hazardous Contaminant	SRLs (in parts per billion)
Benzene	Detection Level
Carbon Tetrachloride	Detection Level
Chlordane	Detection Level
Chlorobenzene	Detection Level
o-Dichlorobenzene	1
m-Dichlorobenzene	1
p-Dichlorobenzene	1
1,2-Dichloroethane	Detection Level
1,1-Dichloroethylene	Detection Level
1,2-Dichloroethylene (cis and trans)	1
Methylene chloride	1
Polychlorinated biphenyls (PCBs) (Total)	Detection Level
Tetrachloroethylene	Detection Level
Trichlorobenzene(s) (1,2,4-Trichlorobenzene)	1
1,1,1-Trichloroethane	5
Trichloroethylene	Detection Level
Vinyl chloride	Detection Level
Xylene(s)	5

(b) The owner or operator of a public community water system shall analyze for each contaminant listed in (a) above for which there is an SRL in accordance with the testing procedures provided in N.J.A.C. 7:10-14 and 7:10-16.9.

(c) The owner or operator of a public community water system shall, upon receipt of an analysis that reports a level of contamination at or above the SRL, but below the MCL, follow the testing procedures set forth in N.J.A.C. 7:10-14 and initiate monthly testing at the locations that were above the SRL for the next three months, unless directed by the Department to sample specific source locations at a specific frequency.

7:10-16.15 Recommended MCLs for unregulated volatile organics and total volatile organics

(a) The Department, in order to reduce the amount of volatile organic chemicals (any substance determined by a volatile organic method for drinking water cited in the rules governing laboratory certification) in New Jersey drinking water, formally encourages voluntary compliance with the following recommended MCLs:

1. Using the weight of evidence approach established by the United States Environmental Protection Agency in their "Guidelines for Carcinogen Risk Assessment" (51 Fed. Reg. 33,992 (September 24, 1986)), chemicals will be classified according to their carcinogenicity. For those chemicals categorized as Group A (Human Carcinogen) or Group B (Probable Human Carcinogen), the recommended MCL should not exceed five parts per billion (ppb) for any individual chemical;

2. For chemicals other than those identified in (a)1 above, the recommended MCL should not exceed 50 ppb for any individual chemical; and

3. The recommended MCL of any detectable amount of all volatile organic chemicals combined should be less than 50 ppb. This includes those volatile organic chemicals that have, or will have, an MCL greater than 50 ppb.

(b) These recommended MCLs do not apply to the existing trihalomethane regulations set forth at 40 CFR 141.30 (National Primary Drinking Water Regulations).

(a)

Redelineation of Jumping Brook

Proposed Amendment: N.J.A.C. 7:13-7.1(b)

Authority: N.J.S.A. 13:1B-3 and N.J.S.A. 58:16A-50 et seq.

DEP Docket Number: 055-87-11.

Proposal Number: PRN 1987-504.

A public hearing concerning this proposal will be held on:

December 23, 1987 at 10:30 A.M.

3rd Floor Conference Room

401 E. State Street

Trenton, New Jersey

Submit written comments by January 6, 1988 to:

Suzanne F. Dice, Esq.

Office of Regulatory Services

Department of Environmental Protection

CN 402

Trenton, N.J. 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (Department) proposes to amend N.J.A.C. 7:13-7.1, Delineated floodways, by revising the floodway and flood fringe areas of Jumping Brook approximately 2,700 feet upstream of Old Corlies Avenue. The redelineation was requested by Monmouth Consolidated Water Company as part of stream encroachment application #13025 for the purpose of building a new bridge, three outfalls, a sewer line, and a water line crossing on the Company's property along Jumping Brook.

The proposed redelineation is based on detailed field survey information and cross sections taken by the RBA Group, Inc. on behalf of Monmouth Consolidated Water Company. The Department is updating the present flood hazard area delineations to reflect the information provided by the field survey.

The redelineation will cause small fluctuations in the size of the floodway in the immediate vicinity of each of the new structures. The total size of the floodway along this stretch of Jumping Brook will remain approximately the same. The size of the flood fringe area will be slightly reduced, thereby reducing the size of the flood hazard area. The proposed flood hazard area revisions affect the residents of Neptune Township and Monmouth County.

This redelineation will require no change in the text of N.J.A.C. 7:13-7.1(b), since only a revision of the flood hazard area delineation map is required. Review of maps and profiles associated with this map revision is recommended.

Social Impact

Regulation of delineated flood hazard areas is intended to preserve the flood carrying capacity of the waterway and surroundings and to minimize the threat to the public safety, health and general welfare. By delineating streams, the Department identifies the area subject to the New Jersey Flood Hazard Area Control Act and the rules promulgated pursuant thereto, N.J.A.C. 7:13. The proposed redelineation more accurately determines the area where flood protection measures will apply along Jumping Brook. No additional social impact will result beyond what was reasonably foreseeable at the time of the original delineation of Jumping Brook.

Economic Impact

The proposed redelineation will have a positive economic impact by reducing the area subject to Department regulation. Because the redelineation will result in a small reduction in the size of the flood hazard area within the Department's jurisdiction under the Flood Hazard Area Control Act, enhancement of property value could result by expanding the possibilities for development in the areas near Jumping Brook.

Environmental Impact

The delineation program identifies areas subject to the New Jersey Flood Hazard Area Control Act regulations. These rules restrict the scope of development within the delineated area in order to minimize flood damage to the area. This redelineation will have no adverse environmental impact as its purpose is to more accurately define the flood hazard area of Jumping Brook.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169), the Department has determined that this rule would not impose compliance, reporting or recordkeeping requirements on small businesses. The proposed redelineation is a clarification of the existing delineation and will result in a narrowing of the flood hazard area. Small business property owners whose property will no longer be in the flood hazard area will be positively affected, because the narrower flood hazard area may allow for additional development.

ENVIRONMENTAL PROTECTION

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AGENCY NOTE: Maps and associated flood profiles, showing the location of the redelineated flood hazard areas, may be reviewed at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, N.J., and at the Department of Environmental Protection, Bureau of Flood Plain Delineation, 1911 Princeton Avenue, Lawrenceville, N.J. In addition, maps of the proposed delineations have been sent to the Neptune Township Clerk and to the Monmouth County Planning Board.

(a)

**DIVISION OF ENVIRONMENTAL QUALITY
Worker and Community Right to Know Act
Environmental Hazardous Substance and Hazardous
Materials Lists
Comment Period Extension**

Take notice that the Department of Environmental Protection is extending until December 30, 1987, the period for submission of written comments on the proposed amendment of rules concerning the Environmental Hazardous Substance List and Hazardous Materials List, N.J.A.C. 7:1G-2.1, 2.2, 4.1 and 4.2, and the proposed repeal of the waiver regarding completion of the Emergency Services Information Survey, N.J.A.C. 7:1G-5.4. The original proposal to amend the two lists and to repeal the waiver provision was published on March 16, 1987 in the New Jersey Register at 19 N.J.R. 438(a). Please refer to the proposal for further information.

Interested persons may submit written comments on the proposed amendments and repeal to:

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

(b)

**Worker and Community Right to Know Act
Assessment of Civil Administrative Penalties
Comment Period Extension**

Take notice that the Department of Environmental Protection is extending until December 30, 1987, the period for submission of written comments on the proposed new rules, N.J.A.C. 7:1G-7, providing for the assessment of civil administrative penalties for violations of the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq., and the proposed amendments to N.J.A.C. 7:1G-3.2 and 5.2, which define the employer's existing obligation to submit clarifying information on completed surveys. The original proposal to adopt the rules concerning the assessment of civil administrative penalties and to amend the employer's obligation to provide clarifying information was published on May 4, 1987 in the New Jersey Register at 19 N.J.R. 703(a). Please refer to the proposal for further information.

Interested persons may submit written comments on the proposed new rules and proposed amendments to:

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

HIGHER EDUCATION

(c)

**BOARD OF DIRECTORS OF EDUCATIONAL
OPPORTUNITY FUND
Educational Opportunity Fund
Foreign Nationals
Dependent/Independent Student Defined
Proposed Amendments: N.J.A.C. 9:11-1.3 and 1.4**

Authorized By: T. Edward Hollander, Chairman, Board of Directors of the Educational Opportunity Fund.
Authority: N.J.S.A. 18A:71-33.
Proposal Number: PRN 1987-487.

Submit comments by January 6, 1988 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

The proposed amendment to N.J.A.C. 9:11-1.3 provides that certain eligible categories of aliens who obtain temporary resident status and are issued a Temporary Resident Card (Form I-688) will be considered eligible non-citizens and may be qualified to receive State student assistance under the programs administered by the Board of Directors of the Educational Opportunity Fund. This proposed amendment conforms with recent changes in the regulations governing federal student assistance programs.

Current provisions of the definition of an independent student require that students under 24 years of age who are not claimed as tax exemptions by their parents must demonstrate at least \$4,000 in income in order to establish their independent status. The proposed amendment to N.J.A.C. 9:11-1.4 contains a revision to this definition which changes the requirement from \$4,000 in "income" to \$4,000 in "resources" which permits students to include financial aid and in-kind resources in the calculation of total resources. Recently adopted new rule N.J.A.C. 9:11-1.4 appears in this issue of the New Jersey Register.

Social Impact

The proposed amendment to N.J.A.C. 9:11-1.3 allows for additional categories of eligible aliens who obtain a Temporary Resident Card to qualify for state financial assistance in pursuing an undergraduate education. This amendment conforms with changes in federal regulations, thus allowing institutions and students to focus on a uniform set of criteria in establishing eligibility for both state and federal aid.

The proposed amendment to N.J.A.C. 9:11-1.4 provides greater flexibility for those students under 24 years of age to meet the definition for independent student status in qualifying for state financial aid based on their own income and assets. This amendment conforms with changes in federal regulations, thus allowing institutions and students to focus on a uniform set of criteria relative to eligibility for both state and federal aid.

Economic Impact

The proposed amendment to N.J.A.C. 9:11-1.3 should not have any notable economic impact on state financial aid programs. Although the U.S. Department of Immigration and Naturalization Service was unable to provide any projections on the number of aliens in New Jersey who would be eligible for temporary resident status under this provision, New Jersey grant records identified only 29 students who were determined to be ineligible aliens during the 1986-87 academic year.

In November 1986, there were approximately 600 first-time freshmen New Jersey Financial Aid Form filers and 1,000 upperclassmen receiving state financial assistance who would no longer qualify as independent primarily as a result of the \$4,000 "income" requirement. The proposed amendment to N.J.A.C. 9:11-1.4 will permit many of these estimated 1,600 students to qualify for independent status who would have been unable to establish independent status under the original \$4,000 income provision.

Flexibility Statement

The proposed amendments do not require a regulatory flexibility analysis, since the amendments do not impose any compliance requirements on small businesses.

The proposed amendment to N.J.A.C. 9:11-1.3 only allows for certain categories of eligible aliens who obtain a Temporary Resident Card to qualify for state financial assistance.

The proposed amendment to N.J.A.C. 9:11-1.4 will permit students who would have otherwise been unable to establish independent status to now qualify as independent students for state financial assistance.

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

9:11-1.3 Foreign nationals

(a) A foreign national must present affirmative evidence that he or she is not in the United States for the temporary purpose of obtaining an education. Such evidence must include documentation from the United States Immigration and Naturalization Service that the student may remain permanently in this country and such evidence must be placed in the student's file. The student must:

1. Be the holder of an Alien Registration Receipt Card form I-151 or I-551; or
2. Be the holder of an approval notice from the Immigration and Naturalization Service form I-181 stating that the non-citizen has met the requirements for permanent resident status; or

3. Be a holder of a Temporary Resident Card form I-688 with a valid expiration date from the Immigration and Naturalization Service; or

[3.]4. Be the holder of an arrival departure record form I-94 endorsed by the Immigration and Naturalization Service showing one of the following:

- i.-ii. (No change.)
- iii. Employment Authorized and Adjustment Applicant: A [F]foreign [N]national holding form I-94 with this endorsement would normally meet the requirements of this regulation. However, if the institution has knowledge that the student is planning to leave the United States following the completion of his or her educational program, the Office of Student Assistance shall be notified and the award cancelled.

(b) Foreign nationals with student visa status, F1 or F2 [E]exchange visitor visa status of J1 or J2 visa status, even when stamped "employment authorized", or holders of form I-94 with one of the endorsements: "adjustment applicant," "245", "245 applicant", "applicant for permanent residence", "voluntary departure", and "deferred action", are considered to be in the United States for [the sole purpose of obtaining an education] temporary reasons and are therefore not eligible for student assistance.

9:11-1.4 Dependent/Independent student defined

(a) The term independent when used with respect to a student means any individual who:

1. Is 24 years of age or older by December 31 of the award year;
2. Meets the requirements of (b) below.

(b) Except as provided in (c) below, an individual meets the requirements of this subsection if such individual:

- 1.-5. (No change.)
6. Is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the two calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the two calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total [income] resource (including all sources of resources other than parents) of at least \$4,000; or

7. Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances. For the purpose[s] of receiving financial assistance under the E.O.F. Program as an independent student due to unusual circumstances, at least one the following criteria must be met:

- i. The student has been separated from his or her parents due to an unsafe home environment or has been institutionalized in a correctional facility. Documentation of such status must be received from a court, social service agency, or other similar source acceptable to the Executive Director of the E.O.F. Program[.];
- ii. The student is a recipient of either Aid to Families with Dependent Children (AFDC) or general assistance in his own name and complies with the provisions of (b)6 above except for the [income] resource requirement set forth therein;
- iii. The student is from a foreign country but has established permanent residency in the United States, is a refugee or has received political asylum, and complies with the provisions of subsection (b)6 above except for the [income] resource requirement set forth therein. For the purposes of eligibility under this subparagraph, the student's parents must reside outside of the United States[.];

iv. The student has been separated from his or her parents and comes from a documented background of historical poverty as set forth in N.J.A.C. 9:11-1.5, is living with another relative who is providing support to the student, and complies with the provisions of (b)6 above, except for the [income] resource requirement set forth therein[.];

v. The student was considered an independent student for the purposes of New Jersey state student assistance programs during the 1986-87 academic year, and complies with provisions of (b)6 above, except for the [income] resource requirement set forth therein. This provision will be effective for the 1987-88 academic year only[.];

vi. (No change.)

(c) An individual may not be treated as an independent student pursuant to (b)3, 4, and 6 above if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first [academic] calendar year of such award year.

(d)-(e) (No change.)

CORRECTIONS

(a)

THE COMMISSIONER

Classification Process

Discretion of Classification Committee; Factors to be Considered

Proposed Amendment: N.J.A.C. 10A:9-4.5

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1987-480.

Submit comments by January 6, 1988 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, N.J.A.C. 10A:9-4.5(b)6, adds an additional factor which relates to the best interests of the inmate or the safe and orderly operation of the correctional facility or the safety of the public at large or community to the number of factors to be considered by a Classification Committee when making decisions on reducing an inmate's custody status.

Social Impact

The proposed amendment will have no significant social impact because the amendment codifies a long standing administrative practice of considering the best interests of the inmate, the safe and orderly operation of the correctional facility and the safety of the general public or community when decisions on reducing the custody status of inmates are made.

Economic Impact

The proposed amendment will not have an economic impact because no additional costs are necessary to implement or maintain this rule.

Regulatory Flexibility Statement

The proposed amendment impacts on inmates and the Department of Corrections. Since small businesses are not affected by this amendment, a regulatory flexibility analysis is not required.

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

10A:9-4.5 Discretion of Classification Committees; factors to be considered

(a) (No change.)

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(b) In making decisions to reduce an inmate's custody status, Classification Committees shall take into consideration all relevant factors which, in their professional judgment, bear upon the inmate's suitability for reduced custody. These factors shall include, but not be limited to:

- 1.-3. (No change.)
4. Correctional facility adjustment; [and]
5. Reports from professional and custody staff[.]; and
6. **Any reason which, in the opinion of the Superintendent and Classification Committee, relates to the best interests of the inmate or the safe and orderly operation of the correctional facility or the safety of the public at large or community.**

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

INSURANCE

The following proposals are authorized by Kenneth D. Merin, Commissioner, Department of Insurance.

Submit comments by January 6, 1988 to:
Verice M. Mason, Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
CN 325
Trenton, New Jersey 08625

DIVISION OF ADMINISTRATION

(a)

Official Department Mailing List: Address Information

Re-Proposed New Rules: N.J.A.C. 11:1-25.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:16A-13, 17:22-6.45, 17:23-1, 17:35-8, 17:35-19, 17:44A-34, 17:45-12, 17:46A-7, 17:46B-55, 17:46C-9, 17:48-11, 17:48A-15, 17:48C-26, 17:48D-13, 17:48E-36, 17:50-8 and 17B:21-1.

Proposal Number: PRN 1987-502.

The agency proposal follows:

Summary

In performing many of the regulatory functions that are required or authorized by the insurance laws, the Department frequently directs mailings of various types to insurers and other regulated entities, such as dental plan organizations, doing business in this State. Department mailings may be directed to all insurers or other regulated entities, or to selected segments of the industry, and may include, but are not limited to, administrative orders, bulletins, licensing matters, informational requests and the like.

Over the years, the Department has compiled various mailing lists of insurers and regulated entities for these purposes and has experienced occasional difficulties due to inaccurate or outdated address information. In an attempt to alleviate these difficulties, the Department of Insurance proposed new rules, N.J.A.C. 11:1-25, which appeared in the New Jersey Register on June 15, 1987 at 19 N.J.R. 1050(b). The new rules sought to establish an accurate mailing list to be used for certain Department mailings and required notice of changes of address information within a specified time frame.

Public comments on the June 15, 1987 proposal were received by the Department. These concerns were carefully reviewed and analyzed. In consideration of the concerns expressed and after extensive internal review, the Department has made substantive changes to the original proposal which require new public notice and comment. This reproposal reflects those changes and supersedes the original proposal.

N.J.A.C. 11:1-25.1 of the repropoed new rule provides a purpose statement and N.J.A.C. 11:1-25.2 sets forth the scope of the repropoed new rules, which was expanded to include three additional statutory citations which require legal entities to file annual financial information.

As originally proposed, N.J.A.C. 11:1-25.3 provided that an insurer's or other regulated entity's mailing address, as supplied on an annual statement or report filed pursuant to the respective insurance laws, shall be designated as the official mailing address for such insurer or entity for many of the Department's mailing purposes. The original proposed new rule further required that if there were a change in the mailing address

during the course of the year or, with respect to surplus lines insurers, any time after the initial submission of the annual statement as provided at N.J.S.A. 17:22-6.45, the insurer or entity must notify the Department of such change within 30 days from the date the change became effective.

N.J.A.C. 11:1-25.3 as repropoed provides that the basis for the Department's official mailing list shall be the mailing address information as provided in the 1985 annual financial statement or report filed by the insurer or other regulated entity and any subsequent notifications of change in address provided to the Department by the insurer or other regulated entity. The repropoed new rule also specifies that if an insurer's or other regulated entity's mailing address is different on its 1985 annual financial statement or report than on its 1986 statement or report and the Department has not been otherwise notified of the change, the insurer or other entity shall notify the Department of the change immediately.

This repropoed new rule also changes the time frame in which the Department must be notified of a change in address from 30 days to 10 days and adds two new subsections to N.J.A.C. 11:1-25.3. Subsection (c) provides that information mailed to the official mailing address will be addressed to the secretary of the company so as to expedite the distribution of such to the appropriate persons. Subsection (d) provides that unless the Department is notified of a change in accordance with the provisions of this rule, the mailing address last provided to the Department pursuant to this rule will be deemed correct and any communications mailed to such address will be deemed properly mailed and received.

Lastly, N.J.A.C. 11:1-25.4, repropoed as it was originally proposed, provides for the imposition of penalties for failure to comply with the requirements of the subchapter.

Social Impact

The proposed new rules benefit insurers and other regulated entities by ensuring that Department mailings are received at their current mailing addresses and by the appropriate persons, thus keeping them abreast of disseminated Department information. The proposed new rules benefit the Department by ensuring the accurate distribution of its mailings, thereby enhancing the performance of the Department's regulatory and enforcement activities.

Economic Impact

The proposed new rules will not have any significant economic impact on those entities subject to the rules. The expense associated with notifying the Department of a change in the mailing address will be minimal. Expenses incurred by the Department in updating its records to reflect address changes will be absorbed by the general operating budget.

Regulatory Flexibility Statement

Of the entities to be regulated by these proposed new rules, it is estimated that only a very small number are small businesses, as defined in the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169.

The proposed new rules impose only minimal compliance requirements on small businesses by requiring them to notify the Department of any change in their mailing address within 10 days from the date the change became effective. Since any small business is only required to notify the Department of the above, there are no initial capital costs or annual costs involved with complying with these rules. The only costs which may be incurred are those associated with notifying the Department of the required information, and such costs should be minimal.

Full text of the proposed new rules follows.

SUBCHAPTER 25. OFFICIAL DEPARTMENT MAILING LIST: ADDRESS INFORMATION

11:1-25.1 Purpose

The purpose of this subchapter is to ensure that the Department's official mailing address records remain accurate and updated at all times and thereby maximize the use of Department resources and the effectiveness of Department mailings.

11:1-25.2 Scope

This subchapter shall apply to any person, partnership, corporation or any other legal entity that is required to submit an annual financial statement or report to the Commissioner pursuant to any of the following: N.J.S.A. 17:16A-13, 17:22-6.45, 17:23-1, 17:35-8, 17:35-19, 17:44A-34, 17:45-12, 17:46A-7, 17:46B-55, 17:46C-9, 17:48-11, 17:48A-15, 17:48C-26, 17:48D-13, 17:48E-36, 17:50-8 or 17B:21-1.

11:1-25.3 Official mailing list; change in address information

(a) For the purpose of disseminating Department information, including but not limited to, bulletins, certificates of authority, orders to show cause, administrative orders, and public notices, the Department's official mailing list shall be based upon the mailing address information as provided in the 1985 annual financial statement or report filed pursuant to the respective insurance laws requiring such, as set forth above at N.J.A.C. 11:1-25.2. The mailing address provided in the 1985 annual financial statement or report shall be deemed the official mailing address of the person, partnership, corporation or other legal entity which filed such statement or report, unless the Department has been specifically notified otherwise of a change in the mailing address. In such cases, the mailing address the Department has been notified of shall be deemed the official mailing address.

1. In cases where no mailing address is designated, the home address as provided in the 1985 annual financial statement or report filed shall be deemed the official mailing address of the person, partnership, corporation or other legal entity which filed such statement or report, unless the Department has been specifically notified otherwise of a change in the home address. In such cases, the home address the Department has been notified of shall be deemed the official mailing address.

2. If an insurer's or other regulated entity's mailing address, or home address if applicable, is different on the 1985 annual financial statement or report than on the 1986 annual financial statement or report and the Department has not otherwise been specifically notified of such change, the insurer or other regulated entity shall notify the Department in writing of the address change, within 10 days of the effective date of this subchapter, by sending the notification to the Department at the address set forth in (b) below.

(b) Upon any change in the mailing address, or home address if applicable, the insurer or other regulated entity shall notify the Department in writing of such change no later than 10 days from the date the new address became effective. All address change notifications shall be sent to:

Supervisor of Insurance Reports
Division of Financial Examinations
New Jersey Department of Insurance
CN 325
Trenton, New Jersey 08625

(c) Department information, as defined in subsection (a) above, shall be addressed to the secretary of the company and mailed to the official mailing address.

(d) Unless the Department is notified otherwise in accordance with the above provisions, the mailing address last provided to the Department pursuant to this rule shall be deemed correct and any communications mailed to such shall be deemed properly mailed and received.

11:1-25.4 Penalties

Failure to comply with the provisions of this subchapter shall constitute a violation of the insurance laws of this State and may result in the imposition of any penalties authorized by law.

(a)

**Automobile Insurance
Coverage Option Survey: Personal Injury Protection
and Tort Threshold Options**

Proposed Amendment: N.J.A.C. 11:3-22.3

Authority: N.J.S.A. 17:1C-6(e), 17:1-8.1, 17:28-1 et seq. and 39:6A-1 et seq.

Proposal Number: PRN 1987-503.

The agency proposal follows:

Summary

N.J.A.C. 11:3-22.3 provides procedural requirements with respect to the submission of the coverage option survey. Currently, N.J.A.C. 11:3-22.3(a) requires insurers to report coverage option selections based on the number of automobiles with insurance coverage in force as of

January 31 and July 31 of each year. The proposed amendment merely changes the reporting dates from January 31 to December 31 and from July 31 to June 30 of each year so as to coordinate those dates with the calendar year.

By changing the reporting dates, it is also necessary to change the survey filing dates set forth at N.J.A.C. 11:3-22.3(b). The proposed amendment changes these dates as follows: the surveys reporting as of December 31 shall be filed by January 21 and the surveys reporting as of June 30 shall be filed by July 22 of each year.

Lastly, as a result of the proposed amendments, Coverage Option Survey Forms A and B, which are appended to the subchapter, must also be revised to reflect the proposed December/June dates rather than the current January/July dates.

Social Impact

The proposed amendments will not create any social impact different than that caused by the original promulgation of the rule. The amendment will simply require insurers to file surveys one month earlier than is currently required.

Economic Impact

The proposed amendments are not expected to result in any economic impact to the insurers since they are already required to submit the coverage option surveys twice a year. The proposed amendments only require them to file such surveys one month earlier than is presently required. In the same vein, the Department is not expected to experience any economic impact as a result of the proposed amendments since it has already been receiving and reviewing these surveys on a semi-annual basis.

Regulatory Flexibility Statement

Some insurers affected by these proposed amendments may be small businesses as that term is defined in the Regulatory Flexibility Act, P.L. 1986, c.169. However, the proposed amendments are not expected to have any impact upon small businesses since the current rule already requires them to submit the coverage option surveys semi-annually. The proposed amendments only require such surveys be filed one month earlier than is presently required.

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

11:3-22.3 Coverage option survey requirements

(a) Every automobile insurer, on a biannual basis, shall complete and file with the Commissioner the coverage option survey required by this subchapter. The insurer's biannual survey shall reflect the total number of automobiles with in force coverage as of [January] **December 31** and as of [July 31] **June 30** of each year, and shall indicate the personal injury protection and tort threshold options selected with respect to each such automobile. Insurers shall use forms A and B, appended to this subchapter, to report the information required by this section.

(b) Survey forms reflecting coverage option selections as of [January] **December 31** of each year shall be filed with the Commissioner by [February] **January 21** of that year. Survey forms reflecting coverage option selections as of [July 31] **June 30** of each year shall be filed with the Commissioner by [August] **July 22** of that year.

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

Form A

STATE OF NEW JERSEY—DEPARTMENT OF INSURANCE
AUTOMOBILE INSURANCE COVERAGE OPTION SURVEY

Company/Group: _____

Total Number of Automobiles with Insurance Policy Coverage in Force as of [(January or July) 31, 19] **December 31 or June 30, 19__**.

Options	Number of Automobiles
PIP Coverages for Medical Expense Only	_____
PIP Medical Expense Benefit Deductibles:	
\$ 500	_____
\$1,000	_____
\$2,500	_____
No deductible	_____

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Reimbursement to Insurance Company of
PIP Medical Expenses up to 20% of
Non-Economic Loss _____
Tort Threshold _____
\$ 200 _____
†Threshold Index amount _____

†Note: Due to the inflation index, the tort threshold amount is subject to change on January 1 of each year.

Form B
STATE OF NEW JERSEY—DEPARTMENT OF INSURANCE
AUTOMOBILE INSURANCE COVERAGE OPTION SURVEY

Company/Group: _____

Number of Automobiles with Insurance Coverage in Force as of [(January or July 31, 19__)]
December 31 or June 30, 19__.

P.I.P. Deductible	Set Off	Full P.I.P. with Tort Threshold of:		Medical P.I.P. Only with Tort Threshold of:	
		\$200	Threshold Index Amount†	\$200	Threshold Index Amount†
0	With Without				
\$ 500	With Without				
\$1,000	With Without				
\$2,500	With Without				

†Note: Due to the inflation index, the tort threshold amount is subject to change on January 1 of each year.

(a)

DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION

Obligations of Licensees to the Public and to Each Other

Notice of Public Hearings

Rule Pre-Proposal: N.J.A.C. 11:5-1.23(a) and (b)—Obligations of Licensees to Disclose Information Concerning a Property's Proximity to a Known and/or Suspected Environmental Hazard and a Property's Having Been Previously Inhabited by a Person Afflicted with Acquired Immune Deficiency Syndrome

Rule Pre-Proposal: N.J.A.C. 11:5-1.23(d)—Submission of All Written Offers to Principals

Take notice that the New Jersey Real Estate Commission will conduct a public hearing on the need for amendments to N.J.A.C. 11:5-1.23(a) and (b) to establish what a licensee's minimum obligations are regarding the disclosure of information about a property's proximity to a known and/or suspected environmental hazard or its having been inhabited by a victim of Acquired Immune Deficiency Syndrome (AIDS).

The Commission is desirous of receiving testimony from environmental and health experts, a representative of the Office of the Public Advocate, and from other interested parties in addition to the testimony of licensees.

A public hearing concerning the need for amendments to N.J.A.C. 11:5-1.23(a) and (b) (Disclosure obligations) will be held on:

January 26, 1988 from 9:30 A.M. to 12:30 P.M.
Student Center Theatre, Rider College
Route 206
South Lawrenceville, New Jersey

Take further notice that the New Jersey Real Estate Commission will also conduct a public hearing concerning the need for an amend-

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ment to N.J.A.C. 11:5-1.23(d) to establish when, if ever, after a contract for the sale of real property has been fully executed and accepted by all parties, the obligation to continue to present to the seller written offers submitted to the licensee by other prospective purchasers ceases.

A public hearing concerning the need for amendments to N.J.A.C. 11:5-1.23(d) (submission of offers) will be held on:

January 26, 1988 at 1:30 P.M.
Student Center Theatre, Rider College
Route 206
South Lawrenceville, New Jersey

Persons interested in testifying at either or both hearings who will be unable to attend the hearing may submit written statements by January 26, 1988. Those comments should be addressed to:

New Jersey Real Estate Commission
CN-325
Trenton, New Jersey 08625
Attention: Robert J. Melillo
Special Assistant to the Director

LABOR

The following proposals are authorized by Charles Serrano, Commissioner, Department of Labor.

(b)

DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY INSURANCE

Certificate of Approval of Private Plan

Proposed Amendment: N.J.A.C. 12:18-2.13

Authority: N.J.S.A. 43:21-25 et seq.

Proposal Number: PRN 1987-495.

Submit comments by January 6, 1988 to:
Frederick C. Kniesler, Assistant Commissioner
Office of Income Security
Department of Labor, Room 602
John Fitch Plaza
Trenton, N.J. 08625

The Agency proposal follows:

Summary

Under the Temporary Disability Benefits Law (N.J.S.A. 43:21-25 et seq.) employers may choose between State plan or private plan coverage. Coverage under the State Plan Program is automatically provided, unless private plan coverage is requested and approved by the Division of Unemployment and Temporary Disability Insurance. N.J.S.A. 43:21-32 provides in part . . . "Each such private plan shall be submitted in detail to the Division of Employment Security and shall be approved by the Division, to take effect as of the first day of the calendar quarter next following, or as of an earlier date if requested by the employer and approved by the Division . . .".

The proposed amendment to N.J.A.C. 12:18-2.13 specifies the circumstances under which approval of a private plan will be granted at an earlier date than the first day of the calendar quarter next following. Under this amendment the Division has established three criteria by which retroactive approval may be granted. These are: Plan changes resulting from labor management negotiations; successions from an employer with an existing private plan, and a newly formed subsidiary of an employer with an existing private plan.

Social Impact

The proposed amendment will provide clear and specific guidelines to employers, insurers, and workers concerning the retroactive approval process for private plans under the Temporary Disability Benefits Law.

Continuity of the source of benefits will be afforded to workers covered by a Private Plan when a successor takes over their employing organization, while those working for an employer going from State Plan to Private Plan coverage will have a definite changeover date.

Economic Impact

The proposal should have no direct economic impact on employers, insurers, or employees.

Regulatory Flexibility Statement

The impact of this rule on small businesses will be the same as for businesses not covered under the Regulatory Flexibility Act, P.L. 1986, c.169. Under this rule, all employers covered under the Temporary Disability Benefits Law will have specific guidelines concerning the exact conditions necessary for retroactive approval of a private plan. There are no additional reporting or recordkeeping requirements imposed on small businesses.

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

12:18-2.13 Certificate of Approval; effective date

(a) The Division shall issue a "Certificate of Approval of Private Plan" [(Form DP5)] which shall constitute evidence of approval of the plan by the Division.

(b) The private plan shall take effect on the first day of the calendar quarter next following approval date [or at such other date as may be requested by the employer and approved by the Division]. **If the employer requests that the plan or transfer be effective prior to that calendar quarter, the Division may grant approval only if it finds that the plan:**

1. **Is the result of an agreement contained in a labor-management contract; or**
2. **Covers a newly formed subsidiary of an employer with an existing private plan; or**
3. **Is the result of a succession from an employer with an existing private plan. As provided in N.J.S.A. 43:21-7(c)(7)(A), a successor in interest is an entity that acquires the organization, trade, or business, or substantially all the assets of an employer, whether by merger, consolidation, sale, transfer, descent, or otherwise.**

(a)

DIVISION OF WORKPLACE STANDARDS

**Safety and Health for Public Employees
Benzene**

Proposed Amendments: N.J.A.C. 12:100-4.2

Authority: N.J.S.A. 34:6A-25 et seq., specifically 34:6A-30; 29 CFR Part 1910.

Proposal Number: PRN 1987-481.

Submit comments by January 6, 1988 to:

William J. Clark, Assistant Commissioner
Division of Workplace Standards
New Jersey Department of Labor
CN 054
Trenton, New Jersey 08625-0054

The agency proposal follows:

Summary

The Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq., requires the Department of Labor to establish health and safety standards for public employees.

On November 5, 1984, rules were promulgated by the Commissioner which adopted the Federal Occupational Safety and Health Administration (OSHA) standards by reference in N.J.A.C. 12:100, Safety and Health Standards for Public Employees.

On September 11, 1987, the Federal Occupational Safety and Health Administration issued a final rule on benzene which becomes effective on December 10, 1987. This final rule on benzene was published in the Federal Register of Friday, September 11, 1987.

The amendments to 29 CFR Part 1910 are as follows:

1. A new paragraph (i) was added to section 1910.19 stating that the new section 1910.1028 applies to the exposure to benzene in every employment including construction work;
2. A footnote 1 was added to the entry "Benzene" in Table 2-2 of Section 1910.1000; and
3. A new section 1910.1028 and Appendices A, B, C, D and E were added to Subpart Z of 29 CFR Part 1910.

This standard, 29 CFR Part 1910.1028, Benzene addresses all occupational exposure to benzene. The standard lowers the 8-hour time-weighted average (TWA) for occupational exposure to benzene from 10 parts per million (ppm) to 1 ppm and the short term exposure limit (STEL) from 25 ppm to 5 ppm. Important industrial hygiene provisions are incorporated in the rule including monitoring, engineering controls, respiratory protection, medical surveillance, and hazard communication. The section consists of 14 paragraphs and five appendices as follows:

Paragraphs

- (a) Scope and application
- (b) Definitions
- (c) Permissible exposure limits
- (d) Regulated areas
- (e) Exposure monitoring
- (f) Methods of compliance
- (g) Respiratory protection
- (h) Protective clothing and equipment
- (i) Medical surveillance
- (j) Communication of benzene hazards to employees
- (k) Recordkeeping
- (l) Observation of monitoring
- (m) Dates
- (n) Appendices

Appendices

- A. Substance Safety Data Sheet, Benzene
- B. Substance Technical Guidelines, Benzene
- C. Medical Surveillance Guidelines for Benzene
- D. Sampling and Analytical Methods for Benzene Monitoring and Measurement Procedures
- E. Qualitative and Quantitative Fit Testing Procedures.

N.J.S.A. 34:6A-30 states, in part:

"... the Commissioner shall provide, at the minimum, for the adoption of all applicable occupational health and safety standards, amendments or changes adopted or recognized by the Secretary under the authority of the Occupational Safety and Health Act of 1970."

This final Federal rule is an amendment as described above and is the rule which the Division of Workplace Standards of the Department of Labor proposes to adopt into the State rules reference. This new Federal rule, 29 CFR Part 1910.1028, Benzene can be adopted by reference by amending N.J.A.C. 12:100-4.2(a).

It should be noted that paragraph (m) of 29 CFR 1910.1028 addresses an effective date and start-up dates. These dates represent implementation dates set by the United States Department of Labor for the protection of employees in the private sector by private employers. The effective date of this amendment in the State program and to public employers and public employees will be the date the adoption notice of this amendment is published in the New Jersey Register.

Social Impact

This amendment will protect the health, safety and welfare of public employees handling benzene. There exists sufficient documented scientific information that exposure at concentrations above the permissible exposure limits is associated with occupational disease and ill-health symptoms.

Implementation of this amendment will reduce illness occurring among public employees. The proposal will improve working conditions, reduce time lost because of exposure to benzene, and it will enhance the welfare and morale of public employees affected.

Economic Impact

Compliance with this amendment will impose some increased costs on public employers. However, the use of benzene by public employees is not widespread and many substitutions can be made with other solvents to obtain the same result that benzene produces.

Regulatory Flexibility Statement

Since only public employers in the State of New Jersey will be affected by the proposed amendment, the proposal does not impact on small businesses and a regulatory flexibility analysis is not required.

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

12:100-4.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1910, General Industry Standards [in effect on December 19, 1986] with all amendments published in the Federal Register through September 11, 1987 are adopted as occupational safety and health standards for the protection of public employees engaged in general operations and shall include:

- 1.-18. (No change.)
- 19. Subpart Z—Toxic and Hazardous Substances
 - i. (No change.)
 - (b)-(c) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: N.J.A.C. 12:100-4.2(a)19 was erroneously omitted from the Adoption Notice appearing in the October 19, 1987 issue of the New Jersey Register at 19 N.J.R. 1909(a).

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF ACCOUNTANCY

Quality Enhancement Program

Proposed New Rules: N.J.A.C. 13:29-5.1 through 13:29-5.9

Authorized By: Jerry Tobin, President, State Board of Accountancy.

Authority: N.J.S.A. 45:2B-1 et seq., specifically 45:2B-6(g).

Proposal Number: PRN 1987-500.

Submit comments by January 6, 1988 to:
John J. Meade, Executive Director
State Board of Accountancy
1100 Raymond Boulevard, Room 507A
Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed new rules create a Quality Enhancement Review (Q.E.) program within the State Board of Accountancy. All practice units (sole practitioners or firms) would be subject to periodic review of a sample of their audit and other work to determine whether they are in general compliance with Generally Accepted Accounting Principles and Auditing Standards ("GAAP" and "GAAS").

The Board of Accountancy has approved a procedures manual which provides detail for the operation of the Q.E. program. The Board would hire a small number of new staff members for administrative work, and would utilize volunteers from among the State's licensed CPAs and public accountants to actually review the samples of work submitted by the licensees. The proposed rules set forth the mechanism for preserving confidentiality as to the identity, etc. of the entity on whom the practice unit issued the report being reviewed.

The Quality Enhancement Committee will conduct the program on behalf of the Board. It will comprise five licensees, of whom at least two will be Board members. The Committee members will include at least one public accountant, one certified public accountant, and one registered municipal accountant. The Q.E. Committee will be a standing committee of the Board. It will have authority to recommend that a practice unit found to have issued a report which is marginal or substandard in respect to its compliance with the requirements of "GAAS" and "GAAP" undertake certain remedial measures. The Board will have authority to take action in particularly egregious cases.

Practice units will have an opportunity to submit written comments on the reviewers' evaluations prior to the time that the Committee sends its recommendation of remedial action. In certain cases, there is a right to appeal to the Board. Failure to comply with the recommendations could be grounds for disciplinary action by the Board.

The purpose of the Q.E. program is to improve the quality of accounting practice in this State, and its success will depend in large measures upon voluntary compliance.

Social Impact

It is expected that the impact on the consuming public will be positive in that the quality of accounting work and reporting will improve and grossly incompetent practitioners will be detected.

Economic Impact

The economic impact will fall on the Board of Accountancy. It will have to hire several persons to run the administrative end of the Quality Enhancement Review program, and it will incur significant expenses in the area of paper, postage and photocopying. At the present time it does not appear that fees will have to be increased to accommodate the anticipated expenditures.

Regulatory Flexibility Statement

This proposal impacts on all accountancy practice units, which are defined as all firms whether sole practitioner, partnership or professional service corporation. Among these will be small businesses as defined in the Regulatory Flexibility Act, P.L. 1986, c.169 §2.

Approximately every three years, a practice unit may be subject to a quality review. The Quality Enhancement Committee of the Board of Accountancy will select the practice units to be reviewed in any given year from a schedule used by the Committee and from data reported by practice units on questionnaires. If a practice unit is selected for review, it will submit to the Committee the requested number of copies of specified types of reports. "Reports" includes financial statements, accountants' reports, compilations, reviews and audits.

Pursuant to N.J.A.C. 13:29-5.7(b), the Committee may recommend that a practice unit implement planned quality control procedures, to wit, continuing professional education, submitting certain future reports to a pre-issuance review, or submit to another Quality Enhancement Review pursuant to the rule. The Committee may recommend that the Board direct a field review of the workpapers, or that the Board direct the licensee, office or practice unit to undertake any of a variety of corrective or remedial measures.

There is no feasible way to delineate between small and large firms and between firms and sole practitioners for purposes of this program. It may be that the rule will have a disproportionate impact on a sole practitioner because, by comparison with a large firm, a greater percentage of his or her reports may be reviewed over the course of time. The Board is of the belief that the only feasible way to administer this program is to do it on the basis of practice units.

With this exception, the recordkeeping and reporting requirements will not be substantial (for example, filling out questionnaires from time to time and making up samples of reports for submission to the Committee) or disparate. Only in cases of marginal or substandard reports, as set forth in N.J.A.C. 13:29-5.7(b) might the practice unit be required to expend significant time, effort or expense for remedial purposes.

Compliance with the requirements of the Q.E. program, with no exceptions, is considered crucial by the Board in its effort to carry out the mandate of N.J.S.A. 45:2B-2.

Full text of the proposed new rules follows.

SUBCHAPTER 5. QUALITY ENHANCEMENT PROGRAM

13:29-5.1 Purpose and scope

There is hereby established a Quality Enhancement Program (Program). The purpose of the Program is to improve the quality of financial reporting and to promote the fairness of presentation and the dependability of information on which the public relies for guidance in financial transactions, accounting and business performance. The Program emphasizes education and rehabilitation rather than disciplinary action. Appropriate educational programs or procedures will ordinarily be recommended or required where reporting does not comply with appropriate professional standards. However, when a licensee is unwilling or unable to comply with those standards, or a licensee's professional work is so egregious as to warrant disciplinary action, the Board may resort to such action as is appropriate to protect the public interest.

13:29-5.2 Definitions

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

"Practice Unit" means each office of a sole practitioner or firm registered under N.J.S.A. 45:2B-17.

"Report" includes financial statement and accountants' reports, compilation, review or audit.

13:29-5.3 Quality Enhancement Committee; members; duties; compensation

(a) The Director of the Division of Consumer Affairs shall annually appoint a Standing Committee to be known as the Quality Enhancement Committee (Committee) to assist the Board in the implementation and administration of the Program:

1. The Director shall receive for consideration nominees from the Board of Accountancy, and shall make the appointments in consultation with the Board;

2. The Committee will consist of no fewer than five members, all of whom must be licensees and holders of currently valid registrations issued under N.J.S.A. 45:2B-8, 13 or 33;

3. At least one member of the Committee shall be a Certified Public Accountant, at least one shall be a Licensed Public Accountant, and at least one shall be a Registered Municipal Accountant. At least two committee members will also be members of the State Board of Accountancy.

(b) The Committee's responsibilities shall include:

1. Developing procedures for the internal operation of the Board staff and of the Committee;

2. Assisting the Board in the selection and training of volunteer reviewers;

3. Developing criteria for assignment of volunteer reviewers to specific report reviews, taking into account such criteria as the Board determines appropriate;

4. Developing and recommending to the Board a system for selection of reports to be reviewed;

5. Evaluating the findings of the volunteer reviewers, assigning certain reports for field workpaper reviews upon directive by the Board, and making final recommendations to the Board;

6. Compiling and reporting to the Board statistics on the impact and effect of the Program; and

7. Considering such other matters and performing such other duties regarding the Program as may be delegated to it by the Board from time to time.

(c) Committee members shall be compensated on a per diem basis at a rate as determined by the Attorney General, such compensation to be drawn from current license and registration fees.

13:29-5.4 Reports to be furnished at request of Committee

(a) In accordance with a schedule to be set by the Committee, each practice unit shall complete a questionnaire indicating:

1. The number of audit, review and compilation reports issued by the practice unit during the most recent twelve-month period prior to renewal of registration;

2. Whether it has undergone any change of ownership or composition; and

3. Whether it has undergone another type of quality review within the three years prior to the most recent renewal of registration.

(b) Based upon the information contained in the questionnaires in (a) above, the Committee shall select practice units for report review. The practice units so selected shall then submit copies of those types of reports issued by the practice unit requested by the Committee.

(c) The Committee may also review financial statements and related reports of practice units submitted to it by the Board or by government or public agencies.

13:29-5.5 Exceptions

A practice unit which within the three years immediately preceding selection by the Committee pursuant to N.J.A.C. 13:29-5.4 had been subjected to a quality review acceptable to the Board may be excepted from the requirements of N.J.A.C. 13:29-5.4 above; provided, however, that a copy of the report of such quality review is submitted upon request by the Committee.

13:29-5.6 Confidentiality

(a) Any documents submitted in accordance with N.J.A.C. 13:29-5.4 shall have deleted the name of the client, the client's address and other identifying factors, provided that the deletion does not render the type or nature of the enterprise undeterminable:

1. For example, the client name, address, or federal identification number shall be deleted, but reference to the type of organization,

such as financial institution, school district, hospital, etc., shall be indicated.

(b) The identities of persons or entities who submit financial statements and reports to the Board or the Committee, other than the licensees who issued the reports, shall be preserved in confidence unless expressly ordered by the Board.

13:29-5.7 Review and evaluation of submitted reports

(a) The Committee shall determine, with respect to each report that it reviews:

1. Whether the report is in general conformity with applicable professional standards;

2. If not, in what respects the report is substandard or seriously deficient; and

3. Any recommendations the Committee may have concerning possible improvement of the quality of the report, and it shall report its determinations and recommendations to the Board. Reports shall be classified as: acceptable, marginal or substandard.

i. Acceptable reports contain no deficiencies, or only minor deficiencies;

ii. Marginal reports contain more serious deficiencies such as departures from technical reporting or accounting standards, but of the type that will not render the reports materially inaccurate or misleading; and

iii. Substandard reports are materially inaccurate or misleading. These reports violate one or more significant reporting standards, seriously depart from Generally Accepted Accounting Principles or Auditing Standards, or omit material disclosures necessary for a fair presentation.

13:29-5.8 Committee action on reviewed reports

(a) In any case where the Committee has determined that a report is in general conformity with applicable professional standards, the Committee's determination and recommendations, if any, shall be sent to the person in charge of the office which submitted the report.

(b) In cases where the Committee determines that a report is marginal or substandard with respect to applicable professional standards, the Committee shall submit to the practice unit a letter of comment detailing the perceived deficiencies noted in connection with the review.

1. Any practice unit which receives a letter of comment pursuant to (b) above shall have 30 days in which to respond in writing. The Committee shall review all such responses, if received in a timely fashion, prior to recommending corrective measures.

2. In cases where the Committee has determined that a report is marginal or substandard, and following receipt and review of the practice unit's response, if any, to the letter of comment, the Committee may recommend that the practice unit implement planned quality control procedures, as follows:

i. The Committee may recommend that the individual licensee who had responsibility for issuance of the report or who substantially participated in preparation of the report or the related workpapers, successfully complete specific courses or types of continuing education at his or her own expense.

ii. The Committee may recommend that the office responsible for the report submit all or specified categories of its reports to a pre-issuance review in a manner and for a period prescribed by the Committee.

iii. The Committee may recommend that the office or the practice unit responsible for the report submit to another Quality Enhancement Review pursuant to this rule.

3. In cases where the Committee has determined that a report is substandard, the following receipt and review of the practice unit's response, if any, to the letter of comment, the Committee may take any of the following actions in addition to those set forth in (b)2 above:

i. Recommend to the Board that it direct that a field review which includes a review of the workpapers be conducted by a reviewer employed by the Board.

ii. Recommend that the Board require that the individual licensee, office or practice unit responsible for the issuance of the substandard report undertake any of a variety of measures, as determined by the

Board, intended to improve the quality of reporting by the practice unit.

(c) In any case where the Board requires that a licensee or practice unit responsible for the issuance of a report containing substandard deficiencies undertake a measure which would impose substantial burdens on the professional practice, the practice unit affected shall have the right to a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(d) Failure to comply with the recommendations of the Committee pursuant to (b) above may cause the Committee to recommend to the Board that it initiate appropriate disciplinary action against the individual licensee or practice unit pursuant to N.J.S.A. 45:1-14 et seq. and N.J.S.A. 45:2B-1 et seq.

(e) The State Board of Accountancy reserves the right to take any action it deems necessary if it appears that the professional conduct reflected in the substandard report is so serious as to warrant consideration of possible disciplinary action.

13:29-5.9 Reports and reviews not public records

(a) Reports submitted by practice units for review in accordance with this subchapter shall not be deemed to be public records and are not required to be disclosed under the Public Records Disclosure Act, N.J.S.A. 47:1A-1 et seq.

(b) Comments of reviewers, the Committee and the Board on reports submitted by practice units or workpapers relating thereto, as well as review results are deemed not to be public records and shall not be released to anyone other than the practice unit being reviewed, the Attorney General or his designee, or a Board representative.

(a)

STATE BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS AND OPHTHALMIC TECHNICIANS Fee Schedule

Proposed Amendment: N.J.A.C. 13:33-1.41

Authorized By: Robert C. Troast, President, Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians.

Authority: N.J.S.A. 52:17B-41.13 and 45:1-3.2.

Proposal Number: PRN 1987-497.

Submit comments by January 6, 1988 to:
 Jan C. Gavzy, Executive Director
 State Board of Examiners of Ophthalmic
 Dispensers and Ophthalmic Technicians
 1100 Raymond Boulevard, Room 501
 Newark, New Jersey 07102

The agency proposal follows:

Summary

This proposed amendment would amend the Board's fee schedule by increasing the fees charged to ophthalmic dispensers and technicians for examinations, re-examinations, licenses (individual and branch) and permits. This increase in fees will be used to cover the expenses of The Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians in administering and regulating all aspects of the field.

Pursuant to N.J.S.A. 45:1-3.2, the Board must set a fee schedule to defray all proper expenses incurred by the Board in the performance of its duties without raising amounts in excess. The current Board fees have been in effect since 1984. Costs have increased in the areas of salaries, investigation of consumer complaints, administering of Board examinations and the administering of the apprentice program with new educational requirements.

The sums provided by this fee increase will allow the Board to continue to grant licenses by effective administration and to demand and enforce compliance with established standards.

Social Impact

The amendment of N.J.A.C. 13:33-1.41 will allow the Board to administer its tasks without a financial loss, thereby continuing to allow for the control by licensure of ophthalmic dispensers and technicians. The fee increases will affect all licensees at the same time. The public as well as licensees is intended to benefit from the easing of administrative pressures currently attributed to inadequate revenue.

Economic Impact

Although an increase in fees will have a direct negative impact upon licensees by requiring them to remit an increased sum in order to achieve or continue their licensure, the rationale for such impact is obvious in its direct relationship to covering actual administrative costs. This is due to the fact that despite rises in costs and overall inflation, the current fees have been in effect without change since 1984. The economic impact of the proposed amendment is intended to be positive upon the administrative and operating budget in that the proposed fee structure will be adequate to cover actual expenses.

Regulatory Flexibility Statement

The proposal establishes fee requirements for licensure and other Board activities, and as such does not impose reporting, recordkeeping, or other compliance requirements. To the extent that a fee may constitute a "compliance requirement" within the meaning of P.L. 1986, c.169, Sec. 4, the following statement is offered.

At present there are approximately 2,045 licensees (ophthalmic dispensers and ophthalmic technicians) regulated by the Board. Virtually all licensees employ less than 100 employees. The fee increase proposed by the regulation covers a range of licensing and examination fees to be borne by existing licensees and applicants for licensure via examination and experience requirements. The cost of compliance for each person upon whom the regulation will impact is reflected in the increase of the particular fee amounts (generally \$20.00 to \$30.00). Professional services will not be needed to comply with the proposal, nor will any initial capital costs be incurred.

The Board is composed of members of the regulated class and is ultimately aware of the impact of an increased fee. Since by statute the Board is required to raise revenues to meet anticipated expenditures, and since the fees should operate uniformly throughout the licensed class, virtually all of which are small practitioners, and on individuals receiving Board rendered services, no deviation in the treatment of those affected is either practicable or warranted.

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

13:33-1.41 Fee schedule

(a) The following fees shall be charged by the Board effective upon promulgation.

1. Examination:		
i. Ophthalmic Dispenser	[\$80.00]	100.00
ii. Ophthalmic Technician	[\$50.00]	75.00
iii. Qualifying Technical	[\$50.00]	75.00
2. Reexamination:		
i. Ophthalmic Dispenser	[\$50.00]	75.00
ii. Ophthalmic Technician	[\$30.00]	50.00
iii. Qualifying Technical	[\$30.00]	50.00
3. License:		
i. Ophthalmic Dispenser	[\$50.00]	75.00
ii. Ophthalmic Technician	[\$30.00]	50.00
iii. Branch Office Ophthalmic Dispenser		50.00
iv. Branch Office Ophthalmic Technician		50.00
4. Biennial Renewal:		
i. Ophthalmic Dispenser	[\$140.00]	170.00
ii. Ophthalmic Technician	[\$100.00]	130.00
iii. Branch Office Ophthalmic Dispenser	\$120.00	
iv. Branch Office Ophthalmic Technician	\$80.00	
5. Permits:		
i. Temporary	\$50.00	
ii. Apprentice Dispenser	\$75.00	
iii. Apprentice Technician	[\$25.00]	50.00
6. Permit renewal:		
i. Apprentice Dispenser	[\$25.00]	50.00
ii. Apprentice Technician	[\$25.00]	50.00
7. Late renewal of license or permit	[\$25.00]	50.00
8. Late application for licensure	[\$25.00]	50.00
9. Replacement certificate of registration:		
i. License	\$25.00	
ii. Branch Office License	\$25.00	
iii. Permit	\$15.00	

(a)

STATE BOARD OF MEDICAL EXAMINERS
Registration and Permit Requirements for Graduate
Medical Education Programs

Proposed New Rule: N.J.A.C. 13:35-1.5

Authorized By: New Jersey State Board of Medical Examiners,
 Frank J. Malta, M.D., President.

Authority: N.J.S.A. 45:9-2, 45:9-21(d).

Proposal Number: PRN 1987-499.

Submit comments by January 6, 1988 to:

Charles A. Janousek, Executive Director
 Board of Medical Examiners
 28 West State Street
 Trenton, New Jersey 08608

The agency proposal follows:

Summary

This proposal would create a mechanism by which the Board of Medical Examiners would be provided with notice of individuals participating in postgraduate training programs in this State. The Board will also enhance its ability to regulate the scope of practice in which such participants are permitted to engage. The rule, as it applies to first year residents, will require them to complete a questionnaire prior to employment. The registration form will pose questions concerning an applicant's educational background and will notify the applicant of the criteria for licensure in this State. Directors of residency training programs will be responsible for collecting the questionnaires from all persons to whom they have extended offers of employment and for transmitting to the board a list of those individuals who are expected to be beginning employment as first year residents. The Board will thereafter notify each director of the individuals who are registered to participate in the first year postgraduate training.

With respect to residents participating in the second year of postgraduate training or beyond, the rule provides the mechanism by which individuals must obtain a permit to practice. A procedure has been devised whereby the appropriate documentation will be collected by directors of residency training programs and will be submitted to the Board for review. Upon the completion of that review the Board will issue to qualified applicants permits which will enable them to continue to participate in residency training programs. Permit holders will be given authorization to issue orders in the context of their residency training programs without the current requirement of immediate counter-signature.

Social Impact

Through the implementation of this rule, the Board expects:

1. To provide notice to applicants seeking training in a residency program of the criteria for ultimate licensure.
2. To alert residency program directors to the requirements for licensure and to induce those who are in a position to select residents for employment to ascertain sufficient information relating to the applicant's educational background at the outset.
3. To apply some measure of regulatory scrutiny to those persons seeking permits.
4. To enable directors of programs to avoid the dislocation that may be caused when a resident who has been participating in a program is denied authorization to continue in the program because of a failure to possess the prerequisites for licensure.
5. To delineate the scope of practice of those persons in residency programs and to assure that an appropriate level of supervision is being provided.

While the rule may foreclose some persons from participating in residency training programs, it is expected to have an overall beneficial effect since it will enhance the quality of first line medical care provided in our hospitals. Those unqualified will have early knowledge thereof and thus an opportunity to plan career changes which might include remedial activities.

Economic Impact

While the administrative task of collecting the materials and forwarding them to the Board may impose some costs on directors, it is not expected that those costs will be unduly burdensome. The Board will attempt to streamline the requirements and to provide appropriate forms to resi-

gency program directors so that the implementation will be as easy as possible. To the extent that the administrative costs are found to be burdensome, hospitals may need to seek an adjustment of the rates charged.

Of course, there may be an unfortunate negative effect on the employment potential for persons who do not possess appropriate qualifications for licensure in this State since they will be unable to secure employment in New Jersey hospitals. The Board deems the benefit to be derived by imposing these requirements on participants in residency training to outweigh the unfortunate impact that may befall unqualified persons.

Regulatory Flexibility Statement

Since this rule does not impose recording, recordkeeping or other compliance requirements on small businesses, the analysis mandated by P.L. 1986, c.169 is not required.

Full text of the proposed new rule follows.

13:35-1.5 Registration and permit requirements for graduate medical education programs

(a) The following terms shall have the following meanings unless the context in this section indicates otherwise:

"Applicant" means an unlicensed graduate of a medical school seeking authorization to engage in the practice of medicine as a resident in a graduate medical education program. A registration applicant is seeking authorization to participate in the first year of a graduate medical education program. A permit applicant is seeking authorization to participate in his or her second year (or beyond) of a graduate medical education program.

"Director" means a physician holding a plenary license to practice medicine and surgery in New Jersey who is responsible for the conduct of one or more graduate medical education programs at a hospital licensed in this State and whose responsibilities shall include generally overseeing the selection, training and evaluation of residents.

"Graduate Medical Education Program" means an educational program, whether denominated as an internship, residency, or fellowship, which is accredited by the Accreditation Council on Graduate Medical Education (ACGME) or by the American Osteopathic Association (AOA) in which the graduates of medical schools participate for a limited period of time under the supervision of plenary licensed physicians.

"Master list" means a list prepared by the director setting forth the name of each person seeking to practice medicine in that graduate medical education program in New Jersey, designating the social security number, date of birth, medical schools attended and the type of program in which the person is participating.

"Permit" means a document issued by the New Jersey State Board of Medical Examiners authorizing the holder to engage in the practice of medicine in the second year of a graduate medical education program (or beyond) in this State, subject to the limitations set forth in this rule.

"Permit holder" means a person authorized to engage in the practice of medicine in the second year of a graduate medical program (or beyond) in the state of New Jersey, subject to the limitations set forth in this rule.

"Registered resident" means an applicant granted authorization to engage in the practice of medicine in the state of New Jersey in the first year of a graduate medical education program, subject to the limitations set forth in this rule.

"Registration" means authorization to engage in the practice of medicine in this State in the first year of a graduate medical education program subject to the limitations set forth in this rule.

"Resident" means a participant in training in a graduate medical education program at a hospital in this State. For purposes of this rule, persons serving in internships and fellowships shall be deemed residents.

(b) No unlicensed person shall engage in the practice of medicine in the first year of a graduate medical education program unless and until he or she is registered with the Board. No unlicensed person shall engage in the practice of medicine in the second year of graduate medical education or beyond unless or until he or she has been issued a permit by the Board.

(c) A registration applicant shall certify that he or she:

1. Has attained the preliminary educational prerequisites for licensure, including:

i. Completion of at least 60 university level credits, attained prior to medical school, including at least one course each in biology, chemistry and physics.

ii. Graduation from a medical school which, during each year of attendance, was either accredited by the Liaison Committee on Medical Education (LCME) or the AOA or listed in the World Directory of Medical Schools. If the applicant has attended more than one medical school, he or she shall certify that each school attended was accredited or listed in the World Directory during the same time he or she was matriculated.

iii. Attendance at medical school for at least 32 months prior to graduation.

iv. Satisfactory completion of clinical clerkships of at least four weeks duration each in internal medicine, surgery, obstetrics and gynecology, pediatrics and psychiatry at hospitals which maintained at the time of the clerkship a graduate medical education program in that field.

2. Has never been the subject of an administrative disciplinary proceeding by any state professional licensing agency, has never been convicted of a criminal offense of any grade or admitted to a pre-trial diversionary program, has never been denied licensure eligibility to sit for an examination or eligibility to participate in a postgraduate training program in this or any other state, has never had privileges at a hospital terminated or curtailed for cause, has never been asked to resign from a graduate medical education program or hospital staff, has never had privileges to prescribe controlled dangerous substances curtailed or limited by any regulatory authority, has never had privileges to participate in any state or federal medical assistance program (Medicare, Medicaid) curtailed or limited by any regulatory authority.

3. Is not, at the time that the certification is executed, the subject of an administrative disciplinary proceeding by any State professional licensing agency, or other regulatory authority (that is, Drug Enforcement Agency, Medicare, Medicaid), or the subject of any criminal proceeding (under arrest, indictment or accusation).

4. Is not physically or mentally incapacitated to a degree which would impair his or her ability to practice medicine, and is not at the time of application habituated to alcohol or a user of any controlled dangerous substance, except upon good faith prescription of a physician.

5. Has achieved a passing score, within three attempts, on the ECFMG or FMGEMS examination, if he or she is a graduate of a foreign medical school.

(d) The Director shall obtain a registration form from each registration applicant and shall retain those forms, which may be subject to review by the Board. The Director shall certify that he or she has personally reviewed the registration form of each registration applicant who has accepted an offer of employment to ascertain that the person has attained the prerequisites set forth in (c) above and is unaware of any information which would contradict any of the representations contained in that registration application form. If the Director shall have reason to question the veracity or reliability of those representations, he or she shall direct the registration applicant to supply the supporting documentation. The Director shall prepare a master list including all registration applicants and submit it to the Board, along with his or her certification, no later than one month before the registration applicants are to begin participating in the graduate medical education program.

(e) The Board shall review the Director's certification, and shall issue to the Director a list of residents registered to engage in the practice of medicine in the first year of the graduate medical education program at that hospital. The Board shall provide to the Director a permit application for dissemination to each registered resident.

(f) A registration applicant unable to certify that he or she has attained the prerequisites set forth at (c) above shall state on the registration application form the reason that he or she is unable to so certify. The Director seeking to offer employment to a registration applicant unable to certify that he or she has attained all the prerequisites, may seek from the Board a waiver which would enable the

applicant to participate in the first year of a graduate medical education program. The Board, in its discretion, may grant or withhold such waiver for good cause. However, in no event may the applicant begin participating until the waiver for good cause request has been granted and the individual's name included on the list of registered residents or temporary authorization has been granted pursuant to (g) below.

(g) In the event that a registration applicant has been unable to submit the required certification in a timely manner, upon the Director's request, the Board may grant that applicant temporary authorization to participate in the first year of a graduate medical education program, which will allow him or her no more than 30 days to complete the application process.

(h) A registered resident may engage in the practice of medicine, provided that such practice shall be confined to a hospital affiliated with the graduate medical education program and outpatient facilities integrated into the curriculum of the program, under the supervision of licensed plenary physicians. All prescriptions and orders issued by registered residents shall be countersigned by a licensed plenary physician within 24 hours.

(i) The Board may refuse to register a registration applicant if he or she has not certified that the prerequisites set forth in (c) above have been satisfied or if the Board is in possession of any information contradicting the representation made in the registration application form. The Board shall give the Director and the registration applicant notice of its refusal, allowing the submission of documentary evidence in rebuttal. The applicant shall not be entitled to an evidentiary hearing.

(j) In addition to any practice declared to be a basis for sanction, pursuant to P.L. 1978, c.73 (N.J.S.A. 45:1-14 *et seq.*), the following practices, upon proof, shall also provide basis for the withdrawal of the authorization to engage in the practice of medicine as a registered resident.

1. Termination or withdrawal from the graduate medical education program.

2. Failure to advise the Board of a termination or withdrawal from a graduate medical program;

3. Engaging in any act or practice beyond the scope of those authorized pursuant to (g) above.

(k) Upon a duly verified application of the Attorney General, alleging a violation of any act or regulation administered by the Board, which palpably demonstrates that the resident's continued practice would constitute a clear and imminent danger to the public health, safety and welfare, upon notice, the Board may enter an order temporarily suspending the resident's authority to engage in the practice of medicine pending a plenary hearing on the charge.

(l) A permit applicant shall submit to the Board a permit application form certifying that he or she has attained the prerequisites set forth in (c) above and in addition, shall forward to the appropriate individuals requests for the production of the following documentation:

1. Registrar's certification of attendance or college transcript from each college attended;

2. Registrar's certification of attendance or medical school transcript from each medical school attended;

3. Certification of ECFMG or FMGEMS scores, if applicable;

4. Certification of successful completion of the first year of a graduate medical education program.

(m) The documentation sought by the permit applicant shall be sent directly to the Director by the certifying individual. The permit applicant shall also submit to the Director a check or money order in the sum of \$50.00 made payable to the New Jersey State Board of Medical Examiners.

1. The Director shall obtain from the permit applicant the application form and the \$50.00 fee and shall also receive and retain certified documentation, set forth in (k) above. No later than four months before the date on which the applicant is scheduled to begin participating in the second year of a graduate medical education program (or beyond), the Director shall submit to the Board a complete application packet for each person to whom an offer of employment has been extended. This packet shall include:

i. Permit application, completed by the applicant.

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LAW AND PUBLIC SAFETY

ii. Registrar's certification for each college attended or college transcript for each college attended.

iii. Registrar's certification for each medical school attended, or medical school transcript for each medical school attended.

iv. Certification of ECFMG or FMGEMS scores, if applicable.

v. Certification of successful completion of the first year of graduate medical education.

vi. Permit fee of \$50.00 in the form of check or money order made payable to the New Jersey State Board of Medical Examiners.

(n) The Director shall certify that he or she has offered a position to the applicant and has personally reviewed the permit application form and all supporting documentation and is unaware of any information which would contradict any of the representations in that application form or in any of the supporting certifications. If the Director shall have reason to question the veracity or reliability of those representations, he or she shall direct the permit applicant to supply the supporting documentation.

(o) Upon receipt of the permit application packet, the Board shall review each permit packet and if it is satisfied that the permit applicant has the necessary prerequisites, it may issue to the applicant a permit authorizing that person to engage in the practice of medicine in the second year (or beyond) of a graduate medical education program.

(p) A permit applicant unable to certify that he or she has attained the prerequisites set forth at (c) above shall state on the permit application form the reason that he or she is unable to so certify. In addition, if he or she is unable to produce the supporting documentation set forth at (l) above, an explanation must be provided. A permit applicant who has been unable to certify that he or she has attained all the prerequisites, or unable to produce the required supporting documentation, may seek from the Board a waiver which would enable the person to be issued a permit. The Board, in its discretion, may grant or withhold such waiver for good cause shown. However, in no event may the permit applicant begin to participate in the second year (or beyond) of a graduate medical education program until the program waiver request has been granted and the permit issued.

(q) In the event that a permit applicant has been unable to submit the required certification or supporting documentation in a timely manner, upon the Director's request, the Board may grant the permit applicant a temporary permit, which will allow him or her no more than 30 days to complete the application process.

(r) A permit holder may engage in the practice of medicine provided that such practice shall be confined to a hospital affiliated with the graduate medical education program and outpatient facilities integrated into the curriculum of the program, under the supervision of licensed plenary physicians. All prescriptions and orders issued by permit holders shall be countersigned by a licensed plenary physician at the minimum upon patient's discharge, or sooner if the Director so requires.

(s) The Board may refuse to issue a permit to a permit applicant if he or she has not certified that the prerequisites set forth in (c) above have been satisfied, if the supporting documentation set forth in (l) above has not been produced or if the Board is in possession of any information contradicting the representation made in the permit application form or supporting documentation. The Board shall give the Director and the applicant notice of its refusal, allowing the submission of documentary evidence in rebuttal. The applicant shall not be entitled to an evidentiary hearing.

(t) In addition to any practice declared to be a basis for sanction, pursuant to P.L. 1978, c.73 (N.J.S.A. 45:1-14 *et seq.*), the following practices, upon proof, shall also provide basis for the termination or suspension of a permit:

1. Termination or withdrawal from a graduate medical education program.

2. Failure to advise the Board of a termination or withdrawal from a graduate medical program.

3. Engaging in any act or practice beyond the scope of those authorized pursuant to (p) above.

(u) Upon a duly verified application of the Attorney General alleging a violation of any act or regulation administered by the Board which palpably demonstrates that the resident's continued

practice would constitute a clear and imminent danger to the public health, safety and welfare, the Board may enter an order temporarily suspending the resident's authority to engage in the practice of medicine pending a plenary hearing on the charge.

(v) A permit shall be valid for a period of no more than one year, but may be renewed upon submission of a permit renewal application. All renewal applications must be accompanied by a certification from the Director of the graduate medical education program in which the applicant has been or is currently participating, attesting to the successful completion of the program.

1. Each hospital offering a post-graduate training program shall designate one physician who would qualify as a Director to fulfill the responsibilities set forth in this rule.

(w) In addition to the responsibilities placed upon the Director by this rule, he or she shall:

1. Implement procedures to assure that all prescriptions and orders issued by registered residents are countersigned by plenary licensed physicians within 24 hours and that all prescriptions and orders issued by permit holders are countersigned by plenary licensed physicians no later than patient discharge.

2. Provide broad oversight of the activities of all program participants.

3. Report to the Board any conduct by a resident which might represent cause for the withdrawal of registration or the suspension of a permit.

4. Report to the Board if any resident is granted a leave of absence for any reason, providing an explanation thereof.

(x) The authorization granted to an unlicensed person to participate in the first year of a graduate medical education program shall not be construed to imply that that person will be deemed eligible for the issuance of a permit or a license. The issuance of a permit similarly should not be construed to imply that the permit holder will be deemed eligible for licensure.

(y) This rule shall be effective upon publication as an adopted rule in the New Jersey Register. Directors will be provided with registration application forms prior to the effective date. With respect to the first year during which this rule is in effect, all unlicensed residents intending to participate in a graduate medical education program on or after July 1, 1988 shall be required to be registered. Permit applications will be made available within six months of the effective date of rule, and permits may be issued thereafter, if practicable. Permits will be required for participants in the second year (or beyond) of a residency training program which begins on or after July 1, 1989.

(a)

STATE BOARD OF MORTUARY SCIENCE

Qualifications for Intern Registration

Proposed Amendment: N.J.A.C. 13:36-2.1

Authorized By: Donald R. Codey, President, N.J. State Board of Mortuary Science.

Authority: N.J.S.A. 45:7-38.

Proposal Number: PRN 1987-498.

Submit comments by January 6, 1988 to:

Maurice W. McQuade, Executive Director

Board of Mortuary Science

1100 Raymond Boulevard, Room 513

Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board is proposing to amend its rule on qualification for intern registration to clarify the number of credits to be achieved per semester as college degree credits. N.J.A.C. 13:36-2.1 is to be amended to clarify the requirement that an intern who is registered while concurrently attending college shall have completed 60 degree credits at a two year institution or half the credits required to complete a degree program at a four year institution. The rule is further being amended to provide that an intern who is concurrently attending college may not continue an internship in a semester in which he or she takes more than one remedial course.

Social Impact

The proposed amendment to N.J.A.C. 13:36-2.1 will benefit candidates for licensure and the public in that it clarifies the minimum educational requirement which an intern should possess. The clarification as to what constitutes two years of academic instruction for applicants who choose to serve their internship concurrently with their college training, as well as applicants who complete their academic requirements before working as interns, will ensure that these interns are acquiring an adequate academic background.

This clarification will reduce the number of instances where interns who have taken remedial course work, which do not qualify as degree credits, have obtained an intern registration. The purpose of remedial courses is to improve a student's background before he or she progresses into further college level work and are thus not counted as degree credits. It is anticipated that the clarification as to what constitutes two years of academic instruction will be consistent with the Board's requirement that interns have a strong academic background prior to becoming interns.

Economic Impact

The proposed amendment to N.J.A.C. 13:36-2.1 is expected to have no economic impact upon an applicant. The applicants are not being required to go for further schooling. The Board requires only that they comply with already established state minimum requirements.

Regulatory Flexibility Analysis

The Board finds that the amended rule as proposed will not affect small businesses, as the amendment seeks to clarify the minimum academic requirements necessary for applicants for intern registration. There is no reporting or recordkeeping practice imposed by this proposed amendment. The rule does not impose compliance requirements upon small businesses, as funeral homes are not required to distinguish between which type of intern it chooses to hire.

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

13:36-2.1 Qualification for intern registration

(a) **The following words and terms, when used in this section, have the following meaning, unless the context clearly indicates otherwise:**

1. **"Two years of academic instruction" means the successful completion of 60 degree credits at a community college or one-half the credits required to complete a degree at a four year college or university.**

2. **"Remedial or basic course" means a non-degree credit course required by a college or university to be completed by a student before being admitted to a specific college level course or degree program course.**

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

[(b)](c) An intern who is registered while concurrently attending college to complete the two year academic educational licensure requirement shall:

1. (No change.)

2. Achieve a minimum of eight **degree program** credits per semester with a minimum cumulative average of 2.0 or its academic equivalent throughout the concurrent registration program. A person who receives less than a 2.0 cumulative average [or], withdraws from a course, or who takes more than one remedial or basic course per semester shall have his internship terminated unless good cause is established for the continuation of the internship.

3.-4. (No change.)

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

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

(f) **Any credit granted to a student by a college or university for completion of any remedial or basic course shall not be recognized by the Board in any transcript evaluation made by the New Jersey State Department of Higher Education for an academic qualifying certificate.**

(a)**BOARD OF PSYCHOLOGICAL EXAMINERS****Examination Review Procedure; Transcript and Taping of Oral Examination****Proposed Amendments: N.J.A.C. 13:42-1.1 and 3.1**

(CITE 19 N.J.R. 2246)

NEW JERSEY REGISTER, MONDAY, DECEMBER 7, 1987

Authorized By: Board of Psychological Examiners,
Annette R. Shteir, Ed.D., President.
Authority: N.J.S.A. 45:14B-13.
Proposal Number: PRN 1987-492.

Submit comments by January 6, 1988 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 proposed amendments to the rules of the Board of Psychological Examiners address issues relevant to the oral examination process for licensure. The proposed amendment to N.J.A.C. 13:42-3.1(b)1 clarifies what is meant by the term "current work sample". In the future, a work sample that is submitted for oral examination should be of a case that is either in progress or completed no more than one year prior to submission of the work sample for oral examination. The Board will grant exceptions to this rule for good cause. N.J.A.C. 13:42-3.1(c) formalizes the Board's long-standing policy of audiotaping all oral examinations for the purpose of creating a record of the oral examination. In addition, the rule provides that the candidate may not tape the oral examination. Finally, the proposed amendment to N.J.A.C. 13:42-1.1(b) provides that the candidate may not tape the Board's copy of the tape of the candidate's oral examination at any time during the review and appeal process. A transcript of the oral examination, prepared by a shorthand reporter, will be made available to the candidate at the candidate's expense. This transcript may only be requested and used in the appeal process; that is, only a candidate who fails the oral examination and is in the appeal process may request and obtain a transcript. The transcript is to be prepared by a shorthand reporter to ensure accuracy. This amendment to the current rule is being proposed as a result of an unauthorized taping of the oral examination which came to the Board's attention through the appeal process.

Social Impact

The proposed amendments will benefit candidates for licensure as they will ensure uniform understanding of the oral examination process. As a result of the proposed amendments, all candidates will enter the examination process on an equal footing; that is, no candidate will have the unfair advantage of having in his or her possession an audiotape of the oral examination. The proposed amendments will likewise benefit the Board, as they will help to ensure the security of the oral examination process. To the extent that a candidate may wish to have a record on which to base any possible appeal, the Board is allowing the tape of the oral examination to be transcribed and furnished to the candidate.

Economic Impact

The economic impact of the proposed amendments is limited to those candidates who fail the oral examination and request a transcript of the oral examination. In those cases, the candidate will be reimbursing the State for the cost to the State of having the tape of the oral examination transcribed. There will be no economic impact on the public.

Regulatory Flexibility Statement

The proposed amendments do not affect small businesses as they do not impose a reporting, recordkeeping or other compliance requirement on small businesses. Therefore, regulatory flexibility analysis is not required.

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

13:42-1.1 Examination review procedure

(a) (No change.)

(b) A candidate who fails the oral examination of professional practice may request a review of the examination. Such request must reach the Board secretary in writing within 45 days of the date of the letter of notification of examination results. The Board secretary will make the tape of the oral examination available to the candidate at the Board office on a mutually convenient date. **Neither the candidate nor an agent of the candidate may tape the Board's copy of the oral examination tape during this or any review of the tape of the oral examination. A transcript of the oral examination, prepared by a shorthand reporter, will be available to the candidate at the candidate's**

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expense; however, this transcript may be obtained only for use in the appeal process.

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

13:42-3.1 American Association of State Psychology Boards Exam; required

(a) (No change.)

(b) All candidates passing the written examination shall then take an oral examination of their professional practice based on a work sample in accord with guidelines to be supplied to the candidate by the Board and as follows:

1. A current work sample representative of the candidate's present practice shall be presented prior to the oral examination. For the purposes of this rule, "current" work sample is defined to mean a work sample either in progress or completed no more than one year prior to submission of the work sample for the oral examination. The dates of client service shall be specifically mentioned on the cover page. Exceptions will be granted for good cause shown.

2.-3. (No change.)

(c) The oral examination shall be taped by the examiners for the purpose of creating a record. The oral examination may not be taped by the candidate.

COMMERCE AND ECONOMIC DEVELOPMENT

The following proposals are authorized by Borden R. Putnam, Commissioner, Department of Commerce and Economic Development.

Submit comments by January 6, 1988 to:

Edward J. Linky, Esq.
Chief Regulatory Officer
Division of Energy Planning and Conservation
101 Commerce Street
Newark, New Jersey 07102

(a)

DIVISION OF ENERGY PLANNING AND CONSERVATION

Individual Electric Metering in Residential Buildings

Proposed Repeal: N.J.A.C. 14A:3-7

Authority: N.J.S.A. 52:27F-11q.
Proposal Number: PRN 1987-509.

The agency proposal follows:

Summary

The Division of Energy Planning and Conservation proposes to repeal N.J.A.C. 14A:3-7. This action is taken to eliminate redundancy with other similar administrative rules of executive agencies and to further the intent of Reorganization Plan 001-1986. A similar requirement exists in the Energy Subcode incorporated in the Uniform Construction Code and administered by the Department of Community Affairs. Executive Order 001-1986 specifically transferred total jurisdictional responsibility for the Energy Subcode to the Department of Community Affairs.

Situations have arisen where developers and builders have been forced to obtain approvals from the Board of Public Utilities, the Department of Community Affairs and the Division of Energy Planning and Conservation. In some of these applications the jurisdictional overlap between the Division of Energy Planning and the Board of Public Utilities has led to unacceptable delays. No serious public policy considerations involving energy conservation are at issue as both the Department of Community Affairs through the Energy Subcode and the Board of Public Utilities through its regulation of electrical metering both provide ample incentives to conserve electricity. Thus, sound public policy can still be implemented and the building community is relieved of a redundant regulatory requirement.

Social Impact

The repeal of these rules will have a positive social impact. By eliminating redundant regulation, a common complaint about an uncoordinated

COMMERCE AND ECONOMIC DEVELOPMENT

bureaucracy is addressed. The energy conservation policy considerations contained in the rules can still be enforced by the Energy Subcode of the Uniform Construction Code and the Board of Public Utilities. It is thus in the interest of efficient government that these rules be repealed.

Economic Impact

It is anticipated that the repeal of these rules can save a builder and developer substantial time required to obtain all necessary state approvals for projects. This action should have a very positive economic impact.

Regulatory Flexibility Statement

The repeal of these rules ensures compliance with the policy of Executive Reorganization Plan 001-1986. It reduces the administrative burden on small builders and developers without sacrificing valid public policy concerns about energy conservation in new construction.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 14A:3-7.

(b)

Commercial and Apartment Conservation Service Program

Proposed Amendments: N.J.A.C. 14A:22-1.2, 2.1, 3.1, 3.2, 3.8, 4.1, 5.1, 8.1

Authority: N.J.S.A. 52:27F-11(g) and (q).
Proposal Number: PRN 1987-510.

The agency proposal follows:

Summary

Under this proposal the Department is expanding the types of businesses which can qualify for the commercial and apartment conservation service program. Specifically, the agriculture community is now included as well as a greater proportion of small businesses. In addition, certain technical amendments are proposed to ensure consistency of the program with federal Department of Energy guidelines, to add references inadvertently omitted, and to clarify the language of the rules.

Social Impact

This proposal will have a positive social impact. The amendments provide for a no charge audit for multi-family buildings in which 66 percent of rented occupancy is comprised of households where the individual income does not exceed 150 percent of the federal poverty income guideline. These amendments will make the program consistent with the weatherization program of the Department of Community Affairs.

Economic Impact

This proposal will have a positive economic impact. By increasing the audit penetration rate to five percent and by including the eligibility of manufacturing plants and agricultural businesses a larger part of the business community may be able to reduce its energy costs and thereby allocate these costs to business expansion.

Contractors performing the retrofits provide a multiplier effect in both labor and materials markets. By including two year old buildings the program emphasizes more efficient construction techniques.

Environmental Impact

This proposal will have a positive environmental impact. To the extent that it makes farms more profitable the proposal helps keep farmland as open space. To the extent that businesses become more energy efficient an overall reduction in the use of fossil fuels by the business sector will improve the environment.

Regulatory Flexibility Statement

These amendments to the CACS program rules will have a positive effect on small businesses. Indeed, the principal purpose in proposing these changes is to allow more small business enterprises heretofore excluded from the program to now fully participate. Such businesses may be able to reduce costs of energy. The proposed rules do not impose additional reporting, recordkeeping, or other compliance requirements on small businesses.

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

14A:22-1.2 Definitions

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

...

"Apartment building" means a **new or existing** structure which is used for residential occupancy, [was completed on or before June 30, 1989,] **and which on the date of the program audit request has had a certificate of occupancy for more than two years; which** contains five or more apartments and any of the following: a central heating or a central cooling system; or a central meter for the heating or cooling system.

...
["Buildings" means both apartment buildings and commercial buildings.]

...

"Commercial building" means a **new or existing** structure **which on the date of the program audit request has had a certificate of occupancy for more than two years:**

[1. Which was completed on or before June 30, 1980;]

1.[2.] Which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities of a local government;

[3. Which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities;]

2.[4.] Which is not a Federal building;

3.[5.] Which has not had a Technical Assistance Energy Audit under the Institutional Conservation Program or a computer generated energy audit under the CLIENTS Program;

4.[6.] For which the average annual use of energy for [calendar year 1980 (or) the latest 12-month period [for which information is readily available) was less than 4,500 MMBTU[S]'s; and

5.[7.] Is a small business to which final standards under 13 C.F.R. Part 121, "Small Business Size Standards" apply.

"Conditioned space reduction" means **closing off unoccupied areas, and/or reducing the heating and cooling supply to those areas.**

...

"Department" means the New Jersey Department of [Energy] **Commerce and Economic Development, Division of Energy Planning and Conservation.**

...

"Program auditor" means any individual employed by a covered utility or building heating supplier or under contract with a covered utility or building heating supplier who meets all of the qualifications contained in N.J.A.C. 14A:22-6.2 and N.J.A.C. 14A:22-7.2 and has successfully completed a Department auditor test for this program.

...

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

(c) **Each c[C]overed utilit[ies]y shall [provide] distribute and redistribute** sufficient numbers of program announcements and **perform** related promotional activities **planning** to achieve a **five percent annual** [yearly] energy audit completion rate of [not less than two percent of] the eligible customers. In the event that the response to the program announcement and promotional activities exceeds [two] **five** percent, utilities shall engage additional qualified personnel to service the demand in a timely manner. The program announcement and related promotional activities shall identify the [Department] **Division** as the lead agency [of] for the CACS program. The covered utilities shall not unfairly discriminate among eligible customers in providing program audits.

(d) (No change.)

14A:22-3.1 Program services

(a) (No change)

(b) All covered utilities receiving requests for program audits from eligible customers shall record the requests and the arrangements made by the utility for the audit on an input form prescribed by the Department. All such records shall contain the following information, if available from the customer:

1. Name and address of the customer's place of business, or residence:

2. Date scheduled for providing the energy audit and dates services were completed;

3. Type of fuel(s) used to heat and cool;

4. Time customer is available;

5. Contact for utility and physical plant data;

6. Building type and principal use;

7. Media source from which they heard about the program;

8. Name of the customer's building heating supplier, if the building is heated with oil;

9. Names of the customer's utilities;[.]

10. All covered utilities shall furnish to the Division of Energy a monthly list, in zip code sequence, of all customers who have received a CACS Audit which shall include the customer's name and business address and date of audit.

(c) The Department and the CES shall also receive requests for audits from eligible customers and shall record the same information required by (b) above.

14A:22-3.2 Arrangement of program audit

(a) (No change.)

(b) If an eligible customer who heats with oil, coal, kerosene or propane contacts the Department and requests a program audit, the Department shall refer that request[, except for that part which requires a heating unit analysis,] to an appropriate covered utility. The Department shall determine [whether the customer's heating supplier is a participating building heating supplier. If so, the Department shall refer the customer's request for a heating unit analysis to that participating building heating supplier. If the customer's building heating supplier is not participating, the Department shall choose a participating heating supplier located in the customer's geographic service area to perform the heating unit analysis part of the program audit. The Department shall make the selection in a random and non-discriminatory manner from the list of participating building heating suppliers who have registered with the Department] **at its discretion to apply American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc. (ASHRAE) default values to the combustion efficiency test portion of an audit in lieu of availability of a participating customer's building heating supplier in that specific area.**

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

14A:22-3.3 Timing and preconditions

(a) (No change.)

(b) All participating building heating suppliers shall provide a heating unit analysis to determine applicable program measures and their estimated costs, savings and paybacks within 30 **calendar** days of receipt of a request or referral. If the demand for such services becomes too great, the participating building heating supplier must so notify the Department in writing, and contact each eligible customer requesting such services within 30 **calendar** days of the request or referral to set up an appointment and complete the analysis within 60 calendar days of the date of the request or referral.

(c) No covered utility or participating building heating supplier shall discriminate unfairly among eligible customers participating in the CACS Program.

14A:22-3.8 Results of the program audit

(a) (No change.)

(b) Program audit results shall include the following:

1. The following disclosure, conspicuously placed: **"THE PROCEDURES USED TO MAKE THESE ESTIMATES ARE CONSISTENT WITH NEW JERSEY DEPARTMENT OF [ENERGY] COMMERCE AND ECONOMIC DEVELOPMENT, DIVISION OF ENERGY PLANNING AND CONSERVATION CRITERIA FOR APARTMENT AND COMMERCIAL BUILDING ENERGY AUDITS. HOWEVER, THE ACTUAL INSTALLATION COSTS YOU INCUR AND THE ENERGY SAVINGS YOU REALIZE FROM INSTALLING THESE MEASURES MAY BE DIFFERENT FROM THE ESTIMATES CONTAINED IN THIS AUDIT REPORT. ALTHOUGH THE ESTIMATES ARE BASED UPON MEASUREMENTS OF YOUR BUILDING, THEY ARE BASED ON ASSUMPTIONS WHICH MAY NOT BE TOTALLY CORRECT FOR YOUR BUILDING. TOTAL SAVINGS FROM THE INSTALLATION**

OF MORE THAN ONE PROGRAM MEASURE WILL PROBABLY BE LESS THAN THE SUM OF SAVINGS OF EACH MEASURE INSTALLED INDIVIDUALLY."

2.-9. (No change.)

10. The following statement: "THIS ENERGY AUDIT REPORT IS ONLY THE FIRST STEP IN YOUR EFFORTS TO REDUCE ENERGY CONSUMPTION IN YOUR FACILITY. THE NEW JERSEY ENERGY SERVICE MARKET IS COMPOSED OF HUNDREDS OF PROFESSIONAL ARCHITECTURAL AND ENGINEERING FIRMS THAT MAY ASSIST YOU IN A MORE SPECIFIC ANALYSIS OF YOUR FACILITY AND PROVIDE THE NECESSARY DESIGN FOR THE INSTALLATION OF VARIOUS COST-EFFECTIVE ENERGY CONSERVATION MEASURES. TO OBTAIN THE NAMES OF PROFESSIONAL ARCHITECTURAL OR ENGINEERING FIRMS IN YOUR AREA CONTACT:

The Consulting Engineers Council
66 Morris Avenue
Springfield, New Jersey 07081;
The New Jersey Society of Professional Engineers
226 West State Street
Trenton, New Jersey 08608;
New Jersey Association of Energy Engineers
P.O. Box 241
Bloomfield, New Jersey 07003; or
The New Jersey Society of Architects
1000 Route 9
Woodbridge, New Jersey 07095

14A:22-4.1 Services provided

(a) Upon request by an eligible customer, each covered utility shall promptly provide services to arrange financing for the purchase and installation of any program measure. These services shall include:

1. Written information explaining the standards for credit applications, loan applications, **plus** the availability of financial assistance, **if any**, through programs of the Department, or other Departments, **through commercial lenders and methods of evaluating vendor proposals.**

i. (No change.)

2.-3. (No change.)

4. **The CACS Audit Report to the customer pursuant to N.J.A.C. 14A:22-3.8 shall include an evaluation form addressed to the Department. The content and format shall be provided by the Department.**

14A:22-5.1 Payments

(a) Eligible customers shall be charged for energy audits as established by Order of the Board of Public Utilities (May 11, 1984), according to the following fee schedule:

1.-3. (No change.)

4. No charge for non-profit, local government and housing authority buildings[;], and **multi-family buildings in which 66 percent of its rented occupancy comprise households in which the individual income does not exceed 150 percent of the Federal Poverty Income Guidelines as defined in the Federal Register, Volume 52, Number 34, Friday, February 20, 1987 on Pages 5340-5341 and as it applies to its yearly subsequent updates.**

i. **A covered utility may, at its discretion, offer free audits at any time to any market. Once offered for free, the no-cost feature must be maintained for the advertised period.**

5. The maximum allowable fee charged by a utility audit contractor to a utility shall be no more than \$600.00. Any covered utility may request a waiver of the cost cap for audits which are in excess of \$600.00 from the Department and the BPU.

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

14A:22-8.1 Reporting: Covered utilities

(a) Each covered utility shall submit **on January 15, 1988** the following information in writing to the Department [on June 1, 1984] and annually thereafter [through June 1, 1990] for the **preceding 12-month calendar period [ending the preceding April 1] of January 1st through December 31st for the life of the program:**

1.-8. (No change.)

(b) Each covered utility shall submit the following information in writing to the Department on the 10th of each month beginning June 1984 following information for the preceding month:

1.-3. (No change.)

4. The number of audits cancelled **and the reason(s) for each CACS Audit cancellation;**

5.-7. (No change.)

STATE

(a)

ELECTION DIVISION

Voting Accessibility for the Elderly and Handicapped

Proposed New Rules: N.J.A.C. 15:10-6

Authorized By: Jane Burgio, Secretary of State.

Authority: Public Law 98-435 and N.J.S.A. 52:16a-11.

Proposal Number: PRN 1987-486.

Submit comments by January 6, 1988 to:

Christine D. St. John, Director
Election Division Office
107 West State Street
CN 304
Trenton, New Jersey 08625-0304
(609) 292-3760

The agency proposal follows:

Summary

Public Law 98-435, the Voting Accessibility for the Elderly and Handicapped Act (the Act), was signed into law by President Reagan on September 28, 1984. The purpose of this law is to improve access to polling places for the elderly and handicapped voters for all Federal elections. The Act applies to Federal elections conducted after December 31, 1985.

Pursuant to the Act, the political subdivisions of each state which are responsible for conducting elections must "assure" that all polling places are accessible to the elderly and handicapped voters. In New Jersey, it is the 21 county boards of elections which are responsible for the selection of polling places within their respective jurisdiction.

The Act also requires that voting aids, that is, sample ballots, large print voting instructions, telecommunication devices for the deaf, and absentee ballots, be available for elderly and handicapped voters.

The New Jersey Secretary of State is required to report to the Federal Election Commission, no later than December 31st of each even-numbered year, the number of accessible polling places and the reason(s) for any instance of inaccessibility.

These proposed new rules are proposed by the Secretary of State pursuant to the Secretary's general rulemaking authority. The proposed new rules with respect to parking, external and internal passages, and entrances and exits are based on N.J.A.C. 5:23-7, New Jersey Department of Community Affairs, Division of Housing and Development, Uniform Construction Code, Barrier Free Subcode.

Social Impact

The proposed polling place accessibility rules will have a positive social impact as these rules will further access to voting information and polling places by both elderly and handicapped individuals.

Economic Impact

It is anticipated that the cost for implementing the provisions of these proposed polling place accessibility rules will be dependent upon the number of inaccessible polling places located within each county and to the degree that such locations are inaccessible. The cost associated with compliance of the proposed new rules by making polling places accessible is the responsibility of the particular governmental or private entity owning the inaccessible polling place.

The anticipated costs associated with implementing the provisions of the proposed polling place accessibility rules regarding voting aids and accessibility notification will be the responsibility of the 21 county boards of elections and, to a lesser degree, the Department of State, Election Division office. Such costs are considered minimal.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department of State, Election Division Office has determined that the proposed polling place accessibility rules will have an impact only on those small businesses maintaining a polling place within their business buildings. The Federal Act does not exempt small businesses from the requirements of the Act. The Act does provide that the Chief Election Officer of each state implement procedures to grant waivers to polling places that cannot be made accessible or that cannot be relocated to alternative accessible locations. Polling places located within an inaccessible business location may be granted a waiver providing all documentation for requesting a waiver is completed and properly filed with the Secretary of State.

Full text of the proposed new rules follows.

SUBCHAPTER 6. VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED**15:10-6.1 Purpose and scope**

Public Law 98-435, the Voting Accessibility for the Elderly and Handicapped Act, was signed into law on September 28, 1984. The purpose of the Act is to improve access to polling places and registration facilities for the elderly and handicapped voters for Federal elections. The Act applies to Federal elections conducted after December 31, 1985.

15:10-6.2 Responsibility

Pursuant to the Act, the political subdivision of each state which is responsible for conducting elections must "assure" that all polling places are accessible to elderly and handicapped voters. In New Jersey, it is the 21 county boards of elections which are responsible for the selection of polling places within their respective jurisdiction.

15:10-6.3 Definitions

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

"Accessible" means an environment that will permit a handicapped and/or elderly person to operate independently with comparative ease under normal circumstances and with little or no assistance.

"Accessible route" means a continuous unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a handicapped person. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts.

"Act" means the Voting Accessibility for the Elderly and Handicapped Act, Public Law 98-435.

"Barrier-free" means the same as and is synonymous with "accessible".

"Curb ramp" means a short ramp cutting through a curb or built up to it.

"Elderly" means 65 years of age or older.

"Election aids" means telecommunication devices, sample ballots, large print voting instructions, and absentee ballots.

"Federal election" means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

"Handicapped" means having a temporary or permanent physical disability.

"Physically handicapped" means a person with a physical impairment which confines a person to a wheelchair, causes a person to walk with difficulty or insecurity, affects the sight or hearing to the extent that a person functioning in public areas is insecure or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

"Polling location" means the structure in which a polling place is located.

"Polling place" means the room or space that has been provided for the purpose of voting at a Federal primary, special, or general election.

"Polling Place Accessibility Checklist" means worksheets prepared by the Secretary of State in order that each county board of elections can evaluate the accessibility of polling sites within their jurisdiction.

"Polling Place Accessibility Report" means a worksheet prepared by the Secretary of State in order that each county board of elections can compile accessibility results from their Polling Place Accessibility Checklists.

"Polling Place Accessibility Waiver" means a worksheet developed by the Secretary of State, to be used by the county boards of elections to request exemption(s) from the Act due to the inability to make an inaccessible polling site accessible, or to relocate such a site to an alternative accessible location.

"Ramp" means a structure, either temporary or permanent, which has been constructed to bridge a level change from the path of travel to a polling place. The maximum slope shall not exceed 1:12 (one inch of slope for 12 inches of length).

"Secretary of State" means the Secretary of State of New Jersey.

"Temporary" means a facility or structure that is not of permanent construction but is extensively used or essential for public use during Federal elections.

"Voting Accessibility Advisory Committee" means a group of individuals that may be established by each county board of elections to assist the board in interpreting and implementing the provisions of the Act.

15:10-6.4 Exceptions

(a) The accessibility requirements of this subchapter do not apply under the following circumstances:

1. In the case of an emergency;
2. If the Secretary of State determines, based on documents supplied by the county, the following:
 - i. That all potential polling places in the election district have been surveyed and no accessible locations are available;
 - ii. That it is not possible to temporarily convert an inaccessible location to an accessible one; and
 - iii. That an alternative voting procedure in accordance with N.J.S.A. 15:10-6 is available upon request; or
3. In any election other than a Federal election as defined in this subchapter.

15:10-6.5 Reporting by the Secretary of State

The Secretary of State is required to report to the Federal Election Commission, no later than December 31st of each even-numbered year, the number of accessible polling places and reason(s) for any instance of inaccessibility.

15:10-6.6 Enforcement

The United States Attorney General or any individual who is personally aggrieved by any non-compliance with the accessibility requirements of the Act and this subchapter may institute an action for declaratory or injunctive relief in the United States District Court for the District of New Jersey.

15:10-6.7 Implementation

(a) In order to assist and advise county election officers in implementing the provisions of the Act, each county board of elections office should establish a Voting Accessibility Advisory Committee, which shall be comprised of the following individuals:

1. The four members of the county board of elections;
2. At least one elderly and/or handicapped individual or individuals from organizations representing such individuals;
3. Such other person(s) the board feels would be of assistance in the implementation of the Act.

(b) In order to accurately evaluate the accessibility of all polling locations, each county board of elections, in conjunction with their Voting Accessibility Advisory Committee, should one have been established, shall undertake a "walking tour" of each polling location. Both elderly and handicapped committee members should participate in such tours since these individuals can offer valuable insight into possible difficulties elderly and handicapped voters may experience at polling locations.

PROPOSALS**Interested Persons see Inside Front Cover****STATE**

15:10-6.8 Polling place accessibility standards

(a) The polling place accessibility standards set forth in this section are based upon the State's Uniform Construction Code, Barrier Free Subcode, N.J.A.C. 5:23-7.

(b) While accessible parking spaces for each polling location are desirable, the absence of such spaces is not a condition of accessibility. Where such spaces are provided the following standards shall be met:

1. Parking spaces for the handicapped shall be located as close as possible to elevators, ramps, walkways, and the accessible entrance they serve. They shall be not more than 200 feet from an accessible entrance. Parking spaces shall be as level as possible with surface slopes not exceeding 1:48 (1/4 inch per foot) in any direction. Surfaces shall be constructed of either asphalt or concrete. Each parking space shall be identified with a sign displaying the International Symbol of Accessibility and appropriate wordage to include "DISABLED PERSONS WITH VALID ID ONLY".

2. There shall be four acceptable configurations for accessible parking spaces as follows:

- i. Parking spaces each not less than 12 feet wide;
- ii. Parking spaces each not less than eight feet wide with an adjacent access aisle at least five feet wide;
- iii. Curb side parking, provided the curb has been indented at least four feet so that a handicapped person does not exit from a vehicle into a traffic lane; or
- iv. Conventional curb side parking, permitted in modification and/or renovation work only.

3. In all configurations, to the degree feasible, accessible parking spaces shall be located so that handicapped persons are not compelled to wheel or walk behind parked cars. Additionally, in all configurations, ramps or curb ramps shall be provided to permit handicapped persons access from the parking lot level to the servicing walkway. A curb ramp shall never be located where it would be blocked by a parked vehicle. In all configurations, provisions such as curb or bumpers should be included to prevent parked vehicles from blocking accessible walkways.

4. In the event that a polling location does not have permanent accessible parking spaces, temporary spaces can be designated for use by the handicapped. All such temporary accessible spaces shall be clearly marked for use only by the handicapped and all such spaces shall be located near an accessible polling place entrance.

5. In the event that off street metered parking is provided, such accessible parking spaces shall be reserved for the handicapped by installing a meter cap over the meter. Such spaces should also be clearly marked for handicapped use only.

(c) Accessible routes of travel are continuous unobstructed paths connecting all accessible elements and spaces that can be negotiated by a handicapped person. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floorspace at fixtures. The standards for accessible routes are as follows:

1. Accessible routes shall provide a minimum clear width for passage of three feet. Such widths may be reduced, however, to two feet eight inches for a distance not to exceed two feet at points such as doorways.

2. Accessible routes shall be constructed of a hard, smooth, non-slip surface, with no abrupt changes in elevation.

(d) All ramps and curb ramps on accessible routes shall comply with N.J.A.C. 5:23-7.25 through 5:23-7.32, except those curb cuts or curb ramps constructed within a public street. These structures shall meet the requirements of the respective public, city, county, or State agency having jurisdiction. The standards for ramps and curb ramps, except those within a public street, are as follows:

1. Ramps and curb ramps shall have a minimum clear width of three feet exclusive of edge protection or flared sides. The surface shall be stable, firm, and slip-resistant. Irregular surface materials, which may cause tripping or difficult wheelchair passage because of height differentials, shall not be permitted. The maximum slope of a ramp or a curb ramp shall not exceed 1:12 (one inch of slope for 12 inches of length).

2. In addition to the requirements of N.J.A.C. 5:23-7.24 through 5:23-7.29, all ramps shall:

i. Provide landings at the top, bottom, at all changes of direction, and after each 30 feet of projection. These landings shall:

(1) Have a width which shall be at least as wide as the widest ramp run approaching it;

(2) Have a minimum length of five feet; and

(3) Have a minimum size which will fulfill the latchside and hingeside provisions of N.J.A.C. 5:23-7.43;

ii. Provide handrails on both sides of any ramp run exceeding a nine inch rise; and

iii. Provide curbs, walls, vertical guards or projected edges at ramps and landings with drop-offs exceeding six inches. Minimum curb height shall be two inches.

3. In addition to the requirements of N.J.A.C. 5:23-7.24 through 5:23-7.30, all curb ramps shall:

i. Provide flared sides if such ramps are located where pedestrians might walk across the ramp. If built-up ramps are used as an alternative to standard curb ramps, such ramps must be located so that they do not project into vehicular traffic lanes. The transition from ramp to walkways, gutters, or streets shall be flush and free of abrupt changes. Curb ramps having less than a nine inch rise do not require handrails.

(e) Accessible entrances shall meet the following standards:

1. All accessible entrances shall be identified by the "International Symbol of Accessibility". Accessible doorways shall provide a clear opening of two feet eight inches.

2. Raised thresholds, if provided, shall be beveled with a slope not to exceed 1:2 (one inch of slope for two inches of length) if the height is greater than one quarter inch. The maximum height for raised thresholds shall be three quarter inch.

3. Doors should be easily opened by elderly and handicapped individuals. Handles, pulls, latch sets, and other operating hardware that are easy to grasp with one hand and do not require twisting of the wrist, tight grasping, or tight pinching to operate shall be provided. If possible, doors that are difficult to open should be propped or tied open during voting hours.

4. In the event that an elevator is to be used, its doors shall be a minimum of three feet wide. The interior shall be large enough to accommodate a wheelchair and all controls shall be easy to use and to reach. Elevators shall be designed and constructed in accordance with ANSI/ASME A17.1; "Safety Code for Elevators and Escalators", and shall meet the technical criteria of N.J.A.C. 5:23-7.70 through 5:23-7.79.

5. Should the main entrance to a polling place be inaccessible, an accessible alternative entrance may be used. All such alternative entrances, however, must conform to accessibility criteria established in this subchapter. Signs informing voters of an alternative accessible entrance shall be clearly posted and shall display the "International Symbol of Accessibility" as well as appropriate wordage to include "ACCESSIBLE ENTRANCE". To be effective, either arrows or hands shall be used to direct voters to accessible entrances.

(f) Accessible interior routes may include corridors, floors, ramps, elevators, lifts and clear floor space at fixtures. All such accessible routes shall provide a minimum width for passage of three feet and a minimum vertical clearance of six feet eight inches. Such widths may be reduced, however, to two feet eight inches for a distance not to exceed two feet at points such as doorways. If the vertical clearance of an area adjoining an accessible route is reduced to less than six feet eight inches, a barrier to warn blind or visually-impaired persons shall be provided. Accessible interior routes shall be well lighted and shall be constructed of a hard, smooth, non-slip surface, with no abrupt changes in elevation. If carpet or carpet tiles is used on a ground or floor surface, then the carpet or carpet tiles shall be securely attached. The following standards apply to protruding objects in accessible interior routes:

1. No protruding objects shall reduce the clear width of an accessible route or maneuvering space below the minimum required widths of three feet for passage ways or two feet eight inches for a distance not to exceed two feet at points such as doorways.

2. Objects less than two feet long that are fixed to wall surfaces shall not project into accessible routes more than four inches if mounted with their leading edges between two feet three inches and six feet above the finished floor.

3. Objects fixed to wall surfaces may project more than four inches if mounted with the lower extreme of their leading edge less than two feet three inches above the finished floor. These objects shall not project, however, into the minimum required clear widths.

4. Free standing objects mounted on posts or pilons may overhang one foot maximum from two feet three inches to six feet eight inches above the ground or the finished floor. However, these objects shall not project into the minimum required clear widths.

5. Interior routes to voting machines that are in excess of 50 feet shall provide a chair(s) in order to provide elderly and disabled voters a resting stop. Such chairs, however, shall not project into the minimum required clear widths.

(g) Signs shall meet the following standards:

1. Signs directing voters to the location(s) of voting machines shall be posted in interior passageways. Such signs shall include appropriate wordage to include "VOTING MACHINES" as well as "WARD-DISTRICT OR DISTRICT". Lettering should be in large type of at least 18 point for easy reading.

2. To be effective, signs should also use either arrows or hands to point to the direction of the voting machines. Signs using these symbols are easier to understand than ones that only use written directions.

15:10-6.9 Voting aids

(a) The following voting aids shall be provided:

1. Sample ballots, which shall identify the accessibility of each polling place. The notice of accessibility shall be prominently identified on the sample ballot with a sign displaying the "International Symbol of Accessibility" and appropriate wordage to include "ACCESSIBLE POLLING LOCATION". Notice of nonaccessible polling locations shall be prominently identified on the sample ballot with appropriate wordage to include "NONACCESSIBLE POLLING LOCATION".

2. Voting instructions, which shall be printed in at least 14 point type for easy reading and shall be conspicuously displayed at each polling place. Lettering shall be dark, preferably black, with a light background, preferably white. Such instructions shall include, but shall not be limited to:

- i. How to properly identify oneself at the polls;
- ii. Materials that one must sign in order to vote;
- iii. Procedures to follow in order to correctly use the voting machine or voting equipment to cast votes;
- iv. Procedures to follow should mechanical difficulties be experienced while voting; and
- v. How to correctly exit the voting machine in order to properly record votes.

3. Registration, voting, and election information by telecommunication device, or TTS, are required under the Act. Each county board of elections, under these standards, should maintain and operate such a device. Counties not maintaining and operating TTS equipment are required to advertise the availability of such State equipment in at least one newspaper that circulates within the county. These counties are also required to advertise the State's "toll-free" TTS telephone number.

4. The availability and use of absentee ballots are subject to the following requirements:

i. Handicapped and elderly voters may apply to the county clerk for absentee ballots. Should a disability be permanent, affected voters may request that absentee ballot applications for each election be sent to their residence on a regular basis. In the event that the date for requesting an absentee ballot by mail should pass, a sick or confined voter may request in writing that an absentee ballot be picked up from the county clerk and delivered to him or her by a messenger authorized by such voter. Disabled voters are not required to medically document their disability. Absentee ballots shall be completed and returned in accordance with the requirements of N.J.S.A. 19:57-23.

ii. In the event that a polling location has been reported inaccessible by the county board of elections and such board has not been able to correct any instances of inaccessibility, or has been unable to relocate such polling location to an accessible site, affected elderly and handicapped voters may apply for an absentee ballot.

5. Voter assistance at a polling place shall be provided as follows:

i. Pursuant to P.L. 97-205, the 1982 Amendments to the Federal Voting Rights Act, any voter who requires assistance to vote by reason of blindness or disability may be given assistance by a person of the voter's choice, other than the voter's employer or an agent of that employer or an officer or agent of the voter's union.

15:10-6.10 Reporting by county boards of elections; accessibility waivers

(a) Each county board of elections office is legally responsible, under Public Law 98-435, for not only implementing the provisions of the Act, but for documenting compliance. In order to fulfill the requirements of the Act, each county board of elections office shall report to the Secretary of State, no later than October 31st, in those years Federal elections are to be conducted, the accessibility status of each polling place located within their jurisdiction. All such reports are to be prepared on the following forms provided by the Secretary of State:

1. Each county board of elections office is required to complete a "Polling Place Accessibility Checklist" for each polling place located within their jurisdiction. This checklist requires the members of the county boards of elections and/or members of their Voting Accessibility Advisory Committee to physically evaluate the accessibility status of parking facilities, exterior and interior routes of travel, ramps and curb ramps, and entrances of each polling place. Evaluators are required to note the accessibility status of each area and to provide comments where needed. Based upon Polling Place Accessibility Checklist evaluations, each county board of elections is required to determine and to note the accessibility of each polling place.

2. In instances where a polling place is determined to be inaccessible and is reported as such, a "Polling Place Accessibility Waiver Form" must be completed and attached to the inaccessible polling place's accessibility checklist. The Secretary of State is provided authority to grant a waiver, in certain cases, to polling places which have been evaluated as inaccessible. In order for the Secretary of State to consider granting any waivers for inaccessible polling places, affected county boards of elections must not only complete the required waiver form, they must also document on this form the measures that their office has undertaken to either make this polling location accessible or to relocate such an inaccessible polling location to an alternative accessible location. While the completion of a Polling Place Accessibility Waiver Form is required for each inaccessible polling place, such a form does not preclude that inaccessible locations will be granted waivers. Waivers will be granted by the Secretary only in those instances when an inaccessible polling place and its affected facilities cannot be made accessible and alternative accessible locations are not available.

3. A Polling Place Accessibility Report shall be completed by each county board of elections. Such reports shall include:

- i. The total number of polling places within each county;
- ii. The total number of polling places that have been evaluated using the Secretary of State's "Polling Place Accessibility Checklist" and have been found to be either accessible or inaccessible; and
- iii. A listing of the reason(s) for any instance(s) of inaccessibility.

TRANSPORTATION

TRANSPORTATION OPERATIONS

The following proposals are authorized by Hazel Frank Gluck, Commissioner, Department of Transportation.

Submit comments by January 6, 1988 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

(a)

Restricted Parking and Stopping Route U.S. 9 in Cape May County and U.S. 9W in Bergen County

Proposed Amendments: N.J.A.C. 16:28A-1.7 and 1.61

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-139, 39:4-199.

Proposal Number: PRN 1987-484.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking" zones along Route U.S. 9 in Middle Township, Cape May County and "no parking bus stop" zones along Route U.S. 9W in Tenafly Borough, Bergen County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops.

Based upon requests from the local officials in the interest of public safety and the reduction of traffic congestion, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking" zones along Route U.S. 9 and "no parking bus stop" zones along Route U.S. 9W was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.7 and 1.61 based upon the requests from the local officials and the results of the traffic investigations.

Social Impact

The proposed amendments will establish "no parking" zones along Route U.S. 9 in Middle Township, Cape May County and "no parking bus stops" zones along Route U.S. 9W in Tenafly Borough, Bergen County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials 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 officials will bear the costs for "no parking bus stops" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendments do not impose any compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects 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) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated 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.-11. (No change.)

12. No stopping or standing in Middle Township, Cape May County:

i. Along both sides:

(1)-(3) (No change.)

(4) From the northerly curb line of the Garden State Parkway Exit 8 to the northerly curb line of 3rd Avenue.

ii. (No change.)

13.-19. (No change.)

(b) (No change.)

16:28A-1.61 Route U.S. 9W

(a) The certain parts of State highway Route U.S. 9W 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 [hereby] granted to erect appropriate signs at the following established bus stops:

[1. Within Tenafly Borough:

i. Along the westerly (southbound) side, East Clinton Avenue (near side, 120 feet);

ii. Along the easterly (northbound) side, East Clinton Avenue (far side, 105 feet).]

1. Along the westerly (southbound) side in Tenafly Borough, Bergen County:

i. Near side bus stop:

(1) East Clinton Avenue (120 feet);

ii. Far side bus stop:

(1) Greenbrook Sanctuary—Beginning at the northerly curb line of the entrance to Greenbrook Sanctuary and extending 125 feet northerly therefrom.

2. Along the easterly (northbound) side in Tenafly Borough, Bergen County:

i. Far side bus stops:

(1) East Clinton Avenue (105 feet);

(2) Greenbrook Sanctuary—Beginning at the prolongation of the southerly curb line of the entrance to the Greenbrook Sanctuary and extending 125 feet southerly therefrom.

Renumber 2.-7. as 3.-8. (No change in text.)

(b) (No change.)

(b)

No Passing Route N.J. 154 in Camden County

Proposed Amendment: N.J.A.C. 16:29-1.18

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-201.1.

Proposal Number: PRN 1987-485.

The agency proposal follows:

Summary

The proposed amendment will establish "no parking" zones along Route 154 in Cherry Hill Township, Camden County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the local officials in the interest of traffic safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "no passing" zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28-1.18 based upon the request from local officials and the results of the traffic investigation.

Social Impact

The proposed amendment will establish "no passing" zones along Route 154 in Cherry Hill Township, Camden County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected and the highway striped to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no passing" zones signs and the highway striping. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not impose any compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:29-1.18 Route 154

The certain parts of State [H]ighway Route 154 within Cherry Hill Township, Camden County described in drawing number HNPZ-[024] 110 dated [January 24, 1978] **September 2, 1987** shall be [and hereby are] designated and established as "No Passing" zones.

OFFICE OF ADMINISTRATIVE LAW NOTE: A map of the no passing zones along New Jersey Route 154, Cherry Hill Township, Camden County was filed with the proposal.

(a)

**Bicycle Restriction
Route N.J. 88 in Ocean County**

Proposed New Rule: N.J.A.C. 16:30-4.2

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-17.

Proposal Number: PRN 1987-483.

The agency proposal follows:

Summary

The proposed new rule will establish bicycle restrictions along Route 88 in Point Pleasant Borough, Ocean County along the Veterans Memorial Bridge for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the local officials in the interest of pedestrian safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of the bicycle restriction was warranted.

The Department therefore proposes new rule N.J.A.C. 16:30-4.2 based upon the request from local officials and the results of the traffic investigation.

Social Impact

The proposed new rule will establish bicycle restrictions along Route 88 in Point Pleasant Borough, Ocean County on the Veterans Memorial Bridge for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the cyclists.

Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs indicating bicycle restriction. Cyclists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed new rule does not impose any compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

Full text of the proposed new rule follows.

16:30-4.2 Route 88

(a) Bicycles shall be prohibited from certain parts of Route 88 described in this section:

1. Bicycles shall be prohibited from being driven and must be walked along the Veterans Memorial Bridge for the entire length within Point Pleasant Borough, Ocean County.

(b)

**Drawbridge Usage
Routes N.J. 35 in Middlesex County and N.J. 88 in
Point Pleasant Borough, Ocean County**

**Proposed Amendment: N.J.A.C. 16:30-9.1
Proposed New Rule: N.J.A.C. 16:30-9.2**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-17, 39:4-198.

Proposal Number: PRN 1987-482.

The agency proposal follows:

Summary

The proposed amendment will effect minor language changes in N.J.A.C. 16:30-9.1. The proposed new rule, N.J.A.C. 16:30-9.2, will establish restrictions along Route 88 in Point Pleasant Borough, Ocean County on the Veterans Memorial Bridge for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from the local officials to preclude the pedestrian traffic on the bridge and in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of restrictions on the Veterans Memorial Bridge was warranted.

The Department therefore proposes to amend N.J.A.C. 16:30-9.1 to effect language changes and to add new rule N.J.A.C. 16:30-9.2 based upon the request from local officials and the results of the traffic investigation.

Social Impact

The proposed amendment to N.J.A.C. 16:30-9.1 will effect language change and the proposed new rule, N.J.A.C. 16:30-9.2, will establish restrictions along Route 88 in Point Pleasant Borough, Ocean County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the populace.

Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no parking, crabbing, fishing or loitering" signs. Persons who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed new rule does not impose any compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:30-9.1 Route 35

(a) The certain parts of State highway Route 35 described in this subsection shall not be used for the purposes [of diving, crabbing, fishing or loitering] **described herein**. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. (No change.)

16:30-9.2 Route 88

(a) **The certain parts of State highway Route 88 described in this subsection shall not be used for the purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.**

1. No diving, crabbing, fishing or loitering shall be permitted along the Veterans Memorial Bridge for the bridge's entire length within Point Pleasant Borough, Ocean County.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS**Police and Firemen's Retirement System
Interfund Transfers****Proposed Amendment: N.J.A.C. 17:4-7.1.**

Authorized By: Anthony P. Ferrazza, Secretary, Police and Firemen's Retirement System.

Authority: N.J.S.A. 45:16A-13.

Proposal Number: PRN 1987-493.

Submit comments by January 6, 1988 to:

Peter J. Gorman
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, N.J. 08625

The agency proposal follows:

Summary

The proposed amendment will permit members of the retirement system who have credit in another State-administered retirement system for service prior to the date of enrollment in the Police and Firemen Retirement System (PFRS) to transfer the credit to PFRS at any time. At present, such transfers must be done at the time of enrollment in PFRS and a transfer can not be made by a person who has been granted a deferred retirement in the other system. This amendment will permit transfers in cases of deferred retirement and at any time after enrollment in PFRS, provided that the person did not continue to earn service credit in the other system after enrollment in PFRS. For persons who make the transfers at the time of enrollment in PFRS, their contribution rate will be based upon their age at the time of enrollment in the other system, subject to commutation in cases of deferred retirement. The contribution rate for persons who do not make timely transfers will be based upon their age at the time of enrollment in PFRS.

Social Impact

The proposed amendment will benefit the members of PFRS and the other State-administered retirement systems because it liberalizes the rules concerning transfers of service credit among the systems.

Economic Impact

No economic impact on the retirement system or its beneficiaries is anticipated from the adoption of this proposal since the amendment simply concerns transfer of service credit.

Regulatory Flexibility Statement

The rules of the Public Employees' Retirement System affect only public employers and employees. Thus, this proposed amendment will not have any effect upon small businesses or private industry in general. A regulatory flexibility analysis is not required.

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

17:4-7.1 Interfund transfers; State-administered retirement systems

(a) The system will transfer membership to any State-administered retirement system, as follows:

1.-4. (No change.)

5. [The] **This** procedure would not apply where a member [does not make a timely transfer in accordance with N.J.S.A. 43:2-1 et seq. or who has been granted a deferred retirement allowance by the present system] **has credit in the present system for service after the date of enrollment in the new system.**

6. (No change.)

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

(d) [The] **A member who makes a timely transfer in accordance with N.J.S.A. 43:2-1 et seq.** will contribute to the new system at a rate based on his or her age at the time of enrollment in the present system and no refund of pension contributions will be made except for those contributions made by veterans covering service prior to January 1, 1955, where applicable. **The contribution rate for a member granted**

a deferred retirement in the present system who makes a timely transfer at the time of enrollment in the new system will be determined in accordance with the rules concerning enrollment after deferred retirement in the new system. A member who does not make a timely transfer will contribute to the new system at a rate based on his or her age at the time of enrollment in the new system.

TREASURY-TAXATION

The following proposals are authorized by John R. Baldwin, Director, Division of Taxation.

Submit comments by January 6, 1988 to:

Nicholas Catalano
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN269
Trenton, NJ 08646

DIVISION OF TAXATION

(b)

Post Tax Amnesty Rules

Proposed Amendments: N.J.A.C. 18:2-2; 18:5-12.2; 18:7-3.15, 11.12, 13.7, 13.10, 13.12, 13.13, 14.3, 14.7, 14.17, 14.20; 18:8-4.5, 8.1, 8.2, 8.3, 8.4; 18:22-2.4, 8.4; 18:26-8.4; 18:35-1.9, 1.18; 18:37-2 Proposed New Rules: N.J.A.C. 18:2-2.10, 2.11; 18:35-1.19, 1.20

Proposed Repeals and New Rules: N.J.A.C. 18:2-2.2, 2.5 and 2.8; 18:7-14.1

Proposed Repeals: N.J.A.C. 18:2-2.9; 18:7-14.13, 14.14, 14.15 and 14.16; 18:8-8; 18:9-8.5, 8.6 and 8.7; 18:18-8.11, 12.5 and 12.7; 18:26-9.8; 18:37-3 and 4

Authority: N.J.S.A. 54:50-1, P.L. 1986, c.143 and P.L. 1987, c.76.
Proposal Number: PRN 1987-508.

The agency proposal follows:

Summary

These proposed amendments and new rules are required as a result of P.L. 1987, c.76, which authorized "Tax Amnesty", as well as certain statutory changes to become effective after the amnesty period. These "post-amnesty" changes reflect the State's interest in increased enforcement of the tax laws, both by civil action and criminal action. The proposed amendments and new rules cover statutory changes in the Cigarette Tax, Corporation Business Tax, Financial Business Tax Law, Business Personal Property Tax, Motor Fuels Tax, Public Utility Corporation Tax, Transfer Inheritance and Estate Tax, Gross Income Tax and Spill Compensation and Control Tax. In addition, the Division proposes to amend numerous provisions of the subchapter that relate to the State Tax Uniform Procedure Law (N.J.S.A. 54:48-1, et seq.). The State Tax Uniform Procedure Law applies to any tax payable to or collectible by the Division of Taxation unless otherwise provided in the law specifically imposing such tax.

N.J.A.C. 18:2-2.3 and 18:2-2.4 implement the penalty and interest provisions which are effective December 9, 1987. For all returns which are filed after December 8, 1987, the taxpayer will be charged \$100.00 per month or any part of a month that the return is delinquent in addition to the current penalty of five percent of the tax liability for each month or fraction thereof, up to a maximum of 25 percent of such tax liability. The late payment penalty charge of five percent of the tax remains unchanged. Interest is imposed on the unpaid tax (including any previous interest and penalty charged with respect thereto) at an annual rate of five percentage points over the prime rate, compounded daily. The prime rate is defined in proposed new rule N.J.A.C. 18:2-2.11 as the average predominant rate effective on the first business day of the quarter immediately preceding the quarter in which the tax or payment became due. Such rate shall be adjusted on the first business day of each quarter thereafter over the life of the debt.

Where a taxpayer is granted an extension of time to file a return, interest accrues from the original due date of the return until the actual date of payment. For all payments made prior to the extended due date, interest is charged at an annual rate of three percentage points above the prime rate, compounded daily. Any payments made after the extended due date shall be charged with interest at the rate of five points above the prime rate, compounded daily. In addition, the taxpayer shall be charged with the applicable statutory penalties from the original due date of the return.

N.J.A.C. 18:2-2.5, which once addressed the interest to be charged on unpaid tax when an extension of time to file was granted, is deleted by this proposal and replaced with the definition of cost of collection which is to be applied to a delinquent account when a certificate of debt is issued by the Director.

An amount of tax assessed by the Division following the filing of any return shall be charged with interest at five percentage points above the prime rate to be compounded daily from the date the tax was originally due. See N.J.A.C. 18:2-2.6. The Director is given the power to abate any or all civil penalties imposed upon a taxpayer, but may only abate any interest charge in excess of three percentage points above the prime rate. See N.J.A.C. 18:2-2.7. In order for an abatement action to be taken, the taxpayer must submit a written and satisfactory explanation as to why the tax was not paid when due.

N.J.A.C. 18:2-2.10 will permit the Director to credit erroneous or illegal overpayments of tax to a taxpayer's account where a deficiency assessment has been made against such taxpayer. The credit may only be made if no question of fact or law exists and must be made within the time in which a deficiency assessment of that tax can be made. Finally, the credit can only be made to offset a deficiency assessment made against a taxpayer for the same tax.

P.L. 1987, c.76 creates 13 new tax law crimes and increases the degree of many existing ones. These State tax crimes are set out in N.J.A.C. 18:2-2.8 and are generally divided into the following categories: disorderly persons offenses; fourth degree crimes; third degree crimes; and second degree crimes.

Other proposed amendments provide for an increase in the fee for a tax lien status certificate from \$5.00 to \$25.00 for each corporation for which a certificate is requested (See N.J.A.C. 18:7-13.13), and an increase in the fee required for the Corporation Business Tax Clearance Certificate from \$10.00 to \$25.00. N.J.A.C. 18:7-14.7. N.J.A.C. 18:7-13.12 will require the payment by a corporate taxpayer of an amount equal to the cost of collection in order for property to be released from the lien of any tax or interest or penalty imposed with respect thereto.

Proposed new rule N.J.A.C. 18:35-1.19 reflects the penalty to be assessed under the Gross Income Tax Act if any part of a deficiency is due to the taxpayer's negligence (10 percent of the deficiency) or civil fraud (50 percent of the assessment). Proposed new rule N.J.A.C. 18:35-1.20 provides the definition of gambling winnings which are subject to withholding as a result of P.L. 1987, c.76. Every payor of winnings which are subject to withholding will be required to withhold New Jersey gross income tax in an amount equal to three percent of the payments made to both New Jersey residents and nonresidents. Any person receiving a payment of New Jersey gambling winnings which are subject to withholding will be required to furnish the payor with the name, address and taxpayer identification (social security) number of the winner and any other person entitled to any portion of such payment. The rule does not apply to the payment of winnings from the New Jersey Lottery, ordinary slot machine play or a keno or bingo game.

Certain amendments proposed herein are not related to amnesty but were merely incorporated into the Amnesty Law by the Legislature in P.L. 1987, c.76. The proposed amendments to N.J.A.C. 18:37-2.1 and 2.2 simply transcribe the statutory rate changes made to the Spill Compensation and Control Tax by P.L. 1986, c.143. The rule amendment proposed for N.J.A.C. 18:35-1.9 is intended to clarify the State's gross income tax treatment of interest received or gains realized from Federal and other states' obligations as well as with regard to Certificates of Participation issued by this State or its agencies in connection with lease purchase agreements.

The remaining rules which have been proposed for amendment merely represent changes made necessary as a result of the new penalties and interest rates to become effective following the 90 day tax amnesty period.

Social Impact

These proposed amendments and new rules reflect the State's commitment to the imposition of tougher civil and criminal penalties in the case of any taxpayer who fails or refuses to comply with any State tax law.

It is anticipated that these new penalties will help increase the compliance level of all New Jersey taxpayers who may have failed to meet their obligations.

A good example of the State's resolve to enforce the tax laws is the case of an individual taxpayer who is required by law and refuses to file a New Jersey Gross Income Tax Return. Previously, such taxpayer would have been chargeable with a misdemeanor. On or after the effective date of these proposed amendments and new rules, such a failure to file will be classified as a disorderly persons offense. Although the criminal penalties for a misdemeanor and a disorderly persons offense are quite similar, the conversion of the offense to a disorderly persons offense provides the Division with access to the criminal justice system without the need of an indictment and jury trial, which are necessary for a conviction of a crime as a misdemeanor.

Following the expiration of the 90 day tax amnesty period, failure to file a tax return will cost taxpayers more in penalties and interest. In 1986, a taxpayer who had an outstanding tax liability of \$1,000.00 on April 15 but did not file the NJ-1040 until October 14, without first obtaining an extension of time, would have been liable for the tax liability of \$1,000.00, late filing penalties of \$250.00 (25 percent of \$1,000.00) and \$364.00 (\$2.00 per day), a late payment penalty of \$50.00 (five percent of \$1,000.00) and interest on the \$1,000.00 of tax from the original due date to the date of payment at the rate of one and one-half percent per month. If that same situation occurs in 1988, the taxpayer will be liable for the outstanding tax liability of \$1,000.00, late filing penalties of \$250.00 (25 percent of \$1,000.00) and \$600.00 (\$100.00 per month), and a late payment penalty of \$50.00 (five percent of \$1,000.00). Moreover, interest will be charged on tax, penalty and interest at an annual rate of the prime rate plus five percentage points, compounded daily, from the original due date until the date of payment. Previously, payment of the tax liability would have stopped interest from running on the debt. Subsequent to the effective date of these proposed amendments and new rules, interest will continue to be compounded daily for as long as any portion of taxpayer's debt remains unpaid, whether it be tax, penalty or interest.

Economic Impact

It is anticipated that taxpayer awareness and tax compliance levels, and hence, State tax revenue will increase as a direct result of these proposed amendments and new rules. Although revenue enhancement is not intended, the increased penalties and interest will add appreciably to the amount of delinquent taxes assessed and collected by the Division in each year following amnesty. Further, taxpayers newly added to the tax rolls as a result of their having taken advantage of tax amnesty will also provide additional revenue for State purposes.

Regulatory Flexibility Statement

This proposal will not result in any change in existing reporting, recordkeeping or other compliance requirements for small businesses under State tax laws.

The withholding requirement of proposed new rule N.J.A.C. 18:35-1.20 affects only those payors making payments of winnings which are already subject to Federal withholding and reporting requirements. The additional paperwork necessary to comply with the State's requirements is negligible and those businesses which are most directly affected by this new requirement are casinos and race tracks operating in the State, rather than small businesses.

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

18:2-2.1 Application

This [regulation] **subchapter** is applicable to penalty and interest impositions made on and after October 1, 1975, pursuant to P.L. 1975, c.177, approved August 4, 1975[. Said law amended] **and** the State Tax Uniform Procedure Law [to provide for such impositions. Various state tax laws were amended by P.L. 1975, c.177, so that the imposition of penalties and interest provisions contained in said state tax laws now provide "as provided in the State Tax Uniform Procedure Law, Subtitle 9 of Title 54 of the Revised Statutes"], **as amended to and including P.L. 1987, c.76.**

18:2-2.2 Tax laws affected

(a) The following tax laws will be governed by the new penalty and interest impositions:

1. Corporation Franchise Tax—C. 54:10A-1 et seq.;
2. Financial Business Tax Act—C. 54:10B-1 et seq.;

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Interested Persons see Inside Front Cover

TREASURY-TAXATION

- 3. Savings Institution Tax Act—C. 54:10D-1 et seq.;
- 4. Corporate Net Income Tax—C. 54:10E-1 et seq.;
- 5. Business Personal Property Tax—C. 54:11A-1 et seq.;
- 6. Unincorporated Business Tax—C. 54:11B-1 et seq.;
- 7. Gross Receipts Tax on Retail Store Sales—C. 54:11C-1 et seq.;
- 8. Domestic Insurance Companies Tax—C. 54:16A-1 et seq.;
- 9. Tax on Domestic and Foreign Assessment Insurance Companies—C. 54:18A-1 et seq.;
- 10. Tax on Railroads—C. 54:29A-1 et seq.;
- 11. Sales Tax—C. 54:32B-1 et seq.;
- 12. Motor Fuels Tax—N.J.S.A. 54:39-1 et seq.;
- 13. Cigarette Tax—C. 54:40A-1 et seq.;
- 14. Alcoholic Beverage Tax—N.J.S.A. 54:41-1 et seq.;
- 15. Emergency Transportation Tax Act—N.J.S.A. 54:8A-1 et seq.;
- 16. Transportation Benefits Tax—N.J.S.A. 54:8A-58 et seq.

(b) With respect to all other tax laws such as the Transfer Inheritance Tax and the Public Utility Franchise and Gross Receipts Taxes, the imposition of interest and penalties are governed by the specific tax law.]

The provisions of the State Tax Uniform Procedure Law and this subchapter shall apply to any tax which is payable to or collectible by the Director of the Division of Taxation, unless the law imposing such tax specifically provides that the State Tax Uniform Procedure Law and this subchapter shall not apply, or unless the specific provisions of the law imposing such tax provide for penalty and interest which is different from the provisions of the State Tax Uniform Procedure Law and this subchapter.

18:2-2.3 Failure to file return on time

(a) On or before December 8, 1987, [A]ny taxpayer failing to file a return within the time prescribed by the [A]ct imposing a particular tax shall be liable for the following:

- 1. A late filing penalty of \$2.00 for each day that the return is delinquent; plus
- 2. A penalty of five percent per month or fraction thereof of the total tax liability not to exceed 25 percent of such tax liability.

(b) On and after December 9, 1987, any taxpayer failing to file a return within the time prescribed by the act imposing a particular tax shall be liable for the following:

- 1. A late filing penalty of \$100.00 per month or any part of a month that the return is delinquent; plus
- 2. A penalty of five percent per month or any part of a month of the total tax liability not to exceed 25 percent of such tax liability.

(c) Both penalties set forth in (a) and (b) above shall be imposed on the first day following the original due date of the return and on the same calendar day of each succeeding month thereafter. The following are examples of penalty computations.

1. A corporate taxpayer filed its 1987 corporation business tax return with a due date of April 15, 1988 on June 1, 1988. The return is 47 days late. The taxpayer had a total tax liability for 1987 of \$10,000.00. In addition to the unpaid tax the taxpayer owes the following amounts:

Delinquency penalty: \$100.00 per month for two months	\$ 200.00
Late filing penalty: five percent per month of the tax liability	
5% x 2 months = 10 percent of \$10,000.00	\$ 1,000.00
Tax liability	\$10,000.00
Total	\$11,200.00*

*In addition, the taxpayer will be liable for interest (see N.J.A.C. 18:2-2.4) and may be liable for other penalties (see, for example, N.J.A.C. 18:2-2.4 and N.J.S.A. 54A:9-6).

2. An individual taxpayer filed the 1987 NJ-1040 due on or before April 15, 1988 on October 16, 1988. The return is six months and one day late. In addition to a \$1,200.00 outstanding tax liability on April 15, 1988, the taxpayer owes the following amounts:

Delinquency penalty: \$100.00 per month for seven months	\$ 700.00
Late filing penalty: five percent per month of the tax liability not to exceed 25 percent	\$ 300.00
Tax Liability	\$1,200.00
Total	\$2,200.00*

*In addition, the taxpayer will be liable for interest (see N.J.A.C. 18:2-2.4) and may be liable for other penalties (see, for example, N.J.A.C. 18:2-2.4 and N.J.S.A. 54A:9-6).

18:2-2.4 Failure to pay on time; extensions of time to pay

(a) Any taxpayer failing to pay a tax within the time prescribed by the [A]ct imposing a particular tax shall pay, in addition to the unpaid tax, the following:

1. Interest on said tax at the rate of one percent for each month or fraction thereof that the same remains unpaid, to be calculated from the date the tax was originally due until October 1, 1975, and at the rate of [1½] one and one-half percent per month or fraction thereof from October 1, 1975 to the date of actual payment[.] or until December 8, 1987, whichever is earlier. On and after December 9, 1987, interest on the unpaid tax shall be charged at an annual rate of five percentage points above the prime rate, compounded daily upon the amount that remains unpaid, calculated from the date the tax was originally due until the date of payment.

2. A sum equivalent to five percent of the tax shall be added to the amount of the tax as a penalty.

(b) [Examples include the following] The following examples apply only to tax liabilities paid prior to December 9, 1987:

1.-3. (No change.)

(c) The following example applies only to tax liabilities paid on or after December 9, 1987:

1. Corporation X's Corporation Business Tax return was due and filed on April 15, 1988. A deficiency of \$50,000.00 is assessed by the Division. Payment is due on July 31, 1988.

The taxpayer must submit the following amounts on or before July 31, 1988:

Late payment penalty: five percent of the balance of tax due	\$ 2,500.00
Deficiency assessed:	\$50,000.00
	<u>\$52,500.00</u>

Interest on tax and penalty, calculated at an annual rate of the prime rate plus five percentage points compounded daily from the original due date (April 15, 1988) until the date of payment (assume July 31, 1988). The applicable prime rate shall be the rates effective on January 1, 1988 and April 1, 1988, which are assumed to be nine percent and nine and one-half percent, respectively, for the purposes of this example.

	\$ 2,222.30
Total	\$54,722.30

(d) Where the director is authorized by law and grants an extension of time in which a tax shall be paid, the taxpayer shall be liable for the payment of interest on the unpaid tax at the rate of three percentage points above the prime rate, to be compounded daily from the date such tax was originally due to the date of actual payment. If any or all of such tax is not paid within the time fixed under the extension, the interest on the amount of such unpaid tax shall be computed at the annual rate of five percentage points above the prime rate, to be compounded daily from the date the tax was originally due to the date of actual payment.

(e) On and after December 9, 1987, which is the first day immediately following the 90 day tax amnesty period authorized by P.L. 1987, c.76, for purposes of calculating interest unpaid tax shall mean the total of the following:

- 1. The actual unpaid tax liability;
- 2. All penalties accrued to that date; and
- 3. Interest accrued to that date.

18:2-2.5 Extensions of time to file

Where an extension of time to file a return has been granted, taxpayer will be liable for interest on the unpaid tax at the rate of six percent per annum from the date that such tax was originally due to October 1, 1975, and at the rate of nine percent from October 1, 1975 to the date of actual payment. An example is: Taxpayer filed a tentative return and paid his tax on July 15, 1975, the due date of the return, and obtained a three-month extension in which to file his final return. He filed his final return on time but owed an additional amount of tax. The additional amount of tax bears interest at the rate of six percent per annum from July 15, 1975, the date the tax was originally due, to October 1, 1975 and at the rate of nine percent per annum from October 1, 1975, to October 15, 1975, the date of payment.]

18:2-2.5 Cost of collection defined

(a) Cost of collection means the amount of expense incurred by the State with respect to the issuance of a certificate of debt for, and the collection of, any State tax not paid within the time prescribed by law. These expenses include, but are not limited to the following:

1. Cost of postage;
2. Cost of telephone;
3. Cost of photocopying;
4. State payroll hours used, including all associated overhead;
5. Cost of filing and prosecuting suit;
6. The cost of agents, contractors, subcontractors or others employed or otherwise engaged by the State of New Jersey for the efficient and expeditious collection of unpaid tax; and
7. Any other expense deemed by the Director to be reasonably related and necessary for the collection of any unpaid tax.

(b) In lieu of ascertaining and imposing the actual cost of collection, the Director may impose a fee as follows:

1. In the event that any State tax is not paid within the time prescribed by law and the Director issues a certificate of debt pursuant to N.J.S.A. 54:49-12, the greater of five percent of the tax or \$100.00;
2. In the event that any State tax remains unpaid following the issuance of the certificate of debt and the Director takes any further collection action, including but not limited to, referral of the matter to the Attorney General, the greater of 10 percent of the tax or \$200.00;
3. In the event that any State tax remains unpaid and suit is instituted against the taxpayer for collection of the tax, the greater of 20 percent of the tax or \$500.00.

(c) Any fees imposed as cost of collection or in lieu thereof shall be in addition to any interest or penalties, or both, otherwise provided by law, and shall be payable to and recoverable by the Director, along with all penalties and interest as if they were part of the tax imposed.

(d) Interest or penalties shall not be assessed against any fees imposed as cost of collection or in lieu thereof; however, the cost of collection may reflect the passage of time between the date the costs were incurred and the date they are paid.

18:2-2.6 Additional assessment of tax

(a) Upon audit or investigation of a return that has been filed, where it is determined that there is a deficiency with respect to the payment of any tax due, the additional taxes shall be assessed together with penalties of five percent of the additional tax and interest at the rate in effect immediately prior to October 1, 1975, and at the rate of 1½ percent per month or fraction thereof from October 1, 1975, to the date of payment[.] or until December 8, 1987, whichever is earlier. On and after December 9, 1987 interest shall be charged at the annual rate of five percentage points above the prime rate, compounded daily from the later of the date the tax was originally due or December 9, 1987, to the date of payment. The taxpayer shall be given notice of such assessment and a demand made upon him for payment. The following are examples of interest and penalty liability:

1. [An example is:] On June 15, 1974, a taxpayer filed a return. On February 15, 1976, the taxpayer was notified of an additional assessment and a demand was made upon him for payment. The additional tax bears interest at the rate of one percent per month or fraction thereof from the date the tax was originally due to October 1, 1975, and at the rate of 1½ percent per month or fraction

thereof from October 1, 1975, to the date of payment. In addition, taxpayer is subject to penalties of five percent of the additional tax. **This example applies only to tax liabilities incurred prior to January 1, 1987 and paid prior to December 8, 1987, the final day of the 90 day tax amnesty period authorized by P.L. 1987, c.76.**

2. Corporation X was a fiscal year taxpayer whose year ended July 31, 1984. The final return was due and filed on November 15, 1984. Upon audit in July, 1987, it was determined that there was a \$1,000 deficiency with respect to tax due. If Corporation X pays the deficiency on the final day of the 90 day tax amnesty period authorized by P.L. 1987, c.76, which ends December 8, 1987, the following amounts would be due:

Deficiency assessed:	\$1,000.00
Simple interest calculated at nine percent per annum* from November 16, 1984 through December 8, 1987	\$ 275.75
Total due	<u>\$1,275.75</u>

*Through statutory interest to December 8, 1987 was 18 percent, P.L. 1987, c.76 mandates a nine percent rate for debts paid during the 90 day amnesty period.

3. Corporation X fails to pay the deficiency assessed within the amnesty period. When payment is made on May 6, 1988 the taxpayer remits \$1,746.63 which represents the following amounts:

Deficiency assessed:	\$1,000.00
Late payment penalty: five percent of the balance of tax due	\$ 50.00
Simple interest calculated at the rate of one and one-half percent per month from November 16, 1984 through December 8, 1987	\$ 555.00
Total	<u>\$1,655.00 PLUS</u>

Interest on \$1,655.00, calculated at an annual rate of the prime rate plus five percentage points compounded daily from December 8, 1987 until the date of payment (May 6, 1988). The applicable prime rate shall be the rates effective on July 1, 1987, October 1, 1987 and January 1, 1988. For the purposes of this example the prime rate is assumed to be:

July 1, 1987	8.25 percent	
October 1, 1987	8.75 percent	
January 1, 1988	9.00 percent	\$ 91.63
Total		<u>\$1,746.63</u>

18:2-2.7 [Remission or waiver] Abatement of penalty and interest

If the failure to pay any tax when due or the failure to file any return is explained to the satisfaction of the Director, he may [remit or waive] abate the payment of the whole or any part of any penalty, and may [remit or waive] abate the payment of any interest charge in excess of the rate of [½] one-half of one percent per month from the due date to October 1, 1975, and [¾] three-quarters of one percent per month from October 1, 1975, to the date of payment (N.J.S.A. 54:49-11) or December 8, 1987, whichever is earlier. On and after December 9, 1987 the Director may abate the payment of any interest charge in excess of the rate of three percentage points above the prime rate compounded daily to the date of payment. The Director will take no action under this [S]section unless the taxpayer submits, in writing, a full and complete satisfactory explanation as to the reason why the tax was not paid when due.

18:2-2.8 Criminal penalties

[The State Tax Uniform Procedure Law contains criminal penalties for any person who fails to file any report or shall file or cause to be filed with the Director any false or fraudulent report or who shall aid or abet another in the filing with the Director of any false or fraudulent report or statement with the intent to defraud or evade the payment of any tax, fee, penalty or interest or any part thereof (N.J.S.A. 54:52-1). The Act also contains criminal penalties for false swearing (N.J.S.A. 54:52-2) and for the false or fraudulent maintenance of books, records or accounts.]

(a) The State Tax Uniform Procedure Law contains criminal penalties for persons who violate the State tax laws administered by the Division of Taxation. Criminal provisions are prescribed by law for the following acts or omissions:

1. Any of the following constitute a disorderly persons offense:
 - i. Failure to file any return or report required by any State tax law;
 - ii. Failure to pay over any tax required by any State tax law;
 - iii. Filing or causing to be filed, or made any return, certificate, affidavit, representation, information, testimony or statement, required or authorized by any State tax law, which is false;
 - iv. Failure to file a bond required to be filed by any State tax law;
 - v. Failure to file an application for registration, certification, or such data in connection therewith as the director by regulation or otherwise may require under any State tax law;
 - vi. Failure to display or surrender any certificate of authority as may be required by any State tax law;
 - vii. Assigning or transferring any certificate of authority in violation of any State tax law;
 - viii. Failure to charge any state tax as required by any State tax law;
 - ix. Failure to separately state or account for any State tax as required by any State tax law;
 - x. Failure to withhold any State tax as required by any State tax law; or
 - xi. Failure to keep any records required by any State tax law or rule of the Director issued thereunder.

2. The offenses provided in (a)1 above shall be in addition to any other penalties prescribed in P.L. 1987, c.76 or otherwise prescribed by law.

3. Any of the following constitute a fourth degree crime:

- i. Intentionally providing false information to hinder an official investigation, inquiry examination or audit by the Division of Taxation (N.J.S.A. 54:52-7);
- ii. Failure to license or register with the Division of Taxation and/or engaging in conduct which would require registration with the intention to evade tax (N.J.S.A. 54:52-13);
- iii. Knowingly operating under a voided corporate charter (N.J.S.A. 54:52-16);
- iv. Knowingly dealing with unlicensed persons and assisting such person in avoiding or evading any State tax (N.J.S.A. 54:52-17); or
- v. Knowingly swearing to any false or fraudulent statement with an intention to evade or avoid any tax penalty or interest (N.J.S.A. 54:52-19).

4. Any of the following constitutes a third degree crime:

- i. Failure to file a return or report with intention to evade or avoid tax, fee, penalty or interest pursuant to State Tax Uniform Procedure Law (N.J.S.A. 54:52-7);
- ii. Failure to remit any sums collected for the benefit of the State with intent to evade or avoid tax, fee, penalty and interest (N.J.S.A. 54:52-9);
- iii. Preparation of false or fraudulent return report or statement with intent to evade or avoid any tax, fee, penalty or interest (N.J.S.A. 54:52-10);
- iv. Preparation or maintenance of fraudulent or false books or records with intention to evade or avoid tax, fee, penalty or interest (N.J.S.A. 54:52-11);
- v. Failure to maintain books or records as required by State tax law with intent to evade or avoid tax, fee, penalty or interest (N.J.S.A. 54:52-12); or
- vi. Failure to collect or withhold any State tax with intention not to make timely payment of tax, fee, penalty or interest (N.J.S.A. 54:52-13).

5. The intentional failure to remit taxes collected or withheld of \$75,000.00 or more shall be considered a second degree crime.

18:2-2.9 [Effective date] (Reserved)

[These regulations shall take effect on October 1, 1975 and shall be applicable with respect to all impositions of penalties and interest made on and after said date with respect to taxes covered by the State Tax Uniform Procedure Law, except as otherwise herein stated. The amendments herein shall take effect with respect to impositions of

interest and penalties imposed by the Division of Taxation on and after February 10, 1976.]

18:2-2.10 Credit for erroneous payments and collections

(a) Where it is determined as a result of the audit of any taxpayer that a State tax has been erroneously or illegally collected from such taxpayer, or has been paid by such taxpayer under a mistake of law or fact, and where no questions of law or fact are involved, the Director may credit the erroneous overpayment of tax to the account of the taxpayer to offset the amount of a deficiency assessment. Such offsets will be made with the following limitations:

1. Credit for the erroneous payment must be made within the time in which a deficiency assessment must be made for such tax as provided by law; and

2. Credit shall only be applied in order to offset a liability for a period which is covered by the applicable assessment period; and

3. Credit for erroneous overpayments shall only be made to offset a deficiency assessment made by the Director under the same state tax law.

(b) An audit of a taxpayer can only be initiated by the Division and not at the request of a taxpayer.

18:2-2.11 Prime rate defined

For the purposes of determining the interest charge to be assessed against a taxpayer, prime rate shall mean the average predominant prime rate, as determined by the Board of Governors of the Federal Reserve System, quoted by commercial banks to large businesses as of the first business day of the calendar quarter immediately preceding the quarter within which the tax or payment became due. The applicable rate shall be adjusted on the first business day of each quarter thereafter over the life of the debt.

18:5-12.2 [High misdemeanors] Third degree crimes

(a) [The following high misdemeanors are subject to a penalty of not more than a \$2,000.00 fine, or imprisonment of not more than seven years, or both:] The following crimes are considered third degree crimes for purposes of the Act:

1.-2. (No change.)

18:7-3.15 Interest on underpayment of installment payments

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

(c) The rate to be used in (b) above is [a per annum] an annual rate of five percent above the [average predominant] prime rate, [as determined by the Board of Governors of the Federal Reserve System, quoted by commercial banks to large businesses as of the first business day of the calendar quarter within which the payment was due] compounded daily from the date the tax was originally due and payable until the date of actual payment. [Such amount shall be computed on a per diem basis] Each such underpayment shall bear interest at the rate prescribed above. The following is an example of underpayment interest computation:

1. [For example,] Assume the average predominant prime rate for January 1, [1985 was 12] 1988 is nine percent. Therefore, the applicable interest on underpayment pursuant to this subsection [was 12] is nine percent plus five percent or [17] 14 percent on the amount of any underpayment of estimated tax due on or after [January 1, 1985] April 1, 1988 but before [April 1, 1985] July 1, 1988. The method prescribed for computing the addition to the tax may be illustrated by the following example:

[Example:] i. A corporation reporting on a calendar year basis estimated on its Statement of Estimated Tax for [1985] 1988, estimated tax in the amount of \$50,000.00. It made payments of \$12,500.00 each on April 15, [1985] 1988, June 15, [1985] 1988, September 15, [1985] 1988 and December 15, [1985] 1988. On April 15, [1986] 1989, it filed its tax return, CBT-100, showing a total tax of \$200,000.00. Since the amount of each of the four installments paid by the last date prescribed for payment thereof was less than 90 percent of the tax shown on the return, the addition to the tax under this rule is applicable and is computed as follows, assuming that no exception applies:

Item (1)	Tax on return for [1985] 1988	\$200,000
Item (2)	Ninety percent of item (1)	180,000
Item (3)	Amount of estimated tax required to be paid on each installment date (25 percent of \$180,000)	45,000
Item (4)	Deduct amount paid on each installment date	12,500
Item (5)	Amount of underpayment for each installment date (item (3) minus item (4))	<u>\$ 32,500</u>
Item (6)	Interest shall be charged on each underpayment at the rate as prescribed in this subsection.	

First installment: Interest period April 15, 1985 to April 15, 1986
 Second installment: Interest period June 15, 1985 to April 15, 1986
 Third installment: Interest period September 15, 1985 to April 15, 1986

Fourth installment: Interest period December 15, 1985 to April 15, 1986

[2. Each such underpayment shall bear interest at the rate prescribed at (c) of this section.]

(d)-(e) (No change.)

18:7-11.12 Extension of time to file return; interest and penalty (a)-(e) (No change.)

(f) Interest and a penalty are chargeable as follows:

1. (No change.)

2. Any unpaid portion of the tax on the final return which is in excess of the amounts paid shall bear interest at the rate of one and one half percent per month, or fraction thereof from the original due date of the return to the earlier of the date of actual payment[,] or **December 8, 1987. On and after December 9, 1987 the unpaid portion of the tax shall bear interest at the annual rate of five percentage points above the prime rate, compounded daily from the date the tax was originally due or December 9, 1987, whichever is later, to the date of actual payment.**

3. (No change.)

(g) (No change.)

18:7-13.1 Assessment and reassessment

(a) On its return, the taxpayer must compute the amount of tax payable under the law and must remit the amount of the indicated tax.

1.-2. (No change.)

3. There shall be added to the amount of any deficiency assessment or reassessment, interest at the rate of one and one-half percent per month or fraction thereof to be calculated from the date the tax was originally due and payable until [the date of actual payment.] **December 8, 1987. On and after December 9, 1987, interest shall be calculated at the annual rate of five percentage points above the prime rate, compounded daily until the date of actual payment.**

4. If the Director is satisfied that the deficiency was not due to fraud or evasion, he may [remit or waive] abate the payment of any interest charge in excess of the annual rate of [three quarters of one percent per month] **three percentage points above the prime rate, compounded daily.**

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

18:7-13.7 Additional tax; change in Federal tax; interest to be charged

(a) If the taxpayer is notified by the Director that an additional tax is payable as a result of an amended Federal return or a change or correction in taxable income by the Commissioner of Internal Revenue or other office of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States or a recovery of a war loss results in a computation or recomputation of any tax imposed by the United States, **within 15 days after the date of the Division's assessment letter to the taxpayer, the taxpayer must remit that additional tax together with interest thereon at the rate of three quarters of one percent per month or fraction thereof from the original due date of the New Jersey Corporation Business Tax Return for the accounting period involved to the date of payment or December 8, 1987, whichever is earlier, [must be paid by the taxpayer] and on or after December 9, 1987 at**

the annual rate of five percentage points above the prime rate to be compounded daily from the date such tax was originally due to date of actual payment [within 15 days after the date of the Division's assessment letter to the taxpayer].
 (b)-(c) (No change.)

18:7-13.10 Refund for erroneous payments

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

(c) **See N.J.A.C. 18:2-2.10(b) for provisions relating to the credit for the erroneous overpayment of tax to the account of the taxpayer.**

18:7-13.12 Release of property from lien

(a) The Director may release any property from the lien of any tax, interest or penalty imposed upon any corporation in accordance with the provisions of the Act, or of any certificate, judgment or levy procured by him, upon written application made to him and upon payment of [a \$5 fee] **an amount equal to the cost of collection, provided:**

1. (No change.)

2. Deposit be made of whatever security or bond [as] the Director shall deem proper to secure payment of any debt evidenced by any tax, interest, penalty, **cost of collection**, certificate, judgment or levy, the lien of which is sought to be released; or

3. (No change.)

(b) (No change.)

18:7-13.13 Certificate as to lien for unpaid corporation franchise taxes

(a) (No change.)

(b) The fee for a tax lien status certificate shall be [\$5] **\$25.00** for each corporation listed in the application for which a certificate is requested.

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

18:7-14.1 Penalties

(a) [Any taxpayer which shall fail to file its return when due shall be liable to a penalty of \$2.00 for each day of delinquency plus a penalty of five per cent per month or fraction thereof of the total tax liability not to exceed 25 percent of such tax liability, which shall be payable to and recoverable by the Director as part of the tax imposed by law.

(b) Should any tax not be paid when it becomes due, including the required tax prepayment for accounting periods ending March 31, 1968 and thereafter, there shall be added to the amount of the tax:

1. A sum equivalent to five per cent thereof as a penalty; and
2. Interest at the rate of one and one-half percent per month or fraction thereof from the date the tax became due until it is paid.

(c) The Director, if satisfied that the failure to comply with any provision of the law was excusable, may abate or remit the whole or part of any penalty.]

Any taxpayer which shall fail to file its return when due or fail to pay any tax when due shall be subject to penalties and interest as provided for in the State Tax Uniform Procedure Law (N.J.S. 54:48-1, et seq.) and N.J.A.C. 18:2-2.1 et seq.

18:7-14.3 Arbitrary assessment where taxpayer withholds return

(a) (No change.)

(b) According to the estimate so made by him, [he] **the Director shall:**

1. Assess the taxes, fees, penalties, **cost of collection** and interest due the State from the taxpayer;

2.-3. (No change.)

18:7-14.7 Acting under voided charter a [misdemeanor] **crime of the fourth degree**

A person who [shall exercise or attempt] **knowingly exercises or attempts** to exercise any powers under the charter of any corporation after that charter has been forfeited by the Governor's proclamation or proclamation of the Secretary of State shall be guilty of a [misdemeanor, and shall be punished by imprisonment not exceeding one year or a fine not exceeding \$1,000.00 or both, in the discretion of the court] **crime of the fourth degree.**

18:7-14.13 [Criminal penalties for failure to file; filing of false or fraudulent return] (Reserved)

[Any person who shall fail to file any report or return required to be filed pursuant to the provisions of the Act, or shall file or cause to be filed with the Director any false or fraudulent report, return or statement, or shall aid or abet another in the filing with the Director of any false or fraudulent report, return or statement, with the intent to defraud the State or evade the payment of the tax, fee, penalty or interest or any part thereof which shall be due pursuant to the provisions of the Act, shall be guilty of a misdemeanor and be fined not to exceed \$1,000.00, or be imprisoned not to exceed one year or both, at the discretion of the court.]

18:7-14.14 [False swearing] (Reserved)

[Any person who shall knowingly swear to, affirm, or verify any false or fraudulent statement with intent to evade the payment of the Corporation Business Tax or who, being under oath, shall testify falsely at any hearing held pursuant to the provisions of the Act shall be guilty of a misdemeanor and be fined not to exceed \$1,000.00, or be imprisoned not to exceed one year or both, at the discretion of the court.]

18:7-14.15 [Certain offenses deemed occurring in Director's office; Prima Facie evidence] (Reserved)

[(a) The failure to do any act required to be done under the provisions of the Act shall be deemed an act committed in part at the office of the Director in Trenton.

(b) The certificate of the Director to the effect that any act required to be done under the provisions of the Act has not been done shall be prima facie evidence that such act has not been done.]

18:7-14.16 [False or fraudulent books, records or accounts] (Reserved)

[Any person who shall willfully set up, keep or maintain or shall willfully cause to be set up, kept or maintained any false or fraudulent books, records or accounts relating to any business or transaction which, or the conduct of which, is subject to, affected by or employed in the measurement or computation of the tax imposed by the Act and made payable to or collectible by the Director, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00, or by imprisonment for a term not exceeding one year or by both.]

18:7-14.17 Tax Clearance Certificate

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

(e) The Tax Clearance Certificate is issued by the Director upon application in good form which is accompanied by a statutory fee of [\$10.00] **\$25.00**. The Certificate is dated and it voids and becomes a nullity 46 days after that date. The Certificate is evidence that [a corporation's taxes have] **the corporation business tax has been paid** or provided for only during the 45-day period succeeding its issue.

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

18:7-14.20 Forms and instructions regarding procedure to obtain a Tax Clearance Certificate

(a) Application forms and instructions relating to Tax Clearance Certificates may be obtained by writing to:

New Jersey Division of Taxation
Tax Clearance [Group] Section
Document Control Center
[50 Barrack Street] **420 East State Street**
Trenton, NJ [08646-0269] **08638**

or by making a telephone call to Taxpayer Information Service at (609) 292-6400.

(b) (No change.)

18:8-4.5 Extension of time; interest extensions

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

(c) Where an extension of time to file a return has been granted **and payment is made within the time fixed under the extension**, any [unpaid] portion of the tax in excess of the amount [estimated and remitted] **paid by the original due date** shall bear interest at the rate of nine percent per annum **from the date the tax was originally due until the date of payment or December 8, 1987, whichever is earlier,**

and on and after December 9, 1987, at the annual rate of three percentage points above the prime rate, compounded daily from the date the tax was originally due until the date of payment[, where payment is made within the time fixed under the extension].

(d) Where payment of the tax is made after the time fixed under the extension of time to file a return, any [unpaid] portion of the tax[,] **remaining unpaid** [in excess of the amount estimated and remitted,] shall bear interest at the rate of one and one-half percent per month or fraction thereof **from the date the tax was originally due until the date of payment or December 8, 1987, whichever is earlier, and on and after December 9, 1987 at the annual rate of five percentage points above the prime rate, compounded daily** from the date the tax was originally due until the date of payment.

(e) Where the estimated tax remitted with the tentative return is less than 75 percent of the tax liability shown on the final return and less than the amount of tax paid for the preceding year, the unpaid portion of the tax in excess of the amount estimated and remitted shall bear interest at the rate of one and one-half percent per month or fraction thereof **from the date the tax was originally due until the date of payment or December 8, 1987, whichever is earlier, and on and after December 9, 1987, at the annual rate of five percentage points above the prime rate, compounded daily** from the date the tax was originally due until the date of payment.

SUBCHAPTER 8. [CRIMINAL PENALTIES] (RESERVED)

18:8-8.1 [Criminal penalties for failure to file; filing of false or fraudulent return] (Reserved)

[Any person who fails to file any report required to be filed pursuant to the provisions of the Act, or who files or causes to be filed with the Director any false or fraudulent return or statement, or who aids or abets another in the filing with the Director of any false or fraudulent return or statement, with the intent to defraud the State or evade the payment of any tax, fee, penalty or interest of any part thereof which are due under the Act is guilty of a misdemeanor and shall be fined not to exceed \$1,000.00 or imprisoned not to exceed one year or both, at the discretion of the court.]

18:8-8.2 [False swearing] (Reserved)

[Any person who knowingly swears to, affirms or verifies any false or fraudulent statement with the intent to evade the payment of the Financial Business Tax or who, being under oath, testifies falsely at any hearing held pursuant to the provisions of the Act is guilty of a misdemeanor and subject to a fine not to exceed \$1,000.00 or imprisonment not to exceed one year or both, at the discretion of the court.]

18:8-8.3 [False or fraudulent books, records, or accounts; penalty] (Reserved)

[Any person who willfully sets up, keeps or maintains or who willfully causes to be set up, kept or maintained any false or fraudulent books, records, or accounts relating to any business or transaction the conduct of which is subject to, affected by or employed in the measurement or computation of the tax imposed by the Act and made payable to or collectible by the Director is guilty of a misdemeanor and subject to a fine of not more than \$1,000.00 or imprisonment for a term not exceeding one year, or both.]

18:8-8.4 [Certain offenses deemed occurring in Director's office; Prima Facie evidence] (Reserved)

[(a) The failure to do any act required to be done by, or under the provisions of the Act is deemed to be an act committed in part at the office of the Director in Trenton.

(b) The certificate of the Director to the effect that any act required to be done pursuant to the provisions of the Act has not been done in deemed prima facie evidence that the act has not been done.]

18:9-8.5 [Criminal penalties for failure to file, fraudulent filing] (Reserved)

[(a) Any person who fails to file any report or return required to be filed pursuant to the provisions of the New Jersey Business Personal Property Tax Act, or who files or causes to be filed with the Director any false or fraudulent report, return or statement, or who aids or abets another in the filing with the Director of any fake or

fraudulent return or statements with the intent to defraud the State or evade the payment of tax, fee penalty or interest or any part thereof which is due pursuant to the provisions of the Act is subject to criminal proceedings.

(b) Such person may be found guilty of a misdemeanor and fined not to exceed \$1,000.00 or imprisoned not to exceed six months or both, at the discretion of the court.]

18:9-8.6 [Penalty for false swearing] (**Reserved**)

[Any person who knowingly swears to, affirms, or verifies any false or fraudulent statement with the intent to evade the payment of the Business Personal Property Tax or who being under oath testifies falsely at any hearing held pursuant to the provision of the Act is guilty of a misdemeanor and subject to a fine not to exceed \$1,000.00 or imprisonment not exceeding six months or both, at the discretion of the court.]

18:9-8.7 [Penalty for keeping false books and records] (**Reserved**)

[Any person who sets up, keeps, maintains or willfully causes to be set up, kept or maintained any false or fraudulent books, records, or accounts relating to any business personal property, or employed in the measurement or computation of the tax due on such property is guilty of a misdemeanor and subject to a fine not to exceed \$1,000.00 or imprisonment for a term not exceeding six months, or both.]

18:18-8.11 [Violations by carriers; misdemeanor] (**Reserved**)

[Any person violating any of the regulations for carriers in this subchapter, except where a violation of any regulation is otherwise provided, shall be guilty of a misdemeanor.]

18:18-12.5 [Certain violations; crime of the fourth degree] (**Reserved**)

[(a) Any person, firm, partnership, association or corporation or any officer or agent thereof shall be guilty of a crime of the fourth degree (see N.J.S.A. 2C:43-1, et seq.) and upon conviction shall be punished by a fine of not more than \$5,000.00 or by imprisonment for not more than 18 months or by both fine and imprisonment for:

1. Failing to pay the tax;
2. Violating any of the provisions of N.J.A.C. 18:18-3;
3. Making any false statement; or
4. Concerning any material fact in any report or affidavit.]

18:18-12.7 [Violations by carriers; misdemeanors] (**Reserved**)

[Any person violating any of the provisions of subchapter 8 (Fuel Carriers) of this chapter except where a violation of any provision thereof is otherwise punishable by the provisions of these regulations, shall be guilty of a misdemeanor.]

18:22-2.4 Failure to make returns; penalties; perjury

(a) Any taxpayer refusing or neglecting to make the statements provided for in [section 2.1 of this Chapter] N.J.A.C. 18:22-2.1 shall forfeit and pay to the State of New Jersey the sum of \$100.00 per day for each day of such refusal or neglect, to be recovered in an action at law in the name of the State and which, when recovered, will be paid into the State Treasury **and in addition thereto may be liable for the penalties provided for in the State Tax Uniform Procedure Law.**

(b) (No change.)

[(c) Any person who knowingly or willfully, falsely makes an oath required to be made under the Act shall be deemed guilty of perjury and on conviction thereof is liable to all penalties prescribed by law.]

18:22-8.4 Failure to make returns; penalties and perjury

(a) Any taxpayer refusing or neglecting to make the statements provided for in [Section 8.1 (Information required on returns) of this Chapter] N.J.A.C. 18:22-8.1 shall forfeit and pay to the State of New Jersey the sum of \$100.00 per day for each day of refusal or neglect, to be recovered in an action at law in the name of the State and which, when recovered, will be paid into the State treasury **and in addition thereto may be liable for the penalties provided for in the State Tax Uniform Procedure Law.**

(b) (No change.)

[(c) Any person who knowingly or willfully makes any false oath required to be made under the Act will be deemed guilty of perjury and on conviction thereof is liable to any penalties prescribed by law.]

18:26-8.4 Failure to testify before appraiser; false statements

(a) (No change.)

[(b) An executor, administrator, trustee, grantee, donee or vendee who willfully and knowingly subscribes or makes a false statement of facts, or knowingly subscribes or exhibits a false paper or false report with intent to deceive an appraiser is guilty of a misdemeanor.]

18:26-9.8 [Failure to file return] (**Reserved**)

[Any person who fails to file a return as required by law, or fails or causes to be filed with the Director any false or fraudulent return, report or statement, or aids another in filing with the Director any false or fraudulent return, report or statement, with the intent to defraud the State or evade the payment of any Transfer Inheritance Tax, penalty or interest or any part thereof, is guilty of a misdemeanor and may be fined in a sum not exceeding \$1,000.00, or may be imprisoned for a term not to exceed six months, or both at the court's discretion.]

18:35-1.9 Taxable status of State and Federal securities

(a) Gross income shall not include interest on obligations:

1. Issued by or on behalf of New Jersey or any county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation (including one created or existing pursuant to agreement or compact with this or any other state), body corporate and polite or political subdivision of New Jersey[; or].

i. Specifically included within this subsection is interest received with respect to Certificates of Participation issued in connection with lease-purchase agreements, provided that the liability for payments of principal and interest is solely that of a New Jersey governmental entity;

2. (No change.)

(b) (No change.)

(c) Gross income shall include interest and gains from obligations issued by or on behalf of other states of the United States, and foreign governments.

18:35-1.18 Extension of time to file New Jersey gross income tax return

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

(f) A taxpayer who has not paid the required 80 percent of the final tax liability at the time [of] the request for extension is filed will become liable for the following late filing penalties (see N.J.S.A. 54:49-4).

1. [\$2.00 per day for each day of delinquency] **\$100.00 per month or any fraction of a month that the return is delinquent; and**

2. Five percent per month or any fraction [thereof for each] of a month [of delinquency] **that the return is delinquent, up to a maximum of 25 percent of the balance of any tax due with the return.**

3. Both penalties set forth in (f)1 and 2 above shall be imposed on the first day following the original due date of the return and on the same calendar day of each succeeding month thereafter.

(g) All taxpayers making a late payment of tax, whether or not they have obtained an extension of time to file, are subject to the following late payment penalty and interest payments:

1. A five percent penalty for late payment of any tax balance (see N.J.S.A. 54:49-4); [and]

2. Interest on the **unpaid tax** at the rate of nine percent per annum **up to and including December 8, 1987 and on and after December 9, 1987 at the annual rate of three percentage points above the prime rate effective on the first business day of the calendar quarter immediately preceding the quarter in which the liability became due, compounded daily on the amount that remains unpaid** from the original due date of the return to the date of payment where the amount thereof is \$1.00 or more (see N.J.S.A. 54A:9-5(a))[,], **provided that payment is made on or before the extended due date[.]; and**

3. Interest on the unpaid tax at the annual rate of five percentage points above the prime rate effective on the first business day of the calendar quarter immediately following the quarter in which the liability became due, compounded daily on the amount that remains unpaid from the original due date of the return to the date of payment where the

amount thereof is \$1.00 or more and remains unpaid beyond the extended due date.

4. The following is an example of the computation of late payment penalty and interest payments:

i. A New Jersey resident files for an extension of time to file his NJ-1040 which is originally due on April 15, 1988 but would be due on August 15, 1988 if a four month extension is granted. With the request for extension the taxpayer submits payment of what amounts to 70 percent of his final tax liability. The NJ-1040 is filed on July 27, 1988. As a result of the taxpayer's failure to pay at least 80 percent of his final tax liability at the time he filed for the extension, the extension is denied. The taxpayer had a final tax liability of \$10,000 for the year of which \$7,000 was paid at the time he filed for the extension. The taxpayer owes the following amounts in addition to the balance of unpaid tax:

Delinquency penalty: \$100.00 per month x four months	\$ 400.00
Late filing penalty: five percent per month of the tax due x four months = 20 percent of \$3,000.00 (\$10,000.00 tax less \$7,000 payment)	600.00
Late payment penalty: five percent of balance of the tax due	150.00
Balance of tax liability	3,000.00
Interest on tax and penalties calculated at an annual rate of the prime rate plus five percentage points compounded daily from the original due date (April 15, 1988) until the date of payment (July 27, 1988). The applicable prime rates shall be the rates effective on January 1, 1988 and April 1, 1988 which are assumed to be nine percent and nine and one-half percent, respectively, for the purposes of this example.	150.85
Total due	<u>\$4,300.85</u>

18:35-1.19 [(Reserved)] Negligence and fraud penalties

(a) If any part of a deficiency is due to the taxpayer's negligence or an intentional disregard of any provision of the Gross Income Tax Act (N.J.S.A. 54A:1-1 et seq.) or the rules applicable thereto, there shall be added to the tax, penalties and interest as provided for in State Tax Uniform Procedure Law plus an amount equal to 10 percent of the deficiency, provided however that there was no intent to defraud.

(b) If a deficiency is assessed against a taxpayer and it is determined that any part of such assessment is due to civil fraud, there shall be added to the tax an amount equal to 50 percent of the assessment. This addition to the tax shall be in lieu of any other additions to the tax imposed for late filing and nonpayment of special assessment as provided for in N.J.S.A. 54:49-9.

18:35-1.20 Gambling winnings defined

(a) Every payor of New Jersey gambling winnings which are subject to withholding, as defined in (d) below, shall deduct and withhold New Jersey gross income tax thereon in an amount equal to three percent of payments made to both New Jersey residents and nonresidents as defined in N.J.S.A. 54A:1-2(m) and (n). Such withholding shall be required in all instances wherein the payor of such winnings is required to withhold for Federal income tax purposes under subsection (q) of section 3402 of the Federal Internal Revenue Code of 1986 (26 U.S.C. §3402), as amended.

(b) The tax imposed under N.J.S.A. 54A:7-1(c) and this section shall not apply:

1. With respect to the payment of winnings from the New Jersey Lottery; and
2. With respect to a payment of winnings from a slot machine play, but only to the extent that such winnings are paid by the machine being played, or a keno or bingo game.

(c) Any person receiving a payment of New Jersey gambling winnings subject to withholding must furnish the payor a statement made under the penalties of perjury containing:

1. The name, address, and taxpayer identification (social security) number of the winner accompanied by a declaration that no other person is entitled to any portion of such payment; or

2. The name, address, and taxpayer identification (social security) number of the recipient and of every person entitled to any portion of such payment.

3. The requirement set forth in (c)1 and 2 above may be satisfied by providing the payor with a copy of Federal Form W-2G or 5754, whichever is applicable.

(d) New Jersey gambling winnings subject to withholding means any payment from:

1. A wager placed in a sweepstakes, wagering pool or lottery, other than the New Jersey Lottery, but only if the proceeds from the wager exceed \$1,000.00; or

2. Any other wagering transaction, including but not limited to, a wagering transaction in a parimutuel pool with respect to horse races, but only if the proceeds from the wager:

- i. Exceed \$1,000.00; and
- ii. Are at least 300 times as large as the amount of the wager.

3. If proceeds from a wager as set forth in (d)1 and 2 above qualify as winnings subject to withholding, then the total proceeds from the wager, and not merely amounts in excess of \$1,000.00, are subject to withholding.

(e) Proceeds from a wager is the amount paid with respect to a wager, less the amount of the wager. Amounts paid with respect to identical wagers are treated as paid with respect to a single wager for purposes of calculating the amount of proceeds from a wager.

1. In determining the amount paid with respect to a wager, proceeds which are not money shall be taken into account at the fair market value.

2. Periodic payments, including installment payments or payments which are to be made periodically for the life of a person, are aggregated for purposes of determining the proceeds from a wager. The aggregate amount of period payments to be made for a person's life shall be based on the person's life expectancy. For purposes of determining the amount subject to withholding, the first periodic payment shall be reduced by the amount of the wager.

(f) Payments to any person of winnings subject to withholding under this section shall be treated as if they are wages paid by an employer to an employee under the provisions of N.J.S.A. 54A:7-2 through N.J.S.A. 54A:7-7; provided, however, that such payments shall be considered gambling winnings for all other purposes under the Gross Income Tax Act (N.J.S.A. 54A:1-1 et seq.).

18:37-2.1 Tax rates on the transfer of petroleum or petroleum products

(a) [The tax on transfers of petroleum products shall be at the rate of \$0.01 per barrel, except as provided in (b) below.] The tax on transfers of petroleum or petroleum products shall be at the following rates:

1. On transfers occurring prior to February 1, 1987, \$0.01 per barrel, except as provided in (b) below.

2. On transfers occurring on or after February 1, 1987, \$0.0125 per barrel, except as provided in (b) below.

(b) In the event of a major discharge or series of discharges of petroleum or petroleum products resulting in claims against the Spill Compensation Fund which exceeded the existing balance of the fund, a tax rate of \$0.04 per barrel on transfers of petroleum or petroleum products shall be levied until the revenue produced by such increased rate equals 150 percent of the total dollar amount of all pending reasonable claims resulting from the discharge of petroleum or petroleum products. The tax rate as herein set forth may be less than \$0.04 per barrel transferred if, as provided by the Spill Compensation Law, the revenue produced by such lower rate shall be sufficient to pay outstanding claims against the fund within year of such levy. Under no circumstances shall this rate be levied prior to February 1, 1988.

18:37-2.2 Tax rates on the transfer of hazardous substances other than petroleum or petroleum products

(a) The tax on transfers of hazardous substances other than petroleum or petroleum products shall be at the rate of:

- 1.-4. (No change.)

5. On transfers occurring on or after June 1, 1985, but prior to February 1, 1987, the greater of \$0.04 per barrel or 0.8 percent of

the fair market value of the hazardous substances, provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, or which are transferred into this State subsequent to being recycled, refined, or rerefined, the tax shall be \$0.04 per barrel of the hazardous substance. The tax rates specified herein were adopted pursuant to the determination of the Administrator of the Spill Compensation Fund that the condition stated for a tax increase in (c) below existed as of May 1, 1985[.]; or

6. On transfers occurring on or after February 1, 1987, the greater of \$0.0125 per barrel or 1.0 percent of the fair market value of the hazardous substance, provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined or rerefined in this State, or which are transferred into this State subsequent to being recycled, refined or rerefined, the tax shall be \$0.0125 per barrel of the hazardous substance.

(b) (No change.)

(c) In the event of a major discharge or series of discharges of hazardous substances other than petroleum or petroleum products resulting in claims against the Spill Compensation Fund which exceed the existing balance of the fund for taxable periods occurring from April 1980 through January 1987, a tax rate of the greater of \$0.04 per barrel transferred, or 0.8 percent of the fair market value of such hazardous substance shall be levied until the revenue produced by such increased rate equals 150 percent of the total dollar amount of all pending reasonable claims resulting from the discharge of hazardous substances other than petroleum or petroleum products; provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, or which are transferred into this State subsequent to being recycled, refined, or rerefined, the tax shall be \$0.04 per barrel of the hazardous substances. The tax rate as herein set forth may be less than \$0.04 per barrel transferred or 0.8 percent of the fair market value of such hazardous substance if, as provided by the Spill Compensation Law, the revenue produced by such lower rate shall be sufficient to pay outstanding claims against the fund within one year of such levy. **This subsection is inapplicable to tax periods occurring on and after February 1, 1987.**

[(d) If under the Spill Compensation Law it is determined:

1. That pending, reasonable claims against the fund for hazardous substances other than petroleum exceed 70 percent of the existing balance of the fund; and

2. That the sum of the claims paid by the fund on behalf of discharges or removals of hazardous substances other than petroleum plus pending, reasonable claims against the fund on behalf of discharges of hazardous substances other than petroleum is equal to or greater than 70 percent of all claims paid by the fund plus all pending, reasonable claims against the fund, the State Treasurer may order the Director of the Division of Taxation to levy the tax on all hazardous substances other than petroleum at a specified rate greater than \$0.01 per barrel or 0.4 percent of the fair market value of the product, as the case may be, but in no event to exceed \$0.04 per barrel with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined or rerefined, in this State, or which are transferred into this State subsequent to being recycled, refined or rerefined or the greater of \$0.04 per barrel or 0.6 percent of the fair market value of the product with respect to transfers of any other hazardous substances other than petroleum or petroleum products. However, such levy of tax shall not preclude the imposition of the tax at the higher rate set forth under (c) above.]

SUBCHAPTER 3. [REFUND OR CREDIT OF TAX ON TRANSFER OF HAZARDOUS SUBSTANCES OTHER THAN PETROLEUM PRODUCTS] (RESERVED)

[18:37-3.1 Applicability of refund or credit

(a) When the revenues from the tax imposed upon the transfer of

hazardous substances other than petroleum or petroleum products exceed \$7 million during any calendar year, the excess shall be refunded or credited to the taxpayers who paid such tax during the calendar year, except under the following conditions:

1. If at the end of the calendar year the increased tax rate as provided in N.J.A.C. 18:37-2(c) and (d) is in effect, no refund or credit shall be allowed for such calendar year; and

2. No refund or credit shall be allowed for such calendar year if by reason of such refund or credit a condition would occur which would authorize the imposition of the tax at the higher rate provided in N.J.A.C. 18:37-2(c) and (d).

(b) A partial refund or partial credit shall be allowed to the extent that the qualifying conditions set forth in subsection (a) of this section have not or would not occur.]

[18:37-3.2 Base for refund or credit

(a) Refund or credit shall be based upon the amount of taxes paid by each taxpayer on transfers of hazardous substances other than petroleum or petroleum products for the calendar year in proportion to all taxes paid by all taxpayers on such transfers during said year.]

SUBCHAPTER 4. [SUSPENSION OF TAX: RELEVY OF TAX] (RESERVED)

[18:37-4.1 Suspension of tax

(a) In each fiscal year following any year in which the balance of the Spill Compensation Fund equals or exceeds \$50 million no tax shall be levied unless:

1. The current balance in the fund is less than \$40 million; or

2. Pending claims against the fund exceed 50 percent of the existing balance of the fund.]

[18:37-4.2 Relevy of tax

(a) In the event the balance of the Spill Compensation Fund does not meet the criteria set forth in section 1 of this subchapter, upon certification thereof by the State Treasurer the Director of the Division of Taxation shall, within ten days of the date of such certification, relevy the tax which shall take effect on the first day of the month following such relevy.]

(a)

**Local Property Tax
County Board of Taxation; Cross-Petitions of Appeal
Proposed Amendments: N.J.A.C. 18:12A-1.6 and
1.20.**

Authority: N.J.S.A. 54:3-14, 54:3-21 (P.L. 1987, c.185) and 54:50-1.

Proposal Number: PRN 1987-496.

The agency proposal follows:

Summary

The Division of Taxation proposes to amend portions of the county tax board rules in order to conform with recent legislation (P.L. 1987, c.185) having effect upon the practices and procedures of the county tax boards. The proposed amendments are part of N.J.A.C. 18:12A-1.6 and 1.20 and deal with cross-petitions of appeal filed by respondents, establishing time limits for their proper filing.

Social Impact

The proposed amendments are a result of legislative mandate and deemed necessary for the proper administration of the law. Absent the incorporation of these provisions in the uniform rules covering county tax boards, appellants, their legal representatives and local taxing officials could not fully comply with the procedures required in the filing of an appeal with county boards of taxation.

Economic Impact

These revisions are concerned with procedural and technical changes affecting the ministerial functions of a hearing tribunal. No adverse economic impact will result.

Regulatory Flexibility Statement

Cross-petitions of appeal are filed by respondents, almost always the taxing municipality. The proposed rule amendments will not result in increasing existing reporting, recordkeeping or other compliance requirements for small businesses.

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

18:12A-1.6 Petitions of appeal; cross-petitions of appeal

(a) All complaints concerning property tax assessments, whether by an individual or corporation, shall be by written petition of appeal on forms prescribed by the Director, Division of Taxation, to be furnished to the boards. [A petition of appeal filed by a party respondent in a tax appeal shall be denominated as a "cross-petition of appeal" and shall be filed on the same form and subject to the same standards applicable to petitions of appeal.] All petitions shall contain the name and address of the taxpayer, the block and lot number or account number of the property and the assessed value of the land and improvement respectively stated, and such other information as the Director may require.

(b) **A petition of appeal filed by a party respondent in a tax appeal shall be denominated as a "cross-petition of appeal" and shall be filed on the same form and subject to the same standards applicable to petitions of appeal. Where a petition of appeal is filed within the period covering 19 days next preceding August 15, a respondent shall have 20 days from the date of service to file a cross-petition with the county board of taxation.**

Redesignate (b)-(k) as (c)-(1) (No change in text.)

18:12A-1.20 Appeals; cross-appeals; late filing

(a) Where a petition [or cross-petition] of appeal to a county board of taxation is actually received by the board after August 15 of the tax year (except if August 15 shall fall on a Saturday, Sunday or holiday, then after the first business day immediately thereafter), the county board of taxation or the county tax administrator, if authorized by the board by resolution, shall not accept said petition [or cross-petition] of appeal for filing but shall forthwith return the same to the person filing it, together with the filing fee, if the filing fee accompanied said petition or was otherwise paid. The petition [or cross-petition] to be returned shall have endorsed thereon the date of receipt and a statement "Petition [or cross-petition] is returned by reason of late filing" and shall be accompanied by a judgment of dismissal by the county board of taxation for late filing.

(b) **Where a cross-petition of appeal to a county board of taxation is actually received by the board after the 20th day following the date of service noted on the petition of appeal (except if the 20th day shall fall on a Saturday, Sunday or holiday, then after the first business day immediately thereafter), the county board of taxation or the county administrator, if authorized by the board by resolution, shall not accept said cross-petition of appeal for filing but shall forthwith return the same to the person filing it, together with the filing fee, if the filing fee accompanied said cross-petition or was otherwise paid. The cross-petition of appeal to be returned shall have endorsed thereon the date of receipt and a statement "Cross-petition is returned by reason of late filing" and shall be accompanied by a judgment of dismissal by the county board of taxation for late filing.**

OTHER AGENCIES

CASINO CONTROL COMMISSION

(a)

**Accounting and Internal Controls
Cash and Coin "Count Times"**

**Proposed Amendments: N.J.A.C. 19:45-1.33, 1.42
and 1.43**

Authorized By: Casino Control Commission,
Theron G. Schmidt, Executive Secretary.
Authority: N.J.S.A. 5:12-63(c) and 5:12-99(a).
Proposal Number: PRN 1987-494.

Submit comments by January 6, 1988 to:

Deno R. Marino
Deputy Director—Operations
Casino Control Commission
Princeton Pike Office Park
Building No. 5, CN-208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 19:45-1.33, 19:45-1.42 and 19:45-1.43 would require casino licensees to obtain Commission approval regarding the times "hard count" (coins) and "soft count" (currency) are conducted. The amendments would provide the Commission with the flexibility to schedule the counts at times which are not concurrent, thereby allowing for a more efficient allocation of Commission Inspectors. This will enable the Commission to reduce the size of its staff and effectuate budgetary savings.

Social Impact

From the social perspective, the proposal relates to casino cash counting schedules and would have no impact on the public. A more efficient allocation of inspector positions will result in an elimination of positions within the Inspection Unit; however, this would be accomplished through attrition.

This proposal would not impact on the integrity of monitoring casino operations since it only involves a reallocation of staff.

Economic Impact

The effect of this proposal would be the elimination of authorized positions within the Inspection Unit. This would effectively reduce the Commission's budget which, to a great extent, is comprised of staff salaries.

The benefits of this proposal would be substantial savings in terms of regulatory costs which would primarily be passed on to casino licensees.

Regulatory Flexibility Statement

This proposal will only affect the operations of casino licensees and, therefore, will not impact on any business protected under the Regulatory Flexibility Act.

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

19:45-1.33 Procedure for counting and recording contents of drop boxes

(a) (No change.)

(b) Each casino licensee shall [place on file with] **submit to the Commission [and the Division] for review and approval**, the specific times during which the contents of the drop boxes removed from gaming tables are to be counted and recorded, which, at a minimum shall be once each gaming day.

(c)-(j) (No change.)

19:45-1.42 Removal of slot drop buckets; meter readings

(a) The drop bucket for each slot machine on the gaming floor shall be removed once a week, at a minimum, on specific days and at times designated by the casino licensee on a schedule which shall be [filed with the Commission and the Division.] **submitted to the Commission for review and approval**. No drop bucket shall be emptied or removed from its compartment at other than the times specified on such schedule except with the express written approval of a Commission inspector.

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

19:45-1.43 Slot count: procedure for counting and recording contents of drop buckets

(a) (No change.)

(b) Each casino licensee shall [file with] **submit to the Commission [and the Division] for review and approval** the specific times during which the contents of slot drop buckets removed from compartments are to be counted and recorded, which shall be immediately after removal of the drop buckets from compartments.

(c)-(j) (No change.)

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Fire Code

Life Hazard Uses; Annual Registration Fees

Adopted Amendments: N.J.A.C. 5:18-2.4, 2.5, 2.6 and 2.8

Proposed: September 21, 1987 at 19 N.J.R. 1680(a).

Adopted: November 10, 1987 by Leonard S. Coleman, Jr.,
Commissioner, Department of Community Affairs.

Filed: November 10, 1987 as R.1987 d.508, **without change.**

Authority: N.J.S.A. 52:27D-198.

Effective Date: December 7, 1987.

Expiration Date: February 1, 1990.

Summary of Public Comments and Agency Responses:

COMMENT: There were five comments by organizational representatives that took exception to having their particular life hazard uses (that is, lumber yards, amusement arcades, and food stores) being placed within the life hazard use category that includes small theaters, small hotels, spraying and dipping operations, fireworks manufacturers and explosives warehouses.

RESPONSE: Owners frequently and inappropriately compare their classifications to others based upon what they perceive as a degree of hazard; however, groups are based, in general, upon variables of size and complexity as they pertain to the inspection process.

COMMENT: There were two comments by representatives of non-profit organizations that requested that such organizations be exempted from paying fees for registration as a life hazard use, or that such organizations be charged a nominal registration fee of one dollar.

RESPONSE: Any reduction in fees would have to be borne by the profit-making sector; which, because of the large volume of life-hazard uses operated by non-profit organizations, would constitute an intolerable burden or result in an overall decrease in fire safety.

COMMENT: There were four comments that maintained that the life hazard use registration fees do not reflect the actual cost of inspection and administration; that is, the fees exceed the actual costs of inspection and administration. Nine commenters stated that the life hazard use registration fees are too high and that they create economic hardship. Two commenters objected to having the life hazard use registration fees fund public education and fire prevention activities, and stated that, instead, such programs should be funded from appropriations out of the general fund.

RESPONSE: The Department has determined that the registration fees do not exceed the actual cost of inspection, administration and concomitant fire prevention programs; nor is the Department aware of any surplus at the State or local enforcing level. Experience indicates that all moneys are being used to fund code or prevention related activities. Money for the funding of State fire prevention and public education programs is appropriated from the State's general fund. At the local level, registration fees pay for these activities.

COMMENT: One commenter stated that nowhere in the original 1984 proposal to establish fees did the Department reveal that such fees were to be used for public education and fire prevention programs, but rather were to be used to "cover the cost of inspection."

RESPONSE: The 1984 summary statement was incomplete. Please refer to the previous comment and response directly above.

COMMENT: Two commenters stated that the proposal Summary Statement did not indicate how the revised fee structure was arrived at, nor did it provide for a justification of the overall increase in fees.

RESPONSE: A select committee of the New Jersey Fire Safety Commission, comprised of fire safety professionals representing an economic and demographic cross section within the State, reviewed and studied the original fee schedule for more than one year, giving particular attention to the specific costs of inspection, administration and fire safety programs. This committee determined that the revised fee schedule, as proposed, meets the test of proportionality and is the most equitable and fair system for the funding of these programs as required by law.

COMMENT: Three commenters stated their objections to paying a half-fee for each additional life hazard use connected to their primary life hazard use. The New Jersey Business and Industry Association specifically objected to the removal of the exemption for storage and manufacturing operations, to the effect that these activities must now pay half-fees for additional life hazard uses.

RESPONSE: Local enforcing agencies have been required by regulation to perform fire code activities in these uses far in excess of those for which fees were being paid. This has been one of the most inequitable provisions of the original fee schedule. The Department perceives a minimal economic impact upon small business operators. In certain cases, such as balers used in supermarket operations, there has been misunderstanding as to what constitutes a separate use. This is being addressed administratively and no change to the rule as proposed is necessary.

COMMENT: Representatives of the New Jersey Lumberyard Association asked that such activities be placed in a lower life hazard use classification because there appears to be no history of life loss in lumberyard fires in New Jersey, and also because of the ease of inspection of static piles of lumber.

RESPONSE: The Fire Safety Act was passed to protect life and property against fire. Lumberyard fires can be extremely dangerous for fire fighters and to adjacent properties. It is therefore necessary to perform comprehensive and complex inspections of these uses.

COMMENT: Representatives of the New Jersey Amusement Association object to four annual inspections because their season runs for only 10 weeks.

RESPONSE: The Department remains convinced that places of amusement, particularly those designed to disorient, such as haunted houses and fun houses, and especially in light of their recent history, require four inspections per year regardless of the length of season.

COMMENT: One commenter stated that the proposed amendments run counter to recent regulatory flexibility legislation designed to protect small businesses from extreme and unreasonable regulation.

RESPONSE: The revised fee schedule was proposed to specifically address prior inequities. The Department is confident that the revision reduces the impact on small businesses, since the fees are now proportionate to the size and complexity of each life hazard use type, with smaller facilities more likely to be small business-owned.

COMMENT: The State Legislative Liaison of the Veterans of Foreign Wars (Department of New Jersey) stated that that organization believes the original fee structure was exorbitant, but that they are happy and pleased with the revised fee schedule. Representatives of the New Jersey Business and Industry Association stated that they recognize a number of important positive changes; that, specifically, many activities that were previously in the \$400.00 category are now moved into the \$300.00 or \$150.00 categories. They stated that "the fact that you did review the existing system and made changes is very encouraging to us."

RESPONSE: The Department appreciates the confidence placed in it by these commenters, and assures all interested parties that it will continuously monitor the registration fee structure in order to present the most equitable system possible.

Full text of the adoption follows.

5:18-2.4 Life hazard uses defined
(No change in text.)

5:18-2.4A Type Aa through Aj life hazard uses
(a) Type Aa life hazard uses are as follows:

1. Day nurseries with a maximum permitted occupancy of six or more but fewer than 50 persons;
2. Daycare centers with a maximum permitted occupancy of six or more but fewer than 50 persons;
3. Camps where children of school age stay overnight with a maximum permitted occupancy of fewer than 50 persons.

(b) Type Ab life hazard uses are as follows:

1. Day nurseries with a maximum permitted occupancy of 50 or more but fewer than 100 persons;
2. Daycare centers with a maximum permitted occupancy of 50 or more but fewer than 100 persons;

3. Camps where children of school age stay overnight with a maximum permitted occupancy of 50 or more but fewer than 100 persons.

(c) Type Ac life hazard uses are as follows:

1. Hotels or motels of two or three stories and under 25 rooms, with any interior exit-ways;
2. Rooming and boarding homes of one story;
3. Eating and/or drinking establishments with a maximum permitted occupancy of fewer than 50 persons in which alcoholic beverages may be consumed.

(d) Type Ad life hazard uses are as follows:

1. All buildings or structures used for the service of motor vehicles including marine motor craft;
2. All buildings or locations where flammable and/or combustible fuels are stored and dispensed to motor vehicles, including marine motor craft;
3. Halfway houses, group homes, community residences, residential child care facilities and residential health care facilities, alcohol and drug treatment centers, youth hostels, homeless shelters and other similar facilities with a maximum permitted occupancy of fewer than 50 persons;
4. Buildings used for dry cleaning purposes using nonflammable cleaning solvents.

(e) Type Ae life hazard uses are as follows:

1. Day nurseries with a maximum permitted occupancy of 100 persons or more;
2. Daycare centers with a maximum permitted occupancy of 100 persons or more;
3. Camps where children of school age stay overnight with a maximum permitted occupancy of 100 persons or more.

(f) Type Af life hazard uses are as follows:

1. All buildings or locations where flammable and/or combustible fuels are stored and dispensed to motor vehicles, and used for the service of motor vehicles including marine motor craft;
2. Hotels or motels of two or three stories and 25 or more but fewer than 50 rooms, with any interior exit-ways;
3. Halfway houses, group homes, community residences, residential child care facilities and residential health care facilities, alcohol and drug treatment centers, youth hostels, homeless shelters and other similar facilities with a maximum permitted occupancy of 50 or more but fewer than 100 persons;
4. Rooming and boarding homes of two or three stories.

(g) Type Ag life hazard uses are as follows:

1. Eating and/or drinking establishments with a maximum permitted occupancy of 50 or more but fewer than 100 persons in which alcoholic beverages may be consumed but which are primarily eating establishments;
2. Hotels or motels of two or three stories and 50 or more but fewer than 100 rooms, with any interior exit-ways;
3. Above ground aggregate storage of more than 660 gallons but less than 5,000 gallons of Class II or IIIA combustible liquids (except for heating purposes).

(h) Type Ah life hazard uses are as follows:

1. Rooming and boarding homes of four or more stories;
2. Halfway houses, group homes, community residences, residential child care facilities and residential health care facilities, alcohol and drug treatment centers, youth hostels, homeless shelters and other similar facilities with a maximum permitted occupancy of 100 persons or more.

(i) Type Ai life hazard uses are as follows:

1. Hotels or motels of two or three stories and 100 rooms or more, with any interior exit-ways;

(j) Type Aj life hazard uses are as follows:

1. Eating and/or drinking establishments with a maximum permitted occupancy of 100 or more but fewer than 200 persons in which alcoholic beverages may be consumed but which are primarily eating establishments;
2. Above ground aggregate storage of 5,000 gallons or more, but less than 50,000 gallons, of Class II or IIIA combustible liquids, or above ground aggregate storage of more than 660 gallons but less than 10,000 gallons of Class I flammable liquids.

5:18-2.4B Type Ba through Bo life hazard uses

a Type Ba life hazard uses are as follows:

1. Welding or cutting operations on a regular basis not using flammable gases in buildings or structures under 10,000 square feet.

(b) Type Bb life hazard uses are as follows:

1. Eating and/or drinking establishments with a maximum permitted occupancy of 50 or more but fewer than 100 persons which are primarily drinking establishments;

2. Recreation centers, multipurpose rooms, lecture halls without fixed seating and similar uses where persons assemble other than for religious services with a maximum permitted occupancy of 100 or more but fewer than 200 persons;

3. Welding or cutting operations on a regular basis not using flammable gases in buildings or structures of 10,000 or more but less than 50,000 square feet.

(c) Type Bc life hazard uses are as follows:

1. Recreation centers, multipurpose rooms, lecture halls without fixed seating and similar uses where persons assemble other than for religious services with a maximum permitted occupancy of 200 persons or more.

(d) Type Bd life hazard uses are as follows:

1. Motion picture theaters, or theaters incorporating a legitimate, regular or thrust stage without any scenery or prop storage areas behind a proscenium arch, with a maximum permitted occupancy of fewer than 100 persons;

2. The manufacture, processing or blending of less than 1,000 gallons of Class I flammable liquid, or less than 10,000 gallons of Class II or IIIA combustible liquids, in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

3. Welding or cutting operations on a regular basis not using flammable gases in buildings or structures of 50,000 square feet or more;

4. Storage of fireworks, explosives or blasting agents in a type 4 magazine.

NOTE: Type 2 and 3 magazines are portable and intended only for the temporary storage of explosives and blasting agents, and as such, must be covered by a permit.

(e) Type Be life hazard uses are as follows:

1. Eating and/or drinking establishments with a maximum permitted occupancy of 100 or more but fewer than 200 persons which are primarily drinking establishments.

(f) Type Bf life hazard uses are as follows:

1. Prisons and other facilities of six or more but fewer than 50 beds where residents, occupants, or inmates are kept under restraint;

2. Motion picture theaters, or theaters incorporating a legitimate, regular or thrust stage without any scenery or prop storage area behind a proscenium arch, with a maximum permitted occupancy of 100 or more but fewer than 200 persons;

3. Retail stores and other mercantile uses of more than 12,000 square feet but less than 24,000 square feet in gross floor area;

4. Hotels or motels which exceed three stories, and have under 50 rooms, with any interior exit-ways;

5. Buildings with a maximum permitted occupancy of 100 or more but fewer than 200 persons in which persons assemble for entertainment or amusement not otherwise classified herein, such as, but not limited to, art galleries, exhibition halls and museums;

6. Spraying or dipping operations involving paint, varnish, lacquer, stain, or other flammable or combustible liquids in all approved areas of less than 250 square feet;

7. Equipment, processes, and operations involving dust which, if mixed with air, becomes explosive, including, but not limited to, grain bleachers or elevators; flour, starch or feed mills; malt houses, wood flour manufacturing plants; or plants that pulverize aluminum, coal, cocoa, magnesium, spices, or sugar in all buildings or structures under 50,000 square feet;

8. Crop ripening or coloring processes in all buildings or structures under 50,000 square feet;

9. Lumber yards and/or woodworking plants in which more than 100,000 but less than 250,000 board feet of lumber is to be stored;

10. Tire recapping or rebuilding plants in buildings or structures under 50,000 square feet;

11. Manufacturing of articles of cellulose nitrate plastics including the use of cellulose nitrate plastics in the manufacture or assembly of other articles in all buildings or structures under 50,000 square feet;

12. The manufacture of matches in all buildings or structures under 50,000 square feet;

13. The manufacture of fireworks, explosives or blasting agents in all buildings or structures under 50,000 square feet;

14. The manufacture, processing or blending of more than 1,000 but less than 10,000 gallons of Class I flammable liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

15. Welding or cutting operations using flammable gases on a regular basis in buildings or structures under 10,000 square feet;

16. Storage of more than 2,500 but less than 5,000 cubic feet gross volume of combustible empty assembled packing cases, boxes, barrels, pallets, or similar containers;

17. Storage of more than 2,500 but less than 5,000 cubic feet gross volume of rubber tires, baled cotton, rubber, cork or other similarly combustible material;

18. Storage of matches with more than 25 but fewer than 50 cases in the aggregate;

19. Storage of fireworks, explosives or blasting agents in a type UG magazine;

NOTE: Type 2 and 3 magazines are portable and intended only for the temporary storage of explosives and blasting agents, and as such, must be covered by a permit;

20. Above ground aggregate storage of more than 50,000 but less than 1,000,000 gallons of Class II or IIIA combustible liquids.

(g) Type Bg life hazard uses are as follows:

1. Any high-rise structure of seven or more but fewer than 10 stories;

2. Prisons and other facilities of 50 or more but fewer than 100 beds where residents, occupants, or inmates are kept under restraint;

3. Free-standing institutional and similar facilities including but not limited to outpatient surgery facilities, renal dialysis facilities, abortion clinics, and birthing centers, in buildings of less than 10,000 square feet;

4. Motion picture theaters, and theaters incorporating a legitimate, regular or thrust stage without any scenery or prop storage area behind a proscenium arch, with a maximum permitted occupancy of 200 or more persons;

5. Eating and/or drinking establishments with a maximum permitted occupancy of 200 or more but fewer than 300 persons in which alcoholic beverages may be consumed but which are primarily eating establishments;

6. Retail stores and other mercantile uses of 24,000 or more but less than 48,000 square feet in gross floor area;

7. Hotels or motels which exceed three stories, and which have 50 or more but fewer than 100 rooms, with any interior exit-ways;

8. Buildings with a maximum permitted occupancy of 200 persons or more in which persons assemble for entertainment or amusement not otherwise classified herein, such as, but not limited to, art galleries, exhibition halls and museums;

9. Transportation terminals with a maximum permitted occupancy of 100 or more persons;

10. Spraying or dipping operations involving paint, varnish, lacquer, stain, or other flammable or combustible liquids in all approved areas of 250 or more but less than 500 square feet;

11. Equipment, processes, and operations involving dust which, if mixed with air, becomes explosive including but not limited to grain bleachers or elevators; flour, starch or feed mills; malt houses; wood flour manufacturing plants; or plants that pulverize aluminum, coal, cocoa, magnesium, spices, or sugar in all buildings or structures of 50,000 or more but less than 100,000 square feet;

12. Crop ripening or coloring processes in all buildings or structures of 50,000 or more but less than 100,000 square feet;

13. Lumber yards and/or woodworking plants in which 250,000 or more but less than 500,000 board feet of lumber is to be stored;

14. Tire recapping or rebuilding plants in buildings or structures of 50,000 or more but less than 100,000 square feet;

15. Organic coating manufacturing operations making one gallon or more of an organic coating in a working day;

16. Manufacturing of articles of cellulose nitrate plastics including the use of cellulose nitrate plastics in the manufacture or assembly of other articles in all buildings or structures of 50,000 or more but less than 100,000 square feet;

17. Processing, handling or use of 100 or more but less than 500 cubic feet of loose combustible vegetable or animal fibers, including, but not limited to, readily ignitable and free burning fibers such as cotton, sisal, heneguer, ixtel, jute, hemp, tow, cocoa fiber, oakum, baled waste, baled waste paper, kapok, hay, straw, Spanish moss, excelsior, certain synthetic fibers, and cloth in the form of scraps and clippings;

18. The manufacture of matches in all buildings or structures of 50,000 or more but less than 100,000 square feet;

19. The manufacture of fireworks, explosives or blasting agents in all buildings or structures of 50,000 or more but less than 100,000 square feet;

20. Welding or cutting operations using flammable gases on a regular basis in buildings or structures of 10,000 or more but less than 50,000 square feet;

21. Storage of 5,000 or more but less than 10,000 cubic feet gross volume of combustible empty assembled packing cases, boxes, barrels, pallets, or similar containers;

22. Storage of 5,000 or more but less than 10,000 cubic feet gross volume of rubber tires, baled cotton, rubber, cork or other similarly combustible material;

23. Storage of cellulose nitrate motion picture film or cellulose nitrate (pyroxlin) plastics in quantities which exceed 25 pounds;

24. Storage of 100 or more but less than 500 cubic feet of loose combustible vegetable or animal fibers;

25. Storage of matches with 50 or more cases in the aggregate;

26. Storage of fireworks, explosives or blasting agents in a type I magazine;

NOTE: Type 2 and 3 magazines are portable and intended only for the temporary storage of explosives and blasting agents, and as such, must be covered by a permit;

27. Above ground storage of 10,000 or more but less than 100,000 gallons of Class I flammable liquids;

28. Buildings used for dry cleaning purposes, using flammable cleaning solvents.

(h) Type Bh life hazard uses are as follows:

1. Prisons and other facilities of 100 or more but fewer than 200 beds where residents, occupants, or inmates are kept under restraint;

2. Hotels or motels which exceed three stories, and which have 100 rooms or more, with any interior exit-ways;

3. The manufacture, processing or blending of more than 10,000 but less than 100,000 gallons of Class II and/or IIIA combustible liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery.

(i) type Bi life hazard uses are as follows:

1. Prisons and other facilities of 200 beds or more where residents, occupants, or inmates are kept under restraint.

(j) Type Bj life hazard uses are as follows:

1. Any high-rise structure of 10 or more but fewer than 20 stories;

2. Free-standing institutional and similar facilities including but not limited to outpatient surgery facilities, renal dialysis facilities, abortion clinics, and birthing centers, in buildings of 10,000 square feet or more;

3. Eating and/or drinking establishments with a maximum permitted occupancy of 300 or more persons in which alcoholic beverages are consumed but which are primarily eating establishments;

4. Retail stores and other mercantile uses of 48,000 square feet or more in gross floor area;

5. Stadiums, race tracks and other similar exterior places of amusement with enclosed interior spaces, with a maximum permitted occupancy of fewer than 5,000 persons;

6. Spraying or dipping operations involving paint, varnish, lacquer, stain, or other flammable or combustible liquids in all approved areas of 500 square feet or more;

ADOPTIONS

COMMUNITY AFFAIRS

7. Equipment, processes, and operations involving dust which, if mixed with air, becomes explosive including but not limited to grain bleachers or elevators; flour, starch or feed mills; malt houses; wood flour manufacturing plants; or plants that pulverize aluminum, coal, cocoa, magnesium, spices, or sugar in all buildings or structures of 100,000 square feet or more;

8. Crop ripening or coloring processes in all buildings or structures of 100,000 square feet or more;

9. Lumber yards and/or woodworking plants in which 500,000 board feet or more of lumber is to be stored;

10. Tire recapping or rebuilding plants in buildings or structures of 100,000 square feet or more;

11. Manufacturing of articles of cellulose nitrate plastics including the use of cellulose nitrate plastics in the manufacture or assembly of other articles in all buildings or structures of 100,000 square feet or more;

12. Processing, handling or use of 500 or more but less than 2,500 cubic feet of loose combustible vegetable or animal fibers, including but not limited to readily ignitable and free burning fibers such as cotton, sisal, heneguer, ixtel, jute, hemp, tow, cocoa fiber, oakum, baled waste, baled waste paper, kapok, hay, straw, Spanish moss, excelsior, certain synthetic fibers, and cloth in the form of scraps and clippings;

13. The manufacture of matches in all buildings or structures of 100,000 square feet or more;

14. The manufacture of fireworks, explosives or blasting agents in all buildings or structures of 100,000 square feet or more;

15. The manufacture, processing or blending of more than 10,000 but less than 100,000 gallons of Class I flammable liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

16. Welding or cutting operations using flammable gases on a regular basis in buildings or structures of 50,000 square feet or more;

17. Storage of 10,000 cubic feet or more gross volume of combustible empty assembled packing cases, boxes, barrels, pallets, or similar containers;

18. Storage of 10,000 cubic feet or more gross volume of rubber tires, baled cotton, rubber, cork or other similarly combustible material;

19. Storage of 500 or more but less than 2,500 cubic feet of loose combustible vegetable or animal fibers;

20. Above ground aggregate storage of 1,000,000 or more but less than 5,000,000 gallons of Class II or IIIA combustible liquids, or above ground storage of 100,000 or more but less than 1,000,000 gallons of Class I flammable liquids;

21. Buildings with atrium spaces three or more stories in height in buildings which exceed 12,000 square feet in gross floor area.

(k) Type Bk life hazard uses are as follows:

1. Any high-rise structure of 20 or more but fewer than 30 stories;

2. Processing, handling or use of 2,500 cubic feet or more of loose combustible vegetable or animal fibers, including but not limited to, readily ignitable and fire burning fibers such as cotton, sisal, heneguer, ixtel, jute, hemp, tow, cocoa fiber, oakum, baled waste, baled waste paper, kapok, hay, straw, Spanish moss, excelsior, certain synthetic fibers, and cloth in the form of scraps and clippings;

3. Storage of 2,500 cubic feet or more of loose combustible vegetable or animal fibers;

4. Above ground aggregate storage of 5,000,000 gallons or more of Class II and/or IIIA combustible liquids.

(l) Type Bl life hazard uses are as follows:

1. Any high-rise structure of 30 stories or more;

2. The manufacture, processing or blending of more than 100,000 but less than 1,000,000 gallons of Class II and/or IIIA combustible liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery.

(m) Type Bm life hazard uses are as follows:

1. Stadiums, race tracks and other similar exterior places of amusement with enclosed interior spaces, with a maximum permitted occupancy of 5,000 or more but fewer than 10,000 persons;

2. The manufacture, processing or blending of more than 100,000 but less than 1,000,000 gallons of Class I flammable liquids in any

one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

3. Above ground aggregate storage of 1,000,000 gallons or more but less than 5,000,000 gallons of Class I flammable liquids.

(n) Type Bn life hazard uses are as follows:

1. The manufacture, processing or blending of 1,000,000 gallons or more of Class I, II and/or IIIA flammable or combustible liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

2. Above ground aggregate storage of 5,000,000 gallons or more of Class I flammable liquids;

(o) Type Bo life hazard uses are as follows:

1. Stadiums, race tracks and other similar exterior places of amusement with enclosed interior spaces, with a maximum permitted occupancy of 10,000 or more persons;

2. Refining of flammable and combustible liquids.

5:18-2.4C Type Ca through Cg life hazard uses

(a) Type Ca life hazard uses are as follows:

1. Theaters incorporating a legitimate, regular or thrust stage having any scenery or prop storage area behind a proscenium arch and having a maximum permitted occupancy of fewer than 100 persons;

2. Eating and/or drinking establishments which are primarily drinking establishments, with a maximum permitted occupancy of 200 or more but fewer than 300 persons.

(b) Type Cb life hazard uses are as follows:

1. Theaters incorporating a legitimate, regular or thrust stage having any scenery or prop storage area behind a proscenium arch and having a maximum permitted occupancy of 100 or more but fewer than 200 persons.

(c) Type Cc life hazard uses are as follows:

1. Night clubs, dance halls or discotheques with a maximum permitted occupancy of fewer than 200 persons;

2. Institutional and similar facilities including but not limited to hospitals and long term care facilities which house people suffering from physical limitation due to age, health, or handicaps which have fewer than 100 beds.

(d) Type Cd life hazard uses are as follows:

1. Theaters incorporating a legitimate, regular or thrust stage having any scenery or prop storage area behind a proscenium arch and having a maximum permitted occupancy of 200 or more but fewer than 300 persons;

2. Institutional and similar facilities including but not limited to hospitals and long term care facilities which house people suffering from physical limitation due to age, health, or handicaps which have 100 or more but fewer than 200 beds.

(e) Type Ce life hazard uses are as follows:

1. Theaters incorporating a legitimate, regular or thrust stage having any scenery or prop storage area behind a proscenium arch with a maximum permitted occupancy of 300 or more persons;

2. Eating and/or drinking establishments which are primarily drinking establishments, with a maximum permitted occupancy of 300 or more persons;

3. Institutional and similar facilities including but not limited to hospitals and long term care facilities which house people suffering from physical limitation due to age, health, or handicaps which have 200 beds or more;

4. Night clubs, dance halls or discotheques with a maximum permitted occupancy of 200 or more but fewer than 300 persons.

(f) Type Cf life hazard uses are as follows:

1. Places of amusement with a maximum permitted occupancy of fewer than 200 persons which are designed to disorient the occupant, reduce vision, present barriers or otherwise impede the free flow of traffic such as haunted houses, fun houses, tunnels of love and similar uses.

(g) Type Cg life hazard uses are as follows:

1. Night clubs, dance halls or discotheques with a maximum permitted occupancy of 300 or more persons;

2. Places of amusement with a maximum permitted occupancy of 200 or more persons which are designed to disorient the occupant, reduce vision, present barriers or otherwise impede the free flow of

traffic such as haunted houses, fun houses, tunnels of love and similar uses.

5:18-2.4D Type Da life hazard uses

(a) Type Da life hazard uses:

1. Covered mall buildings which exceed 12,000 square feet of gross floor area.

5:18-2.5 Required inspections

(a) All life hazard uses shall be inspected for compliance with the provisions of this Code periodically but not any less often than specified herein:

1. Type Aa through Aj life hazard uses: once every 12 months, except day nurseries and daycare centers with a maximum permitted occupancy of 100 or more which shall be inspected once every six months.

2. Type Ba through Bo life hazard uses: once every 12 months.

3. Type Ca through Cg life hazard uses: once every three months.

4. Type Da life hazard uses: once every three months.

(b) Where a life hazard use is operated on a seasonal basis, the number of required annual inspections shall not be reduced. Inspections of type Ca through Cg and type Da life hazard uses which are in operation for only a portion of the year shall be conducted immediately prior to opening and closing and twice during operation of the use.

1. (No change.)

(c) (No change.)

5:18-2.6 Registration of buildings and uses

(a) Whenever the Commissioner or any local enforcing agency shall have cause to believe a building or use is a life hazard use, then the Commissioner or the agency shall submit a registration survey to the owner of the building or use. It shall be a violation of the Code for an owner to fail to complete and return such a survey within 30 days.

1. Whenever the use of a building or any portion thereof is conducted on a seasonal basis, the Commissioner may require the owner of the building to comply with this registration requirement for any use conducted therein.

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

(d) Where more than one life hazard use exists at a given building or premises or where one or more life hazard uses occur within a high rise building or other life hazard use, such as a night club within a hotel, then each such life hazard use shall be separate and distinct and shall be registered separately.

(e)-(i) (No change.)

5:18-2.8 Fees, registration and permit

(a) The annual registration fee for life hazard uses shall be as follows:

1. Type Aa—\$50.00 per year;
2. Type Ab—\$75.00 per year;
3. Type Ac—\$80.00 per year;
4. Type Ad—\$90.00 per year;
5. Type Ae—\$100.00 per year;
6. Type Af—\$120.00 per year;
7. Type Ag—\$150.00 per year;
8. Type Ah—\$180.00 per year;
9. Type Ai—\$240.00 per year;
10. Type Aj—\$300.00 per year;
11. Type Ba—\$80.00 per year;
12. Type Bb—\$150.00 per year;
13. Type Bc—\$240.00 per year;
14. Type Bd—\$300.00 per year;
15. Type Be—\$350.00 per year;
16. Type Bf—\$450.00 per year;
17. Type Bg—\$480.00 per year;
18. Type Bh—\$600.00 per year;
19. Type Bi—\$720.00 per year;
20. Type Bj—\$750.00 per year;
21. Type Bk—\$900.00 per year;
22. Type Bl—\$1,050.00 per year;
23. Type Bm—\$1,200.00 per year;

24. Type Bn—\$1,500.00 per year;
25. Type Bo—\$1,800.00 per year;
26. Type Ca—\$600.00 per year;
27. Type Cb—\$720.00 per year;
28. Type Cc—\$780.00 per year;
29. Type Cd—\$840.00 per year;
30. Type Ce—\$960.00 per year;
31. Type Cf—\$1,050.00 per year;
32. Type Cg—\$1,200.00 per year;
33. Type Da—\$1,800.00 per year.

(b) Where more than one life hazard use exists under one ownership at a given location, the highest life hazard use shall be registered at full fee and subsequent life hazard uses at one-half the scheduled fee.

1. Each life hazard use that is separately owned shall be registered at full fee.

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

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

General Provisions; Enforcing Agency

Classification; Construction Boards of Appeals; Licensing

Adopted Amendments: N.J.A.C. 5:23-1.1, 3.10, 4.40, 5.2, 5.4 through 5.18, and 5.21 through 5.26

Adopted Repeal: N.J.A.C. 5:23-5.20

Proposed: July 20, 1987 at 19 N.J.R. 1264(a).

Adopted: October 30, 1987 by Leonard S. Coleman, Jr., Commissioner, Department of Community Affairs.

Filed: November 10, 1987 as R.1987 d.509, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:27D-124.

Effective Date: December 7, 1987.

Expiration Date: April 1, 1988.

Summary of Public Comments and Agency Responses:

COMMENT: The Department received the following comments concerning training of members of construction code boards of appeal: that mandatory course work would interfere with the regular employment responsibilities of board members, who serve in a part-time, volunteer, capacity; that training would have to be offered at convenient times and places; and that board members might, as a consequence of the training programs, become too code enforcement oriented and might therefore not be sufficiently receptive to arguments of appellants.

RESPONSE: The Department advises that it intends to offer training in the evening hours at approximately 10 different locations throughout the State, that inconvenience to board members will be minimal because only five hours, spread over two evenings, will be required in a 12 month period and that, in its judgment, five hours of training during an entire year is not likely either to preclude people from serving on their local board, or to so alter a person's judgment so that he or she would no longer make decisions in a fair and reasonable manner. The Department offers, and in this instance requires, training in order to insure that board members are familiar with and capable of referencing the code. It is not the objective of the Department to undermine the ability of board members to exercise independent judgment; rather, it is our objective to broaden the knowledge of responsible individuals so as to improve the quality of local decision making.

COMMENT: The New Jersey Builders Association requested that an exemption from training be provided for board members who had served for five consecutive years or longer.

RESPONSE: While the Department has no desire to waste the time of experienced board members with simplistic exercises, it does not approve this exemption for two reasons. In the first place, it is necessary that experienced members attend training because the code changes annually and there is always something new to learn. Secondly, the attendance of experienced board members is highly desirable because it enriches

the training session for other participants and provides an opportunity for experienced members to intelligently question the trainer and to bring to the Department's attention current problems in the field.

COMMENT: The New Jersey Society of Architects objected to the deletion of the requirement that one registered architect serve on each board, because, as the Society observes, architects are uniquely qualified to evaluate construction appeals.

RESPONSE: It is assuredly not the intent of the Department to eliminate the opportunity for architects to serve on local boards. The Department acknowledges the contributions of architects who have served on local boards. However, because architects are, by regulatory definition, necessarily "as qualified as a building subcode official," the proposed amendment does not exclude architects. It provides a municipality or county which may have difficulty finding an available architect with greater flexibility in staffing its board. The amended regulation allows the appointment of architects without making the presence of an architect on the board a sine qua non. The Department expects that many architects will continue to serve on boards of appeals. Language has been added upon adoption to N.J.A.C. 5:23-4.40(b)l(iii) to clarify the Department's position.

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

5:23-1.1 Title; division into subchapters

(a) (No change.)

(b) The regulations consist of the following subchapters:

1. "General provisions" which may be cited throughout the regulations as N.J.A.C. 5:23-1 and when referred to in subchapter 1 of this chapter may be cited as this subchapter.

2. "Administration and enforcement; process" which may be cited throughout the regulations as N.J.A.C. 5:23-2 and when referred to in subchapter 2 of this chapter may be cited as this subchapter.

3. "Subcodes" which may be cited throughout the regulations as N.J.A.C. 5:23-3 and when referred to in subchapter 3 of this chapter may be cited as this subchapter.

4. "Enforcing agencies: duties, powers, and procedures" which may be cited throughout the regulations as N.J.A.C. 5:23-4 of this chapter and when referred to in subchapter 4 of this chapter may be cited as this subchapter.

5. "Licensing of Code Enforcement Officials" which may be cited throughout the regulations as N.J.A.C. 5:23-5 and when referred to in subchapter 5 of this chapter may be cited as this subchapter.

6. "Tax Exemptions" which may be cited throughout the regulations as N.J.A.C. 5:23-6 and when referred to in subchapter 6 of this chapter may be cited as this subchapter.

7. "Barrier Free Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-7 and when referred to in subchapter 7 of this chapter may be cited as this subchapter.

8. "Asbestos Hazard Abatement Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-8 and when referred to in subchapter 8 of this chapter may be cited as this subchapter.

5:23-3.10 Enforcing agency classification

(a) The classification of an enforcing agency is determined by the lowest level of inspector license held by any of the subcode officials appointed to establish such agency and by the highest level of inspector license held by the appointed construction official. In the case of subcode officials, the inspector license used to determine the classification of the agency must be in the subcode area for which that individual is appointed. Enforcing agencies shall be classified as follows:

1. Class 1 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any of the subcode officials appointed to constitute the enforcing agency is an HHS inspector license.

2. Class 2 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any of the subcode officials appointed to constitute the enforcing agency is an ICS inspector license.

3. Class 3 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any

of the subcode officials appointed to constitute the enforcing agency is an RCS inspector license.

(b) Any change in the classification of an enforcing agency shall be effective immediately upon a change in the level of licensure of any of the officials appointed to constitute the enforcement agency as described *in (a)* above. The ability of a municipality to accept an application for plan review shall be determined by the classification of that municipality as of the date of application. Nothing contained herein, however, shall be construed to permit any enforcement agency to continue to review plans submitted if the classification of the agency has changed so as to render the agency no longer eligible to review the plans in question.

(c) Enforcing agencies shall be permitted to perform plan review activities in accordance with the agency classification for the use groups listed in the following schedule (keyed to section 301.0 of the building subcode):

1. Class 3 agencies:

i.-iv. (No change.)

v. Use Group R-3 as permitted in the building subcode and including accessory private garages (section 608.0), radio and television antennae (section 624.0) and swimming pools (section 625.0).

2. Class 2 agencies

i. (No change.)

ii. Use Group A-1 less than 4,800 square feet, one story, 20 feet high;

iii.-vi. (No change in text.)

vii. Use Group B less than 34,200 square feet, six story, 75 feet high;

viii. Use Group E less than 14,400 square feet, two story, 30 feet high;

ix. (No change.)

x. Use Group H (Paint spray booths, section 622.0 only);

xi. Use Group I-1 less than 8,400 square feet, three story, 40 feet high;

xii. (No change.)

xiii. Use Group I-3 less than 6,000 square feet, one story, 20 feet high;

xiv.-xviii. (No change in text.)

xix. Use Group U as permitted by the building subcode.

3. (No change.)

4. Square foot area listed in (c)1, 2 and 3 above are per floor.

(d) (No change in text.)

(e) The department shall issue a roster of enforcing agencies and their classification upon request. Copies may be obtained by contacting the Licensing Section, Bureau of Construction Code Enforcement, CN 805, Trenton, New Jersey 08625-0805.

5:23-4.40 Construction boards of appeals

(a) (No change.)

(b) Rules concerning organization are:

1. Membership; term; qualification of members:

i.-ii. (No change.)

iii. No more than two members of the board shall be selected from the same profession or business. At least one member of the board shall be as qualified as a plumbing subcode official, one as qualified as an electrical subcode official, one *a registered architect, licensed professional engineer with building construction experience or other person* as qualified as a building subcode official and one as qualified as a fire protection subcode official;

(1) Whenever a change to the regulations governing the composition of the construction board of appeals is made, the appointing authority shall implement the change when the term of any affected member(s) expires.

iv. (No change.)

v. Each member shall be qualified by experience or training to perform his duties as a member of the board, which shall be no less than that which is required of a construction or subcode official, under section 8b of the act. Members of the board need not be certified. No member shall receive an appointment unless he shall meet at least these minimum requirements.

(1) Each member shall be required to attend a course offered by the Department for members of construction boards of appeals

within 12 months of appointment if he or she has not already done so. Members currently serving on a construction board of appeals will have 12 months from the date on which the Department announces the availability of the course in which to complete this course. The Department will notify each Board on the Department roster at least two months prior to this date in order to provide adequate notice. Members who have completed the subcode official course offered by the Department pursuant to the Uniform Construction Code Act will not be required to fulfill any additional educational requirement.

(2) The commissioner may further require that members of the board satisfactorily undertake more specialized training consistent with the duties of members of a board of appeals.

(3) Failure to satisfactorily undertake such a program shall be deemed good cause for removal by the appointing authority. Failure to be present at one more than 50 percent of all meetings of the board during any calendar year shall be considered good cause for removal by the appointing authority; provided, however, that disqualification pursuant to (b)3 below shall not be considered in computing attendance;

- vi. (No change.)
- 2.-6. (No change.)
- (c)-(d) (No change.)

5:23-5.2 Office established; hearings

- (a) (No change.)
- (b) Rules concerning hearings are:
 1. (No change.)

2. Rules concerning hearing procedures are:

i. The aggrieved person must request a hearing. The request must be made within 15 days after receipt of the action or ruling being appealed. The request should be made to the Hearing Coordinator, Division of Housing and Development, Department of Community Affairs, CN 804, Trenton, New Jersey 08625-0804. The request for hearing should raise all issues that will be set forth at the hearing.

5:23-5.4 Licenses required

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

(d) Enforcing agencies, including private on-site inspection and plan review agencies, may establish code enforcement trainee positions subject to the following rules.

1. Private on-site inspection and plan review agencies may establish code enforcement trainee positions with the approval of the construction official of the municipality to which the trainee is to be assigned subject to the same terms and conditions as a trainee employed by a public enforcing agency as listed below.

2. Persons applying for a trainee position with an enforcing agency must be officially registered with the Department of Community Affairs on the form provided by the Licensing Section of the Bureau of Construction Code Enforcement prior to being hired as a trainee.

i. Trainees shall renew their registration yearly and shall notify the Department of Community Affairs, Bureau of Construction Code Enforcement, Licensing Section, of any change in employment status or address within one month of any change. A non-refundable processing fee of \$10.00 is required for the initial Trainee Registration Request and for each subsequent renewal request.

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

i. Fire protection inspector trainee—a minimum of one year of experience in the fire service (other than as an apprentice or trainee) with fire prevention, fire protection or firefighting responsibilities.

- ii.-iv. (No change.)

v. Persons who have graduated from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction, or who possess an associate's degree in code enforcement, or have a current New Jersey license to practice as an architect or engineer at the time of application shall be exempt from the experience requirement for trainee employment.

4. Trainees must be evaluated by their supervisors on a quarterly basis. This evaluation must include a brief description of the trainee's code enforcement activities and an assessment of the trainee's per-

formance in these activities. Trainees who receive satisfactory evaluation ratings by their supervisors and who occupy enforcing agency trainee positions while registered with the Department may use the trainee experience toward satisfying the experience requirement for licensure in accordance with N.J.A.C. 5:23-5.5. The effective date of their trainee experience begins at the time they are hired as a registered trainee by an authorized agency.

5. The following conditions apply to work performed by a trainee:

i. Trainees may perform inspections required by N.J.A.C. 5:23-2.18 only under the direct supervision of an official or inspector licensed in the subcode area in which the trainee position has been approved. The licensed supervisor must be on site with the trainee during the performance of all required inspections.

ii. Trainees may perform an inspection of a singular specific point on a project, or a repetitive singular specific point on one or more projects, if directed to do so by a licensed supervisor where no code interpretation is required. In any such case, the inspection report shall be completed and signed by the trainee and reviewed and countersigned by the licensed supervisor.

iii. Trainees shall not act as subcode or construction officials or sign any permits, stickers, approved plans or inspection reports except as otherwise permitted by (d)5i and ii above.

6. The supervisor of the trainee must possess a valid code enforcement license in the same subcode as the registered trainee working under his direct supervision.

i. A qualified licensed inspector shall not supervise more than one trainee.

ii. Failure to a supervisor to properly oversee a registered trainee in accordance with the provisions of the regulations may result in disciplinary action against the supervisor.

7. To remain employed by an enforcing agency, a trainee must enroll in, and successfully complete, the appropriate approved course(s) as required in N.J.A.C. 5:23-5.5 within two years of the effective date of his employment. Trainees who fail to successfully complete the appropriate course(s) within two years of the effective date of their employment will not be permitted to renew their registration until successful completion is achieved.

8. To remain employed by an enforcing agency, a trainee must pass the appropriate modules of the National Certification Test in his specific code area within two years of the effective date of employment.

(e) Rules concerning effect are:

- 1.-2. (No change.)

3. It shall be a violation of these regulations on and after October 1, 1978, in the case of construction and subcode officials and technical inspectors for any enforcing agency, including private on-site inspection and plan review agencies, to offer employment to or to retain for employment any person who is not licensed in accordance with these regulations if such person has not been previously and continuously employed by such agency. Further, it shall be a violation of these regulations on and after January 1, 1981, for an enforcing agency to continue an individual in employment in a position for which a license is required pursuant to these regulations, if such person is not licensed in accordance with this subchapter. Violation of this section shall be deemed a failure to perform within the meaning of N.J.A.C. 5:23-4.3(g) of these regulations, and the Department may exercise the remedies provided therein.

- 4. (No change.)

5:23-5.5 General license requirements

- (a) (No change.)

(b) After receipt of the required nonrefundable fee, the Department shall determine, by examination of the application and review of any supporting documents, including any evidence of experience, training and/or education submitted, whether an applicant is qualified for a license of the type and specialty for which the application has been made. If the application is satisfactory, the commissioner shall issue a license to the applicant. This license will show that the person has met the established requirements and is eligible to be employed in this State in accordance with the provisions of these regulations.

- 1.-2. (No change.)

3. The applicant shall submit a complete application within 18 months of receipt of the letter of acknowledgment. If a complete application is not submitted within the 18 month period, the application shall be deemed abandoned, no further action shall be taken on it by the Department and a new application and non-refundable fee shall be required if the applicant desires to reapply.

4. Only test results for test modules passed within three years of the date of application shall be accepted toward fulfilling the requirements for the license sought.

5. No credit shall be given by the Department for any experience not involving the construction or alteration of buildings.

6. No credit shall be given by the Department for any journeyman experience unless documentation of the completion of a formal or informal apprenticeship program, or its equivalent, is provided. The Department makes reference to the U.S. Department of Labor's National Apprenticeship Program for assigning the length of time required to complete an apprenticeship program in a given trade.

7. Credit for part-time work experience shall be given by the Department on a proportional basis.

(c) The following persons shall be exempt from the requirements of this section and shall be issued a license upon submission of an application and payment of the required fee.

1. Licensed plumbing inspectors:

i. (No change.)

ii. A person licensed by the Department under the above provision who subsequently loses his license as a result of revocation or of failure to renew within two years of lapsing must reapply for licensure under the requirements in effect at the time of reapplication without recourse to the above provision.

2. Licensed electrical inspectors:

i. A license for electrical inspector I.C.S. shall be issued to any person holding or receiving, prior to January 1, 1978, an electrical inspector's license, issued by the New Jersey Public Utilities Commission, pursuant to Title 48, Revised Statutes.

ii. A person licensed by the Department under the above provision who subsequently loses his license as a result of revocation or of failure to renew within two years of lapsing must reapply for licensure under the requirements in effect at the time of reapplication without recourse to the above provision.

(d) (No change.)

5:23-5.6 Construction official requirements

(a) A candidate for a license as a construction official shall meet the following qualifications:

1. Possession of the qualifications established herein for at least one of the four subcode official licenses; provided, however, that any person qualified as a fire protection subcode official must also have experience for the applicable period of time specified by N.J.S.A. 52:27D-126b; and

2.-3. (No change.)

5:23-5.7 Subcode official requirement

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

1.-2. (No change.)

3. Completion of such additional experience in the subcode of qualification as may be required, beyond that needed for licensure as a technical inspector, to provide at least the following total experience:

i. (No change.)

ii. Five years of experience in construction, design or supervision in building construction work, provided that such persons possess at least a bachelor's degree from an accredited institution of higher education in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction; or

iii. (No change.)

4. Exception: A candidate for a license as a fire protection subcode official must possess at least the following experience:

i. Three years of experience as a fire prevention official; or

ii. Three years of experience as a fire protection official; or

iii. Three years of experience as a firefighter.

5. A provisional license shall be issued to any person who possesses the required experience listed above provided that such person is licensed as a technical inspector. Such person shall have successfully completed the educational program required herein within 24 months of issuance of the provisional license.

6. (No change.)

7. A person who is already licensed as a fire protection subcode official must have the total years of experience as described in (a)3 above to satisfy the experience requirement for any other subcode official license.

5:23-5.8 Building inspector H.H.S. requirements

(a) A candidate for a license as a building inspector H.H.S. shall meet one of the following educational and/or experience requirements:

1. Seven years of experience consisting of some combination of the following:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or

ii. Experience as a building or housing inspector; or

iii. Experience as a construction contractor in a field of construction currently regulated by the building subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction and two years of experience in construction, design, inspection or supervision in a field of construction currently regulated by the building subcode; or

3.-4. (No change in text.)

(b) A candidate for a license as a building inspector H.H.S. shall also meet the following requirements:

1. Successful completion of an approved education program meeting the requirements established in N.J.A.C. 5:23-5.20 for building inspector H.H.S.; provided, however, that persons having a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for building inspector H.H.S.

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.*[3.]* *23.*

3. Possession of, or eligibility for, the building inspector I.C.S. license.

5:23-5.9 Building inspector I.C.S. requirements

(a) A candidate for a license as a building inspector I.C.S. shall meet one of the following educational and/or experience requirements:

1. Five years of experience consisting of some combination of the following:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or

ii. Experience as a building or housing inspector; or

iii. Experience as a construction contractor in a field of construction currently regulated by the building subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction and one year of experience in construction, design, inspection or supervision in a field of construction currently regulated by the building subcode; or

3.-4. (No change in text.)

(b) A candidate for a license as a building inspector I.C.S. shall also meet the following requirements:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for building inspector I.C.S.; provided, however, that persons having a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for building inspector I.C.S.

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

3. Possession of, or eligibility for, the building inspector R.C.S. license.

5:23-5.10 Building inspector R.C.S. requirements

(a) A candidate for a license as a building inspector R.C.S. shall meet one of the following educational and/or experience requirements:

1. Three years of experience consisting of some combination of the following:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or

ii. Experience as a building or housing inspector; or

iii. Experience as a construction contractor in a field of construction currently regulated by the building subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction; or

3.-4. (No change in text.)

(b) A candidate for a license as a building inspector R.C.S. shall also meet the following requirements prior to application:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for building inspector R.C.S.; provided, however, that persons having a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for building inspector R.C.S.; and

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

5:23-5.11 Electrical inspector H.H.S. requirements

(a) A candidate for a license as an electrical inspector H.H.S. shall meet one of the following educational and/or experience requirements:

1. Seven years of experience consisting of some combination of the following:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the electrical subcode; or

ii. Experience as an electrical inspector; or

iii. Experience as a construction contractor in a field of construction currently regulated by the electrical subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction and two years of experience in construction, design, inspection or supervision in a field of construction currently regulated by the electrical subcode; or

3.-4. (No change in text.)

(b) A candidate for a license as an electrical inspector H.H.S. shall also meet the following requirements prior to application:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for electrical inspector H.H.S.; provided, however, that persons having a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for electrical inspector H.H.S.; and

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

3. Possession of, or eligibility for, the electrical inspector I.C.S. license.

5:23-5.12 Electrical inspector I.C.S. requirements

(a) A candidate for a license as an electrical inspector I.C.S. shall meet one of the following educational and/or experience requirements:

1. Five years of experience consisting of some combination of the following:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the electrical subcode; or

ii. Experience as an electrical inspector; or

iii. Experience as a construction contractor in a field of construction currently regulated by the electrical subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction and one year of experience in construction, design, inspection or supervision in a field of construction currently regulated by the electrical subcode; or

3.-4. (No change in text.)

(b) A candidate for a license as a electrical inspector I.C.S. shall also meet the following requirements prior to application:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for electrical inspector I.C.S.; provided, however, that persons having a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for electrical inspector I.C.S.; and

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

5:23-5.13 Fire protection inspector H.H.S. requirements

(a) A candidate for a license as a fire protection inspector H.H.S. shall meet one of the following educational and/or experience requirements:

1. Seven years of experience consisting of some combination of the following:

i. Experience in the fire service (other than as an apprentice or trainee), with fire prevention, fire protection or firefighting responsibilities; or

ii. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the fire protection subcode; or

iii. Experience as a construction contractor in a field of construction currently regulated by the fire protection subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in fire science, architecture or engineering, or in architectural, engineering or fire science technology, or in a major area of study directly related to building construction, plus two years of experience in the fire service with fire prevention, fire protection or firefighting responsibilities; or

3. Possession of an associate's degree from an accredited institution of higher education in code enforcement, fire science, or fire science technology, and three years of experience in the fire service with fire prevention, fire protection or firefighting responsibilities; or

4. Possession of a current New Jersey license to practice as an architect or engineer at the time of application.

(b) A candidate for a license as a fire protection inspector H.H.S. shall also meet the following requirements:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for fire protection inspector H.H.S.; provided, however, that persons having an associate's degree in code enforcement, fire science or fire science technology or a bachelor's degree in fire science, architecture or engineering or in architectural, engineering or fire science technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for fire protection inspector H.H.S.

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

3. Possession of, or eligibility for, the fire protection inspector I.C.S. license.

5:23-5.14 Fire protection inspector I.C.S. requirements

(a) A candidate for a license as a fire protection inspector I.C.S. shall meet one of the following educational and/or experience requirements:

1. Five years of experience consisting of some combination of the following:

i. Experience in the fire service (other than as an apprentice or trainee) with fire prevention, fire protection, or firefighting responsibilities; or

ii. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the fire protection subcode; or

iii. Experience as a construction contractor in a field of construction currently regulated by the fire protection subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in fire science, architecture or engineering, or in architectural, engineering or fire science technology, or in a major area of study directly related to building construction and one year of experience in the fire service with fire prevention, fire protection or firefighting responsibilities; or

3. Possession of an associate's degree from an accredited institution of higher education in code enforcement, fire science, or fire science technology and two years of experience in the fire service with fire prevention, fire protection or firefighting responsibilities; or

4. Possession of a current New Jersey license to practice as an architect or engineer at the time of application.

(b) A candidate for a license as a fire protection inspector I.C.S. shall also meet the following requirements:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for fire protection inspector I.C.S.; provided, however, that persons having an associate's degree in code enforcement, fire science or fire science technology or a bachelor's degree in fire science, architecture or engineering or in architectural, engineering or fire science technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for fire protection inspector I.C.S.

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.*[3.]* *23.*

3. Possession of, or eligibility for, the fire protection inspector R.C.S. license.

5:23-5.15 Fire protection inspector R.C.S. requirements

(a) A candidate for a license as a fire protection inspector R.C.S. shall meet one of the following educational and/or experience requirements:

1. Three years of experience consisting of some combination of the following:

i. Experience in the fire service (other than as an apprentice or trainee) with fire prevention, fire protection or firefighting responsibilities; or

ii. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the fire protection subcode; or

iii. Experience as a construction contractor in a field of construction currently regulated by the fire protection subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in fire science, architecture or engineering, or in architectural, engineering or fire science technology, or in a major area of study directly related to building construction; or

3. Possession of an associate's degree from an accredited institution of higher education in code enforcement, fire science or fire science technology, and one year of experience in the fire service with fire prevention, fire protection or firefighting responsibilities; or

4. Possession of a current New Jersey license to practice as an architect or engineer at the time of application.

(b) A candidate for a license as a fire protection inspector R.C.S. shall also meet the following requirements prior to application:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for fire protection inspector R.C.S.; provided, however, that persons having an associate's degree in code enforcement, fire science or fire science technology or a bachelor's degree in fire science, architecture or engineering or in architectural, engineering or fire science technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for fire protection inspector R.C.S.; and

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

5:23-5.16 Plumbing inspector H.H.S. requirements

(a) A candidate for a license as a plumbing inspector H.H.S. shall meet one of the following educational and/or experience requirements:

1. Seven years of experience consisting of some combination of the following:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the plumbing subcode; or

ii. Experience as a plumbing inspector; or

iii. Experience as a construction contractor in a field of construction currently regulated by the plumbing subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction and two years of experience in construction, design, inspection or supervision in a field of construction currently regulated by the plumbing subcode; or

3.-4. (No change in text.)

(b) A candidate for a license as a plumbing inspector H.H.S. shall also meet the following requirements:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for plumbing inspector H.H.S.; provided, however, that persons having a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for plumbing inspector H.H.S.

2. Successful completion of an examination as required by 5:23-5.23.

3. Possession of, or eligibility for, the plumbing inspector I.C.S. license.

5:23-5.17 Plumbing inspector I.C.S. requirements

(a) A candidate for a license as a plumbing inspector I.C.S. shall meet one of the following educational and/or experience requirements:

1. Five years of experience consisting of some combination of the following:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the plumbing subcode; or

ii. Experience as a plumbing inspector; or

iii. Experience as a construction contractor in a field of construction currently regulated by the plumbing subcode; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction and one year of experience in construction, design, inspection or supervision in a field of construction currently regulated by the plumbing subcode; or

3.-4. (No change in text.)

(b) A candidate for a license as a plumbing inspector I.C.S. shall also meet the following requirements prior to application:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for plumbing inspector I.C.S.; provided, however, that persons having a college degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction shall be exempted from the educational program requirements for plumbing inspector I.C.S.

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

5:23-5.18 Inplant inspector requirements

(a) A candidate for a license as an inplant inspector shall meet one of the following educational and/or experience requirements:

1. Five years of experience consisting of some combination of the following:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building, electrical, fire protection or plumbing subcode, or a combination thereof; or
 ii. Experience as a building, electrical, fire protection or plumbing inspector, or a combination thereof; or

iii. Experience as a construction contractor currently regulated by any of the four above enumerated subcode*s*, or a combination thereof; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering or in architectural or engineering technology or in a major area of study directly related to building construction and three years of experience in any one or more of the fields regulated by the above enumerated subcodes; or

3. Possession of a current New Jersey license or registration to practice engineering or architecture at the time of application.

(b) A candidate for a license as an inplant inspector shall have successfully completed examinations as required by N.J.A.C. 5:23-5.23 prior to application.

5:23-5.20 (No change in text.)

5:23-5.21 Renewal of license

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

(d) Continuing education requirements:

1. (No change.)

2. If an individual adds an inspector license in a new subcode area to an existing license, the continuing education requirements for the new subcode area are calculated in proportion to the time remaining on the existing license.

i. If there is less than two years, but more than one year, remaining on the existing license, then the technical CEU requirements are 0.5 CEU for the new subcode area.

ii. If there is one year or less remaining on the existing license, then there is no technical CEU requirement for renewal in the new subcode area.

3. If an individual adds administrative license(s) to an existing license, the continuing education requirements are as follows:

i. For those adding both a subcode official and construction official license:

(1) If there is less than two years, but more than one year, remaining on the existing license, then the administrative CEU requirement is 0.5 CEU for renewal of the new licenses.

(2) If there is one year or less remaining on the existing license, then there is no administrative CEU requirement for renewal of the new licenses.

ii. For those adding either a subcode official or a construction official license:

(1) If there is less than two years remaining on the existing license, then there is no administrative CEU requirement for renewal of the new license.

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

5:23-5.22 (No change in text.)

5:23-5.23 Examination requirements

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

(e) The following records pertaining to every examination shall be preserved for a period of three years:

1. The resulting list of grades;

2. Such other records of information in the custody of the Department as may be pertinent.

5:23-5.24-5:23-5.25 (No change in text.)

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Stormwater Management

Adopted Amendments: N.J.A.C. 7:8-1.3, 1.7, 2.1, 2.2, 2.6, 3.4, and 3.6

(CITE 19 N.J.R. 2276)

NEW JERSEY REGISTER, MONDAY, DECEMBER 7, 1987

Proposed: April 6, 1987 at 19 N.J.R. 488(a).

Adopted: November 9, 1987 by Richard T. Dewling,

Commissioner, Department of Environmental Protection.

Filed: November 12, 1987 as R.1987 d.513, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 40:55D-93 et seq., specifically 40:55D-98.

DEP Docket Number: 010-87-03.

Effective Date: December 7, 1987.

Expiration Date: February 7, 1988.

Summary of Public Comments and Agency Responses:

Public hearings concerning the proposed amendments were held on April 28, 1987 in Wayne, New Jersey and on April 30, 1987 in Freehold, New Jersey. The public comment period ended on May 6, 1987. Written comments were received from five persons and 10 persons testified at the public hearings.

COMMENT: A number of written comments were received addressing N.J.A.C. 7:8-3.4(a)9 and are summarized below in this single COMMENT.

It was alleged that the requirements at N.J.A.C. 7:8-3.4(a)9ii (that the proponent of detention basins in freshwater wetlands known to be inhabited by endangered or threatened species of wildlife must satisfy the Department that the habitats of these species would not be adversely affected) and at N.J.A.C. 7:8-3.4(a)9iii (that the proponent of intermittently-flooded detention basins in freshwater wetlands in certain circumstances must first obtain a permit under the procedures established for Projects of Special Concern) are ultra vires.

The Department will be unable to process the large number of projects referred to it without having municipal stormwater management plans already in place.

No threshold for freshwater wetlands acreage is used in the proposed amendments.

The mere objections by the county environmental commission, the Fish and Wildlife Service, the Corps of Engineers, or the Division of Fish, Game and Wildlife on the basis of "environmental consideration" to the provision of intermittently-flooded detention basins in freshwater wetlands, resulting in the project being deemed a Project of Special Concern, will unnecessarily result in referral of the project to the Department.

The requirement in N.J.A.C. 7:8-3.4(a)9iii(1) that proponents of detention basins apply to the Department to determine whether the proposed work is on an endangered or threatened species habitat unfairly places a burden on development.

Long-running projects with prior preliminary approval are not grandfathered through these amendments.

The areas to be protected under provisions of N.J.A.C. 7:8-3.4(a)9ii, because they are known to be inhabited by endangered or threatened species, must include buffer areas, but these are poorly defined.

Economic and regulatory flexibility impacts were grossly understated and not adequately addressed in that it is unlikely that the Department could handle the volume of cases referred to it without imposing substantial delay and resultant costs on the regulated community.

Three new and separate stormwater management facility permit programs (not specified by the commenter) are created by the amendment.

The proposed amendments will greatly complicate the life of builders on account of the protection of wetlands.

The establishment of detention basins in intermittent wetlands could have a negative effect upon exactly those habitats which the State intends to protect.

The amended rules should define a relationship between depth of water table and the design of detention basins, in order to avoid draining groundwater resources.

There is a positive value to placing detention facilities in freshwater wetlands, both from the viewpoint of improving wetlands habitat by more frequent flooding and by improving the natural recharge of groundwater and the assimilation of contaminants. The proposed amendments erroneously restrict the placement of detention facilities in freshwater wetlands.

The proposed amendments would make it more difficult to provide for regional or basin-wide planning of stormwater management systems. Such planning is essential to good management which has previously been encouraged by the Department.

Additional permit fees will be a burden upon the economy.

RESPONSE: Without reaching the merits of the above comments addressing N.J.A.C. 7:8-3.4(a)9, the Department has amended the provision upon adoption in recognition of the enactment of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.; P.L. 1987, c.156) on July 1, 1987.

COMMENT: A clear definition of freshwater wetlands should be included in the adoption.

RESPONSE: The Freshwater Wetlands Protection Act defines the term "freshwater wetland." Therefore, this definition is now provided at N.J.A.C. 7:8-1.3.

COMMENT: The proposed amendments should include provisions regarding legal ownership of detention basins, provisions for their maintenance, and identification of the party responsible for the cost of maintenance.

RESPONSE: The matters are addressed at N.J.A.C. 7:8-3.4(a)5.

AGENCY NOTE: As N.J.A.C. 7:8, including the amendments adopted herein, will expire pursuant to Executive Order No. 66(1978) on February 7, 1988, this chapter has been proposed for re-adoption in this issue of the New Jersey Register. Upon re-adoption, N.J.A.C. 7:8, including these adopted amendments, will be effective for five years.

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

7:8-1.3 Definitions

"Detention basin" means an embankment and associated space for impoundment of water or, alternatively, the space for impoundment partially or entirely created by excavation rather than by embankment, in either case designed to temporarily retain stormwater runoff.

"Detention facility" means a detention basin or alternative structure designed to temporarily retain stormwater runoff.

"Freshwater wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; provided, however, that the Department, in designating a wetland, shall use the three parameter approach (that is, hydrology, soils and vegetation) enumerated in the April 1, 1987 interim-final draft "Wetland Identification and Delineation Manual" developed by the United States Environmental Protection Agency, and any subsequent amendments thereto.*

"Infiltration basin" means a detention basin designed to infiltrate retained water to the subsurface and which is not an injection well.

"Wet basin" means a detention basin designed to retain some water on a permanent basis.

7:8-1.7 Relationship to other permitting programs

Nothing in this chapter shall be construed as limiting the rights of other agencies or entities, such as the Pinelands Commission or the Delaware and Raritan Canal Commission, from imposing stricter standards or other requirements as allowed by statute.

7:8-2.1 Objectives

(a) A storm water management plan and its implementing ordinance or ordinances shall be designed:

- 1.-6. (No change.)
- 7. To reduce the impact of development upon stream erosion;
- 8.-10. (No change.)

7:8-2.2 Schedule for completion and submission of plans and ordinances

If a grant for 90 percent of the costs for the preparation of the plan has been made available by the Department pursuant to section 6 of the Act (N.J.S.A. 40:55D-98), the storm water management plan shall be completed by the municipality by the next reexamination of the municipality's master plan required pursuant to N.J.S.A. 40:55D-89. The storm water management plan shall be an integral part of each municipal master plan as provided by N.J.S.A. 40:55D-28. Each storm water control ordinance or ordinances im-

plementing the stormwater management plan prepared under such a grant shall be adopted by the municipality within one year of the completion of the storm water management plan and shall be revised thereafter as needed. Such a storm water management plan, control ordinance or resolution prepared by counties, municipalities or designated regional agencies shall be prepared in accordance with this chapter.

7:8-2.6 Exceptions

The Commissioner may upon application by any appropriate agency grant an exception from any of the objectives listed in N.J.A.C. 7:8-2.1(a) through 10 above, as provided for in sections 3 and 4 of the Act (N.J.S.A. 40:55D-95 and 96), provided that the Commissioner shall determine that such exception will not materially increase flood damage, non-point source pollution, or erosion within or without the municipality. Any municipal request for such exemptions shall be accompanied by proof of notice to all affected municipalities of such request and the request shall be submitted to the State through the appropriate county planning agency.

7:8-3.4 General standards

(a) The following standards are specified for general use as minimums to be applied to major developments. Local plans and ordinances which require a greater degree of control or require retention for a greater period of time, or apply to classes of developments in addition to those specified herein, will be acceptable as long as the objectives are met. Plans and ordinances expressed in different terms but which are considered by the Department to achieve substantially the same objectives will also be acceptable.

1.-2. (No change.)

3. Detention basins in flood plains:

i.-iii. (No change.)

iv. In cases where detention basins, other than on-stream basins, are to be built in flood plains and in default of an analysis such as described above, detention storage provided below the elevation of the 100-year flood (either specifically calculated or taken from an official state flood plain delineation map) will be credited as effective storage at a reduce proportion as indicated in the table below:

TABLE I

Allowable proportion of storage to be assumed usable in detention basins in the flood plain.

	DRAINAGE BASIN AREA AT SITE		
	Less than 5 Sq. Mi.	5-100 Sq. Mi.	Over 100 Sq. Mi.
Elevation of storage provided below 100- year flood level			
less than 2 ft.	40 percent	65 percent	90 percent
2-4 ft.	25 percent	50 percent	75 percent
Over 4 ft.	10 percent	25 percent	50 percent

v. This effective detention storage, plus any other supplementary measures, will be required to provide for storm water detention, in accordance with established standards.

4.-8. (No change.)

*[9. In any areas classified as freshwater wetlands pursuant to either 40 C.F.R. §233.3 or applicable State law, detention facilities may be allowed subject to the following restrictions:

i. Wet basins and infiltration basins may be provided only where in accordance with a municipal storm water management plan approved by the designated county agency in accordance with N.J.A.C. 7:8-2 or upon prior approval of the Department.

ii. Detention basins may not be provided in areas known to be inhabited on a seasonal or permanent basis by, or to be critical at any stage in the life cycle of, any wildlife (fauna) identified as "endangered" or "threatened" species on official Federal or State lists (see N.J.A.C. 7:25-4.13 and 7:25-4.17), unless the proponent of such detention basins has demonstrated to the satisfaction of the Department that these endangered or threatened species habitats would not directly, or through secondary impacts on the relevant site, be adversely affected. These habitats shall also include sufficient buffer areas to ensure the continued survival of the species.

ENVIRONMENTAL PROTECTION

(1) The Division of Fish, Game and Wildlife, in the Department, intentionally restricts dissemination of data showing the geographic distribution of these species habitats in order to furnish them with further protection. The proponent of such detention basins should apply to the Department to ascertain whether the location of the proposed detention basin is on such endangered or threatened species habitats.

iii. Intermittantly-flooded detention basins may be provided, except that if grading or clearing of any space for the impoundment of water is proposed or if the county environmental commission, the United States Fish and Wildlife Service, the United States Army Corps of Engineers, or the Division of Fish, Game and Wildlife within the Department objects to the proposed use of any portions of a freshwater wetlands on the basis of environmental consideration, the proposed use shall be deemed a Project of Special Concern requiring and subject to a permit from the Department issued in conformity with the procedural requirements of N.J.A.C. 7:13-5.3(a)-(e), (g), and 7:13-5.4(a), originally developed to help assure adequate protection of the State's aquatic life and water resources from the adverse impacts of certain kinds of stream encroachment.]*

9. Detention basins located in freshwater wetlands may be allowed only in accordance with the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and any rules adopted pursuant thereto.

7:8-3.6 Storm water control ordinance

The storm water control ordinance is required to be adopted by the municipality within one year of the completion of a storm water management plan funded pursuant to section 6 of the Act (N.J.S.A. 40:55D-98). It is an implementation document for the plan. The ordinance shall conform with all requirements of this chapter. Upon adoption of this chapter, the Department will supply each municipality with a Model Storm Water Control Ordinance as a guide for municipalities to prepare their own ordinances.

(a)

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

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

Proposed: August 17, 1987 at 19 N.J.R. 1482(a).
Adopted: October 27, 1987 by Richard T. Dewling,
Commissioner, Department of Environmental Protection.
Filed: November 12, 1987 as R.1987 d.514, **without change**.
Authority: N.J.S.A. 13:1E-6.

DEP Docket Number: 033-87-07.
Effective Date: December 7, 1987.
Expiration Date: November 4, 1990.

Summary of Public Comments and Agency Responses:

The Department received one written comment from the public on this proposal before the comment period closed on September 16, 1987.

COMMENT: It is redundant and unnecessary to require that ignitable or reactive wastes be managed so as to protect them from conditions which may cause them to ignite or react and also require that a qualified engineer or chemist certify that the design or operation of the facility will prevent ignition or reactions. Since the facility's Part B permit will specify safe operating conditions, the additional certification is not needed.

RESPONSE: As stated in the Summary of the proposed amendments, the Department is required to adopt these provisions in order to be equivalent to the Federal regulation at 40 CFR 265.229(b)(2). The wording of this rule is identical to that of the Federal regulations.

Full text of the adoption follows.

7:26-8.19 Incorporation by reference

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

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

7:26-10.6 Surface impoundments

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

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

1.-4. (No change.)

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

i. (No change.)

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

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

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

iii. (No change.)

6.-11. (No change.)

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

HEALTH

DRUG UTILIZATION REVIEW COUNCIL

(b)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: April 20, 1987 at 19 N.J.R. 615(a).

Adopted: October 13, 1987 by the Drug Utilization Review Council, Robert Kowalski, Secretary.

Filed: November 5, 1987 as R.1987 d.501 **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: December 7, 1987.

Expiration Date: April 2, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

The following products and their manufacturers were **adopted**:

Disopyramide caps 100 mg

Superpharm

The following products and their manufacturers were **not adopted**:

Oxazepam tabs 15 mg

W-C

The following products were **not adopted** but are **still pending**:

Amitriptyline tabs 10, 25, 50, 75, 100, 150 mg

Mutual

Amitriptyline/perphenzine 2/10, 2/25, 4/25

Cord

Butalbital, APAP, caffeine tabs

Graham

Cephalexin caps 250, 500 mg

Nuovo

Chlorothiazide tabs 500 mg

Mylan

Doxepin caps 75, 150 mg

Chelsea

Doxepin caps 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 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 mg

Bolar

Lorazepam tabs 0.5, 1, 2 mg

Cord

Lorazepam tabs 2 mg

Bolar

Medroxyprogesterone tabs 2.5, 5, 10 mg

Duramed

Methyldopa/HCTZ tabs 250/15, 250/25

Chelsea

Nitrofurantoin macrocrs. caps 50, 100 mg

Bolar

Nitroglycerin E.R. caps 2.5, 6.5, 9 mg

Vitarine

Nitroglycerin transdermal patch 10 mg	Hercon
Nitroglycerin transdermal patch 15 mg	Hercon
Nitroglycerin transdermal patch 5 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
Perphenazine tabs 8 mg	Chelsea
Pramoxine 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
Pyrimidine/Chlorpheniramine/PE tannates susp	Copley
Pyrimidine/Chlorpheniramine/PE tannates tabs	Copley
SMZ/TMP Susp. 200 mg+40 mg/5 ml	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 Notices of Adoption may be found at 19 N.J.R. 1312(b) and 1644(b).

(a)**Interchangeable Drug Products****Adopted Amendment: N.J.A.C. 8:71**

Proposed: January 5, 1987 at 19 N.J.R. 13(a).

Adopted: October 13, 1987 by the Drug Utilization Review

Council, Robert Kowalski, Secretary.

Filed: November 5, 1987 as R.1987 d.502, **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: December 7, 1987.

Expiration Date: April 2, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

The following products and their manufacturers were **adopted**:

Promethazine/cod, VC PL, VC/cod syrups	Cenci
Clonidine tabs 0.1, 0.2, 0.3 mg	Mylan

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 0.3 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
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 Notices of Adoption may be found at 19 N.J.R. 641(a), 880(a), and 1314(a).

(b)**Interchangeable Drug Products****Adopted Amendment: N.J.A.C. 8:71**

Proposed: August 17, 1987 at 19 N.J.R. 1488(a).

Adopted: October 13, 1987 by Robert Kowalski, Secretary, the Drug Utilization Review Council.

Filed: November 5, 1987 as R.1987 d.500, **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: December 7, 1987.

Expiration Date: April 2, 1989.

Summary of Public Comments and Agency Responses:**1. CONCERNING SODIUM LEVOTHYROXINE:**

A. Opposing comments from Flint Laboratories

Dr. Peter Bernardo, Vice President for technical Services at Flint Laboratories, specified that company's objections to the proposed levothyroxine products:

1. Flint disputes the protocol of the biostudies. One study was uncontrolled, thus it "was not a biostudy." In addition, Dr. Bernardo said that subjects should be euthyroid (not hypothyroid, as in the Daniels' studies) and crossed over.

2. Flint said that the second study also was inappropriate because the subjects were hypothyroid. Flint also questioned what product was used as a comparison in this study; the very large standard deviations seen make them doubt that it was Synthroid. This second study also emphasized TSH measurements; the real question is whether T4 is released and gets into the body.

3. Flint also questions the stability of the generics. An independent laboratory, commissioned by Flint to assay several strengths of the Daniels products, found the 0.2 mg strength was less than 90% of labeled potency before the expiration date. Flint will have that product re-assayed and will submit those results.

Flint suggested a proper biostudy protocol, like that developed by Flint with the University of Kentucky, which looks at free T4, total T4, T3, and TSH. Dr. Bernardo pointed out that small amounts of T4 are already present in the body, and that several (at least 6 to 8) data points are needed after steady state to show equivalency. Single point assays are highly variable, and thus may not properly demonstrate bioavailability.

Boots (Flint) also provided documentation on their claim that certain strengths of Daniels products do not meet potency standards, as measured by HPLC assays. Boots also synopsized their idea of a well-designed biostudy.

Boots replied to the specific criticism from Daniels that Synthroid itself had been shown to be only 75% potent in the literature by explaining that the Flint product so found was the old formulation (before 1982) as assayed by HPLC.

B. Supporting comments from Daniels:

Daniels Pharmaceuticals supported their application by submitting, in addition to the usual bioequivalency studies, data addressing the stability issues raised and a letter from the FDA stating that their levothyroxines are "identical" to other marketed products. Daniels also stated that the various strengths are identical in their formulation (other than the amount of active ingredients, of course).

Daniels also sent responses to the criticisms of their biostudies from the laboratory performing the study and an analysis of the biostudies by an independent physician. Both supported the Daniels products.

Dr. B. Wolfson, representing Daniels, commented in support of their proposed levothyroxine tablets. He noted that both of the biostudies presented found NO statistically significant differences between Synthroid and the Daniels products.

Regarding stability, Dr. Wolfson said that the Flint literature itself shows the instability of Synthroid. He referred to a Flint graph (showing stability among various generic levothyroxines) cited in a 1986 article by Dong in Drug Intelligence and Clinical Pharmacy, which found Synthroid itself to be only 75% potent. Dr. Wolfson also questioned the assay used in the independent laboratory's test of the generic levothyroxine.

COUNCIL'S RESPONSE:

The Council acknowledged that levothyroxines have been noted to show bioequivalency problems based on lack of equal potency (strength) between generics and the brand, which itself was subpotent in the early 1980s. Action was deferred pending receipt of additional clinical data from Dr. LaJoie and to give Dr. Amorosa, a Council member, sufficient time to review all the submitted data.

2. CONCERNING EXTENDED RELEASE POTASSIUM CHLORIDE:

Mr. J. Flynn, representing CIBA-Geigy, objected to the proposed extended release potassiums because the FDA codes such products as "BC," thus not supporting their bioequivalency to the brands and, in his opinion, precluding their listing in the New Jersey generic formulary.

Mr. B. Crown, representing A.H. Robins, also objected to the extended release potassiums, especially the KV capsules, noting that the KV study

values were inconsistent with usual potassium absorption and elimination values, and also repeating Mr. Flynn's remarks that the FDA codes such products as "BC." Mr. Krown said that Robins will supply documentation on the incidence of gastrointestinal ulceration with their product.

Dr. H. Arbit, representing Upsher-Smith, manufacturers of the proposed extended release potassium tablets, voiced his opinion that New Jersey has the right to decide on the equivalency issue despite the "BC" rating. He also stated that the FDA has proposed revised labelling for extended release potassium products which will treat all such products identically. Dr. Arbit feels that the potassiums are interchangeable in that the proposed general labelling does not recognize any safety differences—all having the exact same gastrointestinal lesion warnings—and notes that the Medical Letter has stated that all are relatively safe in comparison to immediate release and enteric coated potassiums.

Robins noted the questionable values for the urinary excretion of potassium in the KV study, reiterated their contention that the FDA rating (BC) renders the products not therapeutically equivalent, and pointed out that Micro-K (the Robins product) and the KV product—although both being capsules—are NOT identical in their delivery systems.

COUNCIL'S RESPONSE:

The Council acted to preclude from addition to the Formulary all extended release products which are coded as "BC" by the FDA, therefore rejecting arguments of bioequivalency.

3. CONCERNING HALSEY PRODUCTS:

Mr. J. Barrows of the Barrows Research Group, representing Halsey, commented that he is submitting documents in support for the proposed Halsey products. He also submitted extensive written comments about several products:

a. Quinidine gluconate extended release

Mr. Barrows gave summary results and statistical parameters and specified the reasons why this product should be considered acceptable.

b. Hydrocodone/APAP

Dissolution data were submitted supporting this product.

c. Ibuprofen tablets

The biostudy data were reiterated; dissolution was provided.

d. Indomethacin capsules

The biostudy data were reiterated.

e. Lorazepam tablets

The biodata were reiterated and synopsisized.

f. Promethazines

Barrows points out that solutions have no bioequivalency problems.

g. Propranolol tablets

It was noted that two biostudies were done.

COUNCIL'S RESPONSE TO HALSEY'S COMMENTS:

The Council accepted all Halsey products which possessed FDA approval, deferred those that did not, and rejected only Halsey's ibuprofens, which were considered to fall too far outside of the usually acceptable guidelines.

4. CONCERNING CYPROHEPTADINE:

American Therapeutics asked that this application be withdrawn; they no longer manufacture the product.

5. CONCERNING SMZ/TMP:

Mr. M. Goshko, representing Lemmon, noted that he had supplied written support for these products.

Lemmon explained that their biostudy compared the suspension to Roche's DS tablets. Despite the lack of direct comparison to the Roche suspension, Lemmon feels that the Council should accept it because the FDA has given the suspension an AB rating, the values for the suspension are in the line with values for other suspensions the Council has accepted, and the entity has a wide therapeutic ratio.

COUNCIL'S RESPONSE:

The Council has largely insisted on direct comparisons of any proposed generic to the brand for which it is to be substituted, and on that basis rejected the TEVA (Lemmon-distributed) SMZ/TMP suspension.

The following products and their manufacturers were **adopted**:

Acetaminophen/codeine tabs 15, 30, 60 mg	Amer. Ther.
Betamethasone diprop. cream 0.05%	Thames
Carbinoxamine/pseudoephedrine syrup	Barre-National
Cephalexin caps 250, 500 mg	Barr
Cephalexin for susp 125/5, 250/5 ml	Barr
Clonidine tabs 0.1, 0.2, 0.3 mg	Mylan
Clorazepate dipot. tabs 3.75, 7.5, 15 mg	Able

Clorazepate dipot. caps 3.75, 7.5, 15 mg
Desipramine HCl tabs 25, 50 mg
Diazepam tabs 2, 5, 10 mg
Disopyramide caps 100, 150 mg
Disopyramide caps 150 mg
Fluocinonide cream 0.05%
Flurazepam caps 15, 30 mg
Flurazepam caps 30 mg
Haloperidol tabs 0.5, 1, 2, 5 mg
Hydrocodone 5 mg/APAP 500 mg tabs
Ibuprofen tabs 800 mg
Indomethacin caps 25, 50 mg
Indomethacin caps 25, 50 mg
Iodinated glycerol/DM 30 mg/10 mg
Leucovorin calcium tabs 5, 25 mg
Lorazepam tabs 0.5, 1, 2 mg
Meclofenamate caps 50, 100 mg
Methocarbamol tabs 500, 750 mg
Metoclopramide syrup 5 mg/5 ml
Natalins RX formula
Neomycin 3.5/polymyx 10MU/dexameth 0.1%
Neomycin, polymyxin, gramicidin oph sol
Nystatin 100 MU/Triamcinolone 1 mg cream
Orphenadrine, ASA, caffeine SS & DS
Potassium chloride for soln 15 mEq/pkt.
Promethazine/DM syrup
Promethazine/phenylephrine syrup
Promethazine/phenylephrine/codeine syr
Propoxyphene naps/APAP 50/325, 100/650
Quindine gluconate E.R. tabs 324 mg
Quinine sulfate tabs 260 mg
Quinine sulfate tabs 260 mg
SMZ/TMP tabs 400/80, 800/160
Temazepam caps 15, 30 mg
Thioridazine tabs 10, 15, 25, 50 mg
Thiothixene caps 2, 5, 10 mg
Thiothixene caps 1, 2, 5, 10 mg
Thiothixene oral soln 5 mg/ml
Trazodone tabs 50, 100 mg
Triple sulfa vaginal cream

The following products and their manufacturers were **not adopted**:

Clorazepate dipot. caps 3.75, 7.5, 15	Lederle
Erythromycin caps 250 mg	Abbott
Ibuprofen tabs 300, 400, 600 mg	Halsey
Indomethacin caps 50 mg	Watson
Oxazepam tabs 15 mg	Barr
Oxazepam tabs 15 mg	Danbury
Potassium Chloride E.R. caps 10 mEq	KV
Potassium Cl E.R. tabs 8, 10 mEq	Upsher-Smith
SMZ/TMP susp 200/40/5 ml	TEVA

The following product was **withdrawn** from consideration by its manufacturer:

Cyproheptadine tabs 4 mg	Amer. Ther.
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The following products were **not adopted** but are **still pending**:

Acetohexamide tabs 250, 500 mg	Barr
Allopurinol tabs 100 mg	Interpharm
Amantadine HCl caps 100 mg	Pharmacaps
Amitriptyline/perphenazine 4/10, 4/25, 4/50	Mylan
Amitriptyline/perphenazine 2/10, 2/25	Mylan
Betamethasone diprop. cream, oint, lot 0.05%	Lemmon
Carbamazepine tabs 200 mg	Barr
Carbamazepine tabs 200 mg	Interpharm
Carbamazepine tabs 200 mg	Purepac
Cephalexin caps 250, 500 mg	M.J.
Cephalexin caps 250, 500 mg	Novopharm
Cephalexin caps 250, 500 mg	Purepac
Chlorzoxazone/APAP tabs 250/300	Interpharm
Clonidine tabs 0.1, 0.2, 0.3 mg	Barr
Clonidine/chlorthal. tabs 0.1, 0.2, 0.3	Par
Clorazepate dipot. tabs 3.75, 7.5, 15 mg	Quantum
Clorazepate dipot. caps 3.75, 7.5, 15	Mylan
Cyproheptadine tabs 4 mg	Interpharm
Diazepam tabs 2, 5, 10 mg	Ferndale

Mylan
Vitarine
Ferndale
Interpharm
Superpharm
Thames
Danbury
Purepac
Danbury
Halsey
Barr
Halsey
Sidmak
Barre
Barr
Halsey
Danbury
Amer. Ther.
My-K
Amer. Ther.
Steris
Steris
Thames
Par
Alra
Halsey
Halsey
Halsey
Bolar
Halsey
Amer. Ther.
Interpharm
TEVA
Purepac
Cord
Chelsea
Danbury
Lemmon
Mylan
Lemmon

ADOPTIONS

Doxepin caps 10, 25, 50, 75, 100 mg
 Doxepin caps 10, 25, 50, 75, 100, 150 mg
 Dyphylline/guaifenesin syrup
 Erythromycin estolate susp 125/5, 250/5
 Erythromycin ethylsuccinate 200/5 susp
 Erythromycin/sulfisoxazole 200/600 for susp
 Furosemide oral solution 10 mg/ml
 Haloperidol tabs 2 mg
 Ibuprofen tabs 400, 600, 800 mg
 Indomethacin caps 25, 50 mg
 Iodinated glycerol drops 50 mg/ml
 Isosorbide dinitrate oral tabs 20 mg
 Lactulose syrup 10 g/15 ml
 Levothyroxine tabs 150, 175, 200, 300 mcg
 Levothyroxine tabs 25, 50, 75, 100, 125 mcg
 Lorazepam tabs 0.5, 1, 2 mg
 Meprobamate/aspirin tabs 200/325
 Meprobamate/aspirin tabs 200/325
 Methyldopa/HCTZ 250/25, 500/30, 500/50
 Metoclopramide tabs 10 mg
 Minoxidil tabs 2.5, 10 mg
 Nystatin oral susp 100,000 U/ml
 Oxtriphylline/guaifenesin syrup
 Phenylephrine ophth. soln 10%
 Prednisone tabs 5, 10, 20 mg
 Prednisone tabs 5, 20 mg
 Procainamide E.R. tabs 750 mg
 Propranolol tabs 10, 20, 40, 60, 80, 90
 Propranolol tabs 10, 20, 40, 80 mg
 Propranolol/HCTZ tabs 80/25
 SMZ/TMP tabs 400/80, 800/160
 Thiethixene caps 20 mg
 Thiethixene oral solution 5 mg/ml
 Tolazamide tabs 100 mg
 Trazodone tabs 50, 100 mg
 Trazodone tabs 50, 100 mg
 Verapamil tabs 80, 120 mg

Danbury
 Par
 Barre-National
 Barr
 Barre-National
 Barr
 Barre-National
 Lemmon
 Interpharm
 Interpharm
 Barre-National
 Cord
 Barre-National
 Daniels
 Daniels
 Mylan
 Par
 Vitarine
 Cord
 Mylan
 Par
 Lemmon
 Barre-National
 Steris
 Amer. Ther.
 Cord
 Copley
 Halsey
 Interpharm
 Mylan
 Interpharm
 Cord
 Barre-National
 Cord
 Mylan
 Purepac
 Mylan

HIGHER EDUCATION

HIGHER EDUCATION

BOARD OF DIRECTORS OF EDUCATIONAL OPPORTUNITY FUND

(a)

Dependent/Independent Student Defined

Adopted Repeal and New Rule: N.J.A.C. 9:11-1.4

Proposed: February 2, 1987 at 19 N.J.R. 266(a).

Adopted: October 23, 1987 by Board of Directors of Educational Opportunity Fund, T. Edward Hollander, Chairman.

Filed: October 26, 1987 as R.1987 d.491, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:71-33.

Effective Date: December 7, 1987.

Expiration Date: January 17, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

A technical change was made to N.J.A.C. 9:11-1.4(a) to correct an editorial error.

Full text of adoption follows (additions indicated in boldface with asterisks *thus*; deletions indicated in brackets with asterisks *[thus]*).

9:11-1.4 Dependent/independent student defined

(a) The term independent when used with respect to a student means any individual who:

1. Is 24 years of age or older by December 31 of the award year;

or

2. Meets the requirements of (b) below.

(b) Except as provided in (c) below, an individual meets the requirements of this subsection if such individual:

1. Is an orphan or ward of the court; or

2. Is a veteran of the Armed Forces of the United States; or

3. Is a graduate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year; or

4. Is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year; or

5. Has legal dependents other than a spouse; or

6. Is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the two calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the two calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total income of \$4,000; or

7. Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances* or the purposes of receiving financial assistance under the E.O.F. Program as an independent student due to unusual circumstances, at least one of the following criteria must be met:

i. The student has been separated from his or her parents due to an unsafe home environment or has been institutionalized in a correctional facility. Documentation of such status must be received from a court, social service agency, or other similar source acceptable to the Executive Director of the E.O.F. Program.

ii. The student is a recipient of either Aid to Families with Dependent Children (AFDC) or general assistance in his or her own name and complies with the provisions of (b)6 above except for the income requirement set forth therein;

iii. The student is from a foreign country but has established permanent residency in the United States, is a refugee or has received political asylum, and complies with the provisions of subsection (b)6 above except for the income requirement set forth therein. For the purposes of eligibility under this subparagraph, the student's parents must reside outside of the United States.

iv. The student has been separated from his or her parents and comes from a documented background of historical poverty as set forth in N.J.A.C. 9:11-1.5, is living with another relative who is providing support to the student, and complies with the provisions of (b)6 above, except for the income requirement set forth therein.

v. The student was considered an independent student for the purposes of New Jersey state student assistance programs during the 1986-87 academic year, and complies with provisions of (b)6 above, except for the income requirement set forth therein. This provision will be effective for the 1987-88 academic year only.

vi. The student's economic and personal circumstances are of such a unique or unusual nature that denial of independent student status would create an unjust hardship upon the student. Eligibility under this subparagraph is subject to the approval of the Executive Director of the Educational Opportunity Fund.

(c) An individual may not be treated as an independent student pursuant to (b)3, 4, and 6 above if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first academic year of such award year.

(d) The financial aid administrator may certify an individual described in (b)3, 4, and 6 above on the basis of a demonstration made by the individual, but no disbursement of an award may be made without documentation.

(e) A dependent student shall be any student who does not meet any of the eligibility criteria listed in (a) or (b) above for independent student status.

(a)

Financial Eligibility for Undergraduate Grants

Adopted Amendment: N.J.A.C. 9:11-1.5

Proposed: April 6, 1987 at 19 N.J.R. 499(a).
Adopted: October 20, 1987 by Board of Directors of Educational Opportunity Fund, T. Edward Hollander, Chairman.
Filed: October 26, 1987 as R.1987 d.492, without change.
Authority: N.J.S.A. 18A:71-33.
Effective Date: December 7, 1987.
Expiration Date: January 17, 1989.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

9:11-1.5 Financial eligibility for undergraduate grants

(a) A dependent student is financially eligible for an initial E.O.F. grant if the gross income of his or her parent(s) or guardian(s) does not exceed the applicable amount set forth below in the E.O.F. Income Eligibility Scale, and said parent(s) or guardian(s) cannot contribute more than \$625.00 toward educational expenses as determined by the College Scholarship Service, Uniform Methodology. Where the dependent student's parent(s) or guardian(s) are receiving welfare as the primary means of family support, the student is presumed to be eligible without regard to the amount of primary welfare support.

1. E.O.F. Dependent Student Eligibility Scale:

Table with 2 columns: Applicants with a Household of: and Gross Income (Not to Exceed):. Rows include 2 persons (\$15,000), 3 (17,010), 4 (19,020), 5 (21,030), 6 (23,040), and 7 (25,050).

2. For each additional member of the household, an allowance of \$2,010 shall be added to this amount in order to determine eligibility for E.O.F. for the 1987-88 Academic Year. This allowance shall be adjusted annually to reflect changes in the Standard Maintenance Allowance as published by the College Scholarship Service. In addition, the gross income level for each household size also shall be adjusted to reflect the change in the annual Standard Maintenance Allowance.

3. The E.O.F. Executive Director shall annually inform institutions of adjustments to the Income Eligibility Scale, in accordance with the Standard Maintenance Allowance published by the College Scholarship Service.

(b) (No change.)

(c) An independent student is financially eligible for an E.O.F. grant if the gross income of his or her parent(s) or guardian(s) does not exceed income limits set forth for dependent students.

1. An independent student's income is not to be added to that of his or her parent(s) or guardian(s) but the two incomes should be considered separately.

2.-4. (No change.)

5. Independent students who have attained the age of 24 are required to provide verification of their household income only.

(d) An independent student is financially eligible for an E.O.F. grant providing his or her gross annual income (including spouse) for the calendar year prior to the academic year for which aid is requested and the calendar year during which aid is received does not exceed the following schedule:

- 1. \$9,060 family size (including student) 1;
2. \$10,740 family size (including spouse) 2;
3. \$12,420 family size (including spouse) 3;
4. \$14,010 family size (including spouse) 4;

5. Add \$1,680 for each additional dependent. This amount should be adjusted annually to reflect changes in the Independent Student Allowance as published by the College Scholarship Service.

6. (No change.)

(e) Where there is evidence that strict adherence to the maximum income eligibility cut-offs will not serve the purpose of the E.O.F. Program, the campus E.O.F. director may admit up to a maximum of 10 percent of the annual freshmen class under a waiver pursuant to the provisions of this section. Students admitted under this provision must meet one of the following criteria:

1.-5. (No change.)

(f) (No change.)

(g) When making awards that exceed 10 percent of the annual freshman class, permission must be granted by the Executive Director of the E.O.F. Program.

HUMAN SERVICES

(b)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual

Child Support Guidelines

Adopted New Rule: N.J.A.C. 10:81-11.18

Proposed: November 3, 1986 at 18 N.J.R. 2178(a).
Adopted: November 2, 1987 by Drew Altman, Commissioner, Department of Human Services.
Filed: November 2, 1987 as R.1987 d.498, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 44:7-6 and 44:10-3; Child Support Amendments of 1984 (P.L. 98-378).

Effective Date: December 7, 1987.

Expiration Date: October 15, 1989.

Summary of Public Comments and Agency Responses:

Comments concerning the proposed amendments were received from a county board of social services counsel.

COMMENT: It is not clear from the proposed language whether one seeking to secure an amount for spousal support should treat the spouse as an additional child or whether one should establish a child support obligation for the children as set forth in the guidelines and then return to the chart to obtain the appropriate amount for spousal support as appears under the one child column.

RESPONSE: The following steps should be taken in seeking to secure an amount for spousal support:

Step 1—Identify the percentage rate given for the appropriate number of children as set forth in Appendix IX-B.

Step 2—Multiply that rate by the obligor's weekly income available.

Step 3—Subtract the result obtained in Step 2 from the obligor's weekly income.

Step 4—Obtain the appropriate percentage rate for spousal support as reflected in the column for one child. Multiply this percentage rate by the result obtained in Step 3 to derive the spousal support amount.

Effective October 1, 1985 Sections 454(4)(B) and 454(6) of the Social Security Act require states to collect spousal support if a support order has been established, the child and spouse are living in the same household and the support obligation established with respect to the child is being enforced under the State's Title IV-D State Plan. Prior to this amendment, collection of spousal support was optional for states.

COMMENT: Court Rule 5:25-3 states that a child support hearing officer shall hear and make recommendations that the court enter orders based thereon in all cases concerning establishment of the obligation and amount of child support. The commenter observes that the hearing officer does not have jurisdiction to hear cases requesting spousal support.

RESPONSE: The Department agrees with the comment and will seek to amend Court Rule 5:25-3 to allow the hearing officer to hear and recommend orders for the establishment of the obligation and amount of spousal support.

Summary of Changes Subsequent to Proposal:

Pursuant to internal review by the Department's Division of Public Welfare, the Appendices have been deleted from N.J.A.C. 10:81-11.18. The Appendices contain the Child Support Guidelines of the New Jersey Supreme Court Rule 5:6A and will be made available to the county welfare agencies under separate cover. It is noted that those guidelines are set by the court and can only be modified by that body. Additionally, there will be changes which neither the courts nor this Department can control, that is, certain dollar amounts and percentages used in the guidelines will change due to changes in withholding rates used for State and Federal income tax purposes and withholding amounts. In view of the above, the Department adopts N.J.A.C. 10:81-11.18 without the Appendices.

Reference to the Appendices have been deleted. Language has been added to identify the Appendices by descriptive title.

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

10:81-11.18 Child Support Guidelines (New Jersey Supreme Court Rule 5:6A)

(a) The Child Support Guidelines of the New Jersey Supreme Court Rule 5:6A *[are set forth in the Appendix and]* are incorporated herein by reference. The guidelines shall be applied when an application for support, made pursuant to any section of the New Jersey Supreme Court Rule 5:6A, is considered by the court.

1. The guidelines may be modified or disregarded by the court only where good cause is shown. Good cause shall consist of:

i. The considerations set forth in *[Appendix A]* **Considerations in the Use of Child Support Guidelines***, or the presence of other relevant factors which may make the guidelines inapplicable or subject to modification; and

ii. The fact that injustice would result from the application of the guidelines.

2. In all cases, the determination of good cause shall be within the sound discretion of the court.

(b) The county welfare agency (CWA) shall seek spousal support, when appropriate, in an amount equal to the amount of support applicable for one child under *[Appendix C]* **the Child Support Guidelines Chart***.

(c) The Child Support Guidelines Worksheet *[see Appendix D]* shall be completed by the CWA, using instructions in *[Appendix E]* **the Child Support Guidelines Worksheet Instructions***, and information in *[Appendix A, B and C]* **Considerations in the Use of Support Guidelines, Percentages Used in Developing the Child Support Guidelines and Child Support Guidelines Chart***.

*[APPENDIX

- A Considerations in the Use of Child Support Guidelines
- B Percentages Used in Developing the Child Support Guidelines
- C Child Support Guidelines Chart
- D Child Support Guidelines Worksheet
- E Child Support Guidelines Worksheet Instructions]*

*[APPENDIX A

CONSIDERATIONS IN THE USE OF CHILD SUPPORT GUIDELINES

The guidelines set forth in this Rule shall be applied by first determining the available family income using the Child Support Guidelines Worksheet (Appendix D) and then determining the amount of the child support obligation from the Child Support Guidelines Chart (Appendix C). The child support obligation is then divided proportionately between the parents based upon their contribution to the family income. If necessary, an order shall be entered to supplement the calculated child support amount to include each parent's share of work-related child care expenses and extraordinary medical/dental expenses for the child. Such expenses will be distributed based on the percent contribution of each parent to the combined family income.

These child support guidelines assume that the custodial parent is spending his/her calculated share directly on the child. For the non-custodial parent, the calculated share establishes the child support order.

Considerations which may make these child support guidelines inapplicable or cause the child support amount to be adjusted are:

1. These tables and procedures are not generally intended to apply to parents with a combined net income which is below the poverty level (as set forth in the Federal Register) or in excess of \$42,000 per year. Parents at these extreme income levels should be subject to child support orders based upon individual case review. However, obligor parents earning less than the poverty level shall be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders if income increases in the future (See Appendices B and C).

2. These child support guidelines are based upon traditional custody and visitation arrangements.

3. These child support guidelines do not take into account the economic impact of the following factors:

- (a) Spousal support;
- (b) Equitable distribution of property;
- (c) Tax consequences
- (d) Fixed direct payments;
- (e) Unreimbursed extraordinary medical/dental expenses for the obligor parent;

(f) Educational expenses for the child(ren) or the spouse (i.e., those incurred for private, parochial, or trade schools, other secondary schools, or post-secondary education where there is tuition or other costs beyond state/local tax contributions);

(g) Verified non-court ordered support needs of children from other relationships;

(h) Families having more than six (6) children.

4. In determining gross income, these guidelines do not take into account the following factors:

- (a) Unreported cash income;
- (b) Underemployment;
- (c) Income derived by other household members; and/or
- (d) In-kind income.

The above enumerated considerations should not limit the Court from taking into account other significant factors which may cause these child support guidelines to be inapplicable or cause the child support amount to be adjusted.

APPENDIX B

INCOME SHARE FORMULA

CHILD SUPPORT AWARDS AS A PERCENTAGE OF COMBINED WEEKLY AVAILABLE INCOME

COMBINED WEEKLY AVAILABLE INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
116*	12.4%	12.4%	12.4%	12.4%	12.4%	12.4%
140	23.3%	27.0%	27.0%	27.0%	27.0%	27.0%
163	23.3%	36.0%	37.4%	37.4%	37.4%	37.4%
186	23.1%	35.9%	44.9%	45.3%	45.3%	45.3%
209	22.9%	35.4%	44.3%	50.0%	51.3%	51.3%

HUMAN SERVICES

ADOPTIONS

233	22.2%	34.5%	43.2%	48.7%	53.1%	56.2%
256	21.7%	33.7%	42.3%	47.6%	52.0%	55.5%
279	21.3%	33.1%	41.5%	46.8%	51.0%	54.5%
302	20.6%	32.0%	40.2%	45.3%	49.4%	52.8%
326	20.0%	31.1%	39.1%	44.0%	48.0%	51.3%
349	19.5%	30.3%	38.1%	42.9%	46.8%	50.1%
372	19.3%	30.0%	37.6%	42.4%	46.3%	49.4%
395	19.1%	29.8%	37.3%	42.1%	45.8%	49.0%
419	19.0%	29.6%	37.0%	41.7%	45.5%	48.6%
442	18.9%	29.4%	36.7%	41.4%	45.2%	48.3%
465	18.8%	29.2%	36.5%	41.2%	44.9%	48.0%
488	18.6%	28.9%	36.1%	40.8%	44.4%	47.5%
512	18.4%	28.6%	35.8%	40.4%	44.0%	47.0%
535	18.3%	28.3%	35.5%	40.0%	43.6%	46.6%
558	18.1%	28.1%	35.2%	39.7%	43.3%	46.2%
581	18.0%	27.9%	34.9%	39.4%	42.9%	45.9%
605	17.8%	27.7%	34.7%	39.0%	42.6%	45.5%
628	17.7%	27.5%	34.4%	38.8%	42.3%	45.2%
651	17.6%	27.3%	34.2%	38.5%	42.0%	44.9%
674	17.4%	27.0%	33.8%	38.0%	41.5%	44.4%
698	17.2%	26.6%	33.4%	37.6%	41.0%	43.8%
721	17.0%	26.3%	32.9%	37.1%	40.5%	43.3%
744	16.8%	26.0%	32.6%	36.7%	40.0%	42.8%
767	16.6%	25.7%	32.2%	36.3%	39.6%	42.3%
791	16.4%	25.4%	31.9%	35.9%	39.2%	41.9%
814	16.2%	25.2%	31.5%	35.5%	38.8%	41.5%

*For combined weekly available income less than this amount, the obligor parent should be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders should obligor income increase in the future.

**APPENDIX C
CHILD SUPPORT GUIDELINES CHART
WEEKLY CHART SUPPORT AMOUNT ±5%**

<u>COMBINED WEEKLY AVAILABLE INCOME</u>	<u>ONE CHILD</u>	<u>TWO CHILDREN</u>	<u>THREE CHILDREN</u>	<u>FOUR CHILDREN</u>	<u>FIVE CHILDREN</u>	<u>SIX CHILDREN</u>
116*	14-15	14-15	14-15	14-15	14-15	14-15
140	31-34	36-40	36-40	36-40	36-40	36-40
163	36-40	52-62	58-64	58-64	58-64	58-64
186	41-45	63-70	79-88	80-88	80-88	80-88
209	46-50	70-78	88-97	99-110	102-113	102-113
223	49-54	76-84	95-105	108-119	117-130	124-137
256	53-58	82-91	103-114	116-128	126-140	135-149
279	56-62	88-97	110-122	124-137	135-149	144-160
302	59-65	92-102	115-127	130-144	142-157	152-168
326	62-68	96-106	121-134	136-150	148-164	159-175
349	65-72	101-111	126-139	142-157	155-171	166-183
372	68-75	106-117	133-147	150-166	163-181	175-193
395	72-79	112-124	140-155	158-175	172-190	184-203
419	76-84	118-130	147-163	166-183	181-200	193-214
442	79-88	123-136	154-170	174-192	190-210	203-224
465	83-92	129-143	161-178	182-210	198-219	212-234
488	86-95	134-148	168-185	189-209	206-228	220-243
512	89-99	139-154	174-192	196-217	214-236	229-253
535	93-103	144-159	180-199	203-225	222-245	237-262
558	96-106	149-165	186-206	210-232	229-253	245-271
581	99-110	154-170	193-213	217-240	237-262	253-280
605	103-113	159-176	199-220	224-248	245-270	262-289
628	106-117	164-181	205-227	231-256	252-279	270-298
651	109-120	169-187	212-234	238-263	260-287	278-307
674	111-123	173-191	217-230	244-269	266-294	284-314
698	114-126	177-195	221-244	249-275	272-300	290-321
721	116-128	180-199	226-249	254-281	277-306	296-328
744	118-131	184-203	230-254	259-287	283-313	302-334
767	121-134	187-207	235-260	264-292	289-319	308-341
791	123-136	191-211	239-265	270-298	294-325	315-348
814	125-139	195-215	244-270	275-304	300-332	321-354

*For combined weekly available income less than this amount, the obligor parent should be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders should obligor income increase in the future.

APPENDIX D
CHILD SUPPORT GUIDELINES WORKSHEET

Case Name:	vs.		
County	Oblig	Docket No:	Oblig
Case Type: Non-dissolution	Dissolution	D.V.	No. Child
Complaint Filed	Conf./Hearing Date		
		Mother	Father
1. Weekly Earned and Unearned Gross Income from all sources (excluding AFDC grants)		_____	_____
2. Weekly Mandatory Deductions			
a. Federal, State, and Local Income Taxes		_____	_____
b. FICA (Social Security)		_____	_____
c. Mandatory Union Dues		_____	_____
d. Mandatory Retirement		_____	_____
e. TOTAL MANDATORY DEDUCTIONS		_____	_____
3. Weekly Net Income (Line 1 minus Line 2e)		_____	_____
4. Weekly Allowable Exemptions			
a. Medical/Dental Insurance for Family (unreimbursed premium)		_____	_____
b. Child Support and/or Alimony Orders In Other Support Cases		_____	_____
c. TOTAL ALLOWABLE EXEMPTIONS		_____	_____
5. Weekly Available Income (Line 3 minus Line 4c)		_____	_____
6. COMBINED TOTAL WEEKLY AVAILABLE INCOME			
7. Percent Contribution of Each Parent (Line 5, each parent, divided by line 6)		_____%	_____%
8. WEEKLY CHILD SUPPORT AMOUNT (From Chart)		[]	
9. TOTAL WEEKLY CHILD SUPPORT AMOUNT EACH PARENT (percent line 7 each parent, times line 8)		[]	[]
10. Percent Contribution of Each Parent Toward Extraordinary Medical/Dental Expenses for Child(ren) and Work Related Child Care Expenses (from line 7)		_____%	_____%

APPENDIX E
INSTRUCTIONS TO CHILD SUPPORT GUIDELINES WORKSHEET

A. General

(1) A child support guidelines worksheet should be completed and made part of the permanent case file for each child support order which is established by expedited or judicial process using the guidelines set forth in the Rule.

(2) All income information presented on the worksheet should be based upon weekly amounts. For persons paid monthly, the pay should be divided by 4.3. For persons with an annual salary figure, divide by 52.

B. Completion of the Worksheet

(1) Enter on Line 1, for each parent, the weekly earned or unearned gross income from all sources.

(a) Gross Income¹ means all income from whatever source derived, including (but not limited to) the following items: 1. Compensation for services, including wages, fees, commissions, and similar items,

2. Gross income derived from business, 3. Gains derived from dealings in property, 4. Interests, 5. Rents, 6. Royalties, 7. Dividends, 8. Alimony and separate maintenance payments, 9. Annuities, 10. Income from life insurance and endowment contracts, 11. Income from discharge of indebtedness, 12. Pensions, 13. Income in respect of a decedent, and 14. Income from an interest in an estate or trust.

(b) Aid to Families With Dependent Children (AFDC) grants should be excluded in the determination of gross income.

(c) Prior to June 30 of the current year, use the IRS/State income tax return and/or W-2 statement(s) of the preceding year to obtain each parent's gross income (Line 1). If tax documentation is unavailable, use any other available evidence of current earnings (i.e., paystubs, employer statements, or receipts and expenses, if self-employed) to determine gross income. Divide the annual gross income by 52 to obtain the weekly gross income.

After June 30, use the year-to-date income figure from all documented sources (i.e. check stubs). Divided the total gross income from all sources by the number of elapsed weeks to calculate the weekly gross income.

(2) For each parent, enter all mandatory payroll deductions as itemized on Lines 2a through 2d. Enter the sum of the mandatory deduction on Line 2e.

(a) Weekly deductions for taxes should be based upon the weekly gross income (Line 1) and the number of exemptions provided by law. Care should be taken to recognize any possible change in filing status or right to tax exemptions pursuant to a pending dissolution or property settlement.

(b) Once the weekly gross income is calculated, determine the Federal income tax withholding from the Single Persons Weekly Wage Bracket Withholding Table (attached).

The general rule in determining the number of dependency deductions, for use with the wage bracket withholding table is that the non-custodial parent may claim the exemption only if the custodial parent waives his or her right to the exemption on a written declaration that must be attached to the non-custodial parent's tax return each year that the non-custodial parent claims the exemption. However, a decree of divorce or separate maintenance or a written agreement executed prior to 1985 that grants the non-custodial parent the exemption is to be given effect if the non-custodial parent provides at least \$600 for the support of the dependent child during the calendar year and the child received more than one half of his/her support from both parents during the calendar year.²

Calculate the State income tax by multiplying the weekly gross income by the current State tax rate (2.0% up to \$20,000; 2.5% from \$20,000 to \$50,000).

Determine any local income tax by dividing the total year-to-date local tax by the number of elapsed weeks.

(c) For W-2 wage earners, determine the FICA tax (Line 2b) by multiplying the gross income by 7.05% (the employee's contribution for 1985). For self-employed individuals, multiply the gross income by 11.8% (1985 self-employment tax). The maximum taxable amount in 1985 for both categories is \$39,600.

(d) Determine mandatory union dues and retirement by dividing the year-to-date contributions by the number of elapsed weeks.

(3) Calculate the "Weekly Net Income" (Line 3) for each parent by subtracting "Total Deductions" (Line 2e) from "Earned and Unearned Income From All Sources" (Line 1).

(4) List the "Weekly Allowable Exemptions" as itemized on Lines 4a and 4b. Enter the sum of the weekly allowable exemptions on Line 4c. All exemptions listed in this section should be verified.

(a) Enter on Line 4a the parent's share of the unreimbursed premium which they must contribute for their family's medical or dental insurance.

(b) Enter on Line 4b the weekly amount of all previously ordered child support and/or alimony payments for any other child(ren) or other spouses (i.e., obligated spouse is paying child support and alimony to the custodial parent of a prior marriage).

(5) Calculate the "Weekly Available Income" (Line 5) for each parent by subtracting the "Total Allowable Exemptions" (Line 4c) from the "Weekly Net Income" (Line 3).

(6) Add the "Weekly Available Income" (Line 5) of both parents and enter the sum at "Combined Total Weekly Available Income" (Line 6).

(7) Calculate the "Percent Contribution of Each Parent" (Line 7) by dividing each parent's "Weekly Available Income" (Line 5) by the "Combined Total Weekly Available Income" (Line 6).

(8) Using the "Combined Total Weekly Available Income" (Line 6), determine the appropriate "Weekly Child Support Amount" (Line 8) from the Child Support Guidelines Chart (Appendix C).

(9) Calculate the "Total Weekly Child Support Amount Each Parent" (Line 9) by multiplying the "Weekly Child Support Amount" (Line 8) by the "Percent Contribution of Each Parent" (Line 7).

(10) If there are work-related child care or extraordinary medical/dental expenses for the children, an order should be entered to

supplement the base child support amount. Each parent should share in those expenses based on their proportionate contribution to the family income found on Line 10 (This figure is the same as the "Percent Contribution of Each Parent" found on Line 7).

(a) Work-related child care costs are those incurred due to employment or job search of custodial parent. Such costs should be reasonable; that is, such cost should not exceed the level required to provide high quality care for the child(ren) from a licensed source.

(b) Extraordinary medical/dental expenses are those which are incurred on behalf of the child(ren) which exceed insurance reimbursement by \$100. These may include (but are not limited to): orthodontic treatment, psychiatric therapy, asthma treatments, or extended physical therapy.

SINGLE PERSONS—WEEKLY PAYROLL PERIOD

(For Wages Paid After December 1985)

And the wages are—

And the number of withholding allowances claimed is—

At least	But less than	0	1	2	3	4	5	6	7	8	9	10
The amount of income tax to be withheld shall be—												
\$0	\$32	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
32	34	1	0	0	0	0	0	0	0	0	0	0
34	36	1	0	0	0	0	0	0	0	0	0	0
36	38	1	0	0	0	0	0	0	0	0	0	0
38	40	1	0	0	0	0	0	0	0	0	0	0
40	42	2	0	0	0	0	0	0	0	0	0	0
42	44	2	0	0	0	0	0	0	0	0	0	0
44	46	2	0	0	0	0	0	0	0	0	0	0
46	48	2	0	0	0	0	0	0	0	0	0	0
48	50	2	0	0	0	0	0	0	0	0	0	0
50	52	3	0	0	0	0	0	0	0	0	0	0
52	54	3	1	0	0	0	0	0	0	0	0	0
54	56	3	1	0	0	0	0	0	0	0	0	0
56	58	3	1	0	0	0	0	0	0	0	0	0
58	60	4	1	0	0	0	0	0	0	0	0	0
60	62	4	1	0	0	0	0	0	0	0	0	0
62	64	4	2	0	0	0	0	0	0	0	0	0
64	66	4	2	0	0	0	0	0	0	0	0	0
66	68	5	2	0	0	0	0	0	0	0	0	0
68	70	5	2	0	0	0	0	0	0	0	0	0
70	72	5	3	0	0	0	0	0	0	0	0	0
72	74	5	3	0	0	0	0	0	0	0	0	0
74	76	6	3	1	0	0	0	0	0	0	0	0
76	78	6	3	1	0	0	0	0	0	0	0	0
78	80	6	4	1	0	0	0	0	0	0	0	0
80	82	6	4	1	0	0	0	0	0	0	0	0
82	84	7	4	2	0	0	0	0	0	0	0	0
84	86	7	4	2	0	0	0	0	0	0	0	0
86	88	7	4	2	0	0	0	0	0	0	0	0
88	90	8	5	2	0	0	0	0	0	0	0	0
90	92	8	5	2	0	0	0	0	0	0	0	0
92	94	8	5	3	0	0	0	0	0	0	0	0
94	96	8	6	3	1	0	0	0	0	0	0	0
96	98	9	6	3	1	0	0	0	0	0	0	0
98	100	9	6	3	1	0	0	0	0	0	0	0
100	105	9	7	4	1	0	0	0	0	0	0	0
105	110	10	7	4	2	0	0	0	0	0	0	0
110	115	11	8	5	3	0	0	0	0	0	0	0
115	120	12	9	6	3	1	0	0	0	0	0	0
120	125	12	9	6	4	1	0	0	0	0	0	0
125	130	13	10	7	4	2	0	0	0	0	0	0
130	135	14	11	8	5	2	0	0	0	0	0	0
135	140	15	11	9	6	3	1	0	0	0	0	0
140	145	15	12	9	6	4	1	0	0	0	0	0
145	150	16	13	10	7	4	2	0	0	0	0	0
150	160	17	14	11	8	5	3	0	0	0	0	0
160	170	19	16	13	10	7	4	1	0	0	0	0
170	180	20	17	14	11	8	5	3	0	0	0	0
180	190	22	19	16	12	9	6	4	1	0	0	0

ADOPTIONS

HUMAN SERVICES

190	200	24	20	17	14	11	8	5	2	0	0	0
200	210	25	22	19	15	12	9	6	4	1	0	0
210	220	27	24	20	17	14	11	8	5	2	0	0
220	230	29	25	22	18	15	12	9	6	4	1	0
230	240	31	27	23	20	17	14	11	8	5	2	0
240	250	32	29	25	22	18	15	12	9	6	4	1
250	260	34	31	27	23	20	17	14	10	8	5	2
260	270	36	32	29	25	22	18	15	12	9	6	3
270	280	38	34	30	27	23	20	17	13	10	7	5
280	290	40	36	32	28	25	21	18	15	12	9	6
290	300	43	38	34	30	27	23	20	16	13	10	7
300	310	45	40	36	32	28	25	21	18	15	12	9
310	320	47	42	38	34	30	26	23	20	16	13	10
320	330	49	45	40	36	32	28	24	21	18	15	12
330	340	52	47	42	38	34	30	26	23	19	16	13
340	350	54	49	45	40	36	32	28	24	21	18	15
350	360	56	52	47	42	38	34	30	26	23	19	16
360	370	59	54	49	44	40	36	32	28	24	21	18
370	380	62	56	51	47	42	38	34	30	26	23	10
380	390	64	59	54	49	44	40	36	31	28	24	21

SINGLE PERSONS—WEEKLY PAYROLL PERIOD

(For Wages Paid After December 1985)

And the wages are—

And the number of withholding allowances claimed is—

At least	But less than	The amount of income tax to be withheld shall be—										
		0	1	2	3	4	5	6	7	8	9	10
\$390	\$400	\$67	\$61	\$56	\$51	\$46	\$42	\$38	\$33	\$30	\$26	\$22
400	410	69	64	59	54	49	44	40	35	31	28	24
410	420	72	67	61	56	51	46	42	37	33	29	26
420	430	75	69	64	58	53	49	44	39	35	31	27
430	440	77	72	66	61	56	51	46	41	37	33	29
440	450	80	74	69	64	58	53	48	44	39	35	31
450	460	82	77	72	66	61	55	51	46	41	37	33
460	470	85	80	74	69	63	58	53	48	43	39	35
470	480	88	82	77	71	66	61	55	51	46	41	37
480	490	91	85	79	74	69	63	58	53	48	43	39
490	500	94	88	82	77	71	66	60	55	50	46	41
500	510	97	91	85	79	74	68	63	58	53	48	43
510	520	100	94	87	82	76	71	66	60	55	50	45
520	530	103	97	90	84	79	74	68	63	57	52	48
530	540	106	100	93	87	82	76	71	65	60	55	50
540	550	109	103	96	90	84	79	73	68	63	57	52
550	560	112	106	99	93	87	81	76	71	65	60	55
560	570	115	109	102	96	90	84	79	73	68	62	57
570	580	118	112	105	99	93	87	81	76	70	65	60
580	590	121	115	108	102	96	90	84	78	73	68	62
590	600	125	118	111	105	99	93	86	81	76	70	65
600	610	128	121	114	108	102	96	89	84	78	73	67
610	620	131	124	117	111	105	99	92	86	81	75	70
620	630	135	128	121	114	108	102	95	89	83	78	73
630	640	138	131	124	117	111	105	98	92	86	81	75
640	650	142	134	127	120	114	108	101	95	89	83	78
650	660	145	138	131	124	117	111	104	98	92	86	80
660	670	148	141	134	127	120	114	107	101	95	89	83
670	680	152	145	138	131	124	117	110	104	98	92	86
680	690	155	148	141	134	127	120	113	107	101	95	89
690	700	159	151	144	137	130	123	116	110	104	98	92
700	710	162	155	148	141	134	127	120	113	107	101	95
710	720	166	159	151	144	137	130	123	116	110	104	98
720	730	170	162	155	148	141	133	126	119	113	107	101
730	740	174	166	158	151	144	137	130	123	116	110	104
740	750	177	170	162	154	147	140	133	126	119	113	107
750	760	181	173	166	158	151	144	137	130	122	117	110
760	770	185	177	169	162	154	147	140	133	126	119	113
770	780	188	181	173	165	158	150	143	136	129	122	116
780	790	192	184	177	169	161	154	147	140	133	126	119
790	800	196	188	180	173	165	157	150	143	136	129	122
800	810	199	192	184	176	169	161	154	147	139	132	125
810	820	203	196	188	180	172	165	157	150	143	136	129
820	830	207	199	192	184	176	168	161	153	146	139	132

HUMAN SERVICES

ADOPTIONS

830	840	211	203	195	188	180	172	164	157	150	143	136
840	850	214	207	199	191	184	176	168	161	153	146	139
850	860	218	210	203	195	187	180	172	164	157	149	142
860	870	222	214	206	199	191	183	176	168	160	153	146
870	880	225	218	210	202	195	187	179	172	164	156	149
880	890	229	221	214	206	198	191	183	175	168	160	153
890	900	233	225	217	210	202	194	187	179	171	164	156
900	910	236	229	221	213	206	198	190	183	175	167	160
910	920	240	233	225	217	209	202	194	186	179	171	163
920	930	244	236	229	221	213	205	198	190	182	175	167
930	940	248	240	232	225	217	209	201	194	186	178	171
940	950	251	244	236	228	221	213	205	198	190	182	174
950	960	255	247	240	232	224	217	209	201	194	186	178
960	970	259	251	243	236	228	220	213	205	197	190	182
970	970	262	255	247	239	232	224	216	209	201	193	186
980	990	266	258	251	243	235	228	220	212	205	197	189
990	1,000	270	262	254	247	239	231	224	216	208	201	193
1,000	1,010	273	266	258	250	243	235	227	220	212	204	197
1,010	1,020	277	270	262	254	246	239	231	223	216	208	200
1,020	1,030	281	273	266	258	250	242	235	227	219	212	204
1,030	1,040	285	277	269	262	254	246	238	231	223	215	208
37 percent of the excess over \$1,040 plus—												
\$1,040	and over	286	279	271	263	256	248	240	233	225	217	210

¹See Internal Revenue Code at Section 61-1

²See Internal Revenue Code Sections 151 and 152(e), as amended by the Tax Reform Act of 1984, Section 423]*

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Manual of Standards for Adoption Agencies

Adopted Repeal and New Rules: N.J.A.C. 10:121A

Proposed: August 17, 1987 at 19 N.J.R. 1519(a).

Adopted: November 2, 1987 by Drew Altman, Commissioner, Department of Human Services.

Filed: November 5, 1987 as R.1987 d.505, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 9:3-37 et seq.

Effective Date: December 7, 1987.

Expiration Date: December 7, 1992.

Summary of Public Comments and Agency Responses:
No comments received.

Summary of Changes between proposal and adoption:

The Department has made two technical changes upon adoption to the proposed new rules. First, the rule clarifies that internal communication between and among public agencies, including communication with the Attorney General, is not accessible to the public, which is consistent with State Public Records Law. In addition, minor editing changes have been made in this section.

Second, the Department further considered the practicality of requiring adoption agencies to give adoptive parents an emergency telephone number to contact the agency. In most private agencies, emergency coverage is provided by having caseworkers give their home telephone numbers. Recognizing that implementing this rule may pose a hardship on agency staff, and since there is not a compelling need for the requirement, the Department determined not to require that adoption agencies provide emergency telephone coverage to adoptive parents. The Department determined that adoption agencies must provide emergency telephone coverage to foster parents providing temporary care prior to an adoptive placement because pre-adoptive foster parents must secure agency authorization for any emergency medical treatment of the child, if such treatment is needed.

Full text of the adopted new rules follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

CHAPTER 121A

MANUAL OF STANDARDS FOR ADOPTION AGENCIES

SUBCHAPTER 1. GENERAL PROVISIONS

10:121A-1.1 Scope

This chapter constitutes comprehensive rules governing the certification of adoption agencies pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.).

10:121A-1.2 Purpose

(a) The purpose of this chapter is to prevent the exploitation and to protect the health and well-being of children being served by adoption agencies, as well as to protect the legal rights of children and birth and adoptive parents by establishing standards of agency organization and administration, professional training, experience, practices and requirements relating to the responsibility of agencies providing adoption services in New Jersey.

(b) This chapter constitutes minimum baseline requirements to ensure that the basic programmatic and administrative needs of adoption agencies and the social service needs of the families and children they serve are met. Compliance with this chapter is necessary if an adoption agency is to open or operate, and no adoption agency is permitted to operate below the level of requirements specified in this chapter. This chapter is in no way intended to prohibit or prevent adoption agencies from going beyond the minimum requirements contained in these rules. The decision whether to exceed these requirements rests with each agency.

10:121A-1.3 Implementation and enforcement responsibility; information

The Bureau of Licensing of the New Jersey Division of Youth and Family Services (DYFS), Department of Human Services, shall be responsible for implementing and enforcing this chapter. For further information or technical assistance in understanding and/or complying with this chapter, please contact:

Bureau of Licensing
Division of Youth and Family Services
One South Montgomery Street
CN 717
Trenton, New Jersey 08625
(609) 292-8255

ADOPTIONS**HUMAN SERVICES****10:121A-1.4 Legal Authority**

(a) This chapter is promulgated pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.), N.J.S.A. 30:1A-1 et seq. and 30:4C-4(b).

(b) Under the State Adoption Law, all private and public adoption agencies, both within New Jersey and outside the State that are involved in the placement of children for adoption in New Jersey, must be certified by the New Jersey Department of Human Services in order to open and operate.

(c) In order to be eligible for a certificate of approval, an adoption agency shall demonstrate to the satisfaction of the Department of Human Services or its duly authorized agent, the Bureau of Licensing of the Division of Youth and Family Services, compliance with the requirements of the State Adoption Law and with the rules contained in this chapter, which constitute minimum requirements only.

(d) These rules shall not be applicable to the adoption of adults.

10:121A-1.5 Definitions

The following words and terms, when used in this chapter, shall have the indicated meanings:

"Adoptee" means a person who has been placed in an adoptive home and whose adoption has been legally finalized.

"Adoption agency" or "agency" means a Bureau-certified public or private non-profit corporation organized for all or part of its purpose to provide adoption services to children, adoptees, adoption applicants and birth and/or adoptive parents. Adoption services may include: pre-placement, home study, placement, post-placement or post-adoption services or other related activities, including those requested by courts and other adoption agencies and organizations, whether or not the agencies and organizations are certified in New Jersey.

"Adoption applicant" means a prospective adoptive parent who has applied to adopt a child but who has not yet received a child for adoption placement.

"Adoptive parent" means a person with whom a child has been placed for adoption or who has adopted a child.

"Branch office" means a Bureau-certified adoption program that is a geographically separate but administratively dependent part of an agency.

"Bureau" means the Bureau of Licensing of the Division of Youth and Family Services, New Jersey Department of Human Services.

"Chapter" means the rules contained in the Manual of Standards for Adoption Agencies, as specified in N.J.A.C. 10:121A-1.1 to 5.9.

"Child" means any person under 18 years of age.

"Custody" means the general right to exercise continuing control over the person of a child derived from court order or otherwise.

"Denial of a certificate" means the withholding by the Bureau of a certificate of approval for which an agency has applied, based on the agency's failure or inability to comply with requirements of the State Adoption Law and/or of this chapter.

"Department" means the New Jersey Department of Human Services.

"Division" means the Division of Youth and Family Services of the New Jersey Department of Human Services.

"Executive director" or "administrator" means the person in a certified agency responsible for the overall administration and direction of the agency and its staff.

"Finalization" means the entry of a legal order of adoption issued by a court of competent jurisdiction, pursuant to N.J.S.A. 9:3-38 et seq.

"Foster care" means the temporary placement in an agency-approved private home of a child who is in the care or custody of an agency.

"Governing board" means the public or private body which has final legal responsibility for or authority over a certified adoption agency.

"Guardianship" means the right to exercise continuing control over the person or property or both of a child, including any specific right of control over an aspect of the child's upbringing derived from court order.

"Home study" means the agency's formal assessment of the capacity and readiness of prospective adoptive parents to adopt a child, including the agency's written report and recommendation.

"Identified adoption" means an adoption where the agency becomes involved in offering services to an expectant birth or legal parent(s) and/or a prospective adoptive parent(s) who are considering a plan whereby the child will be placed for adoption in the prospective adoptive parent's home.

"Independent adoption" means an adoption where the child is received in the adoptive home from a source other than a Bureau-certified agency. Subsequent to the placement, the court orders a State-certified adoption agency to conduct an Adoption Complaint Investigation (ACI) in order to investigate circumstances of the placement and to assess the adoptive home.

"Manual of Standards for Adoption Agencies" or "Manual of Standards" means the rules promulgated in this chapter, which constitute minimum requirements for adoption agencies placing children for adoption in New Jersey.

"Parent" means a birth parent or birth parents, including the natural father of a child born out of wedlock who has acknowledged the child or to whom the court has ordered notice to be given, or a parent or parents by adoption.

"Placement services" means any and all services offered by a certified agency to prospective adoptive children and families ranging from selection of a particular family for a particular child through the physical arrival of the child in the adoptive home.

"Post-adoption services" means any and all services offered by or through the auspices of an agency to any party involved in an adoption after finalization of the adoption.

"Post-placement services" means any and all services offered by or through the auspices of an agency to any member of an adoptive family from the placement of the child to finalization of the adoption.

"Pre-placement services" means any and all services offered by or through the auspices of an agency to birth parent(s) and child(ren) to evaluate and prepare them for an adoptive placement.

"Referring agency" means an agency or organization with whom a New Jersey-certified agency has a written agreement regarding the provision of adoption-related services in New Jersey.

"Regular certificate of approval" or "regular certificate" means a certificate in writing issued by the Bureau, which indicated full compliance of an agency with the requirements of this chapter.

"Revocation of a certificate" means a rescinding of an agency's current regular or temporary certificate to operate because of the agency's failure or refusal to comply with requirements of the State Adoption Law and/or of this chapter.

"Shall" denotes a requirement of this chapter that an adoption agency must meet to qualify for a certificate.

"Social worker" means a professional staff member of an agency who possesses the required qualifications specified in this chapter and who works directly with children, adoptees, birth and/or adoptive parents and other relevant individuals.

"Social work supervisor" means a staff member of an agency who possesses the qualifications specified in this chapter and who supervises the professional staff who work directly with children, adoptees, birth and/or adoptive parents and other relevant individuals.

"Staff member" means any person employed by or working for or with an agency on a regularly scheduled basis, whether for compensation or not. This shall include full-time, part-time, voluntary, substitute, contract or consulting personnel.

"Subsidy" means the financial or other material support provided directly or made available to an adoptive family to assist in the adoptive placement, legal expenses of adoption, and/or continuing care of a child placed for adoption.

"Surrender" means a voluntary relinquishment of all parental rights, generally for purposes of allowing a child to be adopted by a birth parent, prior adoptive parent, or other person or agency authorized to exercise such rights by law, court order or otherwise.

"Suspension of a certificate" means a temporary rescinding of an agency's current regular or temporary certificate of approval to operate. The suspended certificate may be reinstated by the Bureau upon the agency's compliance with requirements of the State Adoption Law and of this chapter.

"Temporary certificate of approval" or "Temporary certificate" means a certificate in writing issued by the Bureau for a limited period of time, pending full compliance by the agency with all requirements of this chapter.

"Termination of parental rights" means the transfer by an order of a court of competent jurisdiction of all rights of control and authority over a child from its birth parent(s) or prior adoptive parent(s) to an agency or other person.

10:121A-1.6 Compliance with state laws

(a) Any adoption agency whose principal office is located outside of this State shall be licensed, certified, or otherwise approved to operate in the state where the agency's principal office is located as a condition of applying for, securing and maintaining a certificate of approval in New Jersey.

(b) No certified adoption agency shall discriminate with regard to the provision of any adoption-related services on the basis of age, sex, race, national origin, religion, marital status or employment status with regard to the selection of adoptive parents for any child. However, these factors may be considered, pursuant to N.J.S.A. 9:30-40, in determining whether the best interests of a child would be served by a particular placement for adoption or by finalization of an adoption.

10:121A-1.7 Eligibility for a certificate of approval

(a) Any public agency or private non-profit firm, partnership, corporation, association, or agency located within or outside the State of New Jersey that provides adoption services to families in New Jersey or to children from New Jersey, whether as part or all of its function, shall secure and maintain a certificate. Adoption services shall include any one or combination of the following:

1. Pre-placement services;
2. Home studies;
3. Placement services;
4. Post-placement services; and/or
5. Post-adoption services.

(b) The following are not subject to certification requirements under the law:

1. Foster care programs, unless operated as a support to, or as an integral part of the agency's adoption program, as specified in N.J.A.C. 10:121A-1.5;
2. Agencies or organizations that provide adoptive parent recruitment and/or information services only;
3. Self-help or support groups that operate independent of an agency and provide adoption-related information and/or supportive peer assistance to members;
4. Lawyers, law offices or legal services offices that provide only legal services as permitted under the law and court rules; and
5. Agencies, organizations or independent professionals that do not place children for adoption, but provide social work services, mental health, family services or similar services, to the general public, including adoptive families who may choose to use their services.

10:121A-1.8 Inter-country adoption

(a) An agency providing services with reference to inter-country adoption shall comply with requirements of the Federal Immigration and Naturalization Act (P.L. 95-417) and any successor or amending legislation regarding the classification of an alien orphan child as an immediate relative for purposes of an immigration visa.

(b) The Bureau shall maintain a list of certified private adoption agencies that conduct home studies for the adoption of children from foreign countries, and shall make such a list available to interested persons upon request.

(c) Agencies performing inter-country adoptions shall comply with the record keeping requirements of the Manual of Standards for Adoption Agencies, as specified in N.J.A.C. 10:121A-3.6(e).

SUBCHAPTER 2. CERTIFICATION PROCEDURES

10:121A-2.1 Application for a certificate of approval

(a) An organization interested in providing any kind of adoption service shall first secure a certificate of approval from the Bureau, pursuant to the requirements of the State Adoption Law and of this

chapter. Operation of an adoption agency without a valid certificate, as required by law, constitutes a misdemeanor, pursuant to N.J.S.A. 9:3-39.

(b) The agency shall file a completed application for a new or renewed certificate with the Bureau at least 60 calendar days prior to the anticipated date of operation or the expiration of an agency's existing certificate.

(c) Applicants for a new certificate shall submit to the Bureau a written plan for the agency's operation that includes the following:

1. A statement of agency purpose, scope of adoption program and target groups to be served, program goals and objectives, description of services, and plans for coordination with other agencies and community resources;

2. A description of organizational structure, including the names of the board of directors and its committees, staff organization charts, number and qualifications of board members;

3. A list of all branch offices of the adoption agency, if any;

4. A list of personnel, including all present and expected staff members who have direct contact with clients, their qualifications and duties;

5. A budget and financial plan, including actual and/or projected statement of revenues and expenses, documentation of sufficient resources to support agency operations, general/comprehensive liability insurance coverage for agency operations, and a listing of fees for service;

6. A copy of the forms to be used by the agency, including applications, intake, case record, evaluation, financial and statistical report forms;

7. A copy of agency incorporation papers and proof of not-for-profit status;

8. A copy of the agency's non-discrimination policy, as specified in N.J.A.C. 10:121A-1.6(b), and approved by the agency's governing board; and

9. A copy of an audit or financial statement, if requested by the Bureau.

(d) An agency applying for a renewal of a certificate of approval shall submit those items listed in (c) 2, 3, 4, and 5 above. An agency shall submit the item listed in (c) 9 above upon request of the Bureau.

10:121A-2.2 Issuance of a certificate of approval

(a) The Bureau shall review the application for a certificate and shall conduct one or more field visits to instate agencies to ensure that the agency is in compliance with all requirements of the State Adoption Law and of this chapter.

(b) The Bureau shall issue a regular certificate of approval to an agency that has achieved full compliance with requirements of the State Adoption Law and of this chapter.

(c) If the Bureau determines that the agency is in substantial compliance with, but does not meet all applicable requirements of the law and of this chapter, and provided that the extent of the agency's deviation from such requirements is not deemed by the Bureau to be detrimental to the families and children being served, the Bureau shall issue a temporary certificate.

1. When a temporary certificate is issued, the Bureau shall indicate in writing those requirements of this chapter that are currently not being met by the agency.

2. The Bureau shall issue a temporary certificate for a maximum period of six months.

3. The Bureau may renew the temporary certificate as often as it deems necessary, provided however, that the agency shall not operate pursuant to temporary certificates for more than a total of 12 months in any two-year certification period.

4. If the temporary certificate is in the appeal or enforcement process, the Bureau may extend the temporary certificate.

(d) Each certification period, which may include the issuance of one or more temporary certificates and/or one regular certificate, shall be two years.

1. In determining the expiration date of the first regular certificate of approval, the Bureau shall compute the two-year certification period from the date of issuance of the first temporary or regular certificate.

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2. In determining the expiration date of a renewed regular certificate, the Bureau shall compute the two-year certification period from the date on which the agency's previous regular certificate expired. If, however, the agency has ceased to operate for a period of six months following the expiration date of its previous regular certificate, the Bureau shall compute the date of expiration from the date of issuance of a new certificate.

(e) The certificate of approval shall be issued to a particular adoption agency at a particular location and shall not be transferable.

(f) The agency shall display the certificate at all times in a location of prominence within the agency.

(g) No adoption agency shall make claims either in advertising or in any written or verbal announcement or presentation contrary to its certification status.

10:121A-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval

(a) The Bureau may deny, suspend, revoke or refuse to renew an adoption agency's certificate for good cause, including but not limited to the following:

1. Failure to comply with requirements of the State Adoption Law and of this chapter;
2. Violation(s) of the terms and conditions of a certificate;
3. Fraud or misrepresentation in obtaining a certificate or in the subsequent operation of the agency;
4. Refusal to furnish the Bureau with files, reports, records, or other information as required by this chapter;
5. Refusal to permit an authorized representative of the Division to gain access to the agency during normal operating hours. An authorized representative includes:
 - i. A representative of the Bureau;
 - ii. A representative of the Department for purposes of investigating allegations of child abuse or neglect;
 - iii. The Director of the Division or his designee;
 - iv. The Commissioner of the Department or his designee; and
 - v. Any person specifically authorized by statute;
6. Any activity, policy or conduct that adversely affects or is deemed by the Bureau to be detrimental to the families and children being served, including but not limited to violations of the requirements of the State Adoption Law, the State Child Abuse Law and this chapter; and
7. Failure of an out-of-state agency to maintain a license, approval or certificate in its own state.

(b) If an agency's certificate is suspended, the Bureau shall issue or reinstate the agency's certificate once the agency achieves compliance with the requirements of the State Adoption Law and of this chapter. In such a case, the Bureau shall not require the agency to submit a new application for a certificate unless such reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(c) The Bureau shall provide written notice to the agency if the agency's application for a certificate is being denied, if the agency's certificate is suspended or being revoked or if the agency's certificate is not being renewed. This notice shall specify the Bureau's reasons for such action.

(d) If the Bureau denies application for revokes, or refuses to renew an agency's certificate of approval, and the reason(s) for the denial, revocation or refusal have been resolved, the agency may reapply to the Bureau for a certificate in order to secure a new certificate prior to resuming operations.

(e) The Bureau may impose conditions upon an agency's adoption services, and shall provide notice if an agency's certification will contain such conditions.

(f) Each certificate issued by the Bureau to an adoption agency remains the property of the State of New Jersey. If an agency's certificate is suspended or revoked, or upon the permanent closing of the agency, the agency shall return the certificate to the Bureau immediately.

10:121A-2.4 Administrative hearings

(a) The Bureau shall afford the agency an opportunity to request an administrative hearing on any issue within this chapter and trans-

fer the matter to the Office of Administrative Law as a contested case.

(b) Where the Bureau proposes to deny, suspend or revoke a certificate, or refuses to renew a certificate, the Bureau shall afford the applicant or agency written notice of an opportunity for an administrative hearing by certified or registered mail or in-person delivery.

1. The notice shall specify the facts and legal authority which form the basis of the proposed action, and shall require an answer requesting a hearing, if desired, within 10 working days of receipt of the notice.

2. If the agency fails to request a hearing within 10 working days of receipt of the notice, the Bureau shall take the proposed action immediately.

(c) The hearing shall be conducted pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq and N.J.S.A. 52:14F-1 et seq.) and the Uniform Administrative Procedure Rules as specified in N.J.A.C. 1:1-1 et seq.

10:121A-2.5 Court action

(a) The Division may institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of an adoption agency for good cause, including but not limited to the following:

1. Any imminent dangers or hazards that threaten the health and safety of children and families served by the agency;
2. Repeated violations of the requirements of the State Adoption Law or of this chapter; or
3. Opening and operating an adoption agency without a certificate or without complying with the requirements of the State Adoption Law or of this chapter.

10:121A-2.6 Complaints

(a) Whenever the Bureau receives a report questioning the certification status or compliance of an adoption agency with requirements of the State Adoption Law or alleging violations of this chapter by the agency, the Bureau shall investigate the allegation within 10 working days to determine whether the complaint is substantiated.

(b) The Bureau shall notify the complainant and the agency in writing of the results of the complaint investigation within 15 working days after the report of the Bureau's investigation has been finalized. Such notification shall include the results of the investigation, pursuant to the State Public Records Act (N.J.S.A. 27:1A-1 et seq.), commonly known as the State Right to Know Law, except that any information not permitted to be disclosed under the Child Abuse and Neglect Law (N.J.S.A. 9:6-8 et seq.) or other law prohibiting such disclosure shall be withheld.

(c) Any individual filing a complaint may do so anonymously. If the complainant reveals his or her identity, the name of the complainant, together with a description of the complaint and its status, shall be included in the Bureau's records and shall be available for public review upon completion of the investigation by the Bureau, pursuant to the State Public Records Law, except that any information not permitted to be disclosed pursuant to the Child Abuse and Neglect Law shall be withheld.

(d) The Bureau shall consider complaints or other notifications regarding an agency's adoption practices in a state other than New Jersey in reviewing that agency's adoption practices, if such complaints have implications for the agency's service in New Jersey.

(e) No agency shall discriminate against a person because of the filing of a complaint under this section.

(f) The agency shall cooperate with the Division's investigations whenever such complaint investigations are conducted.

10:121A-2.7 Public access to Bureau records

(a) The Bureau shall make its adoption agency certification files available for examination during regular business hours by any person and shall supervise any person examining its files on the adoption agency.

(b) The Bureau shall make the following items in the files open to public review:

1. Applicants for certificates and related materials/documentation;

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2. Copies of temporary and regular certificates;
3. Correspondence between the Bureau and the agency or other parties in matters pertaining to the Bureau's review, inspection, or certification of the agency;
4. Program evaluation*, inspection,* and violation reports, where applicable, reflecting results of Bureau inspections and/or reinspections of the agency;
5. Forms and other standard documents used to collect routine data on the agency and its program as part of its record of compliance with the Manual of Standards;
6. Enforcement letters from the Bureau requiring abatement of violations of the Manual of Standards;
7. Correspondence *to the adoption agency* from the Attorney General *[regarding enforcement actions against the agency]*;
8. Chronological lists of events about the agency on compliance and/or enforcement matters;
9. Completed complaint investigation reports, except for child abuse and/or neglect investigations or other information restricted by the requirements of the State Adoption Law or any other state laws; and
10. Any other documents, materials, reports and/or correspondence that would normally be included as part of the public record.

(c) The Bureau shall keep confidential and not part of the public record the following:

1. Records, reports, or correspondence that pertain to child abuse and/or neglect investigations involving children placed or supervised by the agency that are restricted from public access under the requirements of the Child Abuse and Neglect Law;
2. Records, reports, correspondence or forms containing names and/or any other identifying information pertaining to children, birth parent(s), or adoptive parent(s) that are restricted from public access under the sealed records requirements of the State Adoption Law;
3. Confidential information with regard to specific agency personnel;
4. Any items that deal with reports of complaint investigations that are still in progress; *[and]*

5. Memoranda and other internal correspondence between and among public agencies, including internal communication between the Division and the Attorney General, except as otherwise provided by law; and

[5.]*6. Other material required by law to be maintained as confidential.

(d) Bureau records shall be available for public inspection at the Bureau office during regular business hours. Copies of these records shall be available for purchase in accordance with the public records copy fee schedule set forth at N.J.S.A. 47:1A-2.

SUBCHAPTER 3. ADMINISTRATION

10:121A-3.1 Governing board requirements for private agencies

(a) Each private agency shall have a governing board which shall have the authority to:

1. Set overall policy for the agency; and
2. Ensure the financial viability of the agency.

(b) The governing board shall establish policies pertaining but not limited to:

1. Program and services to clients;
2. Personnel recruitment, selection, training and performance evaluation; and
3. Fiscal operations, including budget and resource development and fund raising;

(c) The governing board shall delegate responsibility for day-to-day operations to an executive director or administrator and shall clearly delineate in writing the respective duties of the governing board and of the executive director or administrator.

(d) The governing board shall have written provisions guiding its composition, including provisions for representation of a variety of community interests and for time-limited terms of office for board members.

(e) The governing board shall meet at least annually and make records of attendance and minutes of each meeting available for inspection by the Bureau.

(f) The governing board shall have a written policy covering conflict of interest, which shall include the following provisions:

1. Board members shall serve without compensation or other material benefit, except that board members may be reimbursed for actual expenses, as determined by the board.

2. The agency shall not use any business that is owned or operated by a board member or in which a board member has a financial interest and shall not use the services of a board member unless the board can document that the goods or services were obtained at a competitive price.

3. Board members seeking adoption services from the agency shall either take a leave of absence from the board or serve as a non-voting member during the period(s) when such services are received. This requirement shall also apply when a person from a Board member's immediate family seeks agency adoption services.

4. The agency shall not require clients to use the consultant services of a board member or of a board member's family.

5. A board member shall not use a board position for personal benefit or for the benefit of relatives, family or friends who are seeking adoption services from the board member's agency.

(g) The board shall oversee the transfer of clients and services and preserve records, as specified in N.J.A.C. 10:121A-3.5(e), whenever an agency terminates its adoption program.

10:121A-3.2 Advisory board requirements for public agencies

(a) Any public agency shall have an advisory board or advisory council that is representative of a variety of interests and points of view in the communities where the agency provides services. The advisory board shall:

1. Keep informed of and make recommendations regarding the operational policies and practices of the agency;
2. Provide advice to the agency on matters of policy, planning, program evaluation and practice;
3. Periodically review aspects of the agency's adoption operation;
4. Meet at least annually and make records of attendance and minutes of each meeting available for inspection by the Bureau; and
5. Adhere to the standards for private agency governing boards, as specified in N.J.A.C. 10:121A-3.1 (d) through (f).

10:121A-3.3 Legal responsibilities

(a) An agency shall be authorized to place children for adoption, accept relinquishment of parental rights, receive custody and/or guardianship of a child and have the right to consent to adoption. An agency that takes custody or guardianship of the child shall also be legally responsible for the child under care or guardianship until the adoption is finalized or until the child's custody and care or guardianship is transferred to another certified agency or person.

(b) When an agency transfers a child, the agency shall document the reasons for such action in the case record and shall verify that the second agency to which the child is being transferred is licensed, certified, or approved in the state where it is based.

(c) A New Jersey-certified agency may provide services for an out-of-state agency only if:

1. The New Jersey-certified agency verifies that the out-of-state agency is licensed, certified or approved in the state where the agency's principal office is located;
2. Both agencies execute a written cooperative agreement that has been approved by the Bureau; and
3. Both agencies develop a written plan that:
 - i. Defines financial and social work responsibilities before, during and after the placement of each child; and
 - ii. States that the out-of-state agency shall be financially responsible for any child placed in New Jersey until and unless the child's adoption has been finalized or the child has reached the age of majority or been removed from New Jersey. This requirement shall not affect an out-of-state agency's responsibility for providing subsidy payments to the child subsequent to finalization of the adoption or to the child's reaching the age of majority; or an out-of-state agency's voluntary agreement to assume financial responsibility after

finalization of the adoption or until the child's reaching the age of majority.

10:121A-3.4 Information to parents and adoption applicants

(a) The agency shall provide the birth parents and adoptive applicants with a written statement or pamphlet indicating certain parental and agency rights and responsibilities, as specified in N.J.A.C. 10:121A-3.4(b).

(b) The written statement or pamphlet shall contain the following information:

1. That the agency is required to be certified by the Bureau of Licensing of the New Jersey Division of Youth and Family Services pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.);

2. That the agency is required by law to comply with all applicable requirements of this chapter.

3. That the agency shall make a current copy of the Manual of Standards for Adoption Agencies available for review by the parents of children served by the agency;

4. That any parents who believe or suspect that the agency is in violation of any requirements of the Manual of Standards for Adoption Agencies may report such alleged violations to the Bureau of Licensing;

5. That any parent may secure a copy of the Manual of Standards of Adoption Agencies by contacting the Bureau of Licensing, Division of Youth and Family Services and that the Bureau will charge a nominal fee for the manual, in keeping with Department policy;

6. That when so requested by parents of children served by the agency, the agency shall make available for review the Bureau's certification records and any Inspection or Violation Reports on the agency, except for those records prohibited from disclosure, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.10(a)) and to any other laws prohibiting such disclosure.

7. That any person who has reasonable cause to believe that a child being served by the agency has been and/or is subjected to any form of child abuse or neglect or exploitation by any person, whether working at the agency or not, shall report such allegations to the Division of Youth and Family Services Office of Child Abuse Control toll-free hotline (currently 1-800-792-8610 in New Jersey and (609) 292-8799 out-of-state), pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.1 et seq.). Such reports may be made anonymously;

8. That parents may secure information about child abuse and neglect by contacting the Office of Community Education, Division of Youth and Family Services; and

9. That the agency shall cooperate with the adoptive parents and/or the attorney retained by the adoptive parents in providing all financial information needed for the finalization report, pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.).

(c) When a child has been identified by the agency as having a handicapping condition or suspected handicapping condition and services have not been arranged, the agency shall inform the parent(s) of their child's right to special educational and medical services and shall refer the parent(s) to:

1. The toll-free telephone number of the New Jersey Department of Education, Regional Curriculum Services Unit (currently 1-800-322-8174 in New Jersey and (201) 390-6030 out-of-state) for a possible comprehensive evaluation and individual service plan for the child; and

2. The New Jersey Department of Health, Division of Local and Community Health Services, Special Child Health Services Program (currently (609) 292-5676) for a possible comprehensive medical evaluation for the child.

10:121A-3.5 Reporting requirements

(a) The agency shall orally notify the Office of Child Abuse Control (currently 1-800-792-8610 in New Jersey and (609) 292-8799 out-of-state) immediately whenever there is any allegation received by the agency or other reasonable cause to believe that a child under the supervision or care of the agency has been or is being abused or neglected by any person, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14).

1. The agency shall notify the Bureau of these allegations as well as of any other allegations that were made by other parties and came to the agency's attention.

2. The Division shall make copies of the child abuse law and information about the law available, upon request, to the Community Education Office of the Division of Youth and Family Services.

(b) The agency shall notify the Bureau orally of any of the following changes or events within 24 hours after the agency learns of their occurrence and shall submit written notification to the Bureau within five working days:

1. Unanticipated permanent or temporary closing of the agency or any part thereof;

2. Any criminal convictions of any staff member involved in the agency's adoption program excluding minor traffic violations;

3. Legal action against the agency or a staff member which involves the operation of the agency or any child under the care of the agency, excluding any legal actions unrelated to agency business;

4. Damage to agency facilities which substantially disrupts the program or the agency's accessibility to clients; or

5. Knowledge of any child placement by any other party which the agency has reason to believe is not permitted by law or by this chapter.

(c) The agency shall notify the Bureau in writing at least 30 calendar days prior to any of the following proposed changes and events, if known:

1. Any plans to reorganize the adoption program that would involve changes in target populations, geographic area, services or eligibility, and the reasons for the changes;

2. Any change in the name, location, executive director or administrator of the agency; or

3. Any change in the majority of the membership of the governing board within a calendar year.

(d) The agency shall notify the Bureau in writing 90 calendar days prior to the date when the agency decided to suspend or cease operations of the agency's adoption program.

(e) The agency shall make the following arrangements once a decision to cease its adoption program has been made:

1. Transfer the care and custody of any children in the supervision of the agency to another Bureau-certified agency;

2. Transfer responsibility for any other clients, such as adoptive and/or birth parents in the adoption program to another Bureau-certified agency;

3. Notify the Bureau of the successor agency within 60 calendar days of closing;

4. Transfer all closed adoption records to a successor private agency certified by the Bureau. The closing agency shall ensure that such transfers of closed adoption records are implemented within five years after the agency's adoption program ceases to operate;

5. Send to all current adoption clients, including birth parents, adoptive applicants and adoptive parents as well as adult adoptees and relevant agencies with whom the agency is currently working, a letter explaining its decision to cease operation of its adoption program; and

6. Return its certificate to the Bureau.

10:121A-3.6 Agency records

(a) The agency shall ensure that the following general requirements are met:

1. The agency shall keep all records on file at the agency but may store files that are not currently active in a secure facility, with confidential files under lock and key, provided that the records can be accessed in a reasonable amount of time, if needed.

2. The agency shall make all records available for inspection by authorized representatives, as specified in N.J.A.C. 10:121A-2.3(a)5.

3. The agency shall ensure that all entries in the child, family and personnel records indicate the individual making the entry and the date of the entry.

4. The agency shall maintain the confidentiality of all information in all client case records, including those of the child, birth parents, foster parents, adoptive parents and adult adoptees, except by court order, or as specified in this chapter, or by written consent of the specific party.

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i. Staff members or persons associated with or working in cooperation with the agency shall not disclose or knowingly permit the disclosure of any identifying information concerning the child, birth parents, foster parents, adoptive parents or adult adoptees to any unauthorized person(s). Authorized persons are:

(1) Division representatives involved in child abuse and/or neglect investigations, otherwise authorized by statute;

(2) Bureau representatives or designees engaged in review activities related to certification;

(3) Staff members of other agencies acting within the scope of their employment;

(4) Representatives of adoption agencies or the social welfare or law enforcement agencies exchanging information regarding individuals in the care or legal custody of one of the agencies; and

(5) Persons named in court orders for this purpose.

ii. The agency may disclose identifying information to bona fide researchers who have received permission from the Division Director, subject to any restrictions and/or limitations set by the Division Director, and who agree to maintain the confidentiality of the child, birth parents, foster parents, adoptive parents and/or adult adoptees.

iii. The agency shall disclose or permit the disclosure of non-identifying information to the child, adult adoptee, birth parents, foster parents and adoptive parents after verifying the identity of the person making the request.

iv. An agency shall supply full information as permitted by these rules to any party involved in an adoption upon request.

v. The agency shall not give the adoptive parents the names of the birth parents even though the adoptive parents may have learned of the identity of the birth parents before or while the plan for adoption was made.

(b) The agency shall develop, maintain and make available to clients and to the public, upon their request, a written description of its policies and procedures for the following:

1. Eligibility for and provision of services;

2. Contents and maintenance of case records, including confidentiality and access;

3. Client grievances;

4. Rights and responsibilities of the agency and of clients for providing information, access to records, providing services, and payment of fees;

5. Relationship(s) with the courts pertaining to termination of parental rights, custody and guardianship; and

6. Relationship(s) with referring agencies.

(c) The agency shall establish and maintain statistical information on adoption services and shall submit this statistical information to the Bureau on standardized forms provided by the Bureau within 45 calendar days following receipt of the request for such information.

(d) An agency shall maintain case records for each child served and for his or her birth family for 99 years. Certified agencies that work with referring agencies shall make efforts to obtain background information for birth family and child records. These records shall include:

1. Identifying information on the child, including: name according to birth certificate, aliases if any, birthdate, birthplace, sex, race, social security number, national origin, religion, height, weight, color of hair and eyes, identifying marks or any other significant physical characteristics;

2. The name, address, telephone number, birthdate, birthplace, social security number, marital status, race, national origin, religion, and any social, psychological, educational or vocational background information on the birth parent(s), including the putative father or legal guardian(s), if relevant;

3. Name, address, telephone number of a birth family *[number,]* *member,* or relative to contact in case of emergency;

4. Date of placement and finalization of the adoption;

5. The names, birthdates, and locations of the child's siblings, if any. If the child has siblings, the record shall also include the reason(s) that the sibling(s) were not placed in the same adoptive home;

6. Social, psychological, developmental, educational circumstances including school reports and medical history of the child and copies of any professional recommendations, evaluations, or treat-

ment, including the Adoption Medical Information Form pursuant to N.J.S.A. 9:3-41.1(b), or any other required form issued by the Bureau, and a complete medical history of the birth family;

7. Legal documents pertinent to legal custody and guardianship, including birth records, court reports, proof of voluntary relinquishment or termination of parental rights or their equivalent, documentation of custody or guardianship transferred from one certified agency to another or from an official of the United States or any foreign country with authority to place such child for adoption;

8. All written agreements with parents, guardians, legal custodians, or cooperating agencies including but not limited to consent for foster placement and authorization for necessary medical or surgical care and service and financial agreements;

9. Summary reports of social services with the child and birth family, including possible alternatives to adoption, including pre- and/or post-natal care for the birth mother, temporary care for the birth mother and/or child, reasons for adoption as the plan of choice, and birth parent preferences, if any, regarding characteristics of the adoptive family;

10. Summary of how any child placed for adoption has been prepared for the adoption, including, for children 10 years of age or older, a full description of the child's involvement in the process of adoption planning, and preference regarding characteristics of the adoptive family or documentation of the reason(s) for not consulting the child; and

11. Record of the birth family's contact with the agency after adoptive placement, including updated addresses and telephone numbers.

(e) Foreign adoption records for birth family and child shall include:

1. A list of illnesses and diseases endemic to the child's country of origin and specific infectious diseases to which the child may have been exposed;

2. A description of the child's living arrangements prior to placement, and a record of the child's adjustment to such arrangements; and

3. The specific plan for transportation of the child to the adoptive home.

(f) The agency shall maintain records of home studies of adoptive applicants, who have had a child placed for adoption, for 99 years. These records shall include:

1. Information about the prospective adoptive parent(s) and family, including: name, address, sex, race, birthdate, religion, nationality and citizenship, social security number, educational background, occupation and income, marital status and year of marriage and divorce, if applicable;

2. Information on other members of the immediate family, their names, sex, birthdates, relationship, and addresses, if different from above;

3. Copies of signed service plans and financial agreements;

4. Characteristics of child desired: age range, sex, racial or ethnic background, social, psychological, physical, developmental, educational circumstances acceptable to the family, including any specific limits to the extent of special conditions acceptable to the adoptive family;

5. Summary documents of the adoption home study of the family, including any autobiographical or other self-assessment material provided by the family, the basis for the decision to accept or reject the family or to impose any qualifying conditions, an indication that the decision was made jointly by the social worker and social work supervisor, and a record that the family was informed in writing of the decision within 30 calendar days of the last contact with the family;

6. All references, medical reports, and any background checks, including police and fingerprinting checks, and any other verifications or correspondence used by the agency for the study and evaluation of the adoptive family; and

7. A record of each child being placed in the adoptive home, including the full name, date of placement, supervisory reports covering the child's and family's adjustment, summary report of placement and recommendation, date and place of finalization, record of any

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contact with the agency after finalization, including updated addresses and telephone numbers.

(g) The agency shall maintain on file records for each foster family used by the agency in support of the agency's adoption service.

1. These records shall be maintained for the following:

- i. Placements that were made before termination of the legal parents' rights; and
- ii. Temporary care between intended permanent adoptive placements.

2. Such records shall include documentation that the requirements specified in N.J.A.C. 10:121A-5.5(b) were met. Where a foster family is also the adoptive family, the adoptive family records shall include the content specified in (f) above.

(h) The agency shall maintain the following administrative records in its files:

1. Current copies of all written materials required for certification, as specified in N.J.A.C. 10:121A-2.1(c) and (d). When there are changes or modifications in the agency's policies and procedures, the written materials shall reflect such changes;

2. A current copy of the Manual of Standards for Adoption Agencies;

3. Copies of other licenses, certificates, accreditations or evaluations of agency operations, program, and facilities;

4. Copies of board meeting minutes; and

5. Copies of general and/or comprehensive insurance coverage.

(i) An agency shall maintain the following financial records:

1. An annual budget indicating projected revenues and expenses for its adoption program;

2. Policies and procedures governing fees for service, along with fee ranges, if any; and

3. Actual fees paid by clients to or through the agency in connection with adoption services.

(j) The agency shall maintain personnel records on all agency personnel, including paid staff members employed by the agency, paid consultants who provide contracted services and volunteers and students who have direct contact with clients.

1. The personnel record shall include the following information for each staff member:

- i. Name, address, and telephone number;
- ii. Resume, or application form, including qualifications, work experience and at least two references;
- iii. A listing of any criminal convictions, excluding minor traffic violations;
- iv. Annual evaluations of job performance;
- v. A description of any adoption-related training/development received;
- vi. Dates of employment and separation and reason(s) for leaving; and
- vii. Description or statement of amount of time the employee works.

2. The agency shall maintain a personnel record for at least three years following the staff member's separation from the agency.

3. The agency may use a consultant contract that contains the information specified above as a personnel record.

10:121A-3.7 Office facilities

(a) The agency facilities shall provide privacy for interviewing and be located within easy access to the public.

(b) The agency shall provide storage space for equipment and furnishings needed to carry out the activities of the adoption program.

(c) The agency shall have a telephone whose number is listed in the public telephone directory.

SUBCHAPTER 4. PERSONNEL**10:121A-4.1 General requirements**

(a) An agency shall have one social worker for every 35 children under its care or supervision.

(b) An agency shall have at least two full-time staff members or their equivalents in part-time staff members.

1. An agency shall have one executive director or administrator.

2. The executive director or administrator may also serve as the social work supervisor.

10:121A-4.2 Personnel policies

(a) The agency shall require all applicants for employment to disclose criminal convictions in writing. Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from working in the agency and shall not automatically result in the removal or termination of a director or staff member from his or her position or job. Such determinations shall be made on a case by case basis, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought. The agency shall maintain all disclosures on file.

(b) The agency shall develop and maintain on file current written personnel policies and make them available to all staff members. The personnel policies shall be reviewed annually and updated every three years by the agency and include:

1. Criteria and procedures for the assignment, supervision, annual performance evaluation, promotion, suspension or dismissal of a staff member;

2. Job specifications outlining the qualifications, duties and accountability for every category of staff member;

3. Procedures for handling staff member complaints or grievances; and

4. Provisions for responding to any staff member misconduct that constitutes criminal or unethical and/or unprofessional behavior.

10:121A-4.3 Staff development

(a) The agency shall provide orientation for all new staff members regarding the general administrative, personnel, fiscal and program policies, procedures, and practices of the agency.

(b) The agency shall prepare and maintain on file a written staff development program plan. The plan shall specify major content areas to be covered and agency policy regarding requirements for staff development.

1. The agency shall provide at least eight hours of adoption-related training per year to each professional staff member.

2. The agency shall make staff members aware of specific requirements of the State Adoption Law and of this chapter that affect the performance of their duties.

3. The agency shall make staff members aware of the Child Abuse and Neglect Law and shall provide for the training of its staff members in reporting procedures under this law.

10:121A-4.4 Staff qualifications and duties

(a) The executive director or administrator shall have the qualifications and responsibilities as specified below.

1. The executive director or administrator of the agency shall:

i. Have a bachelor's degree from an accredited college or university and two years of professional experience in the human services field, one year of which shall have been in a supervisory or administrative position; or

ii. Have a master's or doctorate degree from an accredited graduate school in business or public administration or in one of the areas of study in the human services field and one year of professional experience in the human services field; or

iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title used for the function of executive director or administrator of the agency.

2. The executive director or administrator shall be responsible for:

i. Developing, implementing and maintaining policy and procedures for program and fiscal operation;

ii. Ensuring that the agency achieves and maintains compliance with the requirements of this chapter;

iii. Employing, evaluating and discharging staff members, in accordance with the agency's established personnel policies as specified in N.J.A.C. 10:121A-4.2;

iv. Establishing and supervising working relationships with other social service agencies within the community; and

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v. Maintaining current social services records and statistics, as specified in N.J.A.C. 10:121A-3.6(c).

(b) The social work supervisor shall have the qualifications and responsibilities as specified below.

1. A social work supervisor shall:

i. Have a bachelor's degree from an accredited college or university and four years of professional experience in services to children and families, two years of which shall be in adoption services; or

ii. Have a master's degree in social work or other human services field from an accredited college or university and a minimum of two years of professional experience in services to children and families; or

iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title.

2. The social work supervisor shall be responsible for:

i. The supervision, management, training, and evaluation of all social work staff members, students, and consultants;

ii. The supervision of volunteers whose work involves direct contact with clients;

iii. The approval of all decisions regarding family and child eligibility for service, maternity and child care, transportation and placement arrangements, finalization, and any other changes in the child's legal status; and

iv. The implementation of the agency's adoption program(s) and services, and recommendations regarding changes to the program.

(c) A social worker shall have the qualifications and responsibilities as specified below.

1. A social worker shall:

i. Have a bachelor's degree from an accredited college or university and one year of professional experience in the human services field; or

ii. Have a master's degree in social work or in a related human services field from an accredited college or university; or

iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title.

2. A social worker shall be responsible for:

i. The maintenance of up-to-date case records;

ii. The preparation of home studies for adoptive applicants;

iii. The preparation of other case reports as required by the courts, cooperating agencies, or this chapter; and

iv. Direct service provision of any pre-placement, placement, post-placement, or post-adoption services, delivered to children, birth parents, foster parents, adult adoptees, or related parties within the scope of the agency's approved program.

(d) An agency shall arrange for staff members and/or consultants to provide medical, legal, psychiatric, psychological or other professional services to birth parents, children and adoptive parents whose home studies have been approved by the agency.

1. All staff members and/or consultants shall meet the licensing, certification, or practice requirements established for their respective professions in the states in which they practice.

2. The agency shall not require clients to use medical, legal, psychological, psychiatric or other consultants used by the agency. The agency may use consultants and/or persons selected by agency clients.

(e) The agency shall employ secretarial and other support staff to perform reception, clerical, recordkeeping, bookkeeping and related services necessary to comply with the requirements of this chapter.

(f) Agencies that utilize students for field placements shall have a written plan for using their services.

1. This plan shall describe what services the student is responsible for and what arrangement the agency has for supervising the students.

2. The agency shall give a copy of this plan to each student and his or her school and to the supervising staff members.

(g) An agency may utilize the services of volunteers provided that the agency:

1. Ensures that any volunteer who has direct contact with clients works under the supervision of a professional staff member and does not provide counseling services or make social work decisions unless the volunteer has the qualifications of a social worker, as specified in (c) above.

2. Prepares and maintains on file a written plan and job description for each category of volunteer who has direct contact with clients; and

3. Provides orientation and training to volunteers, as specified in N.J.A.C. 10:121A-4.3(a).

SUBCHAPTER 5. SERVICES**10:121A-5.1 Scope of service**

(a) An agency shall provide any or all of the following phases of adoption service:

1. Pre-placement services;

2. Home study services;

3. Placement services;

4. Post-placement services; or

5. Post-adoption services.

(b) An agency that provides a limited range of adoption services shall arrange for other services upon request of the clients.

(c) An agency shall comply with those sections of this subchapter that apply to the phases of adoption service that the agency has chosen to provide.

10:121A-5.2 General requirements

(a) An agency shall maintain on file and make available to its clients information on known resources in the community which may be of use to adoptive parents, birth parents, children and adult adoptees.

(b) Before services are provided, an agency shall make available to its adult clients the following:

1. A written description of its current adoption program, including information on the agency's services, the adoption process, including the availability of subsidy for special needs children, and other major referring agencies with whom the agency works; and

2. A verbal explanation of and a written agreement with the agency, describing specific services to be provided, fees to be charged, and rights and responsibilities of both parties.

(c) An agency that plans to place a child with an out-of-state family or to receive a child from out of state for placement within the State of New Jersey shall notify the Interstate Services Units of the Division and shall comply with regulations governing child placement in the other state, where applicable.

(d) An agency shall comply with the requirements of the Federal Indian Child Welfare Act (P.L. 95-608) for placement of Native American children.

(e) An agency that is unable to locate an appropriate adoptive family within 60 calendar days of the date the child was legally freed for adoption shall:

1. Refer the child to the New Jersey Adoption Resource Exchange, or any successor Statewide exchange; and

2. Refer the child to an interstate or national adoption exchange.

(f) An agency may refer a child to any adoption exchange(s) earlier than is required under (e) above.

(g) An agency that has a special needs child in its care for whom the plan is adoption shall document in the child's record its efforts to develop an adoptive placement.

(h) An agency shall ensure access to its services by persons who are physically disabled or handicapped.

10:121A-5.3 Fees and fiscal practices

(a) The agency shall not consider the clients' willingness to donate money, goods or services or to participate in agency fund-raising efforts in determining their eligibility for services.

(b) The agency shall provide equal access to services to all eligible clients without regard to actual or potential donations of money, goods, time or efforts.

(c) The agency shall prepare and maintain on file a written schedule of all fees charged and provide a copy of the schedule to an agency client before service delivery begins.

(d) The agency shall prepare and maintain on file a written description of its policies and procedures for the setting, collecting, waiver, non-payment and refunding of fees, along with guidelines for exceptions to these policies and procedures.

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1. No agency shall withhold finalization of a placement or adoption solely for non-payment of fees.
2. The agency shall make refunds to an eligible client no more than 30 calendar days after receipt of a written request for such refunds from an agency client.

10:121A-5.4 Services to birth parents

(a) An agency shall accept the surrender of a child only after determining that the birth parents or legal guardians are not acting under duress.

1. The agency shall not require the prospective birth mother to sign a statement committing her to any definite plan for the unborn child in order to obtain services.

2. The agency shall not require the birth parent to surrender a child for adoption in order to receive medical services, maternity or residential care, or any other agency service.

i. An adoption agency that directly provides residential facility care, foster home care and/or maternity services to clients shall ensure that such facilities and/or homes meet applicable state licensing, certification or approval requirements.

(b) The agency shall give the father the opportunity to sign a surrender, a denial of paternity or otherwise exercise parental rights to the child pursuant to N.J.S.A. 9:3-45. The agency shall not discourage the birth mother from identifying the father.

(c) Before taking a surrender, the agency shall document that the birth parents were:

1. Offered counseling that fully explores alternative plans for the child, including but not limited to temporary foster care, day care and care by relatives;

2. Informed that only legal parents or legal guardians have the right to custody and control of their child and to surrender their child for adoption;

3. Prepared, along with the child, for surrender and separation;

4. Referred to other community resources when the agency cannot provide needed services;

5. Informed that the agency may contact them in the future if the adult adoptee or adoptive family or emancipated minor requests information or wishes to meet the birth parents;

6. Advised that they may sign a written agreement at any time indicating their willingness to be contacted and/or to provide information if requested by the adoptee or adoptive family; and

7. Asked to update and submit to the agency their address(es) and/or any significant medical information required on the Medical Information Form, so that the medical information could be shared with the adoptive family and/or the adult adoptee.

(d) The agency shall ensure that the birth parents understand the terms of the surrender and realize that the agency will assume custody and will have the right to consent to adoption of the child, pursuant to N.J.S.A. 9:3-41 and N.J.S.A. 30:4c-23.

1. The agency shall ensure that the full terms of this understanding are delineated in writing, signed and dated by the birth parent(s) and agency and maintained on file.

2. The agency shall ensure that the surrendering parent(s) is given the opportunity to state any preferences that he and/or she may have affecting the selection of adoptive parent(s).

3. The agency shall not permit any such preferences to interfere with the agency's authority and responsibility to act in the best interests of the child in selecting adoptive parents or with the agency's obligation not to discriminate in the selection of adoptive parents, as specified in N.J.A.C. 10:121A-1.6(b).

4. The agency shall not take a surrender before the child is 72 hours old.

5. The agency shall document that birth parents who cannot read English fully understood the meaning of surrender.

6. The agency shall not delay returning a child to a birth parent(s) who decided not to surrender solely because the parent(s) is unable to pay medical and/or other fees.

(e) The agency shall request the court to terminate parental rights where state law provides grounds for termination of parental rights and there is reason to believe that termination of parental rights is necessary for the protection of the child.

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(f) The agency shall provide at least one in-person contact with birth parents who request counseling after the child is freed for adoption.

(g) An agency that becomes involved in handling an identified adoption shall ensure that:

1. The birth parents have been offered counseling and alternatives to adoption, as specified in (c) and (d) above.

2. The prospective adoptive parents have met the agency's requirements for other adoptive parents through the home study process, as specified in N.J.A.C. 10:121A-5.6;

3. Neither the birth parents nor the prospective adoptive parents are bound to a proposed placement until after the completion of (g)1 and 2 above;

4. Both the birth parents and the adoptive parents have signed an agreement with the agency specifying the terms and conditions of the proposed placement and the rights and responsibilities of each party; and

5. The child and adoptive parents have received placement services, as specified in N.J.A.C. 10:121A-5.7, and post-placement services, as specified in N.J.A.C. 10:121A-5.8.

10:121A-5.5 Pre-placement services to the child

(a) The agency shall complete a comprehensive study for each child evaluated for adoption. The study shall include:

1. A medical examination of the child at birth or at the time when the agency assumed custody and again within 30 calendar days before placement in an adoptive home to determine the child's health and any factors that may interfere with normal development;

2. Information to the extent available about the child's birth family to determine hereditary factors or pathology that may affect the child's normal development and potentialities as required on forms developed by the Commissioner of the Department of Human Services, pursuant to N.J.S.A. 9:3-41.1(b);

3. Information on previous placements, if applicable;

4. Any specialized evaluations for a physically and/or mentally handicapped child to help better understand the child's strengths and limitations;

5. The child's involvement in the adoption or documentation of the reason(s) for not involving the child; and

6. A careful evaluation of the advisability, in terms of best interest, and feasibility of placing the child together with full or half-siblings whose permanency goal is also adoption or who may have been placed for adoption previously. The agency shall document, in the case record of the child for whom adoption is currently being planned, any contraindicators and/or barriers to the co-placement of siblings, regardless of when they became legally free for adoption.

(b) The agency shall provide foster care services, as necessary, to ensure the health and safety of children who are waiting for legal clearance and/or adoptive placement.

1. The agency shall establish written criteria by which foster parent applicants are eligible to apply to the agency to provide foster care for a child.

i. The agency shall ensure that the criteria apply equally to all applicants.

ii. The agency shall make the criteria available to the Bureau, to all prospective foster parent applicants and, upon request, to any person.

2. Before approving foster parents, the agency shall ensure that foster parents:

i. Submit written reports of medical examinations conducted within the past calendar year for all household members. These reports shall indicate that all household members are free of communicable diseases or other medical impediments to the placement of foster children in the home.

ii. Submit a physician's written statement attesting that the foster parents' health status is such that they are physically capable of providing foster care services;

iii. Submit three written references that shall be stored in the foster family's record; and

iv. Allow the agency to conduct a home visit so that the agency can prepare a written assessment before the home is used.

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3. Before a child is placed in an approved foster home, the agency shall ensure that the foster parent(s) signed an agreement that specifies the terms and conditions of service and financial remuneration.

4. If a foster home has not been used for a year, the agency shall update the evaluation of the home before placing a child.

(c) The agency shall give foster parents a telephone number to contact in case of emergency.

[(c)]**(d) The pre-placement services shall be recorded in the child's record, as specified in N.J.A.C. 10:121A-3.6(d).

10:121A-5.6 Home study services

(a) Throughout the home study, the agency shall provide social work services to help applicants decide if adoption is the best plan for them.

(b) The agency shall establish and maintain on file written criteria by which adoptive applicants are eligible to apply to the agency to adopt a child.

1. The agency shall ensure that the criteria apply equally to all applicants.

2. The agency shall make the criteria available to the Bureau, to all prospective adoptive applicants and, upon request, to any person.

(c) The agency shall ensure that the adoptive applicants:

1. Have attained the age of 18 years and be at least ten years older than the child being adopted. If the applicant is not 10 years older than the child to be adopted, the agency may petition the court to waive the requirement; and

2. Have the capacity to meet the child's physical and emotional needs.

(d) The agency shall also ask applicants to report any history of child abuse or neglect or any criminal record, excluding minor traffic violations. Agencies working with applicants who have a history of abuse, neglect or criminal conviction shall give careful consideration to whether their past conduct would pose a threat to the safety and/or security of a child placed for adoption, pursuant to N.J.S.A. 2A:16A et seq.

(e) The agency shall advise the applicants of the home study process, including the length of time involved. The home study process shall consist of at least three in-person contacts and include the following:

1. Joint and individual interviews with married applicants. Individual interviews with spouses may be counted as separate in-person contacts;

2. Interviews with all members of the applicants' household by individual or group interview process;

3. At least one visit to the residence of the applicant(s);

4. A review of the applicant's current job reference(s):

i. If the applicant states that a request for a current job reference will jeopardize the applicant's employment status, the agency shall obtain a reference from a previous employer.

ii. If a previous employer is not available, the agency shall obtain a reference from an appropriate alternative such as a former teacher or the applicant's supervisor of a volunteer activity; and

5. A review of three personal references from persons unrelated to the applicant(s):

i. The agency shall obtain at least one reference who has known the applicant for five years.

ii. The agency shall obtain at least one reference from a neighbor of the applicant(s).

(f) The agency shall obtain information on the applicants. Such information shall include but not be limited to:

1. Identifying information such as: name, address, age, occupation, citizenship, race and ethnic background, education, social security number, religion (if any), and children in the home;

2. A description of each adoptive applicant's awareness and sensitivity to special issues that adopted children need to resolve, including the child's identity, attitudes toward birth parents and circumstances of the child's availability for adoption;

3. The family's recognition of the importance of and the family's plans for helping the child accept being adopted. For parents planning to adopt a child whose racial or cultural background is different from theirs, the home study shall include an assessment of the

parent's awareness of, sensitivity to, and plans for dealing with those differences within their own family and in the community;

4. Applicants' interests, hobbies, child caring skills, strengths and weaknesses and how they see themselves and each other;

5. Philosophies on child rearing, discipline, parental roles, experience with children;

6. Emotional stability and maturity of the applicant(s), including understanding of and ability to cope with problems, stress, frustration, crisis, separation and loss, capacity to give and receive affection, and ability to distinguish between their needs and those of the child;

7. State of their marital relationship, decision making, communication, roles in the family and how they handle differences of opinion, if relevant;

8. The attitudes of other members of the family and of significant other persons involved with the family towards the adoption, description of them as individuals and how they interact as a family, and adjustment of other children in the family;

9. Each parent's family life history that includes: childhood experiences, what their home life was like, their parents' method of discipline and handling problems, their family ties, current family relationships and relatives' attitudes towards adoption;

10. Each parent's agreement that corporal punishment, including hitting and shaking, as well as abusive language and ridicule are unacceptable means of discipline;

11. Written medical reports on each applicant that include health history, current state of health, results of laboratory tests or x-rays ordered by the physician, and the physician's recommendation on the applicant's health status as it relates to the applicant's capacity to be an adoptive parent;

12. Verifications of present or previous marriage(s) and divorces of each adoptive applicants, including deaths of former spouses when there was no divorce;

13. Disclosure of any history of child abuse or neglect or of any criminal conviction, excluding minor traffic offenses;

14. Location and description of physical environment of the residence and neighborhood;

15. Statement of income and financial resources, and a description of the applicant's capacity to manage finances;

16. A description of the type(s) of children the adoptive applicants can accept, including age range, racial or ethnic background, sex, sibling groups, and physical, social, emotional, or developmental disabilities in the child;

17. A description of any birth family background problems, such as medical or hereditary problems, incest, mental illness, or drug use; and

18. A description of the applicant's capacity to make viable child care arrangements while the applicant(s) is employed, if relevant.

(g) After the home study has been conducted, the social worker who conducted the study and the social work supervisor shall co-sign a letter to the adoptive parents or otherwise indicate in writing that the approval or rejection decision was made jointly.

1. The agency shall make the approval or rejection decision after carefully assessing all the information obtained during the home study.

2. The agency shall inform the applicant(s) of its decision in writing within 30 calendar days after the last contact with the applicant(s).

i. When an applicant is approved, the agency shall describe the type(s) of children who can best adjust to the family and to whom the family can best adjust. If the recommendation of the type(s) of child(ren) to be considered is different from the applicant's choice, the agency shall document in the adoptive family record the results of the discussion between the social worker and the applicant on this point.

ii. When an applicant is not accepted, the agency shall:

(1) Explain to the applicant the reason(s) that a child cannot be placed with the family;

(2) Offer the applicant at least one in-person contact to help the applicant adjust to the agency's decision; and

(3) Provide the applicant information, both verbally and in writing, of the agency's grievance procedure.

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(h) Upon receipt of a written request from adoptive applicants who have undergone a home study for an intercountry adoption, the agency shall forward to the applicants the home study within 30 calendar days of the request.

(i) For applicants who have been studied, approved and placed on a waiting list for longer than one year from the time their home study was approved, the agency shall update the home study before a child is placed into the home. The updated home study shall include:

1. One or more interviews with all members of the applicants' household; and
2. Medical reports within the past year for all members of the applicant's household.

(j) For applicants who are being considered for adoption of one or more additional children, the agency shall:

1. Update the home study as specified in (i)1 and 2 above.
2. Evaluate the adjustment status of the previously placed child(ren) with the family.

10:121A-5.7 Placement services

(a) The agency shall have responsibility for the selection of adoptive parents for a child.

1. The agency shall not place a child for adoption before documenting in the child's record the reason(s) for placing the child with the adoptive family.

2. The agency shall document in the child's record efforts to place siblings together in the same adoptive home; if a child is not to be placed together with siblings who are also legally free or who were adopted previously, the agency shall document in the child's record at the time of placement the reasons that co-placement was not in the child's interest or the factors that made co-placement unfeasible.

3. The agency shall give the adoptive parent(s) a written explanation of their rights and responsibilities regarding the child during the supervision period. Such information shall include, but not be limited to, areas of medical care, financial responsibilities, travel outside the state and any areas where the law requires the consent of a parent or guardian.

4. In instances where an agency that is not certified by the Bureau is involved with a Bureau-certified agency, both agencies shall share information and reach a mutual decision on each adoptive placement.

5. The agency shall not disqualify any adoptive parent(s) rejected for a particular child from being considered for the adoption of another child, unless basic conflicts about adoption and/or parenting style are revealed, or the adoptive parent(s) are unable to accept the children who are available for adoption through the agency.

(b) The agency shall provide the following information to adoptive parent(s):

[1.] A telephone number to contact in case of emergency;]

*[2.]***1.* A written history of the child, including developmental and medical history and reason(s) for surrendering the child. If the child has special needs, the agency shall provide the applicant(s) with an assessment of the child's long-term needs, along with written information about the availability of subsidy and a list of community resources that provide services to address the child's needs;

*[3.]***2.* An explanation that the adoptee may ultimately wish to seek information contained in the permanent record concerning his or her birth family and may in the future attempt to contact the birth family; and

*[4.]***3.* An explanation that the agency may contact the adoptive parent in the future to convey updated information about the adoptee's birth family.

(c) The agency shall comply with the following escort and/or transportation requirements:

1. An agency engaged in transporting children for adoption shall ensure that adoptive parents or other escorts who accompany children from a referring agency to their adoptive families are informed of the child's medical needs;

2. An agency that provides or arranges for escort transportation service for children as part of its adoption program shall ensure that no child is left unattended during any portion of the trip to the adoptive family, unless the agency documents in the child's record

that the child is physically and emotionally capable of traveling independently;

3. Persons providing children's escort services for an agency shall have a written statement from the agency describing their respective authority and responsibilities and shall carry proper identification, including their name and the agency's name while performing their duties.

i. The agency shall provide escorts with emergency information, names, telephone numbers and appropriate medical supplies and shall arrange for the safe and expeditious transfer of children to their adoptive parent(s) upon arrival.

ii. The agency shall require proof of identification by any person accepting temporary or permanent responsibility for the child's arrival; and

4. The agency shall document the escort and/or transportation plan in the child's record.

10:121A-5.8 Post-placement services

(a) For non-foster parent agency placements, the agency shall:

1. Visit the home within 14 calendar days of the adoptive placement and document in the child's record that:

i. The child's background information was reviewed with the adoptive parent(s);

ii. The adoptive parent(s) and child were given reassurance that their feelings, worries and joys are natural and understandable;

iii. School age children have an educational plan, pursuant to N.J.S.A. 30:4c-26(c) and N.J.S.A. 18A:7B-12(a); and

iv. Working parent(s) have made child care arrangements.

2. For children under five years of age, the agency shall:

i. Conduct bi-monthly home visits after the first visit until the adoption is finalized;

ii. Document in the child's record that all members of the adoptive family's household were interviewed during the placement supervision period; and

iii. Document in the child's record that the following issues were discussed:

(1) How the presence of the child changed marital and/or sibling relationships and how the child and extended family view each other;

(2) What role each family member has assumed regarding child care and discipline; and

(3) How parents cope with demands of a crying infant and/or a child who "tests" the placement and how the family reacts to these episodes including any feelings of insecurity about doing the "right" thing.

3. For children age five or older, the agency shall:

i. Conduct monthly visits during the minimum supervisory six-month period and then bi-monthly visits until the adoption is finalized;

ii. Document in the child's record that the child was interviewed privately about his feelings about the adoption at each supervisory visit; and

iii. Document that the following issues were discussed:

(1) How the presence of the child changed marital and/or sibling relationships and how the child and extended family view each other;

(2) What role each family member has assumed regarding child care and discipline;

(3) How the child "tests" the placement and how the family reacts to these episodes, including any feelings of insecurity about doing the "right" thing;

(4) How the family perceives the child's sense of identity and the need to fill in gaps in the child's history; and

(5) How the child has adjusted to the school environment.

(b) For foster parent adoptions, the agency shall conduct home visits at least every two months from the time legal consent for adoption has been signed until the finalization of adoption.

1. The agency shall interview a child five years of age or older privately to discuss the child's feelings about the adoption before the consent is signed and during each supervisory visit. The agency shall document these interviews in the child's record.

2. The agency shall document in the child's record that all members of the adoptive family's household were interviewed before the consent was signed.

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(c) An agency that provides services as part of an Adoption Complaint Investigation shall:

1. Conduct a home visit within two weeks of receiving notification from the court;
2. Conduct bi-monthly visits thereafter until the adoption is finalized;
3. Submit written reports as ordered by the court; and
4. Provide the adoptive parents with a copy of any report that contains material or recommendations adverse to the adoption.

(d) If a child is in an adoptive home for two or more years without the adoption being finalized, the agency shall document to the Bureau in writing the reason(s) that the adoption has not been finalized. Such information shall be provided no later than 30 calendar days after the two-year adoptive placement supervision period has ended.

(e) The agency shall remove the child only if his or her security and well-being are impaired or his or her needs are no longer served by the adoptive placement.

(f) The adoptive parents may request the removal of the child if they decide that they no longer want to adopt the child.

(g) The Division may remove a child where there is reason to believe that the child has been abused or neglected and that the continued placement with the adoptive family poses a serious or irreparable risk to the child pursuant to N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14.

(h) When a child is removed from an adoptive placement, the agency shall:

1. Place the child in another adoptive home or make other suitable living arrangements for the child;
2. Document how the child was assisted with separation;
3. Offer counseling consisting of at least two in-person contacts with the former adoptive parents; and
4. Offer supervision and/or consultation to the social worker responsible for the child removed from the adoptive home.

(i) The agency shall cooperate with the adoptive parents and/or the attorney, if any, retained by the adoptive parents to finalize the adoption.

1. The agency shall provide all information and documents needed to finalize the adoption pursuant to State Adoption Law (N.J.S.A. 9:3-37 et seq.) and shall file a written report to the court at least five calendar days before the hearing. This information shall include:

- i. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;
- ii. The name, age and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parents;
- iii. The certified agency or other source from which the adoptive parents received the child to be adopted;
- iv. The circumstances surrounding the surrender of the child to the agency;
- v. The results of the agency's evaluation of the child and of the adoptive parent(s), including a description of the care being received by the child and the adjustment of the child and parent(s) as members of a family, and a summary statement of the agency's recommendation to the court regarding finalization;
- vi. A full description of all property belonging to the child to be adopted;
- vii. The name by which the child to be adopted will be known; and
- viii. An itemized statement of any and all fees and costs paid by the adoptive parents to an approved agency in connection with the adoption. Such costs shall include but not be limited to expenses related to any of the following:

- (1) Birth of the child, including pre- and post-natal medical, hospital or foster care received by the mother or child;
- (2) Application and home study costs;
- (3) Pre-adoptive care of the child, whether in foster, group, residential or institutional care;
- (4) Costs related to the child's placement, including transportation and escort costs;
- (5) Costs related to post-placement supervision; and
- (6) Finalization costs and other associated legal expenses.

2. If the agency's report to the court contains any material findings or recommendations adverse to the adoptive parent(s), the agency shall serve a copy of the report to the adoptive parent(s) at least five working days before the hearing.

3. The agency shall solicit and consider the child's wishes concerning adoption.

4. The agency shall ensure that any child who is age 10 or older is present at the finalization hearing unless the child's presence is waived by the court.

10:121A-5.9 Post-adoption services

(a) After the child has been legally adopted, the agency shall provide the opportunity for the clients to return voluntarily to the agency for services relating to adoption only after verifying the identity of the person making the request.

(b) An agency shall provide the following post-adoption services:

1. Storing updated information provided by the birth parent(s), adoptee or adoptive parent(s) with the medical information form, as specified in N.J.A.C. 10:121A-3.6(d)6;
2. Providing non-identifying information to clients upon request;
3. Information about and referral to community resources, such as other counseling services, support groups, adoption registries, or sources of personal information that may be useful to adoptees, birth parents, or adoptive parents, or their relatives.

(c) An agency may counsel members of the birth family, adoptive family, or minor and adult adoptees in the following situations:

1. When there is continued interest in background information about any other party involved in the adoption; or
2. When any party involved in the adoption is having difficulty in personal and/or social adjustment to the extent that it is related to the adoption.

DIVISION OF YOUTH AND FAMILY SERVICES

(a)

Manual of Standards for Children's Shelter Facilities and Homes

Adopted New Rules: N.J.A.C. 10:124

Proposed: August 3, 1987 at 19 N.J.R. 1394(a).

Adopted: November 2, 1987 by Drew Altman, Ph.D.,

Commissioner, Department of Human Services.

Filed: November 5, 1987 as R.1987 d.504, **without change.**

Authority: N.J.S.A. 30:1-14 and 15, 30:4C-4; 2A:4A-37 and 2A:4A-20 et seq.

Effective Date: December 7, 1987.

Expiration Date: December 7, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the expired rules adopted as new appears in the New Jersey Administrative Code at N.J.A.C. 10:124.

Full text of the adopted amendments to the expired rules follows:

CHAPTER 124

MANUAL OF STANDARDS FOR CHILDREN'S SHELTER FACILITIES AND HOMES

SUBCHAPTER 1. GENERAL PROVISIONS

10:124-1.1 Legal authority

(a) This chapter is promulgated pursuant to N.J.S.A. 30:1-14 and 15, N.J.S.A. 30:4C-4 and N.J.S.A. 2A:4A-37; 2A:4A-20 et seq.

(b) (No change.)

(c) Under N.J.S.A. 2A:4A-20 et seq. the Department of Human Services is mandated to inspect, evaluate and "specify" (approve) shelter facilities and/or homes that:

1. Are operated either directly or indirectly by a county government agency; and

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2. Provide board, lodging or care primarily for children in juvenile—family crisis as defined by State law, who are awaiting court disposition or post-disposition action.

(d) (No change.)

(e) Responsibility for insuring that such shelter facilities and/or homes comply with the provisions of the statutes cited in (a) above and of this chapter is hereby delegated by the Department of Human Services to the Bureau of Licensing of the Division of Youth and Family Services.

(f)-(g) (No changes.)

10:124-1.2 Definitions

The following words and terms, when used in this chapter, have the following meanings:

...
 "Children's shelter facility" or "shelter facility" or "juvenile—family in crisis shelter" means any public or private facility that provides 24-hour-a-day residential care to six or more children in a non-physically restrictive environment for a period of time usually not exceeding 30 days.

...
 "Children's shelter home" or "shelter home" or "juvenile—family in crisis home" means any public or private residence that provides 24-hour-a-day residential care to five or fewer children in a non-physically restricted environment for a period of time usually not exceeding 30 days. Shelter homes shall not include the Division of Youth and Family Services emergency foster shelter homes.

...
 "Juvenile—family crisis" means behavior, conduct or a condition of a juvenile, parent or guardian or other family member which presents or results in:

1. A serious threat to the well-being and physical safety of a juvenile, or
2. A serious conflict between a parent or guardian and a juvenile regarding rules of conduct which has been manifested by repeated disregard for lawful parental authority by a juvenile or misuse of lawful parental authority by a parent or guardian, or
3. Unauthorized absence by a juvenile for more than 24 hours from his home, or
4. A pattern of repeated unauthorized absences from school by a juvenile subject to the compulsory education provision of Title 18A of the New Jersey Statutes.

10:124-1.3 Population served by shelter facilities and homes

- (a) A shelter facility or home provides care for children who are:
- 1-5. (No change.)
 6. Runaways or otherwise in need of temporary care; and/or
 7. Charged as a juvenile delinquent, pursuant to State law, and who would not be a threat to the physical, social or emotional well-being of the other children at the shelter facility or home.

10:124-1.4 Capacity and location of shelter facilities and homes

- (a) Capacity:
1. Shelter facility: A facility which provides care for a minimum of six and a maximum of 25 children. However, a shelter facility established after September 1, 1982 shall not exceed a maximum capacity of 12 children, unless approved by the Division.
 2. Shelter home: A home which provides care for a maximum of five children, including the shelter home parent's children.
 3. The Bureau may restrict new admissions to a shelter facility or home upon a determination that the shelter facility or home is regularly over the maximum number of children that the facility or home has been approved by the Bureau to serve.

(b) (No change.)

10:124-1.5 Approval requirements

- (a) (No change.)
- (b) The Bureau shall conduct an annual on-site physical facility and a biennial comprehensive programmatic inspection of a shelter facility and a biennial comprehensive programmatic inspection of a shelter home to determine compliance with this chapter.
- (c)-(f) (No change.)

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(g) A letter of temporary approval may be issued for a period not to exceed six months. The Bureau may issue as many temporary approvals as it deems necessary; however, a shelter facility or home shall not operate pursuant to temporary approvals for more than 12 months.

(h) Each approval period, which may include the issuance of one or more letters of temporary approval and/or one letter of approval, shall be two years.

1. In determining the expiration date of the first letter of approval, the Bureau shall compute the two year period from the date of issuance of the first letter of approval or temporary approval.

2. In determining the expiration date of a renewed approval, the Bureau shall compute the two-year approval period from the date on which the shelter facility's or home's previous letter of approval expired.

(i) The letter of approval or temporary approval shall be kept on file at the shelter facility or at the offices of the shelter home coordinator.

(j) An authorized representative of the Bureau may at any time make an announced or unannounced visit and inspect the shelter facility or home and/or review files, reports or records to determine its compliance with this chapter and/or to investigate a complaint.

(k) A shelter facility or home's approval may be denied or revoked for any activity, policy or conduct that presents a serious or imminent hazard to the health, safety and well-being of a child or that otherwise demonstrates unfitness or inability to operate shelter facility or home.

(a)

**Adoption Assistance and Child Welfare Act of 1980
 Adopted New Rules: N.J.A.C. 10:131**

Proposed: July 20, 1987 at 19 N.J.R. 1285(a).
 Adopted: November 2, 1987 by Drew Altman, Ph.D.,
 Commissioner, Department of Human Services.
 Filed: November 5, 1987 as R.1987 d.503, **without change**.
 Authority: N.J.S.A. 30:4C-4 and 30:1-12.
 Effective Date: December 7, 1987.
 Expiration Date: December 7, 1992.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the expired rules, adopted as new, appears in the New Jersey Administrative Code at N.J.A.C. 10:131.

Full text of the amendments to the expired rules follows:

CHAPTER 131
 ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF
 1980 REQUIREMENTS
 SUBCHAPTER 1. TITLE IV-B STATE PLAN: CHILD
 WELFARE SERVICES

10:131-1.1 State Child Welfare Services Plan
 New Jersey develops an annual State Child Welfare Services Plan. Copies of the State Child Welfare Services Plan may be obtained from:

Division of Youth and Family Services
 Office of Policy, Planning and Support
 One South Montgomery Street
 CN 717
 Trenton, New Jersey 08625

SUBCHAPTER 2. GOALS FOR CHILDREN REMAINING IN
 FOSTER CARE IN EXCESS OF 24
 MONTHS

10:131-2.1 State child welfare services permanency planning
 The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) mandates that specific goals be established by State law before October 1st for each fiscal year as to the maximum number

CORRECTIONS

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of Title IV-E eligible children who will remain in foster care for more than 24 months. This requirement is consistent with the intent of the legislation to improve services provided to children and their families, therefore reducing the number of children removed from their families and increasing the number of children returned to their families from out-of-home placement. This requirement is also consistent with the goal of the Division of Youth and Family Services, under N.J.S.A. 30:4C-1 et seq., to provide all children with permanency planning, therefore minimizing the number of children in temporary out-of-home placement.

10:131-2.2 State child welfare services goals

New Jersey has established that no more than 2,150 Title IV-E eligible children will remain in foster care for more than 24 months during Federal fiscal year 1983 and thereafter. The Division of Youth and Family Services will make every effort within available resources to ensure that services are provided to maintain children in their own homes and to reunify children in out-of-home placement with their families as quickly as possible.

CORRECTIONS

(a)

THE COMMISSIONER

Security and Control

Use of Personal Firearms and Use of Force While Off Duty

Adopted Amendment: N.J.A.C. 10A:3-4.1

Proposed: September 21, 1987, at 19 N.J.R. 1717(a).

Adopted: November 12, 1987 by William H. Fauver,

Commissioner, Department of Corrections.

Filed: November 12, 1987 as R.1987 d.515, **without change.**

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: December 7, 1987.

Expiration Date: October 6, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

10A:3-4.1 Who may carry firearms while off-duty

(a) (No change.)

(b) Persons with the following Department of Corrections titles may be sworn as peace officers:

Commissioner

Deputy Commissioner

Assistant Commissioner—Division of Adult Institutions

Administrator (Superintendent)—State Prison, Trenton

Associate Administrator (Assistant Superintendent)—State Prison, Trenton

Assistant to the Superintendent—State Prison, Trenton

Administrator (Superintendent)—State Prison, Rahway

Associate Administrator (Assistant Superintendent)—State Prison, Rahway

Assistant to the Superintendent—State Prison, Rahway

Administrator (Superintendent)—State Prison, Leesburg

Associate Administrator (Assistant Superintendent)—State Prison, Leesburg

Assistant to the Superintendent—State Prison, Leesburg

Superintendent—Mid-State Correctional Facility

Assistant Superintendent—Mid-State Correctional Facility

Assistant to the Superintendent—Mid-State Correctional Facility

Superintendent—Correctional Institution for Women, Clinton

Assistant Superintendent—Correctional Institution for Women, Clinton

Assistant to the Superintendent—Correctional Institution for Women, Clinton

Superintendent—State Prison, Riverfront

Assistant Superintendent—State Prison, Riverfront
Administrator (Superintendent)—Youth Reception and Correction Center, Yardville

Associate Administrator (Assistant Superintendent)—Youth Reception and Correction Center, Yardville

Assistant to the Superintendent—Youth Reception and Correction Center, Yardville

Superintendent—Youth Correctional Institution, Bordentown

Assistant Superintendent—Youth Correctional Institution, Bordentown

Assistant to the Superintendent—Youth Correctional Institution, Bordentown

Superintendent—Youth Correctional Institution, Annandale

Assistant Superintendent—Youth Correctional Institution, Annandale

Assistant to the Superintendent—Youth Correctional Institution, Annandale

Superintendent—Adult Diagnostic and Treatment Center

Assistant Superintendent—Adult Diagnostic and Treatment Center

Assistant to the Superintendent—Adult Diagnostic and Treatment Center

Superintendent—Southern State Correctional Facility

Assistant Superintendent—Southern State Correctional Facility

Assistant to the Superintendent—Southern State Correctional Facility

Superintendent—Northern State Prison

Assistant Superintendent—Northern State Prison

Superintendent—Juvenile Medium Security Unit

Assistant Superintendent—Juvenile Medium Security Unit

Superintendent—Newark House

Assistant Superintendent—Newark House

Superintendent—Essex Community Service Center

Assistant Superintendent—Essex Community Service Center

Director—Vroom Readjustment Unit

Director of Custody Operations I

Director of Custody Operations II

Director of Custody Operations III

Correction Captain

Correction Lieutenant

Correction Sergeant

Senior Correction Officer

Chief Investigator

Assistant Chief Investigator

Principal Investigator

Senior Investigator

Investigator

Interstate Transportation Officers—Office of Interstate Services

(c) (No change.)

INSURANCE

(b)

DIVISION OF ACTUARIAL SERVICES

Property and Liability

Commercial Lines Insurance

Readoption: N.J.A.C. 11:13

Proposed: October 5, 1987 at 19 N.J.R. 1783(a).

Adopted: November 9, 1987 by Kenneth D. Merin,

Commissioner, Department of Insurance.

Filed: November 12, 1987 as R.1987 d.512, **without change.**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and 17:29AA-1 et seq.

Effective Date: November 12, 1987.

Expiration Date: November 12, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

ADOPTIONS

TREASURY-GENERAL

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 11:13.

TRANSPORTATION

(a)

CONTRACT ADMINISTRATION

Classification of Contractors

Definition: Pre-Qualification Committee

Adopted Amendment: N.J.A.C. 16:44-1.1

Proposed: September 8, 1987 at 19 N.J.R. 1634(a).
 Adopted: October 9, 1987 by Jack Freidenrich, Assistant Commissioner for Engineering & Operations (State Highway Engineer).
 Filed: November 4, 1987 as R. 1987 d.499, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1, 14A:1-1 et seq. and 14:15-2.
 Effective Date: December 7, 1987.
 Expiration Date: October 3, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

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:

1. Assistant Commissioner for Engineering and Operations, (State Highway Engineer), Chairman;
2. Deputy Attorney General, non-voting member;
3. Assistant Commissioner for Finance and Administration;
4. Chief Engineer, Construction and Maintenance;
5. Chief, Bureau of Contract Administration; and
6. Director, Office of Contract Compliance, Civil Rights.

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

**State Health Benefits Program
 Retired Employee Defined**

Adopted Amendment: N.J.A.C. 17:9-6.1

Proposed: September 8, 1987 at 19 N.J.R. 1636(b).
 Adopted: October 26, 1987 by Taius Mount, Acting Secretary, State Health Benefits Commission.
 Filed: November 2, 1987 as R.1987 d.497, **without change**.
 Authority: N.J.S.A. 52:14-17.27.
 Effective Date: December 7, 1987.
 Expiration Date: June 6, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

17:9-6.1 Retired employee defined

(a) "Retired employee" 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 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.)

DIVISION OF PENSIONS

(c)

**Public Employees' Retirement System
 Contributory Insurance Rate**

Adopted Amendment: N.J.A.C. 17:2-3.3

Proposed: September 8, 1987, at 19 N.J.R. 1636(a).
 Adopted: November 6, 1987, by Janice Nelson, Secretary, the Board of Trustees, Public Employees' Retirement System.
 Filed: November 12, 1987 as R.1987 d.510, **without change**.
 Authority: N.J.S.A. 43:15A-17.
 Effective Date: December 7, 1987.
 Expiration Date: December 17, 1989.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

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 January 1, 1988.

(d)

**Public Employees' Retirement System
 Loan Tolerances**

Adopted Repeal and New Rule: N.J.A.C. 17:2-4.4

Proposed: January 20, 1987, at 19 N.J.R. 194(a).
 Adopted: November 6, 1987, by Janice Nelson, Secretary, the Board of Trustees, Public Employees' Retirement System.
 Filed: November 12, 1987 as R.1987 d.511, **without change**.
 Authority: N.J.S.A. 43:15A-17.
 Effective Date: December 7, 1987.
 Expiration Date: December 17, 1989.

Summary of Public Comments and Agency Responses:
No comments received.

TREASURY-TAXATION

ADOPTIONS

Full text of the adoption follows.

17:2-4.4 Loan tolerance

Interest will be calculated on a periodic basis on the unpaid loan balance. If scheduled payments are not paid timely, interest will be accrued and added to the remaining outstanding loan balance. If, at the end of the loan schedule, there is a balance of less than \$10.00, it will be written off. If the balance is equal to or greater than \$10.00, the member will be assessed.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Local Property Tax

Farmland Assessment Act; Woodland

Adopted New Rules: N.J.A.C. 18:15-2.7, 2.8, 2.9, 2.10, 2.11, 2.12, 2.13 and 2.14

Adopted Amendments: N.J.A.C. 18:15-1.1

Proposed: August 17, 1987 at 19 N.J.R. 1538(a) (see also September 8, 1987 Register at 19 N.J.R. 1640(b)).

Adopted: November 9, 1987 by Joseph C. Small, Acting Director, Division of Taxation.

Filed: November 9, 1987 as R.1987 d.507, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 54:4-23.21.

Effective Date: December 7, 1987.

Operative Date: January 1, 1988.

Expiration Date: August 12, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

N.J.A.C. 18:15-2.10(a)5.vii is added as a seventh factor in setting forth criteria for a woodland management plan. This factor should demonstrate the stocking levels, growth rates and volumes.

The operative date is January 1, 1988 for the 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. Under this operative date, the amended and new rules will not be effective for applications filed for 1987 for valuation, assessment and taxation of land under the Farmland Assessment Act of 1964 during the 1988 tax year. The proposed amendment and new rules shall take effect with applications filed for farmland assessment during 1988 for the 1989 tax year.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposals indicated in brackets with asterisks *[thus]*).

18:15-1.1 Words and phrases defined

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

"Agricultural use" means land which is devoted to the production for sale of plants and animals useful to man, including but not limited to:

1.-7. (No change.)

8. Trees and forest products (see N.J.A.C. 18:15-2.7 for additional conditions); and

9. (No change.)

"Approved forester" means a forester meeting standards and qualifications established by the New Jersey Department of Environmental Protection pursuant to N.J.S.A. 13:1L-1 et seq. and rules issued thereunder.

"Appurtenant woodland" means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale

of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

"Beneficial to a tract of land" means land which enhances the use of other land devoted to agricultural or horticultural production by providing benefits such as, but not limited to, windbreaks, watershed, buffers, soil erosion control, or other recognizable enhancements of the viability of the qualifying land.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection or his representative.

"Supportive and subordinate woodland" means a wooded piece of property which is beneficial to or reasonably required for the purpose of maintaining the agricultural or horticultural uses of a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than to the production for sale of trees and forest products, exclusive of Christmas trees.

"Woodland data form" means a supplemental form required to be filed with the assessor and the commissioner by an owner of woodland as set forth in N.J.A.C. 18:15-2.7.

"Woodland management plan" means a plan prepared in accordance with criteria set forth in N.J.A.C. *[18:15-2.9]* *18:15-2.10* and which is required to be filed with the assessor and the commissioner by an owner of woodland as set forth in N.J.A.C. 18:15-2.7.

18:15-2.7 Additional conditions to be fulfilled by an owner of woodland which is devoted exclusively to the production for sale of trees and forest products other than Christmas trees or the owner of woodland which is not supportive and subordinate woodland

(a) The owner of land which is devoted exclusively to the production for sale of trees and forest products other than Christmas trees or the owner of woodland which is not supportive and subordinate woodland shall annually submit to the assessor, in addition to a completed and timely filed application for farmland assessment (Form FA-1), the following accompanying information:

1. A copy of a woodland management plan prepared in accordance with provisions noted under N.J.A.C. 18:15-2.10;

2. A scaled map of the land showing the location of woodland activity and the soil group classes of the land; and

3. A completed woodland data form (Form WD-1), as prescribed by the Director of the Division of Taxation. The information to be provided by the landowner on such form shall include the following:

i. A description of all woodland management actions taken in the pre-tax year;

ii. A statement as to the type and quantity of tree and forest products sold;

iii. An indication of the amount of income received or anticipated from the sale of trees and forest products; and

iv. A certification in lieu of an oath signed by both the landowner and an approved forester stating that the land is actively devoted to a woodland use which is in compliance with the filed woodland management plan.

(b) If the documents set forth in (a) above are not submitted annually to the assessor, such land shall be deemed not to be in agricultural use.

18:15-2.8 Supportive and subordinate woodland presumption

(a) A wooded piece of property as described in the definition of supportive and subordinate woodland in N.J.A.C. 18:15-1.1 shall be presumed to be supportive and subordinate woodland when its area is less than the area of the farmland property qualifying for agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees.

(b) An owner claiming farmland assessment for a wooded piece of property exceeding the amount set forth in (a) above as presumed to be supportive and subordinate woodland shall submit an explanation and additional proofs the assessor may require to support the claim that such woodland is supportive and subordinate.

18:15-2.9 Filing of copies with commissioner

A woodland owner subject to the additional conditions set forth in N.J.A.C. 18:15-2.7 shall, at the time of filing an application for farmland assessment with the assessor, also submit copies of the application and accompanying information to the commissioner.

18:15-2.10 Criteria of a woodland management plan

(a) An owner of land subject to the additional conditions as set forth in N.J.A.C. 18:15-2.7 shall submit a woodland management plan prepared in accordance with the following criteria:

1. A cover page for the plan shall be prepared delineating the following:

- i. The owner's name and mailing address;
- ii. The municipality and county where the subject woodland is located;
- iii. The block(s) and lot(s) of the subject woodland;
- iv. The amount of acreage of the subject woodland;
- v. The name and address of the approved forester who prepared the plan, if not prepared by the owner; and
- vi. The date the plan was prepared and the period of time the plan covers.

2. A clear and concise statement of the owner's objectives in managing the woodland.

3. A description of how the property boundaries are or will be marked and delineated.

4. A brief description of past activities that have had an effect on the woodland including, but not limited to, wildfire, insect and disease outbreaks, timber sales, plantings, thinnings and weedings.

5. A statement describing each defined forest stand in some combination of the following factors:

- i. The number of acres;
- ii. The species composition including overstory and understory;
- iii. The general condition and quality;
- iv. The structure including age classes, DBH classes, and crown classes;
- v. The overall site quality; and
- vi. The condition and species composition of advanced regeneration when applicable*[*]**; and*

vii. The stocking levels, growth rates and volumes.

6. A description of the silvicultural prescriptions, management recommendations, activities and practices specified and planned for each forest stand, and an explanation of how these sequences of treatment are integrated into the overall coordinated plan and time frame to meet the stated management objectives. Such management recommendations and practices shall be prepared for a period of time not less than 10 years.

7. A statement of average overall productivity capabilities of the woodland.

8. A map of the property shall be prepared to include, but not necessarily be limited to the following:

- i. The owner's name, address, and the date the map was prepared;
- ii. An arrow designating the north direction;
- iii. A scale not smaller than 1:1320 nor larger than 1:400;
- iv. A legend defining the symbols appearing on the map;
- v. The location of property lines;
- vi. An identification of forest stands which are keyed to written prescriptions;
- vii. A delineation of physical features such as roads, streams, structures, etc.;
- viii. An identification of soil types (A separate map can be used for this purpose); and

ix. A brief description or a map inset of the land for the purpose of identifying the location of the property in relation to the local area.

18:15-2.11 Acknowledgment of receipt

(a) The commissioner, upon receipt of the application and accompanying information, shall acknowledge such receipt to both the applicant and the assessor on or before September 15 of the pre-tax year.

(b) The acknowledgment by the commissioner shall also indicate whether the application is sufficient or whether additional information must be submitted by the applicant.

(c) If additional information is requested, the applicant shall submit such information to the commissioner and the assessor within 14 days of the commissioner's request.

18:15-2.12 Notice of compliance or noncompliance by the commissioner

(a) On or before October 31 of the pre-tax year, the commissioner shall notify the assessor in writing of the results of his review stating whether the reporting requirements of N.J.A.C. 18:15-2.7 have been satisfied by the applicant.

(b) If the commissioner determines the applicant has not satisfied such requirements, he shall indicate the reasons for his finding of noncompliance.

(c) The assessor shall disapprove the application determined to be in noncompliance and transmit a notice of disallowance of claim to the landowner as provided under N.J.A.C. 18:15-3.6.

(d) If the commissioner determines the applicant has satisfied such requirements, he shall indicate the date of the last inspection of the land as prescribed under N.J.A.C. 18:15-2.13.

(e) The assessor, after receipt of a notice of compliance, shall approve or disapprove the application in accordance with his determination as to whether the property is otherwise qualified for farmland assessment.

(f) In the event that the commissioner does not give timely notice to the assessor of his findings of compliance or noncompliance, the assessor may approve or disapprove the application as in the case of other applications not subject to the additional conditions as noted under N.J.A.C. 18:15-2.7.

18:15-2.13 On-site inspections required to be made by the commissioner

(a) The commissioner, in addition to reviewing each application, shall make an on-site inspection of the property to determine whether the land is in compliance with the filed woodland management plan.

(b) Such on-site inspection shall be made during one of the first three years following the initial application and submission of accompanying information required by an owner of woodland as set forth in N.J.A.C. 18:15-2.7, and thereafter at least once every three years.

(c) In the event the commissioner determines the woodland is not in compliance, he shall transmit a notice of noncompliance to the assessor within five days stating the reasons for noncompliance.

18:15-2.14 Land failing to meet conditions set forth in N.J.A.C. 18:15-2.7

Land which fails to meet the additional conditions set forth in N.J.A.C. 18:15-2.7 during the first year in which the conditions are imposed, shall not be subject to roll-back taxes for such failure, but shall be treated as land for which an annual application was not submitted.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

DIVISION OF WATER RESOURCES

(a)

Amendment to the Atlantic County Water Quality Management Plan

Public Notice

Take notice that on October 9, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Rules (N.J.A.C. 7:15-3.4), an amendment to the Atlantic County Water Quality Management Plan was adopted by the Department. This amendment is to include the Farley Service Plaza into the Atlantic County Utilities Authority's (ACUA) sewer service area. The Expressway Authority will construct a pump station and force main to convey sanitary sewage from Farley Service Plaza to the ACUA's City Island Sewage Treatment Plant for treatment and disposal.

(b)

Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Public Notice

Take notice that on August 17, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Rules (N.J.A.C. 7:15-3.4), an amendment to the Lower Raritan/Middlesex County Water Quality Management Plan was adopted by the Department. This amendment will expand the sewer service area of the Monroe Township Municipal Utilities Authority to include the Country Estates development located in Monroe Township.

(c)

Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Public Notice

Take notice that on August 5, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Rules (N.J.A.C. 7:15-3.4), an amendment to the Lower Raritan/Middlesex County Water Quality Management Plan was adopted by the Department. This amendment will expand the sewer service area of the Linpro Utilities Company so that it may serve the Linpro Townhouses, Section 3 located in Plainsboro Township.

(d)

Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Public Notice

Take notice that on July 30, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Rules (N.J.A.C. 7:15-3.4), an amendment to the Lower Raritan/Middlesex County Water Quality Management Plan was adopted by the Department. This amendment will expand the sewer service area of the Linpro Utilities Company so that it may serve the Linpro Townhouses, Sections 5 and 6 located in Plainsboro Township.

(e)

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that on October 9, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Rules (N.J.A.C. 7:15-3.4), an amendment to the Tri-County Water Quality Management Plan was adopted by the Department. This amendment is to adopt a Wastewater Management Plan (WMP) for Mt. Laurel Township, Burlington County. The WMP will allow the expansion of the sewer service area for the Mount Laurel Township MUA to include the proposed Holiday Village East development. The project will not encroach on wetlands. The wetlands will be identified as a conservation easement on project plans.

(f)

DIVISION OF ENVIRONMENTAL QUALITY Reporting Requirements for SARA, Title III, Section 311

Public Notice

Take notice that, pursuant to Section 311 of the Federal Superfund Amendments and Reauthorization Act of 1986 (SARA), signed into law by President Reagan on October 17, 1986, facilities currently subject to the OSHA Hazard Communication Standard (SIC Codes 20-39) were required to submit material safety data sheets or inventory lists to the State Emergency Response Commission (SERC), their local emergency planning committee (LEPC), and their local fire department on or before October 17, 1987. These submissions will serve as an initial planning tool to determine the scope of hazardous substances that are present in New Jersey.

The N.J. State Emergency Response Commission, established February 13, 1987, pursuant to SARA requirements, has delegated the implementation of the Title III, Subtitle B reporting requirements to the New Jersey Department of Environmental Protection. The State encourages those affected facilities which have not yet submitted the required materials to submit inventory lists instead of individual material safety data sheets, because list reporting will reduce the information management burden on recipients of the information. The inventory lists will be more useful and affected facilities will only have to supply material safety data sheets upon specific request from the local committees or the SERC. Further, preparing an inventory list for Section 311 will facilitate the reporting requirements that will soon have to be met under Section 312. Also, under Section 303(d), the local emergency planning committee may require submission of such a list where necessary for developing and implementing an emergency plan.

The Department recommends that covered facilities review their Emergency Services Information Survey and their Environmental Survey—Part I, developed pursuant to the New Jersey Worker and Community Right to Know Act (N.J.S.A. 34:5A-1 et seq.), as a first step in preparing the inventory list.

The inventory list should be organized as follows:

SUBSTANCE NAME	CAS NUMBER	HAZARD CATEGORY(IES)*
(listed alphabetically)	(if applicable)	(all that apply)

*The U.S. Environmental Protection Agency (USEPA) has established five Hazard Categories, three physical and two health. They are: 1) Fire, 2) Sudden Release of Pressure, 3) Reactivity, 4) Immediate (acute), and 5) Delayed (chronic). The final USEPA rule was published in the Federal Register, on October 15, 1987, at 52 FR 38344.

A facility may meet the reporting requirements for mixtures by either listing each hazardous component in the mixture or including the mixture itself on the list.

In its final rule, the USEPA established a 1987 reporting threshold of 10,000 pounds for all substances and materials covered by the OSHA Hazard Communication Standard, with the exception of all the

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substances on the Extremely Hazardous Substance List (40 CFR 355, Appendices A & B; published in the Federal Register, on April 22, 1987, at 52 FR 13378) which will have a lower reporting threshold of 500 pounds (55 gallons) or the threshold planning quantity, whichever is less (see the October 15, 1987 Federal Register, at 52 FR 38365).

Facilities subject to the provisions of Section 311 should send their inventory lists to each of the following:

1. New Jersey Department of Environmental Protection
Division of Environmental Quality
Bureau of Hazardous Substance Information
ATTN: SARA, Section 311
CN 405
Trenton, New Jersey 08625;
2. Local Emergency Planning Committee
(If a facility doesn't know who their
LEPC coordinator is, contact:
Sergeant Thomas Davies
New Jersey State Police
Office of Emergency Management
609/882-2000 ext 2858); and
3. Local fire department

Any questions regarding this notice or compliance with Section 311 requirements should be directed to NJDEP, Bureau of Hazardous Substance Information, at 609/292-6714, or directly to the U.S. Environmental Protection Agency, at 1-800/535-0202. Additional information about SARA, Title III requirements will be included in future editions of the New Jersey Register.

This public notice corrects and amends a notice which appeared under Miscellaneous Notices in the New Jersey Register, Monday, September 21, 1987 (19 N.J.R. 1747(e)).

(a)

DIVISION OF WATER RESOURCES

Adoption of Statewide Sludge Management Plan

Take notice that the Department of Environmental Protection is adopting a Statewide Sludge Management Plan (Plan). Notice of the Draft Statewide Sludge Management Plan was published in the November 3, 1986 New Jersey Register at 18 N.J.R. 2217(b). Three public hearings on the proposed Plan were held on December 16, 17, and 18, 1986 at which approximately 100 people testified. Approximately 250 written comments were received by the Department by the close of the comment period on April 27, 1987. The Department has prepared a formal Response to Comment Document which considers both oral and written public comments.

This notice is being given to inform the public that the Department has prepared a final Statewide Sludge Management Plan. All information dealing with the aforesaid Plan and the formal Response to Comment Document is located at the office of the New Jersey Department of Environmental Protection, Division of Water Resources, Residuals Management Section, 401 East State Street, Trenton, New Jersey. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. Copies of the Plan and the formal Response to Comment Document are also available for inspection at selected State document depositories and the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey, and may be obtained by contacting the Residuals Management Section at (609) 984-4429.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF MOTOR VEHICLES

Notice of Application for Contract Carrier Permit

Take notice that Glenn R. Paulsen, Director, Division of Motor Vehicles, pursuant to the authority of N.J.S.A. 39:5E-11, hereby lists the name and address of an applicant who has filed an application for a Contract Carrier Permit.

CONTRACT CARRIER (NON-GRANDFATHER)

Bill Dice, Inc.
14 Maple Avenue
Farmingdale, NJ 07727

Protests in writing and verified under oath may be presented by interested parties to the Director, Division of Motor Vehicles, 25 South Montgomery St., Trenton, New Jersey 08666, within 20 days (December 27, 1987) following the publication date of an application.

TRANSPORTATION

(c)

THE COMMISSIONER

Department Policy Prohibiting Sexual Harassment
on NJDOT Construction Projects

Public Notice

Take notice that Hazel Frank Gluck, Commissioner, Department of Transportation, under the provisions of N.J.S.A. 27:1A-5, has adopted the policy whereby the New Jersey Department of Transportation (NJDOT) shall enforce contractual provisions which shall be added to NJDOT contracts for work specified below, which prohibit sexual harassment on construction sites by employees of contractors performing construction, reconstruction, or rehabilitation of roads and bridges in accordance with the current applicable edition of the NJDOT "Standard Specifications for Road and Bridge Construction," and for which a NJDOT Resident Engineer is assigned.

All interested persons are hereby advised that they shall be required to comply with all applicable provisions of the policy as shall be set forth in the contracts, in addition to complying with applicable provisions of State and Federal laws concerning sexual harassment.

Copies of the policy may be obtained by contacting:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

Full text of the policy follows:

NEW JERSEY DEPARTMENT OF TRANSPORTATION
POLICY
SEXUAL HARASSMENT ON
NJDOT CONSTRUCTION PROJECTS

I. PURPOSE

To state the policy whereby NJDOT shall enforce contractual provisions which prohibit sexual harassment on construction sites by employees of contractors performing construction, reconstruction, or rehabilitation of roads and bridges in accordance with the current applicable edition of the NJDOT "Standard Specifications for Road and Bridge Construction" and for which a NJDOT Resident Engineer is assigned.

II. AUTHORITY

- A. N.J.S.A. 27:1A-5.
- B. N.J.S.A. 10:1, 10:2.
- C. Equal Employment Opportunity Commissioner Guidelines on Sexual Harassment.
- D. Title VII of the Civil Rights Act of 1964.
- E. 23 CFR section 230.401 et seq.
- F. 23 U.S.C. section 140(a).
- G. Executive Order 11246.

III. DEFINITIONS

- A. **Contractor**—means an organization, individual, partnership, firm, or corporation contracting with the Department for performance of construction work.
- B. **Complainant**—means any contractor's employee who alleges and/or files a complaint of sexual harassment with NJDOT.

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- C. **Complaint**—means the current NJDOT Sexual Harassment Complaint form.
- D. **Resident Engineer**—means a field representative of NJDOT having a direct supervision of the administration of the contract.
- E. **Respondent**—means an individual against whom a complaint or allegation of sexual harassment has been filed.
- F. **Sexual Harassment**—means any unwelcome sexual advances, requests for sexual favors, including repeated offensive sexual flirtation, propositions, continual or repeated abuse of a sexual nature, verbal or written sexually related comments about an individual's body, display of sexually suggestive objects or pictures, or any uninvited physical contact or touching, such as patting, pinching, or constant brushing against another's body. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature also constitute sexual harassment when:
 - a. submission to such conduct is made either explicitly or implicitly a term or condition of employment;
 - b. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
 - c. such conduct has the purpose or effect of unreasonably and substantially interfering with the work performance of the individual, or creating an intimidating, hostile, or offensive working environment.

IV. POLICY STATEMENT

It is the policy of the NJDOT that it shall enforce to the maximum extent possible the provisions contained in all Department construction project contracts which provide that all contractors' employees have a right to work in an environment free from sexual harassment. The NJDOT prohibits any and all forms of sexual harassment in the work place or on the job site.

No contractor, supervisor or employee shall threaten or insinuate either explicitly or implicitly that any employee's submission to or rejection of sexual advances will have any effect on that person's employment, job assignment, training, evaluation, promotion, wages or any other term or condition of employment or future job opportunity. Contractors are responsible for ensuring and maintaining a work environment which is free from sexual harassment.

Any contractor whose employee sexually harasses another employee shall be subject to disciplinary action. Contractors who fail to adequately and expeditiously investigate sexual harassment claims at the request of the NJDOT may be subject to enforcement proceedings and such sanctions as are authorized by law. Contractors are required to provide detailed written reports to NJDOT when so requested which shall describe the investigation and corrective actions taken by contractors in all instances of sexual harassment allegations. Contractors shall also be responsible for ensuring, to the maximum extent possible, that no retaliation, reprisal, or intimidation be directed against any complainant or other employee who provides information to any person or agency investigating an allegation or complaint of sexual harassment.

When investigating or otherwise handling sexual harassment complaints, the NJDOT will fully protect the privacy interests of all parties involved. Confidential information given to investigators will be respected as such.

TREASURY-GENERAL

(a)

DIVISION OF BUILDING AND CONSTRUCTION

Architect-Engineer Selection

Notice of Assignments—Month of October

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 November 9, 1987.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
T201	Reroofing of Building #1 DOT Thiokol Complex Trenton, NJ	Herbert Cannon & Associates	\$23,500
S002	Testing/Inspection Services Weights & Measures Facility Woodbridge, NJ	United States Testing Co., Inc.	\$10,200 Services
P505	Testing/Inspection Services D & R Canal Pedestrian Bridge/Millstone Aqueduct Bogans Meadow & Cadwalder Park	United States Testing Co., Inc.	\$3,000 Services
M421	Feasibility Study Forensic Facility Trenton Psychiatric Hospital Trenton, NJ	Cannon Partnership	\$25,293 Services
H780	Testing/Inspection Services New Exterior Lighting William Paterson College Wayne, NJ	Shimel & Sor Testing Labs, Inc.	\$3,500 Services
P519	Testing/Inspection Services Reconstruction Rt. 29 Retaining Wall Mercer County, NJ	United States Testing Co., Inc.	\$2,000 Services
M672-01	Testing Services Monitoring Well Testing Trenton Psychiatric Hospital Trenton, NJ	Shimel & Sor Testing Labs	\$20,000 Services
M733	Testing/Inspection Services Reroof Vroom Building (Ward 19) & Cafeteria Building Trenton, Psychiatric Hospital Trenton, NJ	Certified Testing Labs, Inc.	\$1,000 Services
P556	Roof & Ceiling Structural Report Railroad Terminal Building Liberty State Park	Maitra Associates, Inc.	\$35,050 Services
C226	Testing/Inspection Services Fire Escape/Life Safety Improvements Bordentown Youth Correctional Institution Bordentown, NJ	Ambric Testing Assoc. of NJ	\$5,000 Services
F038	Facility Consultant-FY 88 Stockton State College Dept. of Higher Education	Martin F. Blumberg, PA	\$35,000 Services
F039	Facility Consultant-FY 88 Stockton State College Dept. of Higher Education	JCA Assoc., Inc.	\$50,000 Services
F040	Facility Consultant-FY 88 Glassboro State College Dept. of Higher Education	JCA Assoc., Inc.	\$25,000 Services
F041	Facility Consultant-FY 88 Glassboro State College Dept. of Higher Education	Roy Larry Schlein & Associates	\$15,000 Services
F042	Facility Consultant-FY 88 Glassboro State College Dept. of Higher Education	Harry A. Di Fazio, RA, PA	\$25,000 Services
W019	Facility Consultant-FY 88 Dept. of Environmental Protection	Stone & Webster Engineering	\$15,000 Services
W020	Facility Consultant-FY 88 Dept. of Environmental Protection	Nadaskay Kopelson, PA	\$35,000 Services
W021	Facility Consultant-FY 88 Dept. of Environmental Protection	L. J. Mineo, Jr., AIA	\$25,000 Services
W022	Facility Consultant-FY 88 Dept. of Environmental Protection	Lammey & Giorgio, PA	\$50,000 Services
W023	Facility Consultant-FY 88 Dept. of Environmental Protection	Kolbe & Poponi, PA	\$25,000 Services
W024	Facility Consultant-FY 88 Dept. of Environmental Protection	Cody Eckert & Assoc.	\$50,000 Services
W025	Facility Consultant-FY 88 Dept. of Environmental Protection	Berson-Ackerman & Assoc.	\$20,000 Services
W026	Facility Consultant-FY 88 Dept. of Environmental Protection	Tarquini Organization	\$25,000 Services
W027	Facility Consultant-FY 88 Dept. of Environmental Protection	Parham-Zink	\$25,000 Services
Y015	Facility Consultant-FY 88 Dept. of Transportation	Barnickel Engr. Corp.	\$20,000 Services
Y016	Facility Consultant-FY 88 Dept. of Transportation	J. M. Di Giacinto & Associates	\$10,000 Services

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Y017	Facility Consultant-FY 88 Dept. of Transportation	Thomas E. Torricelli, AIA	\$15,000 Services
Y018	Facility Consultant-FY 88 Dept. of Transportation	Armstrong Jordan Pease, PA	\$15,000 Services
J027	Facility Consultant-FY 88 Div. of Property & Facilities Mgnt.	Haines Lundberg Waehler	\$20,000 Services
X027	Facility Consultant-FY 88 Division of State Police	Cody Eckert & Assoc.	\$10,000 Services
M757	Asbestos Removal-Seven Buildings Marlboro Psychiatric Hospital Marlboro, NJ	BCM Eastern, Inc.	\$390,000

COMPETITIVE PROPOSALS

	BCM Eastern, Inc.	\$68,725 Lump Sum	
	O'Brien & Gere	\$89,900 Lump Sum	
	Gaudet Associates	\$91,560 Lump Sum	
	Kaselaan & D'Angelo	\$104,100 Lump Sum	
	Biospherics, Inc.	\$132,745 Lump Sum	
H897	Laboratory Renovations Bosshart Hall Glassboro State College Glassboro, NJ	Kitchen & Assoc., PA	\$320,000

COMPETITIVE PROPOSALS

	Kitchen & Assoc., PA	10.00%	
	Kolbe & Poponi, PA	13.65%	
	Harry A. Di Fazio, RA, PA	13.998%	
M732	Feasibility Study Residential Cottages Vineland Developmental Center Vineland, NJ	EI Assoc., PA	\$45,900 Services

COMPETITIVE PROPOSALS

	EI Associates, PA	\$45,900 Lump Sum
	The Tarquini Organization	\$49,500 Lump Sum

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

**Petition for Rulemaking
Verification Procedures for Travelers Checks
N.J.A.C. 19:45-1.25**

Petitioner: Division of Gaming Enforcement.

Authority: N.J.S.A. 5:12-69(c), 5:12-70(g), 52:14B-4(f); and
N.J.A.C. 1:30-3.6.

Take notice that on October 30, 1987, the Division of Gaming Enforcement ("Division") filed a rulemaking petition with the Casino Control Commission proposing an amendment to N.J.A.C. 19:45-1.25. This amendment would require all casino licensees to follow certain verification procedures prior to the acceptance of recognized travelers checks from a casino patron.

The Division contends that the proposed amendment to N.J.A.C. 19:45-1.25(e) would reduce travelers check encashment fraud to the lowest reasonably achievable level. As proposed, verification for travelers checks would require direct communication with the travelers check issuer to assess the validity of the check being presented by the patron. As an alternative, an inquiry could be directed to Central Credit or any similar independent verification service.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69(c).

(b)

**Petition for Rulemaking
Wire Transfer of Funds
N.J.A.C. 19:45-1.1, 1.15, 1.24, 1.24A (New Rule) and
1.26**

**Petitioners: Trump Plaza Associates and Boardwalk
Regency Corporation**

Authority: N.J.S.A. 5:12-69(c) and 5:12-70(g); N.J.S.A.
52:14B-4(f); N.J.A.C. 1:30-3.6.

Take notice that on September 17, 1987, Trump Plaza Associates and Boardwalk Regency Corporation filed a rulemaking petition with the Casino Control Commission requesting amendments to N.J.A.C. 19:45-1.1, 1.15, 1.24 and 1.26 as well as the adoption of a proposed new rule, N.J.A.C. 19:45-1.24A.

The petitioners contend that the wire transfer of funds is an existing practice in the casino industry and financial community enabling the transfer of funds in an efficient, expeditious, reliable and secure fashion consistent with modern technology. Accordingly, the petitioners propose the adoption of a new rule, N.J.A.C. 19:45-1.24A, which will authorize casino licensees to accept funds wire-transferred on behalf of gaming patrons for the redemption of outstanding and returned counter checks, as well as for safekeeping deposits. The proposed amendments to N.J.A.C. 19:45-1.1, 1.15, 1.24 and 1.26 would integrate the wire transfer procedure into existing regulations.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69(c).

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
N.J.A.C.	Expiration Date		
1:1	5/4/92	3:23	7/6/92
1:5	10/20/91	3:24	8/20/89
1:6	5/4/92	3:25	8/17/92
1:6A	5/4/92	3:26	12/31/90
1:7	5/4/92	3:27	9/16/90
1:10	5/4/92	3:28	12/17/89
1:10A	5/4/92	3:30	10/17/88
1:10B	10/6/91	3:38	10/5/92
1:11	5/4/92	3:41	10/16/90
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		

PERSONNEL (CIVIL SERVICE)—TITLE 4/4A

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
4A:10	11/2/92

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	10/3/88
2:3	6/18/89
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

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:3	9/1/88
5:4	10/5/92
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
5:91	6/16/91
5:92	6/16/91
5:100	5/7/89

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91
3:7	9/16/90
3:11	3/19/89
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

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	10/5/92
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
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
7:27	Exempt
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	4/5/87

N.J.A.C.
7:30
7:36-1
7:36-2
7:36-3
7:36-4
7:36-5
7:36-6
7:36-7
7:37
7:38
7:45

Expiration Date
12/6/87
8/5/90
Expired 1/9/86
Expired 1/9/86
8/5/90
Expired 1/9/86
Expired 1/9/86
8/5/90
Exempt
9/18/90
Expired 1/11/85

HEALTH—TITLE 8

N.J.A.C.
8:7
8:8
8:9
8:13
8:19
8:20
8:21
8:21A
8:22
8:23
8:24
8:25
8:26
8:31
8:31A
8:31B
8:33
8:33A
8:33B
8:33C
8:33D
8:33E
8:33F
8:33G
8:33H
8:33I
8:33J
8:33K
8:34
8:39
8:40
8:41
8:42
8:42A
8:42B
8:43
8:43A
8:43B
8:43E
8:43F
8:43G
8:44
8:45
8:48
8:51
8:52
8:53
8:57
8:59
8:60
8:61
8:65
8:70
8:71

Expiration Date
9/16/90
5/21/89
2/18/91
9/8/92
6/28/90
3/4/90
11/18/90
4/1/90
8/4/91
12/17/89
4/4/88
5/20/88
8/4/91
11/5/89
3/18/90
10/15/90
10/7/90
4/15/90
10/7/90
8/20/89
2/1/87
6/23/92
1/14/90
7/20/89
7/19/90
9/15/91
5/17/89
4/16/89
11/18/88
6/20/88
4/15/90
2/17/92
8/17/92
6/12/91
8/1/88
1/21/91
9/3/90
1/21/91
1/17/88
3/18/90
9/8/91
11/7/88
5/20/90
8/20/89
9/16/90
12/15/91
8/4/91
6/18/90
10/1/89
5/3/90
10/6/91
12/2/90
9/17/88
4/2/89

HIGHER EDUCATION—TITLE 9

N.J.A.C.
9:1
9:2

Expiration Date
1/17/89
6/17/90

N.J.A.C.	Expiration Date	N.J.A.C.	Expiration Date
9:3	10/17/88	10:122A	Exempt
9:4	10/30/91	10:122B	9/10/89
9:5	1/21/91	10:123	7/20/90
9:6	5/20/90	10:124	12/7/92
9:7	4/13/88	10:125	7/16/89
9:8	11/4/90	10:127	9/19/88
9:9	10/3/88	10:129	10/11/89
9:11	1/17/89	10:130	9/19/88
9:12	1/17/89	10:131	12/7/92
9:14	5/20/90	10:132	1/5/92
9:15	10/25/88	10:140	12/31/86
		10:141	2/21/89

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
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	10/14/92
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	12/7/92
10:122	8/6/89

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:6	11/2/92
10A:8	11/16/92
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
11:7	10/19/92
11:10	7/15/90
11:12	10/27/91
11:13	11/12/92
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

N.J.A.C.	Expiration Date
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
12A:10-1	8/15/89
12A:11	9/21/92
12A:12	9/21/92
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	10/23/92
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	11/2/92
13:44C	6/2/91
13:45A	12/16/90
13:46	6/3/90
13:47	2/2/92
13:47A	10/5/92
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
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
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
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

N.J.A.C.
16:55
16:56
16:60
16:61
16:62
16:72
16:73
16:75
16:76
16:77
16:78
16:79

Expiration Date
11/7/88
6/4/89
11/7/88
11/7/88
4/15/90
3/31/91
1/30/92
6/6/88
12/19/88
1/21/90
10/7/90
10/20/91

N.J.A.C.
18:15
18:16
18:17
18:18
18:19
18:22
18:23
18:23A
18:24
18:25
18:26
18:30
18:35
18:36
18:37
18:39

Expiration Date
8/12/88
8/12/88
8/12/88
4/2/89
4/6/89
4/2/89
4/2/89
8/5/90
8/12/88
1/6/91
8/12/88
4/2/89
8/12/88
2/4/90
8/5/90
9/8/92

TREASURY-GENERAL—TITLE 17

N.J.A.C.
17:1
17:2
17:3
17:4
17:5
17:6
17:7
17:8
17:9
17:10
17:12
17:16
17:19
17:20
17:25
17:27
17:28
17:29
17:30

Expiration Date
6/6/88
12/17/89
6/6/88
7/1/90
12/2/90
2/19/89
6/6/88
6/27/90
6/6/88
6/6/88
8/15/89
12/2/90
3/18/90
11/7/88
6/18/89
11/7/88
9/13/90
10/18/90
5/4/92

OTHER AGENCIES—TITLE 19

N.J.A.C.
19:3
19:3B
19:4
19:4A
19:8
19:9
19:12
19:16
19:17
19:25
19:30
19:40
19:41
19:42
19:43
19:44
19:45
19:46
19:47
19:48
19:49
19:50
19:51
19:52
19:53
19:54
19:61
19:65
19:75

Expiration Date
6/19/88
Exempt (N.J.S.A. 13:17-1)
11/7/88
5/2/88
6/1/88
7/13/88
8/7/91
8/7/91
7/15/88
1/9/91
10/7/90
9/26/89
5/17/88
5/17/88
4/27/89
10/13/88
4/7/88
5/4/88
5/4/88
10/13/88
3/29/88
5/23/88
8/14/91
9/25/91
5/4/88
4/15/88
7/7/91
7/7/91
1/17/89

TREASURY-TAXATION—TITLE 18

N.J.A.C.
18:3
18:5
18:6
18:7
18:8
18:9
18:12
18:12A
18:14

Expiration Date
4/23/89
4/16/89
4/2/89
4/2/89
4/2/89
8/12/88
8/12/88
8/12/88
8/12/88

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 October 5, 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: SEPTEMBER 21, 1987.

NEXT UPDATE WILL BE DATED OCTOBER 19, 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. 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	19 N.J.R. 1677 and 1758	September 21, 1987
19 N.J.R. 431 and 476	March 16, 1987	19 N.J.R. 1759 and 1858	October 5, 1987
19 N.J.R. 477 and 586	April 6, 1987	19 N.J.R. 1859 and 1926	October 19, 1987
19 N.J.R. 587 and 672	April 20, 1987	19 N.J.R. 1927 and 2086	November 2, 1987
19 N.J.R. 673 and 794	May 4, 1987	19 N.J.R. 2087 and 2224	November 16, 1987
19 N.J.R. 795 and 898	May 18, 1987	19 N.J.R. 2225 and 2324	December 7, 1987
19 N.J.R. 899 and 1006	June 1, 1987		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-8.2	De novo review by OAL and previous hearing record	19 N.J.R. 1761(a)		
1:1-9.1	Scheduling of prehearing conferences	19 N.J.R. 1591(a)	R.1987 d.463	19 N.J.R. 2131(a)
1:1-14.4	Failure to appear at proceeding	19 N.J.R. 1591(b)		
1:1-14.5	Ex parte communications and agency heads	19 N.J.R. 1761(b)		
1:1-14.10	Decision to grant requests for interlocutory review where agency head is board or commission	19 N.J.R. 1591(c)		
1:1-14.10, 18.1, 18.4	Interlocutory review of certain issues	19 N.J.R. 1592(a)	R.1987 d.462	19 N.J.R. 2131(b)
1:1-19.1	Settlement terms and consent of agency head	19 N.J.R. 1593(a)	R.1987 d.461	19 N.J.R. 2131(c)
1:1-21.6	Exceptions in uncontested cases	19 N.J.R. 1593(b)	R.1987 d.464	19 N.J.R. 2131(d)
1:5-1.1	Council on Affordable Housing hearings: correction			19 N.J.R. 1917(a)
1:30-1.2, 2.8	Use of appendices	19 N.J.R. 675(a)		

(TRANSMITTAL 1987-3, dated August 17, 1987)

AGRICULTURE—TITLE 2				
2:71-2.4, 2.5, 2.6	"Jersey Fresh" raspberry standards	19 N.J.R. 1593(c)	R.1987 d.442	19 N.J.R. 1987(a)
2:76-5.3, 5.8	Cost-share funding of soil and water conservation projects	19 N.J.R. 1123(a)	R.1987 d.427	19 N.J.R. 1892(a)
2:76-7	Review of nonagricultural development projects in agricultural areas	19 N.J.R. 1009(a)	R.1987 d.482	19 N.J.R. 2132(a)

(TRANSMITTAL 1987-6, dated September 21, 1987)

BANKING—TITLE 3				
3:1-1.1	Maximum interest rate on first mortgages on residences with one to six units	19 N.J.R. 2089(a)		
3:1-14	Revolving credit equity loans	19 N.J.R. 1594(a)		
3:2-1.1, 1.2, 1.3, 1.4	Advertising by financial institutions	19 N.J.R. 1355(a)		
3:6-4	Banks and savings banks: action upon detection or discovery of crime	19 N.J.R. 1595(a)		
3:6-9	Capital stock savings bank: change in control	19 N.J.R. 1762(a)		
3:10-8, 9	Banks and savings banks: mortgage loan practices	19 N.J.R. 1356(a)		
3:11-12	Commercial loans by savings banks	19 N.J.R. 1679(b)		
3:18-10	Secondary mortgage loan licensure	19 N.J.R. 1929(a)		
3:23-2.1	Secondary mortgage loan licensure	19 N.J.R. 1929(a)		
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)	R.1987 d.396	19 N.J.R. 1791(a)
3:38-4, 5, 7	Mortgage bankers and brokers: loan practices	19 N.J.R. 1360(a)		

(TRANSMITTAL 1987-5, dated September 21, 1987)

PERSONNEL (CIVIL SERVICE)—TITLE 4				
4:1-1, 2, 3, 4	Repeal (see 4A:1)	19 N.J.R. 1011(a)	R.1987 d.406	19 N.J.R. 1827(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)	R.1987 d.407	19 N.J.R. 1827(a)
4:1-10.3	Repeal (see 4A:5)	19 N.J.R. 1018(a)	R.1987 d.404	19 N.J.R. 1827(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4:1-16.1-16.6, 24.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:1-17, 18, 20, 26	Repeal (see 4A:6-1, 2, 3, 4, 5)	19 N.J.R. 1764(a)		
4:1-19, 21.1, 21.3-21.5	Repeal (see 4A:10)	19 N.J.R. 1366(a)	R.1987 d.435	19 N.J.R. 1987(b)
4:1-21.2, 21.6	Repeal (see 4A:7)	19 N.J.R. 1020(a)	R.1987 d.403	19 N.J.R. 1827(a)
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)	R.1987 d.407	19 N.J.R. 1827(a)
4:2-17, 18, 20, 26	Repeal (see 4A:6-1, 2, 3, 4, 5)	19 N.J.R. 1764(a)		
4:2-21.1-21.6	Repeal (see 4A:7)	19 N.J.R. 1020(a)	R.1987 d.403	19 N.J.R. 1827(a)
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)	R.1987 d.407	19 N.J.R. 1827(a)
4:3-17, 20	Repeal (see 4A:6-1, 2, 3, 4, 5)	19 N.J.R. 1764(a)		
4:3-19	Repeal (see 4A:10)	19 N.J.R. 1366(a)	R.1987 d.435	19 N.J.R. 1987(b)
4:3-21.1, 21.2	Repeal (see 4A:7)	19 N.J.R. 1020(a)	R.1987 d.403	19 N.J.R. 1827(a)
4:4	Repeal (see 4A:6-6)	19 N.J.R. 1774(a)		
4A:1	General rules and department organization	19 N.J.R. 1011(a)	R.1987 d.406	19 N.J.R. 1827(a)
4A:2	Appeals, discipline and separations	19 N.J.R. 1013(a)	R.1987 d.407	19 N.J.R. 1827(a)
4A:5	Veterans and disabled veterans preference	19 N.J.R. 1018(a)	R.1987 d.404	19 N.J.R. 1827(a)
4A:6-1, 2, 3, 4, 5	Leaves, hours of work, employee development	19 N.J.R. 1764(a)		
4A:6-6	Awards Program	19 N.J.R. 1774(a)		
4A:7	Equal employment opportunity and affirmative action	19 N.J.R. 1020(a)	R.1987 d.403	19 N.J.R. 1827(a)
4A:8	Layoffs	19 N.J.R. 1363(a)		
4A:9-1	Political subdivisions	19 N.J.R. 1022(a)	R.1987 d.405	19 N.J.R. 1827(a)
4A:10	Violations and penalties	19 N.J.R. 1366(a)	R.1987 d.435	19 N.J.R. 1987(b)

(TRANSMITTAL 1987-2, dated July 20, 1987)

COMMUNITY AFFAIRS—TITLE 5

5:4-2	Debarment and suspension from contracting	19 N.J.R. 1261(b)	R.1987 d.389	19 N.J.R. 1791(b)
5:11-1.2, 2.1	Relocation assistance: lawful occupancy; eligibility	19 N.J.R. 1596(a)		
5:11-3.5	Relocation assistance: scheduling of payments	19 N.J.R. 1930(a)		
5:12-1.1, 2.1, 2.4	Homelessness Prevention Program: eligibility for temporary assistance	19 N.J.R. 1777(a)		
5:13	Limited dividend and nonprofit housing corporations and associations	19 N.J.R. 1861(a)		
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)		
5:18-2.4, 2.5, 2.6, 2.8	Uniform Fire Code: life hazard uses; annual registration fees	19 N.J.R. 1680(a)	R.1987 d.508	19 N.J.R. 2266(a)
5:18-4.1	Fire Safety Code: exemption of one and two family residences	19 N.J.R. 1263(a)	R.1987 d.388	19 N.J.R. 1792(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)	R.1987 d.509	19 N.J.R. 2270(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	Uniform Construction Code: commercial farm buildings	19 N.J.R. 1778(a)		
5:23-3.2	Commercial farm building subcode: public hearings	19 N.J.R. 1862(a)		
5:23-3.18	Energy Subcode: checkmetering in multifamily buildings; lighting efficiency in existing buildings	19 N.J.R. 1862(b)		
5:23-3.18, 6.1-6.3	Energy subcode; solar energy property tax exemptions	19 N.J.R. 433(b)	R.1987 d.387	19 N.J.R. 1793(a)
5:23-4.5	UCC enforcement: conflict of interest—withdrawal of proposal	19 N.J.R. 1033(a)		
5:23-4.20, 8.17	Uniform Construction Code: inspection fees	19 N.J.R. 1684(a)	R.1987 d.490	19 N.J.R. 2134(a)
5:23-8	Asbestos Hazard Abatement Subcode	19 N.J.R. 902(a)		
5:26-2.3, 2.4	Planned real estate development: plan review fees	19 N.J.R. 1684(a)	R.1987 d.490	19 N.J.R. 2134(a)
5:80-21	Housing and Mortgage Finance: single family loans	18 N.J.R. 2238(a)		
5:80-26	Housing resale and rental affordability control	19 N.J.R. 802(a)		
5:92-1.3, 6.1	Council on Affordable Housing: rehabilitation component and credits	19 N.J.R. 1863(a)		
5:92-5.14, 12.11	Council on Affordable Housing: low and moderate income split; rental surcharge	19 N.J.R. 1597(a)		
5:92-16	Council on Affordable Housing: accessory apartments	19 N.J.R. 2089(b)		
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly	19 N.J.R. 1686(a)		
5:100-2.5	Failure to report suspected abuse or exploitation of institutionalized elderly: extension of comment period	19 N.J.R. 2090(a)		

(TRANSMITTAL 1987-7, dated September 21, 1987)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
EDUCATION—TITLE 6				
6:20-3.1	Sending and receiving districts: determining tuition rates	19 N.J.R. 1598(a)		
6:31-1	Bilingual education	19 N.J.R. 1126(a)		
6:46	Local area vocational school districts and private vocational schools	19 N.J.R. 1368(a)	R.1987 d.434	19 N.J.R. 1989(a)
6:64	County and local library services	19 N.J.R. 1931(a)		
6:68-1.4	State library aid to municipalities	19 N.J.R. 1128(a)	R.1987 d.398	19 N.J.R. 1796(a)
6:79-1	Child nutrition programs	19 N.J.R. 1599(a)		
(TRANSMITTAL 1987-8, dated September 21, 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: 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)	R.1987 d.446	19 N.J.R. 1999(a)
7:7-2.2	Coastal wetlands maps for Gloucester County	19 N.J.R. 2090(b)		
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)		
7:7F	Shore Protection Program	19 N.J.R. 2091(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)	R.1987 d.513	19 N.J.R. 2276(a)
7:9-15.6	Phase II lake restoration projects: State funding level	19 N.J.R. 909(a)	R.1987 d.447	19 N.J.R. 2000(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)	R.1987 d.488	19 N.J.R. 2136(a)
7:13-7.1	Redelineation of Hackensack River in Oradell	19 N.J.R. 1935(a)		
7:13-7.1(d)	Redelineation of Raritan River and Peters Brook: repropose	19 N.J.R. 167(b)		
7:13-7.1(d)	Flood plain delineations in Passaic-Hackensack and Raritan basins	19 N.J.R. 489(a)	R.1987 d.489	19 N.J.R. 2150(a)
7:13-7.1(d)	Flood hazard redelineation of Raritan River	19 N.J.R. 1277(a)	R.1987 d.400	19 N.J.R. 1797(a)
7:13-7.1(d)	Redelineations along Green Brook, Union County	19 N.J.R. 1384(a)	R.1987 d.487	19 N.J.R. 2151(a)
7:13-7.1(d)	Redelineation of Big Bear Brook, Mercer County	19 N.J.R. 1933(a)		
7:13-7.1(d)	Redelineation of Carter's Brook, Middlesex County	19 N.J.R. 1933(b)		
7:13-7.1(d)	Redelineation of Lawrence, Ireland, Mae, Harry's and Oakeys brooks in Mercer and Middlesex counties	19 N.J.R. 1934(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System	18 N.J.R. 2085(a)	R.1987 d.458	19 N.J.R. 2152(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-1.9, 12	Sewer connection bans	18 N.J.R. 2163(a)	R.1987 d.445	19 N.J.R. 2000(b)
7:14A-1.9, 12	Sewer connection bans: extension of comment period	19 N.J.R. 263(b)		
7:14A-6.4	Groundwater monitoring parameters for hazardous waste facilities	19 N.J.R. 1863(b)		
7:14A-8	NJPDES permit program: public notice and comment	19 N.J.R. 1864(a)		
7:14A-11.1	Hazardous waste management: public access to records and information	19 N.J.R. 1869(a)		
7:14B	Underground storage tanks	19 N.J.R. 1477(a)		
7:22-3.4, 3.6-3.11, 3.13, 3.32, 4.4, 4.6-4.11, 4.13, 4.32, 5.11	Wastewater Treatment Financing Program	19 N.J.R. 1600(a)		
7:22-9	Wastewater treatment: contract awards to small, female, and minority-owned businesses	19 N.J.R. 1604(a)		
7:25-6	1988-99 Fish Code	19 N.J.R. 1385(a)		
7:25-18.5	Drifting and anchored gill net seasons: netting mesh in staked gill net fishery	19 N.J.R. 1609(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)		
7:26-1.4, 8.2, 8.3, 8.5, 8.12, 8.14, 9.4, App. A, 12.1, 12.3, 12.5, 12.12	Hazardous waste management	19 N.J.R. 1936(a)		
7:26-1.9, 12.2, 17	Hazardous waste management: public access to records and information	19 N.J.R. 1869(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-1.10	Master performance permits for transfer station facilities	19 N.J.R. 1242(a)	R.1987 d.372	19 N.J.R. 1730(a)
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(a)		
7:26-3.2, 3.4	Compliance with designated truck routes by solid waste registrants and operators	19 N.J.R. 1610(a)		
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)		
7:26-8.13, 8.15, 8.16	Hazardous waste criteria	19 N.J.R. 1278(a)	R.1987 d.486	19 N.J.R. 2165(a)
7:26-8.14	Ethylene bisdithiocarbamic acid (EBDC) production	19 N.J.R. 1938(a)		
7:26-8.19, 10.6	Hazardous waste management: approval of alternate test methods; surface impoundments	19 N.J.R. 1482(a)	R.1987 d.514	19 N.J.R. 2278(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)		
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	Stage II recovery of gasoline vapors	19 N.J.R. 1938(b)		
7:28-3	Registration of ionizing radiation-producing machines and radioactive materials	19 N.J.R. 836(a)	R.1987 d.485	19 N.J.R. 2167(a)
7:28-4	Naturally-occurring and accelerator-produced radioactive materials: handling and use	19 N.J.R. 1041(a)	R.1987 d.483	19 N.J.R. 2171(a)
7:28-5	Designation of controlled areas for use of radiation and radioactive materials	19 N.J.R. 839(a)	R.1987 d.484	19 N.J.R. 2180(a)
7:28-14.3	Therapeutic x-ray systems: correction	_____	_____	19 N.J.R. 1917(c)
7:29B	Determination of noise from stationary sources	19 N.J.R. 1483(a)		
7:29B	Determination of noise from stationary sources: extension of comment period	19 N.J.R. 2092(a)		
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program	19 N.J.R. 1687(a)		
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program: extension of comment period	19 N.J.R. 2092(b)		
7:30	Pesticide Control Code	19 N.J.R. 1611(a)		
7:50	Pinelands Comprehensive Management Plan	18 N.J.R. 2239(a)	R.1987 d.436	19 N.J.R. 2010(a)

(TRANSMITTAL 1987-9, dated September 21, 1987)

HEALTH—TITLE 8

8:31-26.3, 26.4	Home health agencies: employee physicals; child abuse and neglect	18 N.J.R. 2283(a)	Expired	
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)	R.1987 d.402	19 N.J.R. 1797(b)
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-3.41, 4.15, 4.38, 4.39	Hospital reimbursement: uncompensated care	18 N.J.R. 2283(b)	Expired	
8:31B-3.73, App. IX	Hospital reimbursement: cost/volume methodology	18 N.J.R. 2284(a)	Expired	
8:31B-3.73, App. IX	Hospital reimbursement: correction to cost/volume methodology	19 N.J.R. 264(b)		
8:31B-4.38	Hospital reimbursement: uncompensated care coverage for outpatient dialysis	19 N.J.R. 2092(c)		
8:33-1.5, 2.7, 2.8, 4.15	Certificate of Need review process: batching	19 N.J.R. 1280(a)	R.1987 d.415	19 N.J.R. 1892(b)
8:33E-1.1, 1.2, 1.3	Certificate of Need: cardiac diagnostic facilities	19 N.J.R. 1282(a)		
8:33E-2.2, 2.3, 2.4	Certificate of Need: cardiac surgery centers	19 N.J.R. 1283(a)		
8:33F-1.2, 1.4	Back-up and acute hemodialysis treatment: annual inpatient admissions for applicant hospital	19 N.J.R. 2093(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)	R.1987 d.453	19 N.J.R. 2181(a)
8:33L	Home Health Agency Policy Manual: Certificate of Need review	19 N.J.R. 1483(c)	R.1987 d.452	19 N.J.R. 2184(a)
8:43E-1	Certificate of Need policy manual for health care facilities and services	19 N.J.R. 1872(a)		
8:43E-2	Psychiatric inpatient beds: adult open acute	19 N.J.R. 1873(a)		
8:43E-3	Psychiatric inpatient screening beds	19 N.J.R. 1875(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:43E-4	Children's acute psychiatric beds	19 N.J.R. 1876(a)		
8:43E-4	Child and adolescent acute psychiatric beds	19 N.J.R. 2094(a)		
8:43E-5	Intermediate adult and special psychiatric beds	19 N.J.R. 1877(a)		
8:61-2	Retrovir (AZT) reimbursement program	Emergency (expires 12-6-87)	R.1987 d.437	19 N.J.R. 2067(a)
8:65-7.14	Controlled substances: Schedule III and IV prescription refills	19 N.J.R. 1612(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 641(a), 880(a), 1314(a), 1644(b))	19 N.J.R. 13(a)	R.1987 d.502	19 N.J.R. 2279(a)
8:71	Interchangeable drug products (see 19 N.J.R. 1312(b), 1644(a))	19 N.J.R. 615(a)	R.1987 d.501	19 N.J.R. 2278(b)
8:71	Interchangeable drug products: public hearing	19 N.J.R. 1488(a)	R.1987 d.500	19 N.J.R. 2279(b)
8:71	Interchangeable drug products: public hearing	19 N.J.R. 1878(a)		

(TRANSMITTAL 1987-8, dated September 21, 1987)

HIGHER EDUCATION—TITLE 9

9:1-7	Fraudulent academic degrees	19 N.J.R. 1284(a)	R.1987 d.430	19 N.J.R. 2053(a)
9:2-8	Petitions for rulemaking	19 N.J.R. 913(a)	R.1987 d.429	19 N.J.R. 2053(b)
9:6A	State college personnel system	19 N.J.R. 1613(a)		
9:7-2.3	Student assistance and foreign nationals	19 N.J.R. 2101(a)		
9:7-2.6	Independent student status	19 N.J.R. 2101(b)		
9:7-2.10, 2.11	Tuition Aid Grant benefits	19 N.J.R. 1153(a)	R.1987 d.440	19 N.J.R. 2054(a)
9:7-9.9, 9.11, 9.12	Congressional Teacher Scholarship Program	19 N.J.R. 2102(a)		
9:7-9.9, 9.11, 9.12, 9.15	Congressional Teacher Scholarship Program	19 N.J.R. 1154(a)	R.1987 d.441	19 N.J.R. 2055(a)
9:9-1.12, 1.13, 1.16	Repayment of student loans: nonconverted accounts	19 N.J.R. 1619(a)		
9:9-3.5	Capitalization of PLUS loan interest	19 N.J.R. 498(b)	R.1987 d.456	19 N.J.R. 2187(a)
9:9-7.3	Eligible limitations: correction			19 N.J.R. 1917(d)
9:11-1.4	Educational Opportunity Fund: student dependency status defined	19 N.J.R. 266(a)	R.1987 d.491	19 N.J.R. 2281(a)
9:11-1.5	EOF: financial eligibility for undergraduate grants	19 N.J.R. 499(a)	R.1987 d.492	19 N.J.R. 2282(a)
9:11-1.7	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 399(a)	R.1987 d.418	19 N.J.R. 1893(a)
9:11-1.7	Equal Opportunity Fund grants: graduate awards	19 N.J.R. 1879(a)		

(TRANSMITTAL 1987-7, dated August 17, 1987)

HUMAN SERVICES—TITLE 10

10:4	Communication with communities regarding development of group homes	19 N.J.R. 1976(a)		
10:8	Personal needs allowance for indigent persons in State and county institutions	19 N.J.R. 617(a)		
10:49-1.3-1.6	HealthStart: comprehensive maternity and pediatric care services	19 N.J.R. 1978(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)	R.1987 d.408	19 N.J.R. 1800(a)
10:50-1.1-1.5, 2.3-2.8, 3.1, 3.2	Livery service for ambulatory Medicaid patients	19 N.J.R. 2103(a)		
10:50-2 through 10:68-2	Medicaid reimbursement: timely submission of claims by service providers	19 N.J.R. 1155(a)	R.1987 d.408	19 N.J.R. 1800(a)
10:51-1.6, 1.11, 1.16, 1.18, 3.5, 3.10, 3.14, 5.14, 5.18	Pharmacy Manual: payment limits for Medicaid and PAAD reimbursement	Emergency (expires December 24, 1987)	R.1987 d.494	19 N.J.R. 2203(a)
10:51-1.17	Medicaid and PAAD: legend drug dispensing fee	19 N.J.R. 1711(a)		
10:52-1.6, 1.8	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:52-1.7	HealthStart	19 N.J.R. 1978(a)		
10:53-1.5, 1.7	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:53-1.6	HealthStart	19 N.J.R. 1978(a)		
10:54-1.1, 1.2	HealthStart	19 N.J.R. 1978(a)		
10:58-1.2, 1.3	HealthStart	19 N.J.R. 1978(a)		
10:60-2.2	Personal care assistance services	19 N.J.R. 1489(a)	R.1987 d.451	19 N.J.R. 2188(a)
10:61-2.4, 2.5	Independent laboratories: standardized claim form	19 N.J.R. 1779(a)		
10:64-1.4, 2.1, 2.2, 2.5, 2.6, 3.5	Hearing aid providers: standardized claim form	19 N.J.R. 1779(a)		
10:66-1.3, 1.6	HealthStart	19 N.J.R. 1978(a)		
10:66-3.2	Personal care assistance services	19 N.J.R. 1489(a)	R.1987 d.451	19 N.J.R. 2188(a)
10:69C	Statewide Respite Care Program	19 N.J.R. 1712(a)		
10:81-7.46	PAM: reporting criminal offenses	19 N.J.R. 1389(a)	R.1987 d.449	19 N.J.R. 2056(a)
10:81-8.22, 14.20	PAM: extension of Medicaid benefits to certain employed persons	Emergency (expires December 24, 1987)	R.1987 d.495	19 N.J.R. 2206(a)
10:81-8.23	Medicaid Special: pregnancy examinations	19 N.J.R. 1490(a)	R.1987 d.455	19 N.J.R. 2189(a)
10:81-11.4	PAM: recovery of child support overpayments	19 N.J.R. 1171(a)	R.1987 d.467	19 N.J.R. 2189(b)
10:81-11.7	Child support enforcement program	19 N.J.R. 1879(b)		
10:81-11.18	PAM: child support guidelines	18 N.J.R. 2178(a)	R.1987 d.498	19 N.J.R. 2282(b)
10:81-12	PAM: Newark/Camden Teen PROGRESS Demonstration	19 N.J.R. 1390(a)	R.1987 d.410	19 N.J.R. 1810(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:81-14	REACH (Realizing Economic Achievement) Program	19 N.J.R. 1491(a)	R.1987 d.423	19 N.J.R. 1894(a)
10:82-1.3, 4.16	ASH: household defined; court-ordered support	19 N.J.R. 31(b)		
10:82-2.6	Initial eligibility in AFDC	19 N.J.R. 1781(a)		
10:82-4.15	Lump sum income and AFDC eligibility	19 N.J.R. 1782(a)		
10:82-5.10	Emergency Assistance in AFDC program	19 N.J.R. 1171(b)	R.1987 d.466	19 N.J.R. 2190(a)
10:85-2.7	GAM: reporting criminal offenses	19 N.J.R. 1393(a)	R.1987 d.448	19 N.J.R. 2056(b)
10:85-3.2	GAM: exemption from work requirement and unemployability	18 N.J.R. 2183(a)	R.1987 d.409	19 N.J.R. 1812(a)
10:85-3.5	GAM: monthly case reviews	19 N.J.R. 2111(a)		
10:85-4.6	Emergency Assistance in GA program	19 N.J.R. 1715(a)		
10:85-4.8	GAM: funeral and burial expenses	19 N.J.R. 1619(b)		
10:87-5.9	Food Stamps eligibility: income exclusion and utility allowance payments	19 N.J.R. 1986(a)		
10:87-12.1, 12.2	Food Stamp Program: income deductions and maximum coupon allotments	Emergency (expires 11-30-87)	R.1987 d.431	19 N.J.R. 1916(a)
10:89-2.2, 2.3, 3.2, 3.3, 3.4, 3.6, 4.1	Home Energy Assistance program	Emergency (expires December 27, 1987)	R.1987 d.496	19 N.J.R. 2208(a)
10:90	Monthly Reporting Policy Handbook	19 N.J.R. 1517(a)	R.1987 d.454	19 N.J.R. 2193(a)
10:121A	Adoption Agencies: Manual of Standards	19 N.J.R. 1519(a)	R.1987 d.505	19 N.J.R. 2288(a)
10:124	Children's shelter facilities and homes	19 N.J.R. 1394(a)	R.1987 d.504	19 N.J.R. 2300(a)
10:131	Adoption Assistance and Child Welfare Act of 1980	19 N.J.R. 1285(a)	R.1987 d.503	19 N.J.R. 2301(a)

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CORRECTIONS—TITLE 10A

10A:3-4.1	Off-duty carrying of firearms	19 N.J.R. 1717(a)	R.1987 d.515	19 N.J.R. 2302(a)
10A:3-5.8, 5.11	Random searches of correctional facilities by canine teams	19 N.J.R. 1175(a)	R.1987 d.397	19 N.J.R. 1813(a)
10A:4-1.2	Girl's Unit at Skillman: disciplinary process	19 N.J.R. 1531(a)		
10A:4-9.18	Inmate discipline: suspending sanctions	19 N.J.R. 1717(b)		
10A:6	Inmate access to courts	19 N.J.R. 914(a)	R.1987 d.444	19 N.J.R. 2057(a)
10A:8	Inmate orientation and handbook	19 N.J.R. 1531(b)	R.1987 d.459	19 N.J.R. 2194(a)
10A:9-2.1	Inmate reception classification process	19 N.J.R. 1395(a)	R.1987 d.460	19 N.J.R. 2195(a)
10A:9-4.5	Inmate classification: increasing custody status	19 N.J.R. 1782(b)		
10A:10-6.3, 6.6	International transfer of inmates	19 N.J.R. 1620(a)		
10A:16-2.11	Pregnancy testing of new inmates	19 N.J.R. 1396(a)	R.1987 d.443	19 N.J.R. 2060(a)
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)		

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INSURANCE—TITLE 11

11:1-25	Official department mailing list: address information	19 N.J.R. 1050(b)		
11:3-23	Dangerous drivers or drivers with excessive claims	19 N.J.R. 1880(a)		
11:4-2	Replacement of life insurance policy	19 N.J.R. 1286(a)		
11:4-18.3, 18.5, 18.10	Individual health policies: loss ratio standards	19 N.J.R. 1620(b)		
11:4-22.2, 22.4, App.	1980 CSO and 1980 CET Smoker and Nonsmoker Mortality Tables	19 N.J.R. 1399(a)	R.1987 d.394	19 N.J.R. 1814(a)
11:4-28	Group coordination of health care benefits	19 N.J.R. 845(a)		
11:5-1.23	Full cooperation among real estate brokers and waiver of cooperation	19 N.J.R. 1621(a)		
11:5-1.25	Sale of interstate real properties: advertisements	19 N.J.R. 1718(a)		
11:5-1.27	Real estate brokers pre-licensure course	19 N.J.R. 1051(a)		
11:7-1.2, 1.3	Municipal bond insurance	19 N.J.R. 1409(a)	R.1987 d.426	19 N.J.R. 1908(a)
11:13	Commercial lines insurance	19 N.J.R. 1783(a)	R.1987 d.512	19 N.J.R. 2302(b)
11:17-1, 2, 5	Insurance producer licensing: pre-proposed new rules	19 N.J.R. 2112(a)		

(TRANSMITTAL 1987-7, dated September 21, 1987)

LABOR—TITLE 12

12:15-1.3	Unemployment compensation and temporary disability: 1988 maximum weekly benefits	19 N.J.R. 1622(a)	R.1987 d.468	19 N.J.R. 2196(a)
12:15-1.4	Unemployment compensation: 1988 taxable wage base	19 N.J.R. 1623(a)	R.1987 d.469	19 N.J.R. 2196(b)
12:15-1.5	Unemployment compensation: 1988 contribution rate for governmental entities	19 N.J.R. 1624(b)	R.1987 d.473	19 N.J.R. 2196(c)
12:15-1.6	Base week earnings for claim eligibility	19 N.J.R. 1623(b)	R.1987 d.470	19 N.J.R. 2196(d)
12:15-1.7	Alternate earnings test	19 N.J.R. 1623(c)	R.1987 d.471	19 N.J.R. 2196(e)
12:17-2.1	Claims and registration for work: correction			19 N.J.R. 1841(a)
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)	R.1987 d.439	19 N.J.R. 2060(b)
12:100-4.2	Adoption by reference	19 N.J.R. 267(a)	R.1987 d.425	19 N.J.R. 1909(a)
12:100-5.2, 6.2, 7	Public employees and exposure to toxic and hazardous substances	19 N.J.R. 267(a)		
12:110	Public employee occupational safety and health	19 N.J.R. 1941(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
12:190	Explosives	19 N.J.R. 1883(a)		
12:235-1.6	Workers' compensation: 1988 maximum weekly benefit	19 N.J.R. 1624(a)	R.1987 d.472	19 N.J.R. 2197(a)

(TRANSMITTAL 1987-2, dated June 15, 1987)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

(TRANSMITTAL 1987-2, dated September 21, 1987)

LAW AND PUBLIC SAFETY—TITLE 13

13:1-4.6	Police training: instruction in radar operation	19 N.J.R. 2123(a)		
13:2-40.1, 40.5, 40.6, 40.7	Uniform ABC identification cards	19 N.J.R. 1410(a)	R.1987 d.399	19 N.J.R. 1823(a)
13:21-21	Auto body repair facilities	19 N.J.R. 1624(c)		
13:27-3, 4	Architectural practice; definitions	19 N.J.R. 1783(b)		
13:27-5.8	Architects and certified landscape architects: licensing examination fees	19 N.J.R. 2123(b)		
13:27-8.14	Advertising by persons not certified as landscape architects	19 N.J.R. 400(a)	R.1987 d.480	19 N.J.R. 2197(b)
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)	R.1987 d.419	19 N.J.R. 1909(b)
13:30-8.6	Professional advertising by dentists	19 N.J.R. 1053(a)	R.1987 d.417	19 N.J.R. 1910(a)
13:30-8.17	Designation of dentist of record for patient in multi-dentist facility	19 N.J.R. 1629(a)		
13:32-1	Rules of Board of Examiners of Master Plumbers	19 N.J.R. 1630(a)	R.1987 d.481	19 N.J.R. 2197(c)
13:35-1.5	Practice by medical school graduates in hospital residency programs	18 N.J.R. 2184(a)	Expired	
13:35-3.11	Post-graduate training of graduates of foreign medical schools	19 N.J.R. 1534(a)		
13:35-6.7	Medical examiners board: prescribing of amphetamines and sympathomimetic amine drugs	19 N.J.R. 1786(a)		
13:35-8	Hearing aid dispensers	19 N.J.R. 1949(a)		
13:37-12.1	Board of Nursing fee schedule	19 N.J.R. 1886(a)		
13:39	Board of Pharmacy rules	19 N.J.R. 1952(a)		
13:40-5.1	Corner markers and ultimate user of land survey	19 N.J.R. 1631(a)		
13:42-1.2	Board of Psychological Examiners: application, examination and licensure fees	19 N.J.R. 1632(a)		
13:44B-1	Compensation of professional and occupational licensing board members	19 N.J.R. 444(a)	R.1987 d.438	19 N.J.R. 2060(c)
13:44C	Practice of audiology and speech-language pathology	19 N.J.R. 1412(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)	R.1987 d.450	19 N.J.R. 2060(d)
13:45A-24	Sale of gray market merchandise	19 N.J.R. 179(a)		
13:45A-25.1	Sellers of health club services: registration fee	19 N.J.R. 1967(a)		
13:46-8.3, 8.12, 8.13	Boxing rules	19 N.J.R. 1787(a)		
13:46-12.13	Boxing show hygiene	19 N.J.R. 1886(b)		
13:47A-1-8, 11	Bureau of Securities rules	19 N.J.R. 1417(a)	R.1987 d.390	19 N.J.R. 1824(a)
13:47C-2.1	Meat, poultry, fish and shellfish sold by net weight	19 N.J.R. 1787(b)		
13:47C-2.5	Weights and measures: ready-to-eat foods	19 N.J.R. 2124(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)	R.1987 d.420	19 N.J.R. 1911(a)
13:70-20.11	Thoroughbred racing: entering or starting nerved horses	19 N.J.R. 1788(a)		
13:70-20.11	Thoroughbred racing: correction to proposal concerning nerved horses	19 N.J.R. 2124(b)		
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)	R.1987 d.421	19 N.J.R. 1911(b)
13:71-20.23	Harness racing: nerving and registration of nerved horses	19 N.J.R. 2125(a)		
13:75-1.6	Violent crimes compensation: eligibility of claims	19 N.J.R. 1967(b)		
13:76-1.3, 3.1, 3.2, 5.1	Arson investigation training	19 N.J.R. 1788(b)		
13:77	Equitable distribution of forfeited property to law enforcement agencies	19 N.J.R. 1534(a)		

(TRANSMITTAL 1987-9, dated September 21, 1987)

PUBLIC UTILITIES—TITLE 14

14:3-7.12A	Residential electric and gas service during heating season	18 N.J.R. 2315(a)		
14:10-1.16	Uniform system of accounts for telephone companies	19 N.J.R. 1789(a)		
14:11-6	Interest on fuel clause overrecoveries	19 N.J.R. 1967(c)		
14:18-3	Cable TV: pre-proposal for telephone service standards	19 N.J.R. 2125(b)		

(TRANSMITTAL 1987-6, dated September 21, 1987)

J.A.C. TATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ENERGY—TITLE 14A				
A:3-4.1-4.6	Energy subcode	19 N.J.R. 433(b)	R.1987 d.387	19 N.J.R. 1793(a)
A:3-7.9	Repeal (see 5:23-3.18)	19 N.J.R. 1862(b)		
A:4-1.1-3.1	Solar energy property tax exemptions	19 N.J.R. 433(b)	R.1987 d.387	19 N.J.R. 1793(a)

(TRANSMITTAL 1987-3, dated September 21, 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

:25	Utility accommodation on highway rights-of-way	19 N.J.R. 1064(a)		
:25A	Soil erosion and sediment control on DOT projects	19 N.J.R. 2126(a)		
:28-1.10, 1.18, 1.120	Speed rates along U.S. 46 in White Township, Route 34 in Matawan, and Route 38 in Burlington County	19 N.J.R. 1968(a)		
:28-1.25, 1.79, 1.80	Speed limits along Routes 23 and 94 in Hamburg, Route 172 in New Brunswick	19 N.J.R. 1887(a)		
:28-1.57	School zones along U.S. 30 in Lindenwold and Laurel Springs	Emergency (expires December 24, 1987)	R.1987 d.493	19 N.J.R. 2211(a)
:28-1.76	Speed rate on Route 15 in Morris and Sussex counties	Emergency (expires 11-14-87)	R.1987 d.411	19 N.J.R. 1839(a)
:28A-1.5, 1.36, 1.38, 1.45	Parking restrictions along Routes 5, 57, 71, and 94	19 N.J.R. 1632(b)	R.1987 d.479	19 N.J.R. 2198(a)
:28A-1.7, 1.15, 1.18, 1.22, 1.32	Parking restrictions along U.S. 9, Routes 23, 27, 31, and U.S. 46	19 N.J.R. 1633(a)	R.1987 d.478	19 N.J.R. 2199(a)
:28A-1.9	No parking zones along Route 17 in Rutherford and Lyndhurst	19 N.J.R. 1420(a)	R.1987 d.414	19 N.J.R. 1912(a)
:28A-1.11, 1.33, 1.61	No parking zones along Routes 21 in Newark, 47 in Franklin, and U.S. 9W in Alpine	19 N.J.R. 1888(a)		
:28A-1.15, 1.19	No parking zones along Route 23 in Pequannock and Route 28 in Garwood	19 N.J.R. 1889(a)		
: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)	R.1987 d.416	19 N.J.R. 1912(b)
:28A-1.25, 1.33, 1.34, 1.100	Restricted parking on Routes N.J. 35 in Seaside, N.J. 47 in Glassboro, N.J. 49 in Salem, and N.J. 50 in Upper Township	19 N.J.R. 2127(a)		
:29-1.67	No passing zones along U.S. 130 in Salem and Gloucester counties	19 N.J.R. 1420(b)	R.1987 d.413	19 N.J.R. 1913(a)
:30	Pre-proposal: Exclusive bus lane on Routes 3 and 495	19 N.J.R. 1421(b)		
:30-10.5	Midblock crosswalk on Route 29 in Stockton	19 N.J.R. 1421(a)	R.1987 d.412	19 N.J.R. 1913(b)
:31-1.24	No left turn on Route N.J. 82 in Union	19 N.J.R. 2128(a)		
:44-1.1	Contract administration: composition of Pre-qualification Committee	19 N.J.R. 1634(a)	R.1987 d.499	19 N.J.R. 2303(a)
:56-4.1, 11.2	Airport safety improvement aid	19 N.J.R. 1634(b)	R.1987 d.465	19 N.J.R. 2200(a)

(TRANSMITTAL 1987-8, dated September 21, 1987)

TREASURY-GENERAL—TITLE 17

:1-1.10	Positive or negative balances in retirement accounts	19 N.J.R. 2129(a)		
:2-3.3	PERS: contributory insurance rate	19 N.J.R. 1636(a)	R.1987 d.510	19 N.J.R. 2303(c)
:2-4.4	Public Employees' Retirement System: accrual of loan interest	19 N.J.R. 194(a)	R.1987 d.511	19 N.J.R. 2303(d)
:9-6.1	State Health Benefits Program: coverage after retirement	19 N.J.R. 1636(b)	R.1987 d.497	19 N.J.R. 2303(b)
:20-4	Licensure as ticket sales agent of State Lottery	19 N.J.R. 1969(a)		
:20-7	Payment of State Lottery prizes	19 N.J.R. 1889(b)		
:30	Urban Enterprise Zone Authority: comment period reopened	19 N.J.R. 354(a)		
:32	State Planning Rules	19 N.J.R. 1971(a)		

(TRANSMITTAL 1987-8, dated August 17, 1987)

TREASURY-TAXATION—TITLE 18

:3-2.1	Tax rate on wine produced from New Jersey grapes	19 N.J.R. 1181(a)	R.1987 d.475	19 N.J.R. 2200(b)
:5-3.6	Purchase of cigarette revenue stamps	18 N.J.R. 2378(b)		
:12-7.4	Homestead rebate and residents of continuing care retirement communities	19 N.J.R. 1637(a)	R.1987 d.477	19 N.J.R. 2201(a)
:15-1.1	Woodland management plan: correction to proposal	19 N.J.R. 1640(a)		
:15-1.1, 2.7-2.14	Farmland assessment: woodland in agricultural use	19 N.J.R. 1538(a)	R.1987 d.507	19 N.J.R. 2304(a)
:15-1.1, 2.7-2.14	Woodland in agricultural use: operative date	19 N.J.R. 1640(b)		
:24-7.8	Sales of motor vehicles to military personnel stationed in State	19 N.J.R. 1181(b)	R.1987 d.474	19 N.J.R. 2201(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
18:35-1.13	Sale of principal residence	19 N.J.R. 1182(a)	R.1987 d.476	19 N.J.R. 2201(c)
18:38	Litter control tax	19 N.J.R. 400(b)		

(TRANSMITTAL 1987-5, dated September 21, 1987)

TITLE 19—OTHER AGENCIES

19:3-1.1, 1.2, 1.4, 1.6	Hackensack Meadowlands development: Application review fees	19 N.J.R. 1540(a)	R.1987 d.422	19 N.J.R. 1913(c)
19:4-6.28	Rezoning in Little Ferry	19 N.J.R. 53(b)		
19:4-6.28	Rezoning in East Rutherford	19 N.J.R. 1975(a)		
19:8-7.1	Public records of Highway Authority: copy fees	19 N.J.R. 1428(a)	R.1987 d.391	19 N.J.R. 1825(a)
19:8-7.3	State Police accident reports: copy fee	19 N.J.R. 1429(a)	R.1987 d.393	19 N.J.R. 1825(b)
19:8-8.4	Fee for oversize vehicle permit	19 N.J.R. 1429(b)	R.1987 d.392	19 N.J.R. 1826(a)
19:9-1.6	Sleeping in parked vehicles	19 N.J.R. 1637(b)		
19:9 Exh. A	Prequalification of bidders for widening contracts	19 N.J.R. 2129(b)		
19:17-2.1, 3.1-4.5	PERC Appeal Board procedure: rescheduled public hearing	19 N.J.R. 404(a)		
19:25-19.3	Personal financial disclosure: reporting of earned income	19 N.J.R. 1541(a)		

(TRANSMITTAL 1987-5, dated August 17, 1987)

TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY

19:40-1.2	Affiliation and slot machine mix	19 N.J.R. 1890(a)		
19:44-8.3	Minibaccarat training	18 N.J.R. 2322(a)	R.1987 d.424	19 N.J.R. 1914(a)
19:45-1.1	Affiliation and slot machine mix	19 N.J.R. 1890(a)		
19:45-1.2, 1.46	Reporting of complimentary items and services	19 N.J.R. 1975(b)		
19:45-1.12	Minibaccarat	19 N.J.R. 54(b)	R.1987 d.395	19 N.J.R. 1826(b)
19:45-1.17	Storage of emergency drop boxes	19 N.J.R. 1290(a)	R.1987 d.457	19 N.J.R. 2202(a)
19:45-1.33	Accuracy procedures for currency counting machines	19 N.J.R. 923(a)	R.1987 d.428	19 N.J.R. 2065(a)
19:46-1.12	Minibaccarat	19 N.J.R. 54(b)	R.1987 d.395	19 N.J.R. 1826(b)
19:46-1.12	Minibaccarat: correction	19 N.J.R. 54(b)	R.1987 d.395	19 N.J.R. 1914(b)
19:46-1.32	Affiliation and slot machine mix	19 N.J.R. 1890(a)		
19:47-1.11	Rules of the games: craps	19 N.J.R. 1542(a)		
19:47-5.3	Roulette and "no more bets" procedure	19 N.J.R. 1638(a)		
19:47-7.7	Minibaccarat	19 N.J.R. 54(b)	R.1987 d.395	19 N.J.R. 1826(b)
19:47-8.2	Big Six minimum wagers	19 N.J.R. 858(b)	R.1987 d.433	19 N.J.R. 2066(a)
19:50-1.6	Security of alcoholic beverages	18 N.J.R. 2323(a)	Expired	
19:53-1.3, 1.13	Casino licensee's EEO/AA office	19 N.J.R. 1638(b)		
19:53-1.5	Pre-proposal: Affirmative action employment goals for handicapped or disabled persons	19 N.J.R. 1182(a)		
19:54-2.2	Affiliation and slot machine mix	19 N.J.R. 1890(a)		

(TRANSMITTAL 1987-6, dated September 21, 1987)