

# NEW JERSEY REGISTER



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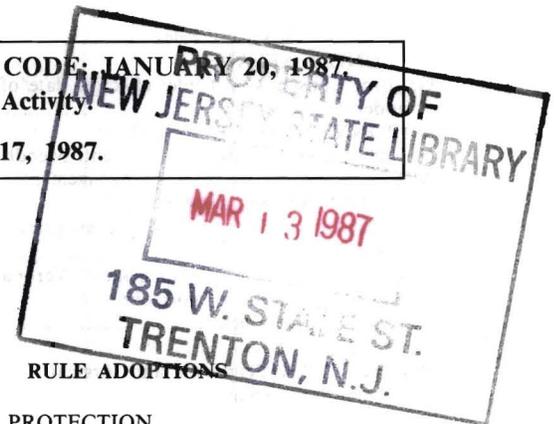
## THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 19 NUMBER 6  
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(Includes adopted rules filed through February 24, 1987)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: JANUARY 20, 1987.

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE WILL BE DATED FEBRUARY 17, 1987.



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# INTERESTED PERSONS

**Interested persons** may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **April 15, 1987**. Submission 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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#### June 1 issue:

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## NEW JERSEY REGISTER

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# RULE PROPOSALS

## AGRICULTURE

### (a)

#### DIVISION OF DAIRY INDUSTRY

##### Producers of Milk

**Proposed Readoption: N.J.A.C. 2:50**

**Proposed Amendment: N.J.A.C. 2:50-3.2**

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

Authority: N.J.S.A. 4:12A-1 et seq., specifically 4:12A-20 and N.J.S.A. 4:12-41.15.

Proposal Number: PRN 1987-58.

Submit comments by April 15, 1987 to:

Woodson W. Moffett, Jr., Director  
Division of Dairy Industry  
Department of Agriculture  
CN 332  
Trenton, New Jersey 08625

The agency proposal follows.

#### Summary

Executive Order No. 66(1978) mandates the "sunsetting" of administrative rules unless they are reviewed and readopted prior to their expiration. Pursuant to the Executive Order, N.J.A.C. 2:50 is due to expire on July 15, 1987. The Department of Agriculture hereby proposes to readopt the provisions of Chapter 50 to maintain regulatory continuity.

N.J.A.C. 2:50-1.1 provides that a dairy farmer must notify the dealer to which he sells milk at least 60 days prior of his intent to discontinue the sale of milk to the dealer.

N.J.A.C. 2:50-2.1 assures that dairy farmers will not suddenly find themselves without a market for their milk. The rule states that a dealer-buyer may not arbitrarily discontinue buying milk, but must provide the farmer with 60 days notice to find another market. Milk is highly perishable and bulky and must be harvested every day to maintain its marketability. Thus, it is necessary to provide time for a dairy farmer to locate another market and the rule assures this protection.

N.J.A.C. 2:50-2.2 requires a milk dealer to send notice to the Dairy Division of any new dairy farmers it buys from or the discontinuation of sales from a farmer.

Dairy farmers are paid for their milk based upon the butterfat content thereof, and the taking of the sample for the butterfat test and the weighing of the milk at the farm must be performed accurately to assure fair payment. The samples must also be maintained properly. N.J.A.C. 2:50-3.1 through 3.4 provide for the continuation of accurate weighing and sampling and testing procedures. An amendment to N.J.A.C. 2:50-3.2(a)3 recognizes industry practices of using a single sample for more than one use and the industry wide adoption of fresh milk samples for use in determining butterfat while preserving the option of using composite samples.

#### Social Impact

The readoption of the rules will continue to provide the economic protection which the producers of perishable milk must have for a viable dairy industry. The rules also insure that New Jersey's consumers will have adequate supplies of pure and wholesome milk.

#### Economic Impact

The readoption of the rules will continue the protection from economic disaster which could befall a dairy farmer who is abruptly dismissed by his dealer-buyer. The readoption will continue to assure the farmer that his milk will be properly weighed and tested to determine the high value butterfat content.

#### Regulatory Flexibility Statement

N.J.A.C. 2:50-1.1 applies to approximately 250 dairy farmers all of which may be considered small businesses. No record keeping or professional assistance is required. There are no initial capital outlays and no annual costs for compliance. The rule is a necessary adjunct to a system of reporting by dealers and farmers which protects the interests

of the dairy farmers. Specific provision is made to prevent adverse impact on the dairy farmers by exempting any dairy farmer from notice requirements if he fails to receive proper payment.

N.J.A.C. 2:50-2.1 and 2.2 and N.J.A.C. 2:50-3.1 through 3.4 do not impact upon small businesses. None of the buyers of New Jersey produced milk are classified as small business, except those buying from cooperative associations, the members of which are exempt under the rules.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 2:50.

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

2:50-3.2 Milk weighing, measuring and sampling procedures

(a) Weighing, measuring and sampling milk should be performed pursuant to the procedures as set forth in the current "Standard Methods for Examination of Dairy Products," published by the American Public Health Association, Inc., and as a minimum shall include the following:

1.-2. (No change.)

3. After milk has been agitated for at least five minutes with agitator running and before the outlet is open, take a [butterfat] **universal** sample. The sample shall be taken with a properly cleaned and sanitized stainless steel dipper which is first dipped two or three times into the milk. [For composite samples on every day pickup, a ten cubic centimeter dipper of milk shall be added to the composite daily. For composite samples on every other day pickup, 20 cubic centimeters shall be added to the composite sample at each pickup. When taking fresh samples, follow the same procedure except that the sample should be at least 100 cubic centimeters. Routes assembling fresh samples instead of composite samples should be equipped with sample dippers of 100 cubic centimeters or samples should be equipped with sample dippers of 100 cubic centimeters or larger.] **This sample shall be at least one ounce (30 cubic centimeters). If composite samples are taken, on every day pickup, a ten cubic centimeter dipper of milk shall be added to the composite daily. On every other day pickup, a 20 cubic centimeter sample shall be added to the composite at each pickup.**

(b) (No change.)

## COMMUNITY AFFAIRS

### (b)

#### DIVISION OF HOUSING AND DEVELOPMENT

##### Uniform Construction Code

##### Energy Subcode; Solar Energy Property Tax Exemptions

**Proposed Amendments: N.J.A.C. 5:23-3.18 and 6.1**

**Proposed New Rules: N.J.A.C. 5:23-6.2 and 6.3**

**Proposed Repeal: N.J.A.C. 14A:3-4.1 through 4.6; 14A:4-1.1 through 3.1**

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

Authority: N.J.S.A. 52:27D-124; Reorganization Plan No. 001-1986.

Proposal Number: PRN 1987-1.

Submit comments by April 15, 1987 to:

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

The agency proposal follows:

#### Summary

Pursuant to Section IV of Reorganization Plan No. 001-1986, issued by Governor Thomas H. Kean on June 30, 1986 and effective August 29, 1986, all functions, powers and duties heretofore exercised by the

Department and Commissioner of Energy pursuant to P.L. 1977, c.146, relating to the adoption, amendment and repeal of the energy subcode of the State Uniform Construction Code (P.L. 1975, c.217), and P.L. 1977, c.256, relating to standards for solar energy property tax exemption eligibility, have been transferred to the Department and Commissioner of Community Affairs.

For the benefit of those involved in the administration of these statutes, whether as public officials, builders or property owners, the Department proposes a rule to incorporate regulations previously adopted by the Department of Energy to implement P.L. 1977, c.146 and P.L. 1977, c.256 into Chapter 5:23 of the New Jersey Administrative Code (the Uniform Construction Code regulations). Numbering and references to subchapters, sections and subsections are changed as appropriate. Any reference to the Department or Commissioner of Energy has been deleted and reference to the Department or Commissioner of Community Affairs, as the case may be, substituted therefor. The transferred rules are repealed from Title 14A. The most recent lighting standard, LEM-1, 1982, is substituted for EMS-1, which was previously in effect. Also, certain amendments to Article 4 of the Energy Subcode which are in the current text of N.J.A.C. 14A:3-4.4(b) are omitted from the rule as recodified because the changes they purport to make are already present in the BOCA Basic/National Energy Conservation Code/1984.

N.J.A.C. 14A:3-4.1 through 4.6 and 14A:4-1.1 through 3.1 are repealed. The redistribution of the provisions of these sections, with changes of a minor technical nature in some cases, is as follows:

Old Designation	New Designation
14A:3-4.1	not recodified (covered by 5:23-3.18(a)2.)
14A:3-4.2 and 4.3	5:23-3.18(c)
14A:3-4.4(a) and 4.5	5:23-3.18(a)
14A:3-4.4(b)	5:23-3.18(b)
14A:3-4.6	not recodified (covered by 5:23-3.11(a)5 and 5:23-4.11(a))
14A:4-1.1, 1.2 and 1.3	5:23-6.2
14A:4-2.1, 2.2 and 2.3	5:23-6.3
14A:4-3.1	not recodified (covered by 5:23-3.2)
5:23-6.2	5:23-6.4

#### Social Impact

The consolidation of all rules concerning the various subcodes of the State Uniform Construction Code and of all rules concerning solar energy property tax exemptions will make use of the rules easier and less confusing for both officials and affected members of the public. The updating of the lighting standard insures that the State Uniform Construction Code requirements conform to current technical standards.

#### Economic Impact

There will be no apparent economic impact resulting from this proposal because it is essentially a recodification of existing rules.

#### Regulatory Flexibility Statement

Although this proposal may affect those builders and contractors who fall within the definition of small business as defined in P.L. 1986, c.169, there is no substantive change in the rules since the proposal simply recodifies the provisions from the Department of Energy Title 14A to the Department of Community Affairs Title 5. The compliance requirements of the rules are the same as before and no new burdens are imposed. It is expected that the recodifications of the energy rules into the energy subcode will facilitate easier and more efficient use since the rules will now be found in one location.

Full text of the proposed repeal appears in the New Jersey Administrative Code at N.J.A.C. 14A:3-4.1 through 4.6 and N.J.A.C. 14A:4-1.1 through 3.1.

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

#### 5:23-3.18 Energy Subcode

(a) Rules concerning the Energy Subcode adopted are as follows[.]:

1. Pursuant to authority of P.L. 1975, c.217 as amended, the commissioner hereby adopts the model code of the Building Officials and Code Administrators International, Inc., known as the ["BOCA Basic Energy Conservation Code/1977"] **BOCA Basic/National Energy Conservation Code/1984**, including all subsequent revisions and amendments thereto, as well as the Illuminating Engineering Society's standard known as ["EMS-1, Lighting Power Budget Determination Procedure"] **LEM-1, 1982, "IES Recommended Procedure for Lighting Power Limit Determination,"** including all subsequent revisions and amendments thereto.

i. Copies of the [BOCA Basic Energy Conservation Code/1977] **BOCA Basic/National Energy Conservation Code/1984** may be obtained from the sponsor at: BOCA, [1313 East 60th Street, Chicago, IL 60637] **4501 West Flossmoor Road, Country Club Hills, Illinois 60477.**

ii. Copies of [EMS-1, Lighting Power Budget Determination Procedure] **LEM-1, 1982, "IES Recommended Procedure for Lighting Power Limit Determination,"** may be obtained from the sponsor at IES, 345 East 47th Street, New York, New York 10017.

2. The model code and standard listed above, including (where appropriate) all subsequent revisions and amendments thereto, may be known and cited as the "energy subcode."

[3. One and two-family homes may comply with the energy subcode by meeting the requirements, adhering to calculation procedures, employing the reference data or utilizing the standard building envelopes contained in the "Small Dwelling Energy Subcode Compliance Manual" which is available from the Construction Code Enforcement Office, Department of Community Affairs.]

(b) The following chapters or articles of the energy subcode are amended as follows[.]:

1. **The following amendments are made to Article 1 of the Energy Subcode entitled "Scope and Application":**

i. **Section E-100.1 is amended to delete Exception 4.**

[1.]2. [The following amendments are made to article] **Article 2 of the Energy Subcode, entitled "Definitions", Section E-201—General Definitions, is amended to add the following definitions:**

i. [Add the definition of the term] "Bin, Degree Day Methods" means—Simplified methods for calculating the heating or cooling load [is] **are** treated as an instantaneous function of the difference between indoor and outdoor temperatures. The Degree Day method uses the actual temperature difference while the bin method categorizes those differences into "bins" covering a range of five degrees (e.g., from 20-25 degrees difference).[";"]

ii. [Add the definition of the term] "Boiler Capacity" means—The rate of heat addition in BTU/hr. (watts) measured at the boiler outlet at design temperature and pressure and rated input.[";"]

iii. [Add the definition of the term] "Building Envelope" means—The walls, roof[,] and floor of a building through which heat may be transferred to or from the exterior from non-conditioned spaces. The above elements are to be considered as comprising a building envelope for all conditioned spaces that they enclose.[";"]

iv. [Add the definition of the term] "Cut on Temperature" means—The temperature at which a piece of mechanical equipment will automatically begin operation.[";"]

v. [Add the definition of the term] "Design Parameters" means—The conditions of temperature and humidity which form the basis for the mechanical system design.[";"]

vi. [Add the definition of the term] "Dry Bulb Temperature" means—The atmospheric temperature as indicated by an ordinary thermometer.[";"]

vii. [Add the definition of the term] "Dual Duct/Multi-Zone Systems" means—Mechanical systems in which the entering air is divided into two flows. The first is heated to the highest temperature required in the building. The other stream is cooled to the lowest temperature anywhere in the building. These two air streams are then mixed in varying proportions to provide the correct air temperature for each zone of the building.[";"]

viii. [Add the definition of the term] "Economizer Cycle" means—The use of uncooled outside air for cooling purposes [ . When] **when** it will result in an energy savings.[";"]

ix. [Add the definition of the term] "Enthalpy" means—The amount of internal energy (heat) in a mixture of air and water vapor.[";"]

x. [Add the definition of the term] "Fenestration" means—The window area of the wall.[";"]

xi. [Add the definition of the term] "Heated Space" means—Space within a building which is provided with heat input from a heating system to maintain an air temperature of 50 degrees F. (10 degrees C.) or higher.[";"]

xii. [Add the definition of the term] "Latent Heat" means—Heat which does not change the temperature of substance but which changes its state. That is, latent heat addition could change a solid to a liquid or a liquid to a gas. Latent heat removal could change a gas to a liquid or a liquid to a solid.[";"]

xiii. [Add the definition of the term] "New Energy" means—Energy which has not been recovered from mechanical systems within the building and is used for heating and cooling. This energy might be electrical, solar, or result from combustion of fuels.[";"]

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xiv. [Add the definition of the term] "97 1/2 percent temperature" means—The hourly temperature which is exceeded 97 1/2 percent of the time during a year. That is, it is colder than this only 2 1/2 percent of the time.[";]

xv. [Add the definition of the term] "Overall Thermal Transmittance Value (OTTV)" means—A measure of heat transmission for cooling purposes. Measured in units of BTU/hr. transferred through a one square foot area of a substance in the cooling season.[";]

xvi. [Add the definition of the term] "Part Load Profile" means—The compilation of operating characteristics of a piece of mechanical equipment when operated over the ranges from zero to full load.[";]

xvii. [Add the definition of the term] "Power Factor" means—The proportion of total power in an electric circuit which is available as usable energy.[";]

xviii. [Add the definition of the term] "Recooling Systems" means—Mechanical systems which heat all entering air to the highest temperature required anywhere in the building. The air is then recooled to the temperature necessary for other parts of the building.[";]

xix. [Add the definition of the term] "Recovered Energy" means—Energy utilized which is obtained by recovery of useful energy from other mechanical devices in the building which would otherwise be wasted.[";]

xx. [Add the definition of the term] "Reheat Systems" means—Mechanical systems which cool all entering air down to the coolest temperature required for the building. The air is then reheated to the temperature necessary for other parts of the building.[";]

xxi. [Add the definition of the term] "Relative Humidity" means—The ratio of the amount of water vapor in the air to the maximum amount of water vapor the air can hold at that temperature.[";]

xxii. [Add the definition of the term] "Sensible Heat" means—Heat which changes the temperature of a substance when added or removed.[";]

xxiii. [Add the definition of the term] "Source Energy" means—The energy obtained from a given source such as electricity, oil, gas, solar, etc.[";]

xxiv. [Add the definition of the term] "Spill Light" means—Light which illuminates an area for which it is not intended or needed.[";]

xxv. [Add the definition of the term] "Standby Loss" means—The amount of energy lost from a system over a period of time when there is no demand placed on it for energy.[";]

xxvi. [Add the definition of the term] "TDEQ (Equivalent Temperature Difference)" means—A temperature to be utilized in calculating the design load for cooling systems. It is designed to account for the lag in wall temperature use due to the mass of the walls. Heavier walls heat up more slowly.[";]

xxvii. [Add the definition of the term] "2 1/2 percent temperature" means—The hourly temperature which is exceeded 2 1/2 percent of the time during a year. That is, it is cooler than this 97 1/2 percent of the time.[";]

xxviii. [Add the definition of the term] "Veiling Reflection" means—A reflected glare which obscures vision and reduces ability to see details.[";]

xxix. [Add the definition of the term] "Wet Bulb Temperature" means—A temperature which reflects the amount of moisture which may be evaporated into the atmosphere. When the relative humidity is 100 percent, the dry bulb temperature is equal to the wet bulb temperature. When the relative humidity is lower, moisture can evaporate into the atmosphere, thus cooling a thermometer. The greater the difference between the wet and dry bulb temperatures, the dryer the air.[";]

**3. The following amendments are made to Article 3 of the Energy Subcode entitled "Building Envelope":**

i. In Section E-301.2.1, delete the words "those specified in Figure E-301.2.1a" and add the words "0.135 Btu/hr.ft.<sup>2</sup> °F."

ii. Delete Figure E-301.2.1a.

iii. In Section E-301.2.1, delete exceptions 1 and 2 and Figures E-301.2.1b and E-301.2.1c.

iv. In Section E-301.2.2, delete the words "as specified in Table E-301.2.2" and add the words "not exceeding 0.03 Btu/hr.-ft.<sup>2</sup> °F." Delete Figure E-301.2.2. In Exception 1 to Section E-301.2.2, delete the word "deck" and substitute the word "assembly."

v. In Section E-301.2.3, delete the words "combined thermal transmittance value U<sup>o</sup> as specified in Figure E-301.2.3" and add the words "maximum allowable transmittance value U<sup>o</sup> of 0.052 Btu/hr.-ft.<sup>2</sup> °F." Delete the words "meet the same requirements as for roofs in Section E-301.2.2 and add the words "be 0.045."

vi. Delete Figure E-301.2.3.

vii. In Section E-301-2.4, delete the words "those specified in Figure E-301.2.4" and add the words "6.7 if the slab is heated, or 4.5 if the slab is unheated."

viii. Delete Figure E-301.2.4.

ix. In Section E-301.3.1, delete the words "those specified in Figure E-301.3.1" and add the words "0.345 Btu/hr-ft.<sup>2</sup> °F. for buildings over three stories, and 0.285 Btu/hr.-ft.<sup>2</sup> °F for buildings of three stories and under."

x. Delete Figure E-301.3.1.

xi. In Section E-301.3.2, delete the words "those specified in Figure E-301.3.2" and add the words "0.080 Btu/hr.-ft.<sup>2</sup> °F."

xii. Delete Figure E-301.3.2.

xiii. In Section E-301.3.3, delete the words "those specified in Figure E-301.2.3" and substitute "0.080 Btu/hr.-ft.<sup>2</sup> °F."

xiv. In Section E-301.3.4, delete the words "Figure E-301.2.4" and add the words "Section E-301.2.4".

xv. In Section E-301.3.5, delete the words "those specified in the following Figure E-301.3.5" and add the words "33.5 Btu/hr.-ft.<sup>2</sup> °F."

xvi. Delete Figure E-301.3.5.

xvii. In Section 301-3.7, delete the words "those specified in Figure E-301.2.3" and substitute "0.045 Btu/hr.-ft.<sup>2</sup> °F."

**4. The following amendments are made to Article 4 of the Energy Subcode entitled "Warm Air Heating, Ventilating and Air Conditioning Systems and Equipment":**

i. In Section E-401.1.1, delete "Except where established by local weather data, outdoor design temperature shall be selected for listed locations in the ASHRAE Handbook, Fundamentals Volume, listed in Appendix A, from columns of 97 1/2 percent values for heating and 2 1/2 percent values for cooling. A list of selected locations may also be found in Appendix B." and substitute the words "Design temperatures shall be as follows: Winter 14°F.; Summer DB 90°F.; Summer WB 76°F."

**5. The following amendments are made to Article 5 of the Energy Subcode entitled "Plumbing Systems":**

i. In Section E-503.1.1, delete the numbers 15 and 47 and substitute the numbers 13.6 and 43, respectively.

ii. Add Section E-504.0 SWIMMING POOLS as follows:

(1) E-504.1 Pool Heaters.

(A) E-504.1.1 All pool heaters shall be equipped with an ON-OFF Switch mounted for easy access to allow shutting off the operation of the heating without adjusting the thermostat setting and to allow restarting without relighting the pilot light.

(B) E-504.1.2 All gas and oil fired pool heaters shall have a thermal efficiency of 75 percent when tested in accordance with ANSI Z21.56-1975.

(C) E-504.1.3 Active solar heating systems shall be used to supply a portion of the pool heating requirements when conditions permit their cost-effective installation.

(2) E-5.4.2 Pool Covers. Heated swimming pools shall be equipped by the builder with a pool cover.

(A) Exception: Outdoor pools deriving over 20 percent of the energy for heating from non-depletable sources (computed over an operating season) shall not be required to be equipped by the builder with a pool cover.

(3) E-504.3 Time Clocks. Time clocks shall be installed so that the pump can be set to run in the off-peak electric demand period and can be set for the minimum time necessary to maintain the water in a clean and sanitary condition, in keeping with applicable health standards.

[2].6. The following amendments are made to article 7 of the Energy Subcode entitled "Alternative Systems":

i. Section [700.0] 700.1 is amended to delete the words "this code" on line 6 and, in lieu thereof, substitute "the energy subcode."

[3].7. The following amendments are made to section 2 of standard [EMS-1] LEM-1 of the energy subcode, entitled "Scope":

i. Delete the first paragraph in the section and in lieu thereof, substitute "These provisions regulate the amount of power which may be utilized by a building for lighting. No building shall employ more power for lighting than that determined through the use of the criteria and calculated procedures contained herein."

(c) The requirements of the Energy Subcode shall apply as follows:

1. The thermal efficiency standards of the Energy Subcode shall apply to all newly constructed and renovated buildings.

2. The lighting efficiency standards of the Energy Subcode shall apply to all newly constructed and renovated buildings in use groups A, B, E, F, H, I, M, R, S and U as defined in the Building Subcode.

3. As used in this section, "newly constructed" means built in its entirety in accordance with a construction permit as required by this chapter and "renovated" means having changes made to the structure of an existing building in accordance with a construction permit as required by this chapter.

5:23-6.1 Solar [facilities] energy systems: administrative requirements  
(a)-(e) (No change.)

5:23-[6.2]6.4 Automatic fire suppression systems  
(a)-(e) (No change.)

5:23-6.2 Technical standards for solar energy systems: general provisions  
(a) These technical sufficiency standards for solar energy systems in buildings are designed to establish minimum performance standards for the purpose of obtaining a property tax exemption pursuant to P.L. 1977, c.256 (N.J.S.A. 54:4.3.113 et seq.) as amended by P.L. 1983, c.44.

(b) Sections 5:23-6.2 and 5:23-6.3 shall be liberally construed to permit the commissioner to effectively carry out his statutory functions and to insure the maximum conservation of energy sources within the State.

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

"Active solar systems" means those systems which convert the sun's energy into thermal energy, and transport this energy to a storage device through the use of a heat transport medium such as air or a liquid. At this point, the heat is withdrawn and utilized for the purpose for which the system was designed. "Active solar systems" also means those systems which convert energy directly derived from solar flux into electricity which can then be used in thermal applications.

"Active system" means a solar energy system which converts solar radiation into thermal energy, and mechanically transfers the energy through the use of pumps and fans for the purpose of heating, cooling or general needs of a building.

"Administrator" means the Commissioner of the Department of Community Affairs or his designee.

"Building" means any residential, commercial or industrial structure.

"Collector" means a device that collects, absorbs and converts solar radiation into thermal energy and commonly includes glazing and/or other optical elements.

"Collector kit" means a collector supplied unassembled to the end user that includes all the component parts necessary to assemble the collector.

"Concentrating collector" means a solar collector that contains reflectors, lenses, or other optical elements to concentrate the energy falling on the aperture onto a heat exchanger or surface area smaller than the aperture.

"Cost" means the purchase price and the cost of construction or installation.

"Direct gain" means the transmission of solar radiation directly into the space to be heated wherein the solar radiation is converted to thermal energy by absorption into the interior surfaces.

"Distribution system" means that portion of a solar energy system which transfers thermal energy from the point of collection, through pipes or ducts and/or, from the point of collection to end-use, and where applicable, includes a fan and/or pump, reverse flow protection, and an automatic airpurging valve.

"Eligible" means that a system or component thereof qualifies for an exemption pursuant to N.J.A.C. 5:23-6.2 and 5:23-6.3.

"Eligible solar energy system" means equipment assembled as subsystems and components of a system necessary to convert solar energy into thermal or electrical energy for thermal end uses.

"Flat plate collector" means a device consisting of an absorptive plate, which may be flat, corrugated or grooved, to which tubes or fins are attached as a means of conducting or directing the heat transfer medium. This assembly is surrounded by a casing and one or more sheets of glazing material. This device is used to intercept radiation and convert this radiation into usable thermal energy.

"Glazing" means a transparent or translucent material which transmits solar radiation and minimizes loss of thermal energy, including glass, fiberglass, plastics and window films.

"Heat transportation systems" means that portion of a solar energy system used to transfer heat (and complete return cycle) from point of collection, through pipes in liquid systems or ducts in air systems, and/or cooling distribution system or, where appropriate, directly to thermal end use.

"Hybrid system" means a solar energy system that combines passive and active characteristics.

"Insulating device" means a fixed or movable exterior or interior device which prevents loss of thermal energy at night and in cold weather through glazing or vents, including insulating shutters, thermal curtains, window films and glazing.

"Passive solar energy systems" means those systems which utilize the architecture of a building to maximize solar heat gains during the cold seasons and minimize heat gain in the hot seasons.

"Passive system" means a solar energy system which utilizes natural convection or thermal radiation to maximize gains of thermal energy for heating and to minimize gains of thermal energy for cooling.

"Photovoltaic cell" means a device which converts solar radiation to electrical energy.

"Shading device" means a device which prevents direct solar gain, including overhangs, shades and window films.

"Site-built collector" means a collector which must be assembled on-site and is not supplied as a collector kit.

"Solar domestic hot water system" means a system which converts solar radiation into thermal energy for the purpose of heating potable water.

"Solar energy" means energy which has recently originated in the sun, including direct and indirect solar radiation and intermediate solar energy from sources such as wind and sea thermal gradients.

"Solar energy system" means a system or component thereof which uses solar energy to provide all or a portion of the heating, cooling or general energy needs of a building.

"South" means falling within the 60 degree envelope from 30 degrees East to 30 degrees West of true South.

"Storage device" means a device which stores solar energy.

"Sunspace" means a collector which also serves as a living space, including a sunroom, solarium, atrium, attached greenhouse and Florida room.

"Thermal contact ceiling" means a combined roof and heating and/or cooling system composed of containers filled with a liquid solution placed above the roof beams of a building, and is utilized as a heat sink for solar radiation or heat transfer medium from building to atmosphere for cooling during the daylight hours and as a thermal storage insulator during the nocturnal hours. Movable insulation is placed over the water filled containers at night and during cold weather as a means of retaining the absorbed heat.

"Thermal storage wall" means a wall of massive material, such as masonry or water in containers, placed between the glazing and the heated space, including a trombe wall and water wall.

"Trombe wall" means a south facing wall of the building envelope composed of a mass wall surface with exterior glazing. The mass wall functions as a heat storage device and exterior wall.

"Wind system" means a device which converts wind energy into usable electrical and mechanical energy.

6:23-6.3 Eligibility criteria for solar energy systems

(a) The following solar energy systems shall be eligible for an exemption from property taxes. The exemption shall be for 100 percent of the tax due on the cost unless stated otherwise.

1. Passive and hybrid systems of the following types, provided that the systems generate a net positive gain of thermal energy for heating and a net loss of thermal energy for cooling in the building.

i. Sunspace and direct gain devices. The following components shall be eligible, provided that the sunspace or direct gain device contains, at a minimum, (1) through (5) below:

- (1) South facing glazing;
- (2) Distribution systems;
- (3) Insulating devices having an R value of 4.0 or greater;
- (4) Shading devices;
- (5) Storage devices; including

(A) Thermal storage walls: Load bearing thermal storage walls shall be eligible for an exemption for 50 percent of the tax due on the cost thereof; non-load bearing thermal storage walls shall be eligible for an exemption of the tax due on the cost thereof in accordance with the formula two square feet of slab for every one square foot of south facing glazing, not to exceed the wall area of the sunspace or room in which the direct gain device is located;

(B) Mass floors: Such floors shall be eligible for an exemption of the tax due on the cost thereof in accordance with the formula two feet of slab for every one square foot of south facing glazing, not to exceed the floor area of the sunspace or room in which the direct gain device is located.

(6) Equipment used solely as bracing or fastening for south facing glazing;

(7) Skylights and roof glazing.

2. Active systems and solar domestic hot water systems of the following types:

i. Collectors:

(1) Commercially manufactured collectors which meet the standards set by a nationally-recognized testing organization, such as the Airconditioning and Refrigeration Institute (ARI); Solar Rating and Certification Corporation (SRCC); Florida Solar Energy Center (FSEC); or the International Association of Plumbing and Mechanical Officials (IAPMO);

(2) Collector kits which meet the standards specified in N.J.A.C. 5:23-6.3(a)2.i.(1);

- ii. Distribution systems;
- iii. Storage devices.

3. Solar electric generating systems of the following types:

i. Photovoltaic cells, including mounting racks, arrays, wires, batteries, meters, switches, miscellaneous electrical equipment and other devices required for the installation.

4. Wind systems: The following components shall be eligible:

- i. Structural parts, including towers and supporting pads;
- ii. Electrical equipment, including alternators, generators, inverters, meters, batteries, controls and circuits;
- iii. Mechanical equipment, including gearboxes, heads, transmissions, pumps, and shafts;
- iv. Interconnecting devices, including wire and conduits used to connect the wind system to the electric service panel, and equipment required to complete the installation and interconnection of the wind system to the utility.

(b) The following shall not be considered eligible for an exemption from property taxes:

- 1. Building insulation used to reduce heat loss through walls, roofs, slabs and foundations;
- 2. Uninsulated skylights;
- 3. Heat storage devices or delivery systems which are also utilized for other means of heating and/or cooling, including back-up systems;
- 4. Bracing equipment used as building structural members such as columns, beams and studs;
- 5. Devices such as draperies, venetian blinds, and curtains which are not part of the solar energy system and do not meet the definition of insulating devices and/or shading devices pursuant to N.J.A.C. 5:23-6.2(c);
- 6. Heat pumps and other refrigerators;
- 7. Devices used to extract and store heat generated by organic waste piles;
- 8. Trees, shrubbery, and other forms of vegetation.

(c) If a solar energy system is neither specifically eligible nor ineligible for exemption, or if eligibility is in dispute, or in the case of site-built collectors, the Administrator shall examine said system to determine its eligibility.

- 1. The applicant for an exemption shall submit information required by the Administrator or submitted at the time of application for a construction permit.
- 2. The Administrator shall issue a ruling as to the system's eligibility within 20 working days of receipt of the request for a determination and shall communicate the ruling to the construction official with jurisdiction.
- 3. The Administrator shall notify all construction officials as to his rulings. Rulings of the Administrator are prospective and shall apply to all future exemption applications for systems of that type.
- 4. If a determination is not issued within 20 working days of receipt of the request, the system shall be deemed eligible for a full exemption in this case. This will not affect the eligibility of future systems of the same type.
- 5. The determination of the Administrator shall constitute final agency action concerning the system's eligibility.

## EDUCATION

### (a)

#### STATE BOARD OF EDUCATION

#### Business Services

#### Bookkeeping and Accounting in Local School Districts

#### Appropriation of Free Balance

#### Proposed New Rule: N.J.A.C. 6:20-2.14.

Authority: N.J.S.A. 18A:4-15 and 18A:7A-25.

Proposal Number: PRN 1987-95.

Submit comments by April 15, 1987 to:

Patricia Joseph, Rules Analyst  
 Department of Education  
 225 West State Street  
 Trenton, New Jersey 08625

The agency proposal follows.

### Summary

The proposed new rule will allow a district board of education to retain an available free balance amount equal to three percent of its current expense budget when requesting a budget cap waiver. N.J.S.A. 18A:7A-25 permits the commissioner to approve a district board of education's request for a cap waiver when a reallocation of resources is insufficient to meet the goals, objectives, and standards required by the "Public School Education Act of 1975." This reallocation of resources provision is intended to prevent district boards of education from raising local taxes in order to exceed the budget cap when an available free balance exists.

The proposed new rule permits a district board of education to maintain a three percent available free balance for unforeseen contingencies and still comply with the reallocation of resources provision of N.J.S.A. 18A:7A-25.

### Social Impact

The proposed new rule will benefit district boards of education which obtain a cap waiver by permitting a reasonable free balance amount to be retained for contingencies. The financial operations of a district board of education often dictates the use of free balance during the school year after the school budget has been approved. School district business operations and student needs will be better met if a reasonable amount of free balance is available to provide for unforeseen budgetary needs which may arise during the normal course of the school year.

### Economic Impact

The proposed new rule will have a positive financial impact on district boards of education which need to obtain a budget cap waiver. Additional resources will be available during the school year to provide for unforeseen budgetary needs which might arise. In addition, the proposed new rule will protect the taxpayer from unnecessary tax increases by requiring the appropriation of all free balance in excess of three percent of the proposed current expense budget.

### Regulatory Flexibility Statement

The proposed new rule will have no reporting, recording or compliance requirements for small businesses. All requirements of the rule impact upon New Jersey public school districts.

Full text of the proposed new rule follows.

6:20-2.14 Appropriation of free balance

(a) A district board of education requesting to exceed the permissible rate of increase pursuant to N.J.S.A. 18A:7A-25 shall appropriate all available current expense free balance in excess of three percent of the current expense budget for the budget year such request is made.

(b) A district board of education, upon the advice of the chief school administrator, may request an exception, from the commissioner, to the provision of (a) above.

(c) Any balance allowed pursuant to (a) or (b) above shall be exempt from the commissioner's determination that a reallocation of resources is insufficient to meet the district board of education goals, objectives and standards.

## ENVIRONMENTAL PROTECTION

### (b)

#### DIVISION OF WATER RESOURCES

#### Water Supply Bond Loan Program

#### Proposed Readoption: N.J.A.C. 7:1A

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

Authority: Water Supply Bond Act of 1981, P.L. 1981, c.261,

Section 5, and Section 4, as amended by P.L. 1983, c.499.

DEP Docket No. 005-87-02.

Proposal Number: PRN 1987-88.

Submit written comments by April 15, 1987 to:

David Weinsoff  
 Office of Regulatory Services  
 Department of Environmental Protection  
 CN 402  
 Trenton, N.J. 08625

The agency proposal follows:

**Summary**

Pursuant to Executive Order No. 66(1978), N.J.A.C. 7:1A will expire on June 7, 1987. The Department of Environmental Protection proposes to readopt this chapter without change.

N.J.A.C. 7:1A prescribes the rules governing loans for State or local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating publicly owned water supply facilities, for the interconnection of unconnected or inadequately connected water supply systems, for water supply facilities to resolve contamination problems as identified by the Department, and for emergency interim rehabilitation loans, pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, as amended by P.L. 1983, c.499 and as recommended by the New Jersey Statewide Water Supply Plan. These rules were adopted to establish procedures, minimum standards of conduct for borrowers, and standards for the rehabilitation of water supply facilities, for interconnection between water supply systems, and water supply systems to resolve contamination problems.

Subchapter 1 (N.J.A.C. 7:1A-1) sets forth the general provisions of these regulations, including the scope, construction, purposes, severability, the right of the Commissioner to rescind, amend or expand these rules, and the requirement that the Commissioner submit an annual budget request.

Subchapter 2 (N.J.A.C. 7:1A-2) sets forth the detailed procedures and requirements necessary to obtain a loan under this chapter, including the preapplication and application procedures, the Department's evaluation and approval/disapproval procedures, Department determination of loan amount and eligible project costs, procedures for using unused loan funds, recycling of funds, fraud and debarment, loan conditions, State payment, project changes and loan modifications, administrative loan changes, the rights and remedies governing noncompliance, the withholding of funds, stop work orders, termination, amendment of loans, and hearings of all disputes arising under a loan.

Subchapter 3 (N.J.A.C. 7:1A-3) sets forth the basis upon which an applicant operating an antiquated, obsolete, damaged or inadequately operating water supply transmission facility in need of rehabilitation or repair is eligible for a loan.

Subchapter 4 (N.J.A.C. 7:1A-4) sets forth the basis upon which an applicant whose system includes an antiquated, damaged or inadequate water supply interconnection in need of rehabilitation, repair or consolidation is eligible for a loan.

Subchapter 5 (N.J.A.C. 7:1A-5) sets forth the basis upon which any local unit which has received notification from the Water Supply and Watershed Management Element of the Division of Water Resources, that groundwater supply contamination problems exist within their jurisdiction adversely affecting the potable water service of at least five dwelling units, is eligible for a loan to complete a water supply project designed to relieve the impact levied by contaminated groundwater upon the existing water supply.

Subchapter 6 (N.J.A.C. 7:1A-6) sets forth the basis upon which, and the detailed procedures and requirements necessary for, a publicly owned water supply facility seeking an Emergency Interim Rehabilitation Loan for the purpose of interim rehabilitation and repair of critical water supply service disruptions can be eligible for an emergency loan.

**Social Impact**

The Department of Environmental Protection anticipates that a positive social impact will result from the re-adoption of the proposed rules. Re-adoption will assist in the continued financial assistance to publicly owned water purveyors for the repair, replacement or reconstruction of antiquated, obsolete, damaged or inadequately operating water supply transmission facilities consisting of pipes and appurtenances including, but not limited to, pump stations, valves, surge chambers, existing interconnections and storage tanks which convey water; the construction, repair, replacement or reconstruction of parts of an inadequate or non-existent water supply system interconnection; or the planning, design and construction of water supply facilities to resolve contamination problems as identified by the Department.

**Economic Impact**

The Department of Environmental Protection anticipates that a positive economic impact will result from re-adoption of the proposed rules. The economic impact of the proposed rules will be realized by the continued provision of bond fund loans for the rehabilitation, repair or consolidation of antiquated, damaged or inadequately operating water supplies and resolution of contaminated well fields. While the expenditure

of such funds will require repayment in accordance with the Water Supply Bond Act of 1981 and these regulations, economic benefits will be realized by the improvement of such eligible water supply facilities.

**Environmental Impact**

The Department of Environmental Protection anticipates that a positive environmental impact will result from the re-adoption of the proposed rules. Funds are being made available for the rehabilitation and/or repair or consolidation of water supply facilities, interconnections, or operations to assure that they provide the citizens of the State with a suitable supply of potable water.

**Regulatory Flexibility Statement**

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that these rules will not impose reporting, recordkeeping, or other compliance requirements on small businesses because the regulations only apply to publicly owned water purveyors seeking to obtain loans from the State of New Jersey to finance water supply projects. The Water Supply Bond Act of 1981, P.L. 1981, c.261, Section 3 specifies that water supply facilities constructed as projects financed with Bond funds shall be acquired, constructed and operated in whole or in part by or on behalf of the State or a political subdivision or any agency thereof.

Full text of the proposed re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 7:1A.

**(a)****DIVISION OF ENVIRONMENTAL QUALITY****Worker and Community Right to Know Act****Environmental Hazardous Substance and Hazardous Materials Lists****Proposed Amendment: N.J.A.C. 7:1G-2.1, 2.2, 4.1 and 4.2****Proposed Repeal: N.J.A.C. 7:1G-5.4**

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

Authority: N.J.S.A. 34:5A-1 et seq. and N.J.S.A. 13:1D-9.  
DEP Docket No. 004-87-02.

Proposal Number: PRN 1987-91.

Submit written comments by April 15, 1987 to:

David Bosted, Esquire

New Jersey Department of Environmental Protection

Office of Regulatory Services

CN 402

Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

On July 2, 1984, the Department adopted new rules, codified at N.J.A.C. 7:1G, to implement the Worker and Community Right to Know Act, P.L. 1983 c.315, N.J.S.A. 34:5A-1 et seq. (the Act). (See 16 N.J.R. 646(a) and 1732(a).) By this notice, the Department is proposing six amendments to these rules as follows:

1. The Department is proposing the addition of seven substances to the Environmental Hazardous Substance List ("EHS List");

2. The Department is proposing to add two additional chemical groups to the list of 33 chemical groups designated in N.J.A.C. 7:1G-2.2;

3. The Department is proposing to designate, by reference, the substances contained in the U.S. Department of Transportation's Hazardous Materials Table in Title 49 of the Code of Federal Regulations, Part 172.101, as Hazardous Materials pursuant to the Worker and Community Right to Know Act;

4. The Department is proposing to add to the Hazardous Materials List, by reference, any substances that may be added by the USDOT in the future to the Hazardous Materials Table, Part 172.101; and

5. The Department is proposing to repeal the waiver from completion of the Emergency Services Information Survey established in N.J.A.C. 7:1G-5.4 pursuant to the Worker and Community Right to Know Act.

Following the December 1984 tragedy in Bhopal, India when approximately 2,000 people died as a result of a release of a highly toxic chemical, Methyl Isocyanate, there has been increased attention paid to the need for contingency planning for chemical-related emergencies in the United

States. This increased attention is evident by widespread interest on the part of the public and by the initiation of contingency planning programs and laws by industry and government agencies alike. The Worker and Community Right to Know program ("Right to Know program") continues to address the need for access to information about extraordinarily hazardous substances and about substances which may pose hazards in emergency situations. The Department is currently reviewing the status of hazardous substance lists used under the Right to Know program as these lists address concerns pertaining to chemical-related emergencies. The Department has determined that the six amendments included in this proposal will address the need for access to information about extraordinarily hazardous substances and substances that pose hazards in emergency situations. It is expected that the Department will propose amendments in the future that will supplement this proposal to further address issues and informational requirements pertaining to chemical-related emergencies and emergency response and planning.

#### N.J.A.C. 7:1G-2.1 Addition of Substances to the EHS List

On January 8, 1986, the Toxic Catastrophe Prevention Act (P.L. 1985 c.403, N.J.S.A. 13:1K-19 et seq.) was enacted. The Toxic Catastrophe Prevention Act identifies 11 chemicals posing extraordinarily hazardous accident risks which could produce a significant likelihood that persons exposed may suffer acute health effects resulting in death or permanent disability. Four of the 11 substances are currently included on the Environmental Hazardous Substance List. The Department has since obtained additional information concerning the remaining seven compounds. After reviewing this information, the Department proposes to include the following seven additional chemicals on the environmental Hazardous Substance List: bromine, chlorine, hydrogen chloride, hydrogen fluoride, hydrogen sulfide, methyl isocyanate and phosphorus trichloride.

The Act directed the Department to develop an Environmental Hazardous Substance List which "shall include, but not be limited to, substances used, manufactured, stored, packaged, or disposed of or released into the environment of the State which, in the department's determination, may be linked to the incidence of cancer; genetic mutations; physiological malfunctions, including malfunctions in reproduction; and other diseases; or which, by virtue of their physical properties, may pose a threat to the public health and safety" (N.J.S.A. 34:5A-4(a)). The Department developed the initial EHS List of 154 substances based on the following two criteria which were listed in the April 1984 Basis and Background document:

Criteria 1: Evidence of a significant rate of use, production, or importation in New Jersey or the United States. The Department considered 10,000 pounds per year in the State or in the country to be significant; and

Criteria 2: Evidence of at least one of the following health or environmental effects: carcinogenicity, teratogenicity, mutagenicity, other chronic toxic effects, acute toxicity persistence, or ability to bioaccumulate.

The Department considers it imperative to expand the EHS List to include extraordinarily hazardous substances and substances that demonstrate acute toxicity in order to fulfill its mandate in the Act to include substances that "may pose a threat to the public health and safety" on the EHS List. After considering the need to address extraordinarily hazardous substances with respect to the EHS List, the Department concludes that it is necessary to expand these criteria to accommodate the addition of acutely toxic substances. The Department now establishes the following third criteria for considering addition of substances to the EHS List:

Criteria 3: Elimination of a significant rate of use, production or importation threshold for addition of substances considered by the Department to be extraordinarily hazardous or to demonstrate acute toxicity.

Use of this additional criteria is imperative because extraordinarily hazardous substances pose acute health risks in relatively small quantities. It should be noted that the Department is currently reviewing scientific literature and other lists of extraordinarily hazardous substances and substances that demonstrate acute toxicity to consider further expansion of the EHS List at a later date.

#### N.J.A.C. 7:1G-2.2 Addition of Chemical Group and Group Numbers

Substances included on the EHS List are classified on the list according to their chemical groups. Chemicals within a group have similar structures. Of the seven substances proposed here for addition to the EHS List, one is readily classified in a chemical group previously included in

the EHS List. However, six of the seven substances are not readily classified into existing EHS List chemical groups. Thus, the Department further proposes to amend N.J.A.C. 7:1G-2.2 to add the following chemical groups to the EHS List: Halogens; group number 34 and Inorganic Acids; group number 35.

#### Interaction of EHS List, Chemical Groups, and Group Numbers

The extraordinarily hazardous substances being proposed for inclusion on the Environmental Hazardous Substance List are listed below, classified according to their chemical group. Chemical groups have group numbers designated next to them in parentheses and the two chemical groups that are also being proposed here for inclusion to the EHS List are denoted by an asterisk (\*). Existing group numbers 1-33 are arranged alphabetically, as are chemicals within each group. Chemical groups included in this proposal will start at group number 34 and will not necessarily be in alphabetical order. In addition, the Chemical Abstracts Services (CAS) number and any synonyms for each substance are listed below. The CAS number is a unique identifier for each chemical substance.

#### 20. ISOCYANATES

Chemical	Synonym	CAS Number
Methyl Isocyanate	Isocyanic Acid, Methyl Ester Iso-cyananatomethane Methylisocyanate	(624-83-9)

#### 34. HALOGENS\*

Chemical	Synonym	CAS Number
Bromine		(7726-95-6)
Chlorine		(7782-50-5)

#### 35. INORGANIC ACIDS\*

Chemical	Synonym	CAS Number
Hydrogen Chloride	Anhydrous Hydrochloric Acid	(7647-01-0)
Hydrogen Fluoride	Hydrofluoric Acid Gas Fluohydric Acid Gas Anhydrous Hydrochloric Acid	(7664-39-3)
Hydrogen Sulfide	Sulfurated Hydrogen Hydrosulfuric Acid	(7783-06-4)
Phosphorus Trichloride	Phosphorus Chloride	(7719-12-2)

#### N.J.A.C. 7:1G-4.1(b) Designation of Additional Hazardous Materials

The Hazardous Materials List developed pursuant to the Worker and Community Right to Know Act is the list of substances which employers must report on the Emergency Services Information (ESI) Survey. Together, the Hazardous Materials List and the EST Survey provide local fire and police and other government officials with detailed information about substances used or stored in their communities which may pose hazards to emergency response personnel but which have a less likelihood of causing environmental health hazards in non-emergency situations. The existing Hazardous Materials List consists entirely of the United States Department of Transportation's (USDOT) Optional Materials Table contained in Title 49 of the Code of Federal Regulations, Part 172.102, as amended by publication in the Federal Register, 48 Fed. Reg., Vol. 48, No. 211, pp. 50234-50279 (October 31, 1983). The Department proposes to add the USDOT Hazardous Materials Table, Part 172.101, to expand its list of hazardous materials. The addition of the Part 172.101 Table will allow the Department to maintain consistency with the Hazardous Materials List. The Department proposes to designate, by reference, these substances contained in the USDOT's Hazardous Materials Table, Part 172.101, as Hazardous Materials pursuant to the Worker and Community Right to Know Act. In addition, the Department proposes to add any substances which the USDOT may in the future add to the Part 172.101 List. For the purposes of the Right to Know program, the combined federal list will be modeled after the USDOT p. 5800.3, 1984 Emergency Response Guidebook, in form and substance. The general categories of explosives A, B, C and blasting agents will be used for reporting USDOT listings designated by (UN) 0001 through (UN) 0437 when a specific chemical name is not listed. Later editions of the guidebook will be referenced through citation in the New Jersey Register.

#### N.J.A.C. 7:1G-5.4 Repeal of Waiver

In regulations pertaining to the Worker and Community Right to Know Act (N.J.A.C. 7:1G-5.4), the Department established a waiver from completion of the ESI Survey to be granted to employers that received certification from their local fire departments stating that the employers

have prepared a plan concerning emergency response procedures. By establishing this waiver, the Department intended to prevent the ESI Survey process from duplicating existing efforts between an employer and its local fire department.

However, after reviewing the effectiveness of the ESI Survey process and after consultations with emergency response agencies, the Department concludes that, for the reasons outlined below, the aforementioned waiver does not sufficiently assure the transfer of pertinent emergency response information about a facility to a local fire department.

Effective emergency response planning in New Jersey must be based on information collected through mandatory programs. By establishing a procedure, such as the Emergency Services Information Survey, that requires employers to provide specified information, there is a much greater likelihood that the information collected will be accurate and consistent with information provided by other employers throughout the State. Mandated programs, such as the Right to Know ESI Survey process, increase the potential for collection of accurate and consistent information because mandated programs carry the weight of compliance regulations which include provisions for penalties for non-compliance. The Department believes that the ESI survey process provides for the collection of consistent and accurate data and, thus, lays the groundwork which local fire departments need to plan for and respond to chemical-related emergencies.

The Department has, to this date, received only two applications for the ESI Survey waiver; one of these applications has been denied.

After consultation with local fire agencies, the Department has determined that local fire departments, especially volunteer companies, benefit greatly from having the Department receive and review all information included on the ESI survey. The Department is better able to evaluate reported information due to its extensive knowledge of hazardous chemicals' properties. In addition, much of the information included on the ESI survey deals with extremely complex, scientific issues for which the Department has more resources for effective review of such issues. In addition, having the Department receive all information that would be included on ESI surveys would allow the Department to identify statewide trends and concerns related to emergency response planning. Such statewide analyses would allow the Department to identify areas in which a locality, county, region, or the entire State, may be deficient or excelling in terms of emergency response.

Approval of a waiver may have a deleterious impact on the liability of a local fire department in two respects. First, by limiting the amount of information which a local fire department receives, a waiver may negatively affect the ability of a fire fighter or a fire department to respond to a specific emergency. Second, it is uncertain how signing-off on a waiver may affect personal liability of an individual firefighter or fire department. For this reason, the Director of the State Fire Safety Commission has strongly recommended that local fire departments consider their liabilities before signing off on a waiver.

The Director of the State Fire Safety Commission has also pointed out that local fire departments may be put under pressure by a company or companies to approve a waiver. This issue is particularly compelling in the case of volunteer fire departments which are dependent on donations and in the case of a major employer which is actively involved in various aspects of a small municipality.

For reasons discussed previously, the State Fire Safety Commission has recommended that local fire departments should not sign-off on requests for Right to Know waivers. After considering this issue in-depth, the Department of Environmental Protection has concluded that the waiver may pose negative ramifications for the health, safety, and legal rights of New Jersey's firefighters. In addition, the Department concludes that the waiver may prevent the Department from effectively compiling and analyzing statewide data concerning emergency response information. For these reasons, the Department proposes that the waiver be repealed.

#### Social Impact

The addition of extraordinarily hazardous substances to the Environmental Hazardous Substance List would give New Jersey citizens access to information on the types and amounts of hazardous substances to which they are exposed and could potentially be exposed to in their communities. This information can be used by physicians to aid in medical diagnoses, when necessary. The data generated from the Environmental Survey can also be used by epidemiologists and other researchers to analyze the effects of Environmental Hazardous Substances on public health.

As well as providing New Jersey's citizens with access to detailed information about hazardous substances, the addition of the 49 C.F.R. Part 172.101 Hazardous Materials Table which pose hazards in emergency situations to the Hazardous Materials List will significantly benefit contingency planning and emergency response planning in New Jersey. By having such substances on the ESI Survey, citizens will be encouraged to work cooperatively with their local fire departments to establish contingency planning procedures for that locality. In general, adding these hazardous substances and substances that pose hazards in emergency situations to the ESI Survey will provide citizens and local government agencies with the information needed to develop contingency planning programs and to focus on industry's efforts to improve programs directed at preventing chemical-related emergencies.

#### Economic Impact

Addition of the designated extraordinarily hazardous substances and the Federal Hazardous Materials Table will require those companies which must complete the survey forms to expend minimal additional time and personnel requirements in completing the surveys. The extent of the cost of compliance will depend on the number of substances a company is reporting, since detailed information will be required on the amount of each substance produced, used, shipped out, disposed by, and emitted from the facility.

#### Environmental Impact

Reporting of information on substances on the Environmental Hazardous Substance List and the Hazardous Materials List aids the Department in formulating a database on the types and amounts of hazardous substances to which the public is exposed or could potentially be exposed to in the community. The information gathered also aids the Department in selecting hazardous substances to monitor in the environment and provides information necessary for the development of regulations to control the emission of hazardous substances. By requiring employers to identify hazardous substances in their waste streams, the Environmental Survey will encourage companies to use proper disposal methods. By requiring employers to identify extraordinarily hazardous substances in use in their facilities, the Environmental Survey will encourage companies to seek out and utilize accident prevention provisions. The addition of extraordinarily hazardous substances to the Environmental Hazardous Substances List will further expand the positive environmental impact of the Worker and Community Right to Know Act. Addition of substances to the Hazardous Materials List will provide background information to deal with environmental health hazards in the event of emergency situations.

#### Regulatory Flexibility Statement

Numerous small businesses are covered by the Act, including manufacturers, trade and service businesses, utilities, and governmental employers, as determined by SIC (Standard Industrial Classification) code. Approximately 40,000 facilities are covered.

This proposal will not require additional firms to report, but will add additional substances and materials to existing reporting requirements. No significant additional costs are imposed, since all covered firms are already required to maintain an inventory of hazardous substances present at the facility.

The addition of the Federal Hazardous Materials Table will simplify compliance for small businesses, as the Federal requirements are familiar because they are commonly used in industry.

No blanket exemption for small businesses can be granted from these reporting requirements, due to the necessity to protect public health and safety.

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

7:1G-2.1 Designation of substances

The following substances and corresponding Chemical Abstract Services [(C.A.S.)] (CAS) numbers are designated as Environmental Hazardous Substances pursuant to the Act. Each substance has further been identified according to the classifications, in N.J.A.C. 7:1G-2.2. Substances may have numerous synonyms which are not included herein.

Chemical	CAS Number	Group Number
...		
<b>BROMINE</b>	<b>7726-95-6</b>	<b>34</b>
...		
<b>CHLORINE</b>	<b>7782-50-5</b>	<b>34</b>
...		
<b>HYDROGEN CHLORIDE</b>	<b>7647-01-0</b>	<b>35</b>
<b>HYDROGEN FLUORIDE</b>	<b>7664-39-3</b>	<b>35</b>
<b>HYDROGEN SULFIDE</b>	<b>7783-06-4</b>	<b>35</b>
...		
<b>METHYL ISOCYANATE</b>	<b>624-83-9</b>	<b>20</b>
...		
<b>PHOSPHORUS TRICHLORIDE</b>	<b>7719-12-2</b>	<b>35</b>
...		

## 7:1G-2.2 Chemical [G]group and [G]group [N]numbers

The groups and their designated group numbers, to which Environmental Hazardous Substances listed in N.J.A.C. 7:1G-2.1 belong, are designated herein, to reflect similarity in chemical structure, with the exception of Pesticides (Number 28) and Dyes (Number 10), which reflect commercial use:

GROUP NO.	CHEMICAL GROUP
01-33 (No change.)	
<b>34</b>	<b>Halogens</b>
<b>35</b>	<b>Inorganic Acids</b>

## 7:1G-4.1 Designation of Hazardous Materials

(a) The substances contained in the Optional Materials Table in Title 49 of the [code] Code of Federal Regulations, Part 172.102, as amended by publication in the Federal Register, 48 Fed. Reg., Vol. 48, No. 211, pp. 50234-50279 (October 31, 1983) are designated, by reference, as Hazardous Materials pursuant to the Worker and Community Right to Know Act, P.L. 1983, c.315, N.J.S.A. 34:5A-1 et seq.

(b) The substances contained in the Hazardous Materials Table in Title 49 of the Code of Federal Regulations, Part 172.101, as amended by publication in the Federal Register, 49 Federal Register, Vol. 49, No. 189, pp. 38133-38134 (September 27, 1984) are designated, by reference, as Hazardous Materials pursuant to the Worker and Community Right to Know Act, P.L. 1982 c.315, N.J.S.A. 34:5A-1 et seq.

## 7:1G-4.2 Amendments to Hazardous Materials List

(a) (No change.)

(b) The Department will publish in the New Jersey Register, any revisions by the United States Department of Transportation (USDOT) to the Optional Materials [Table] Table and Hazardous Materials Table in Title 49 of the [code] Code of Federal Regulations, as amended. Effective upon such publication in the Register, such amendments by the USDOT shall be incorporated into N.J.A.C. 7:1G-4.1.

## 7:1G-5.4 [Waiver] (Reserved)

[(a) An employer may submit to the Department a written request for a waiver of N.J.A.C. 7:1G-5.1, -5.2 and -5.3. As an integral part of the request, the employer shall include certification from its local fire department that the employer has prepared a plan concerning the identity, characteristics and quantities of hazardous substances used and stored at its facility to enable the local fire officials to adequately plan for, and respond to, emergencies; that the local fire department has approved the plan; and that the local fire department does not need a completed Emergency Services Information Survey to adequately plan for, and respond to, emergencies.

(b) The Department shall grant a waiver of N.J.A.C. 7:1G-5.1, -5.2 and -5.3 to employers who satisfy the requirements of (a) above. As a condition of the waiver, the employers shall, upon request, submit to the Department all portions of the plan referred to in (a) above, that concern the identity, characteristics and quantities of hazardous substances used and stored at its facility. In the event that the employer fails to satisfy such condition, the Department shall revoke the waiver.]

(a)

## DIVISION OF HAZARDOUS WASTE MANAGEMENT

### Hazardous Waste Management: Containers, Landfills and Existing Facility Requirements

#### Proposed Amendments: N.J.A.C. 7:26-7.2, 9.1, 9.3, 10.8 and 11.4

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

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

DEP Docket Number: 003-87-02.

Proposal Number: PRN 1987-92.

Submit comments by April 15, 1987 to:

Marlen Dooley

New Jersey Department of Environmental Protection

Office of Regulatory Services

CN 402

Trenton, NJ 08625

The agency proposal follows:

#### Summary

The New Jersey Department of Environmental Protection (Department) is proposing several amendments to N.J.A.C. 7:26 affecting hazardous waste management. These proposed amendments will bring the State's hazardous waste management program into equivalency with the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. (RCRA), regulations at 40 C.F.R. 262.32, 262.34, 265.1, 265.310, and 265.315. See 49 FR 46095, November 21, 1984, and 50 FR 16048, April 23, 1985. New Jersey received final authorization from the U.S. Environmental Protection Agency on February 21, 1985, but in order to maintain authorization the State must revise its program to remain consistent with the federal regulations as they are amended.

The proposed amendments to N.J.A.C. 7:26-7.2 and 9.3 will require generators to label containers and tanks of hazardous waste with certain information before the waste is transported off-site or while the waste is being accumulated on-site. These requirements are identical to the Federal regulations. See 40 CFR 262.32 and 262.34.

The proposed amendment to N.J.A.C. 7:26-9.1 would clarify that owners or operators of existing facilities whose existing facility status is terminated would still be subject to all applicable regulations until all closure and post-closure requirements have been satisfied. See 40 CFR 265.1.

Proposed amendments to N.J.A.C. 7:26-10.8 and 11.4 would provide a more specific description of the requirements for hazardous waste landfill cover and liners. These amendments would also specify that the owner or operator of a hazardous waste landfill must maintain the integrity of the final cover and the liner and perform repairs as needed, whether or not such repairs are specified in the approved closure plan. See 40 CFR 265.310.

Amendments to N.J.A.C. 7:26-10.8 and 11.4 would also require that containers placed in a hazardous waste landfill must be either 90 percent full or reduced in volume to the maximum practical extent before being placed in the landfill. This will conserve landfill space and mitigate the problem of settling of empty or partially empty containers. If partially empty containers collapse or shift after closure, the integrity of the final cover may be damaged. See 40 CFR 265.315.

#### Social Impact

There will be a positive social impact from the proposed amendments. They will clarify the standards for existing facilities, conserve landfill space, and ensure that final landfill covers meet standards to adequately protect the environment. The labeling requirement will assure the proper identification of containers holding hazardous waste. Further, differences between the State and Federal programs will be eliminated.

#### Economic Impact

There should be no measurable additional economic impact from the hazardous waste labeling requirements since identical federal regulations are already in place. The amendment to N.J.A.C. 7:26-9.1 should not cause an additional economic burden since with is a clarification of an existing requirement. There may be some slight increase in costs associated with the amended landfill final cover requirements, but these should not be major since these amendments are an expansion of existing requirements. There may be increased costs associated with the require-

ment to maintain the integrity of the cover and liner and to perform repairs whether or not they are specified in the closure plan. Finally, by requiring that only containers which are 90 percent full or crushed be placed into landfills, scarce landfill space will be conserved and costs may actually be reduced.

#### Environmental Impact

There will be a positive environmental impact because hazardous wastes will be accurately labeled and standards for landfill cover and liners will be more clearly specified. The restrictions on uncrushed empty containers in landfills will conserve space and minimize shifting and settling of the landfill's contents over time, which will help protect the integrity of the final cover. Although existing facilities which have lost their eligibility to operate have been subject to regulation in the past, this amendment will clarify those requirements.

#### Regulatory Flexibility Statement

In order for the State to retain authorization for its hazardous waste regulation program from the U.S. Environmental Protection Agency, State regulations must remain equivalent to the federal RCRA regulations.

The proposed amendments will, however, have a minimum impact on small businesses. The requirements for labeling containers of hazardous waste are identical to a federal requirement that is already in place. All affected persons should already be in compliance and should experience no increased costs. The regulations governing final cover for landfills expands slightly on existing requirements, but does not impose major new requirements. The requirements that containers placed in landfills be either 90 percent full or crushed to the maximum extent possible may actually result in savings for some small disposers as the consolidated material will occupy a smaller volume which may lead to lower disposal costs.

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

#### 7:26-7.2 Container requirements

(a) (No change.)

(b) The hazardous waste generator shall insure that all containers used to transport hazardous waste off-site are in conformance with the construction type and labeling requirements of the United States Department of Transportation concerning hazardous material containerization (49 CFR 171-49 CFR 179), **including 1, below.**

**1. Prior to transporting or offering hazardous waste for transportation off-site, a generator shall mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:**

**HAZARDOUS WASTE—Federal and State Laws Prohibit Improper Disposal. If found, contact the nearest police or public safety authority, the U.S. Environmental Protection Agency or the New Jersey Department of Environmental Protection.**

Generator's Name and Address \_\_\_\_\_

Manifest Document Number \_\_\_\_\_

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

#### 7:26-9.1 Scope and Applicability

(a) (No change.)

(b) An owner or operator of an "existing facility" who is eligible to operate the facility prior to final disposition of a permit application must comply with all requirements of this subchapter (see N.J.A.C. 7:26-12.3) except those that specifically address requirements for new facilities or facilities operating pursuant to a permit issued pursuant to N.J.A.C. 7:26-12.1 et seq. After final disposition of the permit application all sections apply to existing facilities in accordance with subsection 9.1(a).

**1. The owner or operator of an existing facility whose existing facility status has been terminated is subject to all requirements under N.J.A.C. 7:26-9, N.J.A.C. 7:26-10 and N.J.A.C. 7:26-11 until applicable closure and post-closure responsibilities under N.J.A.C. 7:26-9.8, 9.9, 9.10 and 9.11 have been fulfilled. These standards apply to all treatment, storage and disposal activities at these facilities, except as specifically provided otherwise in this subchapter or in N.J.A.C. 7:26-1 or N.J.A.C. 7:26-8.**

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

#### 7:26-9.3 Accumulation of hazardous waste for 90 days or less

(a) A generator may accumulate hazardous waste on-site without a permit for 90 days or less provided that:

1.-2. (No change.)

3. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container. **While being accumulated on-site, each container shall be clearly labeled or marked with the words "Hazardous Waste" and labeled in accordance with 49 CFR 172.304.**

4. (No change.)

(b) A generator may accumulate hazardous waste on-site in an above-ground tank, for 90 days or less without a permit, after obtaining written approval from the Department, provided that the following requirements are met:

1.-8. (No change.)

**9. While being accumulated on-site, each tank shall be clearly labeled or marked with the words "Hazardous Waste".**

(c) (No change.)

#### 7:26-10.8 Hazardous waste landfills

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

(e) Operational standards for hazardous waste landfills include the following:

1.-11. (No change.)

**12. Unless they are very small, such as an ampule, containers must be either:**

i. **At least 90 percent full when placed in a landfill; or**

ii. [All empty containers, as defined by N.J.A.C. 7:26-8.4(b), shall be] [c]Crushed flat, shredded, or similarly reduced in volume to the **maximum practical extent** before [disposal in] it is buried beneath the surface of a hazardous waste landfill;

13.-21. (No change.)

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

(i) Closure and post-closure requirements for hazardous waste landfills include the following:

1. At final closure of the landfill or upon closure of any cell, the owner or operator shall place final cover over the hazardous waste landfill to provide long-term minimization of migration of liquids [into] **through** the closed landfill;

2. The final cover shall function with minimum maintenance and shall consist of the following:

i. (No change.)

ii. A drainage layer [with] **which will promote drainage and minimize erosion or abrasion of the cover, and which has** the following design characteristics:

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

iii. A liner system constructed with the following design characteristics:

(1) (No change.)

(2) The upper liner shall consist of a synthetic material at least 30 mil (.03 inches) thick which **has a permeability less than or equal to the permeability of the bottom liner** and is designed to prevent the flow of liquid through the liner. The liner shall have properties of such a nature to ensure the prevention of liquid flow through the line[a]r is maintained throughout, at a minimum, the active life (including the closure period) of the facility:

(3)-(5) (No change.)

iv. (No change.)

3.-4. (No change.)

5. In addition to the post-closure requirements of N.J.A.C. 7:26-9.9, the owner or operator of a hazardous waste landfill[,] shall:

i. Maintain the function and integrity of the final cover, including making repairs to the liner as necessary to correct the effects of settling subsidence, erosion or other events[, as specified in the approved closure plan];

ii.-vi. (No change.)

vii. Protect and maintain surveyed benchmarks **used in complying with N.J.A.C. 7:26-10.8(f);** and

viii. (No change.)

(j) (No change.)

#### 7:26-11.4 Hazardous waste landfills

(a) Operational standards for hazardous waste landfills include the following:

1.-9. (No change.)

**10. Unless they are very small, such as an ampule, containers must be either:**

i. **At least 90 percent full when placed in the landfill or;**

ii. [An empty container shall be] [c]Crushed flat, shredded, or similarly reduced in volume to the **maximum practical extent** before it is buried beneath the surface of a hazardous waste landfill; and

11. (No change.)  
 (b) (No change.)  
 (c) Closure and post-closure requirements for hazardous waste landfills include the following:  
 1.-3. (No change.)  
 4. In addition to the requirements of N.J.A.C. 7:26-9.9, the post-closure period, the owner or operator of a hazardous waste landfill shall:  
 i. Maintain the function and integrity of the final cover [as specified in the approved closure plan] **including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion or other events;**  
 ii.-iii. (No change.)  
 iv. Protect and maintain surveyed benchmarks **used in complying with N.J.A.C. 7:26-11.4(b)1;** [and]  
 v. (No change.)  
 vi. **Maintain and monitor the groundwater monitoring systems as per N.J.A.C. 7:26-9.5 and N.J.A.C. 7:14A-6;** and  
 vii. **Prevent run-on and run-off from eroding or otherwise damaging the final cover.**  
 (d) **At final closure of the landfill or upon closure of any cell, the owner or operator shall cover the landfill or cell with a final cover designed and constructed to:**  
 1. **Provide long-term minimization of migration of liquids through the closed landfill;**  
 2. **Function with minimum maintenance;**  
 3. **Promote drainage and minimize erosion or abrasion of the cover;**  
 4. **Accommodate settling and subsidence so that the cover's integrity is maintained; and**  
 5. **Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.**

**(a)****DIVISION OF HAZARDOUS WASTE MANAGEMENT****Hazardous Waste Listing: Ethylene Dibromide Wastes****Proposed Amendment: N.J.A.C. 7:26-8.14**

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

Authority: N.J.S.A. 13:1E-1 et seq.

DEP Docket No. 006-87-02.

Proposal Number: PRN 1987-98.

Submit comments by April 15, 1987 to:

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

The agency proposal follows:

**Summary**

The New Jersey Department of Environmental Protection ("Department") proposes this amendment to N.J.A.C. 7:26-8.14 (hazardous waste from specific sources) by listing as hazardous, three wastes generated during the production of ethylene dibromide ("EDB"). This action will subject these K-wastes to New Jersey's hazardous waste regulations. In addition, this amendment will bring the State regulations into equivalence with the Federal regulations at 40 CFR 261.32.

The proposed regulation lists as hazardous certain wastes generated in the production of EDB via the bromination of ethene. These wastes are:

K117: Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene (T).

K118: Spent absorbent solids from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene (T).

K136: Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene (T).

The hazardous constituent in these wastes, EDB, is carcinogenic, mutagenic, teratogenic and chronically toxic. It is listed as a hazardous constituent (1,2-dibromoethane), at N.J.A.C. 7:26-8.16. Moreover, according to the United States Environmental Protection Agency ("USEPA"), EDB is present in these wastes at significant concentrations. In addition, this toxicant is mobile and persistent and can reach environmental receptors in harmful concentrations, if these wastes are mismanaged. (See the proposed rule at 49 FR 44718-44721, November 8, 1984.) Consequently, USEPA has determined that these wastes pose a substantial present or potential hazard to human health and the environment when improperly stored, transported, disposed of or otherwise mismanaged. Therefore, USEPA amended the regulations on hazardous waste management under the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., to list as hazardous the three wastes generated in the production of EDB. (See the final rule at 51 FR 5327-5331, February 13, 1986.) The preamble to the proposed rule at 49 FR 44718 and the listing background document, available from USEPA at 401 M. Street, SW, Washington, DC 20460 ((202) 382-7392) and filed with this rule proposal at the Office of Administrative Law, 9 Quakerbridge Plaza, CN 049, Trenton, New Jersey 08625, provide a detailed explanation of the basis for listing these wastes.

The Department agrees with USEPA that these wastes are capable of posing a substantial threat to human health and the environment when improperly managed and, therefore, should be listed as hazardous. Based on this determination and the need to maintain equivalency with Federal regulations, the Department proposes the amendment discussed above.

**Social Impact**

By proposing this amendment, the Department is maintaining equivalence with the Federal regulations concerning the listing of hazardous wastes. This action will have a positive social impact in that potential generators, transporters and disposers of these hazardous wastes would be subject to New Jersey (and not dual) regulations. The proposed amendment provides for the proper management of these K-wastes and thus contributes to the protection of the public health and the environment.

**Economic Impact**

The USEPA reported in the listing background document for EDB production that, as of 1982, four domestic companies were producing this organic chemical at four locations in Arkansas and Texas, near natural bromide brine wells. USEPA reported further that the Texas-based industry ceased EDB production in April, 1983. Since there are no New Jersey based industries currently engaged in EDB production, no adverse economic impact is expected from the Department's proposal; however, out-of-state generators and/or haulers who utilize New Jersey treatment, storage or disposal facilities will have to manage it as a hazardous waste.

**Environmental Impact**

Listing of these K-wastes as hazardous requires that proper manifesting and disposal procedures be followed. These procedures, in turn, help assure that the wastes are handled in an environmentally proper manner. However, the proposed amendment is not expected to have a major environmental impact since there are currently no industrial sources of these wastes located in New Jersey.

**Regulatory Flexibility Statement**

In accordance with the New Jersey Regulatory Flexibility Act, the Department has determined that this rule would not impose additional reporting, recordkeeping or other compliance requirements on small businesses as this rule is identical to the Federal requirement which is already in effect in New Jersey. The Department is required to adopt this regulation in order to maintain authorization for USEPA to administer the Federal Resource Conservation and Recovery Act program in New Jersey.

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

Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
Organic Chemicals	K117	Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene.	(T)
	K118	Spent absorbent solids from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	(T)
	K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	(T)

**Economic Impact**

The readoption continues the same rate of compensation, namely \$50.00 per full day of services and \$25.00 per one half day of services as defined under existing regulation. The proposed figures are well within those authorized by statute (N.J.S.A. 45:1-25(a)) in that the cited statute authorizes the Attorney General to establish a per diem basis in the amount of not more than \$100.00 or \$2,500 annually on approval of the State Treasurer. Such approval has been obtained. The fees for such per diem payments are obtained from licensing fees received by the individual professional boards and since no additional payments are contemplated by the proposal, no additional costs will be imposed upon licensees throughout the boards as a result of this proposal. In general it may be noted that boards meet once or twice per month in meetings covered by the Open Public Meetings Act and, in addition, depending upon board needs, additional meetings requiring compensation for services may be held an additional one or two times as well. Accordingly, it may be concluded that this proposal imposes no new fiscal impact unless individual boards determine to conduct meetings or discharge work in excess of those held during the prior fiscal year.

**Regulatory Flexibility Statement**

Pursuant to P.L. 1986, C.169, the Attorney General finds that the proposed readoption would not impose reporting, recordkeeping, or other compliance requirements on small businesses and, accordingly, a regulatory flexibility analysis is not required by law.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:44B-1.1 through 1.3.

**LAW AND PUBLIC SAFETY**

**(a)**

**PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS**

**Compensation and Reimbursement of Expenses of Professional and Occupational Licensing Board Members**

**Proposed Readoption: N.J.A.C. 13:44B-1.1 through 1.3**

Authorized By: W. Cary Edwards, Attorney General of New Jersey.

Authority: N.J.S.A. 45:1-2.5(a).

Proposal Number: PRN 1987-93.

Submit comments by April 15, 1987 to:

W. Cary Edwards  
Attorney General of New Jersey  
Richard J. Hughes Justice Complex  
CN 112  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 45:1-2.5(a), the Attorney General previously adopted regulations establishing per diem rates for members and officers of boards or commissions covered by N.J.S.A. 45:1-2.1 (professional and occupational licensing boards located within the Division of Consumer Affairs). The existing regulations became effective on May 3, 1982 pursuant to R.1982 d.144 and are scheduled to expire on May 3, 1987 pursuant to Executive Order No. 66(1978). Under the existing regulation, board member fees are prescribed as \$50.00 for a full day of services and \$25.00 for less than a full day. A full day of services is further defined to constitute not less than five working hours. The existing regulation further defines when per diem payments will be made which in general are limited to recorded attendance at meetings conducted pursuant to the Open Public Meetings Act, special meetings authorized by board action, the conduct of clinical examinations required for licensure, and meetings called by the Attorney General or the Director of the Division of Consumer Affairs. The regulation further defines when per diem payments are to be disallowed which, in general, preclude payment for travel and attendance at conferences, conventions and seminars, visiting examination sites to observe non-clinical examinations, speaking engagements, and visits to board or State offices for reasons not directly authorized by board action.

The Attorney General has reviewed the existing provisions and finds them to be adequate and, therefore, proposes readoption without change.

**Social Impact**

The regulations discharge the responsibility of the Attorney General pursuant to law to establish compensation to professional and occupational licensing board members.

**(b)**

**ATTORNEY GENERAL**

**Chemical Breath Testing**

**Proposed Readoption with Amendments: N.J.A.C. 13:51**

Authorized By: W. Cary Edwards, Attorney General.

Authority: N.J.S.A. 39:4-50.3 and N.J.S.A. 12:7-56.

Proposal Number: PRN 1987-94.

Submit comments by April 15, 1987 to:

W. Cary Edwards, Attorney General  
c/o Col. L. Pagano, Superintendent  
Division of State Police  
Attention Breath Test Unit  
P.O. Box 7068  
West Trenton, NJ 08625

The agency proposal follows:

**Summary**

Pursuant to Executive Order No. 66(1978), the provisions of N.J.A.C. 13:51, Chemical Breath Testing, will expire on June 21, 1987. The Attorney General has reviewed these regulations and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. Accordingly, the Attorney General proposes to readopt N.J.A.C. 13:51 in its entirety with certain amendments in conformance with Chapter 39 of the Laws of 1986 relating to the operation of vessels by persons under the influence of intoxicating liquor or other substances or with a blood alcohol concentration of 0.10 percent or more by weight of alcohol. The proposed readoption with amendments will continue these regulations in full force and effect, thereby complying with the provisions of N.J.S.A. 39:4-50.3 and N.J.S.A. 12:7-56, imposing upon the Attorney General the obligation to approve methods of chemical analysis of an arrested person's breath and establish a system by which persons can be certified for the purposes of administering chemical analysis of an arrested person's breath. Should these regulations not be readopted the prosecution of persons charged with operating a vehicle or a vessel while under the influence of intoxicating liquor or with a blood alcohol concentration of 0.10 percent or more would have to rely upon evidence and testimony other than that relating to the administration of, and results of, chemical breath tests.

The origin of these regulations predate the Administrative Procedure Act. In 1966 in response to the enactment of Chapter 142, Section 3 of the Laws of 1966 (N.J.S.A. 39:4-50.3), the then Attorney General transmitted to the Secretary of State a certification in compliance with the aforementioned statute. In 1969 the aforementioned certification was

codified in the New Jersey Administrative Code at N.J.A.C. 13:51. Throughout the history of these regulations all changes have been filed and submitted to the Secretary of State, and subsequent thereto, the Office of Administrative Law in compliance with the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq. Throughout that time period only minor changes by way of amendment have been made to the original regulations, most of which dealt with the addition or deletion of methods of chemical breath testing as reflected in Subchapter 3. In 1982 the entire Chapter was amended and clarified. Thereafter, the only substantive change to the Regulations was the deletion of the Breathalyzer Model 1000 as an approved method of chemical breath testing in 1985.

The present regulatory scheme is reflected in three subchapters. Subchapter 1 deals with the certification of persons to conduct chemical analysis of an arrested person's breath. Subchapter 2 deals with Breath Test Coordinator/Instructors who are members of the Division of State Police and their training and qualifications. Subchapter 3 deals with approved instruments as approved methods of chemical breath testing.

The proposed amendments to N.J.A.C. 13:51 reflect a new adoption by the Legislature pertaining to the operation of vessels by persons who are suspected of being under the influence of intoxicating liquor or other substances or with a blood alcohol concentration of 0.10 percent or more by weight of alcohol. Specifically, Section 8 of Chapter 39 of the laws of 1986 (N.J.S.A. 12:7-56) requires the Attorney General to approve methods of chemical breath testing and procedures to certify individuals to test the breath of persons arrested by means of chemical breath testing when those persons are suspected of having operated a vessel while under the influence of intoxicating liquor or with blood alcohol concentration of 0.10 percent or more. The provisions of N.J.S.A. 12:7-56 are substantially the same as those of N.J.S.A. 39:4-50.3.

The Attorney General has reviewed these regulations. The Attorney General finds these regulations are necessary in order to comply with statutory requirements which reflect a legislative determination to apprehend and prosecute persons operating vehicles or vessels while they are under the influence of intoxicating liquor or with a blood alcohol concentration of 0.10 percent or more.

The Attorney General has determined the regulations should continue in effect, subject to such future modifications as may be deemed necessary or warranted.

#### Social Impact

The certification by the Attorney General of the method of chemical breath testing and the certification of chemical breath test operators has an obvious social impact. The apprehension, prosecution and conviction of individuals found to be operating vehicles or vessels while under the influence of intoxicating liquor or with a blood alcohol concentration of 0.10 percent or more serves the overall public good. The use of chemical breath testing has long been accepted by the courts as a scientifically reliable means of establishing levels of intoxication through the analysis of breath alcohol. See *State v. Johnson*, 42 N.J. 146 (1964).

With the adoption of the provisions of N.J.S.A. 39:4-50.3, in 1966, the Attorney General began certifying methods of chemical breath testing, as well as means and methods to certify chemical breath test operators. With the adoption of the Administrative Procedure Act, these certifications by the Attorney General have become regulations under the New Jersey Administrative Code. The continuance of these administrative regulations governing the methods of chemical breath testing and the certification of chemical breath test operators must be without interruption in order to avoid any disruption in the ability of the State to prosecute offenses under the provisions of N.J.S.A. 39:4-50, et seq., for operating a vehicle while under the influence of intoxicating liquor, etc. or N.J.S.A. 12:7-34.19 (The Power Vessel Act, L.1954, c.236, as amended by L.1986, c.39), N.J.S.A. 12:7-46 (L.1952, c.152 as amended by L.1986, c.39), N.J.S.A. 2A:4A-23 and N.J.S.A. 12:7-54, et seq., for operating a vessel while under the influence of intoxicating liquor, etc.

By the readoption of these regulations with the proposed amendments the Attorney General will continue to satisfy his statutory requirements under the provisions of N.J.S.A. 39:4-50.3 and 12:7-56.

The regulations most directly affect police officers and police departments in that they provide the means and mechanism by which police officers become certified chemical breath test operators and identify the instruments which incorporate approved methods of chemical breath testing. The Division of State Police are an affected agency in that the regulations delegate to that agency responsibility for administration of the chemical breath test program, including training of operators, the certification of instruments representing approved methods of chemical breath testing and the periodic inspection of those instruments as ap-

proved methods of chemical breath testing. In addition, the approval of methods of chemical breath testing by the identification of approved instruments affects police departments and other law enforcement agencies that utilize those instruments in the course of their enforcement of the Drinking Driving statutes and the statutes pertaining to operation of vessels while under the influence of intoxicating liquors.

#### Economic Impact

The readoption with amendments of the Chemical Breath Test regulations will have no direct economic impact upon the general public. Nor is it anticipated that this readoption with amendments will have any economic impact upon the government entities directly affected by its provisions. Inasmuch as there are no substantive changes to the existing regulations by the readoption, the procedures already in place for the approval of methods of chemical breath testing and the certification of chemical breath test operators will continue without interruption and without additional cost.

#### Regulatory Flexibility Statement

The Attorney General finds that a regulatory flexibility analysis is not required under the provisions of Section 4, Laws of 1986, Chapter 169. The Chemical Breath Testing regulations do not impose reporting, record keeping or other compliance requirements on small businesses. The regulations impose duties and responsibilities upon law enforcement agencies and the Division of State Police pursuant to N.J.S.A. 39:4-50.3 and 12:7-56, and not upon small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:51.

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

#### 13:51-1.1 Purpose of subchapter

This subchapter prescribes the requirements for certification of a person to conduct chemical analysis of the breath of a person arrested pursuant to N.J.S.A. 39:4-50, et seq., **N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46, N.J.S.A. 2A:4A-23, or N.J.S.A. 12:7-54, et seq.**, the conditions under which certification can occur and the general rules for holders of certificates, pursuant to the statutory requirements of L.1966, c.142, Sec. 3, as amended by L.1971, c.273, Sec. 1 (C. 39:4-50.3); hereinafter denoted as N.J.S.A. 39:4-50.3 **or L.1986, c.39, Sec. 8, (C.12:7-56); hereinafter denoted as N.J.S.A. 12:7-56.**

#### 13:51-1.2 Definitions

For the purpose of this chapter, and subchapters 1, 2, and 3 thereof, the terms set forth herein are defined as follows:

"Approved instrument" shall mean a device or instrument approved by the Attorney General at N.J.A.C. 13:51-3.5 for use in the chemical analysis of the breath of a person arrested pursuant to the provisions of N.J.S.A. 39:4-50, et seq., **N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46 or N.J.S.A. 2A:4A-23.**

"Approved methods" shall mean those steps or operations approved by the Attorney General at N.J.A.C. 13:51-3.6 for use in the chemical analysis of the breath of a person arrested pursuant to the provisions of N.J.S.A. 39:4-50, et seq., **N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46 or N.J.S.A. 2A:4A-23** on an approved instrument.

...

"Calendar year" shall mean all days of a year commencing **with** and including January 1 of a specific year and continuing through to and including December 31 of the same year.

"Certification" shall mean the approval by the Attorney General of a person as an operator, as herein defined, and shall mean said person is qualified and competent to perform chemical breath test analysis utilizing an approved method and an approved instrument as defined in this subchapter and as set forth at N.J.A.C. 13:51-3 as authorized by N.J.S.A. 39:4-50.3 **or N.J.S.A. 12:7-56.**

...

"Operator" shall mean a person who is certified as a Chemical Breath Test Operator to perform analysis of an arrested person's breath utilizing an approved method and an approved instrument, as defined in this subchapter and as set forth at N.J.A.C. 13:51-3 and pursuant to the provisions of N.J.S.A. 39:4-50.3 **or N.J.S.A. 12:7-56.**

...

"Replica" shall mean a document which is an operator's certificate as defined in this section and which shall bear the signatures or facsimile signatures of the Attorney General and the Superintendent of State Police and which is of a size that permits it to be carried in the pocket, purse, wallet, etc. [,], and includes replacements thereof as set forth at N.J.A.C. 13:51-1.12(c).

## 13:51-1.3 Certification

(a) No operator may conduct a valid analysis for the purpose of prosecution of an arrested person's breath under the provisions of N.J.S.A. 39:4-50.3 or N.J.S.A. 7:12-56, unless such operator has been issued a valid operator's certificate which is current at the time of the analysis of an arrested person's breath and which attests that such operator is then qualified and competent to conduct such analysis utilizing an approved method and an approved instrument as set forth at N.J.A.C. 13:51-3.

(b) (No change.)

## 13:51-3.1 Purpose of subchapter

Pursuant to the provisions of L.1966, c.142, Sec. 3, as amended by L.1971, c.273, Sec. 1, (C. 39:4-50.3) and L.1986, c.39, Sec. 8, (C. 12:7-56); hereinafter denoted N.J.S.A. 39:4-50.3 or N.J.S.A. 12:7-56, respectively, [The] the provisions of this subchapter set forth the instruments and methods approved by the Attorney General for the chemical analysis of the breath of a person arrested pursuant to the provisions of N.J.S.A. 39:4-50, et seq., N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46 or N.J.S.A. 2A:4A-23. [and L.1966 c.142 as amended by L. 1971 c.273 (C. 39:4-50.3) hereinafter denoted N.J.S.A. 39:4-50.3.]

## 13:51-3.2 Application for approval

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

(d) Upon completion of evaluation of an instrument, method and/or operational function, the Superintendent shall recommend approval or rejection of the same to the Attorney General. The Attorney General, upon review of the recommendations, shall approve or reject the instrument, method and/or operational function pursuant to law[,] (N.J.S.A. 39:4-50.3 or N.J.S.A. 12:7-56).

## 13:51-3.4 Periodic inspection of approved instruments

Periodic inspection of all approved instruments used in this State in connection with the prosecution of a person pursuant to the provisions of N.J.S.A. 39:4-50, et seq., N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46 or N.J.S.A. 2A:4A-23 shall be made by a Breath Test Coordinator/Instructor. The results of such periodic inspections shall be recorded on forms provided by the Superintendent of State Police and the originals thereof shall be maintained by the Division of State Police.

## 13:51-3.5 Approved instruments for performing chemical analysis of a person's breath

(a) The Breathalyzer, Model 900, is an instrument approved by the Attorney General pursuant to L.1966, c.142, Sec. 3, as amended by L.1971, c.273, Sec. 1 (C. 39:4-50.3) and L.1986, c.39, Sec. 8 (C. 12:7-56) and this subchapter, for the testing of a person's breath by chemical analysis.

(b) The Breathalyzer, Model 900A, is an instrument approved by the Attorney General pursuant to L.1966, c.142, Sec. 3, as amended by L.1971, c.273, Sec. 1 (C. 39:4-50.3) and L.1986, c.39, Sec. 8 (C.12:7-56) and this subchapter, for the testing of a person's breath by chemical analysis.

(c) The Dominator Albreath is an instrument approved by the Attorney General pursuant to L.1966, c.142, Sec. 3, as amended by L.1971, c.273, Sec. 1 (C. 39:4-50.3) and L.1986, c.39, Sec. 8 (C. 12:7-56) and this subchapter, for the testing of a person's breath by chemical analysis.

(d) The Alco-Tector is an instrument approved by the Attorney General pursuant to L.1966, c.142, Sec. 3, as amended by L.1971, c.273, Sec. 1 (C. 39:4-50.3) and L.1986, c.39, Sec. 8 (C. 12:7-56) and this subchapter, for the testing of a person's breath by chemical analysis.

## TREASURY-GENERAL

(a)

## DIVISION OF PENSIONS

## Administration

## Minimum Adjustments

## Proposed Amendment: N.J.A.C. 17:1-1.10

Authorized By: Douglas R. Forrester, Director, Division of Pensions.

Authority: N.J.S.A. 52:18A-96 et seq.

Proposal Number: PRN 1987-87.

Submit comments by April 15, 1987 to:

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

The agency proposal follows.

## Summary

The proposed amendment will permit bad balances within the accounts of members of the State-administered retirement systems to be written off if such amounts involving withdrawn or terminated accounts are \$50.00 or less. Currently, the amount is limited to \$10.00.

## Social Impact

The proposed amendment will only affect the accounts of members who have withdrawn from a retirement system and subsequently it is determined that there is a balance therein of \$50.00 or less.

## Economic Impact

Since the amounts involved in such situations are minimal compared to the total financial assets of the systems, there does not appear to be any significant, adverse economic impact to the systems or persons that may be affected by this proposal.

## Regulatory Flexibility Statement

The proposed amendment will not have any effect upon the private sector in New Jersey since only public employees and employers are affected by this proposal.

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

## 17:1-1.10 Minimum adjustments

(a) In order to facilitate the reconciliation of members' accounts upon death [or withdrawal], no rebates or additional contributions shall be made to a member's loan and arrearages balances if such adjustments involve amounts of \$10.00 or less. All bad balances of \$10.00 or less will be written off.

**(b) Bad balances of \$50.00 or less in accounts that have been withdrawn will be written off.**

[(b)](c) No rebates or additional contributions shall be made for retired members if the adjustments involve amounts of \$5.00 or less. All bad balances of \$5.00 or less will be written off. In the event the balance is greater than \$5.00 but produces a monthly retirement adjustment of less than \$1.00, no recalculation of monthly benefits will be computed and the balance will be rebated.

[(c)](d) Audit differences of \$2.00 or less in a member's pension or insurance payments during a quarter will not require a cash adjustment.

[(d)](e) Audit differences of \$8.00 or less in a member's pension account or insurance payments covering a calendar year are not subject to cash adjustments.

NEW JERSEY REGISTER, MONDAY, MARCH 16, 1987

(a)

**Administration  
Minimum Adjustments**

**Proposed Amendments: N.J.A.C. 17:1-1.10**

Authorized By: Douglas R. Forrester, Director, Division of Pensions

Authority: N.J.S.A. 52:18A-96 et seq.

Proposal Number: PRN 1987-96.

Submit comments by April 15, 1987 to:

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

The agency proposal follows:

**Summary**

The proposed amendment clarifies that positive and negative balances within the range of \$5.00 regarding the accounts of retired members of the State-administered retirement systems will be written off. If there is a negative or positive balance in excess of \$5.00 and such balance results in a monthly retirement adjustment of less than \$1.00, no recalculation of monthly retirement benefits will be computed and, in such cases, positive balances will be rebated and negative balances will be written off.

**Social Impact**

The proposed amendment will only affect those retirees whose accounts have positive or negative balances within the \$5.00 range or whose positive or negative balances in those accounts only result in an adjustment to their monthly retirement allowances of \$1.00 or less.

**Economic Impact**

Since the expected amounts of adjustments are minimal compared to the total financial assets of the retirement systems, there does not appear to be any significant adverse economic impact to the retirement systems or persons that may be affected by this proposal.

**Regulatory Flexibility Statement**

Since the rules of the Division of Pensions only impact on public employers and employees, the proposed amendment will not have any adverse effect upon small businesses.

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

17:1-1.10 Minimum adjustments

(a) (No change.)

(b) No rebates or additional contributions shall be made for retired members if the adjustments involve amounts **that range from a positive to a negative** [of] \$5.00 [or less]. [All bad balances of \$5.00 or less] **All balances within this range** will be written off. In the event the **positive or negative** balance is greater than \$5.00 but produces a monthly retirement adjustment of less than \$1.00, no recalculation of monthly benefits will be computed [and the balance will be rebated]. **Positive balances will be rebated and negative balances will be written off.**

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

**TREASURY-TAXATION**

(b)

**DIVISION OF TAXATION**

**Local Property Tax**

**Farmland Assessment Act**

**Municipal Tax Assessor**

**Proposed New Rule: N.J.A.C. 18:15-14.6**

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54:4-23.21.

Proposal Number: PRN 1987-89.

Submit comments by April 15, 1987 to:

John C. Raney  
Superintendent  
Local Property Tax Branch  
Division of Taxation  
CN 52  
Trenton, NJ 08646

The agency proposal follows.

**Summary**

This proposal would require a municipal tax assessor to submit to the Director of the Division of Taxation a detailed explanation relating to farmland procedures and valuation standards by November 1 of the pretax year if he chooses to assess land qualified under the Farmland Assessment Act of 1964, P.L. 1964, c.48 (N.J.S.A. 54:4-23.1 et seq.), at a valuation standard other than that established by the State Farmland Advisory Committee. The Director, after reviewing the information submitted, would inform the assessor by December 10 of the pretax year regarding the propriety of utilizing such procedures and standards. If the Director advises against utilization of the alternate standard and the assessor, nevertheless, chooses to rely on such standard for establishing qualified farmland assessments, he shall so inform the Director and the county board of taxation in writing no later than December 31 of the pretax year. The county board of taxation, after its review as provided under N.J.S.A. 54:4-46, would direct the assessor to make such changes it deems necessary to accomplish qualified farmland assessments in accordance with the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq. The rules promulgated pursuant to N.J.S.A. 54:4-23.21 are cited as N.J.A.C. 18:15-1.1 et seq. and the new rule would be N.J.A.C. 18:15-14.6. This proposed new rule is being imposed to ensure that assessments of qualified farmland are formulated in accordance with the value such land has for agricultural or horticultural use. N.J.S.A. 54:4-23.7 requires that in addition to use of his personal knowledge, judgment and experience an assessor shall consider available evidence of agricultural and horticultural capability derived from the soil survey data at Rutgers, The State University. Adoption of this proposed new rule will promote uniform assessments on qualified farmland.

**Social Impact**

Actions required by the proposed new rule are intended to improve the administration of the Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq. The Director's review of alternate farmland assessment valuation standards will promote uniformity in the assessment of qualified farmland property and serve as a means to guard against the assessment of such land other than in accordance with its agricultural or horticultural use. Notification to a county board of taxation by an assessor who intends to impose standards other than those prescribed by the Farmland Evaluation Advisory Committee will aid the board in identifying farmland assessment standards for the purpose of determining whether it, the county board of taxation, should take action to revise and correct assessments of qualified farmland property.

**Economic Impact**

Adoption of this proposed new rule will have no impact on state revenues. No substantial impact is anticipated on local property tax revenues. Statewide qualified farmland assessments account for only 0.19 percent of all real property tax assessments.

**Regulatory Flexibility Statement**

The proposed new rule does not affect or impact on small businesses. The proposed new rule is only directed to the municipal tax assessor of each of New Jersey's 567 municipalities.

Full text of the proposed new rule follows.

18:15-14.6 Development of agricultural or horticultural use values by assessors

(a) The Director recommends that an assessor utilize the valuation standards established by the State Farmland Evaluation Advisory Committee in valuing farmland qualified property in accordance with N.J.S.A. 54:4-23.7.

(b) In the event an assessor plans not to utilize the valuation standards established by the State Farmland Evaluation Advisory Committee in valuing qualified farmland, the assessor shall submit such alternate standards to the Director by November 1 of the pretax year, indicating his reasons for not following the Advisory Committee's recommendations. The assessor shall further submit a detailed explanation as to the procedure and valuation standards to be applied in valuing qualified farmland.

(c) After review of such information, the Director shall inform the assessor and the respective county board of taxation by December 10 of the pretax year as to the propriety of utilizing the alternate standard. If the Director advises against utilization of the alternate standard and the assessor, nevertheless, chooses to rely on such standard for establishing qualified farmland assessments, he shall give written notice to the Director and the county board of taxation no later than December 31 of the pretax year.

(d) The county board of taxation, after its review as provided under N.J.S.A. 54:4-46, shall direct the assessor to make such changes it deems necessary to accomplish qualified farmland assessments in accordance with the Farmland Assessment Act of 1964.

## OTHER AGENCIES

### (a)

#### HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

##### District Zoning Regulations Official Zoning Map

##### Proposed Amendment: N.J.A.C. 19:4-6.28

Authorized By: Hackensack Meadowlands Development Commission, Anthony Scardino, Jr., Executive Director.  
Authority: N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i) and N.J.A.C. 19:4-6.27.

Proposal Number: PRN 1987-90.

A public hearing concerning this proposal will be held on:  
March 31, 1987 at 10:00 A.M.  
Hackensack Meadowlands Development Commission  
One DeKorte Park Plaza  
Lyndhurst, New Jersey 07071

Submit comments by April 15, 1987 to:  
Thomas R. Marturano, Acting Chief Engineer  
Hackensack Meadowlands Development Commission  
One DeKorte Park Plaza  
Lyndhurst, New Jersey 07071

The agency proposal follows:

#### Summary

The proposed amendment to the Hackensack Meadowlands District Official Zoning Map is based on a request to change the zoning designation of Block 185, Lot 3 (New Block 185.01, Lot 2), in Secaucus, New Jersey, from a Highway Commercial Zone to a Service Highway Commercial Zone.

#### Social Impact

The proposed rezoning of Block 185, Lot 3 would bring the existing use and bulk parameters of the lot into conformity. Adjacent properties on Route 3 in Secaucus are zoned Service Highway Commercial which this site would be consistent with, if rezoned.

#### Economic Impact

The proposed zoning amendment would permit development of the subject site consistent and compatible with adjacent lands. Development of this site would not cause undue hardship to the Town of Secaucus economically.

#### Regulatory Flexibility Statement

The proposed zone change will have no regulatory impact upon small businesses since the amendment does not impose any reporting, recordkeeping or compliance requirements upon small businesses. A regulatory flexibility analysis is, therefore, not required.

Full text of the proposal follows.

19:4-6.28 Official Zoning Map

The zoning designation of Block 185, Lot 3 (New Block 185.01, Lot 2), in Secaucus, New Jersey, is changed from Highway Commercial to Service Highway Commercial.

OFFICE OF ADMINISTRATIVE LAW NOTE: A map showing the proposed change in zoning designation was submitted as part of the Commission's notice of proposed rule.

# RULE ADOPTIONS

## ENVIRONMENTAL PROTECTION

### (a)

#### DIVISION OF WATER RESOURCES

##### Flood Hazard Area Delineation

##### Delineations of the East Branch of the Stony Brook and Tributaries A and B of the South Branch of Rockaway Creek within the Raritan Basin, and Whale Pond Brook within the Atlantic Basin.

##### Adopted Amendment: N.J.A.C. 7:13-7.1

Proposed: June 16, 1986 at 18 N.J.R. 1239(a).

Adopted: February 20, 1987 by Richard T. Dewling,

Commissioner, Department of Environmental Protection.

Filed: February 24, 1987, as R.1987 d.138, **without change.**

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

DEP Docket No. 026-86-05.

Effective Date: March 16, 1987.

Expiration Date: May 4, 1989.

##### Summary of Public Comments and Agency Responses:

**No comments received.**

**Full text** of the adoption follows.

##### 7:13-7.1 Delineated floodways

No change in the text of N.J.A.C. 7:13-7.1 (b) and (d) is required.

OAL NOTE: Maps and associated flood profiles, showing the location of the revised delineated flood hazard areas, may be reviewed at the Office of Administrative Law, Quakerbridge Plaza, Bldg. 9, Trenton, N.J., and at the Bureau of Flood Plain Delineation, 1911 Princeton Ave., Lawrenceville, NJ.

## COMMISSION ON RADIATION PROTECTION

### (b)

#### Medical Exposure to Ionizing Radiation by Radiologic Technologists

##### Adopted Amendments: N.J.A.C. 7:28-19.2, 19.3, 19.4, 19.6, 19.8, 19.9 and 19.10

##### Adopted New Rule: N.J.A.C. 7:28-19.12

Proposed: December 1, 1986 at 18 N.J.R. 2361(a).

Adopted: February 17, 1987 by Commission on Radiation Protection, Max Weiss, Ph.D., Chairman.

Filed: February 24, 1987, as R.1987 d.139, **without change.**

Authority: N.J.S.A. 13:1D-7 and 26:2D-7 and specifically 26:2D-24 et seq., as amended by P.L. 1985, c.540.

DEP Docket No. 051-86-10.

Effective Date: March 16, 1987.

Expiration Date: October 7, 1990.

##### Summary of Public Comments and Agency Responses:

**No comments received.**

**Full text** of the adoption follows.

##### 7:28-19.2 Definitions

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

... "Orthopedic x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to the spine and extremities for diagnostic purposes only.

... "Radiologic technologist" means any person who is licensed pursuant to this subchapter, which shall include chest x-ray technologist (LRT(C)), dental x-ray technologist (LRT(D)), diagnostic x-ray technologist (LRT(R)), radiation therapy technologist (LRT(T)), podiatric x-ray technologist (LRT(P)), orthopedic x-ray technologist (LRT(O)), and urologic x-ray technologist (LRT(U)).

... "Urologic x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to the abdomen and pelvic area for urologic diagnostic purposes only.

##### 7:28-19.3 General provisions

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

(g) The Board shall establish criteria and standards for programs of diagnostic, radiation therapy, dental, chest, podiatric, orthopedic, or urologic x-ray technology and approve these programs upon finding that the standards and criteria have been met.

(h) No person licensed to operate equipment emitting ionizing radiation shall be permitted in the primary beam, unless it is deemed essential for the specific examination by the licensed practitioner.

##### 7:28-19.4 Licensure procedure

(a) The Board shall admit to examination for licensing any applicant who shall pay to the Department a nonrefundable fee as specified in N.J.A.C. 7:28-19.12 and submit satisfactory evidence, verified by oath or affirmation, that the applicant:

1.-4. (No change.)

(b) In addition to the requirements of (a) above, any person seeking to obtain a license in a specific area of radiologic technology must comply with the following applicable requirements:

1. Each applicant for a license as a diagnostic x-ray technologist (LRT(R)) shall have satisfactorily completed a 24-month course of study in diagnostic x-ray technology approved by the Board or its equivalent as determined by the Board.

2. Each applicant for a license as a radiation therapy technologist (LRT(T)) shall have satisfactorily completed a 24-month course in radiation therapy technology approved by the Board or the equivalent of such as determined by the Board.

3. Each applicant for a license as a chest x-ray technologist (LRT(C)) shall have satisfactorily completed the basic curriculum for chest radiography as approved by the Board or its equivalent as determined by the Board.

4. Each applicant for a license as a dental x-ray technologist (LRT(D)) shall have satisfactorily completed the curriculum for dental radiography as approved by the Board or its equivalent as determined by the Board.

5. (No change.)

6. Each applicant for a license as an orthopedic x-ray technologist (LRT(O)) shall have satisfactorily completed the basic curriculum for orthopedic radiography as approved by the Board or its equivalent as determined by the Board.

7. Each applicant for a license as a urologic x-ray technologist (LRT(U)) shall have satisfactorily completed the basic curriculum for urologic radiography as approved by the Board or its equivalent as determined by the Board.

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

(f) All licenses are renewable as of December 31 of every even numbered year following the year of issuance. A license shall be renewed by the Board for a period of two years upon payment of a renewal fee as specified in N.J.A.C. 7:28-19.12, if the applicant has complied with all other applicable conditions or requirements established by the Board.

(g)-(i) (No change.)

##### 7:28-19.6 Practice of radiologic technology

(a) The practice of diagnostic radiologic technology shall include: patient measurement, proper positioning for varied procedures to demonstrate the appropriate anatomical part on a radiograph as requested by a physician, selecting the correct technique factors on control panel, selecting proper distance and exercising proper principles of radiation protection and making x-ray exposures.

(b) (No change.)

(c) The practice of dental x-ray technology shall include application of x-rays to human beings for diagnostic dental examination and exercising proper principles of radiation protection.

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

(f) The practice of orthopedic x-ray technology shall include application of x-rays to human beings to spine and extremities for diagnostic purposes. Such practice shall include patient measurement, proper positioning to demonstrate the appropriate anatomical part on a radiograph as requested by a physician, selecting the correct technique factors on control panel, selecting proper distance, exercising proper principles of radiation protection and making x-ray exposure.

(g) The practice of urologic x-ray technology shall include application of x-rays to human beings limited to the abdomen and pelvic area for urologic diagnostic purposes. Such practices shall include patient measurement, proper positioning to demonstrate the appropriate anatomical part on a radiograph as requested by a physician, selecting correct technique factors on control panel, selecting proper distance, exercising proper principles of radiation protection and making x-ray exposure.

7:28-19.8 Students

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

(d) The sponsoring institution shall maintain an adequate student/licensed radiologic technologist ratio as determined by the Board. In a limited license curriculum the LRT shall be licensed in the category the student is pursuing. A licensed diagnostic radiologic technologist (LRT(R)) may supervise students enrolled in any limited license curriculum.

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

7:28-19.9 Program approval

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

(d) The Board shall establish criteria and standards for programs of chest, dental, podiatric, orthopedic and urologic radiography and may approve such programs upon finding that the standards and criteria have been met.

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

(i) Accreditation and/or Provisional accreditation may be withheld or withdrawn, for failure to correct specified deficiencies and where the Department has determined that the institution is engaging in practices that are not consistent with acceptable standards for the operation of an educational institution. The sponsoring institution shall be notified in writing of the violation or violations resulting in withholding of accreditation or of the intent to withdraw accreditation and may, within 30 days of said notification, petition the Department in writing for a review thereof, and shall thereupon be given the opportunity to be heard on the violations by the Commissioner of Environmental Protection or shall be referred to the Office of Administrative Law. Hearings referred to the Office of Administrative Law shall be conducted in accordance with the provisions of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1-1 et seq.)

(j)-(q) (No change.)

7:28-19.10 Use of medical ionizing equipment by students

(a) (No change.)

(b) Students enrolled in and attending a Board approved diagnostic, chest, dental, podiatric, orthopedic or urologic radiologic technology program may apply radiation to a human being for necessary diagnostic purposes only at the approved clinical facilities of the sponsoring institutions.

1. The operation of the x-ray equipment by a student shall be for the purpose of clinical experience in radiologic procedures and shall occur under the direct supervision of a licensed radiologic technologist in the appropriate category or a licensed practitioner.

2. (No change.)

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

7:28-19.12 Fees

(a) Any person who submits an application for a license or license renewal to the Department shall include as an integral part of said application a service fee as follows:

1. Application Fee: \$30.00
2. Examination Fee: \$30.00
3. Renewal Fee: \$20.00

(b) The fees accompanying the application or license renewal shall be in the form of a certified check or money order made payable to the State of New Jersey.

1. The fees submitted to the Department are not refundable.

2. The fees accompanying the initial application or renewal shall be mailed to:

State of New Jersey  
Department of Environmental Protection  
Bureau of Collection and Licensing Unit  
CN 402  
Trenton, New Jersey 08625

## HEALTH

### (a)

#### DRUG UTILIZATION REVIEW COUNCIL

##### Interchangeable Drug Products

##### Adopted Amendment: N.J.A.C. 8:71

Proposed: March 17, 1986 at 18 N.J.R. 537(a).

Adopted: February 17, 1987 by Robert Kowalski, Secretary,  
Drug Utilization Review Council.

Filed: February 17, 1987 as R.1987 d.133, **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: March 16, 1987.

Expiration Date: April 2, 1989.

##### Summary of Public Comments and Agency Responses:

**No comments received.**

The following product and its manufacturer were **Adopted**:

**Methyldopa tabs 125, 250, 500 mg** **Par**

The following products were **not adopted** but are still **pending**:

Aminophylline oral soln 105 mg/5 ml	Roxane
Chlorzoxazone 250 mg/Acetaminophen 300 mg	Amer. Ther.
Isosorbide dinitrate oral tabs 20 mg	West-ward
Lithium carbonate caps and tabs, 300 mg	Roxane
Methyldopa tabs 250, 500 mg	Superpharm
Methyldopa/HCTZ 250/150, 250/250 mg	Par
Methyldopa/HCTZ 250/25, 500/30, 500/50 mg	Par
SMZ/TMP Susp. 200 mg + 40 mg/5 ml	Naska
Sulfasalazine tabs 500 mg	Superpharm
Trazodone HCl tabs 50, 100 mg	Pharm. Basics

OFFICE OF ADMINISTRATIVE LAW NOTE: Related Notices of Adoption may be found at 18 N.J.R. 1381(a), 1463(b), 1957(a), and 2015(a), and 19 N.J.R. 118(a).

## HIGHER EDUCATION

#### EDUCATIONAL OPPORTUNITY FUND BOARD

### (b)

##### Student Residency

##### Adopted Amendment: N.J.A.C. 9:11-1.2

Proposed: September 8, 1986 at 18 N.J.R. 1777(a).

Adopted: February 11, 1987 by Educational Opportunity Fund  
Board, T. Edward Hollander, Chairman.

Filed: February 19, 1987 as R.1987 d.135, **without change.**

Authority: N.J.S.A. 18A:71-33 through 18A:71-36.

Effective Date: March 16, 1987.

Expiration Date: January 17, 1989.

##### Summary of Public Comments and Agency Responses:

**No comments received.**

**Full text** of the adoption follows.

9:11-1.2 Student Residency

(a) (No change.)

(b) A dependent student as defined in N.J.A.C. 9:11-1.4 is presumed to be a legal resident of the state which his/her parent(s) or guardian(s)

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are residents. A dependent student whose parent(s) or guardian(s) are not legal residents of New Jersey is presumed to be in the state for the temporary purpose of obtaining an education. Any dependent student, as defined in N.J.A.C. 9:11-1.4, who is domiciled in this state and who is enrolled as an EOF student in an institution of higher education in New Jersey, shall continue to be eligible for participation in the EOF Program despite his or her supporting parent(s) or guardian(s) change of domicile to another state, while such student continues to reside in New Jersey during the course of each academic year.

**(a)****Program Support****Adopted Amendments: N.J.A.C. 9:12-1.5 and 2.3**

Proposed: April 21, 1986 at 18 N.J.R. 801(b).

Adopted: February 11, 1987 by Educational Opportunity Fund Board, T. Edward Hollander, Chairman.

Filed: February 19, 1987 as R.1987 d.134, **without change**.

Authority: N.J.S.A. 18A:71-33 through 18A:71-36.

Effective Date: March 16, 1987.

Expiration Date: January 17, 1989.

**Summary of Public Comments and Agency Responses:****No comments received.****Full text** of the adoption follows.

## 9:12-1.5 Institutional commitment

(a) Institutions which participate in the EOF program shall provide a broad range of supportive services to students enrolled in the program. Institutions shall provide funding equivalent to no less than 50 percent of the proposed total cost of each program to be supported by EOF grant funds in the following manner:

1. With regard to matching funds, it is expected that high level institutional officers who are required to serve all students will normally not be included as part of the institutional match. In cases where these individuals are included, a detailed justification must accompany the proposal. The justification should include services provided to the EOF students which would not normally accrue to the student as a result of his or her tuition payment. Generally, personnel who provide direct services to students will be allowed, but must meet the above criteria for institutional match.

2. Indirect expenses shall not exceed 10 percent of the total program cost in meeting the match (for example, space, light, heat, etc.).

(b) (No change.)

## 9:12-2.3 Student eligibility

(a) Any student deemed eligible for admission and matriculation to the EOF program by the institution in the academic year (pursuant to N.J.A.C. 9:11-1 et seq.) is qualified to receive additional grant funds to support enrollment and full participation in the summer program in accordance with the following provisions:

1. Summer or pre-freshman attendance should be mandatory for all entering students. Institutions may permit entering students to enroll without attending the summer program, but shall provide alternative activities for such students consistent with criteria listed in N.J.A.C. 9:12-2.2 of the Summer Program Regulations, during the academic year. Such program offerings must be described in the annual funding proposal.

2. Depending on the availability of funds, renewal students may be permitted to attend summer programs for a maximum of two summers after initial enrollment.

3. Priority for funding should be given to those students who:

- i. Need to complete basic skills requirements;
- ii. Must meet academic progress regulations;
- iii. Are able to graduate by the end of the summer session; and
- iv. Need to stay in academic sequence.

4. Student enrolled in highly technical and/or pre-professional programs (pre-law, pre-med) shall be eligible for three summer school programs to increase preparation for post-graduate placement.

5. Special exceptions for students with unique problems may be granted upon written request by the campus EOF Director and approval by the Executive Director.

**HUMAN SERVICES****DIVISION OF PUBLIC WELFARE****(b)****Public Assistance Manual****Employment and Training Requirements****Adopted Amendment: N.J.A.C. 10:81-3.18**

Proposed: November 17, 1986 at 18 N.J.R. 2301(a).

Adopted: February 13, 1987 by Drew Altman, Ph.D.,

Commissioner, Department of Human Services.

Filed: February 17, 1987 as R.1987 d.132, **without change**.

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

Effective Date: March 16, 1987.

Expiration Date: October 15, 1989.

**Summary of Public Comments and Agency Responses:****No comments received.****Full text** of the adoption follows.

## 10:81-3.18 Employment and training requirements

(a) (No change.)

(b) AFDC-C and -F segments (WIN Counties): County welfare agencies, as agents of the United States Department of Labor in those geographical areas designated as WIN counties are responsible, through the income maintenance staff, for determining who is required to register for WIN by completing Form PA-401, WIN Case Review Document (see appendix C).

1. (No change.)

2. Those who are exempt include:

i. (No change.)

ii. Persons who are:

(1)-(5) (No change.)

(6) The parent or other caretaker relative of a child under six years of age who personally provides care for the child with only brief and infrequent absences from the child. For purposes of exemption from WIN registration, absence means that the parent and child are apart, one from the other.

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

(B) Absence shall not be considered brief and infrequent if the parent is routinely absent from the child for 12 or more hours per week for activities not related to normal household, child rearing and/or family duties. In no event shall the full-time school attendance of the parent be considered brief and infrequent. Absences of the child for more than 12 hours per week due to care of the child by relatives or similar arrangements unrelated to employment or training shall not qualify as brief and infrequent.

(7)-(10) (No change.)

3.-4. (No change.)

(c)-(l) (No change.)

(a)

**Public Assistance Manual  
General Assistance Manual  
Special Payments Handbook  
Retroactive Funeral Payments****Adopted New Rules: N.J.A.C. 10:81-7.29, 10:85-4.9,  
and 10:100-3.10**

Proposed: November 3, 1986 at 18 N.J.R. 2176(a).

Adopted: February 19, 1987 by Drew Altman, Ph.D.,

Commissioner, Department of Human Services.

Filed: February 20, 1987 as R.1987 d.136, **without change.**Authority: N.J.S.A. 44:157.1, 44:7-6, 44:7-12, 44:7-13, 44:7-38,  
44:7-43, 44:8-111(d), and 44:10-3.

Effective Date: March 16, 1987.

Expiration Date: October 15, 1989 for 10:81; January 30, 1990  
for 10:85; February 6, 1989 for 10:100.**Summary of Public Comments and Agency Responses:**

COMMENT: Two letters of comments were received, one expressing full support for the proposal. The other commenter objected with the observation that it is not necessary to make an additional payment to funeral directors since no additional services will be performed. Further, the family of the decedent should not be expected to contribute more.

RESPONSE: The enactment on September 8, 1985 of Assembly Bill No. 2846, now Chapter 282, Laws of 1985, revised N.J.S.A. 44:7-13 so as to allow public assistance agencies to make higher payments for funerals and burials of deceased public assistance recipients. Subsequently, on November 1, 1986, the Department implemented regulations to comply with the requirements of the enacted legislation, but there were no provisions included to accommodate situations from the statute's effective date of September 8, 1985 to the promulgation of Departmental regulations November 1, 1986. Consequently, it is necessary to establish provisions for retroactive coverage for the interim period between September 8, 1985 and November 1, 1986 in order to comply with the effective date of the statute. The regulations do not solicit additional family contributions, and will expire at the end of September 1987.

Full text of the adoption follows.

**10:81-7.29 Retroactive adjustment payments**

(a) This section on retroactive adjustment payments expires on September 30, 1987. No payments are to be approved for any funeral for which a petition for retroactive payment has not been received by the agency by September 30, 1987.

(b) The agency will make retroactive adjustment payments to funeral directors under the following conditions:

1. The decedent died on or after September 8, 1985.
2. The decedent died before November 1, 1986.
3. The funeral director provided embalming and preparation services.
4. The funeral director submitted, and the agency received, a properly completed and notarized petition on Form PA-11C or substantially similar document on or before the expiration date hereof.
5. The decedent was programmatically eligible for funeral payment, and
  - i. The agency made or is authorized to make a funeral contribution under prior regulation, or
  - ii. The agency was not authorized to make a funeral contribution under prior regulation because the decedent's resources in combination with the contributions of others exceeded agency payment limits.

(c) The amounts to be paid are as follows:

1. For funerals for which the agency contributed—\$600.00
  2. For funerals for which the agency did not contribute—the amount by which \$1500 exceeds the total amount paid for funeral and burial, but not more than \$600.00.
- (d) Time of payment: The agency will make the retroactive payments as promptly as possible but, in the absence of irregularity, not later than 30 days after the date of receipt of the petition. The agency will reconcile irregularities as promptly as possible and make payment within 30 days after the last irregularity in any petition is reconciled.
- (e) Other agency action shall be as follows:
1. The agency will communicate with all funeral directors to whom the agency made funeral payments for decedents who died on or after September 8, 1985, identifying the decedents, and advising of these provisions for retroactive payments.

2. Unless it is known that a retroactive payment cannot be made, the agency will communicate with the funeral director who conducted the funeral of any other person known or believed to have died on or after September 8, 1985 while programmatically eligible, identifying the decedent and advising of these provisions for retroactive payments. If the identity of the funeral director is not known, communication shall be made with others, such as next-of-kin or hospital administrators as indicated, for the information.

3. The agency will supply blank copies of Form PA-11C in reasonable quantity to any funeral director requesting them. The agency will establish procedures for prompt responses to inquiries and processing of petitions.

**10:85-4.9 Retroactive adjustment payments**

(a) This section on retroactive adjustment payments expires on September 30, 1987. No payments are to be approved for any funeral for which a petition for retroactive payment has not been received by the agency by September 30, 1987.

(b) The agency will make retroactive adjustment payments to funeral directors under the following conditions:

1. The decedent died on or after September 8, 1985.
2. The decedent died before November 1, 1986.
3. The funeral director provided embalming and preparation services.
4. The funeral director submitted, and the agency received, a properly completed and notarized petition on Form PA-11C or substantially similar document on or before the expiration date hereof.
5. The decedent was programmatically eligible for funeral payment, and
  - i. The agency made or is authorized to make a funeral contribution under prior regulation, or
  - ii. The agency was not authorized to make a funeral contribution under prior regulation because the decedent's resources in combination with the contributions of others exceeded agency payment limits.

(c) The amounts to be paid are as follows:

1. For funerals for which the agency contributed—\$600.00
  2. For funerals for which the agency did not contribute—the amount by which \$1500 exceeds the total amount paid for funeral and burial, but not more than \$600.00.
- (d) Time of payment: The agency will make the retroactive payments as promptly as possible but, in the absence of irregularity, not later than 30 days after the date of receipt of the petition. The agency will reconcile irregularities as promptly as possible and make payment within 30 days after the last irregularity in any petition is reconciled.

(e) Other agency action shall be as follows:

1. The agency will communicate with all funeral directors to whom the agency made funeral payments for decedents who died on or after September 8, 1985, identifying the decedents, and advising of these provisions for retroactive payments.
2. Unless it is known that a retroactive payment cannot be made, the agency will communicate with the funeral director who conducted the funeral of any other person known or believed to have died on or after September 8, 1985 while programmatically eligible, identifying the decedent and advising of these provisions for retroactive payments. If the identity of the funeral director is not known, communication shall be made with others, such as next-of-kin or hospital administrators as indicated, for the information.

3. The agency will supply blank copies of Form PA-11C in reasonable quantity to any funeral director requesting them. It will establish procedures for prompt responses to inquiries and processing of petitions.

10:100-3.10 Retroactive adjustment payments

(a) This section on retroactive adjustment payments expires on September 30, 1987. No payments are to be approved for any funeral for which a petition for retroactive payment has not been received by the agency by September 30, 1987.

(b) The agency will make retroactive adjustment payments to funeral directors under the following conditions:

1. The decedent died on or after September 8, 1985.
2. The decedent died before November 1, 1986.
3. The funeral director provided embalming and preparation services.
4. The funeral director submitted, and the agency received, a properly completed and notarized petition on Form PA-11C or substantially similar document on or before the expiration date hereof.
5. The decedent was programmatically eligible for funeral payment, and
  - i. The agency made or is authorized to make a funeral contribution under prior regulation, or
  - ii. The agency was not authorized to make a funeral contribution under prior regulation because the decedent's resources in combination with the contributions of others exceeded agency payment limits.

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(c) The amounts to be paid are as follows:

1. For funerals for which the agency contributed—\$600.00
2. For funerals for which the agency did not contribute—the amount by which \$1500 exceeds the total amount paid for funeral and burial, but not more than \$600.00.

(d) Time of payment: The agency will make the retroactive payments as promptly as possible but, in the absence of irregularity, not later than 30 days after the date of receipt of the petition. The agency will reconcile irregularities as promptly as possible and make payment within 30 days after the last irregularity in any petition is reconciled.

(e) Other agency action shall be as follows:

1. The agency will communicate with all funeral directors to whom the agency made funeral payments for decedents who died on or after September 8, 1985, identifying the decedents, and advising of these provisions for retroactive payments.

2. Unless it is known that a retroactive payment cannot be made, the agency will communicate with the funeral director who conducted the funeral of any other person known or believed to have died on or after September 8, 1985 while programmatically eligible, identifying the decedent and advising of these provisions for retroactive payments. If the identity of the funeral director is not known, communication shall be made with others, such as next-of-kin or hospital administrators as indicated, for the information.

3. The agency will supply blank copies of Form PA-11C in reasonable quantity to any funeral director requesting them. The agency will establish procedures for prompt responses to inquiries and processing of petitions.

## INSURANCE

### DIVISION OF ADMINISTRATION

#### (a)

#### Automobile Reparation Reform Act

**Adopted Repeal: N.J.A.C. 11:3-7.1, 7.2, 7.3, and 7.4**

**Adopted New Rules: N.J.A.C. 11:3-7.1, 7.2, 7.3, 7.4 and 7.5**

Proposed: January 5, 1987 at 19 N.J.R. 44(a).

Adopted: February 23, 1987, by Kenneth D. Merin,

Commissioner, Department of Insurance.

Filed: February 24, 1987 as R.1987 d.140, with portions of the proposal **not adopted** and a present rule **recodified**.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 39:6A-1 et seq. and 39:6A-10.

Effective Date: March 16, 1987.

Expiration Date: January 6, 1991.

#### Summary of Public Comments and Agency Responses:

The Department received comments from one insurer on the proposed new rule N.J.A.C. 11:3-7 concerning the automobile reparation reform act.

**COMMENT:** The commenter argued that N.J.A.C. 11:3-7.3(c) requires a specific statutory citation in policy forms or endorsements which is unnecessary and that the concern should be only that the form or endorsement properly reflect the statutory requirements.

**RESPONSE:** The commenter has misinterpreted the requirements of N.J.A.C. 11:3-7.3(c). The specific statutory citation itself need not be included in the form or endorsement; however, the regulation does require that which the commenter agrees it should: that the form or endorsement accurately state the requirements of the statute in full.

**COMMENT:** The commenter expressed two concerns with the Department's revisions to N.J.A.C. 11:3-7.6 regarding cancellation of automobile coverage for nonpayment of premium. First, the commenter stated that the Department's attempt to clarify the meaning of N.J.A.C. 11:3-7.6(b) by deleting the references to the "preparation date" of the cancellation notice and merely referring to the "date of the cancellation notice" instead creates ambiguity. Specifically, the commenter questioned whether the Department was referring to the issue date shown on the notice or the effective cancellation date indicated thereon. The writer recommended that the Department retain the existing language of the rule.

Secondly, the commenter questioned the inclusion of the phrase "... net of any earned commission which may be due to the producer of record." The commenter noted that, with respect to the voluntary market,

it is industry practice to utilize the gross premium received by the company in determining the time period for which coverage has been paid and the proper cancellation date of the policy. Accordingly, in such situations, the calculation of earned commission due the producer is of no relevance and indeed is incalculable until earned premium is calculated because commission is earned as premium is earned.

This procedure contrasts with certain nonpayment cancellations of automobile insurance in the residual market where, pursuant to statutory requirements, the effective cancellation date is calculated based on premium paid net of the producer's full annual commission. The writer suggested that there may be some confusion between cancellations subject to this rule and those residual market cancellations.

**RESPONSE:** Based upon review of the above comments, the Department has determined not to adopt the proposed new N.J.A.C. 11:3-7.6, but to retain for the present the existing text of N.J.A.C. 11:3-7.5 and recodify same to section 7.6. The Department continues to believe that modifications to these provisions are necessary and intends to make further review and at some future date propose revisions which more specifically track the Legislature's intent. For example, in modifying N.J.A.C. 11:3-7.6(b) to refer to the "date of the cancellation notice," it was the Department's intent to refer to the issue date of the notice as indicated thereon, not to the effective cancellation date.

The Department also acknowledges the commenter's representations with respect to the reference to the producer's earned commission. The Department agrees that the gross premium received by the insurer is the proper basis for calculating the effective date for nonpayment cancellation of voluntary auto policies. However, it should be noted that N.J.A.C. 11:3-7.6 applies to both voluntary and residual market policies covering vehicles as defined in subsection (a). Therefore, clarification of the proper basis for determining the effective cancellation date remains in order. Once again, the Department intends to propose appropriate revisions to this section to reflect this intent.

**Full text of the adoption follows (additions indicated in boldface with asterisks \*thus\*; deletions indicated in brackets with asterisks \*[thus]\*).**

#### SUBCHAPTER 7. AUTOMOBILE REPARATION REFORM ACT

##### 11:3-7.1 Purpose

This subchapter implements certain provisions of the Automobile Reparation Reform Act, N.J.S.A. 39:6A-1 et seq., including the Commissioner's authority to establish the amounts and terms of additional personal injury protection benefits which must be provided in policies covering automobiles as defined in N.J.S.A. 39:6A-2.

##### 11:3-7.2 General requirements applicable to additional personal injury protection benefits

(a) In addition to the basic personal injury protection benefits which insurers must provide pursuant to N.J.S.A. 39:6A-4, insurers shall make available to the named insured, and, at his or her option, to any resident relatives in the named insured's household additional income continuation benefits, essential services benefits, death benefits and funeral expense benefits pursuant to N.J.S.A. 39:6A-10 and this subchapter.

(b) The additional benefit indicated in each option that an insurer may offer for income continuation benefits and essential services benefits represents the aggregate of the basic and additional personal injury protection benefits.

(c) Any additional income continuation benefits that an insurer may offer shall be limited to 75 percent of the insured's weekly income.

(d) The limits which are applicable to any additional personal injury protection benefits that an insurer may offer shall apply on a per person, per accident basis.

(e) Each insurer shall make available as an option additional income continuation benefits for as long as the disability persists.

1. Each insurer shall furnish rates for such benefits upon the request of the insured.

(f) Any additional death benefits which an insurer may offer shall be payable without regard to the period of time elapsing between the date of the accident and the date of death provided death occurs within two years of the accident and results from bodily injury from that accident.

1. The requirements of (f) above shall apply to any claim for additional death benefits where death occurs on or after April 21, 1986.

- i. With respect to any claim presented on or after the effective date of this subchapter, each insurer shall disclose the availability of additional death benefits in conformance with the applicable provisions of N.J.A.C. 11:2-17.1 et seq.

- ii. With respect to any claim initiated prior to the effective date of this subchapter, each insurer shall take appropriate steps to determine whether additional death benefits are payable, pursuant to (f) above.

These steps shall include, but need not be limited to, review of claims closed on or after April 21, 1986 for the purpose of ascertaining the applicability of additional death benefits. Upon determining that such benefits are payable, each insurer shall provide written notice to eligible beneficiaries and process the claim in accord with N.J.S.A. 39:6A-5 and the applicable provisions of N.J.A.C. 11:2-17.1 et seq.

(g) In addition to the minimum schedule of additional personal injury protection benefits set forth at N.J.A.C. 11:3-7.4(b), any insurer may provide other additional personal injury protection benefit options subject to review and approval of its filing by the Department of Insurance. Any additional options offered by the insurer must be in compliance with the standards and requirements set forth in this subchapter.

11:3-7.3 Personal injury protection policy forms or endorsements

(a) All policy forms or endorsements that provide personal injury protection benefits required by N.J.S.A. 39:6A-4 shall specify that such benefits shall be afforded by the insurer of the injured person subject to any deductibles or exclusions elected by the policyholder pursuant to N.J.S.A. 39:6A-4.3. The required personal injury protection benefits are set forth below:

1. Medical expense benefits;
2. Income continuation benefits;
3. Essential services benefits;
4. Death benefits; and
5. Funeral expense benefits.

(b) Each policy form or endorsement covering an automobile as defined at N.J.S.A. 39:6A-2 shall include excess medical payments coverage, corresponding to Section II, Extended Medical Expense Benefits Coverage of the personal automobile policy. Insurers must include a minimum coverage of \$1,000 and may offer coverage of \$10,000.

(c) Each policy form or endorsement providing additional personal injury protection benefits shall specify that, pursuant to N.J.S.A. 39:6A-10, as amended by P.L. 1985, c.520, section 16, additional death benefits under the policy shall be payable without regard to the period of time elapsing between the date of the accident and the date of death provided death occurs within two years of the accident and results from bodily injury from that accident.

11:3-7.4 Minimum schedule of additional personal injury protection coverage benefits

(a) Every rate filer's schedule of rates for additional personal injury protection benefits shall provide at least the benefit schedules set forth in Table 1 in (b) below.

(b) The additional personal injury protection coverage table follows:

Option	Income		Essential Services		Death	Funeral Expense
	Weekly	Total	Per Day	Total		
1	\$100	\$10,400	\$12	\$ 8,760	\$10,000	\$2,000
2	125	13,000	20	14,600	10,000	2,000
3	175	18,200	20	14,600	10,000	2,000
4	250	26,000	20	14,600	10,000	2,000
5	400	41,600	20	14,600	10,000	2,000
6	500	52,000	20	14,600	10,000	2,000
7	600	62,400	20	14,600	10,000	2,000
8	700	72,800	20	14,600	10,000	2,000
9	100	unlimited	12	8,760	10,000	2,000
10	125	unlimited	20	14,600	10,000	2,000
11	175	unlimited	20	14,600	10,000	2,000
12	250	unlimited	20	14,600	10,000	2,000
13	400	unlimited	20	14,600	10,000	2,000
14	500	unlimited	20	14,600	10,000	2,000
15	600	unlimited	20	14,600	10,000	2,000
16	700	unlimited	20	14,600	10,000	2,000

11:3-7.5 Notice requirements

(a) Additional personal injury protection benefits shall be offered by the insurer at least annually on a form prescribed by the Commissioner of Insurance.

1. The buyer's guide and coverage selection form specified at N.J.S.A. 39:6A-23 and any rules promulgated thereunder shall meet the requirements of (a) above.

(b) Insurers shall provide written notice advising policyholders of the change effected by the enactment of P.L. 1985, c.520, section 16 in all applications for an automobile insurance policy and notices of renewal of an automobile insurance policy that are issued on or after the effective date of this subchapter.

1. The buyer's guide specified at N.J.S.A. 39:6A-23 and any rules promulgated thereunder shall meet the requirements of (b) above.

(c) Each insurer shall distribute copies of this subchapter to every person responsible for the handling and settlement of claims subject to this subchapter. Every insurer shall satisfy itself that all such responsible persons are thoroughly conversant with and are complying with this subchapter.

\*[11:3-7.6 Cancellation of automobile coverage for nonpayment of premium

(a) This rule applies to all automobile policies delivered or issued for delivery in this State, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

2. Any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not customarily used in the occupation, profession or business of insured, other than farming or ranching, provided, however, that this rule shall not apply to any policy insuring more than four automobiles, or to any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards.

(b) The effective date of the cancellation of a policy for nonpayment of premium shall be not earlier than 10 days prior to the last full day for which premium received by the company prior to the date of the cancellation notice, net of any earned commission which may be due to the producer of record, would pay for coverage on a pro rata basis. In calculating the effective date of the cancellation as provided in this section, the premium applicable to the coverage provided by the policy and the premium received by the company at or prior to the date of the cancellation notice shall be the premium used for the calculation and determination of such effective date.

1. This subsection shall not apply to deposits accompanying New Jersey Automobile Insurance Plan applications which are insufficient under Plan rules or those of any succeeding residual market availability plan.

(c) Cancellation for nonpayment of premium does not include cancellation at the request of a premium finance company or of a producer of record under N.J.A.C. 11:1-3.1.

(d) No notice of cancellation for nonpayment of premium shall be valid unless it is mailed or delivered by the insurer to the insured not more than 30 days nor less than 15 days prior to the effective cancellation date.\*

AGENCY NOTE: The existing text of N.J.A.C. 11:3-7.5 has not been repealed as proposed but is being retained by the Department, and recodified to N.J.A.C. 11:3-7.6. The text of the section follows and is being published for the sake of clarity.

\*[11:3-7.5] \*11:3-7.6\* Cancellation of automobile coverage for nonpayment of premium

(a) This rule applies to all automobile policies delivered or issued for delivery in this State, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, not rented to others; or

2. Any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not customarily used in the occupation, profession or business of insured, other than farming or ranching, provided, however, that this rule shall not apply to any policy insuring more than four automobiles, or to any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards.

(b) The effective date of the cancellation of a policy for nonpayment of premium shall not be earlier than 10 days prior to the last full day of which premium received by the company prior to the date of preparation of the cancellation notice, would pay for coverage on a pro rata basis. In calculating the effective date of the cancellation as provided in this section, the premium applicable to the coverage provided by the policy and the premium received by the company at or prior to the time cancellation notice was prepared shall be the premium used for the calculation and determination of such effective date.

(c) Cancellation for nonpayment of premium does not include cancellation at the request of a premium finance company or of a producer of record under N.J.A.C. 11:1-3.1.

(d) No cancellation notice shall be mailed prior to 30 days in advance of its effective date.

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(e) The rule shall not apply to deposits accompanying New Jersey Automobile Insurance Plan applications which are insufficient under Plan rules or those of any succeeding residual market availability plan.

**(a)**

**Automobile Rate Filers: Deductibles for Private Passenger Automobile Collision and Comprehensive Coverages**

**Adopted Amendments: N.J.A.C. 11:3-13**

Proposed: January 5, 1987 at 19 N.J.R. 46(a).  
Adopted: February 23, 1987 by Kenneth D. Merin,  
Commissioner, Department of Insurance.  
Filed: February 24, 1987, as R.1987 d.142, **without change**.  
Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and 17:29A-39.  
Effective Date: March 16, 1987.  
Expiration Date: January 6, 1991.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

Full text of the adoption follows.

**SUBCHAPTER 13. AUTOMOBILE RATE FILERS:  
DEDUCTIBLES FOR PRIVATE PASSENGER  
AUTOMOBILE COLLISION AND  
COMPREHENSIVE COVERAGES**

**11:3-13.1 Purpose**

(a) The New Jersey Automobile Insurance Reform Act of 1982, as amended (P.L. 1983, c.65, P.L. 1983, c.359, N.J.S.A. 17:29A-39) requires that each insurer offer a range of deductibles up to at least \$2,000 for private passenger automobile collision and comprehensive coverages. This subchapter provides rules for the implementation of this requirement.

**11:3-13.2 Scope**

(No change.)

**11:3-13.3 Deductibles for private passenger automobile collision and comprehensive coverages**

(a) (No change.)

(b) In addition to the required schedules in (a) above, an insurer may offer other intermediary ranges of deductibles as well as deductibles which are in excess of \$2,000.

1. The offering of such intermediary and additional deductibles shall be subject to the Commissioner's approval as set forth in N.J.A.C. 11:3-13.4.

(c) (No change.)

**11:3-13.4 Filing and reporting requirements**

(a) Within 30 days of the effective date of this subchapter, every automobile filer shall submit to the Commissioner for approval filings of rates or manual rules which provide at least the minimum schedules of deductibles set forth at N.J.A.C. 11:3-13.3(a).

(b) All filings of collision and comprehensive deductibles and all changes and amendments thereto, shall be prepared in accordance with insurance laws and regulations, including the applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's existing filing procedures.

(c) (No change.)

**11:3-13.5 Notice requirements**

(a) Effective January 1, 1984, every insurer shall furnish an applicant for private passenger automobile insurance with a schedule of collision and comprehensive deductibles on a form attached to or accompanying all applications.

(b) At least annually, every insurer shall furnish its insureds with a written notice of its schedule of collision and comprehensive deductibles.

**(b)**

**Rating Organizations: Private Passenger Automobile Rate Filings**

**Adopted Amendments: N.J.A.C. 11:3-17.4 and 17.5**

Proposed: January 5, 1987 at 19 N.J.R. 47(a).  
Adopted: February 23, 1987 by Kenneth D. Merin,  
Commissioner, Department of Insurance.  
Filed: February 24, 1987, as R.1987 d.141, **without change**.  
Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:29A-4, 17:29A-14.  
Effective Date: March 16, 1987.  
Expiration Date: January 6, 1991.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

Full text of the adoption follows.

**11:3-17.4 Private passenger automobile rate filings**

(a) (No change.)

(b) Upon filing a petition for the approval of private passenger automobile rates for all members and subscriber companies, the rating organization, in addition, shall submit simultaneously a rate filing based on the experience of its members and subscribers that have less than a two percent share of New Jersey's voluntary private passenger automobile market. The filing must contain, at a minimum, the most recent three years of loss, expense, financial, statistical and other data of these members and subscribers. The loss development factors, trend and other actuarial assumptions utilized by the rating organization in preparing this filing must arise from and reflect the data base of these insurers.

(c) (No change in text.)

(d) (No change in text.)

**11:3-17.5 Review procedures**

(a) The Commissioner shall review the rating organization's rate filing made on behalf of its members and subscribers and the rate filing that is based on members and subscribers that have less than a two percent share of New Jersey's voluntary private passenger automobile market to determine whether these filings are in accordance with the statutory standards of N.J.S.A. 17:29A-14.

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

**TRANSPORTATION**

**(c)**

**TRANSPORTATION OPERATIONS**

**Restricted Parking and Stopping  
Routes 10 in Essex County and 27 in Union County**

**Adopted Amendments: N.J.A.C. 16:28A-1.8 and 1.18**

Proposed: January 5, 1987 at 19 N.J.R. 51(a).  
Adopted: February 5, 1987 by John F. Dunn, Jr., Assistant Chief  
Engineer, Traffic and Local Road Design.  
Filed: February 11, 1987 as R.1987 d.129 **without change**.  
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139.  
Effective Date: March 16, 1987.  
Expiration Date: November 7, 1988.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

Full text of the adoption follows.

**16:28A-1.8 Route 10**

(a) The certain parts of State highway Route 10 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-2. (No change.)

3. No stopping or standing between the hours of 7:00 A.M. to 9:00 A.M. and 4:00 P.M. to 6:00 P.M. in Livingston Township, Essex County:

i. Along the eastbound side:

(1) (No change.)

4.-7. (No change.)  
(b) (No change.)

16:28A-1.18 Route 27

(a) The certain parts of State highway Route 27 described in this subsection shall be designated and established as "no parking" zones where stopping and standing are prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-16. (No change.)

17. No stopping or standing in the City of Linden, Union County along the east side (East St. George Avenue), beginning at the northerly curb line of East Baltimore Avenue and extending to the southerly curb line of Chandler Avenue.

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

(e) The certain parts of State highway Route 27 described in this subsection shall be designated and established as "time limit parking" zones where parking is prohibited at all times except as specified. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established Time Limit Parking Zones:

1. (No change.)

2. Along the east side on St. George Avenue in the City of Linden, Union County, two hour time limit parking from 8:00 A.M. to 6:00 P.M. Monday through Friday from Roselle Street to Lincoln Street.

1. The following charts sets forth the percentage maximum for increases to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05.

Present Fare	% Of Increase	Upgraded To Nearest \$.05
\$ .30	50%	\$.15
\$.40-.50	30%	\$.15
\$.55-.60	15%	\$.10
\$.65-.75	13%	\$.10
\$.80-\$1.00	10%	\$.10
\$1.05 upward	5%	\$.10+

2. The following chart sets forth the percentage maximum for decrease to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05.

Present Fare	% Of Decrease	Upgraded To Nearest \$.05
\$ .30	20%	\$.10
\$.30-.50	20%	\$.10
\$.55-.75	20%	\$.15
\$.80 upward	20%	\$.20+

**THE COMMISSIONER**

(a)

**Office of Regulatory Affairs  
Zone of Rate Freedom**

**Adopted Amendment: N.J.A.C. 16:53D-1.1**

Proposed: December 1, 1986 at 18 N.J.R. 2376(a).

Adopted: January 30, 1987 by James A. Crawford, Assistant Commissioner for Transportation Services and Planning.

Filed: February 13, 1987 as R.1987 d.131, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 48:2-21 and 48:4-2.0 through 2.25.

Effective Date: March 16, 1987.

Expiration Date: May 7, 1989.

**Summary of Public Comments and Agency Responses:**

A public hearing was held on December 17, 1986, before Administrative Law Judge Stephen G. Weiss. There were no comments received and no participation from the public. Representatives from the Office of Regulatory Affairs testified as to the purpose of the proposed zone of rate freedom and the manner in which the rate has been calculated. The Administrative Law Judge in his decision of January 8, 1987 recommended that the proposal as set forth in the New Jersey Register at 18 N.J.R. 2376 for the 1987 ZORF be adopted in its entirety.

On January 30, 1987, the Department of Transportation adopted the proposed amendment concerning N.J.A.C. 16:53D "Zone of Rate Freedom" (ZORF) as proposed in the notice published in the New Jersey Register.

Copies of the transcript of proceedings of the Public Hearing held on December 17, 1986, and the Administrative Law Judge's Report and Recommendations, OAL DKT. No. TRP 8655-86 have been filed and are a part of this adoption. Individuals desiring copies of the transcript of proceedings may obtain same from the Director, Office of Regulatory Affairs, McCarter Highway and Market Street, P.O. Box 10009, Newark, New Jersey 07101, for the appropriate prescribed fee.

Full text of the adoption follows.

16:53D-1.1 General provisions

(a) Any regular route bus carrier operating within the State which seek to revise its rates, fares or charges in effect as of the time of the promulgation of this regulation shall not be required to conform with N.J.A.C. 14:1-6.15 (Tariff filings which do not propose increases in charges to consumers) or N.J.A.C. 14:1-6.16 (Tariff filings or petitions which propose increases in charges to customers) provided the increase or decrease in the rate, fare or charge, or the aggregate of increases and decreases in any single rate, fare or charge is not more than the maximum percentage increase or decrease as promulgated below upgraded to the nearest \$.05.

**TREASURY-GENERAL**

**DIVISION OF PENSIONS**

(b)

**Pension Adjustments; Retirees  
Returning to Public Employment**

**Adopted New Rule: N.J.A.C. 17:1-7.4**

Proposed: January 5, 1987 at 19 N.J.R. 51(b).

Adopted: February 9, 1987 by Douglas R. Forrester, Director, Division of Pensions.

Filed: February 11, 1987 as R.1987 d.128, **without change.**

Authority: N.J.S.A. 52:18A-96 et seq.

Effective Date: March 16, 1987.

Expiration Date: June 6, 1988.

**Summary of Public Comments and Agency Responses:**

**No comments received.**

Full text of the adoption follows.

17:1-7.4 Return to public employment; pension adjustments

(a) When a retiree returns to public employment to a position covered by the same retirement system from which he or she retired and subsequently retires from the post-retirement employment, each retirement will be treated separately for pension adjustment purposes.

(b) The benefit year for each retirement will be the initial year in which the retirement is effective and the member shall satisfy the 24 month waiting period for each retirement before the pension adjustment benefits may be received for that retirement.

(c) If a member was receiving pension adjustment benefits at the time that the initial retirement was cancelled due to the post-retirement employment, he or she shall begin to receive pension adjustment benefits based upon the initial retirement immediately upon the reinstatement of the initial retirement.

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**(a)****Teachers' Pension and Annuity Fund  
Loan Tolerances****Adopted Repeal and New Rule: N.J.A.C. 17:3-4.4**

Proposed: January 5, 1987 at 19 N.J.R. 52(b).

Adopted: February 9, 1987 by Board of Trustees, Teachers'

Pension and Annuity Fund, Anthony Ferrazza, Secretary.

Filed: February 13, 1987 as R.1987 d.130, **without change.**

Authority: N.J.S.A. 18A:66-56.

Effective Date: March 16, 1987.

Expiration Date: June 6, 1988.

**Summary of Public Comments and Agency Responses:****No comments received.****Full text** of the adoption follows.**17:3-4.4 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.

**COMMERCE AND ECONOMIC DEVELOPMENT  
DIVISION OF PURCHASE AND PROPERTY****(b)****Small Business, Female Business and Minority  
Business Contracts****Jointly Adopted Repeal: N.J.A.C. 17:12-6 and  
12A:10-1****Jointly Adopted New Rules: N.J.A.C. 17:12-6 and  
12A:10-1**

Proposed: November 17, 1986 at 18 N.J.R. 2306(a).

Adopted: February 24, 1987 by Feather O'Connor, State

Treasurer, and Borden R. Putnam, Commissioner, Department  
of Commerce and Economic Development.Filed: February 24, 1987 as R.1987 d.143, **with substantive changes**  
not requiring additional public notice and comment (see  
N.J.A.C. 1:30-4.3).Authority: N.J.S.A. 52:27H-6F, 52:18A-30(d); N.J.S.A. 52:32-17  
(P.L. 1985, c.384).

Effective Date: March 16, 1987.

Expiration Date: August 15, 1989.

**Summary of Public Comments and Agency Responses:**Letters of comment were received from several state agencies and  
departments, and are addressed individually as follows.**1. Department of Personnel (Civil Service)**The Department of Personnel submitted a letter of comment which  
addressed five issues concerning the rules.a. That 17:12-6.1 refers to the Department of Personnel by its previous  
name Civil Service.b. That 17:12-6.3 defines a Black American in a manner inconsistent  
with other relevant state and federal definitions of Black American.c. That 17:12-6.9 requires, that in determining compliance with  
purchase goals, agencies may only count those businesses duly approved  
by DCED. Personnel's objection is that they have found it "difficult to  
get small businesses to complete the Vendor Registration Forms."d. That 17:12-6.9 allows agencies and departments to count contracts  
awarded under state contracts as well as purchases made under delegated  
purchase authority. Personnel objects to the lack of clarity as to whether  
purchases made under state contracts may count toward set-aside goals.e. That 17:12-6.10 requires the submission of an annual purchasing  
plan is an unnecessary additional reporting requirements which will not  
help departments in attaining their goals.

Response is as follows:

a. The regulations have been amended to reflect the change in the name  
of the now Department of Personnel. At the time of publication of the  
rules for public comment Civil Service was the name of the Department.b. The definition of Black American has been changed to be consistent  
with the definitions used by the Federal Employment Opportunities Com-  
mission and State Affirmative Action Program.c. 17:12-6.9 requiring DCED approval of businesses wishing to do  
business under the set-aside program is required by statute, see N.J.S.A.  
52:32-24, and is also a necessary control to ensure the legitimacy and  
integrity of the set-aside program.d. It is our belief that 17:12-6.9 referred to by Personnel is stated  
clearly, as to its meaning. In fact the department's reading was correct,  
the purchases made from state contracts do count toward set-aside goals  
assuming all other criteria are met.e. The submission of annual purchasing plans is required by statute,  
see N.J.S.A. 52:32-28.**2. Department of Defense**The Department of Defense submitted a letter of comment which  
addressed a concern over the set-aside program. The Department of  
Defense believes the current set-aside program requires extensive  
burdensome recordkeeping requirements, in that departments must report  
agency purchase orders by vendor category.

Response is as follows:

Annual reporting of agency purchase orders and/or contracts is re-  
quired by statute, see N.J.S.A. 52:32-27. However, it should be noted that  
DCED and the Department of Treasury are currently working on several  
administrative and computerized initiatives which should make the re-  
cordkeeping for agencies and departments a less burdensome aspect of  
the set-aside program.**3. Department of Environmental Protection**The Department of Environmental Protection submitted a letter of  
comment which addressed six issues concerning the rules.a. Should the Environmental Trust Fund be governed under these set-  
aside requirements?b. The reference to the Development Authority for Small Businesses,  
Women-owned and Minority Businesses should be changed due to legis-  
lative revisions.c. In some of the loan and federally assisted projects which DEP directs  
there cannot be limits placed on the pool of vendors (that being principal  
place of business in New Jersey).d. The definition of minorities, 17:12-6.3, includes a separate category  
for Portuguese separate from the Hispanic definition, which is contrary  
to federal minority definitions.e. N.J.A.C. 17:12-6.7 which provides that the hearing officer in a  
business challenge proceeding shall be the chief of the office responsible  
for the processing of the Vendor Registration Forms should be changed  
to provide for the hearing to be done by some type of rotating pool of  
review officers.f. N.J.A.C. 17:12-6.10 requires submission of set-aside plans by June  
1 is unduly burdensome because DEP is busy at that time securing  
obligations of unused balance of fiscal year expenditures.

Response is as follows:

a. No, the Environmental Trust Fund should not be covered under  
these rules because almost none of its activities lie in an area which deals  
with purchasing. The purpose of the fund is to provide financing to  
municipalities for waste water treatment systems. As such the purchasing  
involved in the program will be performed by the municipalities with the  
stipulation they conform with mandated Trust Fund set-aside require-  
ments, see N.J.A.C. 58:11B-26.b. The reference to the Development Authority has been changed to  
reflect legislative revisions.c. The set-aside law and accompanying rules specifically address the  
issue of contracting and purchasing programs which are under federal  
statute of rules, see N.J.S.A. 52:32-20 and 17:12-32-17 Subsection E.  
Consequently, where a conflict may arise in programs which are under  
federal statute or rules those federal statutes or rules will supersede the  
state set-aside program.d. The definition of Portuguese apart and distinct from the definition  
of Hispanic is a deviation from federal guidelines, see N.J.S.A. 52:32-19.  
Consequently, persons of European Portuguese descent shall be con-  
sidered minorities for the purpose of these regulations.

e. N.J.A.C. 17:12-6.7 has been changed and provides that the hearing officer for business challenge proceedings shall be the designee of the Commissioner.

f. DEP suggestion that set-aside plans be required to be submitted at another time of year, because it would be burdensome due to their purchasing practices is inconsiderate of the methodology of the set-aside concept. A change in the date would create greater burden for departments and agencies.

The set-aside program has been set up on the basis of fiscal years, and any deviation from that would create administration hardship for the departments and agencies covered under the act. Requiring departments and agencies to submit reports from different fiscal years would add to the administrative burden. As such it is necessary that the set-aside plans be submitted by June 1 at the beginning period of the new fiscal year, which would allow proper review to ensure compliance with the program.

#### 4. Department of Human Services

The Department of Human Services submitted a letter of comment which addressed three issues concerning the rules.

a. References are made in the rules concerning "set-aside vendors list" which do not exist.

b. The challenge procedure sets a time frame of 10 days to complete all aspects of the procedures, Human Services suggests it should be 15 days.

c. The proposed rules require the retention of records of the bidding process for a set-aside contract for at least one year, however, current procedures required for other contracts require retention of these records for seven years.

Response is as follows:

a. Set-aside vendor lists do in fact exist and are required under the set-aside statute, see N.J.S.A. 52:32-24.

b. Admittedly ten days to complete the challenge procedure is an arduous task. However, extension beyond that time frame would hold up contract awarding processes, which would eventually overwhelm the set-aside contract award process.

c. The rules have been changed to require a seven year retention of records to conform with existing state policy.

#### 5. Department of Labor

The Department of Labor submitted a letter of comment which stated that they found the proposed rules acceptable.

Response is as follows:

The Department of Labor should not be concerned about the final form of these rules. Subsequent changes made to these rules in no way effect the overall set-aside program. Changes in the final approval issuance are either for technical corrections or for additional clarity.

#### 6. The Department of the Public Advocate

The Department of the Public Advocate submitted a letter of comment which addresses 12 issues concerning the rules.

a. N.J.A.C. 17:12-6.4(b) requires reasonable documentation and refers to appropriate forms or reports for applying to the Department in order to participate in the set-aside program. The Public Advocate believes that reasonable documentation needs to be further defined, so as to not create an arbitrary standard for registering businesses.

b. Under N.J.A.C. 17:12-6.4 businesses must meet other preapprovals or eligibility requirements by other departments. As such this would create a two tier standard for some businesses.

c. Under N.J.A.C. 17:12-6.6 there is no built in time period for approving or denying applications under the program.

d. N.J.A.C. 17:12-6.6(a) and (b) are unclear, indicating that two standards have been created to determine the eligibility of business to be placed upon the appropriate set-aside vendor list.

e. N.J.A.C. 17:12-6.7(a) provides that a third party must be on the list of bidders to challenge either the availability for listing or eligibility to bid.

f. N.J.A.C. 17:12-6.7(c) allows DCED to have discretion as to whether a hearing is warranted for challenges to businesses status under the program is inconsistent with the set-aside law.

g. N.J.A.C. 17:12-6.7(c)1. provides a too unspecific method for a notice of a business status challenge hearing.

h. N.J.A.C. 17:12-6.7(c)3. allowing the Chief processing officer to preside as the hearing officer is a conflict of interest.

i. The proposed rules do not address a hearing procedure if a business is excluded from the list, or a hearing when the business is discontinued from the list pursuant to an annual review.

j. Under 17:12-6.10 the Commissioner of DCED and the State Treasurer, or their designees are allowed to resolve disputes between contracting agency and the Department. The enabling statute states that if the Department and the contracting agency disagree as to whether a set-aside is appropriate the dispute will be submitted to the state Treasurer for resolution.

k. The proposed rules do not include a procedure for a hearing if a set-aside designation is rejected by a contracting agency.

l. N.J.A.C. 17:12-6.9 focuses on the percentage of participation in all contracts without regards to the dollar amount awarded. The statute requires that 25 percent of the state's procurement should be set-aside. The intent of the legislation was to base awards and achievement of goals on a dollar basis.

m. N.J.A.C. 17:12-6.11 provides the factors in establishing purchasing plans, and that each of these factors can be interpreted differently by each agency utilizing the factors.

Response is as follows:

a. Additional types of documents have been added to the list in 17:12-6.4(b); however, the concept of reasonable documentation cannot and should not be strictly defined. This allows the Department necessary flexibility in determining a business status as a set-aside firm based on normal business practice for its industry.

b. Under the set-aside statute the department is solely empowered to "establish reasonable regulations appropriate for controlling the designation of prospective . . . [Set-Aside] . . . bidders." (See N.J.S.A. 52:32-24.) As such it will be necessary for a business to meet all other eligibility requirements legitimately established by other departments.

c. There is no specific time period for approving or denying applications because of the need of flexibility in the process. This flexibility allows DCED to properly ascertain the status of possible fraudulent businesses.

d. There are not two standards for determining eligibility of a business to be placed upon the appropriate set-aside vendor list under 17:12-6.6. In this section there are examples of the means by which a vendor could be placed on the appropriate set-aside vendor list.

e. N.J.A.C. 17:12-6.7 has been expanded to include those parties who would have a direct part or relationship to the set-aside program.

f. N.J.A.C. 17:12-6.7(c) has been revised to be consistent with the specific provisions in the set-aside act relating to challenge procedures, see N.J.S.A. 52:32-24.

g. Because of the time constraints placed on the challenge to business procedures, flexibility is needed for notification of interested parties. Other changes relating to the challenge procedure insure that the party most directly affected shall be provided with the greatest means of notification by the submission of a request for a hearing.

h. N.J.A.C. 17:12-6.7 has been changed. The Commissioner will designate the appropriate person to preside over the challenge procedure.

i. The challenge procedure in terms of the status of a business, shall be the same in all situations, since list of parties permitted to file a challenge includes departments. It will be permissible for DCED, as a department, to challenge and exclude a business from a set-aside vendor list. If the business either fails to request a hearing, or is unable to prove his status at a hearing its status as a set-aside vendor would terminate. It is important to note that if a firm is successfully challenged they may be subject to administrative, civil and criminal penalties. Under the set-aside act a set-aside vendor has an affirmative duty to report any changes in the status or structure of its business as a set-aside vendor, see N.J.S.A. 52:32-30.

j. N.J.A.C. 17:12-6.10 is not for the dispute on a set-aside contract, but rather is for dispute over the submission and approval of set-aside plans. Under N.J.S.A. 52:32-22 dispute resolution is specific to "a set-aside." DCED and the Department of Treasury have joint jurisdiction over the set-aside program and as such resolution of disputes, outside of specific references in the statute, will be handled on a joint basis.

k. There is no specific need for a hearing procedure if a set-aside designation is rejected by a contracting agency since the regulatory framework of this program is based on providing the departments and contracting agencies with maximum flexibility in achieving their set-aside goals. DCED does not foresee a situation under which a disagreement of this nature would or could arise.

l. Consideration of dollars in terms of purchases and contracts is given consideration in these rules, see N.J.A.C. 17:12-6.9(d). However the Set-Aside Act is very explicit, that the means of counting for purposes of set-aside goals shall be contract units and not dollars, see N.J.S.A. 52:32-21.

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m. Under N.J.A.C. 17:12-6.11 factors in establishing purchasing plans cannot be made more specific without becoming detrimental to the set-aside program. Each department and contracting agency has unique purchasing and contracting needs. Strict enforcement of explicit set-aside plan standards would eliminate the flexibility necessary for the success of the state set-aside program.

#### 7. Office of Management and Budget

The Office of Management and Budget submitted a letter of comment which addressed one issue regarding the rules.

N.J.A.C. 17:12-6.14 which requires annual purchasing and contracting reports to DCED should be delayed in its implementation until January 1, 1988. The reason for the delay is that the current accounting method, for the set-aside program, will have to be done on a manual basis. OMB believes that this kind of recordkeeping and accountability necessary for the system could easily be incorporated in the current purchasing process.

Response is as follows:

Under the set-aside statute, DCED is required to "receive and analyze the reports submitted by the contracting agencies and utilizing this data, submit an annual report to the Governor and the Legislature," see N.J.S.A. 52:32-27. Consequently, to enable DCED to fulfill its obligations under the law we must require regardless of the difficulty, annual reports from the departments and agencies. Currently, DCED and the Department of Treasury are working on several projects to improve the management of the set-aside programs through the use of administrative procedures, telecommunications, and computerization.

#### 8. New Jersey Highway Authority

The New Jersey Highway Authority submitted a letter of comment which addressed four issues concerning the rules.

a. Under N.J.A.C. 17:12-6.7 a time of five days should be established for the challenge procedure.

b. N.J.A.C. 17:12-6.9(f) restricts the award of contracts which have been specifically designated as set-aside contracts only after the receipt of bids from three qualified bidders. This section should be changed because it reduces flexibility necessary for contracting agencies to meet their goals.

c. The Highway Authority is satisfied with section 17:12-6.9(b) requiring that for determining compliance with the goals that departments and agencies must use only businesses duly approved by DCED, and that a list of these businesses shall be supplied by DCED.

d. Under 17:12-6.13(b) the Highway Authority objects to the mandatory rejection provision where approval of applications have not been received within a five-day working period. The Authority believes that the section should be made more flexible.

Response is as follows:

a. Currently the time allotted for the challenge procedure is 10 days, see N.J.A.C. 17:12-6.7(b)3., and any reduction in the time allowed for the procedure would be too burdensome for DCED to handle in a proper method.

b. Requirement of three qualified bidders for a contract specifically designated as a set-aside is directly required by the set-aside statute, see N.J.S.A. 52:32-20.

c. Although DCED has the ultimate responsibility of approving vendors and then supplying relevant information on those vendors, the department and agencies share responsibility as well. The departments and agencies are responsible for bringing their known vendors, as well as other future vendors, into the set-aside program through registration with DCED.

d. As a means of providing safeguards in the system to ensure awards to appropriate duly approved vendors it is necessary to set a standard cut off date under which an award could be made to a legitimate set-aside vendor. The Highway Authority's suggestion would essentially lead to a method of department and agency self-approval, and as such, establish a separate system of set-aside vendor approvals. DCED is responsible under the Set-aside statute to develop rules "appropriate for controlling designation of prospective bidders (see N.J.S.A. 52:32-24(a)). Consequently allowing department and agencies to de facto establish separate approval procedures would be contrary to the set-aside act.

#### 9. New Jersey Transit

New Jersey Transit submitted a letter of comment which expressed concern with one issue concerning the rules. Although this comment was submitted after the specified public comment period, as a courtesy to N.J. Transit, DCED has included their comment with a response in this final adoption.

That the provisions contained in N.J.A.C. 17:12-6.9(d) and (e) reflect the relief which will enable N.J. Transit to comply with federal set-aside standards and still participate in the state set-aside program.

Response is as follows:

This section of the rules is mandated under the set-aside act, see N.J.S.A. 52:32-20.

#### 10. New Jersey Water Supply Authority

The New Jersey Water Supply Authority submitted a letter of comment which addressed two issues concerning the rules.

a. N.J.A.C. 17:12-6.13(a) requires that when a contract has been specifically set-aside it "may be awarded only if responsive bids from at least three qualified bidders are received," should be deleted. The authority believes that this requirement will work against the interest of the businesses the program is to aid.

b. Under previous drafts of these rules, it was provided that those contracts and purchases awarded in the normal bidding process, would count toward set-aside goals.

Response is as follows:

a. This aspect of the program is specifically required by the enabling statute, see N.J.S.A. 52:32-20.

b. Although the wording of normal bidding procedure has been removed, it has been specified further under N.J.A.C. 17:12-6.9.

#### 11. New Jersey Turnpike Authority

The Turnpike Authority submitted a letter of comment which addressed three issues concerning the rules.

a. N.J.A.C. 17:12-6.9 does not provide for the authority to take credit for purchases it makes with the state, and as such should be changed to do so.

b. The rules set a standard by which the Authority would be allocating contracts and not using a total dollar amount awarded to vendors.

c. N.J.A.C. 17:12-6.13(c) provides that the bids are to be rejected on a set-aside contract when there are not three approved vendors submitting bids. That in some purchasing areas there may not even be three vendors available.

Response is as follows:

a. The rules do provide for the authority to get credit for purchases made in conjunction with the state purchasing system. The rules speak to the specific situations and conditions they must meet to achieve the set-aside goals, see N.J.A.C. 17:12-6.9.

b. The authority's interpretation is incorrect. Achieving set-aside goals is not based on money percentages. The system is based upon contract and/or purchase units, see N.J.A.C. 17:12-6.9. Set-aside goals based upon contract units is specifically required by the enabling statute, see N.J.S.A. 52:32-21.

c. Requiring that three approved vendors submit bids on a contract which is a specific set-aside contract is a requirement of the set-aside statute, see N.J.S.A. 52:32-20.

#### 12. New Jersey Sports and Exposition Authority

The New Jersey Sports and Exposition Authority submitted a letter of comment which addressed two issues concerning the rules.

a. The rules require set-aside contracts to be competitive awards. Under the enabling legislation for the authority they are permitted to make a majority of their purchases without a bidding process. This negates the possibility of the Authority coming close to any of the percentages set up in the rules.

b. N.J.A.C. 17:12-6.11, which deals with factors in establishing set-aside plans, establishes factors which are not made with consideration of the special factors of the Authority.

Combined response is as follows:

The Authority's reading of its enabling statute regarding its purchasing is incorrect, as it relates to a conflict with requirements of the state set-aside program. The operative word in all the statements pertaining to the Authority's purchasing procedures is "may" when it speaks to non-competitive purchasing, see N.J.S.A. 5:10-21.3, 21.4 and 21.5. Consequently, since the authority may or may not opt to use competitive contracting they are bound by the goals as specified under the set-aside, see N.J.S.A. 52:32-21. They are, thus, required to the degree necessary, to achieve their set-aside goals through the use of competitive bid procedures, see N.J.S.A. 52:32-20. The authority should bear in mind that under these rules there are several other methods available for them to use in order to obtain their set-aside goals, see N.J.A.C. 17:12-6.9.

Reasons for variance between Proposal and Adoption:

The variances between the proposal and adoption are not in violation of the standards set under N.J.A.C. 10:30-4.3. All of the variances were made for one of three reasons: for technical corrections, additional clarity,

and in response to constructive suggestions received through public comment. None of the variances between the proposal and adoption represent any changes in the overall programmatic design of the set-aside system enumerated in the public proposal.

**Full text** of the adopted repeal can be found in the New Jersey Administrative Code at N.J.A.C. 12:10A-1 and N.J.A.C. 17:12-6.

**Full text** of the adoption follows (additions to proposal shown in boldface with asterisks **\*thus\***; deletions from proposal shown in brackets with asterisks **\*[thus]\***).

**SUBCHAPTER 6. CONTRACTS FOR SMALL BUSINESSES,  
FEMALE BUSINESSES AND MINORITY  
BUSINESSES**

17:12-6.1 Applicability and scope

(a) The rules in this subchapter are jointly promulgated by the Department of Commerce and Economic Development and the Department of Treasury to implement the Small Business Set-Aside Act, P.L. 1983, C. 482, as amended and renamed the Set-Aside Act for Small Businesses, Female Businesses and Minority Businesses, P.L. 1985 c.384, N.J.S.A. 52:32-17 et seq. The Act establishes a goal of awarding no less than 25 percent of State agency contracts to small businesses, female-owned businesses and minority owned businesses. Specifically, the Act sets goals of 15 percent of State contracts for small businesses, seven percent of State contracts for minority businesses and three percent of State contracts for female businesses.

(b) The Act requires the Department of Commerce to establish and implement standards and procedures for **\*[qualifying]\* \*registering\*** vendors as small businesses, minority businesses and female businesses. The Act requires the Department of Treasury to establish **\*contracting and \*** purchasing procedures for implementing the goals of the Act.

(c) These rules are divided into two major parts. The first part, N.J.A.C. 17:12-6.3 to N.J.A.C. 17:12-6.8, describes the procedures for businesses to qualify under the Act and the penalties for filing false information under the Act. The second part, N.J.A.C. 17:12-6.9 to N.J.A.C. 17:12-6.16, describe the procedures for State agencies to implement the Act.

(d) Applications and questions regarding **\*[qualification]\* \*eligibility\*** as a small business, minority business and/or female business should be addressed to **\*[the Department of Commerce. Specifically, questions concerning eligibility under the Act of small businesses or female businesses should be directed to]\***:

**\*[Office of Small Business Assistance]\*  
\*Certification and Approvals Unit\***  
Department of Commerce  
1 West State Street  
CN 823  
Trenton, New Jersey 08625

**\*Questions concerning eligibility under the Act of small businesses should be directed to:**

**Office of Small Business Assistance  
Department of Commerce  
1 West State Street  
CN 823  
Trenton, New Jersey 08625\***

Questions concerning eligibility under the Act of minority businesses should be directed to:

Office of Minority Business Enterprise  
Department of Commerce  
1 West State Street  
CN 823  
Trenton, New Jersey 08625

**\*Questions concerning the eligibility under the Act of female businesses should be directed to:**

**Office of Women Business Enterprise  
Department of Commerce  
1 West State Street  
CN 823  
Trenton, New Jersey 08625\***

**\*[(f)]\*(e)\*** Questions concerning the award of contracts under the Act should be directed to:

Department of the Treasury  
General Services Administration  
Division of Purchase and Property  
Attention: Purchase Bureau  
135 W. Hanover St.  
Trenton, New Jersey 08625

**\*[(f)]\*(e)\*** The Act applies to every State agency with purchasing authority **\*or contracting authority\***. The rules in this subchapter apply to all contracts for the purchase of goods and services which are awarded by the State's various contracting agencies. The State contracting agencies whose purchases are governed by these rules include the following:

1. DEPARTMENTS:

Agriculture  
Banking  
**\*[Civil Service]\* \*Personnel\***  
Commerce and Economic Development  
Community Affairs  
Corrections  
Defense  
Education  
Energy  
Environmental Protection  
Health  
Higher Education  
Human Services  
Insurance  
Labor  
Law and Public Safety  
Public Advocate  
State  
Transportation  
Treasury

2. COLLEGES:

Edison College  
Glassboro State College  
Jersey City State College  
Kean College  
Montclair State College  
N.J. Institute of Technology  
Ramapo College  
Rutgers University  
Stockton State College  
Trenton State College  
University of Medicine and Dentistry  
William Paterson College

3. AUTHORITIES:

Board of Public Utilities  
Casino Redevelopment Authority  
Development Authority for Small Businesses, **\*[Women-owned and Minority-owned Businesses]\* \*Minorities and Women's Enterprises\***  
Expressway Authority  
Health Care Facilities Financing Authority  
Highway Authority  
N.J. Economic Development Authority  
N.J. Educational Facilities Authority  
N.J. Health Care Facilities Financing Authority  
N.J. Housing & Mortgage Finance Agency  
N.J. Transit Corp.  
N.J. Water Supply Authority  
Public Broadcasting Authority  
Sports and Exposition Authority  
Turnpike Authority  
Urban Development Corporation

4. COMMISSIONS

Beach Erosion Commission  
Casino Control Commission  
County and Municipal Government Study Commission  
Election Law Enforcement Commission  
Executive Commission on Ethical Standards  
Hackensack Meadowlands Development Commission  
N.J. Commission on Capital Budgeting & Planning  
N.J. Racing Commission

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North Jersey Water Supply Commission  
Passaic Valley Sewer Commission  
Pinelands Commission  
State Commission of Investigation  
Commission on Science and Technology  
and all other departments, colleges, authorities and commissions as may be established in the future.

## 17:12-6.2 Definitions

(a) The words and terms used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

"Contracting agency" means any board, commission, committee, authority or agency of the State which possesses the legal authority to award and make contracts.

"Cooperative purchasing" means an award made by the Division of Purchase and Property for the use of either local governing authorities, pursuant to N.J.S.A. 52:25-16.1 et seq., or quasi-State agencies, pursuant to N.J.S.A. 52:27B-56.1. Such an award is made as an adjunct to an award of a contract for State agency purchases.

"Delegated Purchase Authority" means:

1. The authority of a State agency to award contracts on its own pursuant to authority delegated by the Director, Division of Purchase and Property. (See N.J.S.A. 52:25-23.)

2. The authority of a State agency to award contracts on its own pursuant to authority delegated by the Director, Division of Building and Construction. (See N.J.S.A. 52:18A-78.11.)

"Direct purchasing" means the issuance of a purchase order by a State agency for a specific item of goods or service, for which a contract either has already been awarded or is simultaneously being awarded. The term **\*s\*** **\*[is]\*** generally applied when a State agency issues a purchase order for goods or services available under either a contract awarded by the State agency pursuant to its own statutory contracting authority, a term contract awarded by the Division of Purchase and Property, or a line-item contract awarded by the State agency pursuant to purchasing authority delegated from the Division of Purchase and Property. (For line-item contracts awarded by the Division of Purchase Property, a purchase order is issued by the Division of Purchase and Property.)

"Division of Building and Construction" means the State agency within the Department of Treasury which provides a centralized **\*[purchasing]\*** **\*contracting\*** service for other State agencies, pursuant to N.J.S.A. 52:18A-151, 162.

"Division of Purchase and Property" means the State agency within the Department of Treasury which provides a centralized purchasing service for other State agencies, pursuant to N.J.S.A. 52:27B-56.

"Line-item contract" means an award in which a specific one-time purchase of goods or service is established.

"Multiple award contract" means a term contract awarded by the Division of Purchase and Property or other contracting agency wherein more than one vendor is awarded a contract. The term is applicable in two situations **\***, **when defined in conjunction with the Division of Purchase and Property** (see N.J.S.A. 52:34-12.1)**\***:

1. Where the volume of business is so large or the geographical distances are so great that more than one vendor is necessary to serve the State's needs; or

2. Where the differences between various vendors' versions of a product are so significant that it is useful to have a contract with a vendor of each product.

"Purchase order" means the document which:

1. Implements the purchase of a specific item authorized by a line-item contract award, issued by the Division of Purchase and Property, and the using agency; or

2. Implements the purchase of items authorized by a term contract award, issued by the using agency only. (Purchases are made by the Division of Purchase and Property, for the using agency, or by the using agency, under delegated authority.)

"Request for Proposals" or "RFP" means the document issued by the Purchase Bureau of the Division of Purchase and Property; Division of Building and Construction or any other contracting agency which forms the basis of an advertised bidding and award process conducted by the contracting agency. The RFP defines the contract's basic terms and conditions, the specifications, and other requirements, such as a set-aside requirement (restricting the bidding to businesses qualified as small, minority or female businesses). RFP's are usually of two types, those for term contracts and those for line-item contracts.

"Set-aside contract" means a contract or subcontract specifically designated by a contracting agency as being for small businesses, minority businesses and/or female businesses.

"Term contract" means an award made by a contracting agency in which a source of supply for a product is established for a specific period of time. **\*[The]\*** **\*A\*** term is generally applied when a State agency:

1. Establishes a fixed, unit price or discount for items to be purchased thereunder;

2. Provides for some estimated dollar volume or minimum quantities to be purchased; or

3. Provides for the rebidding of any single purchase which exceeds a specified maximum amount.

"Using agency" means the State agency for which a **\*contract or a\*** purchase of goods or services is being made.

"Vendors with the Division of Building and Construction" means construction contractors, architects, engineers, professionals, and all other vendors for which DBC contracts.

"Waiver" means an award process **\*[,]\*** authorized by N.J.S.A. 52:34-8, which does not **\*[conform to the standard advertised bidding and award process required by N.J.S.A. 52:34-6 et seq. and which consists either of negotiations with a limited number of vendors or of bids solicited from a limited number of vendors. A waiver may also delegate purchasing authority to a using agency.]\*** **\*require public advertisement and which is approved by the State Treasurer. Whenever possible competition is sought prior to issuance of a waiver of advertising.\***

## 17:12-6.3 Standards of eligibility for small business, minority businesses and female businesses

(a) A business may **\*[qualify]\*** **\*be eligible\*** as a small business, a minority business, a female business, or any combination of the three.

(b) In order to **\*[qualify]\*** **\*be eligible\*** under the Act as a small business, minority business or female business, a business must both have its principal place of business in New Jersey and be independently owned and operated.

1. For purposes of these rules, a business shall be deemed to have its principal place of business in New Jersey:

i. When it has been either incorporated or registered to do business in New Jersey; and

ii. When either 51 percent or more of its employees work in New Jersey, as evidenced by the payment of New Jersey unemployment taxes, or 51 percent or more of its business activities take place in New Jersey, as evidenced by its payment of income or business taxes.

2. For purposes of these rules, a business shall be deemed independently owned and operated, if its management is responsible for both its daily and its long term operation, and if its management owns at least 51 percent interest in the business.

(c) In order to **\*[qualify]\*** **\*be eligible\*** as a small business, a business must be a sole proprietorship, partnership or corporation with 100 or fewer employees in full-time positions.

1. In determining its number of full-time employees, a business shall not include:

i. Seasonal and part-time employees employed for less than 90 days, if seasonal and casual part-time employment are common to that industry; and

ii. Consultants employed under other contracts not related to the goods or services which **\*are the subject of the specific contract\*** the business wants to **\*[qualify]\*** **\*be eligible\*** as a small business.

(d) In order to **\*[qualify]\*** **\*be eligible\*** as a minority business, a business must be a sole proprietorship, partnership or corporation at least 51 percent of which is owned and controlled by persons who are Black, Hispanic, Portuguese, Asian American, American Indian or Alaskan natives, which are defined as follows:

1. Black American: having origins in any of the **\*black\*** racial groups of Africa.

2. Hispanic American: a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

3. Asian American: a person having origins in any of the original people of the Far East, southeast Asia, and Indian subcontinent, Hawaii or the Pacific Islands.

4. American Indian or Alaskan native: a person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

5. Portuguese: a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless of race.

(e) In order to **\*[qualify]\*** **\*be eligible\*** as a female business, a business must be a sole proprietorship, partnership or corporation at least 51 percent of which is owned and controlled by women.

17:12-6.4 \*[Qualification]\* **Registration** procedures for small businesses, minority businesses and female businesses

(a) Any business which seeks to \*[qualify]\* **register** under the Act as a small business, minority business and/or female business must apply to the Department of Commerce. For these purposes, the Department of Commerce shall prepare a Vendor Registration Form. This form shall be available from the Department of Commerce, the Division of Purchase and Property and the State's other contracting agencies.

(b) As part of its application to the Department of Commerce, a business shall reasonably document its principal place of business and independent status, and, as appropriate, the number of its employees and the character of its ownership. Where available, this documentation should include appropriate forms or reports otherwise submitted to **or issued by** State and Federal agencies, such as employee or affirmative action reports filed with the New Jersey Department of Labor **or certificates of incorporation issued by the New Jersey Department of State**.

1. If an applicant fails to complete fully the Vendor Registration Form or to document its application, the application may be delayed or rejected.

2. If an applicant knowingly supplies incomplete or inaccurate information, the applicant shall be disqualified under these rules and may be subject to other penalties described in N.J.A.C. 17:12-6.8.

(c) In order to **be registered** under the Act, a business must also comply with any pre-approvals or other eligibility requirements legitimately established by the contracting agency for whose contracts the business intends to bid.

17:12-6.5 Acceptance as a small business, minority business or female business

(a) When a business is accepted by the Department of Commerce as a small business, minority business or female business, the business will be added by the Department of Commerce onto the set-aside vendors lists which shall be used in determining whether contracting agencies have fulfilled their contracting goals under the Act, and **shall be used** by contracting agencies in soliciting bids or contracts **[with specific]** set aside\*[s]\* for small businesses, minority business and/or female businesses **and other purchasing and contracting situations.** (See N.J.A.C. 17:12-6.9 and 17:12-6.12.) There will be no limits to the number of businesses on the various Small Business, Minority Business and Female Business bidders lists. Each eligible applicant will be placed on that list or those lists for which it is qualified.

(b) When a business is accepted as a small business, minority business and/or female business, that business may bid on RFPs which are specifically set aside under the Set-Aside Act.

17:12-6.6 Time for application to \*[qualify]\* **register** as a small business, minority business or female business

(a) A business may apply to the Department of Commerce at any time to be registered under the Set-Aside Act as a small business, minority business or female business and to be placed on appropriate set-aside vendors lists.

(b) Where a contract has been specifically set aside under the Act for small businesses, minority business and/or female businesses, a business may apply to the Department of Commerce for purposes of registration as a set-aside business so as, to bid on that specific contract no later than the bid opening date for that contract, and shall include the name of the contracting agency, the RFP number and the bid opening date along with its application to the Department of Commerce.

17:12-6.7 Procedures for challenging a business \*[qualification]\* **registered** as a small business, minority business or female business

(a) The qualification under these rules of a business on a bidders list as a small business, minority business or female business may be challenged by any other business on that State bidders list **or any of the State departments or agencies covered under the Act**. The qualification of a business to bid on a contract set aside for small, minority and/or female businesses may be challenged by any other bidder on the contract on the State bidders list.

1. A **registration** challenge shall be made in writing to the Department of Commerce with copies to the challenged business and to the appropriate contracting agency where a specific contract is at issue.

2. **A registration** challenge to the Department of Commerce may concern only the qualification of a business under these rules as a small business, minority business or female business. Any challenge to a business' qualifications to perform a contract shall be referred to the appropriate contracting agency.

3. The written challenge shall be accompanied and supported by documentation in support of its charges.

(b) In the case of a challenge to a bidder on a set-aside contract, except where emergent circumstances disclosed to the Department of Commerce and the bidders require the immediate implementation of an award, the State agency making the award shall be notified and shall withhold the final award of the set-aside contract for 10 days from the date of the issuance of any intent to award or proposed award, so that the Department may conduct a hearing if warranted.

1. Within seven days of being notified of the challenge, the contracting agency shall furnish the Department of Commerce with the relevant information about the bidders (names, addresses, telephone numbers) and about the RFP or other solicitation for the set-aside contract.

2. In the event that a proposed awardee on a set-aside contract is disqualified under these rules by the Department of Commerce, the contracting agency shall proceed to award the contract as otherwise authorized by these rules and by its own enabling laws.

3. In the event that a proposed awardee is not disqualified by the Department within 10 days of the date of the proposed award, the contracting agency may proceed with the proposed award.

4. The right to challenge a bidder's **[qualifications]\* registration** under these rules is in addition to any protest hearing rights which are afforded by a contracting agency, such as those provided by the Division of Purchase and Property in N.J.A.C. 17:12-3 **and the Division of Building and Construction in N.J.A.C. 17:19-2**.

(c) When the Department of Commerce receives a challenge, **[it shall first demonstrate whether a hearing is warranted or whether the matter can otherwise be resolved. Where a hearing is warranted,]\* upon request of the business whose designation is at issue,** the Department shall conduct a hearing on the matter as follows:

1. The Department shall notify all interested parties of the time and place of the hearing, and of the right to attend and be represented at the hearing.

2. The burden of proof lies with the challenger. However, the Department may use its own resources to ascertain the validity of a challenge and the status of a business.

3. The hearing will be conducted by the **[Chief of that unit within the Department of Commerce which processes registration forms for the type of business under discussion at the hearing. The hearing officer]\* designee of the Commissioner. This designee** will issue a written report to the Commissioner of the Department of Commerce within four working days of the close of the hearing.

4. Where time permits, participants at the hearing will be permitted to file written exceptions to the hearing officer's report no later than two working days from the issuance of the report.

5. Thereafter, the Commissioner shall issue a final decision on the challenge and notify the parties by certified letter.

17:12-6.8 Obligation to provide information and penalties for failure to provide complete and accurate information

(a) Applicants under these rules shall accurately and honestly supply all information required by the Department of Commerce.

(b) When a business has been approved as an eligible small business, female business or minority business on the basis of false information knowingly supplied by the business and the business has been awarded a set-aside contract, the Commissioner of the Department of Commerce, after notice and opportunity for a contested case hearing pursuant to N.J.S.A. 52:14B-10 and N.J.A.C. 1:1, may:

1. Require the business to pay to the State any difference between the contract amount and what the State's cost would have been if the contract had not been awarded as a set-aside contract;

2. Assess the business a penalty in an amount of not more than 10 percent of the amount of the contract involved; and

3. Order the business ineligible to transact any business with the State for a period of not less than three months and not more than 24 months.

(c) Any business approved by the Department of Commerce as a small business, minority business and/or female business shall immediately apprise the Department of any circumstances which might disqualify the participation of the business under these rules.

(d) The failure of a business to report any such changed circumstances, or the intentional reporting of false information, shall disqualify the business for inclusion on any bidders list under these rules and may subject the business to adverse action by contracting agencies. (See N.J.A.C. 17:12-2(e) and N.J.A.C. 17:12-7.2.)

## NEW JERSEY REGISTER, MONDAY, MARCH 16, 1987

## 17:12-6.9 Purchase goals

(a) N.J.S.A. 52:32-17 establishes goals for contracting agency of awarding 15 percent of its contracts to small businesses, seven percent of its contracts to minority businesses and three percent of its contracts to female businesses.

(b) In determining compliance with the goals, an agency may consider only businesses duly approved by the Department of Commerce as small businesses, minority businesses and female businesses.

(c) In determining compliance with the goals, the Division of Purchase and Property, and any other contracting agency whose primary function is to award contracts for use by other agencies, may consider the total number of contracts it has awarded and the number it has awarded to small, minority and female businesses. For these purposes, it may count the number of term contracts it has awarded, in addition to the number of line-item contracts it has awarded. In so doing, the Division and other similarly situated contracting agencies may also consider each award under a multiple award contract as a separate contract. Therefore, in computing the total number of contracts awarded by the Division or other contracting agency, the agency may count each separate line-item contract, each award of a multiple award contract and each other term contract. \*[The award shall be made notwithstanding]\* **\*Notwithstanding\*** the dollar amounts of the contracts and the number of purchase orders issued by using agencies under the contracts.

(d) In determining compliance with the goals, other contracting agencies, using agencies issuing purchase orders under contracts otherwise awarded and agencies awarding contracts under delegated purchasing authority shall consider separately the number and the dollar amount of purchase orders issued. In setting its goals, the agency shall compute the total number of purchase orders issued and the total dollar amount expended by the agency through purchase orders. The agency shall attempt both to issue the appropriate percentage of purchase orders to businesses approved under these rules and to spend an appropriate percentage of money on these purchases.

(e) In determining the purchase goals, an agency shall not include any contract or purchase for which the application of the set-aside preferences, in-state preferences or other procedures established by the Act would jeopardize the State's participation in a program from which the State receives Federal funds or other benefits.

(f) Where an agency is otherwise unable to fulfill the goals under the Act, the agency shall make a good faith effort to achieve its goals through specifically setting aside contracts and purchases for small businesses, minority businesses and/or female businesses. A set-aside contract must be competitively awarded and may be awarded only after the receipt of bids from three qualified bidders.

(g) In determining compliance with the goals, the award of a contract or purchase order may be counted toward only one goal. For example, the award of a contract to a small business owned by a black woman may be counted toward either the small business goal, minority business goal or female business goal, but not towards more than one goal.

## 17:12-6.10 Set-aside plans

(a) On or before June 1 of each year, each contracting agency and using agency shall prepare and submit to the Department of Commerce a set-aside plan for meeting the purchase goals for the next fiscal year.

(b) The set-aside plan shall include:

1. A general list and explanation of the goods and services and/or types of goods and services which are deemed appropriate for meeting the purchasing goals;

2. A consideration of the estimated dollar amounts and numbers of purchase orders expected for various contracts and types of contracts;

3. A list of those contracts and/or purchase orders it expects to award to small businesses, minority businesses and female businesses, including those contracts it intends to set aside.

(c) After consultation with the Department of Commerce, the contracting agency or using agency shall begin implementing the next year's set-aside plan no later than July 1. However:

1. The agency and the Department shall periodically review the plan's implementation and shall develop any revisions which may be necessary to achieve the goals; and

2. Where the agency and the Department disagree about the agency's plan or its implementation, the matter shall be submitted immediately for prompt resolution by the Commissioner of the Department of Commerce and Economic Development and the State Treasurer, or their designees.

## 17:12-6.11 Factors in establishing purchasing plans

(a) The following factors are to be considered by contracting and using agencies in determining whether a contract or purchase is appropriate for meeting the agencies' goals if the contract is in an area wherein:

1. Small businesses, female or minority businesses do not currently obtain a significant percentage of State contracts, but wherein the price, quality of product and responsibility of small businesses, female business or minority business are competitive with the general business community; or

2. The normal bidding process creates unnecessary obstacles against small businesses, female and minority businesses irrespective of any actual ability of these businesses to perform the contracts or fulfill the State's needs; or

3. Small businesses, female and minority businesses are not competitive with the general business community, but wherein the State would not suffer any disadvantage if a percentage of contracts and purchases were awarded to those businesses; or

4. The State's long term best interests in purchasing lie in developing small businesses, female and minority businesses in competition with the general business community; or

5. The State's long term best interests economically and socially lie in developing small businesses, female and minority business; or

6. The practices of the contracting or using agency create unnecessary obstacles to the award of contracts to small businesses, female and minority businesses; or

7. Potential emergency conditions, public health and safety considerations, or the continued operation of vital State services, preclude setting the contract aside for bidding exclusively by small businesses, female or minority businesses.

## 17:12-6.12 Bidders lists

(a) With the cooperation and coordination of the Department of Commerce, contracting agencies and using agencies shall maintain lists of small business bidders, minority business bidders and female business bidders.

(b) For the convenience of using agencies making delegated purchases or issuing purchase orders, the Department of Commerce shall distribute available bidders lists to using agencies.

(c) On or about October 1 of each year, each contracting agency and using agency maintaining small, female and/or minority business vendors lists shall submit such lists for review and approval to the Department of Commerce. The Department shall respond by December 15.

1. Unless and until disapproved by the Department, a State agency may continue to use any existing small, female and minority business bidders lists.

2. Unless and until disapproved by the Department, the State agency may continue to count towards its purchasing goals contracts awarded to any business previously approved for inclusion on a designated bidders list.

3. Where a contract is specifically set aside for small, female and/or minority businesses, and where no approved list is available from the Department, an agency may issue RFPs or other solicitations to businesses on any otherwise appropriate list of bidders so long as the RFPs and solicitations specify that only approved small, female-owned and/or minority-owned businesses, as appropriate, may bid on the contract. The agency shall also include a New Jersey Vendor Registration Form with the RFP or other solicitation and shall include instructions on how to apply to the Department of Commerce for appropriate approval.

(d) The Department of Commerce shall prepare and distribute New Jersey Vendor Registration Forms to businesses and State agencies. State agencies shall distribute these forms to prospective bidders and **\*suppliers\*** and shall refer prospective bidders **\*and suppliers\*** to the Department for appropriate approval and inclusion on bidders lists.

## 17:12-6.13 Set-aside contracts

(a) Any contract specifically set aside for small, minority and/or female businesses must be competitively bid, either through public advertising or through informal bidding, and may be awarded only if responsive bids from at least three qualified bidders are received.

(b) The RFP for a set-aside contract shall clearly and conspicuously state that an award may go only to a business duly approved by the Department of Commerce.

1. The RFP shall further state that a bidder who is not already approved, may submit a bid but then must apply to the Department of Commerce for approval as a small, minority or female business, as appropriate, no later than the bid opening date and, in order to be eligible for an award under that RFP, must be approved by the Department no

later than five working days after the bid opening date. The RFP shall state that if, for whatever reason, the contracting agency does not receive approval of that bidder from the Department of Commerce no later than five working days from the bid opening date, the agency shall reject that bid without any obligation or recourse to the bidder.

(c) All bids may be rejected on a set-aside contract and the contract may be rebid as an ordinary contract where:

1. In evaluating the small, female and/or minority business bids, the agency determines that acceptance of any of the bids would subject the State to an unreasonable expense, or to a contract otherwise unacceptable pursuant to that agency's **\*contracting and\*** purchasing laws and rules; or

2. The agency does not receive at least three bids from qualified vendors approved as small, female and/or minority businesses, as appropriate; and

3. The agency notifies the bidders and the Department of Commerce of the reasons for its action, and the agency maintains its records of the bidding process for **\*[at least one year]\* \*seven years\*** from the bid opening date.

(d) Immediately after rejecting all bids, the agency may, without any delay, rebid the contract as an ordinary award. Small, female and minority businesses bidders may participate in this rebidding process.

17:12-6.14 Purchasing **\*and contracting\*** reports

(a) On or before October 1 of each year, each contracting and using agency shall report to the Department of Commerce on the results of its purchasing **\*[plan]\* \*and contracting performance\*** for the previous fiscal year. The compilation of these reports shall be the sole responsibility of those Departments and contracting agencies required to report.

(b) The report shall include:

1. The total number of contracts awarded and **\*/or\*** purchase orders issued by the contracting or using agency.

2. The estimated total dollar amounts of contracts and **\*/or\*** purchase orders awarded by the contracting or using agency.

3. The number of set-aside contracts and/or purchase orders awarded by the contracting agency and by its using agencies.

4. The estimated dollar amounts of contracts and/or purchase orders awarded to small, minority and female businesses by the contracting or using agency.

5. A breakdown of the types of contracts and/or purchase orders awarded generally and awarded to small, minority and female businesses by the contracting or using agency.

6. An analysis of whether and how the previous year's goals were achieved by the contracting or using agency.

17:12-6.15 Consultation with industry

(a) The Department of Commerce shall conduct no less than two consultation sessions each year with bidders, vendors and industry representatives for the purpose of soliciting information and suggestions on implementing the various goals in the Act and these rules.

(b) The consultation dates and times will be incorporated into a plan developed by the Department for each fiscal year.

(c) Bidders, vendors and industry representatives may call the Office of Small Business Assistance or, in the case of a minority business, the Office of Minority Business Enterprise **\*or in the case of a woman business, the Office of Women Business Enterprise,\*** for the exact time, date and location of these sessions.

(d) Sessions shall be open to the public and any interested parties.

(e) Industry representatives may ask to be placed on an agenda if they wish to present comments.

(f) Challenges to individual bid awards will not be heard at these sessions.

(g) **\*[The Chief of the Office of Small Business Assistance and the Chief of the Office of Minority Business Enterprise, both with the]\* \*The\*** Department of Commerce, shall prepare a report of the results of the sessions, the attendees and their affiliations and any items which require the attention of the Department or any contracting agencies.

(h) Notice that the sessions have been held will be included in the annual reports of **\*[these offices]\* \*Departments\*** on the implementation of the Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses.

17:12-6.16 Delegation of Treasurer's authority

For purposes of implementing the Set-Aside Act for Small Business, Female Businesses and Minority Businesses, the authority of the Treasurer under the Act is delegated to the Administrator of the General Services Administration.

**TREASURY-TAXATION**

**DIVISION OF TAXATION**

**(a)**

**Corporation Business Tax  
Allocation Factor; Property Fraction; Tangible  
Personal Property**

**Adopted Amendment: N.J.A.C. 18:7-8.4**

Proposed: April 7, 1986 at 18 N.J.R. 627(a).

Adopted: February 19, 1987 by John R. Baldwin, Director,  
Division of Taxation.

Filed: February 20, 1987 as R.1987 d.137, **with portions of the  
proposal not adopted but still pending.**

Authority: N.J.S.A. 54:10A-27.

Effective Date: March 16, 1987.

Expiration Date: April 2, 1989.

**Summary of Public Comments and Agency Responses:**

Two written comments were received which were not within the comment period. A professional society was one of these two and the Division's response expressed a regret that it was not possible to grant an extension of the comment period in this case. The response also indicated that the Division will consider any comments or suggestions the professional society wished to submit relevant to a future proposal. The other one which was late who requested an extension of time to comment was advised that it was not possible in this case. The rule is adopted after considerations of all probabilities and possibilities, some of which have arisen internally. The writer was advised that the Division's concern is to ensure the equitable allocation of entire net income.

**Full text** of the adoption follows.

18:7-8.4 "Tangible personal property;" definition and scope

(a) (No change.)

(b) Tangible personal property within New Jersey:

1.-2. (No change.)

3. Mobile or movable property, such as construction equipment or trucks, is within New Jersey based on the ratio of time the property is used within the state to the time the property is used everywhere during the period covered by the return.

4. Ships are within New Jersey based on the ratio of time the vessels are in operation in New Jersey to the time the vessels are in operation everywhere, and including all sailing days, days in port for loading, unloading, ordinary repairs, refueling or provisioning as operation.

5. Aircraft used by airlines are within New Jersey based on the ratio of takeoffs in regular scheduled or charter flights that occur during revenue service from points in New Jersey to the total of all such takeoffs everywhere. Aircraft used other than by airlines in revenue service are within New Jersey based on the ratio of takeoffs from points in New Jersey to the total of all takeoffs everywhere when the aircraft are in use.

6. Consistent with N.J.S.A. 54:10A-6(b), satellites used in the communications industry are included in the denominator of the property fraction but the numerator shall include a portion of such property based upon the ratio of ground stations serviced in New Jersey to the number of all such ground stations.

(c) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: A related notice of adoption can be found at 18 N.J.R. 1487(a).

# MISCELLANEOUS NOTICES

## PERSONNEL

### (a)

#### MERIT SYSTEM BOARD

#### Civil Service Reform Act Rule Proposals Withdrawn Public Notice

In response to the adoption of the Civil Service Reform Act (L.1986, c.112), the Department of Personnel is revising all of its rules now found in Title 4 of the New Jersey Administrative Code. This project has three major goals:

1. *Revising* the rules to reflect changes made or authorized by the new Title 11A of the New Jersey Statutes;
2. *Reorganizing* the rules to reflect the structure of Title 11A, that is, 10 substantive chapters; and
3. *Rewriting* the rules to make them simpler and easier to use and understand.

In the following months, the Merit System Board will be publishing proposed new chapters, accompanied by proposed repeals of current rules. Upon adoption, these new chapters will be placed in a new Title 4A of the Administrative Code. Thus, at the conclusion of the project, Title 4 will be repealed and entirely replaced by 10 chapters contained in Title 4A.

The contents of the 10 chapters will generally reflect the topics covered in the corresponding chapters of Title 11A. An outline of the proposed new chapters is as follows:

Chapter	Title
4A:1	Basic Rules and Department Organization
4A:2	Appeals, Discipline, and Separations
4A:3	Classification and Compensation
4A:4	Selection and Appointment
4A:5	Veterans Preference
4A:6	Leaves, Hours of Work and Employee Development
4A:7	Equal Employment Opportunity and Affirmative Action
4A:8	Layoffs
4A:9	Political Subdivisions
4A:10	Violations and Penalties

It is anticipated that new chapters will be proposed in three phases: Phase 1 will include Chapters 1 and 2; Phase 2 will include Chapter 5, 7, 9 and 10; and Phase 3 will include Chapters 3, 4, 6 and 8. Corresponding rules in Title 4 will be replaced as these new chapters are adopted. However, it must be emphasized that the rules contained in Title 4 remain in effect until they are repealed, unless specifically changed by provisions of the Civil Service Reform Act. N.J.S.A. 11A:11-4.

Since the entire contents of Title 4 of the Administrative Code are being revised, the Merit System Board has determined to withdraw certain rule proposals previously published in the New Jersey Register. These proposals were prepared prior to the adoption of the Civil Service Reform Act and may therefore be inconsistent with the new law. Moreover, while public comment has been received on these proposals, opportunity should be given for comment on proposals prepared under the framework of the new statute.

The following rule proposals are being withdrawn:

N.J.A.C. CITATION	SUBJECT	PROPOSAL NOTICE (N.J.R. CITATION)
4:1-2.1, 5.2, 11.2, 16, 24	Separations, demotions, layoffs; review and appeals	18 N.J.R. 450(a)
4:1-12.18	Disposition of certification by appointing authority	18 N.J.R. 1642(b)
4:1-15	Assignments and transfers	18 N.J.R. 592(a)
4:1-18	Workweek programs	18 N.J.R. 1764(a)
4:2-15.1	Assignments and transfers	18 N.J.R. 592(a)
4:2-16	Separations and demotions	18 N.J.R. 450(a)
4:2-18	Workweek programs	18 N.J.R. 1764(a)
4:3-16	Separations and demotions	18 N.J.R. 450(a)

## COMMUNITY AFFAIRS

### (b)

#### DIVISION OF HOUSING AND DEVELOPMENT

#### Uniform Construction Code

#### Notice of Effective Date of Model Codes

**Take notice** that the 1987 BOCA Basic/National Building Code, 1987 BOCA Mechanical Code and 1987 National Electrical Code are now available. The effective date for use of these model codes in New Jersey is hereby set at **April 1, 1987**, pursuant to the Uniform Construction Code Act (N.J.S.A. 52:27D-123.b.) which provides that "the initial adoption of a model code or standard as a subcode shall constitute adoption of any subsequent revisions or amendments thereto." Proposed amendments containing all necessary technical and editorial changes will be published in a future edition of the New Jersey Register.

## ENVIRONMENTAL PROTECTION

### (c)

#### DIVISION OF WATER RESOURCES

#### Amendment to the Northeast Water Quality Management Plan

#### Public Notice

**Take notice** that on January 14, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" regulations (N.J.A.C. 7:15-3.4), an amendment to the Northeast Water Quality Management Plan was adopted by the Department. This amendment will provide for a Wastewater Management Plan which addresses the wastewater needs for Mendham Township's existing zoning. No development will be permitted in wetland areas. Also, as part of this amendment, Mendham Township will be designated as the Wastewater Management Agency for all new wastewater treatment facilities.

### (d)

#### Amendment to the Atlantic County Water Quality Management Plan

#### Public Notice

**Take notice** that on January 21, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Atlantic County Water Quality Management Plan was adopted by the Department. This amendment is to expand the Coastal Sewer Service Area to include the lower Great Egg Harbor River Region, eliminate a major discharge to the Great Egg Harbor River and transport wastewater via a combination of force mains and gravity lines within the abandoned railroad right-of-way along West Jersey Avenue in Hamilton and Egg Harbor Townships. Treatment of wastewater will take place at the Atlantic County Utilities Authority City Island Treatment Plant with discharge via a two-mile ocean outfall line.

### (e)

#### Amendment to the Cape May County Water Quality Management Plan

#### Public Notice

**Take notice** that on December 15, 1986 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Cape May County

Water Quality Management Plan which will provide for a Wastewater Management Plan identifying the utilization of individual subsurface systems for wastewater treatment within Upper Township, was adopted by the Department.

**(a)**

**Amendment to the Northeast Water Quality Management Plan**

**Public Notice**

Take notice that on January 14, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Northeast Water Quality Management Plan was adopted by the Department. This amendment is to expand the Verona Sewage Treatment Plant's sewer service area to accept a small portion of Caldwell and Essex Fells. The majority of the new sewer service area is to accommodate Fells Manor development. Sewer service to wetlands will not be permitted.

**(b)**

**DIVISION OF ENVIRONMENTAL QUALITY**

**Pesticide Control Code**

**Notice of Correction: N.J.A.C. 7:30-2.3**

Take notice that missing text appears in the New Jersey Administrative Code at N.J.A.C. 7:30-2.3(a)7. concerning restricted pesticides (see 17 N.J.R. 242(b) and 17 N.J.R. 2609(b)). N.J.A.C. 7:30-2.3(a)7. should appear in the New Jersey Administrative Code as follows.

7:30-2.3 Restricted use pesticides

(a) The following pesticides are restricted use pesticides which can be purchased and/or used only by certified and registered responsible pesticide applicators or persons working under their direct supervision. Unless it is otherwise provided, all formulations and uses of the following pesticides are restricted use.

1.-6. (No change in text.)

7. Any insecticides and related materials listed below:

CAS Number	Restricted Pesticides
57-74-9	Chlordane
62-73-7	2,2-dichlorovinyl dimethyl phosphate—all concentrations above 3%; resin strips not restricted unless so classified by the EPA as referenced in 2 above.

8. (No change in text.)

(b) (No change in text.)

**HEALTH**

**(c)**

**DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT**

**Change of Regional Cardiac Diagnostic and Surgical Services**

**Modernization/Renovation and Equipment Certificate of Need Batching Cycle**

**Public Notice**

Take notice that the Commissioner of Health, in cooperation with the Health Care Administration Board, has changed for one time only the batching cycles, scheduled to begin June 15, 1987 and October 15, 1987, for certificate of need applications for Cardiac Diagnostic and Surgical Services, Modernization/Renovation and Equipment.

The batching cycles for certificate of need applications scheduled to begin on June 15, 1987 and October 15, 1987 are being changed so that the next deadline for the submission of new or revised certificate of need applications for Cardiac Diagnostic and Cardiac Surgery equipment and services will be July 1, 1987 for the cycle beginning August 15, 1987. This will be the only cardiac batching cycle for the remainder of 1987.

The changes are for one time only and shall have no effect on subsequent batching cycles for certificate of need applications for Regional Cardiac Diagnostic and Cardiac Surgery equipment and services. During 1988, the batching cycles for Cardiac Diagnostic and Cardiac Surgery certificate of need applications will once again commence on February 15, June 15 and October 15.

This one time change in the cycles for the review of certificate of need applications for Regional Cardiac Diagnostic and Cardiac Surgery services is being implemented in order to allow sufficient time to incorporate the recommendations of the New Jersey Cardiac Services Task Force (issued on January 15, 1987) into existing State rules for these services.

Any inquiries should be addressed to:

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

The Department of Health anticipates that final adoption of cardiac rule amendments will take place by August, 1987.

**HUMAN SERVICES**

**(d)**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Pharmacy Manual**

**N.J.A.C. 10:51-2.6(d)20, Instructions for completion of form MC-6**

**N.J.A.C. 10:51-5.18(c), Legend drugs**

**Notice of Correction**

Take notice that errors appear in the New Jersey Administrative Code at N.J.A.C. 10:51-2.6(d)20 and N.J.A.C. 10:51-5.18(c).

N.J.A.C. 10:51-2.6(d)20 concerning Instructions for completion of form MC-6 was proposed for deletion and was adopted without change. The text of (d)20 should not have appeared in the Code. See 18 N.J.R. 1674(a) and 18 N.J.R. 2387(a).

At N.J.A.C. 10:51-5.18, the text of (c)1 concerning pharmacies with institutional permits was omitted in the Code. This rule was filed October 24, 1980 and became effective November 1, 1980. See 12 N.J.R. 410(b) and 12 N.J.R. 704(c).

The full text of N.J.A.C. 10:51-5.18(c)1. should appear in the Code as follows:

10:51-5.18 Legend drugs

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

(c) Dispensing fee: The "dispensing fee" for legend drugs provided under the New Jersey PAAD Program as outlined in this subchapter shall be the prevailing New Jersey Medicaid rate as outlined in this chapter.

1. Pharmacies with institutional permits shall be reimbursed at 75 percent of the fee for pharmacies with retail permits.

(d) (No change.)

**(e)**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Medicaid Only Manual: N.J.A.C. 10:94 Recodified to N.J.A.C. 10:71**

Authorized By: Drew Altman, Ph.D., Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-1, 1-12; 30:4D-6a(4)(a)b(14), 7, 7a, b, c.

Take notice that the Medicaid Only Manual, which currently appears at N.J.A.C. 10:94, is being transferred and recodified as N.J.A.C. 10:71. There are no substantive changes associated with this recodification.

There have been some textual changes of a technical nature. For example, any reference to the Department of Institutions and Agencies has been changed to the Department of Human Services. The references

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to the Division of Public Welfare have been changed to the Division of Medical Assistance and Health Services wherever it is appropriate to do so.

The Medicaid Only Manual sets forth the eligibility criteria for medical assistance for certain aged, blind, and disabled persons. The individuals who could qualify for the Medicaid Only program are generally institutionalized in long term care facilities (LTCFs). The program also covers some persons formerly receiving SSI (Supplemental Security Income) benefits in the community who remained eligible (for Medicaid) following cost of living increases. The Medicaid Only program provides medical care and services that are covered by New Jersey Title XIX (Medicaid) program.

There are no cash payments to recipients associated with the Medicaid Only program.

This recodification is part of the overall process of transferring the administrative functions of this program from the Division of Public Welfare to the Division of Medical Assistance and Health Services within the Department of Human Services. The county welfare agencies and/or boards of social services will continue to be responsible for processing applications and determining eligibility. Persons who wish to apply for coverage under the Medicaid Only program will continue to go to the appropriate county welfare agency/board of social services.

The substantive provisions of the rules are not affected by this recodification. The rules continue to have full force and effect. If subsequent amendments to the rules become necessary, they will be accomplished through the usual regulatory process. Any existing references to N.J.A.C. 10:94 which appear in Title 10 of the New Jersey Administrative Code will be cited as N.J.A.C. 10:71. The recodification and textual changes will be included in the March 16, 1987 update in Title 10.

The recodification of the Medicaid Only Manual will take effect upon publication of this notice in the New Jersey Register.

## OTHER AGENCIES

### (a)

#### CASINO CONTROL COMMISSION

##### **Petition for Rulemaking Collection of Returned Checks**

**N.J.A.C. 19:45-1.29**

Petitioner: Atlantic City Casino Association.

Authority: N.J.S.A. 5:12-69(c) and N.J.S.A. 52:14B-4(f).

Take notice that on February 6, 1987, the petitioner filed a petition with the Casino Control Commission requesting an amendment to

N.J.A.C. 19:45-1.29 concerning procedure for collecting and recording checks returned to the casino after deposit. The petition is the result of a Commission order that required the industry to propose regulations concerning the collection of dishonored checks ("returned checks") outside the casino cage if licensees wished to engage in such practices in the future.

Specifically the petitioner requests that the above rule be amended to permit the collection of returned checks outside the cage at locations agreed upon by the licensee and the patron, including branch offices of the licensee. This activity would occur under the direction of the collection department. Only a licensed casino collection employee with no incompatible functions or an attorney would be permitted to represent the casino licensee in the collection process. Other procedures proposed cover the completion of a collection log, the preparation and distribution of receipts and the deposits of payments collected.

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 Junket Prearrival Reports**

**N.J.A.C. 19:49-3.1**

Petitioner: Resorts International Hotel, Inc.

Authority: N.J.S.A. 5:12-69(c) and N.J.S.A. 52:14B-4(f).

Take notice that on February 5, 1987, the petitioner filed a rulemaking petition with the Casino Control Commission requesting an amendment to N.J.A.C. 19:49-3.1.

The petitioner contends that the Junket Prearrival Report required by N.J.A.C. 19:49-3.1 is unnecessary for junkets initiated by the patron himself without the involvement of a junket enterprise or junket representative. Specifically at issue is N.J.A.C. 19:49-3.1(a)3, which requires the preparation of a prearrival report for each junket involving an offer of complimentary services or items which have a value in excess of \$500.00 per participant. Although the majority of patron initiated junkets meet this criteria, the petitioner feels that the information requested in the report is generally useless and inapplicable. In addition, the petitioner believes that more relevant information on patron initiated junkets is contained in other reports mandated by this subchapter. Therefore, the petitioner is requesting that N.J.A.C. 19:49-3.1(a)3 be repealed.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69(c).

# REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

## A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

**At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the February 2, 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.

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**MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: JANUARY 20, 1987.**

**NEXT UPDATE WILL BE DATED FEBRUARY 17, 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. 507 and 582	March 17, 1986	18 N.J.R. 1979 and 2078	October 6, 1986
18 N.J.R. 583 and 726	April 7, 1986	18 N.J.R. 2069 and 2148	October 20, 1986
18 N.J.R. 727 and 868	April 21, 1986	18 N.J.R. 2149 and 2234	November 3, 1986
18 N.J.R. 869 and 1018	May 5, 1986	18 N.J.R. 2235 and 2344	November 17, 1986
18 N.J.R. 1019 and 1122	May 19, 1986	18 N.J.R. 2345 and 2408	December 1, 1986
18 N.J.R. 1123 and 1222	June 2, 1986	18 N.J.R. 2409 and 2472	December 15, 1986
18 N.J.R. 1223 and 1326	June 16, 1986	19 N.J.R. 1 and 164	January 5, 1987
18 N.J.R. 1327 and 1432	July 7, 1986	19 N.J.R. 165 and 260	January 20, 1987
18 N.J.R. 1433 and 1504	July 21, 1986	19 N.J.R. 261 and 324	February 2, 1987
18 N.J.R. 1505 and 1640	August 4, 1986	19 N.J.R. 325 and 392	February 17, 1987
18 N.J.R. 1641 and 1726	August 18, 1986	19 N.J.R. 393 and 430	March 2, 1987
18 N.J.R. 1727 and 1862	September 8, 1986	19 N.J.R. 431 and 476	March 16, 1987
18 N.J.R. 1863 and 1978	September 22, 1986		

<b>N.J.A.C. CITATION</b>	<b>PROPOSAL NOTICE</b>	<b>DOCUMENT</b>	<b>ADOPTION NOTICE</b>
	(N.J.R. CITATION)	NUMBER	(N.J.R. CITATION)

**ADMINISTRATIVE LAW—TITLE 1**

1:1, 1:2—1:21      Administrative hearings	18 N.J.R. 1728(a)		
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(TRANSMITTAL 25, dated December 15, 1986)

**AGRICULTURE—TITLE 2**

2:6-1      Sale and use of animal biologics	18 N.J.R. 2151(a)	R.1987 d.85	19 N.J.R. 286(a)
2:71-2.2—2.7      Jersey Fresh Quality Grading Program	18 N.J.R. 2347(a)	R.1987 d.89	19 N.J.R. 287(a)
2:71-2.2—2.7      Jersey Fresh Quality Grading Program: effective date			19 N.J.R. 355(a)
2:76-5.3      Cost-share assistance for soil and water conservation projects	18 N.J.R. 1981(a)	R.1987 d.90	19 N.J.R. 288(a)
2:76-6.15      Acquisition of development easements: deed restrictions	18 N.J.R. 513(a)		
2:90-1.3      Soil erosion and sedimentation control	18 N.J.R. 2081(a)		
2:90-1.5, 1.13, 1.14      Soil erosion and sediment control	19 N.J.R. 395(a)		

(TRANSMITTAL 44, dated October 20, 1986)

**BANKING—TITLE 3**

3:7-5.1      Statement of interest and bank holding companies	19 N.J.R. 327(a)		
3:11-11.13      Leeway investments: confidentiality of approval process	18 N.J.R. 1224(a)		
3:13-4.2      Interstate acquisitions: correction	18 N.J.R. 1982(a)	R.1986 d.475	19 N.J.R. 289(a)
3:21-2.1      Credit union parity	18 N.J.R. 2237(a)	R.1987 d.93	19 N.J.R. 289(b)
3:41      Cemeteries: disinterment and reinterment of human remains	18 N.J.R. 1642(a)		

(TRANSMITTAL 36, dated December 15, 1986)

**PERSONNEL (CIVIL SERVICE)—TITLE 4**

4:1-2.1, 5.2, 11.2, 16, 24      Separations, demotions, layoffs; review and appeals	18 N.J.R. 450(a)	Withdrawn	
4:1-12.18      Disposition of certification by appointing authority	18 N.J.R. 1642(b)	Withdrawn	
4:1-15      Assignments and transfers	18 N.J.R. 592(a)	Withdrawn	
4:1-18      Workweek programs	18 N.J.R. 1764(a)	Withdrawn	
4:1-27.1      Overtime rules	19 N.J.R. 327(b)		
4:2-15.1      Assignments and transfers	18 N.J.R. 592(a)	Withdrawn	
4:2-16      Separations and demotions	18 N.J.R. 450(a)	Withdrawn	
4:2-18      Workweek programs	18 N.J.R. 1764(a)	Withdrawn	
4:2-27      Overtime rules	19 N.J.R. 327(b)		
4:3-16      Separations and demotions	18 N.J.R. 450(a)	Withdrawn	
4:6      Overtime Committee Rules	19 N.J.R. 327(b)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

**COMMUNITY AFFAIRS—TITLE 5**

5:18-2.5, 2.7, 2.11, 2.14, 3.2, 4.1, 4.7, 4.9-4.13, 4.17, 4.18      Uniform Fire Code: Fire Safety Code	18 N.J.R. 1225(a)		
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:18A-2.3, 4.3, 4.4	Fire Code Enforcement	18 N.J.R. 1225(a)		
5:23-2.23, 7.57	Barrier-Free Subcode	18 N.J.R. 2348(a)	R.1987 d.91	19 N.J.R. 289(c)
5:23-3.15	Plumbing subcode	18 N.J.R. 2237(b)	R.1987 d.81	19 N.J.R. 289(d)
5:23-4.5	Uniform Construction Code enforcement: conflict of interest	19 N.J.R. 332(a)		
5:23-7.100-7.116	Barrier Free Subcode	18 N.J.R. 757(a)		
5:80-21	Housing and Mortgage Finance: single family loans	18 N.J.R. 2238(a)		
5:91-1.2, 1.3, 2.1, 3.1, 5.1, 7.1, 13.3, 13.4	Council on Affordable Housing: procedural rules	18 N.J.R. 1643(a)	R.1987 d.110	19 N.J.R. 355(b)
5:92-6.1, 8.2	Council on Affordable Housing: municipal credits; wetlands identification	19 N.J.R. 3(a)	R.1987 d.123	19 N.J.R. 407(a)

(TRANSMITTAL 1987-1, dated January 20, 1987)

## DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

## EDUCATION—TITLE 6

6:3-2	Pupil records	19 N.J.R. 333(a)		
6:8-7.1	High school graduation requirements	19 N.J.R. 4(a)		
6:8-7.1	High school graduation requirements	19 N.J.R. 4(b)		
6:20-4	Tuition for private schools for the handicapped	19 N.J.R. 336(a)		
6:21-10	Pupil transportation in small private vehicles	18 N.J.R. 2155(a)	R.1987 d.94	19 N.J.R. 290(a)
6:21-18	Inspection of vehicles used for pupil transportation	19 N.J.R. 5(a)		
6:46	Area Vocational Technical and Private Schools: waiver of Executive Order No. 66 (1978) sunset provision	18 N.J.R. 1996(b)		
6:46-1	Area vocational technical schools	18 N.J.R. 1511(a)		
6:68-7	Municipal branch library services	19 N.J.R. 6(a)		
6:68-8	Evaluation and development of library collections	19 N.J.R. 7(a)		
6:68-9	Maintenance of library collections	19 N.J.R. 8(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

## ENVIRONMENTAL PROTECTION—TITLE 7

7:1-3	Interim Environmental Cleanup Responsibility Act rules	19 N.J.R. 10(a)		
7:1-6	Disposal of solid waste	18 N.J.R. 883(a)		
7:1F-1, 2	Industrial Survey Project rules	19 N.J.R. 11(a)		
7:2-11	Natural Areas System	18 N.J.R. 2349(b)		
7:6-1.26, 1.37, 3.2, 3.5, 3.10, 3.11, 3.12, 4.5, 4.7	Boating and water-skiing	19 N.J.R. 396(a)		
7:6-1.42	Boating rules: diving and swimming	18 N.J.R. 1712(a)	R.1987 d.125	19 N.J.R. 408(a)
7:7-1, 2, 3, 4, 6	Coastal Permit Program	18 N.J.R. 2156(a)		
7:7-2.2	Monmouth County wetlands maps	18 N.J.R. 2162(a)		
7:9-4.14	Water quality criteria for Mainstem Delaware River Zones	18 N.J.R. 1435(a)		
7:9-13	Sewer connection bans	18 N.J.R. 2163(a)		
7:9-13	Sewer connection ban: extension of comment period	19 N.J.R. 263(b)		
7:11-3	Use of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir Complex	18 N.J.R. 1330(a)		
7:13-7.1	Floodway delineations along East Branch of Stony Brook, South Branch of Rockaway Creek, and Whale Pond Brook	18 N.J.R. 1239(a)	R.1987 d.138	19 N.J.R. 449(a)
7:13-7.1(d)	Redelineation of Raritan River and Peters Brook: re-proposed	19 N.J.R. 167(b)		
7:13-7.1(d)	Redelineation of Wolf Creek in Hackensack Basin	18 N.J.R. 2355(a)		
7:13-7.1(d)	Redelineation of Holland Brook in Somerset County	18 N.J.R. 1866(a)		
7:13-7.1(d)	Redelineation of North Branch Raritan River in Somerset County	18 N.J.R. 1866(b)		
7:13-7.1(e)	Redelineation of Henderson Brook in Passaic River	18 N.J.R. 2169(a)		
7:13-7.1(g)	Flood hazard areas along the Saddle, Ramapo and Mahwah rivers, and Masonicus Brook	19 N.J.R. 169(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System	18 N.J.R. 2085(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System: comment period extended	18 N.J.R. 2411(a)		
7:14A-1.9, 12	Sewer connection bans	18 N.J.R. 2163(a)		
7:14A-1.9, 12	Sewer connection bans: extension of comment period	19 N.J.R. 263(b)		
7:14A-6.16	Disposal of solid waste	18 N.J.R. 883(a)		
7:22-6	Pinelands Infrastructure Trust Fund procedures	18 N.J.R. 1896(a)		
7:22-7	Determination of allowable costs: Pinelands	18 N.J.R. 1904(a)		
7:25-2.18, 2.22	Use of land and water areas	19 N.J.R. 398(a)		
7:25-18A.4	Sale of striped bass	18 N.J.R. 2170(a)	R.1987 d.126	19 N.J.R. 408(a)

NEW JERSEY REGISTER, MONDAY, MARCH 16, 1987

(CITE 19 N.J.R. 471)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-1.4, 2, 2A, 2B, 5, 12.11, 12.12	Disposal of solid waste	18 N.J.R. 883(a)		
7:26-1.4, 7.5, 7.7, 8.13	Waste oil	18 N.J.R. 878(a)		
7:26-2.9	Closure and post-closure care of sanitary landfills	18 N.J.R. 2170(b)	R.1987 d.117	19 N.J.R. 356(a)
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(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)		
7:26-15	Recycling Grants and Loans Program	18 N.J.R. 2358(a)		
7:26-17	Scales at solid waste facilities	18 N.J.R. 1154(a)		
7:27-16.1, 16.3	Air pollution control: Stage II vapor recovery	18 N.J.R. 1867(a)		
7:28-14	Therapeutic radiation installations	18 N.J.R. 1157(a)		
7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10, 19.12	Licensure of orthopedic and urologic x-ray technologists	18 N.J.R. 2361(a)	R.1987 d.139	19 N.J.R. 449(b)
7:28-42.1	Workplace exposure to radio frequency radiation	18 N.J.R. 1166(a)		
7:50	Pinelands Comprehensive Management Plan	18 N.J.R. 2239(a)		
7:50	Pinelands Comprehensive Management Plan: public hearings	18 N.J.R. 2411(b)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

**HEALTH—TITLE 8**

8:2-1	Birth certificates	18 N.J.R. 2278(a)		
8:2-1	Birth certificates: extension of comment period	19 N.J.R. 264(a)		
8:8-1.2, 5.5, 6.2	Screening of human blood	18 N.J.R. 2280(a)	R.1987 d.111	19 N.J.R. 356(b)
8:21-2.41	Sale of striped bass	18 N.J.R. 2174(a)	R.1987 d.127	19 N.J.R. 409(a)
8:21-4	Control of new drugs and Laetrile use	18 N.J.R. 2363(a)		
8:21-5	Foods, drugs, cosmetics, devices: order to remove from sale and recall	18 N.J.R. 1361(b)		
8:21-5	Order to remove from sale and recall of foods, drugs, cosmetics, and devices: extension of proposal comment period	18 N.J.R. 1715(b)		
8:26	Public recreational bathing: public hearing rescheduled	19 N.J.R. 12(a)		
8:26-3.9, 5.6, 5.7, 5.9, 7.6, App.	Public recreational bathing	18 N.J.R. 2281(a)	R.1987 d.99	19 N.J.R. 290(b)
8:31-25.1	Mobile intensive care: administration of medications	18 N.J.R. 602(a)	R.1987 d.112	19 N.J.R. 357(a)
8:31-26.3, 26.4	Home health agencies: employee physicals: child abuse and neglect	18 N.J.R. 2283(a)		
8:31B-2.2, 3.51, 3.57, 3.73, 4.40	Hospital reimbursement: Same Day Surgery services	18 N.J.R. 1908(a)		
8:31B-3.27, 4.42	Hospital reimbursement: capital facilities allowance	18 N.J.R. 1912(a)		
8:31B-3.41, 4.15, 4.38, 4.39	Hospital reimbursement: uncompensated care	18 N.J.R. 2283(b)		
8:31B-3.72	Hospital reimbursement: periodic adjustments	18 N.J.R. 1917(a)		
8:31B-3.73, App. IX	Hospital reimbursement: cost/volume methodology	18 N.J.R. 2284(a)		
8:31B-3.73, App. IX	Hospital reimbursement: correction to cost/volume methodology	19 N.J.R. 264(b)		
8:41-8	Mobile intensive care: administration of medications	18 N.J.R. 602(a)	R.1987 d.112	19 N.J.R. 357(a)
8:42	Licensure of home health agencies	18 N.J.R. 2287(a)		
8:43E-1	Hospital Policy Manual	18 N.J.R. 825(a)		
8:43E-5	Intermediate Adult and Special Psychiatric Beds: certification of need	19 N.J.R. 171(b)		
8:52-1.8	Local health educators	19 N.J.R. 398(b)		
8:71	Generic drug list additions: public hearing (see 18 N.J.R. 1381(a), 1463(b), 1957(a), 2015(a), 19 N.J.R. 118(a), 216(b))	18 N.J.R. 537(a)	R.1987 d.133	19 N.J.R. 450(a)
8:71	Generic drug list additions (see 18 N.J.R. 1955(b), 2208(b), 19 N.J.R. 116(b), 216(c))	18 N.J.R. 1167(a)		
8:71	Generic drug additions (19 N.J.R. 116(c), 217(a))	18 N.J.R. 1775(a)		
8:71	Interchangeable drug products (See 19 N.J.R. 215(a))	18 N.J.R. 2100(a)		
8:71	Interchangeable drug products (See 19 N.J.R. 216(a))	18 N.J.R. 2101(a)		
8:71	Interchangeable drug products	19 N.J.R. 13(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

**HIGHER EDUCATION—TITLE 9**

9:1-1.4	Submission of financial statements by independent special purpose and theological institutions	18 N.J.R. 2364(a)		
9:1-6.1	Approval of courses-for-credit offered by out-of-state institutions	18 N.J.R. 2365(a)		

(CITE 19 N.J.R. 472)

NEW JERSEY REGISTER, MONDAY, MARCH 16, 1987

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
9:4-1.5	Community college chargeback system	19 N.J.R. 14(a)		
9:5-1.1	Student dependency status defined	19 N.J.R. 264(c)		
9:6-6	Student membership on State college board of trustees	19 N.J.R. 265(a)		
9:7-2.6	Student assistance programs: student dependency status defined	19 N.J.R. 176(a)		
9:7-3.1	Tuition Aid Grant Program: 1987-88 Award Table	19 N.J.R. 177(a)		
9:7-9	Carl D. Perkins Scholarship Program	18 N.J.R. 2174(b)		
9:11-1.2	Student residency	18 N.J.R. 1777(a)	R.1987 d.135	19 N.J.R. 450(b)
9:11-1.4	Educational Opportunity Fund: student dependency status defined	19 N.J.R. 266(a)		
9:11-1.5	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 15(a)		
9:11-1.7	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 399(a)		
9:12-1.5, 2.3	Educational Opportunity Fund Program	18 N.J.R. 801(b)	R.1987 d.134	19 N.J.R. 451(a)

(TRANSMITTAL 1987-1, dated January 20, 1987)

**HUMAN SERVICES—TITLE 10**

10:49-1.5	Records retention by long-term care facilities	18 N.J.R. 2411(c)		
10:51-2.6, 5.18	Correction to Administrative Code			19 N.J.R. 466(d)
10:52-1.5, 1.17	Out-of-state inpatient hospital services	18 N.J.R. 538(a)		
10:56-3	HCPCS codes for dental services	19 N.J.R. 15(b)		
10:60-2.2, 2.3, 3.1	Personal care assistant services	18 N.J.R. 2365(b)		
10:61-1, 2	Independent laboratory services	18 N.J.R. 540(a)		
10:62-1, 2, 3	Vision Care Manual	18 N.J.R. 1246(a)		
10:63-1.14	Records retention by long-term care facilities	18 N.J.R. 2411(c)		
10:65-1.5, 1.8	Medical day care centers: recordkeeping	19 N.J.R. 30(a)		
10:66-2, 3	Independent clinic services	18 N.J.R. 541(a)		
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1252(a)		
10:68-2	Chiropractor billing procedures	18 N.J.R. 810(a)		
10:81-3.12	PAM: parent-minor and AFDC	19 N.J.R. 31(a)		
10:81-3.18	PAM: exemption from WIN registration	18 N.J.R. 2301(a)	R.1987 d.132	19 N.J.R. 451(b)
10:81-3.34	PAM: temporary absence of child from home	18 N.J.R. 1675(a)		
10:81-4.9, 5.2, 7.1	PAM: administration of AFDC program	19 N.J.R. 341(a)		
10:81-7.29	Retroactive funeral payments	18 N.J.R. 2176(a)	R.1987 d.136	19 N.J.R. 452(a)
10:81-11.7, 11.9	PAM: annual notice of child support collections	19 N.J.R. 343(a)		
10:81-11.18	PAM: child support guidelines	18 N.J.R. 2178(a)		
10:82-1.3, 4.16	ASH: household defined; court-ordered support	19 N.J.R. 31(b)		
10:82-3.2, 4.13, 4.14, 4.15	ASH: resources and income in AFDC	19 N.J.R. 344(a)		
10:82-4.15	ASH: lump sum income	19 N.J.R. 32(a)		
10:85-2.2, 3.1-3.4	GAM: correction to Administrative Code			19 N.J.R. 307(b)
10:85-3.2	GAM: exemption from work requirement and unemployability	18 N.J.R. 2183(a)		
10:85-3.3	GAM: Medically Needy eligibility	18 N.J.R. 1781(a)		
10:85-3.3, 3.4	GAM: treatment of agent orange payments	19 N.J.R. 32(b)		
10:85-4.9	Retroactive funeral payments	18 N.J.R. 2176(a)	R.1987 d.136	19 N.J.R. 452(a)
10:85-5.3	GAM: payment of medical insurance premiums	19 N.J.R. 33(a)		
10:85-8.4	GAM: information concerning PAAD	18 N.J.R. 1343(b)		
10:94	Medicaid Only Manual recodified to 10:71			19 N.J.R. 466(e)
10:94-5.4, 5.5, 5.6, 5.7	Medicaid Only: eligibility computation amounts	Emergency	R.1987 d.78	19 N.J.R. 245(a)
10:100-3.6	Submission of cemetery petition by funeral directors	19 N.J.R. 345(a)		
10:100-3.10	Retroactive funeral payments	18 N.J.R. 2176(a)	R.1987 d.136	19 N.J.R. 452(a)
10:100-App. A	Supplemental Security Income payment levels	Emergency	R.1987 d.79	19 N.J.R. 246(a)
10:121A-2.2	Certification period for adoption agencies	18 N.J.R. 1923(a)	R.1987 d.106	19 N.J.R. 358(a)

(TRANSMITTAL 1987-1, dated January 20, 1987)

**CORRECTIONS—TITLE 10A**

10A:4-4.1	Inmate discipline: prohibited acts	19 N.J.R. 178(a)		
10A:4-5.2	Inmate discipline: schedule of sanctions at Youth Complex	19 N.J.R. 178(b)		
10A:9-4.6	Reduced custody consideration for inmates with mandatory minimum sentences of 24 months or less	19 N.J.R. 178(c)		
10A:16	Medical and health services	18 N.J.R. 1662(a)		
10A:18	Mail, visits, and use of telephone	19 N.J.R. 33(b)		
10A:34-2	Municipal detention facilities	18 N.J.R. 2412(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

**INSURANCE—TITLE 11**

11:1-20, 22	Cancellation and nonrenewal of commercial policies	18 N.J.R. 2301(b)	R.1987 d.114	19 N.J.R. 359(a)
11:1-22.3	Reinstatement of commercial lines policies	18 N.J.R. 2414(a)	R.1987 d.113	19 N.J.R. 358(b)
11:1-24	Credit cards and payment of insurance premiums	18 N.J.R. 1999(a)		
11:2-17.11, 17.14	Settlement of automobile damage claims	18 N.J.R. 2415(a)		

NEW JERSEY REGISTER, MONDAY, MARCH 16, 1987

(CITE 19 N.J.R. 473)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:3-7	Automobile Reparation Reform: additional personal injury protection	19 N.J.R. 44(a)	R.1987 d.140	19 N.J.R. 453(a)
11:3-10.3, 10.10	Settlement of automobile damage claims	18 N.J.R. 2415(a)		
11:3-13.1, 13.3, 13.4, 13.5, 13.6	Deductibles for private passenger automobile coverage	19 N.J.R. 46(a)	R.1987 d.142	19 N.J.R. 455(a)
11:3-16	Pre-proposal: Private passenger automobile rate filings	18 N.J.R. 1083(a)		
11:3-17.4, 17.5	Private passenger automobile rate filings	19 N.J.R. 47(a)	R.1987 d.141	19 N.J.R. 455(b)
11:4-16.6	Daily hospital room and board coverage	18 N.J.R. 608(a)		
11:4-16.8	Medicare information brochure	18 N.J.R. 2103(a)	R.1987 d.96	19 N.J.R. 291(a)
11:4-21	Limited death benefit policies	18 N.J.R. 1085(a)		
11:4-23.8	Medicare information brochure	18 N.J.R. 2107(a)	R.1987 d.95	19 N.J.R. 291(a)
11:5-1.16	Obligations of real estate licensees	18 N.J.R. 1677(a)		
11:5-1.16, 1.23	Public hearing: Obligations of real estate licensees	18 N.J.R. 2113(a)		
11:5-1.23	Obligations of real estate licensees	18 N.J.R. 1680(a)		
11:5-1.23	Obligations of real estate licensees	18 N.J.R. 2112(a)		
11:5-1.25	Sales of interstate properties	18 N.J.R. 2416(a)		
11:5-1.28	Certification as approved real estate education instructor	18 N.J.R. 1681(a)		
11:5-1.30	Transfer of real estate licenses	18 N.J.R. 2418(a)	R.1987 d.119	19 N.J.R. 409(b)
11:12	Pre-proposal: Legal services insurance	18 N.J.R. 1783(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	18 N.J.R. 1173(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

**LABOR—TITLE 12**

12:16-19.1	Charging of unemployment benefits to employer's account	18 N.J.R. 1682(a)	R.1987 d.104	19 N.J.R. 363(a)
12:16-20.1	Work relief and work training programs: exempt employment	18 N.J.R. 1683(a)	R.1987 d.102	19 N.J.R. 363(b)
12:17-2.2, 2.4	Unemployment compensation claims and verification of Social Security numbers	18 N.J.R. 1683(b)	R.1987 d.103	19 N.J.R. 363(c)
12:17-3.1, 4.1, 4.2	"Week of partial unemployment" defined	18 N.J.R. 1684(a)	R.1987 d.101	19 N.J.R. 364(a)
12:60	Prevailing wages for public works	19 N.J.R. 345(b)		
12:100-4.2	Protection of firefighters	19 N.J.R. 48(a)		
12:100-4.2, 5.2, 6.2, 7	Public employees and exposure to toxic and hazardous substances	19 N.J.R. 267(a)		

(TRANSMITTAL 34, dated November 17, 1986)

**COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A**

12A:10-1	Award of contracts to small, female-owned and minority businesses	18 N.J.R. 2306(a)	R.1987 d.143	19 N.J.R. 457(b)
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(TRANSMITTAL 1, dated September 22, 1986)

**LAW AND PUBLIC SAFETY—TITLE 13**

13:27-8.12	Continuing education in landscape architecture	18 N.J.R. 2367(a)	R.1987 d.105	19 N.J.R. 364(b)
13:27-8.14	Advertising by persons not certified as landscape architects	19 N.J.R. 400(a)		
13:29-1.7	Conditional credit on Uniform CPA examination	19 N.J.R. 48(b)		
13:30-2.16	Continuing education in dental hygiene and dental assisting	18 N.J.R. 2113(b)	R.1987 d.97	19 N.J.R. 296(a)
13:30-8.6, 8.15	Practice of dentistry and referral fees	18 N.J.R. 2419(a)		
13:30-8.16	Dental X-rays and use of lead shield	18 N.J.R. 2113(c)	R.1987 d.98	19 N.J.R. 296(b)
13:31-1.12, 1.13, 1.14, 1.15	Licensure of electrical contractors	19 N.J.R. 49(a)		
13:31-1.16	Electrical contractor ID	19 N.J.R. 352(a)		
13:32-1.9	Master plumber ID	19 N.J.R. 352(b)		
13:35-1.5	Practice by medical school graduates in hospital residency programs	18 N.J.R. 2184(a)		
13:35-6.13	Medical Examiners Board: fee schedule	19 N.J.R. 353(a)		
13:36-1.9	Itemization of funeral expenses	18 N.J.R. 2186(a)		
13:39A-1.4	Licensure of physical therapists: fees and charges	18 N.J.R. 1177(a)		
13:39A-2.2	Authorized practice by physical therapist	18 N.J.R. 1177(b)		
13:39A-2.2, 3.3	Electromyographic testing by licensed physical therapist: public hearing	18 N.J.R. 1684(b)		
13:39A-3.3	Physical therapy: unlawful practices	18 N.J.R. 1178(a)		
13:39A-5.2—5.4, 5.6—5.9	Physical therapy educational credentials and examination standards	18 N.J.R. 1179(a)	R.1987 d.84	19 N.J.R. 297(a)
13:39A-6	Temporary licensure of physical therapists	18 N.J.R. 1179(b)	R.1987 d.83	19 N.J.R. 298(a)
13:40-5.1	Preparation of land surveys	18 N.J.R. 2367(b)		
13:45A-2	Motor vehicle advertising practices	18 N.J.R. 2419(b)		
13:45A-6.2	Unlawful automobile sales practices	18 N.J.R. 2115(a)		
13:45A-24	Sale of gray market merchandise	19 N.J.R. 179(a)		
13:46-5.23	Boxing: time between bouts	18 N.J.R. 2423(a)		
13:46-8.14	Boxing: three knockdown rule	18 N.J.R. 2424(a)	R.1987 d.122	19 N.J.R. 409(c)

(CITE 19 N.J.R. 474)

NEW JERSEY REGISTER, MONDAY, MARCH 16, 1987

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:47-6.19	Prohibited prizes in games of chance	18 N.J.R. 1180(a)	R.1987 d.82	19 N.J.R. 298(b)
13:47-14.3	Rental of premises for bingo	18 N.J.R. 1180(b)		
13:47B-1.22	Approaches for vehicle scales	18 N.J.R. 2116(a)		
13:70-29.29—29.34	Thoroughbred racing: refunds of advance wagers	18 N.J.R. 2368(a)	R.1987 d.120	19 N.J.R. 409(d)

(TRANSMITTAL 1987-1, dated January 20, 1987)

**PUBLIC UTILITIES—TITLE 14**

14:3-7.9	Form of bill for metered service	18 N.J.R. 2425(a)		
14:3-7.12A	Residential electric and gas service during heating season	18 N.J.R. 2315(a)		
14:11	Board of Public Utilities: administrative orders	18 N.J.R. 2425(b)	R.1987 d.116	19 N.J.R. 365(c)

(TRANSMITTAL 1987-1, dated January 20, 1987)

**ENERGY—TITLE 14A**

14A:3-4.4	Thermal efficiency standards: operative date			18 N.J.R. 2391(a)
14A:3-4.4	Energy subcode: thermal efficiency standards	18 N.J.R. 2349(a)	R.1987 d.92	19 N.J.R. 298(c)
14A:11-4.2, 4.3, 4.4, 5.2, 5.3, 5.4	Reporting by retail fuel merchants and motor fuel dealers	19 N.J.R. 50(a)		
14A:13	Energy conservation in State buildings	18 N.J.R. 2187(a)	R.1987 d.80	19 N.J.R. 300(a)
14A:21-1.2, 2.2, 2.3, 3.4—3.7, 5.2, 6.1, 6.2, 7.1, 7.2, 7.5—7.7, 8.1—8.3, 9.4, 10.1, 11.2, 11.3	Home Energy Savings Program	18 N.J.R. 2001(a)	R.1987 d.88	19 N.J.R. 301(a)

(TRANSMITTAL 21, dated September 22, 1986)

**STATE—TITLE 15**

15:5	State Museum	18 N.J.R. 2368(b)	R.1987 d.100	19 N.J.R. 366(a)
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(TRANSMITTAL 18, dated October 20, 1986)

**PUBLIC ADVOCATE—TITLE 15A**

(TRANSMITTAL 1, dated March 20, 1978)

**TRANSPORTATION—TITLE 16**

16:28A-1.7, 1.41, 1.108	No parking zones along U.S. 9 in Little Egg Harbor, and Routes 77 and U.S. 40-N.J. 45 in Salem County	19 N.J.R. 180(a)		
16:28A-1.8, 1.18	Parking along Routes 10 in Livingston and 27 in Linden	19 N.J.R. 51(a)	R.1987 d.129	19 N.J.R. 455(c)
16:29-1.66	No passing zone along Route 140 in Carney's Point	19 N.J.R. 181(a)		
16:32-1.1, 1.2, 1.3, 3	Designated routes for double trailers and wide trucks	18 N.J.R. 2428(a)	R.1987 d.115	19 N.J.R. 374(a)
16:44-3.2, 3.4, 7.5-7.9	Contract administration: construction plans; deferred payments to contractors	19 N.J.R. 181(b)		
16:49-1.3	Transportation of hazardous materials	18 N.J.R. 933(a)		
16:51	Practice and procedure before Office of Regulatory Affairs	19 N.J.R. 182(a)		
16:53D-1.1	Zone of rate freedom	18 N.J.R. 2376(a)	R.1987 d.131	19 N.J.R. 456(a)
16:73	NJ TRANSIT: Reduced Fare Program for Elderly and Handicapped	18 N.J.R. 2437(a)	R.1987 d.121	19 N.J.R. 410(a)

(TRANSMITTAL 1987-1, dated January 20, 1987)

**TREASURY-GENERAL—TITLE 17**

17:1-1.10	Reconciliation of pension accounts	18 N.J.R. 2377(a)	R.1987 d.108	19 N.J.R. 380(a)
17:1-2.37	Alternate Benefit Program: transmittal of employee contributions	18 N.J.R. 1256(a)		
17:1-4.4	Enrollment schedule for State-administered retirement systems	18 N.J.R. 2320(a)	R.1987 d.76	19 N.J.R. 304(a)
17:1-4.36	Pension credit for peacetime military service	19 N.J.R. 353(b)		
17:1-7.4	Retirees returning to public employment	19 N.J.R. 51(b)	R.1987 d.128	19 N.J.R. 458(b)
17:2-1.4	Public Employees' Retirement System: candidates for member-trustee	19 N.J.R. 52(a)		
17:2-2.4, 3.1, 5.2	Enrollment in PERS	18 N.J.R. 2320(b)		
17:2-3.7	PERS contributory coverage termination: correction			18 N.J.R. 2391(c)
17:2-4.4	Public Employees' Retirement System: accrual of loan interest	19 N.J.R. 194(a)		
17:3-4.4	Teachers' Pension and Annuity: accrual of loan interest	19 N.J.R. 52(b)	R.1987 d.130	19 N.J.R. 457(a)
17:3-6.15	Teachers' Pension and Annuity Fund: compulsory retirement	19 N.J.R. 195(a)		
17:4-2.6	Enrollment in Police and Firemen's Retirement System	18 N.J.R. 2321(a)	R.1987 d.124	19 N.J.R. 410(b)
17:4-4.4	Police and Firemen's Retirement System: loan interest	18 N.J.R. 2437(b)		
17:4-5.1, 5.2	Enrollment in Police and Firemen's Retirement System	18 N.J.R. 2321(a)		
17:8-3.7	Supplemental Annuity Collective Trust: investment of contributions	19 N.J.R. 52(c)		

NEW JERSEY REGISTER, MONDAY, MARCH 16, 1987

(CITE 19 N.J.R. 475)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
17:12-6	Award of contracts to small, female-owned and minority businesses	18 N.J.R. 2306(a)	R.1987 d.143	19 N.J.R. 457(b)
17:16-32.11	Common Pension Fund A: distribution of realized appreciation	18 N.J.R. 2377(b)	R.1987 d.86	19 N.J.R. 304(b)
17:16-36.11	Common Pension Fund B: distribution of realized appreciation	18 N.J.R. 2378(a)	R.1987 d.87	19 N.J.R. 304(c)
17:16-38	Common Pension Fund C	18 N.J.R. 2438(a)	R.1987 d.107	19 N.J.R. 380(b)
17:20-4.4, 5.1, 6.2, 6.4	Lottery Commission rules	18 N.J.R. 1927(a)	R.1987 d.77	19 N.J.R. 304(d)
17:30	Urban Enterprise Zone Authority	18 N.J.R. 2191(b)		
17:30	Urban Enterprise Zone Authority: comment period reopened	19 N.J.R. 354(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

**TREASURY-TAXATION—TITLE 18**

18:5-3.6	Purchase of cigarette revenue stamps	18 N.J.R. 2378(b)		
18:7-4.5, 4.6, 5.5	Corporation business tax: indebtedness, interest, and offsets	18 N.J.R. 2004(b)	R.1987 d.118	19 N.J.R. 410(c)
18:7-8.4	Corporation business tax: tangible personal property	18 N.J.R. 627(a)	R.1987 d.137	19 N.J.R. 464(a)
18:14-2.11	Veteran's and senior citizen's property tax deductions	19 N.J.R. 195(b)		
18:24-1.1	Sales and use tax forms	18 N.J.R. 2192(a)		
18:24-1.2	Sales and Use Tax: "periodicals"	18 N.J.R. 1928(a)		
18:26-12.2	Representation of estates	18 N.J.R. 2321(b)		
18:38	Litter control tax	19 N.J.R. 400(b)		

(TRANSMITTAL 39, dated December 15, 1986)

**TITLE 19—OTHER AGENCIES**

19:4-4.152, 4.154, 4.155, 6.28	Commercial Park Zone	19 N.J.R. 53(a)		
19:4-6.28	Rezoning in Little Ferry	19 N.J.R. 53(b)		
19:4-6.28	Rezoning in Secaucus	19 N.J.R. 54(a)		
19:17-2.1, 3.1-4.5	PERC: Appeal Board procedure	19 N.J.R. 196(a)		
19:17-2.1, 3.1—4.5	PERC Appeal Board procedure: rescheduled public hearing	19 N.J.R. 404(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

**TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY**

19:40-1.2	Slot machine jackpot payouts	18 N.J.R. 2005(a)		
19:41-9.7	Fee for casino hotel alcoholic beverage license	18 N.J.R. 1687(a)		
19:41-9.7	Alcoholic beverage licenses	18 N.J.R. 2379(a)	R.1987 d.109	19 N.J.R. 381(a)
19:44-8.3	Minibaccarat training	18 N.J.R. 2322(a)		
19:44-17.11	Advertising by gaming schools	18 N.J.R. 2439(a)		
19:45-1.1, 1.37, 1.40, 1.40A	Slot machine jackpot payouts	18 N.J.R. 2005(a)		
19:45-1.12	Minibaccarat	19 N.J.R. 54(b)		
19:45-1.32, 1.43	Hard count room procedures	18 N.J.R. 1929(a)		
19:46-1.12	Minibaccarat	19 N.J.R. 54(b)		
19:46-1.16, 1.18, 1.20	Gaming equipment and evidence of cheating or tampering	18 N.J.R. 2121(a)		
19:46-1.26	Slot machine jackpot payouts	18 N.J.R. 2005(a)		
19:47-7.7	Minibaccarat	19 N.J.R. 54(b)		
19:50-1.3	Alcoholic beverage licensees	18 N.J.R. 2379(a)	R.1987 d.109	19 N.J.R. 381(a)
19:50-1.6	Security of alcoholic beverages	18 N.J.R. 2323(a)		
19:50-1.6	Operating conditions of alcoholic beverage licensees	18 N.J.R. 2439(b)		
19:65-1.2, 2.1, 2.4, 2.5, 2.7, 2.9, 2.10, 2.11	Casino Reinvestment Development Authority projects	19 N.J.R. 404(b)		

(TRANSMITTAL 27, dated October 20, 1986)

## NOTES

## **NOTES**



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