

NEW JERSEY REGISTER



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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: APRIL 16, 1990

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT MAY 21, 1990

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Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until **August 1, 1990**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

On occasion, a proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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NEW JERSEY REGISTER

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EXECUTIVE ORDER

(a)

OFFICE OF THE GOVERNOR

Governor James J. Florio

Executive Order Number 10(1990)

New Jersey Transportation Executive Council

Issued: June 6, 1990.

Effective: June 6, 1990.

Expiration: Indefinite.

WHEREAS, an effective transportation system is critical to the well being of the citizens of New Jersey; and

WHEREAS, investment in the State's transportation system has proven to be vital in fostering a stable and healthy economy; and

WHEREAS, major decisions concerning the operation of and capital investment in our transportation system must be made in the context of a unified State transportation network; and

WHEREAS, the transportation system must be designed to support economic growth, relieve congestion, improve air quality, revitalize urban areas and provide coordination among the various modes of transportation; and

WHEREAS, the Commissioner of Transportation is statutorily empowered to coordinate all transportation planning and program development in the State; and

WHEREAS, the coordination of transportation planning and program development in the State by the Commissioner of Transportation should occur in conjunction with the various agencies and authorities whose mission is to provide transportation services to New Jersey's citizenry; and

WHEREAS, all transportation agencies must have clear business plans that clearly state their missions, goals and objectives, financial projections, capital programming criteria, and performance indicators;

NOW, THEREFORE, I, JAMES J. FLORIO, Governor of the State of New Jersey, by the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. a. There is hereby established the New Jersey Transportation Executive Council which shall advise the Commissioner of Transportation on transportation policies, priorities and progress. The Council through its Chairperson shall make recommendations to the Governor on overall transportation policy, capital and operating investments and related fiscal matters.

b. The Commissioner of Transportation shall serve as the Council's Chairperson and shall also represent New Jersey Transit Corporation on the Council. The Council shall also include the Chairpersons of the New Jersey Turnpike Authority, the New Jersey Highway Authority, the New Jersey Expressway Authority, the Delaware River Port Authority, the Port Authority of New York and New Jersey, the Delaware River and Bay Authority, the Delaware River Joint Toll Bridge Commission, the Palisades Interstate Park Commission, the Atlantic County Transportation Authority, the Cape May County Bridge Commission and the Burlington County Bridge Commission, the Commissioners of Commerce and Economic Development and Environmental Protection, the State Treasurer, the Governor's Director of Policy, the Director of the Governor's Authorities Unit and the Governor's Counsel for Legislation and Policy.

c. The Council shall be aided in its deliberations by a Technical Advisory Group which shall have the Assistant Transportation Commissioner for Policy and Planning as its Chairperson and shall include the Executive Director of New Jersey Transit, the Director of New Jersey Transit, Hudson River Waterfront Transportation Office, and the Ex-

ecutive Directors of the New Jersey Turnpike Authority, the New Jersey Highway Authority, the New Jersey Expressway Authority, the Port Authority of New York and New Jersey, the Delaware River Port Authority, the Delaware River and Bay Authority, the Delaware River Joint Toll Bridge Commission, the Palisades Interstate Park Commission, the Atlantic County Transportation Authority, the Cape May County Bridge Commission and the Burlington County Bridge Commission.

d. The Chairperson of the Council may establish such committees as he deems necessary to carry out the functions of the Council and shall name the members of the committees in his discretion.

2. The Commissioner of Transportation shall ensure that the State's Transportation Plan and an annual updated capital investment plan produced by the Department of Transportation reflect a coordinated, Statewide strategic plan for all modes of transportation in the State and all of the services provided by the State, and its agencies and authorities.

3. a. Each of the following agencies and authorities shall be required to complete a strategic business plan under the direction of and according to a timetable specified by the Commissioner of Transportation:

1. The Department of Transportation;
2. The New Jersey Turnpike Authority;
3. The New Jersey Highway Authority;
4. The New Jersey Expressway Authority;
5. The New Jersey Transit Corporation;
6. The Cape May County Bridge Commission;
7. The Burlington County Bridge Commission; and
8. The Atlantic County Transportation Authority.

b. In addition, each of the following agencies and authorities shall be requested to complete a strategic business plan under the direction of and according to a timetable specified by the Commissioner of Transportation:

1. The Port Authority of New York and New Jersey;
2. The Delaware River Port Authority;
3. The Delaware River and Bay Authority;
4. The Palisades Interstate Park Commission; and
5. The Delaware River Joint Toll Bridge Commission.

c. The Commissioner of Transportation shall define the requirements for each strategic business plan.

d. Each strategic business plan shall be submitted to the Commissioner of Transportation, who shall review each plan and return any plan or portion thereof for revision if he determines the plan to be incomplete or unsatisfactory.

e. The Commissioner shall require an annual update of each strategic plan.

4. The Commissioner of Transportation shall periodically report to the Governor on the activities and recommendations of the Transportation Executive Council and on the results of the strategic planning process established in paragraphs 2 and 3 above.

5. The Commissioner of Transportation is authorized to call upon any department, office, division or agency of this State to supply him with data, and any other information, personnel or assistance he deems necessary to discharge his duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Commissioner of Transportation and to furnish him with such information, personnel and assistance as is necessary to accomplish the purpose of this Order.

6. Executive Order Nos. 25, 218 and 220 (Governor Kean) are hereby rescinded.

7. This Order shall take effect immediately and shall supersede any prior Executive Orders with which it is inconsistent.

RULE PROPOSALS

BANKING

(a)

DIVISION OF EXAMINATIONS

Audit Requirements

Proposed Amendments: N.J.A.C. 3:29-1.1, 1.2, 1.3, 1.4, 1.6, 1.7 and 1.8

Authorized By: Jeff Connor, Commissioner, Department of Banking.

Authority: N.J.S.A. 17:1-8.1 and N.J.S.A. 17:12B-176.

Proposal Number: PRN 1990-343.

Submit comments by August 1, 1990 to:

Robert M. Jaworski, Assistant Commissioner
Department of Banking
CN 040
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Banking proposes to amend the rules, N.J.A.C. 3:29, Audit Requirements, regarding the audit requirements of savings and loan associations.

N.J.S.A. 17:12B-176 requires that an audit be performed by a competent accountant. Pursuant to these proposed amendments, a competent accountant is defined as a certified public accountant or an accounting firm licensed and/or registered in New Jersey. The proposed amendments also redefine the statements required in the audit report as certain statements are no longer useful. The proposal clarifies that the statements are to be provided in audits of wholly owned subsidiaries as well as State chartered associations.

Current provisions at N.J.A.C. 3:29-1.4 require that audits of uninsured associations include a verification of at least 20 percent of accounts. Based upon the prohibition against uninsured associations, N.J.S.A. 17:12B-286, this provision is deleted as unnecessary. Those institutions still in the process of becoming insured remain subject to the 20 percent requirement, pursuant to N.J.S.A. 17:12B-176.

These proposed amendments require the accountant to clearly disclose in the report the number and dollar amount, and percent of accounts confirmed. The accountant shall also disclose in the report the type of confirmation used (that is, positive or negative) and the basis used to select accounts for confirmation. If statistical sampling is used as the basis for selecting accounts, the audit report must also disclose the type of method used and the confidence level achieved. The proposed amendments require that a minimum of 10 percent of verifications be achieved.

Social Impact

The proposed amendments apply to all State chartered associations. They impose reasonable requirements on associations to ensure that audits are performed in a meaningful way. These audits allow the Department to identify troubled institutions, to monitor compliance and to make recommendations or suggestions for improvements in internal control. Soundness of all State chartered associations and the safety of depositor funds within those institutions is the goal of these practices.

Economic Impact

The proposed amendments to the audit requirements for the most part reflect current practice. Audits of this kind are required by statute and all associations currently have such audits performed. With the exception of the definition of "competent accountant", the new provisions are administrative in nature, requiring the inclusion of certain types or amounts of information in an audit. This should result in little if any increase in administrative costs to the individual association. In the rare instance in which an association has not used a certified public accountant or an accounting firm licensed or registered in New Jersey, some expense may be incurred in the hiring of such professionals.

The economic benefit that accrues to the public is the continued soundness of the institutions being audited and the ultimate protection of depositors' monies.

Regulatory Flexibility Analysis

The proposed amendments place reporting, record keeping and compliance requirements on savings and loan associations, approximately 50 percent of which are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The reporting and record keeping requirements established in N.J.A.C. 3:29-1.3, 1.4 and 1.8 will result in very little, if any, administrative costs. The proposed changes reflect current practice and serve to codify documentation which is currently part of an audit.

The definition of "competent accountant" as a certified public accountant or a firm licensed or registered in New Jersey, may or may not result in increased compliance costs in a very limited number of cases. In the unlikely event that an association does not currently employ such professionals to perform audits, the association could incur some expense related to now having to hire such individuals or firms.

The proposed requirements are intended to further standards which ensure the soundness of State chartered associations and protect the funds of the individual depositors. It is for these reasons and because there are minimal costs associated with the proposed amendments that no differentiation in compliance, based on business size, is provided.

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

3:29-1.1 Qualifications of auditor

[Since Section 176 of the Savings and Loan Act (1963) requires an audit by a "competent accountant," it should therefore be made by a person specializing in savings and loan and building and loan work, or by a person engaged in public accounting work, preferably with a knowledge of savings and loan and building and loan practice and procedure] Pursuant to N.J.S.A. 17:12B-176, an audit shall be performed by a competent accountant who is not an officer, director or employee of the association. For purposes of this chapter, a competent accountant is a certified public accountant or an accounting firm licensed and/or registered in New Jersey. Choice of a competent auditor is the responsibility of the board of directors. If the board [shall fail] fails to provide for the making of a proper audit or if the required audit is not properly made, prepared or filed, the Commissioner is charged with the duty of making such audit or causing the same to be made.

3:29-1.2 Scope of audit

The auditor [should] shall set forth the scope of his work in the audit report. In general, audit procedure will be acceptable if based on the audit program prepared for audit of savings and loan associations by the American Institute of Certified Public Accountants. A copy of this program can be obtained from the American Institute of Certified Public Accountants, Inc., [666 Fifth Avenue] 1211 Avenue of the Americas, New York, New York 10036.

3:29-1.3 Statements in audit report

(a) The following statements are required to be part of the audit report provided by all State chartered associations including associations which are wholly owned subsidiaries:

1. Comparative [Statement] statement of condition;
2. Comparative [State] statement of operations;
3. Reconciliation of [undivided profits] income and retained earnings;
4. [Statement of reserves] Reconciliation of capital; and
5. Reconciliation of cash;
6. Schedule of investment securities;
7. Schedule of insurance policies and surety bond;
8. Schedule of loans two or more months delinquent.]
5. Statements of cash flows.

3:29-1.4 Minimum verification; mail communication

[Audits of uninsured associations shall include a verification of at least 20 percent in number and in dollar volume of all classes of members' accounts, by direct mail communication.] Audits of insured associations shall include verifications to the extent required by the [Federal Savings and Loan Insurance Corporation] Office of Thrift Supervision, or any other supervising Federal agency, but in no event shall verifications be less than 10 percent in number and in dollar

PROPOSALS

Interested Persons see Inside Front Cover

COMMUNITY AFFAIRS

volume. The accountant shall clearly disclose the number and dollar amount and percent of accounts confirmed. The accountant shall also disclose the type of confirmation used (that is, positive or negative) and the basis used to select accounts for confirmation. If statistical sampling is used as the basis for selecting accounts, the accountant shall indicate the type of method used and the confidence level achieved. Returns [should] shall not be made to the association's address. Statistics relative to the verifications [should] shall be [included in the report, and detail of exceptions not clarified to the satisfaction of members should also be set out] submitted in a separate report or made part of the report upon review of the association's internal accounting control.

3:29-1.6 Comments

(a) The auditor [should] shall comment on pertinent matters affecting the association. As a guide, the following are suggested as appropriate subjects for comment:

1. Investment on which no income is received;
- [2. Volume of delinquent mortgage loans or real estate contracts;]
- [3.] **2.** New mortgage loans not in conformity with statutory requirements;
- [4.] **3.** Other noncompliance with statute;
- [5.] **4.** Missing documents and exceptions to mortgage papers, real estate contract files, and to supporting insurance policies;
- [6. Summary of changes in other real estate;]
- [7.] **5.** Recommendations or suggestions for improvements in internal control; **and**
- [8.] **6.** Insufficient surety bond coverage and other insurance.

3:29-1.7 Time of audit

[Since the Savings and Loan Act and the Insurance Corporation's regulations provide that at] **At least one [such] audit shall be made in each calendar year, and it is not necessary that the audit coincide with a fiscal year. The audit [should] shall be made on a "surprise" basis so that no officer, director or employee of the association shall have advance information as to the date the audit is to be made. The auditor [should] shall cover the period from the previous audit to the date the present audit is started.**

3:29-1.8 Audit report must be certified

(a) The audit report must be ["certified to or sworn to by the person making such audit."] Such [certificate] **certification** shall include:

1. [Audit made in accordance with Commissioner's Regulations. That] **A statement that the audit was made in accordance with the provisions of [Article XI, Section 176, Chapter 144, P.L. 1963] N.J.S.A. 17:12B-176 and the [regulations] rules of the Commissioner of Banking of this State of New Jersey[.];**
2. [Recommended audit procedure. That] **A statement that the audit was made in accordance with the recommendations of the Committee on Savings and Loan Auditing of the American Institute of Certified Public Accountants[.]; and**
3. [Opinion. That] **A statement that the financial statements contained in the audit report present fairly the financial position of the [associations] association at the audit date and [the results of] its operations for the periods reported upon, and that the statements are in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.**

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Emergency Shelters for the Homeless Hospitality Rooms

Proposed Amendment: N.J.A.C. 5:15-2.1

Authorized By: Melvin R. Primas, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 55:13C-5.

Proposal Number: PRN 1990-346.

Submit comments by August 1, 1990 to:
Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625

The agency proposal follows:

Summary

The Department of Community Affairs proposes to change the definition of a "hospitality room" in a building used for religious purposes so that, instead of being limited to use for not more than seven days not more than four times a year, it may be used for not more than seven consecutive days at a time for a total of not more than 28 days per year. This change is intended to accommodate an arrangement in Bergen County under which a network of religious organizations provide shelter for one night a week in each building, with no building being used more than 28 times a year.

Social Impact

By making it possible for the religious organizations in Bergen County, and any others following a similar plan, to maintain a "hospitality room" in the manner that they have found to be most feasible, the proposed amendment will permit this service to continue to be provided to homeless persons.

Economic Impact

N.J.A.C. 5:15-1.9(c) exempts hospitality rooms from the requirements of the chapter, provided that minimum health and safety standards are maintained. The effect of this proposed amendment will be to make it clear that religious organizations participating in arrangements like that in Bergen County are not required to provide the facilities and services that would be required were their buildings deemed to be homeless shelters.

Regulatory Flexibility Analysis

The religious organizations affected by this proposed amendment are most likely all "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, the proposed amendment imposes no additional reporting, recordkeeping or compliance requirements on such organizations. The amendment is intended to make clear their ability to keep functioning in their established manner. This was the original intention of the provisions concerning "hospitality rooms." However, the rules adopted did not accurately describe their manner of operation, and this is now being corrected.

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

5:15-2.1 Definitions

...
"Hospitality room" [shall] means a room or space that is incidental to a religious use wherein 14 or fewer persons are provided shelter for seven or fewer **consecutive** days [four or fewer times] **for no more than 28 days** in a year.
...

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Permit Exemption for Temporary Greenhouses

Proposed Amendments: N.J.A.C. 5:23-2.14 and 3.14

Authorized By: Melvin R. Primas, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 52:27D-124.

Proposal Number: PRN 1990-347.

Submit comments by August 1, 1990 to:
Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625

The agency proposal follows:

Summary

Upon the recommendation of the New Jersey Department of Agriculture, the Department proposes to amend N.J.A.C. 5:23-2.14(b), and 5:23-3.14(b)5xii, as amended by an adoption published elsewhere in this issue of the New Jersey Register, concerning tent permits to exempt temporary greenhouses, otherwise known as "hoophouses" or "poly-houses," from the permit requirements of the construction code if they are used exclusively for the production or storage of live plants and do not have electrical or mechanical devices, have adequate backflow prevention if connected to a potable water supply, have no permanent anchoring, are no longer than 300 feet or wider than 31 feet and have a maximum egress distance of no more than 15.5 feet, and are covered with a material thin enough to allow emergency egress through the wall.

Social Impact

Farmers, including horticulturists, will benefit by exemption of these temporary structures from the permit requirements of the construction code and the attendant fees. Since people are not in these buildings for significant periods of time and provision is made for easy egress, public safety will not be endangered by this exemption.

Economic Impact

To the extent that these amendments reduce costs to farmers, including horticulturists, it will enhance the viability and competitiveness of New Jersey agriculture. Use of temporary greenhouses allows farmers to start certain crops earlier, thereby increasing total productivity.

Regulatory Flexibility Statement

The proposed amendments serve to exempt temporary greenhouses, meeting specified criteria, from the Uniform Construction Code's construction permit requirement. No additional reporting, recordkeeping or compliance requirements are imposed upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

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

5:23-2.14 Construction permits when required

(a) (No change.)

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

1.-3. (No change.)

4. Permit requirements for tents and membraned structures shall be as set forth in N.J.A.C. 5:23-3.14(b)5xii. A temporary greenhouse meeting the criteria set forth in N.J.A.C. 5:23-3.14(b)5xii(4) shall not require a permit.

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

(f) Construction requirements for commercial farm buildings shall be as set forth in N.J.A.C. 5:23-3.2(d).

5:23-3.14 Building subcode

(a) (No change.)

(b) The following articles or sections of the building subcode are modified as follows:

1.-4. (No change.)

5. The following amendments are made to Article 6 of the building subcode entitled "Special Use and Occupancy Requirements":

i.-xi. (No change.)

xii. Section 626.1.1 is deleted in its entirety and the following language is substituted in lieu thereof:

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

(4) A temporary greenhouse, also called a "hoophouse" or "poly-house," used exclusively for the production or storage of live plants, shall be exempt from the permit requirements of the Uniform Construction Code if it meets the following criteria:

(A) It does not contain any device subject to the electrical subcode or any mechanical equipment for which a mechanical subcode permit is required;

(B) If connected to a potable water system, a plumbing subcode permit is obtained to ensure adequate backflow prevention;

(C) There is no permanent anchoring system or foundation;

(D) There shall be no storage, temporary or otherwise, of solvents, fertilizers, gases or other chemical or flammable materials and no residential or retail use of the structure;

(E) The structure shall be no longer than 300 feet and no wider than 31 feet and there shall be an unobstructed path of no greater length

than 15.5 feet from any point to a door or fully accessible wall area; and

(F) The covering of the structure shall be of a material greater than six mils (152.4 micrometers) in thickness, conforming to N.F.P.A. 701 standard, that yields approximately four pounds of maximum impact resistance to provide egress through the wall.

(a)

DIVISION ON AGING**Congregate Housing Services Program
Income, Program Costs, and Service Subsidy
Formula****Proposed Amendment: N.J.A.C. 5:70-6.3**

Authorized By: Melvin R. Primas, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 52:27D-188.

Proposal Number: PRN 1990-341.

Submit comments by August 1, 1990 to:

Joan Mintz, Acting Director

Division on Aging

CN 807

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Congregate Housing Services Program (CHSP) has been in operation since August 16, 1982. The program provides a supportive environment to frail, elderly tenants living in subsidized housing facilities through the provision of selected services such as daily meal, homemaking and personal care services. In addition, the program provides subsidies to those meeting the income eligibility guidelines formulated under the rules of the program.

The CHSP is proposing to amend N.J.A.C. 5:70-6.3 in two ways. The first is to modify the formula for determining net income by using the Department of Housing and Urban Development (HUD) method for determining adjusted income. The second is proposed pursuant to the requirement of N.J.A.C. 5:70-6.3(f) that "service subsidies shall be adjusted annually on January 1. The adjustment shall be made on the basis of the percentage increase in Social Security benefits given to Social Security recipients pursuant to 42 U.S.C.A. §415 for the immediately preceding calendar year."

The adjustment in categories of disposable income reflects the increase in Social Security benefits. Under the contract rules, the participants in the Congregate Housing Services Program may be required to pay an additional amount for program costs if they receive an increase in Social Security. With the adoption of this amendment, they should not be required to pay this additional amount.

Social Impact

A growing and major social problem is the need to plan for the health and welfare of tens of thousands of "young old" people who moved into the many senior citizen housing projects developed during the 1960's and 1970's and who are still residing in these housing projects. They are now in their late 70's and 80's; some are approaching or are in their 90's.

Approximately half of the tenants using congregate housing services could be defined as pre-nursing home candidates, and at least 25 percent would probably be Medicaid eligible for nursing home entry if not maintained in their independent setting.

The Congregate Housing Services Program is having a profound impact upon the management of subsidized housing facilities. There is growing evidence that persons can now be admitted to these facilities with a higher degree of frailty than was previously possible and can, therefore, remain in their apartments longer. In addition, tenants are able to return to the facility after a hospital or nursing home stay because of the availability of the program. The amendment's benefit is economic in nature, as Program participants will not have to pay more when they receive a Social Security benefits increase pursuant to 42 U.S.C.A. §415.

Economic Impact

The adjustment in the categories of disposable income has an economic impact on the older tenant living in subsidized housing facility who is currently receiving congregate housing services and who is eligible for a subsidy. Each income category set forth is adjusted according to the

PROPOSALS

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COMMUNITY AFFAIRS

percentage increase given to the Social Security Recipients pursuant to 42 U.S.C.A. §415, in the immediately preceding calendar year. This will have a positive economic impact on the participants of the Congregate Housing Services Program; they will not be disadvantaged by having to pay more when they receive a percentage increase in Social Security benefits pursuant to 42 U.S.C.A. §415.

Use of the HUD method for determining adjusted income will reduce the time needed by the coordinator to calculate Disposable Income. It should have no major impact on what participants will pay.

Regulatory Flexibility Analysis

This proposed amendment applies to qualified housing agencies under the Congregate Housing Services Act, N.J.S.A. 52:27D-184 et seq. Such agencies include nonprofit and those limited dividend housing sponsors which qualify as small businesses.

The proposed amendment requires such agencies to prepare and maintain the same type of records and reports as have been required under the Department's existing rules for the Congregate Housing Services Program. The reports and records concern the individuals receiving program subsidies for certain living expenses they incur while residing at housing projects owned and operated by these agencies and the manner in which such agencies utilize program funds in defraying the costs of providing certain services to such individuals. As these requirements are mandated by other Department rules, their satisfaction under these rules should not cause small businesses to incur additional expense in compliance.

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

5:70-6.3 Income, program costs and service subsidy formula

(a) (No change.)

(b) [Net income (NI) is gross income less ten percent. For purposes of the subsidy formula, net income (NI) is to be computed as one-twelfth of annual net income.

1. A deduction from net income will be allowed for extraordinary medical expenses when such expenses are not compensated for or covered by insurances. This amount shall be determined on an individual basis monthly by the Congregate Services Coordinator with the approval of the Division of Aging.] **Adjusted income is annual income minus the allowances determined in accordance with HUD instructions. If the head or spouse is 62 years or older or handicapped or disabled: \$400.00 per household; and an allowance for medical expenses equal to the amount by which the medical expenses exceed three percent of Annual Income. Medical expenses include medical insurance premiums that are anticipated during the period for which Annual Income is computed and are not covered by insurance, any co-payment to physicians who take assignment and additional payments to those who charge more than Medicare assignment rates, hospital bills, and drugs with proof. For the purposes of the subsidy formula, adjusted income (AI) is to be computed as one-twelfth of annual income.**

(c) (No change.)

(d) Disposable income (DI) is the amount remaining each month after rent is deducted from [net income] **adjusted income**. When utilities, excluding telephone, are contracted for individually by residents, these costs may be included when computing rent.

(e) Services subsidies for eligible program participants will be provided in accordance with the following formula:

1. STEP I

$$\begin{array}{rcl} \text{[NET INCOME]} & \text{ADJUSTED INCOME—RENT} & = \text{DISPOSABLE INCOME} \\ \text{[(N.I.)]} & \text{(AI) — (R)} & = \text{(D.I.)} \end{array}$$

2. (No change.)

3. The following STEP II shall be operative from January 1, 1991 through December 31, 1991:

D.I. of \$0.00 to \$181.00: SERVICE SUBSIDY = 95 percent of PROGRAM COST; PARTICIPANT PAYMENT = 5 percent of PROGRAM COST (CATEGORY A.)

D.I. of \$182.00 to \$304.00: SERVICE SUBSIDY = 80 percent of PROGRAM COST; PARTICIPANT PAYMENT = 20 percent of PROGRAM COST (CATEGORY B.)

D.I. of \$305.00 to \$428.00: SERVICE SUBSIDY = 60 percent of PROGRAM COST; PARTICIPANT PAYMENT = 40 percent of PROGRAM COST (CATEGORY C.)

D.I. of \$429.00 to \$551.00: SERVICE SUBSIDY = 40 percent of PROGRAM COST; PARTICIPANT PAYMENT = 60 percent of PROGRAM COST (CATEGORY D.)

D.I. of \$552.00 to \$675.00: SERVICE SUBSIDY = 20 percent of PROGRAM COST; PARTICIPANT PAYMENT = 80 percent of PROGRAM COST (CATEGORY E.)

(f) The categories of disposable income set forth in (e)[2] above, for example \$0.00 to \$159.00] for use in determining percentage levels of program service subsidies shall be adjusted annually on January 1. The adjustment shall be made on the basis of the percentage increase in Social Security benefits given to Social Security recipients pursuant to 42 U.S.C.A. 415 for the immediately [preceeding] **preceding** calendar year. Each income category set forth above will be multiplied by such percentage increase. The Division on Aging shall ensure that appropriate notification of each such annual adjustment is properly made.

(a)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Transfer of Ownership Interests

Proposed Amendments: N.J.A.C. 5:80-5.1, 5.2, 5.3, 5.8, 5.9 and 5.10

Authorized By: New Jersey Housing and Mortgage Finance Agency, Kevin Quince, Executive Director.

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

Proposal Number: PRN 1990-351.

Submit comments by August 1, 1990 to:

Anthony W. Tozzi
New Jersey Housing and Mortgage Finance Agency
3625 Quakerbridge Road
CN 18550
Trenton, New Jersey 08650-2085

The agency proposal follows:

Summary

The New Jersey Housing and Mortgage Finance Agency, pursuant to its statutory authority, serves as an advocate for increasing the supply of adequate and affordable housing in the State. To fulfill its statutory objective, the Agency acts as a mortgage lender by providing financing to housing sponsors who wish to construct, rehabilitate or improve housing for low and moderate income families.

As part of the Agency's financing criteria, it reviews proposed housing sponsors for their financial sufficiency, organizational capabilities background and previous housing experience. This review and evaluation is conducted to help assure that the sponsor will be capable of developing the project and operating it once constructed.

Once a project is financed and constructed, housing sponsors must operate the project pursuant to the rules established by the Agency at N.J.A.C. 5:80. These rules include limitations on a sponsor's return on investment, restrictions on rents charged and requirements that the project be occupied by families of low and moderate income. The requirements and restrictions under the rules remain in place for the life of the Agency's mortgage. If the housing sponsor wishes to sell the project or an interest therein prior to the expiration of the Agency's mortgage, the prior written consent of the Agency is required. The Agency will review the background, experience, financial sufficiency and organizational capabilities of the proposed new sponsor, to help assure that the new sponsor will also be capable of operating the project. The Agency must also ensure that the project is physically and fiscally sound prior to transfer or that the project will be so restored as a condition for approving the transfer.

N.J.A.C. 5:80-5, Transfer of Ownership Interests, outlines the procedure for and circumstances under which transfers of ownership will be approved by the Agency. The rules were challenged in a civil action in which the New Jersey Supreme Court held that three sections were invalid, N.J.A.C. 5:80-5.8, 5.9 and 5.10, *Lower Main Street Associates v. New Jersey Housing and Mortgage Finance Agency*, 114 N.J. 226 (1989).

N.J.A.C. 5:80-5.8 was entitled "Return on equity." It had provided that upon the sale of a project by a housing sponsor, the sponsor would be entitled to an unlimited return on its investment if there was no

prepayment of the Agency mortgage. If, however, the sponsor wished to sell the project and have the mortgage prepaid, the sponsor would be limited to an eight percent return on its investment. The Court concluded that the rule was an attempt by the Agency to limit prepayment rather than a rule designed to regulate return on equity. The Court held that such action constituted a misuse of the Agency's rulemaking authority, because the actual purpose for the adoption of this portion of the rule was different from the purpose stated by the Agency.

The Court was also unable to reconcile this section with the Agency's enabling legislation and the current Agency statute. Under the enabling legislation, sponsors were limited to an eight percent return on investment whether upon sale or operation of the project. The current statute eliminated the eight percent limitation, and delegated power to the Agency to set the maximum rate of return. The current statute, however, retained the provision that the rate of return, as set by the Agency, would apply in cases of sale or operation. The current statute also provided that agreements concerning return on investment between sponsors and the Agency entered into under the enabling legislation would continue to be subject to the restrictions imposed under the prior law. The court found the regulatory provisions of N.J.A.C. 5:80-5.8, which removed return on investment limitations when there is no prepayment, to be in apparent conflict with the enabling legislation and current Agency statute.

Agency staff has revised N.J.A.C. 5:80-5.8 in light of the Court's decision. This section is intended to govern the return on investment in cases of a sale. The amendment provides that a sponsor's return on its investment shall be limited whether or not prepayment is involved. The limit will be the rate of return that was established and agreed upon by the sponsor and Agency at the time the project was initially financed. Such rates of return are set pursuant to the Agency's rules at N.J.A.C. 5:80-3. The amendment also makes clear that the sponsor is entitled to a return of its investment. The sponsor's ability to get a return of its investment and a return on its investment is conditioned upon the Agency's mortgage and any other supplemental financing being assumed by the buyer or paid in the case of permitted prepayments. It is further conditioned upon the making of required project repairs, the funding of required project reserves and the payment of all amounts due the Agency. In the event the sale proceeds exceed amounts prescribed by the Agency's rules for return on investment, the excess shall be paid into the Agency's Multi-Family Rental Investment Program. Funds paid into this program will be used by the Agency for the purpose of providing loan to rental projects meeting low and moderate income housing needs.

N.J.A.C. 5:80-5.9 imposed fees and payments in conjunction with the Agency's approval of a transfer of ownership interest. The Court held the fees to be excessive and invalidated this section. Agency staff proposes to completely restructure the fees and payment provision. The amendment requires the seller to pay a processing fee in an amount which is sufficient to reimburse the Agency for its administrative cost in processing the seller's request to transfer ownership. In addition, the Agency proposes to require the buyer to make payments into a Portfolio Reserve Account. The objective of the Agency in maintaining a Portfolio Reserve Account (PRA) is to provide an insurance fund which will be used to assist projects in maintaining their physical and fiscal viability so as to preserve the housing units at rents which are affordable to low and moderate income families. The account will be used to provide financial assistance to projects in need, to enable such projects to fund debt service arrears and other operating deficits and to fund capital improvements and repairs. The proposed amendment requires buyers to pay 3.25 percent of the purchase price into the PRA. This percentage was obtained by totaling all loans made to housing sponsors for debt service arrears, operating deficits and capital improvements. The total of such loans currently amounts to \$45,121,000, which represents 3.28 percent of the original first mortgage loan amounts made by the Agency. In order to maintain the PRA to make additional such loans, which will be available to the buyer if necessary, a 3.25 percent contribution by the buyer has been proposed.

N.J.A.C. 5:80-5.10 prohibited prepayment of the Agency mortgage without the prior written approval of the Agency. The Court held that this section was invalid due to a lack of standards under which prepayment will be approved by the Agency. The court also acknowledged the Agency's power to regulate the prepayment issue and directed the Agency to adopt rules containing adequate standards in guiding its review and determination of applications for prepayment. N.J.A.C. 5:80-5.10 still prohibits prepayment of the Agency mortgage without the prior consent of the Agency. The amendment, however, outlines the standards under which the Agency will make its determination by identifying the circumstances under which prepayment will be permitted. Those standards are

outlined at N.J.A.C. 5:80-5.10(b). In general, the standards require the retention of Agency restrictions and controls on the prepaid project for the remainder of the original mortgage term, the making of required repairs to the project, the payment of Agency fees and charges and the payment of other supplemental financing.

In addition to the amendments necessitated by the court challenge to the rules, N.J.A.C. 5:80-5.3 was amended. The exemption of a portion of the rules for transfers occurring within three months of project completion was extended to within three months of mortgage closing, for projects receiving permanent financing only.

Social Impact

The rules governing transfers of ownership are intended to assure that a sponsor purchasing an Agency financed project, or an interest therein, has the financial sufficiency, organizational capabilities, background and housing experience necessary for operating a housing project. By assuring that projects are owned by qualified sponsors, the Agency can help ensure that the project will remain fiscally and physically sound. This in turn inures to the benefit of the tenants who will reside in the projects.

Economic Impact

The proposed reduction in Agency fees will reduce a sponsor's expenses in transferring their ownership interest in an Agency financed project. The amendments will also have an impact as the payments to the Agency are now shifted from the seller to the buyer. Finally, the Agency is impacted in that the only fee paid to the Agency is one that reimburses the Agency for its administrative cost in processing the transfer request. All other payments are now paid into accounts specifically reserved for the development and financing of existing or new projects.

Regulatory Flexibility Statement

The proposed amendments clarify the procedures for owners of housing projects, most of which are small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., requesting approval to transfer their ownership interest in the project. No reporting or recordkeeping requirements are imposed by the proposed amendments. As to compliance requirements, the Agency foresees no increase in capital costs or the need for professional services in meeting the requirements of the proposed amendments. Because the owners of such housing are predominantly small businesses and due to the minimal nature of the compliance requirement and the benefits to owners which may arise from the amendments, no differentiation in the compliance requirement based upon business size is proposed.

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

5:80-5.1 Definitions

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

... "Conversion" means transfers involving sale of the housing project owned by a nonprofit corporation to **an ownership entity having profit motivated status such as a limited [dividend] partnership.**

["Development costs" means the total development cost which shall include the original mortgage loan amount and may include any supplemental financing provided by the agency or the State of New Jersey and any additional funds to be paid out of the net proceeds which the agency has determined to be reasonable and necessary for the development or financial viability of the housing project.

"Housing project" or "project" means any work or undertaking, other than a continuing care retirement community, whether new construction or rehabilitation, which is designed for the primary purpose of providing rental housing of more than 25 dwelling units.

"Limited Dividend Corporation or Association" is any entity created pursuant to the Limited-Dividend Nonprofit Housing Corporation or Associations Law, N.J.S.A. 55:16-1 et seq.]

"Portfolio Reserve Account" means that fund established pursuant to N.J.A.C. [5:80-2.4(a)3] **5:80-5.9(b)** intended primarily for financial support for any housing project financed by the agency.

["Net proceeds" means the gross proceeds of the transfer which are received from buyer, less the costs of the transfer. Net proceeds does not include secondary financing granted on the transfer.]

... ["Resyndication" is the sale of 90 percent or more of the beneficial interest of an existing housing project by its current limited dividend owners to a new owner, typically a limited partnership.]

... ["Transaction cost" means those costs related directly to the sale of the housing project. All transaction costs must be approved by the agency.]

5:80-5.2 General policy

(a) (No change.)

(b) The prior specific review and approval of the Agency members is required if a proposed change involves a general partner, or a limited partner or shareholder with more than a 10 percent interest, or where the change involves a transfer of control of the housing sponsor.

(c) Changes in ownership processed under [this policy] these rules shall not result in a modification of the statutory, regulatory or [and] contractual requirements governing [that] the housing sponsor and housing project [be occupied by persons and families of low and/or moderate income] except [to the extent that] as may be provided in cases of prepayment [is permitted by the Agency] pursuant to N.J.A.C. 5:80-[5.9] 5.10.

(d) The Agency is under no obligation to approve the transfer or resale, unless the proposed buyer has the financial sufficiency, organizational capabilities, background and previous housing experience which will help ensure that the buyer will be capable of operating the project.

(e) If a general partner is withdrawing from the partnership, financial and experience data on the remaining or substituted general partners must be provided to the Agency for review and evaluation of their financial sufficiency and organization capabilities.]

[(f)] (e) The approval of the Public Housing and Development Authority must be obtained where necessary pursuant to N.J.S.A. 55:16-1 et seq.

[(g)] If a Federal subsidy contract is involved, a change in ownership must receive approval of the United States Department of Housing and Urban Development and may involve additional processing requirements in conjunction with obtaining such approval.]

5:80-5.3 Applicability [of transfer of ownership interests regulations]

(a) [There are several circumstances in which a limited dividend corporation or association may decide to sell part or all of its interest. Such circumstances include, but are not limited to, instances where the financial benefits to the Partnership may have been exhausted, a financially troubled project may need a mechanism to raise capital, the owner of a healthy project may be seeking liquidity or where one of the limited partners died or defaulted and a replacement is necessary.] The regulations in this subchapter are applicable in their entirety to all proposed changes or transfers of [partnership] ownership interests except the following:

1. Changes or transfers which are fully encompassed by the separate regulations involving nonprofit conversions (N.J.A.C. 5:80-6). The conversion regulation[s] shall be applicable to transfers involving conversions unless the Agency determines that such treatment would jeopardize the viability of the housing project, in which case the Agency, in its discretion, may apply these regulations to such conversion. In the event, however, of any conflict or inconsistency between the provisions of these [Regulations] regulations and N.J.A.C. 5:80-6 as it applies to such conversion, the provisions N.J.A.C. 5:80-6 shall control;

2. Changes or transfers which represent the first sale of [limited] partnership or shareholder interests in order to provide syndication proceeds on nonprofit conversions provided such sale occurs within nine months of the conversion closing;

3. Changes or transfers for projects which had profit motivated ownership status at initial mortgage closing and where such changes or transfers occur within three months of the Agency's recognition of completion of construction or rehabilitation of the project, for projects receiving both construction and permanent financing or within three months following the mortgage closing for projects receiving permanent financing only.

(b) Changes or transfers which fall within (a)2 and 3 above shall be governed by the general policy as set forth in N.J.A.C. 5:80-5.2 as well as the required documents submission set forth in N.J.A.C. 5:80-5.6(a) for a modified review. In addition, the fee set forth at N.J.A.C. 5:80-5.9(a)3 shall apply except that in no event shall the fee be less than \$1,000.

(c) The rules within this subchapter shall also be applicable to changes or transfers in ownership in cooperative or condominium projects financed by the Agency.

5:80-5.8 Return on equity

(a) [The equity base used for calculating allowable return on equity shall be determined by the Agency as a function of the total development cost of the project rather than the purchase price unless the purchase price is less than the total development cost in which case the purchase price will be used by the Agency to determine the equity base.] The buyer shall assume the same rate of return on equity that the seller had. The buyer's equity in the housing project shall be determined in accordance with N.J.A.C. 5:80-3.3(a).

(b) [In conjunction with permitted prepayments of the Agency's mortgage, the mortgagor] The seller shall be limited to a cumulative, but not compounded, return on its [investment] equity, from project operations or sale, at the rate of return as determined by N.J.A.C. 5:80-3 and set forth in the mortgage and other contractual documents between the seller and agency. [of 8 percent per annum. This limit shall include any return from project operations or on sale of the project.]

1. Upon sale or other disposition of the project or any interest [thereon, any amounts realized by the seller in excess of 8 percent shall be paid to the Agency as an additional fee for approving the transfer.] therein, the seller shall be entitled to a return of its equity in the project and any accrued but undistributed return on its equity. Such return shall be conditioned upon the Agency's mortgage and any other supplemental project financing from the Agency or other governmental agency or department being assumed by the buyer, or paid in full in the case of permitted prepayments, and further conditioned upon the making of any required project repairs or improvements, pursuant to N.J.A.C. 5:80-5.4(d), and the payment of all amounts due the Agency and the funding of reserves pursuant to N.J.A.C. 5:80-5.4(e). The seller shall not be entitled to or paid any return until such conditions have been met. The seller's equity in the project shall be determined in accordance with N.J.A.C. 5:80-3.3(a).

2. [With regard to transfers which do not involve prepayment of the agency's mortgage which recognize the agency's right to approve any prepayment which preserve the low and/or moderate income nature of the project and which fully comply with all Agency rules, regulations and policies, the limit shall apply only to revenues received from operations and no such limit on return on equity shall apply to money earned from the sale of the project or any other sale of ownership interests.] Upon sale or other disposition of the project or any interest therein, the seller is not entitled to and may not retain or be paid any more than its equity in the project plus any accrued but undistributed return on its equity. Any amounts realized in excess of the aforementioned amounts less the total of the amounts listed below shall be paid into the Multi-family Rental Investment Program:

i. Any amount of the purchase price which is paid or escrowed in an Agency controlled account for repairs or improvements pursuant to N.J.A.C. 5:80-5.4(d);

ii. Any amounts paid to fund reserves pursuant to N.J.A.C. 5:80-5.4(e); and

iii. Any mortgages or other supplemental financing from the Agency or other governmental agency or department which are paid or assumed upon transfer.

3. Funds paid into the Multi-family Rental Investment Program shall be used as provided therein or in the case of a housing sponsor organized under N.J.S.A. 55:16-1 et seq., such excess shall be distributed pursuant to said Act. The funds deposited into this program shall be used for the purpose of providing loans to rental projects meeting low and moderate income needs.

5:80-5.9 [Fees] Required payment and repayments

(a) At closing, the following [fees] payments and repayments are required:

1. The [seller] buyer shall pay [the Agency a processing fee] to the **Portfolio Reserve Account** a sum amounting to [one-half of one] 3.25 percent of the purchase price.

2. [For transfers which will require a full review pursuant to N.J.A.C. 5:80-5.4, the owner] **The buyer** shall submit with its request for review, a non-refundable fee of \$5,000 which will be applied at closing toward [the processing fee at closing;] **any payment or repayments due.**

3. [For projects subsidized under Section 236, the seller shall pay 10 percent of the cash proceeds received and for projects subsidized under Section 8, or projects without direct Federal subsidies, the seller shall pay 15 percent of the cash proceeds received into the portfolio reserve account established by the Agency;] **The seller shall pay to the Agency, as a processing fee, an amount as determined by the Agency, to reimburse the Agency for its administrative cost in processing the seller's request to transfer ownership of the project or any interest therein.**

4. Any outstanding supplemental financing must be paid at closing, unless the Agency determines the financial viability of the project is not jeopardized by the continuation of such supplemental financing and the buyer assumes all supplemental financing.

(b) **The Portfolio Reserve Account is a fund established by the Agency to provide support for any project financed by the Agency which is in need of financial assistance. The Portfolio Reserve Account, and any interest or investment income earned thereon, may be used, at the Agency's discretion, to fund debt service arrears and other operating deficits, capital improvements, and repairs of any project which cannot fund these items from normal project income. The Portfolio Reserve Account will enable the Agency to assist projects in maintaining physical and fiscal viability so as to preserve the housing units at rents which are affordable to low- and moderate-income families. Eligibility for assistance from the Portfolio Reserve Account shall be subject to the terms and conditions as determined by the Agency.**

5:80-5.10 Prepayment

(a) Prepayment of the mortgage loan made by the Agency is prohibited [without the prior written approval of the Agency], **except as permitted in (b) below.**

(b) **Prepayment of the Agency mortgage loan will be permitted, with the prior written approval of the Agency, provided all of the following conditions are met:**

1. **Sponsors of projects may prepay the mortgage at any time following the 20-year period following the date of the mortgage closing. However, any such prepayment shall be conditioned upon the Housing Sponsor's agreement that the statutory and regulatory controls at N.J.S.A. 55:14K-1 et seq. and this chapter regarding tenant income eligibility, tenant selection, rent increases, certification/recertification of income and affirmative fair housing marketing shall continue to be applicable in their entirety to the sponsor, project and tenants residing therein until the original expiration date of the original mortgage loan. Such prepayment shall also be conditioned upon the agreement of the Sponsor to pay fees and charges, as determined by the Agency, through the remainder of the original mortgage term, in order to cover the administrative costs of the Agency in monitoring the statutory and regulatory controls that will continue to apply to the project. The Agency may require Housing Sponsors to execute a deed restriction or other appropriate agreement upon prepayment whereby the Sponsor acknowledges the continuing statutory and regulatory control of the Agency and its obligation to pay fees and charges determined by the Agency. In addition, to guarantee the obligations under the deed restriction or other appropriate agreement, the Sponsor shall execute and deliver a deed granting the Agency title to the project, which deed shall be held in escrow by the Agency. The Agency shall have the right to release the deed from escrow and file it, upon the occurrence of an event of default under the deed restriction or other agreement.**

2. **Any repairs or improvements pursuant to N.J.A.C. 5:80-5.4(d) must be made prior to prepayment or an amount sufficient to fund such repairs or improvements must be paid into an Agency controlled escrow account upon prepayment.**

3. **All fees and charges due the Agency must be paid prior to prepayment.**

4. **All supplemental financing on the project by the Agency or other State agency must be prepaid.**

(c) **Notwithstanding (b) above, prepayment shall not be approved or permitted in cases which would:**

1. **Cause the Agency to be in default under its obligations to the bondholders of the bonds issued to finance the project;**

2. **Jeopardize the continuing tax exempt status of the bonds; or**

3. **Reduce or terminate subsidies to the project such as the United States Department of Housing and Urban Development Section 8 or Section 236.**

(d) **Upon prepayment of the Agency mortgage as provided in (b) above, the Agency will endorse the mortgage for cancellation so the Sponsor may cancel it of record. In addition, upon prepayment, the statutory and regulatory controls of the Agency at N.J.S.A. 55:14K-1 et seq. and this chapter shall terminate for the Housing Sponsor and project, except for those preserved by (b)1 above. The termination of the Agency's statutory and regulatory controls shall not affect the requirements, restrictions and obligations of Housing Sponsors as mandated by N.J.S.A. 55:16-1 et seq. or any other applicable statute under which the corporate entity of the Housing Sponsor was created.**

(e) **The provisions of this section regarding prepayment shall not apply to projects financed under the Agency's New Jersey Urban Multi-Family Production Program (JUMPP).**

(a)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Investment of Surplus Funds

Proposed New Rules: N.J.A.C. 5:80-29

Authorized By: New Jersey Housing and Mortgage Finance

Agency, Kevin Quince, Executive Director.

Authority: N.J.S.A. 55:14K-5(g).

Proposal Number: PRN 1990-352.

Submit comments by August 1, 1990 to:

Michelle Lebovitz Lamar

New Jersey Housing and Mortgage Finance Agency

3625 Quakerbridge Road

CN 18550

Trenton, New Jersey 08650-2085

The agency proposal follows:

Summary

The New Jersey Housing and Mortgage Finance Agency, pursuant to its statutory authority, serves as an advocate for increasing the supply of adequate and affordable housing in the State. To fulfill its statutory objective, the Agency acts as a mortgage lender by providing financing to housing sponsors who wish to construct, rehabilitate or improve housing for low and moderate income families.

Housing sponsors, which own Agency financed housing projects, are restricted to a specified return on equity. When a project generates more surplus income than the sponsor, by law, may earn, the money remains in the project's operating accounts and is invested. The so-called "phantom income" which is generated from such investments cannot be distributed to the sponsors, and yet, is taxable to them, as present Agency policy does not permit housing sponsors to invest surplus funds in tax-free investments.

In response to this problem, the Agency has drafted new rules which grant housing sponsors the flexibility to invest surplus funds in allowable tax-free or taxable investments. The proposed rules first provide a definition of those monies which constitute "surplus funds" and, then set out those permitted investments in which, with prior Agency approval, the defined surplus funds may be invested.

Social Impact

The proposed new rules will increase the flexibility of housing sponsors to determine the best investment strategy for surplus funds.

Economic Impact

The proposed new rules will enable housing sponsors to choose the form of investment that will benefit the project and minimize the sponsor's tax obligations for that income which exceeds the sponsor's return on equity.

Regulatory Flexibility Analysis

The proposed new rules allow housing sponsors, most of which are small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., greater flexibility in determining the form of investment for surplus funds. The only reporting or recordkeeping requirement imposed by the proposed rules is that a housing sponsor obtain Agency approval prior to the investment of surplus funds. It shall be the Agency's responsibility, however, at the housing sponsor's written request, to determine the extent and availability of surplus funds. As to compliance requirements, the proposed new rules provide greater flexibility for housing sponsors to determine investment strategies for surplus income. The Agency foresees no increase in capital costs or the need for professional services in meeting the requirements of the proposed regulation. As housing sponsors are predominantly small businesses, and because of the minimal nature of the compliance requirements in light of the potential benefits to be derived from the proposed rules, no differentiation in the compliance requirement based upon business size is proposed.

Full text of the proposed new rules follow:

SUBCHAPTER 29. INVESTMENT OF SURPLUS FUNDS**5:80-29.1 Definition of surplus funds**

"Surplus funds" means funds available after payment of project expenses, operating deficits, including the full funding of all required reserve accounts, permitted return on equity distributions, any anticipated or proposed capital improvements, a six-month reserve for operating expenses, and any other current obligations of the development.

5:80-29.2 Permitted investments

Housing sponsors, with prior Agency approval, may invest Surplus Funds in taxable or tax-free interest-bearing, Federally insured (FDIC) bank accounts, U.S. Treasury Notes, U.S. Treasury Bills, Federal National Mortgage Association obligations, Government National Mortgage Association obligations, and State of New Jersey general obligation bonds and/or New Jersey Housing and Mortgage Finance Agency bonds. The Agency, at the sponsor's written request, shall determine the extent and the availability of surplus funds.

(a)**COUNCIL ON AFFORDABLE HOUSING****Notice of Comment Period Extension
Controls on Affordability; Compensation for Central
Air Conditioning****Proposed Amendments: N.J.A.C. 5:92-12.13, 12.15,
12.16 and Appendix**

Take notice that the Council on Affordable Housing is extending the public comment period for the proposed amendments to N.J.A.C. 5:92-12.13, 12.15, 12.16 and Appendix published in the June 4, 1990 New Jersey Register at 22 N.J.R. 1703(a) from July 5, 1990 to July 18, 1990.

Submit comments by July 18, 1990 to:

Douglas V. Opalski, Executive Director
New Jersey Council on Affordable Housing
CN 813
Trenton, N.J. 08625

ENVIRONMENTAL PROTECTION**(b)****DIVISION OF ENVIRONMENTAL QUALITY
COMMISSION ON RADIATION PROTECTION****Medical Exposure to Ionizing Radiation By
Radiologic Technologists****Fees****Proposed Amendment: N.J.A.C. 7:28-19.12**

Authorized By: Commission on Radiation Protection,
Max Weiss, Chairman.

Authority: N.J.S.A. 13:1D-1 et seq. and N.J.S.A. 26:2D-24 et
seq., specifically N.J.S.A. 26:2D-29 and 26:2D-33(a).

DEP Docket Number: 022-90-06.

Proposal Number: PRN 1990-348.

A public hearing concerning this proposal will be held on:

July 17, 1990 at 10:30 A.M.
State of New Jersey Auditorium
Department of Personnel
600 College Road East
Princeton, New Jersey 08543

Submit comments by August 1, 1990 to:

John F. Dickinson, Jr., Esquire
Division of Regulatory Affairs
New Jersey Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In 1958, the Radiation Protection Act, N.J.S.A. 26:2D-1 et seq. (hereinafter the "Act") was enacted. The Act provides authority to set standards for the possession, handling, transportation, and use of sources of radiation within the State of New Jersey. The Act established the State's Radiological Health Program, which was transferred from the State Department of Health to the Department of Environmental Protection's Bureau of Radiation Protection (now Bureau of Radiological Health) in 1970 upon the creation of the Department of Environmental Protection (hereinafter, "Department"). The Act also created a New Jersey Commission on Radiation Protection (hereinafter "CORP") in the Department and vested in that body the authority to promulgate rules as may be necessary to prohibit and prevent unnecessary radiation.

In 1968, the Radiologic Technologist Act (hereinafter the "Technologist Act"), N.J.S.A. 26:2D-24 et seq., was enacted. The Technologist Act created a Radiologic Technology Board of Examiners (hereinafter the "Board") as an agency of CORP. The Board is responsible for developing the educational standards and licensing requirements for all radiologic technologists. The Technologist Act requires that all operators of Medical/Dental ionizing radiation-producing equipment be licensed. However, any individual who has been issued a plenary license to practice medicine or dentistry by the New Jersey State Board of Medical Examiners or the New Jersey State Board of Dental Examiners is exempted from Department licensure.

In 1972, the Department and CORP promulgated N.J.A.C. 7:28-19, Medical Exposure to Ionizing Radiation by Radiologic Technologists, to establish radiation safety requirements for persons performing radiologic and therapeutic procedures. These rules established safety requirements for the use of medical/dental ionizing radiation-producing equipment, promulgated educational standards and licensure requirements, and specified operating procedures designed to protect patients, operators and the general public from unnecessary exposure to radiation emitted during radiologic and therapeutic procedures.

The Commission proposes to amend N.J.A.C. 7:28-19.12 to increase the fees specified therein. The fees must be increased because of the escalating demands being imposed upon the Department's Radiologic Technologist Certification Program (hereinafter the "program"). The use of regulated medical/dental ionizing radiation-producing equipment has increased substantially over the past several years and the cost associated with the licensing and re-licensing of the technologists operating this equipment has risen appreciably. The program also anticipates incurring additional expenses as more technologists apply for licenses to operate

existing and new radiologic equipment. Revenue from the existing fee schedule is not sufficient to fund even the program's existing operating expenses. At the same time, no new fiscal resources can be expected from the State. In fact, State funding from the General Fund has been substantially reduced. Additionally, the Department is experiencing escalating administrative and overhead costs, a portion of which are charged against the program's funding sources.

The increased fees will provide the necessary funds for the Department to continue to operate the program. The program provides administrative and technical support to the Board in the execution of its statutory duties. In particular, the program develops and revises the educational curricula for all categories of radiologic technology, coordinates and conducts educational program inspections and conducts enforcement activities. The Board is responsible for ensuring that all radiologic technologists meet the requisite educational standards and that they have passed an approved licensing examination prior to being issued a license by the Department.

In addition to increasing fees, the proposed amendment also revises the name of the fee collection agency set forth in current N.J.A.C. 7:28-19.12.

Social Impact

The proposed fee increases will enable the program to continue to provide vital educational and inspection activities, thereby enabling the Board to fulfill its statutory obligations. This will, in turn, serve to reduce the potential number of unlicensed radiologic technologists, while maintaining the high educational standards established by the Board in the State of New Jersey. This will reduce the risk posed to the public by necessary radiation emitted from equipment operated by unlicensed or poorly trained radiologic technologists. The amendment will, therefore, have a positive social impact.

Economic Impact

If the proposed fee increases are adopted, the Department will be able to administer the program and the Board will be able to continue its statutory licensing duties and to maintain essential educational program inspections and licensure enforcement activities. If the fee increases are not adopted, the program will lose three of its six current positions because of a budget shortfall of approximately \$297,140. This deficit exists because of budget cuts made to the Department's Radiation Protection Programs, salary shortfalls in the State appropriations account, cost of living increases, inflation, and increased administrative costs. The deficit makes it impossible for the program to meet even its most important commitments. As a result, there could be an increase in the number of persons being unnecessarily exposed to radiation emitted from medical/dental ionizing radiation-producing machines operated by unlicensed or poorly trained technologists. The increased health care costs resulting from such exposure would have a negative economic impact on the citizens of the State of New Jersey. Conversely, the fully operational Technologist Certification Program afforded by this proposed amendment would reduce unnecessary exposure to radiation, and thereby reduce associated health problems. A positive economic impact would result from the corresponding reduction in health care costs.

When the increased fees are fully implemented in July 1991, the fee generated income for the program will increase from \$177,800 to \$474,940. This is an increase of \$297,140. This increase takes into account rising administrative costs over the next few years, including costs of living adjustments and inflation. The Department has evaluated these expenses and has determined that by imposing the increased fees in the proposed amendment, the costs of administering the Technologist Certification Program will be fairly borne by the applicants. As increased, the fees are reasonable and no significant adverse impact on license and license renewal applicants is anticipated.

The Department intends to use \$463,360 of the \$474,940 in fees to fund six current positions. Three of these positions will be lost as a result of budget cuts if the proposed fees are not adopted. Annual staffing and program operating costs are as follows:

TECHNOLOGIST CERTIFICATION PROGRAM

Staffing and Salaries

Supervisor of Technologist Certification	
Radiation Physicist III (3)	
Principal Clerk Typist (2)	
Salaries	\$198,000
Fringe Benefits	\$ 54,750
Indirect Cost	\$ 82,650
Subtotal	\$335,400

Program Costs

Printing and Office	\$ 7,000
Vehicular (gas, oil)	\$ 400
Scientific Supplies	\$ 0
Travel	\$ 2,000
Telephone	\$ 3,600
Postage	\$ 5,000
Data Processing Supplies	\$ 1,000
Professional Services	\$ 39,000
Training other services	\$ 4,000
Maintenance of equipment	\$ 0
Maintenance of vehicles	\$ 1,000
Rent: Building and Grounds	\$ 10,200
Rent: Central Motor Pool	\$ 3,600
Data Processing (CDS lease 30% of total cost)	\$ 27,000
Scientific Equipment	\$ 0
Subtotal	\$103,800
Inflation Factor (5.5%)	\$ 24,160
Total Operating Cost	\$463,360

These resources will be used to maintain the current services performed by the Department.

Environmental Impact

The proposed amendment will have a positive environmental impact. If adopted, the amendment will reduce the risks to persons posed by the unnecessary exposure to radiation emitted from medical/dental ionizing radiation-producing machines operated by unlicensed or poorly trained radiologic technologists. The fee increases contained in the proposed amendment will serve to reduce such risks by allowing the program to continue to effectively serve the Board through the continuation of essential administrative and support services. Without the program's services, the Board will be unable to perform its statutory duties. This will result in the public being unnecessarily exposed to medical/dental ionizing radiation emitted from equipment operated by unlicensed or poorly trained radiologic technologists. Additionally, the revenue generated by the increased fees covered by the proposed amendment will facilitate the continuation of the program's research and training activities. It will also be used to educate the regulated community to the potential harm to the public posed by the improper operation of medical/dental ionizing radiation-producing machines. Continuing research activities will enable the Department to gather important information concerning the operating practices of licensed radiologic technologists. These activities will serve to further reduce the risk to the public from unnecessary exposure to radiation emitted from medical/dental ionizing radiation-producing machines.

Regulatory Flexibility Statement

The proposed amendment does not impact upon "small businesses" as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The fees that are the subject of the proposed amendment will be paid by individual license applicants. Thus, there will be no economic impact on "small businesses."

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

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]	\$40.00
2. Examination Fee:	[\$30.00]	\$60.00
3. Renewal Fee:	[\$20.00]	\$50.00
4. Replacement License:		\$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]
Bureau of Revenue
CN 402
Trenton, New Jersey 08625

HEALTH

(a)

PUBLIC HEALTH COUNCIL DIVISION OF COMMUNITY HEALTH SERVICE Licensure of Persons for Public Health Positions Proposed Readoption with Amendments: N.J.A.C. 8:7

Authorized By: Frances J. Dunston, M.D., M.P.H.,
Commissioner, Department of Health, and the Public Health
Council, Milton Prystowsky, M.D., Chairman.

Authority: N.J.S.A. 26:1A-38 et seq.

Proposal Number: PRN 1990-358.

Submit comments by August 1, 1990 to:
Ronald S. Ulinsky
Chief, Evaluation and Training Program
New Jersey Department of Health
CN 360
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 8:7 was originally filed and became effective prior to September 1, 1969. Revisions to this chapter were filed and became effective in 1976, 1977, 1978, and 1980. This chapter was adopted as new rules effective September 16, 1985, and N.J.A.C. 8:7-1.2, New Jersey Public Health Licensing and Examination Board, replaced a prior rule and became effective June 6, 1988.

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:7, Licensure of Persons for Public Health Positions, expires on September 16, 1990. The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated.

N.J.S.A. 26:1A-38 requires the Public Health Council to prescribe the qualifications of various public health professionals.

A review of the proposal for readoption with amendments follows:

N.J.A.C. 8:7-1.1 lists those positions which currently require passage of an examination to be issued a license by the State Department of Health.

N.J.A.C. 8:7-1.2(a) (currently N.J.A.C. 8:7-1.2(c)) establishes the Public Health Council to prescribe the qualifications for the licensing and renewal of licenses for Health Officers and Sanitary Inspectors, First Grade.

N.J.A.C. 8:7-1.2(b) requires the Board to conduct examinations for various public health positions.

N.J.A.C. 8:7-1.2(c) (currently N.J.A.C. 8:7-1.2(a)) establishes the Public Health Examining Board.

N.J.A.C. 8:7-1.2(d) establishes the criteria for Board membership, appointment, attendance and proceedings.

N.J.A.C. 8:7-1.3 establishes the protocol for the submission of an application or licensure examination.

N.J.A.C. 8:7-1.4 mandates the Department to collect a statutory fee from each qualified candidate for application and licensure.

N.J.A.C. 8:7-1.5 establishes the procedure for the determination of qualified candidates for examination.

N.J.A.C. 8:7-1.6 establishes an appeal procedure for candidates denied admission to a licensure examination.

Proposed new rule N.J.A.C. 8:7-1.7 establishes the procedures for suspension or revocation of licenses.

N.J.A.C. 8:7-1.8, Record keeping requirements of the Board, is proposed for repeal.

N.J.A.C. 8:7-1.8 (currently N.J.A.C. 8:7-1.7) establishes the procedure for scheduling and conducting licensure examinations. Subsection (c) details the protocol for those candidates who failed an examination and who wish to reapply to take the licensure examination again.

N.J.A.C. 8:7-1.9 (currently N.J.A.C. 8:7-1.8) establishes the qualifications for education and experience of candidates for licensure by the New Jersey State Department of Health.

A review of the proposed amendments to the rules follows:

N.J.A.C. 8:7-1.2: This section was recently amended, effective June 6, 1988. Amendments have been made to rearrange the subsections to follow a more logical order. Subsection (a), the establishment of the board, is now (c) and serves as an introduction to the composition of the board. It is also now clearly delineated in subsection (c) that the New Jersey Commissioner of Health is the appointing body for the board. Clarifications of existing rules have been made in subsections (f), (g) and (j) to more clearly establish the working rules of the board. A quorum may now be obtained via telephone calls in order to allow the board to review applications and approve results of examinations. This is to prevent a delay in scheduled examination dates and release of results as well as inconvenience to applicants and to those board members who have traveled a distance to attend the meeting. Under special circumstances, a decision can also be reached via telephone, to allow for timely responses. Subsection (i) was added, to prevent chronic absenteeism, which occasionally has been a problem with the board.

N.J.A.C. 8:7-1.3: The Department of Environmental Protection (DEP) currently administers the examination process. The responsibility was given to DEP when DEP was created as a Department; however, the rules, which were promulgated before this occurred, had not been amended. This proposal amends the rule to reflect current practice.

A current practice provides for documentation of only the health officer's experience. Other applicants are typically able to provide documentation of grades obtained in a field training course and should not be required to provide additional documentation from a supervisor.

N.J.A.C. 8:7-1.4: This section was amended to add the licensing fees currently provided by N.J.S.A. 26:1A-39 and 26:1A-42 to the rules. This action was taken to make the rules more comprehensive. Additionally, a new law is pending that will permit licensing fee amounts to be set by the Department of Health.

N.J.A.C. 8:7-1.5: The wording of the text has been amended to be more concise.

N.J.A.C. 8:7-1.6: This section has been amended to include references to the Administrative Procedure Act and N.J.A.C. 1:1, the Uniform Administrative Procedure Rules.

N.J.A.C. 8:7-1.7: This section previously addressed examinations, which are now covered by N.J.A.C. 8:7-1.8. N.J.A.C. 8:7-1.7 now explains the process of suspension or revocation of a license and includes references to the Administrative Procedure Act and Uniform Administrative Procedure Rules. The text has been extracted from N.J.S.A. 26:1A-43 and N.J.S.A. 26:1A-44. This information was added to the rules to make them more comprehensive.

N.J.A.C. 8:7-1.8: Subsection (a) has been amended to coincide with the current practice of examinations being offered three times a year instead of twice a year. This affords more opportunities for interested applicants to take the examination and have access to job opportunities requiring the respective licenses. Subsection (c) was amended to make the process more objective. The current procedure requires the board to reevaluate a candidate's additional requirements after he or she fails the test twice. This procedure has proven to be very ambiguous and subjective. The text has been amended to eliminate the process and to require that the applicant only wait one year to take the examinations after failing the examination twice. This amendment leaves the responsibility of seeking further training and education to the candidate. The board allows them only time to fulfill the responsibility. The candidate will then be allowed to take the examination every other time offered until passed again allowing the candidate time to gain additional training and education. The current section on the record keeping requirements of the Board is being repealed since the provisions are stated in N.J.A.C. 8:7-1.2(1).

N.J.A.C. 8:7-1.9: Amendments have been made in the text of paragraph (a)2 to delete the term, "core course work", since the use of this term had caused some confusion regarding when the candidate took the courses. The requirements remain the same. The acceptable degrees given as examples were clarified to be more health oriented, consequently

eliminating social work. The requirements for experience were amended to reflect the responsibilities the health officer will have, including working with public health laws, rules and regulations, and public health issues. Therefore, candidates with a degree in Public Health or the equivalent would only be required to have two years of experience. Those candidates with other acceptable degrees would be required to have three years of experience.

Experience in a governmental agency is accepted as the candidate having training in three of the following areas: Regulation, Chronic Disease, Environmental Health, Maternal and Child Health and Communicable Disease. If the candidate's experience is with a non-governmental agency the assumption is the agency may not provide experience in three of the areas named above. The candidate must prove the agency provided such experience. Amendments were necessary to assure health officer candidates had credentials and experience equivalent to the demands of the job responsibilities.

N.J.A.C. 8:7-1.9(a)3, which allows a physician licensed in the State of New Jersey to be admitted to the examination, was added to the rules and is taken directly from N.J.S.A. 26:1A-40.1.

N.J.A.C. 8:7-1.9(a)4, formerly paragraph (a)3, has been amended to reflect the current responsibilities of the health officer in local health departments in New Jersey.

The scope of a sanitarian's responsibilities have increased since these rules were promulgated; therefore, subparagraphs N.J.A.C. 8:7-1.9(b)4ii and iii have been added, to include the many environmental tasks sanitarians are now required to perform.

Social Impact

The proposed readoption with amendments of N.J.A.C. 8:7, concerning the licensure of persons for public health positions, shall continue to have a beneficial social impact.

The readoption with amendments of these rules shall continue to allow the Public Health Council and the New Jersey Department of Health to meet the legislative mandate of N.J.S.A. 26:1A-38 et seq. to prescribe the qualifications for the examining and licensing of public health officials in New Jersey. Readoption shall also continue to ensure that persons employed in public health positions possess the proper training and experience necessary to protect the health of the public. Furthermore, readoption with amendments of these rules shall continue to ensure that persons employed in public health positions will maintain a working knowledge of the latest public health research and technology needed to resolve current public health problems.

Economic Impact

The readoption of these rules will allow the Department to collect fees for the examination, in the amount of \$25.00, and licensure fees in the amount of \$10.00, from public health officials, as required by N.J.S.A. 26:1A-39 and 42, thus allowing the Department to collect approximately \$16,000 annually in fees to be utilized to defray the cost of the program. The cost to the Department for administering the program is approximately \$50,000 per year. The beneficial economic impact derived by the public from the presence of qualified personnel in public health positions cannot be specifically determined, but is derived from the economic effect of the prevention of disease and illness.

Regulatory Flexibility Analysis

The proposed readoption with amendments applies to all individuals seeking a license for health officer or Sanitary Inspector, First Grade in New Jersey. Since only individuals, and not small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., are affected by the rules proposed for readoption, a regulatory flexibility analysis is not required.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 8:7.

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

8:7-1.2 New Jersey Public Health Licensing and Examination Board

[(a) There shall be established within the New Jersey Department of Health, a board of examiners to be known as the Public Health Licensing and Examination Board.]

(a) The Public Health Council shall prescribe the qualifications necessary for the licensing of Health Officers and Sanitary Inspector, First Grade and shall prescribe the qualifications necessary for the

renewal of any license permitted to remain in effect under N.J.S.A. 26:1A-41.

(b) On behalf of [the New Jersey Public Health Council and] the New Jersey Commissioner of Health, the Board shall conduct examinations for the licensing of:

1. Health Officer; and
2. Sanitary Inspector, First Grade

[(c) The Public Health Council shall prescribe the qualifications necessary for the licensing of Health Officers and Sanitary Inspector, First Grade and shall prescribe the qualifications necessary for the renewal of any license permitted to remain in effect under N.J.S.A. 26:1A-41.]

(c) There shall be established within the New Jersey Department of Health, a board of examiners appointed by the New Jersey Commissioner of Health, to be known as the Public Health Licensing and Examination Board.

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

(f) As vacancies occur, the Commissioner of Health shall appoint a person [representing the constituency similar to that of a person being replaced] **meeting the qualifications of the respective position being replaced.** The replacement appointment shall be for completion of the unexpired term.

[(g) For the purpose of conducting business, six members of the Board shall be required for a quorum and no actions shall be taken by the Board in the absence of a quorum.]

[(h)](g) In the absence of the Chairperson at a business meeting, the members of the Board shall elect a Chairperson pro tem to direct the business of that meeting.

(h) For the purpose of conducting business, six members of the Board shall be required for a quorum and no actions shall be taken by the Board in the absence of a quorum. A quorum may be obtained via telephone.

(i) Board members absent for three or more consecutive meetings without justifiable cause will have their membership from the Board terminated.

[(i)](j) Any action of the Board shall require a majority vote of members present. No proxy votes shall be permitted. In order to provide a timely response to issues before the Board, under special circumstances, Board members may be polled by the Chairperson via telephone, **outside of a regularly scheduled meeting.**

Recodify existing (j)-(l) as (k) through (m) (No change in text.)

8:7-1.3 Submission of evidence of qualification

(a) (No change.)

(b) A person who desires to be admitted to an examination may obtain an application form from the New Jersey State Department [Health, P.O. Box 1540, Trenton, New Jersey 08625] of **Environmental Protection.** The application shall be filed with the department and accompanied by documentary evidence satisfying the education, training, and experience requirements for the position. [Such documentary evidence shall include an evaluation of the candidate's performance written by the supervisor(s) under whom the candidate obtained such working experience.] **Such documentary evidence for those candidates applying for the health officers license shall include a written evaluation of the candidate's performance by the supervisor under whom such working experience was obtained.**

(c) (No change.)

8:7-1.4 Examination and [initial license] licensing fees

[The New Jersey State Department of Health shall collect a fee, as established by statute from each qualified candidate for licensure prior to the examination. Such fee will be payable only after a candidate has been notified of eligibility for admission to the examination. Candidates who are successful in passing the examination will not be required to pay an additional fee for the issuance of their initial license.]

(a) The Public Health Licensing and Examination Board on behalf of the State Department of Health shall collect an application and examination fee from each candidate for licensure as follows:

- | | |
|-------------------------------------|-----------------|
| 1. Examination Fee: | |
| i. Health Officer | \$25.00; |
| ii. Sanitary Inspector, First Grade | \$25.00; |
| 2. Renewal Fee (Annually) | \$10.00. |

(b) Such fee will be payable only after a candidate has been notified of eligibility for admission to the examination. Candidates who are successful in passing the examination will not be required to pay an additional fee for the issuance of their initial license.

8:7-1.5 Determination of qualified candidates

(a) Appropriate members of the Public Health Examining Board shall review each candidate's application for admission to the licensure examination. Based upon the qualifications of the candidate, the Board shall approve or deny such candidate entrance to the examination.

(b) The candidate and the Department of Health shall be notified within ten days of the Board's determination. In case of a denial the candidate shall have the opportunity to appeal the decision of the Board]

(a) **The Public Health Licensing and Examination Board shall review each candidate's application for admission to the licensure examination.**

(b) **Based upon the qualifications of the candidate, the Board shall recommend to the Commissioner to approve or deny such candidate entrance to the examination and notify the candidate within 10 days of the Board's determination.**

8:7-1.6 Appeal procedure

(a) Any candidate who has been denied admission to a licensure examination by the Public Health Examining Board may appeal the Board's action according to the following procedure:

1.-2. (No change.)

3. In the event that the Board reaffirms its denial decision, the candidate may immediately request a [formal hearing] review of his case in accordance with the Department's rules at N.J.A.C. 8:3. [regarding hearings.] The Office of the Commissioner shall arrange for such [hearing] review to be conducted by the Public Health Council.

4. At the conclusion of the [formal hearing] review, the Council will forward its findings and recommendations to the Commissioner of Health for a final decision.

8:7-1.7 Suspension or revocation of license

(a) Any license issued in accordance with the provisions of P.L. 1947, c.177 (N.J.S.A. 26:1A-41) and the rules governing the licensing of health officers and sanitary inspector, first grade, heretofore issued by the State Department of Health, may be suspended or revoked for any of the causes as defined in Section 43 of P.L. 1947, c.177 (N.J.S.A. 26:1A-43).

(b) Upon written charges alleging any such violation, act or happening being filed by the Commissioner or by the local board of health within whose territory or jurisdiction such violation, act or happening occurred, the licensee shall be entitled to a hearing pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1.

8:7-[1.7]1.8 Examinations

(a) The Department of Health shall schedule examinations for the licensure of persons for public health at least [twice a year] three times each year.

(b) (No change.)

(c) If any qualified candidate fails an examination for a particular type of license two times, such candidate shall not be permitted entrance to the next examination for that type of license until[, and unless, the candidate submits evidence, to the Board of further formal training and supervised experience specifically in those areas in which the candidate was deficient. The board in its discretion, may accept the additional evidence or require the candidate to postpone taking the licensure examination for a period of one year from the date of the last examination. During the one year waiting period the candidate shall be required by the Board to either obtain further training and experience under the supervision of a person licensed for the position for which the candidate seeks licensure, or obtain further educational training and experience through formal courses at an accredited institution of higher education or through recognized professional or governmental bodies. At the conclusion of the one-year period, the candidate shall furnish the Board with a written report from his supervisor or from the educational institution, attesting to the completion of the additional training and experience and may then make application to gain admission to the licensure examina-

tion.] one year has passed from the date of the last examination. The candidate will then be allowed to take the examination every other time offered, but no sooner than six months after the date of the last failed examination until he or she has passed the examination.

[8:7-1.8 Record keeping requirements of the Board

The Public Health Examining Board shall keep minutes of its meetings and shall transmit the record of all its transactions and recommendations to the Commissioner of Health.]

8:7-1.9 Qualifications of candidates for licensure

(a) Regarding the qualifications of health officer candidates, applicants shall meet one of the following qualifications:

1. (No change.)

2. Degree of doctor or master from an accredited college or university program in a health-related field (recognized as such by the New Jersey Department of Higher Education and/or Education, as appropriate) such as medicine, osteopathy, veterinary medicine, public health, environmental [science] health, health care administration, [social work,] nursing or health education. [The core course work for the degree shall include or be supplemented by at least three credits in each of the following: planning, administration, environmental science, social science and epidemiology:] **Academic preparation shall include at least three credits in each of the following: planning, administration, environmental health, epidemiology, and social science; and**

[i. Unless otherwise exempted by statute, satisfactory completion of two years full-time employment in a position providing administrative experience in at least three of the five existing recognized public health activities as specified in N.J.A.C. 8:51.]

i. **Unless otherwise exempted by statute a candidate shall have satisfactorily completed three years of full-time employment with a public health agency. However, candidates with a Masters Degree in Public Health or equivalent shall only be required to have completed two years of full-time employment with a public health agency. Employment with the public health agency shall include one year administrative or supervisory experience. For the purposes of this licensing category, a public health agency means a state or local health agency engaged in public health activities including Environmental Protection and Human Services. Other public health agencies engaged in providing recognized public health services and activities will be acceptable to meet these requirements. If employment is with a governmental public health agency, no documentation will be required regarding the scope of that experience. If the employment is with a non-governmental public health agency, the applicant must document that the public health agency provides services in three of the following areas: Regulation, Chronic Disease, Environmental Health, Maternal and Child Health and Communicable Disease.**

3. **Notwithstanding the absence of working experience qualifications established by the Public Health Council, the State Commissioner of Health shall admit to examination for a license as a health officer any applicant who is the holder of the degree of doctor of medicine awarded by an accredited medical school and who is licensed to practice medicine in this State.**

[3.14. What a candidate for health officer license should know:

[i. The health officer is expected to provide leadership in the field of public health in his community. In addition to being the administrative officer of a local health department, he is responsible for evaluating the health problems of his community, planning appropriate activities to meet their health problems, developing necessary budget procedures to cover these activities, and directing the department's staff so as to carry out the activities efficiently and economically. These activities are covered in "Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey. Applicants are examined relative to these essential activities.]

i. **The health officer is a licensed full-time employee of a local health department who functions as the chief executive officer for the governing body and is responsible for enforcing public health law. The health officer is expected to provide leadership in the field of public health, including the functional areas of administration, environmental health, communicable disease, maternal and child health and chronic disease. The health officer is responsible for evaluating health problems, plan-**

ning appropriate interventions to resolve health problems, developing necessary budget procedures to accommodate services, and directing staff so as to carry out services efficiently and effectively. The health officer is the licensed agent responsible to the New Jersey Department of Health for compliance with "Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey."

(b) Sanitary Inspector, first grade, qualifications are as follows:
1.-3. (No change.)

4. What a candidate for sanitary inspector, first grade license, should know:

i. The sanitary inspector is responsible for making inspections, compiling proper records of such inspections, informing operators of establishments of violations, the sanitary basis thereof, methods of abating such violations, and securing evidence that may be necessary for legal action. Such inspections shall be in all environmental sanitation activities, particularly those indicated in the "Recognized Public Health Activities and Minimum Standards of Performance for Local Health Departments in New Jersey." [Applicants are examined relative to these indicated activities.]

ii. Sanitary inspectors may also engage in activities related to occupational and environmental health such as air pollution control, water pollution control, solid waste management, hazardous waste management, noise control, and sewage disposal.

iii. Applicants are examined relative to all the indicated activities named in this paragraph.

(c)-(i) (No change.)

(a)

DIVISION OF COMMUNITY HEALTH SERVICES

Mobile Intensive Care Programs Administration of Medications

Proposed Amendments: N.J.A.C. 8:41-8.1 and 8.3

Authorized By: Frances J. Dunston, M.D., M.P.H.,

Commissioner, Department of Health.

Authority: N.J.S.A. 26:1A-15 and 26:2K-7 et seq.

Proposal Number: PRN 1990-357.

Submit comments by August 1, 1990 to:

George Leggett, Chief Administrator
Office of Emergency Medical Services
New Jersey Department of Health
CN 364
Trenton, NJ 08625-0364

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 8:41-8.1 revises the list of medications approved for use by mobile intensive care programs in New Jersey. The list has been amended, by adding four agents, to include the most recent advances in prehospital and emergency pharmacological agents. Acetylsalicylic acid (aspirin) is being added in light of recent advances in thrombolytic therapy. By allowing paramedics and mobile intensive care nurses to administer chewable aspirin in the field, thrombolytic therapy is expedited in the hospital emergency department. The addition of nifedipine will provide prehospital personnel with the ability to control hypertensive crises in an effective, controlled manner. Currently, there are no truly effective agents carried by mobile intensive care units that will allow rapid intervention in hypertensive crises. Nifedipine is proposed for oral administration, preferably using the "bite and swallow" technique. Albuterol will offer the alternative of treating bronchospastic conditions in the prehospital environment with less cardio-specific side effects than are encountered with currently approved agents. Albuterol is an inhaled treatment which offers rapid absorption and relief. Magnesium sulfate is proposed to treat ventricular fibrillation cases which are difficult to manage with conventional agents. Inclusion of magnesium sulfate will allow MICU programs to conduct research. This agent may only be administered in programs which have been specially authorized by the Commissioner, Department of Health, to study the effectiveness of prehospital administration of magnesium sulfate in cases of refractory ventricular fibrillation.

This amendment also seeks to remove nalbuphine HCL from the list of approved medications. After a trial period, it was determined that nalbuphine HCL is not indicated as a primary prehospital agent. Since nalbuphine was originally approved for a one year trial period and the trial showed a lack of a demonstrated need, nalbuphine is being removed from the list.

The proposed amendment to N.J.A.C. 8:41-8.3(a)4 changes the requirement that a designated mobile intensive care program record the date a drug package was given to a mobile intensive care unit to the date that the unit received the drug.

Social Impact

Ongoing evaluation and revision of procedures and techniques are continuous processes in health care delivery. Pharmacological therapy, under medical direction, is a vital tool which assists paramedics and mobile intensive care nurses in managing prehospital emergencies. These proposed changes reflect current treatments provided to patients who require prehospital advanced life support. The ability to perform needed research in prehospital care is also reflected in these changes. By adding the most current pharmacological agents available, New Jersey will continue to provide its citizens with the best possible emergency care.

Economic Impact

Prehospital treatment, utilizing advanced life support techniques and procedures, is a major determinant in patient prognosis and survival rates. Appropriate and rapid prehospital interventions can prevent unnecessary hospital admissions and decrease the need for more costly in-hospital management techniques. These interventions may also decrease the patient's length of stay in the hospital. The proposed changes represent the most current and effective pharmacological agents (and treatment modalities) available for use in the United States. The deletion of nalbuphine will eliminate the cost of maintaining an agent in inventory that has limited applications in prehospital care. The amendment to N.J.A.C. 8:41-8.3(a)4 concerning inventory data will have no economic impact.

Regulatory Flexibility Analysis

Only hospitals specially authorized by the Commissioner of Health may develop and maintain mobile intensive care units and provide advanced life support services in New Jersey. All of these institutions are large enough to fall outside the definition of "small business" contained in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amended rule offers some internal flexibility. For example, because the generic names of the medications are used, the provider can decide whether a brand name drug or its generic equivalent is most appropriate. Each provider can also determine the method of acquisition and storage of medications, taking into account existing laws and local hospital policies. Therefore, the rule itself is not considered to be overly burdensome to mobile intensive care programs, or to the hospitals that operate them.

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

8:41-8.1 Approved drug list for mobile intensive care units

(a) The following is an alphabetical list of generic therapeutic agents authorized for administration by mobile intensive care paramedics:

Acetylsalicylic acid

Aminophylline

Albuterol

...

Magnesium sulfate—with Commissioner's approval only

...

[Nalbuphine HCL—one year period only]

Naloxone HCL

Nifedipine

...

8:41-8.3 Medication controls, inventory, and recordkeeping required

(a) Each designated mobile intensive care program shall devise a plan for maintaining inventory control over medications, including all substances in Schedule II of the Controlled Dangerous Substances Act and amendments thereto, and syringes used in the program. The following information shall be recorded:

1.-3. (No change.)

4. Date [drug package was given to] the mobile intensive care unit received the drug;

5.-9. (No change.)

(b)-(f) (No change.)

CORRECTIONS

(a)

THE COMMISSIONER

Social Services

Volunteers In Parole Program (V.I.P.P.)

Proposed New Rules: N.J.A.C. 10A:17-3

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

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

Proposal Number: PRN 1990-151.

Submit comments by August 1, 1990 to:

Elaine W. Ballai, Esq.

Chief, Standards Development Unit

Department of Corrections

CN 863

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Volunteers in Parole Program (V.I.P.P.) is a program which utilizes lay persons from the community to provide supplemental services to facilitate the reintegration of parolees into the mainstream of the community. The proposed new rules establish the policies and procedures which govern the administration of the Volunteers In Parole Program (V.I.P.P.) by the Bureau of Parole, New Jersey Department of Corrections.

The proposed new rules include a definition of volunteer as used in this program, eligibility for service as a volunteer, assignments of volunteers, the volunteer's responsibilities and the evaluation process. The proposed rules also establish supervision provisions, recruiting responsibilities and the development of a volunteer handbook.

Social Impact

The Volunteers In Parole Program (V.I.P.P.) is designed to promote the successful return of parolees to the community by means of a variety of available community volunteer services which are available to parolees immediately following the parolees' return to the community.

Presumably, the volunteers derive personal satisfaction from participation in this program and student interns may receive college credit from participation as fulfillment of an academic program.

Economic Impact

It is anticipated that the provision of supplemental volunteer services to parolees will have a positive impact on the parolees' successful reintegration into community life, thus reducing the likelihood of further criminal activity with its attendant costs. Moreover, there are no increased costs to administer this program, which is ongoing.

Although there are some costs to the Department related to the supervision and administration of this volunteer program, the benefit received by the hours of free services provided by the volunteers more than offsets these costs and results in a net benefit to the Department and the taxpayer.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rules do not impose reporting, record keeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rules impact on parolees and the New Jersey Department of Corrections and have no significant effect on small businesses.

Full text of the proposal follows:

SUBCHAPTER 3. VOLUNTEERS IN PAROLE PROGRAM (V.I.P.P.)

10A:17-3.1 Definition of volunteer

"Volunteer" means a person who provides services which supplement the functions and activities of employees of the Bureau of Parole, New Jersey Department of Corrections, without remuneration.

10A:17-3.2 Eligibility for services provided

All offenders being released from New Jersey State correctional facilities shall be eligible for consideration to receive services from a community volunteer.

10A:17-3.3 Volunteer service assignments

(a) Volunteers shall be assigned to duties in accordance with their interests and capabilities. The volunteer's assignments may include, but are not limited to work performed as:

1. A casework aide;
2. A parole officer aide;
3. A professional aide;
4. An administrative aide;
5. A clerical aide; and
6. A student intern.

10A:17-3.4 Volunteers in Parole Program (V.I.P.P.) Supervisor

(a) The Volunteers in Parole Program (V.I.P.P.) Supervisor, serving under the Chief, Bureau of Parole, New Jersey Department of Corrections, shall be responsible for the administration of the V.I.P.P. The V.I.P.P. Supervisor shall:

1. Develop and disseminate the policies and procedures of V.I.P.P.;
2. Monitor and evaluate V.I.P.P. activities; and
3. Submit monthly and annual reports on V.I.P.P. activities to the Chief, Bureau of Parole.

10A:17-3.5 District Volunteers in Parole Program (V.I.P.P.) Coordinator

(a) The District Parole Supervisor shall designate a District V.I.P.P. Coordinator who shall be responsible for the coordination and supervision of V.I.P.P. activities within the District Office. The District V.I.P.P. Coordinator shall:

1. Recruit volunteers;
2. Assist in the orientation and training of volunteers;
3. Coordinate the interviewing, screening and approval of volunteers;
4. Assign volunteers to appropriate activities and/or services;
5. Coordinate and monitor the supervision of volunteers; and
6. Prepare monthly and annual reports of V.I.P.P. activities.

10A:17-3.6 Recruiting volunteers

(a) Volunteers may be recruited by the V.I.P.P. Supervisor, the District V.I.P.P. Coordinator, or other interested individuals.

(b) Efforts shall be made to recruit volunteers from all cultural and socioeconomic segments of the community.

(c) When recruiting volunteers, emphasis shall be placed on the service to be provided and the qualifications of the prospective volunteer including:

1. Motivation;
2. Interest;
3. Background;
4. Training; and/or
5. Other qualifications which make the prospective volunteer the appropriate person to provide a needed service.

(d) Assistance in recruiting volunteers may be provided by the Coordinator of Volunteer Services, New Jersey Department of Corrections.

10A:17-3.7 Eligibility for service as a volunteer

(a) A volunteer shall be at least 18 years of age.

(b) A former inmate may serve as a volunteer if his or her application is approved by the District Parole Supervisor and the Chief, Bureau of Parole.

(c) A disabled person may serve as a volunteer if his or her disability does not interfere with this person's ability to provide a service.

(d) No application to serve as a volunteer shall be denied on the basis of sex, race, religion or national origin.

10A:17-3.8 Volunteer application

(a) Any person desiring to serve as a volunteer may obtain from the District Volunteers in Parole Program (V.I.P.P.) Coordinator the following forms:

1. 450-I VOLUNTEER APPLICATION;
2. SBI-212 REQUEST FOR CRIMINAL HISTORY RECORD INFORMATION;
3. 608.5 V.I.P.P. VOLUNTEER RULES AND RESPONSIBILITIES; and
4. 608.6 GENERAL WAIVER.

(b) The applicant shall complete and sign the forms in (a) above and return such forms to the District V.I.P.P. Coordinator, who shall schedule fingerprinting.

(c) All volunteers shall be fingerprinted.

(d) A copy of all applications shall be submitted by the District V.I.P.P. Coordinator to the Bureau of Parole V.I.P.P. Supervisor and to the Coordinator of Volunteer Services, New Jersey Department of Corrections.

(e) Applicants offering volunteer services in specialized fields requiring licensure or certification shall submit current and valid credentials for verification, along with the application.

10A:17-3.9 Screening process

(a) Applicants shall be evaluated on the basis of:

1. Information entered on Form 450-I VOLUNTEER APPLICATION;
2. Information provided at the interview; and
3. Information provided by Form SBI-212 REQUEST FOR CRIMINAL HISTORY RECORD INFORMATION.

(b) The District Volunteers in Parole Program (V.I.P.P.) Coordinator shall verify all pertinent information and approve or reject applicants after a thorough review has been made of the qualifications of the applicants and the needs of the District.

(c) The District V.I.P.P. Coordinator shall notify all applicants, in writing, of whether they have been approved or disapproved for participation in the V.I.P.P.

10A:17-3.10 Volunteer responsibilities

(a) All volunteers shall agree to abide by the following rules:

1. Volunteer services shall be provided on a strictly volunteer basis, for which no money, gifts or compensation may be accepted;
2. The volunteer shall attend his or her assigned duties as scheduled by the District Volunteers in Parole (V.I.P.P.) Coordinator;
3. The volunteer shall not discuss Bureau of Parole business with unauthorized persons, and shall maintain confidentiality of information in accordance with N.J.A.C. 10A:22;
4. The volunteer shall not exchange gifts, money, personal services or other favors with any parolee or with any parolee's family or relative;
5. The volunteer shall notify the District V.I.P.P. Coordinator of possible violation of parole rules by a parolee;
6. The volunteer shall not engage in any volunteer activity while under the influence of alcohol or illicit drugs;
7. The volunteer shall not indulge in undue familiarity with parolees;
8. The volunteer shall not remove any case materials from the Bureau of Parole office;
9. The volunteer shall notify the District V.I.P.P. Coordinator if the volunteer desires to visit any State or county correctional facility; and
10. The volunteer shall notify the District V.I.P.P. Coordinator of any condition or event which will affect or prevent the volunteer from continued participation in the Volunteer in Parole Program (V.I.P.P.).

10A:17-3.11 Volunteer handbook

(a) The Bureau of Parole shall develop and publish a Volunteers in Parole Program Handbook which shall bear the date of publication on the cover or front page.

(b) The Volunteers in Parole Handbook shall include, but is not limited to:

1. An introduction which summarizes the history, goals and objectives of the Department of Corrections and the Bureau of Parole;
2. A summary of Bureau of Parole policies and procedures;
3. The responsibilities of volunteers (see N.J.A.C. 10A:17-3.10);
4. A summary of volunteer services and activities; (see N.J.A.C. 10A:17-3.3); and
5. An explanation of the volunteer performance evaluation (see N.J.A.C. 10A:17-3.14).

(c) Prior to publishing or republishing the Volunteer in Parole Program Handbook, the final draft shall be submitted to the Coordinator of Volunteer Services, New Jersey Department of Corrections, for review and written approval.

(d) When the approved Volunteers in Parole Program Handbook has been published, the Bureau of Parole shall provide a copy to the Coordinator of Volunteer Services, New Jersey Department of Corrections, and the Assistant Commissioner, Division of Policy and Planning, to be maintained on file.

(e) Each volunteer shall receive a copy of the Volunteers in Parole Program Handbook prior to assignment to an activity or service.

(f) The contents of the Volunteers in Parole Program Handbook shall be updated every two years.

10A:17-3.12 Orientation and training of volunteers

(a) Each District Office shall provide orientation and training sessions to all volunteers prior to assignment to an activity or service. Orientation and training sessions shall include, but not be limited to:

1. The rules of the Department of Corrections;
2. The rules of the Bureau of Parole;
3. The philosophy, goals, resources and programs of the Bureau of Parole;
4. The duties and responsibilities of volunteers; and
5. The appropriate exercise of authority by volunteers.

10A:17-3.13 Supervision of volunteers

The supervision of volunteers shall be provided by the District Office supervising staff members to whom the volunteers have been assigned.

10A:17-3.14 Performance evaluation

(a) The District Volunteers in Parole Program (V.I.P.P.) Coordinator, along with the volunteer's immediate supervisor, shall evaluate the performance of the volunteer after a trial period of four months, using Form 608.7 VOLUNTEER PERFORMANCE EVALUATION.

(b) A performance evaluation shall include, but not be limited to, the following criteria:

1. Attitude toward work;
2. Relationship with co-workers and staff;
3. Relationship with parolee; and
4. Reliability.

(c) If the evaluation is unsatisfactory, a conference shall be scheduled with the volunteer, the District V.I.P.P. Coordinator, the immediate supervisor and any other appropriate staff member(s).

(d) Following the conference, the District V.I.P.P. Coordinator shall recommend to the District Parole Supervisor the retention or termination of the volunteer.

(e) The performance evaluation of a student intern shall be submitted according to the requirements of the educational institution attended by the student.

(f) A final evaluation using Form 608.7 VOLUNTEER PERFORMANCE EVALUATION shall be completed on all volunteers.

10A:17-3.15 Recognition of volunteers

The Bureau of Parole may schedule an annual event to acknowledge the contribution of volunteers.

10A:17-3.16 Curtailing, suspending or discontinuing the services of a volunteer

(a) The District Parole Supervisor may curtail, suspend or discontinue the services of a volunteer for reasons which include, but are not limited to:

1. Any breach of confidentiality (see N.J.A.C. 10A:22, Records);
2. An arrest of the volunteer;
3. A physical or emotional illness;
4. The inability to cooperate with staff;
5. Irregular attendance; or
6. Violation of the rules of the Volunteer in Parole Program (V.I.P.P.) as established in this chapter.

10A:17-3.17 Reporting responsibilities

The District Volunteers in Parole Program (V.I.P.P.) Coordinator shall submit quarterly reports to the V.I.P.P. Supervisor which shall include a list of all applicants who have been approved or rejected.

10A:17-3.18 Forms

(a) Form 450-I VOLUNTEER APPLICATION related to the Volunteers in Parole Program (V.I.P.P.) shall be reproduced by each District Parole Office from an original that is available by contacting the Standards Development Unit or the Bureau of Parole, New Jersey Department of Corrections.

(b) The following forms related to the Volunteers in Parole Program (V.I.P.P.) shall be obtained from the Bureau of Parole, New Jersey Department of Corrections:

1. 608.5 V.I.P.P. VOLUNTEER RULES AND RESPONSIBILITIES;
2. 608.6 GENERAL WAIVER; and
3. 608.7 VOLUNTEER PERFORMANCE EVALUATION.

INSURANCE

(a)

NEW JERSEY INSURANCE FRAUD DIVISION

Notice of Pre-Proposal Fraud and Theft Prevention Detection Plans

Pre-Proposal Number: PPR 1990-10.

Take notice that Section 56 of the Fair Automobile Insurance Reform Act of 1990 (FAIR Act) requires each automobile insurer to submit for approval a plan to prevent fraudulent insurance applications and claims and to discourage automobile theft. The Commissioner may request amendments to a plan as necessary prior to approving it. Thereafter, automobile insurers are required to report to the Director of the New Jersey Insurance Fraud Division (IFD) their experience in implementing the plan. Failure to submit a plan or to implement it in a reasonable manner may result in a reduction of up to 20% in the automobile physical damage base rates.

The FAIR Act requires each insurer to file its anti-fraud plan with the Department by March 12, 1991. Because the Department believes that insurers can significantly reduce the cost of automobile insurance by undertaking a conscientious effort to reduce fraud, the Department is encouraging insurers to implement such plans prior to that date. This Notice sets forth the elements of a model anti-fraud plan which has been drafted by Department staff. Insurers may use this as a guide in developing and implementing their own plans. The Department is particularly interested in receiving comments about the suggested criteria in the model.

While insurers are under no legal obligation to submit an anti-fraud plan to the Department before March 12, 1991, early implementation of such a plan would clearly appear to be in the best interests of both the industry and New Jersey policyholders. Anti-fraud plans may be submitted to the Department at the following address:

Director, New Jersey Insurance Fraud Division
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625-0325

Submit comments on the suggested criteria by August 1, 1990, to the same address.

ELEMENTS OF AN ANTI-FRAUD PLAN

1. Special Investigation Unit

Automobile insurers shall establish a full-time Special Investigation Unit (SIU) within their company. The SIU will conduct investigations on claims referred by the claims personnel whenever the adjuster or processor suspects fraud. SIU investigators should be a separate unit from

the claims adjusting function, and at least one SIU investigator should be assigned to every claims office, and should be physically located in the office, regardless of the state in which the claims are processed.

In addition to actually performing investigations, the duties of an SIU investigator should include:

- a. providing liaison with IFD and law enforcement personnel;
- b. providing in-service training to claims personnel;
- c. maintaining data base on fraudulent claims;
- d. informing insurance underwriters of ineligible risks by reason of prior fraudulent activities;
- e. identifying persons and organizations that are involved in suspicious claim activity; and
- f. initiating civil or criminal actions based on their investigations.

An SIU investigator should be qualified by education and experience, which should include a college degree and one to three years of insurance claim investigation experience and/or five years of law enforcement investigation experience involving white collar crimes.

Studies have shown that the cost of establishing and maintaining an SIU is more than offset by the amount saved over time. During the last five years the average ratio has been \$3.50 saved for each dollar spent on an SIU.

2. Fraud Education for Claims Personnel

Insurers shall establish a detailed and comprehensive program of insurance fraud awareness and education to prepare claims personnel for fraud detection. The program shall consist of formal specialized training for adjusters, claims processors and investigators. Training should be provided in automobile theft investigations, automobile property damage and fire investigations, personal injury protection investigations and bodily injury liability claim investigation. This training is available from various professional groups that provide services to the insurance industry, such as the New Jersey Automobile Theft Bureau, the International Association of Automobile Theft Investigators and the Society of Investigators of Greater Newark.

3. Fraud Detection Procedures Manual

Insurers shall establish and disseminate to all claims personnel a detailed procedures manual for the detection and handling of suspicious automobile insurance claims.

The Fraud Detection and Procedures Manual shall contain the following:

- a. Information for claims personnel and SIU investigators regarding general investigation guidelines; unfair claims practices; conducting interviews; report writing; information disclosure; law enforcement relations; and the New Jersey Fraud Prevention Act.
- b. The process to be employed when a suspicious claim is identified.
- c. The "fraud profiles" or indicators for automobile theft, automobile physical damage and bodily injury claims fraud.
- d. The duties and functions of the SIU.
- e. The procedure for referral of a claim to the SIU, and the post-referral procedure for communication between the claims unit and the SIU.

4. Underwriting Investigation

Insurers shall conduct underwriting investigations to verify the insured as eligible and properly rated within 60 days of receipt of the application. These investigations shall verify the insured's residency and driving record, as provided by the insured on his or her application for insurance. Factors such as driving record, claims history and residency in this State are an integral part of determining eligibility for coverage and the premium to be charged.

Many insurers conduct this investigation routinely for new insureds, and must obtain this information if a claim is presented. These investigations are generally done "in-house" by telephone and by using information supplied by information bureaus which provide Division of Motor Vehicle information to insurers on a subscription basis.

In the event an insured is found to be ineligible he or she shall be notified of the cancellation of coverage within 60 days, in accordance with Department administrative rules. Insurers shall notify the IFD of an ineligible insured within 30 days of discovery.

5. Mandatory Submission of All Suspicious Claims to IFD

Insurers shall refer all suspicious claims to the IFD on the prescribed reporting form, and thereafter cooperate with the IFD investigation. Failure to submit reports, failure to submit complete information, or failure to cooperate with an IFD investigation may result in penalties as provided by the FAIR Act.

The IFD will assist insurers by providing necessary information, such as fraud profiles or indicators.

6. Record Retention

Insurers shall maintain up-to-date and accurate records on their automobile insurance fraud prevention plan, and shall submit such records to the IFD annually. Such records shall include:

- a. Number of claims processed;
- b. Number of suspected fraudulent claims identified;
- c. Number of claims denied for fraud;
- d. Amount spent on fraud prevention plan;
- e. Amount of claims denied for fraud;
- f. Amount of restitution obtained as the result of successful fraud investigations.

All of the above elements should be contained in a properly developed fraud prevention program in accordance with the FAIR Act and the New Jersey Insurance Fraud Prevention Act.

LABOR**(a)****DIVISION OF WORKPLACE STANDARDS****Liquefied Petroleum Gas****Proposed Readoption with Amendments: N.J.A.C. 12:200**

Authorized By: Raymond L. Bramucci, Commissioner,
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 21:1B-2.

Proposal Number: PRN 1990-356.

Submit comments by August 1, 1990 to:

Alfred B. Vuocolo, Jr.
Chief Legal Officer
Office of the Commissioner
CN 110

Trenton, New Jersey 08625-0110

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 12:200 expires on August 5, 1990. The Department of Labor has reviewed the rules and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated as required by the Executive Order.

The rules are being proposed with amendments which clarify certain Departmental procedures. Additionally, the definitions section has been amended to delete unnecessary and inaccurate definitions. Other non-substantive changes have been proposed, such as updating various code citations, referencing the New Jersey Uniform Construction Code as the authority for buildings and structures housing liquefied petroleum gas facilities, and changing addresses to conform with new locations for Departmental divisions.

N.J.A.C. 12:200-1 contains the general provisions for the chapter. The chapter sets forth the purpose and scope of the chapter, which is to set health and safety standards for the design, construction, location, installation and operation of liquefied petroleum gas installations. The chapter has been amended upon re-adoption to delete unnecessary provisions and to clarify the intent of the rule. Additionally, N.J.A.C. 12:200-1.3(c), Compliance, has been amended to reflect the fact that users and owners of liquefied petroleum gas facilities are responsible for safety. The paragraph is codifying existing Departmental practices concerning the liability of owners.

N.J.A.C. 12:200-1.3(e) has been amended to delete the requirements concerning installation, removal, connection, disconnection and delivery of liquefied petroleum gas. Further, the container capacity has been deleted from this paragraph. These changes were made in an effort to monitor the filling and refilling of smaller containers, such as those on gas grills used at home, to insure that the individuals refilling these tanks are properly trained in the safety aspects of liquefied petroleum gas. The person who fills the containers is not responsible for any of the activities that have been deleted. Also, the safety requirements that were deleted from this paragraph are covered elsewhere in the rule (see N.J.A.C. 12:200-1.3(c)).

N.J.A.C. 12:200-1.3(j) has been deleted in the proposed re-adoption because it is too restrictive. As it currently reads, the rule permits older containers to be used if they originated in New Jersey but not if they

are brought in from another state. The Department sees this as a restriction of trade and has deleted the subsection.

N.J.A.C. 12:200-1.3(k) has also been deleted in the proposed re-adoption, because Departmental experience has shown that it is impossible to get a statement of property ownership from utilities, such as railroads. Additionally, the deletion of this subsection brings the State rules into conformance with the federal standards concerning this area.

Finally, a new subsection N.J.A.C. 12:200-1.3(k) has been added which allows the Department to regulate aboveground tanks. Presently, the Department regulates only underground tanks.

N.J.A.C. 12:200-2 is a definition section, which has been amended to delete certain definitions and clarify others. Four new definitions, taken from various national standards codes, have been added, defining such terms as "dispensing device," "distributing plant," "distributing point," and "important building."

N.J.A.C. 12:200-3 sets forth standards for the National Fire Protection Association (NFPA) No. 58 Systems, including provisions for container markings, storage and distributing and industrial plants. Certain changes have been proposed upon re-adoption. N.J.A.C. 12:200-3.1(e) has been added to reference the New Jersey Uniform Construction Code. Code references throughout the subsection have been amended to reflect current cites. N.J.A.C. 12:200-3.3(i) has been amended to include specifications for bumper guards for containers. These specifications were included because the Department felt it was necessary to state what standards are acceptable as minimum requirements for tank protection to eliminate any industry confusion.

N.J.A.C. 12:200-3.4(i) has been amended to specify the kind of weather protection necessary for scales. N.J.A.C. 12:200-3.4(j) and (k) have been added to provide that liquefied petroleum gas dispensers shall not be located on the same island as a Class I liquid dispenser and that a pump stop-start switch shall be located inside the fence enclosure near the point of transfer, respectively.

N.J.A.C. 12:200-4 sets forth standards for NFPA No. 59 Systems. Technical amendments have been proposed, reflecting updated code citations. Amendments have been proposed which are technical in nature, concerning water capacity and code references.

N.J.A.C. 12:200-5 is a proposed new subchapter concerning API 2510 installations. The subchapter addresses container markings, container storage, and fencing.

N.J.A.C. 12:200-6, formerly N.J.A.C. 12:200-5, contains standards for the submittal of plans and project data reports. The subchapter has been amended to be gender-neutral, and reflects new addresses for the Division of Workplace Standards.

N.J.A.C. 12:200-6.2(e) has added language concerning tank capacity. Tanks are not to be filled until they pass inspection, and the Department felt it was necessary to specify that only a minimum amount of product be put in the tank for testing purposes in order to avoid accidents. Also, filled tanks are not to be transported, and this tank capacity maximum will help to discourage this practice.

Finally, N.J.A.C. 12:200-6.3(a) has been added to codify existing Departmental procedures concerning tank replacement. Appendix A lists the publications referred to in the chapter, and the Appendix has been amended to correct or update existing information.

Social Impact

The proposed re-adoption will affect the safety and health of the general public by ensuring that standards for the design, construction, location installation and operation of liquefied petroleum gas installations remain in effect. Without these standards, there will be limited assurance that the installation and maintenance of liquefied petroleum gas facilities are accomplished in a safe manner, which poses a threat of great danger to the public. Specific standards which have been amended, such as the ones concerning small tank filling, will protect consumers by assuring that the individuals who handle the gas product are qualified. Also, by stating that the owner of a liquefied petroleum gas facility shall be responsible for its safety and maintenance, the Department is codifying its existing procedure of holding all responsible parties liable for the safe use of these products.

Economic Impact

The proposed re-adoption will require owners and operators of liquefied petroleum gas systems to install and maintain the systems in a safe manner. The rules will result in increased costs associated with maintenance and zoning considerations. However, these costs can be considered a cost of doing business. In some instances, owners of liquefied petroleum gas facilities will now be liable for damages caused by the negligent

operation of the facilities; however, this practice has been in existence prior to the codification in the rules. The proposed readoption does not increase costs already associated with owning or using liquefied petroleum gas facilities.

The Department does not expect to be economically affected by the readoption.

Regulatory Flexibility Analysis

The proposed readoption does impose certain reporting, record keeping and compliance requirements on businesses, some of which may be small businesses as defined by N.J.S.A. 52:14B-16 et seq., the New Jersey Regulatory Flexibility Act. The proposed readoption mandates compliance with several national codes in areas such as installation, maintenance construction, container markings, container storage and fencing. Additionally, certain reporting requirements are contained in the proposed readoption; specifically, the reporting of fires, explosions, accidents and emergency situations to the Commissioner is required, and a project data report must be submitted when a propane supplier is changed and a single storage tank dispensing system is replaced to duplicate a previously State-approved system.

It is necessary, however, to apply the compliance requirements to all businesses engaged in liquefied petroleum gas, as it would defeat the purpose of the safety and health intent of the rules to exempt any owner or operator from the requirements.

The Department does not anticipate that outside consultants or other professional services need to be employed by businesses in order to comply with the requirements of the proposed readoption. Pursuant to the current rules, professional engineers are required to submit certain plans to the Department concerning liquefied petroleum gas facilities, but this requirement has not been added in this readoption.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:200.

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

SUBCHAPTER 1. GENERAL PROVISIONS

12:200-1.1 [Title and citation

This regulation shall be known and may be cited as N.J.A.C. 12:200, Liquefied Petroleum Gases.]

[12:200-1.2] Purpose and scope

(a) The purpose of this chapter is to provide minimum standards for liquefied petroleum gas systems for the preservation of health and safety of the general public.

[12:200-1.3] Scope]

[(a)](b) This chapter shall apply to the design, construction, location, installation and operation of liquefied petroleum gas installations for health and safety.

[(b)](c) This chapter shall apply, except as provided in [subsection 1.3(c)] (d) below, to all liquefied petroleum gas systems at places of employment for the protection of the health and safety of the public at large.

[(c)](d) This chapter shall not apply to the following:

1. The transportation of liquefied petroleum gases over the highways in intrastate or interstate commerce; or
2. The installation of liquefied petroleum gas facilities at [residential] use group R-3 occupancies [that are not places of employment] (one and two family residential); or
3. Liquefied petroleum gas vapor piping [that is downstream of final stage regulation and outside] inside of buildings; or
4. (No change.)

[12:200-1.4] Effective date]

[This chapter shall take effect on May 15, 1980.]

[12:200-1.5] Repeal of prior chapters]

[(a) Chapter 200, Liquefied Petroleum Gas of Title 12, N.J.A.C. effective August 15, 1969 is hereby repealed.

(b) Chapter 52, Liquefied Petroleum Gases of Title 13, N.J.A.C. effective April 1, 1968 no longer applies as a rule of the Department of Labor and Industry.]

[12:200-1.6] Validity]

[Should any section, paragraph, sentence, or word of this chapter be declared for any reason to be invalid such decision shall not affect the remaining portions of this chapter.]

12:200-[1.7]1.2 Existing installations

(No change in text.)

12:200-[1.8]1.3 Compliance

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

(c) The user/owner shall be responsible that the liquefied petroleum gas facility is installed and maintained in a safe operating condition.

(d) All liquefied petroleum gas facilities shall be installed and maintained in accordance with this chapter, except as provided in section [1.7] 1.2.

(e) Only a qualified person shall [install, remove, connect, disconnect,] sell, fill, or refill[, deliver or permit to be delivered, or operate any] liquefied petroleum gas [system utilizing containers of over 30 pounds product capacity] at a dispensing or distributing point.

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

(i) Containers, other than cylinders in USDOT service, shall be registered as provided in N.J.A.C. 12:90-[5.14 and] 5.15, (Boilers, Pressure Vessels and Refrigeration).

[(j) Containers, other than cylinders in USDOT service, constructed under the API-ASME Unfired Pressure Vessel Codes prior to July 1, 1961, and under the ASME Unfired Pressure Codes, 1949 and prior editions, shall not be brought into the State for use after the effective date of this rule, unless adequate safety relief is to be provided at or below the maximum allowable working pressure stamped on the vessel.

(k) When distance requirements are met by utilizing the far side of property that cannot be built upon as described in paragraph 2 of the definition of "line of adjoining property" in N.J.A.C. 12:200-2.1, the LP-Gas system installer shall supply the commissioner with evidence that the action is acceptable to the owner of such property.]

[(l)](j) All parts of liquefied petroleum gas systems not specifically provided for in this chapter shall be designed and constructed to provide a reasonable degree of safety.

(k) When liquefied petroleum gas equipment is to be abandoned, the user/owner shall comply with the provisions of Section F 3005, Abandonment of Equipment, of the New Jersey State Fire Prevention Code.

12:200-[1.9]1.4 Reporting emergency situation

(No change in text.)

12:200-[1.10]1.5 Reporting of fires, explosions or accidents

Whenever there is a fire or explosion or accident involving serious injury or loss of life to the public from liquefied petroleum gas, the [commissioner] Commissioner shall be notified by the user/owner before the end of the first working day following the accident.

SUBCHAPTER 2. DEFINITIONS

12:200-2.1 Definitions

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

... "API" means American Petroleum Institute.

["API-ASME" means the American Petroleum Institute and the American Society of Mechanical Engineers.]

... ["BOCA" means Building Officials Conference of America.]

... "Commissioner" means the Commissioner of Labor [and Industry] of the State of New Jersey or his or her authorized representative.

"Container" means any vessel including cylinders, [and] tanks, portable tanks and cargo tanks used for storing liquefied petroleum gas.

"Cylinder" means a container having a capacity not exceeding 1,000 pounds of water.

"Dispensing device" or "dispenser" means a device normally used to transfer and measure liquefied petroleum gas for engine fuel into a fuel container, serving the same purpose for a liquefied petroleum gas service station as that served by a gasoline dispenser in a gasoline service station.

"Distributing plant" means a facility, the primary purpose of which is the distribution of gas, and which receives liquefied petroleum gas in tank car, truck transport or truck lots, distributing this gas to the end user by portable container (package) delivery, by tank truck or through gas piping. Such plants have bulk storage (2,000 gallons (7.6 cubic meters (m³)) water capacity or more) and usually have container filling and truck loading facilities on the premises. So-called "bulk plants" are considered as being in this category. Normally no persons other than the plant management or plant employees have access to these facilities.

"Distributing point" means a facility, other than a distributing plant or industrial plant, which normally receives gas by tank truck, and which fills small containers or the engine fuel tanks of motor vehicles on the premises. Any such facility having liquefied petroleum gas storage of 100 gallons (0.4 cubic meters (m³)) or more water capacity, and to which persons other than the owner of the facility or his or her employees have access, is considered to be a distributing point. A liquefied petroleum gas service station is one type of distributing point.

"Hazardous material" means any substance defined as a flammable or combustible liquid in accordance with the Flammable or Combustible Liquids Code, NFPA No. 30-[1977]1987, or a material classified by Hazardous Material Regulations, 49 CFR Parts 171 through 177, as a flammable solid, liquid or gas.

"Important building" means a building that can be important for its replacement value, or its importance by virtue of human occupancy or for the building's effect on fire control activities by emergency handling groups.

"NFPA" means National Fire Protection Association.

"Office of Boiler and Pressure Vessel Compliance" means the Office of Boiler and Pressure Vessel Compliance, New Jersey Department of Labor [and Industry, P.O. Box 1503] CN 392, Trenton, N.J. 08625-0392.

"Office of Safety Compliance" means the Office of Safety Compliance, New Jersey Department of Labor [and Industry, P.O. Box 709] CN 386, Trenton, N.J. 08625-0386.

"Referenced standard" means N.J.A.C. 12:200-3.1(a) [or], N.J.A.C. 12:200-4.1(a), or N.J.A.C. 12:200-5.1(a) as applicable.

"Serious injury" means a hurt to a [member of the public] person which required treatment by a doctor, such as a fracture, or a condition requiring admittance to a hospital for at least 24 hours.

["Shall" means a mandatory requirement.]

SUBCHAPTER 3. NFPA NO. 58 SYSTEMS

12:200-3.1 Standards adopted by reference

(a) The standards prescribed by Liquefied Petroleum Gases, NFPA No. 58-[1979]1989, are adopted as health and safety standards and shall apply according to their provisions, except that:

1. Subsections [111]1-2.2 and [112]1-2.3, Sections [14]1-5 and [38] 3-6, and Chapter 6 shall not apply.

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

(d) [Where any conflict occurs between the standards prescribed in subsection (a) of this section and these rules, these rules shall prevail in applying the requirements of this chapter:

1. Article 7 of the BOCA Basic Building Code—1978 edition for structural and foundation loads for containers over 2,000 gallons water capacity.

2. Section 401.0 of the BOC Building Code—1978 edition for explosion relief in charging buildings.

3.] Where the term "line of adjoining property which may be built upon" is used in Liquefied Petroleum Gases, NFPA No. 58-[1979]

1989, it shall be understood to mean "the property line" as defined in [section 2.1 of this chapter] N.J.A.C. 12:200-2.1.

(e) Buildings or structures housing liquefied petroleum gas distribution facilities and foundations for containers of over 2,000 gallons water capacity shall be constructed in accordance with the provisions of the New Jersey Uniform Construction Code.

12:200-3.2 Container markings

(a) Containers of [125 gallons water] 100 pounds product capacity or more shall be legibly marked "FLAMMABLE GAS" and the name of the gas to indicate contents such as "FLAMMABLE GAS—PROPANE" or "FLAMMABLE GAS—BUTANE", except as provided in [subsection] (b) [of this section] below. Compliance with the marking requirements of Title 49 of the Code of Federal Regulations shall meet this provision.

(b) [Processing plants having their own] A company identification system for marking containers which is approved by the [commissioner] Commissioner shall be acceptable in lieu of compliance with [subsection] (a) [of this section] above at processing plants.

12:200-3.3 Container storage

(a) (No change.)

(b) Containers installed outside of buildings shall be located with regard to property lines other than public ways, important buildings, or bulk storage of hazardous materials in accordance with Table [3-1] 3-2.2.2 of Liquefied Petroleum Gases, NFPA No. 58-[1979]1989.

1. The term "buildings" as used in this subsection shall not be construed to include the buildings described in paragraph [3113] 3-2.2.5 of the referenced standard.

2. The term "hazardous materials" as used in this subsection shall recognize the specific requirements of the specific hazardous materials described in [section] paragraph [3114(e)]3-2.2.6(e) and (f) of the referenced standard.

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

(e) Installations of aboveground containers of 90,000 gallons individual or aggregate water capacity or more that present a serious exposure hazard shall be protected by one or more of the following: distances at least 50 percent greater than the schedule for aboveground containers of Table [3-1]3-2.2.2 of Liquefied Petroleum Gases, NFPA No. 58-[1979]1989, water spray protection, fixed monitors, or insulation.

(f) If more than six containers, each of which is of 2,000 gallons water capacity or more, are used in a single installation, the containers shall be separated into batteries of not more than six containers with batteries separated from each other by the distances required for the schedule for mounded or underground containers of Table [3-1]3-2.2.2 of Liquefied Petroleum Gases, NFPA No. 58-[1979]1989.

(g)-(h) (No change.)

(i) Where there is a possibility of damage to storage containers from motor vehicles or other heavy objects, protection against such damage shall be provided by substantial bumper guards which are, as a minimum, four-inch diameter schedule 40 concrete filled steel pipe properly imbedded in concrete on a maximum of four-feet six-inch centers, or equivalent.

(j) (No change.)

(k) Storage areas having containers exceeding [125 gallons aggregate water] 100 pounds product capacity shall be posted with adequate "NO SMOKING" and "FLAMMABLE GAS" signs legibly marked. The "FLAMMABLE GAS" sign shall be marked "FLAMMABLE GAS" and the name of the gas to indicate the contents such as "FLAMMABLE GAS—PROPANE" or "FLAMMABLE GAS—BUTANE".

(l)-(o) (No change.)

(p) Containers proposed for mounding or underground installation shall be provided with cathodic protection in addition to a suitable coating for corrosion protection.

1. Cathodic protection will not be required if a professional engineer certifies in writing to the Department that based on his or her soil investigation such protection is unnecessary.

12:200-3.4 Distributing points, distributing plants and industrial plants

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

(e) The LP-Gas system shall be protected against vehicle damage with substantial bumper guards, where necessary. **Bumper guards shall be, as a minimum, four-inch diameter schedule 40 concrete filled steel pipe properly imbedded in concrete on a maximum of four-feet six-inch centers, or equivalent.**

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

(i) The point of connection of an unmounted portable container being filled (point of transfer) shall be not less than five feet from the dispensing unit or a storage container of 2,000 gallons water capacity or less.

1. **If weather protection for a scale is to be provided, such protection shall be constructed of non-combustible material except that the roofing material may be transparent corrugated plastic.**

(j) **Liquefied petroleum gas dispensers shall not be located on the same island as a Class I liquid dispenser.**

(k) **A pump stop-start switch at a distributing point shall be located inside the fence enclosure near the point of transfer.**

12:200-3.5 Standby and peak sharing plants

(No change.)

SUBCHAPTER 4. NFPA NO. 59 SYSTEMS

12:200-4.1 Standards adopted by reference

(a) The standards prescribed by Liquefied Petroleum Gases at Utility Gas Plants, NFPA No. 59-[1979]1989, are adopted as health and safety standards and shall apply according to their provisions.

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

(e) [Notwithstanding any of the requirements of the standards referenced in subsection (a) of this section, the following rule shall prevail in applying the requirements of this chapter:

1. Article 7 of the BOCA Basic Building Code—1978 edition for structural and foundation loads for containers over 2,000 gallons water capacity.

2. Section 401.0 of the BOCA Basic Building Code—1978 edition for explosion relief.] **Buildings or structures housing liquefied petroleum gas distribution facilities and foundations for containers of over 2,000 gallons water capacity shall be constructed in accordance with the provisions of the New Jersey Uniform Construction Code.**

[3.](f) Where the term "line of adjoining property which may be built upon" is used in Liquefied Petroleum Gases at Utility Gas Plants, NFPA No. 59-[1979]1989, it shall be understood to mean "the property line" as defined in [section 2.1 of this chapter] N.J.A.C. 12:200-2.1.

12:200-4.2 Container markings

(No change.)

12:200-4.3 Container storage

(a) Containers of liquefied petroleum gases at utility gas plants shall be located with regard to property lines other than a public way, important buildings, or bulk storage of hazardous materials in accordance with the applicable schedule of Liquefied Petroleum Gases at Utility Gas Plants, NFPA No. 59-[1979]1989.

(b) Containers of liquefied petroleum gases at utility gas plants shall be located with regard to the near side of a public way in accordance with the applicable schedule for aboveground containers of Liquefied Petroleum Gases at Utility Gas Plants, NFPA No. 59-[1979]1989.

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

12:200-4.4 Fencing

(No change.)

SUBCHAPTER 5. API 2510 INSTALLATIONS

12:200-5.1 Standards adopted by reference

(a) The standards prescribed by API 2510-1989 Design and Construction of Liquefied Petroleum Gas (LPG) Installations are adopted as health and safety standards for the design and construction of liquefied petroleum gas (LPG) installations at marine and pipeline terminals, refineries, petrochemical plants and tank farms.

(b) **Only the technical standards relating to public health and safety of API 2510-1989 are incorporated by reference in subsection (a) above. The administrative and reporting procedures contained in API 2510-1989 are not incorporated by reference; rather, the Department has developed administrative and reporting procedures in this chapter. Questions concerning conflicts in administrative and reporting standards shall be referred to the Office of Safety Compliance.**

(c) **Where any conflict occurs between the standards prescribed in (a) above and this subchapter, this subchapter shall prevail.**

(d) **Buildings and structures housing liquefied petroleum gas distribution facilities and foundations for containers of over 2,000 gallons water capacity shall be constructed in accordance with the provisions of the New Jersey Uniform Construction Code.**

(e) **Where the term "line of adjoining property that may be developed" is used in API 2510, it shall be understood to mean "the property line" as defined in N.J.A.C. 12:200-2.1.**

12:200-5.2 Container markings

Containers of liquefied petroleum gases at marine and pipeline terminals, refineries, petrochemical plants and tank farms shall be marked in accordance with N.J.A.C. 12:200-3.2.

12:200-5.3 Container storage

(a) **Siting of containers shall conform with section 3 of the standard referenced in API 2510-1989.**

(b) **In case of storage in heavily populated areas or congested areas, or near places of public assembly, the Commissioner shall determine restrictions of individual tank capacity, total storage, distance to property lines, and other reasonable protective measures.**

(c) **Storage areas having liquefied petroleum gas containers shall be posted with adequate "NO SMOKING" and "FLAMMABLE GAS" signs legibly marked. The "FLAMMABLE GAS" sign shall be marked "FLAMMABLE GAS" and the name of the gas to indicate the contents such as "FLAMMABLE GAS—PROPANE" or "FLAMMABLE GAS—BUTANE".**

(d) **Storage containers shall not be placed under an electric power service transmitting voltage in excess of 240 volts or within six feet of a line projected vertically from any edge of the container.**

(e) **Above-ground containers exceeding 2,000 gallons individual water capacity shall be oriented so that their longitudinal axes do not point toward other liquefied petroleum gas containers within that installation.**

12:200-5.4 Fencing

The liquefied petroleum gas system shall be enclosed within an industrial type fence at least six feet high with at least two egress gates opening outward and remotely located from each other, or be within an approved fenced plant area and protected from tampering.

12:200-5.5 General

NFPA 58-1989 may be used as a standard for those areas not specifically addressed in API 2510-1989 and which do not conflict with the intent of API 2510-1989.

SUBCHAPTER [5.]6. SUBMITTAL OF PLANTS OR PROJECT DATA REPORT

12:200-[5.1]6.1 Submittal of plans

(a) **When required, at least three sets of plans shall be filed with the New Jersey Department of Labor [and Industry,] Division of Workplace Standards, Office of Safety Compliance, [P.O. Box 709] CN 386, Trenton, New Jersey 08625-0386 prior to construction or installation of a proposed LP-Gas system or a substantial alteration to an existing system.**

(b) **These three sets of plans shall be filed for:**

1. (No change.)

2. **An LP-Gas system designed to transfer liquid [from one container to another] from the container.**

3. (No change.)

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

(e) **Original tracings and documents may bear the required signature of the professional of record, and copies of these originals with the duplicated signature and his or her embossed seal shall be acceptable for filing. Where the prints of drawings and copies of documents**

do not include the duplicated signature of the professional of record, each print of drawings and the title page of documents shall bear his or her signature and his or her embossed seal.

(f)-(g) (No change.)

(h) Plans required by [subsection] (b) above [of the section] shall include the following information:

1.-5. (No change.)

(i)-(l) (No change.)

12:200-[5.2]6.2 Approval of plans

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

(e) Containers shall not be filled until the approval covered in [subsections] (a) and (d) above [of this section] has been obtained, except that:

1. [Product] **The product not exceeding five percent of tank capacity** may be placed in the container so that tests and adjustments may be made by the installer[,]; or

2. [Container] **The container** may be filled, if the Office of Safety Compliance fails to comply with [subsection] (d) above [of this section] within 30 days, provided proper notice has been given to said office; or

3. (No change.)

(f) (No change.)

12:200-[5.3]6.3 Submittal of project data report

(a) A project data report shall be filed for all new liquefied petroleum gas installations for which plans are not required under N.J.A.C. 12:200-[5.1]6.1(b), except that a project data report is not required for a system under N.J.A.C. 12:200-[5.1]6.1(b) that has a capacity of 250 gallons or less individual or aggregate capacity.

1. **A project data report shall be submitted when a propane supplier is changed and a single storage tank dispensing system (not exceeding 1,000 gallons water capacity) is replaced to duplicate a previously State-approved unit.**

(b) The project data report required by [subsection] (b) of this section] (a) above shall be filed within 10 days of actual installation for new liquefied petroleum gas installations.

(c) The project data report shall be filed with the New Jersey Department of Labor [and Industry,] Division of Workplace Standards, Office of Safety Compliance, [P.O. Box 709] CN 386, Trenton, New Jersey 08625-0386.

(d) (No change.)

Appendix A

AVAILABILITY OF STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

A copy of each of the standards and publications referenced in this chapter is on file and may be inspected at the following office of the Division of Workplace Standards between the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

State of New Jersey
 Department of Labor [and Industry]
 Division of Workplace Standards
 [Labor and Industry Building, Room 1103C]
 Station Plaza Bldg. 4, Third Floor
 28 Yard Avenue
 Trenton, New Jersey

Copies of the referenced standards and publications may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning and are the organizations issuing the standards and publications listed.

API American Petroleum Institute
 1220 L Street Northwest
 Washington, D.C. 20005

BOCA Building Officials [Conference of America] and Code Administration
 [1726 South Halstead Street
 Homewood, Illinois 60430]
 4051 W. Flossmoor Rd.
 Country Club Hills, Illinois 60477-5795

...

NFPA National Fire Protection Association
 [470 Atlantic Ave.
 Boston, Massachusetts 02210]
 Batterymarch Park
 Quincy, Massachusetts 02269

N.J.A.C. New Jersey Administrative Code
 Copies available from:
 Office of Boiler and Pressure Vessel Compliance
 New Jersey Department of Labor [and Industry
 Post Office Box 709] CN 392
 Trenton, N.J. 08625-0392

...

No. and Edition	Title
BOCA-[1978]1990	The BOCA Basic Building Code
NFPA No. 30-[1977]1987	Flammable and Combustible Liquids Code
NFPA No. 58-[1979]1989	Liquefied Petroleum Gases
NFPA No. 59-[1979]1989	Liquefied Petroleum Gases at Utility Gas Plants
N.J.A.C. 5:18	New Jersey Uniform Fire Code
N.J.A.C. 5:23	New Jersey Uniform Construction Code

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF MEDICAL EXAMINERS

Examination Fees

Proposed Amendment: N.J.A.C. 13:35-6.13

Authorized By: State Board of Medical Examiners,

Charles J. Janousek, Executive Director.

Authority: N.J.S.A. 45:9-2.

Proposal Number: PRN 1990-350.

Please submit comments by August 1, 1990 to:

Charles A. Janousek, Executive Director
 State Board of Medical Examiners
 1100 Raymond Boulevard
 Newark, New Jersey 07102

The agency proposal follows:

Summary

The standard medical and surgical licensing examination in the State of New Jersey is the Federation Licensing Examination (FLEX), a two-component test. Currently, the FLEX fees charged by the Board of Medical Examiners are \$425.00 for both components, \$250.00 for Component I only and \$300.00 for Component II only. The Board recently received official notification from the Federation of State Medical Boards of the United States that an increase in FLEX fees will become effective with the June 1991 examinations; the new charges will run through the 1994 examinations. Accordingly, it is necessary for the Board to amend its fee schedule. The proposed new fees are \$500.00 for the complete examination, \$300.00 for Component I only and \$325.00 for Component II only.

Social Impact

The proposed amendment will impact only those applicants who, as a part of the licensure process, must sit for the FLEX examination. The licensing process itself enables only qualified individuals to provide services to the public, thus protecting the public's health and welfare.

Economic Impact

Individuals seeking initial licensure will be affected economically by the increase. However, the proposed amendment to the Board's fee schedule is necessary to prevent a fiscal loss to the Board, which is required to cover expenses.

Regulatory Flexibility Statement

The proposed amendment to the Board of Medical Examiners' fee schedule will affect only individual applicants for licensure; no regulatory flexibility analysis pursuant to N.J.S.A. 52:14B-16 et seq. is, therefore, necessary since no small businesses are affected.

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

13:35-6.3 Fee schedule

(a) The following fees shall be charged by the Board of Medical Examiners:

- 1. Medicine and Surgery (M.D. or D.O. license)
 - i. Examination—Both Components [\$425.00] **\$500.00**
 - ii. Re-examination
 - Component I [\$250.00] **\$300.00**
 - Component II [\$300.00] **\$325.00**
 - iii.-vii. (No change.)
- 2.-11. (No change.)

TRANSPORTATION

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

**Bureau of Local Highway Design
Rural Secondary Road Systems Aid
Proposed New Rules: N.J.A.C. 16:13**

Authorized by: Robert A. Innocenzi, Deputy Commissioner (State Transportation Engineer), Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:8-1 to 8-9.

Proposal Number: PRN 1990-339.

Submit comments by August 1, 1990 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1034 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Under the provisions of Executive Order No. 66(1978), N.J.A.C. 16:13, Rural Secondary, expired on May 7, 1989.

The Department has reviewed the expired provisions and has found that changes to certain provisions are necessary, in order to clarify requirements and to conform the rules to current Federal requirements and Department practice. The title of the chapter has been amended, and subchapter divisions have been added, to more clearly reflect the requirements. Provisions for public hearings have been deleted as unnecessary, since the Department follows Federal hearing requirements on specified secondary roads and holds additional hearings on an as-needed basis. The Department now provides engineering, through the use of consultants, although local government (counties or municipalities) may provide such services, at their option. The rules previously contained provisions for change orders to be initiated by local government. These provisions have been changed to reflect the current process, with the Department now initiating all change orders. The Department has added provisions regarding agreements between the Department and the applicant which grant the Department exclusive right to enter into all utility agreements and to accomplish all right-of-way acquisitions and relocations necessary for projects.

The proposed new rules contain provisions necessary to implement the funding program provided by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L. 100-17). The rules include requirements for compliance with applicable Federal laws and regulations, the application process, the authorization process, agreements between the Department and the sponsor (local government entity), plans and specifications, bids and contracts, inspections, change orders, acceptance and payment to contractors.

Social Impact

The Federal Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L. 100-17) provides funding for construction and specified related expenses on rural secondary roads for the benefit of the public. Maintenance and improvement of the rural secondary road system

allows greater access to the public for the purposes of commerce and for public safety. Supervision of such projects by the Department, in accordance with specified standards, provides for close coordination and consistency in the quality of the road system, upon which the public may rely.

Economic Impact

The State of New Jersey receives approximately \$5.2 million per year from the Federal government for construction and specified related expenses on rural secondary roads. The Federal funds are matched by funds provided by the State of New Jersey and/or the local government, with the current matching formula 75 percent from Federal funding and 25 percent from State or local government. Direct costs, such as engineering, are covered by the Federal grant, although the local government may provide these services as a non-reimbursed expense. Additional costs, such as review by technical staff, are provided by the Department. It is not possible to estimate the review costs accurately, due to the variety and complexity of the projects involved. The awarding of contracts for construction is accomplished through the Department's standard bid process.

Regulatory Flexibility Analysis

The proposed rules primarily place requirements for application, inspections and payments for rural secondary road projects upon local governments and the Department of Transportation. Most contractors providing construction services are not small businesses; however, most consultants providing engineering services can be considered small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The provisions applicable to consultants are contained in N.J.A.C. 16:13-1.6, Plans and Specifications. These rules require that preparation of plans and specifications be done by a professional engineer, registered in the State of New Jersey, in accordance with specific design standards. In the interest of public safety, and in accordance with statutory requirements regarding the practice of engineering, the Department has made no differential requirements based upon business size.

Full text of the proposal follows:

CHAPTER 13

RURAL SECONDARY ROAD SYSTEMS AID

SUBCHAPTER 1. GENERAL PROVISIONS

16:13-1.1 Appropriations and allocations of funds

Rural Secondary funds are apportioned by the Federal Government and allocated annually to the State for right-of-way, preliminary engineering, construction and reconstruction of municipal, county and State highways on the Federal Aid Rural Secondary Road System. These funds are committed by the N.J. Department of Transportation and matched by funds provided by the State of New Jersey and/or the county or municipality sponsoring the project.

16:13-1.2 Compliance

All Rural Secondary Road System projects shall comply with applicable Federal Aid Highway Acts, regulations, policies and procedures.

SUBCHAPTER 2. APPLICATION PROCESS

16:13-2.1 Applications

Counties and municipalities shall submit completed applications to the Local Aid District Office, accompanied by a resolution by the governing body authorizing the application. The application shall describe the existing rural secondary road and the contemplated project, with a notation of any special circumstances which exist. The application will be reviewed by the Department, in accordance with the standards set by the Surface Transportation and Relocation Assistance Act of 1987, other applicable Federal and State requirements and in consideration of funding available.

16:13-2.2 Federal Highway Administration approval

The Bureau of Local Aid District Operations shall initiate authorization requests for projects sponsored by counties and municipalities for submission to the Federal Highway Administration for approval. On approval by the Federal Highway Administration, the Bureau of Local Aid District Operations shall notify the county, municipality, or consultant engineer to proceed with development of

the plans and specifications in accordance with current Federal and State policies and procedures.

16:13-2.3 State-sponsor agreements

The State will initiate a State-sponsor agreement which will be executed between the sponsor (applicant) and the Department, after program approval. The conditions of the agreement provide the State with exclusive right to enter into all utility agreements and to exclusively accomplish all appraisals, right-of-way acquisitions and relocations necessary for the project. It also requires the sponsor to maintain the completed improvement in a manner satisfactory to the State and the Federal Highway Administration and to repay all Federal and State funds expended on the project if the sponsor withdraws its support. An agreement shall be executed between the State and the consultant engineer when consulting engineering services involve Federal funds.

SUBCHAPTER 3. PROGRAM AND PAYMENT

16:13-3.1 Plans and specifications

A professional engineer, registered in the State of New Jersey, shall prepare the plans and supplementary specifications and shall provide for the necessary engineering, planning, soil investigations, and other incidental services, in accordance with AASHTO design standards or as approved by the State. Traffic signals shall be designed in accordance with the current Federal Highway Administration "Manual on Uniform Traffic Control Devices" and N.J.S.A. 39. The guidelines set forth in the current "Highway Capacity Manual" (available from the National Research Council, Washington, D.C.) should be followed.

16:13-3.2 Bids and contracts

The Department shall receive all bids and shall award any contracts, pursuant to the provisions of N.J.A.C. 16:44. If the county or municipality is required to provide matching funds by the terms of the approved application, such county or municipality shall recommend to the Department that the Department award the contract to the lowest responsible bidder. Such county or municipality shall also deliver to the Department, by invoice, a check in the amount requested by the Department, to cover the county or municipality share of the project costs.

16:13-3.3 Surveillance

Surveillance shall be made by the State to provide inspection of materials, supervision of engineering and construction inspection.

16:13-3.4 Change in contract

Any change in the contract shall be made by change order, initiated and approved by the Department. Any additional work requested or authorized by the sponsor that does not meet with Federal and/or State approval will be classified as non-participating and the sponsor shall immediately make payment available to the State.

16:13-3.5 Payment

Payment shall be made to the contractor by the Department of Transportation.

16:13-3.6 Inspection and acceptance

The Department and the Federal Highway Administration shall make a detailed final inspection, upon completion of the project. The county or municipality shall, by resolution, recommend acceptance of the project.

16:13-3.7 Final payment

All work shall be complete and accepted by the Department and the Federal Highway Administration prior to the issuance of final payment.

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Restricted Parking and Stopping Routes N.J. 47 in Cumberland County, N.J. 77 in Cumberland County; and U.S. 202 in Morris County

Proposed Amendments: N.J.A.C. 16:28A-1.33, 1.41 and 1.55

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-138.1.

Proposal Number: PRN 1990-340.

Submit comments by August 1, 1990 to:

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

The agency proposal follows:

Summary

The proposed amendments will establish "no stopping or standing" zones along Routes N.J. 47 in Vineland City, Cumberland County and N.J. 77 in the City of Bridgeton, Cumberland County, and "time limit parking" zones along Route U.S. 202 in Morris Plains Borough, Morris County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from the local governments, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no stopping or standing" zones along Routes N.J. 47 in Vineland City and N.J. 77 in Bridgeton City in Cumberland County and "time limit parking" in Morris Plains Borough, Morris County, was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.33, 1.41 and 1.55 based upon the requests from the local governments and the traffic investigations.

The rules regarding stopping or standing along Route 47 in Vineland have been amended to increase sight distances at intersections entering Route 47. Requirements regarding stopping or standing on Route 77 in Bridgeton have been amended to allow for greater sight distances, particularly in the area of Peace Street. The time limited parking requirements were added on Route 202 in Morris Plains to allow for more frequent turnover of parking spaces in the central business district. Additional changes are being made to conform the rules to current Department rule format, which organizes traffic rules by county and municipality.

Social Impact

The proposed amendments will establish "no stopping or standing" zones along Routes N.J. 47 in Vineland City and N.J. 77 in the City of Bridgeton, in Cumberland County and "time limit parking" along Route U.S. 202 in Morris Plains Borough, Morris County, for the safe and efficient flow of traffic, the enhancement of safety, and the well being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department, the City of Vineland, City of Bridgeton and the Borough of Morris Plains will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zones signs and the local officials will bear the costs for the "time limit parking" zones signs. Installation will cost approximately \$117.00 for each sign and signs will cost approximately \$7.00 per square foot. Motorists who violate the rules will be assessed the appropriate fine, in accordance with the "State-wide Violations Bureau Schedule", issued in accordance with New Jersey Court Rule 7-7-3.

Regulatory Flexibility Statement

The proposed amendments do not place any reporting, record keeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments primarily affect the motoring public and the governmental entities responsible for enforcement of the rules.

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

16:28A-1.33 Route 47

(a) The certain parts of State Highway Route 47 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times.

1. (No change.)
2. No stopping or standing in [the City of Millville,] Cumberland County.

i. [Along the northbound side:] **In the City of Millville:**

(1) Along the northbound side:

Recodify existing (1)-(3) as **(A)-(C)** (No change in text.)

Recodify existing i.-ii. as **(1)-(2)** (No change in text.)

ii. In the City of Vineland:

(1) Along both sides:

(A) From the south curb line of Wheat Road to 150 feet south thereof.

3.-10. (No change.)

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

16:28A-1.41 Route 77

[(a) The certain parts of State highway Route 77 described in this subsection are designated and established as "no stopping or standing" zones.

1. No stopping or standing in Bridgeton:

i. Along the northbound side:

(1). From the northerly curb line of Route 49 to a point 100 feet north of the northerly curb line of Route 49;

(2) From a point 190 feet south of the southerly curb line of East Commerce Street to a point 100 feet north of the northerly curb line of East Commerce Street;

(3) From a point 140 feet south of the southerly curb line of Washington Street to a point 100 feet north of the northerly curb line of Washington Street;

(4) From a point 50 feet south of the southerly curb line of Marion Street to a point 60 feet north of the northerly curb line of Marion Street;

(5) From a point 125 feet south of the southerly curb line of Irving Avenue to a point 70 feet north of the northerly curb line of Irving Avenue;

(6) From a point 50 feet south of the southerly curb line of Myrtle Street to a point 50 feet north of the northerly curb line of Myrtle Street;

(7) From the northerly curb line of Orchard Street to a point 60 feet north of the northerly curb line of Orchard Street;

(8) From a point 50 feet south of the southerly curb line of Penn Street to a point 120 feet north of the northerly curb line of Penn Street;

(9) From the northerly curb line of Cumberland Avenue to a point 150 feet north of the northerly curb line of Rosenhayn Avenue;

(10) From a point 90 feet south of the prolongation of the southerly curb line of Mulford Drive to a point 85 feet north of the prolongation of the northerly curb line of Mulford Drive;

(11) Monday to Friday from a point 180 feet south of the southerly curb line of Orchard Street to the southerly curb line of Orchard Street.

ii. Along the southbound side:

(1) From a point 225 feet north of the northerly curb line of Bridgeton Avenue to a point 100 feet south of the southerly curb line of Bridgeton Avenue;

(2) From a point 50 feet north of the northerly curb line of North Street to a point 80 feet south of the southerly curb line of North Street;

(3) From a point 50 feet north of the northerly curb line of Myrtle Street to a point 50 feet south of the southerly curb line of Myrtle Street;

(4) From a point 100 feet north of the northerly curb line of Irving Avenue to a point 70 feet south of the southerly curb line of Irving Avenue;

(5) From a point 100 feet north of the northerly curb line of Washington Street to the northerly curb line of Washington Street;

(6) From a point 100 feet north of the northerly curb line of East Commerce Street to a point 100 feet south of the southerly curb line of East Commerce Street;

(7) From the northerly curb line of Warren Street to the northerly curb line of Route 49.

(8) Monday to Friday from the southerly curb line of Morton Street to a point 100 feet south of the southerly curb line of Morton Street.

2. No stopping or standing in Upper Deerfield Township:

i. Along the northbound side:

(1) From a point 1,550 feet south of the southerly curb line of Cornwell Drive (north intersection) to the southerly curb line of Cornwell Drive (north intersection);

(2) From a point 1,550 feet south of the southerly curb line of Hoover Road;

(3) From a point 100 feet south of the southerly curb line of Old Deerfield Road to a point 700 feet south of the prolongation of the southerly curb line of Friesbury Road.

ii. Along the southbound side:

(1) From a point 1,650 feet north of the northerly curb line of Cohansey Road to the northerly curb line of Old Deerfield Road;

(2) From a point 100 feet north of the prolongation of the northerly curb line of Hoover Road to a point 600 feet south of the prolongation of the southerly curb line of Hoover Road;

(3) From the southerly curb line of Cornwell Drive (north intersection) to a point 1,550 feet south of the southerly curb line of Cornwell Drive (north intersection).

3. No stopping or standing in Elk Township along both sides from a point 110 feet south of the southerly curb line of Ewan Road to a point 110 feet north of the northerly curb line of Ewan Road.

4. No stopping or standing in Harrison Township, Gloucester County:

i. Along both sides:

(1) For the entire length within the corporate limits of the Township of Harrison, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking areas. Signs shall be posted only in areas where an official township resolution has been submitted to the Department.

5. No stopping or standing in Upper Pittsgrove Township, Salem County, along both sides:

i. Between a point 300 feet north of and 300 feet south of the intersection of County Road 666 (Monroeville-Swedeseboro Road).

ii. Between a point 400 feet north of and 200 feet south of the intersection of County Road 611 (Elmer-Shirley Road).

iii. From a point 800 feet south of the junction of Route U.S. 40 traffic circle to a point 800 feet north of the junction of Route U.S. 40 traffic circle, including all ramps and connections under the jurisdiction of the Commissioner of Transportation.]

(a) The certain parts of State Highway Route 77 described in this subsection are designated and established as "no stopping or standing" zones.

1. No stopping or standing in Cumberland County:

i. In the City of Bridgeton:

(1) Southbound on the westerly side:

(A) From the Upper Deerfield Township Line to Mulford Drive.

(B) Beginning at the northerly curbline of Highland Avenue and extending 110 feet north therefrom.

(C) Beginning at the southerly curbline of Highland Avenue to a point 149 feet south of Bridgeton Avenue.

(D) Beginning at the northerly curbline of American Avenue to a point 50 feet north therefrom.

(E) Beginning at the northerly curbline of Monroe Street to a point 93 feet north therefrom.

(F) Beginning at the northerly curbline of Penn Street to a point 71 feet north therefrom.

TRANSPORTATION

PROPOSALS

(G) Beginning at the northerly curblineline of Morton Street to a point 81 feet north therefrom.

(H) Beginning at the northerly curblineline of North Street to a point 50 feet north therefrom.

(I) Beginning at the northerly curblineline of Myrtle Street to a point 60 feet north therefrom.

(J) Beginning at the southerly curblineline of Myrtle to a point 50 feet north therefrom.

(K) Beginning at a point 120 feet north of the northerly curblineline to a point 130 feet south of the southerly curblineline of Irving Avenue.

(L) Beginning at the northerly curblineline of Washington Avenue to a point 90 feet north therefrom.

(M) Beginning at the southerly curblineline of Washington Avenue to a point 105 feet south therefrom.

(N) Beginning at the northerly curblineline of Cumberland Avenue to a point 50 feet north therefrom.

(O) Beginning at the southerly curblineline of East Commerce Street to Route N.J. 49.

(P) Monday through Friday—beginning at the southerly curblineline of Morton Street to a point 100 feet south therefrom.

(2) Northbound on the easterly side:

(A) From Route N.J. 49 to a point 100 feet north of the northerly curblineline of E. Commerce Street.

(B) From a point 140 feet south of the southerly curblineline of Washington Street to a point 100 feet north of the northerly curblineline of Washington Street.

(C) From a point 50 feet south of the southerly curblineline of Marion Street to a point 60 feet north of the northerly curblineline of Marion Street.

(D) From a point 125 feet south of the southerly curblineline of Irvington Avenue to a point 70 feet north of the northerly curblineline of Irvington Avenue.

(E) From a point 50 feet south of the southerly curblineline of Myrtle Street to a point 50 feet north of the northerly curblineline of Myrtle Street.

(F) Beginning at the southerly curblineline of Orchard Street to a point 100 feet south therefrom.

(G) From a point 50 feet south of the southerly curblineline of Penn Street to a point 120 feet north of the northerly curblineline of Penn Street.

(H) Beginning at the southerly curblineline of Horton Street and extending 50 feet south therefrom.

(I) Beginning at the southerly curblineline of Bank Street to a point 50 feet south therefrom.

(J) Beginning at the southerly curblineline of Cumberland Avenue to a point 50 feet south therefrom.

(K) From the northerly curblineline of Cumberland Avenue to a point 150 feet north of the northerly curblineline of Rosenhayn Avenue.

(L) From a point 90 feet south of the southerly prolongation of Mulford Drive to the Upper Deerfield Township line.

2.-5. (No change.)

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

16:28A-1.55 Route U.S. 202

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

(d) The certain parts of State Highway Route U.S. 202 described in this subsection shall be designated and established as "Time Limit Parking" zones. 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. In Morris Plains Borough, Morris County:

i. Thirty-minute time limit parking between 9:00 A.M. to 4:00 P.M.

(1) Along the west side (Speedwell Avenue):

(A) From a point 105 feet south of the southerly curblineline of Franklin Place to a point 35 feet north of the prolonged northerly curblineline of Allen Place.

(B) From a point 359 feet south of the southerly curblineline of Franklin Place to a point 428 feet southerly therefrom.

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

Mid-Block Crosswalk

Route N.J. 47 in Gloucester County

Proposed New Rule: N.J.A.C. 16:30-10.12

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-34.

Proposal Number: PRN 1990-345.

Submit comments by August 1, 1990 to:

Charles L. Meyers

Administrative Practice Officer

Bureau of Policy and Legislative Analysis

Department of Transportation

1035 Parkway Avenue

CN 600

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rule will establish "mid-block crosswalks" along Route N.J. 47 in Glassboro Borough and Deptford Township, Gloucester County, at designated schools, where persons attending school may safely cross the roadway at other than an area which is controlled and directed by a police officer or a traffic control device, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. This rule also establishes a midblock crosswalk in Deptford Township.

In the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of mid-block crosswalks along Route N.J. 47 in Glassboro Borough and Deptford Township, Gloucester County, was warranted.

The Department therefore proposes new rule N.J.A.C. 16:30-10.12 based upon the requests from local governments and the traffic investigations.

Social Impact

The proposed new rule will establish mid-block crosswalks along Route N.J. 47 in Glassboro Borough and Deptford Township, Gloucester County, for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and to provide a designated area for persons, including the handicapped, to safely cross the roadway at other than an area which is controlled and directed by a police officer or a traffic control device. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the appropriate striping and signage along the roadway. Motorists who violate the rule will be assessed the appropriate fine as established by N.J.S.A. 39 and the State of New Jersey Statewide Violations Bureau Schedule, issued pursuant to New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed new rules does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rule primarily affects the motoring public.

Full text of the proposed new rule follows:

16:30-10.12 Route 47

(a) The certain parts of State highway Route 47 described in this subsection shall be designated as a mid-block crosswalk.

1. In Gloucester County:

i. Mid-block crosswalks:

(1) Glassboro Borough (Glassboro Intermediate School):

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

(A) From a point 35 feet south of the southerly curb line of Focer Avenue to a point six feet southerly therefrom (approximate milepost 62.762).

(B) From a point 375 feet south of the southerly curb line of Focer Avenue to a point six feet southerly therefrom (approximate milepost 62.698).

(2) Deptford Township:

(A) New Sharon School—From a point 1,530 feet south of the southerly curb line of Spruce Avenue to a point 10 feet southerly therefrom (approximate milepost 70.36).

(B) (Plaza 47 Parking Lot)—From a point 200 feet south of the southerly curb line of Taras Avenue to a point six feet southerly therefrom (approximate milepost 72.803).

(C) St. John of God (Handicapped)—From a point 407 feet south of the southerly curb line of Central Avenue to a point 10 feet southerly therefrom (approximate milepost 73.26).

(a)**THE COMMISSIONER****Zone of Rate Freedom****Proposed Amendments: N.J.A.C. 16:53D**

Authorized By: Robert A. Innocenzi, Deputy Commissioner
(State Transportation Engineer), Department of
Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 48:2-21 and 48:4-2.20
through 2.25.

Proposal Number: PRN 1990-344.

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

Wednesday, July 25, 1990 at 9:00 A.M.
Hearing Room
Office of Administrative Law
185 Washington Street
Newark, NJ 07102

Submit comments by August 1, 1990 to:

Charles L. Meyers
Administrative Practice Officer
Bureau of Policy and Legislative Analysis
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendments implement certain provisions of N.J.S.A. 48:2 which directs the Commissioner of the Department of Transportation to establish a Zone of Rate Freedom (ZORF) for the regular route private autobus carriers operating within the State. The ZORF constitutes a limited percentage range to be set annually by the Commissioner in which regular route private autobus carriers may be permitted to adjust their rates, fares or charges without petitioning the Department for prior approval. Provided the autobus carrier remains within the designated percentage range, all that is required is notice to the Department and the riding public of the rate, fare or charge adjustment prior to the effective date. If, however, the regular route autobus carrier seeks a percentage adjustment greater than that provided for in the ZORF, such autobus carrier will be required to follow the standard petitioning procedures, as specified in N.J.S.A. 48:2-21, N.J.A.C. 16:51-3.10 and 3.11.

After extensive review of the ZORF and its relationship to regular route private autobus carrier costs, revenues and fare structure, the Department proposes to amend the current ZORF. The percentage limitations contained in the 1991 proposal are scaled in consideration of the varying fares currently charged by intrastate regular route private autobus operations.

The percentages set forth in the 1991 proposal do not apply to casino or regular route in the nature of special, charter and special autobus service operating within the State. Pursuant to N.J.S.A. 48:4-2.25, the Commissioner is authorized to exempt casino or regular route in the nature of special, charter and special autobus operations from the purview

of the rate regulation. In accordance with said authority, the Commissioner proposes to exempt casino or regular route in the nature of special, charter and special carriers operations within the State during the calendar year of 1991.

The Department also proposes to amend N.J.A.C. 16:53D-1.2(a)2 to require the autobus carrier to file with the Department a copy of the public notice of the new fare adjustment. N.J.A.C. 16:53D-1.3 is amended essentially to require autobus operators otherwise exempt from this chapter to annually file (by January 2) with the Department current schedules of their rates, fares or charges. This amendment also reiterates the existing necessity for such autobus operators to comply with N.J.A.C. 16:51-3.10 and 3.11 regarding modifications to such schedules.

Social Impact

The proposed 1991 ZORF percentage amendment will enable private autobus carriers, in most cases, to modify regular route fares as may be required without incurring administrative hearing costs, while also limiting the chance for uncontested fare increases to adversely impact on the public. In the Department's opinion, the fare changes permitted by the proposed 1991 ZORF will not be burdensome to the public or regular route private autobus companies. The amendments to N.J.A.C. 16:53D-1.2 and 1.3 serve to augment Department records concerning ZORF fare adjustment and ZORF exempt autobus operators rate, fare or charge schedules.

Economic Impact

The proposed 1991 percentage amendment will afford privately owned autobus companies regular route fare adjustment flexibility. Such carriers will not have to incur costly and time consuming petition procedures when their proposed fare adjustments are consistent with projected costs allowances. The amendments to N.J.A.C. 16:53D-1.2 and 1.3 impose on operators only the administrative cost of filing notice and schedule copies with the Department. The allowed fare adjustments are not expected to have a significant economic impact on the riding public.

Regulatory Flexibility Analysis

A number of the autobus carriers affected by the proposed amendments are small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed percentage amendment does not place any reporting or recordkeeping requirements on such autobus carriers. First time autobus carriers commencing operations will have to meet the reporting and recordkeeping requirements otherwise established by law for autobus carriers. The amendment sets revised limits on rate modifications for which compliance with N.J.A.C. 16:51-3.10 and 3.11 is not required.

The proposed amendments to N.J.A.C. 16:53D-1.2 and 1.3 impose a different additional reporting requirement on regular route autobus carriers and N.J.A.C. 16:53D-1.1—exempt autobus operators. Since the cost of compliance (filing of a notice or schedule copy) is not significant, no requirement exemption based upon business size is provided.

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

SUBCHAPTER 1. GENERAL PROVISIONS**16:53D-1.1 General provisions**

(a) Any regular route autobus carrier operating within the State which seeks 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. 16:51-3.10 (Tariff filings or petitions which do not propose increases in charges to consumers) or N.J.A.C. 16:51-3.11 (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.

1. The following chart sets forth the [1990] 1991 percentage maximum for increases to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05:

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Present Fare	% Of Increase	Increase Upgraded To Nearest \$.05
[\$.55-.85] \$.60 or less	[5.65%] 7.83%	\$.05
[\$.90-\$1.75] \$.65-\$1.25	[5.65%] 7.83%	\$.10
[\$1.80 upward] \$1.30-\$1.90	[5.65%] 7.83%	\$.15
\$1.95 upward	7.83%	\$.20+

2. The following chart sets forth the [1990] 1991 percentage maximum for decrease to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05:

Present Fare	% Of Decrease	Decrease Upgraded To Nearest \$.05
[\$.55-\$1.00] \$.50 or less	10%	[\$.10] \$.05
\$.55-\$1.00	10%	\$.10
\$1.05 upward	10%	\$.15+

16:53D-1.2 Requirements

(a) Any regular route autobus carrier which seeks a fare adjustment which is subject to this [rule] subchapter shall be required to:

1. Notify the Department by filing a complete schedule of all current fares and all fares to be adjusted at least 30 days prior to the effective date of the new fare adjustment.

2. Post a public notice in all autobuses providing service on the regular routes to be affected by the adjusted fares and in all bus terminals served by those autobuses on the regular routes at least 30 days prior to effective date of the new fare adjustment. The autobus carrier must verify to the Department by filing a copy of said public notice and an affidavit that it has in fact posted such public notice at least 30 days prior to the effective date of the new fare adjustment.

16:53D-1.3 Exemptions

The Commissioner hereby exempts casino or regular route in the nature of special, charter and special autobus operations from the rate regulation provisions set forth in N.J.A.C. 16:53D-1.1 and in any other chapter of Title 48. Notwithstanding the rate regulation exemption, casino or regular route in the nature of special, charter and special autobus [operations] operators shall [continue to] annually file with the Department by January 2 current schedules of their rates, fares or charges for such operations and shall comply with the provisions set forth in N.J.A.C. 16:51-3.10 and 3.11 regarding modifications thereto.

The Public Employee Charitable Fund-Raising Act, N.J.S.A. 52:14-15.9c1, was enacted in 1985 to provide for an expanded Charitable Fund-Raising Campaign among public employees. The Act followed a successful court challenge to prior law which had afforded only the United Way access to public employees to conduct a payroll deduction campaign. Under the law, the State Treasurer is directed to develop regulations to implement the provisions of the Act.

Under the terms of the Act, a voluntary fund-raising campaign is conducted annually in the fall among public employees, who may authorize their contributions to be deducted from their paychecks during the following year. The re-adoption of these regulations, which have governed the successful operation of the campaign since 1985, will ensure that the planning and implementation of the campaign continues in an uninterrupted fashion.

The chapter is divided into six subchapters. The first contains general provisions, including the chapter's scope and purpose, definitions and forms. Subchapter 2 governs the duties of and membership on the Charitable Fund-Raising Campaign Steering Committee. Subchapter 3 sets forth the eligibility and application requirements for the Charitable Fund-Raising Campaign. Administration of the Campaign is provided for under subchapter 4. Campaign accounts requirements are in subchapter 5. Subchapter 6 provides for Campaign participation by State-level boards, commissions and authorities whose paid staff's compensation is not payable by the State Treasurer.

Social Impact

The rules provide access to the public workplace to a variety of charitable organizations and agencies in order that these groups may solicit and collect contributions and further their respective missions. The rules afford State employees a broad avenue of expression and more freedom in designating recipients of their charitable contributions. The rules ensure a truly united and comprehensive fund drive. The total amount pledged under the campaign operated under these rules has increased from \$650,000 in its first year, 1985, to \$1,379,000 in 1989. In 1989, approximately 1,300 social or health service agencies benefited from these contributions.

The rules conform to the payroll deduction scheme set forth in N.J.S.A. 52:14-15.9c1 et seq. and State and Federal guarantees of freedom of speech and equal protection under the law.

The procedures set forth in this chapter also provide an additional source of funds to agencies which are neither affiliated with nor are members of any fund-raising organization. This source of funds may replace some Federal funds that are no longer provided due to budgetary cutbacks. Strengthening non-profit charitable organizations and agencies will also permit them to provide social services not provided by public agencies because of Federal budgetary cutbacks.

Economic Impact

The rules proposed for re-adoption have no significant economic impact on State finances. However, because many charitable organizations and agencies participate in the State Campaign, some minimal administrative costs are incurred. It should be noted that the provision for increased organization and agency participation may well encourage greater total charitable giving by State employees through payroll deductions.

TREASURY-GENERAL

(a)

OFFICE OF THE STATE TREASURER

**Public Employee Charitable Fund-Raising Campaign
Proposed Re-adoption: N.J.A.C. 17:28**

Authorized By: Douglas C. Berman, State Treasurer.
Authority: N.J.S.A. 52:14-15.9c1 and N.J.S.A. 52:18A-30.
Proposal Number: PRN 1990-353.

Submit comments by August 1, 1990 to:
Steven B. Frakt
Administrative Practice Officer
Office of the State Treasurer
State House, 1st Floor
CN 002
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 17:28 expires on September 13, 1990. The Office of the State Treasurer has reviewed the rules and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated, as required by the Executive Order.

Regulatory Flexibility Analysis

As defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the term "small business" may apply to some charitable agencies wishing to participate in the Public Employee Charitable Fund-Raising Campaign. The only requirements imposed on such agencies relate to the application process, the documentation for which should be maintained by the agency in the normal course of operation. Besides the minor administrative cost of application, the Department anticipates no capital costs need be expended or professional services engaged by small businesses to comply with these rules. Therefore, no differentiation in the application process based upon business size is provided.

Full text of the proposed redoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:28.

TREASURY-TAXATION**(a)****DIVISION OF TAXATION****Organization Rules****Conference Branch; Hearings****Proposed New Rule: N.J.A.C. 18:1-1.8****Proposed Amendments: N.J.A.C. 18:5-8.10;****18:7-13.2; 18:8-5.1 and 5.2; 18:9-6.7, 6.8 and 6.9****Proposed Repeal: N.J.A.C. 18:9-6.10**

Authorized By: Benjamin J. Redmond, Acting Director,
Division of Taxation.

Authority: N.J.S.A. 54:50-1 and 52:14B-3.

Proposal Number: PRN 1990-359.

Submit comments by August 15, 1990 to:

Nicholas Catalano
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269

Trenton, New Jersey 08646

The agency proposal follows:

Summary

The proposed new rule informs the public about the branch within the Division of Taxation which performs administrative hearings regarding tax matters. It also describes the proper procedure to be used in order for a taxpayer to initiate administrative review and a hearing, if desired, of a finding or assessment of the Director of Taxation. The rule explains the time within which to file a protest and request a hearing. It also specifies the form and content of the protest and request for hearing, such as the documents, information, and payments that are to accompany the submission. The uniformity of documentation related to protests is intended to assist taxpayers in clearly complying with the statutory requirements of setting forth the reasons for a protest. Where the taxpayer properly sets forth the reasons for the protest, the taxpayer will also set forth the amount protested, which necessarily depends upon the grounds of the protest. The information contained in the submission will allow the administrative process to proceed more smoothly. Technical amendments to the existing cigarette tax, corporation tax, financial business tax, and business personal property tax rules are also proposed, conforming them to the requirements of the proposed new rule and updating the rules with respect to the appeal procedure.

Social Impact

The proposed new rule will have a positive social impact in that it will enable a taxpayer and a taxpayer's representative to know what documents, information, and payments must accompany a protest and request for hearing. The rule will assist the taxpayer or taxpayer's representative in focusing upon the issue or issues in dispute so that the taxpayer's position is framed clearly for consideration. By standardizing the protest and request for hearing forms, the Division will save administrative time in the initial processing of such documents.

Economic Impact

Since the proposed new rule requests that uncontested amounts of tax, penalty and interest accompany the protest and request for hearing, there may be some acceleration of revenue to the State through more speedy

receipt of uncontested amounts. Orderly presentation of the information requested should result in the State saving some costs of administrative processing. The rule could also save expense to taxpayers which will now be clearly informed of the documents, information, and payments that are to accompany the protest and request for hearing.

Regulatory Flexibility Analysis

The proposed new rule imposes a compliance requirement on taxpayers wishing to protest or request a hearing of a finding or assessment of the Director of Taxation. Some of these taxpayers may be considered small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The source of the compliance requirements is the underlying taxing statutes which are administered through the State Tax Uniform Procedure Act. No exemption from or differentiation in these requirements is provided in the rule, since to do so would not be in compliance with the applicable statutes.

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

18:1-1.8 [(Reserved)] Conference Branch

(a) A Conference Branch within the Division of Taxation exists in accordance with N.J.S.A. 54:49-18 to conduct administrative hearings and reviews of findings or assessments of the director. A protest, and a request for hearing, if any, by a taxpayer to the Conference Branch must be made within the time mandated by the appropriate taxing statute. A protest, and a request for hearing, if any, must generally be made within 30 days of the giving of the notice sought to be reviewed. In the case of a petition for a redetermination under the Gross Income Tax Act, however, the taxpayer may file a petition within 90 days after the mailing of the notice (or 150 days if the notice is addressed to a person outside of the United States) pursuant to N.J.S.A. 54A:9-9(b). The administrative hearing or protest review results in a Final Determination which confirms, modifies or vacates the finding or assessment under review. The Final Determination is then subject to judicial review in the New Jersey Tax Court pursuant to N.J.S.A. 54:51A-14 and 54A:9-10.

(b) When under any applicable law or rule a taxpayer is entitled to a hearing with the Conference Branch, such hearing process shall be commenced with the submission of a written protest statement as defined by this rule and a request for a hearing, if a hearing is desired. A written protest shall be signed by the taxpayer, by the taxpayer's duly authorized officer or duly authorized representative, under oath, and shall contain the following documents, information and payments:

1. The taxpayer's name, address, telephone number and social security or tax identification number;
2. The name, address and telephone number of taxpayer's representative, if any, for the purpose of the protest. In such case, a written power of attorney (Form M-5008) shall be filed with the notice of protest;
3. The type of tax and period(s) under protest;
4. A copy of the notice at issue;
5. The specific amount of tax, penalty, and/or interest under protest and specific amount of tax, penalty, and/or interest uncontested;
6. A statement of grounds upon which the protest is based;
7. The specific facts supporting each ground asserted, and a summary of evidence or documentation to be presented in support of taxpayer's position. (If this requirement cannot be met within the 30 day period, the Division will, upon written request, extend the time for complying with this submission until 30 days prior to the conference date.); and
8. The taxpayer shall remit the entire uncontested amount of the tax, penalty, and interest, if any, that is due.

(c) A submission which, in particular, does not set forth the information in (b)5 and (b)6 above will not be considered a valid protest and will not result in a hearing or review.

(d) The filing of any protest shall not abate penalties and interest for nonpayment, nor shall it stay the right of the Director to collect the tax in any manner provided by law, unless the taxpayer shall furnish security of the kind and in the amount satisfactory to the Director.

(e) If a protest or any filing or act taken by the taxpayer with respect to it is determined by the Director to be frivolous or for the purpose to delay or impede the administration of State tax law, the waiver of

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penalty and/or interest above the statutory minimum will not be considered.

(f) Hearings are scheduled whenever possible by telephone on a mutually acceptable date for both the taxpayer representative and the conferee, who represents the Division. Cancellations are discouraged except in cases that make attendance unavoidable. In the event that a cancellation must be granted, the hearing will be rescheduled on the Conference Branch's soonest available date.

(g) Transfer inheritance tax hearings are held pursuant to N.J.A.C. 18:26-12.5 to 12.10.

(h) Protests, petitions for redetermination, and requests for administrative hearings should be submitted to the Conference Branch, Division of Taxation, University Office Plaza, 3635 Quakerbridge Road, CN 269, Trenton, NJ 08646-0269.

18:5-8.10 Protest against assessments

(a) If any taxpayer is aggrieved by any finding or assessment of the Director, within 30 days of the giving of the notice of assessment or finding, the taxpayer may file a protest in writing [signed by himself or his duly authorized agent, under oath, setting forth the reason therefor,] in the form and manner described in N.J.A.C. 18:1-1.8 and, if desired, [a] request [for] an informal or formal hearing.

(b) (No change.)

(c) The filing of any such protest does not abate penalties for nonpayment, nor stay the right of the Director to collect the tax due in any manner herein provided, unless the taxpayer pays the tax including penalties and interest or furnishes a bond in the amount of the tax due including penalties, interests and costs.

(d) The time for appeal or review is not extended by the filing of any protest unless a hearing is requested, and the time to appeal is then extended only for the period between the filing of the protest and the final determination thereon by the Director.]

18:7-13.2 Hearing; protest

(a) Rules concerning the right of taxpayer to a hearing are:

1. Any taxpayer aggrieved by any finding or assessment of the Director may, within [thirty] 30 days of the date of the notice of assessment or finding, file a protest in writing, [signed by its duly authorized officer or agent, which shall be under oath, shall set forth the reasons for objecting] in the form and manner described in N.J.A.C. 18:1-1.8, and may request a hearing;

2. (No change.)

[(b) Powers of Director in regard to hearing are:

1. He may make an order confirming, modifying or vacating any such finding or assessment;

2. The time for approval or review shall not be extended by the filing of any protest unless a hearing is requested; and

3. The time to appeal shall then be extended only for the period between the filing of the protest and its final determination by the Director;

4. The filing of any protest shall not abate penalties for nonpayment, nor shall it stay the right of the Director to collect the tax in any manner provided by law, unless the taxpayer shall furnish security of the kind and in the amount satisfactory to the Director.]

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

18:8-5.1 Protests, hearings; procedures

(a) Any taxpayer aggrieved by any finding or assessment of the Director may, within 30 days of the giving of notice thereof, file a protest in writing [under oath] in the form and manner described in N.J.A.C. 18:1-1.8.

[1. The notice shall be signed by the taxpayer or its duly authorized agent, shall set forth the reasons for protesting, and may request a hearing;

2. Upon receipt of such protest, the Director if so requested may hold an informal hearing and thereafter make an order confirming, modifying or vacating the protested finding or assessment.

(b) The filing of a protest does not abate the penalties for nonpayment, nor stay the right of the Director to collect the tax in any manner provided by law unless the taxpayer furnishes security of the kind in the amount satisfactory to the Director.

(c) The time for appeal or review is not extended by the filing of any protest unless a hearing is requested, and the time to appeal is then extended only for the period between the filing of the protest and the final determination thereon by the Director.]

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

18:8-5.2 Appeal[; stay of enforcement]

(a) Any aggrieved taxpayer [aggrieved by any decision, order, finding or assessment of the Director or by his refusal to act, or by any certification of debt to the clerk of the court, may within three months thereof appeal to the Division of Tax Appeals, by filing a petition of appeal with the Division in the manner and form prescribed by the Division and upon payment of the tax or giving a bond in twice the amount of the tax due, including any penalties, interests and costs up to the date of judgment] may within 90 days after any final decision, order, finding, assessment or action of the Director made pursuant to the provisions of the Act, appeal therefrom to the Tax Court in accordance with pertinent provisions of the State Tax Uniform Procedure Law (see N.J.S.A. 54:51A-13 et seq.).

[(b) No appeal will stay the collection of any tax or its enforcement by entry as a judgment, unless by order of the Division of Tax Appeals and then only after security, approved by the Director or order of the Division of Tax Appeals has been furnished to the Director.

(c) The judgement or order of the Division of Tax Appeals respecting any matter arising under the Act may be reviewed by a proceeding in lieu of prerogative writ, in the same manner as other judgments of that Division.]

18:9-6.7 Protests

(a) Any taxpayer aggrieved by any finding or assessment of the Director may within 30 days of receipt of notice thereof file a protest in writing, [under oath, signed by the taxpayer or a duly authorized officer, setting forth the reasons for protest, and may request a hearing] in the form and manner described in N.J.A.C. 18:1-1.8.

[(b) Upon receipt of the taxpayer's protest, the Director if so requested may hold an informal hearing and thereafter make an order confirming, modifying or vacating the protested finding or assessment.]

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

[(d) The time for appeal or review is not extended by the filing of any protest unless a hearing is requested, and the time to appeal is then extended only for the period between the filing of the protest and the final determination thereon by the Director.]

18:9-6.8 Hearing; format

Hearings before the [Corporation Tax Bureau] Conference Branch are to be conducted on an informal basis, with or without representation on behalf of the taxpayer or other party in interest.

18:9-6.9 Right to appeal finding of Director

(a) Any aggrieved taxpayer may within [three months] 90 days after any decision, order, finding, assessment or action of the Director appeal therefrom to the [Division of Tax Appeals] by filing a petition of appeal with that Division in the manner and form prescribed by that Division and upon giving a bond in twice the amount of the tax due, including any penalties, interests and costs up to the date of judgment by the Division] Tax Court in accordance with pertinent provisions of the State Tax Uniform Procedure Law (see N.J.S.A. 54:51A-13 et seq.).

[(b) No appeal will stay the collection of any tax or the enforcement of the same by entry as a judgment, unless by order of the Division of Tax Appeals, and then only after giving security as required by subsection (a) of this Section to the Director.]

18:9-6.10 [Right to review of decision of Division of Tax Appeals] (Reserved)

[The judgment or order of the Division of Tax Appeals respecting any matter arising under the provisions of the Act may be reviewed by means of a proceeding in lieu of prerogative writ in the Superior Court of this State in the same manner as other judgments of the Division.]

(a)

DIVISION OF TAXATION**Tax Maps****Proposed Readoption with Amendments: N.J.A.C. 18:23A**

Authorized By: Benjamin J. Redmond, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:1-15 and 54:50-1.

Proposal Number: PRN 1990-342.

Submit comments by August 1, 1990 to:

Nicholas Catalano
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 18:23A, Tax Maps, expires on August 5, 1990. The Division of Taxation has reviewed the rules and, with minor grammatical and technical changes as well as the amendments summarized below, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

The foreword to subchapter I is proposed for deletion. However, a definition of tax map has been taken from that text and is introduced as new subsection N.J.A.C. 18:23A-1.1(b). References to "Local Property and Public Utility Branch" have been changed to "Local Property Branch" correctly reflecting an administrative reorganization. At N.J.A.C. 18:23A-1.5, exceptions to the scales have been added for large parcels of land including airports and industrial tracts. At N.J.A.C. 18:23A-1.9, assignment of block numbers to high-rise condominiums was added. At N.J.A.C. 18:23A-1.14, the term "dimensions" was changed to "deed dimensions". At N.J.A.C. 18:23A-1.15(d), the subsection was amended to include vacated streets.

A tax map may be defined as a map or maps drawn to scale, indicating every lot of land identified by a block and lot number except those areas allocated to roads, streets, highways, and tidal waters outside of riparian grants. In addition to the names of the roads, streets, highways and tidal waters listed above, the names of the adjoining counties, adjoining municipalities, rivers, streams, brooks, railroads, rights-of-way and easements shall be indicated in their proper location on the tax map. Rule provisions cover map approval, aerial photographs and surveys, scale and size of map, sheet, street and block numbers, block and property lines, boundary lines of municipalities, streets, roads and highways, rights-of-way and easements, railroads, rivers, riparian rights, timberlands, mines, exempt lands, titles, names of property owners, condominiums, flood hazard areas and maintenance of tax maps.

The primary purpose and use of tax maps is to inform assessors and individual taxpayers, who are not engineers or surveyors; therefore tax maps should be easy to read and understand. They are needed for proper taxation of definite lots, aid in transfer of title to real property and title searching, local planning and zoning.

The Director, Division of Taxation, Department of Treasury is charged with "... full control over the preparation, maintenance and revision of all tax maps ..." which he administers through the Local Property Branch. The Local Property Branch inspects and approves all tax maps made in New Jersey which must be made by a New Jersey Licensed Land Surveyor in accordance with the specifications set forth in these rules.

Social Impact

Tax maps are valuable to inform individual taxpayers, tax assessors, tax collectors, title searchers, and county and state tax officials regarding the location of a particular piece of property. Tax maps are routinely used by sellers, buyers, lawyers and brokers in connection with real estate transactions. Municipalities and developers use them in connection with planning, zoning, and new developments. The rules set up standards for all tax maps, so that interested persons do not have to learn local procedures in different municipalities.

Economic Impact

The standardized tax maps required by the rules greatly simplify the purchase, development and sale of real estate. This reduces the costs of real estate transfers, including title searching, municipal planning, costs, and legal costs.

P.L. 1971, c.424 (N.J.S.A. 54:1-35.35 et seq.) requires the use of an up-to-date tax map for any municipal realty tax revaluation. Revaluation can affect many property owners. The rules require that the tax map be kept up-to-date. No adverse economic impact has been ascribed to these rules. The standards which have been established and applied over time have been fully accepted by surveyors engaged in preparation of tax maps. On the other hand, the rules benefit local and county governments and taxpayers who will, no doubt, experience a lessened incidence of costly tax appeals as a result of the uniform standards and guidelines set forth herein.

Regulatory Flexibility Analysis

The proposed readoption with amendments establishes compliance requirements for those surveyors, employed by or contracted by municipalities, who engage in the preparation of tax maps. In the instance of contracting for such services, those surveyors may be considered small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, the standardized use of scales, key sheets, lot and block numbers and other drafting conventions in compliance with these rules is not viewed as burdensome and is necessary for the furtherance of uniform presentation and understanding of tax maps. Furthermore, no differing standards are provided in that the rules apply to surveyors and surveying firms all of whom are small businesses as that term is defined for this purpose.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:23A.

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

SUBCHAPTER 1. GENERAL PROVISIONS**[FOREWORD]**

[A tax map may be defined as a map or maps drawn to scale, indicating every lot of land identified by a block and lot number except those areas allocated to roads, streets, highways, and tidal waters outside of riparian grants. In addition to the names of the roads, streets, highways and tidal waters listed above, the names of the adjoining counties, adjoining municipalities, rivers, streams, brooks, railroads, rights-of-way and easements shall be indicated in their proper location on the tax map.

The primary purpose and use of tax maps is to inform assessors and individual taxpayers, who are not engineers or surveyors; therefore, tax maps should be easy to read and understand.

The Director, Division of Taxation, Department of Treasury¹ is charged with "... full control over the preparation, maintenance and revision of all tax maps. ..." which he administers through the Local Property and Public Utility Branch. The Local Property and Public Utility Branch inspects and approves all tax maps made in New Jersey which must be made by a New Jersey Licensed Land Surveyor in accordance with the specifications set forth in these regulations.

These regulations insofar as they are identical in substance to existing rules or regulations relating to the same subject matter shall be construed as restatements and continuations and not new regulations.

Regulation reference numbers have been designated according to regulations issued by the Director, Division of Administrative Procedure, pursuant to P.L. 1968, c.410, for example, Reg. 18:23A-1 refers to the section of the New Jersey Administrative Code and should be cited as N.J.A.C. 18:23A-1.]

18:23A-1.1 General provisions, scope and tax map defined

(a) (No change.)

(b) **A tax map may be defined as a map or maps drawn to scale, indicating every lot of land identified by a block and lot number except those areas allocated to roads, streets, highways, and tidal waters outside of riparian grants. In addition to the names of the roads, streets, highways and tidal waters listed above, the names of the adjoining**

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counties, adjoining municipalities, rivers, streams, brooks, railroads, rights-of-way and easements shall be indicated in their proper location on the tax map.

18:23A-1.2 Approval of tax maps

(a) (No change.)

(b) No new map or set of maps shall be used for purposes of taxation until approved by the Director, Division of Taxation (Chapter 167, Laws of 1939; N.J.S.A. 54:1-15.3).

1. After maps have been completed and thoroughly checked by the maker for compliance with these rules, the maps shall be submitted to the Local Property [and Public Utility] Branch for examination. Any revisions or corrections found to be necessary shall be made by the maker of the tax map. The Branch reserves the right to reject any tax map for examination which, in its opinion, has not been adequately checked for compliance with these rules.

2. (No change.)

3. The Local Property [and Public Utility] Branch will make a set of prints of each approved tax map to be retained in its file. The tracings will then be made available to [said] the municipality concerned.

4. (No change.)

18:23A-1.5 Scales

(a) Maps shall be drawn to the following scales, depending on the density and classification of the municipality.

1. City and urban districts—1 inch = 50 feet and 1 inch = 100 feet; however, large parcels of land such as airports or industrial tracts should be detailed at a scale of 1 inch = 200 feet or 1 inch = 400 feet, depending on size. Example: No parcel of land over 15 acres should be detailed at a scale of 1 inch = 50 feet.

2.-3. (No change.)

(b) The same scale [shall] should be used on all detail sheets throughout the taxing district, but where special conditions [make it desirable to use] require the use of more than one scale, this may be done by first obtaining permission from the Local Property [and Public Utility] Branch.

(c) A supplemental sheet, or sheets, drawn to a larger scale may be used to show properties in a minor settlement or development, if this cannot be clearly shown on a smaller scale (See Standards, Page 43).

18:23A-1.6 Key map or sheet

(a) A Key Sheet shall be prepared for each map to a small scale which shall show the following data (See Standards, Page 40):

1.-13. (No change.)

14. Revision block (See Standards, [Page] Pages 39 and 40).

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

(d) When a new tax map supersedes an existing tax map, a note shall be placed on the Key Sheet or Key Sheets as follows: "This tax map supersedes the tax map approved (date)." This information is obtainable from the Local Property [and Public Utility] Branch.

18:23A-1.9 Block numbers

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

(c) Each block shall be bounded by streets, highways, rivers and prominent streams, but it shall be permissible, under special conditions, to use artificial block limits, provided they are clearly shown by heavy solid lines and marked "Block Limit" or "B.L."

1. (No change.)

2. In no case shall any block be so extended that it will include lands on both sides of any street, highway, [or] prominent stream, or another block;

3. (No change.)

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

(f) Block numbers used on filed maps which are located within the municipality may be shown but shall be distinct in appearance and less conspicuous than the block number to be used on the tax map. These filed map block numbers shall not be shown on the Key Sheet or Sheets (See Standards, Page[s] 48 [and 49]).

(g) (No change.)

(h) Block numbers shall be assigned to high-rise (over three floors) condominiums (See Standards, Page 64).

18:23A-1.10 Lot numbers

(a) Lot numbers shall be assigned to every lot in the municipality including lots along the boundary lines, which may be assessed by an adjoining municipality, and "exempted" property, except areas occupied by roads, streets, highways, and tidal waters outside of riparian grants (N.J.S.A. 40:146-17; See Standards, Pages 50 [and], 51 and 56).

(b)-(i) (No change.)

18:23A-1.12 Boundary lines of municipalities

(a) Boundary lines of the municipality shall be determined either by running traverse lines in the field or from other reliable sources.

1. If traverses are run, they shall be closed and the computations may be requested by the Local Property [and Public Utility] Branch for review.

2.-3. (No change.)

(b) Boundary lines of the municipality shall be shown by a very prominent, heavy dash and double dotted line (See Standards, Page 37).

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

18:23A-1.14 Dimensions and area of lots

(a) The deed (width and depth) dimensions of rectangular lots and all deed dimensions of irregular lots shall be shown on properties assessed as lots.

(b) All deed dimensions of acreage lots are required.

(c) A scaled distance may be used where the [exact] deed distance is unknown and cannot be determined at a reasonable cost.

1.-3. (No change.)

(d)-(g) (No change.)

(h) Where a lot must be shown in part on two or more detail sheets, the word "Total" shall be added [before] to the acreage and dimensions to indicate that the acreage and dimensions shown include[s] also that portion of the lot shown on other detail sheets (See Standards, Page 41).

(i) (No change.)

18:23A-1.15 Streets, roads, highways

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

(d) Private and vacated streets shall be shown with a separate lot number or shall be shown as dashed lines. Other private and vacated streets shall be part of the adjacent lot with the property lines as the division (See Standards, Pages 47, 62 and 71).

18:23A-1.17 Railroads

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

(d) Prints of the railroad lands as assessed by the State of New Jersey may be obtained, upon application, at a minimal cost from the Local Property [and Public Utility] Branch.

18:23A-1.18 Rivers, streams, riparian grants

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

(c) A single solid line [may] shall be used to indicate a small stream when it is also a property line, provided it is marked "P/L" (See Standards, Pages 55 and 56).

(d) (No change.)

(e) Riparian grants, leases, and licenses shall be indicated and assigned lot numbers.

Example: (No change.)

18:23A-1.25 Review procedures employed by Local Property [and Public Utility] Branch

(a) The Local Property [and Public Utility] Branch will review and note corrections to be made by the tax map maker.

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

18:23A-1.27 Maintenance of tax maps

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

(c) Current maintenance of tax maps should be achieved by changing tracings whenever a land transfer occurs on a regular weekly or monthly basis. A revision block should be set forth on a key map [or] and detail sheets indicating the following:

1.-3. (No change.)

(d)-(h) (No change.)

OTHER AGENCIES

(a)

ATLANTIC COUNTY TRANSPORTATION AUTHORITY

Rules of Operation

Fees

Proposed New Rules: N.J.A.C. 19:75-10

Proposed Amendments: N.J.A.C. 19:75-1.1, 4.4, 6.2, 9.2, 9.3 and 9.4

Authorized By: Atlantic County Transportation Authority,
Wade Lawson, Executive Director.

Authority: N.J.S.A. 40:35B-15.

Proposal Number: PRN 1990-354.

Submit comments by August 1, 1990 to:

Wade Lawson, Executive Director

Atlantic County Transportation Authority

25 South New York Avenue

Atlantic City, NJ 08401

The agency proposal follows:

Summary

The Atlantic County Transportation Authority is charged with the responsibility of managing motorbus activities as well as regulating parking facilities and related structures in Atlantic County. With the continued growth of tourism in the South Jersey region and the increase in visitors to Atlantic County, there has been a substantial increase in the number of applications submitted by bus companies, motels and hotels to the Authority for approvals which would permit the expansion or furtherance of their tourist/visitor related business enterprises. The resultant increased demand on the Authority staff and professional consultants has increased the cost of providing the level of technical assistance and expertise required to process the requests.

The proposed new rules at N.J.A.C. 19:75-10 establish a schedule of fees to be charged to applicants seeking site capacities, variances, bus parking lot and other specified approvals. All other amendments are technical in nature and do not affect the substance of the rules. These amendments reflect the proposed new rules in the proper context within the chapter.

Social Impact

The proposed new rules at N.J.A.C. 19:75-10 establish a fee schedule for the review of applications. Since these fees constitute a small portion of the total operating cost of a hotel and bus company, no impact on the course of business of the potential applicants is anticipated from these rules and the resulting amendments. The efficiency and effectiveness of the Authority will be enhanced through the creation of this fee structure.

Economic Impact

The economic impact of the rules can best be described by indicating that due to the increase in tourism in Atlantic County, particularly the Atlantic City region, motels, hotels and bus companies have increased their marketing initiatives in an effort to expand or further their business enterprises. This has resulted in an increased number of applications for approvals and permits from the Authority which will permit the companies to expand their businesses. As a result of this increased activity, the Authority is proposing this fee schedule which will allow the Authority to recoup an equitable portion of its costs for reviewing and processing plans and permit applications. No adverse economic impact on the owners or operators of hotels or bus companies is projected since the cost of the Authority review represents a small portion of the total operating costs of the business.

Regulatory Flexibility Analysis

The proposed new rules and amendments apply to all applicants desiring any approvals required to be applied for pursuant to N.J.A.C. 19:75. At least some of the applicants will be small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed fee schedule is designed to reflect actual Authority staff and professional consultant's time spent on plan and application review. As the complexity and time expended on such review is not necessarily related to the owner's size, no differentiation based upon business size is provided. However, any applicant who is a charitable, philanthropic,

fraternal or religious non-profit organization holding a tax exempt status under the Federal Internal Revenue Code of 1954 may request a waiver of the application fees. No new reporting or recordkeeping requirements are imposed by the new rules or amendments.

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

19:75-1.1 Definitions

The following terms shall have the following meanings, unless the context clearly indicates otherwise.

....
"Application fee" shall mean that fee charged by the Authority, as set forth in N.J.A.C. 19:75-10, for the review and processing of applications submitted in accordance with this chapter.

....
"Completed application" shall mean an application for bus parking lot [discharge/loading], on-site bus capacity, major or minor variance approval containing all information required by N.J.A.C. 19:75-4.4(a) and (b), [or] 19:75-6.2(b) and (h), 19:75-9.2 and 19:75-9.3 and declared to be complete by the Authority.

19:75-4.4 Additional site approval; requests by activity centers to increase or modify on-site bus capacity or discharging or loading areas

(a) (No change.)

(b) All applications shall be submitted with an original and eight [(8)] copies. One additional copy of the application shall be served upon the police department of the municipality in which the proposed site is located and proof of such service by way of affidavit or certified mail return receipt shall be filed with the Authority. **An application fee in the amount set forth in N.J.A.C. 19:75-10 shall accompany the application and be in the form of a certified or cashier's check.** Upon filing with the Authority, the application shall be acted upon in the manner and in accordance with the procedure set forth in N.J.A.C. 19:75-9.4, and thereafter the Authority shall issue a certificate, if approved, pursuant to N.J.A.C. 19:75-4.2(b).

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

(g) Any existing activity center may apply to the Authority for additional on-site bus capacity or modified discharging and loading areas in the manner set forth in (a) through (e) above which request shall constitute a request for a major variance governed by N.J.A.C. 19:75-9. **An application fee in the amount set forth in N.J.A.C. 19:75-10.2(b) shall accompany the application.**

19:75-6.2 Bus parking lot approvals

(a) (No change.)

(b) [Applicants for approval of the Authority of any] **Any application for a proposed bus parking lot shall [submit] be submitted with an original and eight copies.** [of the application on forms approved by the Authority, including] **A certified or cashier's check in the amount set forth in N.J.A.C. 19:75-10.4 shall accompany the application. The application shall include any maps, plats or drawings required by the Authority and a narrative statement which shall contain, [and] without limitation, the following:**

1.-6. (No change.)

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

(h) Renewals: 120 days prior to the expiration of the approval period provided for [herein] **in this section**, the owner of a bus parking lot shall file with the Authority a written request for a one year renewal of the approval. Such written request shall contain a certification by the owner that the bus parking lot complies with all the terms and conditions as set forth in this subchapter governing the granting of bus parking approvals, including any amendments to this subchapter taking effect prior to the expiration of the term of the original approval. **In addition, such request shall include the requisite application fee in the amount set forth in N.J.A.C. 19:75-10.4(c).** The request for renewal shall be processed by the Authority pursuant to the provisions of N.J.A.C. 19:75-9.4. Failure to apply for renewal of a bus parking lot approval within the time provided for herein shall result in the expiration of such approval at the end of one year from the date of issuance. The owner whose bus parking lot approval has expired may file a new application for

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approval, at any time, pursuant to the provisions of (a) through (g) above [at any time].

19:75-9.2 Application for minor variance; determination by Executive Director; appeal to board

(a) An application for a minor variance shall be in writing [setting forth] and include the following:

1.-2. (No change.)

3. Citation of specific subchapters from which variance is sought; [and]

4. Date for which variance is requested[.]; and

5. The application fee in the amount set forth in N.J.A.C. 19:75-10.3(a).

(b) All applications for a minor variance shall be filed with the [Executive Director of the] Authority no later than three business days prior to the date for which the variance is requested.

19:75-9.3 Applications for major variance

(a) An application for a major variance shall be in writing and [set forth] include the following:

1.-3. (No change.)

4. Period for which variance is requested, if not permanent; [and]

5. Legal description and scale drawing of property for which variance is requested, if applicable[.]; and

6. The application fee in the amount set forth in N.J.A.C. 19:75-10.3(b).

19:75-9.4 Hearing procedure for major variances, bus parking lot approvals, additional activity center on-site approvals, and other hearings

(a) All applications for major variances (N.J.A.C. 19:75-9.1(b) and 9.3), bus parking lot approvals (N.J.A.C. 19:75-6.2) and additional site approvals (N.J.A.C. 19:75-4.3) shall be reviewed by the Development Division of the Authority.

1. Within 30 days following receipt of application, the Authority, through the Development Division, shall notify the applicant in writing by certified mail regarding the completeness of the filing. The Authority may declare the application to be complete for filing or shall notify the applicant of specific deficiencies. The Authority shall, within 15 days following the receipt of additional information to correct filing deficiencies, notify the applicant of the completeness of the amended filing, or shall specify the unaddressed deficiencies. An application shall not be deemed complete until the required application fee has been paid. An application shall not be considered duly filed until it has been declared complete by the Authority.

SUBCHAPTER 10. FEE SCHEDULE

19:75-10.1 Activity center

(a) A fee of \$100.00 is charged for an activity center pre-application conference.

(b) A fee of \$400.00 is charged for the review of an activity center application. The initial review includes the initial site capacity review at no additional charge.

19:75-10.2 Site capacity

(a) A fee of \$75.00 is charged for the annual renewal of the site capacity determination.

(b) A fee of \$150.00 is charged for a request to modify or increase a site capacity determination.

19:75-10.3 Variances

(a) A fee of \$50.00 is charged for each request for a minor variance.

(b) A fee of \$250.00 is charged for each request for a major variance.

19:75-10.4 Bus parking lot

(a) A fee of \$100.00 is charged for a bus parking lot pre-application conference.

(b) A fee of \$400.00 is charged for the review of an application for a bus parking lot.

(c) A fee of \$75.00 is charged for the renewal of a bus parking lot approval.

19:75-10.5 General provisions

(a) The actual costs incurred for time spent by any professional consultants retained by the Authority for review of any application shall be allocated to each applicant in addition to the application fees set forth in this subchapter.

(b) Any application for an activity center, site capacity, variance, bus parking lot or any other approval subject to the approval of the Authority shall be accompanied by such fee as shall be specified in this subchapter.

(c) An application shall not be deemed complete until the application fee required has been paid. Every approval granted and every certificate issued shall, whether or not expressly so conditioned, be deemed to be conditioned upon the payment of fees as required by this subchapter. The failure to fully pay any such fee, when due, shall be grounds for denying or revoking any permit, approval or certificate issued with respect to the use to which the unpaid fee pertains.

(d) Whenever a public hearing is required on an application by this chapter, the applicant shall pay the cost of such legal notices as shall be required to be given.

(e) Any single application which encompasses several uses will be subject to the appropriate fees enumerated in this subchapter.

(f) A full refund of fees shall be made by the Executive Director provided that a written request to withdraw the application is received before the close of the second working day after receipt of the same.

(g) Upon written request from a charitable, philanthropic, fraternal or religious nonprofit organization holding a tax exempt status under the Federal Internal Revenue Code of 1954, the Executive Director may waive the payment of fees required by N.J.A.C. 19:75-10.1 through 10.4.

SUBCHAPTER [10.]11. (No change in text.)

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code; Uniform Fire Code Tent Permits

Adopted Amendments: N.J.A.C. 5:18-2.7 and 5:23-3.14

Proposed: June 19, 1989 at 21 N.J.R. 1654(a).

Adopted: May 30, 1990 by Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.

Filed: June 4, 1990 as R.1990 d.325, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:27D-198 and 52:27D-124.

Effective Date: July 2, 1990.

Expiration Date: January 4, 1995, N.J.A.C. 5:18; March 1, 1993, N.J.A.C. 5:23.

Summary of Public Comments and Agency Responses:

No comments received.

The Department has revised and recodified proposed N.J.A.C. 5:23-3.14(b)5xii(1) as N.J.A.C. 5:23-3.14(b)5xii(1)-(3) for clarity. No substantive changes were made, and text repetitive of amended N.J.A.C. 5:18-2.7(b)2iii has been deleted.

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

5:18-2.7 Permits required

(a) (No change.)
 (b) Permits shall be obtained from the fire official for any of the following listed activities or uses. Permits shall at all times be kept in the premises designated therein and shall at all times be subject to inspection by the fire official.

1.-2. (No change.)

3. Type 1 permit:

i.-ii. (No change.)

iii. Tents and temporary tensioned membrane structures without appurtenances, such as platforms and special electrical equipment, which exceed 900 square feet or 30 feet in any dimension (excluding canopies), whether single or made up of multiple smaller units when used for purposes which would constitute a life hazard use were the use to be found in a building;

iv.-ix. (No change.)

4. Type 2 permit:

i.-ii. (No change.)

Re-number iv.-v. as iii.-iv. (No change in text.)

5:23-3.14 Building subcode

(a) (No change.)

(b) The following articles or sections of the following subcode are modified as follows:

1.-4. (No change.)

5. The following amendments are made to Article 6 of the building subcode*,* entitled "Special Use and Occupancy Requirements":

i.-xi. (No change.)

xii. Section 626.1.1 is deleted in its entirety and the following language is substituted in lieu thereof:

(1) *{Permit required: All temporary structures except tents and tensioned membrane structures which do not contain appurtenances such as platforms or special electrical equipment, covering an area in excess of 120 square feet (11.16m²), including all connecting areas or spaces with a common means of egress or entrance, and used or intended to be used for gathering together of 10 or more persons, shall not be erected, operated or maintained for any purpose without

obtaining a permit from the construction official. Tents and tensioned membrane structures without appurtenances which exceed 900 square feet or 30 feet in any dimension (excluding canopies), whether single or made up of multiple smaller units, shall obtain a permit pursuant to the fire safety code. Tents used exclusively for recreational camping purposes shall be exempt from the above requirements. Special permits required by the building code shall be secured from the construction official.]* *Temporary structures: A construction permit is required for the erection, operation or maintenance of all temporary structures (excluding tents and tensioned membrane structures) covering an area in excess of 120 square feet, including all connecting areas or spaces with a common means of egress or entrance, or which are used or intended to be used for gatherings of 10 or more persons;

(2) Tents with appurtenances: A construction permit is required for the erection, operation or maintenance of all tents or tensioned membrane structures of any size if they contain appurtenances such as platforms or electrical equipment;

(3) Tents without appurtenances: No permit is required for the erection, operation or maintenance of any tent or tensioned membrane structure without appurtenances if the tent or structure is no more than 900 square feet in area and no more than 30 feet in any dimension (excluding canopies), whether it is one unit or composed of multiple units. Tents used exclusively for recreational camping purposes shall be exempt from the above requirements.*

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

Notice of Administrative Correction

New Jersey Pollutant Discharge Elimination System Statewide Water Quality Management Planning

N.J.A.C. 7:14A and 7:15

Take notice that the Department of Environmental Protection has requested, and the Office of Administrative Law has agreed to permit, correction of certain grammar, typographic and regulatory consistency errors, and certain clarifying nonsubstantive changes to the current text of N.J.A.C. 7:14A and 7:15, as described in this notice. This notice of administrative correction is published in accordance with N.J.A.C. 1:30-2.7.

1. At N.J.A.C. 7:14A-2.1(m) and (n), the references to "this section" are erroneous. As evidenced in the October 2, 1989 notice of adoption adding these subsections to the rule, the Department intended N.J.A.C. 7:14A-2.1(l) through (o) and N.J.A.C. 7:15-4.1 to have identical regulatory effect (see 21 N.J.R. 3099(a), 3152). However, in adding the N.J.A.C. 7:15-4.1 text as N.J.A.C. 7:15-2.1(l) through (o), the former's references to "this section" were inadvertently not changed to refer only to subsections (l) through (o) of N.J.A.C. 7:14A-2.1, constituting the duplicated text of N.J.A.C. 7:15-4.1. Therefore, "this section" in N.J.A.C. 7:14A-2.1(m) and (n) is being corrected to reflect reference to that rule's subsections (l) through (o).

2. References in N.J.A.C. 7:14A-2.1(n)3i and ii to "the effective date of N.J.A.C. 7:15-4" are being replaced for clarity with the actual effective date of that subchapter, being the chapter effective date of October 2, 1989 (see 21 N.J.R. 3099(a)). Other references to the effective date of N.J.A.C. 7:15 and deadlines based upon that date are being changed to dates definite at N.J.A.C. 7:15-3.4(e), 3.8(b), 4.1(c)3i and ii, 5.2(a) and (b), 5.4, 5.14(a) and 5.23(b), (c) and (d).

3. At N.J.A.C. 7:15-1.1(a)9, the term "individual septic systems" is being changed to "individual subsurface sewage disposal systems" for conformity with this change made elsewhere upon adoption of N.J.A.C. 7:15, as set forth in the adoption's Comment-Response No. 185 (see 21 N.J.R. 3099(a), 3137).

4. In the definition of "district" in N.J.A.C. 7:15-1.5, the reference to non-existent subparagraph N.J.A.C. 7:15-5.6(a)2i is being corrected to N.J.A.C. 7:15-5.16(a)2i. The definition of "wastewater management plan-

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ning agency" is being placed in correct alphabetic order, following "wastewater management plan area." In the definition of "wastewater management plan," the term "domestic treatment works" is being changed to "treatment works" for consistency with N.J.A.C. 7:15-5.15, 5.16 and 5.20, which require wastewater management plans to provide information about specified categories of existing industrial treatment works. The change is a logical extension of the Department-initiated change No. 21, set forth in the notice of adoption of N.J.A.C. 7:15 (see 21 N.J.R. 3099(a), 3152).

5. At N.J.A.C. 7:15-3.1(a), the last sentence's reference to N.J.A.C. 7:15-3.1 through 3.3 is being changed to refer to N.J.A.C. 7:15-3.1 and 3.2, since the proposed text of N.J.A.C. 7:15-3.3 was not adopted, and that section was reserved. The word "expansion" in N.J.A.C. 7:15-3.1(b)5i is being changed to "expansions" for grammar correctness and consistency with terminology in N.J.A.C. 7:15-3.1(c)14iv.

6. In order to be consistent with the terminology used in the definition of "site-specific pollution control plan," the phrase "sources of pollutants" in N.J.A.C. 7:15-3.2(b) is being changed to "sources of pollution."

7. The text of N.J.A.C. 7:15-3.4(b)3 published in the chapter's notice of adoption at 21 N.J.R. 3099(a), and subsequently incorporated in the New Jersey Administrative Code, is not correct. On October 2, 1988, a notice of administrative correction was published in the New Jersey Register at 20 N.J.R. 2478(a) which corrected the proposed text of this paragraph. The notice of adoption filed with the Office of Administrative Law indicated that this paragraph was adopted without change from the proposal, which was meant to signify the proposal text as corrected. Erroneously, the original proposed text was published as that adopted. N.J.A.C. 7:15-3.4(b)3 is being changed to reflect the intended adopted text, as contained in the notice of administrative correction to the proposal.

8. Due to a recodification of proposed N.J.A.C. 7:15-5.24 as N.J.A.C. 7:15-5.23 upon adoption (see Comment-Response No. 238, 21 N.J.R. 3099(a), 3150), the reference to N.J.A.C. 7:15-5.24(g) in N.J.A.C. 7:15-3.5(b)3 is being changed to N.J.A.C. 7:15-5.23(g).

9. At N.J.A.C. 7:15-3.6(d)2, the misspelling of pollution as "polluton" is being corrected.

10. At N.J.A.C. 7:15-3.9(b), the word "or" is a typographic error, and is being corrected to "of."

11. At N.J.A.C. 7:15-4.2(a)4, the third word, "on," is a typographic error, and is being corrected to "or."

12. At N.J.A.C. 7:15-5.6(e)4, the word "of" is a typographic error, and is being corrected to "or."

13. At N.J.A.C. 7:15-5.8(d), the misspelling of declare as "delcare" is being corrected.

14. At N.J.A.C. 7:15-5.18(e)3, the word "and" is being inserted before the paragraph's last word, industrial, for grammar correctness.

15. At N.J.A.C. 7:15-5.18(f), the comma between "residential" and "population" is erroneous, and is being deleted.

16. At N.J.A.C. 7:15-5.19(b), the word "septic" is being deleted from the phrase "such septic systems" for consistency with the adopted terminology changes in that subsection and elsewhere in the chapter (see Comment-Response No. 185, 21 N.J.R. 3099(a), 3137).

Full text of the corrected rules follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

7:14A-2.1 Application for a NJPDES permit

(a)-(l) (No change.)

(m) For purposes of [this section] (l) above through (o) below a "new or expanded DTW" means:

1. A DTW that was not in existence or under construction on or before December 5, 1985; or

2. A DTW whose actual or proposed capacity exceeds the capacity identified for that DTW in the areawide WQM Plan that was in effect on December 5, 1985.

(n) [This section does] Subsections (l) above through (o) below do not apply to the following new or expanded DTW:

1. Sewers or pumping stations;

2. New or expanded DTW whose only new or expanded components handle sludge only, except as required in Department rules on sludge management adopted pursuant to N.J.S.A. 13:1E-1 et seq.; or

3. New or expanded DTW owned by a BPU-regulated sewer utility, if that DTW replaces or expands a DTW that discharges at the same location, if:

i. A DTW that discharged at the same location was owned by that BPU-regulated sewer utility prior to [the effective date of N.J.A.C. 7:15-4] **October 2, 1989**; and

ii. That sewer utility was a BPU-regulated sewer utility prior to [the effective date of N.J.A.C. 7:15-4] **October 2, 1989**.

(o) (No change.)

7:15-1.1 Scope

(a) This chapter prescribes water quality management policies and procedures established pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and N.J.S.A. 13:1D-1 et seq. Specifically, this chapter prescribes policies and procedures concerning the following subjects:

1.-8. (No change.)

9. Selected aspects of wastewater management, including NJPDES permittees required for certain new or expanded domestic treatment works; treatment works deemed to be consistent with WQM plans and this chapter; WQM plan amendment requirements for treatment works not identified in WQM plans; construction of individual [septic] **subsurface sewage disposal** systems and other small domestic treatment works in future sewer service areas; and eligibility for financial assistance.

10.-12. (No change.)

7:15-1.5 Definitions

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

"District" means either or both of the following, depending on the context: the district of a sewerage authority as defined in N.J.S.A. 40:14A-3(6), or the district of a municipal authority as defined in N.J.S.A. 40:14B-3(6). For purposes of N.J.A.C. 7:15-5.14(a)1, [5.6(a)2i] **5.16(a)2i** and 5.18(i), "district" shall also mean the Passaic Valley Sewerage District.

"Wastewater management planning agency" means a governmental unit or other person that has "wastewater management plan responsibility" as defined in N.J.A.C. 7:15-5.3(b).]

"Wastewater management plan" or "WMP" means a written and graphic description of existing and future wastewater-related jurisdictions, wastewater service areas, and selected environmental features and [domestic] treatment works.

"Wastewater management planning agency" means a governmental unit or other person that has "wastewater management plan responsibility" as defined in N.J.A.C. 7:15-5.3(b).

7:15-3.1 Water quality management plan consistency requirements

(a) All projects and activities affecting water quality shall be developed and conducted in a manner that does not conflict with this chapter or adopted WQM plans. The Commissioner shall not undertake, nor shall he or she authorize through the issuance of a permit, any project or activity that conflicts with applicable sections of an adopted WQM plan or with this chapter. For purposes of N.J.A.C. 7:15-3.1 [through 3.3] **and 3.2**, "permit" includes permits, approvals, certifications, and similar actions.

(b) The Department shall not grant permits for the following projects and activities before a formal consistency determination review under N.J.A.C. 7:15-3.2 has been completed:

1.-4. (No change.)

5. Construction of the following new solid waste facilities, other than hazardous waste facilities and minor expansions of solid waste facilities, regulated by N.J.A.C. 7:26:

i. New sanitary landfills other than vertical [expansion] **expansions**;

ii.-iv. (No change.)

6.-10. (No change.)

(c)-(h) (No change.)

7:15-3.2 Procedures for consistency determination reviews

(a) (No change.)

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(b) Based upon potential negative water quality impacts of the project, the Department may require the narrative description under (a)1 above to also include potential water quality impacts and a site-specific pollution control plan. In most cases, the Department intends that requirements for such inclusion shall be established through amendments to areawide WQM plans. Any areawide WQM plan that establishes such requirements shall specify the categories of projects that are subject to the requirements, the pollutants or sources of [pollutants] pollution that shall be addressed, and the geographic region in which the requirements apply, if that region is less than the entire designated area or non-designated area.

(c) (No change.)

7:15-3.4 Water quality management plan amendment procedures

(a) (No change.)

(b) Procedures for amendment of the Statewide WQM Plan are as follows:

1.-2. (No change.)

3. Statewide Sludge Management Plans, District Sludge Management Plans and sludge management rules that are promulgated or approved by the Department pursuant to N.J.S.A. 13:1E-1 et seq. shall be considered to be part of the Statewide WQM Plan. Such plans and rules shall be promulgated, revised, updated or approved in accordance with N.J.S.A. 13:1E-1 et seq., and shall not be promulgated, revised, updated or approved through the WQM plan amendment process under (b)4 below.

4. (No change.)

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

(e) Every designated planning agency shall, [within 90 days of the effective date of this subchapter] by **December 31, 1989**, submit for Department approval plan amendment procedures that have been revised for consistency with this section. Such procedures shall identify the newspaper in which public notices of plan amendments shall be published. All plan amendment procedures that the Department approved before [that effective date] **October 2, 1989**, but that are not revised and approved by the Department as being consistent with this section, shall become void [180 days after that effective date] **on March 31, 1990**. If a plan amendment procedure becomes void in this manner, the Department shall immediately provide to the designated planning agency a plan amendment procedure that is consistent with this section, and that shall be used by the designated planning agency until a plan amendment procedure is submitted by the designated planning agency and approved by the Department under this subsection.

(f)-(k) (No change.)

7:15-3.5 Water quality management plan review, revision, and certification

(a) (No change.)

(b) The Department and the designated planning agencies shall prepare revisions to Statewide and areawide WQM Plans under this section whenever such revisions are necessary to:

1.-2. (No change.)

3. Revise schedules for submission of wastewater management plans under N.J.A.C. 7:15-[5.24(g)] **5.23(g)**.

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

7:15-3.6 Coordination with Coastal Zone and Hackensack Meadowlands programs

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

(d) For WQM plan amendments relating to the Hackensack Meadowlands District, the consultation requirement in N.J.S.A. 13:17-9(c) shall be met as follows:

1. (No change.)

2. For other amendments to WQM plans under N.J.A.C. 7:15-3.4(b)1 through (b)3, (i), (j), or (k) that automatically incorporate Department or USEPA actions taken through rulemaking proceedings or water [pollution] pollution control programs, the consultation requirement in N.J.S.A. 13:17-9(c) shall be addressed, as necessary, through those rulemaking proceedings or programs, and shall not be independently addressed under this section.

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7:15-3.8 Validity of water quality management plan amendments

(a) (No change.)

(b) A proceeding to contest any WQM plan amendment adopted by the Governor or his designee prior to [the effective date of this subchapter] **October 2, 1989**, on the ground of noncompliance with the procedural requirements of this chapter as it existed prior to [that effective date] **October 2, 1989**, shall be commenced [within one year from the effective date of this subchapter] by **October 2, 1990**.

7:15-3.9 Appeals of Department decisions

(a) (No change.)

(b) A hearing request not received within 20 days after receipt by the applicant [or] of a written notification from the Department of the decision of the Department, shall be denied.

(c)-(h) (No change.)

7:15-4.1 Permittees for new or expanded domestic treatment works

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

(c) This section does not apply to the following new or expanded DTW:

1.-2. (No change.)

3. New or expanded DTW owned by a BPU-regulated sewer utility, if that DTW replaces or expands a DTW that discharges at the same location, if:

i. A DTW that discharged at the same location was owned by that BPU-regulated sewer utility prior to [the effective date of this subchapter] **October 2, 1989**; and

ii. That sewer utility was a BPU-regulated sewer utility prior to [the effective date of this subchapter] **October 2, 1989**.

(d) (No change.)

7:15-4.2 Projects and activities deemed to be consistent with WQM plans and this chapter

(a) The following treatment works are deemed to be consistent with WQM plans and this chapter:

1.-3. (No change.)

4. Interim construction [on] or interim expansion of, or interim connection with, domestic or industrial treatment works that are required by law to be abandoned or incorporated at a definite time into other treatment works:

i.-iii. (No change.)

(b) (No change.)

7:15-5.2 Validity of previously adopted or submitted wastewater management plans

(a) Wastewater management plans adopted between June 1, 1985 and [the effective date of this subchapter] **October 2, 1989** shall remain in effect as wastewater management plans in the appropriate areawide WQM plans without the need for further adoption procedures.

(b) The Governor or his designee may, under N.J.A.C. 7:15-3.4, adopt any wastewater management plan that meets the requirements of the former "Policy on Wastewater Management Plans" that was part of the Statewide WQM Plan that the Department adopted on December 5, 1985, but that does not meet the procedural or substantive requirements of this subchapter, if a draft of that wastewater management plan was submitted to the Department prior to [the effective date of this chapter] **October 2, 1989**.

7:15-5.4 Responsibility of designated planning agencies

A designated planning agency shall have wastewater management plan responsibility for a wastewater management plan area consisting of all or part of its designated area, if the governing body of that agency adopts and submits to the BWQP a resolution requesting such responsibility [within 60 calendar days of the effective date of this subchapter] by **December 1, 1989**. In wastewater management plan areas identified in such resolutions, no other governmental units shall have wastewater management plan responsibility under N.J.A.C. 7:15-5.5 through 5.8.

7:15-5.6 Responsibility of sewerage authorities and municipal authorities

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

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(e) Where there is overlap between the districts of two or more authorities that would otherwise have wastewater management plan responsibility for their entire districts under this section, wastewater management plan responsibility in the overlap is assigned by the following criteria:

1.-3. (No change.)

4. If none of the conditions in (e)1, 2, [of] or 3 above is met, arrangements shall be made under N.J.A.C. 7:15-5.9 to assign wastewater management plan responsibility in the overlap to a single governmental unit.

(f)-(g) (No change.)

7:15-5.8 Responsibility of municipalities

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

(d) The Department may, at any time, send a letter to any municipality, requesting that municipality to [delcare] **declare** in writing to the BWQP whether or not that municipality performs any sewerage-related functions as discussed under (b) and (c) above. If that municipality does not make such a declaration within 90 calendar days of receipt of the letter, the Department shall, in the absence of information to the contrary, presume that the municipality performs sewerage-related functions.

(e) (No change.)

7:15-5.14 District boundaries and related information; joint meeting membership

(a) To assist the identification of wastewater management plan responsibility under N.J.A.C. 7:15-5.5 through 5.8, the following information shall be submitted in writing to the BWQP [within 120 calendar days after the effective date of this subchapter] **by January 30, 1990:**

1.-3. (No change.)

(b)-(f) (No change.)

7:15-5.18 Future wastewater jurisdictions, service areas, and domestic treatment works

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

(e) For each DTW mapped outside the wastewater management plan area under (c)1 above, each wastewater management plan shall further identify the future DTW that are necessary to meet wastewater management needs by providing, in narrative, outline, or tabular form, the following information applicable to such DTW at the end of the 20-year period, and at the end of any shorter or longer period identified under (a) above:

1.-2. (No change.)

3. Estimated average flow of wastewater to be conveyed to the DTW from the wastewater management plan area, in millions of

gallons per day, disaggregated by municipality and expressed as total flow and as flow attributed to each of the following sources: residential, commercial, **and** industrial.

(f) The wastewater management plan shall document the basis for the estimated flows attributed to residential, commercial, and industrial sources under (d)8 and (e)3 above. Where actual, accurate gauging is available for a sewer system already in existence, such gauging shall be used in preparing these flow estimates, with an allowance for future changes in wastewater flow. There shall be a reasonable relationship between these flow estimates and sewer service areas identified under (c)4 and 5 above. There shall be a reasonable relationship, consistent with (b) above, between these sewer service areas and residential[,] population estimates under (d)7 and (e)2 above. The average domestic flow from new residences, exclusive of other flow such as industrial flow, commercial flow, and infiltration/inflow, shall be assumed to be 65 gallons per capita per 24-hour period, except that values different than 65 gallons may be considered for this purpose when supported by adequate engineering data.

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

7:15-5.19 Individual subsurface sewage disposal systems and other small domestic treatment works in sewer service areas

(a) (No change.)

(b) A wastewater management plan shall require that individual subsurface sewage disposal systems for individual residences can be constructed in depicted sewer service areas only if legally enforceable guarantees are provided before such construction that use of such [septic] systems will be discontinued when the depicted sewer service becomes available.

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

7:15-5.23 Schedule for submission of wastewater management plans

(a) (No change.)

(b) The following governmental units shall submit wastewater management plans **by October 2, 1990** or within 12 months after [the effective date of this subchapter or of] the creation of the governmental unit, whichever is later, if such units have wastewater management plan responsibility under N.J.A.C. 7:15-5.4 through 5.7:

1.-5. (No change.)

(c) Other sewerage authorities, municipal authorities, joint meetings, and municipalities that have wastewater management plan responsibility under N.J.A.C. 7:15-5.6 through 5.8 shall submit wastewater management plans during the period specified in the following table or within 12 months of the creation of the governmental unit, whichever is later:

**Table 1
Wastewater Management Plan Submission Schedule**

Location of Wastewater Management Plan	Period of Submission	
Burlington, Cape May, Middlesex, Ocean, Passaic, and Union Counties	[12 to 24 months after the effective date of this subchapter]	October 3, 1990 through October 2, 1991
Atlantic, Morris, Salem, Sussex, and Warren Counties	[24 to 36 months after the effective date of this subchapter]	October 3, 1991 through October 2, 1992
Bergen, Essex, Gloucester, Hunterdon, and Monmouth Counties	[36 to 48 months after the effective date of this subchapter]	October 3, 1992 through October 2, 1993
Camden, Cumberland, Hudson, Mercer, and Somerset Counties	[48 to 60 months after the effective date of this subchapter]	October 3, 1993 through October 2, 1994

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(d) Notwithstanding the schedule in (b) and (c) above, if an entire wastewater management plan area is already addressed by one or more wastewater management plans identified in N.J.A.C. 7:15-5.2, the governmental unit that has wastewater management plan responsibility for that wastewater management plan area under N.J.A.C. 7:15-5.4 through 5.8 shall submit an updated wastewater management plan for that wastewater management plan area [60 to 72 months after the effective date of this subchapter] **between October 3, 1994 through October 2, 1995**, or within 12 months of the creation of the governmental unit, whichever is later.

(e)-(j) (No change.)

(a)

**DIVISION OF FISH, GAME AND WILDLIFE
Notice of Administrative Correction
Miscellaneous Shellfish Rules
Crab Dredging in the Atlantic Coast Section
N.J.A.C. 7:25-7.13**

Take notice that the Department of Environmental Protection has discovered errors in the text of N.J.A.C. 7:25-7.13(b). Both the reference to crab pot and the last phrase, "except the licensee or his employee", were deleted upon adoption of the concurrent proposal of this rule, originally adopted on an emergency basis (see 16 N.J.R. 3216(a), 17 N.J.R. 697(a)). This notice of administrative correction is published in accordance with N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (deletions indicated in brackets [thus]):

7:25-7.13 Crab dredging in the Atlantic Coast section

(a) (No change.)

(b) No person shall catch, take, or attempt to take crabs by [crab pot or] crab dredge from any of the marked leased grounds except the lessee or his employee; and no person shall dredge or attempt to dredge crabs on any State oyster beds or grounds as defined in N.J.A.C. 7:25-19.1; and no person shall dredge or attempt to dredge crabs within 50 yards of any marked leased shellfish grounds[, except the lessee or his employee].

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

(b)

**DIVISION OF SOLID WASTE MANAGEMENT
BOARD OF PUBLIC UTILITIES
Interdistrict and Intradistrict Solid Waste Flow for
Bergen County
Joint Adopted Amendment: N.J.A.C. 7:26-6.5**

Proposed: June 5, 1989 at 21 N.J.R. 1486(a).

Adopted: June 1, 1990 by Judith A. Yaskin, Commissioner, Department of Environmental Protection, and by the Board of Public Utilities, Scott A. Weiner, President.

Filed: June 4, 1990 as R. 1990 d.324, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1E-6, 13:1E-23, and 48:13A-1 et seq.

DEP Docket No.: 024-89-04.

Effective Date: July 2, 1990.

Expiration Date: November 4, 1990.

Summary of Public Comments and Agency Responses:

On June 5, 1989, the Department of Environmental Protection ("Department") and the Board of Public Utilities ("Board") proposed an amendment to the waste flow rules at N.J.A.C. 7:26-6.5 to redirect the disposal of solid waste generated within Bergen County, except for type 10 household waste from the Borough of North Arlington, from the Kingsland Park Sanitary Landfill to the permanent Bergen County Baler/Transfer Station, located in the Borough of North Arlington. Notice of the proposed rule amendment was published in the June 5, 1989 New Jersey Register at 21 N.J.R. 1486(a). In addition, secondary Notice of

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Public Hearing was rendered by the transmittal of a copy of the proposed amendment to the Bergen Record and the Newark Star Ledger on June 5, 1989. All notices invited written comments to be submitted on or before August 5, 1989.

A public hearing was held on July 11, 1989, at 7:00 P.M. at the Bergen County Administration Building, 21 Main Street, Hackensack, New Jersey. No members of the public elected to comment at this time. However, written comments were received during the public comment period. The Department and Board have reviewed the transcript of the public hearing and the written comments which were submitted during the comment period which closed August 5, 1989. The Department and Board are adopting the rule amendment with a substantive change not requiring additional public notice and comment (See N.J.A.C. 1:30-4.3).

COMMENT: Commenter requests that the comment period be extended for 14 days due to unavailability of records from BCUA and delay in obtaining those records.

RESPONSE: In accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules of the Office of Administrative Law, N.J.A.C. 1:30, on April 28, 1989, the Department and Board submitted to the Office of Administrative Law a rule proposal to amend N.J.A.C. 7:26-6.5(b) to formally codify the provisions of the emergency redirection order and plan amendment. Furthermore, the rule proposal appeared in the June 5, 1989 New Jersey Register (21 N.J.R. 1486(a)). Moreover, notice of the proposed rule amendment was published in the Newark Star Ledger and the Bergen Record on June 5, 1989. A public hearing on the rule proposal was held on July 11, 1989 at the Bergen County Administration Building in Hackensack. The comment period closed on Saturday, August 5, 1989. However, comments were accepted until the next business day, Monday, August 7, 1989.

The majority of work papers and other pertinent financial data were available by June 15, 1989. All documents were in the commenter's possession by June 29, 1989, 39 days before the end of the comment period. The Department and Board provided a 60-day comment period.

Finally, an emergency redirection order directing essentially all solid waste types 10, 13, 23, 25 and 27 generated in Bergen County, except for type 10 waste from the Borough of North Arlington, to the permanent Bergen County Utilities Authority (BCUA) Transfer Station, was signed on September 21, 1988, and the Department certified the May 18, 1988 County Plan Amendment directing the waste to the BCUA Transfer Station on November 14, 1988, thereby providing for modification of the existing waste flows. Based on these facts, the Department and Board determined that an extension of the comment period was unwarranted.

COMMENT: If the proposed rule is adopted, the licenses and permits of solid waste transfer stations in Bergen County will become worthless and these facilities' investments in equipment, contracts and real estate will be substantially impaired.

RESPONSE: Adoption of the proposed amendment does not invalidate the NJDEP or BPU issued licenses and permits of Bergen County solid waste transfer stations and does not make them worthless. Since September 21, 1988 an Emergency Redirection Order (ERO) has been directing Bergen County's waste flow to the Bergen County Transfer Station. This rule will formally codify the ERO and, as a result, will not cause the flow to be any different than what has been in existence since that date. Furthermore, as in the past, private transfer stations which are properly permitted by the Department can continue to operate as transfer stations, utilizing their existing equipment and property to process solid waste, and for removing and marketing those materials which are part of the waste stream from these facilities' commercial accounts, prior to delivering the residual waste to the BCUA transfer station in accordance with this rule for ultimate disposal out-of-State.

COMMENT: With regard to the social impact of the Bergen County Utilities Authority (BCUA) permanent baler/transfer station, the finding that there was a lack of adequate alternative disposal capacity for Bergen waste is disputed.

RESPONSE: On December 31, 1987 the Kingsland Park Sanitary Landfill reached full permitted capacity. Pursuant to a Memorandum of Understanding between the BCUA and the Hackensack Meadowlands Development Commission (HMDC), the Kingsland Park Sanitary Landfill facility ceased being available to the BCUA as a solid waste disposal site after February 29, 1988, necessitating the need for an alternate disposal strategy. A review of the permits on file at DEP indicated a lack of properly permitted transfer station disposal capacity in Bergen County sufficient to handle Bergen County's waste stream. Moreover, no additional physical capacity existed in other HMDC landfills which had not already been designated for other counties pursuant to the solid waste planning process. Furthermore, due to the region's small size and heavily

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urban character, the identification and development of a parcel of land of sufficient size and suitability to accommodate Bergen's waste stream was not considered feasible due to the time constraints resulting from closure of the Kingsland Park Sanitary Landfill.

COMMENT: The stated and intended purpose of the proposed rule amendment to provide adequate disposal capacity for Bergen waste will be frustrated by the finding that the permanent baler/transfer station constructed and currently operated by BCUA has been and will be unable to process all the solid waste generated in the Bergen County Solid Waste Management District. The BCUA solid waste transfer station, which includes four baling units, is totally and completely incapable of processing the existing flow of Bergen County solid waste which weighs approximately 1,800 to 2,000 tons on a daily basis. The BCUA would need a minimum of seven Mosley balers to process the stated needed capacity of 3,750 tons per day. But, the building erected by BCUA can not accommodate more than one additional baling unit. Furthermore, the BCUA facility is clearly operating in violation of its permit in that solid waste is currently being stored on the premises overnight, since the facility cannot handle the current waste flow. If additional waste is delivered to the BCUA facility, it would not be processed on a daily basis. This is in violation of the Solid Waste Management Act, the Solid Waste Utility Control Act, and the Master Performance Permit for the facility.

RESPONSE: The BCUA solid waste transfer station contains four Mosley HLBA-II/SW-300 solid waste balers, each with a design capacity of 50 tons per hour. Operation of the transfer station for 19 hours per day provides a through-put capacity of 3,800 tons. Based upon this operational ability, the BCUA transfer station can process the total tonnage generated by Bergen County. Moreover, records from the BCUA from 1/12/89 through 9/15/89, submitted in accordance with Condition 37-B of the Master Performance Permit, indicate that the transfer station's incoming waste flow is averaging only 1,722 tons per day. Condition 14 of the Master Performance Permit allows for the overnight storage of processed solid waste in secured transfer trailers outside of the processing area, provided no odor problems associated with trailer storage occur. The Department is aware of waste occasionally remaining on the tipping floor overnight and has responded by issuing Notices of Violation to the facility operators. Finally, the Department has, in the past, issued Notices of Violation for allowing processed solid waste to remain in transfer trailers past the 24-hour maximum limit.

COMMENT: The Solid Waste Management Plan, accepted and approved by the Bergen County Board of Chosen Freeholders, specifically provided for the use of solid waste transfer stations in various regions of the County in order to provide for solid waste management in Bergen County; to reduce the impact of solid waste services, trucking, disposal activities, environmental pollution, noise, etc., on service areas or municipalities; to foster regional planning; to reduce transportation and labor costs; to reduce equipment required throughout the County; to promote good and efficient service; to provide economy for ratepayers; and to provide host community benefits to applicable communities. These principles are directly applicable and should be applied to BCUA's permanent transfer station.

RESPONSE: The principles that the commenter outlines have been applied to the BCUA transfer station. Use of the Bergen County Transfer Station has provided for the adequate and reliable disposal of all of Bergen County's solid waste stream. Furthermore, the BCUA's consulting engineers submitted a Master Performance Permit (MPP) application on March 15, 1988 which included designs and an Emergency Environmental Impact Statement (EIS) for the proposed construction and operation of the permanent transfer station baler facility. This EIS submission included a description of area land use and potential environmental impacts with respect to noise, air quality, traffic, stormwater and washdown drainage. The Department concluded from this information that construction and operation of the transfer station facility would not likely result in any substantial impact on the current land use in the site area. Also, the Department, through the issuance of the MPP, has determined that the BCUA Transfer Station satisfied the performance standards reflected at N.J.A.C. 7:26-1.10 to be designed, constructed and operated in a manner consistent with the protection of the public health, safety and the environment. A component of the transfer station facility Master Performance Permit specifies operating standards for the transfer station that must be complied with by the owners and/or operators. These operating standards include performance standards for facility staffing and training, facility housekeeping, on-site traffic control, schedules for waste delivery vehicle flow, wastewater collection, noise control and notice and enforcement of traffic flow plans for the waste delivery vehicles.

As to the issue of reduced transportation and labor costs, the Department and BPU maintain that while these costs may not be reduced by continued use of the BCUA transfer station, utilization of the BCUA Transfer Station in conjunction with long-term guaranteed contracts for disposal of Bergen County solid waste will continue to benefit the citizens of Bergen County by ensuring undisrupted disposal service. Further, the costs associated with transporting the waste to the transfer station should be similar to the previous costs of transporting waste to the Kingsland Park facility. While these costs are higher than in the past, they are similar to the disposal costs paid by most northern New Jersey counties which are dependent upon out-of-State disposal. Finally, the BCUA is paying host community benefits to the host municipality of the transfer station.

COMMENT: In approving the BCUA facility, DEP must satisfy itself that: the BCUA facility has the actual and/or the through-put capacity to process Bergen County's flow of solid waste weighing some 3,750 tons daily; that this solid waste could be baled and transported in licensed transport vehicles to duly licensed and permitted disposal facilities; that there would not be a negative impact on the existing permitted private transfer stations in Bergen County; that the statutes and regulatory framework support the establishment of a de facto franchise in the BCUA which has not been subject to the economic and rate regulatory authority of the BPU; that BCUA is the proper agency to run and establish the facility; and that policies, procedures and findings of the DEP in the counties of Essex, Passaic, Morris, Union and Somerset, where multiple facilities were provided for, should be ignored and disregarded in Bergen County.

RESPONSE: As further explained in a prior response, the Department evaluated and issued a Master Performance Permit which approves a facility design and operational plan for the BCUA transfer station which is capable of processing the entire solid waste stream generated by Bergen County. The permit also requires at Condition 24 that only licensed transport vehicles be utilized at the transfer station.

In regard to the effect of this rule on existing, permitted private transfer stations, as has been said at other points throughout this summary, the Emergency Redirection Order, and this rule formalizing that order, allow the continued operation of these stations so long as the waste is ultimately sent to the BCUA transfer station for out-of-State disposal. The impact on private transfer stations, if any, has been mitigated due to the promulgation of certain rules and regulations by the BCUA pursuant to N.J.S.A. 40:14B-20(12). The rules and regulations allow private transfer stations to qualify for rate discounts within the BCUA solid waste system. Thus, solid waste may be baled by private transfer stations in Bergen County and transported for disposal at the Bergen County Baler/Transfer Station. By complying with the rules and regulations, the private transfer stations are now fully integrated into Bergen County's waste disposal system. In recognition of changes resulting from the above referenced rules and regulations, the language in the rule has been changed from "disposed of at the Bergen County Baler/Transfer Station" to "disposed of at the Bergen County Baler/Transfer Station for transfer to an out-of-State disposal facility."

The Department is satisfied that the BCUA is the proper agency to establish and run the transfer station facility. The Bergen County Board of Chosen Freeholders designated the Authority as its implementation agency in an amendment to its District Solid Waste Management Plan which was adopted in accordance with the procedures of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. In regard to the comment that those same policies which were applied by the Department in numerous other counties with multiple transfer stations should be applied in Bergen, it is important to note that in Bergen County, the Board of Chosen Freeholders, not the Department, chose to utilize one transfer station.

COMMENT: With regard to the Environmental Impact Statement, the direction of all Bergen County waste to the BCUA baler/transfer station will most likely result in an environmental disaster, in particular because BCUA has continuously violated environmental requirements of its Master Performance Permit by not processing the waste it receives on a daily basis, by storing solid waste at its facility beyond the 24-hour limitation, and by not cleaning the facility as mandated, all of which is due to poor design and/or management of the facility.

RESPONSE: As discussed in a prior response, the Department has, in the past, issued Notices of Violation to the BCUA for violating various conditions of their Master Performance Permit including the storage of waste beyond the 24-hour limitation. With respect to Master Performance Permit Condition 26, Housekeeping and Litter Control, provision for the daily washdown of the facility and proper disposal of washwater is required. It also requires routine procedures designed to prevent the accumulation of dust and debris and to maintain general cleanliness in

the working environment. Furthermore, all areas which come in contact with solid waste are required to be washed daily. There is no record of the Department issuing Notices of Violation for any of these infractions. Finally, the BCUA has, during the past year, been issued Notices of Violation for utilizing transfer vehicles which were not properly registered with the Department. As such, with this infraction and all others, remedial actions have been ordered by the Department. Should these infractions or any others for which Notices of Violation have been issued, not be remedied, the Department may assess penalties of up to \$25,000 per violation and/or loss of operating authority.

COMMENT: The BCUA facility is being run and managed by a staff that is not qualified to run a solid waste facility transfer station.

RESPONSE: The commenter did not detail the basis for his assertion that the staff operating the BCUA transfer station is not qualified. Pursuant to N.J.A.C. 7:26-1.10(b)3, the Department determined that operators of the BCUA transfer station demonstrated sufficient reliability, expertise and competence to operate a transfer station in compliance with the statutes and regulations administered by the Department, and therefore, issued the MPP to the BCUA.

COMMENT: The use of private transfer stations located near waste generation points is desirable from a number of economic and environmental perspectives, both to the public and to collectors. DEP addressed these considerations in its transfer station initiatives in Passaic, Morris, Union and Somerset counties.

RESPONSE: As the commenter may know, the BCUA transfer station was not part of the Department's transfer station initiative in 1987. Passaic County utilizes three transfer stations, two of which are located in Paterson and one in nearby Totowa. Morris County uses two transfer stations, one in Mt. Olive Township and the other in Parsippany-Troy Hills. Three transfer stations are used in Union County. They are located in Elizabeth, Linden and Summit. Somerset County's two transfer stations are located in Bridgewater and Franklin Townships. However, although Bergen County elected to utilize a single transfer station for out-of-State disposal, existing permitted transfer stations located throughout Bergen County are currently operating and can continue to operate but must ultimately direct their waste to the county designated transfer station for out-of-State disposal.

COMMENT: A clear and effective alternative for DEP and BPU to the current proposal, despite its incorrect assertions that there is a lack of adequate disposal capacity in Bergen County, is to allow existing transfer stations, which do have adequate capacity, to process the existing Bergen County waste flow. These existing facilities can do so at substantial savings to Bergen County ratepayers. The social impact of the proposed rule amendment, which states the lack of adequate disposal capacity for Bergen County as a reason for the need of the BCUA facility, ignores that the process of disposal using out-of-State facilities involves two major functioning aspects, the transfer station needed to process the waste, and a disposal facility in which to dispose of the waste. The DEP ignored private transfer stations which already existed, and did not adequately analyze the coordination of disposal by Bergen County.

RESPONSE: Bergen County, through its authority under the Solid Waste Management Act, has chosen the use of the BCUA Transfer Station in conjunction with out-of-State disposal, as its solid waste management strategy. This strategy is providing safe and efficient disposal for the County's entire waste stream. Further, as explained above, existing private transfer stations which are properly permitted can continue to service their clients so long as all Bergen County solid waste is ultimately directed out-of-State via the county designated BCUA transfer station.

COMMENT: In analyzing BCUA's coordination of solid waste disposal in Bergen County, the Department ignored the actual history of the BCUA facility as reflected in its monthly reports filed with the Department. And, the Department did not examine the agreements of BCUA to dispose of waste. All of these records clearly show that waste is being disposed of in a haphazard, unplanned manner and that BCUA has no control over where substantial quantities of waste are being disposed of. The commenter questioned whether the Department has taken any steps to assure itself that facilities designated to accept Bergen County waste are duly licensed facilities authorized to accept Bergen County waste. No agreements with these facilities have been filed with the Department as required by the BCUA's Master Performance Permit condition 8d, Facility Preoperative Requirements, relating to DEP approval of contracts for transfer and disposal. The Department has an obligation to examine claims by these facilities that they can supply services which would assure coordinated final disposal of Bergen County waste.

RESPONSE: The Bergen County Utilities Authority has submitted to the Department a copy of the solid waste agreement between Mitchell Environmental, Inc. and Laidlaw Industries, Inc. for the disposal of all acceptable waste delivered to the BCUA Transfer Station. The agreement lists the following disposal facilities for the disposal of municipal and industrial waste: Pottstown Landfill, Pottstown, Pennsylvania; Modern Landfill, York, Pennsylvania; Senaca Meadow Landfill, Rochester, New York; Fairfield Sanitary Landfill, Columbus, Ohio; Valley View Landfill, Sulphur, Kentucky; Bellefontaine Landfill, Bellefontaine, Ohio; and Adrian Landfill, Adrian, Michigan. This contract also carries an "other landfill" clause whereby both parties must mutually agree on an alternate landfill that is permitted by law, contract, or agreement to be utilized for the disposal of solid waste. The Department is unaware of any cases in which solid waste has not been effectively and safely disposed through the BCUA Transfer Station.

COMMENT: In the Economic Impact section, the Department claims that the BCUA facility is "state-of-the-art." Reports filed with the Department show that the BCUA facility is not "state-of-the-art" as constructed and operated by BCUA.

RESPONSE: It is not clear to what reports the commenter is referring. The facility has met all the technical requirements for permitting pursuant to N.J.A.C. 7:26-1.10 and, having done so, is deemed an acceptable transfer station.

COMMENT: The monopolization of out-of-State disposal by BCUA will adversely affect the environment by requiring packer and roller trucks to travel all the way to the BCUA transfer station, resulting in wasted time, long waiting lines, road congestion, air pollution, and greater costs to ratepayers.

RESPONSE: The distance traveled by collector/hauler vehicles to the BCUA transfer station is not appreciably different than when waste was disposed of at the Kingsland Park Sanitary Landfill, prior to redirection of the waste stream by ERO to the BCUA transfer station. As a result, the environmental and economic impacts associated with solid waste transportation vehicles should not be significantly different than the impacts associated with the earlier disposal strategy.

COMMENT: The operator of the transportation system and provider of disposal services under contract to BCUA does not hold a valid registration with the Department nor a certificate issued by the Board.

RESPONSE: Mitchell Environmental, Inc., the operator of the transportation system for the BCUA, has experienced some problems with improperly registered vehicles. For these infractions, they have been issued Notices of Violation by the Department. Moreover, pursuant to N.J.A.C. 7:26-16.5(c), Mitchell Environmental, Inc. had been operating under a temporary approved registration issued by the Department which expired on January 17, 1990. By BPU order dated March 15, 1988 (BPU Docket No. SE88020415), Mitchell Environmental, Inc. was granted temporary operating authority by the Board. By BPU order dated November 29, 1989, the operating authority of Mitchell Environmental, Inc. was extended contingent upon and coterminous with the temporary registration issued to Mitchell Environmental, Inc. by the DEP.

COMMENT: The tipping fee to be charged by the BCUA at its solid waste transfer station will be significantly higher in 1990 if the BCUA sets its fee pursuant to the applicable statutory requirements, so the proposed rule amendment will cause significant additional economic impact upon the citizens of Bergen County.

RESPONSE: The BCUA rate levels are indeed higher in 1990. The DEP and the BPU note, however, that the proposed amendment reflects existing public policy which requires each county to develop a solid waste management plan which would eventually render the State of New Jersey self-sufficient regarding its solid waste disposal needs. Under this policy, counties have initial responsibility to develop their own solid waste management plans which must be consistent with the Statewide Solid Waste Management Plan. In exercising its responsibilities under the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Bergen County Board of Chosen Freeholders chose the BCUA to be the agency responsible for implementing the County's plan. The construction of the Bergen County Baler/Transfer Station is part of the County's approved solid waste management plan. On January 18, 1990, the BCUA promulgated certain rules and regulations pursuant to N.J.S.A. 40:14B-20(12), whereby private transfer station operators are provided with an opportunity to qualify for rate discounts within the BCUA solid waste system. Thus, solid waste may be baled by the private transfer stations and transported for disposal at the Bergen County Baler/Transfer Station.

COMMENT: The Regulatory Flexibility Statement of the proposal ignores the mandate of the New Jersey Regulatory Flexibility Act,

N.J.S.A. 52:14B-16 et seq., in particular by not indicating that the agencies (DEP and BPU) have realistically considered the effect of the compliance requirements on small businesses (solid waste transfer stations). The commenters state that the proposed rule will effectively terminate these businesses without regard to the economic impact on the businesses, employees and the public. The Regulatory Flexibility Statement of the proposal speaks only of the record keeping requirements of the BCUA transfer station as compared to the record keeping requirements of the Kingsland Park Sanitary Landfill. There has been no consideration of the general economic impact of the proposed rule amendment on private transfer stations. Additionally, N.J.S.A. 52:14B-19 requires that the regulatory flexibility analysis contain a description of the types and an estimate of the number of small businesses to which the rule will apply, as well as an indication of how the rule, as proposed for adoption, is designed to minimize any adverse economic impact of the proposed rule on small businesses.

RESPONSE: All State agencies are required to conduct an analysis pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as part of the development and proposal of a rule for adoption. This analysis must describe the types of businesses and their numbers which will be impacted by the rule and must set forth what reporting, recordkeeping, compliance and professional services will be required in order for the regulated community to comply with the proposed rule. If the agency finds that the proposed rule will not impose additional requirements on small businesses, its finding and an indication of its basis must be included in the notice of the proposed rule. The proposed waste flow rule for Bergen County will not impose new reporting, recordkeeping and other compliance requirements on small businesses. Therefore, the Regulatory Flexibility Statement is in keeping with the requirements of the Regulatory Flexibility Act. The Economic Impact Statement of the proposed rule, rather than the Regulatory Flexibility Statement, sets forth the reasons why there would be an adverse economic impact on the general public under the proposed rule. The BPU has recognized that there also is an economic impact on haulers and private transfer stations when disposal costs increase and individual haulers are unable to reflect these increases in their tariffs in a timely manner. In order to allow haulers to increase their rates as soon as possible after an increase in disposal fees, the BPU has implemented expedited procedures which provide for quick rate relief to haulers who follow these procedures (see BPU Order of Implementation, Docket No. SX8607769 (August 11, 1986) as modified by BPU Order in Docket No. SX86070769 (March 21, 1990.))

COMMENT: The DEP is charged with environmental regulation of facilities such as BCUA's transfer station. But, by proposing in its rule amendment that all solid waste generated in Bergen County be disposed of at the BCUA facility, DEP is granting BCUA a de facto franchise and is engaging in economic regulation that is a function of the BPU.

RESPONSE: The comment implies that the DEP is the sole agency which is responsible for the redirection of solid waste. However, this is a joint rule of the DEP and the BPU. The BPU has statutory authority over the economic aspects of intradistrict waste flows (see N.J.S.A. 48:13A-1 et seq.). Therefore, the BPU may redirect waste jointly with the DEP so that the resulting waste flows conform with district solid waste management plans. Waste flow regulations directing waste to specific disposal sites share characteristics with that of franchises. Waste flow regulations are, however, regulations adopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. which direct waste to specific disposal sites for the reasons articulated in the relevant regulation. The decision to award a solid waste franchise encompasses the criteria set forth for N.J.S.A. 48:13A-5.

COMMENT: The BPU, in jointly proposing the rule amendment with DEP, must have satisfied itself that: the direction of all solid waste to the BCUA facility would not have a negative economic impact on the ratepayer and taxpayer of Bergen County; that there would not be a negative financial impact on the existing private transfer stations; and that existing permitted and licensed private transfer stations could not process all Bergen County waste given their existing permitted capacity. In the Economic Impact Statement, the Department fails to consider proposed prices by private transfer stations filed with the BPU in February 1988. It is incumbent upon the Department to consider the relative economic impact of directing all waste to the BCUA facility versus adopting an alternative strategy utilizing existing transfer stations.

RESPONSE: In promulgating a waste flow rule, the BPU and DEP need not ensure in all instances that there is no negative impact on the general public or on the existing private transfer stations in Bergen County. Disposal of solid waste at out-of-State facilities has resulted in an unavoidable increase in disposal costs. In addition, the BPU is without

sufficient data which indicates that the redirection of waste from one facility to another within Bergen County has had a negative impact on the private transfer stations and that such redirection has hindered these transfer stations' operations. Moreover, the impact on private transfer stations, if any, has been mitigated due to the promulgation of certain rules and regulations by the BCUA pursuant to N.J.S.A. 40:14B-20(12). The rules and regulations allow private transfer stations to qualify for rate discounts within the BCUA solid waste system. Thus, solid waste may be baled by private transfer stations in Bergen County and transported for disposal at the Bergen County Baler/Transfer Station. By complying with the rules and regulations, the private transfer stations are now fully integrated into Bergen County's waste disposal system and the existing capacity of the private transfer stations is utilized for intra-county transfer station services.

For further discussion of the ability of existing private transfer stations to process all of Bergen County's solid waste, see other responses in this summary.

COMMENT: For the DEP and BPU to adopt the proposed rule amendment when neither agency is aware of the proposed new (1990) tipping fees for the BCUA and what economic and social impact they will have on the ratepayers of Bergen County, would represent a clear and unequivocal abrogation of their recognized statutory obligation.

RESPONSE: The BCUA rate levels are indeed higher in 1990. The DEP and the BPU note, however, that the proposed amendment reflects existing public policy which requires each county to develop a solid waste management plan which would eventually render the State of New Jersey self-sufficient regarding its solid waste disposal needs. Under this policy, counties have initial responsibility to develop their own solid waste management plans which must be consistent with the Statewide Solid Waste Management Plan. In exercising its responsibilities under the Solid Waste Management Act, the Bergen County Board of Chosen Freeholders chose the BCUA to be the agency responsible for implementing the County's plan. The construction of the Bergen County Baler/Transfer Station is part of the County's approved District Solid Waste Management Plan. The rules and regulations promulgated by the BCUA, referenced above, serve to further validate the process. The rules and regulations allow private transfer stations to qualify for rate discounts within the BCUA solid waste system. Thus, solid waste may be baled by the private transfer stations and transported for disposal at the Bergen County Baler/Transfer Station. By complying with these rules and regulations, the private transfer stations are now fully integrated into Bergen County's waste disposal system.

COMMENT: The Economic Impact of the proposal concludes that "no additional impact is expected to result from this amendment." This statement ignores the financial outlook for BCUA which lost \$6 million in 1988 and \$8 million in 1989 to date and has also defaulted on bonds which financed construction of the BCUA facility. Although the BCUA claims that the diversion of waste by private transfer stations causes the losses, at the present tipping fees, the BCUA loses money on every ton of waste disposed of on its tipping floor. The Department cannot assert with any reasonable certainty what the economic impact of continuing to direct all Bergen County solid waste to the BCUA will be.

RESPONSE: The BPU has reviewed the Laventhol and Horwath report dated August 8, 1989, submitted by counsel for the commenters, which analyzes the cost levels and financial condition of the BCUA Transfer Station and which forms the basis for the above comment. After receiving the report, and BPU concludes that the proposed amendment represents a reasonable balance of economic and environmental considerations. The BPU also concludes that the rules and regulations promulgated by the BCUA on January 18, 1990 change the circumstances upon which the Laventhol and Horwath report was based.

COMMENT: A rule should be considered that will permit the BCUA transfer station to continue to operate at present levels and will also permit the private transfer stations to process waste and directly dispose of it at out-of-State landfills. The Department should consider the potential application of N.J.A.C. 1:30-3.5, Negotiation of a rule, in this regard.

RESPONSE: As has been explained in other responses, the Bergen County Board of Chosen Freeholders, pursuant to N.J.S.A. 13:1E-1 et seq., has chosen use of one designated transfer station to meet the County's solid waste management needs. As a result, the DEP and BPU will not consider promulgating a rule that allows private transfer stations to dispose of waste directly out-of-State, bypassing the BCUA transfer station. Note, however, that on January 19, 1990, the BCUA and certain private transfer stations agreed on an intermediate transfer station system, whereby the private stations provide transfer services. The BCUA has

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jurisdiction over this agreement which it will exercise in the event the public interest requires.

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

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

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

(a) (No change.)

(b) Waste flows within, into and out of the Bergen County District:

1. All waste types 10, 13, 23, 25 and 27 generated from within all of Bergen County's municipalities, with the exception of waste type 10 (household) from North Arlington, shall be disposed of at the Bergen County Baler/Transfer Station, Facility Number 0239E1SP01 located in the Boroughs of Lyndhurst and North Arlington, Bergen County, New Jersey ***for transfer to an approved out-of-state disposal facility***.

i.-ii. (No change.)

2. Waste type 10 (household) generated from within the Bergen County municipality of North Arlington shall be disposed of at the HMDC Baler/Balefill, facility number 0239C/0232D, located in North Arlington ***for transfer to an approved out-of-state disposal facility***.

(c)-(v) (No change.)

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Administrative Manual
Claim Processing**

Adopted Amendment: N.J.A.C. 10:49-1.10

Proposed: January 16, 1990 at 22 N.J.R. 117(a).

Adopted: June 4, 1990 by Alan J. Gibbs, Commissioner,
Department of Human Services.

Filed: June 5, 1990 as R. 1990 d.326, **without change**.

Authority: N.J.S.A. 30:4D-7, 7a, b, c and p, q, r.

Effective Date: July 2, 1990.

Expiration Date: August 12, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

10:49-1.10 Bureau of Claims and Accounts; Fiscal Agents

(a) The Bureau of Claims and Accounts, Division of Medical Assistance and Health Services directly processes and makes payment of claims for services provided by long-term care facilities (skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, and residential treatment facilities) and eligible State and county governmental psychiatric hospitals.

(b) A contract(s) is(are) negotiated on behalf of the State of New Jersey with a fiscal agent(s) for the processing and payment to providers for all health services other than those listed in (a) above.

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Long Term Care Services Manual
Sanctions Imposed on Long Term Care Facilities**

Adopted Amendment: N.J.A.C. 10:63-1.15

Proposed: January 2, 1990 at 22 N.J.R. 5(a).

Adopted: June 4, 1990 by Alan J. Gibbs, Commissioner,
Department of Human Services.

Filed: June 5, 1990 as R. 1990 d.327, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:4D-6a(4)(a)b(13)(14); 30:4D-7, 7a, b, c;
30:4D-12; 42 CFR 442, Subpart C.

Effective Date: July 2, 1990.

Expiration Date: November 28, 1994.

Summary of Public Comments and Agency Responses:

There was one comment submitted by James E. Cunningham, President, New Jersey Association of Health Care Facilities. The commenter's concern was that the Medicaid agency must provide the long term care facility (LTCF) up to 60 days to correct deficiencies (that do not pose immediate jeopardy to the patient) in accordance with Federal regulations (42 CFR 442.110).

The Department's response is that N.J.A.C. 10:63-1.15(f) is being changed upon adoption to allow LTCFs up to 60 days to correct deficiencies that do not pose an immediate jeopardy to the patient. The Division had been allowing for the 60-day Federally required "grace period" by following the New Jersey Department of Health (DOH) procedures, which allowed LTCFs up to 60 days to correct certain deficiencies. No action was taken by the New Jersey Medicaid Program until the LTCF had the opportunity to make corrections within 60 days from the date of the DOH survey. This change upon adoption will insure compliance with the Federal regulations, will be consistent with DOH procedures, and will not impose any additional burden upon LTCFs. The commenter's request was that the Division not curtail, but maintain, the 60-day period. The Division agrees with the commenter's request because this reflects existing policy.

Summary of Changes Between Proposal and Adoption:

The Division is amending N.J.A.C. 10:63-1.15(f) in response to the public comment for the reasons indicated above.

The Division added paragraph (f)1 which provides for the 60-day correction period specified in Federal regulations. The first clause of paragraph (f)2 is the same as contained in the original proposal. Additional language has been added upon adoption to indicate the notice of intent to deny payment will only be issued if the LTCF has not achieved compliance. The Division believes it is prudent to distinguish between an LTCF that achieves compliance, and hence no notice will be issued, and an LTCF that does not achieve compliance. Paragraph (f)3 in the adoption is the same as paragraph (f)2 in the original proposal.

The Division, on its own initiative, is amending the criteria for ICF/MRs to indicate that an ICF/MR must meet the applicable conditions of participation instead of the standards of participation. This change is being made to conform with Federal regulations governing ICF/MRs (42 CFR 483.400 through 483.480). This change upon adoption does not increase or decrease the provider's responsibility because they were always obligated to comply with these Federal standards.

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

10:63-1.15 Program participation

(a) A LTCF shall comply with the following requirements in order to participate in the New Jersey Medicaid Program. A LTCF shall:

1. Be licensed by the New Jersey State Department of Health;
2. Be certified by the New Jersey State Department of Health and/or the Secretary of the Department of Health and Human Services that the LTCF meets the Federal requirements for participation as an SNF and/or ICF.

3. Be approved for participation as a LTCF provider by the New Jersey Medicaid Program. This includes the filing of a New Jersey Medicaid Provider Application FD-20 (Exhibit No. 6), the signing of a Provider Agreement MCNH-38 (Exhibit No. 10) and submittal of the HCFA-1513, Ownership and Control Interest Disclosure Statement. Continued participation as a New Jersey Medicaid provider is contingent upon reapproval by the New Jersey Medicaid Program.

4. File an acceptable Cost Study for Long-Term Care Facility form MCNH-1(Exhibit No. 29) with the New Jersey State Department of Health and the Division of Medical Assistance and Health Services. After the initial cost study is filed, continued participation will be subject to acceptable annual filings.

5. In those situations where a SNF participates in Medicare and Medicaid, have a Medicaid provider agreement with the same terms, conditions and duration as the Medicare Provider agreement.

(b) The Division shall terminate a LTCF's provider agreement if the Division:

1. Receives notice from the New Jersey State Department of Health or the Secretary of the Department of Health and Human Services that the LTCF is no longer certified to provide SNF and/or ICF services; and

2. The deficiencies pose immediate jeopardy to patients' health and safety.

(c) If the deficiencies in (b)1 above do not pose immediate jeopardy to the patient's health and safety, the Division may either terminate the LTCF's provider agreement or deny payment for new admissions.

(d) Any LTCF whose certification or Medicaid Provider Agreement is denied, terminated or not renewed shall have the opportunity to request a full evidentiary hearing before an Administrative Law Judge from the Office of Administrative Law.

1. In order to obtain a hearing, the LTCF shall submit a written request to the Director, Division of Medical Assistance and Health Services, CN-712, Trenton, New Jersey 08625.

2.-6. (No change.)

(e) The Division may deny payments as follows for new admissions to a SNF, ICF, ICF/MR that no longer meets the applicable conditions of participation (for SNFs *and ICF/MR*) or standards (for ICFs *[and ICFs/MR]*), if either of the following conditions is met:

1. If the LTCF deficiencies do not pose immediate jeopardy to the patient's health and safety, the Division may either terminate the LTCF's provider agreement or deny payment for new admissions; or

2. If the LTCF deficiencies do pose immediate jeopardy to the patient's health and safety, the Division may additionally seek to impose the denial of payment sanction in addition to the provider agreement termination.

(f) Before the denial of payment for new admissions, a LTCF is entitled to the following:

1. A period of up to 60 days from the date of the Department of Health survey to correct the cited deficiencies and comply with the conditions (for SNFs and ICF/MR's) or standards (for ICF's);

***[1.]**2.* A notice of intent to deny payment for new admissions and an opportunity for an informal hearing*, if at the end of the specified period, the facility has not achieved compliance*;**

***[2.]**3.* If the LTCF requests a hearing, the Division shall provide an informal hearing that includes:**

i. The opportunity for the LTCF to present, before a Medicaid official who was not involved in making the initial determination, evidence or documentation, in writing or in person, to refute the decision that the facility is out of compliance with the applicable conditions of participation (for SNFs *and ICF/MR*) or standards (for ICFs *[and ICFs/MR]*); and

ii. A written decision setting forth the factual and legal bases pertinent to a resolution of the dispute.

3. If the decision of the Medicaid official is to deny payments for new admissions, provide the LTCF and the public, at least 15 days before the effective date of the sanction, with a notice that includes the effective date and the reason(s) for the denial of payment.

(g) The effect of denial of Medicare payment is as follows:

1. If HCFA denies Medicare payment for new admissions to a SNF that also participates in Medicaid, the Division shall deny Medicaid payment for new admissions, effective for the same time period that Medicare payments are denied.

2. Only one informal hearing is available to a SNF that participates in both programs. It shall be provided by HCFA in accordance with Federal regulations (42 CFR 442.118(c)(2)).

(h) The denial of payment for new admissions will continue for 11 months after the month it was imposed unless, before the end of that period, the Division receives notice from the Department of Health that:

1. The LTCF has corrected the deficiencies or is making a good faith effort to achieve compliance with the conditions of participation (for SNFs *and ICFs/MR*) or the standards (for ICFs *[and ICFs/MR]*); or

2. The deficiencies are such that it is necessary to terminate the LTCF provider agreement.

(i) The Division shall terminate a LTCF's provider agreement as follows:

1. Upon the Division's finding that the LTCF has been unable to achieve compliance with the conditions of participation (for SNFs *and ICF/MR*) or standards (for ICFs *[and ICFs/MR]* during the period that payments for new admissions have been denied;

2. Effective the day following the last day of the denial of payment period; and

3. In accordance with the procedures for appeal of terminations set forth in N.J.A.C. 10:63-1.15(c).

(a)

DIVISION OF ECONOMIC ASSISTANCE

Public Assistance Manual

REACH Post-AFDC Sliding Fee Scales

Adopted New Rules: N.J.A.C. 10:81-14.18A and 14.18B

Adopted Amendment: N.J.A.C. 10:81-14.18

Proposed: April 2, 1990 at 22 N.J.R. 1054(a).

Adopted: June 12, 1990 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: June 12, 1990 as R.1990 d.340, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 44:10-13 and 44:10-1 et seq.

Effective Date: July 2, 1990.

Expiration Date: August 24, 1994.

Summary of Public Comments and Agency Responses:

Comments were received from 16 agencies and individuals. These represented five county welfare agencies (CWAs) and boards of social services; five REACH program coordinators and county departments of human services; Region II staff of the Family Support Administration of the Federal Department of Health and Human Services; two REACH lead child care agencies (the New Jersey REACH Coordinators Association and REACH Lead Child Care Agency Association); two private non-profit agencies; and the appointed policy development board advising the Division of Youth and Family Services.

COMMENT: Several comments dealt with consistency of the post-AFDC REACH fee scale with the fee scale used for child care funded through the Social Services Block Grant (SSBG). In order to be truly consistent, the post-AFDC fee scale, which includes the fee as part of the maximum REACH child care payment, should be patterned after the SSBG scale. In the SSBG fee scale the fee is assessed in addition to the maximum SSBG payment to the provider.

RESPONSE: While the need for consistency is understood, the fee scale as proposed fulfills the intent of the Federal mandate to establish a fee scale within certain time frames. The fee scale also falls within the budget limitations facing the State.

COMMENT: Eight commenters stated that the post-AFDC fee scale should provide for the fee to be collected in addition to the maximum REACH rate because maximum rates currently payable under REACH are less than the cost of care. A fee collected in addition to the REACH

rate would yield additional income. It would also ensure that a minimum guaranteed income would continue. The rationale is that, although the REACH rate paid may be lower than the actual cost of providing that care, the guarantee of payment by the REACH program (up to the REACH maximum rates) for care provided offsets the lesser income. If the fee to be paid by the participant is a part of this REACH rate, then only a lesser REACH payment would be guaranteed. The balance would have to be collected from the participant. Experience with SSBG shows that parents do not always pay the fee. This will result in a loss of revenue for providers twice—first, because of a lesser “guaranteed” REACH rate, and second, an additional loss of revenue due to nonpayment of the fee.

RESPONSE: A major revision of the fee scale cannot be undertaken due to several reasons. The first is budgetary; this method has already been included in the Department’s budget recommended for State Fiscal Year (SFY) 1991 and the Department is not in a position to effect increases in that budget as a result of this rulemaking process. The second reason deals with Federal program requirements. The Federal Family Support Act contains certain requirements that states must follow when establishing a sliding fee scale. The proposed fee scale adheres to those requirements. The Federal government has not decided whether the fee scales proposed by commenters fit within the intent of that law. Additionally, the Federal fiscal reporting requirements are unclear as to whether this type of fee scale may be allowed. Finally, Federal rules require states to implement a fee scale as soon as possible or face loss of Federal Financial Participation for child care payments made in lieu of the fee payments. Federal clarifications and approvals must be obtained to implement the type of fee scale proposed by the commenters, which cannot be done within the time constraints required by the Family Support Act for implementation of the fee scale.

The Department, however, is committed to ensuring uniformity in the administration of programs and delivery of its services and will pursue the possibility of using the type of fee scale recommended by the commenters in the REACH program.

COMMENT: The Federal government commented that the fee scale as proposed at N.J.A.C. 10:81-14.18A does not follow the intent of the Federal law, because, at upper income limits, it does not provide a fee according to “ability to pay” as it does at the lower income limits.

RESPONSE: The Department has added additional income intervals and fee levels to accommodate this Federal concern.

COMMENT: One CWA commented that the fee scale based on family size and income is complex and collection is burdensome. A flat fee per child per week would be simpler to administer and explain to both recipients and child care providers. While the agency agreed with the Federal requirement that the participant contribute toward the cost of care, it cautioned that such a fee collection system must be as streamlined as possible to avoid confusion and errors.

RESPONSE: As stated above, notwithstanding adoption of the proposed rule, the Department will continue to pursue a fee scale that is uniform across all program lines, is easy for families to understand, and is simple to administer. Among the options under consideration is a flat fee per child or a family fee.

COMMENT: At N.J.A.C. 10:81-14.18A(f)2 concerning fees where more than one child is in care, consideration should be given to applying the 100 percent fee to the youngest child, with the 50 percent being applied to the next youngest child. The cost of infant/toddler care exceeds the cost of preschool and school age child care. The fee applied to the infant/toddler rate is in the best interest of the providers since it will result in more income.

RESPONSE: The commenter assumes that the post-AFDC child care fee is paid in addition to the maximum REACH rate, which would result in higher income to the provider. However, the post-AFDC child care fee is part of the maximum REACH rate. The most income a provider can receive is the maximum REACH rate, with a portion paid as the fee by the participant and the balance paid by REACH. Therefore, if more than one child is in care, it is immaterial to which payment schedule the 100 percent or 50 percent fees are to be applied. The fee structure to be adopted benefits both the participant and the provider. The participant pays a lower fee, and the provider receives most of the payment from REACH.

COMMENT: One county human service department observed that a financial crisis may prohibit co-payment. It recommended that the fee collection procedures include a “hardship consideration” for those post-AFDC REACH participants who have consistently made their fee payments on time, but who may be experiencing temporary financial hardship, to receive REACH payment and remain with the provider for up to two months.

RESPONSE: This is a legitimate comment reflecting the circumstances that might occur during the post-AFDC period. However, rather than include a blanket provision permitting this option, it is preferred that it be left to a case by case basis determination between the participant, the child care provider, and the county REACH program. The Department’s concern is that if such a blanket allowance is included, it may be subject to abuse by some participants, thereby leaving providers unpaid for care provided.

COMMENT: One county REACH program representative commented that, while there is agreement with the concept of requiring a participant to contribute toward the cost of care, it is thought that it would negatively impact the REACH program in two areas. First, providers of client-arranged child care (approved homes) who are usually neighbors, friends or relatives, already have difficulty in understanding and processing the REACH voucher. The fee collection system would be more complex for these providers, who would likely neglect to report nonpayment in a timely manner, if at all, and would lose income from fees. Furthermore, the REACH participant might not be obligated to pay a fee to approved home providers who were family members, and the family member would be less likely to report nonpayment because the participant’s post-AFDC benefits would be in jeopardy. Although the county recognized that Federal regulations required the fee and, therefore, the State could not resolve these problems by waiving the fee, the county recommended that the fees start at a much lower rate or percentage of the family’s income, and that they increase proportionately over time, for example, quarterly. This would result in a lesser financial burden, assist in the transition to full payment of child care, and would minimize the loss of unpaid fees to providers, especially in the early months, when participants are becoming familiar with the system.

RESPONSE: The commenter is correct in that Federal regulations prescribe that all families receiving post-AFDC child care benefits pay a fee toward the cost of care. The commenter’s observations about approved home providers may have validity. As detailed in responses below, the Department has tried to minimize the additional work that all providers must perform in the fee collection process. The Department’s Division of Economic Assistance (DEA) is providing technical assistance to counties to minimize the disruption and misunderstanding on the part of participants and child care providers. County REACH program administration has been encouraged to provide outreach, training sessions, and written materials to providers to ensure that they are educated on this new Federal requirement.

Regarding the recommended change to the fee scale, the Department will consider these comments as part of a larger effort to develop a uniform child care fee structure.

COMMENT: Several commenters stated that the procedures proposed at N.J.A.C. 18:81-14.18B to collect and monitor fee collection were cumbersome and would impose hardship on REACH child care providers, many of whom are not businesses and are not accustomed to detailed recordkeeping or to dealing with the county welfare system on a routine basis. The commenters were concerned that providers would see the system as requiring too much paperwork and burdensome, that they would not pursue collection of fees for nonpayment, and, therefore, would lose revenue and, as a result, would eventually stop providing care for REACH participants’ children. The net result would be a loss in supply of child care providers for the employed REACH families. Those commenters who are administrators in the REACH program and county welfare systems offered several alternative methods for fee collection and monitoring.

RESPONSE: Upon reviewing these comments and alternate proposals, the Department agreed that a method could be developed which would be less burdensome to REACH child care providers and would not result in a loss of supply of caregivers. In response to the comments, a working session of representatives of the Department, DEA, county REACH program coordinators, REACH case manager administrators, and REACH lead child care agencies was held to simplify the proposed procedures. Revised fee collections procedures and forms were agreed to. Specific comments and changes are detailed below.

COMMENT: The first comment about N.J.A.C. 10:81-14.18B was in regard to the first new form, R-20, REACH Post-AFDC Child Care Fee Agreement. This form was designed to reflect a negotiation about the fee payment terms and conditions between the provider and the REACH participant. It was modeled after the form used for collection of parent fees by child care centers in New Jersey receiving SSBG funds. Commenters pointed out that, while the concept of negotiation between parent and provider was a good one, the paperwork process required of the provider was burdensome. They recommended that the form be a notice,

discussed with the REACH participant, and sent by case management to the relevant entities.

RESPONSE: N.J.A.C. 10:81-14.18B(b)2v was revised accordingly. Form R-20 was renamed as a "Notification of REACH Post-AFDC Child Care Fee" and is a four-part form which contains information about the child care fee arrangement. The case manager, in consultation with the REACH participant, will complete the form. It contains the requirement of the participant to pay the fee, the amount of the fee, child(ren) in care and provider(s) to whom the fee must be paid; and information about consequences of nonpayment of the fee, including termination of post-AFDC child care benefits. Form R-20 is signed by the REACH case manager, is to be completed for each child receiving post-AFDC child care benefits, and is distributed to the participant, provider, and as necessary to the lead child care entity.

COMMENT: Commenters specifically cited as unduly burdensome two proposed requirements: that the fee be considered late if not paid on the first day of the biweekly voucher service period, and that in instances where the fee was late, each provider initiate a lengthy paperwork process to document nonpayment and thereby preserve the right to repayment of unpaid fees for child care services provided.

This process required that on the first day of nonpayment the provider had to complete the four-part Form R-21, Notice of Failure to Pay REACH Post-AFDC Child Care Fee, documenting nonpayment, retain one copy, give the nonpaying parent one copy, and submit (usually by mail) the remaining two copies to county REACH case management. The provider would have to pursue collection of the unpaid fee for the balance of the biweekly voucher service period, and would have to inform REACH case management at the end of the period as to whether the fee was paid or remained unpaid. To ensure that no case "fell through the cracks", case management was obligated to contact those providers who had not responded on the 11th day to obtain disposition of the fee payment issue. If the fee remained unpaid, REACH case management would complete and mail a third form, R-22, Notice of Termination of REACH Post-AFDC Benefits, to the participant, informing that post-AFDC child care benefits for all children would be terminated within 10 days.

Commenters also stated that the provider reporting process was unrealistic and did not reflect realities of the child care arrangements between the REACH population and child care providers. They observed, moreover, that the requirement that fees had to be paid by the first day of the voucher service period was an unrealistic stipulation since it did not take into consideration the cash flow of participants. For a variety of reasons, including the date earnings were paid, the REACH participant may not have the cash on hand to pay the fee on the first day, but would have it on the second or subsequent day. An emergency may have arisen that required the participant to spend the fee money to meet the family's immediate pressing needs. To initiate the process of termination of post-AFDC benefits because a participant had to choose between a family obligation and a fee would simply be unfair. Besides, if carried to benefit termination and a fair hearing ensued, the decision would likely be reinstatement of post-AFDC child care benefits. Finally, although many REACH child care providers are child care centers engaged in the business of providing child care, the majority are neighbors, friends or relatives doing a favor for the REACH participant. They are not in the business of providing child care, are not familiar with the county welfare system, and would likely be intimidated by the forms and procedures.

Additionally, this form puts them in an adversarial position with the REACH participant, policing the REACH mother's finances every two weeks. To avoid this unpleasant situation, the provider might just refuse to provide care, resulting in a loss of another provider. This result is not desirable in face of a general shortage of child care providers in the State, especially for low income participants.

RESPONSE: N.J.A.C. 10:81-14.18(b)2vi and (c) were revised to streamline the procedure. Form R-21 was eliminated. In its place, the biweekly REACH voucher process, which all providers must use, will be used to report fee collection and monitoring. The biweekly REACH voucher will be modified for post-AFDC cases to permit reporting of payment and nonpayment of the fee for each child for whom a fee is required. The participant need not pay the fee on the first day of the biweekly period, but instead may pay the fee any time during the biweekly period, as long as it is paid by the end of that period. Therefore, the fee will not be considered late until after the biweekly period expires. This will eliminate considerable paperwork required of the provider in the original proposal. It also reflects the realities of fee payment systems, and parents' income flow.

During the two-week period, the provider still has the responsibility to pursue collection of the fee. At the end of the biweekly period, the provider will complete the voucher for care provided, indicate for each child whether the fee was paid. This notation will preserve the provider's right to possible reimbursement of unpaid fees.

If the provider reports on the voucher that the fee is not paid, upon receipt of the voucher case management will prepare a notice of termination of REACH post-AFDC child care benefits. In the proposed amendments, a specific notice was developed for this purpose, Form R-22, Notice of Termination of Post-AFDC Benefits Due to Nonpayment of Fee. Instead of mandating this form, in the final rulemaking counties are given the option of developing a separate form or including this notice of termination in an existing form or notice. Whichever option a county selects, it must contain certain information. This includes notice of benefits termination, fees that are unpaid, right to a fair hearing, and that benefits may be reinstated by payment of fee owed. A sample copy of this form is in Appendix A. Each county must provide the DEA with a copy of its notice of termination of post-AFDC child care benefits.

COMMENT: One CWA questioned section N.J.A.C. 10:81-14.18B(c)4 about the implication of the client's right to a fair hearing when post-AFDC child care benefits are to be terminated. The question was if the participant receives continued child care benefits pending the hearing, and the agency action is upheld, must the amount of REACH post-AFDC child care benefits paid pending the hearing be subject to recovery under N.J.A.C. 10:82-2.19.

RESPONSE: Post-AFDC child care benefits are to be paid pending a hearing, as required by Federal regulations at 45 CFR 256.4(d). If the agency action is upheld, then the child care benefits paid pending the hearing are recoverable. N.J.A.C. 10:81-14.18 is being amended to permit such recovery, under the Federal authority at 45 CFR 255.4(j). Recovery of post-AFDC child care benefits is not governed by the provisions of N.J.A.C. 10:81-2.19.

COMMENT: One CWA observed that reimbursement of unpaid fees to the provider was not addressed in the proposed amendments. If the participant fails to pay fees owed for child care services provided, notwithstanding the terminations of post-AFDC benefits, there must be some mechanism for providers to be paid the unpaid fees. Nonpayment of services provided will be a disincentive to caregivers and will result in a loss of the supply of providers for REACH children.

RESPONSE: The Department recognizes that providers who have given services in good faith and expectation of payment from a REACH participant must not be denied income they earned and must be paid for services rendered. Therefore, text has been added to N.J.A.C. 10:81-14.18B(d)6 to allow for such reimbursement. If a REACH participant fails to pay assessed fees for child care provided, the provider(s) may be reimbursed for a maximum of two months of unpaid fees if the child's attendance and nonpayment of the fee were both documented on the biweekly REACH voucher, and the participant's post-AFDC benefits were actually terminated. Reimbursement of unpaid fees will be made from State REACH funds. If the participant whose post-AFDC benefits were terminated subsequently reapplies for the remaining post-AFDC child care benefits, eligibility for those benefits will be granted if the participant pays the full amount of the unpaid fees. Payment must be made either to the provider or to the county, if the county REACH program has already reimbursed the provider. Payment may be made in lump sum or installments as determined by the county.

COMMENT: Several human services agencies commented about the implementation of the fee scale. They requested thorough technical assistance in fee scale implementation and recommended that the DEA develop a training model and appropriate resources for use by counties in implementing the sliding fee scale. These should include materials on financial management and good business practices for both REACH participants and child care providers. The commenters felt that without such technical assistance, county REACH programs would continue to lose child care providers who will care for children at REACH rates, due to the burden of increased bookkeeping and fee collection procedures.

RESPONSE: The Department agrees with this concern of county REACH program staff. The DEA is preparing this technical assistance package. It is the Department's understanding that county REACH lead child care agencies have anticipated the issue and are indeed revising existing technical assistance materials on REACH voucher completion as well as developing new materials.

Summary of Agency-Initiated Changes:

In both parts of the Reach Post-AFDC Sliding Fee Scale II, the proposed **Note on the meaning of part-time is incorrect. As set forth

in the proposal Summary and in N.J.A.C. 10:81-14.18A(e)2ii, part-time means less than 30 hours per week. The note is being corrected upon adoption.

At N.J.A.C. 10:81-14.18A(f)2v, the dollar rounding off standard is being revised for consistency with all other like standards used in State and Federal economic assistance programs.

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

10:81-14.18 REACH support services: child care

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

(e) Post-AFDC child care pertains to child care available to families whose eligibility for AFDC has ceased due to increased earnings, increased hours of employment (including new employment) which result in increased earnings, or as a result of the loss of earned income disregards due to the expiration of time limits at N.J.A.C. 10:82-4.

1.-6. (No change.)

7. Fee requirement for post-AFDC child care: Each family receiving post-AFDC child care is required to contribute a fee toward the cost of such care.

i. Sliding fee scale: A sliding fee scale established by the Department of Human Services will provide for some level of contribution by all recipients of post-AFDC child care. The sliding fee scale shall consider: family income, family size, number of children, and number of children in care. The fee scale is set forth in N.J.A.C. 10:81-14.18A.

ii. Collection of fees: Pursuant to requirements established by the Department of Human Services, each county must establish methods and procedures for the collection of fees, and may vary the period of collection for different fee levels. The requirements for fee collection are set forth in N.J.A.C. 10:81-14.18B.

iii. Failure to pay the required fee: Individuals who fail to cooperate in paying the required fees will, subject to appropriate notice and hearing requirements, lose eligibility for post-AFDC child care benefits for so long as back fees are owed, unless satisfactory arrangements are made to make full payment.

Renumber 7. through 8. as 8.-9. (No change in text.)

(f)-(j) (No change.)

10:81-14.18A REACH post-AFDC sliding fee scale

(a) By the adoption of a Statewide sliding co-payment fee scale for REACH post-AFDC child care benefits provided to families

ineligible for AFDC as a result of increased earnings, increased hours of work or the loss of time-limited earned income disregards on or after April 1, 1990, the REACH Program seeks to:

1. Enable an AFDC family to accept and maintain employment;
2. Ensure that the parent has freedom of choice in selecting child care arrangements and is provided with flexibility to choose the location and type of provider that best meets their child care needs; and

3. Require that all recipients of REACH post-AFDC child care benefits pay a portion of the cost of care based on ability to pay, as required by the Federal Family Support Act of 1988.

(b) The REACH post-AFDC child care sliding fee scales, based on the family size and gross income of the AFDC eligible unit at case closing, are used to determine the fee. Once assessed, the fee is deducted from the amount to be paid to the provider by the REACH Program up to the maximum REACH rates. This assessed fee for child care services is then paid directly by the parent. Any balance remaining is paid by the REACH Program for the total cost of care. The REACH post-AFDC child care fee policy and procedures are applicable for all types of care arrangements available through the REACH Program and approved by the appropriate child care evaluating agency, as follows:

1. Licensed child care centers;
2. Registered family day care homes;
3. Self-arranged care (including in-home care);
4. Summer camps which are approved by the Department of Health (see N.J.A.C. 8:25); and
5. School-age child care programs as set forth at N.J.A.C. 10:81-14.18(e)1.

(c) All AFDC families who become ineligible for AFDC on or after April 1, 1990 due to (increased) income from employment shall pay a fee toward the cost of REACH Post-AFDC child care services.

(d) The sliding fee scales are as follows:

1. The amount of the required fee is based on the family's income level, family size, number of children, and number of children in care. There are two sliding fee scales:

- i. Sliding Fee Scale I—Full-Time Care; and
- ii. Sliding Fee Scale II—Part-Time Care.

2. Assessed fees are apportioned to cover a 52-week period. Holidays, emergency closings, and absences do not exclude or reduce the required fee co-payment.

REACH POST-AFDC SLIDING FEE SCALE I
BY FAMILY SIZE
FULL-TIME

2	3	4	5	6	7	Weekly Fee	Bi-Weekly Fee
0- 1,676	0- 2,070	0- 2,464	0- 2,858	0- 3,253	0- 3,326	2.00	4.00
1,677- 3,351	2,071- 4,140	2,465- 4,928	2,859- 5,716	3,254- 6,505	3,327- 6,653	4.00	8.00
3,352- 3,749	4,141- 4,943	4,929- 5,688	5,717- 6,433	6,506- 7,178	6,654- 7,922	5.00	10.00
3,750- 5,027	4,944- 6,209	5,689- 7,392	6,434- 8,575	7,179- 9,758	7,923- 9,979	6.00	12.00
5,028- 6,702	6,210- 8,279	7,393- 9,856	8,576-11,433	9,759-13,010	9,980-13,306	8.00	16.00
6,703- 8,378	8,280-10,349	9,857-12,320	11,434-14,291	13,011-16,263	13,307-16,632	10.00	20.00
8,379-10,053	10,350-12,419	12,321-14,784	14,292-17,149	16,264-19,515	16,633-19,958	12.00	24.00
10,054-11,729	12,420-14,489	14,785-17,248	17,150-20,007	19,516-22,768	19,959-23,285	15.00	30.00
11,730-13,404	14,490-16,558	17,249-19,712	20,008-22,866	22,769-26,020	23,286-26,611	18.00	36.00
13,405-15,009	16,559-18,541	19,713-22,072	22,867-25,604	26,021-29,136	26,612-29,797	21.00	42.00
15,010-16,615	18,542-20,525	22,073-24,434	25,605-28,344	29,137-32,254	29,798-32,986	24.00	48.00
16,616-18,221	20,526-22,509	24,435-26,796	28,345-31,084	32,255-35,371	32,987-36,174	27.00	54.00
18,222-19,827	22,510-24,493	26,797-29,158	31,085-33,823	35,372-38,489	36,175-39,362	30.00	60.00
19,828-23,000	24,494-27,000	29,159-32,000	33,824-37,000	38,490-41,000	39,363-42,000	33.00	66.00

¹Families with a Maximum Gross Income, for their Family size, in excess of their scale will be assessed *[the Maximum Fee]* *an additional weekly fee of \$1.00 (\$2.00 for a bi-weekly fee) for each \$1,000 of gross income above their scale*.

REACH POST-AFDC SLIDING FEE SCALE¹ I
BY FAMILY SIZE
FULL-TIME

8	9	10	11	12	Weekly Fee	Bi-Weekly Fee
0- 3,400	0- 3,474	0- 3,548	0- 3,622	0- 3,696	2.00	4.00
3,401- 6,801	3,475- 6,948	3,549- 7,096	3,623- 7,244	3,697- 7,392	4.00	8.00
6,802- 8,667	6,949- 9,412	7,097-10,156	7,245-10,901	7,393-11,603	5.00	10.00
8,668-10,201	9,413-10,433	10,157-10,645	10,902-11,866	11,604-11,808	6.00	12.00
10,202-13,601	10,434-13,897	10,646-14,193	11,867-14,488	11,809-14,784	8.00	16.00
13,602-17,002	13,898-17,371	14,194-17,741	14,489-18,111	14,785-18,480	10.00	20.00
17,003-20,402	17,372-20,845	17,742-21,289	18,112-21,733	18,481-22,176	12.00	24.00
20,403-23,802	20,846-24,319	21,290-24,837	21,734-25,355	22,177-25,872	15.00	30.00
23,803-27,202	24,320-27,794	24,838-28,386	25,356-28,977	25,873-29,568	18.00	36.00
27,203-30,460	27,795-31,122	28,387-31,784	28,978-34,426	29,569-33,109	21.00	42.00
30,461-33,719	31,123-34,452	31,785-35,185	34,427-35,918	33,110-36,651	24.00	48.00
33,720-36,978	34,453-37,782	35,186-38,586	35,919-39,390	36,652-40,194	27.00	54.00
36,979-40,238	37,783-41,112	38,587-41,987	39,391-42,862	40,195-43,737	30.00	60.00
40,239-43,000	41,113-44,000	41,988-45,000	42,863-46,000	43,738-47,000	33.00	66.00

¹Families with a Maximum Gross Income, for their Family Size, in excess of their scale will be assessed *[the Maximum Fee]* *an additional weekly fee of \$1.00 (\$2.00 for a bi-weekly fee) for each \$1,000 of gross income above their scale*.

REACH POST-AFDC SLIDING FEE SCALE¹ II
BY FAMILY SIZE
PART-TIME²

2	3	4	5	6	7	Weekly Fee	Bi-Weekly Fee
0- 1,676	0- 2,070	0- 2,464	0- 2,858	0- 3,253	0- 3,326	1.00	2.00
1,677- 3,351	2,071- 4,140	2,465- 4,928	2,859- 5,716	3,254- 6,505	3,327- 6,653	2.00	4.00
3,352- 3,749	4,141- 4,943	4,929- 5,688	5,717- 6,433	6,506- 7,178	6,654- 7,922	2.50	5.00
3,750- 5,027	4,944- 6,209	5,689- 7,392	6,434- 8,575	7,179- 9,758	7,923- 9,979	3.00	6.00
5,028- 6,702	6,210- 8,279	7,393- 9,856	8,576-11,433	9,759-13,010	9,980-13,306	4.00	8.00
6,703- 8,378	8,280-10,349	9,857-12,320	11,434-14,291	13,011-16,263	13,307-16,632	5.00	10.00
8,379-10,053	10,350-12,419	12,321-14,784	14,292-17,149	16,264-19,515	16,633-19,958	6.00	12.00
10,054-11,729	12,420-14,489	14,785-17,248	17,150-20,007	19,516-22,768	19,959-23,285	7.50	15.00
11,730-13,404	14,490-16,558	17,249-19,712	20,008-22,866	22,769-26,020	23,286-26,611	9.00	18.00
13,405-15,009	16,559-18,541	19,713-22,072	22,867-25,604	26,021-29,136	26,612-29,797	10.50	21.00
15,010-16,615	18,542-20,525	22,073-24,434	25,605-28,344	29,137-32,254	29,798-32,986	12.00	24.00
16,616-18,221	20,526-22,509	24,435-26,796	28,345-31,084	32,255-35,371	32,987-36,174	13.50	27.00
18,222-19,827	22,510-24,493	26,797-29,158	31,085-33,823	35,372-38,489	36,175-39,362	15.00	30.00
19,828-23,000	24,494-27,000	29,159-32,000	33,824-37,000	38,490-41,000	39,363-42,000	16.50	33.00

¹Families with a Maximum Gross Income, for their Family Size, in excess of their scale will be assessed *[the Maximum Fee]* *an additional weekly fee of \$.50 (\$1.00 for a bi-weekly fee) for each \$1,000 of gross income above their scale*.

²Less than* 30 hours per week *[or less]*, for example, summer care for school-age children

REACH POST-AFDC SLIDING FEE SCALE¹ II
BY FAMILY SIZE
PART-TIME²

8	9	10	11	12	Weekly Fee	Bi-Weekly Fee
0- 3,400	0- 3,474	0- 3,548	0- 3,622	0- 3,696	1.00	2.00
3,401- 6,801	3,475- 6,948	3,549- 7,096	3,623- 7,244	3,697- 7,392	2.00	4.00
6,802- 8,667	6,949- 9,412	7,097-10,156	7,245-10,901	7,393-11,603	2.50	5.00
8,668-10,201	9,413-10,433	10,157-10,645	10,902-11,866	11,604-11,808	3.00	6.00
10,202-13,601	10,434-13,897	10,646-14,193	11,867-14,488	11,809-14,784	4.00	8.00
13,602-17,002	13,898-17,371	14,194-17,741	14,489-18,111	14,785-18,480	5.00	10.00
17,003-20,402	17,372-20,845	17,742-21,289	18,112-21,733	18,481-22,176	6.00	12.00
20,403-23,802	20,846-24,319	21,290-24,837	21,734-25,355	22,177-25,872	7.50	15.00
23,803-27,202	24,320-27,794	24,838-28,386	25,356-28,977	25,873-29,568	9.00	18.00
27,203-30,460	27,795-31,122	28,387-31,784	28,978-34,426	29,569-33,109	10.50	21.00
30,461-33,719	31,123-34,452	31,785-35,185	34,427-35,918	33,110-36,651	12.00	24.00
33,720-36,978	34,453-37,782	35,186-38,586	35,919-39,390	36,652-40,194	13.50	27.00
36,979-40,238	37,783-41,112	38,587-41,987	39,391-42,862	40,195-43,737	15.00	30.00
40,239-43,000	41,113-44,000	41,988-45,000	42,863-46,000	43,738-47,000	16.50	33.00

¹Families with a Maximum Gross Income, for their Family Size, in excess of their scale will be assessed *[the Maximum Fee]* *an additional weekly fee of \$.50 (\$1.00 for a bi-weekly fee) for each \$1,000 of gross income above their scale*.

²Less than* 30 hours per week *[or less]*, for example, summer care for school-age children

(e) The criteria for determination and re-determination of the fee are as follows:

1. The criteria for determining the amount of the fee are family size and income.

i. Family size consists of all members of the AFDC eligible unit at the time the AFDC case is closed.

ii. Family income includes all gross earned and unearned income, as defined at N.J.A.C. 10:82-4, received by all members of the AFDC eligible unit. The gross amount of family income must be verified by wage stubs or similar documentation, as a condition of receiving post-AFDC child care benefits.

2. The sliding fee scale is determined by the number of hours child care services are being provided to the child.

i. Full-time care is defined as care for 30 hours or more per week.

ii. Part-time care is defined as care for less than 30 hours per week.

iii. In no case may the co-payment fee exceed the cost of care.

3. Once the fee is determined, it will remain unchanged for the duration of the child care placement for the 12-month post-AFDC period, unless there is an increase in family size, or a reduction in gross family income. The participant must notify the CWA of any such changes occurring in the family. The CWA (case management) shall determine any changes in the fee.

(f) The process for fee assessment based on the number of children in care is as follows:

1. When only one child in the family is receiving post-AFDC child care services, 100 percent of the fee is assessed.

2. Fees will be assessed for the first and second child in a family receiving REACH post-AFDC child care benefits as follows:

i. When both children are receiving the same child care services from the same provider (for example, both receiving full-time care), one shall be assessed at 100 percent of the fee while the sibling will be assessed at 50 percent of the fee. The fee assessment shall be applied according to the age of child care: 100 percent of the fee for the oldest child in care, and 50 percent of the fee for the next oldest child in care.

ii. When both children are receiving different child care services from the same provider (for example, full-time and part-time care), the fee shall be determined for the respective type of care. The higher fee will then be charged at 100 percent and the lower fee at 50 percent (for example, 100 percent fee for full-time care and 50 percent fee for part-time care).

iii. When both children are receiving different child care services from separate providers, the child care service with the highest fee will be assessed to the client at 100 percent of the required fee. The second child care service will be assessed to the participant at 50 percent of the required fee (for example, 100 percent fee for full-time care and 50 percent fee for part-time care).

iv. When both children are receiving the same child care services but from different providers (for example, both receiving full-time care), one shall be assessed at 100 percent of the fee while the sibling will be assessed at 50 percent of the fee. The fee assessment shall be applied according to the age of child in care: 100 percent of the fee for the oldest child in care, and 50 percent of the fee for the next oldest child in care.

v. Fees shall be rounded to the nearest dollar. If the fee is one to *[50]* *49* cents, it will be rounded down to the nearest dollar, and if *[51]* *50* to 99 cents, it will be rounded up to the next dollar.

3. No fee will be assessed to a family for the third and additional children receiving REACH post-AFDC child care benefits.

(g) The requirements for refunds of fees are as follows:

1. Refunds are made to the participant by the REACH program as a lump sum payment when:

i. A fair hearing decision results in a reduced fee; or

ii. An error in fee computation has resulted in overcharges to the participant.

2. Overcharges are refunded within 30 days of the fair hearing decision or discovery of the error.

10:81-14.18B Sliding fee determination, collection and monitoring

(a) This section sets forth procedures for determining the amount of a REACH participant's fee toward the cost of post-AFDC child care, for the collection of the fee, monitoring payment (and nonpay-

ment) of the fee, and for notification of nonpayment of fees and termination of post-AFDC child care benefits for continued nonpayment of fees.

1. The procedures are listed according to the entities involved in the fee determination and collection process: the county welfare agency income maintenance staff, the county REACH case management staff, the provider of child care, and the county REACH lead child care entity.

2. Counties are responsible for the entire fee determination and collection process and functions, according to the standard procedures detailed in this section. Counties may adapt the procedures to local operations, and may reassign functions among the entities listed below. However, counties must make sure that the tasks are completed, benefits are processed in a timely manner that affords participants maximum benefits, fees are accurately determined, and participants are not denied benefits they are otherwise eligible to receive.

(b) Procedures for determining REACH post-AFDC child care fees are as follows:

1. County welfare agency (CWA) income maintenance (IM) functions are as follows:

i. When the AFDC recipient becomes employed, she must report employment to the CWA and provide documentation to verify employment—the start date and amount of earnings—as a condition of eligibility for REACH post-AFDC benefits of one year of extended Medicaid coverage and post-AFDC child care.

ii. When the IM worker receives the documentation referenced in (b)1i above, the worker will determine if the family will continue to be eligible for AFDC based on income.

iii. If earned income received or expected to be received renders the family ineligible for AFDC, the IM worker will initiate AFDC case closing and the processing of post-AFDC REACH benefits, including extended Medicaid benefits and post-AFDC child care.

(1) The IM worker will do the following:

(A) Enter the amount of verified earnings into FAMIS at the time the action is taken on computer to close the AFDC case. These earnings will be used to compute the fee that the participant must pay toward cost of post-AFDC child care, if the participant elects to apply for such benefits.

(B) Send out Form PA-15, Notification Form, advising of the termination of AFDC benefits and effective date.

(C) Send out Form R-10, REACH Benefit Letter, advising the participant of:

(I) The availability of post-AFDC REACH benefits—extended Medicaid and post-AFDC child care;

(II) The requirement to pay a co-payment fee toward the cost of post-AFDC child care; and

(III) The need to apply for post-AFDC child care by contacting (by phone, mail or in-person) the REACH case manager listed at the bottom of Form R-10.

(D) Forward one copy of Form R-10 to REACH case management.

(2) If the participant has not provided verification of earnings at time of case closing, the IM worker will complete steps (b)1iii(1)(A) through (B) above, inserting estimated earning in FAMIS, and including a statement in the Form R-10 of the need to provide such verification of earnings as a condition of eligibility for the extended benefits.

[(A) The participant must provide verification of earnings within 30 days of the effective date of AFDC case closing. If the participant does not provide such verification of earnings, there is no eligibility for post-AFDC REACH benefits.]

iv. To the extent possible, the IM worker should complete the AFDC case closing, income verification process and mailing of Form R-10 before the AFDC case is closed. This will ensure that participants receive child care benefits in a timely and uninterrupted manner, and ensure that providers receive payment of fees and REACH voucher payments. If this is not possible, the process should be completed as soon as possible after the AFDC case is closed, during the first month of AFDC ineligibility.

v. Computation of eligibility period for post-AFDC child care benefits: The eligibility period for post-AFDC child care benefits will be computed in accordance with N.J.A.C. 10:81-14.18(e)4i.

2. REACH case management functions are as follows:

i. Upon receipt of the Form R-10 from IM, case management will monitor the form to see if the REACH participant contacts case management.

ii. The date the REACH participant contacts case management in response to the Form R-10 will be considered the date of application for REACH post-AFDC child care benefits. In order to begin receiving payments for post-AFDC child care, the participant must make a complete application, which includes providing verification of earnings.

iii. The period of eligibility for post-AFDC child care benefits is computed according to N.J.A.C. 10:81-14.18(e)4. A REACH participant will begin receiving post-AFDC child care benefits when a complete application is received, computed according to (b)2iii(1) and (2) below:

(1) If the participant submits a complete application within 30 days of the effective date of AFDC case closing, that is, by the end of the month for which the case was closed, the participant will start receiving post-AFDC child care benefits as of the effective date of case closing. The benefit period will be 12 months.

(2) If the participant submits a complete application after the AFDC case has been closed for one calendar month, the participant will start receiving post-AFDC child care benefits commencing with the date the complete application was received by the CWA. The benefit period will be the balance of the 12-month period. In such situations, post-AFDC benefits will not be retroactive to the first day of the month the complete application was received.

iv. Upon receipt of a response from a participant requesting REACH post-AFDC child care benefits, the REACH case manager and the participant will discuss the child care arrangements, including the requirement to pay a fee toward the cost of care. The REACH case manager will determine the amount of the participant's fee based on verified earnings, family size and the number of children in post-AFDC child care. The case manager and participant will then complete a REACH Agreement for Support Services indicating the child(ren) for whom child care is to be provided, the duration of the child care benefits, the name(s) and address(es) of the child care provider(s), and the amount of the child care benefits.

(1) The case manager will give the participant a copy of the Agreement and forward a copy of the REACH Agreement to the lead child care entity.

(2) Once the REACH Agreement is signed, case management will process the support agreement, and mail out vouchers to the provider(s) listed in the REACH Agreement(s).

*[v. The case manager will complete and send out Form R-20, REACH Post-AFDC Child Care Fee Co-Payment Agreement, to the child care service provider, notifying the child care service provider(s) of the following:

(1) The effective starting date of REACH post-AFDC child care benefits;

(2) The amount to be reimbursed to the provider through a REACH child care voucher payment;

(3) The responsibility that the participant has for any remaining unpaid balance to the provider for the total cost of care (including the required amount of the REACH post-AFDC child care fee that is to be paid by the participant to the provider); and

(4) That payment for child care by REACH voucher cannot be made until case management receives the signed copies of the Agreement.

vi. Case management must retain one copy of Form R-20 to monitor completion of the agreement by the provider and participant, and to ensure that both parties understand their responsibilities and agree to the payment schedule of the fee.]*

*v. The case manager, in consultation with the REACH participant, will complete Form R-20, Notification of REACH Post-AFDC Child Care Fee. Form R-20 is a four-part form which contains information about the REACH post-AFDC child care fee arrangement. It sets forth the requirement of the REACH participant to pay a fee toward the cost of care and of the REACH program to pay the balance of the

approved cost of child care. It contains the amount(s) of fee(s) computed for the first and, if necessary, second child in care, the total fees to be paid. It provides instructions about fee payment arrangements, proof of payment and accounting of fees collected. The form specifies actions to be taken for nonpayment of the fee, including written notice from case management and termination of all post-AFDC child care benefits for continued nonpayment (with right to a fair hearing). Form R-20 is signed by the REACH case manager, and may be signed by additional agency representatives.

(1) The purposes of Form R-20 are to:

(A) Provide the participant receiving REACH post-AFDC child care benefits with written documentation of his or her fee obligation;

(B) Establish the responsibilities of the participant and the provider; and

(C) Establish a basis for monitoring compliance with the REACH post-AFDC fee policy.

(2) Form R-20 is to be completed and signed for each child for whom a fee is assessed.

(3) Case management must immediately send copies of Form R-20 to the participant, child care provider(s), lead child care entity, and must retain one copy.

vi. The biweekly REACH child care voucher process will be used to report post-AFDC child care fee collection and nonpayment. Case management (or other entity designated by the county REACH program to process its REACH vouchers) will issue the voucher biweekly listing the name(s) of the post-AFDC REACH participant's child(ren). Case management or the county entity will ensure that a method for recording payment or nonpayment of the fee is included in this voucher issuance. Acceptable methods include a separate form attached to the voucher, a computer-printed message on the voucher, or any other method approved in writing by the county's Division of Economic Assistance representative.*

3. Child care service provider functions are as follows:

i. Upon receipt of the Form R-20, *Notification of* REACH Post-AFDC Child Care Fee *[Agreement]*, from case management, the participant and the provider must negotiate the *[terms of the Agreement, including]* frequency of fee payment and collection (either weekly or biweekly), and date or day of fee payment. Frequency and day of fee payment can be based on individual circumstances, including the participant's source and frequency of income and the fee payment procedures already established by the provider *but the fee must be paid by the last day of the voucher service period*. Collection periods *[should]* *must* coincide with the periods covered by the REACH post-AFDC child care voucher *[to the extent possible]*.

(1) The voucher service period is the two week period listed on the REACH voucher for which REACH child care services are provided.

*[ii. The terms of fee payment will be set forth in the Agreement and both the participant and provider must sign the agreement. Form R-20 is a five-part form used to:

(1) Provide the participant receiving REACH post-AFDC child care benefits with written documentation of her fee obligation;

(2) Establish the responsibilities of the parent or guardians and the provider; and

(3) Establish a basis for monitoring compliance with the REACH post-AFDC fee policy.

iii. Form R-20 is to be completed and signed by the provider and parent for each child for whom a fee is assessed.

iv. Once the Form R-20 is completed, the provider will:

(1) Distribute copies to the parent;

(2) Retain the original for the provider's files; and

(3) Return the remaining copies to either the REACH Case Manager or the Lead Child Care Entity, as determined by the county, who will distribute the copies.]*

*[v.]*ii.* The provider should implement a system designed to ensure an efficient, error-free method of recording and accounting for all *[co-payment]* fee collections. The Lead Child Care Entity is available to provide technical assistance to providers in establishing such a system. The provider may wish to adapt recordkeeping systems used in the Social Services Block Grant (SSBG) system, such as the One-Write Fee Collection System or a comparable method.

(1) Providers must establish procedures for the collection of the fee from the participant.

*[vi. The provider and REACH participant will then execute the terms of the Agreement. The provider will collect the assessed fees from the participant prior to the start of the service delivery period. Thereafter, fees are to be collected either weekly or biweekly, according to the terms of the Agreement. The child care provider has the responsibility to make reasonable efforts to collect assessed fees from the REACH post-AFDC participant.

(1) A weekly fee is due on or before the first day of the week that service is provided. Fees not paid by the end of the first day of the week are considered late. If the child is enrolled in the middle of the week, the fee for the first week is prorated in accordance with the number of days service is provided, and is due on or before the first day of service.

(2) A biweekly-weekly fee is due on or before the first day of the biweekly-weekly period in which service is provided. Fees not paid by the end of the first day of the biweekly-weekly period are considered late. If the child is enrolled in the middle of the week, the fee for the first biweekly-weekly period is prorated in accordance with the number of days service is provided, and is due on or before the first day of service.]*

***iii. The provider and REACH participant will then follow the terms of the Form R-20 notification. The provider will collect the assessed fees from the participant during the voucher service period. The child care provider has the responsibility to make reasonable efforts to collect assessed fees from the REACH post-AFDC participant.**

iv. At the end of the voucher service period the provider will complete the voucher indicating the child(ren)'s attendance, the amount of the REACH payment due for child care services provided and whether the REACH participant(s) paid the required fees. The provider must return the voucher to obtain payment for REACH services provided, to document fees not paid and thereby to preserve his or her right to possible reimbursement for unpaid fees.*

[vii.]**v. The income and fee information recorded on the ***[Agreement]* *Form R-20 notification*** is confidential. The provider, Lead Child Care Entity, and REACH Case Manager are responsible for ensuring that access to this information is restricted to those individuals responsible for assessing and collecting fees.

4. REACH Lead Child Care Entity functions are as follows:

i. The Lead Child Care Entity is responsible for advising the provider at time of recruitment into REACH of the post-AFDC fee requirements, including the requirement that the participant must pay a portion of the cost of care, for training the provider in voucher completion, and for providing assistance in fee collection and monitoring, as determined by the county.

ii. The functions of the REACH Lead Child Care Entity are as follows:

(1) To maintain a file of the completed REACH Agreements for Support Services for all participants receiving post-AFDC child care as part of the overall provision of child care services;

(2) To maintain a file of the completed Forms R-20 for the same reason; and

(3) To offer technical assistance to child care providers as needed and when requested.

5. Reassignment of functions shall be accomplished as follows:

i. A county may opt to reassign functions set forth in this subsection to county entities other than those listed, for example, the Lead Child Care Entity, if, given the county's REACH operations, those functions would be more appropriately handled by that other entity.

A county must obtain approval from the Division of Economic Assistance representative for the county prior to any reassignment.

(1) Functions that may not be reassigned to entities other than those listed in this subsection include: determining eligibility or ineligibility for REACH post-AFDC child care benefits, or sending adverse action notices to the REACH participant advising of the termination of REACH post-AFDC child care benefits.

ii. A county must use the ***[forms listed in this subsection]* *Form R-20*** in its REACH post-AFDC operations. ***Each county must provide to the Division of Economic Assistance a copy of its notice of fee payment and nonpayment that is completed by the provider and its notice of termination of REACH post-AFDC benefits.***

(c) Fee collection, monitoring, and procedures for late payment or nonpayment of fees and termination of REACH post-AFDC child care benefits are as follows:

1. The following are provider functions:

*[i. It is the responsibility of the child care service provider to monitor fee collection in accordance with terms of the Form R-20 Agreement.

ii. Whenever the REACH post-AFDC child care fee has not been paid to the provider on the date that payment is due, that is, the fee due date, the fee is considered late.

iii. In the event of nonpayment of assessed fees by the participant, the provider will follow up on continued nonpayment by informing the REACH case manager of same. This action by the provider in conjunction with the REACH case manager will initiate the process for terminating REACH post-AFDC child care benefits. On the first day that the fee is late, and on each fee due date thereafter, the provider must:

(1) Immediately notify both the parent and REACH case management by telephone of nonpayment of the fee; and

(2) Complete a Form R-21, Notice of Failure to Pay REACH post-AFDC Child Care Fee. The Form R-21 is a four-part form used to provide written notice to:

(A) Advise the parent/guardian of a child receiving REACH post-AFDC child care services of the amount of assessed fees which have not been paid;

(B) Advise the REACH case manager and the Lead Child Care Entity of the nonpayment status of the parent/guardian of a child receiving REACH post-AFDC child care services;

(C) Advise the Lead Child Care Entity of the nonpayment status of the parent/guardian of a child receiving REACH post-AFDC child care services;

(D) Document the provider's efforts to collect the assessed fee co-payment;

(E) Serve a formal warning notice to the parent or guardian that the REACH program requires the provider to report continued nonpayment and the case manager to take action to terminate post-AFDC child care services unless overdue fees are paid within 10 days of the date of the notice; and

(F) Alert REACH case management and the Lead Child Care Entity that child care services may be terminated due to nonpayment status of the REACH post-AFDC participant.

iv. Four copies of the Form R-21 are completed and signed by the child care service provider. The provider will:

(1) Give or send the original to the participant;

(2) Send copies to the REACH case manager and Lead Child Care Entity; and

(3) Retain a copy for the provider's files.

v. The provider must give a follow-up or subsequent report to case management, either in writing or by telephone, of the payment or continued nonpayment of fees.

(1) If the participant pays the assessed fees within 10 days of the date of Form R-21, the provider must report payment to case management so that post-AFDC child care benefits will not be terminated inadvertently.

(2) If the participant does not pay the assessed fees within 10 days of the date of Form R-21, the provider must report continued nonpayment of fees to case management so that post-AFDC child care benefits may be terminated.

(3) If the provider fails to report nonpayment, the REACH program will not be liable for unpaid fees for care provided as of the 11th day after the date of Form R-21.]*

***i. It is the responsibility of the child care service provider to collect fees and report nonpayment of fees in accordance with the terms of the R-20 notification.**

ii. Whenever the REACH post-AFDC child care fee has not been paid to the provider by the end of the voucher service period, the fee is considered unpaid.

iii. In the event of nonpayment of assessed fees by the participant, the provider will complete the voucher, indicate on the voucher the child(ren) for whom the participant(s) failed to pay the required fee, and return the voucher to the designated entity in the county REACH

program. This action by the provider in conjunction with the REACH case manager will initiate the process for terminating REACH post-AFDC child care benefits.

iv. The provider must continue to attempt to collect fees from the participant and must document such collection efforts.*

*[vi.]**v.* Under no circumstances may the participant be charged a late fee payment penalty.

2. The Lead Child Care entity will provide technical assistance to the provider in cooperation with REACH case management as needed.

3. REACH case management functions are as follows:

*[i. Case management should establish a tickler or follow-up system so that, if the provider has not given a disposition of the case by the 11th day after the date of Form R-21, case management will contact the provider and obtain disposition of the overdue fees (either payment or continued nonpayment), and record the disposition in the REACH case record.

ii. Following initial notification by the provider of the nonpayment status of assessed fees by the participant, the REACH case manager will do the following:*

*i. It is the responsibility of case management to monitor fee collection by examining the completed REACH post-AFDC vouchers returned by providers and responding to nonpayment of fees reported in the voucher.

ii. Following receipt of a REACH voucher from a provider indicating nonpayment of assessed fees by the participant, the REACH case manager will do the following:*

(1) Determine the effective date that REACH post-AFDC child care benefits will be terminated; and

(2) *[Complete a Form R-22, Notice of Termination of REACH Post-AFDC Child Care Services. The Form R-22 is used to provide written notice to:]* *Complete a letter notifying the participant of termination of REACH post-AFDC child care services. A county may develop a letter specifically for this purpose or may amend an existing notification letter. The letter must contain at a minimum the information in the sample form, Notice of Termination of REACH Child Care Support Agreement, in Appendix D, incorporated herein by reference. The purpose of this notice is to provide written notice to:*

(A) Advise the *[parent/guardian]* *participant* of a child receiving REACH post-AFDC child care services of the amount of assessed fees which have not been paid;

(B) Advise the *[parent/guardian]* *participant* of the right to request and obtain a fair hearing;

(C) Serve as formal notice to the *[parent or guardian]* *participant* that REACH post-AFDC child care services will be terminated by a specific date unless overdue fees are paid;

(D) Serve as written confirmation for the provider and Lead Child Care Entity that child care services will be terminated due to the late or nonpayment status of the REACH post-AFDC participant; and

(E) *[Advise the provider that if fees are subsequently paid by the participant, the provider must contact REACH case management advising of the payment, to ensure voucher payments are uninterrupted or are resumed.]* *Advise the participant to pay the required fees and to contact the county REACH program immediately if she has already paid the overdue fee(s) so that benefits may be continued.*

(3) Four copies of the *[Form R-22 are]* *notification of termination must be* completed and signed by the REACH case manager. The REACH Case Manager will:

(A) Send the original to the participant;

(B) Distribute copies to the provider and the Lead Child Care Entity; and

(C) Retain a copy for the participant's files.

4. When post-AFDC child care services are terminated due to nonpayment of fees, the participant of a child receiving REACH post-AFDC child care services retains the right to request a fair hearing. If timely request (within 10 days) is made, the REACH Program will continue to make payment to the provider for the REACH portion of child care services rendered until a fair hearing is held, and a final determination is made.

i. In all cases where a fair hearing is requested, the procedures outlined in N.J.A.C. 10:81-6, 10:81-7, and 10:90-2.5 (see N.J.A.C. 10:81-14.7) are to be followed.

5. Reassignment of functions shall be accomplished as follows:
i. A county may opt to reassign functions set forth in this subsection to county entities other than those listed, for example, the Lead Child Care Entity, if, given the county's REACH operations, those functions would be more appropriately handled by that other entity.

Prior to any reassignment, a county must obtain approval from the Division of Economic Assistance representative for the county.

(1) Functions that may not be reassigned to entities other than those listed in this subsection include: determining care benefits, sending adverse action notices to the REACH participant advising of the termination of REACH post-AFDC child care benefits, or involvement in the fair hearing process.

ii. A county must use the *[forms listed in this subsection]* *Form R-20* in its REACH post-AFDC operations. *Each county must provide to the Division of Economic Assistance a copy of its notice of fee payment and nonpayment that is completed by the provider and its notice of termination of REACH post-AFDC benefits.*

*6. Reimbursement of unpaid fees shall be accomplished as follows:

i. If a REACH participant fails to pay assessed fees for care provided to her child(ren), the provider(s) may be reimbursed by the REACH program for the amount of unpaid fees subject to the following.

(1) Reimbursement by the REACH program will be made if all of the following conditions are met:

(A) The child's attendance at the provider's facility was documented on the REACH voucher;

(B) The provider has documented on the REACH voucher nonpayment of the fees for each voucher service period for which a claim of nonpayment is made; and

(C) The participant's post-AFDC REACH benefits were actually terminated.

(2) Reimbursement of unpaid fees is limited to a maximum period of two months. Exceptions may be granted in extreme circumstances with prior written approval by the Division of Economic Assistance representative for the county.

(3) Reimbursement of unpaid fees to the provider must be paid from State REACH funds.

ii. If a participant whose post-AFDC REACH benefits have been terminated due to nonpayment of fees reapplies for post-AFDC child care benefits, the participant must reimburse the amount of the unpaid fees before eligibility for post-AFDC child care benefits will be granted for the balance of the post-AFDC period.

(1) If the county REACH program has already paid the provider(s) for previous unpaid fees, the participant must reimburse the county for the full amount of fees due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county.

(2) If the county REACH program has not yet paid the provider(s) for previous unpaid fees, the participant must reimburse the provider(s) for the full amount of fees due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county and the provider(s).*

APPENDIX D
[(RESERVED)]
*FORM R-22

Rev. 3/11/90

NOTICE OF TERMINATION OF REACH CHILD CARE SUPPORT AGREEMENT.

Participant _____ Our # _____
Date _____

Provider _____ (Fee required)

Provider _____ (Fee required)

Dear _____ :

1. On _____ the REACH Program was notified that you failed to pay the required child care fee(s) for the following child care service periods to the provider(s) listed above:

Date _____ Date _____

Date _____ Date _____

Date _____ Date _____

ADOPTIONS

HUMAN SERVICES

2. EFFECTIVE _____ ALL YOUR REACH CHILD CARE SUPPORT AGREEMENTS FOR CHILD(REN) _____

WILL BE TERMINATED AND NO FURTHER CHILD CARE BENEFITS WILL BE PAID TO ANY OF YOUR CHILD CARE PROVIDERS INCLUDING THOSE LISTED ABOVE FOR WHOM A FEE IS PAID AND THOSE LISTED BELOW FOR WHOM A FEE IS NOT PAID.

- 3. **If you have already paid the overdue child care fee(s), the child care provider(s) for whom a fee is due should contact the REACH Program immediately. We urge you to pay the required child care fee when due.**
- 4. **You have the right to a Fair Hearing if you disagree with this decision.**
- 5. **If you have any questions or if you wish to request a Fair Hearing, please call _____.**

Very truly yours,

CASE MANAGER

CC: Other Provider _____ (No fee required)*

(a)

**DIVISION OF YOUTH AND FAMILY SERVICES
Standards for Shelters for Victims of Domestic Violence**

Adopted New Rules: N.J.A.C. 10:130

Proposed: March 5, 1990 at 22 N.J.R. 767(a).

Adopted: June 4, 1990 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: June 5, 1990 as R.1990 d.328, with a substantive and a technical change not requiring additional public notice and comment (see N.J.A.C. 10:130-4.3).

Authority: N.J.S.A. 30:14-1 et seq., specifically N.J.S.A. 30:14-5, and N.J.S.A. 37:1-12.1 et seq., specifically N.J.S.A. 37:1-12.3.

Effective Date: July 2, 1990.

Expiration Date: July 2, 1995.

Summary of Public Comments and Agency Responses:

The Division received two comments:

COMMENT: The Department of Community Affairs, Division of Housing and Development, Bureau of Rooming and Boarding House Standards reviewed the proposal, made no recommendations for amendment and accepted the rules as proposed.

RESPONSE: The Division acknowledges the comment.

COMMENT: The Women's Center of Monmouth County made a strong statement regarding the "grossly inadequate" level of funding provided to pay for the implementation of these standards.

RESPONSE: The Division realizes the concerns and problems of the commenter; however, additional appropriations or legislation would be required before additional funds could be made available.

Summary of Agency-Initiated Change:

N.J.A.C. 10:130-2.3(a) is being amended to clarify that the health and safety inspections are to be performed by the Department of Community Affairs, not the Division of Youth and Family Services in the Department of Human Services. This change reflects the original intent of the Division.

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

**CHAPTER 130
STANDARDS FOR SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE**

SUBCHAPTER 1. GENERAL PROVISIONS FOR SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE

10:130-1.1 Purpose

[(a)] The Department recognizes that seeking and receiving shelter care is a trying emotional experience for victims of domestic violence. The purpose of shelters for victims of domestic violence is to provide an environment in which the client and the family experience the least amount of disruption possible through the provision of "a home setting," to the extent possible; a clean and safe environment; and protection from further violence.

10:130-1.2 Scope; applicability

This chapter shall apply to all shelters for victims of domestic violence in the State of New Jersey. Shelters for victims of domestic violence shall comply with the provisions of this chapter and with the provisions of N.J.A.C. 5:15, Rules Governing Emergency Shelters for the Homeless, which is incorporated herein by reference.

10:130-1.3 Legal authority of chapter

This chapter is promulgated pursuant to N.J.S.A. 30:14-1 et seq., the Shelters for Victims of Domestic Violence Act.

SUBCHAPTER 2. STANDARDS FOR SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE

10:130-2.1 Client access to shelter

(a) A shelter shall have a 24-hour hotline and emergency support services available at all times.

(b) A shelter shall have a 24-hour entry available.

10:130-2.2 Shelter site

A shelter shall provide a residential area which provides safe refuge for victims of domestic violence. A shelter shall also provide a day program or drop-in center, located at the shelter site or in a separate facility, which can assist victims of domestic violence who have not made a decision to leave their home, or who have found other shelter but who nevertheless have a need for other domestic violence services provided by the shelter.

10:130-2.3 Physical plant

(a) A shelter shall undergo a *[Division of Youth and Family Services]* *Department of Community Affairs* health and safety inspection at least every two years.

(b) To the extent possible, an area of the shelter shall be designated for private communications with lawyers, counselors, etc.

10:130-2.4 Staff requirements

(a) A shelter shall require all staff and job applicants to make a full, written disclosure of his or her criminal convictions, if any. Should a criminal conviction be disclosed, the shelter operators shall apply the provisions of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., in determining whether to hire the job applicant or retain the staff member.

(b) To the extent feasible, one or more of the shelter personnel shall be fluent in the language of the non-English speaking population of the shelter. An effort shall be made to recruit and train victims of domestic assault as staff members.

10:130-2.5 Shelter services

(a) A shelter shall arrange for or provide the following services to victims of domestic violence:

- 1. Emergency medical care;
- 2. Emergency legal assistance;
- 3. Emergency psychological support and counseling, as requested; and

4. Information regarding education, welfare, and other available social services accomplished, wherever possible, by referrals to appropriate authorities or agencies.

(b) The shelter staff shall advocate on behalf of the clients to assist them in receiving equitable and uniform services from agencies, in-

HUMAN SERVICES**ADOPTIONS**

cluding, but not limited to, the Division of Youth and Family Services, public assistance agencies, the Department of Education, and local educational agencies as well as appropriate governmental groups or agencies.

(c) A shelter shall have an ongoing individual and group counseling program.

(d) Shelters shall assure that nutritionally adequate meals are available to all shelter residents.

(e) Shelters shall provide recreational programs for sheltered children.

(f) Shelter programs shall foster positive parenting skills and non-violent models.

10:130-2.6 Educational services

(a) All shelters shall advocate for the provision of educational services for all children residing within the shelter. This shall be accomplished in accordance with the Public School Education Act of 1975. The shelter shall advocate for the following for all children residing in the facility:

1. Education in the home school;
2. Education in the school district in which the shelter is located;
3. Education in the district in which the family is located; or
4. Education on a tutorial basis within the shelter.

10:130-2.7 Release of a minor

No shelter providing care for a minor who was in actual custody, guardianship, or the custody of a parent or other person at the time such person applied for shelter services, shall release the minor person to anyone, including the child's other parent or person sharing legal guardianship or custody, without the consent of the person who sought shelter, except as may be otherwise required by court order.

10:130-2.8 Confidentiality

Information which may reveal the identity or location of a person seeking or receiving shelter services shall not be disclosed, except as otherwise specifically required by law.

10:130-2.9 Non-discrimination; clients and employees

A shelter shall not discriminate in providing appropriate residential services and other domestic violence services based on age, race, creed, national origin, sex, handicap condition, and/or financial status.

10:130-2.10 House rules

Established written house rules shall be presented to, and signed by, clients upon entering the shelter.

SUBCHAPTER 3. MAINTAINING AND ESTABLISHING SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE THROUGH MARRIAGE LICENSE FEES

10:130-3.1 Legal authority of subchapter

(a) This subchapter is promulgated pursuant to N.J.S.A. 37:1-12.1 et seq., which increased the fees charged for the issuance of a marriage license, provided for the use of such fees by the Department in establishing and maintaining shelters for victims of domestic violence and directed the Commissioner to adopt rules to implement the purpose of the legislation.

(b) Under N.J.S.A. 37:1-12.1 and 12.2, the Department of Human Services is authorized to receive revenues from additional \$5.00 fees charged with the issuance of a marriage license, for purposes of maintaining and establishing shelters for victims of domestic violence.

10:130-3.2 Delegation of responsibility to the Division of Youth and Family Services

Responsibility for ensuring that revenues are used according to the provisions of N.J.S.A. 37:1-12.1 et seq. is hereby delegated by the Department of Human Services to the Division of Youth and Family Services.

10:130-3.3 Purpose of subchapter

The purpose of this subchapter, which governs the distribution of collections made through N.J.S.A. 37:1-12.1 et seq., is to assure that

such funds are available for the continued support of programs serving victims of domestic violence and for the development of new programs. These programs are essential to provide persons who have been subject to or threatened with violence at home with a safe refuge where they can examine alternatives and receive supportive services.

10:130-3.4 Scope of subchapter

This subchapter shall apply to all shelters for victims of domestic violence which receive funds from the collections made through N.J.S.A. 37:1-12.1 et seq., within the State of New Jersey.

10:130-3.5 Funding priorities

(a) Agencies receiving funds from the Division of Youth and Family Services prior to January 1, 1990 shall be eligible to receive a portion of at least 80 percent of marriage license fee collections. Donor matching will not be required.

(b) Funding for the development of new programs shall be subject to the following conditions:

1. New program development may receive up to a maximum of 20 percent of marriage license fee collections;
2. Eligibility will be limited to counties which do not have emergency residential shelter programs;
3. Donor match will not be required;
4. Proposals received for programs including an emergency residential shelter component in addition to initial response and linkage to other services, will be given first priority for funding;
5. Second priority will be given to non-residential programs which include initial response, linkage to other services, and emergency housing provisions; and
6. Applications for new program funding shall be solicited through a formal request for proposals process and reviewed on the basis of program and fiscal criteria established in the proposal request.

10:130-3.6 Program fiscal responsibility

(a) Funding for shelter programs is contingent on the ability of programs to meet the fiscal and programmatic practices required by the agency's contract with the Division of Youth and Family Services.

(b) All programs applying for or receiving funding under the provisions of this subchapter shall be subject to fiscal and program review by the Division of Youth and Family Services of the requirements of their contracts with the Division.

(c) All emergency residential shelter programs applying for or receiving funding under the provisions of this subchapter shall comply with the provisions of this chapter, Standards for Shelters Serving Victims of Domestic Violence, N.J.A.C. 10:130 and with the provisions of N.J.A.C. 5:15, Rules Governing Emergency Shelters for the Homeless.

LABOR**(a)****OFFICE OF THE CONTROLLER****Definitions for Division of Employment Security and Special Employment Relationships****Adopted New Rules: N.J.A.C. 12:19**

Proposed: February 20, 1990 at 22 N.J.R. 605(a).

Adopted: June 11, 1990 by Raymond L. Bramucci,
Commissioner, Department of Labor.

Filed: June 11, 1990 as R.1990 d.337, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 43:21-1 et seq., specifically 43:21-11.

Effective Date: July 2, 1990.

Expiration Date: July 2, 1995.

Summary of Public Comments and Agency Responses:

The Department of Labor received one public comment on proposed new rules N.J.A.C. 12:19 concerning Definitions for the Division of

Employment Security and Special Employment Relationships. The comment period expired on March 22, 1990.

COMMENT: The commenter noted that migrant and seasonal farmworkers have had many problems in receiving full tax credit for their work and later obtaining unemployment benefits when crew leader or farm labor contractors are involved in the employment relationship. The commenter states that crew leaders and farm labor contractors have been notoriously poor in compliance with both unemployment tax laws and social security tax laws. The commenter suggests that the rules be amended to put the responsibility for unemployment tax payment and the responsibility for assuring that the farm is in compliance on the agricultural employer or farmowner.

RESPONSE: "Crew leader" is defined at N.J.S.A. 43:21-19(i)(I)(IV), which provides, in pertinent part, that a crew leader is an individual who: "(bb) pays (either on his behalf or on behalf of such other entity) the individuals so furnished by him for the service in agricultural labor performed by them;"

A crew leader, by statute, is defined as the employer in this type of arrangement. A regulatory definition cannot contradict a statutory definition. Therefore, the proposed rules cannot be amended as the commenter suggests, absent a statutory change.

COMMENT: The commenter notes that in many instances the crew leader or farm labor contractor is not the actual employer, as they may only perform recruitment and transportation for workers, and do not have any involvement in the payment of workers or record keeping. The commenter suggests that the rules be amended to reflect this situation.

RESPONSE: Pursuant to the proposed rules, the entity for whom the services of the crew are performed will have to assure that the crew leader has registered as an employer with the Department of Labor, and ascertain that the crew leader has a valid registration under the Federal Migrant and Seasonal Agricultural Worker Protection Act and the New Jersey Crew Leader Registration Act. If the crew leader does not meet these requirements, the entity for whom the services of the crew are performed will be held to be the employer of the crew leader and the crew. The proposed rules accomplish the purpose of worker protection. With regard to record keeping, arrangements are often made between crew leaders and farmowners or operators in which the farmowner/operator keeps certain records to accommodate crew leaders who may need help in so doing.

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

*[SUB]*CHAPTER 19

DEFINITIONS FOR DIVISION OF EMPLOYMENT SECURITY AND SPECIAL EMPLOYMENT RELATIONSHIPS

SUBCHAPTER 1. GENERAL PROVISIONS

12:19-1.1 Purpose

The purpose of this chapter is to set forth the definitions to be used throughout N.J.A.C. 12:15 through 12:19, and to provide examples illustrating the definitions and, in some instances, exceptions to the definitions.

12:19-1.2 Definitions

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

"Agricultural labor" means the following activities:

1. Service performed on a farm in connection with cultivation of the soil; raising or harvesting any agricultural or horticultural product; raising, feeding, caring for, and managing livestock, bees, poultry or fur-bearing animals; handling, packaging, or processing any agricultural or horticultural commodity in its unmanufactured state; repair and maintenance of equipment or real property used in the agricultural activity; and transport of agricultural or horticultural supplies or products if not in the usual course of a trucking business;

2. Service performed in a greenhouse or nursery if over 50 percent of the gross sales volume is attributable to products raised in the greenhouse or nursery; and

3. Service performed by a cooperative of which the producer of the agricultural product is a member if the service performed is incidental and necessary to the delivery of the product to market in a finished state.

Agricultural labor does not include:

1. Service performed at a racetrack;
2. Service in the breeding, care, or boarding of domesticated animals of a kind normally found in a home, such as dogs and cats;
3. Service in a retail enterprise selling the product of an agricultural enterprise if the retail enterprise is not located on or contiguous to the site of production; or
4. Service in a retail enterprise located on or contiguous to the site of production if greater than 50 percent of the gross sales volume of the retail enterprise is attributable to items not produced at that site.

"Base of operations" means the place or fixed center of more or less permanent nature from which the employee starts work and customarily returns to in order to accomplish any of the following:

1. Receive instructions from the employer;
2. Receive instructions from customers or other persons;
3. Replenish stocks and materials;
4. Repair equipment; or
5. Perform any other functions necessary to the exercise of a particular trade or business.

Examples: A repairman reports to a New Jersey site daily to stock his repair truck and receive his assignments for that day. The repairman performs services both in New Jersey and other states. This individual must be reported by the employer to New Jersey as his base of operations is in New Jersey and some services are performed in New Jersey.

A salesman, who is a New Jersey resident, works out of his home for a non-New Jersey entity. The entity does not provide office space for the salesman. The salesman receives his calls, correspondence, and communication from his employer at his home. The salesman sells in a variety of states and does not perform 90 percent or more of his services in any state. This salesman must be reported by the employer to New Jersey as his base of operations is his home, which is in New Jersey, and some services are performed in New Jersey.

"Controller" means the Controller of the Department of Labor.

"Domestic service" means service of a personal nature performed outside of a business enterprise for a householder. Domestic service is normally performed in a private residence, but may be performed in other settings such as a nursing home, or a yacht. A domestic service would include, but not be limited to, the following occupations: maids, butlers, cooks, valets, gardeners, chauffeurs, personal secretaries, baby-sitters, and nurses' aides.

"Employing unit" means an entity which has in its employ one or more individuals performing services for it within New Jersey, and includes:

1. The State of New Jersey; its instrumentalities or political subdivisions or any instrumentality of New Jersey and one or more other states or political subdivisions; individual proprietorships; partnerships; associations; trusts; estates; joint stock companies; domestic or foreign insurance companies and corporations; receivers; trustees in bankruptcy and their successors; and legal representatives of deceased persons.

"Employment" means any service performed by an individual for remuneration unless specifically excluded by statute or regulation.

"Good cause" means, as used in N.J.S.A. 43:21-7(c)7(A) and N.J.A.C. 12:16-18.1(b), any situation over which the employer did not have control and which was so compelling that it would prevent the employer from acting in a timely manner. Good cause does not include: negligence, including that of an agent such as an accountant or attorney; or a mistake of law or fact.

"Home to home salesperson" means an individual who sells door to door in a residential area, and does not mean an individual who sells on a lead basis or an individual who sells to a business clientele.

"Merchandise" means tangible personal property which would normally be found and used in a personal residence. Merchandise does not include:

1. Capital improvements such as siding or roofing, storm windows or doors, replacement windows or doors, or concrete sidewalks, steps, or driveways; or
2. Memberships in clubs, organizations or associations.

"Motor vehicle weighing 18,000 pounds or more" means, for purposes of N.J.S.A. 43:21-19(i)7(X), the aggregate weight of the

gross unloaded weight of the truck or tractor and the gross unloaded weight of an attached trailer, if the normal use of the truck or tractor would require the use of that trailer.

"New Jersey service," as defined in N.J.S.A. 43:21-19(i)(2), means the performance of meaningful and substantial duties of a position for which an employee was hired which is:

1. Localized in New Jersey;
2. Not localized in any other state and which is partially performed in New Jersey, and the employee's base of operations is in New Jersey;
3. Not localized in any other state and which is partially performed in New Jersey and the employee does not perform service in any state in which the employer has a base of operations, but the place from which the employer exercises general direction and control is in New Jersey; or
4. Not localized in any other state and which is partially performed in New Jersey and the employee does not perform any services in a state in which the employer has a base of operations or place of direction and control, but the employee's residence is in New Jersey.

"Place from which service is directed and controlled" means the place from which the employer's basic authority and general control emanates. This is not necessarily the place at which a foreman directly supervises the performance of services under general instructions from the place of direction and control.

Example: A consultant performs services in a variety of states. He does not have a base of operations as he reports directly to the job site, where he receives his communication and directions from his employer. His employer's headquarters, from which he receives general direction and control, are in New Jersey. Less than 90 percent of his services are performed in any one state. This individual must be reported by the employer to New Jersey as he has no base of operations, the place from which he is directed and controlled is in New Jersey, and some services are performed in New Jersey.

"Real estate broker" means a person or entity that:

1. Lists for sale, sells, exchanges, buys or rents, or offers to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein; or
2. Collects or attempts to collect rent for the use of real estate; or
3. Negotiates or offers to negotiate a loan secured or to be secured by a mortgage or other encumbrance; or
4. Conducts a public or private competitive sale of lands or any interest in lands; or
5. Sells lots or parcels of real estate on behalf of the owners of such real estate; and
6. Is licensed by the New Jersey Real Estate Commission.

"Real estate salesperson" means an individual who:

1. Is employed by and operates under the supervision of a licensed real estate broker; or
2. Sells or offers to sell, or buys or offers to buy or negotiate the purchase, sale or exchange of real estate; or
3. Solicits for prospective purchasers or lessees of real estate; or
4. Sells or offers to sell lots or other parcels of real estate; and
5. Is licensed by the New Jersey Real Estate Commission.

"Residence" means the principal place of abode for an individual as determined for a particular calendar year.

Example: A management consultant, who is a resident of New Jersey, performs consulting work for an entity in a variety of states, including New Jersey, at varying job sites. Less than 90 percent of his services are performed in any one state. He has no base of operations as he receives his instructions from his employer at his varying job sites. He performs no consulting services in the state from which direction and control is provided. This individual must be reported by the employer to New Jersey as he has no base of operations in New Jersey; this individual does not perform services in the state from which direction and control is provided, but this individual does live in New Jersey and has provided some services in New Jersey.

"Wholly commissioned" means an individual who receives a draw against commission where:

1. Any excess of draw over commission earned in an individual's draw account is not forgiven upon separation from service, whether voluntary or not; and
2. A settlement of the draw account must be made at least once in each calendar year with a repayment to the employing unit by the commissioned individual if the draw exceeds commissions earned.

12:19-1.3 Partnerships

(a) A separate registration number and experience rating shall be assigned to each partnership of a group of two or more partnerships composed of identical partners with identical interests, if all of the following conditions are met:

1. Each separate partnership joins in such a request to the Controller or the Controller determines that individual reporting is appropriate;
2. A separate written partnership agreement exists for each partnership;
3. The accounting records for each partnership are separately maintained; and
4. There is no commingling of the employment of the two or more partnerships.

12:19-1.4 Special employers

(a) The following situations outline special employment relationships which exist for tax purposes:

1. A crew leader shall be considered the employer of the crew which the crew leader has provided to the agricultural entity if:
 - i. The agreement between the farmer and the crew leader complies with all Federal and State laws and regulations, including the payment of applicable employment taxes and minimum wage;
 - ii. The crew leader has completed and submitted, to the office of the Controller, form UC-1CL, "Status Report of Crew Leader Employing Unit"; and
 - iii. The crew leader has met all the requirements of the Federal Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. §§1801 et seq., and the New Jersey Crew Leader Registration Act, N.J.S.A. 34:8A-7 et seq.

2. The entity for whom the services of the crew are performed shall be considered the employer of both the crew leader and the crew if the registration of the crew leader under the Federal Migrant and Seasonal Agricultural Worker Protection Act and the New Jersey Crew Leader Registration Act is revoked. The entity will be considered the employer from the first day on which services were performed following revocation.

3. For purposes of N.J.S.A. 34:8-24 et seq., an employment agency is not an "employer," but maintaining a license as an employment agency in no way precludes the Commissioner of Labor from determining that the employment agency is an "employer" for purposes of the Unemployment Compensation Law, N.J.S.A. 43:21-1 et seq.

- i. Entities or persons registering under N.J.S.A. 34:8-24 should make a separate inquiry to the Controller's Chief Auditor for a determination as to its status under N.J.S.A. 43:21-1 et seq.

(a)

DIVISION OF WORKPLACE STANDARDS

Notice of Administrative Correction

Explosives

Administration

Recordkeeping for All Permit Holders

N.J.A.C. 12:190-3.15

Take notice that an error has been discovered in the text of N.J.A.C. 12:190-3.15(h)3. The requirement in that paragraph to maintain permanent records for seven years was replaced in 1982 with a requirement that such records be retained at least until the end of the calendar year following the year in which the record was made (see 13 N.J.R. 517(b); 14 N.J.R. 837(c) (R.1982 d.229)). This notice of administrative correction is published in accordance with N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

ADOPTIONS

LABOR

- 12:190-3.15 Recordkeeping for all permit holders
 - (a)-(g) (No change.)
 - (h) The person holding a "permit to manufacture, sell, store or use" explosives shall record the information required by this section and retain a permanent record.
 - 1.-2. (No change.)
 - 3. Permanent records shall be [maintained for seven years] **retained at least until the end of the calendar year following the year in which the record was made.**

(a)

**DIVISION OF WORKERS' COMPENSATION
Uninsured Employer's Fund
Adopted New Rules: N.J.A.C. 12:235-14**

Proposed: December 18, 1989 at 21 N.J.R. 3852(a).
 Adopted: June 11, 1990 by Raymond L. Bramucci,
 Commissioner, Department of Labor.
 Filed: June 11, 1990 as R.1990 d.338, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
 Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 34:15-120.1 et seq., specifically 34:15-120.7.
 Effective Date: July 2, 1990.
 Expiration Date: May 5, 1991.

Summary of Public Comments and Agency Responses:

The Department of Labor received four comments during the comment period on proposed new rules N.J.A.C. 12:235-14 concerning the Uninsured Employer's Fund (Fund). One commenter requested a public hearing, which in the opinion of the Department is not necessary as the rules did not generate an undue amount of controversy or comment.

The Department has made several changes upon adoption; none of these changes are so substantive as to require reproposal. Many of the changes were made in response to public comments received, and were instituted in order to clarify certain phrases and requirements. Additionally; the Department has made the service of process requirement voluntary rather than mandatory, and has eliminated the listing of the specific vicinages, as these are subject to change as the caseload demands.

COMMENT: Two commenters stated that the centralization of the hearing of Fund cases into three vicinages is contrary to the Workers' Compensation Act. One of the two commenters stated the requirement provides an additional travel burden on the disabled injured worker. The other commenter noted that it ignores the requirements of N.J.S.A. 34:15-23.

RESPONSE: The Department has determined that the caseload, at the present time, suggests that fewer than the entire amount of vicinages will be able to accommodate the claimants. Upon review of the case breakdown, five new vicinages have been added, and additional vicinages will be added if the caseload indicates that they are needed. In order to provide the Division with maximum flexibility in responding to a changing caseload, the specific references to the vicinages have been deleted from N.J.A.C. 12:235-14.5.

COMMENT: The proposed rules create a significant delay in the obtaining of benefits for an injured worker.

RESPONSE: This statement is not true. The system established for handling Fund cases is streamlined, and actually expedites the payments of benefits. By centralizing the hearings into limited vicinages and listing all cases as soon as practicable.

COMMENT: The proposed rules require petitioners to obtain legal counsel to receive the benefits to which they are entitled.

RESPONSE: A claimant can represent himself or herself pro se in accordance with Superior Court rules. There is no mandate in the rules which require a claimant to hire an attorney.

COMMENT: The State should have consulted practicing Workers' Compensation attorneys when preparing the rules.

RESPONSE: There is no requirement in the Administrative Procedure Act that compels an agency to involve outside entities in its rulemaking procedures. The public is invited to comment on the proposed rules, and the Department considers the public comments a reflection of general public sentiment.

The next 14 comments, received from two of the commenters, concern the certification. Some of the comments were made by both of the commenters, but a majority were made by just one commenter.

COMMENT: There is no need to have petitioner submit the personal address and phone number of the respondent in the certification nor is there any need for the name of any officer or manager of the company as this information is difficult and time-consuming to obtain.

RESPONSE: The personal address and phone number of the respondent are necessary in the event that the Division must effectuate personal service. The name of any officer or manager of the company is necessary for purposes of obtaining a judgment against these individuals, and for assessing their assets for purposes of recovering against them.

COMMENT: The requirements concerning the "complete and detailed facts establishing the employer/employee relationship" are vague and should be clarified by defining detailed facts; that is, whether there is a specific test to be met. Additionally, how do employment situations affect the "employment relationship"?

RESPONSE: It is necessary to ascertain whether an individual is indeed an employee, as the Fund will not pay unless this relationship is established. It is not possible to provide a "test" to determine this relationship, as each situation will be judged on a case-by-case basis. Employment situations affect the relationship in cases where, for example, a subcontractor performs work unrelated to the duties which he/she performs for a general contractor, and is injured during this unrelated project.

COMMENT: The certification requires the names, addresses and phone numbers of all persons with knowledge of the employer/employee relationship. This means that a claimant in a Fund case is held to a higher standard of proof than an individual worker for an insured employer.

RESPONSE: The Department disagrees. The Fund is a trust fund to which the Commissioner owes a fiduciary duty. The Department has an obligation to protect the Fund's assets, and feels that requiring this information is necessary in order to fulfill its obligation and to determine if in fact benefits are payable.

COMMENT: The requirement concerning medical insurance coverage for the employee and/or spouse raises a question regarding collateral sources where the primary coverage is not in effect.

RESPONSE: The Fund has taken the position that, as a trust fund, it will not pay benefits primarily if there is another source of insurance. Therefore, it is imperative that all other possible sources of payment be identified.

COMMENT: When will "date of hire" ever be relevant?

RESPONSE: Stating the hiring date will assure that the compensable accident occurred after the time of hire and that there was in fact a hiring.

COMMENT: Why is the length of employment relative, when the Fund denies liability except for medical expenses and temporary disability? These benefits are almost never claimed for an occupational disease case; and therefore almost all Fund cases will be for traumatic injury. The length of the employment will be irrelevant in traumatic injury cases.

RESPONSE: The Department disagrees with the commenter, as this information may be relevant in raising certain defenses regarding payment from the Fund.

COMMENT: Requiring a W-2 form for any date other than the date of accident is excessive.

RESPONSE: The Department disagrees. It is essential to have all W-2s to help establish the detailed factual employment situation which affects Fund liability. However, the requirement will be changed to provide that W-2s be provided only for the year in which the accident occurred.

COMMENT: Requiring pay stubs for a one-year period is excessive. N.J.S.A. 34:15-37 limits the period to six months for wages affixed by output. Otherwise, the rate in the contract in force at the time of the accident controls.

RESPONSE: The Department concurs with the commenter, and will change the period from one year to six months.

COMMENT: How is the petitioner going to know the personal phone numbers of employers? There is no provision to excuse such knowledge in the regulation.

RESPONSE: The Department disagrees. Individuals who do not know the information must simply state this fact when completing the certification.

COMMENT: The requirement mandating "all documents related to the employer/employee relationship" is vague and burdensome.

RESPONSE: The Department agrees that the requirement is somewhat overreaching, and will change the language, upon adoption, to require any documents which will help establish this relationship.

COMMENT: When will "the name of the owner of the property" ever be relevant?

LABOR

RESPONSE: This information will be relevant in the event that a homeowner's insurance policy may cover work done by a subcontractor. In addition, this information may supply the name of a pertinent witness.

COMMENT: What is the meaning of "whereabouts of respondent"?

RESPONSE: This phrase is self-explanatory: it means where was the respondent when the accident occurred. When read in context, the term "whereabouts" is not vague.

COMMENT: How is the collateral source for medical payments information something that the Fund has a right to demand?

RESPONSE: The Fund is not a primary insurer. If there are other responsible parties, those sources are to be exhausted prior to the Fund paying benefits. The Fund was established as a type of "safety net" for workers who have no other recourse for benefit payment. It was not designed to replace an insurance carrier.

COMMENT: "Other information required by the Director" is difficult to determine at the time of certification filing, as it must be accompanied by the initial pleading. The attorney will not know at that time what further information the Director may require. Additionally, the request for this information suffers from vagueness.

RESPONSE: The Department agrees, and this requirement will be deleted from the requirements of the certification.

COMMENT: The assignment of North Jersey cases to Newark is not convenient for petitioners; a better location would be Hackensack, as it has better public transportation.

RESPONSE: The Department has statistically determined that the existing caseload indicates that Newark is a necessary vicinage. However, Hackensack is being added as an additional vicinage, as are Freehold, Toms River, Somerville and Paterson.

COMMENT: A request for an affidavit from petitioner's attorney concerning the attorney fee makes the process unduly burdensome for the petitioner's attorney. Adding a fee application to all the other paperwork and certification requirements will have a chilling effect upon legal counsel.

RESPONSE: The Department disagrees. The requirement for an affidavit for attorney fees will not be deleted from the regulation, as the Department has a duty to protect the Fund, as it is a trust fund, and will not pay from the Fund until it is assured that payment is proper.

COMMENT: If the Fund is prepared to decide a case along the lines that an insured case is decided, the fee should be a strict 20 percent of any recovery.

RESPONSE: The fee in a regular worker's compensation case is never a "strict 20 percent." The judge has the sole discretion to award a counsel fee of up to 20 percent, and has no duty to ever award 20 percent if he or she does not feel that the attorney has earned that type of counsel fee. The counsel fees for Fund cases will be awarded in the same manner.

COMMENT: The right of the Fund to join a third party makes sense only if it is limited to current employers. The Fund should have the right to join a co-respondent only to share the medical and temporary liability to which the Fund is exposed.

RESPONSE: The Department has changed upon adoption the requirement to allow joinder of a party who "is or may be" involved in the cause of action.

COMMENT: When will it be "appropriate" to award permanent benefits?

RESPONSE: When, in the judge's discretion, the petitioner sustains an injury of a permanent nature.

COMMENT: The rules make no provision for the petitioner for proceedings only against the uninsured employer, which he or she has a right to do without waiving rights against the Fund.

RESPONSE: This statement by the commenter is incorrect. A petitioner can proceed against the respondent and the Fund: Fund involvement does not preclude an action for permanency or negligence. However, the Fund has a right to be involved from the beginning of any uninsured case, absent a waiver, as they are ultimately liable for protecting the Fund and for controlling medical costs from the onset of the case.

COMMENT: Personal service of process is contrary to N.J.S.A. 34:15-52 and general New Jersey policy does not recognize service unless it is effectuated by a public official.

RESPONSE: The Department agrees and will, if requested, make personal service. The Department will continue to encourage petitioners' attorneys to serve process, as it will be more efficient and will speed the listing of cases. The language in the rule will be changed to clarify this section.

COMMENT: Service by petitioner's attorney of a subpoena duces tecum on a hearing date is burdensome, as it does not allow much time.

ADOPTIONS

Also, "hearing date" is vague: does it mean pre-trial, trial, motion for default judgment or something else?

RESPONSE: The Department agrees, and this provision will be clarified. An individual will be subpoenaed and required to appear on a date determined by the court.

COMMENT: N.J.A.C. 12:235-14.4 states that the Fund shall consider a medical fee schedule. Should not the judge, rather than the Fund, make this determination on the "reasonableness of the medical cost?"

RESPONSE: The Fund has the right to object to medical costs which it determines to be unreasonable. The judge will then have the authority to rule on whether or not such objection is appropriate.

COMMENT: Who has the authority to determine that the medical bills are in excess of the medical fee schedule? The judge should make this determination.

RESPONSE: The Fund can object to the unreasonableness of a medical fee, but the judge has the final authority to rule on whether the fee is appropriate.

COMMENT: What is meant by the phrase "authorized physician"? Does it mean a physician authorized by the Fund?

RESPONSE: Yes, that is exactly what the phrase means.

COMMENT: Is an "independent medical evaluation" done by the same person as an authorized physician? If this is the case, it should be stated in the regulation.

RESPONSE: Not necessarily. The Fund has the authority to request an independent medical evaluation, which will be performed by a Fund-selected physician. However, a physician can be "authorized" to treat if, in the opinion of the Fund, as a result of the independent medical examination or by reviewing the outstanding treatment, the treatment rendered by the physician is reasonable and necessary.

COMMENT: N.J.A.C. 12:235-14.4(d) does not appear to accept responsibility for emergency treatment. Does the Fund intend to cover cost associated with emergency treatment?

RESPONSE: Absolutely. The language does not in any way limit the Fund's responsibility to cases of a non-emergent nature. N.J.A.C. 12:235-14.4(d) means that subsequent to an injury, the Fund has the authority to determine who the treating physician will be for the duration of treatment.

COMMENT: In N.J.A.C. 12:235-14.4(e) a reference was made to a physician. Is this the same person who is to perform evaluations on behalf of the Fund pursuant to N.J.A.C. 12:235-14.4(b) and (c)?

RESPONSE: Yes. This language will be clarified to reflect the commenter's interpretation.

COMMENT: With regard to a medical testimony, does the regulation intend to compel the testimony by a subpoena? If so, who has the duty to subpoena the doctor to testify?

RESPONSE: If it is necessary to subpoena a doctor's testimony, the Fund and the judge will have the authority to subpoena.

COMMENT: Rendering assignments to specific judges sounds like an overreaching departure from adversary principles, especially since judges' salaries are discretionary with the Director and the Commissioner.

RESPONSE: The Department disagrees. The assignment of Fund cases to specific judges is done solely to provide a more streamlined method of handling the cases and to develop a uniform procedure for processing them.

COMMENT: N.J.S.A. 34:15-64 gives the authority to set attorney fees only to "the official conducting a hearing". The judge has this power, not the Director, unless the Director himself conducts the hearing pursuant to N.J.S.A. 34:1A-12. Who is the individual responsible for setting the attorney fee with regard to Fund cases?

RESPONSE: The judge sets the attorney fee. The requirement allowing the Director to review the counsel fee award has been deleted from the rule.

COMMENT: The affidavit is required to facilitate awards or fees by the Director. As noted in the previous comment, awards generated generally by the Director are illegal. This makes the affidavit unnecessary unless the judge needs one, and judges generally do not need an affidavit as they will be familiar with an attorney's service.

RESPONSE: As previously discussed, the affidavit requirement will not be deleted, as the Department has a duty to protect the Fund to ensure that payments made from it are justified.

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

ADOPTIONS

SUBCHAPTER 14. UNINSURED EMPLOYER'S FUND

12:235-14.1 Purpose; scope

(a) The uninsured employers' fund ("Fund") has been established pursuant to N.J.S.A. 34:15-120.1 to provide for the payment of certain awards against uninsured defaulting employers. This subchapter sets forth the procedures by which the Fund will be operated.

(b) The Fund shall be authorized to pay benefits for temporary disability and medical costs in accordance with N.J.S.A. 34:15-120.1. The Judge of Compensation shall also enter an award for the payment of permanent benefits at the end of the hearing, if appropriate; however, this shall not be payable out of the Fund.

12:235-14.2 Filing notice of an uninsured claim; personal service; subpoena duces tecum; third-party joinder

(a) The petitioner's attorney shall notify the Fund of a claim against it within 45 days of the date petitioner ***or his or her attorney*** is aware that the employer is uninsured.

1. Petitioner's attorney shall notify the Fund by the filing of a motion with the Division to join the Fund.

(b) Petitioner's attorney shall contact, in writing, the Compensation Rating and Inspection Bureau to receive confirmation that the employer is uninsured. A copy of the Rating Bureau's response shall be included in the motion.

(c) Petitioner's attorney ***[shall]* *may*** make personal service of the claim petition and the motion to join the Fund on respondent.

1. Proof of service is to be filed with the Division and with the attorney representing the Fund.

2. If respondent is unable to be served, petitioner's attorney shall make a motion with the Director for substitute service pursuant to Civil Practice Rule 4:4-4(e). The motion shall be supported by convincing evidence that the petitioner has made all reasonable attempts to serve respondent.

(d) Petitioner's attorney shall also serve the respondent with a subpoena duces tecum requiring the respondent to appear and to produce all records pertaining to petitioner, ***[returnable on the date the case is listed for hearing]* *on a date determined by the Court***.

(e) The Fund shall have the authority to join a third-party and the third-party's insurance carrier when it appears that such party is ***or may be*** involved in the cause of action.

12:235-14.3 Certification

(a) Petitioner's attorney shall submit a certification when filing a motion for an uninsured claim. The certification shall be specific, and shall contain the following information:

1. The date of hire;
2. The length of employment: If not continuous, list all dates of employment;
3. Copies of petitioner's W-2 for all dates of employment ***during the year in which the accident occurred***;
4. Pay stubs for all salary received from respondent for previous ***[year]* *six months***;
5. The total wages received from respondent for 12 months preceding the accident;
6. The name, address (business and personal) and phone number of the respondent and any officer or manager of the company;
7. ***[All]* *Any*** documents relating to the employer/employee relationship or lack thereof;
8. Complete and detailed facts which establish the employer/employee relationship;
9. The name, address and phone number of all persons with knowledge of the existence of an employer/employee relationship between petitioner and respondent;
10. The place where the injury occurred, including the name of the owner of the property and the reason why the employee was at the location where the injury occurred;
11. The name, address and phone number of all witnesses to the accident, and whereabouts of respondent when the accident occurred;
12. The name, address and phone number of all persons with any knowledge of the accident;
13. How soon after the accident was a physician contacted;

14. The name and address of all treating physicians and the name and address of any hospital, laboratory or other facility where treatment was received;

15. Copies of all medical reports from the hospitals and treating physicians;

16. Medical insurance coverage for employee and/or spouse, and if available, the name and address of the company and the policy number; ***and***

17. How medical expenses have been paid^{*}; and^{**}.

[18.]* *(b) Any other information that the Director may deem necessary to assess the factual situation surrounding the accident ***may be requested at any time prior to the entering of a judgment***.

[(b)]* *(c) Failure to disclose pertinent information will result in the certification being returned to the petitioner's attorney for resubmission and the case will not be listed for hearing until the certification is returned.

12:235-14.4 Medical bills; physician's examination

(a) The fund shall have the opportunity to review all medical bills and charges to determine if the costs incurred were reasonable and necessary.

1. The Fund shall consider a medical fee schedule employed by the New Jersey Department of the Treasury, Bureau of Risk Management when making a determination on the reasonableness of the medical costs.

2. Any medical bills that are found to be in excess of the charges prescribed in the medical fee schedule shall be presumed to be unreasonable.

(b) The Fund may order an ***independent medical*** examination of a petitioner by an authorized physician at any time when the Fund is involved or when it appears the Fund may become involved in a case. The authorized ***examining*** physician will be asked to offer an opinion on:

1. The appropriateness of petitioner's current medical treatment; and
2. The prognosis for the petitioner.

(c) Fees for the independent medical evaluation shall be paid by the Fund.

(d) If it is determined that the petitioner is entitled to benefits from the Fund, then the Fund may direct the petitioner to the appropriate ***authorized*** treating physician for treatment.

1. Treatment obtained by petitioner from any physician other than the one ***[named]* *authorized*** by the Fund shall be deemed to be unauthorized treatment, and costs for such treatment shall not be chargeable to the Fund.

(e) When necessary, the ***evaluating*** physician shall be required to appear in court to testify concerning his or her evaluation.

12:235-14.5 Assignment of cases; schedules

(a) The Director shall assign the Fund cases to specific judges who shall handle all cases.

(b) The Director shall establish the vicinages in which the cases shall be heard;

***[1. South Jersey cases (Atlantic City, Bridgeton, Burlington, Camden and Toms River) shall be heard in Camden;**

2. Central Jersey cases (Elizabeth, Freehold, Flemington, Morristown, New Brunswick, Newton, Phillipsburg, Somerville and Trenton) shall be heard in New Brunswick; and

3. North Jersey cases (Hackensack, Jersey City, Newark and Paterson) shall be heard in Newark.

i. The Director may, in his or her discretion, change the vicinages to accommodate changes in the caseload.]^{*}

(c) The Director shall establish the hearing dates and schedules for all uninsured employer cases.

12:235-14.6 Attorney fees

[(a) Attorney fees for uninsured employer's cases shall be awarded at the discretion of the Director.]

***[(b)]* All fee requests shall be supported by an affidavit from petitioner's attorney justifying the amount of the fee.**

COMMERCE, ENERGY AND ECONOMIC DEVELOPMENT

(a)

URBAN DEVELOPMENT CORPORATION

Urban Development Corporation Economic Development Programs

Adopted Repeal and New Rules: N.J.A.C. 12A:80

Adopted Repeals: N.J.A.C. 12A:81 and 82

Proposed: March 5, 1990 at 22 N.J.R. 780(a).

Adopted: June 5, 1990 by the New Jersey Urban Development Corporation, Elizabeth F. Defeis, Chair.

Filed: June 11, 1990 as R.1990 d.334, **without change**.

Authority: N.J.S.A. 55:19-6(d).

Effective Date: July 2, 1990.

Expiration Date: July 2, 1995.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

CHAPTER 80

NEW JERSEY URBAN DEVELOPMENT CORPORATION

SUBCHAPTER 1. URBAN DEVELOPMENT CORPORATION ECONOMIC DEVELOPMENT PROGRAMS

12A:80-1.1 Applicability and scope

(a) The rules in this subchapter are promulgated by the New Jersey Urban Development Corporation to implement the Corporation's Urban Development Program, Urban Small Business Incubator Program, and Neighborhood Development Corporation Program.

(b) These programs provide for the Corporation to fund specific types of development projects in certain qualified municipalities. The Urban Development Program provides assistance for non-residential projects. The Urban Small Business Incubator Program provides assistance for the development of small business incubators. The Neighborhood Development Corporation Program provides assistance for the creation and development of neighborhood development corporations.

(c) Applications and questions regarding participation in this program should be directed to:

New Jersey Urban Development Corporation
150 West State Street
CN 834
Trenton, New Jersey 08625

12A:80-1.2 Definitions

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

"Applicant" means an educational institution, local government unit, county government unit, economic development groups, private-for-profit business, non-profit corporation, neighborhood development corporation, or subsidiary of the Corporation.

"Board" or "Board of Directors" means the directors of the New Jersey Urban Development Corporation, pursuant to N.J.S.A. 55:19-4.

"Corporation" means the New Jersey Urban Development Corporation, established pursuant to N.J.S.A. 55:19-1 et seq.

"Educational institution" means a private college or university, or a state sponsored and supported college or university.

"Eligible project cost" means the cost of developing, executing and making operational a Board approved project when such costs are contained in a budget approved by the Board and amended from time to time. Eligible project cost includes the cost:

1. Of purchasing, leasing, condemning, or otherwise acquiring land and/or other property, or an interest therein, in the designated

project or as necessary for a right-of-way or other easement to or from the project area;

2. Incurred for or in connection with or incidental to acquiring the land, property, or interest;

3. Incurred for or in connection with the relocation and moving of persons displaced by acquisition;

4. Of development or redevelopment, including:

i. The comprehensive renovation or rehabilitation of the land, property or interest;

ii. The cost of equipment and fixtures, which are part of the real estate, and the cost of production machinery and equipment necessary for the operation of the project; and

iii. The disposition of land or other property for these purposes.

5. Of demolishing, removing, relocating, renovating, altering, constructing, reconstructing, installing or repairing any land or any building, street, highway, alley, utility, service or other structure or improvement;

6. Of acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements necessary to the project;

7. Of planning and/or feasibility studies of proposed projects that are likely to result in UDC applications for financial assistance and appear reasonably likely to prove feasible prior to commencement of the study; and

8. Other incurred or incidental cost approved by the Board.

"Female business" means a female business as defined in N.J.A.C. 17:14-1.1.

"Financial assistance" includes, but is not limited to direct loans, loan guarantees, equity investment, and/or stock underwriting purchases provided by the Corporation.

"For-profit corporation" means a corporation, organized and incorporated for the purpose of making a profit and as defined by N.J.S.A. 14A:1-2(g).

"Minority business" means a minority business as defined in N.J.A.C. 17:14-1.1.

"Neighborhood" means an area designated within a qualified municipality and approved by the Board.

"Neighborhood Development Corporation" or "NDC" means a for-profit corporation formed for the sole purpose of owning, supervising, and/or managing one or more specific projects within the designated neighborhood area.

"Non-profit corporation" means a corporation organized and incorporated pursuant to N.J.S.A. 15A:1-2.

"Project" means a specific work or improvement including lands, buildings, improvements, real and personal property or any interest therein (including lands under water, riparian rights, space rights, and air rights) acquired, owned, constructed, reconstructed, rehabilitated, or improved by the Corporation, a subsidiary of the Corporation, or by any other person, firm, or corporate entity under agreement with the Corporation or subsidiary of the Corporation pursuant to the provisions of the Urban Development Corporation Act (N.J.S.A. 55:19-1 et seq.).

"Project Review Committee" means a committee of no more than four members of the Corporation's Board who review requests for Corporation assistance and make recommendations to the Board for approval.

"Qualified municipality" means any municipality which, at the time of the initiation of a project, was eligible to receive State aid under P.L. 1977, c. 260, N.J.S.A. 52:27D-162 et seq.; or any other municipality which in any year subsequent to the enactment of P.L. 1978, c. 14, N.J.S.A. 52:27D-178 et seq., was eligible to receive State aid pursuant to that Act; or any municipality which has a population of 15,000 or less, according to the most recent federal decennial census; a population density of 5,000 or more per square mile; 100 or more children enrolled in the Aid to Families with Dependent Children Program, according to the data available to and utilized by the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs to determine eligibility for State aid under the provisions of P.L. 1978, c. 14; an equalized tax rate which exceeds the State equalized tax rate; and an equalized valuation per capita which is less than the State equalized valuation per capita.

ADOPTIONS

“Small business” means a business duly approved pursuant to the New Jersey Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses, N.J.S.A. 52:32-17 (see also N.J.A.C. 12A:10-1).

“Small business incubator” means a facility owned and/or operated by an applicant with some type of financial assistance from the Corporation. The facility may provide any of the following services to tenants which are primarily new businesses, or any other services as approved by the Board:

1. Physical space in the incubator;
2. Business and management assistance, which may include access to experts in professional areas; and/or
3. Facility services.

“Subsidiary” means a corporation established by resolution of the Corporation, that has a majority of its outstanding voting shares owned by the Corporation or where the Corporation has the power to designate, and has so designated, a majority of the directors of such corporation.

“Technical assistance” means, but shall not be limited to, organizational development, incorporation, project feasibility, development and project administration.

“Time of the initiation of the project,” means the date and time of physical receipt of a completed application by the Corporation.

12A:80-1.3 Application for Corporation financial assistance

(a) Each application for financial assistance shall be on forms prescribed by the Corporation and be accompanied by, but not be limited to, the following:

1. A non-refundable application fee of \$500.00 for the Urban Development Program and the Urban Small Business Incubator Program. The non-refundable application fee for NDCs is \$250.00;
2. Evidence of support of the municipality in which the project is located. For purposes of these rules, evidence of municipal support shall include:
 - i. A certified copy of a resolution of the governing body of the local municipality; and
 - ii. A letter of support from the chief executive of the local municipality;
3. Evidence of private resources or other public sector funding commitments;
4. Evidence of all requisite federal and/or state environmental permits where necessary for the project;
5. A Small Business, Female Business, and Minority Business Set-Aside Plan pursuant to the rules concerning Minority and Female Subcontractor Participation in State Construction Contracts (N.J.A.C. 17:14);
6. Where applicable, a notarized letter from the local planning or zoning board which indicates that the project complies with local zoning requirements or has obtained the necessary variance;
7. A feasibility study or other information which demonstrates the feasibility of the proposed project; and
8. In the case of an NDC,
 - i. A copy of the NDC’s by-laws and certificate of incorporation;
 - ii. A listing of all the principals in the NDC, which shall include: names, addresses, social security numbers, dates of birth, and resumes or statements as to their background and qualifications. For purposes of these rules, principal shall mean any officer, director, or individual who directly or indirectly holds any beneficial ownership of the securities or property of the NDC. It shall also mean any employee of the NDC who is empowered by title or by explicit assignment to authorize the procurement, purchase, or contracting of equipment, goods, services or suppliers involving an expenditure of \$1,000 or greater for NDC use; and
 - iii. A listing of stockholders who own five percent or more of issued shares. The stockholders listing shall disclose the names, addresses, social security numbers, date of birth, class of stock owned, approximate voting power of stock owned, and number of shares owned.

12A:80-1.4 Time for application for financial assistance from the Corporation

An applicant may apply to the Corporation at any time for financial assistance. However, the Corporation may establish dead-

COMMERCE AND ECONOMIC DEVELOPMENT

lines for receipt and approval of applications. The Board shall notify all eligible municipalities in writing by certified mail at least 60 days prior to establishing deadlines.

12A:80-1.5 Financial assistance

(a) No more than \$1 million shall be allocated to any one county from all of the Corporation’s development programs during the period in which the Corporation is allocating any of the initial \$30 million provided by the Community Development Bond Act, P.L. 1981, c. 486.

(b) The Corporation may provide financial assistance to a project in any of the following manners:

1. Direct loans from the Corporation in the form of permanent financing for eligible project costs at Corporation designated interest rates. Terms of direct loans from the Corporation shall not exceed a period of 20 years;
2. Loan guarantees by the Corporation which guarantee loans for no more than 90 percent of the eligible project cost. Terms of a loan guarantee shall not be for more than 10 years;
3. Equity investments by the Corporation through joint ventures with private or public sector entities, by providing venture capital, purchase of stock, or other forms of equity investment as may be offered by the specific project or the sponsor in general. If the Corporation or its subsidiary assumes an equity interest in a project, the other owner, partner or other business entity shall be required to comply with all Corporation rules and requirements; or
4. Grants may be made by the Corporation to projects, when determined by the Board to be necessary and appropriate. The Corporation may convert such grants to loans consistent with conditions agreed to by the Corporation and the grant recipient.

(c) The applicant shall secure interim financing for all projects, unless the Corporation, by Board resolution, agrees otherwise. The interim lender shall assume full responsibility for monitoring the timely completion of a project.

(d) The maximum amount of financial assistance for any one project shall be \$3,000,000. The minimum amount of financial assistance from the Corporation shall be \$50,000 for development projects, and \$10,000 for feasibility studies.

(e) The applicant shall certify in writing that there is a compelling public need to undertake such project and insufficient responsible interest by the private financial or development community to undertake the project without the Corporation’s assistance or involvement.

(f) The Corporation may provide financial assistance to a small business incubator through participation in a seed venture fund created for the purpose of investing in Corporation financed small business incubator tenant firms.

12A:80-1.6 Evaluation of applications for financial assistance from the Corporation

(a) The Corporation shall evaluate each application for the following factors:

1. The distress level of the municipality in which the project is to be located, as well as the immediate area of the project;
2. The ratio of total Corporation financing to permanent jobs created as a result of the financing;
3. The amount of new tax ratables created within the municipality where the project is located;
4. The amount of financing for the project from sources other than the Corporation;
5. The impact the project will have in stimulating investment and development in the municipality and the immediate areas in which the project is located;
6. The readiness of the project to proceed and the likely success of the project;
7. The return on the investment made by the Corporation in the project;
8. The degree of support for, participation in, and/or consultation with the community and municipality in which the project is to be located;
9. The experience and track record of the applicant;
10. If an NDC, whether the ownership of the NDC is representative of the neighborhood in which the project is to be located; and

11. In an NDC, the amount of technical assistance that will be needed by the NDC from the Corporation.

(b) After an evaluation of the project by the Executive Director and the Project Review Committee is completed, the project will be presented to the Board for consideration of granting preliminary approval in principle. Approved projects will then be reviewed again by the Executive Director and Project Review Committee prior to presentation to the Board for consideration of final approval.

(c) The Corporation shall have 120 days from receipt of a completed application in which to review a request for financial assistance and advise an applicant that:

1. The request has been approved;
2. The request has been approved contingent on modification;
3. The request has been rejected; or
4. The request is continuing to be considered pending additional information being received.

(d) An applicant may submit additional information and request that the Executive Director and the Project Review Committee reconsider the application if the Project Review Committee does not recommend approval of the application to the Board.

12A:80-1.7 Small business, female business and minority business set-aside plans and requirements

(a) Each project approved to receive financial assistance from the Corporation shall comply with the rules concerning Minority and Female Subcontractor Participation in State Construction Contracts, N.J.A.C. 17:14. These rules apply to projects involving construction-related work on public structures or facilities.

(b) The applicant shall identify the small businesses, female businesses and minority businesses that will participate, by construction trade, together with the contract sum to be paid to each small business, female business, and minority business.

(c) In determining compliance with these goals, an applicant may only utilize those small businesses, female businesses, and minority businesses duly approved and registered pursuant to the Set-Aside Act for Small Businesses, Female Businesses and Minority Businesses, N.J.S.A. 52:32-17 (see N.J.A.C. 12A:10-1).

12A:80-1.8 Special NDC requirements

(a) For the purposes of this subchapter:

1. No shareholder of an NDC, without prior Board approval, may, directly or indirectly, purchase, obtain or otherwise acquire more than 10 percent ownership of NDC issued stock;
2. No one individual, without prior Board approval, may directly or indirectly acquire more than 15 percent voting control of the NDC; and
3. No one family, without prior Board approval, may directly or indirectly purchase, obtain or otherwise acquire more than 30 percent ownership of NDC issued stock. A family shall be defined as relatives of husband, wife, father, mother, brother and sister whether or not residing in the same household.

12A:80-1.9 Reporting and compliance

(a) Upon the receipt of Corporation financial assistance, the applicant shall be required to submit an annual report to the Corporation which shall include:

1. An annual review or audit of the applicant prepared by a certified public accountant;
2. A report on the number of employees working at the project location and, if a small business incubator, the number of employees of each tenant;
3. Current and three-year projected budgets of the approved project;
4. Plans for capital investments;
5. Any other information that the Corporation may require; and
6. If an incubator:
 - i. Changes in any incubator policies or marketing plans affecting incubator occupancy of the financial viability of the incubator;
 - ii. The occupancy rate of the incubator; and
 - iii. A listing of all tenants in the incubator during the year.

12A:80-1.10 Other Board action

In the case of matters not covered by these rules, the Board may undertake any action which it deems appropriate and is consistent with the provisions of the Urban Development Corporation Act.

TRANSPORTATION

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Speed Limits

Routes U.S. 322 in Gloucester and Atlantic Counties; N.J. 182 in Warren County; N.J. 49 in Cumberland County; and N.J. 284 in Sussex County

Adopted Amendments: N.J.A.C. 16:28-1.20, 1.37, 1.81, and 1.105

Proposed: May 7, 1990 at 22 N.J.R. 1340(a).

Adopted: June 9, 1990 by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: June 11, 1990 as R.1990 d.330, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.

Effective Date: July 2, 1990.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28-1.20 Route U.S. 322

(a) The rate of speed designated for the certain part of State highway Route U.S. 322 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic:

i. In Gloucester County:

(1) Logan Township:

(A) 50 miles per hour between the Delaware River Port Authority-New Jersey Department of Transportation jurisdiction line and the Woolwich Township-Logan Township Line (approximate mileposts 2.25 to 4.83); thence

(2) Woolwich Township:

(A) 50 miles per hour between the Logan Township-Woolwich Township line and the Woolwich Township-Harrison Township line (approximate mileposts 4.83 to 8.46); thence

(3) Harrison Township:

(A) Zone 1: 50 miles per hour between the Harrison Township-Woolwich Township line and the westernmost intersection of Route N.J. 45 (approximate mileposts 8.46 to 10.85); thence on Route N.J. 45 (between mileposts 10.85 to 11.24); thence

(B) Zone 2: 30 miles per hour between the easternmost intersection of Route N.J. 45 and the intersection of Mill Road-Mullica Hill Road (approximate mileposts 11.24 to 11.39); thence

(C) Zone 3: 35 miles per hour between the intersection of Mill Road-Mullica Hill Road and 250 feet west of Hazelton Terrace (approximate mileposts 11.39 to 11.67); thence

(D) Zone 4: 50 miles per hour between 250 feet west of Hazelton Terrace and 1,050 feet west of Barnsboro-Elmer Road—(Co. Rd. 609) (approximate mileposts 11.67 to 14.35); thence

(E) Zone 5: 40 miles per hour between 1,050 feet west of Barnsboro-Elmer Road (Co. Rd. 609) and Richwood-Aura Road (Co. Rd. 667) (approximate mileposts 14.35 to 14.86); thence

(F) Zone 6: 50 miles per hour between Richwood-Aura Road (Co. Rd. 667) and 2,750 feet east of Route N.J. 55 (approximate mileposts 14.86 to 15.93); thence

ADOPTIONS

TRANSPORTATION

(G) Zone 7: 45 miles per hour between 2,750 feet east of Route N.J. 55 and the Harrison Township-Glassboro Borough line (approximate mileposts 15.93 to 16.10); thence

(4) Glassboro Borough:

(A) Zone 1: 45 miles per hour between the Glassboro Borough-Harrison Township line and 500 feet west of Lehigh Road (approximate mileposts 16.10 to 16.63); thence

(B) Zone 2: 35 miles per hour between 500 feet west of Lehigh Road and Cedar Avenue (approximate mileposts 16.63 to 17.57); thence

(C) Zone 3: 30 miles per hour between Cedar Avenue and the westernmost intersection of Route N.J. 47 (approximate mileposts 17.57 to 17.85); thence, on Route 47 (between mileposts 17.85 to 18.22) thence

(D) Zone 4: 35 miles per hour between the easternmost intersection of Route N.J. 47 and 600 feet east of Reading Street (approximate mileposts 18.22 to 18.53); thence

(E) Zone 5: 45 miles per hour between 600 feet east of Reading Street and the Monroe Township-Glassboro Borough line (approximate mileposts 18.53 to 19.30); thence

(5) Monroe Township:

(A) Zone 1: 45 miles per hour between the Glassboro Borough-Monroe Township line and Debra Drive (approximate mileposts 19.30 to 23.92); thence

(B) Zone 2: 35 miles per hour between Debra Drive and Clayton Avenue (approximate mileposts 23.92 to 24.23); thence

(C) Zone 3: 30 miles per hour between Clayton Avenue and Route N.J. 42 (approximate mileposts 24.23 to 24.59); thence

(D) Zone 4: 50 miles per hour between Route N.J. 42 and 800 feet east of Main Street (Co. Rd. 536) (approximate mileposts 24.59 to 25.87); thence

(E) Zone 5: 55 miles per hour 800 feet east of Main Street (Co. Rd. 536) and the Folsom Borough-Monroe Township line (approximate mileposts 25.87 to 32.96); thence

ii. In Atlantic County:

(1) Folsom Borough:

(A) 55 miles per hour between the Monroe Township-Folsom Borough line and the Folsom Borough-Hamilton Township line (approximate mileposts 32.96 to 37.22); thence

(2) Hamilton Township:

(A) 55 miles per hour between the Folsom Borough-Hamilton Township line and Route U.S. 40 (approximate mileposts 37.22 to 50.10).

16:28-1.37 Route 182

(a) The rate of speed designated for the certain part of State highway Route 182 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic:

i. In the Town of Hackettstown, Warren County:

(1) 40 miles per hour between Route N.J. 57 and Route U.S. 46 (approximate mileposts 0.00 to 0.98).

16:28-1.81 Route 49

(a) The rate of speed designated for the certain parts of State highway Route 49 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic in Salem County:

i.-iii. (No change.)

2. For both directions of traffic in Cumberland County:

i. Stow Creek Township:

(1) 50 miles per hour between Quinton Township (Salem County) line and Hopewell Township northwesterly line (approximate mileposts 18.78 to 20.56);

ii. Shiloh Borough:

(1) Zone 1: 50 miles per hour between Hopewell Township-Stow Creek Township easterly line and 609 feet east of Mill Road (approximate mileposts 20.94 to 21.029); thence

(2) Zone 2: 40 miles per hour between 609 feet east of Mill Road and Davis Avenue (approximate mileposts 21.029 to 21.258); thence

(3) Zone 3: 30 miles per hour between Davis Avenue and 265 feet east of Walnut Street except for 25 miles per hour when passing

through the Shiloh Elementary School Zone (approximate milepost 21.60) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 21.258 to 21.685); thence

(4) Zone 4: 40 miles per hour between 265 feet east of Walnut Street and Maple Street (approximate mileposts 21.685 to 21.865); thence

(5) Zone 5: 50 miles per hour between Maple Avenue and Hopewell Township westerly line (approximate mileposts 21.865 to 22.038); thence

iii. In Hopewell Township:

(1) 50 miles per hour between the Borough of Shiloh easterly line and Stell Road (approximate mileposts 22.03 to 24.03); thence

(2) 40 miles per hour between Stell Road and City of Bridgeton westerly line (approximate mileposts 24.03 to 24.52); thence

iv. In the City of Bridgeton:

(1) Zone 1: 40 miles per hour between Hopewell Township easterly line and 830 feet west of West Avenue (approximate mileposts 24.52 to 24.71); thence

(2) Zone 2: 30 miles per hour between 830 feet west of West Avenue and Bank Street Extension except for 25 miles per hour when passing through the Bridgeton Middle School Zone (mileposts 24.868 to 25.057) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 24.71 to 25.75); thence

(3) Zone 3: 40 miles per hour between Bank Street Extension and Ramblewood Drive (approximate mileposts 25.75 to 26.63); thence

(4) Zone 4: 45 miles per hour between Ramblewood Drive and Fairfield Township westerly line (approximate mileposts 26.63 to 27.20); thence

v. In Fairfield Township:

(1) Zone 1: 50 miles per hour between City of Bridgeton easterly line and Gouldtown-Woodruff Road (County Rd. 553) (approximate mileposts 27.20 to 28.31); thence

(2) Zone 2: 45 miles per hour between Gouldtown-Woodruff Road and 1,155 feet east of Gould Avenue except for 30 miles per hour when passing through the Gouldtown School Zone (mileposts 28.351 to 28.505) while "30 MPH when flashing" signs are operating while children are going to or leaving school, during opening or closing hours (approximate mileposts 28.31 to 29.00); thence

(3) Zone 3: 50 miles per hour between 1,155 feet east of Gould Avenue and the City of Millville easterly line (approximate mileposts 29.00 to 30.80); thence

vi. In the City of Millville:

(1) Zone 1: 50 miles per hour between the Township of Fairfield easterly line and Carol Drive (approximate mileposts 30.80 to 34.762); thence

(2) Zone 2: 40 miles per hour between Carol Drive and Sharp Street (Co. Rd. 667) (approximate mileposts 34.762 to 35.335); thence

(3) Zone 3: 35 miles per hour between Sharp Street and Brandriff Avenue (Co. Rd. 610) (approximate mileposts 35.335 to 36.022); thence

(4) Zone 4: 25 miles per hour between Brandriff Avenue and Seventh Street (approximate mileposts 36.022 to 36.784); thence

(5) Zone 5: 35 miles per hour between Seventh Street and Fifteenth Street (approximate mileposts 36.784 to 37.299); thence

(6) Zone 6: 50 miles per hour between Fifteenth Street and the City of Vineland-Township of Maurice River westerly line (approximate mileposts 37.299 to 40.89); thence

vii. In Maurice River Township:

(1) 50 miles per hour between the City of Millville-City of Vineland easterly line and the Township of Upper (Cape May County) south westerly line (approximate mileposts 40.89 to 47.18).

3. For both directions of traffic in Atlantic County:

i. In the City of Estell Manor:

(1) 50 miles per hour between the Township of Maurice River (Cumberland County)-Township of Upper (Cape May County) easterly line and the Township of Upper (Cape May County) westerly line (approximate mileposts 47.26 to 49.84); thence

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- 4. For both directions of traffic in Cape May County:
 - i. In the Township of Upper:
 - (1) 50 miles per hour between the City of Estell Manor (Atlantic County) easterly line and Route N.J. 50 (approximate mileposts 49.84 to 53.78).
 - 5. For the eastbound direction of traffic:
 - i. In Cumberland County:
 - (1) In Stow Creek Township:
 - (A) 50 miles per hour between the Hopewell Township north-westerly line and Shiloh Borough westerly line (Mill Road) (approximate mileposts 20.56 to 20.94).
 - ii. In Cape May County:
 - (1) In the Township of Upper:
 - (A) 50 miles per hour between the Township of Maurice River (Cumberland County) southeasterly line and the City of Estell Manor (Atlantic County) westerly line (approximate mileposts 47.18 to 47.26).
 - 6. For the westbound direction of traffic:
 - i. In Cumberland County:
 - (1) In Hopewell Township:
 - (A) 50 miles per hour between the Township of Stow Creek north-easterly line and the Borough of Shiloh westerly line (approximate mileposts 20.56 to 20.94).
 - (2) In Maurice River Township:
 - (A) 50 miles per hour between the Township of Upper (Cape May County) southwesterly line and the City of Estell Manor (Atlantic County) westerly line (approximate mileposts 47.18 to 47.26).

- 16:28-1.105 Route 284
 - (a) The rate of speed designated for the certain part of State highway Route 284 described in this subsection shall be established and adopted as the maximum legal rate of speed:
 - 1. For both directions of traffic in Sussex County:
 - i. Sussex Borough:
 - (1) 30 miles per hour between Route N.J. 23 and the Wantage Township southerly line (approximate mileposts 0.00 to 0.54); thence
 - ii. Wantage Township:
 - (1) Zone 1: 35 miles per hour between the Sussex Borough north-erly line and a point 1,180 feet north of Division Street (approximate mileposts 0.54 to 0.739); thence
 - (2) Zone 2: 50 miles per hour between a point 1,180 feet north of Division Street and the New York State line (approximate mileposts 0.739 to 7.05).

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Speed Limits for State Highways
Route U.S. 30 in Camden County

Adopted Amendment: N.J.A.C. 16:28-1.57

Proposed: May 7, 1990 at 22 N.J.R. 1343(a).
 Adopted: June 7, 1990, by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.
 Filed: June 8, 1990 as R. 1990 d.331 with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.
 Effective Date: July 2, 1990.
 Expiration Date: June 1, 1993.

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

In proposed N.J.A.C. 16:28-1.57(a)3i(6), in the Township of Waterford, Camden County, the term southeasterly should have read "south-westerly."

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

- 16:28-1.57 Route U.S. 30
 - (a) The rate of speed designated for the certain parts of State highway Route U.S. 30 described in this subsection shall be established and adopted as the maximum legal rate of speed.
 - 1. For both directions of traffic:
 - i. (No change.)
 - ii. In Camden County:
 - (1) In the City of Camden:
 - (A) 45 miles per hour between 7th Street and the Pennsauken Township westerly line (mileposts 0.96 to 2.77); thence
 - (B) 45 miles per hour between the Pennsauken Township easterly line and the Collingswood Borough westerly line (mileposts 3.63 to 3.81).
 - (2) In Pennsauken Township:
 - (A) 45 miles per hour between the City of Camden easterly line and the City of Camden westerly line (mileposts 2.77 to 3.63).
 - (3) In Collingswood Borough:
 - (A) Zone 1: 45 miles per hour between the City of Camden west-erly line and Collingswood circle (mileposts 3.81 to 4.26); thence
 - (B) Zone 2: 40 miles per hour between the Collingswood circle and the Borough of Oaklyn westerly line (mileposts 4.26 to 5.13); thence
 - (4) In Oaklyn Borough:
 - (A) Zone 1: 40 miles per hour between the Borough of Col-lingswood easterly line and West Beechwood Avenue (mileposts 5.13 to 5.24); thence
 - (B) Zone 2: 30 miles per hour between West Beechwood Avenue and the Township of Haddon northwesterly line (mileposts 5.24 to 5.50); thence
 - (5) In Audubon Borough:
 - (A) 30 miles per hour between the Borough of Oaklyn southeasterly line and West Pine Street—East Pine Street (mileposts 6.06 to 6.55); thence
 - (B) Zone 2: 35 miles per hour between West Pine Street—East Pine Street and the Borough of Haddon Heights westerly line (mileposts 6.55 to 6.98); thence
 - (6) In Haddon Heights Borough:
 - (A) 35 miles per hour between the Borough of Audubon easterly line and the Borough of Barrington westerly line (mileposts 6.98 to 7.90); thence
 - (7) In Barrington Borough:
 - (A) 35 miles per hour between the Borough of Haddon Heights easterly line and the Borough of Lawnside northwesterly line (mileposts 7.90 to 8.26).
 - (8) In Lawnside Borough:
 - (A) 35 miles per hour between the Borough of Barrington southeasterly line and Mouldy Road (mileposts 8.35 to 8.46); thence
 - (B) Zone 2: 40 miles per hour between Mouldy Road and the Borough of Magnolia westerly line (mileposts 8.46 to 9.11); thence
 - (9) In Magnolia Borough:
 - (A) 40 miles per hour between the Borough of Lawnside easterly line and the Borough of Somerdale westerly line (mileposts 9.11 to 10.04); thence
 - (10) In Somerdale Borough:
 - (A) 40 miles per hour between the Borough of Magnolia easterly line and the Borough of Stratford southwesterly line, except for 30 miles per hour when passing through the Our Lady of Grace School zone (mileposts 10.50 to 10.57), during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (mileposts 10.04 to 10.92).
 - (11) In Stratford Borough:
 - (A) 40 miles per hour between the Borough of Somerdale north-easterly line and the Borough of Lindenwold northwesterly line—Borough of Laurel Springs southwesterly line (mileposts 11.54 to 12.23).
 - (12) In Lindenwold Borough:
 - (A) 40 miles per hour between the Borough of Laurel Springs southeasterly line and the Borough of Clementon southwesterly line

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(Oak Lane), except for 30 miles per hour when passing through the Saint Lawrence Parochial School, Lindenwold #1 School and Overbrook Junior High School zones (mileposts 12.74 to 13.19) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (mileposts 12.74 to 13.44).

(B) 45 miles per hour between the Borough of Clementon southeasterly line and the Borough of Berlin westerly line (mileposts 14.66 to 14.91).

(13) In Clementon Borough:

(A) 40 miles per hour between the Borough of Lindenwold northeasterly line and Trout Avenue (mileposts 13.53 to 13.85); thence

(B) Zone 2: 45 miles per hour between Trout Avenue and the Borough of Lindenwold northwesterly line (mileposts 13.85 to 14.29).

(14) In Berlin Borough:

(A) Zone 1: 45 miles per hour between the Borough of Lindenwold easterly line and Clementon-Berlin Road (Co. Rd. 534) (mileposts 14.94 to 16.29); thence

(B) Zone 2: 35 miles per hour between Clementon-Berlin Road (Co. Rd. 534) and Washington Avenue (mileposts 16.29 to 17.05); thence

(C) Zone 3: 45 miles per hour between Washington Avenue and Florence Avenue (mileposts 17.05 to 17.66); thence

(D) Zone 4: 50 miles per hour between Florence Avenue and the Township of Waterford westerly line (mileposts 17.66 to 18.25); thence

(15) In Waterford Township:

(A) 50 miles per hour between the Borough of Berlin easterly line and the Township of Winslow southwestly line (mileposts 18.25 to 20.58).

(16) In Chesilhurst Borough:

(A) 50 miles per hour between the Township of Waterford Township of Winslow easterly line and the Township of Winslow westerly line (mileposts 20.62 to 22.76); thence

(17) In Winslow Township:

(A) 50 miles per hour between the Borough of Chesilhurst easterly line and the Town of Hammonton (Atlantic County) westerly line (mileposts 22.76 to 27.97).

2. For eastbound direction of traffic:

(i) In Camden County:

(1) In Oaklyn Borough:

(A) 30 miles per hour between the Township of Haddon northwesterly line and the Borough of Audubon westerly line (mileposts 5.50 to 6.06).

(2) In Barrington Borough:

(A) 35 miles per hour between the Borough of Lawnside northwesterly line and the Borough of Lawnside southwestly line (mileposts 8.26 to 8.35).

(3) In Stratford Borough:

(A) 40 miles per hour between the Borough of Somerdale southeasterly line and the Borough of Somerdale northeasterly line (mileposts 10.92 to 11.54).

(4) In Laurel Springs Borough:

(A) 40 miles per hour between the Borough of Stratford easterly line and the Borough of Lindenwold southeasterly line except for 25 miles per hour when passing through the Saint Lawrence School zone (located in Lindenwold Borough) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (mileposts 12.66 to 12.74), (mileposts 12.33 to 12.74).

(5) In Clementon Borough:

(A) Zone 1: 40 miles per hour between the Borough of Lindenwold southeasterly line and the Borough of Lindenwold northeasterly line (mileposts 13.44 to 13.53).

(B) 45 miles per hour between the Borough of Lindenwold northwesterly line and the Borough of Lindenwold southwestly line (mileposts 14.29 to 14.66).

(6) In Winslow Township:

(A) 50 miles per hour between the Township of Waterford southeasterly line and the Borough of Chesilhurst westerly line (mileposts 20.58 to 20.62).

3. For westbound direction of traffic:

i. In Camden County:

(1) In Haddon Township:

(A) 30 miles per hour between the Borough of Collingswood northeasterly line and the Borough of Audubon northwesterly line (mileposts 5.50 to 5.92); thence

(2) In Audubon Borough:

(A) Zone 1: 30 miles per hour between the Township of Haddon northeasterly line and the Borough of Oaklyn southeasterly line (mileposts 5.92 to 6.06).

(3) In Lawnside Borough:

(A) Zone 1: 35 miles per hour between the Borough of Barrington northeasterly line and the Borough of Barrington southeasterly line (mileposts 8.26 to 8.35).

(4) In Somerdale Borough:

(B) 40 miles per hour between the Borough of Stratford southwestly line and the Borough of Stratford northwesterly line (mileposts 10.92 to 11.54).

(5) In Lindenwold Borough:

(A) 40 miles per hour between the Borough of Stratford easterly line and the Borough of Laurel Springs southeasterly line except for 30 miles per hour when passing through the Saint Lawrence School Zone (mileposts 12.33 to 12.74) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (mileposts 12.66 to 12.74).

(B) 40 miles per hour between the Borough of Clementon southwestly line (Oak Lane) and the Borough of Clementon northwesterly line (Gibbsboro Road) (mileposts 13.44 to 13.53).

(C) 45 miles per hour between the Borough of Clementon northwesterly line and the Borough of Clementon southeasterly line (mileposts 14.29 to 14.66).

(6) In Waterford Township:

(A) 50 miles per hour between the Township of Winslow *[southeasterly]* ***southwesterly*** line and the Borough of Chesilhurst westerly line (mileposts 20.58 to 20.62).

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Lane Usage
Route U.S. 1 in Mercer and Middlesex Counties
Adopted Amendment: N.J.A.C. 16:30-3.6**

Proposed: May 7, 1990 at 22 N.J.R. 1345(a).

Adopted: June 7, 1990 by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: June 8, 1990 as R.1990 d.332 **with a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-44, 27:7-21(i) and 39:4-98.

Effective Date: July 2, 1990.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

In proposed N.J.A.C. 16:30-3.6(a)2, "In the Township of Plainsboro, Mercer County" should have read "In the Township of Plainsboro, Middlesex County."

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

16:30-3.6 Route U.S. 1

(a) The certain parts of State Highway Route U.S. 1 described in this subsection shall be designated and established as "cars only

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shoulder lanes" exclusively for the use of passenger vehicles only, except for the ingress and egress of vehicles to and from the various establishments in the area:

- 1. In the Township of West Windsor, Mercer County:
 - i. Northbound:
 - (1) From a point 130 feet north of the curb line of the northbound jughandle (opposite the Nassau Park Driveway) to a point 290 feet north of the northerly curb line of Alexander Road; cars only may use shoulder from 7:00 A.M. to 9:00 A.M., Monday through Friday.
 - (2) From a point 180 feet north of the northerly curb line of Fisher Place to the Townships of West Windsor-Plainsboro corporate line; cars only may use shoulder from 7:00 A.M. to 9:00 A.M., Monday through Friday.
 - ii. (No change.)
- 2. In the Township of Plainsboro, *[Mercer]* *Middlesex* County:
 - i. Northbound:
 - (a) From the Townships of West Windsor-Plainsboro corporate line to a point 1,400 feet north of the northerly curb line of Scudders Mill Road; cars only may use shoulder from 7:00 A.M. to 9:00 A.M., Monday through Friday.

(a)

**DIVISION OF ROADWAY DESIGN
 BUREAU OF ROADWAY ENGINEERING SERVICES
 Newspaper Boxes on State Highway Right-of-Way
 Adopted New Rules: N.J.A.C. 16:41B**

Proposed: May 7, 1990 at 22 N.J.R. 1346(a).
 Adopted: June 7, 1990 by Robert A. Innocenzi, Deputy
 Commissioner (State Transportation Engineer), Department
 of Transportation.
 Filed: June 11, 1990 as R.1990 d.333, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-52, 27:7-21, and
 27:7-44.1.
 Effective Date: July 2, 1990.
 Expiration Date: July 2, 1995.
Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adopted new rules can be found in the New Jersey Administrative Code at N.J.A.C. 16:41B.

TREASURY-GENERAL

(b)

**DIVISION OF PENSIONS
 Police and Firemen's Retirement System
 Readoption: N.J.A.C. 17:4**

Proposed: March 19, 1990 at 22 N.J.R. 908(a).
 Adopted: May 21, 1990 by the Board of Trustees, Police and
 Firemen's Retirement System, Janice Nelson, Secretary.
 Filed: June 8, 1990 as R.1990 d.329, **without change**.
 Authority: N.J.S.A. 43:16A-13(7).
 Effective Date: June 8, 1990.
 Expiration Date: June 8, 1995.
Summary of Public Comments and Agency Responses:
No comments received.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:4.

ADOPTIONS

(c)

**STATE INVESTMENT COUNCIL
 Certificates of Deposit
 Permissible Investments**

Adopted Repeals and New Rule: N.J.A.C. 17:16-27.1

Proposed: May 7, 1990 at 22 N.J.R. 1349(a).
 Adopted: June 11, 1990 by the State Investment Council, Roland
 M. Machold, Director, Division of Investment.
 Filed: June 11, 1990 as R.1990 d.335, **without change**.
 Authority: N.J.S.A. 52:18A-91.
 Effective Date: July 2, 1990.
 Expiration Date: December 2, 1990.

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

Full text of the adoption follows.

17:16-27.1 Permissible investments

(a) The following pertains to uncollateralized certificates of deposit:

1. Subject to the limitations contained in this subsection, the Director may invest and reinvest moneys of any pension and annuity, static, demand, temporary reserve or trust group fund in certificates of deposit of banks provided that:

- i. The investment in the certificate of deposit is limited to a term of one year or less;
- ii. The issuer of the certificate of deposit is a bank or trust company which:

(1) If headquartered in the United States or if a United States subsidiary of a foreign bank, is a member of the Federal Reserve System and the Federal Deposit Insurance Corporation; or

(2) If headquartered outside of the United States has Moody's ratings of at least Aa/P-1 on its long-term and short-term deposits, respectively and is headquartered in a country which is rated at least Aaa by Moody's and has agreed to adhere to the international capital standards as stipulated in the Basle accord; and

iii. The issuer, at the date of its last published balance sheet preceding the date of investment, was in conformance with all capital requirements as stipulated by the Federal Reserve Board, in the case of United States banks, and the appropriate national regulatory body, in the case of foreign-headquartered banks.

2. The total investment in the certificate of deposit of any one issuer, combined with the total investment in the bankers acceptances of any one issuer, shall not exceed 10 percent of the issuer's total capital.

(b) The following pertains to collateralized certificates of deposit:

1. Subject to the limitations contained in this subsection, the Director may invest and reinvest moneys of any pension and annuity, static, demand, temporary reserve or trust group fund in collateralized certificates of deposit provided that:

- i. The investment in the certificate of deposit is limited to a term of one year or less;
- ii. The issuer demonstrates the capacity to wire collateral against payment through the Federal Reserve System to a designated custodian bank;
- iii. The issuer provides collateral against payment consisting of United States Government Treasury obligations or obligations of the following United States Government agencies:

- (1) Federal Farm Credit Banks Consolidated Systemwide Bonds;
- (2) Federal Financing Banks;
- (3) Federal Home Loan Banks; and/or
- (4) Federal Land Banks;

iv. At the time of purchase the market value of the collateral provided under (b)liiii above shall be equal to at least 120 percent of the purchase price of the certificate of deposit; and

v. The securities selected as collateral shall have a maturity not exceeding 10 years from the date of the purchase of the certificate of deposit.

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TREASURY-GENERAL

(a)

STATE PLANNING COMMISSION**Municipal and County Cross-Acceptance of State Development and Redevelopment Plan****Adopted Amendments: N.J.A.C. 17:32-1.4 and 17:32-3 and 4.**

Proposed: February 20, 1990 at 22 N.J.R. 621(c).

Adopted: June 8, 1990 by the State Planning Commission, James G. Gilbert, Chairman.

Filed: June 11, 1990 as R.1990 d.336, with **substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:18A-203.

Effective Date: July 2, 1990.

Expiration Date: March 21, 1993.

Notice of amendments to the State Planning Rules, N.J.A.C. 17:32-3 and 4, regarding the negotiation phase of cross-acceptance of the State Development and Redevelopment Plan, was published on February 20, 1990 in the New Jersey Register at 22 N.J.R. 621(c). In addition, notice of the availability of the proposed amendments to the State Planning Rules was mailed to every municipality and county in the State of New Jersey as well as all organizations and individuals included on the Office of State Planning mailing list. Each of the counties received copies of the proposed amendments for distribution to their municipalities and other interested parties. Furthermore, notice of the proposed amendments was included in the *State Planning Bulletin*, the monthly newsletter of the State Planning Commission which is mailed to over 3,200 organizations and individuals in the State. Written comments were invited to be submitted to the Office of State Planning by March 22, 1990.

Seven written comments were received and are available for inspection at the Office of State Planning, 150 West State Street in Trenton, New Jersey 08625.

Summary of Public Comments and Agency Responses:

COMMENT: The Commission's proposed regulations are not fully responsive to the Petition for Rulemaking filed on November 20, 1989 on behalf of the New Jersey Builders Association in that the proposed regulations fail to indicate what constitutes formal Commission action.

RESPONSE: The State Planning Act explicitly prescribes the requirements for any formal action to be taken by the Commission. More specifically, N.J.S.A. 52:18A-198 provides that the Commission must take formal action by the affirmative vote of not less than nine of its members. Consequently, as a matter of law, no formal action binding upon the Commission may be taken except in the manner prescribed under N.J.S.A. 52:18A-198, that is, by the affirmative vote of not less than nine Commission members. In light of this explicit statutory requirement, the Commission believes it is necessary to restate this requirement by regulation.

COMMENT: The Commission's proposed regulations are not fully responsive to the Petition for Rulemaking filed on November 20, 1989 on behalf of the New Jersey Builders Association, in that the proposed regulations fail to set forth the decision making authority of committees established by the Commission. More specifically, the proposed regulations fail to address concerns raised in the Petition regarding the decision making authority of the Commission's Intergovernmental Relations Committee in approving county cross-acceptance work programs and in granting extensions of time for the submission of county cross-acceptance comparison reports. The proposed regulations also fail to address concerns relating to the authority of the Commission's Plan Development Committee in discussing issues raised during the cross-acceptance process. Additionally, the proposed regulations fail to address concerns raised in the Petition regarding the compliance of such committees with the Open Public Meetings Act.

RESPONSE: With regard to the decision making authority of the committees established by the Commission, the Commission has not authorized any of them to take any formal action that would be binding on the Commission. Rather, the function of the committees has been to review certain matters of concern to the Commission and to prepare recommendations and comments for the Commission's consideration regarding such matters.

As for the applicability of the Open Public Meetings Act to the meetings of such committees, the manner in which these committees have conducted their activities has been consistent with the advice set forth by the Attorney General's office in Attorney General Formal Opinion No. 19-1976. In that opinion, the Attorney General advised that committees established by public bodies are not subject to the requirements of the Act if the meetings of such committees do not consist of an effective majority of the public body's membership and the committees are not vested with authority to bind the public body as a whole. Since the committees established by the Commission do not include a majority of the Commission's membership and have not been vested with authority to bind the Commission, they do not constitute public bodies which are subject to the requirements of the Open Public Meetings Act. However, notwithstanding this circumstance, the committees have generally conducted their meetings in public after providing notice in the manner contemplated by the Act.

With specific regard to the activities of the Commission's Intergovernmental Relations Committee, the State Planning Commission did not delegate the authority either to approve county cross-acceptance work programs, or to determine whether county cross-acceptance reports should be accepted following the six-month time period in question. Rather, by resolution dated December 13, 1988, the Commission delegated to the Office of State Planning the authority and responsibility to approve county cross-acceptance work programs. The authority to review and approve such programs necessarily entailed the authority to approve the time schedules for their implementation set forth therein. Accordingly, it was the Office of State Planning, and not the Intergovernmental Relations Committee, that was authorized to approve the county work programs and the time schedules set forth therein.

In delegating such authority to the Office of State Planning, the Commission did provide that the Office of State Planning should consult with the Intergovernmental Relations Committee before approving such programs. Consultation with the Committee was consistent with the purpose for which the Committee was created, that is, to review strategies for carrying out cross-acceptance and for coordinating the State Plan with the plans of regional, interstate and quasi-public agencies. As noted in the November 20, 1989 Petition for Rulemaking, the Intergovernmental Relations Committee did, consistent with the Commission's December 13, 1988 resolution, discuss each county's cross-acceptance work program at its meetings. As the Petition also notes, the notices of the Committee's meetings in this regard indicated that no formal action would be taken with regard to these work programs. This is correct since the Commission never authorized the Committee to take formal action with regard to these work programs. Rather, the purpose of the meetings was to enable the Committee to provide comments and advice to the Office of State Planning. As a consequence, no formal action by the Committee was either required or authorized.

As for the role and decision making authority of the Commission's Plan Development Committee (the committee designated by the Commission to act as the Commission's negotiating committee during the negotiation phase of cross-acceptance), the Commission's proposed regulations do describe its role and function during the negotiation process (see N.J.A.C. 17:32-4.2, 4.5 and 4.7). Further, the Commission's proposed regulations explicitly indicate that any and all actions taken by the negotiating committee shall be subject to the review and approval of the Commission as a whole (see N.J.A.C. 17:32-4.2(d); N.J.A.C. 17:32-4.2(e); N.J.A.C. 17:32-4.5(b); N.J.A.C. 17:32-4.7(e) and N.J.A.C. 17:32-4.7(b)). Accordingly, the Commission has not delegated authority to the Plan Development Committee to take any action which will be binding upon the Commission as a whole. Rather, the role of this and all other committees established by the Commission is solely advisory in nature.

COMMENT: The Commission's proposed regulations are not fully responsive to the Petition for Rulemaking filed on November 20, 1989 on behalf of the New Jersey Builders Association in that the proposed regulations fail to address the role of Volume III in the State Development and Redevelopment Plan.

RESPONSE: The Petition for Rulemaking filed on November 20, 1989 on behalf of the New Jersey Builders Association raised several concerns regarding the role of Volume III of the State Development and Redevelopment Plan. Specifically, the Petition raised the following questions: (1) whether Volume III is a part of the State Development and Redevelopment Plan or merely an interpretive guide to the Plan to assist counties and municipalities; (2) whether the status of Volume III will change in the later phases of cross-acceptance and, if so, what the new status will be; and (3) when the Plan is formally adopted, will Volume

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III be transformed into standards against which agency actions will be assessed to determine consistency with the Plan's goals and strategies?

In approving the release of the Preliminary State Development and Redevelopment Plan on January 6, 1989, the Commission authorized the release and distribution of Volume III of the Preliminary Plan for the purposes of cross-acceptance. Accordingly, Volume III is part of the Preliminary State Development and Redevelopment Plan. As the Final State Development and Redevelopment Plan has not yet been adopted, it cannot be stated with certainty what status, if any, Volume III will have with the Final Plan.

At present, the role of Volume III in the Preliminary Plan is to function as an interpretive guide to Volume II of the Preliminary Plan. In its January 6, 1989 resolution approving Volume III, the Commission resolved that "Volume III may be supplemented as the [Commission] deems necessary and appropriate throughout the process of cross-acceptance to clarify or amplify Volume II or Volume III provisions." From this statement, it is apparent that Volume III was intended to be interpretive. Further, the preface to Volume III states that "[p]lanning guidelines are intended to assist counties, municipalities, State agencies, the private sector, and the general public in interpreting the policies of [Volume II of] the Preliminary Plan."

With respect to the second question noted above, Volume III will remain a guide to the interpretation of the policies detailed in Volume II during the negotiation phase of cross-acceptance. In that regard, it is not anticipated that its status will change. However, as stated in the preface to Volume III, "Volume III is not a complete document; it is intended to be revised, modified, and augmented as a direct result of recommendations provided by participants in the cross-acceptance process prior to adoption of the State Development and Redevelopment Plan." As indicated in the section under each guideline entitled, "Recommending Alternative Guidelines," it was anticipated that Volume III would evolve as participants in the cross-acceptance process offered their suggested alternative measures for achieving compatibility with Volume II policies. Accordingly, as recommendations are received, the content of Volume II will change to reflect appropriate recommendations.

Concerning the third question, it is unclear at this time what form Volume III will take when the State Development and Redevelopment Plan is finally adopted. Accordingly, it cannot be stated that Volume III will be transformed into standards against which agency actions will be assessed to determine consistency with the Plan's goals and strategies. Essentially, this question relates to implementation of the State Plan. In this regard, the State Planning Act, N.J.S.A. 52:18A-196 et seq., does not give the State Planning Commission the authority to enforce, or mandate conformance with, the Plan. Rather, the Governor, the Legislature, the agencies having regulatory jurisdiction over particular areas, and the State's counties and municipalities will determine whether to utilize the guidelines suggested in Volume III, or whether they will develop other standards which they believe to be compatible with the goals and objectives of the State Plan.

In light of the foregoing, the Commission has determined that it would be premature and inappropriate to attempt to prescribe by regulation, as requested by the Petition, the role which Volume III will have in the State Development and Redevelopment Plan. It is unclear whether Volume III will be a part of the finally adopted Plan, and, if so, what its form and content will be. Accordingly, to attempt to define its status by regulation at this time would be totally inappropriate.

COMMENT: The Commission's proposed regulations are not fully responsive to the Petition for Rulemaking filed on November 20, 1989 on behalf of the New Jersey Builders Association in that the proposed regulations fail to address the status of representatives of State agencies who are not either voting members of the Commission or official designees of cabinet members of the Commission, but who attend and participate in meetings held by the Commission's various committees.

RESPONSE: The State Planning Act specifically contemplates that officers and personnel of other State agencies may, at the Commission's request, serve upon advisory committees established by the Commission (see N.J.S.A. 52:18A-204). The Commission's By-Laws also authorize the Commission to appoint committees to assist it in carrying out its statutory responsibilities without restricting the membership of such committees to members of the Commission. Accordingly, other State agency personnel, who are neither Commission members nor their official designees, may properly attend and participate in meetings of the Commission's committees. Further, since none of the Commission's committees have been authorized by the Commission to take any formal binding action on its behalf, it is unnecessary to establish quorum requirements regarding the taking of formal action by such committees or to prescribe by regu-

lation the manner in which such individuals should be considered for quorum purposes.

COMMENT: The proposed regulations call for at least one negotiation session with each county. This may be inadequate to address all issues which require discussion arising from the comparison phase of cross-acceptance. A sufficient number of negotiating sessions should be conducted with each county.

RESPONSE: The language of N.J.A.C. 17:32-4.1(b) of the proposed regulations has been modified to indicate that a sufficient number of such sessions will be conducted with each county to adequately address issues requiring discussion.

COMMENT: Adequate notice, including an agenda and copies of materials to be considered, should be provided for each negotiating session. Additionally, each negotiating session should be preceded by 45 days notice.

RESPONSE: The language of N.J.A.C. 17:32-4.1(b) of the proposed regulations provides that at least 45 days notice of the initial negotiating session with each county will be provided. The Commission has determined that provision of 45 days notice prior to each negotiating session would unduly prolong the cross-acceptance process. However, the language of N.J.A.C. 17:32-4.1(b) does provide that appropriate notice of all subsequent sessions will be provided to those counties and municipalities involved in such sessions as well as to the public generally. The notices will indicate the topics to be discussed at the negotiation sessions, that is, the issues raised in county cross-acceptance comparison reports. Copies of these reports are available from each county, in depository libraries and at the Office of State Planning.

COMMENT: The proposed regulations should be modified to ensure that all negotiating sessions are conducted in compliance with the Open Public Meetings Act and that all discussions and deliberations which occur during such sessions, as well as all agreements reached during such sessions, take place in public.

RESPONSE: While negotiation sessions conducted between the Commission's negotiating committee and duly authorized representatives of county planning boards may, in many instances, not be subject to the Open Public Meetings Act, that is, the individuals present at such sessions will, in most instances, not constitute public bodies for the purposes of that Act, the Commission does intend that such sessions be conducted in public. Accordingly, the Commission has inserted an additional subsection, N.J.A.C. 17:32-4.1(c), to explicitly indicate that all such sessions shall be open to the public.

COMMENT: Prenegotiation sessions should be conducted between staff of the Office of State Planning and representatives of counties and municipalities. The purpose of such sessions is unclear and they should not be conducted.

RESPONSE: The Commission has determined that prenegotiation consultations should be conducted between the Office of State Planning staff and staff of each county and municipality participating in the negotiation phase of cross-acceptance. Prenegotiation consultations will be held to identify issues to be discussed during negotiation sessions.

Prenegotiation consultations will not result in agreements. Rather, such consultations shall serve as a means of preparing for and facilitating the public negotiating sessions to be conducted by the parties to cross-acceptance and the review, consideration and final approval of agreements by the Commission and the other parties participating in the process.

COMMENT: The Commission should indicate in its regulations the procedures to be followed to address and resolve those issues upon which agreement cannot be reached during negotiating sessions.

RESPONSE: The negotiation phase is one of three phases of the cross-acceptance process which will ultimately result in the final adoption of the State Development and Redevelopment Plan. To the extent that disagreements remain at the conclusion of the negotiation phase (and the State Planning Act explicitly contemplates that disagreements will exist at the conclusion of the process), these issues will be revisited during the third, or issue resolution, phase of cross-acceptance. The Commission will consider the promulgation of regulations regarding the issue resolution phase of cross-acceptance prior to the commencement of this last phase of the process.

COMMENT: The periodic reports prepared with regard to negotiating sessions should disclose both agreements reached and disagreements identified during such sessions.

RESPONSE: The language of N.J.A.C. 17:32-4.5(c) of the proposed regulations has been modified to provide that the periodic reports will describe both agreements reached and any remaining disagreements identified during such sessions.

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COMMENT: The Commission should provide for the dissemination of all reports, transcripts, etc., prepared with regard to negotiating sessions to the counties and municipalities that participated in such sessions.

RESPONSE: The Commission's proposed regulations provide for the preparation and dissemination of "periodic" reports regarding such sessions to the parties participating in them (see N.J.A.C. 17:32-4.5(c)). To the extent that the language of the initially proposed regulations may have been unclear in this regard, the Commission has inserted additional language, in N.J.A.C. 17:32-4.5(c) to provide clarification. Further, the proposed regulations provide for the preparation and distribution of a summary of the negotiation sessions conducted with each county to that county and its respective municipalities (see N.J.A.C. 17:32-4.7(a)).

COMMENT: Reports of each negotiating session should be provided to the Commission.

RESPONSE: The Commission's proposed regulations provide for the submission of "periodic" reports regarding such sessions (N.J.A.C. 17:32-4.5(c)), as well as a summary of the negotiation session with each county (N.J.A.C. 17:32-4.7(a)), to the Commission.

COMMENT: Adequate opportunity has not been provided to ensure the participation of private parties in negotiations—either individually or through appointed committees—sitting at the negotiating table.

RESPONSE: In enacting the State Planning Act, the Legislature provided that cross-acceptance negotiations are to occur between the State Planning Commission, county planning boards and municipalities. The legislation anticipated an intergovernmental dialogue during these negotiations and did not afford private individuals or organizations the status of negotiating parties in this process. Further, the Commission has received communications from hundreds of private individuals and organizations regarding the development of the State Plan. It would clearly be impractical to afford each of these and other interested parties the status of a negotiating party in the cross-acceptance process. Presumably, the Legislature contemplated that the public officials participating in the process would, in fulfilling their statutory responsibilities, properly consider and accommodate the interests of all members and sectors of the public.

To this end, the Commission has and will continue to provide all members of the public with opportunities to be fully aware of the Commission's activities in conducting cross-acceptance and to convey their comments and criticisms to the Commission. However, consistent with the Act's provisions, private individuals and organizations are not afforded the status of negotiating parties to the process and will not be invited to sit at the table and directly participate with the Commission.

COMMENT: Public hearings should be conducted in each county at the conclusion of the negotiation phase of cross-acceptance to review the results of the county's negotiations with the Commission.

RESPONSE: Rather than mandating by regulation that each county conduct such a hearing, the Commission has concluded that each county should determine for itself whether such a hearing is warranted and should be conducted. In this regard, N.J.A.C. 17:32-4.3(c) is added upon adoption to provide that all determinations made by a county planning board during the negotiation phase of cross-acceptance shall be subject to review and action by the county governing body. In exercising such review, each county governing body will presumably take such action as it deems appropriate with regard to such determinations at a meeting conducted in accordance with the Open Public Meetings Act. Such a meeting could, at the county's discretion, serve as a forum for public comment regarding the results of the county's negotiations.

COMMENT: Each county should be required to appoint a public advisory committee to review and comment upon the nature and results of the negotiations conducted during cross-acceptance.

RESPONSE: The Commission does not believe it appropriate to mandate the creation of such public advisory committees. Rather, it has concluded that the establishment of such committees should be left to the discretion of each county.

COMMENT: The Commission should conduct more than six public hearings with regard to the draft Final Plan (the Interim State Plan).

RESPONSE: Under N.J.S.A. 52:18A-202(c) of the State Planning Act, the Commission is required to conduct at least six public hearings with regard to the Interim State Plan. It is very likely that the Commission will conduct more public hearings with regard to the Interim Plan than the minimum required by the Act.

COMMENT: Public comments should be made at the beginning, rather than at the end, of each negotiating session.

RESPONSE: The Commission believes that the time at which public comments are made at negotiating sessions should be left to the discretion of the individual chairing the negotiating session.

COMMENT: Arrangements should be made to permit the media to be present at negotiating sessions and to provide media representatives with a summary of what transpired at each session.

RESPONSE: All negotiating sessions between the Commission's negotiating committee and counties and municipalities will be conducted in public. Further, periodic reports setting forth the results of such sessions and a summary of all negotiating sessions conducted with each county will be prepared and made available to the public, including the media. The Commission itself will also consider and discuss the contents of such reports and summaries at its regular public meetings. In light of these circumstances, the Commission anticipates that representatives of the media will have ample opportunity to be fully apprised of the activities during the negotiation phase of cross-acceptance. Further, the Office of State Planning customarily disseminates information on a regular basis to the media with regard to the activities of the Commission and the Office of State Planning.

COMMENT: Additional funding should be provided to assist counties in carrying out their responsibilities during the negotiation phase of cross-acceptance.

RESPONSE: The Commission recognizes the desirability of additional funding resources to support cross-acceptance activities at the State, county and municipal levels. However, the appropriation of additional funds for this purpose is the prerogative of the State Legislature and not that of the Commission.

COMMENT: A definition of "compatibility" should be set forth in the Commission's regulations.

RESPONSE: A definition of this term is already set forth in the Commission's existing regulations at N.J.A.C. 17:32-1.4.

COMMENT: Written responses should be provided to all public comments submitted to the Commission, the Office of State Planning, a county or a municipality regarding the Preliminary State Development and Redevelopment Plan.

RESPONSE: Neither the Commission, the Office of State Planning, counties nor municipalities have a legal obligation to provide a written response to each comment received from the public. Further, imposing such an obligation on such entities by regulation would create a difficult, if not impossible, burden. The Commission and the Office of State Planning have considered and will continue to consider all comments received from the public and will continue to provide responses whenever feasible and appropriate.

COMMENT: Questions were raised regarding certain portions of the Economic Impact Statement which was published with the Commission's proposed regulations. More specifically, one commenter noted that, while the statement made reference to the preparation of an assessment of the impact of the State Development and Redevelopment Plan on the economy, the environment, the fiscal capacity of governments, community life and intergovernmental regulations in New Jersey, no provision for such an assessment was contained in the proposed regulations. Further, the same commenter inquired as to the basis of the statement which indicated that participation by counties and municipalities in the cross-acceptance process will result in positive fiscal consequences for such local governments.

RESPONSE: As a result of recent amendments to the State Planning Act, P.L. 1989 c.332, the Office of State Planning is required to undertake an assessment of the economic, environmental, fiscal, community life and intergovernmental relations impacts of the Interim State Plan. Since P.L. 1989 c.332 not only requires the preparation of such an assessment but also prescribes the manner in which it is to be undertaken, the Commission has determined that it is unnecessary to promulgate rules regarding this subject.

As for the statement that county and municipal participation in the cross-acceptance process will have positive fiscal consequences for such local units, the basis of this statement is found in the State Planning Act itself. In enacting this statute in 1985, the Legislature determined that the preparation of a State Development and Redevelopment Plan in accordance with the Act will result in the provision of "adequate public services at a reasonable cost" and the realization of "[S]ignificant economies, efficiencies and savings" by public sector development agencies. The Act also requires that the Plan promote development and redevelopment in a manner where "infrastructure can be provided at private expense or with reasonable expenditure of public funds." Accordingly, in preparing and adopting a State Development and Redevelopment Plan in accordance with the Act, the Commission must, as a matter of law,

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ensure that the Plan will have "positive fiscal consequences" for the various levels of government in New Jersey.

COMMENT: The dates for the submission of county cross-acceptance reports, the completion of the comparison phase of cross-acceptance and the commencement of the negotiation phase of cross-acceptance should be extended beyond the dates set forth in the Commission's proposed regulations.

RESPONSE: The Commission has modified its proposed regulations to delete the dates set forth therein for the submission of such reports, the completion of the comparison phase and the commencement of the negotiation phase. Instead, the regulations would provide that the Commission will specify the dates for these events by resolution. In doing so, the Commission will not only accommodate the concerns expressed by certain commenters with regard to the dates initially proposed, but will also provide a means for establishing such dates for future revisions of the State Development and Redevelopment Plan. Under the State Planning Act, the State Development and Redevelopment Plan must be revised through another cycle of cross-acceptance every three years.

COMMENT: Certain commenters questioned whether counties should be deemed to be in agreement with the goals, objectives, strategies, policies, guidelines, maps and projections of the Preliminary State Development and Redevelopment Plan if they fail to file a negotiating entity report or any part thereof in substantial compliance with N.J.A.C. 17:32. They also inquired as to what standards would be used to determine whether such reports were in substantial compliance with such requirements.

RESPONSE: Under N.J.A.C. 17:32, and more specifically N.J.A.C. 17:32-3.1(b), each county was afforded the opportunity of determining whether it wished to act and assume the responsibilities of the negotiating entity for that county in the cross-acceptance process. Further, upon electing to act as a negotiating entity, each county assumed the responsibility for preparing and implementing a work program pursuant to N.J.A.C. 17:32-3.4 and for completing a cross-acceptance comparison report pursuant to N.J.A.C. 17:32-3.10 and 3.11. Pursuant to these responsibilities, each county was responsible for identifying in its comparison report areas of agreement and disagreement and, in the event of disagreement, the nature of the disagreement between the Preliminary State Development and Redevelopment Plan and local and county plans and regulations. Accordingly, the Commission believes that, to the extent a county's comparison report is not in substantial compliance with both the work program it agreed to undertake and the requirements of the Commission's previously adopted regulations, that is, a cross-acceptance comparison report which identifies the specific nature of any disagreements between the Preliminary Plan and local and county plans and regulations, the Commission can reasonably conclude that the county agrees with the goals, objectives, etc., set forth in the Preliminary Plan.

Such a presumption is warranted in light of the obligations assumed by each county in agreeing to act as a negotiating entity, as it is necessary to ensure that the cross-acceptance process established under the Act will proceed in a reasonable manner. In this regard, it is particularly noteworthy that none of the State's 21 counties, all of which have elected to participate in the cross-acceptance process, voiced any objections or concerns with regard to the proposed provisions of N.J.A.C. 17:32-3.12(c).

As for the concerns raised regarding the standards for determining whether a county's cross-acceptance report is in substantial compliance with the requirements of N.J.A.C. 17:32, each county developed and agreed to carry out a work program that included the preparation of a cross-acceptance comparison report. Accordingly, the agreed upon work program specified the standards to be utilized in determining whether a county's report is in substantial compliance with N.J.A.C. 17:32. That is, the standards have either been set forth in the Commission's previously adopted regulations or are contained in the work program developed by the counties themselves in conjunction with the Office of State Planning. Consequently, it would be unnecessary, if not inappropriate, to set forth additional standards in the Commission's regulations.

COMMENT: Rather than promulgating a regulation which provides that a county shall be deemed to be in agreement with the goals, objectives, etc., set forth in the Preliminary State Development and Redevelopment Plan if it fails to file a negotiating entity report, or any part thereof, in substantial compliance with N.J.A.C. 17:32, the Commission should appoint an alternative negotiating entity pursuant to N.J.A.C. 17:32-3.3 to complete and file any such report.

RESPONSE: N.J.A.C. 17:32-3.3 does authorize the Commission to appoint an alternative negotiating entity where a county chooses not to

participate in the cross-acceptance process and to file a cross-acceptance report which complies with the county's work program and the Commission's previously promulgated regulations. To designate another entity to undertake the preparation of such a report at this time would unduly delay the continuation of the cross-acceptance process and deprive those counties which have elected to participate in the process, but which have yet to file their reports, the opportunity to continue to participate as negotiating entities in the process.

COMMENT: The role of State Planning Advisory Committees in the negotiation process should be defined in the Commission's regulations.

RESPONSE: The Commission has modified its proposed regulations to insert a definition of State Planning Advisory Committee in N.J.A.C. 17:32-1.4. As indicated by that definition, the State Planning Advisory Committees are appointed by the Director of the Office of State Planning to provide advice which will assist the Office in fulfilling its statutory responsibilities to assist the Commission in developing a State Plan. As established by the Director, the committees will identify problems and concerns which arise during the cross-acceptance process and recommend solutions to such problems and concerns. In this respect, these committees constitute one of the many sources from which the Office of State Planning and the Commission have sought and will continue to seek comments and criticisms regarding the preparation of the State Development and Redevelopment Plan. Since the State Planning Advisory Committees established by the Office of State Planning consist of experts in a variety of areas, they are a particularly valuable source of comments and criticism to the Office in preparing recommendations for the Commission's consideration.

COMMENT: The State Planning Commission should promulgate regulations setting forth the criteria and procedures for appointment to State Planning Advisory Committees.

RESPONSE: Since the State Planning Advisory Committees are appointed by the Director of the Office of State Planning, the Commission believes the Director should determine the criteria and procedures for the appointment of the membership to such committees. The membership of the committees established by the Director is representative of a wide range of public and private interests and perspectives, and, accordingly, satisfies the concerns of one commenter that the committees be representative of a variety of such interests and viewpoints. The names and qualifications of the members of each committee may be obtained from the Office of State Planning.

COMMENT: The reports and comments generated from the meetings of the State Planning Advisory Committees should be disseminated to counties and municipalities (and the public generally).

RESPONSE: The State Planning Advisory Committees will be submitting reports to the Director of the Office of State Planning. The Director has indicated that these reports will be made available to the Commission and the public in an appropriate manner following their submission to the Office of State Planning. Additionally, the meetings of such committees are open to the public.

COMMENT: The parameters of the authority to be delegated to the negotiating committee to be established by the Commission should be more clearly defined in the Commission's proposed regulations.

RESPONSE: In carrying out negotiations on behalf of the Commission, it is first clear that the negotiating committee will be guided by the same statutory standards as govern the Commission itself under the State Planning Act. Second, as reflected in the Commission's proposed regulations as changed upon adoption (see N.J.A.C. 17:32-4.2(d) and (e); N.J.A.C. 17:32-4.5(b)), all actions taken by the committee will be subject to the review, approval and ultimate control of the Commission itself. Further, to the extent that the negotiating committee may desire to negotiate issues during the negotiation phase of cross-acceptance in a manner which may be at variance with the goals, policies, etc. of the Preliminary State Development and Redevelopment Plan, the proposed regulations indicate that the extent of its authority to do so will be addressed in resolutions adopted by the Commission as a whole. Finally, the language of the adopted regulations also makes clear that all agreements reached by the negotiating committee during the negotiating sessions will be submitted to the Commission for consideration and approval and will not be binding upon the Commission until so approved (see N.J.A.C. 17:32-4.2(d) and (e); N.J.A.C. 17:32-4.5(b); N.J.A.C. 17:32-4.7(a) and (b)).

COMMENT: Both as a matter of law and of policy, the Commission should negotiate directly with counties and municipalities rather than delegating the authority to conduct such negotiations to a committee of its members and to the staff of the Office of State Planning.

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RESPONSE: It is well established, as a matter of administrative law, that State officials and boards may delegate to subordinate officials and bodies the responsibility for carrying out certain activities so long as the officials or boards retain the ability to ultimately control such activities and to make final decisions with regard to those matters which are ultimately their statutory responsibility. To facilitate the implementation of the negotiation phase of the cross-acceptance process, the Commission has deemed it appropriate to utilize both the staff of the Office of State Planning and the negotiating committee established by the Commission to identify areas of agreement and disagreement and to develop recommendations regarding changes to be made to the Preliminary Plan for the Commission's review, consideration and approval. In doing so, the Commission has reserved the authority to monitor the activities undertaken by the negotiating committee and staff and to approve or disapprove any and all agreements and recommendation proposed by them (see N.J.A.C. 17:32-4.2(c) and (d); N.J.A.C. 17:32-4.5(b)4; N.J.A.C. 17:32-4.7(a) and (b)). Accordingly, both as a matter of law and of policy, the Commission believes it appropriate to utilize the assistance of the negotiating committee and the staff of the Office of State Planning in carrying out the negotiation phase of cross-acceptance.

COMMENT: County planning boards and municipal governing bodies should conduct negotiations with the Commission directly rather than through duly authorized representatives as contemplated by the Commission's proposed regulations.

RESPONSE: In the same manner as the Commission believes it appropriate to utilize a duly authorized negotiating committee of Commission members and the staff of the Office of State Planning to carry out certain aspects of the negotiation phase of cross-acceptance, that is, the identification of areas of agreement and disagreement, it has also concluded, both as a matter of law and of policy, that county planning boards and municipal governing bodies may elect to conduct negotiations with the Commission and its negotiating committee through duly authorized representatives. In the same manner that the Commission has reserved complete authority to review, consider and approve (or disapprove) any actions taken by its negotiating committee, the Commission has, by insertion of additional language in its proposed regulations (see new subsections N.J.A.C. 17:32-4.3(c) and N.J.A.C. 17:32-4.4(b)) to provide that all determinations made by county and municipal representatives during the negotiation phase of cross-acceptance shall be subject to review and action by the governing bodies of the county and the municipality respectively.

COMMENT: The Commission's proposed regulations fail to address the question of whether the duly authorized representatives of county planning boards and municipal governing bodies may negotiate issues during negotiation sessions in a manner which varies from the positions set forth in the cross-acceptance comparison reports submitted by their respective counties and municipalities. The proposed regulations also fail to address the questions of how agreements identified during such negotiation sessions which vary from the positions set forth in the cross-acceptance reports of the counties and municipalities participating in such sessions are to be considered by the counties and municipalities as a whole.

RESPONSE: The Commission has inserted additional language in its proposed regulations to provide that all determinations and agreements reached during the negotiation sessions conducted between the Commission's negotiating committee and a county and/or a municipality shall be submitted to the governing body of the county and/or municipality for review and action. By so providing, the Commission has established a mechanism through which such governing bodies can express their approval or disapproval of any such determinations or agreements.

COMMENT: The Commission's proposed regulations are inconsistent with the regulations previously promulgated by the Commission in that the proposed regulations require that negotiations be conducted by county planning boards while the Commission's previously adopted regulations authorize counties to designate a negotiating entity of the county's choice to conduct negotiations on the county's behalf. The Commission's proposed regulations are inconsistent with the State Planning Act in that the proposed regulations provide for county governing bodies to have a role in the negotiating process while the Act requires that negotiations be conducted by county planning boards.

RESPONSE: Contrary to the comments set forth, the Commission's proposed regulations are consistent with both the State Planning Act and the Commission's previously adopted regulations. The State Planning Act, and more specifically N.J.S.A. 52:18A-202(b), provides that the Commission is to negotiate cross-acceptance with county planning

boards. The Commission's proposed rule amendments reflect this (see proposed rule N.J.A.C. 17:32-4.3).

However, the Act also explicitly contemplates that county governments themselves are to be involved in the cross-acceptance process. More specifically, N.J.S.A. 52:18A-202(a) provides that the Commission shall, in preparing the State Development and Redevelopment Plan, solicit and give due consideration to the plans, comments and advice of "each county and municipality." Moreover, N.J.S.A. 52:18A-199(c) provides that the Commission shall develop and promote procedures to facilitate cooperation and coordination among State agencies and "local governments" with regard to the development of plans, programs and policies which affect land use, environmental, capital and economic development issues. Thus, the Act contemplates that the Commission will, both in fulfilling its general statutory duties under N.J.S.A. 52:18A-199 and in specifically developing a State Development and Redevelopment Plan pursuant to N.J.S.A. 52:18A-202, seek and obtain the comments not only of county planning boards but also of county and municipal governments themselves. Thus, it was not inappropriate for the Commission to provide a means by which it may solicit and obtain the views and concurrence of county governments themselves with regard to both the county cross-acceptance comparison reports which were being submitted to the Commission and the agreements to be reached as a result of negotiation sessions conducted between duly authorized county representatives and the Commission's negotiating committee.

As for the concerns expressed that the Commission's proposed regulations are, in providing that negotiations are to be conducted with county planning boards, inconsistent with the Commission's previously adopted regulations, a review of the Commission's existing regulations indicates that this is not so. The Commission's existing regulations do not, as one commenter has suggested, authorize a county which elects to participate in the cross-acceptance process to designate any entity it may choose, for example, a county planning department, to act on its behalf throughout the cross-acceptance process. Rather, in electing to participate as a negotiating entity in this process, a county agrees to do so in a manner consistent with the requirements of the State Planning Act and the Commission's regulations. Since the Act explicitly requires that negotiations be conducted by the county planning boards (see N.J.S.A. 52:18A-202(b)), neither the Commission nor a county have the discretion to have an entity other than the county planning board conduct such negotiations on the county's behalf. As a practical matter, it is the expectation of the Commission that, in conducting such negotiations, county planning boards, or their duly authorized representatives, will consult and work in conjunction with county planning departments and county governing bodies.

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

17:32-1.4 Definitions

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

...
“Negotiation session” means a session during which the duly authorized representatives of the State Planning Commission and a negotiating entity, or a municipality that has filed an individual municipal report, engage in a dialogue with the purpose of attaining compatibility regarding issues found in reports filed pursuant to N.J.A.C. 17:32-3.12 and 3.13.*
 ...

“State Planning Advisory Committee(s)” means a committee organized by the Office of State Planning pursuant to a resolution of the State Planning Commission consisting of individuals and interest group representatives to contribute to the formulation of an effective State Development and Redevelopment Plan through multi-disciplinary, structured discussions.*

SUBCHAPTER 3. PROCEDURES FOR CONDUCTING THE COMPARISON PHASE OF CROSS-ACCEPTANCE

17:32-3.1 Commencement of the comparison phase

The comparison phase of cross-acceptance shall commence with release of the Preliminary State Development and Redevelopment Plan by the State Planning Commission.

TREASURY-GENERAL

ADOPTIONS

Recodify existing 17:32-3.1 through 3.10 as 3.2 through 3.11 (No change in text.)

17:32-3.12 Negotiating entity reports

(a) Each negotiating entity shall prepare and file with the State Planning Commission ***[by February 28, 1990,]* a formal report*, by a date set by the Commission,*** of findings, recommendations and objections concerning the Plan in accordance with the State Planning Act, N.J.S.A. 52:18A-202 and pursuant to the Office of State Planning Cross-Acceptance Manual and the County Cross-Acceptance Work Program approved pursuant to N.J.A.C. 17:32-3.5(a).

(b) Any negotiating entity report, or any parts thereof, not filed by ***[February 28, 1990,]* **the date set by the Commission,***** may, at the discretion of the State Planning Commission, be given consideration by the State Planning Commission or be an item of negotiation during the negotiation phase of cross-acceptance.

(c) Should a county fail to file a negotiating entity report, or any part thereof, in substantial compliance with this chapter, the county shall be deemed to be in agreement with the goals, objectives, strategies, policies, guidelines, maps or projections of the Preliminary State Development and Redevelopment Plan as they pertain to those parts of the report not filed or deemed not to be in substantial compliance.

(d) The final reports of each negotiating entity shall not be filed with the State Planning Commission until the governing body of each such county, or the designated negotiating entity, shall have authorized the transmittal of the Final Report at a public hearing.

17:32-3.13 Individual municipal reports in regard to cross-acceptance

(a) If a municipality is not satisfied with the cross-acceptance report, in whole or in part, prepared by the negotiating entity, the municipality may file a separate report ***within a period of time specified by the Commission*** in the form specified by the Office of State Planning in the Cross-Acceptance Manual ***[not later than 30 days after the negotiating entity for the county in which the municipality is located files its formal report of findings, recommendations and objections pursuant to N.J.S.A. 52:18A-202]***. The individual municipal report shall also be filed with the appropriate county or negotiating entity at the same time as it is filed with the State Planning Commission.

(b) In the event that a negotiating entity report is not filed with the State Planning Commission by ***[February 28, 1990,]* **the time specified by the Commission,***** a municipality may still file a separate report, comments or recommendations with the State Planning Commission and they will be given full consideration.

(c) Any municipal report not filed by the date specified by the State Planning Commission may, at the discretion of the Commission, be given consideration by the Commission or be an item of negotiation during the negotiation phase of cross-acceptance.

(c)]*(d) Should a municipality fail to participate in the negotiation of cross-acceptance and/or fail to file an individual municipal report, the municipality shall be deemed to have concurred and agreed in the final report filed by the negotiating entity and to have waived its statutory right to file a separate report under N.J.S.A. 52:18A-202.

17:32-3.14 Completion of comparison phase of cross-acceptance

The comparison phase of cross-acceptance shall conclude ***[on March 30, 1990]* **at a date specified by the State Planning Commission*.****

SUBCHAPTER 4. PROCEDURES FOR CONDUCTING THE NEGOTIATION PHASE OF CROSS-ACCEPTANCE

17:32-4.1 Commencement of the negotiation phase

(a) The negotiation phase of cross-acceptance shall commence on ***a date specified by the State Planning Commission* ***[March 31, 1990]*.**** Any time thereafter, the State Planning Commission can convene a negotiation session with any county that has submitted a cross-acceptance report in accordance with N.J.A.C. 17:32-3.12, or

any municipality that has submitted an individual report in accordance with N.J.A.C. 17:32-3.13.

(b) The State Planning Commission shall provide each county or municipality submitting a report pursuant to this chapter, an opportunity for ***[at least one]* **a sufficient number of***** negotiation sessions ***as determined by the Commission's negotiating committee*.** The State Planning Commission shall provide a minimum of 45 days public notice in a newspaper of general circulation of an initial negotiation session with each county or municipality and appropriate notice of all subsequent negotiation sessions.

(c) All negotiation sessions referenced in N.J.A.C. 17:32-4.5 shall be open to the public.

17:32-4.2 State Planning Commission representation during the negotiation phase of cross-acceptance

(a) The State Planning Commission may authorize an appropriate committee to represent the Commission during the negotiation phase of cross-acceptance by a duly adopted resolution of the Commission.

(b) A minimum of three members of the authorized negotiating committee, and one member of the staff of the Office of State Planning, authorized by the Director, shall be present at any given negotiation session. Each negotiation session shall be chaired by the committee chairman or a duly authorized substitute.

(c) In the event that at least three members of the authorized committee are unable to attend a scheduled negotiation session, the Chairman of the State Planning Commission is authorized to appoint other members of the Commission to participate in the negotiation session.

***(d) The Commission may, at its discretion, direct the committee to reconsider a determination as described in the periodic reports referenced in N.J.A.C. 17:32-4.5(c).**

(e) All determinations made by the Commission's negotiating committee regarding revisions to the Preliminary State Development and Redevelopment Plan and as set forth in N.J.A.C. 17:32-4.7(a) shall be subject to the approval of the State Planning Commission in the form of an interim plan.

17:32-4.3 County representation during the negotiation phase of cross-acceptance

(a) Pursuant to N.J.S.A. 52:18A-202(b), the State Planning Commission shall negotiate plan cross-acceptance with each county planning board.

(b) A county planning board may, at its option, and by duly adopted resolution, appoint a committee from among its members and staff, including at least, but not limited to, two county planning board members, to represent the full board at negotiation sessions.

(c) All determinations made by the county planning board regarding the Preliminary State Development and Redevelopment Plan and as set forth in N.J.A.C. 17:32-4.7(a) shall be subject to the action of the county governing body. Failure to act within 45 days from when the determination was received, will presume the determination acceptable.

17:32-4.4 Municipal representation during the negotiation phase of cross-acceptance

(a) Municipalities that are involved in individual negotiation sessions pursuant to N.J.A.C. 17:32-4.1 shall be represented at those sessions by a committee duly authorized by the municipal governing body. A member of the county planning board or a member of its duly authorized negotiating committee shall also be present at these sessions.

(b) All determinations made at these sessions by the municipality regarding the State Development and Redevelopment Plan and as set forth in N.J.A.C. 17:32-4.7(a) shall be subject to the action of the local governing body. Failure to act within 45 days from when the determination was received, will presume the determination acceptable.

17:32-4.5 The negotiation process

(a) The purpose of the negotiation phase is to attain compatibility between local, county and State Plans.

(b) Negotiation ***[s]* **sessions***** shall be conducted ***[in four steps]* **as follows*:****

1. ***Subsequent to pre-negotiation consultation among the staffs of the involved parties,* **[The]* **the******* staff of the Office of State Plan-

ADOPTIONS

OTHER AGENCIES

ning will meet with the authorized representative*s* of the county planning board, to reach agreement on issues raised in county *[or municipal]* reports *and municipal and public comments* and to identify unresolved issues requiring negotiation between the *negotiating* committee*s* of the State Planning Commission* and the county.

2. The *negotiating* committee*s* of the Commission* and the county will meet to confirm agreements and to negotiate any unresolved issues identified in *[Step 1]* *(b)1 above*.

3. Municipalities that submit individual municipal reports, pursuant to N.J.A.C. 17:32-3.13, may choose to discuss and negotiate the issues presented in their report with the *Commission's negotiating* committee, with the appropriate county represented. Prior to such discussion and negotiations, municipalities shall meet with the staff of the Office of State Planning to identify unresolved issues and to recommend revisions to the Preliminary State Development and Redevelopment Plan requiring negotiation between the committee and the municipality.

*[4.]**(c)* Agreements reached during *[these]* *negotiation* sessions *and any remaining disagreements* shall be published by the Office of State Planning in periodic reports which shall be available to the *[parties involved and the]* general public*[*]* *at the Office of State Planning, county offices and State depository libraries. Further distribution shall be made to the Commission and the parties involved. Periodic public meetings shall be conducted by the Commission's negotiating committee for the purpose of taking comments on these reports. The committee shall provide a minimum of 10 days public notice in a newspaper of general circulation of these meetings.*

17:32-4.6 Public participation in the negotiation phase of cross-acceptance

(a) The public may participate in the negotiation phase of cross-acceptance through the following means:

1. Recommendations of State Plan Advisory Committees;
2. Comments presented at monthly meetings of the State Planning Commission during the public comment period;
3. Communications with municipal and/or county officials involved in negotiations;
4. Written communication with the State Planning Commission, or the Office of State Planning;
5. Comments presented at periodic public meetings to be conducted by the State Planning Commission's negotiating committee, for the purpose of taking public comment on recommended changes to the Preliminary Plan published in periodic reports; and
6. Public comment at negotiation sessions.

17:32-4.7 Completion of the negotiation phase of cross-acceptance

(a) When the State Planning Commission's negotiating committee believes that the county and municipal negotiations have produced the highest degree of agreement among the negotiating parties, the committee shall submit a summary of its findings, including a list of agreements and disagreements resulting from each negotiation session, to the State Planning Commission, the subject county and each county's respective municipalities.

(b) The Committee shall forward to the State Planning Commission for its consideration and approval, an Interim State Development and Redevelopment Plan reflecting recommended changes to the Preliminary State Development and Redevelopment Plan resulting from the comparison and negotiation phases and any other relevant information and materials.

(c) Approval of the Interim State Development and Redevelopment Plan by the State Planning Commission shall complete the negotiation phase of cross-acceptance.

(d) Pursuant to N.J.S.A. 52:18A-202(c), there shall be no fewer than six public hearings on the Interim State Development and Redevelopment Plan. Upon approval of the Interim Plan, the State Planning Commission shall establish the total number of public hearings it intends to hold.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Personnel Assigned to the Operation and Conduct
of Gaming and Slot Machines

Adopted Amendment: N.J.A.C. 19:45-1.12

Proposed: October 2, 1989 at 21 N.J.R. 3080(a).

Adopted: May 30, 1990 by the Casino Control Commission,
Valerie H. Armstrong, Acting Chair.

Filed: May 31, 1990 as R.1990 d.323, **Alternative II without change (Alternatives I and III not adopted).**

Authority: N.J.S.A. 5:12-63(c), 69(c) and 99(a).

Effective Date: July 2, 1990.

Expiration Date: March 24, 1993.

Summary of Public Comments and Agency Responses:

COMMENT: Trump Plaza Hotel and Casino supports the adoption of Alternative III citing the capability to increase staffing flexibility.

RESPONSE: Rejected. Alternative III does not benefit all concerned parties and does not provide an adequate and effective level of supervision over the game of craps.

COMMENT: Merv Griffin's Resorts Casino Hotel supports the adoption of Alternative III citing the flexibility of allowing one pit boss to supervise from eight to eleven craps table games depending on the configuration of the pit.

RESPONSE: Rejected. Alternative III does not benefit all concerned parties and does not provide an adequate and effective level of supervision over the game of craps.

COMMENT: The Claridge at Park Place, Inc. supports the adoption of Alternative III citing a potential for flexibility in the configuration of the casino floor which might increase patron interest, and thereby, revenue.

RESPONSE: Rejected. Alternative III does not benefit all concerned parties and does not provide an adequate and effective level of supervision over the game of craps.

COMMENT: Bally's at Park Place, Inc. supports the adoption of Alternative III citing the potential for flexibility in the configuration of the casino floor.

RESPONSE: Rejected. Alternative III does not benefit all concerned parties and does not provide an adequate and effective level of supervision over the game of craps.

COMMENT: Trump Taj Mahal Associates supports the adoption of Alternative III.

RESPONSE: Rejected. Alternative III does not benefit all concerned parties and does not provide an adequate and effective level of supervision over the game of craps.

COMMENT: Marina Associates supports the adoption of Alternative III citing the potential for flexibility in the configuration of the casino floor and staffing.

RESPONSE: Rejected. Alternative III does not benefit all concerned parties and does not provide an adequate and effective level of supervision over the game of craps.

COMMENT: Boardwalk Regency, Inc. supports the adoption of Alternative III citing the flexibility of allowing one pit boss to supervise up to eleven craps table games.

RESPONSE: Rejected. Alternative III does not benefit all concerned parties and does not provide an adequate and effective level of supervision over the game of craps.

COMMENT: The Division of Gaming Enforcement supports the adoption of Alternative I indicating that in order to insure the integrity of gaming in craps a pit boss should only supervise eight table games in a pit consisting of craps and any other authorized table games.

RESPONSE: Rejected. Alternative II does not compromise the integrity of gaming operations and does in fact provide an adequate and effective level of supervision while providing the casino industry with a greater degree of flexibility.

OTHER AGENCIES

ADOPTIONS

Alternative II

19:45-1.12 Personnel assigned to the operation and conduct of gaming and slot machines

(a) The following personnel shall be used to operate and conduct table games in an establishment:

1.-5. (No change.)

6. Pit boss shall be:

i. The third level supervisor assigned the responsibility for the overall supervision of the operation and conduct of craps games at no more than eight craps tables. Nothing in this subsection shall preclude a pit boss from supervising a combination of table games including craps, blackjack, roulette, minibaccarat, big six, or baccarat, provided, however, the number of supervised tables complies with the following limitations:

Craps
Games

- 1
- 2
- 3
- 4
- 5
- 6
- 7

All Other
Table Games

- 9
- 8
- 6
- 4
- 3
- 2
- 1

ii. The second level supervisor assigned the responsibility for the overall supervision of the operation and conduct of table games at not more than a total of 12 blackjack, roulette, minibaccarat, big six, or baccarat tables or a combination thereof.

7.-9. (No change.)

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

PUBLIC NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Notice of Action on Petition for Rulemaking Concerning a Volatile Organic Substance, 1, 1, 1-trichloroethane (methyl chloroform)

Petitioner: East Coast Finishing Corporation, Lawrence Levitt, Esquire, Counsel.

Authority: N.J.S.A. 26:2C-1 et seq., specifically 26:2C-8, and 52:14B-4(f).

Take notice that on March 27, 1990, Lawrence Levitt, Esquire, Counsel for East Coast Finishing Corporation, filed a petition with the New Jersey Department of Environmental Protection (the Department) requesting amendment of N.J.A.C. 7:27-16, Control and Prohibition of Air Pollution by Volatile Organic Substances. Specifically, the petitioner requested that the Department revise the definition of "volatile organic substances" in N.J.A.C. 7:27-16.1 to include in the concluding phrase as an excluded organic substance "1, 1, 1-trichloroethane (methyl chloroform)." Public notice of the receipt of this petition was published in the May 21, 1990 New Jersey Register at 22 N.J.R. 1632(c).

In accordance with N.J.A.C. 7:1-1.2, and after thorough review of the petition, the Department gives notice that it denies this petition for the reasons set forth below.

1. 1, 1, 1-Trichloroethane (methyl chloroform) has been included in the definition of VOS in N.J.A.C. 7:27-16 since this rule's adoption in 1975 because of its health effects, not its photochemical reactivity. Re-consideration of inclusion of methyl chloroform as a VOS has occurred as recently as January 1989. At that time, the definition of VOS was adopted as part of N.J.A.C. 7:27-23. The health concerns associated with this compound, such as possible liver or kidney damage, gastrointestinal changes and skin irritation from chronic exposure, are sufficient to require control of its emissions.

2. Emissions of methyl chloroform must be reported under the Federal Right-to-Know regulations. Requiring control of emissions of methyl chloroform to the air reduces risk to the general public due to chronic exposure in New Jersey.

3. Methyl chloroform has been implicated in the destruction of the stratospheric ozone layer. As the Department plans to move toward rules to protect the earth's protective shield from chlorine and bromine-catalyzed destruction, exempting this compound from control at this time is not prudent.

4. Finally, although the photochemical reactivity of methyl chloroform is low, it is not zero. Emissions of methyl chloroform could travel long distances downwind, contributing to the ground level ozone problem in New England. New Jersey has always expressed its concern about long-range transport, and regulating compounds with low photochemical reactivity is one way this concern has been expressed.

A copy of this notice has been mailed to the petitioner, as required by N.J.A.C. 7:1-1.2.

(b)

DIVISION OF WATER RESOURCES

Notice of Availability of Grants Water Quality Management Planning and Implementation Process Pass-Through Grant Program

Take notice that, in compliance with N.J.S.A. 52:14-34.4, the Department of Environmental Protection hereby announces the availability of the following State grant funds:

A. Name of program: Water Quality Management Planning and Implementation Process Pass-Through Grant Program.

B. Purpose: The purpose of the Water Quality Management Planning and Implementation Process Pass-Through Grant Program is to implement Section 205(j)(3) of the Federal Clean Water Act (Act), 33 U.S.C. §§ 1251 to 1387, which requires that at least 40 percent of the funds

awarded to the State under Sections 205(j)(1) and 604(b) of the Act be allocated to certain other organizations for water quality management planning activities.

C. Amount of money in the program: The Department anticipates that approximately \$308,268 will be available to fund Water Quality Management Planning and Implementation Process Pass-Through Grants in calendar year 1990.

D. Individuals or organizations who may apply for funding under this program: Regional public comprehensive planning organizations and interstate organizations may apply for funding under this program. Eligible organizations include, but are not limited to:

1. Municipal governments;
2. County governments;
3. Soil conservation districts, if the district is chartered with appropriate powers as a unit of local government; and
4. Interstate agencies formed under an interstate agreement to which the State is a party.

E. Qualifications needed by an applicant to be considered for the program: To be eligible for financial assistance under this program, the applicant must meet the following criteria:

1. The applicant must have sufficient staff and resource capability, expertise, and environmental experience to perform the proposed project;
2. The applicant must have the ability to implement the management program which results from the proposed project; and
3. The applicant must provide a match of an amount equivalent to at least 40 percent of the total project cost. The match may consist of either cash funds, in-kind services, or a combination of both.

F. Projects eligible for funding: To be eligible for financial assistance under this program, a proposed project must result in an implementable product and must pertain to one of the following subject areas:

1. The development of a comprehensive regional nonpoint source pollution control and environmentally sensitive area management program; or
2. The development of a regional water resource toxic contamination identification and control program.

G. Procedure for potential applicants: Grants awarded under the Water Quality Planning and Implementation Process Pass-Through Grant Program are governed by Section 205(j) and 604(b) of the Act, applicable guidance from the U.S. Environmental Protection Agency, and the terms of grant agreements to be executed between the applicant and the Department.

Requests for grants under this program must be submitted in writing to:

Barry Chalofsky, Acting Chief
Bureau of Water Quality Planning
Division of Water Resources
CN 029
Trenton, New Jersey 08625

Applicants for a grant under this program must submit a written proposal addressing each of the following subjects:

1. The cost of the overall project;
2. The amount of funding requested, and the amount and nature of the matching funds to be provided by the applicant;
3. A specific breakdown of personnel and non-personnel project costs;
4. A description of staffing and resources to be devoted to the proposed project;
5. A discussion of the expertise and experience of the applicant in endeavors related to the proposed work activities and with water resources planning in general;
6. Evidence of the ability of the applicant to implement the provisions which would result from the proposed project;
7. Detailed descriptions of each of the proposed work activities and the outputs to result from each;
8. A discussion of the waterbody or waterbodies to be affected (if applicable) and how the proposed work will help preserve, protect, or enhance its quality;
9. A time line which specifies the anticipated completion date of each activity and subactivity including the dates by which outputs are to be completed. The time line should be based on a project duration of one year; and
10. A discussion of those items which the applicant plans to subcontract to other entities to perform portions of the proposed work and justification for the subcontracting.

ENVIRONMENTAL PROTECTION

PUBLIC NOTICES

H. Deadline by which applications must be submitted: Applications for funding during calendar year 1990 must be submitted by August 16, 1990.

I. Date by which applicants shall be notified of approval or disapproval: By September 30, 1990, the Department shall notify applicants of preliminary approval or disapproval of applications submitted under this program. Final approval or disapproval of applications is subject to further project review by the Department and the U.S. Environmental Protection Agency.

(a)

DIVISION OF WATER RESOURCES

**Amendment to the Upper Delaware Water Quality Management Plan
Public Notice**

Take notice that on May 17, 1990, pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Upper Delaware Water Quality Management Plan was adopted by the Department. This amendment adopts the expansion of the BP Performance Polymers, Inc. wastewater treatment facility in Mansfield Township, Warren County. The expansion is necessary to accommodate an additional 14,000 gallons per day of wastewater flow from a proposed plastic production plant. Flows from an ECRA clean-up project will also be treated at the facility.

(b)

DIVISION OF WATER RESOURCES

**Amendment to the Upper Raritan Water Quality Management Plan
Public Notice**

Take notice that an amendment to the Upper Raritan Water Quality Management (WQM) Plan has been submitted for approval. This amendment would adopt changes to the Roxbury Township Wastewater Management Plan (WMP) "Existing and Proposed Sewer Service Areas" map. Included among these changes are a redefinition of the Ajax Sewage Treatment Plant sewer service area, corrections of the areas presently sewer, and correction of terminology which is used on the map.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Raritan WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to Barry Chalofsky, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment or extend the public comment period in this notice up to 30 additional days. These requests must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of this public notice to Mr. Chalofsky at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall be extended 15 days after the close of the public hearing.

(c)

DIVISION OF WATER RESOURCES

**Amendment to the Tri-County Water Quality Management Plan
Public Notice**

Take notice that on June 5, 1990, pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide

Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Tri-County Water Quality Management Plan was adopted by the Department. This amendment adopts the expansion of the Gloucester County Utility Authority's sewer service area to include two East Greenwich Township Elementary Schools which are located on a 24-acre site in East Greenwich Township on Block 901, Lot 3 and Block 1001, Lots 5.1 and 7.

HEALTH

(d)

DIVISION OF COMMUNITY HEALTH SERVICES

**Notice of Availability of Grants
Perinatal AIDS Prevention Project—Research Grants**

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6 (P.L. 1987, c.7), the Department of Health hereby publishes notice of the availability of the following grant:

A. Name of grant program: Perinatal AIDS Prevention Project—Research Grants, Grant Program No. 91-77-MCH.

B. Purpose for which the grant program funds will be used: To conduct research on the knowledge, attitudes and behaviors of women who are HIV infected or at high risk of HIV infection.

C. Amount of money in the grant program: The availability of funds for this program is contingent on appropriation of funds to the department. Contact the person identified on this form to determine whether funds have been awarded and to receive further information.

D. Groups or entities which may apply for the grant program: Universities, hospitals or non-profit research institutes.

E. Qualifications needed by an applicant to be considered for a grant: Knowledge of HIV and the particular issues impacting on HIV infection in women. Ability to conduct interviews of the target population. Knowledge of risk reduction and prevention education. Ability to conduct statistical analyses of the data collected and prepare research papers.

F. Procedures for eligible entities to apply for grant funds: 1. Contact Office of the Director for Program referral. 2. Contact Program. 3. Submit Letter of Intent to Program. 4. Prepare Health Service Grant Application.

G. For information contact:
Maternal and Child Health Services
Office of the Director
363 W. State Street, CN 364
Trenton, NJ 08625-0364
609-292-5656

H. Deadline by which applications must be submitted: Letters of Intent due to funding program by August 1.

I. Date by which applicant shall be notified whether they will receive funds: October 1, 1990.

(e)

ALCOHOLISM AND DRUG ABUSE

**Notice of Publication
Schedules of Controlled Dangerous Substances**

Authorized By: Francis M. Dunston, M.D., M.P.H.,
Commissioner, Department of Health.
Authority: N.J.S.A. 24:21-3.

Take notice that the Commissioner of Health, pursuant to the authority of N.J.S.A. 24:21-3 to provide annually a list of substances subject to the New Jersey Controlled Dangerous Substances Act, sets forth the list as found in the New Jersey Administrative Code at N.J.A.C. 8:65-10.1 through 10.5 inclusive and any supplements thereto and further acknowledges that list to be the controlled dangerous substances thereby controlled.

Copies may be obtained from the Office of Administrative Law, C.N. 049, Trenton, NJ 08625-0049 or reviewed in the Office of Drug Control, New Jersey State Department of Health, C.N. 362 (129 E. Hanover Street), Trenton, NJ 08625-0362 administered by Lucius A. Bowser, R.P., M.P.H., Chief (609-984-1308).

PUBLIC NOTICES

LAW AND PUBLIC SAFETY

A notice in the New Jersey Register complies with the requirement of N.J.S.A. 24:21-3 mandating annual publication of the list of controlled dangerous substances.

LAW AND PUBLIC SAFETY

(a)

OFFICE OF THE ATTORNEY GENERAL

Notice of the Availability of Quarterly Report of Legislative Agents for the First Quarter of 1990

Take notice that Robert J. Del Tufo, Attorney General of the State of New Jersey, in compliance with N.J.S.A. 52:13C-23(h), hereby publishes Notice of the Availability of the Quarterly Report of Legislative Agents for the First Quarter of 1990, accompanied by a Summary of the Quarterly Report.

At the conclusion of the First Quarter of 1990, the Notices of Representation filed with this office reflect that 627 individuals are registered as Legislative Agents. Legislative Agents are required by law to submit in writing a Quarterly Report of their activity in attempting to influence Legislation during each calendar quarter. The aforesaid report shall be filed between the first and tenth days of each calendar quarter for such activity that occurred during the preceding calendar quarter. (N.J.S.A. 52:13C-22(b)).

A complete Quarterly Report of Legislative Agents, consisting of the Summary and copies of all Quarterly Reports filed by Legislative Agents for the First Calendar Quarter of 1990, has been filed separately for reference with the following offices: the Office of the Governor, the Office of the Attorney General, the Office of Legislative Services (Bill Room), the Office of Administrative Law, and the State Library. Each is available for inspection in accordance with the practices of those offices.

The Summary Report includes the following information:

The names of registered Agents, their registration numbers, their business addresses and whom they represent.

A list of Agents who have filed Quarterly Reports by Statutory and Compilation Deadlines for this quarter.

A list of Agents whose Quarterly Reports were not received by the Compilation Deadline for this quarter.

Following is a listing of all new Legislative Agents who have filed Notices of Representation during the First Calendar Quarter of 1990:

No. 291, Wendy E. Wolf, representing Nancy H. Becker Assoc. Inc.

No. 291, Jeffrey Kaszerman, representing Nancy H. Becker Assoc. Inc.

No. 333, Dennis J. Nagy, representing NJ State Fraternal Order of Police

No. 335, Dorothy D. Flemming, representing NJ State Nurses Ass'n

No. 393, Adrienne Bliss Brown, representing American Ass'n of University Women

No. 393, Sally Anne Goodson, representing American Ass'n of University Women

No. 393, Jan McLachlan, representing American Ass'n of University Women

No. 405, Eugene J. Keyek, representing NJ Ass'n of School Business Officials

No. 433, Sharon A. Harrington, representing Public Strategies Inc.

No. 564, Richard Bagger, representing McCarter & English

No. 564, Joseph C. Small, representing McCarter & English

No. 564, Rosanne Kemmet, representing McCarter & English

No. 564, Michael Guariglia, representing McCarter & English

No. 570, William L. Bowers, representing Marion Merrell Dow

No. 571, James M. Palmieri, representing Independent Lobbyist

No. 572, Robert L. Jones, representing American Cyanamid

No. 573, John M. Alati, representing John Alati Assoc. and Seton Hall University

No. 574, Larry Charles Wallis, representing NJ Optometric Ass'n

No. 576, John M. Bloomfield, representing Merck & Co.

No. 577, David B. Ward, representing Beneficial Management Corp.

No. 578, Kenneth C. Lefevre, representing Worco Travel Inc.

No. 579, Maureen M. Stasi, representing Schering Plough Corp.

No. 580, Murray Ernest Bevan, representing NJ Hospital Ass'n

No. 581, Matthew Burns, representing Keane, Brady & Burns

No. 582, Robert A. Gaines, representing American Insurance Ass'n

No. 583, Hazel Frank Gluck, representing Public Policy Advisors Inc. and National Automotive Certification (NAC)

No. 583, Sidney Ytkin, representing Public Policy Advisors Inc. and National Automotive Certification (NAC)

No. 583, Judith Shaw Berry, representing Public Policy Advisors Inc. and National Automotive Certification (NAC)

No. 583, Sheryl A. Stitt, representing Public Policy Advisors Inc. and National Automotive Certification (NAC)

No. 584, Charles J. Irwin, representing Irwin, Post, Polak, Goodsell & Mantell, PA and National Rifle Ass'n

No. 585, Joseph C. Salema, representing Consolidated Financial Management Inc. and United States Automobile Ass'n

No. 586, Hans H. Nord, representing Americans for Democratic Action (New Jersey)

No. 587, Robert Stears, representing Public Interest Inc.

No. 587, Phoenix Smith, representing Public Interest Inc.

No. 589, Rebecca D. Perkins, representing Rebecca Perkins Public Relations and County Officers Ass'n of NJ

No. 590, Richard Feldman, representing National Rifle Ass'n

No. 591, Thaddeus C. Zebrowski, representing Deringo Enterprises Inc.

Following is a listing of all Legislative Agents who have filed Notices of Termination during the First Calendar Quarter of 1990:

LEGISLATIVE AGENT	REGISTRATION NUMBER
Jean A. Holtz	3
Christopher W. Cooney	45
Robert Holst	53
Thomas J. Hastie, Jr.	65
Adam Kaufman	94
James R. Tobin	101
Jean Kraemer	103
Robert O. Pellet	108
Patrick D. Nardolilli	120
Roger H. McDonough	154
William R. Bilarczyk	162
Robert W. Bilheimer	164
Patricia Farley Colby	209
Lynn M. Nowak	291
Diane R. Quinton	291
Brian J. Kelly	295
Virginia Van Wynen Baeckler	306
Martin S. Wilson	315
Patrick Meehan	333
T. James Conroy	333
Barbara W. Wright	335
Joan P. Geer	342
Michael J. DeRogatis	387
James McQueeney	433
Robert Abeadi	492
William Tallman	492
Michael D. Figler	492
Steven Toth	492
Jeffery R. Lynch	492
Gerard P. McGrath	492
Lincoln H. Bormann	497
Mark Weaver	551

For further information contact the Legislative Agents Unit at (609) 984-9371.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter**. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1		N.J.A.C.	Expiration Date
N.J.A.C.	Expiration Date	3:18	1/19/93
1:1	5/4/92	3:19	3/17/91
1:5	10/20/91	3:21	2/2/92
1:6	5/4/92	3:22	5/12/94
1:6A	3/19/95	3:23	7/6/92
1:7	5/4/92	3:24	8/18/94
1:10	5/4/92	3:25	8/17/92
1:10A	5/4/92	3:26	12/31/90
1:10B	10/6/91	3:27	9/16/90
1:11	5/4/92	3:28	12/12/94
1:13	5/4/92	3:32	10/3/93
1:13A	4/3/94	3:33	9/18/94
1:20	5/4/92	3:38	10/5/92
1:21	5/4/92	3:41	10/16/90
1:30	2/14/91	3:42	4/4/93
1:31	6/17/92		

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	1/17/94
2:3	8/21/94
2:5	8/21/94
2:6	9/3/90
2:9	7/7/91
2:16	5/7/90
2:22	7/6/92
2:23	7/18/93
2:24	4/2/95
2:32	6/1/92
2:33	3/6/94
2:34	1/2/95
2:48	11/27/90
2:50	5/1/92
2:52	5/1/95
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	11/7/93
2:69	11/7/93
2:70	5/7/90
2:71	7/8/93
2:72	7/8/93
2:73	7/8/93
2:74	7/8/93
2:76	7/31/94
2:90	6/24/90

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/12/95
3:3	1/11/95
3:6	3/3/91
3:7	9/16/90
3:11	5/1/94
3:13	11/17/91
3:16	6/18/95
3:17	6/18/91

PERSONNEL (CIVIL SERVICE)—TITLE 4/4A

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/20/94
4:6	5/5/91
4A:1	10/5/92
4A:2	10/5/92
4A:3	9/6/93
4A:4	6/6/93
4A:5	10/5/92
4A:6	1/4/93
4A:7	10/5/92
4A:8	1/16/95
4A:9	10/5/92
4A:10	11/2/92

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:1	2/5/95
5:2	4/10/94
5:3	9/1/93
5:4	10/5/92
5:10	11/17/93
5:11	3/10/94
5:12	12/27/94
5:13	12/24/92
5:14	12/1/90
5:15	5/1/94
5:18	1/4/95
5:18A	1/4/95
5:18B	1/4/95
5:18C	2/5/95
5:19	2/1/93
5:22	2/5/95
5:23	3/1/93
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	5/2/95
5:28	12/20/90
5:29	6/18/91
5:30	6/29/93
5:31	12/1/94

N.J.A.C.	Expiration Date
5:37	11/18/90
5:38	10/27/93
5:51	9/1/93
5:52	1/2/95
5:70	7/9/92
5:71	6/4/95
5:80	4/20/95
5:91	6/16/91
5:92	6/16/91
5:100	6/18/95

DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS—TITLE 5A

N.J.A.C.	Expiration Date
5A:1	5/12/95
5A:2	5/17/95

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:2	2/6/94
6:3	7/8/93
6:7	1/2/95
6:8	1/5/92
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	11/22/94
6:22	9/30/90
6:22A	12/19/93
6:24	4/2/91
6:28	4/10/94
6:29	2/8/95
6:30	7/5/93
6:31	11/16/94
6:39	8/14/94
6:43	4/7/91
6:46	10/5/92
6:53	7/7/92
6:64	1/11/93
6:68	2/26/95
6:69	6/4/91
6:70	10/17/94
6:78	11/7/93
6:79	11/25/92

ENVIRONMENTAL PROTECTION—TITLE 7

N.J.A.C.	Expiration Date
7:1	9/16/90
7:1A	6/5/92
7:1C	6/17/90
7:1D	11/28/93
7:1E	7/15/90
7:1F	4/20/92
7:1G	9/29/94
7:1H	7/24/90
7:1I	7/18/93
7:2	6/24/93
7:3	3/21/93
7:4A	9/18/94
7:5C	1/16/95
7:6	6/9/94
7:7	5/12/94
7:7A	6/6/93
7:7E	7/24/90
7:7F	1/19/93
7:8	2/5/93
7:9	1/21/91
7:9A	8/21/94
7:10	9/1/94
7:11	5/13/93
7:12	4/11/93
7:13	7/14/94

N.J.A.C.	Expiration Date
7:14	4/27/94
7:14A	6/2/94
7:14B	12/21/92
7:15	10/2/94
7:17	4/7/91
7:18	8/6/91
7:19	2/26/95
7:19A	3/19/95
7:19B	3/19/95
7:20	5/2/95
7:20A	12/16/93
7:22	1/5/92
7:22A	2/5/95
7:23	6/9/94
7:24	5/19/91
7:25	2/18/91
7:25A	4/23/95
7:26	11/4/90
7:26B	12/21/92
7:27	Exempt
7:27A	12/4/94
7:27B-3	Exempt
7:28	10/7/90
7:29	5/21/95
7:29B	2/1/93
7:30	12/4/92
7:31	6/20/93
7:36	11/21/93
7:38	9/18/90
7:45	2/6/94

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	4/12/94
8:9	2/18/91
8:13	9/8/92
8:18	11/6/94
8:19	5/11/95
8:20	3/2/95
8:21	11/18/90
8:21A	4/1/90
8:22	8/4/91
8:23	12/13/94
8:24	5/2/93
8:25	5/19/93
8:26	8/4/91
8:31	1/16/95
8:31A	2/20/95
8:31B	10/15/90
8:31C	1/20/92
8:33	10/7/90
8:33A	2/20/92
8:33B	10/7/90
8:33C	7/17/91
8:33E	6/23/92
8:33F	11/16/94
8:33G	7/17/94
8:33H	5/16/95
8:33I	9/15/91
8:33J	4/24/94
8:33K	3/27/94
8:33L	11/16/92
8:33M	7/17/94
8:33N	5/15/94
8:33P	3/19/95
8:34	11/15/93
8:39	6/20/93
8:40	5/7/91
8:41	2/17/92
8:42	8/17/92
8:42A	6/19/94
8:42B	7/18/93
8:43	1/21/91
8:43A	9/3/90

N.J.A.C.	Expiration Date	N.J.A.C.	Expiration Date
8:43E	12/11/92	10:59	3/3/91
8:43F	2/20/95	10:60	8/27/90
8:43G	2/5/95	10:61	3/3/91
8:43H	8/21/94	10:62	3/3/91
8:43I	3/21/93	10:63	11/28/94
8:44	11/2/93	10:64	3/3/91
8:45	2/7/95	10:65	8/25/94
8:48	8/20/89	10:66	12/15/93
8:51	9/16/90	10:67	3/3/91
8:52	12/15/91	10:68	7/7/91
8:53	8/4/91	10:69	6/6/93
8:57	4/20/95	10:69A	4/20/93
8:57A	4/20/95	10:69B	11/21/93
8:59	9/29/94	10:70	6/16/91
8:60	5/3/95	10:71	1/6/91
8:61	10/6/91	10:72	8/27/92
8:65	12/2/90	10:80	5/19/94
8:66	3/5/95	10:81	8/24/94
8:66A	3/5/95	10:82	8/24/94
8:70	8/19/93	10:83	1/19/94
8:71	2/17/94	10:85	12/20/94
		10:87	1/27/94
		10:89	5/24/95
		10:90	10/14/92
		10:95	8/23/89
		10:97	5/15/94
		10:99	6/4/95
		10:109	3/17/91
		10:120	8/21/91
		10:121	3/13/89
		10:121A	12/7/92
		10:122	5/15/94
		10:122A	Exempt
		10:122B	9/10/89
		10:123	7/29/90
		10:124	12/7/92
		10:125	6/4/95
		10:126	11/7/93
		10:126A	5/7/95
		10:127	8/26/93
		10:129	7/5/90
		10:130	7/2/95
		10:131	12/7/92
		10:132	1/5/92
		10:141	2/7/94

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	2/21/94
9:2	5/4/95
9:3	9/27/93
9:4	10/30/91
9:5	1/21/91
9:6	4/30/95
9:6A	1/4/93
9:7	2/28/93
9:8	11/4/90
9:9	10/3/93
9:11	4/17/94
9:12	4/17/94
9:14	4/11/95
9:15	8/21/94

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	11/7/93
10:2	1/5/92
10:3	11/21/93
10:4	1/3/88
10:11	1/16/95
10:12	1/5/92
10:13	7/18/93
10:14	5/16/93
10:31	6/5/94
10:36	8/18/91
10:37	11/4/90
10:38	5/28/91
10:39	5/7/95
10:40	5/11/94
10:41	3/20/94
10:42	8/18/91
10:43	8/21/94
10:44	10/3/88
10:44A	11/21/93
10:44B	4/15/90
10:45	2/20/95
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/8/95
10:53	4/27/95
10:54	3/3/91
10:55	3/8/95
10:56	8/26/91
10:57	3/3/91
10:58	3/3/91

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:1	7/6/92
10A:2	2/5/95
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:6	11/2/92
10A:8	11/16/92
10A:9	1/20/92
10A:10-6	8/17/92
10A:16	4/6/92
10A:17	12/15/91
10A:18	7/6/92
10A:19	8/21/94
10A:22	7/5/93
10A:31	3/5/95
10A:32	4/16/95
10A:33	5/2/94
10A:34	4/6/92
10A:70	Exempt
10A:71	2/5/95

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	6/24/90

N.J.A.C.		LAW AND PUBLIC SAFETY—TITLE 13	
	Expiration Date	N.J.A.C.	Expiration Date
11:1-22	6/24/90	13:1	7/5/93
11:2	12/2/90	13:2	8/5/90
11:3	1/6/91	13:3	4/25/93
11:4	12/2/90	13:4	1/21/91
11:5	10/28/93	13:10	3/27/94
11:7	10/19/92	13:13	6/17/90
11:10	7/15/90	13:18	3/30/95
11:12	10/27/91	13:19	8/18/94
11:13	11/12/92	13:20	12/18/90
11:15	10/26/94	13:21	12/16/90
11:16	2/3/91	13:22	1/7/90
11:17	4/18/93	13:23	5/26/94
11:17A	1/2/95	13:24	9/27/94
11:17B	1/2/95	13:25	3/16/95
11:17C	1/2/95	13:26	9/26/93
11:17D	1/2/95	13:27	2/20/95
11:18	12/18/94	13:28	5/16/93
		13:29	5/23/95
		13:30	3/12/95
		13:31	12/12/91
		13:32	10/23/92
		13:33	3/12/95
		13:34	10/26/93
		13:35	9/21/94
		13:36	9/27/94
		13:37	1/23/95
		13:38	10/7/90
		13:39	6/19/94
		13:39A	7/7/91
		13:40	9/3/90
		13:41	9/3/90
		13:42	10/31/93
		13:43	9/1/93
		13:44	8/7/94
		13:44B	11/2/92
		13:44C	7/18/93
		13:44D	8/7/94
		13:45A	12/16/90
		13:45B	4/17/94
		13:46	6/3/90
		13:47	2/2/92
		13:47A	10/5/92
		13:47B	2/21/94
		13:47C	6/9/94
		13:48	1/21/91
		13:49	12/16/93
		13:51	4/27/92
		13:54	10/5/91
		13:58	9/7/89
		13:59	9/16/90
		13:60	1/20/92
		13:61	3/5/95
		13:62	3/19/95
		13:70	1/25/95
		13:71	1/25/95
		13:75	6/5/94
		13:76	6/27/93
		13:77	2/1/93
		13:78	3/20/94

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:3	12/19/93
12:5	9/19/93
12:6	10/17/93
12:15	8/19/90
12:16	3/23/95
12:17	1/6/91
12:18	3/7/93
12:19	7/2/95
12:20	8/14/94
12:35	8/5/90
12:40	2/5/95
12:41	1/17/94
12:45	5/2/93
12:46	5/2/93
12:47	5/2/93
12:48	5/2/93
12:49	5/2/93
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90
12:60	3/21/93
12:90	12/15/94
12:100	9/22/94
12:102	5/21/95
12:105	1/21/91
12:110	1/19/93
12:112	9/6/93
12:120	5/3/95
12:175	11/28/93
12:190	1/4/93
12:195	6/24/93
12:200	8/5/90
12:210	9/6/93
12:235	5/5/91

COMMERCE, ENERGY, AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12A:9	3/7/93
12A:10-1	10/13/94
12A:11	9/21/92
12A:12	9/21/92
12A:50	8/15/93
12A:54	8/15/93
12A:60	11/21/93
12A:80	7/2/95
12A:100-1	9/8/91
12A:120	9/6/93
12A:121	12/5/93

PUBLIC UTILITIES—TITLE 14	
N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:10	9/8/91
14:10-6	9/5/91
14:11	1/27/92
14:17	4/24/94
14:18	7/29/90
14:25	3/5/95

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
14A:5	10/19/88
14A:6	1/16/95
14A:7	9/16/90
14A:8	1/16/95
14A:11	1/16/95
14A:13	2/2/92
14A:14	1/30/94
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

N.J.A.C.	Expiration Date
16:76	2/6/94
16:77	3/5/95
16:78	10/7/90
16:79	10/20/91
16:80	11/7/93
16:81	11/7/93
16:82	9/5/94

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	5/2/93
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

PUBLIC ADVOCATE—TITLE 15A

N.J.A.C.	Expiration Date
15A:2	12/27/94

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:1A	6/16/94
16:5	11/20/94
16:6	8/7/94
16:7	3/6/94
16:20A	2/20/95
16:20B	2/20/95
16:21	9/3/90
16:21A	11/20/94
16:22	2/3/91
16:24	2/5/95
16:25	8/15/93
16:25A	7/18/93
16:26	9/5/94
16:27	9/8/91
16:28	6/1/93
16:28A	6/1/93
16:29	6/1/93
16:30	6/1/93
16:31	6/1/93
16:31A	6/1/93
16:32	2/8/95
16:41	7/28/92
16:41A	1/23/95
16:41B	7/2/95
16:43	5/10/95
16:44	5/25/93
16:45	9/18/94
16:46	11/6/94
16:49	2/8/95
16:51	4/6/92
16:53	7/17/94
16:53B	7/3/94
16:53C	6/16/93
16:53D	5/3/94
16:54	4/7/91
16:55	6/14/93
16:56	8/7/94
16:60	6/14/93
16:61	6/14/93
16:62	2/26/95
16:72	3/31/91
16:73	1/30/92
16:75	5/13/93

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
17:1	5/6/93
17:2	11/8/94
17:3	8/15/93
17:4	6/8/95
17:5	12/2/90
17:6	11/22/93
17:7	12/19/93
17:8	6/27/90
17:9	10/3/93
17:10	5/6/93
17:12	10/13/94
17:13	10/13/94
17:14	10/13/94
17:16	12/2/90
17:19	3/8/95
17:20	9/26/93
17:25	5/26/94
17:27	10/7/93
17:28	9/13/90
17:29	10/18/90
17:30	5/4/92
17:32	3/21/93
17:33	4/17/94

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:1	7/21/94
18:2	9/6/93
18:3	3/14/94
18:5	3/14/94
18:6	3/14/94
18:7	3/14/94
18:8	2/24/94
18:9	6/7/93
18:12	7/29/93
18:12A	7/29/93
18:14	7/29/93
18:15	7/29/93
18:16	7/29/93
18:17	7/29/93
18:18	3/14/94
18:19	3/14/94
18:22	2/24/94
18:23	2/24/94
18:23A	8/5/90
18:24	6/7/93
18:25	1/6/91
18:26	6/7/93
18:35	6/7/93
18:36	3/19/95
18:37	8/5/90
18:38	2/16/93
18:39	9/8/92

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	5/26/93
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	5/26/93
19:4A	6/20/93
19:8	7/5/93

N.J.A.C.

19:9
19:10
19:12
19:16
19:17
19:18
19:20
19:25
19:30
19:40
19:41
19:42
19:43
19:44

Expiration Date

10/17/93
9/5/94
8/7/91
8/7/91
6/8/93
5/21/95
2/5/95
1/9/91
10/7/90
8/24/94
5/12/93
5/12/93
4/27/94
9/29/93

N.J.A.C.

19:45
19:46
19:47
19:48
19:49
19:50
19:51
19:52
19:53
19:54
19:61
19:65
19:75

Expiration Date

3/24/93
4/28/93
4/28/93
10/13/93
3/24/93
5/12/93
8/14/91
9/25/91
4/28/93
3/24/93
7/7/91
7/7/91
1/13/94

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 May 7, 1990 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(c).

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.1990 d.1 means the first rule adopted in 1990.

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 series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT APRIL 16, 1990

NEXT UPDATE: SUPPLEMENT MAY 21, 1990

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
21 N.J.R. 1763 and 1934	July 3, 1989	22 N.J.R. 89 and 272	January 16, 1990
21 N.J.R. 1935 and 2148	July 17, 1989	22 N.J.R. 273 and 584	February 5, 1990
21 N.J.R. 2149 and 2426	August 7, 1989	22 N.J.R. 585 and 686	February 20, 1990
21 N.J.R. 2427 and 2690	August 21, 1989	22 N.J.R. 687 and 884	March 5, 1990
21 N.J.R. 2691 and 2842	September 5, 1989	22 N.J.R. 885 and 1010	March 19, 1990
21 N.J.R. 2843 and 3042	September 18, 1989	22 N.J.R. 1011 and 1182	April 2, 1990
21 N.J.R. 3043 and 3204	October 2, 1989	22 N.J.R. 1183 and 1290	April 16, 1990
21 N.J.R. 3205 and 3330	October 16, 1989	22 N.J.R. 1291 and 1408	May 7, 1990
21 N.J.R. 3331 and 3584	November 6, 1989	22 N.J.R. 1409 and 1648	May 21, 1990
21 N.J.R. 3585 and 3688	November 20, 1989	22 N.J.R. 1649 and 1806	June 4, 1990
21 N.J.R. 3689 and 3812	December 4, 1989	22 N.J.R. 1807 and 1964	June 18, 1990
21 N.J.R. 3813 and 3986	December 18, 1989	22 N.J.R. 1965 and 2062	July 2, 1990
22 N.J.R. 1 and 88	January 2, 1990		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-12.5	Partial summary decisions	22 N.J.R. 3(a)		
1:1-14.10	Interlocutory review of ALJ ruling	22 N.J.R. 590(a)	R.1990 d.219	22 N.J.R. 1353(a)
1:6A	Special education hearings: public hearings	21 N.J.R. 3045(a)		
1:6A-4.2, 9.1	Scheduling of special education hearing	22 N.J.R. 1295(a)		
1:11-10.1	Discovery in private passenger automobile insurance rate hearings	21 N.J.R. 3815(a)		
1:13-1.1, 14.4	DMV cases involving excessive points, surcharges, and certain failures to appear	22 N.J.R. 91(a)	R.1990 d.220	22 N.J.R. 1353(b)

Most recent update to Title 1: TRANSMITTAL 1990-2 (supplement March 19, 1990)

AGRICULTURE—TITLE 2				
2:52	Milk processors, dealers and subdealers	22 N.J.R. 888(a)	R.1990 d.271	22 N.J.R. 1553(a)
2:52-6, 7	Milk supply and sale	Emergency (expires 6-24-90)	R.1990 d.252	22 N.J.R. 1629(a)
2:53-3, 4, 6, 7	Milk supply and sale	Emergency (expires 6-24-90)	R.1990 d.252	22 N.J.R. 1629(a)
2:69-1.11	Commercial values of primary plant nutrients	22 N.J.R. 1295(b)		
2:70-1	Classification of liming materials	22 N.J.R. 1411(a)		
2:71-2.2-2.6	Jersey Fresh Quality Grading Program	22 N.J.R. 1296(a)		
2:71-2.28, 2.29, 2.31	Fruits and vegetables: fees for inspection and grading	22 N.J.R. 1242(c)	R.1990 d.318	22 N.J.R. 1914(a)
2:76-6.2, 6.5, 6.6, 6.9-6.12, 6.15-6.17	Farmland preservation program	22 N.J.R. 1244(a)		
2:90	State Soil Conservation Committee rules	22 N.J.R. 1299(a)		

Most recent update to Title 2: TRANSMITTAL 1990-3 (supplement April 16, 1990)

BANKING—TITLE 3				
3:0	Compensation to mortgage bankers, brokers and real estate licensees for placing mortgage loans: preproposal	22 N.J.R. 275(a)		
3:1-4.2, 4.7, 4.9, 4.10	Protection of governmental unit deposits	22 N.J.R. 1809(a)		
3:1-14	Revolving credit equity loans	21 N.J.R. 3333(b)		
3:1-17	Senior citizen homeowner's reverse mortgage loans	21 N.J.R. 3207(b)		
3:2	Advertising by financial institutions	22 N.J.R. 690(b)	R.1990 d.236	22 N.J.R. 1353(c)
3:16-2.3	Pawnbrokers' sales of unredeemed pledges at public auction	22 N.J.R. 1015(a)	R.1990 d.302	22 N.J.R. 1914(b)
3:18-3.5	Repeal (see 3:1-14)	21 N.J.R. 3333(b)		
3:41-7.4	Temporary storage of human remains by cemetery company	22 N.J.R. 1185(a)		

Most recent update to Title 3: TRANSMITTAL 1990-2 (supplement February 20, 1990)

CIVIL SERVICE—TITLE 4

Most recent update to Title 4: TRANSMITTAL 1990-1 (supplement January 16, 1990)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
PERSONNEL—TITLE 4A				
4A:2-2.3	Misuse of State property	22 N.J.R. 1015(b)	R.1990 d.308	22 N.J.R. 1915(a)
4A:4-6.5	Psychological disqualification proceeding	22 N.J.R. 1300(a)		
4A:6-1.1, 1.3, 1.8, 1.10, 1.21	Family leave	22 N.J.R. 1300(b)		
4A:8-2.4	Family leave	22 N.J.R. 1300(b)		
Most recent update to Title 4A: TRANSMITTAL 1990-1 (supplement January 16, 1990)				
COMMUNITY AFFAIRS—TITLE 5				
5:10-1.6, 1.10, 1.11	Hotels and multiple dwellings: classification of dormitories	22 N.J.R. 1870(a)		
5:10-1.6, 1.11, 1.12, 2.2	Hotels and multiple dwellings: retreat lodging facility registration and inspection certificates	22 N.J.R. 275(b)	R.1990 d.230	22 N.J.R. 1354(a)
5:14	Neighborhood Preservation Balanced Housing Program	22 N.J.R. 1700(b)		
5:18-2.7	Uniform Fire Code and Building Subcode: tents and tensioned membrane structures requiring permits	21 N.J.R. 1654(a)	R.1990 d.325	22 N.J.R. 2001(a)
5:19-4.3	Continuing care retirement communities: administrative correction	_____	_____	22 N.J.R. 1117(b)
5:22-3	Urban enterprise zone municipalities: tax abatements for residential construction	22 N.J.R. 591(a)	R.1990 d.227	22 N.J.R. 1355(a)
5:23	Uniform Construction Code: annual public hearing on change proposals	22 N.J.R. 1016(a)		
5:23-1.1, 1.4, 3.11, 4.1, 4.12-4.15, 4.21, 4.22, 4.24-4.39, 4A	Uniform Construction Code: industrialized and modular buildings	22 N.J.R. 691(a)		
5:23-1.1, 3.4, 4.5, 10	Uniform Construction Code: Radon Hazard Subcode	21 N.J.R. 3696(a)	R.1990 d.226	22 N.J.R. 1356(a)
5:23-3.14	Uniform Fire Code and Building Subcode: tents and tensioned membrane structures requiring permits	21 N.J.R. 1654(a)	R.1990 d.325	22 N.J.R. 2001(a)
5:23-3.14-3.17, 3.20, 3.21	Uniform Construction Code subcodes	22 N.J.R. 909(b)	R.1990 d.253	22 N.J.R. 1554(a)
5:23-4.17	Uniform Construction Code: appropriation of municipal fees	22 N.J.R. 1871(a)		
5:23-4.24A	Uniform Construction Code: alternative plan review program for large projects	21 N.J.R. 1770(a)		
5:23-7.2-7.6, 7.8, 7.9, 7.11, 7.12, 7.17, 7.18, 7.30, 7.37, 7.41, 7.55-7.57, 7.61, 7.67, 7.68, 7.71-7.73, 7.75, 7.76, 7.80-7.82, 7.87, 7.94-7.97	Barrier Free Subcode	21 N.J.R. 2774(a)		
5:23-7.3, 7.50, 7.116	Barrier Free Subcode: administrative corrections	_____	_____	22 N.J.R. 1355(b)
5:23-9.3	Uniform Construction Code: FRT plywood as roof sheathing	21 N.J.R. 3870(a)		
5:23-9.3	Uniform Construction Code: public meeting regarding FRT plywood use as roof sheathing	22 N.J.R. 706(a)		
5:23-9.4	Uniform Construction Code: earthquake zones and seismic design requirements	22 N.J.R. 592(a)		
5:23-9.5	Uniform Construction Code: records retention by code office	22 N.J.R. 1455(a)		
5:24	Condominium and cooperative conversion	22 N.J.R. 1455(b)		
5:25	New home warranties and builders' registration	22 N.J.R. 1701(a)		
5:25-5.4	New Home Warranty Security Plan: builder premium rates	21 N.J.R. 3698(a)		
5:25-5.4	New Home Warranty Security Plan: builder premium rates	22 N.J.R. 277(a)		
5:26	Planned real estate development full disclosure	22 N.J.R. 1702(a)		
5:26-2.2	Planned real estate development full disclosure: registration exemptions	22 N.J.R. 1872(a)		
5:27	Rooming and boarding houses	21 N.J.R. 3871(a)	R.1990 d.275	22 N.J.R. 1720(a)
5:27-1.6, 1.9, 2.1, 8.1	Rooming and boarding house licensure: alcohol and drug rehabilitation facilities	22 N.J.R. 912(a)	R.1990 d.274	22 N.J.R. 1720(b)
5:28	State Housing Code	22 N.J.R. 1456(a)		
5:29-1.2	Landlord registration form for one and two-unit rental dwellings: administrative correction	21 N.J.R. 3699(a)		
5:30	Local Finance Board rules	22 N.J.R. 706(b)		
5:30-14, 17	Repeal; recodify (see 5:34)	22 N.J.R. 724(a)		
5:33	Tax collection administration	22 N.J.R. 706(b)		
5:34	Local public contracts	22 N.J.R. 724(a)		
5:71	County offices on aging	22 N.J.R. 1016(b)	R.1990 d.282	22 N.J.R. 1720(e)
5:80	Housing and Mortgage Finance Agency	22 N.J.R. 277(b)	R.1990 d.248	22 N.J.R. 1556(a)
5:80-18.1, 18.2, 18.3, 18.8	Housing and Mortgage Finance Agency: debarment from agency contracting	21 N.J.R. 3350(a)	R.1990 d.247	22 N.J.R. 1556(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:80-28.1	Housing and Mortgage Finance Agency: nonpublic records	21 N.J.R. 3351(a)	R.1990 d.246	22 N.J.R. 1557(a)
5:91-1.2, 4.5, 6.2, 7.1-7.6	Council on Affordable Housing: mediation and post mediation process	21 N.J.R. 1773(a)		
5:92-8.2	Council on Affordable Housing: inclusionary development on environmentally sensitive lands	22 N.J.R. 730(a)	R.1990 d.254	22 N.J.R. 1557(b)
5:92-12.13, 12.15, 12.16, App.	Council on Affordable Housing: central air conditioning in income-qualified units	22 N.J.R. 1703(a)		
5:100	Ombudsman for institutionalized elderly: practice and procedure	22 N.J.R. 1016(c)	R.1990 d.316	22 N.J.R. 1926(a)
Most recent update to Title 5: TRANSMITTAL 1990-4 (supplement April 16, 1990)				
MILITARY AND VETERANS' AFFAIRS (formerly DEFENSE)—TITLE 5A				
5A:2	Military leave for public employee members of National Guard	22 N.J.R. 1185(b)	R.1990 d.309	22 N.J.R. 1935(a)
Most recent update to Title 5A: TRANSMITTAL 1990-1 (supplement April 16, 1990)				
EDUCATION—TITLE 6				
6:3-1.11, 1.12, 1.24	Teacher preparation and certification	22 N.J.R. 1873(a)		
6:3-2.1, 2.2, 2.5-2.8	Pupil records	22 N.J.R. 1302(a)		
6:11	Teacher preparation and certification	22 N.J.R. 1873(a)		
6:20	School business services	22 N.J.R. 1246(a)		
6:22	School facility planning service	22 N.J.R. 1253(a)		
6:22-2.5	Schools for handicapped pupils: school space sizes and capacity	22 N.J.R. 277(c)	R.1990 d.237	22 N.J.R. 1359(a)
6:28-1.1, 1.3, 1.4, 2.1, 2.3, 2.5-2.9, 3.3-3.7, 3.9, 4.1, 4.2, 4.4-4.8, 5.1, 5.2, 6.1-6.5, 7.1, 7.4, 8.1, 8.4-8.6, 9.2, 10.1, 11.5, 11.6, 11.11, 11.12	Special education	22 N.J.R. 1412(a)		
6:42	Repeal (see 6:43)	22 N.J.R. 1705(a)		
6:43	Vocational and technical programs and standards	22 N.J.R. 1705(a)		
6:46-4.5, 4.12, 4.16	Vocational schools and education	22 N.J.R. 91(b)	R.1990 d.235	22 N.J.R. 1359(b)
Most recent update to Title 6: TRANSMITTAL 1990-3 (supplement March 19, 1990)				
ENVIRONMENTAL PROTECTION—TITLE 7				
7:1	Practice and procedure; hazardous substances discharge reporting; pesticides disposal	22 N.J.R. 1457(a)		
7:1C	Ninety-day construction permits	22 N.J.R. 731(a)		
7:1E	Discharges of petroleum and other hazardous substances	22 N.J.R. 1651(a)		
7:1H	Administration of county environmental health services	22 N.J.R. 732(a)		
7:5C-5.1	Endangered plant species	22 N.J.R. 94(a)	R.1990 d.292	22 N.J.R. 1743(a)
7:6-3.13, 4.9	Boating and water skiing on Budd Lake	Emergency (expires 6-29-90)	R.1990 d.269	22 N.J.R. 1631(a)
7:7A-9.2	Freshwater wetlands protection: Statewide general permits	22 N.J.R. 278(a)		
7:7E	Coastal zone management	22 N.J.R. 1188(a)		
7:7E-5.3	Coastal growth ratings: preproposal regarding Western Ocean County	22 N.J.R. 1214(a)		
7:11-2.1, 2.2, 2.3, 2.9	Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir System: schedule of rates	21 N.J.R. 3836(a)	R.1990 d.294	22 N.J.R. 1755(a)
7:11-4	Manasquan Reservoir Water Supply System: rate schedule	21 N.J.R. 3838(a)	R.1990 d.293	22 N.J.R. 1756(a)
7:11-4	Manasquan Reservoir Water Supply System rate schedule: change of public hearing location	22 N.J.R. 4(a)		
7:11-5	Use of water from Manasquan Reservoir water supply system	21 N.J.R. 3701(a)		
7:12-1.1, 2.1, 3.2, 4.1, 4.2	Shellfish growing water classification	22 N.J.R. 1304(a)		
7:12-1.2, 9	Soft clam and hard clam depuration	22 N.J.R. 97(a)		
7:13-7.1	Redelineation of Rowe Brook in Tewksbury Township, Hunterdon County	21 N.J.R. 3843(a)	R.1990 d.320	22 N.J.R. 1937(b)
7:13-7.1	Redelineation of Pond Run in Hamilton Township, Mercer County	21 N.J.R. 3843(b)	R.1990 d.319	22 N.J.R. 1937(a)
7:14A-1.8	NJPDES permit program: preproposal regarding minimum discharge fees	22 N.J.R. 1652(a)		
7:14A-2.1	Application for NJPDES permit: administrative corrections	_____	_____	22 N.J.R. 2001(b)
7:14A-4.7	Hazardous waste management: polychlorinated biphenyls (PCBs)	21 N.J.R. 1047(a)	R.1990 d.260	22 N.J.R. 1565(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:14A-6.15	NJPDES program: list of hazardous constituents for groundwater monitoring	21 N.J.R. 3844(a)	R.1990 d.259	22 N.J.R. 1558(a)
7:14A-12.22, 12.23	Sewer connection ban exemptions	21 N.J.R. 2240(c)		
7:14B-1.3, 1.4, 1.6, 2.1-2.5, 2.7, 2.8, 3.1, 3.2, 3.4, 3.5, 4-12, 15	Underground storage tank systems	21 N.J.R. 2242(a)		
7:14B-13	Underground Storage Tank Improvement Fund loan program	21 N.J.R. 2265(a)		
7:15-1.1, 1.5, 3.1, 3.2, 3.4, 3.5, 3.6, 3.8, 3.9, 4.1, 4.2, 5.2, 5.4, 5.6, 5.8, 5.14, 5.18, 5.19, 5.23	Statewide water quality management planning: administrative corrections	_____	_____	22 N.J.R. 2001(b)
7:17	Repeal (see 7:12-1.2, 9)	22 N.J.R. 97(a)		
7:18-1.1, 1.4, 1.6, 1.7, 1.9, 2.1-2.4, 2.6, 2.7, 2.10-2.13, 2.15, 5.3, 5.4, 5.5, 5.7, 5.8	Radon laboratory certification program	21 N.J.R. 3354(a)		
7:20-1	Dam safety standards	22 N.J.R. 279(a)	R.1990 d.276	22 N.J.R. 1760(a)
7:25-4.13, 4.17	Endangered and nongame wildlife species	22 N.J.R. 1308(a)		
7:25-5	1990-91 Game Code	22 N.J.R. 1459(a)		
7:25-7.13	Crab dredging in Atlantic Coast section: administrative correction	_____	_____	22 N.J.R. 2005(a)
7:25-18.5-18.11	Gill netting in Delaware Bay	22 N.J.R. 1311(a)		
7:25A	Oyster resource management	22 N.J.R. 283(a)	R.1990 d.250	22 N.J.R. 1573(a)
7:26-1.4, 7.4, 7.5, 7.6, 8.2, 8.3	Hazardous waste exports, imports; small quantity generators; farm pesticide waste	22 N.J.R. 1472(a)		
7:26-1.4, 7.4, 7.7, 8.2, 8.3, 8.4, 8.13, 9.1, 9.2, 10.6, 10.7, 10.8, 11.3, 11.4, 12.1	Hazardous waste management: polychlorinated biphenyls (PCBs)	21 N.J.R. 1047(a)	R.1990 d.260	22 N.J.R. 1565(a)
7:26-1.4, 7.4, 8.2	Hazardous waste management: testing facility exemptions for treatability studies	21 N.J.R. 3705(a)	R.1990 d.228	22 N.J.R. 1362(a)
7:26-2, 2A, 2B, 8	Management of resource recovery facility combustion residual ash: preproposal	22 N.J.R. 108(b)		
7:26-3A.8	Medical waste generator fees	22 N.J.R. 1478(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Bergen County	21 N.J.R. 1486(a)	R.1990 d.324	22 N.J.R. 2005(b)
7:26-6.5	Interdistrict and intradistrict solid waste flow: Camden, Gloucester, Essex and Sussex counties	22 N.J.R. 284(a)		
7:26-7.2, 7.4, 8.1, 8.5, 8.7, 8.13, 8.20	Hazardous waste management: waste code hierarchy; waste determination; waste oils listing; container labeling	22 N.J.R. 288(a)		
7:26-8.2, 12.3	Radioactive mixed wastes	21 N.J.R. 1053(a)	R.1990 d.261	22 N.J.R. 1573(b)
7:26-8.13	Manifesting of nonhazardous waste: preproposal	21 N.J.R. 3220(a)		
7:26-8.21, 12.2	NJPDES program: list of hazardous constituents for groundwater monitoring	21 N.J.R. 3844(a)	R.1990 d.259	22 N.J.R. 1558(a)
7:27-8	Air pollution control permit and certificate process	22 N.J.R. 292(a)		
7:27-8.2	Air pollution control permit and certificate process: correction to proposed amendment	22 N.J.R. 593(a)		
7:27-23.2-23.7	Volatile organic substances in architectural coatings and air fresheners	21 N.J.R. 3360(a)		
7:28	Radiation protection	22 N.J.R. 890(a)		
7:28-1.4, 20	Particle accelerators for industrial and research use	21 N.J.R. 3364(a)		
7:28-3.12	Ionizing radiation-producing machines: registration fees	22 N.J.R. 1653(a)		
7:28-16	Dental radiographic installations	22 N.J.R. 894(a)		
7:28-27	Certification of radon testers and mitigators	21 N.J.R. 3369(a)		
7:29	Noise control	22 N.J.R. 307(a)	R.1990 d.262	22 N.J.R. 1576(a)
7:29	Noise control: extension of comment period	22 N.J.R. 1045(b)		
7:30-1.3, 3.3, 3.4, 3.5, 4.2, 5.4, 5.5, 6.4, 6.5, 6.6, 7.2, 8.3, 9.3	Pesticide Control Program: certification, registration and permit fees	22 N.J.R. 1314(a)		
7:36-8	Green Acres Program: public hearing requirement on proposed transfers or use of Department-held land and water	22 N.J.R. 593(b)		
7:36-8	Green Acres Program: public hearing and extension of comment period regarding public hearing requirement on proposed transfers or use of Department-held land and water	22 N.J.R. 1352(a)		
7:38	Wild and Scenic Rivers System	22 N.J.R. 1317(a)		

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8:13-2	Depuration of hard shell and soft shell clams	22 N.J.R. 109(a)		
8:19	Newborn Screening Program	22 N.J.R. 733(a)	R.1990 d.289	22 N.J.R. 1764(a)
8:31B	Hospital rate setting	22 N.J.R. 1480(a)		
8:31B-3.3, 4.6, 4.41	Hospital reimbursement: uncompensated care audit	21 N.J.R. 3638(a)		
8:31B-3.17	Hospital reimbursement: on-site audits	21 N.J.R. 3639(a)		
8:31B-3.24	Hospital reimbursement: employee health insurance	21 N.J.R. 3277(a)		
8:31B-3.51	Hospital reimbursement: administrative correction	_____		22 N.J.R. 1576(b)
8:31B-4.38, 4.61	Hospital reimbursement: Maternity, Outreach, and Management Services (MOMS)	22 N.J.R. 594(a)		
8:31B-4.40	Hospital reimbursement: appropriate collection procedures	21 N.J.R. 3873(a)		
8:31B-4.125	Hospital reimbursement: outside collection costs	21 N.J.R. 3639(b)		
8:31B-5.3	Hospital reimbursement: Diagnosis Related Groups classification	21 N.J.R. 3873(b)	R.1990 d.265	22 N.J.R. 1576(c)
8:31B-5.3	Diagnosis Related Groups classification: correction to proposal and extension of comment period	22 N.J.R. 308(a)		
8:31B-App. XI	Hospital reimbursement: graduate medical education	22 N.J.R. 735(a)	R.1990 d.266	22 N.J.R. 1591(a)
8:33	Certificate of need application and review process	22 N.J.R. 1494(a)		
8:33B-1	Extracorporeal shock wave lithotripsy services	22 N.J.R. 1495(a)		
8:33H	Long-term care facilities and services	22 N.J.R. 897(a)	R.1990 d.303	22 N.J.R. 1938(a)
8:39-8.1, 8.2, 8.4, 9.2, 11.2, 13.1, 18.4, 19.3, 19.7, 19.8, 23.2, 24.1, 27.1, 27.5, 28.1, 28.2, 29.4, 32.1, 35.2, 37.3, 38.1, 41.3	Licensure of long-term care facilities	22 N.J.R. 1889(a)		
8:40	Invalid coach and ambulance services	22 N.J.R. 595(a)	R.1990 d.239	22 N.J.R. 1364(a)
8:43A	Ambulatory care facilities: licensure standards	22 N.J.R. 1496(a)		
8:43F-23, 24	Adult day health care facilities: physical plant and functional requirements	21 N.J.R. 3403(a)		
8:43G-3	Hospital licensure: compliance with mandatory rules and advisory standards	21 N.J.R. 1608(a)	Expired	
8:43G-4.2	Patient rights (advisory)	21 N.J.R. 2160(b)		
8:43G-5.4, 5.6, 5.8, 5.10, 5.17	Administrative and hospital-wide (advisory)	21 N.J.R. 2926(a)		
8:43G-7.4, 7.6, 7.11, 7.13, 7.27, 7.36	Cardiac services (advisory)	21 N.J.R. 2162(a)		
8:43G-8.3, 8.5, 8.8	Central supply (advisory)	21 N.J.R. 1609(a)	Expired	
8:43G-9.3, 9.6, 9.8, 9.10, 9.12, 9.15, 9.17, 9.22	Critical and intermediate care (advisory)	21 N.J.R. 2167(a)		
8:43G-10.2, 10.5, 10.7, 10.9	Dietary standards (advisory)	21 N.J.R. 1611(a)	Expired	
8:43G-11.2	Discharge planning (advisory)	21 N.J.R. 1612(a)	Expired	
8:43G-12.4, 12.6, 12.8	Emergency department (advisory)	21 N.J.R. 1613(a)	Expired	
8:43G-13.3, 13.6	Housekeeping and laundry (advisory)	21 N.J.R. 1616(a)	Expired	
8:43G-14.2, 14.4	Infection control and sanitation (advisory)	21 N.J.R. 1618(a)	Expired	
8:43G-15.6	Medical records (advisory)	21 N.J.R. 2171(a)		
8:43G-16.4	Medical staff standard (advisory)	21 N.J.R. 1621(a)	Expired	
8:43G-17.2	Nurse staffing (advisory)	21 N.J.R. 1623(a)	Expired	
8:43G-18.4, 18.6, 18.8	Nursing care (advisory)	21 N.J.R. 1624(a)	Expired	
8:43G-19.4, 19.6, 19.9, 19.11, 19.28	Obstetrics (advisory)	21 N.J.R. 2926(a)		
8:43G-19.35-19.53	Hospital licensure: newborn care physical plant standards	21 N.J.R. 3642(a)		
8:43G-20.3, 20.5	Employee health (advisory)	21 N.J.R. 2173(a)		
8:43G-21.3, 21.6, 21.8, 21.10, 21.12, 21.14, 21.16	Oncology (advisory)	21 N.J.R. 2926(a)		
8:43G-22.4, 22.7, 22.11, 22.18, 22.21	Pediatrics (advisory)	21 N.J.R. 2926(a)		
8:43G-23.5, 23.7, 23.11	Pharmacy (advisory)	21 N.J.R. 1626(a)	Expired	
8:43G-24.5, 24.7, 24.14	Plant maintenance and fire and emergency preparedness (advisory)	21 N.J.R. 2926(a)		
8:43G-26.4, 26.6, 26.8, 26.10, 26.13	Psychiatry (advisory)	21 N.J.R. 2926(a)		
8:43G-27.4, 27.6	Quality assurance (advisory)	21 N.J.R. 1630(a)	Expired	
8:43G-28.3, 28.4, 28.6, 28.9, 28.11, 28.15, 28.17, 28.21	Radiology (advisory)	21 N.J.R. 2174(a)		

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8:43G-29.2, 29.4, 29.7, 29.11, 29.14, 29.16, 29.18, 29.22	Physical and occupational therapy (advisory)	21 N.J.R. 2926(a)		
8:43G-30.4, 30.7, 30.10, 30.12	Renal dialysis (advisory)	21 N.J.R. 2926(a)		
8:43G-30.13-30.17	Acute renal dialysis services: physical plant requirements	21 N.J.R. 3406(a)		
8:43G-31.4, 31.6, 31.8, 31.10, 31.13	Respiratory care (advisory)	21 N.J.R. 2926(a)		
8:43G-32.6, 32.8, 32.15, 32.17, 32.19	Same-day stay (advisory)	21 N.J.R. 2177(a)		
8:43G-33.4, 33.5, 33.7	Social work (advisory)	21 N.J.R. 1631(a)	Expired	
8:43G-34.2, 34.10, 34.12	Surgery (advisory)	21 N.J.R. 2177(a)		
8:43G-35.5, 35.8	Postanesthesia care (advisory)	21 N.J.R. 2926(a)		
8:43I-1.3, 1.11	Hospital Policy Manual: inpatient obstetric units	22 N.J.R. 1891(a)		
8:44-3	Local health services: limited purpose laboratories	22 N.J.R. 1323(a)		
8:51	Childhood lead poisoning	22 N.J.R. 1502(a)		
8:57	Reportable communicable diseases and immunization requirements	21 N.J.R. 3897(a)	R.1990 d.243	22 N.J.R. 1766(a)
8:57-2	Reporting of AIDS and HIV infection	21 N.J.R. 3905(a)	R.1990 d.244	22 N.J.R. 1592(a)
8:57-3.1, 3.2	Reportable occupational and environmental diseases and poisonings	21 N.J.R. 3907(a)	R.1990 d.245	22 N.J.R. 1595(a)
8:57-6	Cancer Registry (recodify to 8:57A)	21 N.J.R. 3909(a)	R.1990 d.242	22 N.J.R. 1596(a)
8:59-1.3, 1.2	Worker and Community Right to Know: certification of consultants and consulting agencies	22 N.J.R. 1892(a)		
8:60	Asbestos training courses	22 N.J.R. 736(a)	R.1990 d.278	22 N.J.R. 1773(a)
8:66-1.1	Intoxicated Driving Program	22 N.J.R. 1024(a)		
8:66-1.1	Intoxicated Driving Program: reopening of comment period	22 N.J.R. 1655(a)		
8:71	Interchangeable drug products (see 21 N.J.R. 2107(c), 2996(a))	21 N.J.R. 662(a)	R.1989 d.575	21 N.J.R. 3665(a)
8:71	Interchangeable drug products (see 21 N.J.R. 2997(a), 3664(a), 22 N.J.R. 214(b), 1137(a))	21 N.J.R. 1790(a)	R.1990 d.263	22 N.J.R. 1598(a)
8:71	Interchangeable drug products (see 22 N.J.R. 214(c), 1136(b))	21 N.J.R. 3292(a)	R.1990 d.264	22 N.J.R. 1597(a)
8:71	Interchangeable drug products	21 N.J.R. 3710(a)	R.1990 d.190	22 N.J.R. 1136(a)
8:71	Interchangeable drug products	21 N.J.R. 3711(a)		
8:71	Interchangeable drug products	22 N.J.R. 596(a)	R.1990 d.267	22 N.J.R. 1597(b)
8:71	Interchangeable drug products	22 N.J.R. 1214(b)		
8:71	Interchangeable drug products	22 N.J.R. 1511(a)		

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9:1-1.2, 3.1	Characteristics of a university	22 N.J.R. 1655(b)		
9:2	Board administrative policies and programs	22 N.J.R. 749(a)	R.1990 d.280	22 N.J.R. 1721(a)
9:2-13.9, 13.11	Auxiliary organizations: personnel; purchasing	22 N.J.R. 1656(a)		
9:2-14.2	Immunization requirements for students: exemptions	22 N.J.R. 1215(a)		
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9:4-2.4	County community colleges: code of ethics	22 N.J.R. 755(a)	R.1990 d.281	22 N.J.R. 1724(a)
9:4-4	County community colleges: alumni trustee representatives	22 N.J.R. 1657(a)		
9:4-7.6	Evaluation of community college presidents	21 N.J.R. 2697(a)		
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9:6-3.7, 3.9, 7	State college promotional and tenure policies; institutional plan	22 N.J.R. 1216(a)		
9:7-3.2	Tuition Aid Grant Program: 1990-91 award table	22 N.J.R. 1318(a)		
9:11-1.5	Educational Opportunity Fund: financial eligibility for undergraduate grants	22 N.J.R. 1659(a)		
9:11-1.23	Educational Opportunity Fund: part-time students	22 N.J.R. 1660(a)		
9:14	Independent College and University Assistance Act rules	22 N.J.R. 116(a)	R.1990 d.234	22 N.J.R. 1364(b)

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10:36-3	State psychiatric facilities: transfers of involuntarily committed patients	21 N.J.R. 2751(a)		
10:37-7.8	Community mental health services: fee collection	21 N.J.R. 3221(a)		
10:38	Interim Assistance Program for discharged psychiatric hospital clients	21 N.J.R. 2280(a)		

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10:39	Community residences for mentally ill: licensure standards	21 N.J.R. 1995(b)	R.1990 d.218	22 N.J.R. 1364(c)
10:44B	Community care residences for developmentally disabled	22 N.J.R. 756(a)		
10:46	Developmental disability services: determination of eligibility	21 N.J.R. 3712(a)		
10:46	Developmental disability services: public hearings regarding determination of eligibility	22 N.J.R. 764(a)		
10:49	Medicaid program administration manual	22 N.J.R. 1512(a)		
10:49-1.1	Medicaid eligibility: administrative correction			22 N.J.R. 1375(a)
10:49-1.10	Medicaid/Medicare claims processing	22 N.J.R. 117(a)	R.1990 d.326	22 N.J.R. 2009(a)
10:50-1.1, 1.3, 1.4, 1.5, 1.6, 2.6, 3.2, App. I, II	Medicaid transportation services: provider reimbursement	22 N.J.R. 1513(a)		
10:51-1, App. B, C, D, E	Pharmaceutical Services Manual: non-legend drugs and products	22 N.J.R. 1217(a)		
10:53	Manual for Special Hospital Services Coverage	22 N.J.R. 765(a)	R.1990 d.256	22 N.J.R. 1598(c)
10:56-3.1, 3.3, 3.4, 3.10, 3.12	Dental services HCPCS codes	22 N.J.R. 1660(a)		
10:56-3.1, 3.10, 3.12	Dental services: administrative corrections			22 N.J.R. 1375(a)
10:60	Home Care Services Manual	22 N.J.R. 1663(a)		
10:60-4	Home Care Expansion Program	22 N.J.R. 597(a)		
10:63-1.2-1.8, 1.14, 1.16, 3.3, 3.8, 3.9	Long-term care (nursing) facilities: patient care and reimbursement	22 N.J.R. 118(a)		
10:63-1.15	Long-term care facilities: Medicaid Program requirements and sanctions	22 N.J.R. 5(a)	R.1990 d.327	22 N.J.R. 2009(b)
10:63-1.16	Long-term care facilities: preproposal concerning pre-admission screening of Medicaid patients	21 N.J.R. 2773(a)		
10:71-4.5-4.9, 5.4, 5.6, 5.7	Medicaid Only Program: eligibility determinations for long-term care	22 N.J.R. 7(a)		
10:81-10.7	Refugee Resettlement Program: eligibility for assistance	22 N.J.R. 1225(a)		
10:81-11.2, 11.4, 11.5, 11.7, 11.9, 11.11-11.15, 11.21	Public Assistance Manual: child support and paternity	22 N.J.R. 1664(a)		
10:81-11.9	Paternity determination services for non-AFDC clients	22 N.J.R. 1053(a)		
10:81-14.18, 14.18A, 14.18B	REACH post-AFDC sliding fee scales	22 N.J.R. 1054(a)	R.1990 d.340	22 N.J.R. 2010(a)
10:82-5.10	Emergency Assistance: administrative correction			22 N.J.R. 1938(b)
10:87-2.2, 2.3, 2.14, 2.17, 2.19, 2.20, 2.21, 2.23, 2.28, 2.29, 2.31, 2.34-2.38, 3.1, 3.6-3.8, 3.11, 4.3, 4.5, 4.8, 4.12, 5.1, 5.2, 5.4, 5.6, 5.9, 5.10, 6.3, 6.19, 7.6, 7.16, 7.18, 9.5, 10.7, 10.12, 11.31	Food Stamp Program administration	22 N.J.R. 139(a)	R.1990 d.270	22 N.J.R. 1599(a)
10:87-5.10, 6.15, 12.1-12.7	Food Stamp Program: annual adjustments	22 N.J.R. 1670(a)		
10:89	Home Energy Assistance	22 N.J.R. 599(a)	R.1990 d.315	22 N.J.R. 1939(a)
10:91	Commission for the Blind and Visually Impaired: operations and procedures	21 N.J.R. 2753(a)		
10:95	Repeal (see 10:91)	21 N.J.R. 2753(a)		
10:99	State Use Program for blind and severely handicapped	22 N.J.R. 766(a)	R.1990 d.295	22 N.J.R. 1724(b)
10:121	Adoption of children	21 N.J.R. 3047(b)		
10:121	Adoption of children: extension of comment period	22 N.J.R. 310(a)		
10:123	Social services program for individuals and families	22 N.J.R. 1520(a)		
10:123-1	Financial eligibility for Social Services Program	21 N.J.R. 2438(a)	R.1990 d.229	22 N.J.R. 1377(a)
10:123-1	Financial eligibility for services through Social Services Block Grant program: extension of comment period	22 N.J.R. 310(b)		
10:123A	Personal Attendant Services Program	22 N.J.R. 1527(a)		
10:125	Youth and Family Services capital funding program	21 N.J.R. 1514(a)	R.1990 d.277	22 N.J.R. 1724(c)
10:125	Youth and Family Services capital funding program: reopening of public comment period	22 N.J.R. 766(b)		
10:126A	Family day care standards	22 N.J.R. 13(a)	R.1990 d.223	22 N.J.R. 1377(b)
10:129	Child abuse and neglect cases	22 N.J.R. 1535(a)		
10:130	Shelters for victims of domestic violence	22 N.J.R. 767(a)	R.1990 d.328	22 N.J.R. 2019(a)

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10A:2-6	Inmate reimbursement for lost, damaged or destroyed personal property	22 N.J.R. 1320(a)		
10A:9-4.6	Reduced custody consideration: administrative correction			22 N.J.R. 1378(a)

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10A:16-5.2, 5.5, 5.6, 5.7	Medical and health services: guardianship of an adult inmate	22 N.J.R. 1322(a)		
10A:16-11	Special Medical Units	22 N.J.R. 310(c)	R.1990 d.249	22 N.J.R. 1606(a)
10A:18-2.6	Incoming correspondence: inspection and identification	22 N.J.R. 147(a)		
10A:18-2.7	Inspection of outgoing correspondence	21 N.J.R. 3913(a)		
10A:22-2.6	Release of confidential inmate or parolee records	22 N.J.R. 898(a)	R.1990 d.284	22 N.J.R. 1725(a)
10A:32-4.2	Transfer of juvenile under State sentence	22 N.J.R. 1895(a)		
10A:71-1.3, 3.2, 3.21, 7.18	Parole Board rules	22 N.J.R. 899(a)	R.1990 d.257	22 N.J.R. 1609(a)

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INSURANCE—TITLE 11

11:0	Compensation to real estate licensees for placing mortgage loans: preproposal	22 N.J.R. 314(a)		
11:1-14.1	Insurance Producer Property and Casualty Advisory Committee	22 N.J.R. 15(b)		
11:1-20.12, 22.4	Cancellation and nonrenewal of commercial policies	22 N.J.R. 1225(b)	R.1990 d.321	22 N.J.R. 1940(a)
11:1-24	Use of credit cards to pay premiums	21 N.J.R. 3418(b)		
11:1-27	Insurer record retention and production for examination	21 N.J.R. 2210(a)		
11:1-32	Exportable list of surplus lines: hearing and promulgation procedures	22 N.J.R. 314(b)		
11:2	Insurance group rules	22 N.J.R. 1673(a)		
11:2-17.7	Automobile coverage: payment of PIP claims	22 N.J.R. 1677(a)		
11:2-24	High-risk investments by domestic insurers	21 N.J.R. 3245(a)		
11:2-25	Insurer tie-ins	21 N.J.R. 3053(a)		
11:2-27	Personal lines policy form standards	21 N.J.R. 3421(a)		
11:2-28	Credit for property/casualty reinsurance	21 N.J.R. 3625(a)		
11:2-29	Orderly withdrawal of insurance business	21 N.J.R. 3622(a)		
11:2-29	Orderly withdrawal of insurance business: extension of comment period	22 N.J.R. 15(c)		
11:2-30	Product liability risk retention groups and purchasing groups	21 N.J.R. 3618(a)		
11:2-31	Premiums for perpetual homeowners insurance	22 N.J.R. 601(a)		
11:3	Automobile insurance	22 N.J.R. 1678(a)		
11:3-7.2, 7.4, 7.5, 14.2, 14.5, 15.1, 15.2, 15.3, 15.5, 15.6, 15.7, 15.9	Automobile Coverage Selection Form and Buyer's Guide	22 N.J.R. 1681(a)		
11:3-8.2, 8.4	Nonrenewal of automobile policies	22 N.J.R. 316(a)		
11:3-8.4	Nonrenewal of automobile policies: administrative correction and extension of comment period	22 N.J.R. 769(a)		
11:3-19	Multi-tier and good driver rating plans	21 N.J.R. 3721(a)		
11:3-20.9	Automobile insurers: excess profits carry forward	22 N.J.R. 1025(a)		
11:3-25.4	Residual market equalization charges: suspension of certain changes to N.J.A.C. 11:3-25.4; new public comment period	21 N.J.R. 2208(a)		
11:3-31.5, App.	Private passenger automobile insurers: annual Financial Data Report	22 N.J.R. 1026(a)	R.1990 d.290	22 N.J.R. 1725(b)
11:3-32	Out-of-state vehicles: certification of mandatory liability coverage	22 N.J.R. 1040(a)		
11:4	Actuarial services	22 N.J.R. 1689(a)		
11:4-11.6	Insurer record retention and production for examination	21 N.J.R. 2210(a)		
11:4-16.6, 16.8, 23.6, 23.8, App.	Medicare supplement coverage	22 N.J.R. 771(a)		
11:4-18.4, 18.5	Individual health insurance rate filings	21 N.J.R. 3428(a)		
11:4-35	Annual Medicare supplement coverage survey	22 N.J.R. 1226(a)		
11:5-1.25	Repeal (see 11:5-6)	22 N.J.R. 1421(a)		
11:5-1.28	Approved real estate schools	22 N.J.R. 777(a)		
11:5-6	Real estate sales full disclosure	22 N.J.R. 1421(a)		
11:10	Hospital/medical-dental services	22 N.J.R. 1691(a)		
11:13-6	Commercial insurance: rating plans for individual risk premium modification	21 N.J.R. 3430(a)		
11:13-7	Commercial lines policy forms	21 N.J.R. 3057(a)		
11:13-7	Commercial lines policy forms: extension of comment period	21 N.J.R. 3422(a)		
11:15-1.2, 2.2, 2.3, 2.4, 2.6, 2.9, 2.10, 2.23	Joint insurance funds for local jurisdictions	22 N.J.R. 16(a)		

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LABOR—TITLE 12

12:15-1	Unemployment compensation and temporary disability insurance	22 N.J.R. 1895(b)		
12:17-2.1	Unemployment insurance benefits: mail claims system	22 N.J.R. 901(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
12:18-2.25	Temporary disability benefits: private plan employer security exemption	22 N.J.R. 1229(a)		
12:19-1	Unemployment Compensation and Temporary Disability: program definitions	22 N.J.R. 605(a)	R.1990 d.337	22 N.J.R. 2020(a)
12:35	Workfare: General Assistance Employability Program	22 N.J.R. 1430(a)		
12:45-1	Vocational Rehabilitation Services: procedures and standards	22 N.J.R. 1045(c)		
12:45-1	Vocational Rehabilitation Services: correction to proposal	22 N.J.R. 1230(a)		
12:46-12:49	Repeal (see 12:45-1)	22 N.J.R. 1045(c)		
12:102-1	Field sanitation for seasonal farm workers	21 N.J.R. 2224(b)	R.1990 d.258	22 N.J.R. 1610(a)
12:120	Asbestos training courses	22 N.J.R. 736(a)	R.1990 d.278	22 N.J.R. 1773(a)
12:190-3.15	Explosives: administrative correction concerning recordkeeping by permit holders			22 N.J.R. 2022(a)
12:196	Safe dispensing of retail gasoline	22 N.J.R. 1433(a)		
12:235-14	Workers' compensation: uninsured employer's fund	21 N.J.R. 3852(a)	R.1990 d.338	22 N.J.R. 2023(a)

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COMMERCE, ENERGY, AND ECONOMIC DEVELOPMENT—TITLE 12A

12A:31-1	Development Authority for Small Businesses, Minorities' and Women's Enterprises: micro-loan program	22 N.J.R. 608(a)		
12A:31-2	Development Authority: loan guarantee program	22 N.J.R. 610(a)		
12A:31-3	Development Authority: direct loans	22 N.J.R. 612(a)		
12A:80-1	Urban Development Corporation: economic development programs	22 N.J.R. 780(a)	R.1990 d.334	22 N.J.R. 2026(a)
12A:81	Repeal (see 12A:80-1)	22 N.J.R. 780(a)	R.1990 d.334	22 N.J.R. 2026(a)
12A:82	Repeal (see 12A:80-1)	22 N.J.R. 780(a)	R.1990 d.334	22 N.J.R. 2026(a)

Most recent update to Title 12A: TRANSMITTAL 1990-1 (supplement April 16, 1990)

LAW AND PUBLIC SAFETY—TITLE 13

13:1-4.6	Physical conditioning instruction at police academies	22 N.J.R. 1435(a)		
13:1A-2.11	Legislative agents: annual fee	22 N.J.R. 1810(a)		
13:2	Alcoholic beverage control	22 N.J.R. 1811(a)		
13:3-3.4	Maximum fee for participation in amusement games	22 N.J.R. 1435(b)		
13:13	Discrimination on the basis of handicap	22 N.J.R. 1436(a)		
13:18-1, 3-9, 11	Motor Vehicles: oversize and overwidth vehicles; Motor Fuels Use Tax; connecting devices; insurance termination; Bus Excise Tax; overhangs; uninsured motorists; Division organization	22 N.J.R. 614(a)	R.1990 d.225	22 N.J.R. 1378(b)
13:20-40.1	Motor vehicle registration: reflectorized plates fee	22 N.J.R. 1230(b)	R.1990 d.322	22 N.J.R. 1940(b)
13:21-15.3	Long-term leasing of motor vehicles: business licensure	21 N.J.R. 3853(a)		
13:21-16	Motor vehicle counterpart fees	22 N.J.R. 1325(a)		
13:24-1.1, 2.3, 2.8, 4.1, 5.5	Equipment for emergency and other specified vehicles	22 N.J.R. 902(a)		
13:27-5.5, 5.6	Architecture pre-examination requirements	22 N.J.R. 1326(a)		
13:27-8.6	Landscape architect certification: experience requirement	22 N.J.R. 325(a)	R.1990 d.312	22 N.J.R. 1940(c)
13:29	Board of Accountancy rules	22 N.J.R. 1042(a)	R.1990 d.314	22 N.J.R. 1940(d)
13:29-1.4	Board of Accountancy: licensee change of address	22 N.J.R. 1438(a)		
13:30-8.4	Announcement of practice in special area of dentistry	22 N.J.R. 783(a)		
13:30-8.10	Board of Dentistry: accuracy of dental insurance forms	22 N.J.R. 153(a)	R.1990 d.311	22 N.J.R. 1941(a)
13:32-1.2, 1.7, 1.8, 1.10, 1.11, 1.12	Licensed master plumbers: standards and practices	22 N.J.R. 784(a)		
13:35-6.2	Pronouncement and certification of death	22 N.J.R. 154(b)		
13:35-6.3	Podiatric trainee: countersigning of orders and prescriptions	22 N.J.R. 905(a)	R.1990 d.291	22 N.J.R. 1738(a)
13:36-1.6	Mortuary science license revival fees	22 N.J.R. 1328(a)		
13:36-3.5, 3.6, 3.7	Mortuary science: examination requirements and review procedure	21 N.J.R. 1820(a)	R.1990 d.273	22 N.J.R. 1614(a)
13:36-10	Mortuary science: continuing education	21 N.J.R. 3655(a)		
13:38	Board of Optometrists rules	22 N.J.R. 1866(a)		
13:39-5.6	Pharmacy recordkeeping: prescriptions for controlled substances	22 N.J.R. 1866(b)		
13:39-6.9	Sale of Schedule V over-the-counter controlled substances	22 N.J.R. 1329(a)		
13:39A-5.1	Licensure of foreign-trained physical therapists	21 N.J.R. 3855(a)		
13:39A-5.1	Licensure of foreign-trained physical therapists: extension of comment period	22 N.J.R. 326(a)		
13:39A-5.7	Licensure as physical therapist: language comprehension requirement	21 N.J.R. 3856(a)	R.1990 d.240	22 N.J.R. 1616(a)
13:40	Professional engineers and land surveyors	22 N.J.R. 1867(a)		
13:40-5.1	Preparation of land surveys	21 N.J.R. 3715(a)		
13:40-5.1	Preparation of land surveys: extension of comment period	22 N.J.R. 157(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:41	Board of Professional Planners rules	22 N.J.R. 1438(b)		
13:44-2.6	Continuance of veterinary practice	22 N.J.R. 326(b)	R.1990 d.279	22 N.J.R. 1739(a)
13:44-2.12	Close of veterinary practice: maintenance of medical records	22 N.J.R. 1868(a)		
13:44-2.16	Duplicate registration of veterinary practice	22 N.J.R. 905(b)		
13:44C-7.2	Audiology and speech language pathology: practice exemptions	21 N.J.R. 2702(a)	R.1990 d.272	22 N.J.R. 1615(a)
13:44C-7.2	Audiology and speech language pathology practice exemptions: extension of comment period	22 N.J.R. 327(a)		
13:45A-19.1	Division of Consumer Affairs: petitions for rulemaking	22 N.J.R. 786(a)		
13:45A-21.4	Kosher poultry identification	22 N.J.R. 1439(a)		
13:45B-6.1	Private employment agencies and personnel services firms: license, registration, and other fees	22 N.J.R. 906(a)	R.1990 d.317	22 N.J.R. 1941(b)
13:46	Boxing, wrestling and sparring events	22 N.J.R. 1231(a)		
13:47A-10	Registration of securities	21 N.J.R. 2903(a)	R.1990 d.241	22 N.J.R. 1617(a)
13:47D	Repeal (see 13:47K)	22 N.J.R. 1440(a)		
13:47K	Weights and measures: packaged commodities	22 N.J.R. 1440(a)		
13:59-1	Criminal history checks for non-criminal matters	22 N.J.R. 1869(a)		
13:70-1.30	Thoroughbred racing: annual contribution to horsemen's pension program	22 N.J.R. 1232(a)		
13:70-1.30	Thoroughbred racing: "horseman" defined	22 N.J.R. 1232(b)		
13:70-3.41	Thoroughbred racing: employee compensation insurance	22 N.J.R. 1716(a)		
13:70-14A.9	Thoroughbred racing: certification of respiratory bleeders from other jurisdictions	22 N.J.R. 1233(a)		
13:70-14A.9	Thoroughbred racing: administering medication to respiratory bleeders	22 N.J.R. 1716(b)		
13:71-1.25	Harness racing: "horseman" defined	22 N.J.R. 1233(b)		
13:71-6.1	Harness racing: employee compensation insurance	22 N.J.R. 1717(a)		
13:71-23.8	Harness racing: certification of respiratory bleeders from other jurisdictions	22 N.J.R. 1233(c)		
13:71-23.8	Harness racing: administering medication to respiratory bleeders	22 N.J.R. 1718(a)		
13:80-1	Solid and hazardous waste information awards	21 N.J.R. 2911(a)		
13:81	Statewide 9-1-1 emergency telecommunication system	22 N.J.R. 1234(a)		

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PUBLIC UTILITIES—TITLE 14

14:0	Energy conservation: preproposal and public hearing	22 N.J.R. 1692(a)		
14:1-8.6	Access to documents filed with Board of Public Utilities	21 N.J.R. 3864(a)		
14:3	All utilities	22 N.J.R. 1112(a)		
14:3	All utilities: public hearing	22 N.J.R. 1330(a)		
14:3-3.2	Customer's proof of identity	22 N.J.R. 615(a)		
14:3-3.6	Utility service discontinuance	22 N.J.R. 616(a)		
14:3-4.5, 4.10	Billing disputes and meter test options	22 N.J.R. 617(a)		
14:3-4.7	Water meter accuracy and billing adjustments	22 N.J.R. 618(a)		
14:3-4.11	Meter tampering	21 N.J.R. 3865(a)		
14:3-4.11	Meter tampering: extension of comment period	22 N.J.R. 327(b)		
14:3-7.5	Return of customer deposits	22 N.J.R. 619(a)		
14:3-7.13	Late payment charges	22 N.J.R. 619(b)		
14:3-7.14	Discontinuance of service to multiple family premises	21 N.J.R. 3865(b)		
14:3-11	Earned return analysis of utility rates	21 N.J.R. 2003(a)		
14:3-11	Earned return analysis of utility rates: extension of comment period	21 N.J.R. 2704(a)		
14:9	Water and sewer utilities	22 N.J.R. 907(a)		
14:9	Sewer and water utilities: public hearing	22 N.J.R. 1330(a)		
14:9-3.3	Water meter accuracy and billing adjustments	22 N.J.R. 618(a)		
14:10-5	InterLATA telecommunications carriers	21 N.J.R. 3631(a)		
14:18	Cable television	22 N.J.R. 1330(b)		

Most recent update to Title 14: TRANSMITTAL 1990-2 (supplement March 19, 1990)

ENERGY—TITLE 14A

14A:22	Commercial and Apartment Conservation Service Program	21 N.J.R. 2010(a)		
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Most recent update to Title 14A: TRANSMITTAL 1990-1 (supplement January 16, 1990)

STATE—TITLE 15

Most recent update to Title 15: TRANSMITTAL 1989-1 (supplement February 21, 1989)

PUBLIC ADVOCATE—TITLE 15A

15A:2-1.2	Petitions for rulemaking	22 N.J.R. 620(a)		
15A:2-1.2	Petitions for rulemaking: extension of comment period	22 N.J.R. 1694(a)		

Most recent update to Title 15A: TRANSMITTAL 1990-2 (supplement April 16, 1990)

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16:21	State aid to counties and municipalities	22 N.J.R. 1896(a)		
16:28-1.10, 1.38, 1.42	Speed limit zones along U.S. 46 in Independence Township, Route 57 in Mansfield Township, and Route 152 in Somers Point and Egg Harbor	22 N.J.R. 787(a)	R.1990 d.231	22 N.J.R. 1378(c)
16:28-1.20, 1.37, 1.81, 1.105	Speed limit zones along U.S. 322, Routes 182, 49, and 284	22 N.J.R. 1340(a)	R.1990 d.330	22 N.J.R. 2028(a)
16:28-1.25	Speed limit zone along Route 23 in Riverdale Borough	22 N.J.R. 788(a)	R.1990 d.232	22 N.J.R. 1379(a)
16:28-1.38	Speed limit zones along Route 57 in Mansfield Township: administrative correction	_____	_____	22 N.J.R. 1942(a)
16:28-1.41, 1.55, 1.69, 1.132	Speed limit zones along U.S. 9 in Cape May County, Route 54 in Atlantic County, U.S. 130 in Camden County, and Route 47 in Cumberland, Gloucester and Camden counties	22 N.J.R. 1694(b)		
16:28-1.55, 1.104, 1.119	Speed limit zones along Routes 54 in Atlantic County, 26 in Middlesex County, and 83 in Cape May County	22 N.J.R. 1060(a)	R.1990 d.285	22 N.J.R. 1739(b)
16:28-1.57	Speed limit zones along U.S. 30 in Atlantic County	22 N.J.R. 788(b)	R.1990 d.233	22 N.J.R. 1379(b)
16:28-1.57	Speed limit zones along U.S. 30 in Camden County	22 N.J.R. 1343(a)	R.1990 d.331	22 N.J.R. 2030(a)
16:28-1.80, 1.86	Speed limit zones along Routes 172 and 171 in Middlesex County	22 N.J.R. 1239(a)	R.1990 d.297	22 N.J.R. 1942(b)
16:28-1.94	Speed limit zones along Route 10 in Morris and Essex counties	22 N.J.R. 1697(a)		
16:28A-1.7, 1.11, 1.65	Restricted parking and stopping along U.S. 9 in Marlboro and Middle Township, Route 21 in Passaic, and Route 15 in Dover	22 N.J.R. 1897(a)		
16:28A-1.21, 1.33	No stopping or standing zones along U.S. 30 in Berlin and Route 47 in Franklin Township	22 N.J.R. 1239(b)	R.1990 d.298	22 N.J.R. 1943(a)
16:28A-1.25	Restricted parking along Route 35 in Red Bank	22 N.J.R. 1240(a)	R.1990 d.299	22 N.J.R. 1943(b)
16:28A-1.25, 1.28, 1.34, 1.41, 1.46, 1.51, 1.62	Restricted parking and stopping along Routes 35 in Red Bank, U.S. 40 in Franklin Township, 49 in Salem, 77 in Harrison Township, U.S. 130 in Pennsauken and Delran, 168 in Gloucester Township, and 12 in Flemington and Kingwood	22 N.J.R. 913(a)	R.1990 d.251	22 N.J.R. 1625(a)
16:28A-1.33	Restricted stopping along Route 47 in Dennis Township	22 N.J.R. 1536(a)		
16:28A-1.55	Time limit parking along U.S. 202 in Bernardsville	22 N.J.R. 1536(b)		
16:28A-1.61	Bus stop zones along U.S. 9W in Alpine	22 N.J.R. 1241(a)	R.1990 d.300	22 N.J.R. 1943(c)
16:30-3.6	Shoulder lane usage along U.S. 1 in West Windsor and Plainsboro	22 N.J.R. 1345(a)	R.1990 d.332	22 N.J.R. 2031(a)
16:30-10.11	Midblock crosswalk along Route 49 in Fairfield Township	22 N.J.R. 1242(a)	R.1990 d.301	22 N.J.R. 1944(a)
16:41-2	Repeal (see 16:47)	22 N.J.R. 1061(b)		
16:41-8	Outdoor advertising along Federal Aid Primary System: preproposal	22 N.J.R. 157(b)		
16:41-8	Outdoor advertising along Federal Aid Primary System: public meeting on preproposal	22 N.J.R. 621(a)		
16:41B	Newspaper boxes on State highways	22 N.J.R. 1346(a)	R.1990 d.333	22 N.J.R. 2032(a)
16:43	Junkyards adjacent to State highway systems	22 N.J.R. 1061(a)	R.1990 d.286	22 N.J.R. 1740(a)
16:44-8.1, 8.2, 8.3	Construction services: vendor ethical standards	22 N.J.R. 1898(a)		
16:47	State Highway Access Management Code	22 N.J.R. 1061(b)		
16:47	State Highway Access Management Code: public hearings	22 N.J.R. 1346(b)		
16:47	State Highway Access Management Code: extension of comment period	22 N.J.R. 1347(a)		
16:47	State Highway Access Management Code: extension of comment period	22 N.J.R. 1699(a)		
16:62-7.2	Air safety zone for Somerset Airport	22 N.J.R. 1899(a)		

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TREASURY-GENERAL—TITLE 17				
17:1-1.19, 1.21, 1.22, 1.23, 1.24	Pensioners' Group Health Insurance Plan	22 N.J.R. 1347(b)		
17:1-12.7	Police and Firemen's Retirement System: entry age limit and transfers	22 N.J.R. 1454(a)		
17:2-3.2, 6.24	Public Employees' Retirement System: computation of final compensation	22 N.J.R. 1348(a)		
17:3-6.16	Teachers' Pension and Annuity Fund: mandatory retirement	22 N.J.R. 329(a)	R.1990 d.283	22 N.J.R. 1740(b)
17:4	Police and Firemen's Retirement System	22 N.J.R. 908(a)	R.1990 d.329	22 N.J.R. 2032(b)
17:4-1.1	Board meetings, Police and Firemen's Retirement System	22 N.J.R. 909(a)		
17:5-5.5	State Police Retirement System: outstanding loans at retirement	22 N.J.R. 1348(b)		
17:8	Supplemental Annuity Collective Trust program	22 N.J.R. 1900(a)		
17:9-4.2	State Health Benefits Program: "full-time employee"	22 N.J.R. 1903(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
17:9-6.7	Police and Firemen's and State Police retirement systems: health insurance coverage for accidental death benefit recipients	22 N.J.R. 1903(b)		
17:16-7.2	State pension fund investments: corporate obligations	22 N.J.R. 1042(b)	R.1990 d.304	22 N.J.R. 1944(b)
17:16-27.1	State funds investment: certificates of deposit	22 N.J.R. 1349(a)	R.1990 d.335	22 N.J.R. 2032(c)
17:16-43	State pension fund investments: mortgage-backed passthrough securities	22 N.J.R. 1043(a)	R.1990 d.305	22 N.J.R. 1945(a)
17:16-50	State pension fund investments: U.S. Treasury futures	22 N.J.R. 1043(b)	R.1990 d.306	22 N.J.R. 1945(b)
17:16-51	State pension fund investments: guaranteed income contracts	22 N.J.R. 1044(a)		
17:16-52	State pension fund investments: use of covered put options	22 N.J.R. 1044(b)	R.1990 d.307	22 N.J.R. 1945(c)
17:32-3, 4	Municipal and county cross-acceptance of State Development and Redevelopment Plan	22 N.J.R. 621(c)	R.1990 d.336	22 N.J.R. 2033(a)

Most recent update to Title 17: TRANSMITTAL 1990-3 (supplement April 16, 1990)

TREASURY-TAXATION—TITLE 18

18:1-1.3-1.8	Division of Taxation: procedures and operations	22 N.J.R. 159(a)	R.1990 d.288	22 N.J.R. 1740(c)
18:1-2	Division of Taxation: petitions for rules	22 N.J.R. 160(a)	R.1990 d.287	22 N.J.R. 1742(a)
18:7-1.15, 3.8	Corporation Business Tax: investment companies	22 N.J.R. 1904(a)		
18:7-3.13	Corporation Business Tax: application of overpayment to estimated tax	22 N.J.R. 1045(a)	R.1990 d.296	22 N.J.R. 1946(a)
18:7-3.18	Corporation Business Tax: recycling equipment credit	22 N.J.R. 789(a)		
18:12A-1.14	Local property tax revaluation and reassessment	22 N.J.R. 1350(a)		
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