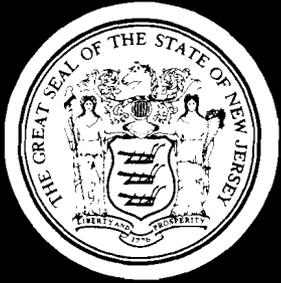


# NEW JERSEY



# REGISTER

**IN THIS ISSUE—  
“INDEX OF PROPOSED RULES”**

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# RULE PROPOSALS

## BANKING

(a)

### DIVISION OF BANKING

#### General Provisions Automated Teller Machines

#### Proposed New Rule: N.J.A.C. 3:6-13

Authorized By: Michael M. Horn, Commissioner,  
Department of Banking.  
Authority: N.J.S.A. 17:9A-20(G), 17:9A-315 et seq. and  
17:9A-333 et seq.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Roger F. Wagner, Deputy Commissioner  
Department of Banking  
Division of Banking  
CN 040  
Trenton, NJ 08625

The Department of Banking thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-478.

The agency proposal follows:

#### Summary

Pursuant to the authority of N.J.S.A. 17:9A-20(G), the Department of Banking proposes regulations which will govern the establishment, maintenance and operation of automatic teller machines at on-site and off-site locations. The regulations provide for the sharing of ownership and for the sharing of access among financial institutions. Provision is made in the regulations for the installation

of additional automatic teller machines at previously approved locations. The number of financial institutions sharing access may also be increased or decreased. The regulations allows limited interstate access by a State or Federally-chartered bank, or savings and loan association with principal offices outside the State of New Jersey. Interstate deposits are prohibited and access will be denied unless the state in which the foreign institution has its principal offices allows New Jersey institutions to share access to automatic teller machines established, operated or maintained in that state.

#### Social Impact

The proposed regulations will facilitate the use of automatic teller machine networks throughout the State. As a result, bank and savings bank customers will benefit from the ease and convenience of 24 hour banking, particularly at strategic automatic teller machines located in airports, supermarkets, shopping malls and resort areas. The interstate access provisions will permit New Jersey residents to have access to funds in their accounts when on vacation or business trips. Banks and savings banks will also be able to offer their services to their customers without the expenditure of large amounts of additional capital.

#### Economic Impact

The proposed regulations will have an economic impact on those banks which seek to install automated teller machines since they will be required to furnish filing fees with their applications. These regulations will produce additional income for the State through the imposition of such application fees.

Full text of the proposed new rule follows.

### SUBCHAPTER 13. AUTOMATED TELLER MACHINES

#### 3:6-13.1 Establishment; operation

(a) Before any bank or savings bank may establish, maintain or operate an automated teller machine or machines at its principal office, auxiliary office, or any of its full branch or minibranch offices, a formal notice shall be filed with the Commissioner which indicates:

1. The location of the principal office, auxiliary office, or mini-branch office at which the automated teller machine or machines is to be established;
2. A listing of all other financial institutions which will share access to the machine or machines and the basis on which compensation for such access will be calculated; and

## NEW JERSEY REGISTER

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*The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by Administrative Publications of the Office of Administrative Law. Subscription rates for this 31-volume, regularly updated set of all State administrative rules are available on request. The Code is sold either in the full set or in one to three volumes depending on the Department coverage desired.*

3. The date it is anticipated that the automated teller machine or machines will commence operation.

(b) A filing fee of \$50.00 must accompany each such formal notice.

(c) If within 10 days of receipt of the formal notice, the Commissioner does not notify the bank or savings bank of his objection, the institution may establish the automated teller machine or machines.

3:6-13.2 Off-site location

(a) Before any bank or savings bank may establish, maintain, or operate an automated teller machine or machines at a location more than 200 feet from the premises of its principal office, auxiliary or any of its full branch or minibranch offices, a formal application shall be submitted to the Department of Banking on a form prescribed by the Commissioner including the following:

1. The proposed location of the automated teller machine or machines and an executed indicia of title to the property to be used for the machine;

2. A listing of all other institutions which will share access to the machine or machines and the basis on which compensation for such access will be calculated;

3. The number of machines to be established at the location; and

4. Such other information as prescribed by the Commissioner.

(b) The following items must accompany each application:

1. A filing fee of \$250.00 plus an additional \$25.00 for each bank sharing access to the automated teller machine(s); and

2. A certified copy of a resolution of the board of the applying bank authorizing the application.

(c) Within 45 days after receipt of a completed application, the Commissioner will issue a decision and order approving or denying the application.

3:6-13.3 Shared access/shared ownership

(a) For purposes of these regulations, the term "sharing access" shall encompass the ability of any financial institution, other than the applying bank, to allow its customers to utilize a machine for the purpose of consummating transactions or initiating inquiries on accounts or lines of credit at such financial institution regardless of the financial arrangement between or among the institutions whose customers can use the automated teller machine(s).

(b) An application for the establishment and operation of each automated teller machine shall be made by only one bank or savings bank, provided however, that should any other financial institution share in the ownership, costs of installation or maintenance of the machine, either directly or indirectly, then, in that event the notice or application shall so clearly indicate and a certified board resolution from each such financial institution shall accompany the application. The application fee shall be paid only by the applying bank or savings bank, but the machine shall be a branch of every bank or savings banking sharing ownership or costs of installation and maintenance.

3:6-13.4 Additional machines

(a) If, at any time, a bank or savings bank proposes to install at its principal office, auxiliary office, a full branch office, a minibranch office, or a previously-approved CTBO location in excess of three such automated teller machines, it shall file a formal notice with the Commissioner.

(b) A filing fee of \$50.00 for each machine in excess of three at the location must accompany the application.

(c) If within 10 days of the receipt of the formal notice, the Commissioner does not notify the bank or savings bank of his objection, the institution can install such additional machine or machines.

3:6-13.5 Additional access

(a) If, at any time after the establishment of any automated teller machine, shared access is granted to a financial institution not

included in the original notice or application or a financial institution so listed no longer shares access, the applying institution shall so notify the Commissioner and the basis on which compensation for such access will be calculated.

(b) A filing fee of \$25.00 for each institution added to or eliminated from access shall accompany each such notice.

3:23-13.6 Interstate access

(a) For purposes of these regulations, a "foreign financial institution" shall mean a State or Federally-chartered bank, savings bank, or savings and loan association with principal offices outside the State of New Jersey.

(b) No foreign financial institution shall establish, operate, maintain or share ownership of an automated teller machine anywhere within the State of New Jersey, except that a foreign financial institution may share access to such a machine on a transactional fee basis or in accordance with any similar arrangement approved by the Commissioner.

(c) No automated teller machine at which a foreign financial institution shares access shall bear any identification of the foreign financial institution except that a generic name or display identifying or associated with a regional or interstate network of automated teller machines is not prohibited.

(d) No interstate deposits shall be allowed through an automated teller machine established, owned or operated within the State of New Jersey. The transfer of funds between accounts shall not be considered a deposit for purposes of these regulations.

(e) No bank or savings bank shall permit a foreign financial institution to share access to an automated teller machine located within the State of New Jersey unless the State in which the foreign financial institution has its principal offices allows New Jersey institutions to share access to automated teller machines established, operated or maintained in that state.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING

Uniform Construction Code

Proposed Readoption: N.J.A.C. 5:23

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-124, 52:27D-124f and 54:4-3.116.

A public hearing concerning this rule will be held on December 15, 1982 at 10:00 A.M. at:

Department of Community Affairs  
363 West State Street  
Trenton, NJ 08625

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

The Department of Community Affairs thereafter may adopt this

proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-476.

The agency proposal follows:

**Summary**

The Department of Community Affairs proposes to readopt N.J.A.C. 5:23, the Uniform Construction Code regulations, together with the building, electrical, plumbing, fire protection, energy and manufactured home subcodes adopted pursuant thereto. The readoption of the UCC is necessary in order to continue its effectiveness and carry out the provisions of N.J.S.A. 52:27-119 et seq.

The current text of the chapter is scheduled to expire on May 19, 1983, pursuant to the "sunset" provision under Executive Order No. 66 (1978). The proposed readoption does not include any changes to the current text.

**Social Impact**

No new or additional social impact is contemplated since there are no changes in the proposed readoption. With the UCC continued, it will be possible to insure the adequate maintenance of buildings and structures throughout the State and continue the protection of the health, safety and welfare of the people.

**Economic Impact**

No new or additional economic impact is contemplated since no change is proposed in the readoption.

**Full text** of the rules proposed for **readoption** are part of the New Jersey Administrative Code. Copies of the rules can be obtained from:

Division of Housing  
CN 804  
Trenton, NJ 08625

or

Office of Administrative Law  
Filings Section  
CN 301  
Trenton, NJ 08625

**(a)**

**DIVISION OF HOUSING**

**Rooming and Boarding Houses  
Fire Drills in Rooming Houses**

**Proposed Amendment: N.J.A.C. 5:27-5.1**

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.  
Authority: N.J.S.A. 55:13B-4.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

The Department of Community Affairs thereafter may adopt this

proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-477.

The agency proposal follows:

**Summary**

Rooming houses not having elderly or disabled residents are exempted from the monthly fire drill requirement and are required, instead, to have fire drills at least once every six months.

**Social Impact**

In rooming houses without elderly or disabled residents, no special assistance has to be provided to residents exiting during an emergency and less frequent fire drills can therefore be allowed without any substantial increase in risk.

**Economic Impact**

There will be no apparent economic impact.

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

5:27-5.1 Egress requirements

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

(d) Fire drills shall be conducted in every rooming **house housing any senior citizen or disabled residents, as defined in N.J.A.C. 5:27-12.3, and in every** boarding house, at least once per month [and]. **Fire drills shall be conducted in every rooming house not housing any senior citizen or disabled residents at least once every six months.**

1. A permanent record of fire drills, indicating the date and hour and the time required to evacuate all residents from the building shall be maintained by the licensee and shall be available to the Bureau upon request.

2. At least 50 percent of drills shall be conducted at night.

3. Every rooming and boarding house shall have an evacuation plan which includes provision for mutual responsibility of residents for each other's safe egress.

4. All residents and employees shall be required to participate in fire drills.

5. Every required means of egress shall be used during drills and each resident shall demonstrate, at the time of drills, the physical ability to use all required means of egress.

6. The building shall be completely evacuated immediately upon the sounding of a fire alarm.

7. Notice of drills shall be given to the local fire department or company.

**EDUCATION**

**(b)**

**STATE BOARD OF EDUCATION**

**Child Nutrition Programs  
Policies for Free and Reduced-Price Meals  
and/or Free Milk**

**Proposed Amendments: N.J.A.C. 6:79-1.9  
and 1.11**

Authorized By: New Jersey State Board of Education,  
Saul Cooperman, Secretary.

**PROPOSALS**

**ENVIRONMENTAL PROTECTION**

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

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita  
 Executive Assistant for Administrative  
 Practice and Procedure  
 Department of Education  
 225 West State Street  
 Trenton, NJ 08625

The State Board of Education thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-491.

The agency proposal follows:

**Summary**

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, 18A:33-4 and 18A:58-7.1, proposes to amend N.J.A.C. 6:79-1.9 and 1.11 concerning the policies for free and reduced-price meals and/or free milk. This proposal will delete unnecessary Code language due to changes in Federal regulations which eliminated nonfood assistance. The local school food service must be maintained as a nonprofit operation. In order to ensure this nonprofit status, the cafeteria account must be limited to a balance of a normal three-month operating cost.

Also deleted is the language that restricts the "profit" on partially subsidized milk to \$0.02 per half pint. This section is unnecessary since recent Federal regulations prohibit school districts and nonpublic schools from making a profit on any child nutrition program. Specifically, these rules limit the net cash resources of the cafeteria account to three months operating cost. This rule change eliminates the monthly burden of monitoring the \$0.02 margin of profit limitation while maintaining the nonprofit status of the program.

**Social Impact**

This proposal transfers the milk pricing policy for only the special milk programs from Federal and State agencies to local public and nonpublic school policymakers within broad Federal requirements of maintaining nonprofit status. There will be no change in monitoring requirements for Department personnel.

**Economic Impact**

The possibility exists that public and nonpublic schools without feeding programs might increase the charge for milk if it is determined that the school cafeterias are operating at a deficit. If a deficit exists, an increase in milk prices may occur only up to an amount which would erase the deficit but would not produce a profit.

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

6:79-1.9 Maximum charge

[(a) Sponsors must establish the price of milk served to students under the special milk program at a rate that does not produce an annual average operating margin that exceeds two cents per half pint.]

[(b)] The Bureau shall annually establish the maximum per meal charge; however, sponsors may appeal to the Bureau to increase such maximum per meal charge.

6:79-1.11 [Nonfood assistance] **(Reserved)**

[(a) Eligible schools shall be allocated funds for food service equipment needed to initiate or upgrade child nutrition programs.

(b) All plans, layouts, equipment specifications, installation requirements and bid proposals must be approved by the Bureau before nonfood assistance is approved.]

**ENVIRONMENTAL PROTECTION**

**(a)**

**DIVISION OF WATER RESOURCES**

**Standards and Procedures for Establishing Privileges to Divert Water and for Obtaining Water Usage Certifications for Agricultural or Horticultural Purposes**

**Proposed New Rule: N.J.A.C. 7:20A**

Authorized By: Robert E. Hughey, Commissioner,  
 Department of Environmental Protection.  
 Authority: Water Supply Management Act, N.J.S.A.  
 58:1A-1 et seq.  
 DEP Docket No.: 055-82-10.

Four **public hearings** concerning this rule will be held at the following times and locations:

November 29, 1982  
 7:30 P.M.  
 Freeholder's Meeting Room  
 Court House  
 Morristown, New Jersey

December 1, 1982  
 7:00 P.M.  
 Division of Water Resources  
 Conference Room  
 1474 Prospect Street  
 Trenton, New Jersey

December 13, 1982  
 7:30 P.M.  
 Ocean County Complex  
 Administration Building, Room 119  
 Toms River, New Jersey

December 15, 1982  
 7:30 P.M.  
 Vineland City Hall  
 Council Chambers, 1st Floor  
 7th and Wood Streets  
 Vineland, New Jersey

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

William Whipple, Administrator  
Water Supply and Watershed  
Management Administration  
Division of Water Resources  
CN 029  
Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-490.

The agency proposal follows:

#### Summary

The proposed new rule was made necessary by the passage of Section 6(a)2 of the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq. N.J.S.A. 58:1A-6(a)2 requires any person diverting 100,000 or more gallons of water per day for agricultural or horticultural purposes to obtain the approval, based on standards and procedures established by the Department of Environmental Protection ("Department"), of the appropriate county agricultural agent of a five-year water usage certification. The proposed new rule sets forth in N.J.A.C. 7:20A-1 and 2 the process by which all present and future water usage certifications for agricultural or horticultural purposes shall be granted.

The Department serves as the consultant to the appropriate county agricultural agent by providing recommendations concerning the approval or disapproval of a water usage certification application. The Water Allocations Office of the Department reviews the water usage certification application for compliance with the standards and procedures set forth in the regulations. The appropriate county agricultural agent shall verify the need for water for agricultural and horticultural water and make the final approval or disapproval decision based upon the recommendations of the Department. A public hearing process has been established within the Department to provide the opportunity for public input or objections, after public notice, into the recommendations that the Department will provide to the appropriate county agricultural agent. If objections arise concerning a water usage certification by any interested parties, then the appropriate county agricultural agent shall convene an informal Advisory Panel. The Advisory Panel consists of the designated representatives of the Commissioner of the Department, the Secretary of Agriculture and the Dean of Cook College. The major purpose of the Advisory Panel shall be to attempt to settle any dispute by encouraging communications, negotiations and agreements between the parties involved. The informal resolution of disputes should be greatly facilitated by this process. However, if no resolution can be achieved, the public hearing process can then proceed. Please note that any person alleging to be adversely affected by the decision on a water usage certification application shall have a right to an administrative hearing. For 30 days following receipt of the administrative hearing request, the appropriate county agricultural agent and the Department shall attempt to settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

The proposed new rule also establishes a fee schedule in N.J.A.C. 7:20A-3 pursuant to N.J.S.A. 58:1A-7.2 for the purpose of charging reasonable fees to persons currently diverting or wishing to divert 100,000 or more gallons of water per day for agricultural or horticultural purposes. The proposed fee schedule is divided into four classes based upon the size of the approved water allocation. Applicants for water usage certifications shall be charged a fee according to the water usage certification type and whether or not a public hearing has been required. Fee amounts have been determined after a series of negotiations conducted between the Department, the Department of Agriculture, the Farm Bureau and other representatives of the agricultural community.

#### Social Impact

The proposed new rule represents the Department's efforts to comply with the Legislature's mandate and streamline the water supply allocation system for agricultural and horticultural purposes. More important, though, it demonstrates the Department's determination to protect the State's water supplies and provide the citizens of New Jersey with an ample and effectively managed water supply in accordance with the Legislature's plan as set forth in the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.

#### Economic Impact

The economic impact of this proposal will lie directly upon those persons currently diverting, or who wish to divert, 100,000 or more gallons of water for agricultural or horticultural purposes. Such persons will be required to pay a fee for diversion privileges. The fee schedule contained herein sets forth the charges for new and renewal certifications. Fees collected pursuant to the Water Supply Allocation program set forth at N.J.A.C. 7:19-1,2 and 3 shall not be utilized for the Water Usage Certification program.

#### Environmental Impact

The proposed new rule shall have a positive environmental impact by establishing a procedure to administer and to insure proper management of the precious water resources used in the State of New Jersey for agricultural and horticultural purposes.

Full text of the proposed new rule follows:

#### CHAPTER 20A

#### STANDARDS AND PROCEDURES FOR ESTABLISHING PRIVILEGES TO DIVERT WATER AND FOR OBTAINING WATER USAGE CERTIFICATIONS FOR AGRICULTURAL OR HORTICULTURAL PURPOSES

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 7:20A-1.1 Scope and authority

This chapter shall constitute rules governing water usage certifications for agricultural and horticultural purposes pursuant to the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq. This chapter establishes the schedule persons diverting 100,000 or more gallons of water per day for agricultural or horticultural purposes shall follow to establish their privilege to divert water and prescribes the application, review, notification and hearing procedures for establishing privileges to divert water and to obtain water usage certifications.

##### 7:20A-1.2 Construction

(a) This chapter shall be liberally construed to implement the statutory functions pursuant to the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.

(b) This chapter may be amended, repealed, or rescinded from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as amended and supplemented, and the Office of Administrative Law's Rules for Agency Rulemaking, N.J.A.C. 1:30.

(c) Any agricultural or horticultural uses of water in the State of New Jersey will be presumed by the Department to be in the public interest for the purpose of this chapter.

##### 7:20A-1.3 Definitions

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

"Act" means the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.

"Agricultural or horticultural purposes" means the commercial activity of producing principally for sale food crops, plants, animals or their products for the use or consumption by man including in

## PROPOSALS

a primary sense the growing, harvesting, storage and the on-farm preparation for use and marketing of food crops, plants, animals or their products.

"Applicant" means any person filing or required to file an application to establish a privilege to divert water or for a water usage certification pursuant to this chapter or the Act. An applicant may be the owner or operator of property or a person leasing property for agricultural or horticultural purposes.

"Appropriate county agricultural agent" means the county agricultural agent assigned jurisdiction over the area involved in the application.

"Commissioner" means the Commissioner of the Department of Environmental Protection or his designated representative.

"County agricultural agent" means such person so designated by the New Jersey Cooperative Extension Service in each of the respective counties.

"Decision maker" means the person designated by the Division to make recommendations to the appropriate county agricultural agent on applications for water usage certifications and claims of privileges to divert water.

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

"Divert" or "diversion" means the taking of water from a river, stream, lake, pond, aquifer, well, other underground source, or other water body, whether or not the water is returned thereto, consumed, made to flow into another stream or basin, or discharged elsewhere.

"Division" means the Division of Water Resources in the Department of Environmental Protection.

"Person" means any individual, corporation, company, partnership, firm, association, owner or operator of an enterprise engaged in agricultural or horticultural purposes.

"Water" means any surface water or groundwater in the State.

"Water usage certification" or "certification" means the document issued by a county agricultural agent pursuant to this chapter to a person granting that person the privilege to divert 100,000 gallons or more of water per day for agricultural or horticultural purposes for a five-year period.

#### 7:20A-1.4 Applicability

(a) This chapter applies to all persons who have been issued a water usage certification, a Water Policy and Supply Council permit, diverting or claiming the right to divert 100,000 or more gallons of water per day for agricultural or horticultural purposes, and to all persons who in the future wish to divert 100,000 or more gallons of water per day for agricultural or horticultural purposes except as specified below:

1. This chapter shall not apply to diversion of salt water as determined by the Division except in situations such that salt water diversion and usage may affect utilization of fresh water.

2. Water usage certification shall not be required for a person diverting water from a water purveyor or for transfers from a water purveyor within the scope of an existing water usage certification or permit. Modification shall be required for diversions or transfers of water from certified or permitted usage to another use not within the scope of an existing water usage certification or permit regardless of the same or different ownership of the property.

3. This chapter shall not apply in cases of emergency as defined in State contingency plans; fire fighting; flood prevention; or any other emergency diversion of water. If such an emergency diversion is contemplated to continue for a period of more than three months, then a permit or certification shall be applied for within 30 days of the beginning of the emergency or of the determination that the emergency will last for more than three months, whichever is less, in accordance with this chapter.

4. An applicant with a total demand of 100,000 or more gallons of water per day may be issued a water diversion allocation by a single water usage certification in cases where:

i. The agricultural or horticultural site or group of properties under common ownership or management are contiguous to each other;

ii. The non-contiguous agricultural or horticultural site or group of properties under common ownership or management are all located with in the same municipality; or

iii. The non-contiguous agricultural or horticultural site or group of properties under common ownership or management lie within an area of two square miles on a side of each other.

#### 7:20A-1.5 Schedule for applying for water usage certifications and establishing privileges to divert water

(a) Any person issued a valid Water Policy and Supply Council permit for agricultural or horticultural purposes which will terminate within five years after the effective date of this chapter shall apply for a water usage certification 90 days prior to the termination date of the person's present Water Policy and Supply Council permit, by following the procedures set forth in N.J.A.C. 7:20A-2.

(b) Any person issued a valid Water Policy and Supply Council permit for agricultural or horticultural purposes with no termination date or a termination date five or more years after the effective date of this chapter shall apply for a water usage certification within 180 days after the effective date of this chapter, by following the procedures set forth in N.J.A.C. 7:20A-2.

(c) Any person other than those referred to in (a) and (b) above who intends to divert 100,000 or more gallons of water per day for agricultural or horticultural purposes shall apply for a water usage certification by following the application procedures set forth in N.J.A.C. 7:20A-2.

#### 7:20A-1.6 Calculation of gallons of water per day used for agricultural or horticultural purposes; penalty provision

(a) For the purpose of this chapter, the applicant shall be considered to have diverted 100,000 or more gallons of water per day for agricultural or horticultural purposes if the applicant proposes to divert or existing documentation establishes that the applicant's proposed or actual total gallons of water diverted for agricultural or horticultural uses during the maximum month for usage in the most recent calendar year, when divided by the total number of days in the measuring month produces a figure of 100,000 or more gallons of water per day.

(b) Any person who fails to comply with this chapter or the Act shall be subject to the penalty provisions set forth in Section 16 of the Act.

#### 7:20A-1.7 Procedure after transfer of ownership or operation of agricultural or horticultural property with existing water usage certification

(a) A certification for any property utilized for agricultural or horticultural purposes under an existing water usage certification, which has been transferred in ownership or operation without any change or modification in the specified conditions of water usage for agricultural or horticultural purposes, may be transferred upon application by the new owner or operator to the Department through the appropriate county agricultural agent for such a transfer of the existing water usage certification except that:

1. If any change in the specified conditions of water usage or property utilization for agricultural or horticultural purposes occurs prior to or subsequent to the transfer of ownership or operation, then the application process for new water usage certifications outlined in N.J.A.C. 7:20A-2 shall be followed by the new owner or operator of the property.

2. If the new owner or operator of the property does not apply for the privilege to transfer the existing water usage certification within 60 days after the transfer of ownership or operation, then the privilege of the new owner or operator to divert water under the existing water usage certification shall cease.

#### 7:20A-1.8 Program information

Unless otherwise specified, any questions concerning the

requirements of N.J.A.C. 7:20A-1 and 2 shall be directed to the appropriate county agricultural agent, or to the Office of Water Allocation, Water Supply and Watershed Management Administration, Division of Water Resources, New Jersey Department of Environmental Protection, CN 029, Trenton, New Jersey 08625.

#### 7:20A-1.9 Severability

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

### SUBCHAPTER 2. WATER USAGE CERTIFICATION PROCEDURE

#### 7:20A-2.1 Scope

This subchapter prescribes the procedures which shall be followed by applicants, county agricultural agents, and the Department when applying for and in the processing of applications for water usage certifications to establish a privilege to divert water.

#### 7:20A-2.2 General application procedures

(a) The Department shall provide the current application forms required for water usage certifications to the Chairman, Department of Agricultural and Resource Management Agents, Cooperative Extension Service, Cook College, Rutgers University, Box 231, New Brunswick, New Jersey 08903, for distribution to all county agricultural agents.

(b) An applicant for a water usage certification to establish a privilege to divert 100,000 or more gallons of water per day for agricultural or horticultural purposes shall contact the appropriate county agricultural agent to obtain application forms and other instructions needed to file a complete application.

(c) The applicant shall follow all the instructions to complete the application forms, and shall obtain and prepare all other documents required by the instructions and submit the completed applications and other documents to the appropriate county agricultural agent.

(d) All applications shall be signed by the applicant if an individual, or a duly authorized representative of the applicant if the applicant is an entity other than an individual. If the applicant is not an individual, a certified copy of the document authorizing the representative to sign for the applicant shall be attached to the application.

#### 7:20A-2.3 Standards and procedures for approval of water usage certifications

(a) In general, an applicant for a water usage certification shall provide all information reasonably available to the applicant which establishes that the application complies with the standards and procedures set forth by the Department as follows:

1. The plans proposed are in the public interest, and provide for the proper and safe construction of structures connected therewith;

2. Diversion of the quantity of water requested shall not unduly interfere with other existing supplies;

3. Diversion normally shall not exceed the natural replenishment or safe yield of the water resources or threaten to exhaust such waters or to render them unfit for use, from any cause;

4. The plans for the proposed diversion are just and equitable to the other known water users affected thereby; such known water users shall be identified and located on an appropriate map; and

5. In the case of surface water only, whether the reduction of the dry season flow of any stream will be caused to an amount likely to produce unsanitary conditions or otherwise unduly injure public or private interests; or

6. In the case of groundwater only, that the proposed diversion does not lie within a cone of depression where the aquifer to be utilized is overstressed or threatened by saline intrusion, and that the location relative to hazardous waste disposal sites or other major

source of pollution is not such as to be likely to result in groundwater contamination.

(b) The applicant for the diversion of groundwater shall show the present land use for all land within half a mile of the proposed diversion point. Municipal master plan information may be sufficient for the purpose of this subsection.

(c) If any of the conditions in (a) above are not met, a showing shall be required as to why some more suitable alternative source of water should not be used in the public interest.

(d) Additionally, the applicant may be required by the appropriate county agricultural agent or the Department to submit any other information which would substantiate the proposed allocation and the appropriateness of the designated choice of water for the allocation.

#### 7:20A-2.4 Conversion of existing permits to water usage certifications and applications for renewals of existing water usage certifications

(a) A water usage certification may be granted with the same or different conditions as the existing water usage certification or Water Policy and Supply Council permit, or the request for an extension of the conditions set forth in the existing certification or permit may be denied.

1. If the extension is granted to a water usage certification or Water Policy and Supply Council permit which will terminate within five years after the effective date of this chapter, then the scheduled termination date of the existing water usage certification or Water Policy and Supply Council permit shall be the starting date of the water usage certification pursuant to this section.

2. If the extension is granted to a water usage certification or Water Policy and Supply Council permit which has no termination date or a termination date five or more years after the effective date of this chapter, then the starting date of the water usage certification pursuant to this section shall be the effective date of this chapter.

3. Any change in existing water usage conditions shall require compliance with the procedures set forth in N.J.A.C. 7:20A-2.

(b) Applications for renewal of existing certifications or permits shall supply information not previously established in the existing certification or permit, any information relevant to proposed changes in certification or permit conditions, and other information as requested by the appropriate county agricultural agent or the Division for the proper implementation of the Act and this chapter.

#### 7:20A-2.5 Preliminary application review

(a) The appropriate county agricultural agent shall make a preliminary review of the material to determine whether or not the applicant has submitted with the application documents addressing N.J.A.C. 7:20A-2.2, and if it has been completely and properly prepared.

(b) If the application is insufficient, incomplete, or prepared improperly, the applicant shall be so advised and instructed by the appropriate county agricultural agent as to what steps must be taken to make the application acceptable.

#### 7:20A-2.6 Opportunity to review application by interested parties

(a) Copies of the application may be reviewed by any interested parties at the offices of the county agricultural agent.

(b) The Division, after the application has been officially filed pursuant to N.J.A.C. 7:20A-2.7(b), shall have a notice of the application published in a newspaper circulating in the territory affected by the application within one week of the filing of the application.

1. The notice shall be published for one entire week and shall summarize the application and describe the area affected.

2. The cost of publishing the notice of the application shall be paid by the applicant.

**7:20A-2.7 Verification from county agricultural agent to Division**

(a) The county agricultural agent shall verify the need for the water usage requested and forward it to the Division's Water Allocation Office along with other pertinent information.

1. The county agricultural agent shall also promptly forward to the Division copies of any written objections to the proposed application from any interested parties.

2. The appropriate county agricultural agent shall forward the application and all other relevant data to the Division's Water Allocations Office for evaluation and review of the applications compliance with the standards and procedures set forth in N.J.A.C. 7:20A-2.3.

(b) The receipt by the Division's Water Allocation Office of the application, the verification of the need for water usage, and all other relevant data concerning a particular application shall constitute the official filing of the application for the purposes of N.J.A.C. 7:20A-2.6(b).

(c) The Division's Water Allocation Office shall review and evaluate the application and verification of the need for the water usage and complete the following activities:

1. Enter information concerning the application into official Division records;
2. Review the application and all other relevant data;
3. Check relationship to sources of possible pollution of the proposed water usage certification;
4. Check relationship to nearby wells, ponds and other water supplies for possible interference; and
5. Prepare a written analysis that all plans and specifications have been recommended for approval or disapproval.

(d) If no written objection from any interested parties concerning the application for a water usage certification has been made or received by the county agricultural agent and no written objections are made during the Division's Water Allocation Office review process, and the application complies with the standards and procedures set forth in this chapter, then the Division's Water Allocation Office shall:

1. Draft the necessary water usage certifications with attachments of any conditions deemed necessary and obtain approval of the Division's designated decision maker; and
2. Recommend that the appropriate county agricultural agent issue the water usage certification drafted by the Division's Water Allocation Office and based upon the standards and procedures set forth in this chapter.

(e) If objections exist to the application from any source, the procedures outlined in N.J.A.C. 7:20A-2.8 shall be followed.

**7:20A-2.8 Advisory Panel**

(a) If objections are made concerning an application for a water usage certification by the Division or any interested parties, then the appropriate county agricultural agent shall convene an informal Advisory Panel which shall consist of the designated representative of the Commissioner of the Department of Environmental Protection, the designated representative of the Secretary of Agriculture, and the designated representative of the Dean of Cook College. The Advisory Panel shall have the following duties:

1. Schedule an informal meeting with the applicant, the Division, the appropriate county agricultural agent, and interested parties who have registered official written objections to the application.
2. Attempt to settle the dispute by encouraging communications, negotiation and agreement between the parties involved to encourage resolution of the issues relating to the various objections.
3. If an agreement satisfactory to all parties can be made through the good offices of the Advisory Panel, the Advisory Panel shall prepare a written document outlining the suggested settlement to the Division, for recommendation for approval or denial of the suggested settlement by the appropriate county agricultural agent.
  - i. The appropriate county agricultural agent may then issue a water usage certification, drafted by the Division, based upon the

recommendations of the Advisory Panel including any other conditions deemed necessary by the Division.

(b) If no resolution can be achieved by the Advisory Panel, then the public hearing process outlined in this subchapter shall be followed.

**7:20A-2.9 Notice of public hearing requirements**

(a) When a public hearing on a water usage certification is required pursuant to the N.J.A.C. 7:20A-2.7(e), or the appropriate county agricultural agent or the Division determines that a public hearing is required in the public interest, the Division shall:

1. Set a date for a public hearing;
2. Have a notice of the public hearing published at least twice in a newspaper circulating in the territory affected by the application at least 30 days prior to the scheduled hearing.
  - i. If the Division determines that an emergency or other similar circumstances require an expedited hearing, the notice of the hearing need only be published in a local newspaper at least 14 days prior to the scheduled hearing; and
3. Notify in writing, the applicant, the governing bodies of municipalities and counties in the territory affected by the application, and officials of existing public water systems within a five mile radius of the proposed diversion.

(b) The notice for the public hearing shall contain:

1. A description of the application;
2. A date for the public hearing; and
3. A statement that written comments, arguments or objections to the application may be submitted until the end of the scheduled hearing date.

(c) The public hearing shall be before a hearing officer specified by the Division.

(d) Between the time the notice is published and the scheduled date for the public hearing, the Division shall review the application and develop staff recommendations concerning the disposition of the application and any conditions that should be included in the water usage certification if issued.

1. The staff recommendations shall include and consider the application, the water usage verification of the appropriate county agricultural agent, the Division's Office of Water Allocations recommendation, the Advisory Panel's report, written comments of interested parties, and all other relevant information pertaining to the application. These staff recommendations shall be:
  - i. Made available to interested parties upon written request five working days prior to the scheduled hearing date;
  - ii. Presented at the hearing to be commented upon or objected to; and
  - iii. If there is no hearing, upon timely written request by the applicant or any interested person to the Division, the staff recommendations shall be made available to the applicant or any interested person within seven days of the rendering of a decision.

**7:20A-2.10 Expenses of hearing**

The cost of advertisement and other expenses of the hearing, including stenographic record, but excluding expenses for Division hearing staff will be certified to the applicant who shall pay the bill within 30 days thereafter. Payment in full of the bill shall be a condition of final water usage certification issuance.

**7:20A-2.11 Public hearing**

(a) The hearing officer shall have reasonable discretion in the conduct of the public hearing and shall give:

1. The applicant opportunity to submit his information meeting the requirements of this chapter;
2. Other persons opportunity to comment in favor of or in opposition to matters relevant to the application; and
3. The applicant opportunity to respond to the commentors including written comments received by the Division.

(b) The hearing officer shall give the applicant reasonable time after the hearing to correct deficiencies in its application and respond to comments received at the hearing.

**7:20A-2.12 Public hearing report**

(a) The hearing officer shall review the application, the water usage verification of the appropriate county agricultural agent, the Division's Office of Water Allocations recommendation, the Advisory Panel's report, staff recommendations, written comments of interested parties, transcripts from the public hearing, and all other relevant information pertaining to the application and prepare and submit written findings and recommendations to the decision maker for a final recommendation for approval or disapproval of the application for a water usage certification by the appropriate county agricultural agent.

1. These findings and recommendations shall be made available and an opportunity for comment offered to the applicant and other principal interested parties.

**7:20A-2.13 Decision maker's recommendation**

(a) Where a hearing has been held, the decision maker shall review the hearing report and the entire record of the application before making a final recommendation to the appropriate county agricultural agent for the approval, with necessary conditions, or denial of the application.

(b) In addition the decision maker shall review any other documents submitted during the review process and use his professional judgement when making his recommendation.

**7:20A-2.14 Notification of recommendation**

The appropriate county agricultural agent shall be notified of the Department's recommendation by either the drafting of a water usage certification with any conditions deemed appropriate, or by a draft letter of denial of the application from the appropriate county agricultural agent stating reasons for the denial.

**7:20A-2.15 Approval by county agricultural agent**

(a) The appropriate county agricultural agent shall approve or disapprove of water usage certification applications in accordance with the binding recommendations of the Department as provided in this chapter.

(b) The appropriate county agricultural agent shall then notify the applicant by the issuance of a water usage certification or by letter of denial of the application, stating reasons for the denial and setting forth rights of appeal.

(c) In addition all persons testifying at the public hearing shall be notified by letter of the decision of the appropriate county agricultural agent.

**7:20A-2.16 Record of decision**

(a) There shall be maintained by the Division for each application reviewed a record consisting of copies of:

1. The application documents;
2. Water usage verification by appropriate county agricultural agent;
3. Staff recommendations;
4. Advisory Panel recommendations;
5. The public hearing report and transcript;
6. Comments received;
7. The water usage certification or letter of denial; and
8. All other relevant information.

(b) This record may be reviewed by interested parties at the Division and copies of it may be obtained from the Division upon payment of the fee for duplication.

**7:20A-2.17 Appeal procedure**

(a) The applicant, the Department or any person alleging to be adversely affected by the decision on a water usage certification application shall have a right to a hearing thereon if requested in writing within 20 days of receipt of a copy of the decision.

(b) For 30 days following receipt of the request for a hearing, the appropriate county agricultural agent and the Division shall attempt to settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

(c) If such efforts at settlement fail, the Department shall file the request for a hearing with the Office of Administrative Law.

(d) The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as amended and supplemented, and the Office of Administrative Law's Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) The decision by the Commissioner, based on the record of the application and the recommendations of the administrative law judge shall be the final administrative decision on the approval or denial of the application.

**7:20A-2.18 Validity of water usage certifications issued**

Water usage certifications of any nature shall not be valid unless issued in compliance with and pursuant to this chapter.

**SUBCHAPTER 3. FEE SCHEDULE FOR WATER USAGE CERTIFICATIONS****7:20A-3.1 Scope and authority**

This subchapter shall constitute the rules governing the establishment of a fee schedule for water usage certifications for agricultural and horticultural purposes as authorized by Section 7.2 of the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.

**7:20A-3.2 Purpose**

The purpose of this subchapter is to establish fees for the water usage certification program, as set forth in N.J.A.C. 7:20A-1 and 2, based upon and not to exceed the estimated cost of processing, monitoring, administering, and enforcing the water usage certification program for persons who divert any ground or surface water for agricultural or horticultural purposes.

**7:20A-3.3 Definitions**

For the purpose of this subchapter, the following definitions in addition to those found in N.J.A.C. 7:20A-1.3 are applicable.

"Annual fee" means a fee charged annually during the period of validity of every water usage certification.

"Dewatering" means the abstraction of water on a temporary basis from wells or excavation.

"Initial fee" means the fee charged upon issuance of all new water usage certifications, except the renewal of privileges previously allowed pursuant to lawful legislative or administrative actions and not previously charged fees.

"Renewal fees" means the fee charged upon issuance of all renewals of existing water usage certifications, or the renewal of privileges previously allowed pursuant to lawful legislative or administrative actions, and not previously charged fees.

"Water user" means a user of water for agricultural or horticultural purposes as defined in N.J.A.C. 7:20A-1.3.

**7:20A-3.4 Applicability**

This subchapter shall be applicable to all persons as set forth in N.J.A.C. 7:20A-1.4.

**7:20A-3.5 Payment of annual water usage certification fees**

(a) The Department shall submit a bill for the next year's annual certification fee to each water user prior to July 1 of each year.

(b) Each water user shall remit its annual certification fee for the next fiscal year by August 1 of that year.

**7:20A-3.6 Failure to submit the annual water usage certification fee payment in a timely manner**

(a) Failure to pay the annual certification fee by August 1 of each year shall be considered a voluntary termination and surrender of the certification by the water user, unless the Department has granted the water user a written extension of the time to pay the fee prior to the August 1 due date.

(b) Any water user who has surrendered his certification in

**PROPOSALS**

**ENVIRONMENTAL PROTECTION**

accordance with (a) above and continues to divert water shall be subject to the penalty provisions set forth in N.J.S.A. 58:1A-16.

**7:20A-3.7 Fees**

(a) All applicable fees shall be paid in accordance with the fee schedule established pursuant to N.J.A.C. 7:20A-3.8.

(b) Each applicant for water usage certification, including but not limited to privileges previously allowed pursuant to lawful legislative or administrative action, shall pay the appropriate fee, initial or renewal, prior to issuance of the certification, plus the total annual fee for the year commencing the previous August 1.

1. Upon renewal of a certification, if the annual fee for the current year has already been paid, no second payment for the same year will be required.

(c) Any applicant who fails to complete the necessary forms or other requirements for certification, or to provide information within the time frame established by the Department, shall pay the annual fees which would have been due if the forms, information and processing had been completed in a timely manner, except where the Department grants an extension of time prior to the due date for the action.

(d) The annual fee shall be based upon the classification for that water user, as set forth in (e) below.

(e) An applicant for water usage certification shall be placed in the appropriate class below based on the size of the allocation approved (mgd = million gallons per day):

- 1. Class 1, 0.1 mgd to less than 0.5 mgd;
- 2. Class 2, 0.5 mgd to less than 1.0 mgd;
- 3. Class 3, 1.0 mgd to less than 2.0 mgd; and
- 4. Class 4, 2.0 mgd and above.

(f) For the purpose of assessing fees under this subchapter, if any groundwater diversion is included in a certification, the fee schedule shall be that for groundwater.

**7:20A-3.8 Fee schedule**

(a) Fees shall be charged for water usage certifications as applicable pursuant to the following schedules:

**1. Initial fees for new applications:**

	Class 1	Class 2	Class 3	Class 4
i. Surface water not requiring hearing process	\$25	\$25	\$25	\$50
ii. Surface water diversions requiring hearing process	\$50	\$50	\$50	\$50
iii. Ground-water diversions not requiring hearing process	\$25	\$25	\$50	\$50
iv. Ground-water diversion requiring process	\$50	\$50	\$50	\$50
v. Dewatering:	\$50	\$50	\$50	\$50

ground-water diversions

**2. Renewal fees without modification:**

	Class 1	Class 2	Class 3	Class 4
i. Surface water diversions not requiring hearing process	\$25	\$25	\$25	\$25
ii. Surface water diversions requiring hearing process	\$25	\$25	\$25	\$50
iii. Ground-water diversions not requiring hearing process	\$25	\$25	\$25	\$50
iv. Ground-water diversions requiring hearing process	\$25	\$25	\$50	\$50

**3. Renewal fees with modifications:**

	Class 1	Class 2	Class 3	Class 4
i. Surface water not requiring hearing process	\$25	\$25	\$25	\$50
ii. Surface water diversion requiring hearing process	\$25	\$25	\$50	\$50
iii. Ground-water diversion not requiring hearing process	\$25	\$25	\$25	\$50
iv. Ground-water diversion requiring hearing process	\$50	\$50	\$50	\$50

**4. Annual fees for certifications:**

	Class 1	Class 2	Class 3	Class 4
i. Surface water diversions not requiring hearing process	\$25	\$25	\$25	\$50
ii. Surface	\$50	\$50	\$50	\$50

water diversion not requiring hearing process				
iii. Ground-water diversion not requiring hearing process	\$25	\$25	\$50	\$50
iv. Ground-water diversions requiring hearing process	\$50	\$50	\$50	\$50

**(a)**

**DIVISION OF GREEN ACRES**

**New Jersey Wild and Scenic Rivers System Administration and Regulation**

**Proposed Amendment: N.J.A.C. 7:38-1**

Authorized By: Robert E. Hughey, Commissioner,  
 Department of Environmental Protection.  
 Authority: N.J.S.A. 13:8-45 through 63.  
 DEP Docket No.: 05-82-10.

A public hearing concerning this proposal will be held on December 9, 1982 at 1:00 P.M. at:  
 Archives Room  
 State Library  
 Trenton, New Jersey

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:  
 Robert Stokes, Chief  
 Recreation and Heritage Planning  
 Green Acres Program  
 CN 404  
 Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-489.

The agency proposal follows:

**Summary**

The proposed amendments will improve the existing rules by reorganizing the major topics, by clarifying the regulated uses and the administrative structure, and by refining the permit application and review process.

**Social Impact**

The revised rules will have minimal additional social impact as the intent and content of the existing rules have not been altered. A positive impact is realized by the clarification of certain regulated uses.

**Economic Impact**

The economic impact of these revised rules will be positive in that the application process has been streamlined by the use of a pre-application phase to determine the scope of proposed projects and

the appropriate extent of the application requirements. Administrative costs and permit processing time will be reduced by this as well as the cost and waiting period for applicants.

**Environmental Impact**

The revised rules will not have additional environmental impact as the intent and content of the existing rules have not been altered.

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

CHAPTER 38  
 WILD AND SCENIC RIVERS SYSTEM

SUBCHAPTER 1. GENERAL PROVISIONS

7:38-1.1 Scope  
 (No change.)

7:38-1.2 Severability  
 (No change.)

7:38-1.3 Definitions  
 (a) (No change.)

(b) For the purposes of this subchapter, the following definitions, as set forth in the Wild and Scenic Rivers Act, shall apply:

“Administering agency” means [any agency of the State administering the use or conservation of State-owned land.] **the State agency within the Department designated by the Commissioner to effectuate the application of this subchapter and the rules and regulations promulgated pursuant to this Act concerning the development and use of the appropriate designated adjacent area of land.**

“Developed recreational [rivers] river area” means a river, or section thereof, that [are] is readily accessible, that may have substantial development along its shorelines, that may have undergone substantial impoundment or diversion, but which [remain] **remains** suitable for a variety of recreational uses.

“Wild and scenic river commission” means a commission created [by an affected municipality, or] by affected municipalities jointly, to administer a river area designated to the System; also known as, “designated river commission”, “river commission”.

“Wild river area” means a river, or section thereof, that is free of impoundment and generally inaccessible except by trail, with watershed or shoreline essentially primitive and undeveloped and waters unpolluted. In addition, a wild river area shall be **administered** consistent with the criteria established by the Natural Areas System Act, N.J.S.A. 13:1B-15.12a et seq., and rules and regulations adopted pursuant thereto, N.J.A.C. 7:2-11.

(c) For the purposes of this subchapter, the following definitions shall apply, unless the context clearly indicates a different meaning:

“Access” means [any means,] a place or way by which the waters of a river or a river area may be reached by the public.

“Agricultural use” means any [industry] use involving the growth and subsequent processing and marketing of food, fiber, or a marketable biological product[, or practices] directly related to agriculture.

“Conservation area” means an area **within the river area** recognized for protection by the Department upon designation of a river area for its natural, agricultural, or special values or qualities, as follows:

i. “Natural conservation area” means an area consistent with the qualities set forth pursuant to the Natural Areas System Act, N.J.S.A. 13:1B-15.12a et seq., and criteria established for wild

river areas except that the area does not meet the minimum criteria of length[.] set out in the **Guidelines for the Classification of River Areas**.

ii. "Agricultural conservation area" means an area demonstrating [values for agricultural use, but not necessarily associated with existing agricultural lands;] **characteristics associated with agricultural use, as determined by the Department in the designation study. Agricultural use and development within the conservation area, which is in accordance with management practices recommended by the New Jersey Department of Agriculture, the Soil Conservation Service, and the New Jersey Agricultural Experimental Station at Rutgers University, is not regulated by this subchapter.**

iii. "Special district" means an area demonstrating extraordinary values [of] or recreational opportunity, or historic context, or scenic quality.

["Critical adjacent areas" means land, features or waters adjacent to a designated river area where conservation would significantly serve or reinforce the conservation of the designated river area.]

"Lands associated with existing agricultural use" are those lands where agricultural use is clearly intended by the owner as demonstrated by, but not limited to:

- i. Farmland assessment;
- ii. Recent agricultural improvement;
- iii. Land necessary to support existing agricultural use.

["Non-motorized vehicle" means any object of travel or transport by land or water not having mechanical propulsion parts.]

"Motorized vehicle" means any object of travel or transport by land or water having motorized propulsion parts.

"Structure" means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

#### 7:38-1.4 Administration of designated river areas

(a) Lands and waters [delineated] within a [designated] river area shall be administered in accordance with the provisions of this subchapter, classifications and the designation study and plan for the river area.

(b) State-owned lands and waters [delineated] within a [designated] river area shall be administered by the administering agency.

(c) Non-state lands and waters [delineated] within a [designated] river area shall be administered by the Department until such time as the affected municipalities, jointly or separately, create and designate a wild and scenic river commission.

#### 7:38-1.5 Wild and scenic river commission

(No change.)

#### 7:38-1.6 Authority and responsibilities of a wild and scenic river commission

(a) [With the approval of the Commissioner, each such] **Each wild and scenic river commission shall have authority to adopt, amend and administer rules, pursuant to N.J.S.A. 13:8-45 et seq. and this subchapter, with the approval of the Commissioner, concerning the development and use of the [designated] river area, contained in the river area designation report, but no such rules and regulations shall be less restrictive than the minimum standards contained in this subchapter.**

(b) (No change.)

(c) Commissions shall review such permit applications and shall have authority to issue permits upon review and approval. Decisions of a designated river commission as to any river conservation permit application shall be subject to the [review] approval of the Commissioner.

(d) Commissions [may] **shall** make recommendations to the planning and governing authorities of their affected municipalities

concerning land use and development regulations affecting [delineated river areas] **a river area** in accordance with this subchapter and the designation [plan] **study** for the [designated] river area.

(e) (No change.)

**Delete** the existing text of N.J.A.C. 7:38-1.7 through 1.16 **and** **replace** it with the following new text (the existing text may be inspected at the Office of Administrative Law, 88 East State Street, Trenton, New Jersey).

#### 7:38-1.7 Regulated uses in a river area

(a) **The following uses are regulated in a river area:**

1. **Development of land for new agricultural use;**
2. **Mining or extraction of minerals, sand, or gravel;**
3. **Construction of dams or other structures which restrict the free flow of the water;**
4. **Construction of structures and buildings;**
5. **The development of special districts defined in the designation of a river area to provide interpretive or recreational access and facilities to the river area;**
6. **The development of historic districts defined in the designation of a river area to be authentically reconstructed;**
7. **Granting of or construction along easements;**
8. **The development of public and private recreation facilities;**
9. **Activities creating noise levels inconsistent with the river area;**
10. **Motorized vehicular uses including motorized vessels, except for administrative or agricultural purposes;**
11. **Placing of signs for the purpose of advertising goods and services offered by a professional, or commercial establishment within the river area or notice of residence within the river area;**
12. **On State lands, any uses specifically prohibited by the Natural Areas System Act (N.J.S.A. 13:1b-15.12a et seq.) or by rules promulgated pursuant thereto (see N.J.A.C. 7:2-11); and**
13. **Any uses which will diminish the water quality of a designated river area, or which will impair the recovery of waters to a level of quality appropriate to classification of the river areas.**

#### 7:38-1.8 Expansion, enlargement, restoration, construction, or reestablishment of lawful, preexisting use

(a) **Lawful preexisting sanitary landfills may be expanded vertically provided that:**

1. **No significant adverse visual impact on the river area is made;**
2. **No horizontal expansion is made; and**
3. **The other applicable provisions of law are met to the satisfaction of the Division of Water Resources and the Solid Waste Administration, and other such agencies as may be appropriate.**

(b) **Lawful preexisting sewage treatment facilities may be expanded, provided that:**

1. **No other feasible alternative site is available;**
2. **Adequate measures are taken to insure the protection and improvement of water quality; and**
3. **Any other applicable provisions of law are met to the satisfaction of the Division of Water Resources and the Solid Waste Administration, or such other agencies as may be appropriate.**

(c) **Lawful preexisting uses shall maintain the character of existing natural vegetation as provided by the classification of the designated river area.**

(d) **Structures which are lawfully under construction on the effective date of designation of a river area may be completed.**

(e) **Where use or a property has been abandoned, a permit shall be required for the reestablishment or renewal of use in accordance with this subchapter, the designation and local ordinances.**

(f) Lawful preexisting buildings or structures damaged or destroyed by any means may be restored on an emergency basis when the public health, safety, or welfare is threatened.

#### 7:38-1.9 Wild river areas, policies and standards

(a) Policies and standards concerning wild river areas are as follows:

1. Development of land for agricultural use is only permitted on land in existing agricultural use and land associated with existing agricultural use.

2. Mining or extraction of minerals, sand or gravel, is prohibited.

3. Construction of dams or other structures which restrict the free flow of waters of the river is prohibited.

4. Construction of structures or buildings is prohibited except as allowed in special or historic districts defined upon designation.

5. Construction of trailside shelters of the type called lean-to's, or tent platforms will be permitted in a wild river area.

6. Granting of or construction along easements will not be permitted in a wild river area, except where adjacent to existing developed easements when there are no other feasible alternatives.

i. Where providing service or access to a special or historic district, easements may be granted to the district, but not across the channel of the river.

7. Placing of signs for the purpose of advertising goods and services offered by a professional or commercial establishment within the river area or notice of residence within the river area is prohibited, except where access is provided to such location from a publicly maintained roadway. Such signs shall meet the following standards:

i. Freestanding permanent signs shall not exceed 15 feet in height nor 12 square feet in area;

ii. There shall be only one such sign on each individual parcel;

iii. Freestanding temporary signs advertising the sale of seasonal agricultural produce shall not exceed 20 square feet in area. There shall be only one such sign at each access;

iv. Temporary non-illuminated signs pertaining to the lease or sale of the premises upon which it is placed shall not exceed six square feet in area. There shall be no more than one sign per 200 feet of property road frontage or per parcel, whichever is less;

v. Signs attached flush to or painted upon the surface of a structure for the purpose of identifying the location of a business, including a farm, shall not exceed 10 percent of the face of the building upon which such sign is placed or 12 square feet, whichever is less;

vi. Signs may be illuminated provided that the source of illumination shall be constant and non-flashing and shall not be visible from the river;

vii. Signs deemed necessary to the public welfare or any other such requirement by law may be placed by the governing body, the Department or other appropriate authorities;

viii. Paragraph (a)7i through vii shall not be construed to prevent the posting of any sign forbidding trespassing, hunting, fishing, or trapping as authorized by Title 23 of the Statutes of the State of New Jersey (Fish and Game Laws).

8. The development of public and private recreation facilities is prohibited, except nature and wildlife preserves, hunting and fishing areas, wilderness campsites, and hiking or horseback riding trails.

i. No access to the river, trails, or wilderness campsites shall be located or developed on sensitive lands or other areas defined upon designation. Such facilities may be developed in accordance with specifications and conditions set forth upon designation.

9. Activities creating noise levels inconsistent with existing levels in the wild river area as set forth upon designation is prohibited.

10. Motorized vehicular uses, including motorized vessels, is prohibited except for administrative or agricultural purposes.

11. On State lands, any uses specifically prohibited by the Natural Areas System Act (N.J.S.A. 13:1b-15.12a et seq.) or by rules promulgated pursuant thereto will not be permitted (see N.J.A.C. 7:2-11).

#### 7:38-1.10 Scenic river areas, policies and standards

(a) Policies and standards concerning scenic river areas are as follows:

1. Development of land for agricultural use is only permitted on land in existing agricultural use and land associated with existing agricultural use, or in Agricultural Conservation Areas defined upon designation.

2. Mining or extraction of minerals, sand or gravel is prohibited.

3. Construction of dams or other structures which restrict the free flow of waters of the river is prohibited.

4. The construction of structures or buildings in a manner inconsistent in architecture, height and total floor area with typical existing structures and buildings of the scenic river area is prohibited, except as specified upon designation in special or historic districts, or as associated with agricultural facilities or uses.

5. Granting of easements is prohibited, except where adjacent to existing developed easements when there are no other feasible alternatives.

i. Where providing service or access to a special or historic district, easements may be granted to the district, but not across the channel of the river.

6. Placing of signs for the purpose of advertising goods and services offered by a professional or commercial establishment within the river area, or notice of residence within the river area is prohibited, except where access is provided to such location from a publicly maintained roadway. Such signs shall meet the following standards:

i. Freestanding permanent signs shall not exceed 15 feet in height nor 12 square feet in area;

ii. There shall only be one such sign at each access;

iii. Freestanding temporary signs advertising the sale of seasonal agricultural produce shall not exceed 20 square feet in area. There shall be only one such sign at each access;

iv. Temporary non-illuminated signs pertaining to the lease or sale of the premises upon which it is placed shall not exceed six square feet in area. There shall only be one such sign per 200 feet of property road frontage or per parcel, whichever is less;

v. Signs attached flush to or painted upon the surface of a structure for the purpose of identifying the location of a business, including a farm, shall not exceed 10 percent of the area of the face of the building upon which such sign is placed or 12 square feet, whichever is less;

vi. Signs may be illuminated provided that the source of illumination shall be constant and non-flashing and shall not be visible from the river;

vii. Signs deemed necessary to the public welfare or any other such requirement by the law may be placed by the governing body, the Department or other appropriate authorities;

viii. Paragraph (a)6i through vii shall not be construed to prevent the posting of any sign forbidding trespassing, hunting, fishing, or trapping as authorized by Title 23 of the Statutes of the State of New Jersey (Fish and Game Laws).

7. The development of public and private recreation facilities will not be permitted, except: nature and wildlife preserves; hunting and fishing areas; game farms, except that vegetation shall be maintained as specified upon designation; campsites for up to 200 persons; and hiking, horseback riding or off-road land vehicle trails.

i. No access to the river, trails, or campsites shall be located or developed on sensitive lands or other areas defined upon designation.

ii. Campsites shall be screened from view of the river or as specified upon designation.

iii. Off-road land vehicle trails shall be screened from view of the river.

8. Activities creating noise levels inconsistent with existing levels in the scenic river area as set forth upon designation will not be permitted.

#### 7:38-1.11 Recreational river areas, policies and standards

(a) Policies and standards concerning recreational river areas are as follows:

1. Mining or extraction of minerals, sand or gravel is prohibited if it is performed in a manner infringing upon or detrimental to the recreational character and values of the river area as set forth upon designation.

2. Construction of dams or other structures in a manner infringing upon or detrimental to the recreational character and values of the river as set forth upon designation is prohibited.

3. The construction of structures or buildings for occupancy, except as specified upon designation, which are inconsistent in height or total floor area with typical existing structures within the recreational river area is prohibited.

i. Structures which impede the recreational use of the banks or the waters of the stream by the public shall not be allowed.

4. Granting of or construction along easements in a manner infringing upon or detrimental to the recreational character and values of the river area as set forth upon designation is prohibited.

5. Activities creating noise levels inconsistent with existing levels in the recreational river area as set forth upon designation is prohibited.

6. Placing of signs except for the purpose of advertising goods and services offered by a professional or commercial establishment within the river area, or notice of residence within the river area is prohibited. Such signs shall meet the following standards:

i. Freestanding permanent signs shall not exceed 15 feet in height nor 32 square feet in area;

ii. There shall be only one such sign at each access to the establishment or residents;

iii. Freestanding temporary signs advertising the sale of seasonal agricultural produce shall not exceed 32 square feet in area. There shall be only one such sign at each access to the establishment or residence;

iv. Temporary non-illuminated signs pertaining to the lease or sale of the premises upon which it is placed shall not exceed 32 square feet in area. There shall be no more than one sign per 200 feet of property road frontage;

v. Signs attached flush to or painted upon the surface of a structure for the purposes of identifying the location of a business, including a farm, shall not exceed 10 percent of the area of the face of the building upon which such sign is placed;

vi. Signs may be illuminated provided that the source of illumination shall be constant and non-flashing and shall not be visible from the river;

vii. Signs deemed necessary to the public welfare or any other such requirements by law may be placed by the governing body, the Department or other appropriate authorities;

viii. Paragraph (a)6i through vii shall not be construed to prevent the posting of any sign forbidding trespassing, hunting, or trapping as authorized by Title 23 of the Statutes of the State of New Jersey (Fish and Game Laws).

#### 7:38-1.12 Regulation of developed recreational river areas

(a) Regulation of developed recreational river areas is as follows:

1. Mining or extraction of minerals, sand or gravel in a manner infringing upon or detrimental to the recreational

character and the values of the river area as set forth upon designation is prohibited.

2. Construction of dams or other structures in a manner infringing upon or detrimental to the recreational character and values of the river as set forth upon designation is prohibited.

3. Construction of structures or buildings which impede the recreational use of the banks or the waters of the stream by the general public is prohibited.

4. Granting of or construction along easements in a manner infringing upon or detrimental to the recreational character and values of the river as set forth upon designation is prohibited.

5. Placing of signs except for the purpose of advertising goods and services offered by a professional or commercial establishment within the river area, or notice of residence within the river area is prohibited. Such signs shall meet the following standards:

i. Freestanding permanent signs shall not exceed 50 square feet in area. There shall be only one such sign at each access;

ii. Freestanding temporary signs advertising the sale of seasonal agricultural produce shall not exceed 32 square feet in area. There shall be only one such sign at each access;

iii. Temporary non-illuminated signs pertaining to the lease or sale of the premises upon which it is placed shall not exceed 50 square feet in area. There shall be only one such sign per 200 square feet of property road frontage;

iv. Signs attached flush to or painted upon the surface of a structure for the purpose of identifying the location of a business, including a farm, shall not exceed 10 percent of the area of the face of a building upon which such sign is placed;

v. Signs may be illuminated provided that the source of illumination shall be constant and non-flashing;

vi. Signs deemed necessary to the public welfare or any other such requirement by law may be placed by the governing body, the Department or other appropriate authorities;

vii. Paragraph (a)5i through vi shall not be construed to prevent the posting of any sign forbidding trespassing, hunting, fishing, or trapping as authorized by Title 23 of the Statutes of the State of New Jersey (Fish and Game Laws).

#### 7:38-1.13 Wild and Scenic River Conservation Permit

(a) A Wild and Scenic River Conservation Permit shall be required for any regulated use in a designated river area. The Wild and Scenic River Conservation Permit does not preclude the need for a stream encroachment permit, a permit for construction or repair of a dam, or any other appropriate permit required by the Department or other appropriate agency.

(b) Wild and Scenic River Conservation Permit process is as follows:

1. A pre-application process may be conducted by the administering agency or river commission at the request of the applicant to expedite the permit application process.

2. A pre-application description of the proposed development or activity and its location will be submitted to the administering agency or river commission. The agency will determine if the site is within a "river area" and identify the proposed use as either regulated, prohibited or major prohibited, relative to the classification of the river area.

3. The administering agency or river commission will determine whether the project will require the applicant to prepare an Environmental Impact Statement.

i. If the administering agency or river commission determine that a proposed project will not require the preparation of an Environmental Impact Statement, the agency will prepare a negative declaration briefly explaining the reasons for their decision.

4. If an Environmental Impact Statement is to be prepared,

the administering agency or river commission will determine the scope and significant issues to be analyzed in depth in the Environmental Impact Statement.

5. As part of this process, the administering agency or river commission shall:

i. Identify and eliminate from detailed study the issues which are not significant, narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the environment;

ii. Indicate the relationship between the timing of the preparation of the Master Permit Information Application Form and the administering agency or river commission tentative planning and decision making schedule;

iii. Set page limits on environmental documents;

iv. Set time limits on preparation of environmental documents.

(c) An application for a Wild and Scenic River Conservation Permit shall include but not be limited to the following:

1. A completed application form, DEP form C.P.-1; available from the Department upon request;

2. Twenty copies of an Environmental Impact Statement according to the requirements of N.J.A.C. 7:38-1.15 (Guidelines for preparation of E.I.S.).

(d) The administering agency or river commission shall accept the application for review and assign an agency project number.

(e) The applicant shall submit one copy of the E.I.S. to each of the local agencies listed below:

1. County planning board, division or agency;

2. County environmental commission, agency or council;

3. Municipal planning board;

4. Municipal environmental commission, if any; and

5. Soil conservation districts.

(f) Within 30 days following receipt of an application, the administering agency or river commission shall notify the applicant in writing regarding its completeness for filing. The commission or administering agency may declare the application to be complete for filing or shall notify the applicant of specific deficiencies.

1. The commission or administering agency, within 15 days following the receipt of additional information to correct deficiencies, shall notify the applicant of the completeness for filing of the amended application, or shall specify the unaddressed deficiencies.

2. The applicant shall submit copies of any and all amendments to the application, including deficiency letters issued by the Department, to the same persons to whom copies of the initial application were distributed.

(g) The commission or administering agency may approve, approve with conditions, or deny an application.

1. In the case of denial, the applicant shall be notified of specific objections to the application and the procedures for appeal.

(h) The commission or administering agency shall act on the application within 90 days of the application being declared complete for review pursuant to (f) above.

(i) Any permit shall take effect 30 days from issuance by the commission or administering agency.

1. The commission or administering agency shall notify the Commissioner of decisions within 15 days and the Commissioner shall review the decisions within 30 days.

i. Where the Commissioner finds a preponderance of the evidence contrary to the issuance of a permit, the permit may be revoked, or conditions may be set upon the permit.

ii. The applicant and the commission shall be notified in the case of revocation or conditions and the applicant may appeal the revocation or imposition of conditions to the Commissioner within 60 days.

(j) A Statement of Conformance may be substituted for a

permit application in cases where the Department or one of its divisions seeks to develop or use a river area that is entirely within the jurisdiction of the Department. The Statement of Conformance shall include:

1. All the information required in the Environmental Impact Statement;

2. Supporting evidence for all major assertions and conclusions contained therein;

3. The Statement of Conformance shall be reviewed by the administering agency within the time limitations set forth in (f) and (h) above;

4. Five copies shall be sent to the Commissioner.

#### 7:38-1.14 Appeal and variance procedure

(a) A prohibited use may be allowed by variance where such use is found to have a minor impact on the river area.

(b) An application may be made to the Commissioner for a prohibited use.

1. A pre-application request, stating justification for consideration of the prohibited use, shall be made to the Commissioner, and the Commissioner may approve or deny the request for consideration of the application.

2. Such uses require consideration of the impact of such use on the river as classified and as potentially requiring reclassification.

(c) An application for a permit for a prohibited use shall meet the qualifications for completeness set forth in N.J.A.C. 7:38-1.13, and in addition shall include the following:

1. Justification for the prohibited use, being overwhelming social and economic need, specifying also the impact of prohibition of the use;

2. Assessment of the impact of the proposed prohibited use and alternatives on the river area as classified, including assessment of a potential reclassification of the river area, or a portion thereof, and the revision of regulation of the river area due to reclassification;

3. Specifications by which impacts of the prohibited use upon the river area would be mitigated;

4. Description of alternatives to the proposed prohibited use including:

i. The environmental, social and economic impact of each alternative;

ii. Specifications by which the impact of each alternative on the river area can be mitigated; and

iii. Identification of the costs of each alternative to the applicant, the administering agency, the affected municipality and the users of the river.

5. Five copies of the completed application shall be sent to the Commissioner. The designated river commission or administering agency shall receive as many copies as required for a regular application.

(d) If it is determined by the Commissioner that a variance for the prohibited use will require a reclassification of the river area, the use will be considered a major prohibited use.

1. Application for a major prohibited use shall be reviewed by the administering agency or river commission, and a report submitted to the Commissioner within 30 days of acceptance of a complete application.

2. Such report shall present findings and recommendations, including assessment of reclassification and the need for amendment of regulation of the river area.

(e) The Commissioner, or the review agency if so designated by the Commissioner, shall conduct a public hearing and receive comments on the application and the agency or commission report.

1. The public hearing shall be held within 30 days of completion of the agency review and recommendations, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as amended and supplemented, and the Office

of Administrative Law's Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

2. The Commissioner shall consider the evidence received and shall approve, approve with conditions, or deny a permit for the prohibited use within 30 days of the close of comments.

i. The Commissioner may require a bond to assure performance of the applicant in meeting specifications set forth in the application or conditions set upon approval of the development or activity and issuance of the permit.

ii. Where a permit is denied, specific objections to the application and procedures for appeal shall be specified.

3. Any permit shall be effective 30 days from approval.

(f) A report of findings for any approval or approval with conditions shall be published in the DEP bulletin presenting reasons for approval, conditions of approval and impact of the decision on the river area as designated and classified.

1. Where reclassification of the river area, or a portion thereof, is found appropriate, the Commissioner's report shall establish the reclassification and appropriate regulatory amendments consistent with the application, the report of the administering agency or local river commission and the evidence received.

#### 7:38-1.15 Guidelines for the preparation of Environmental Impact Statements

(a) The Environmental Impact Statement should be prepared using an interdisciplinary approach.

1. The qualifications of the person(s) who prepared each of the various elements of the statement shall be identified in a separate section of the EIS.

2. References shall be cited throughout the statement as appropriate, and listed fully using a consistent standard format.

(b) The Department stresses that the level of detail and areas of emphasis of an EIS will vary depending upon:

1. The type, complexity, and expected impact of the proposed facility;

2. The site and surrounding region of the proposed facility; and

3. The Department's guidelines and regulations concerning the land and water features of the proposed site.

(c) The EIS should be concise but include the facts and analyses necessary to evaluate the beneficial and adverse effects of the proposed facility on the river area.

1. If the applicant believes that specific elements of the EIS information required below in N.J.A.C. 7:38-1.16 are not pertinent or applicable to the proposed facility or its site, the applicant may indicate "Not Applicable" under the appropriate heading of the submitted EIS, but shall succinctly indicate why the information required is not applicable.

2. Small facilities may require a less detailed EIS.

i. The appropriate level of detail and areas of emphasis of the EIS may be determined at the pre-application conference.

(d) The Environmental Impact Statement shall be bound, or in a loose-leaf binder, and submitted on 8 1/2 by 11 inch paper.

1. Each major section of the statement shall be clearly identified and shall begin on a separate page.

2. All maps, plans, and aerial photographs included in the statement shall specify a north point, graphic scale, date of preparation, source of information, and, where appropriate, boundary lines.

i. Maps, plans, and aerial photographs submitted in each major section of the statement shall bear appropriate scales to facilitate comparative analyses and assessments of environmental impacts.

#### 7:38-1.16 Information required in Environmental Impact Statements

(a) The cover page of the Environmental Impact Statement shall indicate the following:

1. That the document is an EIS for a Wild and Scenic River Permit application;

2. The name of the proposed facility;

3. Its location by municipality and county;

4. The name, address and telephone number of the person who prepared the EIS; and

5. The date of preparation of the EIS.

(b) A one-page summary containing the following elements shall be placed at the beginning of the EIS:

1. A brief description of the proposed facility including its location;

2. A summary of major beneficial and adverse environmental impacts of the proposed facility;

3. A summary of major alternatives considered; and

4. The municipal, county, State, and Federal approvals received for the proposed facility, if any.

(c) The EIS shall contain a table of contents indicating the page numbers of the major sections and subsections of the EIS, as well as any appendices and accompanying exhibits.

(d) The applicant shall succinctly describe the existing environmental conditions of the site and surrounding region in sufficient detail:

1. To assist in the location and design of the facility;

2. To provide a basis for the applicant's assessment of the probable beneficial and adverse impacts of the proposed facility; and

3. To enable the administering agency or river commission to make the findings for permit approval required by N.J.S.A. 13:8-45 et seq. and this subchapter.

4. The administering agency or river commission will discuss which specific requirements are essential at the pre-application conference.

(e) The applicant shall succinctly describe what he proposes to do, and where and how he proposes to do it, during construction and operation of the facility.

1. The project description shall include written text and graphic materials, including a site plan which may contain much of the project description information.

2. The administering agency or river commission shall discuss which specific project description requirements are essential at the pre-application conference.

(f) The applicant shall succinctly assess the probable beneficial and adverse impacts of the proposed facility on the built and natural environment as described in the inventory section of the EIS. This is the most important section of the EIS.

1. Where appropriate, on-site primary impacts, as well as off-site secondary impacts shall be assessed.

2. Specific assessment requirements vary depending upon the sensitivity of the land and water features of the site, and the scale and complexity of the proposed facility.

3. In general, the assessment shall be made from the long-term perspective that each generation is a trustee of the natural and built environment for future generations.

(g) The applicant shall describe probable adverse environmental impacts of the facility that cannot be avoided, including irretrievable commitments of resources, which shall be listed in the order of their relative magnitude.

(h) The applicant shall describe the steps he will take to minimize or avoid adverse environmental impacts listed in (f) and (g) above during the facility's construction, operation, or removal both at the site and in the surrounding region. The applicant's program for ascertaining and verifying the accuracy of the environmental assessment of the facility, and the actual effects of project construction shall also be described.

(i) The applicant shall identify, describe, and analyze alternatives to the proposed facility, including the alternatives of no facility, alternative sites (including non-coastal area sites), alternative uses of this site, and postponing construction.

1. The discussion of alternatives shall include an evaluation of

alternatives that might avoid or minimize some or all of the probable adverse environmental impacts of the project.

2. The costs and benefits of the alternatives shall be analyzed and presented. Reasons for the acceptability or nonacceptability of each alternative shall be given.

3. For residential and sewerage facilities, the presentation of alternatives may include a brief narrative and accompanying sketch plans.

(j) The applicant shall list all known licenses, permits, and other approvals required by municipal, county, State, or Federal law for the construction and operation of the proposed facility. The status of each shall be identified.

(k) The applicant shall prepare a reference list using a consistent standard format of all published materials, reports, manuscripts, or other written sources of information on the facility, the site, and surrounding region, consulted and employed in the preparation of the environmental impact statement.

1. A separate reference list of all government agencies and individuals that either provided information orally and by letter or coordinated the EIS shall be prepared, with the dates and locations of all meetings specified.

2. The documentation section shall also indicate the person(s) that prepared each major section and subsection of the EIS, including their qualifications, pursuant to (a) above.

7:38-1.17 Designation and administration of the Lower Atsion Wild River Segment

(a) The Lower Atsion segment of the Mullica River is hereby designated as a Wild River Component to the New Jersey Wild and Scenic Rivers System, and is to be managed consistent with "Rules Concerning the Administration and Regulation of Components of the New Jersey Wild and Scenic Rivers System", N.J.A.C. 7:38-1.1 to 1.16, and the provisions of the Management Plan element of the designation study.

(b) The designated river area shall include the delineated flood prone area and adjacent State owned lands as presented on the Official Map of the Lower Atsion Wild River Segment. The segment begins at the Central Railroad of New Jersey bridge downstream of Route 206 near Atsion, and ends at the nature trail footbridge near Batsto Village, including a portion of the Great Swamp Segment of the Batsto Natural Area.

7:38-1.18 Site inventory requirements of Environmental Impact Statements

(a) Location inventory of the Environmental Impact Statement includes the following:

1. General site location map: The site of the proposed facility shall be located generally on a map of the river area under the Act's jurisdiction. The administering agency or river commission shall provide a base map for this purpose to all applicants upon request;

2. Site location map: The site shall be identified specifically on a map at the scale of 1:24,000, indicating and naming existing roads and municipal boundaries.

i. This plan shall also indicate the relevant United States Geological Survey quadrangle (7.5 minute series) that includes the site.

ii. A second site location map may be prepared at a larger scale, if appropriate, due to the area of the site;

3. Ownership of site and adjacent lots: The site shall be located on a current tax map indicating block and lot numbers.

i. The applicant shall indicate whether he owns the site in fee simple, is a lessee or holder of any other equitable interest in the site, or holds an option to purchase the site.

ii. The block and lot numbers and acreage of lots within 200 feet of the site shall also be indicated. The names and addresses of the owners of record of these adjacent lots as certified by the administrative officer of a municipality shall be listed on a separate sheet and attached to the submitted application form CP-1.

(b) A topographic map(s) of the site and its surroundings to a distance of 200 feet, prepared at a scale no smaller than one inch equals 200 feet, with contour intervals for the site portion of the map not greater than 10 feet, and accompanied by appropriate text, shall identify and describe the following items:

1. Boundary lines of the site with bearings and distance;

2. General topography and natural features;

3. Existing structures and land uses, including open space on and within 200 feet of the site;

4. Existing easements on and within 200 feet of the site, with their location, width, purpose and ownership;

5. Existing and known proposed rights-of-way for rail lines, roads and utilities on and within 200 feet of the site, with their location, width, purpose and ownership;

6. Provisions of municipal zoning ordinances, municipal and county master plans, and official maps in force for the site and the area within 200 feet of the site; and

7. Riparian lands, regulated wetlands as designated on New Jersey DEP Division of Coastal Resources Wetland Maps and/or U.S.F.S. National Wetlands Inventory Maps, publicly-owned lands and delineated flood areas designated on Federal Flood Insurance Administration boundary and rate maps and/or New Jersey Department of Environmental Protection, Division of Water Resources Flood Hazard maps, on and within 200 feet of the site.

(c) A map and text shall identify and describe the physical features of the site, including but not limited to:

1. Soil types, as classified and mapped by the cooperative soil survey as conducted by the Soil Conservation Service of the United States Department of Agriculture in cooperation with the New Jersey Experiment Station, Cook College, Rutgers University, and the State Soil Conservation Committee, New Jersey Department of Agriculture (SCS-USDA), where available, or alternative soil types if SCS-USDA data is unavailable.

2. A soils data chart with descriptions indicating the following information for each soil type identified within the site in (c) 1 above:

i. Drainage class;

ii. Permeability class;

iii. Foundation limitations;

iv. Agricultural land capacity class;

v. Erosion potential;

vi. Septic tank suitability, if appropriate;

vii. Trafficability (dust hazard);

viii. Depth of and the name of the first geologic formation named on New Jersey geologic map, atlas sheet 40, including pre-Quaternary deposits;

ix. Degree of acidity and alkalinity of the soil (pH of 5.5 or lower, and pH of 8.5 or higher);

3. Engineering soil classifications as mapped by SCS-USDA;

4. An engineering design characteristics chart indicating the following information for each engineering soil classification within the site in (c)3 above:

i. Limitations of soils for roadcuts and fills;

ii. Road alignment characteristics;

iii. Limitations of soils for embankments;

5. The location, nature and thickness of any areas containing landfill materials on and within 200 feet of the site, a description of the landfill materials, and the appropriate beginning and cessation dates of landfill activities;

6. Potentially valuable mineral, gravel or other subsurface resources of the site shall be identified.

(d) A topographic map of the site and its surroundings to a distance of 200 feet, prepared at a scale no smaller than one inch equals 200 feet with contour intervals not greater than 10 feet,

and accompanied by appropriate text, shall identify and describe the following items:

1. Surface water:
  - i. Existing natural and manmade watercourses, including drainage ways, swales, and water control structures, on and within 200 feet of the site, with their location, width, slope, capacity, and direction of flow;
  - ii. Flood hazard areas where delineated (if not delineated, designate flood prone areas), with cross section of water courses at an appropriate scale and at appropriate intervals along the water course, showing extent of flood plain, top of bank, normal water level, and bottom elevation;
  - iii. Existing lakes, ponds, bays, estuaries within or adjacent to the site, with location, extent and water level elevation;
  - iv. Existing storm drainage systems, including storm sewers, drainage ditches, and retention or detention basins on or adjacent to the site with location, extent, and water level elevation;
  - v. Existing storm water runoff from the project site and upstream watershed areas, and calculations used to determine same;
  - vi. Existing slope analysis, with slopes of 0-1 percent, 2-4 percent, 5-9 percent, 10-14 percent and 15 percent or more delineated;
2. Groundwater:
  - i. Aquifer recharge areas;
  - ii. Direction of groundwater movement based upon adequate on-site borings, including water table elevations;
  - iii. Yields of existing wells within one-half mile of the site, including water table elevations;

(e) A map and text shall identify and describe the vegetation of the site, including but not limited to the following items:

  1. The vegetation types present, indicating the major species by scientific and common name. Where applicable, both overstory and understory species should be included;
  2. The acreage and percent of total area represented by each type;
  3. Data for forest types shall include average diameter breast high (measured at 4.5 feet above ground level), diameter range and basal area for the overstory trees;
  4. Species or specimen trees unique because of scarcity, size, historical significance, or endangered status shall be indicated.

(f) A map and text shall identify and describe the fish, shellfish and wildlife of the site (indicated by their common and scientific names), including but not limited to the following items:

  1. The species of fish present or which could be affected by the proposed project, and the amount and quality of their associated habitat, including invertebrate food sources;
  2. The species of shellfish present or which could be affected by the proposed project and the amount and quality of their associated habitat;
  3. The species of wildlife (mammals, birds, reptiles, amphibians or aquatic organisms) present or which could be affected by the proposed project and the amount and quality of their associated habitat;
  4. Any areas within the proposed site which are critical to the life cycle of any species of fish, shellfish, or wildlife should be discussed.

(g) Water quality inventory of the Environmental Impact Statement includes the following:

  1. Surface waters: A water quality inventory of such water bodies directly affected by the proposed facility shall be prepared utilizing existing authoritative sources of information.
    - i. The classifications of such affected water bodies, their water quality standards, and their status in meeting the established water quality standards shall be described.
    - ii. Existing restrictive uses of these water bodies shall be identified.

iii. The need to present additional data shall be based upon the relative sensitivity of the water body affected;

2. Groundwaters: Where groundwaters are to be utilized for potable water supplies, the water quality inventory shall include those parameters established for prevailing drinking water standards and any water quality standards established for groundwaters.

(h) The existing and proposed potable water supply system available to the site shall be identified and described in maps and text, indicating:

1. Source of supply;
2. Adequacy of supply, including current and anticipated maximum water demands within the entire service area as available by the owner of said supply;
3. Pressure and volume of water available.

(i) The existing and proposed sewerage system available to the site shall be identified and described in maps and text, indicating:

1. Availability of existing facilities, including status of sewer connection ban, if any.
2. The adequacy of existing facilities, including:
  - i. Design capacity, type of treatment provided and location of outfall;
  - ii. Current flows (including average monthly during highest month and highest 24-hour flow);
  - iii. Outstanding commitments to accept additional flows from other projects;
  - iv. Water quality standards and effluent limitations.
3. Where individual septic tanks are proposed, indicate:

i. Location of registered or licensed water supplies within 500 feet of the project;

ii. Field data describing results of soil borings, percolation test and seasonally high groundwater table conditions, with specific locations of (including the dates of these tests). Soil borings shall be classified by the unified soil classification system.

(j) The existing air quality of the site and its surrounding region shall be evaluated and described, using monitoring data collected by and available from the Department. The applicant may also monitor the existing air quality, or estimate air quality utilizing other sources of information.

(k) The energy supplies available for delivery to the site shall be estimated, with types of energy, points of origin, and means of transmission and delivery described and located.

1. The percent of existing supply presently utilized shall be identified; and if applicable, differences in seasonal demands shall be indicated.

(l) Existing public and private services relevant to the proposed facility and available at the site and its surrounding region shall be described and located. Such services shall include, but not be limited to: police and fire protection, first aid and ambulance services, health services, solid waste and garbage services, public and private educational facilities, commercial facilities and cultural facilities.

(m) A map and accompanying text shall identify the site and locate and describe the types and quantities, physical accessibility and availability for public use of recreation facilities and services within two miles of the site, including but not limited to the following: waterways, beaches, wetlands, marinas, boat docks and launching platforms, playgrounds, parks, forests, natural areas, tennis courts, swimming pools, bikeways and golf courses. The extent of existing use of unused capacity of these facilities shall also be generally indicated.

(n) The existing and known proposed transportation system available to the site and its surrounding region shall be described and located on a map at an appropriate scale.

1. The highway and road network, other forms of public and private, individual and mass transportation, including air, taxi, bus, and rail service, and capacities, frequencies, volumes, peak periods, and routes shall be identified.

2. The relationship between places of employment and residential areas in the region shall be discussed.

(o) The social, economic, and community history of the site and its relevant surrounding region shall be described. Areas and sites of archeological, architectural, anthropological and historic significance, including those proposed for nomination or included in the National and State Register of Historic Places, shall be identified, described, and located on a map. An awareness of both above and below ground cultural resources, if any, should be reflected in this section, which should include a synopsis of the effort and method that is the basis for this awareness.

(p) The existing visual character and scenic attributes of the built and natural environment of the site and its relevant surrounding region, including common and significant views and vistas to and from the site, shall be described and depicted graphically, as appropriate.

(q) A general demographic profile of the municipality and county in which the proposed facility is located shall be prepared, including data on the age, family income, and occupation distribution of the population, as well as recent demographic trends. The relevant general social and economic problems and opportunities of the site and its relevant surrounding region, including housing considerations, municipal and county government revenues and expenditures, employment, property values, and the relevant legitimate economic aspirations of the inhabitants of the area shall be discussed.

#### 7:38-1.19 Project description requirements of Environmental Impact Statements

(a) The proposed facility shall be succinctly described by land development or building type, or mix of types, with an indication of its magnitude, complexity, physical form, activities, and users.

(b) The site plan(s) shall identify and describe the location, ground area, height, bulk, and proposed use of all existing structures, all proposed structures to be built, and all physical improvements to be made on or at the site. The site plan(s) shall indicate the facility's component parts and subsystems, if any, and shall include, but not be limited to, the items outlined below:

1. Format: The site plan shall be prepared at the same scale, but not smaller than one inch equals 200 feet, as the separate maps that are required to be prepared under N.J.A.C. 7:38-1.17;

2. Land Use Chart: The site plan shall include a land use chart prepared on a standard DEP form, to the maximum extent practicable and as appropriate for that particular facility;

3. Structures: The height, breadth and bulk dimensions, location and land use type of any structure existing or proposed to be constructed on the site, and on contiguous properties directly across all streets and property lines bounding the site, shall be indicated as specified below:

i. Location: The building setback, side and rear distances between the proposed structure and other existing and proposed structures, streets and site boundaries shall be indicated for the site. If the applicant requests a permit for a facility including single-family detached residential units, the applicant may provide structure dimensions and location plan for each type of dwelling unit and a map indicating the general location on the site of groups of these types of units;

(c) The site plan or a separate plan shall identify, locate and describe, where applicable, the following items in the circulation system for motor vehicles and pedestrians for the proposed facility:

1. The system of roads, sidewalks, paths, bikeways, bridges, underpasses and intersections, including width, curbs, clearances, capacity, and composition of materials;

2. Access points, both entrances and exits, to the site from the surrounding transportation system;

3. Safety provisions for emergency access by police, fire protection and ambulance services.

(d) Utilities plan rules are as follows:

1. The site plan or a separate plan shall identify, locate, and describe the proposed type and capacity of the following utilities, where applicable, which will serve the site and are employed at the site by the facility:

- i. Water supply system;
- ii. Sanitary sewer system;
- iii. Storm drainage system;
- iv. Electricity service;
- v. Gas service;
- vi. Telephone service;
- vii. Solid waste disposal and garbage collection service;
- viii. Cable television system;
- ix. Fire alarm system;
- x. Steam distribution system; and
- xi. Street and on-site lighting system.

2. The demand for the utility generated by the proposed facility shall be specified, and where possible, the existing capacity of the utility and the remaining unused capacity of the utility shall be indicated.

3. The utilities plan shall also include an energy plan specifying anticipated energy utilization for space heating and cooling, industrial processes and other uses, and energy conservation techniques to be implemented, including landscaping and building siting as a result of microclimatic analysis.

i. It shall further describe alternative sources or types of energy to serve the facility, compare their efficiency and cost, and state the reasons for selection of the preferred alternative.

ii. The energy plan shall also discuss how the facility will manage its energy load in order to reduce peak load demand, or shift its load off the system-wide peak of the supplying utility system.

4. Storm drainage analysis should include the expected amount of runoff from the site after development, the design capacity of any proposed retention facilities, and the expected velocities at drain and culvert outlets. Calculations should be included.

5. The utilities plan shall also include a strategy for water conservation, including techniques for recycling of water.

6. If the applicant proposes to connect the project to a sewerage system, the utility plan shall include a statement from the owner that the flow from the project can be adequately treated based on the adequacy of the existing system.

(e) The site plan or a separate plan shall identify, locate and describe the physical features of the site of the proposed facility, including the following items:

1. Existing vegetation and land forms to be retained, and/or altered, indicating types, materials, sizes, location, percentages by area of existing vegetation, purposes, and techniques to be employed;

2. New vegetation planted and land forms to be created, indicating types, materials, sizes, location, purpose, such as buffer, screen or aesthetic, and techniques to be employed;

3. Finish elevations and grades of the land surface of the site, quantities of fill, if any, and type of fill according to the unified soil classification system;

4. Exterior lighting system;

5. Street furniture;

6. Sign system; and

7. The lowest floor elevation, including basement, shall be indicated for facilities on sites subject to possible flooding by rivers or streams.

(f) The site plan or a separate plan shall identify, describe and locate the following items, where applicable, for the proposed facility:

1. Specific sediment control methods and structures, including but not limited to: seeding, mulching, sodding, diversions, waterways, slope stabilization structures, and sedimentation basins, including the design rationale for permanent sedimentation basins or other waterways;

2. A schedule for the installation of planned erosion and sedimentation control measures, stating anticipated starting and completion dates for clearing and grading, timing of storm drain or culvert installations, duration of exposure of soils, and critical areas stabilization, both temporary and permanent; and

3. An outline of procedures for the maintenance of the erosion control facilities, including disposal of materials to be removed from these control facilities.

(g) The proposed location, type and quantity of open space provided by the applicant at the site shall be classified and described.

1. The proposed location, type, and quantity of areas and structures provided by the applicant for on-site active and passive, indoor and outdoor recreation shall be classified and described.

2. The applicant shall discuss how the open space and recreation areas and structures are to be maintained.

(h) The applicant shall describe the aesthetics of the proposed facility by providing appropriate sections, elevations, sketches, renderings, and photographs of scale models of any structures or construction associated with the facility.

1. Building materials, textures and color schemes shall be described.

2. Perspective views of the facility from several on-site and off-site vantage points shall be provided.

3. If the application requests a permit for a facility with a repetition of several building designs, an aesthetics plan may be submitted for one each of the typical buildings designs.

(i) The applicant shall describe in general what the completed facility will do, how it will operate, including but not limited to the following items, where appropriate:

1. Ownership and maintenance of the facility, including mechanisms for common ownership in planned unit developments;

2. Goods and services to be produced and delivered, including needs satisfied, clients to be served and normal hours of operation;

3. Estimated assessed valuation of the facility, addition to property tax base, and addition to annual property tax income;

4. Description of industrial processes; and

5. Estimated resident population, working population and visitor population, and their estimated demands for public services.

(j) The applicant shall furnish a written statement and appropriate maps indicating and explaining future improvements anticipated by the applicant, if any, to both the site and adjacent land owned or leased by the applicant, or that the applicant has an option to purchase or lease.

## HEALTH

(a)

### CONSUMER HEALTH SERVICES

#### Manufacturing, Storage, Distribution and Handling of Nonalcoholic Beverages and Bottled Water

**Proposed New Rule: N.J.A.C. 8:21-12**

**Proposed Repeal: N.J.A.C. 8:21-2.34**

Authorized By: Allen N. Koplin, M.D., M.P.H., Acting Commissioner, Department of Health (with Approval of Health Administration Board).

Authority: N.J.S.A. 24:2-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter D. Stratton  
Chief, Food and Milk  
Consumer Health Services  
CN 364  
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-488.

The agency proposal follows:

#### Summary

The purpose of this proposal is to update the existing State regulations to reflect the changes and current problems that have occurred in the nonalcoholic beverage industry in the last 10 years. The revisions also parallel Federal standards thus promoting uniformity between intrastate and interstate manufacturing/distribution of nonalcoholic beverages. This proposal completely revises the current standards set forth in N.J.A.C. 8:21-2.34. This section will be held in reserve after the adoption of the proposal.

#### Social Impact

This proposal would have a beneficial social impact by increasing consumer protection. The proposal updates and expands current sanitary regulations in order to: (1) prevent food related morbidity and mortality; (2) avoid cost-associated adversities resulting from foodborne illness; (3) create and maintain an environment in which nonalcoholic beverages are produced, stored, or handled that promotes mental health as well as physical health by providing safe beverages which meet societies accepted aesthetic values, and (4) prevents fraud and deception to the consumer by assuring properly labeled products are sold.

#### Economic Impact

The proposal, if adopted, would not cause any significant financial burden to the nonalcoholic beverage industry. To the contrary, by identifying the critical control points in its operation, these amendments aid the industry in directing their limited resources to those areas which have shown to be most beneficial in preventing adulteration and contamination to their products which may lead to a foodborne outbreak or a recall. The amendments

parallel the United States Food and Drug Administration's (FDA) standards which already apply to establishments that distribute interstate. Adoption by this State, therefore, will promote uniformity in enforcement and standardize regulations applicable to all establishments engaged in the production and/or distribution of nonalcoholic beverages.

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

**8:21-2.34 [Bottling water and nonalcoholic drinks]  
(Reserved)**

(a) All water intended for distribution or sale as bottled water or for use in connection with the bottling of beverages shall comply with the potable water standards established by the Department of Health. The source of such water shall be an approved public potable water standards established by the Department of Health. The source of such water shall be an approved public potable water supply or in lieu thereof, a supply constructed in accordance with the standards promulgated under N.J.S.A. 58:11-23 to 42.

(b) Every room of a nonalcoholic beverage bottling establishment or bottled water plant in which unpackaged beverages or water are mixed, stored, packed or otherwise handled shall have a tight floor made of cement, tile laid in cement, brick or other suitable material which can be properly cleaned.

(c) The sidewalls and ceilings of every room in a nonalcoholic beverage bottling plant or bottled water plant in which unpackaged beverages or water are mixed, stored, packed or otherwise handled shall be made of or coated with a suitable smooth washable surface which can be properly cleaned.

(d) Every room in a nonalcoholic beverage bottling plant or bottled water establishment shall be properly lighted, drained, plumbed and ventilated and the operations carried on therein shall be conducted in such a manner that the purity, quality and wholesomeness of the beverages or water therein manufactured, produced, prepared, packed, stored, sold or distributed shall not be impaired. No load or unloading of trucks or other vehicles shall take place within an establishment unless acceptable segregation or isolation of the mixing and filling operations is provided.

(e) The floor, sidewalls, ceilings, equipment, receptacles, implements, utensils and machinery of every nonalcoholic beverage bottling plant or bottled water establishment and all vehicles used in the transportation of such food shall be kept in a clean and sanitary condition.

(f) The product contact surfaces of all vessels, utensils, other containers, machinery and equipment necessary to the proper mixing or storage of potable water, beverages or other food ingredients shall be of smooth noncorrodible material in good repair, free of breaks, corrosion, open seams and chipped places and shall be self-draining where possible. All equipment ports, hatches and other openings in or on vehicles used for transportation of bulk ingredients shall be provided with tight fitting covers to be used at all times when the product, in part or in whole, is contained therein. Such openings and covers shall be designed to deflect liquid and solid accumulations and prevent contamination of the product therein when covers are removed.

(g) All outside openings to toilets, wash and locker rooms, mixing and bottling rooms and other portions of the establishment used for handling or storage of food or utensils shall be protected against the entrance of insects, rodents, domestic animals or fowl and other foreign or injurious contamination and the establishment shall be free from such sources of contamination.

(h) Toilet, floor and industrial wastes shall be disposed of in compliance with laws and regulations governing such matters enforced by the Department or local board of health.

(i) Bottles, jars, jugs and other reusable containers for water or nonalcoholic beverages, shall be thoroughly cleaned and effectively sanitized or subjected to an approved bactericidal process. "Sanitized or approved bactericidal process" shall mean

the application to clean surfaces of any method or substance for the destruction of pathogenic bacteria or other organisms so far as practicable, subject to being reasonably effective and not adversely affecting the equipment, the food or health of the consumer. Acceptable facilities shall be provided for the washing, cleaning and sanitizing of utensils and equipment. Cleaned containers and closures shall be protected for contamination until filled and sealed.

(j) All containers in which water is distributed or sold shall be capped or sealed promptly after filling so as to protect the neck and stopper from contamination until the water is used.

(k) No person shall be allowed to live or sleep in any room where bottled water or nonalcoholic beverages are produced, manufactured, packed, bottled, distributed or sold.

(l) All persons while engaged in the preparation or bottling of water or of nonalcoholic beverages shall wear reasonably clean washable outer garments.

(m) Adequate toilet facilities and dressing rooms shall be provided for employees. Toilet rooms and fixtures shall be kept in a clean condition and in good repair. Toilet and dressing rooms shall be kept separate and apart from the rooms where any process incident to the production, preparation, packing or bottling of bottled water or nonalcoholic beverages is carried on.

(n) Conveniently located handwashing facilities shall be provided for use of employees. All persons engaged in the handling of material from which the bottled water or nonalcoholic beverages are prepared shall, before beginning work and after each interruption, wash their hands and arms thoroughly with soap and clean water.

(o) An adequate supply of hot and cold running water, soap and clean individual towels or other acceptable facilities for washing and drying of hands shall be provided at each lavatory.

(p) No employer shall require, permit or allow any person to work, nor shall any person work in any bottled water or nonalcoholic beverage bottling establishment who is ill or infected with a communicable disease as defined in N.J.S.A. 26:4-1, or with infected wounds or open lesions on the exposed portions of their bodies.

(q) Waste materials shall not be permitted to accumulate in or around the building.

(r) All new equipment, utensils, vessels and other containers for preparation of bottled water or nonalcoholic beverages shall be of seamless design and construction whenever practicable.]

**SUBCHAPTER 12. MANUFACTURING, STORAGE,  
DISTRIBUTION AND HANDLING  
OF NONALCOHOLIC BEVERAGES  
AND BOTTLED WATER**

**8:21-12.1 Separability**

**If any provision or application of any provision of this subchapter is held invalid, that invalidity shall not affect other provisions or applications of this subchapter.**

**8:21-12.2 Definitions**

**"Adequate"** means that which is needed to accomplish the intended purpose in keeping with good public health practices.

**"Adulteration"** means the term "adulteration" as defined in N.J.S.A. 24:5-8.

**"Analytical unit"** is the portion(s) of food taken from a sub-sample of a sample.

**"Approved"** shall mean acceptable to the Department, local health authority, or other appropriate administrative agency based on its determination as to the conformance with applicable standards and good public health practices.

**"Aquifer"** is a water bearing stratum used as a source of potable water supply.

**"Bottling plant"** means any place, building or structure used in connection therewith where nonalcoholic beverages are bottled or otherwise processed in or for containers for distribution or sale to the public.

“Bottled water” means all water which is sealed in bottles, packages or other containers and offered for sale for human consumption, including bottled mineral water.

“Department/State Department” means the New Jersey State Department of Health.

“Food” means articles used for food or drink for man or other animals; chewing gum and articles used for components of any such article. The term also includes any raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale in whole or in part of food.

“Food-product contact surfaces” are those surfaces that contact food and those surfaces from which drainage onto foods or onto surfaces that contact food ordinarily occurs during the normal course of operations.

“Local health authority” means the local board or local board of health of any municipality or the boards, body or officers in such a municipality lawfully exercising any of the powers of the local board of health under the laws governing such municipality, and includes any consolidated board of health, local or county board of health created and established pursuant to law.

“Lot” means a collection of primary containers or units of the same size, type, and style containing a finished product produced under conditions as nearly uniform as possible and designated by a common container, code or marking; and, in any event, “lot” means no more than a day’s production.

“Misbranding” means the “misbranded” or “misbranding” as defined in N.J.S.A. 24:5-16 and 17.

“Multiservice containers” means containers intended for use more than one time.

“Nonalcoholic drink” includes carbonated beverages of all flavors, sarsaparilla, ginger ale, soda water of all flavors, lemonade, orangeade, root beer, grape juice, and all other beverages of any kind or character, (to include bottled water), whether similar or not to any beverage specifically mentioned above, either containing no alcohol at all or containing not more than one percent of alcohol, and shall include beverages purported to be for special dietary uses except where hereafter specifically excepted.

“Nontoxic materials” means materials for food contact surfaces utilized in the transporting, processing, storing or packaging of nonalcoholic drinks and bottled water which are free of substances which may render the food injurious to the health or which may adversely affect the flavor, color, odor or bacteriological quality of the food.

“Operations water” means water which is delivered under pressure to a plant for container washing, hand washing, plant and equipment clean up and for other sanitary purposes.

“Person” means an individual, a firm, partnership, company, corporation, trustee, association or any public or private entity.

“Plant” means the building or facility or parts thereof, used for or in connection with the manufacturing, storage, processing, packaging, labeling or handling of nonalcoholic beverages and bottled water.

“Primary container” means the immediate container in which the nonalcoholic beverage or bottled water is packaged.

“Product water” means processed water used by a plant for bottled drinking water or nonalcoholic beverage purposes.

“Rework” means clean unadulterated product, removed after or during processing, that is suitable for reprocessing and for use as food.

“Sanitize” means adequate treatment of surfaces by a process that is effective in destroying the vegetative cell of microorganisms of public health significance and in substantially reducing numbers of other microorganisms. Such treatment shall not adversely affect the product and shall be safe for the consumer.

“Single service container” means a container intended for one-time usage only.

“Source water” means water from a spring, artesian well, drilled well, community water supply or any other approved source which is used for or in connection with bottled water or nonalcoholic beverages.

“Total Trihalomethanes (TTHM)” means the sum of the concentration in milligrams per liter of the trihalomethane compound (trichloromethane(chloroform)), dibromochloromethane, bromochloromethane, bromodichloromethane and tribromomethane(bromoform)), rounded to two significant figures.

#### 8:21-12.3 Waiver of standard

(a) Any person or his authorized agent, confronted with the practical difficulties in carrying out the strict letter of any standard, set forth herein may apply to the Department in writing for a modification thereof. Only a modification that would not constitute a definite health hazard would be considered. The decision of the Department, including the particulars of the application, shall be entered upon the records of the Department and a copy thereof sent to the applicant.

#### 8:21-12.4 Water source protection

(a) The source water supply for bottled water or any nonalcoholic drink shall be from an approved source which is properly located, protected, and operated and shall be easily accessible, adequate, and of safe, sanitary quality. The water quality and sampling frequency shall be in conformance at all times with the applicable laws and regulations of the Department or other governmental agencies having jurisdiction. Examples of source water supplies which may be used for bottled water and nonalcoholic purposes upon approval by this Department are as follows:

1. All approved public community water systems shall be acceptable as a source of water for nonalcoholic beverage and water bottling plants.

2. Drilled and driven wells: Drilled and driven wells may be used as a source of water for bottled water and nonalcoholic beverage purposes when constructed and protected in accordance with applicable standards set forth in the N.J.A.C. 7:10-3.10 “Standards for the Construction of Public Non-community and Non-public Water Systems”.

3. Springs may be used as a source of water for nonalcoholic beverages and bottled water purposes, only after Departmental approval of the surroundings, physical protection, and approval of chemical, physical, biological, bacteriological and radiological quality of the spring water. In addition, springs shall be constructed in accordance with the applicable standards established by the Department of Environmental Protection and set forth in N.J.A.C. 7:10-3.6 and the following:

i. The spring shall be properly protected from the entry of insects, birds, rodents and other vermin.

ii. Adequate ventilation shall be provided.

iii. Sufficient protection shall be provided at the intake end of the draw pipe to prevent the introduction of stone, gravel, sand and other particulate matter.

iv. Overflow must be free-flowing to prevent flooding of the springhouse and surrounding area.

v. Minimum distances of a spring from a building sewer, or septic tank, or a distribution box shall be 50 feet. Minimum distance from a disposal field or seepage pit shall be 100 feet.

vi. Plumbing shall be so sized, installed and maintained in accordance with applicable State and local standards. Also, it shall be properly designed and protected from contamination and damage.

vii. Walls and ceilings shall be smooth, easily cleanable, free of cracks and crevices and constructed of materials that are not adversely affected by moisture, algae or mold.

viii. Proper cleaning and sanitization equipment and facilities shall be available and used whenever a spring is damaged, repaired and/or contaminated.

**8:21-12.5 Labeling requirements specific to bottled water**

(a) **Original source(s):** The source water for bottled water purposes shall be clearly and prominently identified on the primary container. As a minimum, the name of the source(s) and its location including the municipality and state where it is located, shall appear on the label.

(b) **Type:** The type of source water for bottled water purposes shall be clearly and prominently identified on the primary container according to the following criteria:

1. "DeminerIALIZED water" means water which has been treated by deionization, distillation, reverse osmosis, or other approved processes which adequately removes the mineral content of the source water.

2. "Drinking water" means water which is derived from either approved Public Community or Public Non-Community Water Systems. The source of bottled water derived from a Public Community Water System shall be clearly identified on the label as to the source of the water, e.g. Newark Water Supply, Hackensack Water Supply, etc.

3. "Mineral water" means water which complies with the bacteriological, physical, chemical and radiological water quality standards set forth herein and having a dissolved solid content greater than 500 parts per million.

4. "Spring water" means water which is derived from an approved spring, i.e. gravity spring, artesian spring, seepage spring, tubular spring or fissure spring.

5. "Well water" means water which is derived from either an approved driven or drilled well.

(c) No claims of medicinal or health-giving properties shall appear on the label.

(d) Reference to bacterial purity or laboratory examination which may have been made by a governmental agency shall not appear on the label.

(e) A primary container of bottled water shall not contain water from more than one type.

**8:21-12.6 Facilities and procedures for the storage, distribution, handling and bottling of nonalcoholic beverages and bottled water**

(a) **Grounds:** The grounds surrounding a plant under the control of the operator shall be kept in a condition that will not cause the bottled water or nonalcoholic beverage to be contaminated and/or adulterated. The methods for adequate maintenance as a minimum shall be:

1. Properly storing equipment, removing litter, and waste, and cutting weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place or harborage for rodents, insects or other pests.

2. Maintaining roads, yards, and other parking lots so that they do not constitute a source of contamination to the bottled water or nonalcoholic beverage.

3. Adequately draining areas that may contribute contamination to nonalcoholic beverages or bottled water by seepage, by foot-borne filth, or by providing a breeding place for rodents, insects or other pests.

(b) **Plant layout and design:** Buildings used for and in conjunction with the bottling of nonalcoholic beverages and bottled water shall be suitable in size, construction and design to facilitate maintenance and sanitary operations for processing purposes. The plant layout and design shall be in such a manner that the purity, quality, and wholesomeness of the beverage or water therein manufactured, produced, packaged, prepared, stored, sold or distributed shall not be impaired. No loading or unloading of trucks or other vehicles shall take place within an establishment unless acceptable segregation or isolation of the mixing, processing or filling operations is provided. The plant and facilities shall:

1. Be kept in good repair and shall be maintained in a sanitary condition at all times.

2. Provide sufficient space for such placement of equipment and storage of materials as is necessary for sanitary operations.

3. Permit the taking of proper precautions to reduce the potential for contamination of end products, raw materials, or food-packaging materials with microorganisms, chemicals, filth, or other extraneous material. The potential for contamination may be reduced by any effective means including the separation by location, partition, air flow, enclosed systems or other effective means, of the following operations:

i. Receiving; raw material storage; food preparation and processing operations; weighing, wrapping, packaging, and packing; finished product storage and shipping; portable equipment and utensil cleaning and sanitizing; and equipment and vehicle maintenance.

4. Provide floors, walls and ceilings that are of such construction as to be easily cleanable and shall be kept clean and in good repair. Fixtures, ducts and pipes shall be installed in such a manner that drip or condensation does not contaminate the bottled water or nonalcoholic beverage, raw materials or product contact surfaces. Aisles or walking spaces between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of the nonalcoholic beverage or bottled water or food contact surfaces.

i. Floors, walls and ceilings in the syrup and bottling room(s) shall be constructed of smooth, nonabsorbing, easily cleanable, light colored surface material and maintained in a clean and sanitary condition at all times.

ii. The floors in the syrup mixing and bottling rooms shall be adequately drained in order to prevent pooling of water and to facilitate cleaning procedures. In addition, drain lines from equipment shall not discharge wastewater or product in such a manner as will permit flooding of floors or the flowing of water across working or walking areas or in difficult to clean areas or otherwise create a nuisance.

5. Adequate lighting shall be provided throughout the establishment to facilitate cleaning and inspection procedures. At least 30 foot candles of light shall be provided in the processing, bottling, equipment and utensil washing areas. All other areas shall have a minimum of 10 foot candles of light at a distance of 30 inches from the floor surfaces.

i. Light fixtures which are located in processing, preparation, equipment/utensil washing areas or other areas where nonalcoholic beverages or bottled water may be exposed shall be of the safety type, or otherwise protected to prevent food contamination/adulteration in case of breakage.

6. Ventilation in every room of a plant or facility shall be adequate to minimize condensation, odors, vapors, noxious fumes, dust and other potential air-borne contaminants.

7. Animal and vermin control: Every plant and facility shall be provided with effective screening, rodent proofing, or other protective methods against animals and vermin.

i. No vermin or animal shall be permitted in the areas of a nonalcoholic beverage or bottled water plant.

ii. Effective measures shall be taken to exclude pests from processing areas and to protect against the contamination of bottled water and nonalcoholic beverages.

iii. The use of pesticides is permitted only under precautions and restrictions that will prevent contamination of the food. Pesticides shall be applied in an approved manner and by a certified applicator.

(c) **Sanitary facilities and controls:** The establishment shall be provided with adequate sanitary facilities and control measures to protect the purity, quality and wholesomeness of the nonalcoholic beverage or bottled water. Facilities and controls shall include, but not be limited to:

1. **Water supply:** The operation water supply shall be adequate as to the quantity of a safe, sanitary quality, and from

an approved source which is constructed, protected, operated and maintained in accordance with applicable State and local standards.

i. Water quality and sampling frequency of the operation water shall be in accordance with applicable State and local standards.

ii. Hot and cold running water, under sufficient pressure, shall be provided in all areas where nonalcoholic drink or bottled water is prepared and where equipment, utensils or containers are washed.

2. Plumbing: Plumbing shall be so sized, installed and maintained in accordance with applicable State and local standards as to carry sufficient quantities of water to required locations throughout the establishment; as to prevent contamination of the water supply; as to properly convey sewage and liquid waste from the establishment to the sewer or sewage disposal system; and so that it does not constitute a source of contamination of food, equipment, or utensils or create an insanitary condition or nuisance.

i. The potable water supply piping shall not be directly connected with any nonpotable water supply system whereby the nonpotable water can be drawn or discharged into the potable water supply system.

ii. The piping of any nonpotable system shall be adequately and durably identified, such as by a distinctive yellow colored paint, so that it can be readily distinguished from piping which carries potable water; and such piping shall not be connected to equipment or have outlets in the food preparation area.

iii. The potable water system shall be installed in such a manner as to preclude the possibility of backflow or back-siphonage.

3. Sewage: All sewage and waste water shall be disposed of by means of a public sewage system or disposal system which is constructed and maintained in conformance with applicable State and local standards.

4. Toilet facilities: Each plant shall be provided with adequate, conveniently located toilet facilities and dressing rooms accessible to the employees at all times.

i. Toilet facilities and dressing rooms shall be installed in accordance with applicable State and local standards.

ii. Doors to toilet rooms and dressing facilities shall be self closing and shall not open directly into areas where product is exposed to air-borne contamination, except where alternate means have been taken to prevent such contamination.

iii. Toilet facilities and dressing rooms including toilet rooms and fixtures shall be kept clean and in good repair and free from objectionable odors.

iv. A supply of toilet tissue shall be provided at each toilet at all times. Handwashing signs "Wash Hands Before Resuming Work" shall be posted conspicuously in all toilet rooms and at each separate lavatory facility in a bottling plant. Easily cleanable receptacles shall be provided for waste materials and such receptacles in toilet rooms for women shall be covered. Such receptacles shall be emptied at least once a day, and more frequently when necessary, to prevent excessive accumulation of waste material.

v. Hot and cold water under suitable pressure shall be provided in toilet facilities (100 degrees Fahrenheit-115 degrees Fahrenheit).

5. Hand-washing facilities: Lavatories shall be adequate in size and number and shall be so located as to permit convenient and expeditious use by all employees.

i. Lavatories shall be installed in accordance with applicable State and local ordinances.

ii. Each lavatory shall be designed to provide hot and cold tempered (100 degrees Fahrenheit-115 degrees Fahrenheit) running water.

iii. Lavatory facilities which are used by employees who handle unprotected product, unprotected packaging materials

and product contact surfaces shall be equipped with water control valves so designed and constructed as to prevent recontamination of clean and sanitized hands.

iv. An adequate supply of hand cleansing soap, detergent or other sanitizing solution shall be available at each lavatory. Also, an adequate supply of sanitary towels, or an approved drying device, shall be available and conveniently located near the lavatory. Common towels are prohibited. Where disposable towels are used, waste receptacles shall be located conveniently near the hand-washing facilities.

v. Lavatories, soap dispensers, hand-drying devices and all other components of the hand-washing facilities shall be kept clean and in good repair.

6. Garbage and refuse shall be so conveyed, stored, and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food contact surfaces, ground surfaces and water supplies.

(d) Equipment and utensils: All plant equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. The design, construction, and use of equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment shall be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces. Product-contact surfaces shall be corrosion free when in contact with food. They shall be made of nontoxic material that will withstand the environment of its intended use and the action of food ingredients, cleaning compounds, and sanitizing agents. All food surfaces shall be maintained to prevent product contamination.

1. Seams in product contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of food particles or to prevent microbiological contamination in places where dirt or organic material might accumulate.

2. Equipment that is in the processing or food handling area and that does not come into contact with product shall be so constructed that it can be kept in a clean condition.

3. Ingredient and product holding, conveying, and processing systems that include, but are not limited to, gravimetric, pneumatic, closed, and automated systems shall be of a design and construction that enables them to be cleaned and sanitized.

4. Regulating and recording controls, thermometers, other temperature measuring devices and temperature recording devices on equipment used to sterilize, pasteurize, or otherwise control or prevent growth of microorganisms in raw materials or products shall be accurate, effective, and adequate in number for their designated uses.

5. Each freezer and cold storage compartment used for storing and holding raw materials or products capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature measuring device or temperature recording device so installed (in the warmest zone) as to show the temperature accurately within the compartment.

6. Instruments used for measuring or regulating pH, acidity, water activity, or other conditions that control or prevent undesirable microbial growth in foods shall be precise and properly maintained.

7. All compressed air or other gases, mechanically introduced into foods or used to clean product-contact surfaces or equipment, shall be adequately filtered or washed and shall be free of oil and other extraneous material that might contaminate the foods.

8. All equipment ports, hatches and other openings shall be provided with tight fitting covers and shall be kept in place and used to prevent airborne contamination and/or adulteration.

9. Bottle conveyor systems which are used to transport clean, sanitized or air blown primary containers shall be protected by conveyor covers to assure that the openings of the containers

are protected from possible contamination or adulteration prior to the filling procedures.

10. Equipment and procedures used in the storage, transportation, mixing, filling, washing or capping shall be so constructed and maintained as to prevent breakage which may cause the entry of glass or other adulterants into the primary containers.

11. Mechanical bottle washers shall be provided when multi-use containers are used. In addition, mechanical washers shall be designed and maintained to thoroughly wash and sanitize all surfaces of the containers prior to filling.

12. Capper hoppers shall be provided with covers that adequately protect the caps from dust, dirt and other contaminants and shall be used at all times during and after operations.

13. Caps, while in storage, shall be covered and protected from contamination and/or adulteration at all times.

14. Fillers shall be provided with condensation diverters immediately above the filler valve insertion area to prevent the possible contamination and/or adulteration to the product.

(e) Cleaning and sanitization of equipment and utensils: Product contact surfaces of all vehicles, vessels, utensils, and other containers, machinery and equipment necessary for the proper mixing or storage of bottled water, nonalcoholic beverage or other food ingredients shall be cleaned and sanitized before use and after any interruption during which the utensil and contact surfaces may have become contaminated. Where the equipment and utensils are used in a continuous production operation, the product contact surfaces of the equipment and utensils shall be cleaned and sanitized on a pre-determined schedule using adequate methods for cleaning and sanitizing.

1. Bottles, jars and other reusable containers for bottled water or nonalcoholic beverages shall be thoroughly cleaned and effectively sanitized prior to use. Post washing inspection procedures (visual or mechanical) in connection with reusable containers shall effectively detect foreign or natural contaminants or adulterants in the product or primary container.

2. Mechanical washers used in conjunction with re-useable primary containers shall be inspected as often as necessary to assure adequate performance. Records of physical maintenance, inspections and conditions found, and performance of the mechanical washer shall be maintained by the plant.

3. Multiservice shipping cases shall be maintained in such condition as to assure that they will not contaminate the primary container or the product water or beverage. Adequate dry or wet cleaning procedures shall be performed as often as necessary and maintain the cases in satisfactory condition.

4. Cleaned and sanitized equipment and utensils shall be stored in a location and in a manner that protects product-contact surfaces from splash, dust and other contamination.

5. Nonproduct contact-surfaces shall be cleaned as frequently as necessary to minimize accumulation of dust, dirt and other debris.

6. Cleaning and sanitizing of utensils and equipment shall be carried out in such a manner that prevents contamination of raw materials, finished products, or packaging materials. Detergents, sanitizers and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended use. Only those toxic materials that are required to maintain sanitary conditions, for use in laboratory testing procedures, for plant and equipment maintenance and operations or in manufacturing or processing operations, shall be used and stored in the plant. Poisonous or dangerous cleaning compounds, sanitizing agents and pest chemicals shall be applied, stored and held in a manner that prevents food or

food packaging material contamination. These materials shall be identified and used only in the manner and under the conditions that will be safe for their intended use.

7. Single service containers and articles shall be stored in appropriate containers and shall be dispensed, used and disposed of in a manner that prevents contamination/adulteration of the bottled water or beverage or product-contact surfaces.

(f) Handling, storage, and transporting bulk water and liquid ingredients: Vehicles, tank trucks, loading and unloading facilities, storage tanks and other equipment used to store or transport bulk water and liquid ingredients shall be maintained in a clean and sanitary condition. Previously cited rules which pertain to equipment, construction, maintenance, cleaning and sanitizing shall also apply to transporting and handling bulk water and liquid ingredients.

1. Tank trucks used to transport bulk water shall not have been used to transport toxic or noxious substances.

2. Storage tanks and tank trucks shall be free of deep pits, excessive scale, dents or crimps which may tend to hold standing water.

3. Inlets, outlets, piping, hose and other appurtenances associated with storage tanks and tank trucks shall be constructed to prevent entrance of foreign materials that may contaminate the product.

4. All inlet and outlet openings shall be kept closed and protected except when filling or cleaning.

5. Flexible delivery piping, connectors and ends are to be protected from contamination and/or adulteration at all times.

6. Tank trucks, hoses, pumps and all other equipment shall be cleaned and sanitized prior to use.

(g) Personnel: No person, while affected by a disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other sources of microbiological contamination, shall work in a plant in any capacity in which there is a reasonable possibility of food or food ingredients becoming contaminated by that person, or of disease being transmitted by that person to other individuals.

1. All persons, while working in direct contact with food preparation, food ingredients, or food contact surfaces shall conform to good hygienic practices while those persons are on duty, to the extent necessary to prevent contamination of food products. The methods for maintaining cleanliness shall include, but are not limited to:

i. Wearing clean outer garments in a manner that prevents the contamination of food.

ii. Maintaining a high degree of personal cleanliness.

iii. Washing hands thoroughly (and sanitizing if necessary to prevent contamination by undesirable microorganisms) in an adequate hand-washing facility before starting work, after each absence from work station, and at any other time when the hands may have become soiled or contaminated.

iv. Removing all insecure jewelry and during periods in which food and beverages are manipulated by hand, removing from hands any jewelry that cannot be adequately sanitized.

v. If gloves are used in food handling, maintaining them in an intact, clean, and sanitary condition.

vi. Wearing hair nets, headbands, caps, beard covers, or other effective hair restraints in an effective manner.

vii. No storing of clothing or other personal belongings in areas where food or food ingredients are exposed or in areas used for washing equipment or utensils.

viii. No eating of food, drinking of beverages, expectorating, or using tobacco in areas where food or food ingredients are exposed or in areas used for washing of equipment or utensils.

ix. Taking any other necessary precautions to prevent contamination of foods with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals and medicines.

x. No person shall be allowed to live or sleep in any room where bottled water or nonalcoholic beverages are produced, manufactured, packed, stored, bottled, distributed or sold.

(h) Processes and controls: All processing including manufacturing, packaging, bottling, distributing, transporting, and storage shall be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacteria or other microbiological growths or the contamination of the processed bottled water or nonalcoholic beverage or its ingredients.

1. The process and control of raw materials shall proceed as follows:

i. Raw materials and ingredients shall be inspected and segregated as necessary to ensure that they are clean and fit for processing into human food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contaminants. Containers and carriers of raw ingredients should be inspected on receipt to ensure that its condition has not contributed to the contamination or deterioration of the products.

ii. Raw materials and ingredients shall not contain levels of microorganisms that may produce food poisoning or other disease in humans, or they shall be pasteurized or otherwise treated during processing operations to destroy such microorganisms.

iii. Raw materials shall be held in containers so designed and constructed as to prevent their contamination and shall be held at such temperature and relative humidity and in such a manner as to prevent its deterioration.

iv. Frozen raw materials shall be kept frozen except for the period of time actually required for processing and shall be defrosted in a manner that does not adversely affect its use as food.

2. All treatment of source water by distillation, ionic exchange, filtration, ultraviolet treatment, reverse osmosis, carbonation, mineral addition, or any other process shall be done in a manner so as to be effective in accomplishing its purpose and shall be performed in and by equipment which will not contaminate or adulterate the product.

3. During the processes of filling, capping or sealing either single-service or multi-use containers, the performance of the equipment and processing shall be monitored. Filled containers shall be visually or electronically inspected to assure that they are sound, clean, free of visible defects, properly capped, sealed, and labeled.

4. Food and ingredients that can support the rapid growth of microorganisms of public health significance or that are subject to decomposition as a result of microbiological activity shall be held in a manner that minimizes the growth of those microorganisms. Compliance with this requirement may be accomplished by any effective means, including:

i. Maintaining refrigerated foods at 45 degrees Fahrenheit (7.2 degrees Centigrade) or below as appropriate for the particular food or ingredient involved.

ii. Maintaining frozen foods at 0 degrees Fahrenheit (-17.8 degrees Centigrade) or below.

iii. Maintaining hot foods at 140 degrees Fahrenheit (80 degrees centigrade) or above.

iv. Heat treating acid or acidified foods to destroy mesophilic microorganisms when those foods are to be held in hermetically sealed containers at ambient temperatures.

5. Measures such as sterilizing, pasteurizing, freezing, refrigerating, controlled pH or controlled available water ( $A_w$ ) that are taken to destroy or prevent the growth of microorganisms of public health significance shall be adequate under the conditions of manufacture for a given food to ensure destruction or the prevention of growth of those microorganisms.

6. Rework shall be held in properly identified containers, shall be handled and stored as raw material and shall meet raw material requirements before processing.

7. Effective measures shall be taken to exclude metal or other extraneous materials in the finished product. Compliance with the requirement may be accomplished by using sieves, magnets, electronic metal detectors or other suitably effective measures.

(i) Records and reports: Records of results of examinations and/or copies of suppliers' guarantees or certifications of raw materials, food-packaging materials, and finished foods, shall be maintained.

1. Processing and production records of processes intended to pasteurize or otherwise treat materials to destroy, prevent, or control the growth of microorganisms of public health significance shall be maintained, and shall contain sufficient information to permit a public health evaluation of the processed food.

2. Distribution records shall be maintained to identify the initial distribution except for over-the-counter retail sales at the site of manufacture, of the finished product to facilitate, when necessary, the segregation and recall of specific lots that may have become contaminated or otherwise unfit for their intended use.

3. The records required in the above mentioned paragraphs shall be retained at the plant for a period of time that exceeds the shelf life of the finished product, except that they need not be retained for more than two years from the date of manufacture.

4. Plants shall also retain, on file at the plant, current certification or notification of approval issued by administrative agencies. All required documents shall be available for official review at reasonable times.

(j) Coding: Permanently legible code marks shall be placed at a readily visible location on the primary container delivered or displayed to purchasers so that the code marks can be readily seen on the unopened package. The marks shall identify at least the plant where the food was packed and the lot or packaging lot.

#### 8:21-12.7 Bottled water quality standards

(a) Bottled water which is manufactured, distributed or sold within this State shall comply with the standards, i.e., microbiological, physical, chemical and radiological set forth herein:

1. Microbiological quality: Bottled water shall, when a sample consisting of analytical units of equal volume is examined by the methods described in applicable sections of "Standard Methods for the Examination of Water and Wastewater," 14th Ed., 1975, American Public Health Association<sup>1</sup> (or current edition), meet the following standards of microbiological quality:

i. Multiple-tube fermentation method: Not more than one of the analytical units in the sample shall have a most probable number (MPN) of 2.2 or more coliform organisms per 100 milliliters and no analytical unit shall have an MPN of 9.2 or more coliform organisms per 100 milliliters; or

ii. Membrane filter method: Not more than one of the analytical units in the sample shall have 4.0 or more coliform organisms per 100 milliliters and the arithmetic mean of the coliform density of the sample shall not exceed one coliform organism per 100 milliliters.

2. Physical quality: Bottled water, when a composite of analytical units of equal volume from a sample is examined by the method described in applicable sections of "Standard Methods for the Examination of Water and Wastewater," 14th Ed., 1975<sup>1</sup> (or current edition) shall meet the following standards of physical quality:

i. The turbidity shall not exceed five units.

ii. The color shall not exceed 10 units.

iii. The odor shall not exceed threshold odor No. 3.

3. Chemical quality: Bottled water, when a composite of analytical units of equal volume from a sample is examined by the methods described in (a)2 above, shall not contain chemical substances in excess of the following concentrations:

i. Substances	Milligrams per liter
Arsenic .....	0.05
Barium .....	1.0
Cadmium .....	0.01
Chloride .....	250.0
Chromium .....	0.05
Cooper .....	1.0
Iron .....	0.3
Lead .....	0.05
Manganese .....	0.05
Mercury .....	0.002
Nitrate(N) .....	10.0
Selenium .....	0.01
Silver .....	0.05
Sulfate .....	250.0
Total dissolved solids .....	500.0
Zinc .....	5.0
Sodium .....	50.0
ABS/LAS .....	0.5
Trihalomethanes .....	0.10

Organics:

Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-1,4-endo, endo-5,8-dimethano naphthalene) .....	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer) .....	0.004
Methoxychlor (1,1,1-trichloro-2,2-bis (p-methoxyphenyl) ethane) .....	0.1
Toxaphene (C <sub>10</sub> H <sub>10</sub> Cl <sub>6</sub> -technical chlorinated camphene 67-69 (percent chlorine) .....	0.0005
2,4-D2,4-dichlorophenoxy-acetic acid) .....	0.1
2,4,5-TP Silvex (2,4,5-trichlorophenoxypropionic acid) .....	0.01

ii. Chemical analyses conducted to determine compliance with the above paragraph shall be made in accordance with the methods described in the applicable sections of "Standards Methods for the Examination of Water and Wastewater," 14th Ed., 1975<sup>1</sup>, or "Methods for Chemical Analysis of Water and Wastes," 1974<sup>2</sup>. Analyses for organic substances shall be determined by appropriate methods described in "Methods for Organochlorine Pesticides in Industrial Effluents,"<sup>3</sup> and "Methods for Chlorinated Phenoxy Acid Herbicides in Industrial Effluents," November 28, 1973<sup>3</sup>.

iii. Bottled water packaged in this State to which no fluoride is added shall not contain fluoride in excess of the levels in Table 1 and these levels shall be based on the annual average of maximum daily air temperatures at the location where the bottled water is sold at retail.

TABLE 1

Annual average of maximum daily air temperatures (°F)	Fluoride concentration in milligrams per liter
53.7 and below	1.7

53.8-58.3	1.5
58.4-63.8	1.3
63.9-70.6	1.2
79.3-90.3	0.8
79.3-90.5	0.8

Imported bottled water to which fluoride is added shall not contain fluoride in excess of 0.8 milligram per liter.

4. Radiological quality: Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described herein, meet standards of radiological quality as follows:

i. The bottled water shall not contain a combined radium-226 and radium-228 activity in excess of five picocuries per liter of water.

ii. The bottled water shall not contain a gross alpha particle activity (including radium-226, but excluding radon and uranium) in excess of 15 picocuries per liter of water.

iii. The bottled water shall not contain beta particle and photon radioactivity from manmade radionuclides in excess of that which would produce an annual dose equivalent to the total body or any internal organ of four millirems per year calculated on the basis of an intake of two liters of the water per day. If two or more beta or photon emitting radionuclides are present, the sum of their annual dose equivalent to the total body or to any internal organ shall not exceed four millirems per year.

iv. Analyses conducted to determine compliance with (a)3ii above, shall be made in accordance with the methods described in the applicable sections of "Standard Methods for the Examination of Water and Wastewater," 14th Ed., 1975,<sup>1</sup> (or most current edition) and "Interim Radiochemical Methodology for Current Edition for Drinking Water," Environmental Monitoring and Support Laboratory, EPA-600/4-75-008 (Revised), March 1976, U.S. Environmental Protection Agency.<sup>4</sup>

5. Frequency and method of sampling is prescribed as follows:

i. Samples of source water are to be taken and analyzed by the plant as often as necessary, but at a minimum frequency of once each year for chemical and physical contaminants and once every four years for radiological contaminants. Additionally, source water obtained from other than a public community water system is to be sampled and analyzed for microbiological contaminants at least once each week. This sampling is in addition to any performed by government agencies having jurisdiction. Records of approval of the source water by government agencies having jurisdiction and of sampling and analyses for which the plant is responsible are to be maintained on file at the plant.

ii. In addition, for bacteriological purposes take and analyze at least once a week a representative sample of product water from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product.

iii. For chemical, and physical purposes take and analyze at least annually a representative sample of product water from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample(s) consists of primary containers of product or unit packages of product.

iv. Chemical, microbiological and physical analyses for product and source water shall be performed by a N.J. State certified laboratory.

<sup>1</sup> Copies are available for inspection or can be obtained at Department of Health, Consumer Health Services, CN 364, Trenton, NJ 08625 or can be obtained at: American Public Health Association, 1015 18th Street, N.W. Washington, DC 20036.

<sup>2</sup> Copies are available for inspection or can be obtained at Department of Health, Consumer Health Services, CN 364, Trenton, NJ 08625 or can be obtained at: Office of Technology Transfer, Environmental Protection Agency, Washington, DC 20460.

<sup>3</sup> Copies are available for inspection or can be obtained at Department of Health, Consumer Health Services, CN 364, Trenton, NJ 08625 or can be obtained at: Methods Development Quality Assurance Research Laboratory, Environmental Protection Agency, Cincinnati, OH 45268.

<sup>4</sup> Copies are available for inspection or can be obtained at Department of Health, Consumer Health Services, CN 364, Trenton, NJ 08625 or can be obtained at: National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151.

<sup>5</sup> Copies are available for inspection or can be obtained at Department of Health, Consumer Health Services, CN 364, Trenton, NJ 08625 or can be obtained at: The Office of the Federal Register, National Archives and Records Service General Administration, U.S. Government Printing Office, Washington, DC 20402.

**(a)**

**DIVISION OF HEALTH FACILITIES EVALUATION**

**All Health Care Facilities Licensure Fees**

**Proposed Amendments: N.J.A.C. 8:30-1.4, 8:39-1.4, 8:42-1.4, 8:42-2.4, 8:42A-2.2, 8:43-1.4, 8:43A-1.5, 8:43B-1.8 and 8:43F-2.3**

**Proposed New Rules: N.J.A.C. 8:31-26.5 and 8:37-4.7**

Authorized By: Allen N. Koplin, M.D., M.P.H., Acting Commissioner, Department of Health (with Approval of the Health Care Administration Board)  
Authority: N.J.S.A. 26:2H-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dr. Solomon Goldberg, Director  
Licensing, Certification and Standards  
Division of Health Facilities Evaluation  
New Jersey Department of Health  
CN 367  
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-485.

The agency proposal follows:

**Summary**

This proposal will increase the fees charged by the Department of Health for the filing of an application for licensure of a health

care facility and for the annual renewal of the license, pursuant to N.J.S.A. 26:2H-1 et seq., as amended in 1978, and the Appropriations Bill of 1982.

**Social Impact**

This proposal will help to ensure the quality of care in health care facilities by maintaining the present level of oversight of the facilities by the Department.

**Economic Impact**

This proposal to increase fees will have an economic impact upon the operation of the health care facilities. It is anticipated that the proposal will raise an additional \$30,000 in fiscal year 1983, which will restore a portion of the funds deleted from the Department's budget by the Appropriations Bill of 1982 in a manner prescribed by that Act.

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

8:30-1.4 Duration of license; fee

- (a) (No change.)
- (b) [A fee of \$25.00 shall be paid upon the issuance or renewal of a license.] See N.J.A.C. 8:31-26.6. for licensure fees.
- (c) (No change.)

8:31-26.5 Licensure fees

(a) The department shall charge a nonrefundable fee for the filing of an application for licensure of a health care facility and for the annual renewal of the license in accordance with the following:

1. All patient health care facilities shall be paid a fee based on the number of beds in the facility as follows:

Number of Beds	Fees
1-99	\$100.00
100-199	200.00
200-299	300.00
300-399	400.00
400-999	500.00

- 2. All other health care facilities shall pay a fee of \$100.00.
- (b) These regulations shall supersede all previous regulations regarding fees for licensure of health care facilities.

8:37-4.7 Licensure fees

(a) The department shall charge a nonrefundable fee for the filing of an application for licensure of an intermediate care facility and for the annual renewal of the license in accordance with the following fee schedule:

Number of Beds	Fee
1-99	\$100.00
100-199	200.00
200-299	300.00
300-399	400.00
400-999	500.00

8:39-1.4 Application for licensure

- (a) (No change.)
- (b) The department shall charge a nonrefundable fee for the filing of an application for licensure of a facility and any annual renewal thereof as follows:

Number of Beds	Fee
1-99	[\$50.00] <b>\$100.00</b>
100-199	[100.00] <b>200.00</b>
200-299	[150.00] <b>300.00</b>
300-399	[200.00] <b>400.00</b>
400-999	[250.00] <b>500.00</b>

(c) (No change.)

8:42-1.4 Application for licensure

- (a) (No change.)
- (b) The department shall charge a nonrefundable fee of [\$50.00] **\$100.00** for the filing of an application for licensure of a home health agency and each annual renewal thereof.
- (c) (No change.)

8:42-2.4 Application for licensure

- (a) (No change.)
- (b) The department shall charge a nonrefundable fee [of \$100.00] for the filing of an application for licensure of a residential or inpatient drug treatment facility and renewal thereof[.] **in accordance with the following fee schedule:**

Number of Beds	Fee
1-99	<b>\$100.00</b>
100-199	<b>200.00</b>
200-299	<b>300.00</b>
300-399	<b>400.00</b>
400-999	<b>500.00</b>

(c) (No change.)

8:42A-2.2 Application for licensure

- (a) (No change.)
- (b) The department shall charge a nonrefundable fee [of \$100.00] for the filing of an application for licensure of a facility and any annual renewal thereof[.] **in accordance with the following fee schedule:**

Number of Beds	Fee
1-99	<b>\$100.00</b>
100-199	<b>200.00</b>
200-299	<b>300.00</b>
300-399	<b>400.00</b>
400-999	<b>500.00</b>

(c) (No change.)

8:43-1.4 Application procedure

- (a)-(g) (No change.)
- (h) **The department shall charge a nonrefundable fee for the filing of an application for licensure of a residential health care facility and for the annual renewal of the license in accordance with the following fee schedule:**

Number of Beds	Fee
1-99	<b>\$100.00</b>
100-199	<b>200.00</b>
200-299	<b>300.00</b>
300-399	<b>400.00</b>
400-999	<b>500.00</b>

8:43A-1.5 Application for licensure

- (a) (No change.)
- (b) The department shall charge a nonrefundable fee of \$100.00 for the filing of an application for licensure of an ambulatory care facility and any renewal thereof. [Facilities providing a single diagnostic service or a single therapeutic modality as enumerated in the standards shall be charged a nonrefundable fee of \$50.00 for the filing of an application for licensure and any renewal thereof.]
- (c) (No change.)

8:43B-1.8 Fees

- [(a) A license to operate a private hospital shall be issued upon the payment of a fee of \$25.00 providing that the application and the hospital facility are in full compliance with the applicable regulations.] **See N.J.A.C. 8:31-26.6 for licensure fees.**
- [(b) Licenses shall be renewed annually upon payment of a like fee.
- (c) All fees received by the department under the provisions of this Act shall be paid into the general State fund.]

8:43F-2.3 Application for licensure

- (a) (No change.)
- (b) The department shall charge a nonrefundable fee of \$100.00 for the filing of an application for licensure or renewal of licensure of a [facility operating solely as a] **non-residential** medical day care [center] **facility.**
- [(c) A non-refundable licensure or renewal of licensure filing fee of \$50.00 shall be charged by the Department to any facility that is currently licensed by the Department and is expanding its services to include medical day care services.]
- Renumber (d) as (c) (No change in text.)

(a)

**DIVISION OF HEALTH FACILITIES  
EVALUATION**

**All Health Care Facilities**

**Proposed Amendment: N.J.A.C. 8:31-26.3**

Authorized By: Allen N. Koplin, M.D., M.P.H., Acting Commissioner, Department of Health (with Approval of Health Care Administration Board).  
Authority: N.J.S.A. 26:2H-1 et seq.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dr. Solomon Goldberg, Director  
Licensing, Certification and Standards  
Division of Health Facilities Evaluation  
NJ Department of Health  
CN 367  
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-486.

The agency proposal follows:

**Summary**

This proposal, N.J.A.C. 8:31-26.3, will revise the requirements regarding employees' physical examinations (health evaluations) by deleting the requirement for the Mantoux tuberculin skin test in all facilities except general hospitals, deleting the requirement for an annual Mantoux tuberculin skin test, and revising the requirements for the rubella screening test, including deletion of certain types of documentation.

**Social Impact**

The social impact is to protect the health, safety, and welfare of the patients, without overburdening a facility or the individual employee with redundant testing for tuberculosis or rubella.

**Economic Impact**

Facilities, other than general hospitals, should realize a savings since they will no longer be required to give a Mantoux tuberculin skin test to each employee.

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

8:31-26.3 Employee physical exams (**health evaluations**)

(a) The facility shall develop and implement written policies and procedures, reviewed by the Department and revised as required by the Department, for employees' (including persons providing direct patient care services through contractual arrangements or written agreements) physical examinations (**health evaluations**) upon employment and subsequently, including the content and frequency to ensure that:

1. Each employee **in a general hospital** shall be given a Mantoux tuberculin skin test with five tuberculin units of purified protein derivative. New employees shall be given the Mantoux tuberculin skin test upon employment. **If the facility has documentation for an employee of a Mantoux tuberculin skin test reaction of 10 or more mm of induration, the facility shall exempt the employee from further tuberculin skin testing.**

i. If the Mantoux tuberculin skin test reaction is less than 10 mm of induration (negative), the test shall be repeated one to three weeks later. If the second Mantoux tuberculin skin test is negative, [the test shall be repeated annually for as long as the reaction to the test remains negative and the employee is assigned to areas in the facility where he/she has direct contact with patients.] **subsequent tests shall be done in accordance with the facility's policies and procedures.**

ii. (No change.)

[iii. The facility shall ensure that laboratory personnel shall also be in compliance with Chapter 4 of the State Sanitary Code (N.J.A.C. 8:44-1.2 et seq.).]

[iv. **iii.** The facility shall ensure that each employee's record contains documentation of all tests performed and the results, **including the transverse diameter of induration in mm**, and the results of a chest X-ray and the chemoprophylaxis or therapy, as indicated.

2. Each employee shall be given a rubella screening test using the rubella hemagglutination inhibition test or other rubella screening test approved by the Department. New employees shall be given the rubella screening test upon employment. Employees currently working in the facility shall be given the rubella screening test within six months of the effective date of these standards. **Employees who can document seropositivity from a previous rubella screening test or who can document inoculation with rubella vaccine shall not be required to have a rubella screening test.**

[i. The facility shall develop and implement policies and procedures, reviewed by the Department and revised as required by the Department, ensuring that all seronegative female employees of childbearing age are informed regarding rubella inoculation and pregnancy.

ii. The facility shall develop and implement policies and procedures with consultation from the medical director, and approved by the Department, to ensure that rubella vaccine is provided by the facility to all rubella seronegative employees who request rubella inoculations. In the event that the licensure standards applicable to the facility do not require a medical director, the facility shall consult with a physician regarding the development and implementation of these policies and procedures.]

i. **Each employee tested shall be informed in writing by the facility of the results of his/her rubella screening test.**

ii. **The facility shall ensure that each employee's record contains documentation of all tests performed and the results.**

iii. (No change.)

[iv. Each employee who is assigned to areas in the facility where

he/she may have contact with patients in their first or second trimester of pregnancy shall be rubella seropositive.

v. If the result of the first rubella screening is rubella seronegative, and the employee works in areas of the facility where he/she may have contact with patients in their first or second trimester of pregnancy, rubella vaccine shall be given and the rubella screening test shall be repeated in 30-60 days following the inoculation.

vi. The facility shall ensure that each employee's record contains documentation of all tests performed and the results, of inoculation with rubella vaccine, if applicable, and of information provided to seronegative female employees of child-bearing age regarding rubella inoculation and pregnancy.]

**(b) Paragraph (a)1 above shall apply only to facilities licensed by the Department as general hospitals.**

[(b)](c) Paragraph (a)2 above shall not apply to the following health care facilities:

1. Long-term care facilities;
2. Non-residential medical day care facilities;
3. [Boarding homes for sheltered care;] **Residential health care facilities;**
4. Nursing homes;
5. Intermediate care facilities.

(a)

**THE COMMISSIONER**

**Computerized Tomography Scanners  
Certificate of Need Reviews**

**Proposed Amendments: N.J.A.C. 8:33G-1.2  
and 1.4**

Authorized By: Allen N. Koplín, M.D., M.P.H., Acting  
State Commissioner of Health with the approval of the  
Health Care Administration Board.

Authority: N.J.S.A. 26:2H-1, et seq.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

John Scioli, Coordinator  
New Jersey Department of Health  
Health Planning Services  
CN 360, Room 403  
Trenton, NJ 08625

The Commissioner of Health, with the approval of the Health Care Administration Board in the Department of Health, thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-482.

The agency proposal follows:

**Summary**

The current rules require periodic updating based upon the review and recommendations of the Commissioner's technical advisory committee. In developing these proposed rule changes, the Commissioner received recommendations from his technical advisory committee.

The proposed changes are based upon a review of the entire rule by the Commissioner of Health, the Health Care Administration Board in the Department of Health, and the Commissioner's technical advisory committee.

Existing utilization standards for both the initial installation and replacement of a computerized tomography (CAT/CT) scanner would be retained, as would existing methodologies for documenting need for the service.

The amendments propose to add a requirement that any application for an additional computerized tomography (CAT/CT) scanner, beyond the first approved unit, be supported by documentation demonstrating that each existing CAT/CT scanner is being used at least 76 hours per week inclusive of scheduled down-time and exclusive of non-scheduled down-time. Requests for additional units, beyond the first approved unit, until such time as the applicant's existing unit(s) is (are) fully utilized, are thereby discouraged.

The proposed amendments would eliminate the "ad hoc" designation of the Commissioner's technical advisory committee.

#### Social Impact

Public policy of the State, as reflected by N.J.S.A. 26:2H-1, recognizes that hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health . . . shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs.

The New Jersey State Health Plan recognizes the underutilization of inpatient beds, specialty services, and expensive equipment as an important factor contributing to the rapidly escalating costs of health care. The efficient utilization of expensive equipment such as computerized tomography scanners is important in avoiding unnecessary increases in health care costs.

Since the proposed amendments do not change Department of Health policy, as reflected in the existing rules, the changes are not expected to have any negative impact on services currently operating within the State or on applicants seeking to initiate the service.

#### Economic Impact

Fifty-seven hospital-based computerized tomography scanners have received certificate of need approval to date. Costs approved for the purchase and installation of these units have amounted to \$53,904,042 for an average capital cost of \$945,685. Recurring annual operating costs for these approved units will amount to approximately \$21,945,000 (at current prices), once the entire inventory becomes operational. In addition, nine applications amounting to a capital request of \$12,045,800 are currently under review. These applications represent an average capital request of \$1,338,422. Assuming approval of these applications at their requested levels, the statewide inventory of CT scanners would include 66 units representing purchase and associative installation costs of \$65,949,842 or an average of \$999,240 in capital costs and recurring annual operational costs of approximately \$25,410,000 (at current prices).

Recognizing that computerized tomography is now generally considered "state of the art", the Commissioner of Health, with the approval of the Health Care Administration Board in the Department of Health, liberalized the rules for reviewing applications for CT scanners in December, 1981. The purpose for liberalizing the rules was to improve access statewide to this advanced and accepted radiological procedure. Prior to these rule changes, 46 hospital-based scanners were approved statewide for a total capital cost of \$39,476,492 or an average unit cost of \$858,185. Since adoption of the rule changes, 11 additional scanners have been approved for a total capital cost of \$14,427,550 or an average unit cost of \$1,311,595.

Since the proposed amendments do not change Department of Health policy, as reflected in the existing rules, the changes are not expected to result in any significant economic consequences. They would, however, discourage requests for additional units, beyond the first approved unit, until such time as the applicant's existing unit(s) is (are) fully utilized.

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

#### 8:33G-1.2 Utilization standards

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

**(d) Each application for an additional computerized tomography scanner, beyond the first approved unit, must be supported by documentation demonstrating that each existing computerized tomographic (CAT/CT) scanner is being used at least 76 hours per week inclusive of scheduled down-time and exclusive of non-scheduled down-time.**

#### 8:33G-1.4 General criteria

(a) As part of the application for a computed tomographic scanner, each applicant must meet each of the following minimum general criteria:

1.-8. (No change.)

9. The department will establish a [an ad hoc] technical advisory committee to review the regulation on a regular basis. This committee will perform its review within three years and make its recommendations to the Commissioner of Health.

Appendix A (No change.)

Appendix B (No change.)

(a)

## DIVISION OF HEALTH FACILITIES EVALUATION

### Manual of Standards for Hospital Facilities Maternal and Newborn Services

### Proposed Amendments: N.J.A.C. 8:43B-8.3 and 8.6

Authorized By: Allen N. Koplin, M.D., M.P.H., Acting  
Commissioner, Department of Health (with Approval  
of Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dr. Solomon Goldberg, Director  
Licensing, Certification and Standards  
Division of Health Facilities Evaluation  
New Jersey Department of Health  
CN 367  
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-487.

The agency proposal follows:

**Summary**

This proposal will allow a patient (obstetric patient and/or newborn infant) with an infection or suspected infection to remain in the obstetric unit if the patient can be isolated in a single room. The current requirement that the patient be transferred from the obstetric unit to another area of the hospital is not necessary if the patient is isolated in a single room and proper isolation procedures are followed. Furthermore, the current requirement creates a situation where mother and newborn infant are separated if one is transferred to another area of the hospital.

**Social Impact**

A mother and her newborn infant will not be unnecessarily separated since both can remain in the obstetric unit in the event of an infection or suspected infection.

**Economic Impact**

There is no discernible economic impact.

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

8:43B-8.3 Operation standards

- (a) General provisions are:
  - 1.-6. (No change.)
  - 7. Newborn infants shall not be kept in the same nursery or room with older children or any adults except [healthy] **their** mothers.
  - 8.-11. (No change.)
- (b) (No change.)
- (c) Isolation rules are:
  - 1.-2. (No change.)
  - 3. [Provision shall be made for the prompt transfer from the obstetric unit of sick and infected mothers and infants. In addition to those with an overt infection, patients with morbidity by temperature definition shall be transferred unless there is positive evidence that the fever is not due to a contagious condition.] **A patient (obstetric patient and/or newborn infant) with an infection or a suspected infection shall be isolated in a single room in the obstetric unit or transferred to another area of the facility.**
  - (d)-(g) (No change.)

8:43B-8.6 Glossary of terms

- (a)-(l) (No change.)
- (m) Isolation nursery shall mean a room[, not located within the obstetrical and newborn services.] for the isolation of infants diagnosed as having diarrhea or any communicable condition.
- (n)-(t) (No change.)

(a)

**PUBLIC HEALTH COUNCIL**

**State Sanitary Code: Chapter II  
Reportable Diseases**

**Proposed Amendment: N.J.A.C. 8:57-1.1**

Authorized By: Evelyn Geddes, Chairperson, Public Health Council.

Authority: N.J.S.A. 26:1A-7.

A **public hearing** concerning this rule will be held on January 10, 1983, at 9:30 A.M. at:

Commissioner's Conference Room  
8th Floor  
Health and Agriculture Building  
Trenton, NJ 08625

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before January 10, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William Parkin, D.V.M., Dr. P.H.  
State Epidemiologist  
Department of Health  
CN 360  
Trenton, NJ 08625  
(609)-292-4046

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-483.

The agency proposal follows:

**Summary**

The N.J.S.A. 26:1A-7 empowers the State Commissioner of Health to amend the list of reportable diseases for purposes of research, surveillance and in response to technological developments in disease control. It is therefore proposed that the list of reportable diseases be amended by revising the disease condition Lyme Arthritis to Lyme Disease and adding Pneumocystis carinii Pneumonia and Toxic Shock Syndrome. By utilizing the terminology Lyme Disease, the entire spectrum of this disease is specifically reportable rather than just those cases which have an arthritic component. In the past two to three years, two new disease syndromes have been recognized in New Jersey and the United States in the form of Toxic Shock Syndrome and the Acquired Immune Deficiency Syndrome (AIDS). There is a lack of epidemiologic information on these diseases which makes it difficult to initiate measures to prevent and control their transmission and occurrence. It is therefore necessary to declare these diseases reportable in order to gather epidemiologic information about them. This amendment will formalize an existing voluntary reporting system for Toxic Shock Syndrome and insure more complete reporting of cases of this disease syndrome. In the past year, 1981, an epidemic of diseases, known as AIDS, affecting previously healthy individuals and having a high case-fatality rate has been identified. Many of the disease conditions in this syndrome are already reportable, i.e., Kaposi's sarcoma to the Cancer Registry and disseminated tuberculosis, atypical mycobacterial infections, cryptococcal meningitis, and central nervous system toxoplasmosis by this list of reportable diseases. One major disease component of this syndrome, Pneumocystis carinii Pneumonia, is not currently reportable and would greatly enhance surveillance for AIDS cases by its inclusion. This proposal revises the existing N.J.A.C. 8:57-1 otherwise known as Chapter II of the Sanitary Code, by amending Lyme Disease and adding Pneumocystis carinii Pneumonia and Toxic Shock Syndrome to the list of reportable diseases.

**Social Impact**

This proposal would have a beneficial social impact by increasing the medical community's awareness of the severity of the newly recognized diseases that have not previously been seen among healthy individuals. The proposal will aid in the surveillance of these diseases which will add to the epidemiologic information needed to understand the spectrum of the diseases as well as to initiate preventive and control measures. It would further enable physicians who are not too familiar with these diseases to seek expert consultations regarding diagnosis and management.

**Economic Impact**

The proposed amendments, if adopted, would not add to the medical expenditure incurred in the diagnosis and management of any case.

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

## 8:57-1.1 Reportable diseases

(a) The following diseases are declared to be reportable to the State Department of Health for purposes of this chapter. All diseases listed herein are to be reported in the manner prescribed by N.J.A.C. 8:57-1.2, 1.3, 1.4, 1.5 and 1.9.

Amebiasis  
 Anthrax  
 Atypical Mycobacterioses  
 Babesiosis  
 Botulism  
 Brucellosis  
 Campylobacter fetus  
 Diseases  
 Dengue  
 Diphtheria  
 Encephalitis, Infectious  
 (Specify)  
 Food/Water-Borne Disease  
 Giardiasis  
 Guillain-Barre Syndrome  
 Hepatitis  
 Type A  
 Type B  
 Non-A, Non-B  
 Unspecified  
 Hydatid Disease  
 Kawasaki Disease  
 (Mucocutaneous Lymph Node Syndrome)  
 Legionellosis, including  
 Legionnaires' Disease,  
 Pontiac Fever, and diseases  
 caused by atypical Legionella-  
 like organisms  
 Leprosy  
 Leptospirosis  
 Lyme [Arthritis] Disease  
 Malaria  
 Measles  
 Meningitis, Infectious (Specify)  
 Meningococcal Disease  
 Mumps  
 Pertussis  
 Plague  
**Pneumocystis carinii Pneumonia**  
 Poliomyelitis  
 Psittacosis  
 Rabies  
 Rat Bite Fever  
 Relapsing Fever, Louse-borne  
 Reye's Syndrome  
 Rickettsial Diseases, including  
 Q Fever  
 Rickettsialpox  
 Rocky Mountain Spotted Fever  
 Typhus Fever  
 Rubella (German Measles), including  
 Congenital Rubella Syndrome  
 Salmonellosis  
 Shigellosis  
 Smallpox  
 Tetanus

**Toxic Shock Syndrome**

Trachoma  
 Trichinosis  
 Tuberculosis  
 Tularemia  
 Typhoid Fever  
 Venereal Diseases  
 Chancroid  
 Gonorrhea  
 Granuloma Inguinale  
 Lymphogranuloma Venereum  
 Ophthalmia Neonatorum  
 Syphilis  
 Viral Hemorrhagic Fevers  
 Including (but not limited to)  
 Ebola  
 Lassa  
 Marburg  
 Diseases caused by Vibrio  
 species, including Cholera  
 Yersiniosis  
 Yellow Fever  
 (b)–(c) (No change.)

(a)

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

Authorized By: Drug Utilization Review Council, Robert  
 G. Kowalski, Chairman.

Authority: N.J.S.A. 24:6E-6g.

A **public hearing** concerning this rule will be held on December  
 7, 1982 at 10:00 A.M. at:

Training Room A  
 1st Floor  
 Health-Agriculture Building  
 John Fitch Plaza  
 Trenton, NJ 08625

**Interested persons** may submit in writing, data, views or  
 arguments relevant to the proposal on or before December 15,  
 1982. These submissions, and any inquiries about submissions and  
 responses, should be addressed to:

Thomas T. Culkin, PharmD, MPH  
 Drug Utilization Review Council  
 Department of Health  
 CN 360  
 Trenton, NJ 08625  
 (609)984-2157

The Drug Utilization Review Council thereafter may adopt this  
 proposal without further notice (see: N.J.A.C. 1:30-3.5). The  
 adoption becomes effective upon publication in the Register of a  
 notice of adoption.

This proposal is known as PRN 1982-484.

The agency proposal follows:

**Summary**

The proposed additions will expand the List of Interchangeable  
 (Generic) Drug Products. For example, drugs such as oxycodone/  
 acetaminophen could then be substituted by pharmacists for the  
 brand Percocet.

**Social Impact**

If a patient's physician approves the substitution of a different brand name or a non-brand name drug product, the pharmacist must dispense a substituted drug if it reflects a lower cost to the consumer. The substitution can only occur if the drug is placed on the List of Interchangeable Drug Products. Thus, additions to the list expand the choice of the consumer.

**Economic Impact**

There will be an expanded opportunity for customers to save money on prescriptions through the use of generic medicines in place of name brand medicines. The extent of the savings due to these specific proposed additions cannot be quantitated.

Full text of the proposal follows (additions indicated in boldface thus).

CHAPTER 71  
INTERCHANGEABLE DRUG PRODUCTS

Bacitracin, neomycin, Polymyxin B, Hydrocortisone Ophth. oint.	Pharmafair
Chlorothiazide tabs 500 mg	Bolar
Diphenoxylate/Atropine tabs	KV
Dipyridamole tabs 50, 75 mg	Cord
Doxycycline Hyclate caps 50, 100 mg	Rachelle
Doxycycline Hyclate caps 100 mg	Lemmon
Doxycycline Hyclate tabs 100 mg	Barr, Rachelle
Ergoloid Mesylates Oral tabs 1 mg	Danbury
Ergoloid Mesylates S.L. tabs 1 mg	KV
Erythromycin Ethylsuccinate Oral Susp 200/5, 400/5 ml	KV
Gramicidin, Neomycin, Polymyxin B Ophth. Soln.	Pharmafair
Hydrochlorothiazide tabs 25 mg	Cord
Hydrocortisone Cream 1%	Pharmafair
Hydroxyzine HCL tabs 10, 25, 50, 100 mg	KV
Hydroxyzine Pamoate caps 100 mg	Danbury
Meclizine HCL tabs 12.5, 25 mg	KV
Methocarbamol tabs 500, 750 mg	KV
Metronidazole tabs 250 mg	Danbury
Oxycodone 5 mg/Acetaminophen 325 tabs	Barr
Phenylbutazone capsules 100 mg	Cord
Quinidine Sulfate tabs 200 mg	KV
Sulfamethoxazole/Trimethoprim tabs 400/80, 800/160 mg	B-W, Roche
Sulfinpyrazone 100 mg tabs	Barr
Sulfinpyrazone 200 mg caps	Barr
Triamcinolone Acetonide cream 0.025, 0.1, 0.5%	Pharmafair
Trifluoperazine HCL Concen- trate 10 mg/ml	Cord
Trimethoprim tabs 100 mg	Roche
Warfarin Sodium tabs 2, 2.5, 5, 7.5, 10 mg	Bolar

**LAW AND PUBLIC SAFETY**

(a)

**BOARD OF ACCOUNTANCY**

**Applications for Reexamination**

**Proposed Amendment: N.J.A.C. 13:29-1.7**

Authorized By: State Board of Accountancy, Elliott Pachtman, President.  
Authority: N.J.S.A. 45:2B-10.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

John J. Meade, Executive Secretary  
State Board of Accountancy  
Room 507-A  
1100 Raymond Boulevard  
Newark, NJ 07102

The Board of Accountancy thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-481.

The agency proposal follows:

**Summary**

The proposal requires candidates to attain a grade of 75 percent or better in each subject to pass the CPA exam. It allows candidates who receive a passing grade in two or more subjects or in accounting practice alone to receive conditional credit for the subjects failed as long as they attain an average of 50 percent in those subjects. Finally, the proposal allows a candidate to add to conditional credit if he attains a grade of 75 percent in the subjects passed and maintains an average of 50 percent in the subjects failed.

**Social Impact**

The proposal has been modeled after the conditional credit regulation existing in approximately 34 other states at the present time. The reason for the proposal is that the Board has found in the past few years there are candidates who apply to sit for the CPA exam without any hope of passing all the subjects. New Jersey's rate of failure far exceeds that of most other states with more stringent rules on conditional credit. This proposal is intended to discourage such unqualified candidates from taking the exam and to bring the Board's rule on conditional credit in line with the majority of states.

**Economic Impact**

This proposal's economic impact will be favorable because it will eliminate the cost of processing applications for unqualified candidates, and it will eliminate the cost of applications for those candidates.

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

- 13:29-1.7 Applications for reexamination
- (a) Applications for reexamination shall be allowed as follows in (b) below, and all fees must be paid by certified check or money order.
  - (b) Rules on conditional credit are:

[1. A candidate receiving a grade of 75 percent or greater in two or more subjects or the subject of accounting practice shall be deemed to have passed those subjects and shall receive conditional credit therefor. A candidate receiving conditional credit shall have the right to be reexamined in only the remaining subject or subjects.]

**1. A candidate will be required to attain a grade of not less than 75 percent in each subject before he will be declared to have passed the examination.**

[2. A candidate who has received conditional credit pursuant to this rule shall receive further conditional credit for all subjects in which he has been reexamined and in which a grade of 75 percent or greater is received within the period described by this rule.]

**2. A candidate who fails to receive conditional credit in any examination shall have the right to reexamination in the subjects failed.**

[3. Conditional credits under this rule shall be granted only if the candidate sits for and is graded for all subjects for which eligible.]

**3. A candidate who fails to pass all subjects, but who receives a passing grade in two or more subjects, or accounting practice alone, shall receive conditional credit for such subjects provided such candidate attains an average grade of 50 percent on the subjects failed. This minimum grade requirement shall be waived if three subjects are passed at a single sitting.**

[4. In the event that a candidate fails to receive passing grades in all examined subjects at any of the six examinations immediately following the first examination at which conditional credit or credits were earned, the candidate shall forfeit the conditional credit or credits and shall revert to the status of a new applicant.]

**4. To add to conditional status, a candidate must attain a grade of 75 percent or more in the subjects passed and an average grade of 50 percent in all subjects failed. An average grade of less than 50 percent will prevent a candidate from adding to conditional status, provided, however, such an average grade alone will not remove or cancel conditional status previously attained.**

[5. The Board may, in the exercise of its discretion and under extenuating circumstances, extend the period within which conditional credits shall continue to be valid.]

**5. In the event that a candidate fails to receive passing grades in all examined subjects at any of the six examinations immediately following the first examination at which conditional credit was earned, the candidate shall forfeit the conditional credit and shall revert to the status of a new applicant.**

[6. An applicant who fails to qualify for conditional credit pursuant to this rule shall be deemed to be a new applicant at the next succeeding examination for which he sits and shall be required to write the entire examination therefor.]

**6. The Board may, in the exercise of its discretion and for good cause shown, extend the period within which conditional credits shall continue to be valid.**

[7. The conditional credit provided for herein shall commence with the examination to be administered in May 1975.]

**7. At any examination sitting, a candidate shall sit for all subjects for which he has not yet received a passing grade. The failure of a candidate to submit a paper in regard to any part of an examination not already passed will disqualify all papers submitted by that candidate at that examination unless the Board, in its discretion, finds good cause not to disqualify the papers submitted.**

[8. A candidate who has received conditional credit in any examination prior to the examination of November 1975, shall be deemed to have received such credits in the examination to be administered in May 1975.]

**8. An applicant who fails to qualify for conditional credit pursuant to this rule shall be deemed to be a new applicant at the next succeeding examination for which he sits and shall be required to write the entire examination therefor.**

[9. Conditional credits granted by other jurisdictions will be recognized upon proper application for recognition of such credits. The right to have such credits recognized will be determined under the laws and regulations of the jurisdiction which granted the original credits, except that the period for which such conditional credits shall be continued shall be determined under this rule.]

**9. The conditional credit provided for herein shall commence with the examination to be administered in November, 1983.**

**10. Conditional credits granted by other jurisdictions may be recognized upon proper application for recognition of such credits. The right to have such credits recognized may be determined under the laws and regulations of the jurisdiction which granted the original credits provided such requirements are substantially equivalent to the requirements set forth herein except that the period for which such conditional credits shall be continued shall be determined under this rule.**

(a)

## BOARD OF PHARMACY

### General Provisions; Fee Schedules Increase in Fees Charged for Examination

#### Proposed Amendment: N.J.A.C. 13:39-9.16

Authorized By: State Board of Pharmacy, Sheldon Moed,  
President.

Authority: N.J.S.A. 45:14-3, 45:14-3.1 and 45:14-26.2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Sheldon Moed, President  
Board of Pharmacy  
1100 Raymond Boulevard, Room 325  
Newark, NJ 07102

The Board of Pharmacy thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-479.

The agency proposal follows:

#### Summary

N.J.A.C. 13:39-9.16 is being amended to increase the fee charged to candidates for the national written examination for pharmacy licensure. The increased fees will cover the actual costs of the examination to the Board of Pharmacy.

#### Social Impact

The proposed fee structure will enable the Board of Pharmacy to administer the written examination without a financial loss thereby continuing to allow for the registration of pharmacists without expense to the public.

#### Economic Impact

The cost of the National Association of Boards of Pharmacy Licensure Examination (NABPLEX) to the New Jersey Board of Pharmacy has risen to \$50.00 thereby causing the administration of the examination to operate at a loss. The proposed fee structure would cover the cost of the national written examination plus the cost of the New Jersey Law examination and such costs as salaries, room rental and copying of the two-day examination. The proposed fee structure will cover the actual expenses of the examination.

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

13:39-9.16 Fee schedules

- (a) The following fees shall be charged by the Board:
  1. Examination, \$50.00[;] **plus the cost of the National Association of Boards of Pharmacy Examination;**
  - 2.-4. (No change.)

**(a)**

**BOARD OF VETERINARY MEDICAL EXAMINERS**

**Fee Schedule  
General Provisions**

**Proposed Amendment: N.J.A.C. 13:44-4.1**

Authorized By: Board of Veterinary Medical Examiners,  
David Eisenberg, President.  
Authority: N.J.S.A. 45:1-3.2 and 45:16-3.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Maurice W. McQuade  
Executive Secretary  
Board of Veterinary Medical Examiners  
1100 Raymond Boulevard, Room 331  
Newark, NJ 07102

The Board of Veterinary Medical Examiners thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-480.

The agency proposal follows:

**Summary**

For several years, the fees charged for examinations, licenses, permits and services offered by the Board of Veterinary Medical Examiners have been unduly low and insufficient to cover the Board's expenses. As a result, the Board has consistently operated at a deficit. To remedy this situation, a new schedule has been developed which will cover the Board's expenses. In addition to raising application, examination and branch office registration fees, the new fee schedule contains additional items to reflect changes in the examination and application procedures. Although the current proposed schedule does not reflect an increase in biennial licensee registration fees, the Board is reviewing these fees and intends to increase them prior to the next registration deadline in 1983.

**Social Impact**

The proposed fee schedule is expected to have no social impact except to the extent that it creates a larger financial burden on licensees and applicants for licensure. The Board expects that this will not have a significant effect.

**Economic Impact**

The proposed amendment will impose higher costs on licensure applicants and practicing veterinarians. However, the annual deficit under which the Board operates is expected to be eliminated since the new fees will cover costs. Pursuant to N.J.S.A. 45:1-3.2, the

new fees have been calculated to provide sufficient revenue without raising excess amounts.

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

13:44-4.1 General provisions

(a) The following fees shall be charged by the board:

- 1. Application fee ..... \$10.00;
- 2. Examination fee ..... 75.00;
- 3. Reexamination fee ..... 85.00;
- 4. Active registration fee biennial ..... 30.00;
- 5. Nonactive registration fee biennial ..... 20.00;
- 6. Late registration (reinstatement) fee ..... 50.00;
- 7. In addition to the late registration fee, a reinstatement fee of \$10.00 will be charged for each year in which the licensee has not renewed his registration beyond the initial registration period in which it was permitted to lapse;
- 8. Branch office registration fee ..... 5.00.]

(a) The following fees shall be charged by the board:

- 1. Review of credentials (filing fee) ..... \$ 50.00
- 2. Practical examination ..... 125.00
- 3. Reexamination (Practical Examination) ..... 100.00
- 4. National Board Examination ..... 150.00
- 5. Clinical Competency Examination ..... 90.00
- 6. Temporary Permit I ..... 75.00
- 7. Temporary Permit II ..... 75.00
- 8. Active registration fee (biennial) ..... 30.00
- 9. Non-active registration fee (biennial) ..... 20.00
- 10. Late registration (reinstatement) fee ..... \$75.00 plus \$20.00 per biennial period that the licensee has not renewed his registration since its lapse
- 11. Branch office registration (biennial) ..... 50.00
- 12. Certification ..... 25.00

**(b)**

**DIVISION OF CONSUMER AFFAIRS**

**Administrative Rules of the Division of  
Consumer Affairs  
Deceptive Advertising Practices**

**Proposed New Rule: N.J.A.C. 13:45A-19**

Authorized By: James J. Barry, Jr., Director, Division of  
Consumer Affairs.  
Authority: N.J.S.A. 56:8-2, 56:8-23 and 56:8-4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

James J. Barry, Jr., Director  
Division of Consumer Affairs  
1100 Raymond Boulevard, Room 504  
Newark, NJ 07102

The Division of Consumer Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-475.

The agency proposal follows:

**Summary**

The purpose of this rule is to prevent deceptive advertising practices and establish standards of disclosure for advertisements indicating that a prize has been won.

This rule was prompted by several thousand consumer complaints received by the Division of Consumer Affairs regarding such advertisements.

**Social Impact**

This rule will provide more information about the nature, value, and purpose of prizes awarded in advertising solicitations and will help reduce the number of consumers who are drawn in by promises of prizes which turn out to be nearly worthless and then are victimized by high-pressure sales promotions.

The rule also requires advertisers to indicate that New Jersey residents may receive any advertised gift, prize, or award without being required to do any act, purchase any item, or submit to a sales promotion.

**Economic Impact**

This rule will have a minor economic impact on advertisers, who will have to include in future solicitations information required to be disclosed by the rule including more specific information regarding the value of the gift, prize, or award.

Adoption of the rule should significantly reduce the number of consumer complaints received by the Division of Consumer Affairs, resulting in savings in processing and investigatory expenses. The rule should not result in any increased governmental expense in the administration of the rule.

The rule is also potentially of economic benefit to consumers who will have more information at their disposal before deciding whether to travel to obtain the promised gift, prize, or award.

Full text of the new rule follows.

## SUBCHAPTER 19. DISCLOSURE STANDARDS FOR ADVERTISING OFFERING PRIZES

### 13:45A-19.1 Definitions

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

"Advertiser" means any person or his agent who in the ordinary course of business is engaged in the promotion, marketing or sale of merchandise at retail and who places, either directly or indirectly, an advertisement before the public.

"Advertising premium" means an offering, gift, prize, award, giveaway, discounted item, bonus, merchandise, service certificate or anything of value, or its equivalent in cash offered in an advertisement.

"Advertisement" means an advertisement as defined by N.J.S.A. 56:8-1(a), including any acts related to the inducement, promotion, or encouragement of a sale.

"Merchandise" means merchandise as defined by N.J.S.A. 56:8-1(c) offered for sale.

"Person" means a person as defined by N.J.S.A. 56:8-1(d).

"Sale" means a sale as defined by N.J.S.A. 56:8-1(e).

"Sales promotion" means a promotion, presentation, solicitation, notification, or words of similar import or meaning which induces or attempts to induce a sale of merchandise to a person.

### 13:45A-19.2 Advertising premium practices

(a) Without limiting the application of N.J.S.A. 56:8-1 et seq. or any administrative rule promulgated pursuant thereto, the following shall be unlawful with respect to all advertisements indicating that an advertising premium has been won or otherwise been awarded:

1. The failure of an advertiser to indicate clearly and conspicuously the name and address of the advertiser at the commencement of any oral solicitation or advertisement. If the

advertisement shall be written, this information shall appear in bold type at least two points larger than that used for the major portion of the advertisement at the top of the first page of the advertisement.

2. The inclusion in an advertisement of:

i. Language misrepresenting that the advertisement is not a sales promotion.

ii. Language indicating to the recipient that he has been contacted by telephone or any other means, where no such contact has occurred.

3. The failure of an advertiser to indicate clearly, conspicuously and proximately to the advertising premium being offered:

i. The usual selling price or price range for the identical merchandise or for comparable merchandise of like grade or quality; or

ii. The current manufacturer's suggested retail price for the identical merchandise or for comparable merchandise of like grade or quality.

4. The failure of an advertiser to indicate to the recipient the brand name of any advertising premium offered. In the event the advertising premium consists of a vacation or trip, the advertiser or his agent shall indicate clearly and conspicuously the name and location of accommodations and whether transportation to and from the vacation site or point of departure is included. No vacation or trip shall be offered for which a deposit by the recipient is required.

5. The misrepresentation by an advertiser in an advertisement of the value of an advertising premium by any means, including but not limited to the grouping of advertising premiums of substantially different values.

6. The failure of an advertiser or his agent to indicate to the recipient clearly and conspicuously that any advertising premium is discounted, no longer manufactured, damaged or less than first quality.

7. The failure by an advertiser to advise a New Jersey consumer of the following:

i. In any oral communication, that "New Jersey residents may request and receive any gift, prize or award without being required to do any act, purchase any item or submit to a sales promotion".

ii. In any written advertisement include proximately to the first mention of advertising premiums the following language in bold type at least two points larger than that used for the major portion of the advertisement: "New Jersey residents may request and receive any gift, prize or award without being required to do any act, purchase any item or submit to a sales promotion."

8. The failure of an advertiser to indicate at the recipient's request specifically which advertising premium will be received.

9. The failure of an advertiser to indicate clearly and conspicuously the probability that the recipient will receive each advertising premium mentioned in an advertisement. Such probability shall be indicated proximately to the first mention of each advertising premium and shall be expressed in whole numbers, such as "1,000,000 to 1". If the advertisement shall be written, this information and any rules or conditions, including eligibility, shall appear in bold type the same size as that used for the major portion of the advertisement.

10. The failure of an advertiser to deliver, postage or delivery charges prepaid, an advertising premium requested by the recipient of an advertisement within 45 days of his request.

11. The offering by an advertiser of merchandise as a substitute for a travel reimbursement, trip allowance or similar compensation plan.

### 13:45A-19.3 Severability

If any provision of this rule or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

# TRANSPORTATION

## (a)

### TRANSPORTATION OPERATIONS

#### Restricted Parking and Stopping Route 49

#### Proposed Amendment: N.J.A.C. 16:28A-1.34

Authorized By: John P. Sheridan, Jr., Commissioner,  
Department of Transportation.  
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and  
39:4-139.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
Trenton, NJ 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-474.

The agency proposal follows:

#### Summary

This proposal will establish "no parking" zones along both sides of Main Street of Route 49 in Millville City, Cumberland County for the efficient flow of traffic and the enhancement of safety. Appropriate signs will be erected advising the motoring public.

#### Social Impact

This amendment will restrict parking to areas designated along Route 49 on Main Street in Millville City, Cumberland County for the safety and well-being of the populace.

#### Economic Impact

The Department will incur direct and indirect costs for its workforce and the placement of signs. Costs are dependent upon mileage, personnel and equipment requirements.

**Full text** of the proposal follows (additions indicated in boldface thus).

16:28A-1.34 Route 49

(a) In accordance with the provisions N.J.S.A. 39:4-138.1 the certain parts of State highway Route 49 described in (a) of this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. (No change.)
2. No stopping or standing in Millville City, Cumberland County:
  - i. Along the eastbound side:
    - (1)-(3) (No change.)

**(4) Main Street at anytime: From the easterly curbline of Fourth Street to a point 150 feet easterly therefrom.**

- ii. Along the westbound side:
  - (1)-(2) (No change.)

**(3) Main Street at anytime: From the westerly curbline of Fourth Street to a point 150 feet westerly therefrom.**

- iii. (No change.)
- 3.-7. (No change.)
- (b) (No change.)

## (b)

### TRANSPORTATION OPERATIONS

#### No Passing Routes 23, US 40, 29, 93, 72, 156 and 172

#### Proposed Amendments: N.J.A.C. 16:29-1.3 and 1.20

#### Proposed New Rules: N.J.A.C. 16:29-1.24, 1.25, 1.26, 1.27 and 1.28

Authorized By: John P. Sheridan, Jr., Commissioner,  
Department of Transportation.  
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-201.1.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
Trenton, NJ 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-473.

The agency proposal follows:

#### Summary

N.J.A.C. 16:29-1.3: This proposal amends and updates the "no passing" zones along Route 23 in Verona Borough and Cedar Grove Township in Essex County. Appropriate marking will be installed advising the motoring public. This proposal also establishes "no passing" zones along Route 23 in Little Falls Township, Passaic County. Appropriate markings will be installed advising the motoring public.

N.J.A.C. 16:29-1.20: This proposal establishes "no passing" zones along Route U.S.40 in Carney's Point, Pilesgrove, Upper Pittsgrove, Pittsgrove Townships and Woodstown and Elmer Boroughs, Salem County. Appropriate markings will be installed advising the motoring public.

N.J.A.C. 16:29-1.24: This new rule establishes "no passing" zones along Route 29 in Ewing and Hopewell Townships, Mercer County and West Amwell, Delaware and Kingwood Townships, Stockton, and Frenchtown Boroughs and Lambertville City in Hunterdon County. Appropriate markings will be installed advising the motoring public.

N.J.A.C. 16:29-1.25: This new rule establishes "no passing" zones along Route 93 in Palisades Park and Leonia Boroughs and Englewood City in Bergen County. Appropriate markings will be installed advising the motoring public.

N.J.A.C. 16:29-1.26: This new rule establishes "no passing" zones along Route 72 in Barnegat and Stafford Townships, Ocean County. Appropriate markings will be installed advising the motoring public.

N.J.A.C. 16:29-1.27: This new rule establishes "no passing" zones along Route 156 in Hamilton Township, Mercer County. Appropriate marking will be installed advising the motoring public.

N.J.A.C. 16:29-1.28: This new rule establishes "no passing" zones along Route 172 in New Brunswick City, Middlesex County. Appropriate markings will be installed advising the motoring public.

**Social Impact**

These proposed amendments and new rules will establish "no passing" zones along the Routes indicated to enhance safety along the roadways and the efficient flow of traffic.

**Economic Impact**

The Department will incur direct and indirect costs for its workforce in installing the markings. Costs are dependent upon mileage, personnel and equipment requirements.

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

16:29-1.3 Route 23

(a) The following certain parts of State [H] highway Route 23 shall be [and hereby are] designated and established as "No Passing" zones[.]:

1. (No change.)
2. That part within Verona Borough and Cedar Grove Township, **Essex County** and described in drawing number [HNPZ-032 dated May 9, 1978.] **HNPZ-053 dated January 6, 1981.**
3. **That part within the Little Falls Township, Passaic County and described in drawing HNPZ-052, dated January 2, 1981.**

16:29-1.20 Route U.S. 40

[The certain parts of State Highway Route U.S. 40 in Franklin Township, Gloucester County, and described in drawing member HNPZ-043, dated February 26, 1979, shall be and hereby are designated and established as "No Passing" zones.]

(a) **The following certain parts of State highway Route U.S. 40 shall be designated and established as "No Passing" zones:**

1. **That part in Franklin Township, Gloucester County and described in drawing number HNPZ-043, dated February 26, 1979.**
2. **That part in Carney's Point Township, Pilesgrove Township, Woodstown Borough, Upper Pittsgrove Township, Elmer Borough, Pittsgrove Township, Salem County and described in drawing number HNPZ-044, dated May 3, 1979.**

16:29-1.24 Route 29

(a) **The following certain parts of State highway Route 29 shall be designated and established as "No Passing" zones:**

1. **That part in Ewing and Hopewell Townships, Mercer County and described in drawing number HNPZ-047, dated March 26, 1980.**
2. **That part in West Amwell Township, Lambertville City, Delaware Township, Stockton Borough, Kingwood Township, Frenchtown Borough, Hunterdon County and described in drawing number HNPZ-049, dated September 10, 1980.**

16:29-1.25 Route 93

(a) **The following certain parts of State highway Route 93 shall be designated and established as "No Passing" zones:**

1. **That part in Palisades Park Borough, Leonia Borough, Englewood City, Bergen County and described in drawing number HNPZ-050, dated October 28, 1980.**

16:29-1.26 Route 72

(a) **The following certain parts of State highway Route 72 shall be designated and established as "No Passing" zones:**

1. **That part in Barnegat and Stafford Townships, Ocean**

**County and described in drawing number HNPZ-054, dated August 30, 1982.**

**16:29-1.27 Route 156**

**(a) The following certain parts of State highway Route 156 shall be designated and established as "No Passing" zones:**

1. **That part in Hamilton Township, Mercer County and described in drawing number HNPZ-056, dated July 26, 1982.**

**16:29-1.28 Route 172**

**(a) The following certain parts of State highway Route 172 shall be designated and established as "No Passing" zones:**

1. **That part in New Brunswick City, Middlesex County and described in drawing number HNPZ-058, dated August 9, 1982.**

Editor's Note: The following drawings have been filed but are not reproduced herein. Copies may be obtained from the **Bureau of Traffic Engineering**, Department of Transportation, 1035 Parkway Avenue, Trenton, NJ 08625[.]:

- HNZP043 through HNZP044
- HNZP047
- HNZP049 through HNZP050
- HNZP052 through HNZP054
- HNZP056
- HNZP058

**(a)**

**TRANSPORTATION OPERATIONS**

**Permits**

**Permits for Driveways (Access)**

**Proposed Amendments: N.J.A.C. 16:41-2.1, 2.3 through 2.14, 2.18, 2.19, and 3.3.**

Authorized By: John P. Sheridan, Jr., Commissioner,  
Department of Transportation.  
Authority: N.J.S.A. 27:1A-5 and 27:1A-6.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
Trenton, NJ 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-467.

The agency proposal follows:

**Summary**

These amendments will establish guidelines for the safe and efficient movement of vehicular traffic along the highway system and from and to abutting properties. Additionally, the amendments outline procedures required in obtaining access permits and measures of access control within the State.

**Social Impact**

This proposal regarding control of access onto State highways results in protection of public safety and welfare, increases highway safety, and promotes the aesthetic quality of the highway environment.

**Economic Impact**

The implementation of the access control procedure proposed in these amendments will, by emphasizing service to major traffic movements, protect the highway infrastructure, maintain highway capacity, reduce maintenance and replacement costs, and permit full utilization of the roadway system in which the public has invested.

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

## 16:41-2.1 Introduction

(a) (No change.)

(b) The efficiency and safety of a highway depends to a large extent upon the amount and character of roadside interference with the movement of traffic. Most of the interference originates in vehicular movements to and from business, residences or other developments along the highways. Accordingly, regulation and overall control of driveway connections are necessary to provide efficient and safe operation, and to utilize the full potential of the highway investment. Abutting landowners have certain rights of access consistent with their needs. Road users have certain rights to freedom of movement, safety and efficient expenditures of their highway funds.]

**(b) The efficiency and safety of a highway remains under the jurisdiction of the Commissioner of Transportation in order to provide for the health and welfare of the citizens of the State. This efficiency and safety depends to a large extent upon the amount and character of roadside interference which in turn impacts the movement of traffic. One of the major factors that influence the operating characteristics of highways is the movement of traffic to and from abutting properties. Thus, it is necessary for the Commissioner, in evaluating access permit requests to ascertain their impacts upon the efficiency and safety of the highway system prior to granting approval. Abutting land owners have certain rights of access that must be made consistent with the road user's rights to safety, freedom of movement and efficient use of the highway. In evaluating these land owner rights the level of service provided by the highway and the impacts upon this level of service by the proposed development will provide the basis for any restrictions imposed upon the means of access in order that the road user's rights of safety, freedom of movement and efficient use of the highway are not unduly impaired.**

(c) (No change).

[(d) The developer should give consideration to the following:

1. Proper design of entrances and exits;
2. Adequate setback of buildings and other structures;
3. Ample parking on premises;
4. Display of advertising;
5. In situations where large traffic generators, such as a large shopping center complex is proposed, preliminary discussion should be held with the Construction and Maintenance Unit prior to determining location of structures, parking facilities and access roadways.]

**(d) In defining the development for which an access permit is being sought, the owner will be obligated to provide for the following:**

- 1. Proper design of entrances and exits, including adequate provisions for emergency vehicles, and compliance with handicap regulations;**
- 2. Adequate on-site parking and provisions for public transportation;**
- 3. Adequate set-back of buildings and other structures;**

**4. Acceptable display of advertising; and**

**5. Preliminary discussions with appropriate units of the Department at an early stage of planning when undertaking a major development in order to properly coordinate the location of structures, parking areas and access points.**

## 16:41-2.2 Authority

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

[16:41-2.3] **16:41-2.4** Permit provisions

(a) (No change.)

**(b) The Department retains the right to determine the final classification of the type of permit requested. (Note-applications for street intersections must comply with requirements of N.J.A.C. 16:41-7.)**

[(b)]i. Types of permits are:

1.-3. (No change.)

4. Commercial minor [;] **and minor development.**

5. Commercial major [;] **and major development.**

(c) (No change.)

(d) Plans to support application include:

1. (No change.)

2. Application for **all other** access driveway(s) [involving automobile service stations or commercial establishments] must be supported by six copies **and eight copies for a major development** of a detailed plan to a scale no greater than 50 feet to one inch, preferably 30 feet to one inch using an engineer's scale, setting forth the following information:

i.-xix. (No change.)

**xx. Traffic planning and management data as well as design features for major development;**

**xxi. Design features for minor development;**

**xxii. Shoulder width;**

**xxiii. Traveled lane width to center lines of roadway; and**

**xxiv. Number of traffic lanes.**

**(e) At the discretion of the project sponsor, an application for concept review of a proposed roadway modification may be made to the Department. This review would normally be requested for major projects which require significant expenditures for development of design detail. The concept review process will result in a Letter of Concept Approval issued by the Department. The concept approval will remain in effect for a period of one year. Issuance of a Letter of Concept Approval will not relieve the project sponsor of the requirements set forth in N.J.A.C. 16:41-2.4 (a) or (q).**

**(f) Application for concept review must be supported by six copies of a plan to a scale no greater than one inch equals 100 feet, preferably one inch equals 50 feet using an engineer's scale. This application should provide information sufficient to enable the Department of Transportation to determine the feasibility of the proposed project but is not required to include extensive construction details. The following information should generally be included in the application:**

**1. Site location including existing topography (poles, grades, etc.);**

**2. Property lines;**

**3. Drainage;**

**4. Driveway width;**

**5. Driveway alignment;**

**6. Curb line opening;**

**7. Type of construction;**

**8. Parking facilities;**

**9. Speed change lanes (acceleration, deceleration or left turn slots);**

**10. Traffic signals;**

**11. Traffic planning management data as well as design features;**

**12. Shoulder width;**

**13. Traveled lane width to center line of roadway; and**

**14. Number of traffic lanes;**

**(g) Disposition of applications will be sought on or before the 90th day after receipt of complete application.**

**[(e)] (h) Fee schedule is:**

	Application fee	Permit fee
1.-3. (No change.)		
4. Commercial minor [;] <b>and minor development:</b>	\$25.00	\$50.00 each opening;
5. Commercial major <b>and</b> major development without speed change lanes:	60.00	125.00 each opening and geometric drive;
6. Commercial major <b>and</b> major development with speed change lanes:	60.00	250.00 each opening and geometric drive;
7. (No change.)		
<b>8. Concept review</b>		<b>100.00.</b>

**(f)-(i) Renumbered (i)-(l).**

**(m) All applications must be accompanied by the appropriate fee based on submitted documentation. Additional application fees may be required upon Departmental review and possible recommended changes.**

**(n) When differences in existing land use or major expansions of existing land use occur which are beyond those uses specified in an approved permit, then the existing permit may become null and void and a new permit may be required. Major expansions shall be considered any instance where a modification in use results in traffic increases of 10 percent or more in number of vehicles (but in no case less than 50 vehicles daily) associated with the facility as specified in the original permit. Such cancellation consistent with Departmental hearing practices will occur after 30 days written notice to the permittee, providing due opportunity to make a new application and take any remedial steps necessary.**

**(o) The Department retains the right to control traffic on the highway system in order to provide for safe and efficient use which may include the imposition of limits upon the volume of traffic that can use a driveway.**

**(p) Upon issuance of a permit for a major development, copies will be forwarded to the appropriate officials of the municipality and county in which the property requiring access is located.**

**(q) The New Jersey Department of Transportation at its discretion may enter into a contractual agreement with the developers of large projects in lieu of the issuance of a permit. The agreement would generally be concerned with major developments involving roadway improvements to be phased over an extended period of time. Supporting documentation will comply with the requirements for permit applications.**

**[16:41-2.4] 16:41-2.3 Definitions**

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

“Berm” means when the area from the curblines to right-of-way line is raised, normally eight inches in height, it is defined as the berm. This is also [sidewalk area.] **border area.**

“**Border area**” means that part of a highway extending from the outer edge of a shoulder to the right-of-way line, whether improved or unimproved, and is reserved as a passage for pedestrians and for the placement of highway lighting, utilities, signs, etc. See areas (1), (2), (3), (4) in Figures 1, 2 and 3 of this section.

“Commercial major” and “major development” means an

entrance or driveway serving shopping centers, business establishments, manufacturing plants, parking and/or sales lots, truck terminals, churches, recreational areas, subdivisions, housing projects and similar establishments where the expected traffic volume is 500 cars per day or more with or without speed-change lanes involved as shown by the applicant’s analysis of anticipated activity.

“Commerical minor” and “minor development” means an entrance or driveway serving shopping centers, business establishments, manufacturing plants, parking and/or sales lots, truck terminals, churches, recreational areas, subdivisions, housing projects and similar establishments where the expected traffic volume is less than 500 cars per day as shown by the applicant’s analysis of the anticipated activity[.] **and verified by the NJDOT.**

“**Curb ramps for physically handicapped**” means a graded walkway connecting two level areas of different elevation which is to provide a smooth transition between pedestrian and motorized lanes of travel, specifically designed for the use of physically handicapped persons. These ramps shall conform with the departmental standards for barrier free design.

“Driveway width, standard (W)” means narrowest width of driveway, within the [sidewalk area] **border area** measured parallel with the curblines. See W in figures 1 and 2 of this section.

“**Estimated Traffic Volume**” is the estimate of the number and types of vehicles that will use the driveway(s) in a 24 hour period, including an estimate of the highest hourly volume utilizing accepted traffic forecasting procedures. (Reference, Institute of Transportation Engineers “TRIP GENERATION,” latest edition.)

“[Sidewalk area]” means that portion of the right-of-way that lies between the curblines and right-of-way line, and within the limits of the extended property lines. This area varies greatly in width. Whether improved or unimproved, it is considered and controlled as sidewalk areas. See areas (1)-(2)-(3)-(4) in figures 1, 2, and 3 of this section]

OFFICE OF ADMINISTRATIVE LAW NOTE: Figures 1, 2 and 3 in N.J.A.C. 16:41-2.4, which is now renumbered 16:41-2.3, are amended so that the Legends read: 1, 2,3, 4 = [Sidewalk] **Border Area.**

16:41-2.5 Curbing

[(a) In certain situations, the Department may require curb construction, which will be noted as a condition of the permit.]

**(a) At the discretion of the Department, curb construction may be required on commerical and industrial frontage. The need for said construction shall be noted as a condition of the permit.**

**(b) All curbing to be constructed within right-of-way of any State Highway shall be white concrete, Class “B”, air-entrained, and shall conform to New Jersey Department of Transportation Standard Specifications[;]. [except, if curbing exists in an area where curbing is to be constructed, the curb should conform to color and dimension of that which exists.] If there is existing curbing which does not comply with current regulations regarding color and dimensions, the property owner may be required to remove and replace previously installed curbing within the extended property boundaries, or at the discretion of the Department, provide transitional curb sections to the adjacent existing curb.**

(c) (No change.)

**(d) [9 inch x 20 inch white concrete vertical curb shall be constructed of white and gray concrete as shown on curb detail, Figure 4 of this Section or entirely of white concrete.] Nine inch by 18 inch white concrete vertical curb shall be constructed of**

**white concrete as shown on curb detail. Figure 4.** White concrete shall mean concrete composed of white cement, white sand and light colored coarse aggregate.

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

**(i) Curb ramps for the physically handicapped shall be installed by the property owner at all intersections and crosswalks where there is an existing or proposed sidewalk. Ramp design will be in accordance with Department Design Standards.**

OFFICE OF ADMINISTRATIVE LAW NOTE: Figures 4 and 5 in N.J.A.C. 16:41-2.5 are amended so that the vertical dimensions of 8", 18" and 20" will read 6", 16" and 18" respectively.

#### 16:41-2.6 [Sidewalk] Border area

(a) That part of the highway extending from [curbing] **the outer edge of a shoulder** to right-of-way line, whether improved or unimproved, is considered and controlled as [sidewalk] **a border area** [.] **and is reserved as a passage for pedestrians and for the placement of highway lighting, utilities, signs, etc.**

1. Improved area is an area where sidewalk may exist or an area that is seeded, sodded or [otherwise] ornamentally planted[.] **with low growing ground cover or ornamentally covered with other suitable non-growing landscape materials approved by the Department and provides for safe passage of pedestrians.**

2. Where entirely unimproved [sidewalk] **border area** exists the permittee is required to raise the [sidewalk] **border area** berm [eight] **six** inches above the shoulder grade of the highway after which it shall be seeded, sodded, [or] ornamentally planted with low growing ground cover[.] **or ornamentally covered with other suitable low non-growing landscape materials approved by the Department.**

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

(d) Sidewalks shall be constructed with Class C, air-entrained concrete.

1.-5. (No change.)

6. The standard slope of sidewalk or [sidewalk area] **border area** shall be 1/4 inch per foot rising from the top of standard curb.

7. (No change.)

#### 16:41-2.7 Installation of pipes

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

(c) Where ditches exist and conditions are favorable, installation of a continuous pipe of proper size may be permitted. Where installation of pipe exceeds 350 feet in length, a manhole or inlet must be constructed midway between the ends. Installation of [such] pipe longer than 350 feet will not be permitted without intermittent manholes [.] **or inlets.**

(d) (No change.)

#### 16:41-2.8 General restrictions

(a) No part of highway right-of-way is to be used for **parking**, servicing of vehicles, displays, or to conduct private business. The [sidewalk] **border area** is to be kept clear of buildings, sales exhibits, signs, parking areas, service equipment and appurtenances thereto.

(b)-(l) (No change.)

**(m) Normal maintenance work within an approved access area may be permitted with the written permission of the New Jersey Department of Transportation. Such maintenance is considered to be the work required to provide against general deterioration due to wear and tear without alteration of any of the original components. Such items may include:**

1. Resurfacing of driveway;
2. Replacing section of sidewalk;
3. Repairing damaged curb;
4. Reseeding or topsoiling a grassy area; or
5. Replacing concrete apron of driveway.

#### 16:41-2.9 Number and arrangement of driveways

(a) Driveways [should] **shall** be so **designed and** located as to avoid undue interference with, or restriction of the free movement of normal highway traffic so that areas of traffic congestion will not be created. In accordance with this principle, driveways [should] **shall** be constructed where highway alignment and profile are favorable; i.e., where there are no sharp curves, or steep grades, and where sight distance in conjunction with the driveway access would be adequate for safe traffic operation. Driveway locations should be avoided within intersections, **jughandles**, rotaries, and interchanges. Also to be avoided are locations that would interfere with the placement and proper functioning of highway signs, signals, lighting, or other devices that affect traffic operations.

(b) Property having a frontage of less than 100 feet should have only one driveway [.] **except where one-way operation is proposed.**

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

#### 16:41-2.10 Driveway surfacing

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

(d) When constructing a bituminous concrete driveway, that portion from curbline to right-of-way line should not be inferior to four inches of [macadam base with a bituminous concrete surface, two inches thick.] **quarry processed stone and two inches of MABC (macadam base with bituminous concrete) surface.**

#### 16:41-2.11 Control dimensions

(a) All portions of the driveway [should] **shall** be within the extended property lines. The normal edge clearance (E) should not be less than five feet; i.e., measured from the said property line, along the curbline to the beginning of the curbline opening.

(b)-(l) (No change.)

#### 16:41-2.12 Relocation or removal of structures within limits of driveways

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

(d) Upon written request [guard] **guide** rails will be removed by the Transportation Department Forces providing the applicant has completed the fill behind the [guard] **guide** rail to the satisfaction of the Department.

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

(h) Relocation of utility poles carrying units of the Department's lighting system [usually cannot be arranged.] **may require modification of the lighting system. Since [These] these are placed in accordance with a carefully designed spacing pattern[.], modifications must meet the standards of the Department. The costs associated with the lighting modifications will be borne by the applicant.**

(i)-(j) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: There is **no change** in Figure 6 in N.J.A.C. 16:41-2.12.

#### 16:41-2.13 Materials and workmanship

(a) Materials and workmanship used in construction within right-of-way of a highway are subject to inspection and approval of the Department.

1.-2. (No change.)

3. If the work is deemed of sufficient importance, the Department may assign an inspector to the job whose time and expenses may be charged to the permittee[.] **based upon supporting documentation.**

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

#### 16:41-2.14 General information

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

(c) Landscaping shall be as follows:

1. Only very low growing ground cover may be maintained within the [sidewalk] **border area**, subject to Department approval.

[Plantings shall not interfere with sight distance] **In special cases with the approval of the Department, ornamental stone mulch, wood or bark mulch, bituminous concrete portland cement concrete, or brick walks may be placed within the border area. Artificial turf, trees, shrubs, and plants are not permitted. Continuous maintenance and freedom from undesirable growth shall be the responsibility of the property owner. Plantings or ground cover shall not interfere with sight distance.**

2. The Department may authorize removal or relocation of trees or landscaping material which are within proposed driveway locations, providing reasonable access cannot otherwise be obtained. The Department will consider trimming or removal for purposes of safety visibility between a driveway and highway upon written request. The Department may approve certain trimming provided the appearance or health of the planting is not affected. [Such work will be done by Department forces.]

3. (No change.)

(d)–(e) (No change.)

(f) Drive-in theater entrances: Such requests require special study. See: N.J.A.C. 16:41-2.18 (Conditions for [high traffic volume generators]) **major developments**).

(g) (No change.)

(h) Acceleration and deceleration lanes are shown in Figures 16 and 17 of this Chapter. Such requests require special study. See N.J.A.C. 16:41-2.18 (Conditions for [high traffic volume generators]) **major developments**).

(i) In planning roadside enterprises it becomes imperative that properties to be developed should be adequate in size to provide off the road parking facilities. [Traffic surveys indicate that the number of parking spaces available should equal about 60 percent of the number of patrons at peak business hours. The average passenger car requires a space of about 9 feet by 18 feet plus an aisle width of about 25 feet between rows of cars. If parking space is required for heavy commercial vehicles, a separate parking area of adequate size should be provided.] **The number and design of parking spaces should be in accordance with accepted traffic engineering principles and in compliance with local zoning ordinances.**

16:41-2.18 Conditions for [high traffic volume generators] **major developments**

(a) In order to obtain consideration of requests for such special driveways, the applicant must submit a statement supporting his request setting forth [an estimate] **estimates** of the number and type of [cars] **vehicles** which will enter and leave the highway **on an average 24-hour period** and the approximate hour or hours at which the maximum movement will occur and the **magnitude of the hourly movement and the willingness to meet all expenses in connection with proposed construction within the State's right-of-way.**

(b) [Six] **Eight** copies of plans shall be submitted for approval, showing the following:

1.–4. (No change.)

**5. Public transportation improvements (shelters, bus pull-outs, etc.);**

[5.] **6.** Changes in location of driveway facilities if such [exists]; **exist;**

[6.] **7.** Type of pavement proposed to be constructed;

[7.] **8.** Plan must be fully dimensioned as to curb **location** [radii], right-of-way and lateral property lines, width of traffic lanes, dimension of center and channelizing islands and all other data necessary for complete working plans.

(c) (No change.)

16:41-2.19 Complex driveway designs

(a) (No change.)

(b) Note the curb construction indicated on the sketches in this section. On such designs, the Department requires the construction

of nine inches by [20] **18** inches white concrete vertical curbing. There will be no following through with curb depressions as previously mentioned when constructing curbing for standard driveways.

(c)–(d) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: Figure 15 in N.J.A.C. 16:41-2.19 is amended as follows: [Small Traffic Generators] **Minor developments.**

(e) Figure 16, [Small traffic volume generators.] **Minor developments.**

This type entrance is located along a highway that is physically divided either by a barrier curb or a median strip. It is designed with the use of acceleration and deceleration lanes. The length of these lanes and also radii construction is subject to frontage limitations. They would parallel the edge of the main-traveled way to a width, including the shoulder area plus part of the [sidewalk] **border area** if necessary, to meet requirements set by the Department in each particular case. If the design includes part of the [sidewalk] **border area**, the Department will require the property owner dedicate to the State Department of Transportation an equal amount in depth to compensate for that necessary to accommodate the widening, thus maintaining the existing [sidewalk] **border area** width. Notice that the starting points of the radii must have the minimum edge clearance of five feet from the extended property lines and the island separation is on a three foot offset from the curbline.

OFFICE OF ADMINISTRATIVE LAW NOTE: Figure 16 in N.J.A.C. 16:41-2.19 is amended as follows:

[Generators] **Minor developments.**

(f) Figure 17. [High traffic volume generators] **Major developments.**

1. Sketch shows a physically divided highway. There are two separate drives, one used as an entrance and the other as an exit. A deceleration lane is indicated within the shoulder or [sidewalk] **border area** in advance of the entrance. [Then] **Thus**, there would be a separating island, the size of which depends upon the location of the exit, followed by construction of an acceleration lane. It should be understood that the construction of driveways including deceleration and acceleration lanes must fall within the frontage of the property.

2. [It] **When** it would be [unpractical] **impractical** to pave the island entirely, due to size[. Therefore], the island shall be topsoiled and seeded, sodded, or ornamentally planted with low growing ground cover[. The only part to be paved is sidewalk strip that must be provided.] **, or ornamentally covered with other suitable low non-growing landscape materials as approved by the Department. In such cases, a paved sidewalk strip shall be provided.** Location, measurements and specifications would be indicated on the approved plan and as a condition of the permit issued.

OFFICE OF ADMINISTRATIVE LAW NOTE: Figure 17 in N.J.A.C. 16:41-2.19 is amended as follows: [High Traffic Volume Generators] **Major Developments.**

16:41-3.3 Fee Schedule; utility openings

(a) The fees or installations within [sidewalk] **border areas** are:

1.–2. (No change.)

(b) (No change.)

(a)

(b)

**CONSTRUCTION AND MAINTENANCE UNIT**

**Permits  
Street Intersections**

**Proposed Amendment: N.J.A.C. 16:41-7.2**

Authorized By: John P. Sheridan, Jr., Commissioner,  
Department of Transportation.  
Authority: N.J.S.A. 27:1A-5 and 27:1A-6.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
Trenton, NJ 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-468.

The agency proposal follows:

**Summary**

This proposal will provide continuity and conformity with established regulations pertaining to the efficiency and safety of the highway system by cross-referencing the provisions of N.J.A.C. 16:41-2.

**Social Impact**

This amendment will formalize operations and conform to established regulations. Additionally, it will enhance the public's image of State government in the publication of timely regulations in cooperation with the private sector.

**Economic Impact**

The Department will incur direct and indirect costs for its workforce and the submission of rules to the private sector.

**Full text** of the proposal follows (additions indicated in boldface thus).

16:41-7.2 Application requirements  
(a) (No change.)

**(b) The pertinent provisions of N.J.A.C. 16:41-2, which relate to the efficiency and safety of the highway system, will apply to street intersections.**

**DIVISION OF AERONAUTICS**

**Sport Parachuting License**

**Proposed Repeal: N.J.A.C. 16:58-2**

Authorized By: John P. Sheridan, Jr., Commissioner,  
Department of Transportation.  
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29 and 6:1-44.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
Trenton, NJ 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-469.

The agency proposal follows:

**Summary**

This proposal will repeal Subchapter 2, "License", N.J.A.C. 16:58-2, pertaining to Sport Parachuting. Information pertaining to this subchapter was incorporated in "Licensing of Aeronautical Facilities", N.J.A.C. 16:54-1, adopted June 4, 1981, at 13 N.J.R. 374(c).

**Social Impact**

The proposed repeal will preclude duplicate rules pertaining to Sport Parachuting and thus provide a single source of information for sport parachutists. Additionally, it complies with the State's policy of deleting unnecessary and duplicative rules.

**Economic Impact**

The Department will incur direct and indirect costs for the processing and promulgation of this deletion.

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

**SUBCHAPTER 2. [LICENSE] (RESERVED)**

**[16:58-2.1 Classes of license**

- (a) There shall be two classes of licenses:
  1. Sport parachuting center licenses for one year, or as otherwise indicated for a lesser period;
  2. Sport parachuting exhibition license for a special event or a limited number of days.]

**[16:58-2.2 Minimum standards of licensing**

- (a) Sport parachuting center.
  1. A sport parachuting center must be located at a duly licensed airport, landing field, landing strip, or other designated area.
  2. Application for license shall be made by the management of such airport, landing field or landing strip or concurred by said management. If the drop zone is located on an area other than said

airport, landing field, or landing strip, application is to be submitted by the responsible officials of the parachute center with the approval of the owner or lessee of the area to the Division of Aeronautics through the management of the airport from which a substantial part of the sport parachuting activity is to be conducted. All applications for sport parachuting center licenses are to be made on Department of Transportation Forms DA-5, "Application for Fixed Base Operator's License (Sport Parachuting Center)".

3. Drop zone must be a clear area a minimum of 1,800 feet square or a circular area 1,800 feet in diameter, with the outer rim of the area not closer than 200 feet of any runway or taxi area. Waivers to this criteria will only be granted upon special application with just and good cause shown for the waiver, provided no student parachute training is involved.

4. No drop zone shall be established closer than three nautical miles to an existing drop zone. No drop zone shall be established on or near any airport, landing field or landing strip that is within three nautical miles of another airport, landing field, or landing strip. All measurements are to be taken from the nearest boundary lines. Waiver to this requirement will only be granted upon special application and upon showing just and good cause at a hearing upon said waiver.

5. No drop zone shall be established in congested airspace areas or control zones unless as approved by the Federal Aviation Administration; nor shall any drop zone normally be established within 1/2 mile of a heavily traveled highway or main artery of transportation.

6. When a drop zone is on one side of an airport, landing field or landing strip the published traffic pattern for the active runway of said facility must be on the opposite side of the field from the drop zone.

7. No permanent drop zone may be established so as to require the closing of the airport, landing field or landing strip.

8. No aircraft shall be used for sport parachuting unless it has been certified or approved for this purpose by the Federal Aviation Administration.

9. Included with the application must be a sketch, drawing, or aerial photograph (Scale 1 inch = 400 feet) showing the following:

- i. Airport, landing field or landing strip layout (runways, taxiways and structures);
- ii. Traffic patterns (directions and altitude above terrain);
- iii. Size and location of drop zone;
- iv. All roads, streets, powerlines, telephone lines, bodies of water where any part of the body of water at any time exceeds four feet in depth, within one mile of the center of the drop zone;
- v. All buildings within 500 yards of the center of the drop zone and the nearest inhabited building.

(b) Sport parachuting exhibitions(s).

1. Application(s) shall be made on Department of Transportation Form DA-6, "Application for Sport Parachuting Exhibition License" and submitted to the Division at least 15 days in advance of the proposed event(s).

2. Applicant(s) must be holder(s) of United States Parachute Association Class C or D license, or have equivalent qualifications.

3. Drop zone must be on an area a minimum of 500 feet square or a circular area of 500 feet in diameter. Persons not holding a United States Parachute Association license will be required to show a log book of jumps substantiating the equivalent qualifications.

4. If on an airport, landing field or landing strip, said landing area must be closed to all air traffic during the time of parachuting activities. It is the responsibility of the exhibition licensee to take all measures necessary to publish the closing of the field for the information of pilots.

5. It is contrary to the public interest to deny the use of airports, landing fields or landing strips to those participating in avigational activities, therefore, the issuance of licenses for sport parachuting exhibition activities requiring the closing of said airports, landing fields or landing strips shall be tightly controlled and only issued

for special days or events.

6. A sketch, drawing, or aerial photograph (Scale 1 inch = 400 feet) showing the following:

- i. If on an airport, landing field, or landing strip, the field layout (runways, taxiways, and structures);
- ii. Size and location of drop zone;
- iii. All roads, streets, powerlines, high tension lines, or other prominent hazard within 900 feet of the center of the drop zone;
- iv. Nearest inhabited building (or building in the case of a builtup area);
- v. Written permission from the property owner (or lessee) of the area to be used. (Permission of the management in the case of an airport, landing field or landing strip).]

## TREASURY-GENERAL

(a)

### DIVISION OF PENSIONS

#### Administration

#### Proposed Amendments: N.J.A.C. 17:1-1.3, 1.8, 1.18, 1.19, 4.6, 4.25, -5, and -7

Authorized By: William J. Joseph, Director, Division of Pensions.

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

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Director  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The Division of Pensions thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-448.

The agency proposal follows:

#### Summary

The proposed amendments reflect grammatical changes, gender changes and recent statutory changes that permit transfers between retirement systems. N.J.A.C. 17:1-5.2 through 17:1-5.6, which concern hearings, are being repealed since the hearings function has been assumed by the Office of Administrative Law.

#### Social Impact

These proposed amendments will affect current and future public employees enrolled in the various retirement systems.

#### Economic Impact

These proposals will have no significant economic impact on the retirement system members or the State.

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

17:1-1.3 Due dates for transmittals and reports  
(a) (No change.)

(b) Monthly retirements and transmittals for the Public Employees' Retirement System, **the Judicial Retirement System** and the Teachers' Pension and Annuity Fund are due in the Division of Pensions from the State monthly locations and local employers the 10th day of the month following the close of the preceding month for which contributions are required.

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

(f) Quarterly transmittals and reports, including the remittance for the third month of the calendar quarter, for the Public Employees' Retirement System, **the Judicial Retirement System** and the Teachers' Pension and Annuity Fund are due in the month following the close of the preceding quarter.

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

17:1-1.8 Disbursement; signature cards; limitations

(a) (No change.)

(b) No interest shall [accrue] **accrue** on such moneys.

(c) (No change.)

17:1-1.18 Manual charge

(a) One copy of the employee benefit manual will be issued without charge to certain officers of the State, other interested agencies to members of the several boards and commissions, certain employees of the Division of Pensions and to each certifying [agent] **officer** of the State and local government employers participating in the several systems administered by the Division of Pensions.

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

17:1-1.19 Retired employees; health insurance [premiums] **charges**

(a) If possible, whenever any beneficiary of the Consolidated Police and Firemen's Pension Fund, Prison Officers' Pension Fund or Central Pension Fund shall, in writing, request the Division of Pensions to make deductions from his **or her** pension for the payment of [premiums] **charges** for the Pensioners' Group Health Insurance Plan or the State Health Benefits Program, the division may make such deductions and transmit the sum so deducted to the companies carrying the policies.

(b) (No change.)

17:1-4.6 Intrafund transfers

A member of the Teachers' Pension and Annuity Fund, **the Police and Firemen's Retirement System** or the Public Employees' Retirement System who terminates employment with one participating employer but transfers to a similar position with another participating employer may continue [his] **such** membership without interruption.

17:1-4.25 Indictments, litigation or appeals

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

(c) All claims for retirement, death benefits and the return of contributions cannot be processed until the matter has been [completely] **completely** resolved and this has been verified by contact with the Attorney General's office, the Department of Education, the Civil Service Commission or other responsible [agents] **agencies**.

(d) (No change.)

17:1-5.1 Hearing request

(a) The division, board or commission shall cause to be given to the applicant written notice of its decision. Said notice shall inform the applicant of his **or her** right to request a hearing in the event [he] **the applicant** disagrees with the decision of the agency and the manner in which such request must be made.

(b) The decision by the agency shall be final unless the applicant shall file a request for a hearing within 45 days after the date of the written notice of the decision.

[(c) The request for hearing shall consist of a written statement which shall set forth the grounds of appeal.

(d) The agency may refer the request for hearing to the hearing officer of the Division of Pensions.]

**(c) Administrative hearings will be conducted by the Office of Administrative Law pursuant to the provisions of N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1-1.**

OFFICE OF ADMINISTRATIVE LAW NOTE: The remaining text in Subchapter 5, which includes N.J.A.C. 17:1-5.2 through 17:1-5.6, is proposed for deletion.

#### SUBCHAPTER 7. PENSION [INCREASE] ADJUSTMENT PROGRAM

(No change in text.)

**(a)**

### DIVISION OF PENSIONS

#### Police and Firemen's Retirement System Liability for Unenrolled Members

#### Proposed Repeal: N.J.A.C. 17:4-3.6

Authorized By: Board of Trustees of the Police and Firemen's Retirement System, Anthony Ferrazza, Secretary.

Authority: N.J.S.A. 43:16A-13(7).

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Anthony Ferrazza, Secretary  
Police and Firemen's Retirement System  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The Board of Trustees of the Police and Firemen's Retirement System thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-432.

The agency proposal follows:

#### Summary

This proposal repeals the current rule concerning the insurance liability for unenrolled members who die while employed. Such repeal is being made upon advice from the Attorney General's office which has determined that the Pension System will be liable for a larger portion of the insurance benefit amount while the employer will have to contribute a lesser sum. Therefore, the amount a beneficiary receives will not change but the source from which they come will.

#### Social Impact

This proposal will affect current and future members of the retirement system and designated beneficiaries of the members. The proposal also affects the Pension System and public employers who ultimately pay out insurance benefits to beneficiaries.

#### Economic Impact

The retirement system and public employers may experience economic effects as a result of this proposal. Both may be liable for a portion of certain death benefits payable to deceased employees

who were not enrolled in the retirement system in a timely manner. The benefits payable to the deceased employee's beneficiaries are not affected by this proposal.

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

17:4-3.6 [Insurance liability for unenrolled members]  
(Reserved)

[(a)] In the event of the death of an individual prior to enrollment and on account of whom the Board of Trustees has determined that insurance benefits are payable:

1. The employer will be charged directly for the full amount of the insurance benefit when no application was completed by the employee and the employee was required to enroll.

2. The employer will not be charged directly if an application for enrollment was filed with the Retirement System prior to the employee's date of death.

3. The System may assume the liability when an application has been executed by the employee but not received by the System prior to his demise provided satisfactory evidence concerning the filing delay has been presented to the Board of Trustees.]

(a)

## STATE POLICE RETIREMENT SYSTEM

### Interfund Transfers

#### Proposed Repeal: N.J.A.C. 17:5-6.1 and 6.2 Proposed New Rule: N.J.A.C. 17:5-6.1

Authorized By: Board of Trustees of the State Police Retirement System, Anthony Ferrazza, Secretary.  
Authority: N.J.S.A. 53:5A-30h.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Anthony Ferrazza, Secretary  
State Police Retirement System  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The Board of Trustees of the State Police Retirement System thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-433.

The agency proposal follows:

#### Summary

This proposal will consolidate and clarify the procedure concerning interfund transfers. The proposed new rule reflects recent statutory changes concerning interfund transfers of membership between State-administered retirement systems. The current rules concerning interfund transfers are being repealed with some of the substantive provisions retained in the new rule.

#### Social Impact

The proposed rules will affect current and future members of the State Police Retirement System who become involved with transfers between other State-administered retirement systems.

#### Economic Impact

The proposed rules will not have any significant, adverse economic effect upon the members involved. The result of such rules may be to increase a transferring members's ultimate retirement allowance by permitting such member to have increased service credit, which may not have been the case under previous statutes or regulations.

**Full text** of the proposal follows.

OFFICE OF ADMINISTRATIVE LAW NOTE: The current text of N.J.A.C. 17:5-6.1 and 6.2, which can be found in the New Jersey Administrative Code, is to be deleted and replaced with the new text below.

#### 17:5-6.1 Interfund transfers; other State systems

(a) Interfund transfers between State-administered pension funds are permitted by reciprocal transfer arrangements. Such transfers would not apply where the member does not make a timely transfer in accordance with N.J.S.A. 43:2-1 et seq., or who has been granted a deferred retirement allowance by the present system.

(b) Membership credit so transferred shall be included in the computation of a retirement allowance. Such credits cannot be used to satisfy the statutory requirements of those benefits which specifically require a minimum number of years of creditable service as a State police employee.

(c) The system will transfer membership to any State-administered system as follows:

1. A member, desiring to transfer his or her credit to any State-administered system must file an application for "Transfer of Membership Credit" in place of the customary application for withdrawal of accumulated contributions. This application will void all possible claims against the present system when approved and the new membership shall commence in the new system.

2. A check covering the member's accumulated contributions, full interest included, less any outstanding loan, shall be drawn payable to the new system for the account of the respective member. Any outstanding loan or arrears obligation will be scheduled for repayment.

3. A statement reflecting the member's status as of the date of transfer shall accompany the check.

4. The member shall enjoy the same rate of contribution and service credits established in the present system, subject to the provisions of the new system.

5. A copy of the transfer application, together with a check covering the withdrawal value and a statement of the service credits being transferred, is to be forwarded to the new system.

(d) The present system will cause to be valued the reserves accrued to such employee as compared to the reserves required in the new system.

1. If the reserves accumulated or provided for in the present system are less than those required in the new system, the full reserve will be transferred.

2. If the reserves accumulated or provided for in the present system are more than those required in the new system, only the amount required to establish the credit will be transferred.

(e) Years of credit will be subject to the benefit formula of the new system after transfer.

(f) The member will contribute to the new system at a rate based on his or her age at the time of enrollment in the present system and no refund of pension contributions will be made except for those contributions made by veterans covering service prior to January 1, 1955, where applicable.

**(a)****(b)****DIVISION OF PENSIONS****Consolidated Police and Firemen's Pension Fund  
Interest Charge****Proposed Repeal: N.J.A.C. 17:6-1.9**

Authorized By: Consolidated Police and Firemen's Pension Fund Commission, Anthony Ferrazza, Secretary.  
Authority: N.J.S.A. 43:16-7.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Anthony Ferrazza, Secretary  
Consolidated Police and  
Firemen's Pension Fund  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The Consolidated Police and Firemen's Pension Fund Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-435.

The agency proposal follows:

**Summary**

The purpose of this repeal is to remove from the New Jersey Administrative Code a rule which has been amended by statutory changes. Since the provisions of N.J.S.A. 43:16-5(d) clearly reflect the subject of interest charges in this retirement system, it would be redundant to repeat the same text in the Administrative Code.

**Social Impact**

The proposed repeal applies to the employers and members of the Consolidated Police and Firemen's Pension Fund. With the establishment of the Police and Fireman's Retirement System, the Consolidated Pension Fund was closed to new members, however, existing members were not affected. The proposed repeal will not adversely affect such members because the interest charges are statutorily set.

**Economic Impact**

The proposed repeal will have no economic impact upon the employers or members of this retirement system because such parties will still be subject to the provisions of N.J.S.A. 43:16-5(d) which deals with such charges.

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

**17:6-1.9 [Interest charge] (Reserved)**

[Interest at the annual rate of six per cent will be charged against the balance of any outstanding appropriations from the January 1 or July 1 due date if not received within 90 days of such due dates.]

**STATE HEALTH BENEFITS COMMISSION****Update of Commission's Rules****Proposed Amendments: N.J.A.C. 17:9**

Authorized By: State Health Benefits Commission, William J. Joseph, Secretary.  
Authority: N.J.S.A. 52:14-17.27.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Secretary  
State Health Benefits Commission  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The State Health Benefits Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-428.

The agency proposal follows:

**Summary**

The proposed amendments are the result of a periodic review of the State Health Benefits Commission's administrative rules. The amendments concern the changing of gender terms to include both males and females; the changing of the term "premium" to "charge" to reflect the true status of such definition; and clarifications regarding investment interest and the limitations of retired coverage.

**Social Impact**

The proposed amendments will affect current and future participants in the State Health Benefits Program.

**Economic Impact**

Only the proposed amendment concerning retired coverage may have significant economic effect upon the Program's participants if they fail to obtain complete Federal Medicare coverage at the appropriate time. However, this proposed amendment is a clarification of present policy. The remaining proposed amendments concerning terms will not have any significant economic effect upon the participants in the Program.

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

**17:9-1.4 [Local employer premium; interest] (Reserved)**

[The value of interest earned on investment of Health Benefits premiums which exceeds administrative expenses shall be remitted to the insurance carrier on an annual basis and such premiums will be credited towards the cost of the program.]

**17:9-1.6 Default of employer; notice**

(a) For purposes of local coverage, a participating employer will be considered in default 31 days after the beginning of the coverage period for which [premiums] **charges** were due. At that point, coverage will terminate for all employers and their dependents covered by the employer.

(b) (No change.)

#### 17:9-2.1 Enrollment charges

Each eligible employee shall be eligible to enroll for coverage without cost to the employee; and each employee's eligible dependents shall be eligible for enrollment for coverage provided that the additional [premiums] **charges** for such coverage shall be paid by the employee as required by his **or her** employer.

#### 17:9-2.2 Enrollment form

At the time each employee first becomes eligible for coverage, the employee shall complete enrollment and authorization forms indicating the employee's election to enroll or not enroll for coverage on his **or her** own behalf; and the employee's election to enroll or not enroll his **or her** dependents for coverage under one of the options to be provided in the commission's master contract or contracts.

#### 17:9-2.3 Annual enrollment period

(a) Any employee who shall elect not to enroll for coverage for himself **or herself** or for his **or her** dependents at the time such employee or dependent first becomes eligible for coverage shall subsequently be permitted to enroll himself **or herself** and his **or her** dependents only during the annual enrollment period, which is the month of February of each year with coverage effective for the first coverage period in May in the case of State coverage and the month of January with coverage effective May 1 in the case of local coverage.

(b) (No change.)

#### 17:9-2.6 Effective date; State employees and dependents

(a) In the case of employees of the State, coverage shall become effective for the employee on the first day of the second coverage period following the payroll period in which the first [premium] **charge** payment shall be made by the State on behalf of any employee enrolled in a sub-group which reports on a bi-weekly basis, or on the first day of the month next following the month in which the first [premium] **charge** payment shall be made by the State on behalf of any employee enrolled in a sub-group which reports on a monthly basis, and for whom an enrollment form has been filed with the Division of Pensions.

(b) For any dependent whom an employee shall have enrolled for coverage, coverage shall become effective on the first day of the second coverage period following the payroll period in respect to which the [premium] **charge** payment shall be made by the State on behalf of such dependents in the case of any dependent enrolled in a sub-group which reports on a bi-weekly basis, or on the first day of the month next following the month in which the first [premium] **charge** payment shall be made by the State on behalf of any dependent enrolled in a sub-group which reports on a monthly basis, or the first day of the second coverage period or the month next following the month in which a deduction is made from the employee's salary if all or any part of such [premium] **charge** for dependents is required by the State, and for whom an enrollment form has been filed with the Division of Pensions.

#### 17:9-2.7 Effective date; local employees and dependents

(a) In the case of employees of a local employer, coverage shall become effective for the employee on the first day of the month next following the month in which the first [premium] **charge** payment shall be made by the local employer on behalf of any employee for whom an enrollment form has been filed with the Division of Pensions.

(b) For any dependent whom an employee shall have enrolled for coverage, coverage shall become effective on the first day of the month next following the month in which the first deduction is made from the employee's salary on the payroll, if all or any part of such [premium] **charge** for dependents is required by the local employer or the first [premium] **charge** payment shall be made by the local

employer on behalf of any employee's dependents for whom an enrollment form has been filed with the Division of Pensions.

#### 17:9-2.11 Coverage for survivors

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

(c) Should coverage lapse through no fault of the survivor, who would be eligible to continue such coverage, retroactive coverage may be granted up to a period of three months, provided [premiums are received] **the payment of charges is made.**

### SUBCHAPTER 5. [PREMIUMS] CHARGES

#### 17:9-5.3 Advance [premiums] charges

For the purpose of local coverage, in the traditional program, the employer must remit to the Division of Pensions [premiums] **charges** covering a one-month period in advance of the coverage date whereas [premiums] **charges** for HMO coverage are remitted directly to the HMO in which the employee is enrolled.

#### 17:9-5.5 Local employer resolution; Chapter 88, P.L. 1974; Chapter 54, P.L. 1979

(a) A local employer will satisfy the requirements of Chapters 88, P.L. 1974 by adopting a resolution designed to:

1.-2. (No change.)

3. Provide for local employer reimbursement of Federal Medicare [premiums] **charges** for eligible pensioners and/or their spouses, as well as the payment of health insurance [premiums] **charges** required by the program, on a basis comparable to the reimbursement made by the State to its eligible pensioners and their spouses in accordance with the provisions of Chapter 75, P.L. 1972 (see N.J.A.C. 17:9-5.8);

4. Require the local employer to pay the full cost of such [premiums and Medicare] charges;

5. (No change.)

(b) (No change.)

#### 17:9-5.6 Health maintenance organization [premiums] charges

For purposes of State and local coverage, the employee who pays any portion of the cost for the employee and for dependent coverage cannot pay any more for the same type of coverage if the employee enrolls himself **or herself** and his **or her** dependents in a health maintenance organization as an alternative program. If the cost of the coverage in the alternative plan exceeds the cost of the State program, the additional [premium] **charge** would be collected by payroll deductions from the employee.

#### 17:9-5.8 Medicare refunds

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

(d) The local employer is responsible for refunds to any of his **or her** active employees, as well as the employee's spouse, who are covered under part B of the Federal Medicare Program.

(e) All refunds will be made payable to the active or retired employee constituting the most timely [premium] **charge** payment for Part B coverage.

(f) Similar reimbursement will be made by the State and local employers, who have adopted the necessary resolution, to eligible retired employees for himself **or herself** and the retired employee's spouse, but in no event shall duplicate refunds be made to any employee for himself **or herself** or his **or her** spouse.

(g) (No change.)

#### 17:9-5.10 Retroactive [premiums] charges; payment due

Retroactive [premiums] **charges** covering the entire period of retroactivity will be calculated on the basis of the [premium] **charge** in effect on the date the employee is actually enrolled.

#### 17:9-6.1 Retired employee defined

(a) "Retired employee" shall be defined as a covered employee,

who immediately following the cessation of employment, applies for and receives a periodic retirement allowance for life or duration of disability to which he **or she** is entitled by reason of age, years of service or disability provided such allowance is being paid by a State or locally administered retirement system or plan by which he **or she** was covered immediately prior to his **or her** retirement. An employee who continued his **or her** coverage while on an official leave of absence for illness without pay but whose coverage was terminated when his **or her** leave exceeded the period established by the statute for the continuation of coverage during such leave, will be permitted to elect to continue Health Benefits coverage into retirement provided such leave was in effect immediately preceding the date of his **or her** retirement.

(b) The definition of "retired employee" shall include the spouse of the employee, provided he **or she** was covered as a dependent under the Health Benefits Program immediately preceding the retirement or the death of the active or retired employee, and further provided that he **or she** was the employee's beneficiary and immediately applies for and receives a life annuity available to him **or her** at the employee's death, paid by a State or locally administered retirement system or plan.

(c) The definition of "retired employee" shall include an employee who is eligible to receive a Federal pension based upon employment with the Cooperative Extension Service staff of Rutgers University.

1. This coverage is contingent upon the employee applying for and receiving a Federal pension immediately following the cessation of employment and further provided that the pension to which he **or she** is entitled is being granted by reason of his **or her** age or disability and coverage based on his **or her** employment with Rutgers University.

2. The Personnel Office of Rutgers University shall act as a collection [agent] **officer** for the collection of the [premiums] **charges** required on a direct payment basis from the employees.

3. (No change.)

(d) The definition of "retired employee" shall also include an employee who is eligible to receive a monthly annuity from the Teachers' Insurance and Annuity Association or long-term disability benefits based on his **or her** participation in the New Jersey Alternate Benefit Program, provided the employee who is receiving a monthly annuity applied for and began receiving a TIAA annuity immediately following the termination of his **or her** employment in a position covered by the Alternate Benefit Program, and further provided, that TIAA agrees to deduct the appropriate [premium] **charge** from the retired employee's monthly TIAA annuity and remits it promptly to the State Health Benefits Program as a remitting [agent] **officer**.

(e) (No change.)

(f) The employer liability for [premium] **charge** payments on behalf of eligible retired employees which includes those employees who are eligible to receive long-term disability benefits is payable in accordance with the provisions of N.J.S.A. 52:14-17.32 and 17.38.

#### 17:9-6.2 Coverage for prospective retirants

(a) For purposes of retired coverage, continuity of coverage may be extended until such time as the application for retirement is formally approved by the Board of Trustees of the retirement system paying the benefit or by the carrier underwriting the individual annuity contracts.

1.-2. (No change.)

3. Should coverage lapse through no fault of the retired employee of his **or her** spouse who would be eligible to continue such coverage, retroactive coverage may be granted, provided [premiums] **charges** are received.

(b) An employee, upon retirement, or an eligible survivor of such employee, will be notified by certified mail of his **or her** right to continuous coverage in the State Health Benefits Program. The retired employee or eligible survivor must, within a 15-day period following the receipt of the letter offering retired coverage, submit

the appropriate application and [premiums] **charges** for such coverage, if required.

#### 17:9-6.3 Retired coverage; limitations

(a) (No change.)

(b) Only a pensioner, whose original retirement allowance or pension is equal to or greater than the [premium] **charge** to be deducted to pay for the cost of the coverage available to such pensioner, will be permitted to continue coverage.

(c) (No change.)

**(d) A pensioner and/or spouse, who has maintained coverage in the State Health Benefits Program following retirement and is subsequently removed from such coverage for not having the complete Federal Medicare coverage Parts A and B as required by statute, will be permitted to obtain prospective reentry into the State Health Benefits Program once proof of complete Federal Medicare coverage Part A and B has been provided to the Division of Pensions.**

#### 17:9-6.4 Disability earnings

A retirant, whose disability retirement allowance has been suspended as his **or her** income exceeded the limits established by law, shall have his **or her** health insurance terminated upon the suspension of his **or her** allowance. Upon the reinstatement of the individual's allowance, his **or her** coverage will resume on a prospective basis only. However, where the employer is liable for the [premium] **charge** payment, the coverage shall be continued without interruption.

#### 17:9-6.5 Discontinuance of allowance

When a retirant, beneficiary or their designated representative fails to furnish information which results in the discontinuance of the allowance, the retirant's or beneficiary's coverage may be terminated upon such discontinuance. However, where the employer is liable for the [premium] **charge** payment, the coverage shall be continued without interruption. Upon the reinstatement of the individual's retirement allowance, his **or her** health insurance will be resumed and may be made retroactive. The same applies whenever an allowance is discontinued such as in cases involving possible incompetency, change of guardian or other arrangements which may temporarily cause the suspension of the payment.

#### 17:9-6.6 Beneficiary or survivor

An eligible beneficiary or survivor will have their coverage discontinued upon the death of the retirant but will be given the opportunity to continue coverage on a prospective basis only, once they have filed proper applications for pensions. Coverage may be made retroactive for as much as six months provided the necessary [premiums] **charges** are paid. Any request for retroactive coverage in excess of six months shall be submitted to the secretary.

#### 17:9-7.1 Termination effective date

Cessation of active full-time employment shall be deemed to occur on the last day of the coverage period for which [premiums] **charges** have been paid.

#### 17:9-7.2 Termination conversion rights; effective dates

(a) (No change.)

(b) The effective date of termination shall be the last day of the coverage period corresponding to the payroll period or month in which the last payroll deduction was made from the employee's salary for the coverage of dependents, if any are required, or the last [premium] **charge** shall have been paid by the State for the employee's and/or his **or her** dependents' coverage or by the local employer for the employee and/or his **or her** dependents, as the case may be.

(c) The reasons for the termination of eligibility are as follows:

1. Leave of absence with pay [.] : The coverage of an eligible employee and of an employee's dependents during any period of

authorized leave of absence without pay shall terminate on the last day of the second coverage period following the last payroll period or month for which the employee received a salary payment; except that coverage of such employee and such employee's dependents may be continued by such employee, provided that the employee shall pay in advance the total [premium] **charge** required for the employee's coverage and coverage of the employee's dependents during such period of authorized leave of absence without pay; provided that no period of continued coverage, as provided above, shall exceed a total of 20 bi-weekly payroll periods, or nine months, during which the employee receives no pay.

2. (No change.)

3. An employee whose coverage terminated as a result of a change from full-time to part-time status cannot be reenrolled until he **or she** has reestablished his **or her** eligibility for coverage by serving the normal waiting period prescribed for new enrollees. In no event will the waiting period include any part-time service rendered by the employee.

4. The coverage of an employee whose eligibility has ceased because of his **or her** resignation, temporary layoff, separation through a reduction in force, or any other reason, and the coverage of his **or her** dependents shall be terminated subject to the conversion rights.

5. An employee, who has an award pending, or who received an award of periodic benefits under [Workmen's] **Workers'** Compensation, may continue his **or her** coverage and the coverage of his **or her** dependents, provided that the employee shall pay to his **or her** employer in advance that portion, if any, of the [premiums] **charges** due from the employees to continue the coverage under his **or her** existing [contract] **coverage**.

17:9-7.4 Voluntary termination

An employee may elect voluntarily to terminate his **or her** coverage or coverage for his **or her** dependents at any time, but termination of the employee's own coverage shall automatically terminate the coverage of his **or her** dependents. Such voluntary termination shall be effected by written notice thereof to the Health Benefits Bureau by use of the enrollment and authorization form. Termination notices for employees enrolled in an HMO will be sent directly to the HMO by the employer.

**(a)**

**STATE HEALTH BENEFITS COMMISSION**

**Employees  
Local, Full-Time Defined**

**Proposed Amendment: N.J.A.C. 17:9-4.6**

Authorized By: State Health Benefits Commission, William J. Joseph, Secretary.  
Authority: N.J.S.A. 52:14-17.27.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Secretary  
State Health Benefits Commission  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The State Health Benefits Commission thereafter may adopt this

proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-441.

The agency proposal follows:

**Summary**

This proposed amendment clarifies the definition of "full-time" local employees by requiring an average rather than a minimum of 20 hours of work per week by such employees to qualify for the benefits of the State Health Benefits Program.

**Social Impact**

Current and future full-time employees of the local employers in New Jersey who participate in the State Health Benefits Program will be affected by this proposal.

**Economic Impact**

Depending upon the number of eligible employees in a local employer's unit, both employees and employers may be economically affected by this proposal. If additional employees become eligible for the medical coverage, the employees and employers involved will experience additional costs for coverage but the employees involved will then have the benefit of being covered for certain medical expenses which they otherwise would not have.

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

17:9-4.6 Local; full time defined

(a) For purposes of local coverage, "full-time" shall mean:

- 1. Employment of any eligible employees who appear on a regular payroll and who receive a salary or wages for [a minimum] **an average** of 20 hours per week;
- 2. (No change.)

**(b)**

**STATE HOUSE COMMISSION**

**Judicial Retirement System  
Update of Administrative Rules**

**Proposed Amendment: N.J.A.C. 17:10**

Authorized By: State House Commission, William J. Joseph, Secretary, Judicial Retirement System.  
Authority: N.J.S.A. 43:6A-29d.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Secretary  
Judicial Retirement System  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The State House Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-439.

The agency proposal follows:

**Summary**

The proposed amendments are the result of a periodic review of the administrative rules of the Judicial Retirement System. The amendments include the updating of such rules to reflect male and female references and recent legislation involving inter-fund transfers and the contributory aspects of what previously was a totally non-contributory retirement system.

**Social Impact**

Members of the Judicial Retirement System, and perhaps their eligible, surviving beneficiaries, will be affected by this proposal insofar as inter-fund transfers and the new, contributory aspects of the system may affect their ultimate benefits to be received from the system.

**Economic Impact**

These proposed amendments will not have any significant, adverse economic effect upon the members of the Judicial Retirement System. The statutes which necessitated these proposals may have an economic impact upon current and future members who must now contribute to the retirement system pursuant to the provisions of those statutes where previously such members were not compelled to make such payments.

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

## 17:10-1.3 Officers and committees

(a) The [chairman] **chairperson** of the commission will preside at all meetings he **or she** attends, and in his **or her** absence, another member selected by the majority of the members in attendance will preside for that single meeting.

(b) (No change.)

(c) The [chairman] **chairperson** will appoint such committees from the commission members as he **or she** deems necessary to facilitate the Commission's operations. Such committee appointments will be for a one-year period, commencing each July 1.

17:10-1.4 Certifying [agent] **officer**

(a) The official properly designated by the Administrative Office of the Courts will serve as the certifying [agent] **officer**. Additional certifying [agents] **officers** will be designated in each county where necessary.

(b) The prime purpose of the certifying [agent] **officer** will be to certify facts of enrollment, retirement, resignation and to implement proper procedures for the reports concerning members and to act as liaison for all dealings between the courts and the retirement system.

## 17:10-2.1 Enrollment date

A new appointee to the several courts shall be considered as beginning his **or her** membership on the date of his **or her** taking the oath of office following his **or her** confirmation.

## 17:10-3.6 Proof of insurability

When proof of insurability is required, the member's opportunity to prove such insurability shall expire one year (12 months) from the date the initial written notice is sent advising [him] **such member** that he **or she** must prove insurability by taking a medical examination.

## 17:10-4.3 Suspension

(a) (No change.)

**(b) No retirement deductions will be made during such a break in service nor will any retirement credit accrue.**

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

## 17:10-4.4 Termination; resignation

(a) Under terms of the statutes, a member may resign and terminate his **or her** membership in the system only if he **or she** terminates all employment. No resignation terminating membership can be accepted if:

1. (No change.)

2. The member certifies that his **or her** employment has not ended or that he **or she** has taken another position subject to coverage;

3. The member has been dismissed or suspended from employment. In this event, such a member will be considered as terminating his **or her** membership if he **or she** has formally resigned from his **or her** position or if there is no legal action contemplated or pending and the dismissal has been adjudged final.

**4. The member has a claim pending for Workers' Compensation benefits.**

## 17:10-4.7 Deductions

**(a) A member shall receive credit toward retirement for any payroll period in which a full normal pension deduction has been received by the retirement system.**

**(b) A full deduction is required in all instances where the salary exceeds the amount of normal deduction.**

**(c) Credit, as established in the retirement system, will be reduced by breaks in service and leave of absences without pay with the total of such credit adjusted to the nearest month.**

## 17:10-4.8 Minimum adjustment

**In order to facilitate the reconciliation of a member's account, no rebates or additional contributions shall be made where an adjustment involves an amount of \$3.00 or less.**

## 17:10-4.9 Withdrawals

**In accordance with the provisions of Section 26 of Chapter 470, P.L. 1981, and in the event no other benefits are payable, a member of the Judicial Retirement System may apply for and receive his or her accumulated deductions to the retirement system plus regular interest upon his or her withdrawal from the retirement system and upon the filing of a proper application therefor.**

## 17:10-5.1 Applications

(a) Applications for retirement must be made on forms prescribed by the system:

1. (No change.)

2. In the event a member files an incomplete application, the deficiencies shall be brought to [his] **such member's** attention and [he] **such member** will be required to file a completed application with the system to enable acceptance for processing.

3. Before an application for retirement is processed, it must be supported by a copy of the member's resignation from his **or her** judicial office, which has been filed in the Office of the Secretary of State, and a certificate from the certifying [agent] **officer** setting forth the employment termination date and the salary reported in the member's final year of employment.

(b) (No change.)

## 17:10-5.2 Effective date

The date of a retirement application will be recognized if it is earlier than the actual date of receipt by the retirement system, if it is supported by the signature of the certifying [agent] **officer**. The earlier of certified date on the application, postmark, or date of actual receipt by the retirement system will be recognized. If this date falls within a calendar month, the retirement will be effected on the first day of the month following the filing and commission approval.

## 17:10-5.3 Effective date; changes

(a) A member shall have the right to withdraw, cancel or change an application for retirement at any time before his or her pension

becomes due and payable; thereafter, the retirement shall stand as approved by the commission. Except in the event of deferred retirement, if a member requests a change in his or her pension before his or her pension becomes due and payable, said change will require approval of the commission and the revised pension shall not become due and payable until [30 days have] **one month** has elapsed following the effective date or the date the commission met and approved the change in the member's retirement application, whichever is later.

(b) A deferred retirement shall become effective on the first of the month following the member's 60th birthday. In the case of deferred retirement, if an applicant desires to amend his or her retirement application, the amended application must be filed with the system a minimum of one month prior to his or her effective date of retirement.

(c) (No change.)

(d) **All applications for retirement may be approved by the Secretary of the State House Commission whenever there is no impediment to such claim, subject to the confirmation by subsequent Commission action.**

OFFICE OF ADMINISTRATIVE LAW NOTE: The current text of N.J.A.C. 17:10-6.1 and 6.2, which can be found in the New Jersey Administrative Code, is to be deleted and replaced with the new text below.

#### **17:10-6.1 Interfund transfers; other State systems**

(a) **Interfund transfers between State-administered pension funds are permitted by reciprocal transfer arrangements. Such transfers would not apply where the member does not make a timely transfer in accordance with N.J.S.A. 43:2-1 et. seq., or who has been granted a deferred retirement allowance by the present system.**

(b) **Membership credit so transferred shall be included in the computation of a retirement allowance. Such credits cannot be used to satisfy the statutory requirements of those benefits which specifically require a minimum number of years of creditable service as a judge, unless such service was rendered in an eligible judicial position.**

(c) **The system will transfer membership to any State-administered system as follows:**

1. **A member, desiring to transfer his or her credits to any State-administered system must file an application for "Transfer of Membership Credit" in place of the customary application for withdrawal of accumulated contributions. This application will void all possible credit against the present system when approved and the new membership shall commence in the new system.**

2. **A check covering the member's accumulated contributions, full interest included, less any outstanding loan, shall be drawn payable to the new system for the account of the respective member. Any outstanding loan or arrears obligation will be scheduled for repayment.**

3. **A statement reflecting the member's status as of the date of transfer shall accompany the check.**

4. **The member shall enjoy the same rate of contribution and service credits established in the present system subject to the provisions of the new system.**

5. **A copy of the transfer application, together with a check covering the withdrawal value and a statement of the service credits being transferred, is to be forwarded to the new system.**

(d) **The present system will cause to be valued the reserves accrued to such employee as compared to the reserves required in the new system.**

1. **If the reserves accumulated or provided for in the present system are less than those required in the new system, the full reserve will be transferred.**

2. **If the reserves accumulated or provided for in the present system are more than required in the new system, only the amount required to establish the credit will be transferred.**

(e) **Years of credit will be subject to the benefit formula of the new system after transfer.**

(f) **The member will contribute to the new system at a rate based on his or her age at the time of enrollment in the present system and no refund of pension contributions will be made except for those contributions made by veterans covering service prior to January 1, 1955, where applicable.**

(a)

## **STATE HOUSE COMMISSION**

### **Judicial Retirement System Proof of Age**

#### **Proposed Amendment: N.J.A.C. 17:10-1.8**

Authorized By: Judicial Retirement System, William J. Joseph, Secretary.  
Authority: N.J.S.A. 43:6A-29d and 43:6A-8.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Secretary  
Judicial Retirement System  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The State House Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-470.

The agency proposal follows:

#### **Summary**

The proposed amendments will clarify the requirement that members of the Judicial Retirement System are to provide proof of their age for retirement administration purposes at the time of their enrollment in the system.

#### **Social Impact**

The proposed amendments will affect current and future members of the Judicial Retirement System.

#### **Economic Impact**

There is no significant adverse economic impact upon the members of the Judicial Retirement System regarding these proposed amendments. Proof of age within this system is most important within the areas of mandatory retirement, early retirement, etc., especially since members tend to be somewhat older when they enter this retirement system as compared to members who initially enter the other retirement systems.

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

17:10-1.8 Proof of age

(a) **As most members are appointed at a later age in this System, all [All] members [may] will be required to establish proof of their age with the System at the time of their enrollment in the System.** [A person enrolling may be requested to submit proof at the time of enrollment and will be required to submit such proof

# TREASURY-TAXATION

before a period of six years has elapsed from date of enrollment.]  
If a member is transferring to the Judicial Retirement System from another State-administered retirement system where proof of age was secured, no additional proof of age will be requested.

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

(a)

## STATE HOUSE COMMISSION

### Judicial Retirement System Computation of Benefits; Insurance

#### Proposed Amendment: N.J.A.C. 17:10-3.1

Authorized By: Judicial Retirement System, William J. Joseph, Secretary.  
Authority: N.J.S.A. 43:6A-29d and 43:6A-17.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before December 15, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Secretary  
Judicial Retirement System  
Division of Pensions  
20 West Front Street  
CN 295  
Trenton, NJ 08625

The State House Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-471.

The agency proposal follows:

#### Summary

This proposal amends N.J.A.C. 17:10-3.1(a) to conform to the provisions of P.L.1977 c.317, which changed the computation of insurance benefits and made the annual salary received at the time of death as the basis for such computations of insurance benefits.

#### Social Impact

Current and future members of the Judicial Retirement System, as well as their designated beneficiaries, will be affected by this proposal.

#### Economic Impact

This proposal may result in increased proceeds being paid to the beneficiaries indicated while the employers of the members of the Judicial Retirement System may experience increased insurance costs.

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

#### 17:10-3.1 Computation of benefits

(a) If a member dies during the first year following his or her date of enrollment, the insurance benefit shall be 1 1/2 times the [salary he received at the time of his death multiplied by the number of biweekly pay periods or months since his enrollment] **annual salary received by the member at the time of his or her death.**

(b) (No change.)

(b)

## DIVISION OF TAXATION

### Corporation Business Tax ACRS-Uncoupling; Safe-Harbor Leases; Net Worth Phase-Out

#### Notice of Correction: N.J.A.C. 18:7-5.2

An error appears in the November 1, 1982 issue of the New Jersey Register at 14 N.J.R. 1208 concerning ACRS-uncoupling; safe-harbor leases; net worth phase-out. N.J.A.C. 18:7-5.2(a)10 should have appeared as follows:

18:7-5.2 Entire net income; how computed

...  
(a)10. Any amount deducted in arriving at Federal taxable income solely as a result of an election made pursuant to Section 168(f)(8) of the Federal Internal Revenue Code for accounting years ending after December 31, 1981, provided, however, that if the accounting period begins in 1981 and ends in 1982, no addback is required for that return with respect to property placed in service during that part of such return which occurs in 1981. Any such deduction with respect to a qualified mass commuting vehicle pursuant to Federal Internal Revenue Code Section 168(f)(8)(D)(iii) shall be allowed.

# RULE ADOPTIONS

## COMMUNITY AFFAIRS

(a)

### DIVISION OF HOUSING

#### Uniform Construction Code Interlocal Enforcement Fees

**Adopted Amendment: N.J.A.C. 5:23-4.8  
(Pursuant to the recodification of N.J.A.C.  
5:23, the adopted amendment is now  
designated as N.J.A.C. 5:23-4.17(d))**

Proposed: June 7, 1982 at 14 N.J.R. 495(a).  
Adopted: October 22, 1982 by John P. Renna,  
Commissioner, Department of Community Affairs.  
Filed: October 28, 1982 as R.1982 d.401, **without  
change.**

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

Effective Date: November 15, 1982.

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

Comments were received which questioned the need for the uniformity required by this rule or which suggested that such uniformity will make interlocal agreements less attractive to municipalities. The Department's response is that the territory covered by an interlocal agreement should be treated as a single unit, that fees should be set at a level necessary to cover the overall cost of code enforcement. It is specifically intended that reduced rates will induce municipalities to participate and kickbacks to municipalities be forbidden.

In response to comments, the Department also points out that, in those municipalities where it serves as the enforcing agency, a fee schedule is used that is uniform Statewide.

(b)

### DIVISION OF HOUSING

#### Uniform Construction Code Enforcing Agency Fees

**Adopted Amendments: N.J.A.C. 5:23-4.17  
and 4.20**

Proposed: September 7, 1982 at 14 N.J.R. 943(a).  
Adopted: October 22, 1982 by John P. Renna,  
Commissioner, Department of Community Affairs.  
Filed: October 28, 1982 as R.1982 d.402, **without  
change.**

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

Effective Date: November 15, 1982.

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

(c)

### DIVISION OF HOUSING

#### Rooming and Boarding House Fire Safety; Life Safety Loans

**Notice of Correction: N.J.A.C. 5:27-5.3**

An error appeared in the November 1, 1982 issue of the *New Jersey Register* at 14 N.J.R. 1210(b) concerning fire safety; life safety loans. N.J.A.C. 5:27-5.3 should have appeared as follows:

5:27-5.3 Fire partitions and doors

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

(c) No entrance door to a rooming unit shall consist either in whole or in part of glass, of louvers, **or hollow core wood**, or of wood panels having a thickness of less than 1/2 inch [and not having sheet steel of not less than 28 gauge securely attached on the inside of such door with bolts or screws and covering the entire area of such wood panels] **unless such panels are covered with a fire retardant material so as to be flush with the door stiles and rails; there shall be no voids behind such fire retardant covering.**

**\*1.\* Where doors must be replaced, they shall be replaced with solid wood core doors or \*[class "C"]\* \*20 minute\*\* rated fire doors.**

**\*2.\* All unit doors shall be self-closing.**

## ENVIRONMENTAL PROTECTION

(d)

### DIVISION OF FISH, GAME AND WILDLIFE

#### Shellfisheries Relay of Hard Clams

**Adopted Amendment: N.J.A.C. 7:25-15.1**

Proposed: September 20, 1982 at 14 N.J.R. 1055(a).  
Adopted: October 28, 1982 by Robert E. Hughey,  
Commissioner, Department of Environmental  
Protection.  
Filed: October 28, 1982 as R.1982 d.411, **with substantive  
changes** not requiring additional public notice and  
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 50:1-5.

Effective Date: October 28, 1982.

## ADOPTIONS

## HUMAN SERVICES

## Summary of Public Comments and Agency Responses:

A comment was received at the public hearing held October 12, 1982 in Toms River from the clammer presently serving as relay coordinator pursuant to N.J.A.C. 7:25-15.1(c). The present relay coordinator felt that the appointed relay coordinator should not have responsibility for reporting the catch of more than 10 participants. He suggested that one coordinator be appointed for every 10 participants.

The Department agreed and responded by changing the regulation as noted below. No further comments were received.

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

## 7:25-15.1 Relay of hard clams

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

(c) The participants shall be responsible for the appointment of one **\*[of their number to the position of]\*** relay coordinator **\*for each 10 participants.\*** The relay coordinator\*s\* shall act as liaison with the designated enforcement unit and the Bureau of Shellfish Control of the Division of Water Resources and the Bureau of Shellfisheries of the Division of Fish, Game and Wildlife for scheduling areas for harvest. The relay coordinator\*s\* will count each participant's daily harvest and seal the individual bags with seals provided by the Department as specified below. **\*[He]\* \*The relay coordinators\*** will also record the bags on report forms provided by the Department as specified below.

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

(f) Clams taken from the Special Restricted or Condemned Harvest areas shall be bagged by the participant and sealed by the coordinator\*s\* with seals provided by the Department before being transported to the lots. The bags shall remain sealed until the clams are planted on the lots.

1. The sealed bags will be counted by the relay coordinator\*s\* and the harvester and listed on the three-part Relay Report Forms which shall be signed by the coordinator\*s\* and the harvester. In the case of clams harvested under Relay Permit 5b, the form shall be signed by the buyer-planter also;

2. The coordinator\*s\* shall retain one copy, forward one copy to the Bureau of Shellfisheries and the third copy to the harvester or buyer who shall carry it with the bagged clams directly to the relay lot.

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

6. The coordinator\*s\* shall notify the Bureau of Shellfisheries, Nacote Creek Office, (609) 441-3284 daily of the area to be harvested and the number of participants and the bag count for the previous day.

(g)-(k) (No change from proposal.)

Adopted: October 25, 1982 by George J. Albanese, Commissioner, Department of Human Services.

Filed: October 28, 1982 as R.1982 d.403, **with substantive changes** not requiring additional public notice and comment, and with action on part of the proposal **still pending**.

Authority: N.J.S.A. 30:4D-6b(4) and 7.

Effective Date: November 15, 1982.

Operative Date: February 1, 1983.

## Summary Of Public Comments and Agency Responses:

Comments were received from the New Jersey Dental Association, the New Jersey Association of Pediatric Dentists, the New Jersey Society of Dentistry for Children, the Fairleigh Dickinson University School of Dentistry, and several practicing dentists. In general, all letters objected to the change of the time span for the diagnostic and preventive services (examinations, fluoride application and prophylaxis) for children from once every six months to once every 12 months.

Therefore, the rule was modified to allow patients age 17 and under to receive these services once every six months. Patients 18 years and older will be subject to the 12 month limit, unless prior authorization is obtained for more frequent treatment.

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

## 10:56-1.14 Diagnostic services

(a) Examination rules are:

1. A complete examination of the oral cavity must be a comprehensive and thorough inspection of the oral cavity to include diagnosis, charting, and recording of the recommended treatment. It should permit a Dental Consultant (with accompanying X-rays) to determine the appropriateness of the treatment plan.

i. This dental examination is reimbursable only when part of a total treatment plan, unless the examination discloses no need for treatment, in which case this must be indicated by placing the statement, "No other treatment necessary (N.O.T.N.)" in the Diagnosis box on the Dental Form (MC-10).

[ii. For reimbursement purposes, a complete dental examination shall be limited to once every 12 months unless authorized.]\*

**\*ii. For reimbursement purposes, a complete dental examination shall be limited to once every six months for those patients through age 17 and once every 12 months for those patients 18 years of age or older except as authorized by a Dental Consultant of the Medicaid Program.\***

2. (No change.)

**3. The dentist who examines a long-term care facility patient must provide the treatment necessary unless the examination indicates that a specialist is needed.**

4. Handicapping Malocclusion Assessment examination (refer to [section 21 of this subchapter.] N.J.A.C. 10:56-1.21).

[3i.]i. For reimbursement purposes, a Handicapping Malocclusion Assessment Examination is limited to the Orthodontist who is a qualified specialist (refer to N.J.A.C. 10:56-1.1). This examination is limited to once every [six]12 months unless [prior] authorized.

(b) Radiography rules are as follows:

1. Radiological procedures are limited to those normally required to make a diagnosis[.] **and as may be dentally appropriate.** Radiographs must be taken to show all areas where treatment is anticipated.

i. (No change.)

**\*[2. All X-ray films must be available to the dental consultant for evaluation of the treatment or treatment request.]\***

## HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE  
AND HEALTH SERVICESDental Services Manual  
Diagnostic ServicesAdopted Amendments: N.J.A.C. 10:56-1.14(a)  
and (b)1, 2 and 3, and 1.15

Proposed: December 6, 1981 at 13 N.J.R. 875(a).

\*2. The originals of all X-ray films must be available to authorized representatives of the New Jersey Medicaid Program or other agencies of the State of New Jersey as approved by the New Jersey Medicaid Program. Forward them to the Division of Medical Assistance and Health Services as follows:

- i. When procedures requiring prior authorization are requested (forward them to the Medicaid Dental Consultant);
- ii. Upon request for post utilization review; and
- iii. Upon request for adjudication of claim reimbursement problems;
- iv. X-rays may be reviewed by dental consultants of the Medicaid Program and/or dentists representing organized dentistry, if appropriate. It is recommended that the two film packet be used or a copy be made by those dentists who wish to retain a set of X-ray films in their office at all times.\*

3. (No change from proposal.)

10:56-1.15 Preventive dental care

\*(a) In addition to a dental examination every [six] 12 months, preventive dental care encompasses the following recommended services:]\*

\*(a) In addition to a dental examination every six months for those patients through age 17 and once every 12 months for those patients 18 years of age or older, preventive dental care encompasses the following recommended services:\*

1. Prophylaxis:

i. (No change.)

\*[ii. For reimbursement purposes, dental prophylaxis shall be limited to once every [six] 12 months unless prior authorized.]\*

\*ii. For reimbursement purposes, dental prophylaxis shall be limited to once every six months for those patients through age 17 and once every 12 months for those patients 18 years of age or older except as authorized by a dental consultant of the Medicaid Program.\*

\*2.\* Fluoride Treatment:

i. (No change from Proposal.)

Note: (No change from Proposal.)

\*[ii. Reimbursement for topical fluoride treatment shall be limited to once every [six]12 months without prior authorization for persons 20 years of age and under.]\*

\*ii. Reimbursement for topical fluoride treatment shall be limited to once every six months without authorization for those patients through age 17 and once every 12 months for those patients 18 years of age up to and including 20 years of age.\*

Note: (No change from Proposal.)

iii. Oral fluoride medication may be prescribed (see: [section 22 of this chapter] N.J.A.C. 10:56-1.22).

3.-4. (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: Action on the following rule proposals is still pending.

December 7, 1981, 13 N.J.R. 875(a) N.J.A.C. 10:56-1.14(b)4.-14.

December 7, 1981, 13 N.J.R. 876 N.J.A.C. 10:56-3.4 Radiographs.

(a)

## DIVISION OF PUBLIC WELFARE

### Monthly Reporting Policy Handbook

Adopted New Rule: N.J.A.C. 10:90

Proposed: September 7, 1982 at 14 N.J.R. 958(a).

Adopted: October 27, 1982 by George J. Albanese, Commissioner, Department of Human Services.  
Filed: October 28, 1982 as R.1982 d.399, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).  
Authority: N.J.S.A. 44:7-6, 44:10-3, and 30:4B-2; 45 CFR 233.31 through .37 and 7 CFR 273.21.

Effective Date: November 15, 1982.

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

A written comment was received from one county welfare agency concerning a perceived discrepancy between N.J.A.C. 10:90-2.2(a)8i, 9 and 9i and 2.3(a)4,5 and (b)1. Federal regulations concerning monthly reporting require that clients submit both a timely complete monthly report form and a timely report of earnings, and stipulate that different penalties apply for failure to meet either requirement. Failure to file a complete monthly report timely results in the penalty of termination from assistance. Failure to file a complete report of earnings timely results in loss of earned income disregards in the AFDC grant calculation for a month. Federal policy interpretation permitted states to set two different "timely" dates for the above. New Jersey selected this option to minimize hardship, both on the recipients and county welfare agencies, that results from the initial testing and implementation of this new AFDC eligibility requirement and method of administering AFDC. Consequently, there is no discrepancy in the above sections of N.J.A.C. 10:90.

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

10:90-2.2 Definitions

(a) The following terms and their definitions apply to MR:

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

6. Monthly Status Report (MSR): The report form used for MR which an eligible unit/household submits monthly to the CWA to report its income and circumstances for a Budget Month, and any changes that are expected to occur in the current or future months.

i. The Monthly Status Report is a computer-generated form sent each month to an eligible unit/food stamp household in the MR system for completion and return to the CWA. The form lists basic eligibility questions about family/household composition, various expenses, employment, income, resources, and expected changes in these items. The client must answer yes or no to most questions, and provide any additional explanations and verification asked for. The responses are used by the CWA to determine continued eligibility for benefits under the AFDC/Food Stamp programs. Computer-printed information includes the dates of the report period (Budget Month) covered by the MSR, the CWA supervisory unit name and telephone number, and the name(s) of individual(s) who must sign the form. The MSR contains a statement of understanding, which the client(s) must sign, that the reported information may result in a reduction/termination of program benefits, the responses are correct to the client's knowledge, fair hearings are available, and abuse of the Food Stamp Program will be penalized.

7.-9. (No change from proposal.)

10. Beginning months: In monthly reporting/retrospective budgeting in the Food Stamp Program, the month in which a household applies for food stamps and the month thereafter. \* However, \*\*[A]\*\*a\* beginning month cannot be any month which immediately follows a month in which a household is certified \* i.e., a beginning month cannot either follow a suspension month as defined in N.J.A.C. 10:90-4.5 or be a payment month of termination\*.

i. (No change from proposal.)

10:90-2.3 Reporting requirements

(a) Monthly reporting: Each AFDC eligible unit/food stamp household is required to submit a report form (Monthly Status Report) to the CWA monthly.

- 1.-2. (No change from proposal.)
- 3. Verification of earned income: Appropriate verification of earned income includes all paystubs, a letter from an employer or other written documentation of all earnings received in the \***[b]\*\* Budget \***[m]\*\*M\*onth.****
- 4.-8. (No change from proposal.)

(b) Reporting other changes (by means other than the MSR form): The CWA shall direct AFDC clients to report information concerning changes as defined in (a)1ii above to the CWA as they become aware of expected changes rather than waiting to inform the CWA on the monthly report form. These changes may be reported by the client over the telephone, by mail, or in person. An expected change must also be reported to the CWA when it actually occurs, on the MSR for the appropriate Budget Month.

1. Timely reporting of other changes (by means other than the MSR form): The CWA shall consider changes reported by the eligible unit by means other than the MSR to have been reported timely if they are reported as soon as the eligible unit becomes aware of the expected change(s), but no later than the next \* **calendar\* Filing Deadline.**

**\*i. Example: A case subject to bimonthly reporting submits its January Budget Month MSR to the CWA timely in the February Processing Month; eligibility and assistance are determined for the March Payment Month. However, during February a change in circumstances occurs, but the family will not receive its next MSR until April 1 (March Budget Month). The family must report this change by the next calendar Filing Deadline, e.g., March 7, for the change to be reported timely (see N.J.A.C. 10:90-5.4).\***

- 2. (No change from proposal.)

10:90-2.4 Income, employment and deductions

(a) Gross monthly income: The CWA shall use gross monthly income to determine eligibility prospectively and to compute the assistance payment and food stamp benefit (except for (b) below). Gross monthly income shall be determined according to the methods in this section. The CWA shall not multiply weekly gross income by 4.333 or use any other conversion factor to determine gross monthly income.

- 1. (No change from proposal.)
- 2. Assistance payment/food stamp benefit computation: Gross monthly income used in the assistance payment/food stamp benefit computation shall be determined according to (a)2i or ii below.
  - i. In the initial two payment months of eligibility when the CWA computes the assistance payment using prospective budgeting (see N.J.A.C. 10:90-4.2(a)), gross monthly income shall be the CWA's best estimate of the gross monthly income which will exist in a payment month. The CWA shall estimate earnings or other income received more frequently than monthly (e.g., weekly or biweekly) based on the most recent four consecutive weeks. For food stamp purposes, if these four weeks of income are unavailable, the CWA shall estimate income according to N.J.A.C. 10:87-6.9(a)1 and 2.

(1) Example:

Actual Income	Gross Monthly Income
\$200.00 RSDI payment received once a month	\$200.00
\$75.00 UIB payment received every 2 weeks (\$75.00* <b>4</b> *\$75.00)	\$150.00
\$60.00 regular weekly earnings (4 x \$60.00)	\$240.00
Irregular weekly earnings - 4 consecutive weeks: (\$75.00,	\$313.00

\$62.00, \$86.00, \$90.00)

ii. After the initial two payment months of eligibility, when the CWA computes the assistance payment/food stamp benefit using retrospective budgeting, gross monthly income shall include all income actually received by the eligible unit/household during the Budget Month \*, **except for (a)2iii below\*.**

**\*iii. AFDC assistance payment as income: When computing the food stamp benefit for a payment month, the CWA shall consider as income the AFDC grant that will be issued to the eligible unit/household in that payment month.**

**(1) Example: A PA-FS household of four in MR reports receipt of \$200.00 RSDI benefits in the January Budget Month. In the February Processing Month, the CWA will first calculate the AFDC grant for the March Payment Month (grant will be \$214.00, \$414.00 standard for four-person eligible unit minus the \$200.00 RSDI). The CWA will then calculate the March food stamp benefit using as income the \$214.00 AFDC grant to be issued in March.\***

- (b)-(d) (No change from proposal.)
- (e) Contract income: The CWA shall prorate income received by individuals employed on a contractual basis \*[in accordance with (e)1 and (e)2 below. In many situations, the monthly prorated contract income amounts for AFDC and food stamp purposes will likely differ.]\***over the period of the contract.\*** The CWA shall use the \*[respective]\* monthly prorated contract income amount\* [s]\* to determine eligibility and compute the assistance payment/food stamp benefit. Clients employed on a contractual basis, such as teachers, school aides, etc., are still required to report income and circumstances monthly to the CWA (see N.J.A.C. 10:90-4.3(c)).

\*[1. For AFDC purposes, the CWA shall prorate income received by contract over the period of the contract.

2. For food stamp purposes, the CWA shall prorate income received by contract over the period the income is intended to cover, in accordance with N.J.A.C. 10:87-6.9(a)4.]\*

(f) Income from self-employment received other than monthly: The CWA shall annualize self-employment income which is received other than monthly \*, **in accordance with (f)1 through (f)3 below\*.** Therefore, the CWA shall use the monthly annualized self-employment income \***amount\*** to determine eligibility and compute the assistance payment/food stamp benefit. Self-employed individuals are still required to report income and circumstances monthly to the CWA.

**\*1. Self-employment income which represents the annual income of an eligible unit/household shall be annualized over a 12-month period even if the income is received within only a short period of time during that 12 months. For example, self-employment income received by farmers shall be averaged over a 12-month period, if the income is intended to support the farmer on an annual basis. This self-employment income shall be annualized even if the eligible unit/household receives income from other sources in addition to self-employment.**

**2. Self-employment income which is intended to meet the support of the eligible unit/household for only part of the year shall be averaged over the period of time the income is intended to cover. For example, self-employed vendors who work only in the summer supplement their income from other sources during the balance of the year shall have their self-employment income averaged over the summer months rather than a 12-month period. The monthly average so obtained shall be considered as the monthly annualized self-employment income amount.**

**3. Determination of monthly annualized self-employment income amounts (or monthly average income amounts) for situations other than those in (f)1 or (f)2 above shall be made in accordance with appropriate sections of N.J.A.C. 10:82-4 and N.J.A.C. 10:87-7.\***

(g) Scholarships, educational loans and grants: **\*For food stamp purposes, \*[T]\*\*t\*he CWA shall prorate nonexcluded**

scholarships, deferred educational loans, and other educational grants **\*[to cover]\*\*over\*** the period they are intended to cover **\***, **in accordance with N.J.A.C. 10:87-6.9(a)6\***. The CWA shall use the monthly prorated amount to compute the food stamp benefit.

#### 10:90-3.3 Formal application

(a) If the individual elects to file a formal application as defined in N.J.A.C. 10:81-2.1(c), the CWA's additional responsibilities under Monthly Reporting include:

1. Information on system operation: The CWA shall provide the following information at the application/certification interview:

i. An **\*oral and written\*** explanation of MR/RB: The prospective budgeting of eligibility and retrospective budgeting of income; required monthly **\*or bimonthly\*** reporting, verification and filing deadline; penalties for failure to file;

ii.-iv. (No change from proposal.)

2. (No change from proposal.)

#### 10:90-4.1 Determining eligibility prospectively in all payment months

(a) For all payment months, the CWA shall use prospective budgeting to determine all factors of eligibility. Thus, the CWA shall establish eligibility based on its best estimate of income and circumstances which will exist in the month for which the assistance payment/food stamp benefit is made, i.e., the Payment Month.

1. Therefore, the CWA must consider all information reported on the MSR for the Budget Month, and any changes the eligible unit subsequently reports during the Processing Month, to determine eligibility for the Payment Month.

i. Example: An eligible unit reports no change in circumstances on the MSR for the January Budget Month, but on February 14 (Processing Month), a change in circumstances occurs which affects eligibility (e.g., a 17 year-old child moves out of the home) and the eligible unit reports this change to the CWA on February 15. The CWA shall then consider this change when determining eligibility **\*prospectively\*** for the March Payment Month. **\*[In this example, the CWA would reduce assistance effective March 1, and issue a timely and adequate adverse action notice to the eligible unit by February 18.]\***

(b) **\*[Child support collection: For purposes of determining eligibility, the CWA shall consider a child support collection paid directly to the client/eligible unit as income in the Budget Month in which it was received by the client/eligible unit.]\*** **\*Income eligibility: For any payment month, the CWA shall identify the number of individuals in the eligible unit/household and determine income eligibility prospectively according to (b)1 or (b)2 below.**

1. **AFDC Program: Determine the total monthly income (including gross earned income) available to the eligible unit and compare it to the maximum income level in N.J.A.C. 10:82-1.2(d). If total income equals or is less than the maximum for the appropriate eligible unit size, maximum income eligibility has been established.**

i. **If the payment month is also the initial month of eligibility the CWA shall also apply the initial eligibility test of N.J.A.C. 10:82-2.6 and 2.11 to determine income eligibility.**

2. **Food Stamp Program: Determine the total monthly net or gross income, as appropriate, available to the household, according to N.J.A.C. 10:87-6.15(a)3. If total income equals or is less than the maximum(s) for the appropriate household size, income eligibility has been established.**

(c) **Eligibility determination: If income eligibility is established and the family/household will meet all other eligibility criteria for the payment month, the family/household is prospectively eligible for assistance. The CWA shall calculate the AFDC grant/food stamp allotment according to N.J.A.C. 10:90-4.2 or 4.3. If total income exceeds appropriate maximums or the family/household will not meet all other eligibility criteria for the payment month, the family/household is not prospectively**

**eligible for AFDC/food stamp benefits. The CWA shall not issue an AFDC grant/food stamp allotment for the payment month of ineligibility.**

1. **Example: Given the situation in (a)1i above of an eligible unit receiving a grant calculated using retrospective budgeting, if the eligible unit is prospectively eligible for the March Payment Month, the CWA shall calculate the March grant based on the income and circumstances (including unit composition) in the corresponding January Budget Month.**

i. **If the eligible unit is prospectively ineligible for the March Payment Month, the CWA shall terminate assistance effective March 1 and issue the family a timely and adequate notice by February 18.\***

#### 10:90-4.2 Computing the assistance payment/food stamp benefit in the initial two payment months of eligibility

(a) (No change from proposal.)

(b) The CWA shall use retrospective budgeting to compute the amount of the assistance payment/food stamp benefit in the initial two payment months of eligibility if:

1. Assistance had been suspended for one month (as defined in N.J.A.C. 10:90-4.5), **\*and\*** the initial month follows the month of suspension**\***, and the family's circumstances for the initial month had not changed significantly from those reported in the corresponding Budget Month (loss of a job)**\***; or

2. Assistance had been terminated for a Payment Month due to failure to file a complete MSR, and the family reapplies for assistance during the month of termination, and the initial month **\*of eligibility\*** is the month of termination.

i. (No change from proposal.)

ii. Example: An eligible unit/household fails to file a complete, signed MSR in April (for March Budget Month) and is terminated for the May Payment Month. On May 5 the family/household applies for reinstatement and completes the MSR for the **\*[April]\*\* March\*** Budget Month. The CWA **\*shall determine eligibility prospectively for May (the month of termination), and if the family/household is eligible,\*** shall compute the assistance payment/food stamp benefit for **\*[June]\*\*May\*** 1 using retrospective budgeting. (Note: The eligible unit/household must also **\*[complete]\*\*be issued\*** the MSR for the **\*[March]\*\* April\*** Budget Month.)

#### 10:90-4.3 Computing the assistance payment/food stamp benefit after the initial two payment months of eligibility

(a) (No change from proposal.)

(b) First and second months of retrospective budgeting: Except as provided in N.J.A.C. 10:90-4.2(b)1 above, for the first and second payment months for which retrospective budgeting is used, the CWA shall not count income from the Budget Month already considered for any Payment Month determined prospectively which is not of a continuous nature **\*(income from a terminated source)\***.

**\*[1. For food stamp purposes, this policy shall apply only to the first payment month for which retrospective budgeting is used. Therefore, for the third month of participation, the CWA shall disregard any income that the household received in the month of application which no longer provides income to the household (income from a terminated source).]\***

**\*[2.]\*\*1.\*** (No change in text from proposal.)

**\*[3.]\*\*2.\*** Example: In (b)\*[2]\*1\* above, if a family/household member had received an RSDI check on April 3, and expected to receive these benefits in subsequent months, the RSDI benefit amount would be included in the April Budget Month's income for use in computing the June 1 assistance payment/food stamp benefits.

(c) Contract income: According to N.J.A.C. 10:90-2.4(e), the monthly prorated contract income amount**\*[(s)]\*** shall be used to

determine eligibility using prospective budgeting and to compute the assistance payment/food stamp benefit using retrospective budgeting. However, in any month in which the amount of income actually received is **\*significantly\*** different than the monthly prorated contract income amount\*[(s)]\* **\*e.g., due to unforeseen circumstances or client illness\***, the CWA shall use:

1. The monthly prorated contract income amount\*[(s)]\* for the prospective eligibility determination (the CWA's best estimate of income which will exist in the Payment Month); and
2. (No change from proposal.)

#### 10:90-4.4 Changes in circumstances

(a) Individual added to an eligible unit: In any month for which an individual will be determined eligible prospectively and will be added to an existing AFDC eligible unit, the CWA must meet the individual's needs to the same extent it would if the individual were an applicant for AFDC.

1. Example: An eligible unit reports (using any acceptable mechanism) during the May Processing Month that an individual (e.g., newborn, child returning from foster care, etc.) moved into the home on May 10. The CWA determines that the individual is eligible for AFDC prospectively for May and June. The CWA shall reflect the additional individual's needs in the assistance payment for the June Payment Month and **\*[may]\*\*shall either\*** issue an additional payment for May's eligibility (May 10 through 31) **\*or include this additional payment for May in the grant issued for the June Payment Month\***.

2. (No change from proposal.)
- (b) (No change from proposal.)

#### 10:90-4.5 Suspension

(a) (No change from proposal.)

(b) Accordingly, the CWA shall suspend assistance for a payment month when ineligibility for that one payment month was caused by a regular and periodic extra paycheck **\*received in the corresponding budget month\*** from a recurring income source. **\*The CWA may also suspend assistance when one or more of these regular checks from a recurring income source increased due to a temporary (one-month) increase in hours worked or rate paid, e.g., overtime.\***

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

(e) Subsequent eligibility: The MSR issued to the family/household during the payment month of suspension shall **\*I\*** be used to determine if eligibility will be restored for the subsequent payment month.

1. (No change from proposal.)

2. If the MSR issued during the suspension month reflects continued ineligibility, the case shall be closed.

i. Example: Given the situation in (d)1 above, the eligible unit reports on **\*the\*** MSR issued in June (May Budget **\*[m]\*\*M\***onth) four weeks of earnings at \$100.00 per week (\$400.00 total). The CWA shall reinstate the eligible unit and issue a payment on July 1 (July Payment Month). If, however, the eligible unit reports on the MSR issued in June (May Budget Month) four weeks of earnings at \$120.00 per week (\$480.00 total), the CWA shall close the case effective July 1 (July Payment Month).

(f) \$30.00 and one-third disregard: For AFDC purposes, if income from a recurring source results in suspension **\*[or termination]\*** due to receipt of an extra paycheck, the payment month of ineligibility **\*[suspension]\*** does not interrupt the accumulation of consecutive months of the \$30.00 and one-third disregard, nor does it count as one of the consecutive months.

(g) (No change from proposal.)

#### 10:90-4.6 Reinstatement

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

(d) If the CWA reinstates the family/household, the CWA must immediately issue an MSR for the Budget Month that precedes the Payment Month of termination. The eligible unit/household must

file this MSR according to the Filing and Extension Deadlines established for that Budget Month's MSR.

1. Example: An eligible unit/household does not submit its January Budget Month MSR and **\*the\*** CWA terminates assistance effective March 1 (March is the Payment Month of termination). On March 3 the family/household applies for reinstatement. On March 4 the family/household completes the January Budget Month MSR and the CWA determines that the family/household is eligible for assistance. The CWA shall then immediately issue an MSR for the February Budget Month, which the eligible unit/household must complete **\*[the]\*\*and\*** file by the March 5 filing Deadline.

(e) (No change from proposal.)

#### 10:90-4.7 **\*[Food Stamp Program]\*\*Other program eligibility requirements\***

(a) Information and verification requirements: The CWA shall require **\*[a food stamp]\*\*an eligible unit/\*** household in monthly reporting to provide additional information and verification necessary to determine eligibility for **\*AFDC/\*** food stamp benefits. The CWA shall also take appropriate action concerning the **\*eligible unit/\*** household's **\*[food stamp]\*** benefits if required information and verification is not provided by the Extension Deadline.

(b) Additional **\*[food stamp]\*** eligibility information: Upon receipt of the monthly report, the CWA may contact the **\*eligible unit/\*** household directly, as needed, to obtain further information on specific items. These items include **\*, but are not limited to\***:

1. The effect of a reported change in resources on **\*[a household's]\*\*the\*** total resources **\*of the eligible unit/household\***; and

2. The effect of a reported change in **\*eligible unit/\*** household composition on the applicability of the **\*WIN Program/\*** work registration requirement.

(c) The CWA shall require the **\*eligible unit/\*** household to verify information **\*on\*** the MSR as follows:

1. **\*[Each month the household shall verify gross nonexempt income, utility expenses which exceed the standard, medical expenses, and all questionable information;]\*** **\*Each month the eligible unit/household shall verify gross income (all earned income and new or changed unearned income), all questionable information, and, for food stamp purposes, utility expenses which exceed the standard utility allowance and medical expenses (for those households claiming medical expenses);\*** and

2. The **\*eligible unit/\*** household shall verify alien status, Social Security numbers, residency and citizenship, if these items have changed since the last report.

(d) CWA action on incomplete verification: If **\*[a]\*\*an eligible unit/\*** household does not provide required verification by the Extension Deadline, the CWA shall take the following actions:

1. If the **\*eligible unit/\*** household does not verify earned income **\*or new or changed unearned income\***, the CWA shall regard the household's report as incomplete, **\*and\*** take action in accordance with N.J.A.C. 10:90-5.2(a)2;

2.-3. (No change from proposal.)

**4. If the eligible unit/household does not verify new or changed expenses for child/incapacitated adult care, the CWA shall not allow the child/dependent care deduction;\***

**\*[4.\*\*\*5.\*** If the **\*eligible unit/\*** household does not verify other items for which verification is required, the CWA shall:

i.-ii. (No change from proposal.)

(e) Termination: **\*[The]\*\*Not withstanding N.J.A.C. 10:90-2.3(a)5, the\* CWA shall terminate **\*[a]\*\*an eligible unit's AFDC benefits/\*** household's food stamp participation if **\*[the household]\*\*:****

1. **\*[Is]\*\*The eligible unit/household is\*** ineligible for **\*AFDC/\*** food stamps, unless suspended in accordance with N.J.A.C. 10:90-4 **\*[6]\*\*5\***;

2. **\*[Fails to file a complete report]\*** **\*The monthly report remains incomplete\*** by the Extension Deadline; or

3. **\*[Fails]\*\*The eligible unit/household fails\*** to comply with a nonfinancial eligibility requirement, such as registering for **\*the WIN Program or\*** employment.

(f) Notice of termination: The CWA shall issue a notice of termination to the **\*eligible unit/\***household so that it receives the notice no later than the household's normal payment date. This notice of termination must:

1. (No change from proposal.)
2. Inform the **\*eligible unit/\***household of the reason for its termination;
3. Explain how the **\*eligible unit/\***household may be reinstated; and
4. Inform the **\*eligible unit/\***household of its right to request a fair hearing and to receive continued benefits.

#### 10:90-5.1 By the Filing Deadline

(a) MSR is received: If the MSR is received by the CWA by the Filing Deadline, the CWA must review the report to determine its accuracy and completeness.

1. (No change from proposal.)
2. MSR is not complete: If the MSR is not complete, as defined in N.J.A.C. 10:90-2.3(a)2, the CWA shall:
  - i.–ii. (No change from proposal.)
  - iii. Send the eligible unit/household a notice (the Extension Notice) identifying the incomplete areas and advising that its **\*[s]\*** assistance payment/food stamp benefit will be terminated for the relevant Payment Month.

3. Extension Notice: The Extension Notice shall be the adequate notice sent to an eligible unit/food stamp household that has not filed timely, i.e., whose complete MSR has not been received by the Filing Deadline. The Extension Notice is the form which serves to notify an eligible unit/household that its assistance is being terminated by the CWA for failure to comply with the monthly reporting requirement (submit a complete MSR). It lists the **\*[m]\*\* n\***complete items and the effective date of the termination, and provides a 10-day Extension Period during which the eligible unit/household may complete and submit the MSR and have the CWA reconsider the termination action and evaluate eligibility. The Extension Notice contains a detailed section on the fair hearing process advising of rights and responsibilities, availability of free legal services and contains the Division's toll-free telephone number. Within this section, the eligible unit/household is also provided with a convenient "tear sheet" form to be used for initiating a fair hearing request if the eligible unit/household so desires. The CWA shall send the Extension Notice to each appropriate eligible unit/household on the Filing Deadline, or no later than the next calendar day after the Filing Deadline. The Extension Notice must advise that:

- i.–iv. (No change from proposal.)
- (b) (No change from proposal.)

#### 10:90-5.3 During the Reinstatement Period

- (a) (No change from proposal.)
- (b) MSR is received: If the MSR (or replacement form) is received by **\*t\*he** CWA during the Reinstatement Period, the CWA must review the report to determine its accuracy and completeness.
  - 1.–2. (No change from proposal.)

#### 10:90-5.4 Changes reported by means other than the MSR

**\*[a)\*** Changes that are reported by the eligible unit/household by means other than the MSR shall be acted upon immediately by the CWA\*[. If a change so reported results in a reduction or termination of the assistance payment/food stamp benefit, the CWA shall act upon the change in accordance with N.J.A.C. 10:82-2.20 and 10:87-9.7(b)1 by sending a timely (10-day) and adequate notice to the eligible unit/household informing it of the change in its assistance payment/food stamp benefit.]\***\*by determining eligibility prospectively for the payment month. Except for situations in N.J.A.C. 10:90-4.4, the CWA shall act upon this**

**change in the AFDC grant/food stamp benefit calculation when the month in which the change occurred becomes a budget month.\***

**\*1. If a change so reported results in the family's/household's ineligibility for an assistance payment/food stamp benefit for the payment month, the CWA shall suspend or terminate benefits in accordance with N.J.A.C. 10:82-2.20 and 10:87-9.7(b)1 by sending a timely (10-day) and adequate notice to the eligible unit/household informing it of the change in assistance payment/food stamp benefit.**

**2. If a change so reported results in the family's/household's eligibility for the payment month, the CWA shall calculate the assistance payment/food stamp benefit by retrospectively budgeting the income and circumstances of the corresponding budget month.**

**3. Example: A case in bimonthly reporting submits its January Budget Month MSR timely in the February Processing Month and the CWA determine eligibility and calculates the grant/allotment for the March Payment Month. In February, a change in circumstances occurs which the client reports in February. The CWA shall immediately act on the change by determining eligibility prospectively for the March Payment Month. If eligible, the CWA shall issue the AFDC grant/food stamp benefit calculated retrospectively, based on the January Budget Month's income and circumstances.**

**4. Example: Given the situation in (a)3 above, the client reports the change timely by the next calendar (March) Filing Deadline, even though the family will not receive its next MSR until April 1 (March Budget Month). In March CWA will act upon this change by determining eligibility prospectively for the April Payment Month and, if eligible, by calculating the AFDC grant/food stamp benefit retrospectively, based on income and circumstances in the corresponding Budget Month of February, the month in which the change occurred.\***

#### 10:90-6.1 Redeterminations/recertifications

(a) The CWA shall redetermine/recertify the unit's/household's eligibility using prospective budgeting and shall compute the assistance payment/food stamp benefit using retrospective budgeting. This shall be accomplished through the use of two forms: the PA-1J and the MSR. The Payment Month shall be the first month of the new redetermination/recertification period. The MSR from the corresponding Budget Month shall be used in the retrospective budgeting calculation. All processing time frames, etc., that apply to the MSR in the monthly reporting process shall apply to the **\*MSR in the\*** redetermination/recertification process.

- 1.–2. (No change from proposal.)
- (b) Special procedures for the recertification: The CWA and household shall follow special procedures for the food stamp recertification:

1. The CWA shall mail the notice of expiration of the certification period to the household **\*either\*** with the MSR **\*or with the letter scheduling the recertification interview\***;

- 2.–3 (No change from proposal.)
- (c) (No change from proposal.)

#### 10:90-6.2 Fair hearings

(a)–(b) (No change from proposal.)

(c) Continued assistance: If an eligible unit/household requests a fair hearing in accordance with (b) above, within 10 days of the date of the adverse action notice, and does not waive continued assistance, the CWA shall continue assistance until the resolution of the fair hearing. For **\*hearing requests concerning\*** food stamp-related information reported on the MSR, the CWA shall continue food stamp benefits until the end of the certification period or resolution of the fair hearing, whichever is first. Receipt of continued assistance is also subject to the following provisions:

1. (No change from proposal.)
2. During the period the fair hearing is pending, the CWA shall

adjust the assistance payments/food stamp benefits to take into account reported changes, except for the factor(s) on which the fair hearing is based:

i. Example: On March 1 an eligible unit of four receives a termination notice dated February 27 based on its January **\*Budget Month\*** MSR, and on March 3 requests a fair hearing and continued assistance. (The fair hearing issue concerns the budgeting of January's income.) The CWA issues **\*both\*** a grant at the prior month's (February) amount (\$200.00) and the February Budget Month MSR. The eligible unit must file this MSR according to appropriate deadlines in order to receive a grant on April 1. This MSR is filed and indicates that an individual left the eligible unit in February. The CWA shall recompute the assistance payment for the new eligible unit of three and on April 1 issue the correct (reduced) assistance payment and an adequate adverse action notice (reduction in assistance).

#### 10:90-6.3 Transfers

(a) The following policy for cases transferred into or out of counties involved in monthly reporting supplements CWA transfer responsibilities contained in N.J.A.C. 10:81-3.27 and 10:87-9\*. \* 8:

1. Transfer from a non-MR county to an MR county:

i. (No change from proposal.)

ii. Responsibilities of the receiving MR county: The CWA shall:

(1) (No change from proposal.)

(2) Ensure that the eligible unit/household shall begin monthly reporting (filing the MSR) for the second payment/allotment in the receiving county. The eligible unit/household must receive the MSR form with the first payment/allotment issued by the receiving CWA.

(A) Example: A family/household transfers from a non-MR CWA to an MR county on June **\*[10]\*\*9\***. The receiving MR CWA issues the first assistance payment/food stamp benefit and **\*(June Budget Month)\*** MSR to the eligible unit/household on July 1 **\*[(June Budget Month)]\***. The first payment/allotment computed using **\*[MR/RB]\*\*retrospective budgeting\*** is for August 1.

(B) Example: A family/household transfers from a non-MR CWA to a MR CWA on June 26. The receiving MR CWA issues the first assistance payment/food stamp benefit and **\*(July Budget Month)\*** MSR to the eligible unit/household on August 1 **\*[(July Budget Month)]\***. The first payment/allotment computed using **\*[MR/RB]\*\*retrospective budgeting\*** is for September 1.

2.-3. (No change from proposal.)

(a)

## DIVISION OF YOUTH AND FAMILY SERVICES

### Child Care

#### Manual of Standards for Child Care Centers

#### Notice of Correction: N.J.A.C. 10:122-4.1, 4.3, 4.4, 4.5, 4.6 and 4.7

Take notice that the operative date for the adopted amendments and new rules to N.J.A.C. 10:122 concerning the Manual of Standards for Child Care Centers, and appearing by notice of adoption in the November 1, 1982 Register at 14 N.J.R. 1218(a), is **January 1, 1983**.

## INSURANCE

(b)

### DIVISION OF ADMINISTRATION

#### Insurance Claims

#### Unfair Claims Settlement Practices

#### Adopted Amendment: N.J.A.C. 11:2-17.7

Proposed: September 7, 1982 at 14 N.J.R. 966(a).

Adopted: October 22, 1982 by Joseph F. Murphy, Commissioner, Department of Insurance.

Filed: October 28, 1982 as R.1982 d.400, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:29B-1 et seq. and 17B:30-1 et seq.

Effective Date: November 15, 1982.

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

The Department has received written commentary regarding the proposed amendment to section 7 of the Unfair Claims Settlement Practices regulation from three interested persons and organizations. All commenters expressed support for this proposal.

(c)

### DIVISION OF ADMINISTRATION

#### Insurance Group

#### Readable Policies

#### Adopted New Rule: N.J.A.C. 11:2-18

Proposed: September 7, 1982 at 14 N.J.R. 967(a).

Adopted: October 28, 1982 by Joseph F. Murphy, Commissioner, Department of Insurance.

Filed: October 28, 1982 as R.1982 d.410, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and 56:12-1 et seq.

Effective Date: November 15, 1982.

Operative Date: November 15, 1982, except for N.J.A.C. 11:2-18.4(d) which will be operative July 1, 1983.

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

The Department has received comments concerning the proposed new rule on readable policies from approximately 10 interested persons or organizations.

Many of these comments focused on "applications to be signed by the applicant" which were incorporated into the proposed rule under the definition of "Policy". Commenters questioned the applicability of the Plain Language Law (N.J.S.A. 56:12-1 et seq.) to such applications or objected to the application of particular

standards, such as the mandatory 10 point requirement found under N.J.A.C. 11:2-8.4(c) of the proposal, to applications. Commenters argued for the deletion of these applications from the rule, suggested the elimination or relaxation of the 10 point type requirement, or requested a delayed operative date for any type size requirement.

The arguments advanced for these various changes included: (1) applications are intended to provide underwriting information to the insurer rather than to explain the consumer's rights or responsibilities; (2) although it is a prerequisite to contract issuance, the application is not part of the contract; (3) the producer completes or assists in the completion of the application, and serves as a plain language interpreter; (4) it was not legislative intent to include insurance applications under the Plain Language Law; (5) the 10 point type requirement would result in substantial lengthening of the application and would increase production costs. The ability of insurers to achieve timely compliance with the 10 point type standard was also questioned by commenters.

The Plain Language Law at N.J.S.A. 56:12-1 defines a "consumer contract," in part, as a "written agreement in which an individual . . . obtains insurance coverage". Consumer contracts include "writings required to complete the consumer transaction." The Department believes that an application, which is a prerequisite to issuance of coverage, constitutes such a required "writing." The language of the statute does not treat insurance transactions differently than, for instance, credit transactions. Further, some applications, in addition to providing underwriting information, also, for example, serve to bind coverage or contain notices concerning the consequences of misrepresentation. Accordingly, applications to be signed by the applicant are still included in the adopted rule.

The Department continues to believe that a minimum type size requirement is appropriate for applications to be signed by the applicant. In response to the specific comments concerning the 10 point type standard, we have, however, amended the rule to permit such applications to be printed in not less than 8 point type, one point leading. The 8 point type requirement for applications becomes operative on July 1, 1983. This operative date should allow insurers sufficient time to modify their forms. In the interim, the Department will continue to review applications in accord with the other readability standards set forth in the statute and adopted rule. In connection with this review, it should be noted, that pursuant to section 10(b)(3) of the Plain Language Law, "conditions or exceptions to the main promise of the agreement" must be printed in at least 10 point type.

Some commenters questioned the Department's statutory authority to establish a separate implementation date for the 8 point type standard on applications. It should be noted, however, that the Plain Language Law, which became operative with respect to contracts of insurance on October 16, 1982, does not contain in its "examples of guidelines" a type size standard, other than that applicable to "conditions and exceptions to the main promise", as noted earlier. It would, therefore, appear to be within the Department's discretion to modify, upon adoption, such additional standards as are set forth in the rule and to establish appropriate operative dates for such standards.

Another commenter, an attorney representing Underwriters at Lloyd's, objected to the inclusion of surplus lines insurers under the rule. He argued that the readability standards applicable to admitted carriers would stifle the ability of surplus lines insurers to cover unique and exotic risks. In addition, the commenter challenged the authority of the Commissioner to apply the regulation to surplus lines policies, asserting that there is no mention of those specific contracts in the Consumer Contract Readability Act. Finally, it was argued that surplus lines insurers by definition do not "do business" in New Jersey, and further, that the State's jurisdictional limitations with respect to surplus lines insurers is evidenced by the existence of the New Jersey surplus lines statutes as a separate and distinct body of law.

The Department acknowledges that insurance business "exported" to surplus lines carriers may at times have special problems and special needs. Whether statutory rules proposed to regulate the conduct of licensed insurers in New Jersey should be applicable to surplus lines insurers is a question the Legislature might reasonably consider in each case.

In this case we see no adequate foundation for the view that the Legislature did not intend readability standards to apply to surplus lines policies. The Consumer Contract Readability Act specifically applies to "insurance" contracts and it makes no exception for surplus lines insurers or their policies.

The Department also recognizes that surplus lines insurers frequently deal with risks of a unique and exotic nature. Covering such risks or tailoring insurance contracts to the needs of a particular insured would not, however, appear to be inconsistent with creating a contract which is readable in accordance with the standards of the statute and adopted rule.

Since the law and the regulation apply only to those contracts in which an individual purchases insurance for personal, family or household purposes—and not to commercial insurance—we see little justification for the fear that readability standards will constrain the ability of surplus lines insurers to cover "unique and exotic risks." Whether insurance bought for personal and family purposes is ordinary or unique, and perhaps most especially if it is exotic, we believe the Legislature clearly intended that New Jersey consumers be able to read about their coverage in clear and simple language.

The Commissioner's grant of reasonably broad regulatory authority in regard to surplus lines insurers is also clear. He has the unquestioned authority to place such insurers on the list of eligible surplus lines insurers or to withdraw their eligibility for surplus lines business, pursuant to N.J.S.A. 17:22-6.45 and 6.46. Several court cases, particularly *Howell vs. Rosecliff Realty Company*, 52 N.J. 313, (1968), have affirmed his authority over surplus lines carriers. His general regulatory authority to effectuate the purposes of insurance law contains no exclusion for surplus lines companies.

Another comment on the proposed rule concerned its applicability to personal excess liability policies (personal umbrella). It was argued that the Plain Language Law was intended to apply to primary insurance rather than excess coverage, and only to those forms of coverage purchased by the majority of insurance buyers. The personal umbrella, although perhaps purchased by relatively few consumers, nevertheless provides coverage which is issued to an individual for personal, household or family purposes. We believe such policies should be written in clear and simple language.

Finally, one commenter, a national trade association of property/casualty insurers, cautioned against relying on any one specific test (in this case the Flesch Readability Test) or any combination of tests to determine whether a policy is readable. The Department recognizes that an objective readability standard, such as the Flesch Test, has certain inherent strengths and limitations. We nevertheless find the use of such criteria in combination with other standards to represent a reasonable and practical approach to enhancing policy readability.

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

#### 11:2-18.4 Minimum readability standards

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

**\*(d) Applications to be signed by the applicant shall be printed in not less than 8 point type, one point leading. Provided, however, that conditions or exceptions to the main promise of the agreement contained in an application shall be printed in at least 10 point type. (See N.J.S.A. 56:12b.(1).)**

**1. The 8 point type, one point leading standard set forth in (d) above shall become operative on July 1, 1983.\***

Renumber (d)-(i) as (e)-(j)

\*[(i)]\* \*(j)\* The text of a policy shall achieve a score of at least 40 on the Flesch reading ease test or an equivalent score on a comparable test authorized for use by the Commissioner.

1. For the purpose of \*[(i)]\* \*(j)\* of this section, a Flesch reading ease test score shall be measured by the following method:

- i.-v. (No change from proposal.)
- 2.-3. (No change from proposal.)

## LAW AND PUBLIC SAFETY

### (a)

#### BOARD OF ACCOUNTANCY

##### General Rules and Regulations Applications for Original Examination

##### Adopted Amendment: N.J.A.C. 13:29-1.6

Proposed: July 19, 1982 at 14 N.J.R. 749(b).  
Adopted: September 9, 1982 by New Jersey State Board of Accountancy, Elliott Pachtman, President.  
Filed: October 28, 1982 as R.1982 d.405, **without change**.

Authority: N.J.S.A. 45:2B-8(b) and 45:2B-6(g).

Effective Date: November 15, 1982.

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

### (b)

#### BOARD OF ACCOUNTANCY

##### Rules of Professional Conduct Professional Misconduct

**Adopted Amendments: N.J.A.C. 13:29-3.1 through 3.9, 3.12, 3.14, 3.15 and 3.16**  
**Adopted New Rule: N.J.A.C. 13:29-3.13**  
**Adopted Repeal: N.J.A.C. 13:29-3.17 and 3.18**

Proposed: August 16, 1982 at 14 N.J.R. 895(a).  
Adopted: September 24, 1982 by New Jersey State Board of Accountancy, Elliott Pachtman, President.  
Filed: October 28, 1982 as R.1982 d.407, **without change**.

Authority: N.J.S.A. 45:2B-6(g).

Effective Date: November 15, 1982.

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

### (c)

#### BOARD OF MORTUARY SCIENCE

##### Examinations Examination Subjects

##### Adopted Amendment: N.J.A.C. 13:36-3.4

Proposed: August 16, 1982 at 14 N.J.R. 897(a).  
Adopted: October 12, 1982 by New Jersey State Board of Mortuary Science, J. Patrick Growney, President.  
Filed: October 28, 1982 as R.1982 d.409, **without change**.

Authority: N.J.S.A. 45:7-49(a)(1).

Effective Date: November 15, 1982.

Summary of Public Comments and Agency Responses:

The Board of Mortuary Science received only one comment. The New Jersey State Funeral Directors Association representing funeral directors expressed full support for the amendments and urged their adoption. There were no points of controversy.

### (d)

#### BOARD OF MORTUARY SCIENCE

##### Mortuaries Advertising

##### Adopted Amendment: N.J.A.C. 13:36-5.12

Proposed: August 16, 1982 at 14 N.J.R. 898(a).  
Adopted: October 12, 1982 by Board of Mortuary Science, J. Patrick Growney, President.  
Filed: October 28, 1982 as R.1982 d.404, **without change**.

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

Effective Date: November 15, 1982.

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

### (e)

#### BOARD OF NURSING

##### Licensure by Examination Nursing School Course

##### Adopted Amendment: N.J.A.C. 13:37-9.2

Proposed: July 6, 1982 at 14 N.J.R. 701(a).  
Adopted: September 24, 1982 by New Jersey State Board of Nursing, Anne Kellett, President.

Filed: October 28, 1982 as R.1982 d.406, **without change.**

Authority: N.J.S.A. 45:11-27(a)(4) and 45:11-24d(19).

Effective Date: November 15, 1982.

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

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**(a)**

## **BOARD OF NURSING**

### **Fee Schedule General Provisions**

#### **Adopted Amendment: N.J.A.C. 13:37-12.1**

Proposed: June 21, 1982 at 14 N.J.R. 635(a).  
Adopted: September 24, 1982 by New Jersey State Board  
of Nursing, Anne Kellett, President.  
Filed: October 28, 1982 as R.1982 d.408, **without change.**

Authority: N.J.S.A. 45:1-3.2.

Effective Date: November 15, 1982.

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

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## **OTHER AGENCIES**

**(b)**

### **NEW JERSEY MORTGAGE FINANCE AGENCY**

#### **Contracting Debarment and Suspension**

#### **Adopted New Rule: N.J.A.C. 19:1-1.6**

Proposed: September 20, 1982 at 14 N.J.R. 1050(a).  
Adopted: November 3, 1982 by Christopher G. Kelly,  
Executive Director, New Jersey Mortgage Finance  
Agency.  
Filed: November 3, 1982 as R.1982 d.413, **without change.**

Authority: N.J.S.A. 17:1B-7(a), 8(c) and (v).

Effective Date: November 15, 1982.

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

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# EMERGENCY ADOPTIONS

(a)

## DIVISION OF PUBLIC WELFARE

### Home Energy Assistance Handbook Income Eligibility, Automatic Payments, Special and Emergency Energy Assistance, Maximum Benefits, Verification Income, Notice Requirements, Recoupment

### Adopted Emergency Amendments and Concurrent Proposals: N.J.A.C. 10:89-2.3, 3.1, 3.2, 3.4, 3.5, 3.6, 4.1, 5.2 and 5.3

Emergency Amendment Adopted: October 28, 1982 by  
George J. Albanese, Commissioner, Department of  
Human Services.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)):  
October 28, 1982.

Emergency Amendment Filed: November 1, 1982 as  
R.1982 d.412.

Authority: N.J.S.A. 30:4B-2.

Emergency Amendment Effective Date: November 1,  
1982.

Emergency Amendment Expiration Date: December 31,  
1982.

**Interested persons** may submit in writing, data, views or  
arguments relevant to the proposal on or before December 15,  
1982. These submissions, and any inquiries about submissions and  
responses, should be addressed to:

G. Thomas Riti, Director  
Division of Public Welfare  
CN 716  
Trenton, NJ 08625

This amendment was adopted on an emergency basis and became  
effective upon acceptance for filing by the Office of Administrative  
Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-  
4.4). Concurrently, the provisions of this emergency amendment  
are being proposed for re-adoption in compliance with the normal  
rulemaking requirements of the Administrative Procedure Act  
N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective  
upon acceptance for filing by the Office of Administrative Law (see  
N.J.A.C. 1:30-4.4(d)).

The current proposal is known as PRN 1982-492.

The Agency emergency adoption and concurrent proposal  
follows:

#### Summary

The Home Energy Assistance (HEA) program is a Federal block  
grant program authorized by Title XXVI of the Omnibus Budget  
Reconciliation Act of 1981. The program is intended to assist low-  
income households meet the rising cost of home energy. The  
proposed revisions to the HEA Handbook, which establishes the

State's policy for administering the HEA program, update and  
clarify the following issues.

The monthly income disregard of the Tenants Lifeline Credit  
Program for SSI recipients has been increased from \$12.50 to  
\$14.60. The gross monthly income eligibility guidelines have been  
increased in line with new poverty guidelines promulgated by the  
United States Department of Health and Human Services.

The policy concerning issuance of automatic payments to certain  
households has been revised to indicate that all such households will  
receive two installment payments and that due to modification of  
the State Data Exchange computer file by the Social Security  
Administration, eligible SSI recipients cannot be identified from  
that source. Instead, SSI recipients will be identified and paid as  
members of non-public assistance food stamp households based on  
information contained in the Division of Public Welfare's computer  
records. Also, SSI recipients who are residents of residential health  
care facilities will not be included in the automatic payment process  
but may file an application for HEA benefits.

The process whereby special energy benefits are paid to eligible  
households which are responsible to a public utility for heating costs  
in the form of two-party checks has been extended to apply to  
households whose fuel supplier is an authorized vendor as well.

With respect to emergency energy assistance, a provision which  
requires the recipient to account for the expenditure of all program  
benefits received prior to the request for emergency assistance has  
been added in an attempt to ensure such funds are used for heating  
purposes. The procedure for verifying earned income has been  
changed, i.e., wage stubs relating to any consecutive four week  
period within the five weeks prior to the application date will be  
required.

Revision to the notice requirements simply involve the  
identification of all notices relating to eligibility or denial as Form  
EP-2, "Notice of Home Energy Assistance Action".

The maximum program benefit has been raised from \$750.00 to  
\$900.00, because benefit levels have been raised in line with  
available Federal funding and rising average annual fuel costs.  
Finally, the section on recoupment of overpayments has been  
clarified to include payments which are duplicative as well as those  
which exceed the maximum program benefit.

#### Social Impact

Approximately 205,000 households were assisted during the  
fiscal year (FY) 1982 HEA program, and projections are that  
207,000 households will be served in FY 1983. This low income  
population will receive the most direct benefit since they are the  
ones to receive the supplement to assist them in meeting their  
heating costs. These revised regulations should ensure that this low  
income population will receive aid promptly and efficiently.

#### Economic Impact

There will be no direct economic impact upon New Jersey  
taxpayers since the entire cost of assistance and administration is  
Federally funded. There will be an indirect benefit to the public as  
a whole since there will be an influx of Federal dollars into the  
State's economy. The program's allocation was \$72 million for  
Federal FY 1982 and we anticipated the same level of Federal  
funding in FY 1983.

The direct beneficiaries of the program will be the approximately  
207,000 households anticipated to receive assistance in FY 1983.  
In an attempt to ensure that the program benefits are used for the  
intended purpose, which is to offset the increasing cost of home  
heating fuels, applicant households which are directly responsible

to a participating fuel supplier will receive their benefit in the form of a two-party check, payable to both the head of household and the fuel supplier. This is an extension of the form of payment used in FY 1982 to pay eligible households whose heating fuel is provided by a utility company, which will also be continued in FY 1983.

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

10:89-2.3 Income eligibility

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

(f) Income computation: Countable [G]gross monthly earned and unearned income, as defined in (c) and (d) above, and verified in accordance with N.J.A.C. 10:89-4.1(e), shall be [established in accordance with procedures in N.J.A.C. 10:89-2.14 through 2.18 in the Assistance Standards Handbook] added to determine the household's total gross monthly income. If the household's total gross monthly income is equal to or less than the gross income limit for the household size, the household is income eligible for Home Energy Assistance.

1.-4. (No change.)

5. If a household member receives Social Security benefits and/or SSI the CWA must determine the countable income as follows:

i. (No change.)

ii. For individuals receiving SSI the CWA shall deduct the \$[12.50] 14.60 supplemental payment from the Tenants Lifeline Credit program which is included in the SSI check. The balance shall be considered as income to the household.

[iii. The CWA shall not consider as income the \$62.50 retroactive payment from the Tenants Lifeline Credit program paid to the individuals receiving SSI.]

(g) Gross income eligibility limits for home energy assistance;

Household Size	Monthly Allowable Gross Income Limit
1	[\$ 449] <b>\$ 487</b>
2	[ 593] <b>648</b>
3	[ 737] <b>809</b>
4	[ 880] <b>970</b>
5	[ 1024] <b>1131</b>
6	[ 1168] <b>1292</b>
7	[ 1312] <b>1453</b>
8	[ 1456] <b>1614</b>
9	[ 1600] <b>1775</b>
10	[ 1744] <b>1936</b>
Each Additional Member	[ +144] <b>+ 161</b>

10:89-3.1 Automatic payments to certain households

(a) Recipient households:

1. Certain households eligible for and receiving AFDC or [SSI (with the exceptions noted in (a)ii below) during October will receive the first of two payments based on household size, income and responsibility for heating costs in November. The second payment will be made in January. A notice explaining that the automatic payment is a supplement to assist the household meet its heating costs will be included with the payment] non-public assistance (NPA) Food Stamps (FS) will receive automatic payments based on the information regarding income, household size, heating arrangement and fuel type contained in computer records maintained by the Division of Public Welfare. Where the household receives FS as a public assistance (PA) household and the PA FS household is greater than the AFDC eligible unit, the automatic payment shall be based on the PA FS household size. This information will be collected from the head of the household at each application,

reapplication or recertification for AFDC or FS and will be updated whenever the household reports a change. However, once a household becomes eligible for automatic payments, the entitlement cannot be adjusted.

i. Automatic payments will only be made [between November and January. Households which do not receive automatic payments by January 31, must submit an application by February 15th to receive HEA.] during the heating season. The entitlement will be paid in two installments. Households which do not receive automatic payments must submit an application to receive HEA.

ii. (No change.)

2. [AFDC households: The Division of Public Welfare will determine eligibility for automatic payments based on the information regarding heating arrangements and fuel type contained in its computer records for all AFDC households. Where the household receives Food Stamps (FS) as a public assistance (PA) household and the PA FS household is greater than the AFDC eligible unit, the automatic payments shall be based on the PA FS household size. This information will be collected from the head of the household at each application, reapplication or recertification for AFDC or FS and will be updated whenever the household reports a change. However, once a household becomes eligible for automatic payments, only an address change will be reflected in HEA records.] SSI households: Since the State Data Exchange (SDX) no longer contains sufficient information to determine eligibility for HEA, automatic payments cannot be issued directly to SSI recipients. However, the Division of Public Welfare has determined that a significant number of SSI recipients receive NPA-FS; therefore, many will receive benefits as members of such households. The Division will also send letters to all other potentially eligible SSI recipients inviting them to file an application.

[3. SSI households: The Division of Public Welfare will determine eligibility for automatic payments for SSI households based on the information contained in the State Data Exchange (SDX) computer tape provided by the Social Security Administration. Automatic payments for SSI households will be based on Schedule C. Such households may submit an application for supplemental benefits in accordance with N.J.A.C. 10:89-4.1(c).

i. In addition to the criteria established in (a)lii above, SSI households which meet any of the following descriptions are not eligible for automatic payments:

(1) Persons determined for SSI purposes to be receiving support and maintenance from others (Federal living arrangement "B"). Households including such persons may be income eligible in accordance with N.J.A.C. 10:89-2.3;

(2) Children receiving SSI (households including such children may apply for special energy assistance, see N.J.A.C 10:89-3.2;

(3) Residents of any licensed medical facility (hospital, skilled nursing facility or intermediate care facility) or publicly operated community residence; and

4. Residents of residential health care facilities (RHCF): Automatic payments will be made to eligible SSI recipients who reside in residential health care facilities (RHCF). The Division of Public Welfare will determine eligibility for automatic payments to RHCF residents based on information contained in the SDX computer tape and supplementary computer records assembled by the Division. RHCF residents are identified by Federal living arrangement A, State living arrangement A.]

10:89-3.2 Special energy assistance

(a) Upon application at the CWA, or outreach site, eligible households which have not received or will not receive automatic benefits in accordance with N.J.A.C 10:89-3.1, [above] shall receive special energy assistance in accordance with this section. In order to be eligible for special energy assistance, the household must be income eligible (see N.J.A.C. 10:89-2.3).

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

(f) Households responsible for heating costs:

1.-3. (No change.)

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**HUMAN SERVICES**

4. A household directly responsible to a public utility or participating fuel supplier for payment of heating costs will receive the special energy benefit in the form of a two party check in the name of the head of household and the utility or supplier. The check will be mailed to the household which will be responsible for endorsing and forwarding to the utility or supplier.

5. A household directly responsible for payment of heating costs to any non-participating fuel supplier [of any fuel except electricity or natural gas] will receive the special energy benefit in the form of direct payments.

10:89-3.4 Emergency energy assistance

(a) Emergency energy assistance is available to income eligible households and is subject to the following conditions:

1.-3. (No change.)

4. [The client shall be required to provide the CWA with a receipt for fuel purchased with emergency energy funds.] **The client shall be required to account for the use of all funds received under the program prior to the request for emergency assistance. The CWA shall evaluate the request for emergency assistance with the understanding that any benefits previously provided to the client under this section or N.J.A.C. 10:89-3.1, "Automatic payments to certain households" and N.J.A.C. 10:89-3.2, "Special energy assistance" were intended to defray the cost of home heating fuel.**

5.-6. (No change.)

(b) (No change.)

(c) Emergency purchase of fuel.

1.-3. (No change.)

**4. The client shall be required to provide the CWA with a receipt for fuel purchased with emergency energy funds.**

(d)-(f) (No change.)

10:89-3.5 Maximum program benefit

[(a)] An eligible household may receive a maximum of \$[750.00] **900.00** in program benefits to include automatic or special payments plus any emergency assistance [benefits] **payments.** A household which receives more than \$[750.00] **900.00** is subject to recoupment procedures in accordance with N.J.A.C. 10:89-5.3.

10:89-3.6 Payment schedule

(a) Schedule A: Fuel Oil[,], Kerosene, Electricity:

HOUSEHOLD SIZE	1 or 2		3 to 5		6 or more	
Region Designation	Blue	Red	Blue	Red	Blue	Red
Monthly Income						
\$0-\$417.00	[428]	[372]	[572]	[496]	[684]	[596]
	<b>492</b>	<b>428</b>	<b>658</b>	<b>572</b>	<b>788</b>	<b>686</b>
\$417.01-\$667.00	[356]	[312]	[476]	[412]	[572]	[496]
	<b>410</b>	<b>358</b>	<b>548</b>	<b>476</b>	<b>658</b>	<b>572</b>
\$667.01-\$917.00			[380]	[332]	[456]	[396]
			<b>438</b>	<b>382</b>	<b>526</b>	<b>458</b>
\$917.01-\$1167.00			[284]	[248]	[344]	[296]
			<b>328</b>	<b>286</b>	<b>394</b>	<b>342</b>
\$1167.01-\$1583.00					[228]	[200]
					<b>262</b>	<b>228</b>
<b>Over \$1583.00</b>					<b>132</b>	<b>114</b>

"Blue" means Sussex and Warren counties.

"Red" means all other counties.

(b) Schedule B: All other fuel:

HOUSEHOLD SIZE	1 or 2		3 to 5		6 or more	
Region Designation	Blue	Red	Blue	Red	Blue	Red
Monthly Income						

\$0-\$417.00	[268]	[232]	[356]	[312]	[428]	[372]
	<b>322</b>	<b>280</b>	<b>430</b>	<b>374</b>	<b>516</b>	<b>448</b>
\$417.01-\$667.00	[224]	[192]	[296]	[260]	[356]	[312]
	<b>268</b>	<b>324</b>	<b>358</b>	<b>312</b>	<b>430</b>	<b>374</b>
\$667.01-\$917.00			[240]	[208]	[284]	[248]
			<b>286</b>	<b>250</b>	<b>344</b>	<b>298</b>
\$917.01-\$1167.00			[180]	[156]	[216]	[188]
			<b>214</b>	<b>186</b>	<b>258</b>	<b>224</b>
\$1167.01-\$1583.00					[144]	[124]
					<b>172</b>	<b>150</b>
<b>Over \$1583.00</b>					<b>86</b>	<b>74</b>

"Blue" means Sussex and Warren counties.

"Red" means all other counties.

(c) Schedule C: Renters [and SSI or RHCf automatic payments]:

HOUSEHOLD SIZE	1 or 2		3 to 5		6 or more	
Region Designation	Blue	Red	Blue	Red	Blue	Red
Monthly Income						
\$0-\$417.00	[216]	[188]	[284]	[248]	[344]	[296]
	<b>236</b>	<b>204</b>	<b>314</b>	<b>272</b>	<b>376</b>	<b>328</b>
\$417.01-\$667.00	[180]	[156]	[236]	[208]	[284]	[248]
	<b>196</b>	<b>170</b>	<b>262</b>	<b>228</b>	<b>313</b>	<b>272</b>
\$667.01-\$917.00			[192]	[164]	[228]	[200]
			<b>210</b>	<b>182</b>	<b>250</b>	<b>218</b>
\$917.01-\$1167.00			[144]	[124]	[172]	[148]
			<b>156</b>	<b>136</b>	<b>188</b>	<b>164</b>
\$1167.01-\$1583.00					[116]	[100]
					<b>126</b>	<b>110</b>
<b>Over \$1583.00</b>					<b>62</b>	<b>54</b>

"Blue" means Sussex and Warren counties.

"Red" means all other counties.

10:89-4.1 Opportunity and decision to apply

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

(e) (No change.)

1. Verification requirements: The CWA shall assist the household in obtaining the required verification.

i. Required documentation: The following must be verified and documented by the CWA prior to forwarding the application to DPW:

(1)-(6) (No change.)

(7) Earned income shall be verified by [at least one] wage stubs [indicating the most recent earnings within the month prior to application;] relating to any consecutive four week period within the five weeks before the date the client signs the Form EP-1 or reports a change in earnings.

(8)-(10) (No change.)

(i) (No change.)

(f)-(k) (No change.)

10:89-5.2 Notice requirements

(a) **Form EP-2C, (Right to a Hearing) will accompany [A] all notices and will include a statement regarding the right to appeal any decision regarding eligibility or amount of benefit and will be available in both English and Spanish.**

(b) The Division of Public Welfare or the CWA, as appropriate, will generate notices (Notice of Home Energy Assistance Action, Form EP-2) informing the household of [the] any action taken on its application. The CWA is responsible for promptly mailing Form EP-2 to the household.

1. For households determined eligible Form EP-2 will advise the households of the amount of assistance to which they are entitled.

2. For households [whose applications] which are denied, Form EP-2 will advise the households of the reason for denial.

(c) Households receiving automatic payments shall receive a

notice, (Notice of [Eligibility for Home Energy Assistance, Form EP-3] **Home Energy Assistance Action, Form EP-2**) included with the energy payment. [explaining that it is a supplement to assist the household to meet its rising heating costs and of the availability of special energy assistance] **The notice will advise the household of the amount of assistance to which they are entitled.**

[1. Form EP-3 will be provided by DPW to CWAs.

2. CWAs will insert Form EP-3 with the automatic energy payment.]

**(d) Households receiving AFDC or NPA FS which do not receive automatic payments shall also receive a Notice of Home Energy Assistance Action (Form EP-2) explaining why the household was not selected for an automatic payment. The notice will advise the household to contact the CWA for further information.**

**(e) The CWA is responsible for promptly mailing Form EP-2C and computer generated Form EP-2 to the household.**

#### 10:89-5.3 Recoupment of overpayments

**(a) Households which receive more than \$750.00 in HEA benefits during any program year, prior to October 1, 1982, or \$900.00 thereafter shall be considered to have been overpaid. Similarly, households which receive benefits that are duplicative, i.e., households receiving more than one full automatic and/or special energy entitlement, shall also be considered to have been overpaid, and will be required to repay the excess benefit. Upon discovery of an overpayment the CWA shall take action in accordance with the procedures in this subsection. The CWA shall seek recovery of all overpayments regardless of fault including overpayments caused by administrative error.**

1. **The amount of the overpayment shall be the difference between the total HEA benefit paid to the household and \$750.00 or \$900.00 as appropriate, or the amount determined by the CWA to be duplicative.**

2.-6. (No change.)

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# MISCELLANEOUS NOTICES

## ENVIRONMENTAL PROTECTION

(a)

### THE COMMISSIONER

#### State Certifications of Draft NPDES Permits

##### Public Notice

Robert E. Hughey, Commissioner of the Department of Environmental Protection, pursuant to the "New Jersey Water Pollution Control Act," N.J.S.A. 58:10A-1 et seq., is authorized to assess compliance of a surface water discharge with State law pertaining to discharges to the waters of the State. The Department is requested by the United States Environmental Protection Agency, as required by section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., to certify that a discharge, as described in a draft National Pollutant Discharge Elimination System permit, will not violate the requirements of State law.

The Department publishes public notice of certifications in the DEP Bulletin. Copies of the Bulletin may be obtained by calling (609) 292-3178 or writing to the Documents Distribution Center, P.O. Box 1390, Trenton, New Jersey 08625.

## LAW AND PUBLIC SAFETY

(b)

### DIVISION OF WEIGHTS AND MEASURES

#### Weights and Measures Liquid Measuring Devices

##### Notice of Correction: N.J.A.C. 13:47B-1.1

**Take notice** that a printing error appears in the New Jersey Administrative Code at N.J.A.C. 13:47B-1.1(b). This error will be corrected in the next update for Title 13. In order to clarify this printing error, the text of the duly promulgated rule follows (the correction is included in the text, with the correct word, which will appear in the Code, indicated in boldface **thus**; and the incorrect word, which will be deleted from the Code, indicated in brackets [thus]).

13:47B-1.1 Liquid measuring devices

- (a) (No change.)  
(b) Tests [may] **must** be made before the first sale each day, and also prior to using a new supply of liquid.

This Notice is published as a matter of public information.

# INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between November 2, 1981 and November 1, 1982, and which have not been adopted and filed by October 28, 1982. The index does not contain rules proposed in this Register and listed in the *Table of Rules in This Issue*. These proposals will appear in the next *Index of Proposed Rules*.

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit 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 of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings  
CN 301  
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
<b>ADMINISTRATIVE LAW--TITLE 1</b>			
1:1-2.2	Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 486(a)
1:1-2.2	Public hearing: Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 674(a)
1:1-5.2, 5.3	Pre-hearing information	6-21-82	14 N.J.R. 607(a)
1:1-9.1, 9.2, 9.6, 9.7, 13.2, 13.3, 14.5	Interlocutory review and emergency relief	11-1-82	14 N.J.R. 1182(a)
1:1-17.3	Return of cases	1-4-82	14 N.J.R. 4(b)
1:6A	Special Education Program hearing rules	9-7-82	14 N.J.R. 930(a)
1:20	Representation fee hearings before PERC Appeal Board	8-16-82	14 N.J.R. 862(a)
1:30	Agency rulemaking	8-2-82	14 N.J.R. 780(a)
1:30-3.8	Rulemaking: Agency status reports	11-1-82	14 N.J.R. 1185(a)
<b>BANKING--TITLE 3</b>			
3:1-2.20	Savings and loan branch facilities	11-2-81	13 N.J.R. 714(a)
3:6-9	Super NOW deposit accounts	8-2-82	14 N.J.R. 786(a)
<b>CIVIL SERVICE--TITLE 4</b>			
4:1-7.11	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-10.1, 10.2, 10.3, 10.5	Noncompetitive and labor titles	11-1-82	14 N.J.R. 1186(a)
4:1-12.10	Notifying eligibles of certification	9-7-82	14 N.J.R. 940(a)
4:1-15.2	Lateral title change	9-7-82	14 N.J.R. 940(b)
4:1-16.1-16.5	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-16.1-16.5	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:1-18.2, 18.6-18.8	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-18.4	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:1-24.1, 24.3-24.12	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-24.1, 24.3-24.12	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:1-25.1	Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:2-6.8, 10.1, 10.2	Repeal: Noncompetitive and labor titles	11-1-82	14 N.J.R. 1186(a)
4:2-7.1	Compensation for NL4 designated titles	2-16-82	14 N.J.R. 184(a)
4:2-7.1	Repeal: Hours of work	9-7-82	14 N.J.R. 938(a)
4:2-15.2	Repeal: Lateral title change	9-7-82	14 N.J.R. 940(b)
4:2-16.1, 16.2	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:2-18.4	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:2-20.12	Repeal: Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:3-6.9	Repeal: Noncompetitive and labor titles	11-1-82	14 N.J.R. 1186(a)
4:3-16.1, 16.2	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:3-16.1, 16.2	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:3-18.1	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:6	Overtime Committee Rules	10-18-82	14 N.J.R. 1126(a)

<b>N.J.A.C. CITATION</b>		<b>PROPOSAL DATE</b>	<b>PROPOSAL NOTICE (N.J.R. CITATION)</b>
<b>COMMUNITY AFFAIRS—TITLE 5</b>			
5:11-9.2	Parties to relocation assistance hearing	11-1-82	14 N.J.R. 1188(a)
5:23-2.38, 4.15 4.26, 5.2, 5.9, 5.11	Uniform Construction Code: Licensing	7-19-82	14 N.J.R. 734(a)
5:23-4.20	Uniform Construction Code: Periodic inspection fees	10-18-82	14 N.J.R. 1129(a)
5:27-1.6, 2.1	Multi-building rooming and boarding houses	10-4-82	14 N.J.R. 1075(b)
5:30-10.1, 10.2	Local Finance Board: Municipal port authorities	8-2-82	14 N.J.R. 786(b)
5:80-2	Housing Finance Agency project conversions	4-5-82	14 N.J.R. 301(b)
<b>EDUCATION—TITLE 6</b>			
6:11-3.3	Fees for certificates and transcript evaluation	11-1-82	14 N.J.R. 1188(b)
6:11-3.12, 4.7	County substitute certification: School nurse, athletic coach	9-20-82	14 N.J.R. 1010(a)
6:11-4.2, 4.3, 4.4	Temporary, provisional and emergency certificates	9-20-82	14 N.J.R. 1011(a)
6:11-8.1, 8.2, 8.4 8.8, 8.9-8.13	Minimum standards for teacher education	4-5-82	14 N.J.R. 305(a)
6:11-10.2, 10.4, 10.7-10.9	Administrative certification	6-21-82	14 N.J.R. 614(a)
6:29-6.3	County Substitute certification: Athletic coach	9-20-82	14 N.J.R. 1010(a)
<b>ENVIRONMENTAL PROTECTION—TITLE 7</b>			
7:1A-3	Emergency interim repair of water systems	10-4-82	14 N.J.R. 1075(b)
7:1G	Loan procedures: Water supply interconnections	9-20-82	14 N.J.R. 1012(a)
7:7-2.2, 2.6-2.9, 2.11, 2.15	“Repair” of waterfront structures; removal of unauthorized fill; permit duration	7-6-82	14 N.J.R. 679(b)
7:7E-5.3, 5.6, 5.7	Coastal resource and development	10-18-82	14 N.J.R. 1129(b)
7:7F	Shore Protection Program	8-16-82	14 N.J.R. 865(b)
7:8	Storm water management	12-21-81	13 N.J.R. 916(a)
7:8	Storm water management	9-20-82	14 N.J.R. 1022(a)
7:11-2, -4	Rate Schedule: Water from Delaware and Raritan, Spruce Run/Round Valley	7-6-82	14 N.J.R. 681(a)
7:13-1.11	Floodway delineations along Big Timber Creek, Delaware basin	6-7-82	14 N.J.R. 505(a)
7:13-1.11	Floodway delineations along Pond Run, Mercer County	6-7-82	14 N.J.R. 506(a)
7:13-1.11	Floodway delineations along Cedar Creek, Lacey Twp.	7-6-82	14 N.J.R. 683(a)
7:13-1.11	Floodway delineations within Bass River Basin	7-6-82	14 N.J.R. 683(b)
7:13-1.11	Floodway delineations within Atlantic Basin	7-19-82	14 N.J.R. 736(a)
7:13-1.11	Floodway delineations in Union County	8-16-82	14 N.J.R. 870(a)
7:13-1.11	Floodway delineations in Morris County	8-16-82	14 N.J.R. 870(b)
7:13-1.11	Floodway delineations in Essex County	9-20-82	14 N.J.R. 1027(a)
7:13-1.11	Floodway delineations in Somerset and Union counties	10-18-82	14 N.J.R. 1131(a)
7:13-1.11	Floodway delineations in Hunterdon County	10-18-82	14 N.J.R. 1131(b)
7:13-1.11	Floodway delineations in Mercer County	10-18-82	14 N.J.R. 1132(a)
7:13-1.11	Floodway delineations in Mullica River Basin	10-18-82	14 N.J.R. 1133(a)
7:13-1.11	Floodway delineations in Monmouth County	10-18-82	14 N.J.R. 1134(a)
7:13-1.11	Floodway delineations in Ocean-Monmouth Counties	11-1-82	14 N.J.R. 1189(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:14A-1.8, 1.9	Fee schedule for NJPDES permittees	7-6-82	14 N.J.R. 684(a)
7:14A-1.9, 5.11, 5.13, 5.15, 5.16	Water quality: Underground injection control	10-18-82	14 N.J.R. 1136(a)
7:14A-4.2, 4.3	Hazardous waste management	10-18-82	14 N.J.R. 1137(a)
7:25-6	1983-84 Fish Code	8-16-82	14 N.J.R. 872(a)
7:25-9.1	Taking of hard clams: Size tolerance control	7-6-82	14 N.J.R. 689(a)
7:25-12.1	Sea clam fishery (early opening)	11-16-81	13 N.J.R. 843(a)
7:25-15.1	Relay of hard clams (with Emergency Adoption)	9-20-82	14 N.J.R. 1055(a)
7:25-16.1	Upstream fishing lines	8-16-82	14 N.J.R. 882(a)
7:25-22.1	Marine finfish: Menhaden season	9-7-82	14 N.J.R. 945(a)
7:26-1.1, 1.4, 1.7, 2.14, 3.8, 5.5, 7.6, 8.16, 9.1, 9.5, 9.9	Hazardous waste management	10-18-82	14 N.J.R. 1138(a)
7:26-1.4, 2.9, 2.13	Sanitary landfill closure	8-16-82	14 N.J.R. 883(a)
7:26-6	Interdistrict and intradistrict solid waste flow	9-20-82	14 N.J.R. 1027(b)
7:26-7.4, 7.5, 8.15	Waste oil management as hazardous material	1-4-82	14 N.J.R. 20(a)
7:26-10	Hazardous waste facilities	9-10-81	13 N.J.R. 567(a)
7:26-15	Correction: Grants and loans for solid waste recycling	12-21-81	13 N.J.R. 950(b)
7:27-9.1	Emission averaging and high sulfur fuels	12-7-81	13 N.J.R. 870(a)
7:28-24	Licensing of nuclear medicine technologists	6-7-82	14 N.J.R. 507(a)
7:30	State Pesticide Control Code	8-2-82	14 N.J.R. 787(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
7:30	Pesticide Control Code: Extension of comment period	9-7-82	14 N.J.R. 946(a)
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8:21-3.24	Ingredients for human self-defense sprays	9-20-82	14 N.J.R. 1029(a)
8:21-3.25	Sale and possession of nitrous oxide	11-1-82	14 N.J.R. 1190(a)
8:24	Retail food establishments; vending machines	6-7-82	14 N.J.R. 509(a)
8:25-6.12	Youth camp certification fees	11-1-82	14 N.J.R. 1191(a)
8:31A-7	SHARE Manual: 1983 rate review guidelines	8-16-82	14 N.J.R. 887(a)
8:31B-3	Hospital rate setting: RIM and other 1983 changes	7-19-82	14 N.J.R. 737(a)
8:31B-3	New comment period: RIM Methodology	7-19-82	14 N.J.R. 103(a)
8:31B-4.44, 4.66	1983 Financial Elements and Reporting	9-7-82	14 N.J.R. 946(b)
8:65-1.1	Controlled dangerous substances: Registration fees	11-1-82	14 N.J.R. 1191(b)
8:65-10.1, 10.2	Rescheduling of Methaqualone	9-20-82	14 N.J.R. 1029(b)
8:70-1.4	Resubmission of rejected generic drug products	9-20-82	14 N.J.R. 1030(a)
8:71	Additions to generic drug list (see 14 N.J.R. 389(c), 14 N.J.R. 655(b), 14 N.J.R. 1159(a))	1-4-82	14 N.J.R. 22(a)
8:71	Additions to generic drug list (see 14 N.J.R. 836(a), 14 N.J.R. 1160(a))	4-19-82	14 N.J.R. 369(a)
8:71	Additions to generic drug list (see 14 N.J.R. 1160(b))	7-6-82	14 N.J.R. 690(a)
8:71	Steri-med 50mg hydrochlorothiazide tabs	8-16-82	14 N.J.R. 887(b)
8:71	Generic drug list additions	8-16-82	14 N.J.R. 888(a)
8:71	Generic drug list deletions	9-20-82	14 N.J.R. 1030(b)
8:71	Additions to generic drug list	10-4-82	14 N.J.R. 1077(a)
<b>HIGHER EDUCATION--TITLE 9</b>			
9:1-1.6	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
9:2-2.25	Mandatory retirement at State colleges	9-7-82	14 N.J.R. 947(a)
9:2-13.1-13.12	State college auxiliary organizations	10-18-82	14 N.J.R. 1141(a)
9:4-1.2, 2.14	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
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10:4	Group homes and community relations	11-1-82	14 N.J.R. 1192(a)
10:44A	Group homes and supervised apartments for developmentally disabled	6-7-82	14 N.J.R. 531(a)
10:49-1.4	Personal care services	7-6-82	14 N.J.R. 695(a)
10:49-1.23	Documentation of services by Medicaid providers	11-2-81	13 N.J.R. 738(b)
10:49-1.27	LTC: "Field audit" defined	9-20-82	14 N.J.R. 1031(a)
10:51-1	Pharmacy Manual: Appendices B, C, and D	10-18-82	14 N.J.R. 1142(a)
10:51-1.2	Non-legend device addition	4-5-82	14 N.J.R. 320(a)
10:51-App. B, D	Non-legend device addition	4-5-82	14 N.J.R. 320(a)
10:51-3.14, 5.18	Pharmaceutical payment in long-term care	6-7-82	14 N.J.R. 542(a)
10:52-1.3	Second opinion requirement on certain surgery	10-18-82	14 N.J.R. 1143(a)
10:53-1.3	Second opinion requirement on certain surgery	10-18-82	14 N.J.R. 1143(a)
10:54-1.2, -3	Second opinion requirement on certain surgery	10-18-82	14 N.J.R. 1143(a)
10:54-3	Nurse-midwifery services	8-16-82	14 N.J.R. 889(a)
10:55-1.1, 1.2, 1.7, 1.9	Prosthetic and orthotic "approved" providers defined	9-20-82	14 N.J.R. 1032(a)
10:56-1.14, 3.4	Limitation on diagnostic dental services (part adopted, see 14 N.J.R. 1301(a))	12-7-81	13 N.J.R. 875(a)
10:58	Nurse-midwifery services	8-16-82	14 N.J.R. 889(a)
10:63-1.4	Long-term care consultation and services	11-2-81	13 N.J.R. 740(a)
10:63-1.16	Long-term care of psychiatric patients	11-16-81	13 N.J.R. 813(a)
10:63-1.16	Agency response to petition: Long-term care of psychiatric patients	4-5-82	14 N.J.R. 321(a)
10:63-1.22	LTC: "Field audit" defined	9-20-82	14 N.J.R. 1031(a)
10:63-3.2	LTC: Related-party lease costs	7-19-82	14 N.J.R. 742(a)
10:63-3.10	LTC: Capital Facilities Allowance rate	7-19-82	14 N.J.R. 743(a)
10:63-3.20	Long-term care facilities: Reimbursement appeals	3-15-82	14 N.J.R. 269(a)
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10:81-7.13	PAM: Request and Authorization for Records Disposal	9-7-82	14 N.J.R. 947(b)
10:81-10	PAM: Refugee Resettlement and Cuban/Haitian Entrant Programs	9-7-82	14 N.J.R. 948(a)
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10:83	Repeal Medical Assistance for Aged	10-4-82	14 N.J.R. 1081(a)
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10:85-3.4	GAM: AFDC ineligible	12-21-81	13 N.J.R. 926(a)
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19:46-1.17	Use of cards in baccarat	7-19-82	14 N.J.R. 754(a)
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The following rules were proposed in the October 8, 1981 New Jersey Register, but have not been timely adopted and therefore have expired pursuant to N.J.A.C. 1:30-4.2(c).

10:64	Hearing aid services revisions		13 N.J.R. 656(a)
13:44A-7.1	Uniform rule petitions to professional boards		13 N.J.R. 664(b)
13:45A-18.1–18.3	Kosher food representation		13 N.J.R. 666(a)
13:45A-19.1, 19.2	Consumer notification on home appointments		13 N.J.R. 679(a)

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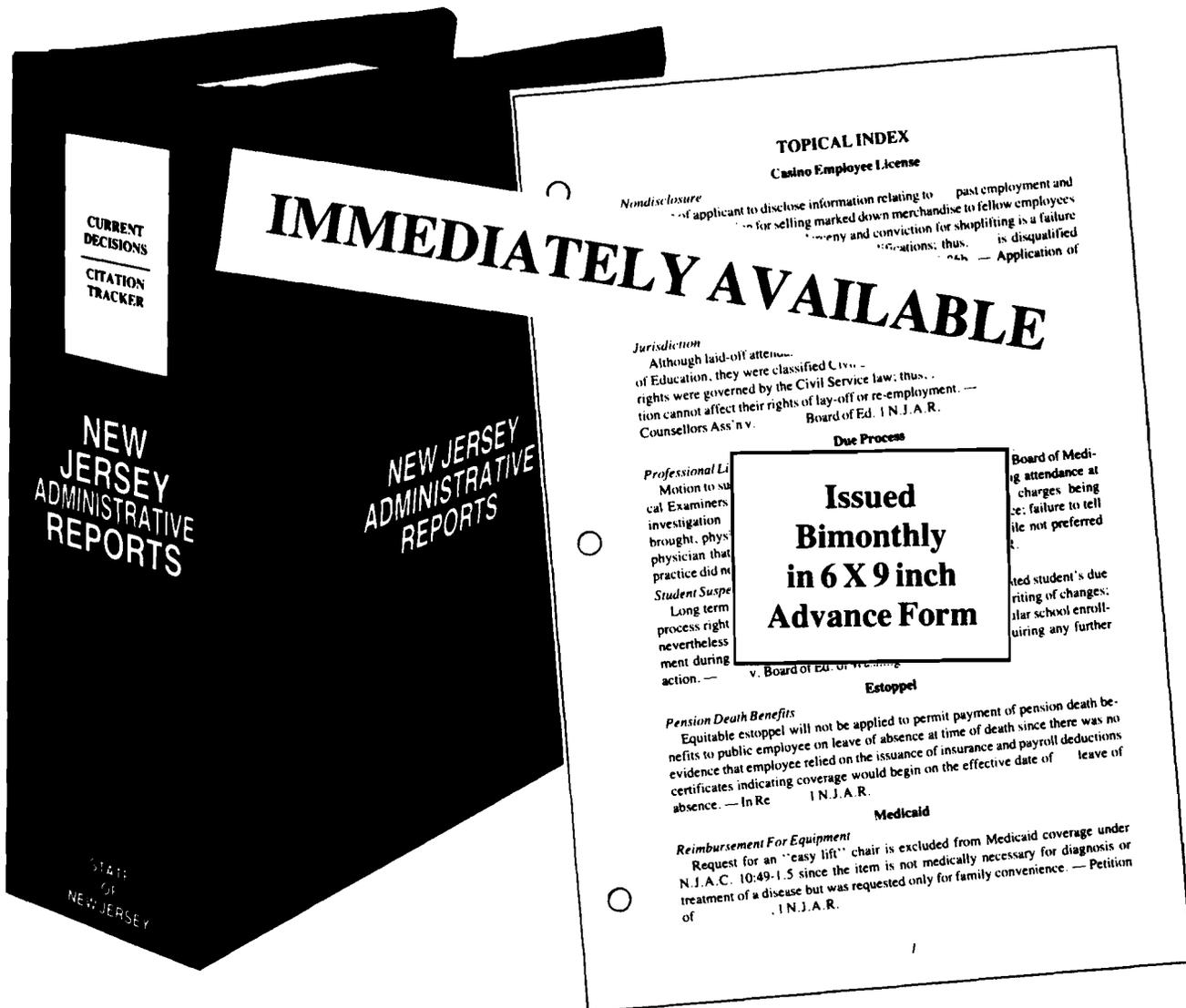
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