

# NEW JERSEY REGISTER



## IN THIS ISSUE "INDEX OF ADOPTED RULES"

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# RULE PROPOSALS

## ADMINISTRATIVE LAW

(a)

### OFFICE OF ADMINISTRATIVE LAW

#### Uniform Administrative Procedure Rules of Practice Transmission of Contested Cases to OAL

#### Proposed Amendment: N.J.A.C. 1:1-5.2 (supersedes 16 N.J.R. 1412(a))

Authority By: Ronald I. Parker, Acting Director, Office of Administrative Law.

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

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Steven L. Lefelt, Deputy Director  
Office of Administrative Law  
185 Washington Street  
Newark, NJ 07012

At the close of the period for comments, the Office of Administrative Law thereafter may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The adoption of these rules becomes effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-477.

The agency proposal follows:

#### Summary

The OAL published a notice of proposed amendment to N.J.A.C. 1:1-5.2 in the June 18, 1984 issue of the New Jersey Register at 16 N.J.R. 1412(a).

One written comment was received during the comment period from the Department of Civil Service. The Department suggested that the notification requirement of concurrent filing and/or jurisdiction claims should not be limited to the transmitting agency but should extend to any party or agency that becomes aware of such action. The Department further recommended that the party or agency aware of the concurrent action should notify not only the OAL but also the other parties and affected agencies. The Department urged that these changes would eliminate confusion and ensure complete and proper notification of duplicate filings.

The OAL agrees with the Department's concerns and recommendations and has, therefore, decided to repropose the amendment as a result of the substantial changes made.

#### Social Impact

The proposed amendment imposes a minimal notification requirement on agencies and parties aware of duplicate filings and/or jurisdictional claims and reduces the need to delay a proceeding after a related matter has been brought to the attention of the OAL.

#### Economic Impact

The proposed amendment should result in more cost-savings in the hearing process by ensuring that related claims from more than one agency can be consolidated as soon as possible.

**Full text** of the proposal follows (additions indicated in boldface **thus**).

1:1-5.2 Transmission of contested cases to the Office of Administrative Law; service on parties; receipt by the Office of Administrative Law  
(a)-(d) (No change.)

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## NEW JERSEY REGISTER

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**PROPOSALS**

**HEALTH**

(e) If an agency has transmitted a case to the Office of Administrative Law, any party or agency aware that another agency is claiming jurisdiction over any part of the transmitted case shall immediately notify the Office of Administrative Law, the other parties and affected agencies of the second jurisdictional claim.

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**COMMUNITY AFFAIRS**

**(a)**

**DIVISION OF HOUSING AND DEVELOPMENT**

**Uniform Construction Code  
Private Enforcing Agencies**

**Proposed Amendments: N.J.A.C. 5:23-4.12**

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.  
Authority: N.J.S.A. 52:27D-124.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.  
Administrative Practice Officer  
Division of Housing and Development  
CN 804  
Trenton, New Jersey 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 1984-478.

The agency proposal follows:

**Summary**

Persons other than bona fide municipal employees who enter into agreements to serve as local subcode officials will be allowed to do so only if they have received authorization from the Department of Community Affairs as on-site inspection and plan review agencies. It has come to the Department's attention that some individuals have entered into agreements with numerous municipalities on a fee basis, sometimes on an on-call basis and without fixed hours, and in so doing have been operating in precisely the same manner as an on-site agency, although without being required to comply with the requirements to which such agencies are subject. This proposal is intended to correct that inequity.

**Social Impact**

Individuals who act as private inspection agencies will have to comply with all rules governing such agencies. This will

allow fairer competition between such individuals and the existing authorized agencies. Bona fide employees, even those who work part-time for more than one municipality, will not be affected.

**Economic Impact**

Individuals who serve as municipal subcode officials in other than a bona fide employee capacity will be subject to the fees and regulatory requirements to which private on-site inspection agencies are subject under the Uniform Construction Code regulations.

**Full text** of the proposal follows (additions indicated in boldface thus.)

5:23-4.12 Private enforcing agencies-establishment

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

**(c) Any person who enters into an agreement, other than a hiring as a bona fide municipal employee, to serve as a municipal subcode official shall be required to be first authorized by the department as an on-site inspection and plan review agency.**

**1. In order to be deemed a bona fide municipal employee for purposes of this subsection, such person shall receive no compensation for his service other than a fixed salary or hourly wage, which shall be subject to F.I.C.A. and Federal and State income tax withholding, and shall have minimum fixed working hours.**

**2. A person shall not be deemed to be a bona fide municipal employee if he holds two or more jobs which are determined by the department to be incompatible by reason of conflicting time requirements.**

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**HEALTH**

**(b)**

**HOSPITAL REIMBURSEMENT**

**Procedural and Methodological Regulations**

**Proposed Amendments: N.J.A.C. 8:31B-3**

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health (with the approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1, et seq., specifically 26:2H-5b., and 26:2H-18d.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposed rule on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Joseph I. Morris, Assistant Commissioner  
Health Planning and Resource Development  
New Jersey Department of Health  
CN 360  
Trenton, NJ 08625

## HEALTH

## PROPOSALS

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

This proposal is known as PRN 1984-498.

The agency proposal follows:

### Summary

The State of New Jersey has a distinguished record of serving the public interest through innovative prospective hospital rate setting. Hospitals have generous incentives to provide care to every citizen because uncompensated care is included in the Diagnosis Related Group (DRG) rate setting system. The system protects consumers, their employers, and insurers from the inequitable cost shifting that plagues other states. The health care industry is assured the opportunity to debate regulations proposed to improve hospital efficiency and discourage inefficiency. These are regulatory accomplishments unparalleled by any other state or the Federal government.

The Procedural and Methodological Regulations proposed for 1985 are consistent with the mandates of the Health Care Facilities Planning Act and the State-Federal agreements which waive Federal Medicare and Medicaid regulations in New Jersey. The Health Department is currently applying for continued waiver of Federal regulations under Section 1886(c) of the 1983 Amendments to the Social Security Act in order to preserve New Jersey's hospital rate setting system. The Department is preparing quantification of the cost control impact of the proposed regulation changes.

### Social Impact

Waivers from Medicare and Medicaid are essential to preserve an all payor system and to provide continued partial support for uncompensated care. Permitting the Commissioner of Health to adjust the economic factor or other reimbursement regulations insures that the State's hospitals do not expend more for Medicare and Medicaid than would be permitted in the absence of waivers.

Requiring penalties for late submission of Audited Financial Statements and clarifying the treatment of post final reconciliation discrepancies assists hospitals in becoming more conscientious and timely in the submission of their data.

Increasing the threshold of required full time residents from 35 to 45 in a major teaching hospital more accurately reflects the character of a true teaching hospital.

Refining the coefficient of variation achieves one goal of the DRG methodology, which is to further reward efficient hospitals and further penalizes inefficient hospitals.

Screening indirect costs at the median unit cost and increasing the number of cost centers screened provides a more realistic reimbursement relative to a hospital's true costs. Elimination of incentives for indirect costs is consistent with the theory that hospitals should retain incentives only where they have actively controlled the direct costs of care.

Annual computation of an economic factor unique to New Jersey does not have a positive cost benefit ratio. Adopting some proxies calculated by the Federal government, while retaining those proxies that are truly unique to New Jersey, insures that hospitals will receive an equitable adjustment for inflation that is more cost effective to produce.

The elimination of Option 2 in the Capital Facilities Allowance places further discipline in the hospital's budgeting for

capital expenditures, and relieves the consumer from the cost of replacing underutilized facilities.

Reimbursement of outliers on the basis of rates/per diem at rates to be set not less than historical costs better reflects the true costs of providing care to patients whose length of stay places them in an outlier category.

Reduction of the cross-subsidization formula from 20 percent to 15 percent variance as applied to its charge to direct cost ratio more accurately reflects the true pricing experience of hospitals which is needed to remain competitive, and promotes equity among those who pay for health care.

Requiring hospitals to demonstrate that they have not already been reimbursed for major moveable equipment eliminates duplicative reimbursement. Limiting hospital appeals to those for which the hospital has demonstrated cost savings encourages cost effectiveness while discouraging unwarranted purchase of equipment.

Tighter alignment of each revenue center's charge to direct cost ratio prevents unreasonably wide variations among various cost centers in the hospital.

The proposed amendments to N.J.A.C. 8:31B-3 are all directed to preserve the financial solvency of hospitals while containing the rising cost of health care services, and to preserve funding for individuals unable to pay for their own care.

### Economic Impact

The proposed penalties for the untimely submission of Audited Financial Statements and limitation of Reimbursement for discrepancies will affect only those hospitals which fail to meet deadlines or submit accurate data.

The proposed change in reimbursement methodologies for indirect costs, outliers, coefficient of variation and cross-subsidization will affect all hospitals by increasing the rigor of the standards against which the efficiencies or inefficiencies of hospitals are compared.

The proposed amendments relating to the Capital Facilities Allowance further challenges hospitals to justify, in advance of committing funds, the need for additional capital.

The proposed change in the number of full time residents required for a hospital to qualify as a major teaching hospital controls the escalation of the number of major teaching hospitals in the State.

Adopting Federal proxies where possible will save the State the expense of duplicative calculation of virtually identical New Jersey figures. It should not have any cost impact on the hospital.

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

8:31B-3.3 Uniform reporting: current costs

(a) (No change.)

(b) Late submission of current cost data, as defined in N.J.A.C. 8:31B-4.6(c), **including Audited Financial Statements**, may result in a penalty, payable to the Commission, of up to \$200.00 per working day past the appropriate submission date. The penalty shall be levied at the discretion of the Commission.

8:31B-3.17 Financial elements reporting/audit adjustments

(a) (No change.)

(b) All reported financial information shall be reconciled by the hospital to the hospital's audited financial statement. In addition, having given adequate notice to the hospital, the Department of Health may perform a cursory or detailed on-

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site review at the Department's discretion of all financial information and statistics to verify consistent reporting of data and extraordinary variations in data relating to the development of the Preliminary Cost Base (PCB). Any adjustments made subsequent to the financial review (including Medicare audits and New Jersey State Department of Health reviews) shall be brought to the attention of the Commissioner by the hospital, the Department of Health, appropriate fiscal intermediary or payor where appropriate, pursuant to N.J.A.C. 8:31B-3.63 through 3.70 or N.J.A.C. 8:31B-3.71 through 3.86, and shall be applied proportionately to the Preliminary Cost Base and Schedule of Rates (and to the extent pragmatic, applied to fixed and variable financial elements) at the time of the reconciliation to the Schedule of Rates (see N.J.A.C. 8:31B-3.71 through 3.86). All such adjustments shall be determined retroactively to the first payment on the Schedule of Rates and shall be applied prospectively. Any additional discrepancies determined beyond final reconciliation will be reflected in the hospital's current Schedule of Rates, if the net impact is greater than \$50,000 [for each individual discrepancy] or one percent of the hospital's total gross revenue.

8:31B-3.22 Standard costs per case

- (a) (No change.)
- (b) Classification of Teaching (Major, Minor) and Non-Teaching Hospitals

1. Teaching hospitals are defined as those hospitals which, during the current cost base reporting period, meet all of the following requirements:

i. Four or more residencies approved by the Liaison Committee on Graduate Medical Education (LCGME) or American Osteopathic Association (AOA), of which at least two are in the following five clinical services:

- (1) Internal Medicine;
- (2) General Surgery;
- (3) Family Practice;
- (4) Pediatrics;
- (5) Obstetrics and Gynecology.

ii. A minimum of [35] **45** full-time equivalent residents in all approved residencies combined;

iii. [Twenty] **Twenty-five** full-time equivalent residents must be in the five clinical services listed in (b)1i(1) through (5) above, and half of these residents (at least [10] **12.5** full-time equivalents) must be in Internal Medicine, Family Practice and/or Pediatrics. The hospital must have the principal residencies for these core areas and not just rotating residencies.

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

8:31B-3.23 Reasonable direct costs per case

(a) Inpatient:

1. The Reasonable Direct Cost Per Case (DRG) of the Preliminary Cost Base for those hospitals first receiving rates in accordance with these regulations are determined for teaching and non-teaching hospitals, for every DRG with greater than five merged patients and shall include incentives and disincentives, as appropriate, which shall be termed the boundaries of payment and are calculated as follows:

$$\begin{aligned} &\text{degree of confidence} \times \text{labor market standard} \\ &\quad \text{plus} \\ &(1 - \text{degree of confidence}) \times \text{hospital current} \\ &\quad \text{non-physician direct cost per case} \end{aligned}$$

plus

hospital current physician patient service cost per case [i. Where the degree of confidence of a DRG is one (1) minus the DRG's coefficient of variation:]

**i. Where the degree of confidence of a DRG is determined from the coefficient of variation according to the following equation:**

$$DC = 1 - (CV \cdot X)$$

ii. Where:

**DC = degree of confidence**  
**coefficient of variation**

**X =**  
**.50 in 1986**  
**.25 in 1987 and following**

**iii. By 1987 the Department shall study whether hospital rates should be moved closer to the statewide standards, and shall make a recommendation at that time, whether to set X equal to 0 (100 percent standard) or to allow it to remain at .25.**

iv. [ii.] And where the coefficient of variation of a DRG is the standard deviation divided by the mean, or incentive standard cost;

[iii.] And where the standard deviation of a DRG is calculated as:

$$\frac{\sum_{i=1}^N (\text{Cost}_i)^2 - \left(\frac{\sum_{i=1}^N \text{cost}_i\right)^2}{N}}{N}$$

iv. Where N is the number of patients in a DRG in teaching or non-teaching hospitals upon which the standard was calculated;

v. And if the Coefficient of Variation, as calculated above, is greater than 1, the degree of confidence shall equal zero. (Reasonable non-physician direct cost per case equals hospital's costs per case.)

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

8:31B-3.24 Reasonable indirect patient care costs

(a) (No change.)

(b) The reasonable amount of indirect costs (exclusive of skilled nursing apportionment) will be determined for those hospitals that will receive an initial PCB. [The General Service Related centers will be screened to determine disincentive or incentive amounts.] **The following cost centers will be screened to determine disincentive amounts.** [Disincentive amounts will be screened in the Physician and Teaching Related Centers.] The screening methodology will compare base year actual cost data. Such screens will be applied to the indirect cost centers defined below by cost center (or combined cost center) with the exception of sales and real estate taxes, outside collection costs and purchased employee health insurance, through comparison with limits relative to the median cost per unit of service. [The incentive amounts of the general Service Related centers will be one-half the difference between a hospital's actual cost and 90 percent of the median unit cost. The remaining indirect] **The indirect cost centers will be included in the Preliminary Cost Base at the screened base year level as adjusted by the economic factor.** Appeals of these indirect cost centers will be subject to the provisions of N.J.A.C. 8:31B-3.53 through 3.57.

(c) (No change.)

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(d) Cost centers subject to screening:

| Cost Centers                                     | Peer Group                              | Unit of Service                      | Reasonable Cost Limit |
|--------------------------------------------------|-----------------------------------------|--------------------------------------|-----------------------|
| (A&G & FIS)<br>Administrative & General & Fiscal | teaching/minor teaching<br>non-teaching | Adjusted Admissions <sup>2</sup>     | [1.1] 1.0             |
| (PLT)<br>Plant                                   | Statewide                               | Total PLT Square Feet                | [1.1] 1.0             |
| (PCC)<br>Patient Care Coordination               | teaching/minor teaching<br>non-teaching | Adjusted Admissions                  | [1.1] 1.0             |
| (RSD)<br>Residents Non-physician                 | teaching/minor teaching<br>non-teaching | Full time Equivalent in RSD          | [1.1] 1.0             |
| (PHY)<br>Physicians Non-physician                | teaching/minor teaching<br>non-teaching | Full time Equivalent in PHY          | [1.1] 1.0             |
| (RSD)<br>Residents Physician                     | teaching/minor teaching<br>non-teaching | Full time Equivalent in RSD          | [1.1] 1.0             |
| (PHY)<br>Physicians and Physician                | teaching/minor teaching<br>non-teaching | Full time Equivalents in PHY and EDR | [1.1] 1.0             |
| (EDR)<br>Education & Research                    |                                         |                                      |                       |
| UTC<br>Utilities                                 | Statewide                               | Total PLT Square Feet                | 1.0                   |
| OGS<br>Other General Services                    | Statewide                               | Total PLT Square Feet                | 1.0                   |
| MAL<br>(Malpractice)                             | teaching/minor teaching<br>non-teaching | Full time Equivalent in PHY          | 1.0                   |

(e) (No change.)

8:31B-3.26 Economic factor

(a) An economic factor shall be calculated for each hospital. It shall take into account the level of hospital expenses and replacement cost of major moveable equipment, using the cost components reported to the New Jersey State Department of Health. The factor is the measure of the change in the prices of goods and services used by New Jersey hospitals. It is to be based, as far as possible, on recorded price changes, as promulgated in the Federal Register. For that part of the period covered by the economic factor for which recorded price changes are unavailable, the economic factor shall be based on the best available forecast of price trends.

(b) [The cost components of the economic factor are shown on Appendix II.] The proxy used for labor costs will change in 1983 and subsequent years to the Bureau of Labor Statistics series "Average Hourly Wages Hospital Workers (US)." The labor proxy for the 1982 rate year will remain the Employment Cost Index Northeast. **The proxies used in the economic factor are published in the Federal Register with the exception of: Beds and Nursing Equipment; General Services Equipment; Business Service Equipment; and Diagnostic Equipment. These 4 proxies will be promulgated by the New Jersey State Department of Health (Appendix II).**

(c) The hospital specific economic factor is the weighted average of the recorded and projected change in the value of its components. The weight given to each component is its share of that hospital's total expenditure [as described in Appendix II]. The projection of individual components shall be based where appropriate, on legal or regulatory charges which fix the future value of the proxy (i.e., FICA). Components which are of particular importance may be projected

through the use of time series analysis on other relevant indicators.

8:31B-3.27 Capital Facilities

(a) Capital Facilities as defined in N.J.A.C. 8:31B-4.42, shall be included in the Preliminary Cost Base in the following manner:

1. Building and fixed equipment:

i.-iii. (No change.)

iv. The yearly Capital Facilities Allowance is computed per information provided by the Uniform Cost Reporting Regulation as: [the higher of:]

(1) The current yearly amount of capital indebtedness of the hospital, excluding any portion associated with major moveable equipment, plus the deficiency of the Plant Fund (and any funds designated by the hospital's board for the Capital Facilities Formula Allowance (CFFA) against the Fund Target, divided by the adjusted remaining useful life of the hospital;

[(2) The prospective year's depreciation and interest expense.]

v. For building replacement or major renovations, [regardless of which of the above options (a or b) is higher in any given year,] the maximum amount reimbursed through the Capital Facilities Allowance shall be the higher of one of the alternatives summed over the applicable number of years.

vi. (No change.)

2. (No change.)

8:31B-3.38 Derivation from Preliminary Cost Base

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

(c) Basic rate order:

1. Each hospital shall receive from the Commission a rate order detailing the Schedule of Rates as follows:

SCHEDULE OF RATES

| ITEM                                       | RATE PER CASE |
|--------------------------------------------|---------------|
| DIRECT COSTS RELATED TO PATIENT CARE       |               |
| DRG 1                                      | \$ _____      |
| DRG 2                                      | \$ _____      |
| DRG 3                                      | \$ _____      |
| CLINIC PATIENTS                            | \$ _____ (*)  |
| HOME HEALTH PATIENTS                       | \$ _____ (*)  |
| EMERGENCY SERVICE OUTPATIENTS              | \$ _____ (*)  |
| OUTPATIENT DIALYSIS TREATMENT              | \$ _____ (*)  |
| AMBULATORY SURGERY                         | \$ _____ (*)  |
| SAME-DAY PSYCHIATRY                        | \$ _____ (*)  |
| HOME DIALYSIS                              | \$ _____ (*)  |
| OTHER AMBULATORY                           | \$ _____ (*)  |
| INDIRECT FINANCIAL ELEMENTS                |               |
| INDIRECT COSTS RELATED TO PATIENT CARE     | \$ _____      |
| NET INCOME FROM OTHER SOURCES              | \$ ( ) _____  |
| CAPITAL FACILITIES ALLOWANCE               | \$ _____      |
| COMMISSION APPROVED WORKING CASH INFUSION  | \$ _____      |
| GRANTS ON BEHALF OF THE MEDICALLY INDIGENT | \$ ( ) _____  |
| ESTIMATED UNCOMPENSATED CARE _____%        |               |
| ESTIMATED PERSONNEL HEALTH PROGRAM _____%  |               |

NOTE: The Schedule of Rates shall be adjusted to reflect 5 percent working capital increases and \_\_\_\_\_ percent for payor differentials as specified by the Commis-

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sion. Payor Class A shall pay \_\_\_\_\_ percent of this Schedule of Rates. Payor Class B shall pay \_\_\_\_\_ percent of this Schedule of Rates and all other Payor Classes shall pay 100 percent of this Schedule of Rates.

[Patients receiving these services will be billed at controlled charges; however, this rate per visit will be used for purposes of reconciliation.]

2. The Schedule of Rates does not include rates for outlier patients, DRG's with five or less merged patients in the current cost base year, DRG's with poorly defined clinical characteristics, outpatient ancillary services, or private referred outpatients. Inclusion of reasonable revenue for such patients will be based upon the summation of charges for actual services rendered to the individual patients subject to utilization review (see N.J.A.C. 8:31B-3.76 through 3.82). However, charges for services to such patients shall be the same as charges for the same services provided to patients included in the Schedule of Rate.]

**2. The six outlier categories will have rates and/or per diems included on the Schedule of Rates as follows:**

**i. High length of stay outlier—the rate per case plus a modified per diem for each day above the high trim point.**

**ii. Low length of stay—per diem only.**

**iii. Low volume (fewer than six cases)—standard rate per case.**

**iv. Clinical outliers—a rate per case based upon historical cost.**

**vi. Against Medical Advice and Death (AMA's) and Deaths—these outlier categories are eliminated. The DRG rate per case or outlier rate, as described above, will apply.**

**vi. Transfer patients—patients transferred from one to another acute care facility (inpatient) were considered outliers in each facility. The transferring hospital will now receive a per diem rate and the transferee hospital will receive a price per case equal to the rate received by a non-transferred patient.**

**3. Charges for the same services must not differ due to patient inlier/outlier status. Charges will be used for the purpose of bill proration and rate setting.**

(d) (No change.)

8:31B-3.43 Adjustment of charges

(a) (No change.)

(b) The hospital may, subject to analysis and approval by the Department, adopt a plus or minus [20] 15 percent variance applied to its charge to Direct Cost ratio for any specific revenue center.

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

8:31B-3.51 Notification appeal and review

**(a) All hospitals within 15 working days of receipt of the Proposed Schedule of Rates, shall notify the Commissioner of any calculation errors in the rate schedule. If upon review it is determined by the Commissioner that the error is of substantive value, a revised rate will be issued to the hospital within five working days. If the discrepancy is determined to be substantive and a revised Schedule of Rates is not issued by the Department within five working days, notification time frames above will not become effective until the hospital receives a revised Schedule of Rates.**

[**(a)**] **(b)** Notification by hospitals: Within 45 working days of receipt of the Proposed Schedule of Rates issued pursuant to N.J.A.C. 8:31B-3.2 through 3.15, hospitals shall notify both the Commissioner and the Commission, in writing, of their decision to:

1. (No change.)

2. Conditionally accept the Certified Revenue Base: Conditional acceptance is contingent upon approval by the Commission of the Schedule of Rates. Subject to approval, conditional acceptance waives the right of the hospital to appeals set forth under N.J.A.C. 8:31B-3.53 through 3.54. Following Commission approval, rates conditionally accepted shall be implemented as set forth in N.J.A.C. 8:31B-3.42 through 3.45. A hospital with an overall direct patient care disincentive will be required to present to the Hospital Rate Setting Commission a proposal to reduce its rates and have the Commission approve this proposal prior to the hospital being allowed to conditionally accept the Certified Revenue Base. The reduction in its rates will reflect the hospitals plans to eliminate inefficiencies. Rates conditionally accepted shall not include the additional one percent of all direct patient care costs. Hospitals may appeal the following items:

i.-ii. (No change.)

iii. Approved certificates of need which is defined as capital and patient care costs arising from projects for which a certificate of need has been granted. Adjustments in Patient Care Costs in excess of that which would otherwise be deemed reasonable under N.J.A.C. 8:31B-3.20 through 3.36 shall be permitted by the Commissioner acting under this Section only when:

(1) [The hospital's historical level of depreciation on major moveable equipment fails to adequately reflect purchases of equipment subject to the State's Standards and General Criteria for Certificate of Need for regionalized tertiary services; or] **The hospital has purchased new equipment and can demonstrate that no historical level on major moveable equipment has been included in the base for this piece of equipment, subject to the State's Standards of General Criteria for Certificate of Need for regionalized tertiary services. Appeals for depreciation on replacement major moveable equipment may only be heard under N.J.A.C. 8:31B-3.53-3.54 or**

(2) The hospital has no overall disincentive, and no disincentive in the Patient Care Cost Centers most directly affected by the project.

Note: In evaluating appeals, for (b)2iii above the Commission [shall give emphasis to any cost savings projected by the hospital in its application for such a Certificate of Need and to any existing debt obligations on existing equipment,] **will only review projects where cost savings have been identified in the hospital's application for such a Certificate of Need. Existing debt obligations on existing equipment will be given emphasis when the Commission evaluates appeals as related to (b)2iii.**

iv.-v. (No change.)

3. (No change.)

8:31B-3.64 Modification of proposed Schedule of Rates

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

**(e) The Commissioner of Health upon advising the Health Care Administration Board shall have the authority to adjust the economic factor, or other reimbursement regulations to insure that total hospital system costs to Federal payors (Medicare, Medicaid) do not exceed what these payors would have paid in the absence of waivers of Federal regulations.**

8:31B-3.75 Schedule of rates reconciliation

(a) (No change.)

(b) To the extent that an institution's actual Net Revenues Related to Patient Care differ from the Commission approved Preliminary Cost Base, an adjustment to the current year

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PCB will be calculated. A compliance adjustment to the Rate Order will then be issued to include this adjustment and adjustments for actual uncompensated care, payor differentials, and net income from other sources, in order to align gross revenue and payors' payments with net revenue requirements for the new prospective year.

1. Commission approved revenue: On an annual basis, within 90 days of receipt of all reports set forth in N.J.A.C. 8:31B-3.42 through 3.45, the Schedule of Rates, as adjusted for economic factors and other adjustments issued by the Commission during the year, will be calculated for the hospital's actual discharges and patient visits for a reported period. Reasonable direct patient care costs per case will be multiplied by the number of cases in each DRG, to determine reasonable direct patient care costs for patients assigned to a DRG. Actual outpatient volumes for Emergency Services (EMR), Clinics (CLN), Home Health Agency (HHA), Ambulatory Surgery, Home Dialysis, Same Day Psychiatry, and outpatient dialysis (DIA) groups will be determined from the Uniform Cost Reporting Regulations. [The ratio of reasonable direct patient care costs to gross charges will be used to determine the reasonable direct patient care costs for patients not included in the schedule of rates. Gross charges for those patients will be multiplied by the ratio to arrive at the reasonable direct patient care costs. This amount is combined with the approved costs for patients with rates resulting in the total Reasonable Direct Patient Care Costs.] **Outlier cases will be reconciled to the appropriate rate and/or per diem as described in N.J.A.C. 8:31B-3.37.**

2. Hospital gross revenue related to patient care: The hospital's actual rate year charge to Direct Cost ratio shall be calculated for each revenue center. Next, the hospital's actual rate year total charge to total Direct Cost ratio shall be calculated. Each revenue center ratio will be compared to the total ratio, adjusted by the discretionary subsidy of plus or minus [20] 15 percent. Any difference by revenue center (either positive or negative) shall be divided in half and multiplied by total rate year direct cost for the revenue center and deemed excess subsidized revenue.

3.-4. (No change.)

**(a)**

**HOSPITAL REIMBURSEMENT**

**Financial Elements and Reporting**

**Proposed Amendment: N.J.A.C. 8:31B-4.6 and 4.65**

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department 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 proposed rule on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Joseph I. Morris, Assistant Commissioner  
Health Planning and Resource Development  
New Jersey Department of Health  
CN 360  
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 1984-499.

The agency proposal follows:

**Summary**

The Department has been unable to accurately and efficiently process the Financial Elements and Reporting Forms, submitted by the hospitals in a timely manner because the Audited Financial Statement is received two months later than these forms that it is used to verify. This proposed amendment will synchronize the due dates and eliminate the problem for rate setting purposes.

The proposed amendment to allow the hospital to keep the private room differential, when that type of accommodation is requested by the patient, is in response to the industry which believes that a declaration of excess income is an unfair penalty. It is believed that these funds can be used in a more productive way to benefit the hospital and consumer, instead of the application against approved revenue.

**Social Impact**

This proposed amendment will simply result in more timely and accurate ratesetting. Moreover, it will allow hospitals to increase their revenue by permitting the Private Room Differential.

The proposed amendment regarding the Private Room Differential will have no discernable impact on the patients ability to obtain a private room. These will be no change in hospital accounting procedures.

**Economic Impact**

The proposed amendment to require the hospital to submit the Audited Financial Statement by the same date as the Financial Elements and Reporting Forms will result in a cost base containing accurate, verified data with which to set the rates. The possibility of over or under collection, due to improper rates, is diminished in addition to calculation error appeals which would be time and cost saving to the hospital and the Department. The consumer and other payers would be charged a more accurate rate as a result of the use of the Audited Financial Statement. There should be no adverse economic impact due to this proposed amendment.

The ability of the hospital to retain the Private Room Differential Income will have an economic impact on the hospital as it will increase its income. There will be no economic impact on the patient, and no new administrative costs to the State.

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

8:31-4.6 Reporting period

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

(c) Each calendar year's Financial Elements and Reporting Forms as defined in N.J.A.C. 8:31B-4.131 are due on [April 30] **May 31** of the following year. Each year's Audited Finan-

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cial Statement is due on [June 30] **May 31** of the following year. Failure to meet these time frames may result in penalties as stated in N.J.A.C. 8:31B-3.3.

### 8:31B-4.65 Patient convenience items

(a)-(e) (No change.)

(f) [Private Room Differential Income above a hospital's most common charge for a semi-private room for similar routine services, where not ordered by the attending physician for medical necessity, is offset against Costs Related to Patient Care (Case C.) **Private Room Differential Income above a hospital's most common charge for a semi-private room for similar routine services, when specifically requested by the patient is excluded and treated as Case C. Where ordered by the attending physician for medical necessity, income is excluded and treated as Case C.** Hospitals should maintain separate revenue classifications for medically necessary and patient convenience private room revenue. Patients admitted or transferred to private rooms because of the unavailability of semi-private should be charged at the semi-private room rate, with a courtesy allowance (Policy Discount) generated for the differential (see N.J.A.C. 8:31B-4.15). No attempt need to be made to identify private room Routine Service cost differentials.

## (a)

## CONSUMER HEALTH SERVICES

### Controlled Dangerous Substances Prescription Requirements for Controlled Dangerous Substances

#### Proposed New Rule: N.J.A.C. 8:65-7

Authorized By: J. Richard Goldstein, M.D., State  
Commissioner of Health.  
Authority: N.J.S.A. 24:21-9.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Lucius A. Bowser, RP, MPH  
Chief  
Drug Control Program  
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 1984-383.

The agency proposal follows:

#### Summary

The Department of Health proposes to adopt regulations to control the preparation, use and dispensing of controlled dan-

gerous substances by prescriptions of practitioners which will adequately control and diminish the diversion of licit controlled substances to the illicit markets.

These regulations will set forth what is a prescription, who is authorized to prescribe, and who is authorized to fill controlled drug prescriptions. The regulations will establish limits as to the quantities of controlled drugs that may be prescribed, frequencies of filling and refilling, and establishing criteria for emergency use of Schedule II substances.

The proposed regulations will ensure that controlled drugs will be prescribed or dispensed for valid medical purposes and will not be diverted to illicit street markets. Such regulations are already in place under Federal Law and regulations and this proposal will bring New Jersey regulations into conformity with its federal counterpart. Since controlled drugs are powerful narcotic, depressant, stimulant and other central nervous system acting drugs which have varying degrees of drug dependency liabilities, controls over their prescribing and dispensing will keep the lawful distribution of controlled drugs in check.

#### Social Impact

The proposal to regulate prescriptions for controlled drugs will impact upon physicians, pharmacies and patients. Each segment affected will have certain total responsibilities in the overall picture of stemming diversion of controlled drugs. Physicians will be responsible for issuing prescriptions for valid medical purposes to needed patients. Those responsibilities would concern themselves with when, what and how much of a controlled drug would be dispensed. It would also control the methods of filling and refilling of those prescriptions. Pharmacists would be impacted upon by the need to maintain certain records of distribution and purchase of controlled drugs. Patients would be affected in that they could only receive controlled drugs under stringent distribution patterns.

#### Economic Impact

These regulations being proposed to control prescribing and filling of prescriptions for controlled drugs would have little economic impact upon the physicians, pharmacies and patient population because of the existence of similar restraints under Federal law. The imposition of this proposal would not raise the cost of prescriptions or the cost of conducting a profession or business dealing in controlled drugs. The full impact of these regulations would, by controlling licit distribution of controlled drugs diminish the need to resort to criminality to obtain these drugs and the cost to the community would be minimal.

These regulations as proposed act in unison and harmony with those regulations promulgated by the various professional boards, i.e., Medical, Dental, Podiatry, Veterinary and Pharmacy and would be in concert with those of the Department of Justice, Drug Enforcement Administration on a federal level.

**Full text** of the proposed new rule follows.

### SUBCHAPTER 7. PRESCRIPTION REQUIREMENTS FOR CONTROLLED DANGEROUS SUBSTANCES

#### 8:65-7.1 Scope

Rules governing the issuance, filling and filing of prescriptions are set forth specifically by the sections of this subchapter.

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### 8:65-7.2 Definitions

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

“Act” means the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:21-1 et seq.).

“Federal Act” means the Controlled Substances Act (Title 21, United States Code 801: 84 Stat. 1242).

“Individual practitioner” means a physician, dentist, veterinarian, or other individual licensed, registered, or otherwise permitted, by the United States, the jurisdiction in which he practices, or in New Jersey, to dispense a controlled substance in the course of professional practice, but does not include a pharmacist, a pharmacy, or an institutional practitioner.

“Institutional Practitioner” means a hospital or other person (other than an individual) licensed, registered, or otherwise permitted, by the United States, the jurisdiction in which it practices, or in New Jersey, to dispense a controlled substance in the course of professional practice, but does not include a pharmacy.

“Pharmacist” means any pharmacist licensed by the State of New Jersey to dispense controlled substances and shall include any other person (e.g., a pharmacist intern authorized by the State to dispense controlled substances under the supervision of a pharmacist licensed by the State).

“Prescription” means an order for medication which is dispensed to or for an ultimate user but does not include an order for medication which is dispensed for immediate administration to the ultimate user (e.g., an order to dispense a drug to a bed patient for immediate administration in a hospital is not a prescription).

“Register” and “registered” refer to registration required and permitted by Section 10 of the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:21-10).

Any term not defined in this section shall have the definition set forth in the New Jersey Controlled Dangerous Substances Act (N.J.S.A. 24:21-1 et seq.).

### 8:65-7.3 Persons entitled to issue prescriptions

(a) A prescription for a controlled substance may be issued only by an individual practitioner who is:

1. Authorized to prescribe controlled substances by the New Jersey Professional Board by which he is licensed; and
2. Either registered or exempted from registration pursuant to the Code of Federal Regulations, Title 21, part 1301.24(c) or 1301.25.

(b) A prescription issued by an individual practitioner may be communicated to a pharmacist by an employee or agent of the individual practitioner.

### 8:65-7.4 Purpose of issue of prescription

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of Law relating to controlled substances.

(b) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription may not be used for the dispensing of narcotic drugs listed in any schedule for “detoxification” or “maintenance treatment” as defined in N.J.A.C. 8:65-11.1.

### 8:65-7.5 Manner of issuance of prescriptions

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, and the name, address and registration number of the practitioner. All prescriptions for controlled substances, regardless of schedule, shall be presented to a pharmacist for filling within 30 days after the date when issued. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescription may be prepared by a secretary or agent for the signature of the practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by these regulations.

(b) An intern, resident, or foreign-trained physician, or physician on the staff of a Veteran’s Administration facility, exempted from registration under the Code of Federal Regulations, Title 21, part 1301.24(c) shall include on all prescriptions issued by him the registration number of the hospital or other institution and the special internal code number assigned to him by the hospital or other institution as provided in the Code of Federal Regulations, Title 21, part 1301.24(c), in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician.

(c) An official exempted from registration under the Code of Federal Regulations, Title 21, part 1301.25 shall include on all prescriptions issued by him, his branch of service or agency (e.g., “U.S. Army” or “Public Health Service”) and his service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee is his Social Security identification number. Each prescription shall have the name of the officer stamped, or handprinted on it, as well as the signature of the officer.

### 8:65-7.6 Persons entitled to fill prescriptions

A prescription for controlled substances may only be filled by a pharmacist acting in the usual course of his professional practice and either registered individually or employed in a registered pharmacy or registered institutional practitioner.

### 8:65-7.7 Administering or dispensing of narcotic drugs

(a) The administering or dispensing directly (but not prescribing) of narcotic drugs listed in any schedule to a narcotic drug dependent person for “detoxification treatment” or “maintenance treatment” as defined in N.J.A.C. 8:65-11.1 shall be deemed to be within the meaning of the term “in the course of professional practice or research”; Provided that the practitioner is separately registered with the Department of Health as required by N.J.A.C. 8:65-11.2 and then thereaf-

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ter complies with the regulatory standards imposed relative to treatment qualifications, security, records and unsupervised use of drugs pursuant to the Act.

(b) Nothing in this section shall prohibit a physician who is not specifically registered to conduct a narcotic treatment program from administering (but not prescribing) narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three days and may not be renewed or extended.

(c) This section is not intended to impose any limitations on a physician or authorized hospital staff to administer or dispense narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction, or to administer or dispense narcotic drugs to persons with intractable pain in which no relief or cure is possible or none has been found after reasonable efforts.

### 8:65-7.8 Requirements of prescriptions; schedule II

(a) A pharmacist may dispense directly a controlled substance listed in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, only pursuant to a written prescription signed by the prescribing individual practitioner, except as provided in subsection (d) of this section.

(b) An individual practitioner may administer or dispense directly a controlled substance listed in schedule II in the course of his professional practice without a prescription, subject to N.J.A.C. 8:65-7.6.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in schedule II only pursuant to a written prescription signed by the prescribing individual practitioner or to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user.

(d) In the case of an emergency situation, as defined by the Secretary in the Code of Federal Regulations, Title 21, part 290.10, a pharmacist may dispense a controlled substance listed in schedule II upon receiving oral authorization of a prescribing individual practitioner, provided that:

1. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing individual practitioner);

2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in N.J.A.C. 8:65-7.4, except for the signature of the prescribing individual practitioner;

3. If the prescribing individual practitioner is not known to the pharmacist, he must make a reasonable effort to determine that the oral authorization came from a registered individual practitioner, which may include a callback to the prescribing individual practitioner using his phone number as listed in the telephone directory and/or other good faith efforts to insure his identity; and

4. Within 72 hours after authorizing an emergency oral prescription, the prescribing individual practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of N.J.A.C. 8:65-7.4,

the prescription shall have written on its face "Authorization for Emergency Dispensing", and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it must be post-marked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the Department of Health if the prescribing individual practitioner fails to deliver a written prescription to him; failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense with a written prescription of a prescribing individual practitioner.

(e) A practitioner shall not prescribe or dispense a schedule II controlled substance to an individual patient in excess of 120 dosage forms or a 30 days' supply, whichever is the lesser amount, except that prescriptions for patients in a Long Term Care Facility (LTCF) may be in amounts as set forth in N.J.A.C. 8:65-7.10(d).

### 8:65-7.9 Refilling prescriptions; schedule II

The refilling of a prescription for a controlled substance listed in schedule II is prohibited.

### 8:65-7.10 Partial filling of prescriptions; schedule II

(a) The partial filling of a prescription for a controlled substance listed in schedule II is permissible, if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and he makes a notation of the quantity supplied on the face of the written prescription (or written record of the emergency oral prescription).

(b) The remaining portion of the prescription may be filled within 72 hours of the first partial filling; however, if the remaining portion is not or cannot be filled within 72-hour period, the pharmacist shall so notify the prescribing individual practitioner.

(c) No further quantity may be supplied beyond 72 hours without a new prescription.

(d) Prescriptions for schedule II controlled substances written for patients in Long Term Care Facilities (LTCF) may be filled in partial quantities, to include individual dosage units. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed and the identification of the dispensing pharmacist. The total quantity of schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions, for patients in a LTCF, shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of medication.

(e) Information pertaining to current schedule II prescriptions for patients in a LTCF may be maintained in a computerized system if this system has the capability to permit:

1. Output (display or printout) of the original number, date of issue, identification of prescribing individual practitioner, identification of patient, identification of LTCF, identification of medication authorized (to include dosage form, strength and quantity), and listing of partial fillings that have been dispensed under each prescription and the information required in (d) above;

2. Immediate (real time) updating of the prescription record each time a partial filling of the prescription is conducted;

3. Retrieval of partially filled schedule II prescription information in accordance with procedures specified in

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N.J.A.C. 8:65-7.14(e)1 through 5 for schedule III and IV prescription refill information.

### 8:65-7.11 Labeling of substances; schedule II

(a) The pharmacist filling a written or emergency oral prescription for a controlled substance listed in schedule II shall affix to the package a label, conforming to the provisions set forth in N.J.S.A. 24:21-17.

(b) The requirements of (a) above do not apply where a controlled substance listed in schedule II is prescribed for administration to an ultimate user who is institutionalized: Provided, that:

1. Not more than a seven day supply of the controlled substance listed in schedule II is dispensed at one time;

2. The controlled substance listed in schedule II is not in the possession of the ultimate user prior to the administration; and

3. The institution maintains appropriate safeguards and records regarding the proper administration, control, dispensing, and storage of the controlled substance listed in schedule II; and

4. The system employed by the pharmacist in filling a prescription is adequate to identify the supplier, the product, and the patient, and to set forth the directions for use and cautionary statements, if any, contained in the prescription or required by law.

### 8:65-7.12 Filing of prescriptions; schedule II

All written prescriptions and written records of emergency oral prescriptions shall be kept in accordance with requirements of N.J.A.C. 8:65-5.17.

### 8:65-7.13 Requirements of prescriptions; schedule III and IV

(a) A pharmacist may dispense directly a controlled substance listed in schedule III or IV which is a prescription drug as determined under the Federal Food, Drug and Cosmetic Act, pursuant to a written prescription of a duly registered individual practitioner.

(b) A pharmacist may dispense directly a controlled substance listed in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug and Cosmetic Act, pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist containing all information required in N.J.A.C. 8:65-7.5(a) except for the signature of the prescribing individual practitioner.

(c) An individual practitioner may administer or dispense directly a controlled substance listed in Schedule III or IV in the course of his professional practice without a prescription, subject to section 6 of this subchapter.

(d) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in schedule III or IV pursuant to an oral prescription made by a prescribing individual practitioner, or pursuant to an order for medication made by an individual user, subject to section 7 of this subchapter.

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

(a) No prescription for a controlled substance listed in schedule III or IV shall be filled or refilled more than six months after the date on which such prescription was issued and no such prescription authorized to be refilled may be refilled more than five times.

(b) Each refilling of a prescription shall be entered on the back of the prescription (or on another appropriate uniformly maintained, readily retrievable record, such as medication records, which indicates by the number of the prescription the following information:

1. The name and dosage form of the controlled substance;

2. The date of each refilling;

3. The quantity dispensed;

4. The identity or initials of the dispensing pharmacist in each refilling; and

5. The total number of refills for that prescription, initialed, and dated by the pharmacist as of the date of dispensing, and shall state the amount dispensed.

(c) If the pharmacist merely initials and dates the back of the prescription he shall be deemed to have dispensed a refill for the full face amount of the prescription.

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

(e) As an alternative to the procedures provided by subsection (a) through (d), an automated data processing system may be used for the storage and retrieval of refill information for prescription orders for controlled substances in Schedule III and IV, subject to the following conditions:

1. Any such proposed computerized system must provide on-line retrieval (via CRT display or hard-copy printout) of original prescription order information for those prescription orders which are currently authorized for refilling. This shall include, but is not limited to, data such as the original prescription number, date of issuance of the original prescription order by the practitioner, full name and address of the patient, name, address, and DEA registration number of the practitioner, and the name, strength, dosage form, quantity of the controlled substance prescribed (and quantity dispensed if different from the quantity prescribed), and the total number of refills authorized by the prescribing practitioner.

2. Any such proposed computerized system must also provide on-line retrieval (via CRT display or hard-copy printout) of the current refill history for Schedule III or IV controlled substance prescription orders (those authorized for refill during the past six months). This refill history shall include, but is not limited to, the name of the controlled substance, the date of refill, the quantity dispensed, the identification code, or name or initials of the dispensing pharmacist for each refill and the total number of refills dispensed to date for that prescription order.

3. Documentation of the fact that the refill information entered into the computer each time a pharmacist refills an original prescription order for a Schedule III or IV controlled substance is correct must be provided by the individual pharmacist who makes use of such a system. If such a system provides a hard-copy printout of each day's controlled substance prescription order refill data, that printout shall be verified, dated, and signed by the individual pharmacist who refilled such a prescription order. The individual pharmacist must verify that the data indicated is correct and then sign this document in the same manner as he would sign a check or legal document (e.g., J.H. Smith, or John H. Smith). This document shall be maintained in a separate file at that pharmacy for a period of two years from the dispensing date. This printout of the day's controlled substance prescription order refill data must be provided to each pharmacy using such a

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computerized system within 72 hours of the date on which the refill was dispensed. It must be verified and signed by each pharmacist who is involved with such dispensing. In lieu of such a printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in such dispensing shall sign a statement (in the manner previously described) each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him and is correct as shown. Such a book or file must be maintained at the pharmacy employing such a system for a period of two years after the date of dispensing the appropriately authorized refill.

4. Any such computerized system shall have the capability of producing a printout of any refill data which the user pharmacy is responsible for maintaining under the Act, and its implementing regulations. For example, this would include a refill-by-refill audit trail for any specific strength and dosage form of any controlled substance (by either brand or generic name or both). Such a printout must indicate name of the prescribing practitioner, name and address of the patient, quantity dispensed on each refill, date of dispensing for each refill, name and identification code of the dispensing pharmacist, and the number of the original prescription order. In any computerized system employed by a user pharmacy, the central recordkeeping location must be capable of sending the printout to the pharmacy within 48 hours and if a representative of the Department of Health requests a copy of such printout from the user pharmacy, it must, if requested to do so by the representative of the Department of Health verify the printout transmittal capability of its system by documentation (e.g., postmark).

5. In the event that a pharmacy which employs such a computerized system experiences system down-time, the pharmacy must have an auxiliary procedure which will be used for documentation of refills of schedule III and IV controlled substance prescription orders. This auxiliary procedure must insure that refills are authorized by the original prescription order, that the maximum number of refills has not been exceeded, and that all of the appropriate data is retained for on-line data entry as soon as the computer system is available for use again.

(f) When filing refill information for original prescription orders for schedule III or IV controlled substances, a pharmacy may use only one of the two systems described in this section.

(g) Any registrant who intends to use a system provided by (e) through (f) above must first apply for a Permit to Maintain Central Records as required by the Department of Health.

(h) The transfer of original prescription information for a controlled dangerous substance listed in schedule III or IV for the purpose of refill dispensing is permissible between pharmacies on a one time basis subject to the following requirements:

1. The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information:

i. Write the word "VOID" on the face of the invalidated prescription;

ii. Record on the reverse of the invalidated prescription the name, address and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information;

iii. Record the date of the transfer and the name of the pharmacist transferring the information.

2. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

i. Write the word "TRANSFER" on the face of the prescription;

ii. Provide all information required to be on a prescription pursuant to N.J.S.A. 24:21-17 and include:

(1) Date of issuance of original prescription;

(2) Original number of refills authorized on original prescription;

(3) Date of original dispensing;

(4) Number of valid refills remaining and date of last refill;

(5) Pharmacy's name, address and DEA registration number and original number from which the prescription information was transferred;

(6) Name of transferor pharmacist.

3. Both the original and transferred prescription must be maintained for a period of two years from the date of the last refill.

4. Pharmacies electronically accessing the same prescription record must satisfy all information requirements of a manual mode for prescription transferral.

5. The procedure allowing the transfer of prescription information for refill purposes is permissible only if allowable under existing State or other applicable law.

#### 8:65-7.15 Partial filling of prescriptions; schedules III and IV

(a) The partial filling of a prescription for a controlled substance listed in schedule III, IV, or V is permissible, provided that:

1. Each partial filling is recorded in the same manner as a refilling;

2. The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed; and

3. No dispensing occurs after six months after the date on which the prescription was issued.

#### 8:65-7.16 Labeling of substances; schedules III and IV

(a) The partial filling of a prescription for a controlled substance listed in schedule III or IV shall affix to the package a label conforming to the provisions set forth in N.J.S.A. 24:21-17.

(b) The requirements of subsection (a) of this section do not apply when a controlled substance listed in schedule III or IV is prescribed for administration to an ultimate user who is institutionalized: provided, that:

1. Not more than a 34-day supply or 100 dosage units, whichever is less, of the controlled substance listed in schedule III or IV is dispensed at one time;

2. The controlled substance listed in schedule III or IV is not in the possession of the ultimate user prior to administration;

3. The institution maintains appropriate safeguards and records the proper administration, control, dispensing and storage of the controlled substance listed in schedule III or IV; and

4. The system employed by the pharmacist in filling a prescription is adequate to identify the supplier, the product, and the patient, and to set forth the directions for use and cautionary statements, if any, contained in the prescription or required by law.

#### 8:65-7.17 Filing prescriptions; schedules III and IV

All prescriptions for controlled substances listed in schedules III and IV shall be kept in accordance with N.J.A.C. 8:65-5.17.

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**8:65-7.18 Requirement of prescriptions; schedule V**

(a) A pharmacist may dispense directly a controlled substance listed in schedule V pursuant to a prescription as required for controlled substances listed in N.J.A.C. 8:65-7.13 schedules III and IV. A prescription for a controlled substance listed in schedule V may be refilled only as expressly authorized by the prescribing individual practitioner on the prescription; if no such authorization is given, the prescription may not be refilled. A pharmacist dispensing such substance pursuant to a prescription shall label the substance in accordance with N.J.A.C. 8:65-7.16 and file the prescription in accordance with N.J.A.C. 8:65-7.17.

(b) An individual practitioner may administer or dispense directly a controlled substance listed in schedule V in the course of his professional practice without a prescription, subject to N.J.A.C. 8:65-7.7.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in schedule V only pursuant to a written prescription signed by the prescribing individual practitioner or pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist (containing all information required in N.J.A.C. 8:65-5.4(b) except for the signature of the prescribing individual practitioner), or pursuant to an order for medication made by an individual practitioner, which is dispensed for immediate administration to the ultimate user, subject to N.J.A.C. 8:65-7.7.

(d) The transfer of original prescription information for a controlled dangerous substance listed in schedule V for the purpose of refill dispensing is permissible between pharmacies on a one time basis subject to the following requirements:

1. The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information:

- i. Write the word "VOID" on the face of the invalidated prescription;
- ii. Record on the reverse of the invalidated prescription the name, address and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information;
- iii. Record the date of the transfer and the name of the pharmacist transferring the information.

2. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

- i. Write the word "TRANSFER" on the face of the prescription;
- ii. Provide all information required to be on a prescription pursuant to N.J.S.A. 24:21-17 and include:
  - (1) Date of issuance of original prescription;
  - (2) Original number of refills authorized on original prescription;
  - (3) Date of original dispensing;
  - (4) Number of valid refills remaining and date of last refill;
  - (5) Pharmacy's name, address and DEA registration number and original number from which the prescription information was transferred;
  - (6) Name of transferor pharmacist.

3. Both the original and transferred prescription must be maintained for a period of two years from the date of the last refill.

4. Pharmacies electronically accessing the same prescription record must satisfy all information requirements of a manual mode for prescription transferral.

5. The procedure allowing the transfer of prescription information for refill purposes is permissible only if allowable under existing State or other applicable law.

**8:65-7.19 Dispensing without prescription**

(a) A controlled substance listed in schedule V, and a controlled substance listed in schedule II, III, or IV which is not a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that:

1. Such dispensing is made only by a pharmacist (as defined in 8:65-7.1), and not by a nonpharmacist employee even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his professional and legal responsibilities set forth in this section, the actual cash, credit transaction, or delivery, may be completed by a nonpharmacist);

2. Not more than 240 cc. (eight ounces) of any such controlled substance containing opium, nor more than 120 cc. (four ounces) of any other such controlled substance nor more than 48 dosage units of any such controlled substance containing opium, nor more than 24 dosage units of any other such controlled substance may be dispensed at retail to the same purchaser in any given 48-hour period;

3. The purchaser is at least 18 years of age;

4. The pharmacist requires every purchaser of a controlled substance under this Section not known to him to furnish suitable identification (including proof of age where appropriate);

5. A bound record book for dispensing of controlled substances under this Section is maintained by the pharmacist, which book shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or initials of the pharmacist who dispensed the substance to the purchaser (the book shall be maintained in accordance with the record-keeping requirement of N.J.A.C. 8:65-5.4); and

(b) A prescription is not required for distribution or dispensing of the substance pursuant to an other Federal, State or local law.

---

**(a)**

**CONSUMER HEALTH SERVICES**

**Controlled Dangerous Substances  
Addition of Alfentanil to Schedule I**

**Proposed Amendment: N.J.A.C. 8:65-10.1**

Authorized By: J. Richard Goldstein, M.D.,  
Commissioner, Department of Health.  
Authority: N.J.S.A. 24:21-3 and -5.

**Interested persons** may submit, in writing, data, views, or arguments relevant to the proposal on or before October 4, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Lucius A. Bowser, RP, MPH  
Chief  
Drug Control Program  
CN 362  
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

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becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-494.

The agency proposal follows:

**Summary**

The Department of Health proposes to add a new substance, Alfentanil, to Schedule I of the Controlled Dangerous Substances Act to bring State regulations into conformity with the Federal Controlled Substances Act by controlling a drug that has no accepted medical use. The Secretary General of the United Nations has decided that under the Single Convention and Narcotic Drugs of 1961, Alfentanil should be controlled by all the signatories of the Convention. A rule has been published in the Federal Register by the Attorney General of the United States and the Drug Enforcement Administration, as his designated agency, which places Alfentanil into Schedule I of the Federal Act effective August 24, 1984. Notice was published as 49 FR 123, pg 25849, June 25, 1984.

Placement of this new narcotic substance in Schedule I of the Controlled Dangerous Substances Act would adequately control the use and/or abuse of this substance because its availability would be restricted to analytical and research laboratories. Manufacturing and distribution of this substance would be prohibited.

**Social Impact**

The proposal to control Alfentanil in Schedule I of the Act would prevent any illegal distribution of this new narcotic substance and would help keep communities free of unwanted and unapproved controlled drugs. It would not have any impact upon physicians, pharmacists or patients, since the narcotic substance has no known medical use. It would impact upon analytical and research laboratories only slightly since they are already prepared to keep records and provide security for any controlled substance in Schedule I. There would be no additional requirements generated by the proposal to control Alfentanil.

**Economic Impact**

The proposal by the Department of Health to control Alfentanil, would have no economic impact on physicians, patients, pharmacists, manufacturers and wholesalers since they presently are permitted only to handle substances with approved medical uses. There would be only a slight economic impact on analytical and research laboratories because of record and security requirements which they might have to add to the present Schedule I drugs in their possession or under their control.

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

8:65-10.1 Controlled dangerous substances, Schedule I

(a) (No change.)

(b) The following is Schedule I listing of the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code number.

1. Opiates: Unless specifically expected or unless listed in another schedule, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation (listed by generic/established or chemical name with CDS code):

|                   |             |
|-------------------|-------------|
| Acetylmethadol    | 9601        |
| <b>Alfentanil</b> | <b>9737</b> |
| Allylprodine      | 9602        |
| .....             | ....        |
| .....             | ....        |

2.-6. (No change.)

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(a)

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Physicians Services Manual, Independent Clinic Manual, and Manual for Psychological Services  
Progress Notes for Mental Health Providers**

**Proposed Amendment: N.J.A.C. 10:54-1.3, 10:66-1.9, 10:67-1.6**

Authorized By: George J. Albanese, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-6a(5), b(10), 7 and 7b, 30:4D-12.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions and responses, should be addressed to:

Henry W. Hardy, Esq.  
Administrative Practice Officer  
Division of Medical Assistance and Health Services  
CN-712  
Trenton, NJ 08625

At the close of the period for comments, the Department of Human Services may adopt this proposal, with any minor changes not in violation of the rule-making procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-486.

The Agency proposal follows:

**Summary**

The New Jersey Medicaid law (N.J.S.A. 30:4D-12) requires Medicaid providers to keep such individual records as are necessary to fully disclose the name of the recipient, the date the service was rendered, the nature and extent of the service rendered, and any additional information required by regulation.

In keeping with the statutory requirements, this proposal contains the essential ingredients of a psychotherapy progress

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note which are required when a mental health therapist has contact with a patient. Said note must include the date and duration of the service, signature of the provider, name of the modality used (individual, group, family therapy, etc.) and notations of progress, impediments or treatment complications. In addition, one or more of the following components must be included: symptoms and complaints, affect, behavior, focus topics, and significant incidents or historical events.

This documentation must be available to the Division upon request.

The proposal applies to mental health services excluding partial hospitalization and personal care.

**Social Impact**

The source of the information contained in the psychotherapy note is the interaction between the patient and the provider. Providers are required to maintain adequate records concerning the psychotherapy note. The items to be documented are specified in the rule, below.

**Economic Impact**

There is little economic impact associated with this proposal. The Division will continue to reimburse providers of mental health services in accordance with the existing fee schedules.

There is no cost to the Medicaid patient.

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

10:54-1.3 Record keeping

(a) **All** physicians are to keep legible individual records as are necessary to fully disclose the kind and extent of services provided, as well as the medical necessity for those services. Minimum requirements for services performed in the office, home, sheltered boarding home, long-term care facility and the hospital setting shall include a progress note in the clinical record for each visit, except where specified otherwise, which supports the procedure code or codes claimed. This information must be made available upon the request of the Division of Medical Assistance and Health [Services Medicaid] **Services' New Jersey Medicaid Program** or its agents.

**(b) Mental Health Services (excluding partial hospitalization and personal care) shall keep the following records:**

**1. For each patient contact made by a mental health therapist the following are required ingredients of a psychotherapy progress note:**

- i. **Date and duration of service (hour, half-hour etc.)**
- ii. **Signature of provider (if a member of a group).**
- iii. **Name of the modality used, that is, individual, group, family therapy, etc. (a psychiatrist should record current medication and dose; new or changed medications.)**
- iv. **Notations of progress, impediments, or treatment complications.**
- vi. **Other — this may include dates or information not included in above, but yet important to clinical picture and prognosis.**
- vii. **One or more of the following components must be recorded to delineate the visit and establish its uniqueness. All of these components need not be included.**

- (1) Symptoms and complaints;**
- (2) Affect;**
- (3) Behavior;**
- (4) Focus topics;**
- (5) Significant incidents or historical events.**

10:66-1.9 Record keeping

**(a) Clinics are to keep legible individual records as are necessary to fully disclose the kind and extent of services provided, as well as the medical necessity for those services. Minimum requirements for services performed by the clinic shall include a progress note in the clinical record for each visit, except where specified otherwise, which supports the procedure code or codes claimed. This information must be available upon the request of the New Jersey Medicaid program or its agents.**

**(b) Mental Health Services (Excluding Partial Hospitalization and Personal Care)**

**1. For each patient contact made by a mental health therapist the following are required ingredients of a psychotherapy progress note:**

- i. **Date and duration of service (hour, half-hour, etc).**
- ii. **Signature of provider (if a member of a group).**
- iii. **Name of the modality used — individual group, family therapy, etc. (Psychiatrist should record current medication and dose; new or changed medications.)**
- iv. **Notations of progress, impediments, or treatment complications.**
- vi. **Other — this may include dates or information not included in above, but yet important to clinical picture and prognosis.**
- vii. **One or more of the following components must be recorded to delineate the visit and establish its uniqueness. All of these components need not be included.**

- (1) Symptoms and complaints; (2) Affect; (3) Behavior; (4) Focus topics; (5) Significant incidents or historical events.**

**SUBCHAPTER 2. BILLING PROCEDURES**

(No change in text.)

10:67-1.6 General policy; record keeping

(a) Psychologists shall keep individual records as may be necessary to disclose fully the kind and extent of services provided and to make such information available as the Division or its agent may request.

(b) For the initial examination, the record shall show the following as minimum:

- 1. Date of service rendered;
- 2. Chief complaint(s);
- 3. Pertinent historical, social, emotional and additional data;
- 4. Reports of evaluation procedures undertaken or ordered;
- 5. Diagnosis;
- 6. Intended course of procedure and tentative prognosis.

[(c) Subsequent progress notes must include date and specific course of treatment undertaken as a minimum.]

**(c) For subsequent progress notes made for each patient contact made by a psychologist, in other than a Partial Hospitalization or Personal Care Program, the following are required ingredients of a psychotherapy progress note:**

- 1. Date and duration of service (hour, half-hour, etc).**
- 2. Signature of provider (if a member of a group).**
- 3. Name of the modality used — individual, group, family therapy, etc.**
- 4. Notations of progress, impediments, or treatment complications.**
- 5. Other — this may include dates or information not included in above, but yet important to clinical picture and prognosis.**

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6. One or more of the following components must be recorded to delineate the visit and establish its uniqueness. All of these components need not be included.

- i. Symptoms and complaints;
- ii. Affect;
- iii. Behavior;
- iv. Focus topics;
- v. Significant incidents or historical events.

**(a)**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Long Term Care Services Manual  
Final Audited Rate Calculation**

**Proposed New Rule: N.J.A.C. 10:63-1.23**

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.

Authority: N.J.S.A. 30:4D-6a(4)(a), b(14), 7 and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions and responses, should be addressed to:

Henry W. Hardy, Esq.  
Administrative Practice Officer  
Division of Medical Assistance and Health Services  
CN-712  
Trenton, NJ 08625

At the close of the period for comments, the Department of Human Services may adopt this proposal, with any minor changes not in violation of the rule-making procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-495.  
The agency proposal follows:

**Summary**

This proposal concerns long term care facilities (LTCF). It deals primarily with a final rate calculation following an audit.

LTCFs are required to submit cost studies annually within 90 days after their fiscal year has ended. The New Jersey Department of Health calculates a per diem rate utilizing the CARE (Cost Accounting and Rate Evaluation) system, and recommends a per diem rate to the Division of Medical Assistance and Health Services, who has final approval. If the LTCF is not satisfied with the per diem rate, an appeal can be filed in the manner prescribed by N.J.A.C. 10:63-3.20.

Federal regulations require that LTCFs be audited periodically (42 CFR 447.253(d)). If an audit reveals that the final

per diem rate is lower than the original rate, then the LTCF will be required to reimburse the Division. If an audit reveals that the final per diem rate was higher than the rate initially set, the Division does not make additional reimbursement to the LTCF. The basis for the prospective rate system is that costs reported in one period will be reimbursed in the next period. The LTCF is responsible for preparing cost reports and the data on these reports should be accurate.

**Social Impact**

The proposed rule will require LTCFs to more accurately complete their cost studies to reflect expenditures that are reimbursed under the New Jersey Medicaid program. LTCFs that are inaccurate in reporting their costs may be subject to interest penalties on audit.

If an audit reveals that the final per diem rate is lower than the original rate, then the LTCF will be required to reimburse the Division. If an audit reveals that the final per diem rate was higher than the rate initially set, the Division does not make additional reimbursement to the LTCF. There is no social impact on the Medicaid patient.

**Economic Impact**

The Division will reimburse LTCFs based on the cost studies they submit. In the event an audit reveals that the final audit rate calculation is higher than the original per diem rate, the Division will not make an additional payment to the LTCF. If the final audit rate calculation is lower than the original per diem rate, the Division will recover from the LTCF the overpayment plus any interest payment that may be applicable.

The economic impact on LTCFs will vary, depending on the results of the audit.

This proposal has no economic impact on Medicaid patients.

Full text of the proposed new rule follows.

**10:63-1.23 Final audited rate calculation**

(a) The Division of Medical Assistance and Health Services will calculate final per diem rates based on audit adjustment reports in accordance with the following general guidelines:

- 1. Allowance of audit adjustments which represent the reclassification of previously reported allowable cost and statistics;
- 2. Disallowance of audit adjustments which represent previously unreported costs; and
- 3. The final per diem rates determined based on 1 and 2 above cannot exceed the prospective rates previously paid.

(b) Settlement after final rate calculation will be for fraud and/or abuse collections or recoveries of payments when the final rate is lower than the original rate.

(c) The basis for establishing guidelines for the prospective per diem rates, and costs which may be reported, are the CARE (Cost Accounting and Rate Evaluation System) Guidelines which appear at N.J.A.C. 10:63-3.

## HUMAN SERVICES

## PROPOSALS

### (a)

#### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

##### Medical Day Care Manual Billing Procedures

##### Proposed Readoption: N.J.A.C. 10:65-2

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.

Authority: N.J.S.A. 30:4D-6b(12)(16), 7 and 7b.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions and responses, should be addressed to:

Henry W. Hardy, Esq.  
Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
CN 712  
Trenton, NJ 08625

At the close of the period for comments, the Department of Human Services may adopt this proposal, with any minor changes not in violation of the rule-making procedures at N.J.A.C. 1:30-3.5. Pursuant to Executive Order No. 66(1978), this rule would otherwise expire on August 17, 1984. The readoption of the existing rules becomes effective upon filing with the Office of Administrative Law of the notice of readoption.

This proposal is known as PRN 1984-487.

The agency proposal follows:

##### Summary

This proposal is designed to readopt Subchapter Two of the Medical Day Care Manual. Topics included in this subchapter are prior authorization, identification of a Medicaid patient, instructions for completing the claim form, and the rate of reimbursement.

The Medical Day Care Program is designed to provide an alternative to total institutionalization. It provides medically supervised, health related services in an ambulatory care setting to persons who do not require 24 hour inpatient institutional care, yet, due to their physical and/or mental impairment, need health maintenance and restorative services to support their living in the community. In order for an individual to qualify for medical day care services, he or she must be financially eligible for Medicaid and, in addition, obtain prior authorization from the Division of Medical Assistance and Health Services.

An administrative review has been conducted, and a determination made that the rule should be continued. The rules are necessary, adequate, reasonable, understandable and responsive because they instruct providers on the procedures to be followed in order to obtain Medicaid reimbursement.

The rule has been amended several times. The most recent amendment appeared as a proposal in the New Jersey Register June 18, 1984 at 16 N.J.R. 1443(a) and was adopted as R.1984 d.332. The amendment dealt primarily with initial

evaluation visits. Other amendments include length of time for authorizations (R.1983 d.615 at 16 N.J.R. 144(c)). The rate of reimbursement was established at 55 percent of the Intermediate Care Level IV(B) rate (R.1981 d.318 at 13 N.J.R. 580(a)). The requirements for Patient certification were deleted from this subchapter and placed in N.J.A.C. 10:49-1.26 (R.1981 d.331 at 13 N.J.R. 575(a)). An amendment allowing medical day care services to be provided in a hospital affiliated facility was also enacted. (R.1983 d.75 at 15 N.J.R. 442(a)).

The rule is not being amended on readoption.

##### Social Impact

The rule has enabled persons to receive health maintenance and restorative services while residing in the community. Since the same social conditions exist, the rule should be continued. The rule should be readopted in order that providers can continue to provide medical day care services and be reimbursed for them. The services include medical, nursing, social, transportation, personal care, and rehabilitative services.

The rule impacts on Medicaid patients who require these services by enabling them to receive health-related services without requiring 24-hour in-patient institutionalized care and on approved Medicaid providers who want to be reimbursed for providing these services.

The providers that are primarily affected by the rule are medical day care centers, which may be free standing, part of a long term care facility, or hospital affiliated.

##### Economic Impact

The Division of Medical Assistance and Health Services spent approximately \$1,150,000 (Federal-State share combined) in Fiscal Year 1983.

Providers of medical day care centers are reimbursed on a per diem basis, which is based on the number of days spent by the patient at the medical day care center. The rule should be continued so that providers will be reimbursed at the appropriate rate provided they comply with the procedures in this subchapter. Providers will bill the Medicaid program using the appropriate form indicating the days the patient attended the center. The Division will reimburse the provider in accordance with the regulation set forth at N.J.A.C. 10:65-2.1(a)(2)

There is no cost to the Medicaid patient for this service.

**Full text** of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:65-2.

### (b)

#### DIVISION OF PUBLIC WELFARE

##### Assistance Standards Handbook Income

##### Proposed Readoption: N.J.A.C. 10:82-4

##### Proposed Readoption with Concurrent Amendments: N.J.A.C. 10:82-4.5, 4.6 and 4.9

## PROPOSALS

## HUMAN SERVICES

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.  
Authority: N.J.S.A. 44:7-6 and 44:10-3; and 45 CFR  
233.20(a)(3)(xvii)(B) and (C).

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Director  
Division of Public Welfare  
CN 716  
Trenton, New Jersey 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66 (1978), this rule would otherwise expire on November 1, 1984. The readoption of the rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of re adoption. The concurrent amendments to the existing rule become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-489.

The agency proposal follows:

### Summary

In accordance with the "sunset" provisions of Executive Order No. 66(1978), the Department of Human Services proposes to readopt subchapter 4 of N.J.A.C. 10:82.

On April 1, 1975, pursuant to authority of N.J.S.A. 44:7-6, 44:10-3, and in accordance with applicable provisions of the Administrative Procedure Act of 1968, the Department adopted the Assistance Standards Handbook (N.J.A.C. 10:82-1.1 et seq.). An order adopting the handbook was filed April 2, 1975, as R.1975 d.93 and became effective April 15, 1975.

N.J.A.C. 10:82-4 is a compilation of regulations and procedures pertaining to an applicant/recipient's income in the Aid to Families with Dependent Children (AFDC) program. The purpose of the subchapter is to provide county welfare agencies (CWAs) guidelines for treatment of all income for the purpose of determining initial or continued eligibility of AFDC. These guidelines include provisions which define earned and unearned income and allow for earned income disregards (including the disregard of earned income of children who are either full or part-time students). The subchapter also establishes rules regarding alimony, child support, income received at regular intervals, and irregular or non-recurring income.

The Division of Public Welfare conducted an internal review and evaluation of the rules of this subchapter prior to noticing for re adoption. After such review of the rules, that agency determined the rules to be adequate, reasonable, and responsive to the purpose for which they were promulgated.

Since its original adoption, this subchapter has been under continual review. The following are significant changes which have been adopted previously as a result of the ongoing review:

1. In 1976, changes were made to N.J.A.C. 10:82-4.12, which provided revisions concerning determination of household size and income from roomers, boarders, and roomer-boarders.

2. In 1976, revisions were made to N.J.A.C. 10:82-4.2 and 4.3, which amended the definition of earned income to include the receipt of tips, and established guidelines for the

determination of a self-sustaining business in relation to eligibility for public assistance.

3. In 1977, revisions were adopted at N.J.A.C. 10:82-4.6 expanding the disregard of allowances and payments in AFDC to include, among others, persons serving in the Service Corps of Retired Executives (SCORE), the Active Corps of Executives (ACE), and Volunteers in Service to America (VISTA).

4. In 1979, amendments were adopted at N.J.A.C. 10:82-4.6 and 4.15, which provided for the disregard of earnings of youths involved in certain programs under the Youth Employment and Training Act of 1973.

5. In 1980, N.J.A.C. 10:82-4.6 was amended again to update language concerning the disregard of certain allowances and payments provided through the Comprehensive Employment and Training Act (CETA).

6. In 1980, the Department adopted revisions to N.J.A.C. 10:82-4.13, which amended CWA responsibilities with regard to evaluating the amount of support contributed by a legally responsible relative.

7. In 1981, the Department adopted revisions to N.J.A.C. 10:82-4.1, 4.4, 4.5, 4.7, 4.15 and 4.16, which added provisions for earned income credit payments to be counted as earned income. Also, revisions were made regarding earned income disregards, irregular or non-recurring income, and child support and alimony payments.

8. In 1982, the Department adopted changes at N.J.A.C. 10:82-4.1, 4.3, 4.4 and 4.15, which revised rules regarding earned income tax credit payments, self-employment income, earned income disregards, and treatment of lump sum income.

Included in this proposed re adoption are concurrent amendments pertaining to certain income disregards. N.J.A.C. 10:82-4.5 lowers the age limit from 21 to 19 with respect to income disregards for AFDC-N segment children to comport with program standards. (See N.J.A.C. 10:82-1.2 and 1.5 for an explanation of "N-segment") N.J.A.C. 10:82-4.6 is being revised to provide rules concerning disregards of income from programs under the Job Training Partnership Act for all segments of AFDC, in compliance with Federal regulations published at 45 CFR 233.20(a)(3)(xvii)(B) and (C). The amendment at N.J.A.C. 10:82-4.9 revises the basic monthly foster care rates as established by the Division of Youth and Family Services.

### Social Impact

Since N.J.A.C. 10:82-4 sets forth guidelines for the county welfare agencies regarding income of applicants/recipients of AFDC, the re adoption of this subchapter will continue to provide equitable determinations of eligibility when considering the income and appropriate disregards of all AFDC applicants/recipients.

The concurrent amendments should have a decidedly positive effect on the State's client population. The six month disregard of all earned income from programs under the Job Training Partnership Act (JTPA) should provide economic relief for the families of AFDC. In addition, it should stimulate initiative and help to instill a sense of responsibility and accomplishment within the children of those families.

### Economic Impact

The projected economic impact is not measurable. The amendments at N.J.A.C. 10:82-4.5 and 4.9(c) are expected to have little or no impact inasmuch as they reflect policies which are already in effect. The disregard of income at

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N.J.A.C. 10:82-4.6 should provide a work incentive for teenagers within the client population. Without benefit of this disregard, many households eligible to participate in JTPA programs would be disqualified for AFDC. Thus, by allowing for this disregard, it is expected that there will be sufficient incentive for qualified youth. Moreover, the goal of the JHTPA is to provide the disadvantaged with job skills which might otherwise be unattainable. In view of this, it is anticipated that the disregard of this income could, in the long term, result in a reduction of the AFDC caseload.

Subchapter 4 specifically deals with the treatment of all types of income, that is, what income must be counted and what income must be disregarded in determining the amount of assistance, if any, clients are entitled to receive under the A.F.D.C. program. Thus, re-adoption of this subchapter is essential for the efficient and effective administration of the A.F.D.C. program by the CWAs. Failure to re-adopt subchapter 4 could result in loss of Federal financial participation since these regulations are essential for the proper determinations of A.F.D.C. benefits.

**Full text** of the proposed re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:82-4, as amended and supplemented by the New Jersey Register.

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

10:82-4.5 Disregard of earned income in AFDC-N segment

(a) Rules on the N segment are as follows.

1. The first \$60.00 of gross monthly earnings of each employed member of the eligible AFDC-N unit shall be the initial disregard. In addition, indetermining **the** amount of payment for an otherwise eligible unit, one third of the total remaining earned income shall be disregarded and, where applicable, the following:

i. (No change.)

ii. All earned income of children 16 to [21] **19** years of age who are attending an accredited educational institution on a full-time basis shall be exempt. (See also N.J.A.C. 10:82-4.7.)

(b) (No change.)

10:82-4.6 Disregard to certain allowances and payments in AFDC (all segments)

[(a) Incentive allowances of \$30.00 per week to AFDC recipients who are trainees in a CETA program and training allowances received by clients for their classroom attendance in the Youth Employment and Training Program (YETP) and the Youth Incentive Entitlement Pilot Projects (YIEPP) are exempt in the determination of eligibility and grant entitlement. Additional incentive allowances, except as indicated below, are to be counted as unearned income; all other payments below, are to be counted as unearned income; all other payments through CETA are earned income and shall be treated accordingly.]

1. Earnings received by any youth under any of the following three programs of Title IV, Part A of CETA as authorized by the Youth Employment and Demonstration Projects Act (YEDPA) of 1977 shall be disregarded in determining the public assistance payment:

i. The Youth Incentive Entitlement Pilot Projects (YIEPP);

ii. The Youth Community Conservation and Improvement Project (YCCIP);

iii. The Youth Employment and Training Programs (YETP).

(b) Payments for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers, grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III of the Domestic Volunteer Services Act of 1973 (Public Law 93-113) shall be disregarded.

(c) Payments made to volunteers under Title I (VISTA) of Public Law 93-113, pursuant to section 404(g), shall be disregarded.]

**(a) Unearned income (including monies to offset training expenses) received by an AFDC dependent child through the Job Training Partnership Act (JTPA) is exempt in the determination of initial eligibility, maximum income eligibility, prospective needs test, and grant entitlement.**

**(b) Earned income received through the JTPA by an AFDC dependent child is exempt in the determination of income eligibility and grant entitlement. However, the exclusion of such income shall not exceed six months in any 12 consecutive months.**

**(c) Income received by an AFDC parent or parent-person through the JTPA is treated as any other income received by such an individual with the exception of those payments classified as "needs based payments". Needs based payments (that is, monies paid to offset expenses related to training) are to be disregarded in the determination of initial eligibility, maximum income determination, prospective needs test, and grant computations.**

10:82-4.9 Division of Youth and Family Services

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

(c) The basic monthly rates for foster care as established by the Division of Youth and Family Services are as follows:

1. Child under six years, [\$160.00] **\$176.00** per month;
2. Six through nine years, [\$171.00] **\$188.00** per month;
3. Ten through 14 years, [\$189.00] **\$208.00** per month;
4. Fifteen years and over, [\$200.00] **\$220.00** per month;

**(a)**

**COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**

**Commodities and Services Council  
State Use Law for Rehabilitation Facilities**

**Proposed New Rule: N.J.A.C. 10:99**

Authorized By: George J. Albanese, Commissioner,  
Department of Human Services.

Authority: N.J.S.A. 30:6-23 et seq., specifically 30:6-32.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4,

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1984. These submissions, and any inquiries about submissions and responses should be addressed to:

Norma F. Krajczar, Executive Director  
Commission for the Blind and  
Visually Impaired  
1100 Raymond Boulevard  
Newark, NJ 07102

At the close of the period for comments, the Department of Human Services may adopt this proposal with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-496.

The agency proposal follows:

### Summary

George J. Albanese, Commissioner, Department of Human Services, proposes a new rule on State Use Law for Rehabilitation Facilities implementing Chapter 488, 1981 Laws of New Jersey (N.J.S.A. 30:6-23). The new rule provides relevant definitions and a description of the responsibilities and functions of the Commodities and Services Council, the Central Nonprofit Agency and the criteria for eligibility and the condition, under which approved Rehabilitation Facilities may participate in the State Use Program.

The State Use Program is designed to permit the set-aside of selected commodities or services to be provided to purchasing agencies within the State by Rehabilitation Facilities which have been approved for participation in the program. Under the set-aside privilege, commodities or services are purchased from approved facilities on a sole provider basis.

The Commodities and Services Council, whose membership is made up of designated public officials representing several State agencies, and three members of the general public appointed by the Governor, is responsible for overseeing the activities of the Central Nonprofit Agency, approving applications for set-aside and reporting to the Commissioner of Human Services on the progress of the State Use Program.

The Central Nonprofit Agency is a private not-for-profit organization designated by the Commissioner of Human Services, as provided for in the State Use Law for Rehabilitation Facilities, to carry out all activities necessary for the implementation of that law. The Central Nonprofit Agency will be responsible for processing applications for set-aside by rehabilitation facilities, determining the capability of rehabilitation facilities to provide the Commodity or Service in question, and recommending to the Commodities and Services Council approval or rejection of the application.

### Social Impact

The proposed new rules provide a public, official and ready source of information regarding the activities of the Commodities and Services Council and the Central Nonprofit Agency in implementing the State Use Law for rehabilitation facilities. The Program is designed to provide better working conditions, more challenging and more remunerative training and work opportunities for blind and other severely handicapped persons in Rehabilitation Facilities in New Jersey.

### Economic Impact

There will be initial costs for the support of the first two years of activity in the State Use Program, with funds to be

provided from public funds as administered by the New Jersey Commission for the Blind and Visually Impaired under P.L. 93-112 (the Vocational Rehabilitation Act as amended in 1978) and N.J.S.A. 30:6-15.1 and 15.2.

It is anticipated that sufficient income will be generated after the second year to support the activities of the State Use Program.

Full text of the proposed new rule follows:

## CHAPTER 99

### STATE USE LAW FOR REHABILITATION FACILITIES

#### SUBCHAPTER 1. DEFINITIONS

##### 10:99-1.1 Definitions

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

“Blind person” means a person whose vision in his better eye with proper correction does not exceed 20/200 or who has a field defect in his better eye with proper correction which contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees.

“Central Nonprofit Agency” means an agency organized under the laws of New Jersey, operated in the interest of the blind, or other severely handicapped, the net income of which does not inure in whole, or in part, to the benefit of any shareholder or individual, and designated by the Commissioner to facilitate the distribution (by direct allocation, or other means) of orders of the State for commodities and services on the procurement list among qualified rehabilitation facilities for the blind, or qualified rehabilitation facilities for other severely handicapped, and to assist the Council in administering these regulations.

“Commissioner” means the Commissioner of the Department of Human Services.

“Commodities and Services Council” means the Commodities and Services Council for blind and other severely handicapped persons as constituted in Section 3 of Chapter 488, 1981 Laws of New Jersey.

“Fiscal year” means the twelve-month period beginning on July 1, of each year.

“Ordering office” means any activity in an entity of the State that places orders for the procurement of any commodity or service on the procurement list.

“Other severely handicapped” means persons (other than blind persons) who are so severely incapacitated by any physical or mental disability, that they cannot engage in normal competitive employment because of such disability. Some specific categories of severely handicapped persons as defined above include but are not limited to those disabled by the following:

1. Spinal cord injury;
2. Hearing impaired;
3. Muscular dystrophy (adults);
4. Multiple sclerosis;
5. Developmental disabilities or other neurological disorders;
6. Severe orthopedic handicaps;
7. Multiple disabilities;
8. Severe personality or behavioral disorders, including psychosis and neurosis;
9. Severe pulmonary disease;
10. Severe cardiac disorders.

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“Rehabilitation facility” means a rehabilitation facility approved by the Division of Vocational Rehabilitation Services or the Commission for the Blind and Visually Impaired and which is engaged in the production of commodities or the provision of services in connection with which not less than 75 percent of the total hours of direct labor is performed by blind or other severely handicapped persons excluding any hours of supervision, administration, inspection or shipping.

“State agency” means any agency of State government, including quasi-State agency entities.

### SUBCHAPTER 2. COMMODITIES AND SERVICES COUNCIL FOR THE BLIND AND OTHER SEVERELY HANDICAPPED PERSONS

#### 10:99-2.1 Establishment

There is established in the Department for Human Services, the Commodities and Services for blind and other severely handicapped persons.

#### 10:99-2.2 Membership

(a) The Council shall consist of the Director of the Division of Vocational Rehabilitation Services; the Director of the Division of Purchase and Property; the Chief of the Bureau of State Use Industries; President of the New Jersey Business and Industry Association; the President of the New Jersey AFL-CIO; the Executive Director of the Commission for the Blind and Visually Impaired; the President of the New Jersey Association of Rehabilitation Facilities; or their designees; three citizens as at-large members, at least one of whom shall be a blind person, and one of whom shall represent the general public. The at-large members shall be appointed by the Governor, with the advice and consent of the Senate, for terms of three years, except that of the first at-large members appointed, one shall be appointed for a term of three years, one for a term of two years, and one for a term of one year.

(b) The members of the Council shall organize annually by the selection of one of their members to serve as chairman. Members shall serve without compensation but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

#### 10:99-2.3 Duties of the Council

(a) The Council develops, in conjunction with the Division of Purchase and Property in the Department of the Treasury, a list of commodities and services which shall be set aside for purchase from approved rehabilitation facilities and establishes a fair market price for those commodities and services.

(b) The Council recommends to the Commissioner an agency for designation as the Central Nonprofit Agency for the purposes of this program.

(c) The Council encourages the purchase of commodities and services of blind and other severely handicapped persons by political subdivisions of the State.

(d) The Council establishes allowable fees for the Central Nonprofit Agency services to participating rehabilitation facilities.

(e) The Council addresses, as deemed appropriate, grievances presented by participating rehabilitation facilities regarding action by the Central Nonprofit Agency.

(f) The Council monitors the activities of the Central Nonprofit Agency both in terms of its relations with participating rehabilitation facilities and with State Use customer agencies, and, in cases of documented non-compliance on the part of

the Central Nonprofit Agency, recommends appropriate corrective action or rescinding of the Central Nonprofit Agency status.

#### 10:99-2.4 Procurement list

(a) The Council shall issue to each ordering office a procurement list which will include commodities and services which shall be procured from the designated Central Nonprofit Agency or its approved rehabilitation facilities.

1. For commodities, the procurement list includes the item description, specifications, identification, price and other pertinent information.

2. For services, the procurement list identifies the type of service to be provided, the area(s) and/or agency(s) to be serviced, prices, and other relevant information.

#### 10:99-2.5 Fair market price

The Council is responsible for establishing fair market prices, including changes thereto, for commodities or services on the procurement list and shall consider recommendations from the procuring agencies and the Central Nonprofit Agency concerned. Recommendations for fair market prices or changes thereto shall be submitted by the rehabilitation facility to the Central Nonprofit Agency representing the rehabilitation facility. The Central Nonprofit Agency shall analyze the data and submit a recommended fair market price to the Council along with detailed justification necessary to support the recommended price. Pricing guidelines shall be established by the Council.

#### 10:99-2.6 Annual report

The Council shall prepare and submit to the Commissioner an annual report on the activities conducted under N.J.S.A. 20:6-23 et seq. (hereinafter the Act) and results within 60 days following the close of the fiscal year.

### SUBCHAPTER 3. CENTRAL NONPROFIT AGENCY

#### 10:99-3.1 Designation

A Central Nonprofit Agency shall be designated by the Commissioner to represent the rehabilitation facilities for the blind and rehabilitation facilities for other severely handicapped.

#### 10:99-3.2 Duties and responsibilities

(a) The Central Nonprofit Agency shall:

1. Represent rehabilitation facilities in dealings with the Council under the Act.

2. Evaluate the qualifications and capabilities and provide the Council with the pertinent data concerning these rehabilitation facilities, their status as qualified nonprofit agencies, their manufacturing and/or service capabilities, and other information required by the Council.

3. Recommend to the Council, with appropriate justification, including recommended prices, suitable commodities or services for procurement from its qualified rehabilitation facilities.

4. Distribute within the policy guidelines of the Council (by direct allocation, or any other means) orders from State purchasing activities among its qualified rehabilitation facilities.

5. Maintain the necessary records and data on its qualified facilities to enable it to allocate orders equitably.

6. Monitor participating rehabilitation facilities to insure contract compliance in production of a commodity or performance of a service.

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7. Monitor and inspect the activities of participating facilities to insure compliance with N.J.S.A. 30:6-23 et seq. and this chapter.

8. As market conditions change, recommend price changes, with appropriate justification, for assigned commodities or services on the procurement list.

9. Enter, as required, into contracts with State procuring activities for the furnishing of commodities or the provision of services provided by the rehabilitation facilities.

10. Submit to the Council a comprehensive annual report for each fiscal year concerning the operations of participating rehabilitation facilities under N.J.S.A. 30:6-23 et seq., including significant accomplishments and developments, and such other details as the Central Nonprofit Agency considers appropriate or the Council may request. This report will be submitted within six weeks following the close of the fiscal year.

11. Provide an appeal process to address disputes or grievances which may occur between the participating rehabilitation facilities and the Central Nonprofit Agency.

### 10:99-3.3 Assignment of commodity or service

(a) The facility first proposing a commodity or service through the Central Nonprofit Agency for addition to the procurement list shall have priority on its assignment unless the Bureau of State Use Industries exercises its priority.

(b) Within 30 days after notification by the Council, or 60 days upon approval by the Council, after the Central Nonprofit Agency has proposed a commodity or service for addition to the procurement list, the Bureau of State Use Industries shall notify the Council of their intention to exercise their priority on the proposed commodity or service.

(c) The Council shall assign commodities or services to approved rehabilitation facilities based on (a) and (b) above.

(d) The facility proposing a commodity or service shall complete action to place it on the procurement list within nine months after assignment. If, within nine months, the rehabilitation facility has not completed action, the Council may reassign the commodity or service to another facility capable of producing the commodity or performing the service, provided that the facility is prepared to take prompt action to submit a proposal to place the commodity or service on the procurement list. Priority on reassignment will be determined by the order in which the facilities proposed the commodity or service for addition to the procurement list, the first proponent having the highest priority.

### 10:99-3.4 Distribution of orders

The Central Nonprofit Agency shall distribute orders from the State only to facilities which the Council has approved to produce the specific commodity or to perform the particular service. When the Council has approved two or more facilities to produce a specific commodity, or perform a particular service, the Central Nonprofit Agency shall distribute orders among those facilities in a fair and equitable manner.

### 10:99-3.5 Fees

The fees that the Central Nonprofit Agency charges rehabilitation facilities for coordinating and assisting in their participation under the Act, shall not exceed the rates approved by the Council.

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### SUBCHAPTER 4. REHABILITATION FACILITIES

#### 10:99-4.1 Procedures for qualifications

(a) A rehabilitation facility shall submit to the Council, through the Central Nonprofit Agency, the following documents, transmitted by a letter signed by an officer of the corporation:

1. A legible copy of the articles of incorporation showing the date of filing and the signature of an appropriate State official.

2. A copy of the by-laws certified by an officer of the corporation.

3. A copy of the Internal Revenue Service certificate indicating that the corporation has been accepted as a nonprofit agency for taxation purposes.

4. Evidence that the facility meets the criteria for determining nonprofit status under the applicable provisions of New Jersey Statutes, and is registered and in good standing as a charitable organization with the Secretary of State, under the provisions of New Jersey Statutes.

5. A copy of current certificate(s) issued by United States Department of Labor authorizing wage payments under section 14(c) of the Fair Labor Standards Act.

(b) After the review and approval of submitted documentation the Council shall review the documents submitted, and if they are approved by the council the facility will be notified through the Central Nonprofit Agency of the facility's eligibility to participate under the Act.

(c) At the time the Central Nonprofit Agency recommends to the Council the addition of a commodity or service to the procurement list, it shall submit a signed copy of the appropriate initial certification for the facility concerned. This requirement does not apply when a facility is already authorized to produce a commodity or provide a service under the Act.

(d) To maintain its qualifications under the Act, each facility authorized to produce a commodity or provide a service under the Act shall complete an annual certification and submit a signed copy to the Council through the Central Nonprofit Agency within six weeks following the close of the fiscal year.

#### 10:99-4.2 Responsibilities

(a) Each facility participating under the Act shall:

1. Furnish commodities or services in strict accordance with the allocation and State orders.

2. Make appropriate records available for inspection by the Central nonprofit agency at any reasonable time.

3. Maintain records of direct labor hours performed in the facility by each worker.

4. Submit the appropriate annual certification to the Council through its Central Nonprofit Agency within six weeks following the close of the fiscal year.

5. Comply with applicable occupational health and safety standards prescribed by the United States Secretary of Labor.

6. Maintain a file on each blind and other severely handicapped individual which includes reports of pre-admission evaluation, and annual re-evaluations of the individual's capability for normal competitive employment, prepared by a person or persons qualified by training and experience to evaluate the work potential, interest, aptitudes and abilities of handicapped persons.

#### 10:99-4.3 Purchase of raw materials

Facilities shall seek broad competition in the purchase of raw materials and components used in the commodities and

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services provided by the State under the Act. Facilities shall consult with the Council before entering into multi-year contracts for raw materials or components used in the commodities and services provided the State under the Act.

### 10:99-4.4 Production of commodities

In the production of commodities under the Act, a facility shall make an appreciable contribution to the reforming of raw materials or the assembly of components or a combination thereof.

### 10:99-4.5 Violations

Any alleged violations of these regulations by a facility shall be investigated by the Central Nonprofit Agency which shall notify the facility concerned and afford it an opportunity to submit a statement of facts and evidence. The Central Nonprofit Agency shall report its findings to the Council, together with its recommendation, including a recommendation regarding whether allocations to the facilities concerned should be suspended for a period of time. In reviewing a case, the Council may request the submission of additional evidence or may hold a hearing on the matter. Pending a decision by the Council, the Central Nonprofit Agency may be directed by the Council to temporarily suspend allocations to the facility.

## SUBCHAPTER 5. PROCUREMENT REQUIREMENTS AND PROCEDURES

### 10:99-5.1 Ordering offices

Ordering offices shall obtain commodities and services on the procurement list from the Central Nonprofit Agency.

### 10:99-5.2 Allocation and orders

(a) Allocation is the action to be taken by a Central Nonprofit Agency to designate the facilities that will produce definite quantities of commodities or perform specific services upon receipt of an order.

(b) For commodities, purchase orders shall contain name, commodity number, latest specification, quantity, unit price, and place and time of delivery.

(c) For services, purchase orders shall contain type and location of service required, latest specification, work to be performed, estimated volume, and time for completion.

(d) Ordering offices shall issue purchase orders with sufficient time for the Central Nonprofit Agency to reply, for the order(s) to be placed, and for the facility to produce the commodity or provide the service. (See (i) below.)

(e) When a commodity on the procurement list also appears on the schedule of products supplied by the Bureau of State Use Industries, the ordering office shall obtain clearance from the Bureau of State Use Industries prior to placing an order with the Central Nonprofit Agency.

(f) The Central Nonprofit Agency shall make allocations to the appropriate facilities upon receipt of an order from the ordering office.

(g) The Central Nonprofit Agency shall promptly acknowledge purchase orders. When a purchase order provides a delivery schedule which cannot be met, the Central Nonprofit Agency shall request a revision, which the ordering office should grant, if feasible, or the Central Nonprofit Agency shall issue a purchase exception authorizing procurement from commercial sources.

(h) The procurement list shall state for commodities or services lead time for purchase of material, production or preparation and delivery or completion.

(i) The Central Nonprofit Agency shall keep the ordering office informed of any changes in the lead time experienced by its facilities in order to keep to a minimum requests for extensions once an order is placed by the ordering office. Where, due to unusual conditions, an order does not provide sufficient lead time, the Central Nonprofit Agency may request an extension of the delivery or completion date which should be granted, if feasible. If extension of delivery or completion date is not feasible, the ordering office shall first notify the Central Nonprofit Agency, and request the Central Nonprofit Agency to reallocate or to issue a purchase exception authorizing procurement from commercial sources.

### 10:99-5.3 Certification of exceptions

(a) The Central Nonprofit Agency shall certify to an ordering office to permit procurement from commercial sources in accordance with provisions of New Jersey Statutes, or other applicable local ordinances, commodities or services on the procurement list when both of the following conditions are met:

1. The facility cannot furnish a commodity or service within the period specified, and;

2. The commodity or service is available from commercial sources in the quantities and at an earlier time than it is available from the facility.

(b) The Central Nonprofit Agency may similarly issue a certification of exception as in (a) above when the quantity involved is not sufficient for economical production or provision by the facilities.

(c) When the conditions in (a) or (b) above are met, the Central Nonprofit Agency shall provide such certification promptly and shall specify the quantities and delivery period covered by the certification, and shall notify the Council of its action.

(d) Certification of exception should be provided in written form except that verbal certifications can be accepted when circumstances warrant such action.

### 10:99-5.4 Prices

(a) The prices included in the procurement list are fair market prices established by the Council.

(b) Prices for commodities include delivery costs (FOB destination), and include packaging, packing and marking as shown on the procurement list.

(c) Price changes for commodities and services shall apply to all orders placed on or after the effective date of the change.

### 10:99-5.5 Shipping and packing

(a) Commodities shall be shipped freight prepaid (FOB destination). Delivery is accomplished when a shipment is received and accepted by the purchasing agency. Time of delivery is the date the shipment is received.

(b) Standard pack information is stated in item descriptions. In ascending order, standard pack is given in multiples of the unit of issue contained within the inner wrap(s) and the outer shipping container pack.

(c) Shipping weights, where available or applicable, are included in the procurement list. The weight indicated applies to the last quantity shown in the information on standard pack.

### 10:99-5.6 Payments

Payments for products or services of rehabilitation facilities shall be made within 30 days after receipt of shipment and a

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correct invoice or voucher whichever is later, unless altered by specific contract provision or applicable state law.

**10:99-5.7 Adjustment and cancellation of orders**

When the Central Nonprofit Agency or a facility fails to comply with the terms of a State order, the ordering office shall make every effort to negotiate adjustments before taking action to cancel the order. When a State order is cancelled for failure to comply with its terms, the Central Nonprofit Agency shall be notified, and if practicable, requested to reallocate the order. The Central Nonprofit Agency shall notify the Council of any cancellation of an order and the reason therefore.

**10:99-5.8 Correspondence and inquiries**

Routine correspondence or inquiries concerning deliveries of commodities being shipped from or performance of service by rehabilitation facilities shall be with the Central Nonprofit Agency.

**10:99-5.9 Quality of merchandise and services produced or provided by facilities**

(a) Commodities furnished under State specification by rehabilitation facilities shall be manufactured in strict compliance with such specifications. Where no specifications exist, commodities produced shall be of the highest quality and equal to similar items available on the commercial market. Commodities shall be inspected utilizing nationally recognized test methods and procedures for sampling and inspection.

(b) Services provided by rehabilitation facilities shall be performed in accordance with State specifications and standards. Where no State specification or standard exists, the services shall be performed in accordance with good commercial practices.

**10:99-5.10 Quality complaints**

When the quality of a commodity or service received from rehabilitation facilities is not considered satisfactory by the using activity, the activity shall address complaints to the Central Nonprofit Agency. The Central Nonprofit Agency shall take necessary action to remedy the problem and shall advise the Council accordingly.

**10:99-5.11 Specification changes**

(a) Specifications cited in the procurement list may undergo a series of changes, indicated by revision dates, to keep current with industry changes and agency needs. Since it is not feasible to show the latest revision current on the publication date, only the basic specification is referenced in the procurement list. Procurement agencies shall notify the Central Nonprofit Agency of the latest applicable specification.

(b) When a State department or agency is changing the design or construction of a commodity on the procurement list that involves the assignment of a new commodity number, the Council and the Central Nonprofit Agency shall be notified of the contemplated change prior to its effective date, and be permitted to incorporate such change in its listed products.

**LABOR**

**(a)**

**THE COMMISSIONER**

**1985 Maximum Weekly Benefit Rates for Unemployment Compensation and State Plan Temporary Disability**

**Proposed Amendment: N.J.A.C. 12:15-1.3**

Authority By: William G. Van Note, Jr., Acting Commissioner, Department of Labor.

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-3(c), 43:21:40, L. 1984, c.24 and L. 1984, c.104.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Arthur J. O'Neal, Jr., Director  
Division of Planning and Research  
CN 056  
Department of Labor  
Trenton, New Jersey 08625

The Department of Labor 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 1984-479.

The agency proposal follows:

**Summary**

The proposed amendment establishes the new 1985 maximum weekly benefit rate for benefits under the Unemployment Compensation Law in accordance with amendments made to the Law with the enactment of Chapter 24, L. 1984, and for State Plan benefits under the Temporary Disability Benefits Law under Chapter 104, L. 1984.

**Social Impact**

The proposed amendment will increase the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate under the Unemployment Compensation Law and under the Temporary Disability Benefits Law beginning January 1, 1985, in compliance with statutory provisions which automatically adjust these benefit rates each year in accordance with changes in the Statewide average weekly wage.

**Economic Impact**

The amendment will mean higher maximum weekly benefits for unemployed and temporarily disabled individuals. Prior to October 1, 1984, the maximum weekly benefit for unemployment compensation was computed as 50 percent of the Statewide average weekly wage. Under Chapter 24, L. 1984 the maximum weekly benefit was increased to 56-2/3 percent of the Statewide average weekly wage. The maximum weekly rate will increase to \$203.00 as of January 1, 1985.

**LABOR**

**PROPOSALS**

Prior to October 1, 1984, the maximum weekly benefit for State Plan disability was computed as 50 percent of the Statewide average weekly wage. Under Chapter 104, L. 1984 the maximum weekly benefit was increased to 53 percent of the Statewide average wage. As of January 1, 1985, the maximum rate will increase to \$189.00.

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

12:15-1.3 Maximum weekly benefit rates

(a) In accordance with the provisions of the Unemployment Compensation Law, the maximum weekly benefit rate for benefits under the Unemployment Compensation Law [and the maximum weekly benefit amount for State Plan benefits under the Temporary Disability Benefits Law] is hereby promulgated as being [\$170.00] **\$203.00** per week.

**(b) The maximum weekly benefit rate for State Plan benefits under the Temporary Disability Benefits Law is hereby promulgated as being \$189.00 per week.**

[(b)] (c) These maximum benefits shall be effective for the calendar year [1984] **1985** on benefit years and periods of disability commencing on or after January 1, [1984] **1985**.



**(a)**

**THE COMMISSIONER**

**1985 Taxable Wage Base Under the Unemployment Compensation Law**

**Proposed Amendment: N.J.A.C. 12:15-1.4**

Authorized By: William G. Van Note, Jr.,  
Acting Commissioner, Department of Labor.  
Authority: N.J.S.A. 34:1-5, 34:1-20 and 43:21-7(b)(3).

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Arthur J. O'Neal, Jr., Director  
Division of Planning and Research  
CN 056  
Department of Labor  
Trenton, New Jersey 08625

The Department of Labor 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 1984-480.

The agency proposal follows:

**Summary**

The proposed amendment establishes the 1985 taxable wage base for the purpose of contributions under the Unemploy-

ment Compensation Law in accordance with N.J.S.A. 43:21-7(b)(3).

**Social Impact**

The proposed amendment will increase the wages of an individual employee of an employer from \$9,600 to \$10,100 that are subject to employer and worker contributions under the Unemployment Compensation Law beginning January 1, 1985.

**Economic Impact**

The amendment will generate increased revenues for the Unemployment Insurance and Disability Insurance Trust Funds needed to offset the increased level of benefits for these programs which are statutorily indexed to the upward trend of wages in the State's economy.

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

12:15-1.4 Taxable wage base under the Unemployment Compensation Law.

(a) In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first [\$9,600] **\$10,000** during the calendar year [1984] **1985**.



**(b)**

**THE COMMISSIONER**

**Unemployment Compensation Contribution Rates of Governmental Entities for 1985**

**Proposed Amendment: N.J.A.C. 12:15-1.5**

Authorized By: William G. Van Note, Jr.,  
Acting Commissioner, Department of Labor.  
Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-7.3(e).

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Arthur J. O'Neal, Jr., Director  
Division of Planning and Research  
CN 056  
Department of Labor  
Trenton, New Jersey 08625

The Department of Labor 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 1984-481.

**PROPOSALS**

**LABOR**

The agency proposal follows:

**Summary**

The proposed amendment establishes for 1985 the same contribution rate as in 1984 for governmental entities that elect to pay contributions under the Unemployment Compensation Law.

**Social Impact**

The maintenance of the contribution rate for governmental entities for 1985 at the same level as the rate that prevailed in 1984 will have no significant change in social impact as that which occurred in 1984.

**Economic Impact**

The proposed amendment will maintain the contribution rate for governmental entities in 1985 at the same level as the rate that prevailed in 1984.

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

12:15-1.5 Contribution rate of governmental entities and instrumentalities

(a) In accordance with the provisions of N.J.S.A. 43:21-7.3(e), the contribution rate for all governmental entities and instrumentalities electing to pay contributions under the Unemployment Compensation Law is hereby promulgated as being one and one-half percent (1.5 percent), for the entire calendar year.

(b) This contribution rate shall be effective on taxable wages paid in the calendar year [1984] **1985**.

**(a)**

**THE COMMISSIONER  
Base Week for Unemployment  
Compensation and State Plan  
Temporary Disability**

**Proposed New Rule: N.J.A.C. 12:15-1.6**

Authorized By: William G. Van Note, Jr., Acting Commissioner, Department of Labor.

Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-19(t), 43:21-27, L.1984, c.24 and L.1984, c.104.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Arthur J. O'Neal, Jr., Director  
Division of Planning and Research  
CN 056  
Department of Labor  
Trenton, New Jersey 08625

The Department of Labor 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 1984-482.

The agency proposal follows:

**Summary**

The proposed new rule raises the amount of earnings required to establish a base week for an individual's claim for unemployment compensation and State Plan temporary disability in accordance with recent amendments to the Unemployment Compensation Law, Chapter 24, L. 1984, and to the Temporary Disability Benefits Law, Chapter 104, L. 1984.

**Social Impact**

The proposal new rule will increase the amount an individual must earn to establish a base week under the Unemployment Compensation Law from \$30.00 to not less than 15 percent of the Statewide average weekly wage in the second preceding calendar year for benefit years commencing October 1, 1984. It will increase the amount an individual must earn to establish a base week under the Temporary Disability Benefits Law from \$15.00 to not less than 15 percent of the Statewide average weekly wage in the second preceding calendar year for periods of disability commencing October 1, 1984.

**Economic Impact**

The new rule will index earnings eligibility standards to wage increases, as benefit payments have been indexed since 1969. Some claimants who work only temporarily or intermittently may not qualify for benefits under these tightened standards.

**Full text** of the proposed new rule follows.

12:15-1.6 Base week

In accordance with the provisions of N.J.S.A. 43:21-19(t), the base week amount is hereby promulgated as being \$51.00 per week for benefit years commencing on or after September 30, 1984 and periods of disability commencing October 1, 1984 and \$54.00 per week for benefit years and periods of disability commencing on or after January 1, 1985.

**(b)**

**THE COMMISSIONER**

**Unemployment Compensation and Disability  
Alternative Earnings Test**

**Proposed New Rule: N.J.A.C. 12:15-1.7**

## LABOR

## PROPOSALS

Authorized By: William G. Van Note, Jr.,  
Acting Commissioner, Department of Labor.  
Authority: N.J.S.A. 34:1-5, 34:1-20, 43:21-4(e), 43:21-41, L. 1984, c.24, and L. 1984 c.104.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Arthur J. O'Neal, Jr., Director  
Division of Planning and Research  
CN 056  
Department of Labor  
Trenton, New Jersey 08625

The Department of Labor 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 1984-483.

The agency proposal follows:

### Summary

The proposed new rule raises the amount of base year earnings required to establish an individual's eligibility for unemployment compensation and State Plan temporary disability benefits in accordance with recent amendments to the Unemployment Compensation Law, Chapter 24, L. 1984, and to the Temporary Disability Benefits Law, Chapter 104, L. 1984.

### Social Impact

The proposed new rule increases the alternative earnings eligibility standard under the law in those situations where the individual has not established 20 base weeks in the base year period. The current alternative earnings test is \$2,200. Under Chapter 24, L. 1984, and Chapter 104, L. 1984, the new test will be indexed each year at 12 times the Statewide average weekly wage in the second preceding calendar year.

### Economic Impact

The new rule will index eligibility standards to wage inflation, as benefit payments have been indexed since 1969. Some claimants who work only temporarily or intermittently may not qualify for benefits under the tightened standards.

**Full text** of the proposed new rule follows:

12:15-1.7 Alternative earnings test

In accordance with the provisions of N.J.S.A. 43:21-4(e) and 43:21-41 in those instances in which the individual has not established 20 base weeks, the alternative earnings amount for establishing eligibility is hereby promulgated as being \$4,100 for benefit years commencing on or after September 30, 1984 and periods of disability commencing on or after October 1, 1984 and \$4,300 for benefit years and periods of disability commencing on or after January 1, 1985.

(a)

## THE COMMISSIONER

### Workers' Compensation Benefit Rates for 1985

#### Proposed Amendment: N.J.A.C. 12:235-1.5

Authorized By: William G. Van Note, Jr.,  
Acting Commissioner, Department of Labor.  
Authority: N.J.S.A. 34:1-5, 34:1-20, 34:15-12.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Arthur J. O'Neal, Jr., Director  
Division of Planning and Research  
CN 056  
Department of Labor  
Trenton, New Jersey 08625

The Department of Labor 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 1984-484.

The agency proposal follows:

### Summary

The proposed amendment establishes the 1985 maximum workers' compensation rates for temporary disability, permanent total disability, permanent partial disability, and dependency.

### Social Impact

The proposed amendment will increase from \$225.00 to \$269.00 the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate for temporary disability, permanent total disability, and dependency under the Worker's Compensation Law.

### Economic Impact

The amendment will ensure that payments to Workers' Compensation recipients entitled to maximum benefits will increase in line with the upward trend of wages in the State's economy, thus preserving the real purchasing power of their benefits.

The effect of this change, other things being equal, will be to raise employers' workers' compensation insurance costs.

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

12:235-1.5 \* Maximum workers' compensation benefit rates  
(a) In accordance with the provisions of N.J.S.A. 34:15-12(a), the maximum workers' compensation benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being [\$255.00] **\$269.00** per week.

(b) This maximum compensation shall be effective as to injuries occurring in the calendar year of [1984] **1985**.

**PROPOSALS**

**LAW AND PUBLIC SAFETY**

# **LAW AND PUBLIC SAFETY**

**(a)**

## **DIVISION OF MOTOR VEHICLES**

### **Enforcement Service Accident Prevention Clinic**

#### **Proposed Readoption with Amendments: N.J.A.C. 13:20-12.1 through 13:20-12.3**

Authorized By: Clifford W. Snedeker, Director,  
Division of Motor Vehicles.  
Authority: N.J.S.A. 39:2-3, 39:3-10, 39:3-11 and 39:5-30.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford W. Snedeker, Director  
Division of Motor Vehicles  
25 So. Montgomery Street  
Trenton, New Jersey 08666

The Division of Motor Vehicles thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adoption becomes effective upon acceptance for filing of the notice of adoption by the Office of Administrative Law.

This proposal is known as PRN 1984-491.

The agency proposal follows:

#### **Summary**

The Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:20-12.1 through 13:20-12.3 concerning driver reexamination. These rules were initially filed and became effective prior to September 1, 1969. These rules were subsequently amended on October 31, 1979 and will expire on October 24, 1984. The rules are now to be readopted in accordance with Executive Order 66(1978).

The rules implement those provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-10 and 39:5-30) pertaining to driver licensing and the suspension of license privileges of those who are not proper persons to hold such privileges.

N.J.A.C. 13:20-12.1 sets forth definitions of terms used in the subchapter. N.J.A.C. 13:20-12.2 sets forth the criterion for driver reexamination. Driver reexamination may be required of persons in the following categories: (1) persons having mental or physical disorders which may affect their ability to safely operate a motor vehicle, (2) persons involved in a fatal accident resulting from their violation of the Motor Vehicle and Traffic Law, (3) persons who have accumulated 12 or more points under the Point System Regulations and (4) persons convicted of violating any provision of the Motor Vehicle and Traffic Law where the offense was of a careless, reckless or indifferent nature. N.J.A.C. 13:20-12.3 provides that a vision examination may be required of drivers involved in a traffic accident if the drivers' vision has not been checked

by the Division of Motor Vehicles within the ten year period preceding the date of the accident.

The Division of Motor Vehicles has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were promulgated." The rules provide an efficient procedure for the administration of the driver licensing laws and protect the public interest in an area relating to highway safety by requiring driver reexamination of persons who because of mental or physical disorders or blatant disregard of the motor vehicle laws may not be able to operate motor vehicles safely. The rules will continue to protect the public interest in this regard.

#### **Social Impact**

The rules proposed for readoption promote the public interest in matters relating to highway safety by providing objective standards for driver reexamination. Driver reexamination insures that persons with mental or physical disorders or persons who have been involved in motor vehicle violations have the ability to safely operate motor vehicles. Statistics for the period from January 1, 1984 through June 30, 1984 reflect that 1,817 reexaminations have been scheduled by the Division of Motor Vehicles, 863 reexaminations have been completed, and 469 suspensions have been imposed for failure to appear for reexamination.

The rules proposed for readoption will continue to promote the public safety interest by maintaining safeguards in the reexamination of drivers with mental or physical disorders and persons involved with motor vehicle violations. The rules are necessary and an integral part of the Division of Motor Vehicles' responsibility in maintaining public safety.

#### **Economic Impact**

There is an economic impact on the Division of Motor Vehicles in administering the driver reexamination program, however, the exact economic cost is not readily quantifiable because it is subsumed into the Enforcement Service budget.

There is a beneficial economic impact on the public to the extent that these rules promote highway safety through the reexamination of drivers subject to the rules. Reexamination of these drivers lessens the risk of accidents and the resulting economic consequences of medical expenses and property damage.

**Full text** of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:20-12.

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**(b)**

## **DIVISION OF MOTOR VEHICLES**

### **Emergency Vehicle Equipment Red Emergency Lights; Sirens**

#### **Proposed Readoption: N.J.A.C. 13:24-2.1 through 13:24-2.11**

## LAW AND PUBLIC SAFETY

## PROPOSALS

Authorized By: Clifford W. Snedeker, Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:3-43 and 39:3-50, 39:3-69.

**Interested persons** may submit in writing, data, views, or arguments relevant to the proposed rule on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford W. Snedeker, Director  
Division of Motor Vehicles  
25 So. Montgomery Street  
Trenton, New Jersey 08666

The Division of Motor Vehicles thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adopted rules become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-493.

The agency proposal follows:

### Summary

The Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:24-2.1 through 13:24-2.11 concerning red emergency lights and sirens. These rules were initially filed and became effective prior to September 1, 1969. The rule was subsequently amended on September 20, 1979 and will expire on September 18, 1984. These rules are now to be readopted in accordance with Executive Order 66(1978).

The rules implement those provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-43 and 39:3-50) pertaining to the approval of motor vehicle equipment and the use of emergency vehicle equipment on authorized emergency vehicles.

N.J.A.C. 13:24-2.1 (Red-colored lamps on vehicles), N.J.A.C. 13:24-2.2 (Siren, whistle or bell on vehicles) and N.J.A.C. 13:24-2.3 (Flashing lights on vehicles) summarize those sections of the Motor Vehicle and Traffic Law pertaining to emergency vehicle equipment. N.J.A.C. 13:24-2.4 (Possession of permit) provides that an emergency vehicle equipment permit shall be in the possession of the operator of an emergency vehicle and produced upon the request of a police authority. N.J.A.C. 13:24-2.5 (Permit application) provides that an application for an emergency red light and siren permit shall be made by the mayor of the municipality in which the applicant resides. N.J.A.C. 13:24-2.6 (Vehicle types; ownership requirements) provides that a permit will be issued only for vehicles of the passenger car type owned by an applicant or leased by a municipality for police or fire department use. N.J.A.C. 13:24-2.7 (Eligibility) specifies that a permit will be issued for a passenger type vehicle or noncommercial truck owned by a chief or assistant chief of a volunteer fire company and a chief or assistant chief of police of a municipality if the municipality does not provide the chief or assistant chief of police with vehicles for police purposes. A maximum of two permits will be issued to any volunteer fire company and police department. N.J.A.C. 13:24-2.8 (Vehicles ineligible for permits) specifies those privately owned vehicles for which permits may not be issued. Vehicles ineligible for permits include vehicles owned by volunteer firemen, fire commissioners, fire inspectors, fire police, fire engineers, fire marshals, policemen, special policemen, auxiliary policemen, part time policemen, constables, wardens or marshals, Civil Defense or Disaster Control personnel, police surgeons, coroners, chaplains, morgue keepers, military personnel and plant emergency personnel. N.J.A.C. 13:24-2.9 (Red light mounting and use requirements) provides that red lights are to

be mounted on the exterior of the vehicle and may not be used when the vehicle is being operated outside the municipality for which the permit was issued or when the vehicle is operated by one other than the person to whom the permit was issued. N.J.A.C. 13:24-2.10 (Siren mounting and use requirements) provides that sirens shall be mounted under the hood of the vehicle and may not be used outside the municipality for which the permit was issued. N.J.A.C. 13:24-2.11 (Permit cancellation or revocation) provides that permits shall remain valid until cancelled or revoked. A permit may be cancelled or revoked for any reasonable grounds including (1) expiration of the term of office or contract which entitled the holder to the permit, (2) the sale or destruction of the vehicle for which the permit was issued, (3) violation of any conditions applying to such permit or specified in the subchapter and (4) upon the operator of the vehicle for which a permit is issued being convicted of any violation of the Motor Vehicle and Traffic Law. Expired or revoked permits shall be returned to the Division of Motor Vehicles by the mayor of the municipality in which the permit holder resides. The Division of Motor Vehicles has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive for the purposes for which [it was] promulgated". The rule promotes highway safety and provides an efficient procedure for the administration and enforcement of those provisions of the Motor Vehicle and Traffic Law relating to the issuance of emergency vehicle equipment permits.

### Social Impact

The rules proposed for readoption promote the public interest in matters relating to highway safety by providing for the use of flashing red lights and sirens on authorized emergency vehicles. The use of the flashing red lights and sirens on emergency vehicles alerts other motorists to the location of these vehicles on the highway so that the right-of-way may be granted to said vehicles in responding to emergencies.

### Economic Impact

The proposed readoption of these rules does not impose an economic impact on the general public. There is an economic impact on the State in funding the operation of the Division of Motor Vehicles' Emergency Light Unit, however, the exact economic cost is not readily quantifiable. The public safety which the rules promote, however, outweigh the costs involved in operating the unit.

**Full text** of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:24-2.

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(a)

## NEW JERSEY RACING COMMISSION

### Harness Rules Claimed Horse

### Proposed Amendment: N.J.A.C. 13:70-12.4

## PROPOSALS

Authorized By: New Jersey Racing Commission,  
Harold G. Handel, Executive Director.  
Authority: N.J.S.A. 5:5-30.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Bruce H. Garland, Deputy Director  
New Jersey Racing Commission  
CN 088 Justice Complex  
Trenton, New Jersey 08625

The New Jersey Racing 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 1984-492.

The agency proposal follows:

### Summary

The proposed amendment allows horses claimed within the past 30 days to be eligible to run in starter handicaps without the requirement that the weight carried be assigned by the handicapper.

### Social Impact

The proposed amendment will have a positive social impact because it will allow claimed horses the opportunity to race in all starter handicaps, thereby increasing the available pool of horses which in turn gives the public a better racing card.

### Economic Impact

The proposed amendment will have a positive social impact upon the racing industry without any increased costs, and without any adverse impact upon State revenue, the Racing Commission or the public. Opening all starter handicaps to claimed horses will increase the number of races available for those horses to race which will benefit the horse owners, trainers, jockeys, track associations and public.

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

13:70-12.4 Claimed horse

(a) A claimed horse shall not start for 30 days after the date upon which it was claimed in any race wherein the determining eligibility price is not less than 25 percent more than the price for which it was claimed.

(b) This provision shall not apply to starter handicaps. [in which the weight to be carried is assigned by the handicapper.]

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(a)

## DIVISION OF CONSUMER AFFAIRS

### Deceptive Practices Concerning Automotive Sales Practices

#### Proposed Readoption: N.J.A.C. 13:45A-6

## LAW AND PUBLIC SAFETY

Authorized By: James J. Barry, Jr., Director, Division  
of Consumer Affairs.  
Authority: N.J.S.A. 56:8-4.

**Interested persons** may submit in writing, data, views or arguments relevant to the proposed readoption on or before October 4, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

James J. Barry, Jr., Director  
Division of Consumer Affairs  
Room 504  
1100 Raymond Boulevard  
Newark, New Jersey 07102

The Division of Consumer Affairs thereafter may readopt the rule as proposed without further notice (see N.J.A.C. 1:30-3.5). The readoption becomes effective upon publication in the Register of a notice of readoption.

This proposed readoption is known as PRN 1984-506.

The agency proposal follows:

### Summary

The Division of Consumer Affairs originally adopted N.J.A.C. 13:45A-6.1 et seq. in October 1979. Pursuant to Executive Order No. 66(1978), these rules expire October 1, 1984. The regulations were drafted in response to deceptive automotive sales practices, which were reflective in consumer complaints. With respect to pre-delivery service fees, this subchapter makes it unlawful for automotive dealers to accept payment for services for which the dealer receives reimbursement from any other entity (for example, the manufacturer). It requires an itemization of any legitimate services on the sales document before the consumer becomes obligated to make payment for such services as are to be performed.

With respect to documentary service fees, this subchapter requires price itemization of such optional services on the sales document, before the consumer becomes obligated to pay. It prohibits misrepresenting to a consumer that any governmental entity requires the automotive dealer to perform such services. It also requires placing a statement on the sales document that informs the consumer of his right to a written itemized price for each specific documentary service to be performed.

### Social Impact

The regulations were implemented in response to observed abuses in automotive sales practices in which consumers were frequently induced to expend additional payments relating to automotive purchases for services that were not in fact being performed, were misrepresented as mandatory, or were subject to dealer reimbursement by other entities, such as the automotive manufacturer.

Consumers have benefited by added awareness of the nature and necessity of such services, and how they are provided. Sales document disclosure has served to alert the consumer of his rights with regard to such services in the context of automotive purchase considerations.

### Economic Impact

The regulations require the inclusion of a brief 10-point disclosure statement on the automotive sales document utilized by the automotive dealer. Apart from this, they simply require accurate disclosure of the nature and necessity of such services.

The consumer benefits by receiving written, itemized specification of legitimate pre-delivery and documentary fee serv-

## TREASURY-GENERAL

## PROPOSALS

ices that are subject to specific verification, and, as appropriate, may be optionally undertaken by the consumer at no extra service fee cost.

**Full text** of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:45A-6.

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### (a)

## DIVISION OF CONSUMER AFFAIRS

### Deceptive Practices Concerning Automotive Repairs and Advertising

#### Proposed Readoption: N.J.A.C. 13:45A-7

Authorized By: James J. Barry, Jr., Director, Division of Consumer Affairs.

Authority: N.J.S.A. 56:8-34.

**Interested persons** may submit in writing, data, views, or arguments relevant to the proposal on or before October 4, 1984. 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, New Jersey 07102

The Division of Consumer Affairs thereafter may adopt the rules as proposed without further notice (see N.J.A.C. 1:30-3.5.). The readoption becomes effective upon publication in the Register of a Notice of Readoption.

This proposal is known as PRN 1984-507.

The agency proposal follows:

#### Summary

The Division of Consumer Affairs originally adopted N.J.A.C. 13:45A-7.1 et seq. in January 1974. Pursuant to Executive Order No. 66(1978), these rules expire on October 12, 1984. The regulations require automotive repair dealers to conspicuously post a consumer notice, advising the consumer of his right to a written repair estimate; itemizing proposed repair work charges for specified work to be performed before the consumer becomes obligated to pay for such proposed work. It allows the charging of a diagnostic fee, if the consumer is first advised of the amount of such fee and agrees to it before being obligated to any further repairs.

The regulations were amended in October 1979 to extend additional protection to consumers who either waive the right to a written repair estimate, or elect to authorize automotive repair work via verbal estimate approval. The amendments require automotive repair dealers to make written notations of such verbal approvals on the repair work order, specifying who was contacted, when and the phone number at which the consumer was contacted.

The protections afforded by the regulations became necessary in response to substantial numbers of consumer com-

plaints concerning unauthorized automotive repairs, or repairs for which costs to the consumer were not adequately specified. The regulations have afforded redress to numerous victimized consumers who previously had no such specific remedies available. The consumer disclosure sign posting requirement has further served to alert consumers to their rights under the regulations.

#### Social Impact

Consumer access to their personal autos has become more and more a necessity, rather than a luxury, as a means of transportation. By clarifying rights and responsibilities with regard to automotive repairs, this subchapter has facilitated mutual consumer and automotive repair dealer understanding of equitable repair procedures. By specifying reasonable and legitimate steps to be followed in the repair process, both the dealer and consumer are assured that the repair transaction is conducted in a fair and mutually agreeable environment.

#### Economic Impact

The regulations have the minimal economic impact on automotive repair dealers of requiring conspicuous posting of a consumer disclosure notice of the right to a written repair estimate. They further require the dealer to make verifying notations of additional repairs mutually agreed upon, or repairs for which verbal authorization has been granted.

For consumers, the economic impact involves considerable decrease in time and expense in the minimizing of disputes concerning whether or not specified repairs have been agreed upon and understood, in terms of consumer realization of the amount of payment for necessary and agreed upon repairs. Consumers have gained the economic choice of electing to have repair estimates presented by two or more automotive repair dealers, before becoming obligated to pay for repairs according to unspecified terms.

**Full text** of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:45A-7.

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## TREASURY-GENERAL

### (b)

## DIVISION OF PENSIONS

### Alternate Benefit Program Salary Deductions and Reductions

#### Proposed Amendment: N.J.A.C. 17:1-2.3

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

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

**Interested persons** may submit in writing, data, views or arguments relevant to the proposed rule on or before October 4, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

**PROPOSALS**

**OTHER AGENCIES**

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

The Division of Pensions thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adopted rules become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-488.

The agency proposal follows:

**Summary**

The proposed amendments are intended to make salary deduction and salary reduction procedures comparable for participants in the Alternate Benefit Program (ABP). The ABP is a money purchase plan and it is felt that the procedures for salary reductions and deductions should be the same.

The rules governing the salary reduction program in the ABP involving tax-sheltered funds state that the amount of actual salary reductions are based upon the base salary earned. The rules governing the salary deduction program in the ABP involving tax-deferred funds state that the amount of salary deductions are to be based upon the full base salary. In order to have conformity between these somewhat similar plans, it is proposed that the salary deduction rules be amended to conform to the salary reduction rules and be based on salary earned.

**Social Impact**

All present and future participants in the ABP, as well as their employers, who are involved in the salary deduction program may have their contributions and/or ultimate benefits affected by this proposed amendment.

**Economic Impact**

The ABP participant's contributions in the salary deduction program as well as his or her employer's contributions may be reduced by this proposal. Depending upon other variables such as investment earnings, interest rates, etc., the reduced contributions to the salary deduction plan may or may not result in less ultimate benefits to the participants. Although there may be potentially some slight adverse consequences to certain participants, the proposed amendment seeks to establish equity between the salary reduction and salary deduction program.

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

17:1-2.3 Salary reduction agreements; salary deductions; limitations

(a) (No change.)

(b) Limitations concerning salary deductions are:

1. Salary deductions for TIAA/CREF will be calculated on the [full] **earned** base salary if the participant earns 50 percent or more of his or her base salary during a pay period.

2. (No change.)

(c) **The employer contributions will be based upon the same salary used for determining employee contributions.**

**OTHER AGENCIES**

(a)

**HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION**

**District Zoning Regulations  
The Special Use Specially Planned Areas  
Official Zoning Map**

**Proposed Amendments: N.J.A.C. 19:4-5.6 and 6.28**

**Proposed New Rule: N.J.A.C. 19:4-5.6A**

Authorized By: Hackensack Meadowlands Development Commission, Anthony Scardino, Jr., Executive Director.

Authority: N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i).

A **public hearing** concerning this rule will be held on September 21, 1984 at or after 9:30 A.M. at:

Hackensack Meadowlands Development Commission  
One DeKorte Park Plaza  
Lyndhurst, New Jersey 07071

**Interested persons** may submit in writing, data, views, or arguments relevant to the proposed rule on or before October 4, 1984. These submissions, and any inquiries about submissions and responses should be addressed to:

Perry E. Frenzel, Acting Chief Engineer  
Hackensack Meadowlands Development Commission  
One DeKorte Park Plaza  
Lyndhurst, New Jersey 07071

The Hackensack Meadowlands Development Commission thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adopted rules become effective upon publication in the Register of notice of adoption.

This proposal is known as PRN 1984-476.

The agency proposal follows:

**Summary**

The proposed amendment to N.J.A.C. 19:4-6.28 changes the zoning designation of an approximately 140 acre portion of Block 205, Lots 19 and 20 in Kearny, New Jersey from Special Use-1 (SU-1) Specially Planned Area (SPA) to Special Use-3 (SU-3) Specially Planned Area (SPA).

The proposed amendment to N.J.A.C. 19:4-5.6 eliminates the SU-1 SPA from the section.

The proposed new rule, N.J.A.C. 19:4-5.6A creates a new section for the SU-1 and SU-3 Specially Planned Areas.

**Social Impact**

The proposed zoning changes would have a positive impact on the balance of uses provided for in the current master plan and enhance employment opportunities for economically distressed areas of the region. The proposed amendments will

**OTHER AGENCIES**

**PROPOSALS**

foster large planned unit developments capable of addressing critical infrastructure needs that exist in the immediate area.

The proposed amendments will insure the preservation of approximately 250 acres of existing fresh water marsh and will foster development that will permit other environmental and aesthetic improvements in the area.

**Economic Impact**

The proposed amendments will promote development on the rezoned lands by permitting a wider range of uses and by permitting the establishment of the required management groups necessary for large scale development to proceed in this area.

Development within the rezoned lands will generate thousands of construction job opportunities, thousands of permanent new jobs, and will generate substantial tax revenues for the Town and County.

Development within the rezoned lands will enhance the value of adjacent properties and will promote additional new development in an area that has previously experienced little economic growth.

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

19:4-6.28 Official zoning map

The Hackensack Meadowlands District official zoning map dated November 1, 1987, is hereby made a part of these rules and regulations of the Hackensack Meadowlands Development Commission.

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

The zoning designation of an approximately 140 acre portion of Block 205, Lots 19 and 20 in Kearny, New Jersey from Special Use-1 Specially Planned Area to Special Use-3 Specially Planned Area.

19:4-5.6 The special use specially planned areas: [SU-1 and] SU-2

(No change in text.)

19:4-5.6A The special use specially planned areas: SU-1 and SU-3

(a) The SU's are designed to accommodate special land uses of a regional importance not otherwise provided for in these regulations, such as sport stadiums, major education and health institutions, large cultural facilities, and other large scale development of that nature.

(b) All development in each SU shall conform to the Hackensack Meadowlands Development Commission's wetlands order.

(c) Development shall be permitted in each SU only upon approval of and pursuant to a general plan for the entire SU under N.J.A.C. 19:4-5.8 and upon approval and pursuant to a development plan for the section to be developed under N.J.A.C. 19:4-5.9, and upon approval and pursuant to an implementation plan for the section to be developed under N.J.A.C. 19:4-5.10.

(d) The Special Use-1 and Special Use-3 Specially Planned Areas have been combined in their regional open space designations specifically to recognize the regional significance of the Kearny Fresh Water Marsh and provide a mechanism to preserve and manage it. They have also been recognized for

the strategic role they can play in the stemming and reversing of some of the severe regional economic decline and dislocation that have occurred in the highly urbanized areas surrounding these Specially Planned Areas. Thus, the mix of uses they may accommodate, through the Specially Planned Area planning process, shall be broadly construed to include a mix and balance of uses which can be shown to benefit these distressed regions. As well, they shall also be considered to accommodate other special land uses of regional importance to satisfy regional needs, such as sports stadiums, major educational and health institutions, large cultural facilities, and other large scale developments of that nature. Mass transit facilities, these at a scale to serve both the Special Use Specially Planned Areas and their region, are particularly encouraged in these Specially Planned Areas. The applicant may develop his SU by filing a general plan, and later development and implementation plans, which conforms with the purposes of this section and with N.J.A.C. 19:44-5.1, which embody the most farsighted and imaginative principals of sight layout and landscape architecture, and which conforms with the requirements of N.J.A.C. 19:4-6.18. The uses shall serve the Hackensack Meadowlands District and the region.

(e) Common open space regulations are as follows:

1. At least 40 percent of the acreage within each SU shall be used for common open space. Not less than 250 acres of the existing fresh water marsh, located in Block 205 in Kearny, shall be designated an open area and must be preserved. Designated open areas in the SU SPA's may be counted toward the common open space requirement.

2. The use and design of all open space shall be appropriate for the type of use or uses it is intended to serve. Wherever possible, the applicant should incorporate into the open space design configuration and maintenance, the ecological characteristics of the wetlands. Every effort should be made to preserve existing tidal watercourses and their natural meanders. Landscaped areas contiguous to tidal watercourses, shall wherever possible, promote natural wetlands vegetation.

(f) Wherever any development pursuant to this section boards the Hackensack River or any of its tributaries, there shall be a 50 foot wide strip of wetland to insure proper drainage and edge effect at such border.

(g) All uses in the SU comply with all category A environmental performance standards of N.J.A.C. 19:4-6.1 to 19:4-6.16, and the water quality requirements of N.J.A.C. 19:4-6.1 to 19:4-6.16, unless the applicant at the time of filing of the general plan can show that any given standard is not appropriate for his development, in which case the category B standard shall apply. At least 40 percent of the SU shall be used for common open space.

(a)

**CASINO CONTROL COMMISSION**

**Gaming Schools**

**Proposed Amendments: N.J.A.C. 19:44-8.3, 9.4 and 15.4**

## PROPOSALS

## OTHER AGENCIES

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.  
Authority: N.J.S.A. 5:12-63(c), 69(a) and 70(i).

**Interested persons** may submit in writing, data, views or arguments relevant to the proposal on or before October 4, 1984. These submissions and any inquiries about submissions and responses, should be addressed to:

Michael A. Santaniello  
Deputy Director, Operations  
Casino Control Commission  
Division of Financial Evaluation  
& Control  
Princeton Pike Office Park  
Building No. 5, CN 208  
Trenton, New Jersey 08625

At the close of the period for comments, the Casino Control Commission may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-490.

The agency proposal follows:

### Summary

The amendment to N.J.A.C. 19:44-8.3(a)2 will increase the minimum hours of instruction for students being trained to deal Craps as a subsequent game.

The amendment to N.J.A.C. 19:44-9.4(a) will eliminate the requirement that gaming schools maintain an itemized list of all gaming equipment utilized by the school, but will require a list of special items.

Finally, the amendments to N.J.A.C. 19:44-15.4 will change certain information that is currently required to be included in the school bulletin.

### Social Impact

Students of gaming schools may experience a negative impact because of the increased number of instruction hours required by N.J.A.C. 19:44-8.3 but the added training will better prepare them for jobs as dealers.

The amendment to N.J.A.C. 19:44-9.4 will have a beneficial impact on gaming schools since they would be required to itemize fewer equipment. The amendment to N.J.A.C. 19:44-15.4 will also impact favorably on the schools.

### Economic Impact

The amendment to N.J.A.C. 19:44-8.3 may have a negative impact on students if the gaming schools increase the cost of tuition as a result of the increase in instruction hours. The

schools will incur increased costs for instructors but these costs may be countered by tuition increases. The extent of the impact is unknown at this time.

The gaming schools will benefit by the amendments to N.J.A.C. 19:44-9.4 and 15.4 because less man hours will be required to maintain the inventory of equipment and the bulletin will require fewer revisions.

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

### 19:44-8.3 Minimum hours

(a) (No change.)

1. (No change.)

2. For a student being trained to deal his second or subsequent game the following minimum hours of training and instruction shall be required:

i. For a student who has been trained to deal blackjack:

(1) [160] **180** hours to prepare him to deal craps;

(2)-(3) (No change.)

ii. For a student who has been trained to deal roulette:

(1) [160] **180** hours to prepare him to deal craps;

(2)-(3) (No change.)

iii. (No change.)

iv. For a student who has been trained to deal baccarat:

(1) [160] **180** hours to prepare him to deal craps;

(2) [80] **120** hours to prepare him to deal roulette;

(3) (No change.)

(b) (No change.)

### 19:44-9.4 Equipment

(a) Unless the [c]Commission shall otherwise determine, all gaming equipment utilized by a gaming school shall conform to all requirements set forth in the regulations of the [c]Commission governing gaming equipment utilized by casino licensees. [Each gaming school shall keep an itemized and current list of all gaming equipment utilized by it.] **Each gaming school shall keep an itemized list of its dealing shoes, gaming tables, slot machines, and roulette and big six wheels.**

(b) (No change.)

### 19:44-15.4 Contents of bulletin

(a) (No change.)

1. (No change.)

2. Name of the school, names of the members of the governing body and names of officials and **full-time** instructors;

3.-9. (No change.)

10. A course or program [outline] **summary** for each approved course or program of instruction showing subjects or units in the course or program, type of work or skill to be learned [and approximate time and clock hours to be spent on each subject or unit] **and the total number of clock hours of the course or program;**

11.-14. (No change.)

# RULE ADOPTIONS

## ADMINISTRATIVE LAW

### (a)

#### OFFICE OF ADMINISTRATIVE LAW

#### Uniform Administrative Procedure Rules of Practice

#### Consolidation of Two or More Contested Cases: Multiple Agency Jurisdiction Claims; Determinations of Predominant Interest

#### Adopted Amendments: N.J.A.C. 1:1-14

Proposed: June 18, 1984 at 16 N.J.R. 1413(a).  
 Adopted: August 13, 1984 by Ronald I. Parker, Acting Director, Office of Administrative Law.  
 Filed: August 15, 1984 as R.1984, d.386 **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. 52:14F-5(e), (f) and (g).

Effective Date: September 4, 1984.  
 Expiration Date pursuant to Executive Order No. 66(1978): June 19, 1985.

#### Summary of Public Comments and Agency Responses and Reasons for Making Changes:

During the comment period, the OAL received written comments from the Division of Medical Assistance and Health Services and the Department of Civil Service.

Both commentors questioned the need for the filing of supporting and responding briefs and affidavits in every case involving a consolidation motion. Both agencies expressed concern that this requirement would be inflexible, formal and unnecessarily burdensome, especially in those instances where cases are transmitted from the same agency and there is no objection to the motion to consolidate. After careful consideration of the comments received, the OAL has decided to modify N.J.A.C. 1:1-14.2 so that briefs and affidavits will only be required when cases commenced in separate agencies are involved.

In consolidation actions where only one agency is involved, the uniform rule, N.J.A.C. 1:1-9.4(a), will control. Under this rule, motions and answering papers shall be accompanied by supporting briefs and affidavits only when necessary.

The Department of Civil Service raised two additional concerns regarding (1) the clarity of the proposed amendments and (2) the responsibility imposed by N.J.A.C. 1:1-14.8(c) upon the predominant interest agency to request an extension of time for the rendering of a final decision by the non-predominant interest agency. In response to the first concern, the OAL has decided to revise the headings and sequential order of the text of N.J.A.C. 1:1-14.4, -14.5, -14.6 and -14.7 for purposes of clarity. The proposed N.J.A.C. 1:1-14.4 is

now 1:1-14.5 and vice versa; N.J.A.C. 1:1-14.6 is now 1:1-14.7 and vice versa. In response to the latter concern, the consolidation and predominant interest procedures were developed in close consultation with the Attorney General's Office and it is felt that N.J.A.C. 1:1-14.8(c) complies with the principles set forth in *Hackensack v. Winner*, 82 N.J. 1 (1982) and *Hinfey v. Matawan Regional Bd. of Education*, 77 N.J. 514 (1978).

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

#### SUBCHAPTER 14. CONSOLIDATION OF TWO OR MORE CONTESTED CASES: MULTIPLE AGENCY JURISDICTION CLAIMS; DETERMINATIONS OF PREDOMINANT INTEREST

##### 1:1-14.1 Motion to consolidate; when decided

(a) As soon as circumstances meriting such action are discovered, an agency head, any party or the judge may move to consolidate a contested case which has been transmitted to the OAL with any other contested case involving common questions of fact or law between identical parties or between any party to the filed contested case and any other person, entity or agency.

(b) This rule shall apply to contested cases:

1. Already filed with the Office of Administrative Law;
2. Commenced in an agency but not yet filed with the Office of Administrative Law; and
3. Commenced in an agency and not required to be filed with the Office of Administrative Law under N.J.S.A. 52:14F-8.

(c) The judge assigned to the case first transmitted to the Office of Administrative Law shall hear and rule upon the motion to consolidate.

(d) All motions to consolidate, including those involving predominant interest allegations, must be disposed of by interlocutory order prior to commencing the evidentiary hearing.

##### 1:1-14.2 Form of motion; submission date

(a) A motion to consolidate shall require the parties to show cause why the matters should not be consolidated.

**\*[(b)]\* Each motion to consolidate and all replies shall be supported by a brief and affidavits.\***

**\*[(c)]\* \*(b)\* Motion to consolidate cases which commenced in separate agencies **\*and all replies\*** shall include a predominant interest allegation **\*and shall be supported by a brief and affidavits\***.**

**\*[(d)]\* \*(c)\* All consolidation motions involving cases commenced in two or more agencies shall be scheduled by OAL for oral argument.**

**\*[(e)]\* \*(d)\* Motions for consolidation involving cases transmitted or to be transmitted to the OAL from a single agency shall be handled in accordance with N.J.A.C. 1:1-9.3.**

##### 1:1-14.3 Standards for consolidation

(a) In ruling upon a motion to consolidate, the judge shall consider:

1. The identity of parties in each of the matters;

## ADOPTIONS

## ADMINISTRATIVE LAW

2. The nature of all the questions of fact and law respectively involved;

3. To the extent that common questions of fact and law are involved, the saving in time, expense, duplication and inconsistency which will be realized from hearing the matters together and whether such issues can be thoroughly, competently, and fully tried and adjudicated together with and as a constituent part of all other issues in the two cases;

4. To the extent that dissimilar questions of fact or law are present, the danger of confusion, delay or undue prejudice to any party;

5. The advisability generally of disposing of all aspects of the controversy in a single proceeding; and

6. Other matters appropriate to a prompt and fair resolution of the issues.

### 1:1-14.4 **\*Review of\*** orders to consolidate cases from a single agency

(a) Except as provided in (b) below, orders granting or denying the consolidation of cases commenced before a single State agency shall be subject to N.J.A.C. 1:1-9.7.

(b) An order consolidating any matter commenced before a single agency but not theretofore transmitted to the Office of Administrative Law shall be forthwith forwarded to the agency head for his or her review.

1. The agency head's review of the judge's order shall be completed no later than 45 days from the entry of the judge's order, except when, for good cause shown and upon notice to all parties, the time period is extended by the joint action of the Director of the Office of Administrative Law and the agency head. Where the agency head does not act on review of the judge's order within 45 days, the judge's order shall be deemed adopted.

### 1:1-14.5 Multiple agency jurisdiction claims; **\*[determinations of]\* \*standards for determining\*** predominant interest

(a) When a motion to consolidate pertains to contested cases filed with two or more State agencies which are asserting jurisdiction, the judge shall determine which agency, if any, has the predominant interest in the conduct and outcome of the matter. In determining this question, the following factors shall be weighed:

1. Whether more than one agency asserting jurisdiction over a common issue has jurisdiction over the issue, and if more than one agency has jurisdiction, whether the jurisdiction is mandatory for one of the agencies;

2. Whether the common issue before the two agencies is, for either agency, the sole, major or dominant issue in dispute and whether its determination would either serve to moot the remaining questions or to affect substantially their resolution;

3. Whether the allegations involve issues and interests which extend beyond the immediate parties and are of particular concern to one or the other agency;

4. Whether the claims, if ultimately vindicated, would require specialized or particularized remedial relief available in one agency but not the other;

5. Whether the common issue is clearly severable from the balance of the controversy and thus will permit non-duplicative factual and legal determinations by each agency.

### 1:1-14.6 **\*[Orders]\* \*Determination of motions\*** involving consolidation of cases from multiple agencies; **\*[judge's responsibility]\* \*contents of order; exempt agency conduct\***

(a) In motions concerning multiple agencies, the judge shall initially determine the consolidation question. If consolidation is to be ordered, then a predominant interest determination must also be rendered in the consolidation order. If particular issues in the entire controversy are clearly **\*[,]\* severable, the **\*[judges]\* \*judge's\*** consolidation order shall specify which agency shall decide each such issue.**

(b) If one agency is determined to have a predominant interest, that agency shall render the final decision on all issues within the scope of its predominant interest. The judge in the consolidation order shall specify the issues relating to the predominant issue and shall clearly identify the agency having the authority to issue a final decision on those issues.

(c) If there are requests for relief which may not be granted by the agency with the predominant interest, the judge shall in the consolidation order specify clearly which determinations by the agency with the predominant interest shall bind the agency subsequently considering any applications for relief.

(d) When an agency exempt under N.J.S.A. 52:14F-8(a) is determined to have a predominant interest in a contested case, the exempt agency shall decide, in its final order reviewing the judge's consolidation order, whether to have the matter heard by an administrative law judge or by its own personnel.

### 1:1-14.7 **\*Review of\*** orders involving consolidation of cases from multiple agencies

(a) All orders granting or denying consolidation of cases commenced before multiple agencies shall be forthwith forwarded by the Office of Administrative Law to the respective agency heads for their review.

(b) The agency head's review of the judge's order shall be completed no later than 45 days from the entry of the judge's order, except when, for good cause shown and upon notice to all parties, the time period is extended by the joint action of the Director of the Office of Administrative Law and the agency head. Where the agency head does not act on review of the judge's order within 45 days, the judge's order shall be deemed adopted.

(c) Agency heads considering a judge's consolidation order are encouraged to consult and coordinate with each other before issuing a final order.

### 1:1-14.8 **\*Initial decision in\*** cases involving a predominant interest **\*[:]\* \***; **order of review; extension of time limits\***

(a) The judge in a consolidated case involving a predominant interest shall consider all the issues and arguments in the case and shall render a single initial decision in the form prescribed by **\*[NJAC]\* \*N.J.A.C.\* 1:1-16.3**, disposing of all the issues in controversy.

(b) The initial decision shall be filed first with the agency which has the predominant interest. After rendering its final decision, the agency with the predominant interest shall transmit the record, including the initial decision and its final decision **\*,\*** to the other agency which may subsequently render a final decision on any remaining issues and consider any specific remedies which may be within its statutory grant of authority.

(c) Upon transmitting the record, the agency with the predominant interest shall pursuant to N.J.A.C. 1:1-16.6 request an extension to permit the rendering of a final decision by the agency which does not have the predominant interest.

**BANKING**

**ADOPTIONS**

**BANKING**

**(a)**

**DIVISION OF CONSUMER  
COMPLAINTS LEGAL AND  
ECONOMIC RESEARCH**

**Interest on Other Loans**

**Readoption: N.J.A.C. 3:1-1.1**

Proposed: July 2, 1984 at 16 N.J.R. 1642(a).  
Adopted: August 16, 1984 by Mary Little Parell,  
Commissioner, Department of Banking.  
Filed: August 16, 1984 as R.1984 d.397, **without  
change.**

Authority: N.J.S.A. 31:1-1.1.

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

**Full text** of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 3:1-1.2.

**CIVIL SERVICE**

**(b)**

**CIVIL SERVICE COMMISSION**

**Position Classification and Reclassification  
Special Police Officers**

**Adopted Repeal: N.J.A.C. 4:3-6.5**

Proposed: May 21, 1984, at 16 N.J.R. 1136(a).  
Adopted: July 31, 1984 by the Civil Service Commission,  
Eugene J. McCaffrey, Sr., President.  
Filed: August 10, 1984 as R.1984 d.377, **without  
change.**

Authority: N.J.S.A. 11:1-7a, 11:5-1a.

Effective Date: September 4, 1984.

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

**Full text** of the adopted repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:3-6.5.

**(c)**

**CIVIL SERVICE COMMISSION**

**Position Classification and Reclassification  
Unclassified Appointment By Assignment  
Judges**

**Adopted Repeal: N.J.A.C. 4:3-6.8**

Proposed: May 21, 1984 at 16 N.J.R. 1137(a).  
Adopted: July 31, 1984 by the Civil Service Commission,  
Eugene J. McCaffrey, Sr., President.  
Filed: August 10, 1984 as R.1984, d.378, **without  
change.**

Authority: N.J.S.A. 11:1-7a, 11:5-1a.

Effective Date: September 4, 1984.

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

**Full text** of the adopted repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:3-6.8.

**COMMUNITY AFFAIRS**

**(d)**

**DIVISION OF HOUSING AND  
DEVELOPMENT**

**Uniform Construction Code  
Inspection of Public School Facilities**

**Readoption: N.J.A.C. 5:23-1.6**

Proposed: July 2, 1984 at 16 N.J.R. 1812(a).  
Adopted: August 13, 1984 by John P. Renna, Commissioner,  
Department of Community Affairs.  
Filed: August 13, 1984 as R.1984, d.382, **without  
change.**

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

Effective Date: August 13, 1984.

Expiration Date pursuant to Executive Order No.  
66(1978): April 1, 1988.

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

**Full text** of the adoption follows.

**ADOPTIONS**

**COMMUNITY AFFAIRS**

5:23-1.6 Prior permits; transitional rules for public school facilities

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

(c) In the case of a project involving a public school facility for which an application for final plan approval, equivalent to a permit application, was made to, and final plan review was begun by, the State Department of Education prior to the effective date of L. 1983, c.496 (April 17, 1984), the construction of such project may be completed in accordance with and pursuant to the code applicable to such facilities prior to April 17, 1984.

1. If final plan review was started by the State Department of Education but not completed by April 17, 1984, and the project does not involve only the removal of asbestos, the final plan review shall be completed by the State Department of Education and the inspections shall be done by the local enforcing agency having jurisdiction. A construction permit shall be required. The plan review portion of the fee shall be paid to the State Department of Education and the balance of the fee shall be paid to the local enforcing agency.

2. If final plans were approved by the State Department of Education on or before April 17, 1984, regardless of whether or not construction started on or before April 17, 1984, or if the project involves only the removal of asbestos from a public school facility, inspections shall be done by the State Department of Education. A construction permit shall not be required and all fees shall be paid to the Department of Education.

**(a)**

**LOCAL FINANCE BOARD**

**Municipal Port Authorities  
Annual Budgets; Approval of Obligations;  
Guaranteed Bonds, Financing Agreements**

**Adopted New Rules: N.J.A.C. 5:30-10.1 and  
10.2**

Proposed: August 15, 1983 at 15 N.J.R. 1304(a).  
Adopted: August 13, 1984 by Local Finance Board,  
Barry P. Clark, Executive Secretary.  
Filed: August 13, 1984 as R.1984 d.381, **without  
change.**

Authority: N.J.S.A. 52:27BB-10, 40:68A-29 et seq. and  
40:68A-43.1 (P.L. 1981, c.547).

Effective Date: September 4, 1984.  
Expiration Date pursuant to Executive Order No.  
66(1978): June 1, 1988.

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

**Full text** of the adoption follows.

**SUBCHAPTER 10. MUNICIPAL PORT AUTHORITIES**

5:30-10.1 Annual budgets of municipal port authorities

(a) Every municipal port authority shall submit its annual budget to the Local Finance Board at least 45 days prior to the date upon which such budget is scheduled for final adoption for approval by the Local Finance Board.

(b) In reviewing and approving each such budget, the Local Finance Board shall consider whether:

1. All estimates of revenue contained in such budget are reasonable, accurate and fairly stated;

2. The items of appropriation contained in such budget are properly set forth;

3. The budget, in itemization, form, arrangement and content will permit the exercise of the comptroller function within the authority; and

4. The operating income anticipated in such budget will, together with all other anticipated revenues:

i. Produce sufficient revenues to satisfy all obligations to the bondholders of the authority;

ii. Meet operating expenses, capital outlays and debt service requirements; and

iii. Provide for necessary reserves, all as may be required by law, regulations or terms of contracts and agreements.

(c) The Local Finance Board may require that a municipal port authority provide it with whatever information and documentation it may deem necessary in connection with its review.

(d) If the Local Finance Board finds that the foregoing conditions have been satisfied, it shall approve the budget; otherwise, it may determine either to disapprove it or to require amendments thereto. In considering whether or not to approve the budget, the Local Finance Board shall not substitute its discretion with respect to an amount of an appropriation when the amount is not made mandatory by law or regulation.

(e) In the event the Local Finance Board shall disapprove the proposed budget, the Board shall notify the authority and shall give the authority and any other interested parties an opportunity to be heard.

5:30-10.2 Approval of municipal port authorities obligations; municipal guarantees of authority bonds; financing agreements; and leases, sales or dispositions of real property

(a) No authority shall adopt any final resolution authorizing:

1. The issuance of bonds, notes, mortgages or other obligations;

2. The entry into any agreement providing for a municipal guarantee of authority bonds;

3. The entry into any financing agreement; or

4. The entry into any agreement for the leasing, sale or disposition of real property unless and until it shall have obtained the approval of the Local Finance Board to do so.

(b) Prior to the adoption of any such proposed resolution, the authority shall submit the proposed resolution to the Local Finance Board for review and approval.

(c) The Local Finance Board may, by resolution adopted within a reasonable time, approve or disapprove any such resolution proposed by the authority, or may require changes in the proposed resolution.

(d) The Local Finance Board shall, in the course of its review, give consideration to:

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1. The nature, purpose and scope of the proposed project financing or of the lease, sale or disposition of real property;  
2. The engineering and feasibility studies or appraisals prepared in connection therewith;

3. The terms and provisions of the proposed agreements for the lease, sale or disposition of real property, financing agreements, security agreements and, in the instance of a negotiated offering, the proposed or maximum conditions of sale;

4. The proposed or maximum schedule of debt service payments required and the impact thereof on the budget and financial condition of the authority and of the local unit or units which created the authority;

5. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report and feasibility studies; and the initial rate, rent, fee or change schedule or structure proposed by the authority, or other proposed method of raising the amounts required to finance the operations of the authority, pay debt service on its obligations and maintain reserves required by law, regulation or terms of contracts and agreements. The Local Finance Board may examine the estimates, computations or calculations made in connection with this submission, may require the submission of any papers, documents, appraisals, witnesses, information, audits or investigations and may take any action which it may determine advisable in connection with this project.

(e) If after such review and consideration, the Local Finance Board determines that the project cost has been accurately determined, that the method for finding the project and the proposed financing arrangements are reasonable and feasible, that the proposed arrangements would not impose an undue financial burden on the authority, the local unit or the residents of the local unit which created the authority and would not materially impair the credit of the authority of the local unit or substantially reduce their ability to pay punctually the principal and interest on their outstanding indebtedness and supply essential public services and improvements; and in the case of a lease, sale or disposition of real property, that the terms of the lease, sale or disposition are fair and reasonable in light of current market conditions, it shall approve the resolution proposed by the port authority.

(f) The Local Finance Board may waive the provisions of (d) and (e) above when the proposed financing agreement, guarantee agreement or debt authorization does not exceed \$50,000 or when the proposed agreement for the leasing, sale or disposition of real property does not exceed an annual rental or total sale proceeds of \$15,000.

(g) At any time within 12 months after approval of the Local Finance Board, the authority may adopt the resolution so approved and, after adoption, shall immediately transmit a copy to the Local Finance Board. Failure of any authority to act within 12 months after approval by the Local Finance Board will void the resolution adopted by the Local Finance Board.

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**STATE BOARD OF EDUCATION**

**Business Services**

**Tuition for Private Schools for the Handicapped**

**Adopted Repeal: N.J.A.C. 6:20-4.1 and 4.2**

**Adopted New Rules: N.J.A.C. 6:20-4.1 through 4.8**

Proposed: June 4, 1984, at 16 N.J.R. 1298(a).

Adopted: August 8, 1984, by State Board of Education, Saul Cooperman, Secretary.

Filed: August 17, 1984, as R.1984, d.398, **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. 18A:4-15 and 18A:46-21.

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): August 1, 1989.

**Summary of Public Comments and Agency Responses and Reasons for Making Changes:**

Written comment was received from one individual and thirteen people gave testimony at the State Board public hearing on June 14, 1984. At the public hearing, four individuals spoke on behalf of the Association for Private Schools and Agencies for the Handicapped and one individual spoke on behalf of the Council of Private Schools for Children with Special Needs.

There were comments which disagreed with the Commissioner of Education's right to modify the accounting principles as set forth by the American Institute of Certified Accountants. The recommendation to delete this provision was adopted by the agency.

There were numerous comments concerning some of the non-allowable items and a number of changes were made. The item dealing with administrative offices was clarified in a less restrictive manner to exclude only offices in private homes. The section on salary was clarified and made less restrictive in that individuals may, in fact, have more than two positions, but must be compensated on a prorated basis.

A number of comments expressed concern with those items in the pension section which are regulated already by State and Federal law and regulation. Some changes were made in this area to require compliance with existing appropriate State and financial laws and regulations and to avoid repetition of requirements.

Individuals expressed concern that the rule excluded food costs for behavior modification and home economics program. This section was clarified to allow for these program costs to be included in the tuition rate.

The recommendation to require compliance with existing Federal pension laws was adopted by the agency and deletions

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were made to the proposed code for specific pension requirements.

There were comments that questioned the department's right to regulate in general and specifically the right to regulate profit in the profit-making sector. The department maintains that both the right and responsibility exist to regulate the area of private school tuition funds.

A number of comments expressed strong disagreement with the limitation of profit to 2.5 percent. No change was made in the limit as the department maintains the position that this is a fair amount based on a review of past budgets, and a comparison to what other states allow. This issue has been clarified in a new section entitled "Surcharge." In addition to the actual program costs per pupil, for profit schools will be allowed to include an additional amount of 2.5 percent to districts within the tuition rate.

Some comments indicated disagreement with the section that defined non-allowable costs as not limited to only those included in these rules. The respondents stated that this was too broad and unclear. The phrase "not limited to" was removed and a new non-allowable item was added in replacement. The new item states that other "patently unreasonable costs" will not be allowable. This wording was suggested by the Attorney General's office and would be determined by the staff of the Department of Education through its budget and audit procedures. Appeals on tuition rates may be requested according to N.J.S.A. 18A:6-9.

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

#### 6:20-4.1 Formula for maximum tuition rates

(a) The Department of Education shall determine the maximum tuition rates for each budget year for placement of handicapped pupils in an approved private school for the handicapped.

(b) The methods for calculating the maximum tuition rates shall be according to the classification categories as follows:

1. Emotionally disturbed, neurologically impaired, socially maladjusted or communication handicapped: Multiply the State average net current expense budget per pupil for the pre-budget year by 2.99 and round to the nearest \$100.00.

2. Multiply handicapped or orthopedically handicapped: Multiply the State average net current expense budget per pupil for the pre-budget year by 3.29 and round to the nearest \$100.00.

3. Trainable mentally retarded or educable mentally retarded: Multiply the State average net current expense budget per pupil for the pre-budget year by 3.08 and round to the nearest \$100.00.

4. Chronically ill or perceptually impaired: Multiply the State average net current expense budget per pupil for the pre-budget year by 2.17 and round to the nearest \$100.00.

5. Auditorily handicapped or visually handicapped: Multiply the State average net current expense budget per pupil for the pre-budget year by 3.93 and round to the nearest \$100.00.

**\*[6.]\* \*7.\* \*[Full-time]\* \*Extended\* preschool class \*[pursuant to N.J.A.C. 6:28-3.3(d)]\* **\*(minimum of 20 hours per week of pupil instruction)\*** Multiply the State average net current expense budget per pupil for the pre-budget year by 2.99 and round to the nearest \$100.00.**

**\*[7.]\* \*6.\* \*[Half-time]\* \*[p]\* **\*P\***reschool class pursuant to N.J.A.C. 6:28-**\*[3.3(d)]\***: **\*4.1(f)1 (10 hours per week of pupil instruction)\*** Multiply the State average net current**

expense budget per pupil for the pre-budget year by 1.49 and round to the nearest \$100.00.

(c) The rates established in (b) above shall represent the maximum that a private school may charge to a district board of education for a handicapped pupil unless:

1. An appeal based on undue hardship is filed jointly for a pupil by the pupil's parent(s) or guardian(s) and the local school district with the Department of Education which:

i. Demonstrates the need for an extraordinary service which cannot be provided within the private school expense budget and current financial status; and

ii. Includes such services in the pupil's individualized education program.

(d) The Department of Education shall respond to an appeal within 60 calendar days.

(e) Tuition rates for each private school for the handicapped shall be established by the Department of Education and shall:

1. Not exceed the maximum tuition rate;

2. Be based on the information provided in the proposed budget; and

3. Be based on a 10-month school program and a minimum of 180 days of pupil instruction between September 1 and June 30.

(f) A separate monthly tuition rate shall be approved by the Department of Education for an extended school year program and shall not exceed the approved monthly tuition rate.

#### 6:20-4.2 Tuition rate approval process; bookkeeping and accounting

(a) An approved private school for the handicapped shall maintain accounting and bookkeeping systems in accordance with the following standards:

1. Accounts shall be kept in accordance with generally accepted accounting principles (G.A.A.P.) as defined by the American Institute of Certified Public Accountants, except as **\*[modified in advance by the Commissioner of Education]\* **\*already modified in these rules\*****.

2. Accrual accounting shall be used.

3. Asset, liability and fund balance accounts, as well as expenditure and revenue accounts shall be maintained. If multiple sites for a private school have been approved, costs shall be segregated by site in the financial records.

4. A chart of accounts issued by the Department of Education or an alternate approved by the Department of Education shall be maintained by each private school for the handicapped.

5. Bookkeeping records shall be maintained and shall include, but not be limited to:

i. Cash receipts journal;

ii. Cash disbursement journal;

iii. General ledger;

iv. Tuition ledger.

6. Documentation to verify postings such as vouchers, invoices and purchase orders shall be maintained.

7. A payroll shall be prepared and supported by the employee time record signed by the employee and supervisor, prepared in the time period in which the work was done and completed at least semi-monthly.

8. A quarterly financial report shall be prepared and shall be submitted to the school's governing body. Acceptance of the financial report shall be documented in the minutes of the meetings.

9. Good internal control practices shall be maintained which include the separation of duties such as the recording

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and authorizing of checks and purchase approvals.

10. A private school shall use the Department of Education contract for each pupil received from a local school district.

11. An imprest petty cash record shall be supported by documentation.

12. An inventory of non-consumable equipment and materials shall be maintained.

13. A mileage record shall be maintained for each school-owned vehicle subject to personal use by an employee.

14. Upon request from the Department of Education, a for-profit private school shall provide a copy of the Internal Revenue Service (I.R.S.) corporate tax return to the Department of Education. A non-profit private school shall provide a copy of I.R.S. form 990.

15. A private school shall maintain all pertinent financial record(s) for a period of seven years.

#### 6:20-4.3 Budget preparation and submission

(a) Each private school shall submit its proposed budget for approval on forms provided by the Department of Education. The form(s) shall provide for, but not be limited to, the following:

1. Identifying data;
2. Projected allowable cost items and projected enrollments;
3. Income schedule for the proposed year;
4. Report of revenue for the past year;
5. Report of all funding source(s);
6. Affidavit of compliance;
7. Statement of assurance.

(b) A tuition rate appeal may be requested according to N.J.S.A. 18A:6-9.

(c) A tuition rate(s) charged to a local school district shall only include an allowable cost(s), which shall be reasonable and provided in accordance with the individualized education program of a handicapped pupil.

1. A reasonable cost shall be ordinary and necessary and shall not exceed that which would be incurred by an ordinarily prudent person in the conduct of business.

2. An allowable tuition cost(s) may include indirect cost(s) related to the educational program which cannot be charged directly to a specify program.

3. The method of allocation of an indirect cost(s) shall be documented.

#### 6:20-4.4 Non-allowable costs

(a) A cost which is not allowable in the calculation of a tuition rate includes, but is not limited to.

1. The cost of maintaining an administrative office in a location separate from the private school for the handicapped;

2. Advertising cost(s) associated with public relations and lobbying except for the printing of descriptive brochures;

3. The salary of a professional staff member who is not certified but who is functioning in a position requiring certification;

4. The salary of a professional staff member **\*[who is functioning in more than two capacities within the approved private school;]\* **\*for time not expended and/or services not performed;\*****

5. A salary or consultant fee paid to an individual functioning in a conflict of interest position;

6. A salary in excess of what an employee (certified or non-certified) in a local school district in New Jersey of the same county, in a similar job title would receive\*[\*]\* **\*Part-time or split-time positions will be prorated;\***

7. A salary for a director of a private school in excess of what a chief school administrator in a local school district of the same county would receive;

8. A legal, accounting or consultant cost resulting from a frivolous challenge to a State audit or financial review, or the prosecution of a claim against the State. The Commissioner of Education shall determine whether the challenge is frivolous by considering at least the following factors:

- i. Overall merit of the claim;
- ii. Whether the challenge serves the public interest.

9. A consultant cost which does not include at least a detailed list of the nature of the service provided, the number of days worked, the charge per day and the product or outcome of the consultation;

10. **\*[A]\* **\*Total\* contribution\*s,\* **\*[or]\* donation\*s,\* **\*[or]\* award\*s\* **\*[or]\* **\*and\* scholarship\*s\* in excess of **\*[a total of \$250.00]\* **\*\$750.00\*;****************

11. Depreciation **\*[on any of the following:]\* **\*unacceptable under federal tax law and regulation and depreciation on:\*****

**\*[i. Reappraisal designed to increase the cost basis for depreciation on already fully-depreciated property or through a sale which results from a change in legal status of the owner, such as incorporation;**

**ii. Property fully depreciated by a division, subsidiary or affiliate of the school prior to acquisition by the school;]\***

**\*[iii.]\* **\*i.\* Donated goods **\*[and services]\*;******

**\*[iv. Items which are listed as an expense:]\***

**\*[v.]\* **\*ii.\* That which is not based on estimated straightline method;****

**\*[vi.]\* **\*iii.\* A single item costing below \$500.00.****

12. **\*[A dividend,]\* **\*An\* investment expense **\*[, and income duplication]\*;******

**\*[13. Dues, membership fees to a professional organization, except as part of reasonable compensation for an individual employee or school membership in such an organization;]\***

**\*[14.]\* **\*13.\* Costs incurred for the entertainment of school officer or employee, **\*[or of]\* **\*for\* a non-school related activity, and any related item such as meals, lodging, rentals, transportation and gratuities;********

**\*[15.]\* **\*14.\* All personal expenses, such as a personal travel expense, holiday party, repair on a personal vehicle;****

**\*[16.]\* **\*15.\* The cost of a fine or penalty which results from a violation of or failure by the school to comply with Federal, State and/or a local law and regulation;****

**\*[17.]\* **\*16.\* The cost for **\*[food]\*, **\*meals\* unless the school receives funds from the Child Nutrition Program; **\*[food costs per pupil in excess of the costs established by the Department of Education;]\* **\*except food costs for behavior modification programs or for home economics programs;\*************

**\*[18.]\* **\*17.\* Fringe benefits when:****

**i. A cost is unreasonable;**

**ii. All full-time employees are not eligible for the benefit;**

**iii. Purchased for a non-employee of the school.**

**\*[19.]\* **\*18.\* The cost of organized fund raising, such as a financial campaign, an endowment drive, or solicitation of a gift and bequest, done to raise capital or obtain a contribution;****

**\*[20.]\* **\*19.\* Goodwill;****

**\*[21.]\* **\*20.\* Insurance on the lives of an officer or trustee which name the school as beneficiary;****

**\*[22.]\* **\*21.\* Interest costs on short-term loans when:****

**i. Interest is in excess of what a prudent borrower would pay at the time the loan was taken;**

**ii. It has not been repaid within 12 months;**

**iii. The cost is upon fixed assets in a for-profit school.**

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\*[23.]\* **\*22.\*** A loan to an employee or officer of the corporation;

\*[24.]\* **\*23.\*** An ordinary living expense for a pupil, that is normally assumed by the parent of a pupil attending a public day school;

\*[25.]\* **\*24.\*** Pension costs\*[:] **\*which are not in conformance with the Employee Retirement Income Security Act of 1974 and its successor legislation;\***

\*[i. When the school does not contribute to the Federal Insurance Contributions Act (F.I.C.A.);

ii. When pensions are not available to all full-time employees;

iii. When pensions are not pursuant to a written policy or agreement between employee and employer;

iv. When part of the deferred compensation reverts to the school;

v. When contingencies result in forfeitures by an employee which benefit the school.]\*

[26.]\* **\*25.\*** A payment made to a school employee in lieu of a pension;

\*[27.]\* **\*26.\*** The cost associated with a professional conference and meeting held in countries not contiguous to the United States;

\*[28.]\* **\*27.\*** A bonus to an employee;

\*[29. Annual profit per pupil greater than 2.5 percent of the private school's approved cost. Such amount may be included in the school's tuition rate up to the maximum tuition rate;]\*

\*[30.]\* **\*28.\*** A profit or loss on an investment;

\*[31.]\* **\*29.\*** The cost of rental or mortgage if in excess of the average square footage costs for commercial office space for the region of the State in which the private school for the handicapped is located;

\*[32.]\* **\*30.\*** The cost of staff salary, a supply or printing and reproduction of a material for a research activity;

\*[33.]\* **\*31.\*** Payment of Federal, State and local income taxes;

\*[34.]\* **\*32.\*** Any cost associated with travel to and from the officer's or employee's home and the school or agency;

\*[35.]\* **\*33.\*** Transportation cost for a pupil to and from school;

\*[36.]\* **\*34.\*** Personal use of a school-owned vehicle;

\*[37.]\* **\*35.\*** A business incurred charge for a privately owned vehicle in excess of the mileage rate allowed by the United States Internal Revenue Service for automobile travel;

\*[38. A working capital fund for a non-profit school(s) in excess of 15 percent of the total prior year's expense budget less the prior year's fund balance;

39. A working capital fund used to finance any portion of the school's operation beyond the school year.]\*

**\*36. A cost found to be patently unreasonable.\***

### **\*6:20-4.5 Surcharge**

(a) For profit making school(s), an annual surcharge per pupil up to 2.5 percent of the private school's approved cost per pupil is permitted.

(b) Such surcharge may be included in the school's tuition rate up to the maximum tuition rate.

### **6:20-4.6 Working capital fund**

(a) For non-profit schools, the school's tuition rate may, up to the maximum tuition rate, include an amount which will permit the school to establish a working capital fund which is not in excess of 15 percent of the private school's approved cost.

**(b) For budget submission purposes and the purpose of establishing an estimated tuition rate a non-profit school may include an amount in its proposed budget for working capital purposes. Such amount shall not exceed 15 percent of the private school's approved costs for the proposed budget year less the beginning fund balance for the year prior to the proposed budget year.\***

6:20-4.\*[5]\* **\*7\*** Calculation of pupil attendance

(a) Each private school for the handicapped shall maintain a public school register for recording of pupil attendance in accordance with N.J.A.C. 6:20-1.3.

(b) The amount which an approved private school shall charge for tuition is one-tenth of the allowable tuition rate for each full month the pupil is \*[in attendance]\* **\*enrolled\***.

(c) If a handicapped pupil is \*[in attendance]\* **\*enrolled\*** for a period less than the full 10 months, the amount that an approved private school may charge shall be calculated by:

1. Multiplying the average daily enrollment times the annual rate; or

2. Dividing 180 days into the annual rate to determine a per diem rate; or

3. Dividing the annual rate by 10 months if annual reconciliation is performed.

(d) Each private school shall submit the school summary register card (A-38) annually to the Department of Education by September 1 to verify the pupil attendance for the previous school year.

6:20-4.\*[6]\* **\*8\*** Audit requirements

(a) Each approved private school for the handicapped shall annually submit on or before November 1, regardless of the fiscal year of the agency, to the Department of Education a certified audit from an independent public accountant based on the July 1 to June 30 school year containing the following:

1. A balance sheet;

2. A statement of budget versus actual expenses by line item, including the segregation of all salaries by title of position;

3. A verification of the average daily enrollment by classification;

4. An itemized list of the non-allowable costs by amount.

(b) The audit shall be in compliance with (a) 1. through 4. above and shall follow audit standards established by the Department of Education.

(c) The certified audit shall verify the tuition rate(s) at the end of the school year and shall reflect line accounts as shown on the approved school budget and contain budget versus actual expenses.

(d) Any adjustments necessary as a result of the certified audit shall be made as follows:

1. In the event that the actual tuition rate is less than the estimated tuition rate, the approved private school for the handicapped shall pay or credit each district board of education for such differences no later than 30 days after submission of the certified audit or no later than 30 days after an appeal on an audit is finally resolved;

2. In the event that the actual tuition rate is more than the estimated tuition rate, a district board of education shall pay the approved private school for the handicapped the difference no later than the end of the second fiscal year following the year audited. The actual tuition rate shall not exceed the applicable maximum tuition rate.

(e) A tuition audit may be performed by the Department of Education to verify expenditures against approved budgets. If adjustments are necessary, such adjustments shall be made in the manner described in (d) above.

# ENVIRONMENTAL PROTECTION

(a)

## OFFICE OF THE COMMISSIONER

### Interim Safe Drinking Water Testing Schedule for Hazardous Contaminants by Public Community Water Systems

#### Adopted New Rule: 7:10-14

Proposed: June 4, 1984 at 16 N.J.R. 1301(a).

Adopted: August 17, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: August 17, 1984 as R.1984 d.400, with **substantive and technical changes** not requiring additional public notice and comment.

Authority: New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. (P.L. 1977, c.224), as amended by P.L. 1983, c.443.

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): September 4, 1989.

DEP Docket No. 031-84-05.

#### Summary of Public Comments and Agency Responses, and Revisions to Proposal:

The New Jersey Department of Environmental Protection ("NJDEP" or "Department") held three public hearings concerning the Interim Safe Drinking Water Testing Schedule for Hazardous Contaminants by Public Community Water Systems, N.J.A.C. 7:10-14 ("Regulations") promulgated pursuant to the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. (P.L. 1977, c.224), as amended and supplemented by P.L. 1983, c.443 ("Act"). Public hearings were held on June 21, 1984 in Haddonfield Borough, June 26, 1984 in the City of Trenton and on June 28, 1984 in Wayne Township. A total of 29 people attended the three public hearings and 10 written comments were received on the Regulations during the comment period. Three written comments were transcripts of oral testimony presented at the public hearings.

NJDEP summarizes and responds to the comments received concerning the regulations according to the following major issues:

1. Most commenters strongly urged NJDEP to revise N.J.A.C. 7:10-14.7 titled "Periodic Testing Requirements for 2(a) List" to require semi-annual periodic testing for all public community water systems regardless of the number of residents served or the source of water utilized. The June 4, 1984 proposal required periodic testing frequencies ranging from one test every three years to four tests every year. Commenters felt that uniform semi-annual testing would more accurately reflect the Act's legislative intent and that the citizens of New Jersey obtaining their water from public community water systems serving a relatively smaller number of

residents deserved the protection afforded by semi-annual testing. Many commenters felt that periodic testing four times every year went beyond the Act's legislative intent. N.J.S.A. 58:12A-12 (Section 1 of P.L. 1983, 443) requires that after initial testing for 2(a) and 2(b) List contaminants, semi-annual testing for 2(a) and 2(b) List contaminants will be required thereafter pursuant to a schedule established by the Commissioner "unless the Commissioner shall determine, on a case-by-case basis, that greater or lesser frequency of testing is necessary or sufficient to ensure public health and safety."

NJDEP's June 4, 1984 proposal interpreted the case-by-case review in two ways: 1) a generic case-by-case breakdown based on the source of water and the number of residents served and 2) a mechanism for individual case-by-case reviews as set forth in N.J.A.C. 7:10-14.11 titled "Modification of Periodic Testing Frequency by Commissioner". This NJDEP approach appeared necessary after consideration of the administrative and enforcement burdens a uniform semi-annual testing schedule would create for the Department. Also, the economic impact on the smaller public community water systems in meeting the demands of semi-annual testing were considered by NJDEP. After internal NJDEP discussion, N.J.A.C. 7:10-14.7(b) will be revised to require uniform semi-annual testing by all public community water systems with their own source of water. Please note that N.J.A.C. 7:10-14.7(b) will be repropose for public comment in the September 17, 1984 New Jersey Register. N.J.A.C. 7:10-14.7(b) has been reserved in this adoption. N.J.A.C. 7:10-14.7(a) will remain as proposed for all public community water systems who obtain total bulk purchase water from other supply sources.

2. Many commenters felt that testing for 2(a) List and 2(b) List contaminants should be taken from individual sources of water rather than from a representative location in the distribution system. Unlike trihalomethane that may be chemically created in the distribution system, commenters stated that the best location to identify the 2(a) List contaminants would be at the actual raw water source. A few commenters believed that this would potentially lead to reduced sampling if 2(a) List contaminants were found not to be present. NJDEP received several lengthy and detailed public comments in support of sampling individual sources of water. Extensive departmental discussions were undertaken as a result of this public comment.

The Department clearly recognizes the advantages of sampling each source of water and supports this practice as part of the proper operation of a water system. However, the Department believes that drinking water standards should be met and proven at the water tap of the ultimate consumer. Therefore, we have chosen to leave unchanged the locations where testing shall be accomplished.

The Department has made some changes to the language in the regulations to address some of the comments received on this issue. Subsections describing multiple treatment plants will be modified and clarified in the reproposal to be published in the September 17, 1984 New Jersey to include all sources of water and specific reference to the fact that they would not be evaluated the same as trihalomethane sampling locations. Language has been added that will allow modification of sampling locations as well as frequency of testing. The Department encourages those public community water systems testing individual sources of water to propose those testing programs to the Department for review and concurrence.

3. At the three public hearings NJDEP requested public comments on the question of who should actually collect the

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samples for the initial and periodic testing for 2(a) List contaminants required by the regulations. A consensus of the public comments would have personnel from certified laboratories, designated local public health agencies, licensed operators or their designees, and other individuals specifically approved in writing by NJDEP collect samples for the purposes of the regulations.

N.J.A.C. 7:10-4.6(e) and 4.7(e) provides that “[a]ll sampling shall be conducted pursuant to guidance available from the Department.” Please note that the Department intends to issue sampling guidance that generally reflects the public comments solicited and received at the three public hearings.

4. Several commenters protested the Department’s June 4, 1984 proposal requirement of A-280 record retention for 25 years. Commenters suggested that a 10 year record retention requirement, as used in other Safe Drinking Water Act programs, would be adequate. The 25 year requirement coincides with long term cancer studies the Department plans to undertake. However, NJDEP has reduced the record retention requirement from 25 to 10 years as requested. The Department will maintain its own data base for 25 years to provide necessary information for future studies.

5. Several commenters did not approve of the requirement of initial or periodic testing of 2(a) List of 2(b) List contaminants for public community water systems who obtain total bulk purchase water from other water supply sources. Commenters felt that water delivered would not be contaminated unless the water received had been contaminated. NJDEP agrees that the likelihood of any of the initial 16 hazardous contaminants on the 2(a) List appearing in a system that obtains total bulk purchase water from other water supply sources would not be significant. However, the potential 2(b) List contaminants that may be recommended by the Drinking Water Quality Institute and adopted by the Commissioner may pose a much greater threat. Also the Act clearly states that all public community water systems shall be required to test for 2(a) List and 2(b) List contaminants. N.J.A.C. 7:10-4.7(a) 1, 2 and 3 reflects a NJDEP determination requiring less frequent testing for 2(a) List contaminants by such systems. NJDEP has determined that the testing frequency and requirements for total bulk purchase water systems should remain unchanged.

6. Commenters requested that reporting of A-280 test results should be uniform with reporting requirements for other Safe Drinking Water Act parameters. NJDEP agrees with this administrative change. N.J.A.C. 7:10-14.13(a) now requires the results of any A-280 test to be reported within the first ten days of the month following the month in which any test, measurement or analysis is made pursuant to the regulations.

7. A few commenters requested the deletion of N.J.A.C. 7:10-4.6(c)2 and 4.7(d)2 from the regulations. These sections allow the Department to request additional sampling at other representative sampling locations determined by NJDEP to be more appropriate for the purpose of the Act and regulations. Commenters felt that this ability to require more sampling could be burdensome. The alternative to this procedure would be to have NJDEP pre-select and approve all sampling locations for all public community water systems. NJDEP determined that this would not be desirable or feasible administratively. Furthermore, NJDEP intends to utilize the authority to require additional testing only if public community water systems appear to be circumventing regulatory obligations.

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The Department has adopted N.J.A.C. 7:10-4.6(c)2 and 4.7(d)2 as proposed.

8. Some commenters indicated that proposed N.J.A.C. 7:10-4.11(c), requiring written notification of testing schedule modification in the first set of water bills issued after the modifications, would be excessively burdensome. Many purveyors utilize a post card billing system and other small purveyors have less formal methods of billing. N.J.A.C. 7:10-14.11(c) has been revised to offer public community water systems three options to communicate testing frequency modifications to water users: 1. written notice in water bills; 2. publication in newspaper(s) for not less than 3 consecutive days within 30 days of notice of modification; or 3. other public notification procedures proposed by the public community water system and approved by NJDEP in writing.

9. A few commenters noted that testing for Polychlorinated Biphenyls (PCBs) and pesticides specified on the 2(a) List would be done by the same analytical testing method. One commenter felt that A-280 testing should be on the same schedule as existing Safe Drinking Water Act pesticide testing. Also, a few commenters believed that compositing sampling techniques should be allowed for certain pesticides. NJDEP anticipates requests for various modifications of A-280 testing. N.J.A.C. 7:10-14.11, titled “Modification of periodic testing frequency by Commissioner”, provides a regulatory mechanism that allows the Commissioner to make case-by-case determinations on testing frequency. Public community water systems are invited to utilize this regulatory mechanism in all appropriate cases.

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

SUBCHAPTER 14. INTERIM SAFE DRINKING WATER ACT TESTING SCHEDULE FOR HAZARDOUS CONTAMINANTS BY PUBLIC COMMUNITY WATER SYSTEMS

7:10-14.1 Authority

These rules are promulgated pursuant to the authority of the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. (P.L. 1977, c.224), as amended and supplemented by P.L. 1983, c.443, commonly referred to as “A-280”.

7:10-14.2 Purpose of rules

(a) These rules implement the statutory requirement of N.J.S.A. 58:12A-12 (Section 1 of P.L. 1983, c.443) that the Commissioner establish an initial and periodic testing schedule for the owner or operator of each public community water system required by the Act to undertake the initial and periodic testing of the water provided to customers by the water system in order to determine the presence of hazardous contaminants identified pursuant to N.J.S.A. 58:12A-13(a) (Section 2(a) of P.L. 1983, c.443) and N.J.A.C. 7:10-14.

(b) After receiving recommendations of the Drinking Water Quality Institute, the Department shall amend this subchapter to establish an initial and periodic testing schedule for the owner or operator of each public community water system required by the Act to undertake the initial and periodic testing of the water provided to customers by the water system in order to determine the presence of hazardous contaminants identified pursuant to N.J.S.A. 58:12A-13(b) (Section 2(b) of P.L. 1983, c.443) and N.J.A.C. 7:10-14.

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### 7:10-14.3 Definitions

For the purpose of this subchapter, the following definitions in addition to those found in N.J.A.C. 7:10-1.3 are applicable.

"Act" means the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. (P.L. 1977, c.224), as amended and supplemented by P.L. 1983, c.443.

"Certified Laboratory" means a laboratory certified by the Department pursuant to the Regulations Governing Laboratory Certification and Standards of Performance, N.J.A.C. 7:18, to conduct testing for individual hazardous contaminants on the 2(a) List and 2(b) List.

"Public Community Water System" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. (See also N.J.A.C. 7:10-1.3).

"Institute" means the Drinking Water Quality Institute established pursuant to N.J.S.A. 58:12A-20 (Section 10 of P.L. 1983, c.443).

"Total Bulk Purchase Water" means water supply purchased for resale to consumers by any public community water system from another water system due to the fact that said public community water system does not have any independent source of water.

"2(a) List" means the list of organic compounds established in N.J.S.A. 58:12A-13(a) (Section 2(a) of P.L. 1983, c.443).

"2(b) List" means the list of pesticides and related compounds, metals, base/neutral extractable organic compounds and acid extractable organic compounds to be developed by the Commissioner, after consideration of the recommendations of the Institute, required pursuant to N.J.S.A. 58:12A-13(b) (Section 2(b) of P.L. 1983, c.443).

"Water Treatment Plant" means any structure delivering water into a public water distribution system and which subjects water, prior to use for potable purposes, to the addition or subtraction of a substance or substances in order to enhance the safeness, palatability, public health, purity, or aesthetic qualities; or reduce the corrosive or hazardous properties of the water used.

### 7:10-14.4 Program information

Any questions concerning this subchapter should be addressed to the Bureau of Potable Water, Division of Water Resources, New Jersey Department of Environmental Protection, CN-029, 1474 Prospect Street, Trenton, New Jersey 08625 (609) 292-5550.

### 7:10-14.5 Severability

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

### 7:10-14.6 Initial testing requirements for 2(a) List

(a) All public community water systems shall by January 9, 1985 conduct initial tests, pursuant to this subchapter, of the water provided to customers by the water system in order to determine the presence of hazardous contaminants on the 2(a) List.

(b) The initial tests required by this section shall be analyzed from samples collected during periods of representative water supply demand by a certified laboratory that is certified by the Department for the analysis of those specific parameters.

(c) The samples for the initial tests conducted pursuant to this section shall be obtained from a representative location in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed.

1. All public community water systems shall provide along with all initial test results the following information on forms designed by and available from the Department:

i. A written description detailing the exact sampling locations in the distribution system selected for the initial tests conducted pursuant to this section; and

ii. All public community water systems shall submit, upon the Department's request, any maps indicating in proper scale the exact sampling locations selected for the initial tests conducted pursuant to this section.

2. After review by the Department of information submitted pursuant to (c)1 above and any other relevant information, the Department may require additional sampling at other representative sampling locations determined by the Department to be more appropriate for the purposes of the Act and this subchapter.

i. A public community water system shall revise and submit to the Department in writing the information required pursuant to (c)1 above to reflect the representative sampling locations approved by the Department pursuant to (c)2 above.

(d) All sampling shall be conducted pursuant to guidance available from the Department.

(e) For the purposes of the initial testing required by this section, the 2(a) List shall include only the following hazardous contaminants:

1. Trichloroethylene
2. Tetrachloroethylene
3. Carbon Tetrachloride
4. 1, 1, 1, -Trichloroethane
5. 1, 2, -Dichloroethane
6. Vinyl Chloride
7. Methylene Chloride
8. Benzene
9. Chlorobenzene
10. Dichlorobenzene (s)
11. Trichlorobenzene (s)
12. 1, 1,-Dichloroethylene
13. Trans-1, 2,-Dichloroethylene
14. Polychlorinated Biphenyls (PCBs)
15. Chlordane
16. Xylenes

(f) All public community water systems shall complete the initial testing for the remaining 2(a) List hazardous contaminants, listed below, no later than six months after written notification by the Department of promulgation of appropriate interim test methodologies, pursuant to the Regulations Governing Laboratory Certification and Standards of Performance, N.J.A.C. 7:18, for each individual remaining 2(a) List hazardous contaminant listed below:

1. cis-1, 2-dichloroethylene
2. ethylene glycol
3. kerosene
4. formaldehyde
5. n-hexane
6. methyl ethyl ketone

### 7:10-14.7 Periodic testing requirements for 2(a) List

(a) Public community water systems who obtain total bulk purchase water from other water supply sources shall, after the initial testing required by N.J.A.C. 7:10-14.6, conduct at

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a minimum periodic tests of the water provided to customers by the system in order to determine the presence of hazardous contaminants on the 2(a) List as follows:

1. One test every three years (by the end of January of the third year) for public community water systems serving less than 5,000 residents from a representative location in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed.

2. One test every year (by the end of January of every year) for public community water systems serving between \*[5,000]\* \*5,001\* and \*[50,000]\* \*50,001\* residents from a representative location in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed.

3. Two tests every year (by the end of June and the end of December of every year) for public community water systems serving over 50,000 residents from a representative location in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed.

(b) Public community water systems with their own source of water supply shall, after the initial testing required by N.J.A.C. 7:10-14.6, conduct at a minimum periodic tests of the water provided to customers by the system in order to determine the presence of hazardous contaminants on the 2(a) List as follow:

\*[1. One test every three years (by the end of January of the third year) for public community water systems serving less than 500 residents from a representative location in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed.

2. Two tests every year (by the end of June and the end of December of every year) for public community water systems serving between 500 and 10,000 residents from a representative location in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed.

3. Four tests every year (by the end of March, June, September and December of every year) for public community water systems serving between 10,000 and 50,000 residents consisting of one sample per water treatment plant serving the distribution system.

i. For the purpose of this subsection, the minimum number of samples required to be taken by the water system shall be based on the number of treatment plants used by the water system, except that multiple wells drawing raw water from a single aquifer may, after written approval from the Department, be considered one treatment plant for determining the minimum number of samples.

4. Four tests every year (by the end of March, June, September and December of every year) for public community water systems serving over 50,000 residents consisting of two samples per water treatment plant serving the distribution system.

i. For the purpose of this section, the minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing raw water from a single aquifer may, after written approval from the Department, be considered one treatment plant for the purpose of determining the minimum number of samples.]\*

(Reserved: See September 17, 1984 Register for reproposal of this subsection)

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(c) The periodic tests required by this section shall be conducted during periods of representative water supply demand by a certified laboratory.

(d) The samples for the periodic tests conducted pursuant to this section shall be obtained from a representative location in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed.

1. All public community water systems shall provide along with all periodic test results the following information on forms designed by and available from the Department:

i. A written description detailing the exact sampling locations in the distribution system selected for the periodic test conducted pursuant to this section; and

ii. All public community water systems shall submit, upon the Department's request, any maps indicating in proper scale the exact sampling locations selected for the periodic tests conducted pursuant to this section.

2. After review by the Department of information submitted pursuant to (d)1 above and any other relevant information, the Department may require additional sampling at other representative sampling locations determined by the Department to be more appropriate for the purpose of the Act and this subchapter.

i. A public community water system shall revise and submit to the Department in writing the information required pursuant to N.J.A.C. 7:10-14.7(d)1 to reflect the representative sampling locations approved by the Department pursuant to (d)2 above.

(e) All sampling shall be conducted pursuant to guidance available from the Department.

7:10-14.8 Identification of 2(b) List  
(Reserved)

7:10-14.9 Initial testing requirements for 2(b) List  
(Reserved)

7:10-14.10 Periodic testing requirements for 2(b) List  
(Reserved)

7:10-14.11 Modification of periodic testing frequency by Commissioner

(a) After the initial testing required by N.J.A.C. 7:10-14.6, the Commissioner may determine on a case-by-case basis that greater or lesser frequency of periodic testing than required by this subchapter **\*or testing at other more appropriate locations\*** for an individual public community water system would be necessary or sufficient to ensure the public health and safety.

1. The Department on its own initiative may determine that a greater or lesser frequency of periodic testing than required by this subchapter **\*or testing at other more appropriate locations\*** for an individual public community water system shall be implemented for said public community water system.

2. An individual public community water system may submit all appropriate documentation, evidence and other proofs that they deem justify a greater or lesser frequency of periodic testing than required pursuant to this subchapter **\*or testing at other more appropriate locations\*** for their public community water system.

(b) Any determination by the Commissioner to allow for a greater or lesser frequency of periodic testing required by this subchapter **\*or testing at other more appropriate locations\*** shall be communicated to the affected public community wa-

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ter system in a registered or certified letter detailing the new testing schedule for their public community water system.

(c) Any modification of the periodic testing frequency by the Commissioner pursuant to this section shall be communicated to the effected water users by the affected public community water system by **\*[the inclusion of written notice in the first set of water bills of the system issued after said modification and in any event by written notice from the affected public community water system to the affected water users within three months including, but not limited to, the following information:]\*** **\*at least one of the following methods:\***

**\*1. Inclusion of written notice in the first set of water bills of the system issued after said modification and in any event by written notice within three months;\***

**\*2. Publication of notice in a newspaper or newspapers with general circulation of the area served by the public community water system on not less than three consecutive days within thirty days of notice of said modification; or\***

**\*3. Other public notification procedures proposed by the public community water system and approved by the Department in writing.\***

**\*i. All public notification prepared pursuant to subsection (c) herein shall include, but not be limited to, the following information:\***

**\*[1.]\*** **\*(1)\*** Name of affected public community water system;

**\*[2.]\*** **\*(2)\*** Number of residents served and source of water supply;

**\*[3.]\*** **\*(3)\*** Previous periodic testing frequency;

**\*[4.]\*** **\*(4)\*** Approved modification of periodic testing frequency; and

**\*[5.]\*** **\*(5)\*** Brief explanation of justification for modification.

### 7:10-14.12 Analytical requirements

(a) All initial or periodic tests to determine the presence of hazardous contaminants required by this subchapter shall be conducted at a certified laboratory.

(b) The Department shall not accept initial or periodic test results for any hazardous contaminants on the 2(a) List and 2(b) List from laboratories not certified by the Department pursuant to the Regulations Governing Laboratory Certification and Standards of Performance, N.J.A.C. 7:18, to conduct testing for the appropriate hazardous contaminants on the 2(a) List and 2(b) List.

### 7:10-14.13 Reporting requirements

(a) All public community water systems shall report to the Department the results of any test required pursuant to this subchapter **\*[no later than ten days after receipt of said test results.]\*** **\*within the first ten days of the month following the month in which any test, measurement or analysis is made pursuant to these subchapters.\***

1. A certified laboratory conducting tests for a public community water system pursuant to this subchapter may, upon prior written approval by the Department, submit such tests results to the Department on behalf of a public community water system; provided that the public community water system agrees in writing to be bound by any test results submitted by such certified laboratory.

(b) All tests results shall be submitted on forms designed by and available from the Department at the following address:

New Jersey Department of  
Environmental Protection  
Division of Water Resources

Bureau of Potable Water  
P.O. Box CN-029  
Trenton, New Jersey 08625  
Attention: N.J.A.C. 7:10-14  
Test Results

(c) The Department may conduct spot checks to assure compliance with the Act and to verify the accuracy and integrity of any test results submitted pursuant to this subchapter.

### 7:10-14.14 Recordkeeping

(a) Any owner or operator of a public community water system subject to the provisions of this subchapter shall retain on its premises or at a convenient location near its premises records of all initial and periodic test results and other relevant information prepared pursuant to this subchapter for not less than **\*[25]\*** **\*10\*** years.

(b) Actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:

1. The date, place, and time of sampling and the name of the person who collected the sample;

2. Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample or other special purpose sample;

3. Date of analysis;

4. Laboratory and person responsible for performing analysis;

5. The analytical technique/method used;

6. Chain-of-custody information concerning handling of the sample; and

7. The results of the analysis.

### 7:10-14.15 Violations and penalty provisions

(a) If any person violates any provision of the Act, or any rule, regulation or order promulgated or issued pursuant to the provisions of the Act the Department may invoke the penalty provisions of N.J.S.A. 58:12A-10 (Section 17 of P.L. 1983, c.443), including, but not limited to the following:

1. The Department may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner;

2. Any person who violates the provisions of the Act, or any rule, regulation or order promulgated pursuant to the Act shall be liable to a civil administrative penalty of not more than \$5,000.00 for the first offense, not less than \$5,000.00 not more than \$10,000.00 for the second offense, and up to \$25,000.00 for the third and each subsequent offense pursuant to the notification and other requirements of N.J.S.A. 58:12A-10(b) (Section 17(b) of P.L. 1983, c.443);

i. If the violation is of a continuing nature, each day during which it continues subsequent to receipt of an order to cease the violation shall constitute an additional, separate and distinct offense.

ii. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in the Act or A-280, and the payment of a civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.

3. The Department is hereby authorized and empowered to compromise and settle any claim for a penalty under N.J.S.A. 58:12A-10 (Section 17 of P.L. 1983, c.443) in such amount in

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the discretion of the Department as may appear appropriate and equitable under all of the circumstances including the posting of a performance bond by the violator.

4. Any person who violates the Act or an administrative order issued pursuant to N.J.S.A. 58:12A-10(b) (Section 17(b) of P.L. 1983, c.443) or a court order issued pursuant to N.J.S.A. 58:12A-10(a) (Section 17(a) of P.L. 1983, c.443) or who fails to pay a civil administrative penalty in full pursuant to N.J.S.A. 58:12A-10(b) (Section 17(b) of P.L. 1983, c.443) shall be subject, upon order of the court, to a civil penalty not to exceed \$10,000.00 per day of the violation, and each day's continuance of the violation shall constitute a separate and distinct violation.

i. Any penalty imposed under N.J.S.A. 58:12A-10(d) (Section 17(d) of P.L. 1983, c.443) may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.A. 2A:58-1 et seq.) and the Superior Court and county district court shall have jurisdiction to enforce "the penalty enforcement law."

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### (a)

## DIVISION OF WASTE MANAGEMENT

### Solid Waste Disposal Exemption from Registration

#### Readopted New Rule: N.J.A.C. 7:26-1.7

Proposed: May 7, 1984 at 16 N.J.R. 1100(a).

Adopted: August 16, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: August 17, 1984 as R.1984 d.399, **without change.**

Authority: N.J.S.A. 13:1B-3, 13:1E-4 and 13:1E-6.

Expiration Date pursuant to Executive Order No. 66(1978): February 21, 1989.

DEP Docket No. 027-84-04.

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

A **public hearing** was held on May 22, 1984 at The Hackensack Meadowlands Environmental Center in Lyndhurst, New Jersey. The public comment period was extended until July 2, 1984 by public notice at 16 N.J.R. 1627(a). Three written comments were received. These comments and the Department's responses are summarized below.

1. Comment: One commenter contended that the exemption from registration which is made available in the proposed rule is "contrary to the spirit and purpose of the Solid Waste Management Act", in that it explicitly allows for the operation of facilities without full registration, and urged that such exemptions be granted sparingly and on a case-by-case basis.

Response: While it is true that N.J.A.C. 7:26-1.7 permits the operation of facilities without full registration, the De-

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partment can exercise the authority to grant such exemptions only in very limited circumstances. The rule specifically requires that exemptions ensure that the purpose and intent of the Act (N.J.S.A. 13:1E-1 et seq.) be satisfied, and that no threat to public health or the environment be posed (N.J.A.C. 7:26-1.7(b) (1) and (2)). In addition, the rule requires that each such exemption be accompanied by a schedule which addresses all normal registration requirements, thus ensuring detailed attention to each case in which exemption is considered.

2. Comment: The same commenter contended that the rule will "encourage circumvention of the district solid waste management planning process", by allowing the operation of facilities which may not have been formally included in the relevant district solid waste management plans. Another commenter contended that the rule would conflict with specific sections of the Burlington County Solid Waste Management Plan. Specifically, the Burlington Plan addresses both the location and volumetric design capacity of facilities, and contains specific siting criteria. This commenter was concerned that the rule would allow the operation of facilities which are inconsistent with the adopted district plan.

Response: The rule, at N.J.A.C. 7:26-1.7(d)(ii), states that it must "be possible for the facility to qualify for a registration pursuant to the Solid Waste Management Act". In order for the Department to make such a finding, it must be determined that the proposed facility will not be at odds with the waste management strategy contained in the relevant district plans. The Department will in all cases attempt to abide by the district's waste management strategy. Facility locations which clearly violate a district's adopted siting criteria would preclude the issuance of a full registration, and in such cases, N.J.A.C. 7:26-1.7(d)(ii) would prohibit the Department from issuing a certificate of authority to operate.

3. Comment: One commenter contended that the rule would create incentives for non-compliance with facility registration requirements.

Response: The rule permits the inclusion of binding conditions of operation into a certificate of authority to operate. Non-compliance is grounds for revocation. In addition, authority to operate may not be granted for a period greater than one year, and must be followed by the completion of all requirements normally associated with full facility registration. These provisions are intended to ensure that the exemption process will not be abused by facility operators to "get their foot in the door" and circumvent the safeguards contained in the full permit/registration process.

4. Comment: One commenter suggested that temporary authority to operate not be granted to facilities which have been closed for as-yet unresolved environmental violations, or which have had their Certificate of Convenience and Public Necessity revoked. The commenter provided suggested language to address this issue.

Response: As drafted, the rule addresses this concern. N.J.A.C. 7:26-1.7(c)(2) states that "(no) exemption shall be granted to permit an operation which will pose a threat to public health or the environment" and N.J.A.C. 7:26-1.7(d)(1)(i), (ii) and (iii) ensure that the facility and operator are such that this condition will be met. It is unlikely that the Department would make the findings required by these sections relative to a facility which had been shut down for environmental violations which have not been resolved. Also,

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under existing law, no facility may charge fees for solid waste disposal without a Certificate of Convenience and Public Necessity, so inclusion of specific language to address this matter in this section is unnecessary.

5. Comment: The same commenter suggested the inclusion of language to ensure that facility exemptions will not disrupt the solid waste management plan of the district in which the facilities are located.

Response: Since N.J.A.C. 7:26-1.7(d)(1)(iv) states that an exemption must be necessary to "avoid a major disruption in the operation of one or more solid waste management plans", inclusion of the suggested language is not necessary.

6. Comment: One commenter stated that the rule would reward poor planning on the part of agencies and counties. This commenter also noted that the time to address the environmental impacts of facilities is before they open, not after.

Response: It is not the intent of the Department to reward poor planning or lack of foresight on the part of agencies, counties, or other parties. Rather, the rules recognize that, in some instances, statutory and/or judicial involvement may constrain the ability to use out-of-area disposal alternatives, such that unanticipated delays in facility siting or development may leave no alternative but to temporarily waive full registration requirements. The Department is committed to ensuring that all aspects of a facility's operation are addressed, either as conditions of a certificate of authority to operate, or as permit conditions.

7. Comment: The same commenter stated that some form of compensation should be provided to municipalities if a site or operator which has been granted authority to operate under these rules is later determined to be unsuitable.

Response: The Department will not grant temporary authority to operate unless it is convinced that the conditions for full permit issuance can be met. However, if an operator or site is determined, after full review, to be unsuitable for long-term operation, no full permit will be granted, and the impacts upon the host municipality will be minimal.

Full text of the adoption follows.

### 7:26-1.7 Exemption from registration

(a) Pursuant to N.J.S.A. 13:1E-4a., the commissioner shall exempt, from the requirement of registration as set forth in N.J.A.C. 7:26-2, and shall grant a permanent or temporary certificate of authority to operate, with or without conditions, to the class of solid waste collection or disposal facilities or operations which in the commissioner's opinion meets the general and applicable specific criteria set forth in (c) and (d) below.

(b) The owner or operator of any facility or operation of a class exempted pursuant to N.J.A.C. 7:26-1.7 shall comply with all conditions set forth in its certificate of authority to operate. Noncompliance with a certificate of authority to operate shall subject the holder to penalty pursuant to N.J.S.A. 13:1E-9 and/or suspension or revocation of authority to operate.

1. The owner or operator of a facility for which authority to operate has been revoked or suspended shall be afforded the opportunity of a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., subsequent to the revocation or suspension.

2. In no way shall the granting of a temporary certificate of authority to operate be interpreted as entitling the holder to final registration and engineering design approval.

(b) General criteria for all exemptions:

1. Any exemption granted to a class of facilities or operations pursuant to N.J.A.C. 7:26-1.7 shall ensure that the purpose and intent of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., is satisfied; and

2. No exemption shall be granted to permit an operation which will pose a threat to public health or the environment.

(d) Specific criteria for exempting sanitary landfills:

1. A temporary certificate of authority to operate which shall be for a fixed period of time, not to exceed one year, shall be granted to a sanitary landfill facility which, in the opinion of the commissioner, meets the following criteria for exemption:

i. The proposed owner or operator of the facility is determined by the commissioner, after a preliminary review of such information as the commissioner may require, to demonstrate sufficient integrity, expertise and competence to operate a sanitary landfill facility in compliance with the Solid Waste Management Act and the certificate of authority to operate;

ii. It would be possible for the facility to qualify for a registration pursuant to the Solid Waste Management Act;

iii. All preparatory work which must be completed in order to permit safe and environmentally sound operation, can be accomplished prior to the commencement of operations at the site;

iv. Use of the facility prior to the time that a registration can be issued pursuant to N.J.A.C. 7:26-2 is essential in order to avoid a major disruption in the operation of one or more solid waste management plans and in order to comply with a judicial decree or statutory requirement to provide disposal facilities in a particular district; and

v. A schedule has been established and incorporated into the certificate of authority to operate for compliance with all the requirements for registration under N.J.A.C. 7:26-2. The schedule may call for accomplishing one or more registration requirements after commencement of facility operation.

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## HUMAN SERVICES

(a)

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Medical Supplier Manual Medical Supplies and Equipment

#### Readoption: N.J.A.C. 10:59-1

Proposed: June 18, 1984 at 16 N.J.R. 1442(a).

Adopted: August 15, 1984, by George J. Albanese,  
Commissioner, Department of Human Services.

Filed: August 15, 1984 as R.1984 d.385, **with changes**  
not in violation of N.J.A.C. 1:30-3.5.

Authority: N.J.S.A. 30:4D-b(12), 7 and 7b.

**ADOPTIONS**

Effective Date: August 15, 1984.  
Expiration Date Pursuant to Executive Order 66(1978):  
August 15, 1989.

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

**Summary of changes between proposal and adoption:**  
The Division's reimbursement policy for durable medical equipment has been the wholesale cost plus 50 percent, or the provider's usual and customary charge to the general public, whichever is less.

The current text of the New Jersey Administrative Code contains the figure 59 percent, so this is being corrected.

**Full text** of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:59-1 as amended in the New Jersey Register.

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

- 10:59-1.9 Purchase policy
  - (a)-(b) (No change.)
  - (c) 1. (No change.)
  - 2. Reimbursement shall be based on one of the following standards, whichever is less:
    - i. Wholesale cost plus **\*[59]\* \*50\*** percent of the cost. A copy of the invoice must be submitted with the claim; or
    - ii. The provider's usual and customary charge to the general public.
  - 3. (No change.)
  - (d) (No change.)

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**LAW AND PUBLIC SAFETY**

**(a)**

**DIVISION OF CONSUMER AFFAIRS  
BOARD OF PROFESSIONAL  
ENGINEERS AND LAND SURVEYORS**

**Land Surveyors  
Preparation of Land Surveys**

**Adopted Amendments: N.J.A.C. 13:40-5.1**

Proposed: November 7, 1983, at 15 N.J.R. 1834(a).  
Adopted: March 15, 1984 by New Jersey Board of Professional Engineers and Land Surveyors, Edward A. Taratko, Jr., President.  
Filed: August 17, 1984 as R.1984 d.401, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:8-27 et seq.

**LAW AND PUBLIC SAFETY**

Effective Date: September 4, 1984.  
Expiration Date Pursuant to Executive Order No. 66(1978): September 4, 1989.

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

Forty-seven written comments were received. Seven of these comments were from professional groups or societies involved in land surveying. Two comments were from attorneys and two from title insurance companies. The remaining comments were from individuals licensed as land surveyors in the State of New Jersey. Additionally, the Board held a regularly scheduled meeting on February 4, 1984 at the same time and place where the New Jersey Society of Professional Land Surveyors held its annual convention. At that time, the Board discussed the proposed rule amendment in public session and entertained comments from members of the public who were licensed land surveyors. All of the comments were reviewed by the Board's committee.

A majority of the comments received dealt with the requirement for staking of property corners. Some felt that required setting of corners was unnecessary. Others felt that the delineation of the types of markers to be used would be overly expensive. Others felt that the identification of the surveyor or the surveying firm on the markers was inappropriate.

It has been the experience of the Board that the members of the public who become purchasers of surveying services expect their property to be marked as a matter of course. Nevertheless, most surveyors do not mark the property corners as a regular part of their practice. In order to clearly establish the scope of services to be performed by the surveyor, the rule requires that all corners be marked unless written contractual arrangements are made to do so otherwise. By requiring written contractual arrangements, the rule calls to the attention of both parties the scope of services to be performed and the fee to be charged for those services.

Many of the comments were directed toward the requirement of the rule that the markers used for setting property corners be standardized. The rule lists items that are readily available to the surveying profession and which are of a permanent nature, rather than markers of a temporary nature, such as wooden stakes, often used by many land surveyors. The use of the permanent marker prolongs the availability of the corner being set and aids both the surveyor and property owner in identifying those items which are important to boundary-line delineation from other items which might have been placed on the property for various reasons, such as support of a fence, holding a chain for a pet dog, etc.

Some comments indicated that failure to include the oak stake on the list of permissible markers was inappropriate. The rule, as adopted, does not eliminate the use of oak stakes by surveyors, but simply indicates that at property corners, markers of a more permanent nature must be used. Oak stakes may be used for points along a line, random traverse points for staking of construction, and other such surveying functions.

The third aspect of the comments relating to the staking of property corners concerned the requirement that the property corners be identified with the name and license number of the surveyor or the name of the firm responsible for setting the property corner. Comments included the concern that this requirement would dramatically increase the cost of surveys to the general public. The Board has ascertained that identify-

**LAW AND PUBLIC SAFETY****ADOPTIONS**

ing the corners would be an aid both to the surveying profession and to the property owner, both of whom would be able to note and remember where the property corner is, as well as who made the survey which established that point. There was some concern in the comments regarding unauthorized use of one firm's marker by another. The Board did not feel this was a serious concern because markers are permanent and attached to iron pipes or reinforcing steel rods which are driven some 18 inches into the ground. A random movement of these items is, therefore, unlikely. Miscellaneous individual comments included concern that long names would not fit on the property-corner markers. This is not the case. For example, one Board member who ordered such markers for his own practice has a firm name of over 18 letters which fit adequately on the marker. Moreover, abbreviations, provided that they adequately identify the surveyor or firm responsible for setting the corner, would be acceptable. With respect to the cost of such markers, the availability of the items on the list for permanent markers is well-known in the profession. Most, if not all, surveying firms currently use these items at present. The cost for the identifiable markers to attach to these devices is approximately \$1.00 each and the total increase in cost to the surveyor for a typical four-sided lot would be limited to \$5.00 or \$6.00. The Board did not feel this was a significant cost increase and did not outweigh the benefits of the rule as proposed.

Another significant area of comment was the requirement that the licensed land surveyors, upon performing a surveying function and preparing a survey, should also prepare the legal description of the property surveyed. The comments were varied regarding this item. For example, many felt that the preparation of a description would add as much as \$75.00 to the cost of the survey. Others felt that it was inappropriate to re-write an existing description and that the chin-of-title would be affected. The Board concluded that simply because certain surveyors may currently be charging their clients up to \$75.00 for a description, it did not necessarily follow that this was the actual cost involved in its preparation. As a matter of fact, the rule requires that a description of the property being surveyed be provided to the surveyor prior to undertaking the assignment. The only time that the description would materially change would be if the original description had been in error and facts disclosed during the survey would necessitate a change in that description. Such an occasion is more often the exception than the rule. In the usual course, the original description would still be in effect and would only be modified by the surveyor by stating that the description is based on a survey prepared by the surveyor. The benefit to such a procedure would be that individuals researching deeds would be able to determine what surveyors had done work in the area of the property in question. This would help improve the availability of surveying information by enabling an interested party to determine what surveyors had previously performed work in the area. Many comments regarding descriptions felt, incorrectly, that a new, original, and completely changed description was required. This was not the intention of the rule as proposed. Nevertheless, the rule has been modified as a result of the comments to take into account the fact that surveys are sometimes made for purposes other than the conveyance of title. Therefore, the rule has been modified to require that the surveyor provide a description of the property being surveyed when the survey is being used for conveyancing.

There were a significant number of comments regarding the requirement for a written contract, particularly when and

where the setting of corners was to be avoided or any other allowable deletions would be negotiated. It appears that the surveying profession has had some difficulty in determining who the client is when a title survey is requested. Some feel it is the attorney acting as an agent for the prospective home purchaser, while some feel it is the home purchaser directly. In any event, whichever party is deemed to be the client, the Board has concluded that there must be a mutual understanding between the surveyor and his client. The rule requiring the written contract will therefore clearly establish the rights and responsibilities of the parties to the agreement. The Board has concluded that it is inappropriate for the surveyor not to clearly understand to whom he owns his professional responsibility and the rule will require the clarification of the client-professional relationship.

There were a number of comments regarding the time period of six months allowed by the rule in which the surveyor could return to the site to set the corners when conditions at the time of the original survey did not permit the setting of corners. Here, the comments varied, with some individuals feeling the period was too long while others felt it was not long enough. On reconsideration, the Board revised the rule to eliminate the time lag and require the surveyor to establish by written contractual agreement whether or not he or she will set the corners at the time of the original survey.

A number of comments addressed the requirement regarding the delineation of topographic or planimetric data on a map showing boundary lines or street right-of-way lines as being necessarily performed by a licensed land surveyor. The comments were principally from licensed professional engineers who were not licensed land surveyors. The latter felt that engineers should be able to perform this function. In reviewing the practice of the profession and definition of the term land surveying, the Board felt that it was inappropriate for any other licensed professional to relate boundary lines, property lines, or street right-of-way lines to any other data, whether it be topographic or planimetric, without having the expertise of a land surveyor. Because land surveyors are the only individuals licensed to perform the function of physically finding and locating these lines, the relationship of other information to these lines should be coordinated and performed by a licensed land surveyor. The engineers who commented were apparently under the impression that they could no longer prepare maps which might include this type of information. This is not the case, inasmuch as other professionals may make use of work done by others simply by showing the work and identifying who prepared it and when pursuant to N.J.A.C. 13:40-2.6. This is also consistent with the site plan rule, N.J.A.C. 13:40-7.1 et seq., promulgated by the Board of Professional Planners, Architects, and Professional Engineers and Land Surveyors.

Some comments objected to the requirement of providing a map with each survey made. In fact, the rule required a map before these amendments were proposed. Moreover, the Board has found that it is the usual expectation of the consumer that a map will be provided after the survey is performed.

Some concern was also expressed regarding a possible discrepancy between the rule as proposed, permitting the use of existing surveys for major subdivisions, and certification requirements of the Map Filing Act, which governs the standards and conditions for recording a map by the county clerks. The language of this rule was revised to eliminate this discrepancy. While the rule would permit the use of an existing boundary survey map, it is not mandatory. Moreover, if

**ADOPTIONS**

**LAW AND PUBLIC SAFETY**

an existing map were used, such use would only be permissible if the surveyor who prepared the boundary map was willing to provide the certification required by the Map Filing Act. One of the objectives of the Board was to create some reasonable level of utility for surveys purchased by the consuming public. The Board feels that these surveys should not be rendered useless each time the property is the subject of an application or consideration for transfer by the property owner. By allowing use of existing surveys, the Board extends the life of a previous survey provided, however, it is in accordance with the rules and regulations for surveys and is a reasonably recent survey.

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

13:40-5.1 Land surveyors; preparation of land surveys

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

(d) Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and so forth, shall be set either by the licensed land surveyor or under the supervision of the licensed land surveyor. Such markers **\*[should]\* \*shall\*** be set at each property corner previously marked by a property marker, unless the actual corner is not accessible, or unless written contractual arrangements specify otherwise. **\*When written contractual arrangements are made to omit corner markers, a notation stating that such omissions have been made shall be included on the plat or plan of survey.\***

1. All **\*boundary or corner\*** markers **\*delineating the property surveyed\***, found or set, must be described on the plat of survey with data provided to show their relation to the property or corner or, if appropriate, to the boundary lines. When a property corner cannot be set because of physical constraints, a witness marker shall be set and so noted upon the plat of survey.

**\*[2. If, for any reasonable temporary condition, a property corner cannot be set at the time of survey, such action will not be cause for disciplinary action if said corner is set within six months of the date of said survey. A revised plat of survey must be provided showing the property corner markers actually set.]\***

**\*[3.]\* \*2.\*** Markers for property corners set by licensed surveyors, except for monuments required on Filed Maps, shall be composed of durable material and **\*[have a minimum length of 18 inches]\* \*be of the minimum length practical to reasonably assure permanence, with a recommended length of 18 inches or more\***. These markers may include:

- i. Concrete monuments;
- ii. Iron pins, one-half inch O.D. or larger;
- iii. Reinforcing steel bars **\*one-half inch O.D. or larger\***;
- iv. Iron pipes, one-half inch O.D. or larger;
- v. Commercially manufactured iron or aluminum monuments;
- vi. Brass discs (or similar metal), set in durable material;
- vii. Nails or spikes set in durable materials;
- viii. **\*[Cross cuts, chiseled]\* \*Drill holes\*** in durable materials;
- ix. Plastic stakes.

**\*The above described marker requirements do not apply to intermediate points set on line or for random traverse points.\***

**\*[4.]\* \*3.\*** In all cases listed in (d) **\*[3.]\* \*2.\*** above, **\*[except (d)3xiii]\*** the marker shall be identified with a durable cap, disc, or shiner, etc., bearing the name of the surveyor or firm responsible for setting the corner.

**\*[5.]\* \*4.\*** All markers set pursuant to (d) **\*[3.]\* \*2.\*** above **\*[, except (d)3viii]\*** shall be detectable with conventional instruments used to find ferrous or magnetic objects.

**\*[6.]\* \*5.\*** Paragraph **\*[3.]\* \*2.\*** of subsection (d) does not apply to individual condominium units where same are composed totally of buildings.

(e) (No change.)

(f) The items which must always be shown are:

1.-5. (No change.)

6. Property corner markers, both found and set, or the relation of existing markers to the property corner or, if appropriate, to the boundary lines;

7.-10. (No change.)

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

(i) Upon completing the plat or plan of survey, the licensed land surveyor shall provide the client an agreed upon number of print copies of the survey drawing. Such print copies of the plat or plan of survey shall bear the signature and impression seal of the licensed land surveyor. Certification by the licensed land surveyor may be given when requested by the client. The licensed land surveyor shall also supply a **\*[legal]\* \*deed\*** description of the property surveyed **\*when the survey is to be used for conveyancing.\*** This description shall be consistent with both the survey provided and the documentation upon which the survey was based, and shall be written in such a manner as to define the boundary lines **\*[of legal ownership]\*** of real property so that the description is unambiguous and sufficient for a surveyor to lay it out on the ground.

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

(m) Subdivisions, whether classified major or minor, shall be prepared by a licensed land surveyor and shall be based on a new or existing survey of the property being subdivided; **\*provided, however, that when an existing plat or plan of survey is used, only the licensed land surveyor who prepared the boundary map on which the subdivision is based shall provide the certification that the boundary survey was prepared under this supervision as required by the map filing law, N.J.S.A. 46:23-9.11(m).\***

(n) Maps prepared to show topographic data or planimetric data which also delineate property lines or street right-of-way lines thereon shall be prepared by a licensed land surveyor. **\*Such survey information may be transposed to construction plans or other drawings if duly noted as to the date of the survey, by whom, and for whom it was prepared.\***

**(a)**

**DIVISION OF CONSUMER AFFAIRS**

**Representations Concerning and Requirements for the Sale of Kosher Food**

**Adopted Amendments: N.J.A.C. 13:45A-21.3 and 21.4**

Proposed: July 2, 1984 at 16 N.J.R. 1696(a).

Adopted: August 15, 1984 by James J. Barry, Jr., Director, Division of Consumer Affairs.

Filed: August 17, 1984 as R.1984 d.402, **without change.**

**ENERGY**

**ADOPTIONS**

Authority: N.J.S.A. 56:8-4.

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No. 66(1978) April 2, 1989.

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

**Full text** of the adoption follows.

13:45A-21.3 Display and handling requirements

(a) A Kosher food or food product sold by a restaurant, hotel, store, catering facility or other place which advertises, represent or holds itself out as selling, serving or offering for sale both Kosher and Non-Kosher food or food products may be falsely represented to be Kosher within the meaning of N.J.A.C. 13:45A-21.2 unless the following display and handling requirements are observed.

1. Interior display and handling requirements:

i. Kosher meats which are contained in properly sealed packages may not be commingled with Non-Kosher meats but shall be kept in a separate display cabinet or shall be separated from Non-Kosher meats by a clearly visible divider. There shall be a clearly visible sign in block letters affixed to said display cabinet or section indicating that only KOSHER FOOD is contained therein;

ii. (No change.)

iii. Non-packaged Kosher meats and Kosher food or food products shall be kept in a separate display cabinet which shall not contain any Non-Kosher meat, Non-Kosher food or food products or any dairy products or shall be separated from any Non-Kosher meat, Non-Kosher food, or food products or any dairy products by a clearly visible divider. There shall be a clearly visible sign in block letters affixed to said cabinet or Kosher section of said cabinet indicating that only KOSHER FOOD is contained therein. Such Kosher meat and food or food products shall be sliced with a separate knife or on a separate slicing machine used solely for Kosher meat and food or food products;

iv. (No change.)

2. Exterior sign requirements:

i. (No change.)

13:45A-21.4 Filing requirements

Any restaurant, hotel, store, catering facility, or other place which advertises, represents or holds itself out as selling, serving or offering for sale exclusively Kosher food or food products, under rabbinic supervision, shall file with the Director of the Division of Consumer Affairs a document in writing from a supervising rabbi or rabbinical organization that said establishment meet Orthodox Jewish dietary laws.

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**ENERGY**

**(a)**

**THE COMMISSIONER**

**Reporting of Energy Information  
Bulk Terminal Operating Companies**

(CITE 16 N.J.R. 2372)

**Redoption with Amendments: N.J.A.C.**

**14A:11-3**

Proposed: July 2, 1984 at 16 N.J.R. 1697(a).

Adopted: August 7, 1984 by Leonard S. Coleman, Jr.,  
Commissioner, Department of Energy.

Filed: August 16, 1984 as R.1984 d.393, **without change.**

Authority: N.J.S.A. 52:27F-11b, -18a.

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): September 4, 1989.

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

**Full text** of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 14A:11-3.

**Full text** of the adopted amendments to the readoption follows.

14A:11-3.3 Reporting

(a) By the fifth day of each month all bulk terminal operators shall provide to the Department a tabulation of bulk terminal stocks for the preceding month. The tabulation shall include the following petroleum products held in custody: leaded motor gasoline, unleaded motor gasoline, aviation gasoline, special naphthas, jet fuel-naphtha type, jet fuel-kerosene type, kerosene, distillate fuel oil, No. 4 fuel oil, residual fuel oil, lube oil and greases, asphalt, and miscellaneous finished oils. All figures shall be reported in thousands of 42 gallon barrels. All figures shall represent actual physical inventories for midnight on the last day of the reported month.

(b) The tabulation of bulk terminal stocks shall be in the form of EIA-811, Bulk Terminal Stocks of Finished Petroleum Products. This information should be sent to:

New Jersey Department of Energy  
101 Commerce Street  
Newark, New Jersey 07102  
Attention: Data Center

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**(b)**

**THE COMMISSIONER**

**Commercial and Apartment Conservation  
Service Program, CACS Qualifying and  
Disqualifying Auditors**

**Adopted Amendment: N.J.A.C. 14A:22-6.1,  
6.3 and 6.4.**

Proposed: July 2, 1984 at 16 N.J.R. 1698(a).

Adopted: August 7, 1984 by Leonard S. Coleman, Jr.,  
Commissioner Department of Energy.

Filed: August 16, 1984 as R.1984 d.394, **without change.**

**ADOPTIONS**

Authority: N.J.S.A. 52:27F-11g and q.  
Effective Date: September 4, 1984.  
Expiration Date pursuant to Executive Order No. 66(1978): June 4, 1989.

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

**Full text of the adoption follows.**

**14A:22-6.1 General**

- (a)-(b) (No change, see 16 N.J.R. 1370.)
- (c) Any professional engineer or architect who has been previously certified by the Department as an approved Technical Assistance Analyst or Certified Energy Manager as of the operative date of this chapter may apply for and receive a waiver of the auditor qualification for testing.
- (d) (No change, see 16 N.J.R. 1370).

**14A:22-6.3 Qualification and disqualification**

- (a) The Department shall qualify an auditor pursuant to N.J.A.C. 14A:22-6.1 and may disqualify any auditor pursuant to (b) below from participating in the program.
- (b) Grounds for disqualification shall include, but are not limited to the following:
  - 1. Violation, within three years prior to the date of application, of any laws governing the conduct of occupations or professions regulated by the state(s) in which the applicant does business;
  - 2. Violation of the Federal Organized Crime Control Act of 1970 or conviction for fraud, embezzlement, theft, forgery, bribery falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice or any other offense indicating lack of business integrity or honesty by the applicant, or if the applicant is a corporation, partnership, or business entity, by a person who is a principal of the corporation, partnership or business entity;
  - 3. Violation of any Federal or State antitrust statutes, or the Federal Anti-Kickback Act;
  - 4. Violations of any laws governing hours of labor, minimum wage standards, discrimination in wages or child labor;
  - 5. Any other cause affecting the responsibility of an auditor of such a serious and compelling nature as may be determined by the Department to warrant disqualification, including such conduct as may be prescribed by law or regulation even though such conduct has or may not be prosecuted as a violation of such law or regulation; or
  - 6. Bankruptcy, insolvency, or other conditions affecting financial integrity, capabilities or performance; and
  - 7. Failure to fully comply with all applicable requirements of this chapter.

**14A:22-6.4 Procedures for disqualification**

- (a) Any auditor whom the Department plans to disqualify from participating in the program shall receive written notice from the Department of the disqualification and the grounds therefor at least 30 days before such disqualification.
- (b) The Department shall allow the auditor to respond in writing to the allegations contained in the notice. All such responses must be received by the Department no later than 30 days after receipt of the proposed agency action. Disqualification from participation shall constitute final agency action.
- (c) An auditor who has been disqualified by the Department may file a request for reconsideration after one year.

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The request for reconsideration shall be accompanied by a statement under oath setting forth substantial and appropriate grounds for reconsideration which shall be supported by documentary evidence. Substantial and appropriate grounds include, but are not limited to:

- 1. Newly discovered material evidence that the Department erred in its previous decision;
  - 2. Reversal of a conviction of an offense or civil judgment which formed the basis of the Department's previous decision, on material grounds;
  - 3. Actual change of ownership or control; and
  - 4. Elimination of the causes for which disqualification occurred.
- (d) The Department shall review the request for reconsideration and shall, within 45 days of its receipt, notify the auditor of its decision whether to allow the auditor to continue to participate in the CACS Program.

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**TRANSPORTATION**

**(a)**

**TRANSPORTATION OPERATIONS**

**Speed Limits For State Highways  
Routes U.S. 30 in Galloway and Route 29 in  
Hopewell**

**Adopted Amendments: N.J.A.C. 16:28-1.57  
and 1.77**

Proposed: July 2, 1984 at 16 N.J.R. 1699(a).  
Adopted: August 3, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.  
Filed: August 15, 1984 as R.1984 d.390, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-98.

Effective Date: September 4, 1984.  
Expiration Date Pursuant to Executive Order No. 66(1978): November 7, 1988.

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

**Full text of the adoption follows:**

**16:28-1.57 Route US 30**

(a) In accordance with the provisions of N.J.S.A. 39:4-98 the rate of speed designated for the certain parts of State highway Route U.S. 30 described in this subsection shall be established and adopted as the maximum legal rate of speed therat:

- 1. For both directions of traffic.
  - i.-xxii. (No change.)
  - xxiii. In Galloway Township, Atlantic County:
    - (1) 35 mph School speed zone within the Church of the Assumption Elementary School zone during recess when the presence of children is clearly visible from the roadway or

**TRANSPORTATION**

while children are going to or leaving school, during opening or closing hours.

16:28-1.77 Route 29

(a) The rate of speed for the certain part of State highway Route 29 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic

i.-iii. (No change.)

iv. Zone four:

(1) 45 mph in Ewing Township and Hopewell Township between Route 175 overpass (milepost 6.2) and 200 feet south of Wilford Avenue (milepost 8.57); thence

(2) 40 mph in Hopewell Township between 200 feet south of Wilford Avenue (milepost 8.57) and 550 feet north of Washington Crossing-Pennington Road (milepost 8.8); thence

(3) 45 mph between 550 feet north of Washington Crossing-Pennington Road (milepost 8.8) and 600 feet south of Church road (milepost 9.7).

v.-xiv. (No change.)

**(a)**

**TRANSPORTATION OPERATIONS**

**Restricted Parking and Stopping  
Route 7 in Belleville, Route U.S. 9 in Cape  
May County and Route 28 in Roselle Park**

**Adopted Amendments: N.J.A.C.**

**16:28A-1.6, 1.7 and 1.19**

Proposed: July 2, 1984 at 16 N.J.R. 1700(a).

Adoped: August 3, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: August 15, 1984 as R.1984 d.391, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

**Full text of the adoption follows.**

16:28A-1.6 Route 7

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

(c) In accordance with the provisions of N.J.S.A. 39:4-138.1, the certain parts of State Highway Route 7 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is hereby granted to erect appropriate signs at the following established bus stops:

1. No parking bus stops in Belleville Township, Essex County:

i. Along Washington Avenue, southbound on the westerly side thereof at:

(1) Near side bus stops:

(A) Carmer Avenue-Beginning at the northerly curb line of Carmer Avenue and extending 105 feet northerly therefrom.

(B) Greylock Parkway-Beginning at the northerly curb line of Greylock Parkway and extending 105 feet northerly therefrom.

(C) Overlook Avenue-Beginning at the northerly curb line of Overlook Avenue and extending 105 feet northerly therefrom.

(D) Little Street-Beginning at the northerly curb line of Little Street and extending 105 feet northerly therefrom.

(E) Division Avenue-Beginning at the northerly curb line of Division Avenue and extending 105 feet northerly therefrom.

(F) Essex Street-Beginning at the northerly curb line of Essex Street and extending 105 feet northerly therefrom.

(G) Joralemon Street-Beginning at the northerly curb line of Joralemon Street and extending 105 feet northerly therefrom.

(H) Rossmore Place-Beginning at the northerly curb line of Rossmore Place and extending 105 feet northerly therefrom.

(I) Holmes Street-Beginning at the northerly curb line of Holmes Street and extending 105 feet northerly therefrom.

(J) Van Houten Place-Beginning at the northerly curb line of Van Houten Place and extending 105 feet northerly therefrom.

(K) Academy Street-Beginning at the northerly curb line of Academy Street and extending 105 feet northerly therefrom.

(L) Rutgers Street-Beginning at the northerly curb line of Rutgers Street and extending 105 feet northerly therefrom.

(M) Belleville Avenue-Beginning at the northerly curb line of Belleville Avenue and extending 105 feet northerly therefrom.

(N) William Street-Beginning at the northerly curb line of William Street and extending 105 northerly therefrom.

(O) Howard Place-Beginning at the northerly curb line of Howard Place and extending 105 feet northerly therefrom.

(P) Van Rensselaer Street-Beginning at the northerly curb line of Van Rensselaer Street and extending 105 feet northerly therefrom.

(Q) Cleveland Street-Beginning at the northerly curb line of Cleveland Street and extending 105 feet northerly therefrom.

(R) Mill Street-Beginning at the northerly curb line of Mill Street and extending 105 feet northerly therefrom.

(2) Mid-Block bus stop:

(A) Between Greylock Parkway-Beginning 400 feet south of the southerly curb line of Carmer Avenue and extending 135 feet southerly thereof.

ii. Along Washington Avenue, northbound on the easterly side thereof at:

(1) Near side bus stops:

(A) Cleveland Street-Beginning at the southerly curb line of Cleveland Street and extending 105 feet southerly therefrom.

(B) Van Rensselaer Street-Beginning at the prolongation of the southerly curb line of Van Rensselaer Street and extending 105 feet southerly therefrom.

(C) Howard Place-Beginning at the prolongation of the southerly curb line of Howard Place and extending 105 feet southerly therefrom.

**ADOPTIONS**

(D) William Street-Beginning at the southerly curb line of William Street and extending 105 feet southerly therefrom.

(E) Belleville Avenue-Beginning at the southerly curb line of Belleville Avenue and extending 105 feet southerly therefrom.

(F) Rutgers Street-Beginning at the southerly curb line of Rutgers Street and extending 105 feet southerly therefrom.

(G) Academy Street-Beginning at the southerly curb line of Academy Street and extending 105 feet southerly therefrom.

(H) Van Houten Place-Beginning at the southerly curb line of Van Houten Place and extending 105 feet southerly therefrom.

(I) Holmes Street-Beginning at the southerly curb line of Holmes Street and extending 105 feet southerly therefrom.

(J) Rossmore Place-Beginning at the prolongation southerly curb line of Rossmore Place and extending 105 feet southerly therefrom.

(K) Joralemon Street-Beginning at the southerly curb line of Joralemon Street and extending 105 feet southerly therefrom.

(L) Essex Street-Beginning at the southerly curb line of Essex Street and extending 105 feet southerly therefrom.

(M) Division Avenue-Beginning at the prolongation southerly curb line of Division Avenue and extending 105 feet southerly therefrom.

(N) Little Street-Beginning at the southerly curb line of Little Street and extending 105 feet southerly therefrom.

(O) East Overlook Avenue-Beginning at the southerly curb line of East Overlook Avenue and extending 105 feet southerly therefrom.

(P) Greylock Parkway-Beginning at the southerly curb line of Greylock Parkway and extending 105 feet southerly therefrom.

(Q) Carmer Avenue-Beginning at the southerly curb line of Carmer Avenue and extending 105 feet southerly therefrom.

(2) Mid-block bus stop:

(A) Between Greylock Parkway and Carmer Avenue-Beginning 1000 feet north of the northerly curb line of Greylock Parkway and extending 135 feet southerly thereof.

**16:28A-1.7 Route U.S. 9**

(a) The certain parts of State highway Route U.S. 9 described in this section shall be designated as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-17. (No change.)

18. No stopping or standing in Dennis Township, Cape May County:

i. Along both sides:

(1) Beginning 170 feet from the northerly curb line of Tompkins Lane and extending 360 feet northerly therefrom.

(b) (No change.)

**16:28A-1.19 Route 28**

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

(e) In accordance with the provisions of N.J.S.A. 39:4-138.1, the certain parts of State highway Route 28 described in this subsection shall be designated and established as "Time Limit Parking" zones where parking is prohibited at all times except in the areas designated below. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established Time Limit Parking zones:

1. One hour time limit parking in Roselle Park Borough, Union County:

i. (Westfield Avenue) westbound on the northerly side thereof at:

(1) Between Sheridan Avenue and Sherman Avenue.

(2) Between Camden Street and Dalton Street.

ii. One-hour time limit parking, between 9:00 A.M. and 5:00 P.M. Monday, Tuesday, Thursday, Friday and Saturday.

iii. One-hour time limit parking, between 11:00 A.M. and 5:00 P.M. Wednesday.

2. Eastbound on the southerly side thereof at:

i. Between Sherman Avenue and Sheridan Avenue.

ii. One-hour time limit parking, between 9:00 A.M. and 5:00 P.M. Monday, Tuesday, Wednesday, Friday and Saturday.

iii. One-hour time limit parking between 11:00 A.M. and 5:00 P.M. Thursday.

**(a)**

**TRANSPORTATION OPERATIONS**

**Restricted Parking and Stopping  
Route U.S. 46 in Netcong and 124 in  
Springfield**

**Adopted Amendments: N.J.A.C.  
16:28A-1.32 and 1.69**

Proposed: July 2, 1984 at 16 N.J.R. 1703(a).

Adopted: August 3, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: August 15, 1984 as R.1984 d.388, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

**Full text** of the adoption follows.

**16:28A-1.32 Route U.S. 46**

(a) The certain parts of State Highway Route U.S. 46 described in this sub-section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-14. (No change.)

15. No stopping or standing in Netcong Borough, Morris County:

i. For the entire length within the corporate limits including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

(b) (No change.)

## TRANSPORTATION

## ADOPTIONS

### 16:28A-1.69 Route 124

(a) The certain parts of State highway Route 124 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

(b) Under the provisions of N.J.S.A. 39:4-138.1, the certain parts of State highway Route 124 described in this subsection shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Springfield Township, Union County:

i. Along the northerly (westbound) side:

(1) From the prolongation of the easterly curb line of Millburn Avenue to a point 494 feet easterly thereof.

ii. Along the easterly side (Maple Avenue):

(1) Between Morris Avenue and the junction of existing Springfield Avenue.

iii. Along the westerly side (Maple Avenue):

(1) Between Morris Avenue and the ramp to Main Street.

iv. Along the southerly (eastbound) side:

(1) In the four lane sections of the route within the corporate limits of Springfield Township.

v. Along the northerly (westbound) side:

(1) Between points 300 feet easterly, and 300 feet westerly of the intersection of Short Hills Avenue.

2. No stopping or standing between the hours of 4:00 P.M. and 6:30 P.M. daily in Springfield Township, Union County:

i. Along the northerly (westbound) side:

(1) In the four lane sections of the route within the corporate limits of Springfield Township where not otherwise covered by this regulation.

(2) Morris Avenue (west side)-7:00 A.M. to 12:00 midnight, Sundays-From the intersection of Morris and Mountain Avenue to the intersection of Morris Avenue and Caldwell Place.

(3) Morris Avenue (east side)-7:00 A.M. to 12:00 midnight, Sundays-From the intersection of Morris Avenue and Walnut Court to the entrance of the parking lot directly across from Caldwell Place.

**(a)**

## TRANSPORTATION OPERATIONS

### Restricted Parking and Stopping Route U.S. 202 in Morristown

#### Adopted Amendments: N.J.A.C.

#### 16:28A-1.55

Proposed: July 2, 1984 at 16 N.J.R. 1704(a).

Adopted: August 3, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: August 15, 1984 as R.1984 d.387, **without change.**

Authority: N.J.S.A. 27:1A-5, 271A-6, 39:4-138.1 and 39:4-139.

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

**Full text of the adoption follows:**

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

(a) Under the provisions of N.J.S.A. 39:4-138.1, the certain parts of State highway Route U.S. 202 described in this subsection shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in the Town of Morristown, Morris County:

i. Along the east side (Mount Kemble Avenue):

(1) From the Morris Township — Town of Morristown corporate line to Colles Avenue.

(2) From a point 300 feet south of the southerly curb line of Macculloch Avenue to a point 310 feet north of the northerly curb line of Macculloch Avenue.

ii. Along the east side (Market Street):

(1) From a point 40 feet south of the southerly curb line of Maple Avenue to West Park Place.

iii. Along the west side (Market Street):

(1) From its intersection with Bank Street and Mount Kemble Avenue to a point 270 feet north therefrom.

iv. Along both sides (East Park Place):

(1) Entire length.

v. Along the east side (Speedwell Avenue):

(1) From East Park Place to a point 180 feet south of the prolongation of the southerly curb line of High Street.

(2) From the prolongation of the northerly curb line of High Street to a point 100 feet south of the southerly curb line of Orchard Street.

(3) From the prolongation of the northerly curb line of Frederick Street to the Morristown-Morris Township corporate line.

vi. Along the west side (Speedwell Avenue):

(1) From the Morris Township-Morristown corporate line to the northerly curb line of Speedwell Place.

(2) From a point 450 feet south of the southerly curb line of Henry Street to a point 175 feet south of the southerly curb line of Sussex Avenue.

(3) From the northerly curb line of Early Street to a point 165 feet northerly therefrom.

(4) From the southerly curb line of Early Street to a point 270 feet southerly therefrom.

vii. Along the west side (Bank Street-Mount Kemble Avenue):

(1) From West Park Place to the Morristown — Morris Township corporate line.

viii. Along the east side (Bank Street):

(1) From West Park Place to a point 110 feet southerly therefrom.

(2) From the prolongation of the southerly curb of Ann Street to Market Street — Mount Kemble Avenue.

2. No stopping or standing — 2:00 A.M. to 10:00 A.M. in the Town of Morristown, Morris County:

i. Along the west side (Speedwell Avenue):

(1) From a point 145 feet south of the southerly curb line of Frederick Street to a point 375 feet south of the southerly curb line of Walker Avenue.

(2) From a point 100 feet south of the southerly curb of Cutler Street to a point 450 feet south of the southerly curb line of Henry Street.

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(3) From a point 175 feet south of the southerly curb line of Sussex Avenue to a point 165 feet north of Early Street.

(4) From a point 270 feet south of the southerly curb line of Early Street to Park Place.

ii. Along the east side (Bank Street):

(1) From a point 110 feet south of the southerly curb line of West Park Place to a point 35 feet north of the prolongation of the northerly curb line of Ann Street.

3. No stopping or standing 2:00 A.M. to 7:00 A.M. and 3:30 P.M. to 6:30 P.M. in the Town of Morristown, Morris County:

i. Along the east side (Speedwell Avenue):

(1) From the northerly curb line of Orchard Street to the prolongation of the southerly curb line of Frederick Street.

4. No stopping or standing in Morris Township (Morris County):

i.-iii. (No change.)

iv. Along the southbound (westerly) side:

(1) Beginning at the northerly curb line of Skyline Drive to a point 200 feet northerly therefrom.

5.-9. (No change.)

(b) Under the provisions of N.J.S.A. 39:4-138.1, the certain parts of State highway Route U.S. 202 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established **LOADING ZONES**:

1. No parking loading zones — 10:00 A.M. to 6:00 P.M. in the Town of Morristown, Morris County:

i. Along the west side (Speedwell Avenue):

(1) From a point 107 feet south of the southerly curb line of Clinton Place to a point 50 feet southerly therefrom.

(2) From a point 452 feet south of the southerly curb line of Clinton Place to point 50 feet southerly therefrom.

ii. Along the east side (Speedwell Avenue):

(1) From a point 35 feet south of the southerly curb line of Orchard Street to a point 65 feet southerly therefrom.

(c) The certain parts of State highway Route U.S. 202 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-4. (No change.)

5. No parking bus stop in the Town of Morristown, Morris County:

i. Along the east side (Speedwell Avenue):

(1) From the prolongation of the southerly curb line of High Street to a point 180 feet southerly therefrom.

(a)

## TRANSPORTATION OPERATIONS

### Restricted Parking and Stopping Routes in the National System of Interstate and Defense Highways in New Jersey

**Adopted New Rule: N.J.A.C. 16:28A-1.99**

## TRANSPORTATION

Proposed: June 4, 1984 at 16 N.J.R. 1323(b).

Adopted: August 6, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: August 15, 1984 as R.1984 d.392, **without change**.

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

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

### Summary of Public Comments and Agency Responses:

The Department received one comment regarding the proposed rule from the New Jersey Motor Truck Association (NJMTA), 160 Tices Lane, East Brunswick, New Jersey 08816.

#### Comment:

"NJMTA agrees with the intent and general working of the proposed rule. However, NJMTA recommends additional language be included in the proposed new rule to permit stopping or standing on interstate highways to allow for the safety inspection of vehicle and cargo.

"Federal Motor Carrier Safety Regulations of United States Department of Transportation require enroute safety inspections. Specifically, we refer to 392.9 of the federal rules wherein drivers must stop at periodic mileage intervals to examine the cargo and load-securing devices of their vehicles. Also, 397.17 requires specific enroute safety inspection for vehicles transporting hazardous materials.

"Because truck drivers may be forced to do these inspections while traveling on an interstate highway, NJMTA recommends that the proposed regulation be amended to allow stopping or standing on interstate highways to permit safety inspections of vehicle and cargo."

#### Response:

The Department does not refute the requirement for enroute safety inspections as stipulated in Sections 392.9 and 397.17 of the Federal Motor Carrier Safety Regulations, Chapter III, Federal Highway Administration, Title 49-Transportation. However, in view of the State's concern for safety along the highway system, the Department felt that there exists areas specifically designated for parking where turnouts or rest areas have been provided where the necessary inspection of cargo and load-securing devices could be performed. Additionally, the present rules as promulgated provide for stopping in cases of emergencies.

The Department therefore proposes to adopt new rule N.J.A.C. 16:28A-1.99, concerning Restricted Parking and Stopping along "Routes in the National System of Interstate and Defense Highways in New Jersey" as proposed in the Notice published in the New Jersey Register on June 4, 1984 at 16 N.J.R. 1323(b) without change.

Full text of the adoption follows.

16:28A-1.99 Routes in the National System of Interstate and Defense Highways in New Jersey

(a) Under the provisions of N.J.S.A. 39:4-138.1 the certain parts of the National System of Interstate and Defense Highways described in this section shall be designated "NO STOPPING OR STANDING" zones where stopping or standing is prohibited at all times except in case of emergencies due to mechanical breakdown, tire trouble, lack of fuel, or other

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emergencies involving the vehicle or their occupants, the following regulation is promulgated.

- 1. No stopping or standing:
  - i. Along both sides of any Route in the National System of Interstate and Defense Highways in New Jersey, including all ramps and connections which are under the jurisdiction of the Commissioner of Transportation, except in case of emergencies or in areas specifically designated for Parking where Turnouts or Rest Areas have been provided.

**(a)**

**TRANSPORTATION OPERATIONS**

**Miscellaneous Traffic Rules**  
**Mid-block Crosswalk, Route 53 in Morris Plains**  
**Route I-295 Rest Area in Carney's Point**

**Adopted New Rule: N.J.A.C. 16:30-10.3**  
**Adopted New Subchapter: N.J.A.C. 16:30-11**

Proposed: July 2, 1984, at 16 N.J.R. 1707(a).  
 Adopted: August 3, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.  
 Filed: August 15, 1984 as R.1984 d.389, **without change.**

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

Effective Date: September 4, 1984.  
 Expiration Date pursuant to Executive Order No.66 (1978): November 7, 1988.

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

Full text of the adoption follows.

- 16:30-10.3 Route 53
- (a) Under the provisions of N.J.S.A. 39:4-34 the certain part of Route 53 described in this section shall be designated as a Mid-Block Crosswalk.
- 1. Along Route 53 in Morris Plains Borough, Morris County:
    - i. From a point 1,750 feet south of the southerly curb line of Drake Way to a point 10 feet southerly therefrom.
    - ii. From a point 2,370 feet south of the southerly curb line of Drake Way to a point 10 feet southerly therefrom.

**SUBCHAPTER 11. REGULATIONS FROM THE CONTROL OF TRAFFIC AND PARKING IN REST AREAS UNDER THE JURISDICTION OF THE NEW JERSEY DEPARTMENT OF TRANSPORTATION**

16:30-11.1 Route I-295 Rest Area

(a) Under the provisions of N.J.S.A. 39:4-208 the following regulations for the control of traffic upon the roadways of the Route I-295 Rest Area are hereby adopted:

- 1. No stopping or standing in Carney's Point Township, Salem County:
  - i. No person shall stop or stand a vehicle at any time upon the roadways of the Route I-295 Rest Area except in designated areas, between the painted lines, and all vehicles so parked shall be properly identified as shown on Site Plan 295 (MP 2.1 to 4.0) attached to, and made a part of, these regulations.
- 2. Yield Intersection in Carney's Point Township, Salem County:
  - i. The intersection of Ramp A and Ramp B-1, of the Route I-295 Rest Area is designated as a Yield Intersection. A YIELD sign shall be installed on Ramp B-1 as shown on Site Plan 295 (MP 2.1 to 4.0) attached to, and made a part of, these regulations.
- 3. One-way Streets in Carney's Point Township, Salem County:
  - i. All ramps and roadways within the Route I-295 Rest Area, are designated as One-way Streets, in the direction indicated on Site Plan 295 (MP 2.1 to 4.0), attached to and made a part of these regulations.
- 4. Speed Limits in Carney's Point Township, Salem County:
  - i. The Speed Limits for traffic along the ramps and roadways within the Route I-295 Rest Area, are established as indicated on Site Plan 295 (MP 2.1 to 4.0), attached to and made a part of these regulations.

**TREASURY-GENERAL**

**(b)**

**DIVISION OF INVESTMENT**

**Covered Call Options**

**Readoption: N.J.A.C. 17:16-42**

Proposed: July 2, 1984 at 16 N.J.R. 1708(a).  
 Adopted: August 13, 1984 by State Investment Council, Roland M. Machold, Director, Division of Investment.  
 Filed: August 13, 1984 as R.1984 d.383, **without change.**

Authority: N.J.S.A. 52:18A-91.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 17:16-42.

**ADOPTIONS**

**TREASURY-TAXATION**

**(a)**

**DIVISION OF INVESTMENT**

**Mortgage Backed Securities**

**Readoption: N.J.A.C. 17:16-43**

Proposed: July 2, 1984 at 16 N.J.R. 1709(a).  
Adopted: August 13, 1984 by State Investment Council,  
Roland M. Machold, Director, Division of Invest-  
ment.  
Filed: August 13, 1984, as R.1984 d.384 **without  
change.**

Authority: N.J.S.A. 52:18A-91.

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

Full text of the readoption appears in the New Jersey Ad-  
ministrative Code at N.J.A.C. 17:16-43.

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**TREASURY-TAXATION**

**(b)**

**DIVISION OF TAXATION**

**Local Property Tax  
Tax Maps**

**Adopted Amendment: N.J.A.C. 18:23A-1.27**

Proposed: June 18, 1984 at 16 N.J.R. 1465(a).  
Adopted: August 10, 1984 by John R. Baldwin, Direc-  
tor, Division of Taxation.  
Filed: August 10, 1984 as R.1984 d.379, **without  
change.**

Authority: N.J.S.A. 54: 1-15 and 54:50-1.

Effective Date: September 4, 1984.  
Expiration Date pursuant to Executive Order No.  
66(1978): March 19, 1989.

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

Full text of the adoption follows.

18:23A-1.27 Maintenance of tax maps  
(a)-(f) (No change.)  
(g) (Reserved)  
(h) The municipal tax assessor of every taxing district shall,  
on or before January 10 of each year, file with the county  
board of taxation a duplicate copy of a municipal tax map  
which conforms to the block and lot designations reflected on  
the current year's tax list submitted by the assessor to the  
county board of taxation on or before January 10 of the tax  
year. Each municipality shall provide for the preparation of  
yearly revisions of the tax map. The municipal tax assessor  
shall be responsible for providing the municipality's New Jer-  
sey Licensed Land Surveyor with deeds and/or subdivision  
maps necessary for the revision. However, in any year in  
which no revisions were required to be made to a municipal  
tax map, the county board of taxation may, upon proper  
notification by the assessor of that municipality, waive the  
requirement of filing a duplicate copy of the tax map with the  
board for that year.

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**(c)**

**DIVISION OF TAXATION**

**Sales and Use Tax  
Motor Vehicles; Taxable and Exempt  
Services**

**Adopted Amendment: N.J.A.C. 18:24-7.12**

Proposed: June 18, 1984 at 16 N.J.R. 1466(a).  
Adopted: August 10, 1984 by John R. Baldwin, Direc-  
tor, Division of Taxation.  
Filed: August 10, 1984 as R.1984 d.380, **without  
change.**

Authority: N.J.S.A. 54:32B-24.

Effective Date: September 4, 1984.  
Expiration Date pursuant to Executive Order No.  
66(1978): August 12, 1988.

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

Full text of the adoption follows:

18:24-7.12 Taxable and exempt services.  
(a)-(e) (No change.)  
(f) A separately stated and identified charge for towing a  
disabled or illegally parked motor vehicle by a wrecker or tow  
car is exempt from tax. The term "towing" includes the use  
of special transportation equipment such as a dolly or tilt-bed  
truck.

OTHER AGENCIES

ADOPTIONS

## OTHER AGENCIES

### (a)

#### NEW JERSEY HIGHWAY AUTHORITY GARDEN STATE PARKWAY

##### Parking, Standing and Stopping on Parkway Handicapped Parking Spaces

##### Adopted Amendment: N.J.A.C. 19:8-1.8

Proposed: June 18, 1984 at 16 N.J.R. 1466 (b).  
Adopted: August 13, 1984 by New Jersey Highway  
Authority, George P. Zilocchi, Executive Director.  
Filed: August 16, 1984 as R.1984 d.395, **without  
change.**

Authority: N.J.S.A. 27:12B-5(j) and (s), 27:12B-18,  
and 27:12B-24.

Effective Date: September 4, 1984.

Expiration Date Pursuant to Executive Order  
No.66(1978). June 1, 1988.

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

**Full text** of the adoption follows.

19:8-1.8 Parking, standing or stopping on Parkway prohib-  
ited except in emergency

(a)-(h) (No change.)

(i) Parking in any space approximately marked for vehicles  
for the physically handicapped pursuant to P.L. 1977, c.202  
(c. 39:4-197.5), unless the vehicle is authorized by law to be  
parked therein, is prohibited.

### (b)

#### ATLANTIC COUNTY TRANSPORTATION AUTHORITY

##### Rules of Operation

##### Adopted Amendments: N.J.A.C. 19:75-2.1 and 2.3

Proposed: May 21, 1984 at 16 N.J.R. 1194(a).  
Adopted: August 2, 1984 by Atlantic County Transpor-  
tation Authority, Ian Jerome, Executive Director.  
Filed: August 16, 1984 as R.1984 d.396, **without  
change.**

Authority: N.J.S.A. 40:35B-15(h).

Effective Date: September 4, 1984.

Expiration Date pursuant to Executive Order No.  
66(1978): January 17, 1989.

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

A **public hearing** was held on June 7, 1984 with respect to  
the proposed amendments.

Kaleem Shabazz opened the meeting by stating that the  
purpose of the meeting was to get public input on changes in  
the Bus Management Program. He also stated that ACTA  
had legal obligation in monitoring the movement of buses in  
Atlantic County. On previous meetings, which many at this  
meeting had attended, changes were made in routes for the  
oncoming Trump Plaza. Adjustments were then made for  
Tropicana and Playboy. ACTA is now fulfilling their legal  
requirements to the New Jersey Register, which is required by  
law. Kaleem then said he would introduce Diane Leitner to  
present the changes. He asked that the people sign-in and they  
would be granted speaking time. All comments should be  
restricted to the Tropicana, Playboy and Harrah's Trump  
Plaza. Due to the fact that the Sewage Authority was holding  
a meeting, the hearing would be from 4 until 7 pm. If there  
was any other subject other than the above casinos, ACTA  
would address them at another time. With that, he introduced  
Diane Leitner, Deputy Executive Director.

Diane Leitner then addressed the meeting by stating that  
ACTA had been holding meetings on this issue for two or  
three months. Many residents from Florida and Brighton  
Avenue had attended previous meetings as well as ACTA's  
board meetings. Two months ago, she stated, Steve Labov,  
Chairman of ACTA's board, had appointed Inspector Willie  
B. Clayton of the Atlantic City Police Department, to work  
with the residents on Georgia, Iowa and Pacific Avenues.  
Inspector Clayton would try and come forth with a route for  
Harrah's Trump Plaza and answer some questions on Play-  
boy (Atlantis). Mrs. Leitner then went on to say that she  
would summarize what was handed out to the residents re-  
garding the proposed changes. The proposed route for Har-  
rah's Trump Plaza is inbound Missouri Avenue, outbound  
Mississippi Avenue to Atlantic Avenue and then out the Ex-  
pressway. Playboy (Atlantis) route will become inbound Mis-  
souri Avenue to Pacific Avenue. A right-hand turn onto Pa-  
cific Avenue and a left-hand turn onto Florida Avenue for a  
left into Convention Hall. Outbound would be Mississippi  
Avenue. Tropicana route, which many Brighton Avenue resi-  
dents were familiar with, has been changed to be all inbound  
buses on Brighton Avenue. All outbound buses on Morris  
Avenue. This cuts the impact of traffic on Brighton Avenue.  
The consensus with the residents is in favor of this. She also  
mentioned that a second alternative for Playboy (Atlantis),  
should it occur. Missouri Avenue can end up in a grid-lock  
within that corridor. Buses cannot enter. ACTA and the Po-  
lice Department, jointly, will institute a second route. This  
would be inbound Iowa Avenue, left onto Pacific Avenue,  
which is most direct. This route would be instituted **ONLY** if  
there were a problem with Missouri Avenue. The other addi-  
tion that would affect the county routing is Route 52, McCar-  
ter Boulevard-Laurel Drive from Atlantic County boundary to  
the Garden State Parkway. This is primarily for the Ocean  
City bus companies to enter into the Atlantic County route  
system. So that everyone may have a chance to speak, Mrs.  
Leitner asked that people sign-up with Tammie Herman, Ex-  
ecutive Secretary, and they would be called upon to speak in  
signing order. She also asked that speakers be limited to five  
(5) minutes each to insure that everyone would get equal time  
before 7 PM. For the next two (2) weeks if anyone wishes to  
submit written comments, to become part of the records, they

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were invited to do so. They should address them to ACTA with attention to Ian Jerome.

She also stated that if there were questions that could not be answered right away, she would get back to them.

Frank Spider Rando was the first speaker. He wanted to know why Brighton and Morris Avenues were not made one way streets, with Brighton going north and Morris going south.

Diane Leitner responded by explaining that ACTA does not have the jurisdiction to make streets one way.

Mr. Rando wanted to know who did have such jurisdiction.

Ms. Leitner replied that the city and the state are the only ones who have the authority to make streets one way.

Mr. Rando said he felt it would be easier to make them one way from Pacific Avenue.

Ms. Leitner told him that she would relay his suggestion to the proper persons.

Richard Meister was the next speaker. He represented the Trump organization. His concern was about Mississippi Avenue route changes. Trump knew five years ago that Mississippi Avenue was too crowded as it was, so they purchased the majority of land on the other side of Pacific Avenue just to try to keep buses off Pacific Avenue. The situation now seems to be worse due to adding more buses to the intercept in that area. He would like ACTA to take a look at getting other routing, specifically to get buses off Pacific and Mississippi Avenue, which are both very crowded arteries. Ideally, he felt buses should go off Missouri Avenue, make the turn onto Pacific and have Mississippi make the same turn.

Madelyn Bruno was the next speaker. She wanted to know if the Playboy route changes were permanent.

Ms. Leitner responded by saying that the proposed route is the only one being submitted, which is inbound Missouri Avenue and outbound Mississippi Avenue. Ms. Leitner explained that the whole point of the process of the hearing was to involve and get comment from residents. In about a month and a half, this route will become permanent; in order to change it, we would go through the same procedure with advertisement, public comment and publication. ACTA cannot just change a route—we must go through the Administrative Law process—in fact, we are not sure that any route in Atlantic City is going to be permanent. As new developments occur, there will be new routes which may impact on other casinos and change their routes. It is going to be a very fluid process which we all have to live with.

Ms. Bruno then stated that the residents have been in the city long before the casinos, and they (residents) should be taken into consideration first. If the casinos need the streets, they should buy out the residents—if Playboy is so interested in their route, they better buy out the residents, because the residents are not going to stand for those buses coming down their streets by any means, regardless of what happens.

Ms. Leitner thanked her for her concerns.

Tom Mastrario was the next speaker. His complaint was that over Memorial Day weekend, he saw groups of buses coming up Georgia Avenue—hundreds, to the point where the whole street was loaded. He understood that that was a very busy weekend, but the buses seem to take the route all the time, even now. The street is so bad, that he has to pay \$50.00 per month to park his car in a lot, and he lives on that street (Georgia Avenue).

Ms. Leitner told him that it is illegal for buses to use Georgia Avenue, and they are subject to a \$75.00 fine. The only way that route can be used is if the ACPD, in conjunction with ACTA, authorize that route in case of emergency.

Mr. Mastrario then stated that the previous week, on Georgia Avenue, a bus came up right behind a police car. He was sure the policeman would ticket the bus, but nothing at all was done, and the bus continued on its way. They have buses and trucks all the time on their street and no one does anything about it. He mentioned a cut-away that was supposed to be made on Mississippi Avenue which was never done.

Ms. Leitner stated that ACTA can help with the situation, and even if it is after the fact, we can check back with Inspector Clayton, trace the police car number and talk with the officer. All it takes is a few times, and then that problem is eliminated.

Madelyn Bruno spoke again, stating that buses still come down Florida Avenue. She had called the ACPD at 2 a.m. and gave them the bus name and number, all the necessary information for the bus to be ticketed and the police did nothing. The lady who took the message told Ms. Bruno that the police could not do anything about it.

Ms. Leitner responded that ACTA can record those complaints on our special hot line number, since we have a tape machine on all hours. We need to have the complaint, though, in order to check back with the police.

Ms. Bruno then said that she knew about our number, but felt that at that hour, ACTA cannot go down and ticket the bus, but the police can.

Kaleem Shabazz then responded that ACTA has met with Chief Pasquale and our legal counsel is presently training the police in the Bus Management Rules and Regulations and the proper way to cite buses that break these regulations. We have a new number that will be instituted soon and it will go directly to the police department. If the residents can get the name of the officers who do not respond, ACTA will go to Chief Pasquale and we are sure he will follow it up.

Ms. Bruno then stated that when residents do call, they don't get a policeman anyway—they get a lady who takes the message.

Mr. Shabazz responded that the lady is supposed to give the message to a car and the car is supposed to respond. If they are not responding, we will let Chief Pasquale know—all the calls are taped, so if they don't respond, it is on tape; we will know who is failing to respond and we can stop it.

Herman Zatt was the next speaker. He apologized for being late, and explained that he works in the area of Mississippi and Atlantic Avenues. He knows that buses presently go north and south on Mississippi, and the situation is horrendous, first because Mississippi is not two way because of the buses traveling on Atlantic toward Pacific turn and swing over the double line. He recognized that Caesars and Trump each addressed their situations, but the area is still flooded with Playboy's buses.

Ms. Leitner responded that the current Playboy bus route is inbound Mississippi, outbound Arkansas, and that that is the route which is going to change.

Mrs. Cosmo was the next speaker. She was very angry about an incident that occurred during the early morning hours, when a bus spent 2 hours and 10 minutes idling on her street (Pacific). She called Playboy to inform them, and she called the police three times. Nothing happened, so she began calling the police again. On her seventh call the police came, and told her that there was nothing they could do because Playboy owned that area.

Ms. Leitner responded that it is illegal for buses to idle like that, and advised that all residents need to get the name or the car number of these policeman who do not respond, and get back to ACTA with it. We will then go to Chief Pasquale or Inspector Clayton.

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Tom Mastrario spoke again, just to comment that there is a policeman on duty constantly at Georgia and Pacific Avenues, and he never stops the buses from going down Georgia Avenue.

Joe Welsh was the next speaker. He stated that casino buses had wrecked his street. Finally, with the help of Councilman Mooney, the city repaired the street, but Mr. Welsh does not think it is fair that the casino buses tear things up, and they don't pay a dime—it is the taxpayers who have to clean things up and pay for them.

Harold Corry was the next speaker. He stated that the Playboy route concerns him; that the Playboy intercept situation is very bad. The only solution, as far as he can see, is to make the Parkway and Expressway the primary route for casino buses. He would like to see ACTA and the City and whoever else should be involved in this sit down and discuss it, because summer is already upon us, and things are only going to get worse. He is available to discuss it during the afternoon.

Ms. Bruno spoke again asking why casino buses do not use South Texas Avenue, which is a one way street with very little residential area on it.

Ms. Leitner responded that that was a very good alternative indeed and that ACTA would research the possibility of using it.

The next and final speaker was Attilio Sinagra, who proposed a new system which would route buses on Pacific Avenue. He realized that his plan was too involved to present in full detail, but that he would like to sit down with our traffic engineer and Mr. Jerome to discuss it.

Ian Jerome, Executive Director of ACTA, responded that Mr. Sinagra should call to set up an appointment to do so.

**Full text of the adoption follows.**

19:75-2.1 Routes of travel: generally

(a) (No change.)

(b) Except for Atlantic City, bus routes in Atlantic County are US Route 30, US Route 40/322 and the Atlantic City Expressway. All other routes are considered to be feeder routes to these major access roadways. The major access

roadway is designed to enable the bus to enter the city in the zone where its destination is located.

1.-2. (No change.)

3. All other county roadway networks approved for bus travel are for special purposes. Some of these are as follows:

i.-vi. (No change.)

vii. Route 52 MacArthur Boulevard/Laurel Drive from the Atlantic County boundary to the Garden State parkway (30N).

19:75-2.3<sup>1</sup> Routes of travel to and from casino hotels

(a) (No change.)

(b) Tropicana:

1. Arrival: via Albany Avenue to Atlantic Avenue to Morris Avenue to the Casino.

2. (No change.)

(c) Playboy:

1. Arrival: via Atlantic Avenue to Missouri Avenue to Pacific Avenue to the Playboy site or Convention Hall. In the event that, due to the severity of traffic conditions, inbound Missouri Avenue and Pacific Avenue are unavailable for Playboy, the alternate route will be Albany Avenue to Atlantic Avenue to Iowa Avenue to Pacific Avenue to Florida Avenue to Casino. This alternate route will only be available to Playboy buses when, in the opinion of ACTA and appropriate representatives of the Atlantic City Police Department, there exists a traffic condition on the primary route that constitutes an imminent threat to public safety.

2. Departure from casino: via Florida Avenue to Pacific Avenue to Mississippi Avenue to Atlantic Avenue/Captain O'Donnell Parkway to Albany Avenue.

(d)-(f) (No change.)

(g) Harrah's/Marina:

1.-2. (No change.)

(h) Harrah's/Trump Plaza:

1. Arrival: via Atlantic City Expressway to Missouri Avenue to Trump/Harrah's Transportation Center.

2. Departure: via Mississippi Avenue to Atlantic Avenue, right turn onto Atlantic Avenue to Atlantic City Expressway.

# MISCELLANEOUS NOTICE

## OTHER AGENCIES

### (a)

#### CASINO CONTROL COMMISSION

##### Petition for Rulemaking

##### **N.J.A.C. 19:54-2.1, Investment Obligations Pursuant to N.J.S.A. 5:12-144**

##### **Petitioner: GNOC Corporation**

Authority: N.J.S.A. 5:12-69(c), -144, 52:14B-(f) and N.J.A.C. 19:42-8.

**Take notice** that on August 15, 1984, the Casino Control Commission rejected the rulemaking petition of GNOC Corporation requesting that the Commission propose an amendment to N.J.A.C. 19:54-2.1 concerning the investment obligation under the provisions of N.J.S.A. 5:12-144. Specifically, GNOC proposed, and the Commission rejected, an amendment to N.J.A.C. 19:54-2.1 which would enable the Commission to adjust to present value (discount) the amount of investment which is due under section 144 of the Casino Control Act, N.J.S.A. 5:12-1 et seq.

The Commission rejected this petition because the regulatory amendments proposed therein was considered to be inconsistent with the underlying legislation (See N.J.S.A. 5:12-144).

# INDEX OF ADOPTED RULES

The *Index of Adopted Rules* contains rules which have been promulgated subsequent to the most recent update of the New Jersey Administrative Code. **Rules which are being promulgated in this Register, and which appear in the Table of Rules in this issue, do not appear in this index. These rules will appear in next month's Index of Adopted Rules.**

The rules in this index are listed in order of their N.J.A.C. citations. Accompanying the N.J.A.C. citation for each rule is a brief description of the rule's content, the Register citation for its proposal notice, its Office of Administrative Law (OAL) document citation (which should be used if ordering a copy of the rule from OAL), and the Register citation for its adoption. At the bottom of the listing for each Title is the date of the most recent Code update for that Title.

The *Index of Adopted Rules* appears in the first Register of each month, complementing the *Index of Proposed Rules* which appears in the second Register of each month. To-

gether, these indices make available to a Code and Register subscriber all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activities from the initial proposal through final promulgation.

For any rule not yet published in a Code update, the full text of the proposal notice as published in the Register, plus the full text of any changes published with the adoption notice in the Register, constitute an official copy of the promulgated rule. If the full text of either the proposed rule or any changes does not appear in the Register, it is available for a fee from:

Administrative Filings  
CN 301  
Trenton, New Jersey 08625

**To be certain that you have a copy of each proposed rule which may have been adopted but which does not yet appear in the most recent Code update, you should retain each Register beginning with July 2, 1984.**

## HOW TO USE THE TABLE OF CITATIONS

Generally, the key to locating a particular adopted rule is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research.

The N.J.A.C. citation itself indicates the extent of the changes to a rule. Every citation includes, at a minimum, the numerical designation of the title and chapter (1:30), and may include subchapter and section designations (1:30-1.1). In general, the less specific the citation, the more extensive the rule change. For example, 1:30 means that much or all of chapter 30 of title 1 has been modified; 1:30-1 means that several sections of subchapter 1 of 1:30 have been revised; and 1:30-1.1 means that only section 1 of 1:30-1 has been changed.

An N.J.A.C. citation that includes several section numbers (1:30-1.1, 1.3, 1.4) or several different subchapter and section numbers (1:30-1.1, 2.1, 4.3) means that similar or related changes have been made to those provisions. Additionally, a citation may designate an entirely new rule rather than an amended one.

In general, each rule is listed separately and chronologically. However, where an adoption notice contained several related rule adoptions or amendments within a single chapter, all of those changes may be under a single entry. Therefore, to be certain that you have found all of the changes to a given rule, be sure to scan the citations above and below that rule to find any entries which might contain related rule adoptions, including the one you are researching.

| N.J.A.C. CITATION                                    |                                                                   | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT CITATION | ADOPTION NOTICE (N.J.R. CITATION) |
|------------------------------------------------------|-------------------------------------------------------------------|-----------------------------------|-------------------|-----------------------------------|
| <b>ADMINISTRATIVE LAW-TITLE 1</b>                    |                                                                   |                                   |                   |                                   |
| 1:2-3                                                | Motor Vehicle cases: hearings on the papers                       | 16 N.J.R. 942(a)                  | R.1984 d.285      | 16 N.J.R. 1712(a)                 |
| <b>(Title 1, Transmittal 5 dated June 18, 1984)</b>  |                                                                   |                                   |                   |                                   |
| <b>AGRICULTURE-TITLE 2</b>                           |                                                                   |                                   |                   |                                   |
| 2:71-2.28-2.31                                       | Fruits and vegetables; fees for inspection and grading            | 16 N.J.R. 946(a)                  | R.1984 d.301      | 16 N.J.R. 1966(a)                 |
| 2:76-1.2                                             | Agricultural development areas                                    | 16 N.J.R. 947(a)                  | R.1984 d.274      | 16 N.J.R. 1714(a)                 |
| 2:76-2.2                                             | Agricultural management practices                                 | 16 N.J.R. 948(a)                  | R.1984 d.275      | 16 N.J.R. 1714(b)                 |
| <b>(Title 2, Transmittal 22 dated June 18, 1984)</b> |                                                                   |                                   |                   |                                   |
| <b>BANKING-TITLE 3</b>                               |                                                                   |                                   |                   |                                   |
| 3:1-2.3, 2.4, 2.5, 2.14, 2.20                        | Savings and loan branch applications                              | 16 N.J.R. 949(a)                  | R.1984 d.302      | 16 N.J.R. 1967(a)                 |
| 3:19-2.1                                             | Repealed: maximum interest rate on home repair contracts          | 15 N.J.R. 1788(a)                 | R.1984 d.334      | 16 N.J.R. 2084(a)                 |
| 3:22-1                                               | Repealed: maximum finance rate on insurance premiums              | 15 N.J.R. 1707(a)                 | R.1984 d.346      | 16 N.J.R. 2264(a)                 |
| 3:24                                                 | Licensing of check cashing businesses                             | 16 N.J.R. 186(b)                  | R.1984 d.345      | 16 N.J.R. 2264(b)                 |
| <b>(Title 3, Transmittal 21 dated June 18, 1984)</b> |                                                                   |                                   |                   |                                   |
| <b>CIVIL SERVICE-TITLE 4</b>                         |                                                                   |                                   |                   |                                   |
| <b>(Title 4, Transmittal 19 dated June 18, 1984)</b> |                                                                   |                                   |                   |                                   |
| <b>COMMUNITY AFFAIRS-TITLE 5</b>                     |                                                                   |                                   |                   |                                   |
| 5:17                                                 | Readopted: Retirement Community Full Disclosure Requirements      | 16 N.J.R. 1137(b)                 | R.1984 d.300      | 16 N.J.R. 1968(a)                 |
| 5:23-1.6                                             | Uniform Construction Code: inspection of public school facilities | Emergency                         | R.1984 d.267      | 16 N.J.R. 1812(a)                 |

| N.J.A.C. CITATION     |                                                               | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT CITATION | ADOPTION NOTICE (N.J.R. CITATION) |
|-----------------------|---------------------------------------------------------------|-----------------------------------|-------------------|-----------------------------------|
| 5:23-3.14-3.17, 3.20  | Uniform Construction Code: subcodes                           | 16 N.J.R. 1139(a)                 | R.1984 d.314      | 16 N.J.R. 2084(b)                 |
| 5:23-4.5              | Fire protection subcode official and local fire service       | 16 N.J.R. 950(a)                  | R.1984 d.303      | 16 N.J.R. 1968(b)                 |
| 5:23-4.5A, 4.18, 4.21 | UCC: Private onsite inspection and plan review agencies       | 16 N.J.R. 3(a)                    | R.1984 d.260      | 16 N.J.R. 1714(c)                 |
| 5:23-4.20             | UCC: correction concerning Department fees                    |                                   |                   | 16 N.J.R. 2267(a)                 |
| 5:37-11.6             | Local government deferred compensation programs: annual audit | 16 N.J.R. 784(a)                  | R.1984 d.297      | 16 N.J.R. 1969(a)                 |
| 5:80-5                | Multi-family projects: transfer of ownership interests        | 16 N.J.R. 951(a)                  | R.1984 d.318      | 16 N.J.R. 2090(a)                 |

**(Title 5, Transmittal 19 dated May 21, 1984)**

**EDUCATION-TITLE 6**

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| 6:3-1.10 | Seniority determination                        | 16 N.J.R. 785(a) | R.1984 d.265 | 16 N.J.R. 1718(a) |
| 6:8      | Readopted: Thorough and Efficient System rules | 16 N.J.R. 597(a) | R.1984 d.282 | 16 N.J.R. 1719(a) |
| 6:27-1.2 | Classification of schools                      | 16 N.J.R. 785(a) | R.1984 d.265 | 16 N.J.R. 1718(a) |
| 6:28     | Special Education                              | 16 N.J.R. 611(a) | R.1984 d.306 | 16 N.J.R. 1970(a) |
| 6:29-4   | Readopted: School Health Services rules        | 16 N.J.R. 300(a) | R.1984 d.264 | 16 N.J.R. 1731(a) |

**(Title 6, Transmittal 21 dated June 18, 1984)**

**ENVIRONMENTAL PROTECTION-TITLE 7**

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| 7:1G                                                                                                          | Environmental Hazardous Substances List                                  | 16 N.J.R. 646(a)  | R.1984 d.278 | 16 N.J.R. 1732(a) |
| 7:1I-2.2, 3.4, 3.5                                                                                            | Sanitary Landfill Contingency Fund                                       | 16 N.J.R. 958(a)  | R.1984 d.351 | 16 N.J.R. 2268(a) |
| 7:6-1.37(d)                                                                                                   | Waiver of maximum tow line length for parasailing                        |                   |              | 16 N.J.R. 2310(a) |
| 7:9-13                                                                                                        | Readopted Sewer Extension Ban rules                                      | 16 N.J.R. 660(a)  | R.1984 d.336 | 16 N.J.R. 2096(a) |
| 7:10-13                                                                                                       | Water and wastewater systems: licensing of operators                     | 16 N.J.R. 959(a)  | R.1984 d.284 | 16 N.J.R. 1740(a) |
| 7:10-13.15                                                                                                    | Water and wastewater systems: licensing of operators                     | 16 N.J.R. 1423(a) | R.1984 d.350 | 16 N.J.R. 2268(b) |
| 7:13-7.1                                                                                                      | Delineated floodways for Green Brook and Bound Brook                     | 15 N.J.R. 1540(a) | R.1984 d.338 | 16 N.J.R. 2102(a) |
| 7:14-2.13, 2.14, 2.15                                                                                         | Construction of wastewater treatment facilities                          | 16 N.J.R. 1147(a) | R.1984 d.339 | 16 N.J.R. 2102(b) |
| 7:14A-14                                                                                                      | NJPDES: oil and grease effluent limitations                              | 15 N.J.R. 1313(b) | R.1984 d.234 | 16 N.J.R. 1746(a) |
| 7:15                                                                                                          | Correction: Water quality management planning and implementation process | 15 N.J.R. 765(b)  | R.1984 d.110 | 16 N.J.R. 1988(a) |
| 7:18-1.7, 2.2, 2.3, 2.6, 2.7, 2.10, 2.12, 3.3, 3.4, 3.6, 3.7, 3.8, 4.3, 4.4, 4.5, 4.7, 4.8, 5.4               | Water analyses: laboratory certification and standards                   | 16 N.J.R. 966(a)  | R.1984 d.283 | 16 N.J.R. 1759(a) |
| 7:19-3.5                                                                                                      | Review of fee schedule for Water Supply Allocation Permits               |                   |              | 16 N.J.R. 2173(a) |
| 7:19-4.3, 4.7, 4.9                                                                                            | Water supply allocation: payments for diversion                          | 16 N.J.R. 664(a)  | R.1984 d.335 | 16 N.J.R. 2103(a) |
| 7:23-1, 2                                                                                                     | Readopted: rules on Flood Control Bond Grants                            | 16 N.J.R. 668(a)  | R.1984 d.277 | 16 N.J.R. 1765(a) |
| 7:25-5                                                                                                        | 1984-85 Game Code                                                        | 16 N.J.R. 972(a)  | R.1984 d.317 | 16 N.J.R. 2106(a) |
| 7:25-17.1-17.4                                                                                                | Disposal of dead deer                                                    | 16 N.J.R. 1148(a) | R.1984 d.352 | 16 N.J.R. 2271(a) |
| 7:25-22.2                                                                                                     | Purse seine fishing of menhaden                                          | Emergency         | R.1984 d.315 | 16 N.J.R. 2171(a) |
| 7:25A-3.1(b)                                                                                                  | Closing of Oyster Seed Beds, Delaware Bay                                |                   |              | 16 N.J.R. 1813(a) |
| 7:26-1.2, 1.3, 1.4, 2.2, 2.5, 3.2, 4.7, 4.8, 4.9, 5.1-5.9, 7.5, 12.2, 12.3, 12.5, 12.7, 12.10, 12.13, 16, 16A | Waste management                                                         | 16 N.J.R. 986(a)  | R.1984 d.279 | 16 N.J.R. 1766(a) |
| 7:26-9.6                                                                                                      | Correction: Hazardous waste management, Phase II authorization           |                   |              | 16 N.J.R. 2119(a) |
| 7:26-13A                                                                                                      | Hazardous Waste Facilities Siting Commission rules                       | 16 N.J.R. 408(b)  | R.1984 d.304 | 16 N.J.R. 1989(a) |
| 7:28-1.4, -42                                                                                                 | Radio frequency radiation                                                | 16 N.J.R. 7(a)    | R.1984 d.337 | 16 N.J.R. 2120(a) |
| 7:28-19                                                                                                       | Licensing of medical radiologic technologists                            | 16 N.J.R. 797(a)  | R.1984 d.349 | 16 N.J.R. 2271(a) |
| 7:28-21.1-21.6                                                                                                | Analytical x-ray installations: readopted Equipment Safety Requirements  | 16 N.J.R. 1310(a) | R.1984 d.353 | 16 N.J.R. 2276(a) |

**(Title 7, Transmittal 20 dated June 18, 1984)**

**HEALTH-TITLE 8**

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| 8:31-26.1 | Health Care Facilities: readopted Ownership by Convicted Persons rule | 16 N.J.R. 1425(b) | R.1984 d.365 | 16 N.J.R. 2276(b) |
| 8:31-26.3 | Health Care Facilities: readopted Employee Physicals                  | 16 N.J.R. 1426(a) | R.1984 d.361 | 16 N.J.R. 2276(c) |
| 8:31-26.4 | Health Care Facilities: readopted Child Abuse and Neglect rule        | 16 N.J.R. 1428(a) | R.1984 d.357 | 16 N.J.R. 2277(a) |

| N.J.A.C. CITATION                                                   |                                                                                                                     | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT CITATION | ADOPTION NOTICE (N.J.R. CITATION) |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------------|-----------------------------------|
| 8:31-26.5                                                           | Health Care Facilities: readopted Licensure Fees                                                                    | 16 N.J.R. 1430(a)                 | R.1984 d.364      | 16 N.J.R. 2278(a)                 |
| 8:31-26.5                                                           | Licensure fees for hospital facilities                                                                              | 16 N.J.R. 802(a)                  | R.1984 d.358      | 16 N.J.R. 2278(b)                 |
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